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In the Matter of:

WA UTC

vs

Avista Corporation

EVIDENTIARY HEARING

October 03, 2025

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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION, D/B/A AVISTA UTILITIES, Respondent.	Docket UE-240891

EVIDENTIARY HEARING

October 3, 2025

9:02 a.m. - 12:04 p.m.

Lacey, Washington

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** CONFIDENTIAL SESSION REDACTED **

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BE IT REMEMBERED that on Friday, October 3, 2025, at 621 Woodland Square Loop Southeast, Lacey, Washington, at 9:02 a.m., the following proceedings were had, to wit:

<<<<<< >>>>>>

JUDGE BONFRISCO: Good morning. Today is Friday, October 3rd, and the time is 9:02 a.m. My name is Amy Bonfrisco, and I'm copresiding with Ann Paisner and the Commission. We are here today for an evidentiary hearing in Docket UE-240891, which is captioned Washington Utilities Transportation Commission vs. Avista, doing business as Avista Utilities.

Okay. Let's take short appearances. If we could start with the company.

MR. MEYER: Yes. Thank you, Your Honor. David Meyer, attorney for Avista. Thank you.

JUDGE BONFRISCO: Thank you.

And staff.

MR. ROBERSON: Good morning. Jeff Roberson, AAG, on behalf of staff.

JUDGE BONFRISCO: And NWEC.

MR. ZAKAI: Good morning. This is

Yochi Zakai with Shute, Mihaly & Weinberger on behalf of the Northwest Energy Coalition.

JUDGE BONFRISCO: And do we have AWEC present today?

MS. MADSEN: Yes. Thank you. Michelle Madsen with Pepple Moser on behalf of AWEC.

JUDGE BONFRISCO: Okay. Thank you.

I just want to talk briefly about our --

MR. SYKES: Briefly, Your Honor.

JUDGE BONFRISCO: Yes.

MR. SYKES: I'm Rob Sykes, AAG, with public counsel.

JUDGE BONFRISCO: My apology. Thank you, Mr. Sykes.

And I'd just like to talk about our plan today. First, we're going to look at the admission of the exhibits and testimony, and then we're going to allow for brief opening statements. We usually limit those to about ten minutes, before turning to cross-examination of witnesses.

I'm thinking if parties want a mid-morning break, we can take a mid-morning break around 10:30, and then if we need a lunch break, also break for lunch. And then, you know, I imagine we'll probably go into the afternoon, but, you know, we'll only take a break

then if needed.

And, again, I just want to remind the parties just on some kind of technical fronts to keep your microphones muted when you're not speaking, to use the video for those on Zoom for those portions when you have a speaking role. So if your witness is appearing remotely, just have them turn on the video.

And then as far as I wanted to just address a few other issues here.

We had -- let me see. One second.

I want to talk about confidential information. I note that we have evidence, including several cross exhibits that are confidential. I want to encourage the parties to avoid directly referring to that confidential information, if possible. But if they need to do so, we'll want to exclude any observers. So anyone who here is present who hasn't signed the confidentiality agreement, we'll have them step out. And we'll also have our records staff create a breakout Zoom room and send anybody who signed that confidentiality out to that Zoom room.

As far as, you know, at that time, though, I would just request that the parties alert the Commission so we can take the necessary step to protect that information.

And now I'd like to just --

MR. MEYER: Your --

JUDGE BONFRISCO: Oh. Go ahead.

MR. MEYER: Your Honor, may I just weigh in on that very last comment --

JUDGE BONFRISCO: Yes.

MR. MEYER: -- on confidential information?

So we worked with our witnesses and just to anticipate that very issue and attempting to find a way for them to respond more generally in certain cases even though they may be referring to a confidential table, for example, as long as they don't get into the specifics, you know, so much the better. So we're just mindful of the need to not have to break in and break out of confidentiality, so --

JUDGE BONFRISCO: Yeah, and I believe there was only three exhibits from public counsel for cross. And there was -- you know, so, Public Counsel, I would just ask if you think there's a way to kind of work around that or if you think you'll need to refer directly to that confidential information on cross.

MR. SYKES: Yes, understood. I

think it's unlikely that I'll get into it.

JUDGE BONFRISCO: Okay.

MR. SYKES: But I needed to have them just in case.

JUDGE BONFRISCO: Okay. Perfect. Thank you. Appreciate the clarification.

And then I want to note that we had an exhibit on -- as far as my order of witnesses, we basically have only Avista witnesses that are going to be questioned here today on cross. So we'll have bench questions for company witness Scott Kinney and Elizabeth Andrews, staff witness Chris McGuire, and NWEC witness Bradley Cebulko.

But before I turn to exhibits, I want to ask if the parties have any recommendation about staff's recommendation to amend Final Order 10/4, which approved the full multiparty settlement agreement in Avista's 2022 GRC in Consolidated Dockets UE-220053, UG-220054, UE-10854.

So I guess my question today is: Do any parties object to staff's proposal discussed in McGuire's exhibit? And that's at CRM-1CT, Pages 31 through 37, and the response to Commission Bench Request No. 1. And we'll start with the company on that.

MR. MEYER: Thank you, Your Honor.

Avista does not object to that if that's deemed necessary.

JUDGE BONFRISCO: Okay. Thank you. And public counsel.

MR. SYKES: Public counsel does not object.

JUDGE BONFRISCO: And NWEC.

MR. ZAKAI: Good morning, Your Honor. Consistent with the testimony of Lauren McCloy, we do not object.

JUDGE BONFRISCO: Okay. And AWEC.

MS. MADSEN: Thank you, Your Honor. AWEC does not object.

JUDGE BONFRISCO: Okay. Thank you. I guess, just on that front, though, if there's any issues borne out of that -- I think the one thing we wanted to note was it appeared that only staff was making that recommendation to amend that potential settlement and the clauses around that. So depending on how things play out, the Commission may ask for additional briefing on that, but we'll see how it plays out today. So just a heads-up on that.

Next, I want to move to motions. We did receive a late-filed motion under Exhibit SJK-30C filed from Avista witness Scott Kinney consisting of a letter

agreement between NorthWestern basically addressing the precise timing and closing under the abandonment and acquisition agreement. Just want to confirm with any parties or check in if any parties are opposing this late filing and this motion and the request to include that in the exhibit list.

Starting with the company.

MR. MEYER: We don't object to our motion. Thank you.

JUDGE BONFRISCO: Okay.

MR. SYKES: And none from public counsel.

JUDGE BONFRISCO: And staff.

MR. ROBERSON: None from staff.

COMMISSIONER RENDAHL: Public counsel, can you move your mike closer so that it gets picked up by folks. You really need it close to hear you.

MR. SYKES: Is this better? Okay.

JUDGE BONFRISCO: NWEC.

MR. ZAKAI: No.

JUDGE BONFRISCO: Okay. Thank you, NWEC.

MR. ZAKAI: No objection from NWEC.

MS. MADSEN: And no objection from

AWEC.

JUDGE BONFRISCO: Thank you.

So with exhibits, do the parties stipulate to the prefiled exhibits and testimony in the cross-examination exhibits?

MR. MEYER: Avista does.

JUDGE BONFRISCO: Public counsel?

MR. SYKES: Public counsel stipulates.

MR. ROBERSON: So does staff.

MR. ZAKAI: No objections.

MS. MADSEN: No objections.

JUDGE BONFRISCO: Okay. Thank you.

And we're going to now turn to opening statements. We limit those to about ten minutes per party.

So, actually, before we turn to opening statements, just want to make sure. Yeah, I think we're -- we're good. So we'll go ahead.

Does the company like to provide an opening statement?

MR. MEYER: I do. Thank you, Your Honor.

JUDGE BONFRISCO: Okay.

MR. MEYER: And good morning,

Mr. Chairman, Commissioners, and Administrative Law Judges. I'm David Meyer, and I'll have just brief comments to do some stage setting here.

Avista is doing what the law, CETA, tells us to do -- and that is to remove Colstrip -- and what the law allows us to do; i.e., the recovery of Colstrip costs. Nothing more, nothing less.

Throughout this entire process, Avista has always acted in good faith with the best interests of its customers at heart. And in this process over the last many years, Avista has been a good steward, we believe, of the Colstrip plant. It's been an important resource in the past, providing cost-effective power and energy for its customers. But its time, Colstrip's time, has come and gone. CETA tells us that. Time to move on.

In the orderly windup, in the orderly windup of its affairs, Avista, to be clear, is following the letter and the spirit of the law, CETA. And it should not be penalized for doing so. Getting into some more of the specifics, I'm not going to belabor any of these points.

In this proceeding, the Commission should find, first of all, that it was reasonable for Avista to transfer its ownership rights to NorthWestern in the

manner in which it did. Secondly, no additional Commission approvals were required to effectuate this transfer. Thirdly, in the winding down of its affairs vis-a-vis Colstrip, Avista throughout has demonstrated vigilance. By that I mean it had an eye always on cost control while still operating within the voting and operational constraints present at the time.

Turning to the precise capital additions during this, I'll call it the interim period, '24 and '25. All of these prior to the actual transfer to NorthWestern were prudent and necessary to maintain the plant in good working order, not just for NorthWestern, but for the benefit of Avista's customers. And they were also required under the terms of sale to NorthWestern Energy. So this was done not only for their sake, NorthWestern's sake, but for the sake of Avista. By that, I mean its customers.

In the process of winding down, Avista worked hard to eliminate or reduce its share of costs that did not otherwise provide benefits to its customers. In the process, it has during the course of this proceeding reduced Washington's share of requested recovery from 10.8 million down to 7.7 million, much

of which was made possible through negotiations in earnest with Northwest Energy. And that is reflected in the letter agreement that was entered into which fashions an appropriate cost allocation of so-called enhancement costs. Okay? That was affirmative effort on Avista's part, and it made full use of that. So Avista for its part attempted to remove any of these so-called enhancement costs -- long-lived assets, I mean -- that didn't provide any real benefit to Avista's customers.

So where does this leave us? Staff for its part would allow 5.6 million, in approximate terms, 5.6 million of the 7.7 million now requested by Avista for cost recovery. Now, that, when all is said and done, reflects a difference of just about 2.1 million. That is not to say that Avista agrees to that last 2.1 million, and that is the subject in part of these hearings.

Now, the other parties, again in approximate terms, they would allow a lesser amount than staff of recovery for these interim investments. AWEC, $3 million as compared to staff's 5.6. And NWEC, approximately two million, again as compared to what staff was suggesting should be allowed of 5.6 million.

Please understand that any disallowances would inevitably result in a write-off, a write-off of some amount, whether it is two, point, million if staff's position is taken or higher, much higher in excess of five million if some of the other parties' positions are adopted. And this would be a write-off, a write-off to Avista hitting its books without any possibility of offsetting somehow this amount by residual production tax credits. We don't have that opportunity.

