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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)Docket UE-032065
Complainant,)Volume V
)Pages 526-722
v.)
)
PACIFICORP d/b/a PACIFIC POWER &)
LIGHT COMPANY,)
Respondent.)

A hearing in the above-entitled matter was held at 9:38 a.m. on Thursday, September 16, 2004, at 1300 South Evergreen Park Drive, Southwest, Olympia, Washington, before Administrative Law Judge DENNIS J. MOSS, Chairwoman MARILYN SHOWALTER, Commissioner RICHARD HEMSTAD, and Commissioner PATRICK OSHIE.

The parties present were as follows:

COMMISSION STAFF, by Shannon Smith, Assistant Attorney General, 1400 S. Evergreen Park Drive, S.W., P.O. Box 40128, Olympia, Washington, 98504-1028.

PACIFICORP, by James Van Nostrand, Stephen C. Hall, and George M. Galloway, Attorneys at Law, Stoel Rives, LLP, 900 S.W. Fifth Avenue, Suite 2600, Portland, Oregon 97204.

Barbara L. Nelson, CCR
Court Reporter

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1 PUBLIC COUNSEL, by Robert Cromwell,
Assistant Attorney General, 900 Fourth Avenue, Suite
2 2000, Seattle, Washington 98164.

3 INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES, by Melinda Davison, Attorney at Law,
4 Davison Van Cleve, P.C., 1000 S.W. Broadway, Suite
2460, Portland, Oregon 97205.

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1 JUDGE MOSS: Let's be on the record. While
2 we're getting ourselves situated, let me ask if there
3 are any preliminary matters prior to swearing Mr.
4 Falkenberg? Apparently there are none.

5 I've had some informal, off-the-record
6 discussion with the parties this morning, and while
7 it appears that some are shortening their estimates
8 for cross-examination time on various witnesses, we
9 still have a fair amount to do. And so I want to
10 begin today by cautioning that we may find ourselves
11 short of time, and so it is important that the
12 counsel follow Irving Younger's advice and keep their
13 questions short, hopefully seeking but one fact at a
14 time, and that the witnesses likewise keep their
15 answers short and focused and don't wander off into
16 extraneous -- no matter how interesting -- statements
17 on their own.

18 So with those cautions, let us swear Mr.
19 Falkenberg in. Please stand up, raise your right
20 hand.

21 Whereupon,

22 RANDALL J. FALKENBERG,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25 JUDGE MOSS: Thank you. Please be seated.

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

2 BY MS. DAVISON:

3 Q. Good morning, Mr. Falkenberg. Are you the
4 same Randy Falkenberg who has submitted written
5 pre-filed testimony in this proceeding on behalf of
6 the Industrial Customers of Northwest Utilities?

7 A. Yes.

8 Q. And other than an errata that was filed with
9 the Commission on September 15th, do you have any
10 other additions or corrections to your testimony?

11 A. No.

12 MS. DAVISON: Your Honor, I believe that, by
13 stipulation, all of Mr. Falkenberg's exhibits have
14 been admitted in the record, and we will move forward
15 with oral surrebuttal.

16 JUDGE MOSS: All right.

17 Q. Mr. Falkenberg, have you reviewed the
18 stipulation between the Company, Staff and NRDC?

19 A. Yes.

20 Q. Have you reviewed the testimony that's filed
21 in support of the stipulation?

22 A. Yes.

23 Q. Did you listen to the cross-examination of
24 the panel of the witnesses supporting the stipulation
25 on the bridge line last week?

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1 A. Yes, I did.

2 Q. Do you believe that the stipulation, as
3 proposed by the settlement parties, is a reasonable
4 resolution of the issues in this rate case?

5 A. No, I don't.

6 Q. What are your basic problems with the
7 stipulation in this case?

8 A. I have a number of problems with the
9 stipulation. First of all, the stipulation has not
10 been joined by all of the parties to the case, and
11 not all the parties participated in the settlement
12 discussions that were held between the Company and
13 Staff, so I think that the views of some of the other
14 parties, including ICNU, are underrepresented in the
15 document.

16 Second of all, I'm afraid that the
17 stipulation really doesn't resolve anything with
18 respect to the MSP or interjurisdictional allocation
19 issues. So it leaves us really in the same place as
20 we started before this case began. And it was my
21 reading of the Commission's order in the deferral
22 case that the Commission had an expectation or a hope
23 that we might be able to resolve that issue in this
24 case.

25 Third, I think there's a fundamental flaw in

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1 the way in which the Staff structured its case with
2 respect to the stipulation. The Staff primarily
3 focused on the Western Control Area in its analysis
4 of PacifiCorp's revenue requirements, which made
5 sense under the Staff's theory of the case, which was
6 a Western Control Area allocation.

7 However, the stipulation document adopts the
8 original protocol as the basis for the allocation and
9 for the determination of the revenue requirement, and
10 the problem is that that then brings in costs from
11 the entire system. And I think that, because of
12 that, there's a lot of issues and adjustments that
13 are not really fully considered or adequately
14 considered in the stipulation.

15 Q. Is it your view that specifically Staff
16 overlooked certain adjustments related to the Eastern
17 Control Area?

18 A. That's right. There's a number of issues
19 that deal with the Eastern Control Area that have not
20 been dealt with, and examples would be the Gadsby and
21 West Valley plants, the WAPA contract, and a lot of
22 power cost issues, which I will get into in a little
23 bit.

24 Q. And does the settlement include adjustments,
25 some of which have been adopted by other

0536

1 jurisdictions on PacifiCorp's revenue requirement?

2 A. Well, it excludes some adjustments that have
3 been adopted elsewhere. I mean, the most significant
4 one would be the WAPA contract issue, which is a
5 substantial adjustment that has been adopted in
6 Oregon and Utah.

7 Q. Do you have any specific concerns -- you've
8 stated previously that the settlement does not
9 resolve the MSP allocation issues. Are there
10 specific concerns that come to mind with regard to
11 not resolving this issue or how it's being treated in
12 the settlement?

13 A. Yes. If you recall back to the deferral
14 case that we participated in about a year ago, it
15 seemed to me that, to a certain extent, we were in a
16 state of regulatory gridlock, because the Commission
17 pointed out in its order that it didn't have a
18 multi-state jurisdictional allocation process that
19 was agreed upon or that it could rely upon for the
20 determination of the allocation of those kinds of
21 costs.

22 And if we were to adopt the stipulation in
23 this case without changing it in any way, we're
24 really in the same situation. We would not have that
25 very important issue decided. And that would be, I

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1 think, a serious problem, because one of the things
2 which the Commission talked about in its order was
3 that an advantage of having a general rate case was
4 that that would afford an opportunity to examine this
5 issue, and I think hopefully come to a decision.

6 So the problem that we've got is that if
7 that stipulation is accepted, we will have gotten the
8 negative outcome of the general rate case, which was
9 to have a rate increase, even though we had the rate
10 plan guarantee us that we wouldn't, and yet we
11 wouldn't have one of the benefits that was thought
12 about and talked about in the form of a resolution of
13 the MSP issues.

14 So that's one of the biggest concerns I
15 have, but that's not the only concern. Another
16 concern is that the stipulation is based on the
17 original protocol. And if one looks at all of the
18 different methods which have been put forth in this
19 proceeding and which have been studied by the MSP
20 participants and that sort of thing, you find that
21 the original protocol is really the worst method,
22 from a revenue requirements point of view, for
23 Washington. It's worse than the hybrid method, it's
24 worse than the original -- or the revised protocol,
25 it's worse than modified accord, and it's worse than

0538

1 the rolled-in method.

2 So the original protocol has a serious
3 drawback, from a revenue requirements point of view,
4 and it's also a document that PacifiCorp is no longer
5 using in any of its other states. So it really
6 places the Washington Commission in a -- it's kind of
7 like buying an Edsel, I guess. You know, you're
8 buying something that's a lemon and nobody wants it,
9 and then we turn around and, as soon as this case is
10 over, it goes out the window and we use revised
11 protocol as the basis for filings, but there's no
12 real indication that that's going to be considered as
13 the Commission's method. So we're really left with
14 no resolution on the MSP front.

15 Q. Based on that answer, can we conclude that
16 you believe revised protocol is an improved solution
17 over original protocol?

18 A. Yes. I have some reservations about the
19 revised protocol, certainly, and certainly we
20 continue to believe that the hybrid method would be
21 better, but I don't think that there's any question
22 that the revised protocol is better for Washington
23 than the original protocol. And it's better for a
24 number of reasons, though the most significant one, I
25 think, is that the hydro endowment approach is a more

0539

1 sound approach than the one that was included in the
2 original protocol. It's a simpler method and it's
3 really a -- there is more support for it, I guess, is
4 another thing. So that's probably the main
5 advantage.

6 There's -- it's a more flexible approach and
7 it also can solve some of the issues with respect to
8 wheeling and that sort of thing that have been talked
9 about, or direct access, I guess I should say. And
10 it has done away with some of the more controversial
11 aspects of the original protocol, such as the coal
12 endowment.

13 Q. Is there a different treatment of the
14 Huntington Plant, for example, under original
15 protocol and revised protocol?

16 A. Right, under original protocol, the
17 Huntington Plant was allocated to the Utah
18 jurisdiction. It was called the coal endowment. And
19 under the revised protocol, that is subsumed into the
20 embedded cost differential calculation, which is used
21 in computing the benefit of the hydro endowment.

22 Q. Staff said last week that they had utilized
23 the original protocol for establishing the revenue
24 requirement for the settlement in this case because
25 they did not have the numbers upon which to analyze

0540

1 revised protocol. Do you agree with that?

2 A. No, I believe that, for purposes of the
3 settlement, it would have been possible to have
4 incorporated the Staff's adjustments that were
5 accepted, at least, into the revised protocol
6 framework.

7 The Company did file discovery requests and
8 answers that indicated what the revenue requirement
9 impact was, and they filed testimony in the rebuttal
10 phase that did delineate what the impact of the
11 revised protocol method was.

12 And from a practical point of view, it
13 didn't really change things very much. I mean, from
14 a mechanical point of view, there would be not that
15 much difference in terms of how the allocators would
16 work, for example. So I don't think that that would
17 have been an insurmountable problem at all.

18 Q. PacifiCorp's Witness Andrea Kelly said last
19 week that she didn't know whether revised protocol
20 with the new settlement numbers would result in a
21 lower or higher revenue requirement as compared to
22 original protocol. Do you agree with that?

23 A. No, I don't think that that's a reasonable
24 or a possible outcome, that revised protocol could
25 increase the revenue requirements. And to explain

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1 why, what I'd like to do is just sort of walk through
2 the changes that one would have to make in order to
3 go from the original protocol to the revised
4 protocol.

5 The first thing that one would do would be
6 it would eliminate the so-called hydro endowment,
7 which was really an allocation of the fixed cost of
8 the hydro plants to the Western Division states, so
9 that would produce a reduction in revenue
10 requirements for Washington.

11 The next step would be to eliminate the coal
12 endowment from Utah Division, and that would be an
13 increase in the revenue requirements for Washington.
14 Then one would implement the hydro endowment in the
15 revised protocol, which is based on the embedded cost
16 differential method, and that, in the test year,
17 would produce a benefit for Washington.

18 The next step would be to implement the
19 Mid-C allocation, which again would produce a benefit
20 for Washington. And then the next step would be to
21 preferentially, or to do a state-by-state allocation
22 of the QF resources, which again produces a revenue
23 requirement reduction for Washington.

24 I believe the final step would be
25 implementation of a slightly different factor for

0542

1 allocation of peaking units. The so-called seasonal
2 allocator I think is a little different, but -- and
3 that produces a little bit higher revenue requirement
4 for Washington.

5 So that the point is that we've got all of
6 the ingredients, and the basic point is that when one
7 changes things like the rate of return, for example,
8 it would change the value of some of those different
9 items a little bit. For example, it would reduce the
10 value of some of the things that are benefits to
11 Washington and it would probably reduce the cost of
12 some of the things that are costs.

13 But there's really nothing in that exercise
14 that one would go through that would have a
15 drastically different effect as a result of the
16 adjustments that were made in the stipulation.

17 So I think it would be a fairly
18 straightforward exercise. I think that the Company
19 has models that can perform those calculations. I
20 don't think they're terribly difficult.

21 Q. Andrea Kelly also testified last week that
22 ICNU opposed the revised protocol in Oregon. Is that
23 an accurate statement of your testimony? I guess I
24 should say, as way of background, are you the witness
25 for ICNU in UM 1050, the Oregon MSP docket?