I submit that this end result, if it comes to pass, is not -- is not what the law intended. So, in closing, the Commission should recognize the implicit bargain struck by CETA, removal of Colstrip from Avista's resource stack in return -- in return -- for a fair opportunity for cost recovery of prudently incurred costs in doing so. Thank you.

JUDGE BONFRISCO: Thank you so much.

And I want to just back up a moment. I was a little frazzled earlier. I failed to admit into the record all of the prefiled and cross exhibits. So I just want to make sure the record reflects that all of those exhibits have been entered into the record. So thank you.

(All prefiled and cross exhibits admitted.)

JUDGE BONFRISCO: And now I'd like to turn to Commission staff for their opening statement. Mr. Roberson, please proceed.

MR. ROBERSON: Good morning, Chair Rybarik, Commissioner Rendahl, Commissioner Doumit, Judge Bonfrisco, and Judge Paisner. Opening statements are a little strange because, as Judge Bonfrisco just said, all of the testimony that you are going to hear today you've already admitted. You've already heard it, so I can't really frame it for you. So I think instead, on staff's behalf, I will offer a couple of thoughts on prudence.

The first thing I will note for you is that prudence, as the Commission has traditionally phrased it, requires the utility to select among various alternatives. The first prong of the general prudence test is is there a need, which basically asks is there an alternative of doing nothing. The second prong of that prudence test asks are there alternatives to fill that need.

Now, the Commission expects utilities to make informed decisions about whether or not there is a

need and whether or not -- how to select among those competing alternatives. That inquiry that the Commission applies when it looks at prudence at how the utility selected among its various options is objective. You don't necessarily look at what the utility did. You look at what a reasonable decision-maker would have done. Did they use reasonable methods of analysis? Did they use reasonable data points?

Now, the Commission has always been very specific that it expects utilities to shape their decision-making process to the context at issue. That matters here. As Mr. Meyer has said, there is a law in Washington, the Clean Energy Transformation Act, which required the elimination of coal-fired resources from the allocation of electricity of Washingtonians by basically January 1, 2026, which means that in the final run-up to January 1, 2026, the utility had some interesting choices, right? They needed to think pretty carefully about what they needed to do, what investments they needed to make on behalf of ratepayers.

Now, staff's witness McGuire has set out the reasons why Avista failed to do that in the sense that their analyses looked at benefits that accrued

after Colstrip was eliminated from the allocation of electricity -- excuse me -- and when considering amongst the alternatives, including the "do nothing" alternative, Avista did not risk-weight the costs and benefits of making its choice.

No reasonable utility decision-maker confronted with a choice of do I make investments in Colstrip in 2025 should have ignored those parts of the analysis. So to the extent that there's a bargain between the legislature, the people of Washington, and utilities, there's no evidence that the bargain was intended to strip out the prudence analysis. It's background law. It's assumed to be there.

Avista just did not make prudent decisions when it invested in these long-lived capital projects. Thank you.

JUDGE BONFRISCO: Thank you so much, Mr. Roberson.

I just want to remind the parties attending both present and virtually, just make sure your camera's on for our participants on Zoom.

But go ahead, Mr. Sykes. Please proceed for public counsel.

MR. SYKES: Good morning, Commissioners, Judges. My name is Rob Sykes. I'm an

assistant attorney general representing public counsel.

My remarks this morning are very brief, because public counsel believes this case is rather simple. At the end of this year, the Clean Energy Transformation Act will eliminate the costs and benefits of coal-fired resources from rates beginning January 1st, 2026. So by definition, coal-fired assets will cease to be used and useful in this state on that date.

And one such coal-fired asset that has served Washingtonians for very long now are Colstrip Units 3 and 4. The key fact in this case that is undisputed is that those units will continue to operate. Now, by law, Colstrip and its capital improvements are not going to be serving Avista ratepayers anymore. The benefits of Colstrip Units 3 and 4 will flow only to NorthWestern Energy ratepayers, including data center customers.

In its filing, Avista asked Washington ratepayers to continue bearing some of this cost, which public counsel contends is inconsistent with the law and basic principles of rate-making.

The issue before the Commission is primarily a legal one: Who bears the cost of capital investments

in coal plants after December 31st, 2025? Under standard utility practice and utility law, CETA and basic fairness principles, the answer is simple: That the company must bear those costs or ratepayers see none of the benefits. Thank you.

JUDGE BONFRISCO: Thank you so much, Mr. Sykes.

I'll turn now to NWEC. Mr. Zakai, you may proceed.

MR. ZAKAI: Good morning, Commissioners, ALJs, parties. Today's hearing, like that that last month concerning PSE's Colstrip costs, is about CETA, a statute that was signed into law by Governor Inslee over six years ago. However, there are two material differences in the record before you today and the record in the PSE case that I'd like to discuss: The settlement agreement and the terms of the transfer.

First, the settlement. In its 2019 general rate case, Avista agreed that it would not support capital expenditures at Colstrip that go beyond routine capital maintenance and extend the life's plant [sic]. In exchange, the parties also agreed to support capital costs associated with protecting human health and safety.

NWEC's recommendations here are consistent with this settlement. NWEC supports full recovery of costs for projects that Avista labeled as safety, even though some of those investments have useful lives that span decades and we would not otherwise support them. NWEC also opposes the recovery of costs that explicitly extend the life of the plant and go beyond routine capital maintenance.

Avista's proposal in this case is inconsistent with the settlement because it asks for full recovery of these life-extending investments that the settlement clearly intended to disallow.

In Paragraph 279 of the final order in Avista's 2020 general rate case, the UTC cited this settlement when disallowing investments in Colstrip's dry ash system, arguing that Avista failed to demonstrate that the project was not life-extending.

Now, five years later, the Commission should again enforce this settlement term and disallow all costs associated with Colstrip that NWEC has labeled life-extending.

Next, the transfer agreement. PSE's transfer agreement with NorthWestern allowed PSE to retain its voting rights while Avista's transfer agreement ceded its right to vote against life-extending investments

in Colstrip. This part of the agreement both violates the 2019 settlement and is not prudent or in customers' best interests. NWEC strains to understand why Avista would give away the right to vote against life-extending investments in light of this settlement.

Next, I'd like to compare the recommendations of staff and NWEC. The treatment of major maintenance comprises most of the difference in the revenue requirement between staff and NWEC. Staff would allow full recovery of these costs while NWEC prorates them based on its useful life to Washington customers.

Now, this 2019 settlement did allow Avista to request recovery of routine capital maintenance. NWEC acknowledges this, and for that reason, allows some of those costs to be recovered. These costs generally have a three- to four-year useful life. Some were incurred in 2024, and some were incurred in 2025.

Prorating costs of major maintenance is appropriate and based on normal and accepted Commission practice. But just because there are a few months or perhaps a year of benefit that customers get from these major maintenance expenses

does not justify full cost recovery for major maintenance.

Next, Smart Burn. A look through the UTC's decisions over the years reveals a long history of utilities asking for recovery of Smart Burn and the Commission failing to accept those requests. In Avista's 2017 rate case, the Commission found that Avista did not provide sufficient information to justify the Smart Burn investments.

In Avista's 2019 rate case, Avista again requested recovery of Smart Burn. That -- there was a results-oriented settlement in that case, and part of that settlement was that Avista agreed not to support life-extending investments in the plant. Then in the 2020 rate case, the Commission's order disallowed Smart Burn costs.

I'll conclude again by pointing out that we are now still in the early stages and the beginning of our transition to a 100 percent clean grid. And the CETA provision that Avista relies on to request recovery applies to more than just coal costs. RCW 19.405.030 discusses undepreciated investment in a fossil-fuel-generating resource. It also discusses plants which have been retired and costs that are prudently incurred.

I would just take a moment to respond to Avista's statement that there was an implicit bargain here. The administrative process we're participating in today doesn't work on implicit bargains. It works on laws, administrative rules, and precedence. Here, we have CETA, which requires that the Commission find that these costs were both prudently incurred and that the plant, quote, has been retired.

But, again, this section of law also applies to all fossil-fuel-generating resources. And so as you're making your prudence decision and interpreting has been retired, I encourage you to remember that this precedent could be used to guide other investments that go beyond the date which that investment will be used and useful for Washington customers.

And in Avista's case, you know, bright in my mind is the Coyote Springs natural gas plant. It would be perverse incentives if utilities can recover from Washington ratepayers investments that extend the life of a plant beyond the date which CETA allows for their use. The Commission can and should avoid that outcome. Thank you.

JUDGE BONFRISCO: Thank you, Mr. Zakai.

I'll turn now to Ms. Madsen with AWEC for opening statements. You may proceed.

MS. MADSEN: Good morning, Chair Rybarik, Commissioners Rendahl and Doumit, Judges Bonfrisco and Paisner. For the record, my name is Michelle Madsen, and I'm appearing on behalf of the Alliance of Western Energy Consumers, or AWEC.

Along with staff and public counsel -- public counsel and NWEC -- sorry -- AWEC filed testimony in this proceeding, raising concerns about the level of cost recovery sought by Avista related to its investments in Colstrip Units 3 and 4 for the years 2024 and 2025. AWEC maintains its recommendations to the Commission as presented through this prefiled response testimony.

Avista predicated its request for recovery in this docket on its decision to enter into an ownership transfer agreement with NorthWestern in which Avista contracted the transfer of its entire interest in the Colstrip Unit 3 and 4 by the end of 2025.

Avista argues that its proposed transfer agreement and rate-making treatment for the Colstrip Units 3 and 4 is reasonable given Washington's Clean Energy Transformation Act, or CETA. Notably, the

agreement also requires Avista to continue paying decommissioning and remediation costs of the units and vote on capital additions at NorthWestern's discretion.

The result of this agreement is that Avista is contractually reliable -- sorry -- contractually liable for capital investments in 2025 and 2024 that have useful lives well beyond the time when coal must be out of Washington rates under CETA. As such, AWEC recommends the Commission take the time to review the transfer agreement and determine whether the decision to enter into the agreement was a prudent one and whether the agreement is in the public interest.

The Commission should make clear that the cost associated with the specific terms of the contract, including O&M and ongoing decommissioning and remediation costs, are not automatically prudent and are still subject to normal rate-making procedures when recovery is sought.

Further, the Commission should reaffirm long-standing legal principles, such as the used and useful standard, in reviewing the capital additions for 2024 and 2025. AWEC specifically recommends the recovery of all 2024 and 2025 costs should be prorated based on the investment's depreciable life

beyond December 31st, 2025. This would result in reductions to Avista's original request of 2.3 million for 2024 and to 5.6 million for 2025.

To conclude, AWEC urges the Commission to hold ratepayers harmless for any obligations assumed by Avista when entering into the transfer agreement with NorthWestern. Avista customers should not be required to pay for the investment that they will not receive a benefit from. Thank you.

JUDGE BONFRISCO: Thank you, Ms. Madsen.

Now we're going to turn to our witnesses we have for cross.

Our first witness is Scott Kinney. If you could please come up, Scott. Yes, and please turn your camera on. Thank you.

And I'm going to just go ahead and swear you in.

THE WITNESS: Okay.

JUDGE BONFRISCO: If you'd like to take a seat.

Okay. Mr. Kinney, do you swear or affirm that the testimony you give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

JUDGE BONFRISCO: Okay. And I'll

just have you have that close, 'cause I know it's hard with these speakers.

And before we begin, I want to start -- just make sure Avista doesn't have any questions, but I'll have staff proceed with their cross first. But before I have staff proceed, does Avista have anything to add?

MR. MEYER: No. All of the material has been embedded into the record, so I have nothing to add. Thank you.

JUDGE BONFRISCO: Okay. Perfect.

Go ahead, Mr. Roberson. You may proceed.

SCOTT KINNEY, having been first duly sworn by Administrative Law Judge Bonfrisco, was examined and testified as follows:

CROSS-EXAMINATION

BY MR. ROBERSON:

Q Good morning, Mr. Kinney. How are you?

A Good morning.

Q Do you have your opening testimony which is SJK-1T and your rebuttal testimony which is --

A I do.

Q -- SJK-11?

A I do.
Q Those are the only two things I need to ask you about.
I'd like to start with your rebuttal testimony, which is SJK-11. Page 10.
A I'm there.
Q And actually moving further down, the bottom of Page 12, this is the section where you're talking about recovered depreciation expense for retired plant, correct?
A Correct.
Q And at the bottom of Page 12, you argue for using an accounting definition of the term "retirement" when interpreting RCW 19.405.030(3), correct?
A Correct.
Q And Ms. Andrews provides the definition, but you're familiar with it, correct?
A Yes, I am.
Q And it's basically properties retired when it is no longer under the control of the utility, correct?
A That's correct.
Q Is Colstrip still under Avista's control?
A Today it is, yes.
Q Okay. At what point will it no longer be under Avista's control?

A At midnight December or January -- January 1 of 2026.
Q Excellent.
And I'd like to detour briefly into your opening testimony --
A Okay.
Q -- to talk about prudence.
At the bottom of Page 3, you start discussing the Commission's prudence standard, correct?
A Yes.
Q And what is your understanding of the Commission's prudence standard?
A Basically that, you know, the resources are necessary, right? So the decisions are based on the necessary need, that we've evaluated alternatives, and that we've informed our board in that decision-making and done additional or done -- that we have adequate documentation to support.
Q And do you understand all of those factors to be eliminating in terms of whether or not the utility has acted reasonably?
A Will you repeat the question.
Q When the Commission reviews prudence, is it asking those questions to determine whether or not the utilities acted reasonably or for some other purpose?
A No, that's the intent.

Q Okay. When the Commission reviews prudence, does it employ hindsight, to your knowledge?
A Not to my knowledge.
Q So analysis performed after decision made is irrelevant, correct?
A That -- that may depend.
Q How would analysis performed after decision made -- is made not involve hindsight?
A Well, I guess, I guess when you think about prudency, you need -- you need to evaluate everything, right? And there may be some things that, as time goes on, you need an opportunity to further address, and that's what we tried to do. You know, based on some of the concerns raised in our rebuttal testimony.
Q Okay. So you're further exploring things that were considered at the time, is your argument, or your testimony?
A Yeah. I mean, I think there's circumstances where that's prudent.
Q Okay. So given that one of the factors is an examination of contemporaneous documentation, how do you square post hoc analyses with the requirement that the Commission only look at contemporaneous documentation?
A Well, in the case of what we're talking about today

with regards to Colstrip, I think there was -- there's some differing opinions on what was necessarily needed to show prudency, especially when it comes to specifically net present value evaluation. And so what we did is tried to clarify and bring in additional information into the record, what we had felt originally the net present value had been done, but maybe we needed to add some additional information, which is what we did.

Q So at this point, I think we should turn to your rebuttal testimony. Specifically, Pages 21 and 22. And I'm going to note that there's confidential information in a table on Page 22. I don't want you to talk about that. I'd like to stick just to generalities.

So this testimony in that table concern an analysis performed after staff leveled its critiques of what Avista did, correct?

A Correct.

Q So it was not before the board or management at the time these investments were made, correct?

A Correct. But I would like to state, though, that the time we signed the agreement with NorthWestern to transact and transition, we did not know what projects were even going to be budgeted or done at

that time, so it was difficult to do a full benefit assessment that time, so what we tried to do was supplement and bring in additional information.

Q But you would have had to make decisions about each of the individual investments at the time you decided to make those investments, correct?

A Well, I guess this gets into some additional information with regards to, you know, when we made the transaction with NorthWestern, we made a decision to allow them to direct our vote, right? That was part of the decision, which we feel is prudent in these types of contracts. If it was flipped around and Avista was the purchaser, we would want that same provision so that we were sure, when we took ownership and operation of the facility, it was operating as it should.

So we didn't have the direct voting, right? So we did also -- also did not know which projects were actually going to come into play, so we -- we did directly involve -- be involved in all the conversations as an owner-operator still in the conversation with regards to which projects were going to be constructed.

Q So I guess that raises questions. If Avista agrees to support capital investments, does it wash its

hands of its duty to evaluate the reasonableness of the investments that it's going to make?

A No. No, it doesn't. And we did that. I mean, we have -- in my testimony, Exhibit SJK-6C, we have summary sheets for all the projects where we went back through and evaluated each of the projects right before they were done and what value they bring to our customers.

Q And that is the information that was in front of the board or the management at the time the decisions to invest were made, correct?

A Correct.

Q But the information on the confidential table on Page 22 was not?

A Not at that time, no.

Q Okay. I just have one other set of questions which actually confirm -- or deals with the AAA.

So in your rebuttal testimony, Page 30, starting on Line 14, you state that the provision in the 29 -- 2019 settlement about life-extending capital, quote, does not specifically reference voting, per se.

A Which line, please?

Q I think it's 14.

CHAIR RYBARIK: Page and line, please.

COMMISSIONER RENDAHL: Yeah. Page.
MR. ROBERSON: 30. 30 and 14.
COMMISSIONER RENDAHL: Thank you.
MR. ROBERSON: Hopefully.
THE WITNESS: Okay.

Q (By Mr. Roberson) Is that correct? That's what you said?

A Yes.

Q Is that testimony -- does it express your opinion that voting for something is not support for something?

A It's a component of it, but it's not completely supporting. I mean, I think we've shown -- Mr. Meyer talked about it in his opening -- that we've been evaluating on behalf of our customers all of the projects.

Whether we had voting rights or not, we still participated in all the meetings as an owner-operator. In fact, there was a couple projects that we truly felt were enhancement. The examples are the three-by-three start-up transformer and the exciter that we actually pushed back on and moved that out, the decision-making out.

Now, eventually the owners decided on the exciter to actually bring that back in as a budgeted item.

But we were actively involved in pushing back on that.

And the second piece I think's important here when it comes to supporting the project to show that we did our due diligence and we made prudent decisions was, by giving NorthWestern the ability to direct our vote, we also added in the agreement, Exhibit H, which allowed us an opportunity to go back and negotiate with them and talk to them about who should pay for projects that were early enhancements.

And through that, we were successful. And you can see in the rebuttal testimony and even the letter agreement that's the final letter agreement, that for those two specific projects, our customers are picking up a very, very small percentage of those enhancement projects.

Q Circling back to the start of that answer, what I understood you to say was that voting for something is supporting it; is that correct?

A It's part of it, yes. But it's not everything. To me, supporting is also how you engage and how you act. And I think we acted prudently besides the voting piece of it to act on behalf of our customers and to really minimize the cost impacts of some of the projects.

Q Setting aside the pushback and all of that other stuff, is the act of voting for something the act of supporting it?
A It's a piece of it, yes.
Q Okay. As Mr. Zakai mentioned, there was a settlement that required Avista not to support life-extending capital investments, correct?
A That's correct.
Q Does Avista's negotiation of a separate agreement with NorthWestern in the form of the AAA trump that Commission order?
A No, I don't think so.
MR. ROBERSON: That's all I have. Thank you.
JUDGE BONFRISCO: Thank you so much, Mr. Roberson.
Any redirect, Mr. Urbauer?
MR. MEYER: I was going to -- excuse me.
JUDGE BONFRISCO: Meyer. My apologies.
MR. MEYER: Oh, that's fine.
JUDGE BONFRISCO: Mr. Meyer.
MR. MEYER: That matters not.
I was going to wait to see if there was any other

cross by other parties. Then I thought I would do my redirect. But I can do it either way. Your pleasure.

JUDGE BONFRISCO: I think I'll have public counsel proceed with, you know, their cross first, and we can have you do redirect at the end. And we also have -- I believe NWEC is going to provide cross as well.

So, Mr. Sykes, if you'd like to proceed with your cross.

MR. SYKES: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SYKES:

Q Mr. Kinney, I've only got about five to seven minutes of questions for you, so I'll hopefully not keep you up there too long.

I want to get one thing out of the way that you and I will, I think, easily agree on.

Colstrip Units 3 and 4 will be operational after December 31st, 2025?

A That's correct.

Q And those units will be providing power to Montana customers of NWE starting January 1, 2026?

A Yes. Per our agreement. Yes.

Q And it'll provide power to them for however long Colstrip 3 and 4 operate, presumably?
A That's correct.
Q Okay. Colstrip was originally four units?
A Yes.
Q And you agree Colstrip Units 1 and 2 were retired in 2020?
A Yes, they were.
Q Those units don't provide power to anybody?
A No, they do not.
Q Mr. Kinney, can you please turn to your testimony, your rebuttal testimony at SJK-11CT.
A Which -- sorry. Which page?
Q Page 32. I'm sorry.
A Okay.
Q Starting on Line 1, this first paragraph on this page, Avista and NWE negotiated as part of its AAA to prorate a portion of long-lived investments between Avista and NWE, correct?
A That's correct.
Q And that was prorated based on the end of Avista's ownership of those units?
A That's correct.
Q Okay. This was something that was negotiated as part of the AA A?

A Yes.
Q Mr. Kinney, are you aware that NWE has inked several deals to power data centers in Montana?
A I've heard that they've signed letters of intent.
Q Are you familiar with NWE's deal with a company called Quantica for a one-gigawatt data center?
A Not the specifics, no.
Q Do you know what NWE's grid capacity is?
A Their grid capacity is?
Q Yes.
A Not right off the top of my head, no.
Q Do you recall being asked in discovery for a calculation that would demonstrate Colstrip's fair market value being demonstrably negative?
A I think so.
You're talking within my testimony?
Q A data request.
A A data request? Yes, I think I do. I don't specifically know which one it is.
Q Okay. Avista's determination that the fair market value of Colstrip was negative was based on its analysis of its IRP, investments to meet MATS, lack of fuel supply, correct?
A Correct.
Q Okay. It was a self-assessment of negative value?