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1 A. Yes, I was. And as far as the accuracy of
2 the statement, I'm afraid Ms. Kelly seems to have the
3 impression that if one doesn't agree exactly with the
4 revised protocol as it's been put forth, then that's
5 opposition.

6 And while it's true that I have reservations
7 about revised protocol and that ICNU believes and I
8 believe that hybrid is a better approach for the
9 Western Division companies -- or states, we
10 recommended that if the Commission in Oregon were to
11 go down the path of revised protocol, that certain
12 changes would be made.

13 So our approach was to recommend changes and
14 improvements in revised protocol, not one of
15 opposition to it.

16 Q. And can you summarize the main conditions or
17 changes that you recommended to the Oregon Commission
18 with regard to revised protocol?

19 A. Yes, there were a number of issues, and some
20 of those are similar to some issues that I talked
21 about in this case. One of the bigger concerns we
22 had was the fact that the revised protocol doesn't
23 have a permanent structural solution with respect to
24 the issue of cost shifting, which is something that
25 occurs when a faster-growing state causes resources

0544

1 to be added and, as a result, costs increase for some
2 of those slower growing states.

3 So that was a big concern, and that's a
4 concern that's alleviated under hybrid. But in both
5 Oregon and Washington, I proposed the same resolution
6 to that, which was the adjustment that I make for the
7 Gadsby and West Valley peaking units.

8 The other thing that we proposed was some
9 changes to the hydro endowment calculation to reflect
10 the benefits of reserves and load following, which
11 are comparable to the adjustments that are
12 recommended in this proceeding.

13 We also recommended that there be a most
14 favored nation clause. For example, if PacifiCorp
15 were to propose or provide an inducement to customers
16 in some other states for adoption of the revised
17 protocol, then those would be applicable to Oregon.
18 We proposed that the Oregon Commission be given the
19 opportunity to make any subsequent adjustment for
20 growth-related issues or cost shifting that it deemed
21 appropriate. So those were the kinds of adjustments
22 that I proposed.

23 Q. Does Washington have the same opportunity to
24 -- as Oregon to adopt conditions or various changes
25 to a particular methodology, such as revised

0545

1 protocol?

2 A. Well, I believe it does. And in fact, in
3 the case of revised protocol, Washington actually has
4 more flexibility than any of the other states, except
5 California, because the revised protocol document has
6 a paragraph at the end called Interdependency of
7 Commission Approval, which basically says that
8 Oregon, Utah, Idaho and Wyoming are expected to all
9 ratify the document and not change it, but Washington
10 is not one of the states that's listed there.

11 So it would appear to me that Washington
12 actually has more flexibility allowed under the terms
13 of the documents than -- of the document than do the
14 other states.

15 Q. Staff is suggesting that original protocol
16 is just this placeholder that's being used to
17 establish the revenue requirement in this rate case,
18 and that they're going to begin immediate work on a
19 mutually-agreeable allocation methodology after this
20 case is completed. Do you have any views on that?

21 A. Well, I'm troubled by it, because it does
22 seem to me that nothing will have changed that would
23 mean that a resolution of this issue will be possible
24 in the next few years or few months, whatever length
25 of time it would take. The Staff still seems to be

0546

1 supporting the hybrid approach or the control area
2 approach, I guess is -- their approach is slightly
3 different than hybrid, but -- and PacifiCorp is
4 supporting revised protocol for the rest of the
5 system.

6 So I don't really see why there's going to
7 be a resolution to the issue. I think it's a real
8 problem, because any kind of routine case that might
9 come along, whether it's a general rate case or
10 another deferral type case or even some kind of a
11 tariff rider case or whatever, this issue of the
12 jurisdictional allocation will come up again, and it
13 really makes it very difficult for any kind of a
14 decision to be made. I mean, we have the same
15 outcome, really, I think, as one would have had -- as
16 we had last year with the deferral case. So it just
17 seems to me it's an invitation for more regulatory
18 gridlock.

19 Q. Do you have any observations regarding the
20 settlement on power cost issues?

21 A. Yes, I do. As I indicated before, I think
22 that the biggest problem is that the way in which the
23 Staff structured their case, they focused on the
24 Western Control Area. I believe Mr. Braden testified
25 last week that the Staff didn't have the time or

0547

1 wasn't able to do an analysis of all the resources in
2 Eastern Control Area.

3 And that has a big impact on the power cost,
4 because if you look at the adjustments that the
5 parties agreed to on Appendix B to the power costs,
6 there's about \$20 million worth of adjustments, and
7 89 percent of those adjustments, 89 percent of the
8 dollar value of those adjustments are associated with
9 resources that are contained in the Western Control
10 Area.

11 So Staff, because they focused on the
12 Western Control Area, looked at the Western Control
13 Area and they found a lot of issues, and the Company
14 agreed to a lot of those issues, so there was a big
15 impact there.

16 But when you look at the issues that were
17 examined and the adjustments made on the Eastern
18 Control Area, they just aren't in there, or very few.
19 I think the most significant one is one of the
20 temperature hedges. And the Staff had already
21 proposed to disallow the temperature hedge in the
22 Western Control Area, so I think it only made sense
23 to make the disallowance in the Eastern Control Area.

24 So it does seem to me that that's a
25 fundamental flaw, because the Staff really had to

0548

1 look at the entire system if they were going to go
2 into a settlement that was predicated on the original
3 protocol, but they did not do that.

4 Q. And what was done in the settlement with
5 regard to Gadsby and West Valley?

6 A. The costs of those units are included.
7 Those units are included in the grid study, so
8 there's no doubt that those units are reflected in
9 PacifiCorp's rates.

10 Q. You mentioned earlier that one example of an
11 issue that's in the Eastern Control Area that's not
12 included in the settlement is the WAPA contract. Are
13 there other examples of things that you think, if the
14 Staff had looked at the Eastern Control Area, would
15 have possibly included as adjustments in the
16 settlement?

17 A. Well, I think there are certainly issues
18 that might well have been considered. The best
19 example perhaps is the market cap adjustment that I
20 proposed. The Staff adopted or used in its testimony
21 a market cap adjustment with respect to the Bridger
22 unit, and that was accepted in the settlement. And
23 what this adjustment has to do with is just trying to
24 figure out if the coal units on the system are
25 running enough or not.

0549

1 And so the Staff and the Company agreed to
2 that adjustment as part of the settlement process,
3 but they ignored the fact that there is the same
4 adjustment for the Eastern Control Area resources,
5 and that was an adjustment that I put forth in my
6 testimony. So there was about \$8.6 million of
7 additional possible adjustments relating to that for
8 the Eastern Control Area that were not considered in
9 the settlement. So that's one example.

10 Another example would be the Hunter outage.
11 The Company included the Hunter outage in its
12 calculation of the outage rates that it used in grid,
13 and it didn't treat that as though it was any kind of
14 unusual or, you know, extreme event. So it proposes
15 to include the cost of that in rates for -- over the
16 period of time in which the rates are in effect.
17 That's a \$7.7 million issue.

18 Now, again, because of the Staff's approach,
19 where they looked at only the Western Control Area
20 resources, Hunter wasn't an issue to them, doesn't
21 seem to me. So that's an issue that was one that
22 should have been considered, I believe, and isn't
23 present in the settlement.

24 Q. The settlement has a provision for a
25 \$600,000 adjustment for what's called unspecified

0550

1 ICNU/Public Counsel adjustments. Do any of these
2 dollars pertain to power costs?

3 A. No, I don't believe so, because the Company
4 has produced a stipulation net power cost study in
5 grid that reflects the changes that they did agree
6 to, and there's simply no reflection of any of these
7 other adjustments, for example, that I've talked
8 about in my testimony, in there, other than the ones
9 that -- the Company did adopt a number of the
10 proposals that I made and did adopt some of the
11 Staff's, but there's a fairly substantial number of
12 issues that were not addressed and were not reflected
13 in that grid study.

14 Q. Do you have any other observations on the
15 settlement that you'd like to convey?

16 A. Well, simply that this issue of outages is
17 an important issue, there was a lot of testimony that
18 discussed that, and I think that's another
19 deficiency, because the settlement just accepted all
20 of the outages that the Company has experienced in
21 the four-year period as being reasonable and being
22 outages that should be included. And that includes
23 the outage at the Bridger coal plant, for example,
24 which the Company admitted in testimony was the
25 Company's error and it was a case where the Company's

0551

1 personnel didn't follow their ordinary procedures,
2 and that created the entire problem.

3 They didn't address, for example, the outage
4 rates on the Gadsby and the West Valley units, which
5 are inflated because of the fact that the Company
6 included outages that occurred during the time those
7 units were being tested, which is very unusual. I
8 mean, plants have lots of outages when they're being
9 tested and when they're in their first months of
10 commercial operation, and those shouldn't be
11 reflected, but that, again, is being reflected in the
12 grid study that was filed in support of the
13 stipulation.

14 MS. DAVISON: Your Honor, I have no further
15 questions. Mr. Falkenberg is available for
16 cross-examination.

17 JUDGE MOSS: All right. Then we'll turn to
18 Mr. Van Nostrand.

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

20

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

22 BY MR. VAN NOSTRAND:

23 Q. Good morning, Mr. Falkenberg.

24 A. Good morning.

25 Q. I thought I'd start off comparing -- I

0552

1 believe you filed an Exhibit 424, which indicates the
2 adjustments that were accepted in the settlement. Do
3 you have that in front of you?

4 A. Yes, I do.

5 Q. I'd like to compare that with Attachment
6 Three -- Attachment B to Exhibit 3, which is the
7 settlement agreement, and just see if we can go down
8 the list here. It seemed like there's no
9 disagreement --

10 MS. DAVISON: Excuse me. Do you have that
11 in front of you, Mr. Falkenberg?

12 THE WITNESS: I do not. Okay.

13 Q. Now, comparing these two --

14 CHAIRWOMAN SHOWALTER: Before you -- I'm
15 just trying to find Attachment B right now, so --

16 MR. VAN NOSTRAND: That's the schedule of
17 adjustments to net power costs.

18 CHAIRWOMAN SHOWALTER: I just have a hard
19 time finding this. Thank you.

20 Q. Now, comparing these two documents, it looks
21 like we don't have any disagreement as to the hydro
22 hedge and the two temperature hedges, right; that
23 those were reflected in the settlement?

24 A. That's correct.

25 Q. And you also show Fort James on your Exhibit

0553

1 424, which appears at the bottom of Attachment B?

2 A. That's correct.

3 Q. And similarly, you show Wyodak capacity,
4 which is another adjustment shown at the bottom of
5 Attachment B?

6 A. Yes.

7 Q. And again, another one, the CT Dispatch,
8 which I think shows 228,000 at the top, and Quick
9 Start, which shows a million dollars at the bottom,
10 you've included that on one line called CT Dispatch,
11 Logic and Quick Start; correct?

12 A. That's right. Just to be clear, my numbers
13 are my calculation of Washington jurisdiction, and I
14 believe Attachment B is total company. So that's why
15 the numbers might be different.

16 Q. All right. I guess an issue I -- a question
17 I had, an adjustment that's included on the bottom,
18 the top one is entitled West Valley Heat Rates, which
19 is an adjustment of 1.574 million, from Mr. Widmer's
20 rebuttal testimony, Exhibit 137. And I notice, in
21 your Exhibit 425, adjustments still in dispute, you
22 list Gadsby, West Valley heat rates, and
23 acknowledging there may still be a disagreement as to
24 Gadsby heat rates, would you not agree that there has
25 been an adjustment made for the West Valley heat

0554

1 rates?

2 A. There has been -- we're closer together.
3 Mr. Widmer corrected an error, I believe, that he had
4 in the curve that was used in grid for the West
5 Valley heat rate, and in the way I did the
6 calculation, I've indicated that there was a problem,
7 because the actual heat rates were better than the
8 grid results.

9 So I think Mr. Widmer corrected part of the
10 problem, but I also pointed out that part of the --
11 remaining part of the problem I think has to do with
12 how the units are dispatched. Those units are
13 starting up and shutting down a lot in grid, which
14 doesn't seem to happen a lot in actual operations, so
15 I think that's the rest of the difference.

16 So we're in partial agreement on that one,
17 but I just wanted to have on this exhibit just the
18 things that we were in agreement on completely.

19 Q. And if I compare the table one in your
20 testimony, you have -- on that line, you have an
21 adjustment of 285,000, and on this document you have
22 an adjustment of 271,000. So I take it,
23 notwithstanding the one -- the adjustment Mr. Widmer
24 made, you are only reducing the amount of your
25 adjustment by 14,000?