A Yes.
Q Okay. There was no third-party appraiser to assess the value of Avista -- or sorry -- of Colstrip 3 and 4?
A No, we typically wouldn't use a third party in those types of analysis.
Q When Avista was looking to sell its interest in Colstrip Units 3 and 4, there were two other potential buyers; is that correct?
A Yes.
Q Westmoreland Mining and Talon?
A Yes.
Q Okay. And there were preliminary negotiations with those two --
A Correct.
Q -- parties?
A Correct.
Q Okay. But the decision was made to go with NWE for zero purchase price?
A That's correct.
MR. SYKES: That is all I have. Thank you, Mr. Kinney.
JUDGE BONFRISCO: And NWEC also indicated cross.
Mr. Zakai, you may proceed.

MR. ZAKAI: Thank you.

CROSS-EXAMINATION

BY MR. ZAKAI:

Q Good morning, Mr. Kinney.

A Good morning.

Q Could you please turn to Page 20 of your rebuttal testimony.

A Okay.

Q Thank you.

Starting on Page 6 -- sorry -- Line 16 of Page 20, you discuss the costs for replacement power at 22.3 million for a seven-day period, correct?

A That's correct.

Q Thanks.

Is this the analysis that, when you were speaking with Staff Counsel Roberson, you testified was not in front of the board at the time Avista made its decision?

A Can you restate the question.

Q Yeah.

Was this analysis including this replacement cost power in front of the board at the time Avista made its decision to -- made its decision to transfer -- sorry. Let me rephrase.

At what point was this analysis developed? How about that.

A This -- this was brought into testimony as an indication of the potential risk of losing Colstrip during high price events, so it was an illustration, the $22.3 million.

Another way to look at this is, even in our general rate case, our recent case that we filed, we show the value of Colstrip about $8 million a month. So just -- and that's based on an average annual price of energy, so not a peak, but the average. So if you take that, then a weekly value of the plant is close to $2 million. So there is a range there, but still there is significant value of having the plant in service for our customers.

Q And this 22.3 million is based on a peak market price?

A Yes, it is.

Q And do you know when that peak was?

A It was January of -- during -- it was -- I don't know the specific days, but it was in January of 2024.

Q Thanks.

Could you please turn to Cross Exhibit SKJ-29 [sic].

A Okay. I'm there.

Q You're quicker than me. One moment.

Okay. Thanks for your patience.

So does this response show replacement power costs over seven-day periods in the past ten years?

A Yes, it does.

Q Thanks.

And do you agree that this data shows that outside of January 2024, there were no seven-day periods in which replacement power costs exceed $20 million?

A That is correct. But as shown, there's multiple days where these seven-days outages exceeded over $10 million, which is what we showed.

Q Yes.

So outside of January 2024, is the highest replacement cost power shown 13 million?

A That's correct.

Q Thank you.

And is there anything in the record of this proceeding that shows Colstrip is more likely to fail at times of high market prices?

A No. But as I just indicated, even during an average week, it's worth a couple million dollars to our customers.

Q And is there a -- thank you.

I'm going to move on to discuss the risk of failure for individual projects.

Does the record in this docket include a probability or percentage likelihood that each individual project would fail absent the investment being made?

A Not each individual project. We use a unit average that we -- you know, is a credible -- it's what we use in our rate case filings. It's filed with NERC, under the generation availability data system requirements. So we used a unit evaluation on forced outage.

Q Thank you.

And if a small piece of equipment breaks at Colstrip, would that necessarily cause the entire Colstrip plant or an entire unit to go offline?

A No. In which you could see in our rebuttal, when we did our risk-based assessment, there were a few projects that did that we felt would not require or result in a significant derate or shutdown.

Q Mm-hmm.

And does the record include an analysis of each project and if its failure would cause the plant to go entirely offline or be derated?

A We -- I mean, we looked at each project based on what

we felt was the appropriate failure rate and did that assessment that is in my rebuttal testimony. We did it on an individual project basis.

Q For each project, there's a percentage?

A We used the 12.6 percent forced outage rate for -- on -- and assumed for each of those projects, yes, and did an assessment.

Q So the 12.6 percent outage rate, you use that same percentage --

A Correct.

Q -- for each project?

A Correct.

Q So it's not individualized per project?

A Correct.

Q Thank you.

Now, going to turn to Smart Burn.

Could you please look at Page 26 of your rebuttal testimony.

A Okay.

Q On Lines 19 to 21, do you say that some Smart Burn costs were included in error?

A Yes.

Q Okay. And earlier, on Page 25, did you say that the Commission disallowed recovery of some Smart Burn investments in Avista's 2020 rate case?

A Yes. And our interpretation of that is it was the TOFA-related costs, which you just referenced back on Page 26.

Q Thanks.

And did you submit testimony and participate in that 2020 rate case on behalf of Avista?

A Not that I recall. I think it was witness Thackston, if I recall.

Q On that particular --

A Yes.

Q -- project.

But did you submit testimony otherwise and participate in that rate case?

A I would have to check. I don't know.

Q Would you accept that subject to check?

A Yeah.

Q Thank you.

And was your attorney for this case, David Meyer, also your attorney in that 2020 rate case?

A Yes.

Q And as a part of your participation in Avista's regulatory proceedings and that rate case, would you have read that final Commission order?

A Yes.

Q Okay. And so when you were developing the initial

tariff revision filing that commenced this adjudication, did you have any discussions with other staff at Avista about the prudency of Smart Burn investments?

A In setting up this case? Is that what the question was?

Q (Nods head.)

A Yes, we did. Which is why, you know, we -- we have some supplemental information that we can bring forward that really does a better job of describing what Smart Burn is. And also we have an illustration also to help explain.

But, yes, we had those conversations, which is what led us to, from our perspective, believe that Smart -- there's some misinterpretation of what Smart Burn actually is and what was disallowed previously in orders.

And so for us, our view is that SOFA, the separated over-fire air, was stuff that's been in existence for a long time to help move air flow and improve combustion in the turbine but also reduces emission.

Smart Burn, itself, was done -- is a company, and that project actually just involved the TOFA, which is the top over fire work that was done in, I

believe, 2017, 2018. I might be off a year there. And that was what we believe was disallowed in that order.

Q And when you were preparing your initial filing, that it included all of the Smart Burn costs --

A Mm-hmm.

Q -- did you have -- did Avista have conversations about the disallowance in the 2020 rate case?

A Yes, that's what led us to dive in deeper and try to explain more really what was all involved in the Smart Burn effort.

Q In the initial -- in advance of the initial filing?

A Which initial filing?

Q The one made, I believe, in December 2024 that kicked off this proceeding.

MR. MEYER: Would you repeat the question, please.

MR. ZAKAI: Yeah.

Q (By Mr. Zakai) Did you have conversations in advance of the December 2024 filing that kicked off this proceeding about the prudence determination on Smart Burn in the 2020 rate case?

A I don't know. Subject to check, I think we probably did. I just don't recall.

MR. MEYER: Excuse me. If I might

interject. We have, in the interest of making the record as credible as we can, we have a subsequent witness, Liz Andrews, who might speak to that very question because she was involved in that.

MR. ZAKAI: No further questions. Thank you.

JUDGE BONFRISCO: Okay. And just want to confirm: AWEC does not have any questions, correct?

MS. MADSEN: Correct.

JUDGE BONFRISCO: Okay. And if you'd like to have any redirect.

MR. MEYER: Just only a couple. Thank you.

JUDGE BONFRISCO: Thank you.

MR. MEYER: These will be brief.

REDIRECT EXAMINATION

BY MR. MEYER:

Q I think toward the tail end of your cross-examination -- I have to get my video on here. Okay. Toward the tail end of your cross-examination, there was discussion about TOFA and SOFA and auxiliary burn. I don't know if we got into that level of detail. But that line of

questioning.

Do you recall that?

A I do.

Q Okay. And did Avista supplement one of its responses to a staff data request to provide a schematic of how those parts interrelate?

A Yes, we did. I believe it's Staff 001.

Q C?

A C. Yeah.

Q It was a supplemental.

A Yeah.

Q And that was provided.

And this --

COMMISSIONER RENDAHL: So what exhibit number is that Staff 001?

MR. MEYER: 001C. Let me check.

COMMISSIONER RENDAHL: This is the bench request?

MR. MEYER: No. This is a -- this is a data request from staff. And let's see here.

COMMISSIONER RENDAHL: Just so the record is clear.

MR. MEYER: Thank you. I appreciate that. Just try to see if it made it into a cross exhibit here.

Just a moment, please.

So it's kind of -- excuse me. It's kind of a convoluted answer, but there -- so we supplemented a staff data request and did it just recently after, frankly, listening in to the Puget proceeding and questions around just how this stuff all fits together. Okay? So we thought we would provide that in the interests of, you know, better treatment of this issue.

COMMISSIONER RENDAHL: So it's not in the record.

MR. MEYER: Not yet. But we're -- go ahead.

COMMISSIONER RENDAHL: So, but before you ask the witness questions, it would be helpful to have that exhibit, it would seem.

MR. MEYER: It would. It -- very much so.

COMMISSIONER RENDAHL: Okay. Thank you.

MR. MEYER: And there's a couple of ways. We can do this either at your pleasure, or if we want to do it now, which I think is a great opportunity, we have extra copies of that supplemental request, which has attached to it the

schematic.

And just to clear up -- let's address that, and I'll clear up the question of what prior -- okay. So what -- there was a prior data request that made it into the record by public counsel, and I believe it was their JMD-4C. Okay. So that -- they're referring to our response to staff Data Request 01.

COMMISSIONER RENDAHL: Which exhibit is that?

MR. MEYER: That is JMD-4C attached to the testimony of Jean Dreyer. Okay.

COMMISSIONER RENDAHL: Thank you.

MR. MEYER: Now, that -- that's the thing that was updated with what we're now talking about. So procedurally we have, I think, ten extra copies we could just distribute now, if you want to mark them, and then you could make use of it on the spot, or we can respond later with a bench request. Whatever's helpful.

JUDGE BONFRISCO: If we could distribute that now. And we can mark that as confidential in the record. Just want to confirm no parties have objections to that.

Okay.

MR. MEYER: May I approach the

bench?

JUDGE BONFRISCO: Yes. Please.

MR. MEYER: We have a total of eight, if you don't mind if I give you mine.

CHAIR RYBARIK: Do the parties have this?

MR. MEYER: They do, because we served this on them. Whether they have it now in the room, I don't know. There's enough certainly to go around up here.

COMMISSIONER RENDAHL: Do you have a copy you could provide to the policy team in the back? And for the court reporter.

Should we be off the record for a moment?

JUDGE BONFRISCO: Yes. Would we like to take a brief recess?

COMMISSIONER RENDAHL: That might be helpful.

JUDGE BONFRISCO: Okay. Five minutes?

COMMISSIONER RENDAHL: (Nods head.)

JUDGE BONFRISCO: We'll take a brief recess for five minutes, and we'll be off the record. And we'll be back about 10:15. Thank you.

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(Pause in proceedings from 10:10 a.m. to 10:26 a.m.)

JUDGE PAISNER: Okay. We are back on the record.

I would like to ask parties, the non-company parties, is there any objection to entry of this exhibit into the record?

I guess we'll start with staff.

MR. ROBERSON: None from staff.

JUDGE PAISNER: And public counsel?

MR. SYKES: None from public counsel.

JUDGE PAISNER: NWEC.

MR. ZAKAI: No objection.

JUDGE PAISNER: AWEC.

MS. MADSEN: No objection from AWEC.

JUDGE PAISNER: Okay. Would any of the non-company parties have any questions about this at this time?

MR. ROBERSON: Staff does not.

JUDGE PAISNER: Public counsel.

MR. SYKES: Public counsel does not have any questions.

JUDGE PAISNER: NWEC.
MR. ZAKAI: No questions about this.
JUDGE PAISNER: AWEC.
MS. MADSEN: No questions for AWEC. Thank you.
JUDGE PAISNER: Okay. We would like for this to be entered as a response to Bench Request No. 2.
(Exhibit No. BR-2 admitted.)

JUDGE PAISNER: And there's confidential material in this exhibit. Therefore, we're going to hold questioning or, well, questioning from commissioners which would be on the confidential material until later.
MR. MEYER: May I be heard? I'm trying to be helpful here.
JUDGE PAISNER: Sure.
MR. MEYER: There's a fair amount in here that is -- well, I guess the schematic, itself, is shaded, so I suppose that's confidential. That's probably one thing you wanted to look at, talk about.
JUDGE PAISNER: Are there any

questions from commissioners regarding the nonconfidential, the --

CHAIR RYBARIK: No.

JUDGE PAISNER: -- public information?

COMMISSIONER RENDAHL: I guess, just a clarification, Mr. Meyer.

If you can do this nonconfidentially, what is the difference between this and what has been filed already as JMD-4C? The supplemental response appears to be from February, and so it's unclear to me what is supplemental here. There's no date as to what was supplemental that was just provided.

I'm just wanting that clarification on the record of what exactly is supplemental versus what was in February.

MR. MEYER: That's an excellent question, and I can see why you had that confusion.

So the supplemental response on its face, it's dated -- the response, itself, is dated September 23rd. Okay? Then you drop down on the first page. There's a subheading: Supplemental response, 2-29-24. That date is an error, and that date should have been the 9/23/2025 date that appears at the very top of this. So thank you for clarifying that.

COMMISSIONER RENDAHL: So I would think, when you actually submit this into the record, you would correct that for clarification.

MR. MEYER: We would be happy to do that.

COMMISSIONER RENDAHL: Okay.

MR. MEYER: Of course.

And then the question is can we make good use of this time to talk about even the shaded section of this response in such a way that it doesn't create a confidentiality concern. And quite possibly we can. I don't know what your questions will be.

COMMISSIONER RENDAHL: I think we can't. And so I think what we were thinking is that we may also have confidential questions for Ms. Andrews. And so we might just have one confidential section on the record, which means, Mr. Kinney, unfortunately, you're not released if that's the case, right?

Sorry, Judge Paisner, to jump in there, but that's, I think, where we were going.

JUDGE PAISNER: Okay. I also just wanted to clarify that everything after that date that was in error is what's different from your original exhibit; is that true?

MR. MEYER: Yes. I'm advised it is, yeah.

JUDGE PAISNER: Okay. Thank you.

MR. MEYER: So I think that's a great way to proceed, and we'll just leave it at that for now on this response.

JUDGE PAISNER: And we can have a confidential session to ask questions regarding that.

CHAIR RYBARIK: Did you have questions for the witness on this that are nonconfidential? We should do that in this session.

MR. MEYER: I do not.

CHAIR RYBARIK: Okay.

JUDGE BONFRISCO: So, I guess, with that, then, we -- I guess we'll tentatively excuse Kinney just -- oh. Go ahead.

CHAIR RYBARIK: We had questions.

JUDGE BONFRISCO: My apologies. Let me back up. We have several questions from the bench, so --

MR. MEYER: And -- sorry. And I wasn't quite done with my redirect until we took a detour on this, so I think I might have one or two short redirects.

JUDGE BONFRISCO: Okay. And so

please resume your redirect. And then after you complete the redirect, we will defer to the bench for their nonconfidential questions and proceed from there. Thank you.

Q (By Mr. Meyer) So you were -- there was some discussion, Mr. Kinney, about analysis that had been done at the time these projects were discussed in the context of budget. By that, I mean I think you may have made a reference to some hurdle sheets. You referred to an exhibit of yours as 6C.

But do you recall that discussion generally?

A Generally, yes.

Q Okay. And is it true that the prior exhibits, Exhibits 4 and 5C, contain actual hurdle sheets, quite a number of them, in fact; is that correct?

A That's correct.

Q Okay. And in the course -- and those were prepared would you say generally before decisions were made on any particular project item?

A That's my understanding.

Q All right. And some of them -- I'll let you characterize this. You're the witness. Were some of -- some of the discussion items on some of the larger projects, were they robust or not?

Was it a robust, full discussion as you would

characterize that in the hurdle sheets?
A You mean the conversation that happened associated with --
Q I'm sorry.
A Yeah.
Q Just what's reflected on --
A Oh.
Q -- the face of the hurdle sheets?
A Yes.
Q Yeah.
A Yeah.
Q Okay. So is it a fair characterization, in your view, that this represents an analysis by skilled project operators of the potential for project failure?
A Yes.
Q Okay.
A That's what goes into those spread -- those hurdle rate --
Q Very good.
A -- sheets.
Q And then there was some discussion on voting rights. Okay?
A Yes.
Q And how Avista exercised its voting rights?

A Correct.
Q And did I understand you to testify in essence that how Avista voted was not the end of the story, to paraphrase?
A That's right.
Q And I can't remember if this was something that I picked up on in an opening statement or not, but I think it would behoove a good record here, make for a good record, if -- I think a statement was made -- it might have been by NWEC's counsel -- that Puget did not vote "yes." But that's -- in our estimation, that's not correct. And could this witness explain why so you're not left with that impression.
A It's my understanding -- again, subject to check -- that Puget's agreement with NorthWestern has a similar obligation with regards to voting direction to -- that Puget would give to NorthWestern after they sign the agreement, which pretty much probably would have been 2025 operating year. I don't know exactly when they signed that agreement.
Q And once they signed that agreement, how did they vote?
A My understanding is they voted according to what NorthWestern's guidance was, similar to what we did.
Q Which was a "yes" vote?

A Yes.
Q But before the '25 experiences, in '24 they hadn't yet signed that agreement, and there was no compulsion to vote as directed; is that right?
A That's my understanding.
MR. MEYER: Okay. Thank you. I just wanted to clarify that. And that's all the redirect I have.
JUDGE BONFRISCO: Thank you so much.
And I'd like to defer to Chair Rybarik for the first bench question.
CHAIR RYBARIK: Sure.
Mr. Kinney, why don't we stay on that topic on the voting rights. There's a lot of discussion in your direct testimony, and you describe those voting rights. We can go to that, but I doubt you'll need that, because you know the ownership structure of Units 3 and 4 and the votes needed to approve that.
Given that Puget Sound Energy and PacifiCorp also must apply with the Clean Energy Transformation Act, did you have any discussions with them to collaborate with those utilities to strengthen the collective negotiating power of the utilities?
THE WITNESS: Yeah, I think as I

discussed earlier, there was a lot of conversations that we were engaged with with regards to some of the projects that were really viewed, I think, by us and the other owners as really, really enhancement life extension projects, and I mentioned a couple of those: The start-up transformer and the exciter. And, again, it's my understanding that through those conversations, the project was delayed and even the votes were delayed on some of those projects. So when there was that opportunity, yes, we did -- we did collaborate together. We have collectively throughout the operation of the plant.

CHAIR RYBARIK: There was no discussion of voting "no" on all things collectively for future --

THE WITNESS: That's not --

CHAIR RYBARIK: -- investments?

THE WITNESS: That's not -- yeah, I don't believe that's -- that happened.

CHAIR RYBARIK: Was there any outreach to Portland General Electric with the same concerns?

THE WITNESS: Again, I wasn't directly engaged in those conversations, but my understanding through our operating representatives,

that I don't think that happened.

CHAIR RYBARIK: Would the outcome of any of these votes that had been directed by NorthWestern Energy have changed if Avista had voted differently?

THE WITNESS: I believe in one of the data requests, I think it shows that on the exciter project, itself, it could have made a difference. But, again, I think I'd like to indicate that, again, through our ability to negotiate with NorthWestern through Exhibit I and the abandonment agreement, we were able to negotiate that, that since that project was coming into service very, very late this year, that only a small component -- I believe it's -- on that one, it may be 4 percent -- was actually allocated to Avista and its customers.

CHAIR RYBARIK: I'm going to shift gears a little bit and go to the net present value analysis. There's a lot of testimony both from staff, from yourself, and from NWEC on the net present value analysis that was done and whether that was risk-adjusted.

Staff and NWEC argue that the analysis assumes a 100 percent chance that the plant -- specifically this equipment -- would fail.

Do you agree with that conclusion?

THE WITNESS: With the initial analysis, yes.

CHAIR RYBARIK: And it's your view that the updated analysis is what you have. And there is a confidential table. I don't want to talk about any of the data in it.

THE WITNESS: Yes.

CHAIR RYBARIK: But that is in your --

THE WITNESS: Rebuttal.

CHAIR RYBARIK: -- rebuttal testimony, Pages 21 and 22?

THE WITNESS: Correct.

CHAIR RYBARIK: That is what you would consider a risk-adjusted analysis?

THE WITNESS: Yes.

CHAIR RYBARIK: That was performed after the fact, though, correct?

THE WITNESS: It was -- yes, it was performed based on concerns raised by the parties. And, again, and our wanting to provide some additional information.

CHAIR RYBARIK: And pursuant to that analysis -- again, not getting into any of the

numbers -- it's your opinion that the cost-benefit analysis would still be positive if risk-adjusted pursuant to your risk adjustment?

THE WITNESS: Yes. For a lot of the projects, yes. That's shown in the table.

CHAIR RYBARIK: But not all of the projects?

THE WITNESS: Correct.

CHAIR RYBARIK: Are you aware of any other analyses that any Avista staff performed of a net present value risk-adjusted assessment --

THE WITNESS: I am not.

CHAIR RYBARIK: -- other than this?

THE WITNESS: I am not.

CHAIR RYBARIK: In your rebuttal testimony, you also talk about the comparison should be to replacement power, and we had a little discussion about that.

THE WITNESS: Mm-hmm.