0555

1 A. Well, that's -- these numbers are computed
2 against the Company's original case on this Exhibit
3 3; they're not computed against the settlement or any
4 subsequent runs done by Mr. Widmer. So that's why
5 it's still almost at the original value. The reason
6 why it's not exactly the same, I think I explained in
7 a data response, which was that my original table one
8 had relied on an estimate of the Washington
9 jurisdictional allocation effect, and I basically, as
10 part of doing bench -- the response to the bench
11 request, got involved in a much longer and more
12 difficult calculation that I had sort of hoped to
13 avoid and actually had to compute the numbers a
14 little more precisely, so it's a little different.

15 Q. I'd like to step back. The sum of your
16 recommended adjustments you include on Exhibit 423.
17 Now, am I correct that in terms of annual net power
18 costs, you're at \$500.1 million?

19 A. You said 423?

20 Q. Yes.

21 A. That's correct.

22 Q. And the Company, in its rebuttal case, was
23 at 559 -- 555 million; correct?

24 A. That's right.

25 Q. And the settlement agreement, I think you

0556

1 mentioned, drops that figure to 534.1 million?

2 A. That's correct.

3 Q. So is it fair to say that what used to be a
4 difference of about \$55 million between the Company's
5 position and your position has been narrowed to about
6 \$34 million?

7 A. I'll accept that.

8 Q. And so, roughly, we've closed the gap from
9 those two positions by about 40 percent, 38 percent,
10 to be precise?

11 A. Well, I'll accept that subject to check.

12 Q. And also stepping back and looking at this
13 overall level of power costs, one of the statements
14 you made in your testimony on page five, lines 22 and
15 23, is that power costs continue to trend downwards
16 from the levels occurring during the power crisis.
17 And in Exhibit 430, which is a response to a data
18 request from us, we asked you to explain that
19 statement. Do you have that in front of you?

20 A. Yes, I do.

21 Q. In particular, I'm looking at page four of
22 that document, where you present a chart showing the
23 12-month power cost; correct?

24 A. Yes.

25 Q. And that chart shows that, in fact, it has

0557

1 trended downward from the \$1.2 billion experienced
2 during the Western energy crisis, correct, and that's
3 where you start off on the left-hand side of your
4 chart?

5 A. That's correct.

6 Q. And I think you indicate in this data
7 request response the most recent figure is about
8 598.2 million for the 12 months ended December '03;
9 correct?

10 A. Yes.

11 Q. So for the 12 months ended March '04, hasn't
12 that figure increased to about 646 million?

13 A. I believe that was Mr. Widmer's rebuttal
14 testimony, yes.

15 Q. And I believe he also said in his rebuttal
16 testimony the figure for the 12 months ended May of
17 2004 is about 687 million?

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

19 Q. And he also says in his rebuttal testimony
20 that the forecast net power cost for fiscal 2006,
21 which are the 12 months ended March 31, 2006, are
22 expected to be in excess of about 745 million?

23 A. Well, that's true, but, again, that's based
24 on a grid run, I believe, that is not necessarily any
25 more precise or accurate than the grid run Mr. Widmer

0558

1 put forth in this case.

2 Q. Even accepting that and looking at your
3 chart on page four of Exhibit 30, when you say
4 they're trending downward, it's really by reference
5 to the \$1.2 billion of the Western energy crisis,
6 because, in fact, more recently they're trending
7 upward, aren't they?

8 A. Well, there's been some variation in the
9 last few months, I think that's right, but the
10 overall trend has been down.

11 Q. And taking the last figure that you show in
12 your table on page four is about \$600 million, which
13 is about 20 percent higher than the \$500 million
14 you're recommending; correct?

15 A. That's correct. It's also higher than what
16 the Company filed for, it's higher than what the
17 Company settled for in this case, it's higher than
18 what the Company settled for in the Utah case by
19 almost the same amount as I'm suggesting should be.

20 So I think there's a pretty good recognition
21 that there's a lot of reasons why the actuals have
22 come in higher than normal, or higher than normalized
23 power cost, including things such as poor hydro
24 conditions, substantial increases in outages at coal
25 plants, weather. There's just a lot of factors that

0559

1 do affect the actuals.

2 Q. Doesn't poor hydro conditions only amount to
3 about \$40 million a year?

4 A. There was a calculation done by the Company
5 in Wyoming recently that said it was \$57 million, I
6 believe, in the PCA case that was filed.

7 Q. I want to talk a little bit about your
8 approach when you prepared your testimony in this
9 case. The discussion of the outages on page 34, I'm
10 looking at lines nine and ten, you indicate that you
11 applied a very high standard of proof should be
12 required in the case of outage rate modeling. Do you
13 see that?

14 A. Well, I said, Consequently, a very high
15 standard of proof should be required in the case of
16 outage rate modeling. That was my recommendation to
17 the Commission.

18 Q. And we asked you a data request, 1.40, which
19 we've included as Exhibit 437, and your response
20 states that a very high standard of proof should be
21 required of the Company in this case on all issues,
22 because it represents an early exit from the rate
23 plan. Do you see that on Exhibit 437?

24 A. Yes.

25 Q. So is it fair to conclude from this

0560

1 response, when you say that that high standard of
2 proof should be required on all issues, that that was
3 the standard you applied when you evaluated all the
4 Company's power cost issues in this case?

5 A. Yes.

6 Q. This response also indicates that you said
7 this very high standard of proof is warranted because
8 it represents an early exit from the rate plan. Are
9 you referring in that to the Commission's order in
10 the deferred power cost case, UE-020417?

11 A. This case does come about because of the
12 Commission's order in that case.

13 Q. And that order allowed the Company to file a
14 general rate case prior to the end of the five-year
15 rate plan period?

16 A. That's right. Now, I'm -- just for
17 clarification, I thought that was -- did you say
18 Docket Number UE-02417?

19 Q. 020417.

20 A. Okay. That's right.

21 Q. Now, when you say that there's a very high
22 standard that should be applied in this case because
23 it represents an early exit, and that this case was
24 filed because of that order, is there anything in
25 that order that you can cite -- and that order is

0561

1 included as Exhibit 450. Is there anything in that
2 order that would suggest that the Commission intended
3 that a very high standard of proof would be applied
4 to the Company's filing?

5 A. You know, I don't recall that specifically,
6 but the Commission certainly knows what they intended
7 or what they expected from this case, and I would
8 hesitate to try to infer what their thinking might
9 be.

10 Q. Was it your position that, based on that
11 order, that a very high standard of proof should be
12 applied to the power cost issues in this case?

13 A. No, it's based on my recommendation to the
14 Commission, which is based on the fact that we had a
15 five-year rate plan that has been terminated early.

16 Q. If there were such a standard to be applied,
17 that the Company had a very high standard of proof,
18 wouldn't you have expected the Commission to
19 enunciate that standard in its order? Go ahead and
20 file a general rate case, but be aware we're going to
21 apply a higher standard of proof to all the issues
22 that you raise?

23 A. Well, again, I don't think it's necessary to
24 try to infer what the Commission's intentions might
25 have been, but I certainly don't believe that the

0562

1 Commission took the decision to terminate the rate
2 plan early lightly at all. I think they certainly
3 gave it a lot of consideration, and it's my
4 recommendation to the Commission that they use a very
5 high standard of proof.

6 Q. Do I also understand you correctly that
7 there is nothing in that order that would suggest
8 that a high standard of proof was intended to be
9 applied?

10 MS. DAVISON: Your Honor, I'm going to
11 object on the basis that this has been asked and
12 answered many times now.

13 JUDGE MOSS: I think he has answered that
14 question.

15 MR. VAN NOSTRAND: Okay. I'll move on.

16 Q. On this similar issue of what the order
17 said, if we could turn to Exhibit 445, which is your
18 response to our Data Request 157, 1.57, you stated in
19 that response that, from your perspective, the
20 Commission can merely rescind its order in Docket
21 UE-020417 because its expectations for allowing the
22 Company to file this case have not been met by the
23 Company. What were the expectations you're referring
24 to in that response?

25 A. What I'm talking about there was the

0563

1 Commission's statements regarding the absence of a
2 jurisdictional allocation method, and that was cited
3 as one of the advantages that having an early -- or
4 having a general rate case would afford. That would
5 be one of the benefits.

6 Q. Is it your position from that order that
7 there was an expectation that that issue would be
8 solved before this case was filed?

9 A. I don't know that the Commission expected it
10 to be solved before the case was filed. I suspect
11 that there was a hope that that might be the case,
12 but the Commission, in the order, talked about the
13 fact that full -- the Company's rates had not been
14 fully analyzed since the 1986 case, and that this
15 general rate proceeding would afford the opportunity
16 to look at some of these kinds of issues.

17 Q. So what is the failed expectation that would
18 cause the Commission to rescind its order in that
19 case?

20 A. In this particular case, it's the lack of a
21 MSP solution that is accepted. Actually, I think we
22 probably ought to turn back to page 62, line 10 and
23 11, which is what this data request asked about, and
24 make sure that we're all talking about the same
25 thing.

0564

1 Q. That's where you make the statement, The
2 most logical approach would be for the Commission to
3 simply reject the PacifiCorp filing?

4 A. Right. And this stems from the problems
5 with the filed protocol, most notably the fact that
6 the Company really abandoned the original protocol in
7 all of its jurisdictions, except Washington.

8 Q. Can you point to anything in that deferred
9 power cost order that would cause the Commission to
10 rescind that order on the basis of this
11 interjurisdictional cost allocation issue?

12 A. Well, I believe that the passages that speak
13 to this are provided on the same page there, 62,
14 findings of facts 30 and 31, but, again, it's really
15 the Commission's call as to what their expectations
16 were and whether they were met, and it seems to me
17 it's the Commission's prerogative to decide if it
18 wants to continue on with this case or rescind the
19 decision that allowed it to take place.

20 Q. If the standard were as you suggested,
21 wouldn't you expect the Commission to say something
22 in its order to the effect of go ahead and file a
23 general rate case, but be aware that if you don't
24 meet our expectations, we're going to rescind this
25 order?

0565

1 MS. DAVISON: I object on the basis that
2 it's argumentative. And actually, it's also vague.
3 I'm not sure what Mr. Van Nostrand's referring to
4 specifically.

5 JUDGE MOSS: Well, I don't think it's
6 particularly argumentative or vague, but Mr. Van
7 Nostrand does ask the Witness to speculate as to what
8 the Commission might or might not include in an
9 order, so to that extent, I don't think his testimony
10 is particularly helpful to us. The order says what
11 it says.

12 Q. Let's talk about the WAPA transmission
13 contract, which you mentioned a couple of times in
14 your summary. That's on pages 49 to 51 of your
15 testimony. And I think you indicated it's worth
16 about five and a half million, or about 500,000 on a
17 Washington basis; correct?

18 A. Yes.

19 Q. And looking at your testimony, you base the
20 amount of your adjustment on the Utah Public Service
21 Commission decision, which imputed revenue based on
22 the current FERC wheeling rate; correct?

23 A. Well, I based it on the Company's response
24 to one of my data requests, which happened to use
25 that method, because that is the method that Utah

0566

1 employed.

2 Q. And in the testimony in this adjustment, you
3 actually include an excerpt from the Utah order that
4 employs this method; correct?

5 A. That's correct.

6 Q. And also an excerpt from the Oregon
7 Commission decision; correct?

8 A. Yes.

9 Q. And am I correct your testimony doesn't
10 offer any other evidence on this issue, other than
11 the excerpt from these two orders?

12 A. That's right. I based this on the practice
13 of the other two commissions.

14 Q. And in fact, Exhibit 444, which is a
15 response to a data request, confirms that you based
16 this conclusion on referenced orders of the Utah and
17 Oregon Commissions; correct? It's based solely on
18 those orders?

19 A. That -- my response says, Mr. Falkenberg
20 based this conclusion on the referenced orders of the
21 Utah and Oregon Commissions.

22 Q. So it's fair to state that you haven't
23 included any analysis that considers the
24 circumstances at the time that the WAPA contract was
25 entered into in 1962; correct?

0567

1 A. No, I did not.

2 Q. And you don't offer any evidence to
3 demonstrate that the contract was imprudent or
4 unreasonable; correct?

5 A. No, my recommendations is based on the
6 practice of the other commissions.

7 Q. Did you review the record in the Utah
8 decision that you cited?

9 A. I reviewed the order.

10 Q. So you would know, then, that the Utah
11 decision was -- that the adjustment in that case was
12 supported by the testimony of a division witness,
13 which included a discussion of the circumstances that
14 existed at the time the contract was filed?