CHAIR RYBARIK: And we'll -- I'll probably want to turn to that same exhibit that I think NWEC had questioned you on. It's SJK-29X. Cross Exhibit SJK-29X.

THE WITNESS: Okay. I'm there.

CHAIR RYBARIK: None of this

information is confidential; is that correct?

THE WITNESS: I believe that all -- well...

CHAIR RYBARIK: There's a reference to confidential information, but the --

THE WITNESS: Oh.

CHAIR RYBARIK: -- information in the table --

THE WITNESS: Yes. Yes. Okay. Correct.

CHAIR RYBARIK: -- is not confidential, correct?

THE WITNESS: Correct.

CHAIR RYBARIK: Is everybody in agreement on that?

This analysis is showing that, over the course of ten years, there were this many weeks over a $10 million amount, correct?

THE WITNESS: This many seven-day periods, yes.

CHAIR RYBARIK: There are 520 weeks in a ten-year period; is that correct?

THE WITNESS: Yes.

CHAIR RYBARIK: And there are 39 weeks referenced here?

THE WITNESS: Yes.

CHAIR RYBARIK: Is it safe for me to assume that then the difference between those two numbers is the number of weeks where that was below $10 million?

THE WITNESS: Yes.

CHAIR RYBARIK: And you mentioned in that that you assume a $2-million-per-week cost or --

THE WITNESS: Yeah, that's calculated based off our rate case filing, where we had tried to analyze the value of the Colstrip facilities in our -- in a rate year.

CHAIR RYBARIK: And -- well, what is that $2 million per week based on? Is it a ten-year analysis of the per-week cost? How far back does that data go? I'm just trying to get an apples-to-apples comparison.

THE WITNESS: Yeah, basically that analysis that we do in our rate case takes a forward marketplace for whatever year we're analyzing and then determines if Colstrip would dispatch based on that price and either dispatch to serve our load or dispatch to sell into the market as a revenue opportunity to offset loads depending on the market

price.

So it's based on a forward market analysis for a given year. And what I was just trying to indicate, that based on that, $8 million a month from that analysis, again on a weekly basis, it would be about $2 million value that the unit would have.

CHAIR RYBARIK: So I'm correct in understanding that that is trying to assess average value, so no matter when an outage occurred, that would be the replacement cost on average?

THE WITNESS: Correct.

CHAIR RYBARIK: Okay. One last line of questions. And that is your response to -- or it's Cross Exhibit 23X. SKJ-23X [sic]. I guess that should be SJK-23X. I have it listed wrong here.

THE WITNESS: Okay. I'm there.

CHAIR RYBARIK: None of this information is confidential; is that correct?

THE WITNESS: That's correct.

CHAIR RYBARIK: And this refers to the transmission capacity from Colstrip to Townsend as being 230 megawatts.

THE WITNESS: Correct.

CHAIR RYBARIK: Is there any limitations on the system between Townsend -- well, I

guess my first question is: Is Townsend terminus in the Avista service territory?

THE WITNESS: No, it is not.

CHAIR RYBARIK: Is there any limitations between Townsend and the Avista service territory that would limit the use of this 230 megawatts of capacity?

THE WITNESS: Not this -- this capacity, no.

CHAIR RYBARIK: Additional capacity would be limited?

THE WITNESS: Well, there is additional capacity that's available today, yeah.

CHAIR RYBARIK: In the second paragraph of this answer, you identified that, without this capacity -- reserve is 230 megawatts -- you would not be able to import additional renewable energy from the Mountain West.

THE WITNESS: That's correct.

CHAIR RYBARIK: Is there renewable energy under development today that would use that 230 megawatts?

THE WITNESS: There is. We've got an open active resource request right now that we're evaluating for new resources. And some of those

projects that have been bid in are out in that area. So there is definitely value that we're seeing today and into the future.

I think the other thing to consider when it comes to transmission, a couple things on its value, is not just additional resources -- specifically renewables -- that we can access, but our involvement in energy imbalance market, organized markets, even the day-ahead market that we look to be joining, is all dependent on our transmission capacity that we have to transact in those markets and get that value out of.

Even the Western Resource Adequacy Program that we are joining has a deliverability requirement in it as well. So this transmission adds value to be able to participate in that program too. So there's a lot of value beyond just what's shown here as the three point million dollar -- $3.2 million cost for us to maintain our transmission rights associated with Colstrip.

CHAIR RYBARIK: Okay. Thank you. I don't have any further questions on that.

JUDGE BONFRISCO: Were there any other questions from the bench?

COMMISSIONER RENDAHL: Yes.

Mr. Kinney, on your rebuttal testimony, 11CT, at Page 8, let me know when you're there.

THE WITNESS: Okay. I'm there.

COMMISSIONER RENDAHL: Okay. At the bottom, Line 17 through 19, you state that if Colstrip were a merchant plant and operated as a nonregulated subsidiary, that there would be regulatory and legal implications that would create uncertainty and result in benefits flowing to shareholders instead of customers.

Can you explain, elaborate on this and explain what you mean by the regulatory and legal implications of this classification? That's Line 18, regulatory and legal implications of such classification.

THE WITNESS: Yeah, the reference there was really more back to meeting future -- current, like, MATS requirements or future emission requirements, so that was the regulatory reference here, was that uncertainty of future costs associated with emission compliance.

COMMISSIONER RENDAHL: Okay. So it was about emissions compliance.

THE WITNESS: Yes.

COMMISSIONER RENDAHL: Okay. I

have a question for you, possibly Ms. Andrews, about the acquisition abandonment agreement, or the AAA as we're talking about it on the record, about allocation of costs.

Is it more appropriate to ask Liz Andrews those questions? You refer to it in your Exhibit 13CR. So if it's more appropriate for me to talk about this with Liz Andrews, I'm happy to do it. It's in the Supplemental --

THE WITNESS: Yeah.

COMMISSIONER RENDAHL: -- Exhibit --

THE WITNESS: Yeah, I guess --

COMMISSIONER RENDAHL: -- 13Cr.

THE WITNESS: -- not knowing your question, I'm not sure.

COMMISSIONER RENDAHL: It really has to do with further changes to the allocation. Is there -- and I can ask this to Liz Andrews as well.

But are there any other changes to the allocation of costs that are permissible under the agreement between now and December 31st?

THE WITNESS: Not to my understanding.

COMMISSIONER RENDAHL: Okay. All right. Thanks. That's all I have.

COMMISSIONER DOUMIT: Thank you, Your Honor. Just one question. May have a question in confidential session based on Smart Burn issues.

But in the meantime, public counsel asked you about whether a data center might essentially be absorbing your, what existed as Avista's certain capacity at Colstrip.

You recall that question?

THE WITNESS: Yes.

COMMISSIONER DOUMIT: Okay. Now, this may be a legal question I'm going to ask you, and maybe this is something the parties will brief. I hope they will.

Should that matter to us, what's happening with that plant now in Montana? Is that relevant?

THE WITNESS: I don't think it is. I mean, we did our transaction with NorthWestern, and we will be turning over ownership of that plant to them. What they do with that energy is up to them, and what they do with that facility, and that really isn't relevant, I don't believe, in this case here.

COMMISSIONER DOUMIT: All right. Thank you. Nothing further. Thanks.

JUDGE BONFRISCO: Okay. No further questions. So, Mr. Kinney, you may be temporarily

excused.

(Witness temporarily excused.)

JUDGE BONFRISCO: And our next witness will be Ms. Andrews.

Avista, if I could have you just introduce your witness, tender them for cross, and let me know if there's any corrections to any of the testimony filed.

MR. MEYER: Has she been sworn in yet?

JUDGE BONFRISCO: I will swear her in next. I just wanted to make sure --

MR. MEYER: Sure.

JUDGE BONFRISCO: -- there weren't any additional corrections for anything filed.

MR. MEYER: None that I'm aware of, so...

JUDGE BONFRISCO: Okay. Perfect. And I will swear her in.

Do you swear to tell the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

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ELIZABETH M. ANDREWS, having been first duly sworn by Administrative Law Judge Bonfrisco, was examined and testified as follows:

JUDGE BONFRISCO: Okay. Thank you.

THE WITNESS: Thank you.

JUDGE BONFRISCO: And no further corrections?

MR. MEYER: No. So she's tendered for cross.

JUDGE BONFRISCO: Perfect.

Okay. We'll start with staff.

No. My apologies. We -- hold on one second. My apologies.

Okay. And with that, then, my apologies. We have public counsel who will be starting with cross today.

Mr. Sykes, please proceed.

MR. SYKES: Thank you, Your Honor. Public counsel is going to waive cross-examination today.

JUDGE BONFRISCO: Okay. And then I also have that NWEC has cross for Ms. Andrews today; is that correct?

MR. ZAKAI: Good morning, Your

Honor. We'll make this easy. NWEC will also waive its cross of Ms. Andrews.

JUDGE BONFRISCO: Oh. Okay.

So, I guess, with that, then, I want to just check in briefly with the commissioners. I know we have confidential questions related to Smart Burn. So it looks like it's about 10:52 right now.

COMMISSIONER DOUMIT: I think I have a question relating to the --

JUDGE BONFRISCO: That's nonconfidential?

COMMISSIONER DOUMIT: -- exciter. I don't believe that's confidential. I can confer. Just a moment.

JUDGE BONFRISCO: Hold on a moment.

COMMISSIONER DOUMIT: I think I'm good. Thanks.

JUDGE BONFRISCO: Okay.

COMMISSIONER DOUMIT: So thank you. And Mr. Kinney sort of answered this question. It's related to the exciter and the AAQ system projects.

So, Ms. Andrews, in your rebuttal testimony -- that's EMA-1CT, at Page 11, Lines 18 through 21, on Page 12, 1 to 2 -- you're there. Okay.

THE WITNESS: Yes.

COMMISSIONER DOUMIT: And Avista's response to staff's DR-010, you state that the anticipated in-service dates of the U4 generator, exciter, the exciter, and the Northern Cheyenne AAQ system, the AAQ system, will move forward from December 31, 2025, to September 30, 2025, and October 1, 2025, respectively, but are still in flux.

Questions.

Are the new in-service dates of the exciter and the AAQ system projects definitive?

THE WITNESS: I don't know that I can answer that question. It was our understanding as most recently that those dates were going to be met. I have not specifically spoken with the -- the -- Talon or the company if -- if those have actually gone into service. But it is my understanding that they are to be completed before the end of the year.

COMMISSIONER DOUMIT: Okay. If we need to issue a bench request to follow up on that, let's get it right.

Next question. Who decided to move forward the in-service date of the exciter and the AAQ system projects?

THE WITNESS: I believe those were

the operator being able to look at the timing and when things could be done. It's mostly obviously timing is going to be the operator going through and saying this is when this work has to be done. I know that with the Northern Cheyenne, it was both -- it was failed equipment that must do that was determined, so I think the timing of it may have been more important to bring it forward.