15 A. I won't dispute that. I was in that case, I
16 believe -- well, I believe that what you're actually
17 talking about is a more recent case. I believe what
18 happened is that the Commission issued this order in
19 1983, and it was used for a number of years and then
20 people sort of forgot about it. And I believe, in
21 one of the cases a few years ago, which I talked --
22 which is actually where this order is quoted from,
23 that issue re-emerged and the Commission was unhappy,
24 I think, about the fact that the -- this issue had
25 been forgotten about for all this time.

0568

1 So I reviewed that order, and I -- it stands
2 to reason that that was based on some testimony in
3 the case.

4 MR. VAN NOSTRAND: Your Honor, may I
5 approach the witness?

6 JUDGE MOSS: Sure. Have you shared with
7 counsel what you're going to share with the witness?

8 MR. VAN NOSTRAND: I'm about to.

9 Q. I've handed you a document. Do you
10 recognize this as the report and order in Utah Docket
11 99-03510, which you cite in your testimony on page
12 49, and the excerpt on page 50?

13 A. It appears to be, yes.

14 Q. And if we could turn to the highlighted
15 portion on page 21 of that order, it states, does it
16 not, that Utah Power was imprudent to testify as the
17 Division, because it did not build escalation factors
18 into contracts of 80 years' duration. The Division's
19 witness, who in 1962 was a Utah Power and Light
20 Company employee, testifies that he was asked to
21 calculate a wheeling rate that would cover marginal
22 costs, but be low enough to prevent construction of a
23 federal transmission system. Did you see that in the
24 order?

25 A. Yes, although I think you said he was asked,

0569

1 and I think it says here he was tasked.

2 Q. Tasked, I'm sorry, you're correct. So isn't
3 it fair to say that the Utah PSC decision was
4 actually based on the testimony regarding the
5 circumstances at the time the contract was signed?

6 A. That's what's referenced here, yes.

7 Q. And do you agree that this is the
8 appropriate standard, what was the -- was the
9 contract prudent or reasonable, based on the
10 circumstances at the time the contract was entered
11 into?

12 A. That's the typical prudent standard, yes.

13 Q. Your testimony on page 50 goes on to say, on
14 lines 20 and 21, Based on the same order, the Utah
15 PSC determined that the lack of price escalators in
16 an 80-year contract was imprudent.

17 Now, can I direct you to page 22 of that
18 order, the highlighted language, the second
19 paragraph? If I could ask you to read that into the
20 record, please?

21 A. Yes. Without explicitly ruling on the
22 Division's testimony that the Company behaved
23 imprudently by entering into long-term contracts
24 having no escalation provisions, we conclude that the
25 record contains no basis upon which to adopt the

0570

1 Company's rationale for abandoning the imputation
2 policy, and we will not do so.

3 Q. So in fact, the order does not do what your
4 testimony says it does. The order does not find the
5 Company to be imprudent for failing to exclude
6 escalation factors; correct?

7 A. Well, I think it's pretty clear that,
8 because the escalation factors weren't included, that
9 the Commission had problems with this contract.

10 Q. But the order says, Without explicitly
11 ruling on the testimony that the Company behaved
12 imprudently; correct?

13 A. That's what it says, yes.

14 Q. Did you have this portion of the order in
15 mind when you wrote your testimony on lines 20 and
16 21, that, based on this order, the Commission
17 determined the Company to be imprudent?

18 A. You know, I don't recall. I think I quoted
19 the portions of the order that were most pertinent.

20 Q. And one of the orders that you didn't cite
21 in this portion of your testimony was the recent
22 order from the Wyoming Commission, which I've
23 included as Exhibit 447. Can I ask you to turn to
24 page 37 of that document?

25 A. Yes, I have that.

0571

1 Q. Now, the Commission states there, The
2 contract is too old for us to look back and make a
3 reasonable analysis of the prudence of entering it,
4 especially in view of the nature of the parties, the
5 limited scope of the contract, and the modest
6 contribution to reducing the revenue requirement. We
7 suspect that the Company was driven by considerations
8 other than simply maximizing its profits when it
9 entered into this 80-year agreement.

10 Now, your testimony does not address the
11 possibility that the Company was driven by
12 considerations other than simply maximizing its
13 profits when it entered into this agreement, does it?

14 A. My testimony doesn't go into the
15 motivations.

16 Q. And it's fair to say, from this order, that
17 the Wyoming Commission was unpersuaded by your
18 testimony on this point?

19 A. The Wyoming Commission didn't accept this
20 adjustment.

21 Q. If we could turn to the BPA settlement
22 adjustment, which you discuss on page 10 of your
23 testimony.

24 A. Yes, I have that.

25 Q. And you refer to this as a zero cost

0572

1 transaction with BPA; right?

2 A. Yes.

3 Q. And if we could maybe establish the basic
4 facts. PacifiCorp mistakenly delivered power to BPA
5 between November 16th, 2000, and April 4, 2001,
6 because of a faulty meter owned by BPA. Am I right
7 so far?

8 A. I agree.

9 Q. And that, as a result of the settlement, BPA
10 agreed that it would deliver 41,600 megawatt hours of
11 power back to PacifiCorp in July and August of 2003,
12 and another 21,600 megawatt hours in October. And
13 you still don't have any dispute about these
14 underlying facts; correct?

15 A. That's right.

16 Q. Now, the dispute is that PacifiCorp does not
17 include this transaction in the net power cost, but
18 you do; correct?

19 A. That's correct.

20 Q. Now, do you expect that BPA will be
21 delivering free power to the Company regularly on a
22 going forward basis?

23 A. No.

24 Q. Is it your testimony that this is a
25 recurring transaction that should be incorporated in

0573

1 rates on a going forward basis and that, for purposes
2 of setting rates, we should assume that every year
3 BPA is going to deliver to PacifiCorp about 104,000
4 megawatts of free power?

5 A. No, but, as I pointed out in my testimony,
6 there's a number of transactions that have
7 terminated, that terminated before the end of the pro
8 forma period, so the Company included those. The
9 Company has made it a practice of including all of
10 the actual short-term firm transactions, so I don't
11 see any reason why this one should be included with
12 the others included -- or why this one should be
13 excluded and the others included.

14 Q. You think BPA delivering free power is a
15 typical short-term firm transaction?

16 MS. DAVISON: Your Honor, I object. Asked
17 and answered at least three times.

18 JUDGE MOSS: That's overruled.

19 THE WITNESS: I'm sorry. Repeat the
20 question.

21 Q. Do you think BPA delivering free power is a
22 typical short-term firm transaction?

23 A. No.

24 Q. Isn't this simply the flip side of a
25 transaction that occurred in late 2000 and early

0574

1 2001? The Company mistakenly delivered power to BPA,
2 and BPA is just delivering power back two years
3 later?

4 A. I certainly hope not, because in 2001, power
5 was much more expensive and much more valuable. This
6 was one of the things that drove the Company's
7 billion dollar power cost number that the Company
8 contends were never recovered. This is one of the
9 parts of that. This is one of the things that led
10 the Company into claiming that it needed to file the
11 case for the deferral and that it needed an early
12 exit from the rate plan, so I certainly hope that
13 this isn't just a return of the same number of
14 megawatt hours.

15 Q. And one of the reasons you cited in your
16 testimony for including this is that, in Oregon UE
17 Docket 147, the Company agreed to provide a credit
18 against the power cost deferral it was allowed to
19 collect in UM 995; correct?

20 A. I'm sorry, what was the page reference
21 again?

22 Q. Page 10, lines 17 to 19.

23 A. I just explained that as a -- that's an
24 explanation of what happened to the -- what the
25 treatment of that was in Oregon.

0575

1 Q. If I could refer you to Exhibit 446, which
2 is the stipulation regarding disposition of the BPA
3 settlement?

4 A. Yes, I have that.

5 Q. Now, Exhibit 446 is the document that
6 reflects the agreement to reduce the power cost
7 deferral, isn't it?

8 A. Yes.

9 Q. And according to Exhibit 446, the Company
10 was authorized to recover about \$130 million of
11 deferred power costs in Oregon that arose from the
12 Western energy crisis in UM 995; correct?

13 A. That's correct.

14 Q. And the deferral period in that proceeding
15 was November 1, 2000, through September 7, 2001;
16 correct?

17 A. Yes.

18 Q. So the free power that the Company
19 mistakenly delivered to BPA, which occurred in
20 November through April of 2001, was during the
21 deferral period in Docket UM 995; correct?

22 A. That's correct.

23 Q. And I think you've already stated these
24 deliveries of the free power to BPA would have
25 contributed to the excess net power costs that the

0576

1 Company wasn't authorized to defer in UM 995;
2 correct?

3 A. That's correct.

4 Q. So under this stipulation, the Company
5 agrees to reduce the deferred amounts in UM 995 by
6 the value of the free power that BPA delivered to the
7 Company in July, August and October of 2003; isn't
8 that correct?

9 A. That's correct.

10 Q. So isn't this a fair result? These mistaken
11 deliveries to BPA increased the deferred amounts that
12 the customers were required to pay in UM 995, so when
13 PacifiCorp got paid back by BPA for these free power
14 deliveries, the Company reduced the deferred amounts?

15 A. I believe it was a fair result. I believe
16 ICNU was one of the parties that signed off on this
17 agreement.

18 Q. Now, is it your testimony that Washington
19 ratepayers similarly paid for these power deliveries
20 to BPA during the Western energy crisis in the same
21 manner that the Oregon ratepayers paid as part of the
22 UM 995 deferrals?

23 A. No, they certainly didn't pay in the same
24 manner, but I think were being asked to allow the
25 Company to increase rates, and the rate plan was I

0577

1 think broken open because, as the Commission said in
2 its order, it was overtaken by events, and this was
3 one of the things that contributed to that.

4 Q. Well, in Oregon, the Company was allowed to
5 defer and amortize in rates \$130 million in excess
6 net power costs. Was there any such recovery of
7 excess net power costs in Washington?

8 A. No, but Oregon didn't have a rate plan and
9 Washington did.

10 Q. Is it your testimony that, by reopening the
11 rate plan allowing the Company to file this case,
12 that the Company is going to be able to recover
13 excess net power costs associated with the Western
14 energy crisis?

15 A. I believe that the Company is going to be
16 allowed to increase rates and get more money from the
17 customers, so the net effect is really pretty much
18 the same.

19 Q. Are there any excess net power costs
20 associated with the Western energy crisis that are
21 still proposed for recovery in this case?

22 A. No, but I think it's the reason we have this
23 case, or one of the reasons.

24 Q. So if I understand correctly, just allowing
25 the Company to file this case means that customers in

0578

1 Washington effectively bore the impacts of the free
2 BPA power deliveries in 2000 and 2001?

3 A. I think it's one of the contributing factors
4 to the fact that we have a case here today, yes.

5 JUDGE MOSS: Mr. Van Nostrand, if you're
6 going to switch subjects --

7 MR. VAN NOSTRAND: I've got a couple more
8 follow-up questions before I switch subjects, Your
9 Honor.

10 JUDGE MOSS: Signal me. We want to take our
11 break.

12 Q. Well, let's talk about the Company's ability
13 to file this rate case. As I understand the
14 testimony of Mr. Schoenbeck last week, the Company
15 wouldn't get any rate relief until January 1 of 2006,
16 which is the end of the rate plan period; correct?

17 A. I believe that was his recommendation.

18 Q. And that's when the Company would have been
19 entitled to rate relief -- that's the earliest point
20 in which the Company would have been entitled to
21 early rate relief -- to rate relief under the rate
22 plan; correct?

23 A. That's my understanding, yes.

24 Q. So if that recommendation is adopted, is it
25 still your testimony that, by having this case,

0579

1 Washington customers effectively bore the costs
2 associated with these mistaken BP power deliveries
3 from 2000 and 2001?

4 A. If that proposal is accepted, then I would
5 be less concerned about this issue.

6 MR. VAN NOSTRAND: It's a good time to
7 break, Your Honor.

8 JUDGE MOSS: Thank you. Let's take a
9 15-minute recess, and that will bring us back at five
10 before the hour.

11 (Recess taken.)

12 JUDGE MOSS: And we'll be on the record.
13 You may resume.

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

15 Q. Mr. Falkenberg, I'd like to turn to the
16 subject of thermal deration factors. For purposes of
17 determining the thermal deration factors, the Company
18 uses a compilation of outages over the most recent
19 four-year historical period; correct?

20 A. Yes.

21 Q. In this case, that would be April of '99
22 through March 2003?

23 A. Yes.

24 Q. And is it fair to say that in issue here is
25 whether this four-year rolling average should be

0580

1 adjusted to exclude certain major catastrophic
2 outages or whether the unadjusted four-year rolling
3 average should be used?