COMMISSIONER DOUMIT: So you answered the next question I have on which is the why. Why. Why. You mentioned --

THE WITNESS: Yeah.

COMMISSIONER DOUMIT: Okay. Was it both -- failed equipment in both cases, or...?

THE WITNESS: You mean between the exciter --

COMMISSIONER DOUMIT: Yeah.

THE WITNESS: -- and Cheyenne?

COMMISSIONER DOUMIT: Yes.

THE WITNESS: I believe that's true. But as -- as Mr. Kinney mentioned, the majority of that has been allocated to NorthWestern. A very small percentage is staying with the generator, the exciter, because it is going to be in service before the end of the year, and the need was

necessary for that plant, or for that investment.

COMMISSIONER DOUMIT: Okay. So the last question. Did Avista or any other entity pay a price or any consideration to move the in-service date of the exciter and AAQ system projects forward?

THE WITNESS: Would you repeat that.

COMMISSIONER DOUMIT: Yeah.

Was there any consideration involved in that agreement essentially to move the dates of those projects forward?

THE WITNESS: I'm not aware. My assumption is it was that the need to move it forward is because they needed it for the operation of the plant. So the timing was important that it could be complete sooner rather than later. So I think it was just the importance of those projects for the plant.

COMMISSIONER DOUMIT: Okay. Unless my colleagues have follow-ups, that's all I have. Thank you.

COMMISSIONER RENDAHL: No follow-up, but I do have a question. And you heard my question to Mr. Kinney a little earlier. This has to do with your testimony.

THE WITNESS: Yes.

COMMISSIONER RENDAHL: 1CT, at Page 14, Lines 10 through 21, and then following on to Page 15, on the very first line.

So do you have the letter agreement that we've been talking about, which is SJK-13Cr?

THE WITNESS: Yes, I do.

COMMISSIONER RENDAHL: Okay.

THE WITNESS: I just need to find it here.

Yes.

COMMISSIONER RENDAHL: Okay. So referring to that agreement, that letter agreement exhibit about the allocation of responsibility for the outage and capital cost during the interim period, NorthWestern has agreed to deliver a closing estimate of expected costs by December 10th, 2025, but reserves the right to make changes during a 30-day true-up period. And you say that Avista will need until March 31st, 2026, to deliver the final cost analysis to the Commission; is that correct?

THE WITNESS: Yes. I just said on or before. We could certainly try to do sooner. I just knew that we would at least won't even have actuals, which is what we obviously will want to look at is what actually -- our actual costs compared to

the estimates that were included in our original filing. And we likely won't have those final information till at least the end of January.

So I was hedging myself and giving me two months, but we will certainly try to meet that deadline sooner, if possible.

COMMISSIONER RENDAHL: Okay. And the question I had asked to Mr. Kinney was: Are there -- do you expect any further changes to the allocation agreement that was in that letter agreement of costs associated with the plant that are permissible under the AAA between now and December 31st?

THE WITNESS: I was not a part of the negotiation of that, but when I read that, what I believe that means to me is that they want to true up actual. So what the actual balance is. So same with us. We included estimates of those capital investments. And I -- you know, I don't know if we used a million dollars for a project, does it come in at a million ten? Does it come in at 950? We want to be able to just true up to actual, and I was assuming that was the same thing.

They made determination of the cost to allocate -- what that investment would be and the

allocation between Avista. And I don't think the allocation between will change. I think it just is making sure that we are allocating at actual costs, not an estimate.

COMMISSIONER RENDAHL: Okay. So the changes will be from estimate to actual, not negotiate additional allocation?

THE WITNESS: That's my understanding. I don't know if Mr. Kinney would feel differently, but that would be my understanding.

COMMISSIONER RENDAHL: Okay. Thank you. I believe that's all I have that is nonconfidential.

JUDGE BONFRISCO: And I just want to confirm: There are no other questions from the bench, correct?

CHAIR RYBARIK: No.

JUDGE BONFRISCO: Okay. Perfect.

THE WITNESS: Okay. Thank you.

CHAIR RYBARIK: Well, confirming, yes, there are no other questions.

JUDGE BONFRISCO: Okay. All right. Ms. Andrews, you may be excused. Thank you.

COMMISSIONER RENDAHL: Well, I think we may need her to come back --

THE WITNESS: Yeah.
COMMISSIONER RENDAHL: -- for the confidential --
JUDGE BONFRISCO: Yes.
COMMISSIONER RENDAHL: -- panel --
JUDGE BONFRISCO: We will tentatively --
COMMISSIONER RENDAHL: -- for the --
JUDGE BONFRISCO: We will tentatively excuse you, and we will bring you back for the confidential session.
THE WITNESS: So you're going to bring back Mr. Kinney, correct?
COMMISSIONER RENDAHL: We will probably bring you back as a panel.
THE WITNESS: Oh. Okay. I was only asking because we have one laptop, and I've been swapping our names.
COMMISSIONER RENDAHL: It'll be fine.
THE WITNESS: Okay. Thank you.
(Witness tentatively excused.)
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JUDGE BONFRISCO: Okay. Our next witness is Chris McGuire.

Okay. Mr. McGuire, do you swear to tell the whole truth and nothing but the truth?

THE WITNESS: I do.

CHRIS R. McGUIRE, having been first duly sworn by Administrative Law Judge Bonfrisco, was examined and testified as follows:

JUDGE BONFRISCO: Okay. Just want to confirm with staff whether you have any changes or any comments before.

MR. ROBERSON: As I understand it, the witness has no correction to any exhibits or his testimony, so he's available for bench questions.

JUDGE BONFRISCO: Okay. Perfect. I will defer to the bench for questions for Mr. McGuire.

COMMISSIONER DOUMIT: Thank you.

Mr. McGuire, on Smart Burn, NWEC witness Cebulko -- that's at BTC-1CT, at Page 31, Line 13 -- identifies the control room operator simulator as a Smart Burn-related project, Table 4 of his testimony.

On rebuttal, Avista witness McKinney -- that's at SJK-11CT, at Page 27, Lines 1 through 12 -- argues that the CRO simulator is not specific to the SOFA equipment and, thus, not part of the Smart Burn project.

Based on the information available on the record, does staff agree with NWEC that the CRO simulator is part of the Smart Burn technology disallowed by the Commission prior cases?

THE WITNESS: Excuse me. No, staff does not agree with that assessment. The simulator was not part of what the Commission disallowed in its final order in the 2020 Avista general rate case.

COMMISSIONER DOUMIT: All right. Thank you. Nothing further. Thanks.

CHAIR RYBARIK: Mr. McGuire, we've had some discussion on the net present value analysis that was done. In your testimony, you talk about the lack of a risk-adjusted net present value from the company.

There's a couple responses to that from Avista, one being that we should do a comparison to the larger financial impact, basically the market cost of replacement power. And you heard our discussion earlier today, I assume, about this?

THE WITNESS: I did.

CHAIR RYBARIK: Yeah.

And Mr. Kinney identifies that it's about a two-million-dollar-per-week analysis based on the prior rate case assumptions and forecasting power prices.

Do you agree with that analysis?

THE WITNESS: I -- I don't agree that it is relevant to what the Commission has to decide here. If, in fact, there's a two-million-dollar-per-week cost associated with -- with replacement power, that cost is relevant if there's an outage and we need replacement power. But the question that we're asking is what is the risk of an outage. What is the risk of failure of each individual piece of equipment being replaced? And I don't -- I don't believe that that question's been answered.

CHAIR RYBARIK: In -- so let's turn to whether that question has been answered and your opinion of that.

In rebuttal testimony, there is an analysis provided, and it's a confidential chart. We don't necessarily need to get into the elements of that. But did you see that rebuttal testimony?

THE WITNESS: I did.

CHAIR RYBARIK: And do you agree with that?

THE WITNESS: No, I don't. That analysis was done assuming a risk of failure that was not specific to any piece of equipment being considered here. It is a risk of outage based on the -- the rate of unplanned outages occurring in the past. There's nothing on the record indicating whether any piece of equipment being replaced had that likelihood of failure.

In order to evaluate the likelihood of equipment failure of each piece of equipment, you would need to consider factors specific to the individual piece of equipment, such as the age of the equipment, the condition of the equipment, et cetera. Assuming a blanket 12.6 percent probability of outage does not -- does not really tell me anything about the individual pieces of equipment being replaced.

CHAIR RYBARIK: So it's your view they did not do a granular analysis of the equipment at issue in this case?

THE WITNESS: Yeah, the analysis was not granular enough. But maybe even more importantly, the prudence standard, which is what we're applying here, the prudence standard requires

contemporaneous documentation of decision-making. And what was provided in rebuttal testimony is not relevant to what was contemporaneous at the time the decision was being made.

CHAIR RYBARIK: So your concerns are both in the timing of the analysis and the analysis, itself; is that right?

THE WITNESS: Correct.

CHAIR RYBARIK: Thank you. No further questions.

JUDGE BONFRISCO: No further questions from the bench. Okay. Mr. McGuire, you may be excused.

THE WITNESS: Thank you.

(Witness excused.)

JUDGE BONFRISCO: So our last witness today is Bradley Cebulko.

And is Mr. Cebulko appearing virtually?

MR. ZAKAI: Yes. Mr. Cebulko is on the screen now, I believe.

JUDGE BONFRISCO: Okay. Perfect.

All right. Great. Mr. Cebulko, I will swear you in.

Do you swear to tell the whole truth and nothing

but the truth?

THE WITNESS: Yes.

BRADLEY T. CEBULKO, appearing remotely and having been first duly sworn by Administrative Law Judge Bonfrisco, was examined and testified as follows:

JUDGE BONFRISCO: Okay. I will go ahead and defer to the bench.

MR. ZAKAI: We do have some corrections.

JUDGE BONFRISCO: Oh. You do have some corrections.

MR. ZAKAI: Yeah.

JUDGE BONFRISCO: Perfect. Okay. Please proceed, Mr. Zakai.

MR. ZAKAI: Thank you.

Mr. Cebulko, did you file prewritten testimony in this case?

THE WITNESS: Yes, I did.

MR. ZAKAI: And do you have any revisions or corrections to that testimony?

THE WITNESS: Yes. I have three.

The first one is on Page 14, Line 8. And let me make sure. There's the word "exist." It should actually read "exit," e-x-i-t.

The next revision is on Page 35, Lines 9 through 12. It says I recommend the Commission disallow cost recovery for all four projects that go into service in 2025. It should be "after 2025." So remove the word "in" and exchange it with "after."

And on Page 35, Line 16, there's a hashtag. It should -- or pound symbol -- excuse me -- which is a placeholder I use. And it should read No. 13.

CHAIR RYBARIK: The telecom folks in the room probably appreciate your reference to pound sign versus a hashtag.

MR. ZAKAI: Are those all the corrections you have, witness Cebulko?

THE WITNESS: Yes, they are. Thank you.

MR. ZAKAI: Thank you.