4 A. Well, I'm recommending adjustments not only
5 for catastrophic outages, but also unusual outages
6 and imprudent outages.

7 Q. So you're proposing to exclude certain
8 outages, basically, and the Company's proposing to
9 use the unadjusted four-year rolling average;
10 correct?

11 A. Yes.

12 MR. VAN NOSTRAND: Your Honor, may I
13 approach the witness again?

14 JUDGE MOSS: Yes. If you're going to give
15 him a document, of course you need to distribute
16 that.

17 Q. Mr. Falkenberg, I'm trying to square your
18 recommended approach in this case with your approach
19 when you testified in the Company's 2002 Wyoming
20 general rate case. Do you recognize the document I
21 handed you as the thermal availability section of
22 your pre-filed testimony in the Company's 2002
23 Wyoming general rate case?

24 A. Yes, I do.

25 Q. And if you could read into the record page

0581

1 39, the highlighted language, from lines 11 through
2 line 20?

3 MS. DAVISON: Your Honor, I object. I'm not
4 sure what the relevance of this is.

5 JUDGE MOSS: It seems to me that Mr. Van
6 Nostrand wants the witness to square his testimony in
7 one proceeding on this subject with his testimony in
8 this proceeding on the subject. Have I got that
9 right, Mr. Van Nostrand?

10 MR. VAN NOSTRAND: Yes, Your Honor. Mr.
11 Falkenberg proposed in the 2002 rate case that an
12 unadjusted four-year rolling average be used, and in
13 this case he's proposing that certain outages be
14 excluded.

15 JUDGE MOSS: I'm going to overrule the
16 objection.

17 Q. Would you please read the highlighted
18 portions, lines 11 through 20, Mr. Falkenberg?

19 A. Certainly, and I do hope we get to the
20 opportunity for me to square this in a moment.

21 In the past, the Company computed outage
22 rates for thermal plants using the simple four-year
23 rolling average with no other adjustment for
24 catastrophic or normal outages. Consequently, outage
25 costs, such as those related to the Hunter Unit 1

0582

1 failure, were recovered by recognizing an increase in
2 plan outages and plan outage rates. This procedure
3 effectively allowed for a four-year amortization of
4 major outage. While it did not provide an exact
5 matching between actual costs and subsequent
6 recovery, it was a balanced and beneficial approach.
7 It afforded the opportunity to reflect outage cost
8 impacts in customers' rates while at the same time
9 creating an incentive for PacifiCorp to minimize
10 costs and the duration of all outages.

11 Q. Now, in that case, the Wyoming Commission
12 adopted your recommended approach and used an
13 unadjusted four-year rolling average; correct?

14 A. That's correct. And just to allow the
15 record to be clear, in that case, I actually proposed
16 two different alternatives. And the reason I did was
17 that, at the time that the testimony was prepared,
18 the Commission had issued a ruling in a prior case
19 suggesting that the Hunter Unit 1 outage should be
20 included in the general rate case. They didn't want
21 it included as a separate rider. And the Company
22 filed its case including Hunter as a separate rider.

23 And so the client that I was working for at
24 that time, WIEC, had a motion pending before the
25 Commission that was saying, Hey, we think that the

0583

1 Company didn't comply with your order and we want you
2 to make them do that. So I believe I proposed two
3 different alternatives. One was to go down the path
4 which PacifiCorp went, which was to take the
5 four-year outage and then make these adjustments.
6 The second path was to include it in the rate case,
7 and the only way that made sense for us to include it
8 in the rate case was just to allow it to be reflected
9 in the four-year average.

10 So that's really what this was about. And
11 the Commission accepted the approach of including it
12 in the rate case, which is what it said it always
13 wanted to do, and it included it in the four-year
14 average. So it didn't seem in that case that it made
15 any sense to make these adjustments, but the Company
16 had already proposed to make a number of the
17 adjustments in that case that I'm proposing here, so
18 that's why we had two different scenarios.

19 Q. But if we turn to your testimony on page 43,
20 lines 10 to 12, your response to the question,
21 Assuming the Hunter outage is at rest in the rate
22 case, what should happen? Your response is that, I
23 recommend the Commission revert back to the
24 unadjusted four-year rolling average calculation, not
25 only for Hunter, but for all plants.

0584

1 So the description you just gave would
2 explain why you proposed this treatment for Hunter,
3 but you've nonetheless excluded -- included all the
4 other outages, as well; correct?

5 A. That's right, and that was in the
6 alternative case in which the Commission elected to
7 include Hunter as part of the rate case. And I think
8 I noted in a footnote that you didn't read that said
9 that, In theory, the Commission could make a
10 case-by-case determination of the treatment of
11 abnormal outages. This would entail an examination
12 of prudence and other factors. For simplicity, I
13 think it's best that the Commission simply adopt
14 either the traditional unadjusted four-year rolling
15 average for all plants if it decides to include
16 Hunter in the rate case.

17 Q. And that's basically what the Company is
18 doing here, correct, adopting a traditional
19 unadjusted four-year rolling average?

20 A. That's correct, but, again, the problem with
21 that approach, which I think makes it inequitable, is
22 that the Hunter outage was one of the many things
23 that contributed to the power crisis, and it was
24 clearly one of the events that overtook the four-year
25 rate plan or the five-year rate plan, and so it's a

0585

1 big part of the reason we're here today.

2 The Hunter outage was a tremendous amount of
3 additional cost, and so I think that the Hunter
4 outage opened the door, or at least in part, to this
5 proceeding, and I think therefore we ought to look at
6 whether or not it should be included in the outage
7 rate calculation.

8 Q. Well, let's look at the Hunter 1 outage
9 issue now, just to make sure that the basic facts --
10 this is the outage of the Company's base load
11 430-megawatt coal plant from November 24th, 2000,
12 through early May 2001; correct?

13 A. Yes.

14 Q. And in this case, the Company's proposing to
15 use the Hunter 1, to include it within the four-year
16 rolling average, and you're proposing to exclude it
17 as one of these abnormal or catastrophic outages;
18 correct?

19 A. That's correct.

20 Q. And one of the reasons you give on page 34,
21 line 19, is that the Hunter 1 outage was clearly a
22 catastrophic one-time event, but even though it was a
23 catastrophic one-time event, you did think it was
24 appropriate to include it as part of the four-year
25 rolling average in the Wyoming 2002 general rate

0586

1 case; correct?

2 A. Yes, given that the Wyoming Commission had
3 already said that it wanted the Hunter outage to be
4 included in the rate case.

5 Q. And you also point out that, because the
6 outage occurred during the power crisis, it had a
7 devastating effect on PacifiCorp's power cost. And I
8 think you just reaffirmed that here. You also said
9 that, under PacifiCorp's modeling, it is assumed that
10 the Hunter Unit 1 outage would recur once every four
11 years.

12 Now, it's not your testimony, is it, that
13 including this outage within the four-year rolling
14 average would pick up the devastating impact on
15 PacifiCorp's power costs?

16 A. Okay. Just to be clear, I think you're
17 reading on page 34, starting about line 16, going to
18 line 22?

19 Q. Well, line -- yeah, exactly.

20 A. Well, certainly it doesn't have the same
21 effect as it had during the power crisis. It had a
22 much bigger effect during the power crisis. And I
23 believe that estimates that the Company developed at
24 the time placed that number at a couple hundred
25 million dollars.

0587

1 Q. So it isn't this same devastating impact on
2 power prices. You're not assuming that, by including
3 this, that we're going to -- this will recur every
4 four years, are you?

5 A. Well, by including it, you're really
6 assuming that that same kind of an outage will occur
7 every four years. And what effect that has on power
8 costs is really determined by market prices. We are
9 now in a period when market prices are much lower
10 than they were in 2000 and 2001, so the dollar effect
11 is less, but the Company would be including it and
12 assuming it's going to happen every four years.

13 Q. And that adjustment would be valued at
14 normalized prices and not at the extraordinarily high
15 prices that were prevailing during the Western energy
16 crisis; correct?

17 A. Yes.

18 Q. And if we look at the Wyoming rate case, for
19 example, didn't the inclusion of the Hunter outage
20 within the four-year rolling average result in the
21 Company recovering about \$1.3 million, as compared to
22 the \$30.7 million that the Company claimed it
23 actually incurred in replacement power cost?

24 A. That's my recollection, yes.

25 Q. And isn't it fair to say that the

0588

1 extraordinary aspect of the Hunter 1 outage was that
2 it occurred at the height of the Western energy
3 crisis, and that if it had occurred when power prices
4 were at normal levels, it was not an extraordinary
5 event at all?

6 A. Well, it was certainly -- you're probably
7 right. The fact that occurred when it did occur made
8 it the event that it was. From a point of view of
9 lost generation and the magnitude of the energy, it
10 would have been an unprecedented event. It just
11 wouldn't have been as noticeable if it had happened
12 at a time when power prices were low.

13 Q. Another reason you give on page 35 for your
14 proposal to exclude Hunter 1 is that the Company
15 removed the Hunter 1 outage from its recent rate
16 filings in other states. And that's basically lines
17 three through nine. Do you see that?

18 A. Yes.

19 Q. And you cite the last two Oregon rate cases,
20 UE 134 and UE 147. Now, in Oregon, as we already
21 discussed, the Company is recovering \$130 million in
22 excess net power costs through the UM 995 deferrals;
23 correct?

24 A. Yes.

25 Q. And a portion of those deferrals related to

0589

1 the Hunter outage, which occurred during the deferral
2 period in UM 995; correct?

3 A. Yes.

4 Q. So if the Company is recovering its -- the
5 costs associated with the Hunter 1 outage in Oregon
6 through the amortization of these deferred power
7 costs, it would be double dipping, wouldn't it, if it
8 also included the Hunter 1 outage in the four-year
9 rolling average for purposes of Oregon rate filings?

10 A. Yes.

11 Q. So doesn't that provide a reasonable basis
12 for the Company not to include the Hunter 1 outage in
13 its last two Oregon rate cases that you cite there on
14 line seven?

15 A. Yes.

16 Q. And in Utah, didn't the Company also have a
17 deferral order in place that allowed it to recover
18 about \$147 million in excess net power costs incurred
19 during the Western energy crisis?

20 A. Yes.

21 Q. And the Company is recovering -- and a
22 portion of those deferrals also related to the Hunter
23 1 outage; correct?

24 A. Yes.

25 Q. So if the Company is recovering the costs

0590

1 associated with the Hunter 1 outage through that \$147
2 million deferral in Utah, wouldn't it also be double
3 dipping in Utah if it included the Hunter outage in
4 the rolling four-year average in Utah rate filings?

5 A. Yes.

6 Q. So that also is a reasonable basis for the
7 Company not to include Hunter in its most recent Utah
8 case that you cite on line eight; correct?

9 A. Yes.

10 Q. And in the Wyoming case, that you cite on
11 lines eight and nine, the Company did not include the
12 Hunter 1 outage in the four-year rolling average,
13 because it was attempting to recover it separately.
14 That you already noted; correct?

15 A. Yes.

16 Q. And the Company didn't get recovery of it
17 separately, and instead the Commission included it
18 within the four-year rolling average, as you
19 recommended, in fact; correct?

20 A. Yes.

21 Q. Now, in Washington, is it your position that
22 the Company's Washington customers have borne the
23 costs of the Hunter 1 outage in the same manner as
24 the Oregon ratepayers have paid through the UM 995
25 deferrals?

0591

1 A. No, and the reason, of course, is the
2 Company didn't ask for recovery in the same manner.
3 In fact, the Company never asked for recovery when
4 the event actually happened.

5 Q. But in any event, there is no such recovery
6 of excess net power costs in Washington similar to
7 that that the Company's recovering in Oregon;
8 correct?

9 A. That's correct, but as I indicated before,
10 it's one of the big contributors to the fact that we
11 have a rate case here today, instead of maybe next
12 year or sometime later.

13 Q. Well, isn't the same true for Utah? You're
14 not testifying that the Company's Washington
15 customers have borne the cost of the Hunter 1 outage
16 in the same manner as Utah ratepayers are paying
17 through their \$147 million power cost deferral, are
18 you?

19 A. No.

20 Q. Now, in the Company's most recent Wyoming
21 rate case, which I've included as Exhibit 450, the
22 Company did include the Hunter 1 outage as part of
23 the four-year rolling average; correct?

24 A. Yes.

25 Q. And you testified in that case; correct?

0592

1 A. That's correct.

2 Q. And you did not object to the inclusion of
3 the Hunter 1 outage as part of the four-year rolling
4 average; correct?

5 A. That's correct. Again, there was a pretty
6 clear precedent on how the Commission wanted to treat
7 that.

8 Q. That was the treatment that you recommended
9 in the 2002 case; correct?

10 A. That's correct.

11 JUDGE MOSS: Mr. Van Nostrand, I think you
12 just made a reference to Exhibit 450, which was the
13 order in our docket.

14 MR. VAN NOSTRAND: Oh, I'm sorry. Exhibit
15 447, Your Honor. Sorry.

16 JUDGE MOSS: 447, that's what I thought.
17 Thank you.

18 Q. I'd like to turn to another non-power cost
19 issue, which you discuss on page 48 and 49. That's
20 the Gadsby rate base. Do you recall that?

21 A. Yes.

22 Q. Now, your adjustment would reduce the rate
23 base investment by the seven and a half million
24 dollars that the Company saved by getting GE to agree
25 to an early termination of a rental agreement for

0593

1 some temporary CTs at the site; correct?

2 A. Yes.

3 Q. Doesn't -- in proposing this adjustment,
4 don't you necessarily assume that the Company was
5 offered a \$7.5 million price concession from GE on a
6 price of the combustion turbines instead of
7 eliminating the lease payments?

8 A. I'm sorry. I don't understand your
9 question.

10 Q. Don't you assume that was an offer that was
11 actually on the table, that the Company could get a
12 seven and a half million dollar price concession,
13 rather than just eliminating the lease payment?

14 A. Not necessarily.

15 Q. You don't have any evidence that the Company
16 was actually presented with this option, though, do
17 you?

18 A. I don't believe that there was any clear
19 evidence on that, no.

20 Q. Your testimony says the Company may have had
21 to choose between a lower permanent cost for
22 ratepayers versus a one-time savings for PacifiCorp.
23 I'm looking at page 48, lines 13 and 14.

24 And will you look at Exhibit 441, which is
25 the response to Data Request 1.53? Isn't your

0594

1 response that there is no way of telling whether this
2 amount would have been available to reduce the price
3 of the Gadsby CTs, because the Company did not
4 negotiate to obtain a direct price concession?

5 A. I'm sorry, what data --

6 Q. Exhibit 441, your response --

7 A. 441.

8 Q. -- to ICNU 1.53. I'm looking at the last
9 sentence in Part B.

10 A. Part B. Yes, it says 7.5 million represents
11 the total amount of the concession by GE. There's no
12 way of telling whether this amount would have been
13 available to reduce the price of the Gadsby CTs,
14 because the Company did not negotiate to obtain a
15 direct price concession.

16 Q. Now, you proposed this same adjustment in
17 the Company's 2003 Wyoming rate case; correct?

18 A. That's correct.

19 Q. And when the -- the Wyoming Commission
20 rejected this adjustment; correct?

21 A. That's correct.

22 Q. And in doing so, looking at Exhibit 447, at
23 page 31, they indicated that the hypothetically
24 conjoined transaction, which amounts to a price
25 concession by General Electric, was not demonstrated

0595

1 beyond the level of theory and surmise; correct?

2 A. That's what it says, and that is one of the
3 reasons why I included the confidential exhibit,
4 which was a board presentation made by PacifiCorp
5 that -- suffice it to say, I think it does address
6 this issue in much better detail, and I don't want to
7 get into what's in the document, but I think that the
8 document does provide some -- at least additional
9 information.

10 CHAIRWOMAN SHOWALTER: What is the exhibit
11 number?

12 THE WITNESS: One moment, and I will find
13 that. I believe, in my numbering system, it was
14 20-C.

15 JUDGE MOSS: Then it would be 420 in our
16 system.

17 THE WITNESS: I'm sorry, that was incorrect.

18 Q. It's your 17-C.

19 A. That's correct.

20 MR. VAN NOSTRAND: I want to be helpful on
21 this point.

22 JUDGE MOSS: 417?

23 THE WITNESS: 417, yes.

24 Q. Well, as far as the impact of the seven and
25 a half million dollar savings on the Company's

0596

1 decision to purchase the Gadsby CTs, is it your
2 testimony that the Company would have made a
3 different better choice if you took the seven and a
4 half million dollar savings from the lease payments
5 out of the equation?

6 A. Well, I think if the concession had been
7 obtained as a reduction in price, then customers
8 would have been better off for the next 25 years.
9 Unfortunately, that wasn't done. It was a concession
10 that was obtained in a way that only helped
11 PacifiCorp's shareholders, so I think that, yes, it
12 would have been better if it had been done as a price
13 concession.

14 Q. And do you present any testimony that would
15 indicate that that was an option that was available
16 to the Company, was to get a concession on the price?

17 A. I don't believe that that's really addressed
18 in the testimony or in the exhibit.

19 Q. Moving on in your testimony, I'd like to
20 look at your proposed treatment of Gadsby and West
21 Valley. It begins on page 72. Now, you recommend on
22 lines 23 and 24 that the Commission price all new
23 capacity resources at market value; correct?

24 A. That's correct.

25 Q. And if I understand you correctly, this

0597

1 recommendation would not apply to all the Company's
2 resources, just the new ones; right?

3 A. That's correct.

4 Q. Has this Commission generally included
5 resources in rates at their historical cost or based
6 on the market value?

7 A. It's historically been done on the basis of
8 cost.

9 Q. And other than the Colstrip 3 decision,
10 which you cite in your testimony, are there examples
11 where the Commission has decided that a resource
12 should be valued for rate-making purposes on the
13 basis of market valuation, rather than historical
14 cost depreciated?

15 A. I don't believe there are. However, as I
16 guess is pretty clear, we haven't really had a fully
17 litigated case for 18 years or so, so it's a little
18 unclear if there is any real guidance on this point.

19 Q. Well, are there resources now in the
20 Company's Washington books that are valued at fair
21 market value for rate-making purposes, rather than
22 original cost depreciated?

23 A. I don't believe that that's -- that there
24 are any.

25 Q. So other than this Colstrip 3 decision,

0598

1 we're charting new ground for both this Commission
2 and this utility, as far as you know; correct?

3 A. That would be a new approach, other than, as
4 I say, there's support for that with the prior
5 decision regarding Colstrip.

6 Q. Well, let's look at that, which is included
7 here as Exhibit 448. Now, if I understand your
8 testimony correctly, on page 74, lines nine and ten,
9 you're saying the Commission effectively applied a
10 market-based approach to the recovery of the Colstrip
11 3 cost, instead of allowing it in rate base; is that
12 correct?

13 A. That's correct.

14 Q. Now, is there anything in that order,
15 Exhibit 448, that uses the term fair market value?

16 A. The order doesn't talk about fair market
17 value. That's an inference I drew from the way in
18 which the Black Hills contract was structured and my
19 knowledge of the way in which the wholesale market
20 worked back in the early 1980s.

21 Q. Is there anything in the order that says the
22 Commission is valuing the resource based on a market?

23 A. I believe that the answer would be the same.

24 Q. Now, when you indicated that this adjustment
25 was based on your understanding of the wholesale

0599

1 markets, I guess you're referring to lines seven and
2 nine, where you're saying, basically, long-term
3 contracts were a de facto competitive power market,
4 even at that time, prior to Order 888; correct?

5 A. I'm sorry, what page are you on?

6 Q. Page 74, lines seven through nine?

7 A. Yes, and again, there's a footnote that
8 explains a little bit about how that worked, but the
9 idea was, when the market was tight, utilities would
10 sell power from the most expensive plant that they
11 had. They would -- the FERC had this cost standard,
12 and when the market was excess, it would revert to
13 some lower cost unit or, in the case of the Colstrip
14 contract, there was a 50 percent discount for the
15 first five years, 1984 to 1989 -- '88, that was built
16 into the Black Hills contract, and it coincided with
17 a period of time where there was excess capacity in
18 the area.

19 Q. So you mentioned that on -- under Footnote
20 69, that utilities could circumvent the cost-based
21 requirement by selecting a blend of products that
22 produced virtually any desired cost.

23 In the case of PacifiCorp, at the time the
24 Black Hills contract was entered, do you know what
25 PacifiCorp had on file with FERC as the basis for its

0600

1 cost-based rates?

2 A. I don't recall.

3 Q. If you could turn to page eight of the
4 order, Exhibit 448. The paragraph at the top of the
5 page states, The Company considered the contract to
6 involve a system sale with Colstrip involved only as
7 a determiner of cost. The Company contended that the
8 contract involved a benefit to Washington ratepayers
9 because it allowed justification of a higher price
10 under the Federal Energy Regulatory Commission (FERC)
11 regulations than the rate currently on file, which
12 was based on the Jim Bridger plant.

13 A. Yeah, I recall this now, and I think this
14 really proves my point, because this was a case where
15 the Company changed the plant that it was using to
16 calculate the wholesale rate in order to reflect the
17 realities of the market that existed at the time, and
18 that's how it was done. That's one of the things
19 that went away when we went to a competitive
20 wholesale market.

21 Q. So is the Black Hills contract used in this
22 decision because it represented the market-based
23 value or because it represented the Company's actual
24 cost of power produced from Colstrip 3?

25 A. Well, the actual cost of power produced in

0601

1 Colstrip 3 was actually higher than this. It was, as
2 I indicated, and I think there's a discussion of this
3 in the order here, where it says that the contract
4 actually produces only 50 percent cost for the first
5 -- for the period '84 to 1988.

6 Q. And by that, do you mean to say that,
7 therefore, this was market-based, rather than
8 cost-based?

9 A. It was a clever way that utilities used at
10 the time to come up with cost-based rates that
11 reflected the realities of the market that existed at
12 that time.

13 Q. And this was the resource that PacifiCorp
14 used at the time to determine cost-based rates;
15 correct?

16 A. I'm sorry, I'm a little confused. You're
17 talking about Colstrip or Bridger or --

18 Q. Yes, Colstrip 3. This was the resource that
19 PacifiCorp used at the time to justify cost-based
20 rates?

21 A. What the contract did with Black Hills is it
22 sold power on a cost basis for 40 years, based on the
23 levelized cost of Colstrip. But the first several
24 years were at a discount from the contract price, so
25 it wasn't really cost-based.

0602

1 Q. I'm talking about Colstrip 3 as being the
2 determiner of cost-based for purposes of the
3 Company's filings at FERC, where it was required to
4 justify a certain level of rates. Wasn't the
5 Colstrip 3 unit used as the determinative cost-based
6 rates?

7 A. It was used in justifying this contract to
8 the Federal Energy Regulatory Commission, yes.

9 Q. And didn't the Company have to file a tariff
10 at FERC that established a certain rate level which
11 was justified by cost?

12 A. I believe they did, yes.

13 Q. And wasn't that tariff, when they filed that
14 tariff justifying the cost, wasn't the Colstrip 3
15 unit identified as the basis for those cost-based
16 rates?

17 A. I believe it was.

18 Q. If you look at the dissenting opinion in
19 that case, page 15, the dissent of Commissioner Hall
20 --

21 JUDGE MOSS: Are you still looking at 448?

22 MR. VAN NOSTRAND: Exhibit 448, yes, Your
23 Honor.

24 Q. It states, I'm looking at the third
25 paragraph now, the second sentence, The Black Hills

0603

1 contract requires Pacific to provide 75 megawatts of
2 power out of the region for 40 years, and the price
3 of that power is based on the fully distributed costs
4 of Colstrip 3. Do you agree that that was the case?

5 A. I believe that -- I don't entirely agree. I
6 pointed out that there is a discussion in the order,
7 a couple pages before, that talks about this 50
8 percent discount. And if you'd like, I can find it,
9 but it's in there. Yes, that's on page nine of the
10 order. It's next to the last paragraph on the page.

11 Q. Referring to the paragraph that says, By the
12 terms of this power sales agreement with Black Hills,
13 the Company will be made whole over the life of the
14 contract regarding those expenses which the Company
15 used in its calculation?

16 A. It says, Although the initial portion of the
17 contract, from 1984 through 1988, involves payment of
18 only 50 percent of the fixed costs, resulting in a
19 temporary revenue deficiency for the Company, the
20 ending years of the contract will reverse this trend.

21 Q. So over the life of the contract, the
22 Company will recover its expenses?

23 A. That was the Commission's opinion, yes.

24 Q. And does that sound like market-based prices
25 or cost-based prices?

0604

1 A. Again, I believe it was a way of structuring
2 a contract that met the realities of the market
3 within the context of cost-based rate-making.

4 MR. VAN NOSTRAND: I think that's it, Your
5 Honor. I have no further questions. I would like to
6 move Cross-examination Exhibits 430 to 448. I think
7 449 is a duplicate of something that Mr. Falkenberg
8 filed in his supplemental testimony. And then 450.