Your Honor, the witness is available for bench questions.

JUDGE BONFRISCO: Thank you so much, Mr. Zakai.

And I will defer to the bench for -- I think we have a few bench questions.

COMMISSIONER DOUMIT: Yes. Thank you, Your Honor.

Mr. Cebulko, in Table 4 of your response testimony -- that's BTC-1CT, at Page 31, Line 13 -- you identify the control room operator system simulator, boiler burner, and SOFA as Smart Burn-related projects previously disallowed by the Commission.

On rebuttal, witness Kenny, at SJK-11CT, at Page 27, Lines 1 through 12, argues that the CRO simulator is not specific to the SOFA equipment and, thus, not part of the Smart Burn project. Additionally, Mr. Kinney contends that the boiler burner and SOFA projects are not also -- are also not a part of the Smart Burn technology.

Does the information provided by Avista on rebuttal change your classification of the CRO simulator as part of the Smart Burn technology disallowed by the Commission in the 2019 GRC?

THE WITNESS: Yes, Commissioner Doumit, both witness Kinney's rebuttal testimony as well as the information supplied in the supp- -- Staff DR 001, confidential -- Supplemental Confidential Attachment A, both of those provide useful information that further clarifies the role of

the CRO simulator. I would agree that its -- its use is not just for an engraving Smart Burn. I don't -- probably want to avoid discussing exactly what's in this confidential response.

COMMISSIONER DOUMIT: I think that's -- you're getting close to enough for this answer, but thank you. Go ahead. Carry on.

THE WITNESS: Yeah. Yeah, yeah. But I what will say is that it has a long -- it has a long life, which I identify in my testimony. And based on its description here, it seemed to me to be better classified as a long-lived asset, of which I recommend complete disallowance.

COMMISSIONER DOUMIT: Okay. All right. Thank you.

Next question. Again, avoid confidential information, please.

THE WITNESS: Mm-hmm.

COMMISSIONER DOUMIT: Your response testimony, BTC-1CT, at Page 3, Lines 6 and 7, you recommend allowing 2.3 million in recovery. However, this value does not reconcile with the confidential tables included in your testimony or the supporting confidential Exhibit BTC-7C.

Further, Avista witness Elizabeth Andrews, in

rebuttal testimony, provides a table that provides party summaries -- summary positions. That's at EMA-1CT, at Table 6, Page 13, which reflects NWEC's proposed recovery at 1.982 million.

Are you able to reconcile this discrepancy without going into confidential information? Or if we have to, we can go into confidential session as well. We'll do that anyway. And if not, we can issue a confidential bench request as well.

So are you able to reconcile without going into confidential information here?

THE WITNESS: Commissioner Doumit, not at this time. And I would appreciate a confidential bench request, if possible.

COMMISSIONER DOUMIT: Okay. All right. We'll do that.

THE WITNESS: Letting me know what you want.

COMMISSIONER DOUMIT: All right. Thank you. Thank you. Nothing further.

JUDGE BONFRISCO: No additional.

I just want to note, since Mr. Cebulko is our last witness, we're at 11:12 right now. So I don't know if we want to continue on and start the confidential session now.

CHAIR RYBARIK: Let's do it.
COMMISSIONER RENDAHL: Take a quick break while --
JUDGE BONFRISCO: You want to take a quick break?
COMMISSIONER RENDAHL: -- we get it set up.
JUDGE BONFRISCO: Okay.
COMMISSIONER RENDAHL: Yeah.
JUDGE BONFRISCO: Okay. And just to kind of clarify for the record, anybody who's attending virtually, they'll stay in the main room. But we'll have our records staff create a confidential where anybody who's actually signed he confidentiality agreement will be sent to that virtual breakout room, and then anybody here present that has not signed the confidentiality agreement, we'll ask that they be excused.
But before we do that, it sounds like we are going to take a break, and...
CHAIR RYBARIK: And we are going to do a confidential bench request for that last question for Cebulko, so I think we could release witness Cebulko.
JUDGE BONFRISCO: So we are going

to do a bench request for him.

COMMISSIONER RENDAHL: Yes.

JUDGE BONFRISCO: Okay. Perfect.

Then, with that, Mr. Cebulko, thank you. You are excused.

THE WITNESS: Thank you.

(Witness excused.)

JUDGE BONFRISCO: And we will take a ten-minute break?

COMMISSIONER RENDAHL: Yeah. Do we need to -- what does the records -- what do records folks need in order to set up this room?

MR. ZAKAI: We're off the record?

MS. STEWART: I would just ask for a couple minutes to re-add some members that had kind of bumped out of the confidential breakout room when the break happened earlier. So if I can just get a couple minutes, then I'll be ready to go for you guys.

COMMISSIONER RENDAHL: Okay. So ten minutes?

MS. STEWART: Oh. That's fine. That's perfect.

COMMISSIONER RENDAHL: Okay.

11:24? Is that okay?

JUDGE BONFRISCO: Okay. 11:24. All right. We are off the record. Thank you.

(Pause in proceedings from 11:14 a.m. to 11:27 a.m.)

JUDGE BONFRISCO: Let's be back on the record.

I just want to confirm that -- with Avista, with the company, that everybody present here in the room is -- has signed a confidentiality agreement and the company's comfortable with everyone present in the room.

MR. MEYER: I am, Your Honor.

JUDGE BONFRISCO: Okay. Thank you for confirming.

Also, it's my understanding we've sent all of the virtual attendees who have not signed a confidentiality agreement out to a separate breakout room.

And, Shannan, is that correct? Yes? Okay.

MS. STEWART: Yes. Yes.

JUDGE BONFRISCO: All right. Perfect.

With that, thank you, Mr. McKinney and

Ms. Andrews. I just want to remind you that you are under oath. And I will go ahead and defer to the bench with their questions.

CHAIR RYBARIK: Let's just make sure. Counsel, can you see the participants in the breakout room and just confirm for us that the company agrees that everybody on that list is signatory to the confidentiality agreement.

MS. WAGNER: If you would like, Brian, I can name the people that are in the breakout room currently. Because I don't think anyone else can see it.

CHAIR RYBARIK: People in the breakout room would have not signed the confidentiality agreement or have signed?

MS. WAGNER: Have.

CHAIR RYBARIK: So we're all going to go into that breakout room in a second.

MS. WAGNER: Yes. You guys will remain in there that have signed confidentiality agreements. Whoever has not will be stepping out of the hearing room. And the people in the breakout room will be joining you in there.

CHAIR RYBARIK: Okay. So we're going to hold off on our questions until we are in

that breakout room.

MS. WAGNER: Yes.

JUDGE BONFRISCO: So, records, you'll be sending us the link, then. Okay.

COMMISSIONER RENDAHL: Yes, so they -- they will trigger the breakout room. We will have to accept it and join the breakout room, is my understanding.

CHAIR RYBARIK: Why don't we go there and then assess where we are when we get there.

MS. WAGNER: Just let me know when you want me to --

COMMISSIONER RENDAHL: We're ready.

MS. WAGNER: -- go into the breakout room. All right. One moment.

COMMISSIONER RENDAHL: Cortney, are we there yet?

JUDGE BONFRISCO: Just want to make sure that we are off the record while we are sorting out our technical issues. So we are off the record. Thank you.

(Pause in proceedings from 11:32 a.m. to 11:33 a.m.)

(Confidential session begins.)

(Confidential portion redacted.)

(Confidential session concluded.)
(Pause in proceedings from 11:57 a.m. to 12:00 p.m.)

JUDGE PAISNER: Let's be back on the record, please.

Okay. I believe this brings us to the end of witness questioning, and we have a few other housekeeping items to address before we adjourn.

By my count, we have three bench requests, with the first being Bench Request 1, which is already filed in the record. Staff has responded. It's also in the record filed in this docket.

The second bench request, BR 2, is going to be the revised exhibit, JMD-4C revised.

And Bench Request 3, BR 3, will be for clarification of witness Cebulko's recommendation.

And so, next, we need to address the public comment exhibit.

I understand from the public comment hearing that public counsel has proposed comments -- the comment period to close on October 3rd, 2025.

Is that correct, Public Counsel?

MR. SYKES: That is correct.
JUDGE PAISNER: And the public comment exhibit will be submitted by October 10th, 2025; is that correct?
MR. SYKES: Correct, Your Honor.
JUDGE PAISNER: So let's mark this as Exhibit BR 4.
MR. SYKES: Okay.
JUDGE PAISNER: Next, turning to the matter of briefing.
We have post-hearing briefing due on October 24th, 2025. The Commission suggests 30 pages of briefing, but we'd like to give the parties an opportunity to comment on that.
We'll start with the company.
MR. MEYER: 30 pages should be enough. Thank you.
JUDGE PAISNER: Okay. And Commission staff.
MR. ROBERSON: The less you hear from me, the better. I'm fine with 30 pages.
JUDGE PAISNER: Public counsel.
MR. SYKES: 30 pages sounds just fine.
JUDGE PAISNER: And NWEC.

MR. ZAKAI: 30 pages sounds good. Thank you.

JUDGE PAISNER: AWEC.

MS. MADSEN: 30 pages works perfectly. Thank you.

JUDGE PAISNER: Okay. And also there's going to be a request for briefing that I will let Chair Rybarik discuss.

CHAIR RYBARIK: During opening statements in this docket, there was an issue raised by NWEC specific to RCW 19.405.030, paren 3. And the observation was that that statute discusses fossil-fuel-generating resources when the rest of the statute talks about coal-fired resources. And I would like the parties to brief whether or not there is a distinction in the statute in whether or not paren 3 would allow for depreciation of other plants other than coal-fired resources. I think that is an important part of our consideration of any decision in this docket.

I also think this is a request we will probably have to make in writing to the parties in another related docket just to make sure we get as full of a record on that as possible. But wanted to make that clear that that is an issue that I think is worth

bringing out in the briefs. If you need 31 pages to include that, we will gladly extend the briefing schedule. Or not the schedule, but the page limit.

COMMISSIONER RENDAHL: One more page.

JUDGE PAISNER: Okay. I would like to clarify, then, that we will set the briefing limits to 30 pages. Unless parties would like to make any further comment at this time.

Okay. So briefing limit set to 30 pages.

Is there any other question or are there any other matters for the parties to address before we adjourn for the day?

And hearing none. We are adjourned. Thank you.

(Proceedings adjourned at 12:04 p.m.)

STATE OF WASHINGTON)
) ss
County of Pierce)

I, John M. S. Botelho, CCR, RPR, a certified court reporter in the State of Washington, do hereby certify:

That the foregoing proceedings were conducted in my presence and adjourned on October 3, 2025, and thereafter were transcribed under my direction; that the transcript is a full, true and complete transcript of the said proceedings and was transcribed to the best of my ability;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of October, 2025.

_____

/s/John M. S. Botelho, CCR, RPR
Certified Court Reporter No. 2976
(Certification expires 5/26/2026.)

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