9 JUDGE MOSS: To be sure, did you say 440 or
10 430?

11 MR. VAN NOSTRAND: 430 through 448, I
12 believe are our cross-examination exhibits.

13 JUDGE MOSS: That's the full list of
14 exhibits, yes.

15 MR. VAN NOSTRAND: And I believe 449 is a
16 duplicate.

17 JUDGE MOSS: So we simply won't offer that,
18 then.

19 MR. VAN NOSTRAND: And then we would offer
20 450.

21 JUDGE MOSS: All right. Any objection to
22 these exhibits?

23 MS. DAVISON: Your Honor, I don't object,
24 but Exhibit 447, which is the Wyoming decision, is
25 missing the dissenting opinion, and I would like to

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1 have that added, in the interests of a full record.

2 JUDGE MOSS: All right. Will you furnish
3 that to us?

4 MS. DAVISON: Yes, I will. I've brought it
5 with us today.

6 JUDGE MOSS: All right. We can take copies
7 at a break, unless you have occasion to refer to it
8 before that.

9 All right. Staff had indicated some
10 cross-examination for Mr. Falkenberg. Do you still
11 have the need to have this witness?

12 MS. SMITH: No, thank you, Your Honor.

13 JUDGE MOSS: Thank you. Then that will
14 bring us to whether -- the question of whether there
15 is any inquiry from the bench.

16

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

18 BY CHAIRWOMAN SHOWALTER:

19 Q. Well, there are a lot of facts and figures
20 in this case, and some of them use one assumption or
21 one protocol, some use another. I am trying to get a
22 sense of scale and proportion dependent on what
23 protocol versus what adjustment, for example. And so
24 I may be asking you to mix apples and oranges. If
25 so, you can just tell me.

0606

1 But let's start with the allocation
2 methodology. I take it, from your testimony, that
3 while you think the hybrid model is preferable to the
4 revised protocol, you find the revised protocol a
5 good enough starting point to work from; is that
6 generally correct?

7 A. That's right. I believe that the testimony
8 I filed both here and in Oregon really did work with
9 the protocol here, and then the revised protocol in
10 Oregon, and used it as the starting point and made
11 some adjustments.

12 Q. And you call those improvements, and I'm a
13 little unclear as to whether those improvements are
14 the same or different from the adjustments that you
15 were talking about in your cross-examination. For
16 example, WAPA, Gadsby, Huntington. Are those issues
17 separate from the allocation methodology that -- or
18 the changes to the revised protocol that you would
19 make?

20 A. In the case of WAPA, that's an adjustment
21 that doesn't, per se, have to do with going from
22 revised protocol to -- or protocol to revised
23 protocol, but it is an issue that comes up because we
24 need to look at the entire system costs. That
25 wouldn't be the case, for example, under hybrid.

0607

1 Now, Huntington was a coal plant that, in
2 the original protocol, was assigned completely to
3 Utah. So that is an issue that is -- how that's
4 allocated is certainly an issue that is affected by
5 going from original protocol to revised protocol.
6 And revised protocol, that's allocated on a system
7 basis, but it's used as part of the embedded cost
8 differential credit that the Company built into the
9 revised protocol, because it saw an advantage in the
10 hydro facilities and it wanted to confer that
11 advantage to the customers in the Western Division.
12 So it factors into that calculation.

13 Q. All right. This may be an apples and
14 oranges question. On cross, you acknowledged that
15 the delta between your current recommendation in this
16 case of 500 million, in round numbers, of total
17 revenue requirement, compares to the settlement
18 proposal of 534 million, so that is a delta of about
19 34 million. Am I correct there?

20 A. Right, and we're talking only about power
21 costs, net power costs from the grid model.

22 Q. All right. And then I was -- the first
23 thing in my head I was asking myself was, all right,
24 on a Washington State basis, that translates to what.
25 And then I realized immediately I would need an

0608

1 allocation methodology to do that. But if you take
2 that 34 million, what is the approximate Washington
3 share, let's say, using the revised protocol, if that
4 even makes sense?

5 A. I believe I can give you --

6 Q. And I'm really looking for scale here.

7 A. Well, just for scale, under protocol and
8 revised protocol, Washington is, just a really round
9 number, about nine percent. So 34 million -- well,
10 the difference -- \$34 million, nine percent of that,
11 you're talking about three million, 3.3 million.

12 Q. All right. Now, in terms of some of the
13 disagreements that you have with either the Company
14 position or the settlement position, one of them was
15 WAPA, and I understood that to be about \$500,000 for
16 Washington purposes; is that correct?

17 A. Yes.

18 Q. One of them is Gadsby, and I think that
19 total amount is about seven and a half million. Is
20 it correct to say that about nine percent of that is
21 the Washington difference?

22 A. Well, Your Honor, the seven and a half
23 million is a rate-based number for the Gadsby
24 combustion turbine. It was an \$80 million plant.
25 The rate base impact on Washington, if making my

0609

1 adjustment, would be about \$65,000.

2 I think that perhaps some of your questions
3 might be addressed by looking at Exhibit 425, where I
4 have shown the things that are still in dispute, and
5 the dollar impact on Washington -- now, this is under
6 original protocol, but it wouldn't change very much
7 if you used revised protocol.

8 Q. Did you say 425?

9 A. Yes.

10 Q. All right. Then maybe the way to put this
11 question is I'm trying to figure out, assuming a
12 certain protocol, I was assuming revised protocol,
13 since I think that that's what you're comfortable
14 with and we can get to your improvements later, but
15 what are the big ticket items in terms of these
16 differences and what are their values. Sometimes
17 we're talking about a total company, sometimes
18 Washington, and I'm just trying to get a sense in my
19 head of where the differences really lie.

20 A. Well, this exhibit does show where the
21 differences lie under original protocol, and I don't
22 believe there would be any great substantive
23 difference with respect to revised protocol, except
24 for one that I could point out. And that is, if you
25 go under the MSP issues, you see this line called

0610

1 Full Hydro Fuel Credit?

2 Q. Yes.

3 A. Now, that adjustment would not be applicable
4 anymore under revised protocol because it's really
5 subsumed into the revised protocol. It's only a part
6 of a bigger adjustment that the Company has built in
7 to revised protocol.

8 Q. So does that mean it brings your position
9 and the, say, settlement position closer together by
10 that amount?

11 A. Well --

12 Q. Or the opposite? I'm a little confused on
13 the negatives, what it means to remove the negative
14 number?

15 A. What this means is that if the original
16 protocol were what the Commission accepted, then --
17 or if that's the basis upon which the Commission
18 wants to proceed, which is the settlement basis, then
19 my recommendation is that this \$858,000 reduction to
20 the revenue requirement be made. But if you used
21 revised protocol, then this, at least, is one part
22 that would no longer be necessary to include.

23 Q. Okay. And then, up under C, the modeling
24 adjustments, there are some Hunter adjustments. And
25 I take -- are those affected by the allocation

0611

1 methodology, or is it even if you use the revised
2 protocol, you would advocate these in about these
3 amounts?

4 A. That's correct. I think that the simplest
5 way of looking at this is that I've got Categories A,
6 B and C, and A, B and C would be applicable under any
7 allocation method, and under protocol and revised
8 protocol, they would be very similar in terms of the
9 effect. Part D, which is the non-power cost issues,
10 that would also be true. So these don't really
11 change very much between original protocol and
12 revised protocol.

13 Now, if you were to use your control area
14 method, then a whole lot of the ones up on the top
15 would go away, and so would the WAPA and some of
16 these other items we've talked about.

17 Now, if you go to revised protocol, then, in
18 Part E, the full hydro fuel credit would go away and
19 there would probably be some minor changes to reserve
20 and load following Gadsby, West Valley, but it
21 wouldn't be a substantial difference.

22 Q. So as between original protocol and revised
23 protocol, am I correct that, for Washington's
24 purposes, there isn't -- there isn't too much
25 difference, other than what you've noted here, and

0612

1 that the bigger differences are these adjustments?

2 A. Well, under revised protocol, there is about
3 a two and a half million dollar reduction that
4 Washington would get, and that is based on the
5 Company's rebuttal filing. So that would be in
6 addition to whatever of my adjustments the Commission
7 were inclined to accept. So you would have that.

8 And that stems from a number of adjustments
9 that the Company made in the two documents, and I
10 think I talked about those during my surrebuttal
11 testimony, and I'd be happy to talk about it again,
12 but I think I covered those.

13 Q. So if the -- from your point of view, if we
14 were to proceed in this proceeding and entertain the
15 revised protocol, there would be a reduction to
16 Washington of about two and a half million dollars
17 under the Company's case, and then we would then
18 proceed to address the adjustments that you have
19 listed here, even though these are listed under the
20 original; am I correct?

21 A. That's right. There would be about a --
22 there would certainly be a two and a half million
23 dollar reduction under the Company's rebuttal case.
24 I believe there would be a close amount of reduction
25 under the settlement case, and then whatever my

0613

1 adjustments that the Commission were inclined to
2 accept would produce further reductions. However, I
3 would no longer recommend the full hydro fuel credit
4 adjustment.

5 Q. And looking at the bottom line of what you
6 have here, if I -- you are proposing in the original
7 protocol to make \$7.7 million of adjustments, but
8 something close to a million would go away under the
9 revised protocol under your system; right?

10 A. I think that's a pretty good estimate, yes.

11 Q. But, then, also something close to two and a
12 half million would occur outside of these
13 adjustments?

14 A. That's right.

15 Q. But there would still be a difference,
16 apparently, of about 6.7 million on this sheet?

17 A. That's right.

18 Q. But, now, and that's Washington only?

19 A. That's right.

20 Q. Okay. And I'm trying in my head to get that
21 -- to compare that figure of, say, 6.7 million of
22 dispute with comparing it to the three million
23 difference between your original proposal and the
24 settlement proposal. I'm having a hard time putting
25 these differences in their boxes, because it seems as

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1 if your differences are double what the Washington
2 difference is. Maybe that's because it's compared to
3 a settlement number versus the original Company
4 number.

5 A. Right, and I think I can explain that really
6 easily. If you go to the first gray line here, it
7 says, Total Power Cost Adjustments, 3.5 million.
8 When we were talking about the \$34 million, that is
9 only the net power cost part of that. That's the
10 difference between the 500 million and the 534. So
11 this 3.5 million includes all of these items
12 allocated to Washington.

13 Then there were the additional issues that
14 weren't part of the discussion I had with counsel for
15 PacifiCorp, and those add up to about five and a half
16 million -- or point -- about 552,000 for the
17 non-power cost issues, which is the Gadsby rate base
18 and WAPA contract that we talked about, and then the
19 MSP issues, which are 3.6 million. So that builds up
20 to this 7.7 million.

21 Q. Right. So actually, a way to think of this
22 is that the 34 million isn't the total difference
23 between the settlement case and your case?

24 A. Right.

25 Q. There are other -- there were other

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1 differences?

2 A. Absolutely.

3 Q. All right. You know, in terms of how to
4 proceed in this case, we have in front of us a
5 settlement, and if we do approve it, there would be
6 the expectation -- at least there's the
7 representation from the parties that there would, in
8 some period of time, be a rate case and a renewed
9 opportunity to address allocation issue.

10 If we don't approve the settlement and we
11 proceed with this case, I'm wondering how you see
12 this case vis-a-vis the other state proceedings? Is
13 there value in, frankly, Oregon and Utah, who are a
14 little step ahead of us at this particular point in
15 time on the allocation, reaching resolution, and then
16 that being brought back to us, or is it more
17 advantageous for us independently, simultaneously, to
18 be entertaining the same questions?

19 A. Well, I guess my suggestion would be that
20 there's sort of a threshold question that you've got
21 to answer. And that is whether you want to go down
22 the control area, hybrid-type path and look at
23 Washington or the West as a separate system from the
24 rest of the Company or not.

25 If you don't want to do that, if you want to

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1 look at something along the lines of protocol or
2 revised protocol, then I think clearly it makes a lot
3 more sense to take into account the fact that Utah
4 has signed off on this, there's apparently an
5 agreement in Wyoming.

6 Q. When you say Utah, you mean the parties in
7 Utah, not the Utah Commission; right?

8 A. That is absolutely correct.

9 Q. Right.

10 A. So I guess what I'm saying is that if you're
11 not inclined to go down the route of hybrid or
12 control area, then I think you do want to take
13 advantage of the fact that there is this emergence of
14 agreement, even though we disagree with certain
15 aspects. And we've talked about it a lot, that sort
16 of thing, but I really think that, from my point of
17 view, one of the worst things you could do would be
18 to just leave this issue in limbo, because there
19 might not be a rate case right away. There might be
20 another filing related to a power crisis. Hopefully
21 not. Or maybe a really bad hydro year. Well, if you
22 have a really bad hydro year, does almost all that
23 cost land in the West or does that cost land across
24 the system.

25 So I mean, these are the kinds of things

0617

1 that could come up between now and the next rate case
2 that would be unresolved if the Commission does make
3 its decision here.

4 Q. Well, then let's go to the merits of that
5 issue. Supposing three months from now Utah, Wyoming
6 and Oregon Commissions have, in fact, adopted the
7 revised protocol with, let's say, no more than minor
8 variations on it.

9 In your opinion, what is the value of
10 Washington joining in that revised protocol, both as
11 to the actual merits of the revised protocol, but
12 also the merits of doing the same thing that the
13 other states have done?

14 A. Well, I think there is an advantage. If
15 that's the direction that all of the states want to
16 go, then I think it certainly doesn't make sense for
17 the Commission to be in limbo when using original
18 protocol for the purposes of this case, and I guess
19 you would have the Company being -- filing cases on
20 the basis of revised protocol, but you wouldn't get
21 the advantage of having done that in terms of the two
22 and a half million dollars in this case, nor would
23 you get the finality of it, so --

24 Q. Well, you were just now, though, addressing
25 the settlement. I wish you would direct your opinion

0618

1 to if we were sitting here today, which we may be, in
2 essence, we may be right today and we may be later if
3 we reject the settlement, but on the merits of,
4 conceptually, of adopting a revised protocol that is
5 the same -- and this is a hypothetical, since it
6 hasn't happened. But if it proves that Utah, Wyoming
7 and Oregon all adopt the revised protocol, do you --
8 basically, do you think Washington should, as well,
9 or not?

10 A. Well, I think there'd certainly be more
11 impetus for it. I guess we remain inclined to
12 believe that hybrid's the best approach. But, having
13 said that, if Oregon and Utah and Wyoming and perhaps
14 soon Idaho all go down the other path, then I think
15 there is certainly less advantage in it for
16 Washington to go with hybrid compared to where it is
17 if that doesn't happen.

18 Q. If we reject the settlement, then we'll be
19 in a proceeding, we'll continue this proceeding,
20 trying to decide that question, and during which I
21 suppose it's entirely possible that one or all of
22 those states will adopt the revised protocol. And
23 will that -- would that change your recommendation as
24 to what we should do or maybe the vehemence with
25 which you might recommend we go with hybrid model?

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1 A. Well, I hope I haven't been too vehement.

2 Q. No, you haven't. What I need from your
3 testimony is that you think the hybrid is preferable,
4 but the revised protocol is reasonable and seems to
5 be prevailing so far, but not in any final sense in
6 the other states.

7 A. I might not be quite as cheerful about it as
8 your question assumes. You know, we still have these
9 unresolved issues that we're very concerned about
10 with respect to load growth and with respect to the
11 benefits of hydro.

12 Having said that, you know, I'm enough of a
13 realist to recognize that -- and we made the same
14 arguments in Oregon, and if the Oregon Commission
15 doesn't go the route we suggest and if Utah goes as
16 what I think would expect to accept the settlement,
17 and Wyoming does the same, then I think that, you
18 know, I guess I wouldn't -- let me put it this way.
19 I wouldn't be coming back next year, in all
20 likelihood, and saying, We've got to go back to
21 hybrid. I'd be more inclined to feel like there's
22 less reason to do that.

23 Q. Well, then, one of the issues is, if we push
24 ahead in this proceeding, in this very proceeding to
25 determine the right protocol and it isn't the revised

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1 one, and then the other states do the revised one,
2 that puts things in a strange position. I -- this is
3 genuine quandary. I don't know which way is the best
4 timing for this state to try to coordinate, if it
5 wants to, with the other states.

6 A. Well, I think a solution that we suggested
7 would be to decide this case on the basis of the
8 overall revenue requirement for the system, and then
9 have another proceeding or whatever, and see what
10 happens in the other states and then really come to
11 finality on the issue of the jurisdictional method,
12 and then the rates could go into effect at the end of
13 that. I mean, that's what I talked about when I
14 talked about bifurcating the case.

15 Q. You don't, though, for example, see trying
16 to decide this case based on the overall system as
17 allocated under the revised protocol, with maybe some
18 disputes over some adjustments, and then perhaps not
19 being final about the allocation methodology?

20 A. I think we can --

21 Q. I suppose we could always revisit it at any
22 time.

23 A. Right. I think that what would probably
24 make more sense, if you're inclined to go down the
25 revised protocol path, would be to adopt it, for

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1 purposes of this case, and even potentially for
2 future filings, but to leave open the opportunity for
3 parties such as ICNU to come in and make some of
4 these issues that we've made with respect to things
5 like load growth or the hydro benefits, and allow
6 that to be reflected in a future case so that you
7 don't foreclose the opportunity for parties to come
8 in and address some of these issues which, you know,
9 because we didn't have the revised protocol, we
10 didn't have the full opportunity that we might have
11 had had we been addressing that earlier.

12 Q. And not just ICNU, but also Staff and Public
13 Counsel?

14 A. Yes.

15 Q. But -- so let me see if I understood what
16 you were saying. That you would find, anyway, using
17 total company requirement revised protocol for this
18 case, with some arguments about it, but perhaps not
19 permanently deciding the protocol, or at least
20 allowing a revisiting of it at a later time to be one
21 way to go, one possible way to go?

22 A. I think that's a way that would perhaps
23 help, to some degree, to limit the problems that
24 we're facing in this case, the quandary that you
25 talked about. You know, we still believe that we

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1 have some good adjustments here.

2 Q. Right.

3 A. But, you know, you have to make your
4 decision based on weighing all the evidence, and it
5 seems to me that the important thing would be to
6 allow the parties to address some of these issues in
7 the future if you don't feel that they're
8 sufficiently decided here.

9 CHAIRWOMAN SHOWALTER: All right. Thank
10 you.

11

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

13 BY COMMISSIONER HEMSTAD:

14 Q. Well, you answered what was going to be one
15 of my questions, which is ICNU's preferred outcome,
16 which apparently is the hybrid or control area
17 approach that the Staff had originally advocated.
18 And --

19 A. That's right.

20 Q. Did you -- starting again, in the response
21 that you made to questions from your counsel with
22 regard to the settlement, you indicated that you had
23 read the transcript and the testimony of Mr. Braden
24 on behalf of the Staff.

25 The question that I want to get to is I

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1 recall Mr. Braden saying that after the Company had
2 filed its rebuttal case, it became Staff's position
3 that they had a number of approximately \$14 million
4 as an appropriate level for the revenue requirement
5 of the Company.

6 Have you had an opportunity to have any
7 further discussions with Staff with regard to that
8 number? And what does that do with regard to the
9 position of ICNU with regard to what is an
10 appropriate revenue requirement?

11 A. I certainly recall that discussion. I have
12 not had an opportunity to discuss that any further
13 with Staff, and it was my recollection that the
14 inquiry into that area was sort of limited. I don't
15 know that that really would affect anything in terms
16 of our recommendations, because our proposals were in
17 many ways independent of the Staff's, because, for
18 example, we looked at the Eastern Control Area as
19 well as the West, so a lot of the adjustments that
20 I'm recommending were really independent of those
21 that the Staff came up with.

22 Q. All right. I'm trying to get a handle on
23 that. I thought ICNU's case relied on the Staff's
24 case, which, going from memory, had a number of
25 approximately \$5 million as a revenue requirement.

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1 And weren't you or ICNU basing its evaluation on
2 that?

3 A. No, the evaluation that I did was based on
4 the Company's filing, which was based on the original
5 protocol. I never did a analysis of what my proposal
6 would mean under the Staff case or under hybrid or
7 any of those other alternatives.

8 So what I'm merely suggesting is that we
9 viewed hybrid as -- from a theoretical point of view
10 as a better starting point, but from a practical
11 point of view, I didn't have the opportunity to
12 develop my testimony on the basis of hybrid or the
13 Staff's proposals; I based it on what the Company
14 filed. And so whatever happened to the Staff's case
15 doesn't really have a bearing on our recommendations.

16 Q. As I understood your response to the
17 question from Chairwoman Showalter, I understood you
18 to say that we should proceed now to decide the case
19 based on an overall revenue requirement for the
20 system, but then, subsequent to that, in a bifurcated
21 portion of this case, then resolve the issue of the
22 allocation methodology to be used. Is that a fair
23 summary of your position?

24 A. Yeah, I think that's a reasonable solution.
25 You could determine rate base, rate of return, power

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1 costs, all those kinds of elements of the overall
2 revenue requirement, and then decide how that
3 trickles down to Washington in a subsequent part of
4 this proceeding.

5 Q. All right. And currently, with the
6 settlement presentation in mind, as well as
7 everything else in this case, what is now ICNU's
8 position with regard to the additional revenue
9 requirement for the Company, if any?

10 A. Well, actually, I'm only addressing issues
11 related to power costs and that sort of thing, and I
12 have not done that calculation. Now, I believe that,
13 in one of the bench requests, Mr. Schoenbeck has done
14 that calculation, and I believe that he has come up
15 with a number that represents what ICNU believes that
16 the revenue requirement ought to be.

17 Q. Were we to adopt the settlement, that
18 describes a process by which Pacific and the Staff,
19 presumably, other interested parties, would
20 reasonably promptly seek to offer a proposal with
21 regard to the allocation that could be -- that
22 everyone could agree to.

23 How does that now, in any significant way,
24 differ from your proposal for determining a revenue
25 requirement now and then proceed, I suppose, within

0626

1 the four corners of this case to resolve that issue?
2 Is there a significant difference?

3 A. Well, I believe the primary difference would
4 be that if you were were to bifurcate this case, then
5 you would establish time limits and a procedural
6 schedule and however you wanted to proceed, and you
7 would put the Commission in a position to decide
8 these issues by the end of that time period.

9 If you accept the settlement, it seems to me
10 that you are going into a rather open-ended process,
11 where you're asking the parties to work together to
12 come to an agreement, and I don't see that you're
13 going to get any kind of agreement, necessarily, from
14 the parties. The Staff and Company, I think, are
15 farther apart in Washington than the parties are in
16 just about any state, and it's been something that's
17 been looked at for a long time. So I don't see how,
18 you know, sending people back to the negotiating
19 table is going to give you a resolution in any
20 well-defined amount of time.

21 Q. Well, of course, what is changing is there
22 would appear to be some crystallization around a
23 revised protocol in the other states, including
24 Oregon, which we don't know now, but presumably we
25 will have an answer to that question relatively soon.

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1 Wouldn't it follow that there would be at
2 least a certain kind of presumption that the revised
3 protocol, with possible adjustments, would be the
4 ultimate solution here?

5 A. Well, I think that the Commission might view
6 it that way, but I can tell you, from the
7 participation that I had in the MSP meetings -- and I
8 didn't go to all the meetings, but at least the last
9 really big meeting in Boise, it did seem as though
10 the Washington Staff was pretty far apart from the
11 Company and from the other parties.

12 So I mean, you'd almost have to direct that
13 question to the Staff, I think, to see if they've got
14 a change of heart or if that would cause them to have
15 a change of heart on their position, but they seem to
16 have a very strongly held view that there was not the
17 kind of underlying principles in the revised protocol
18 that they were looking for, and they were very
19 strongly inclined to the hybrid approach or control
20 area approach, whatever you want to call it.
21 Frankly, more so than we were, with ICNU.

22 COMMISSIONER HEMSTAD: Thank you. That's
23 all I have.

24

25

E X A M I N A T I O N

0628

1 BY COMMISSIONER OSHIE:

2 Q. Mr. Falkenberg, in response to -- I guess it
3 was a line of questioning by counsel for PacifiCorp,
4 Mr. Van Nostrand, and that revolved around the
5 revised protocol. You discussed some suggested
6 improvements to the revised protocol that ICNU was
7 sponsoring, at least as I understood it, in Oregon.

8 And I think the two primary, if I picked up
9 from your testimony, two primary improvements was
10 that you're recommending that there be some
11 structural solution within the revised protocol to
12 deal with growth or uneven growth, let's use that
13 term, within the Company's jurisdictions, and also
14 that the hydro reserves and the benefits from the
15 hydro system and its ability to follow load were not
16 taken into consideration, at least by the -- through
17 the methodology, the revised protocol methodology.

18 If you could, I mean, do I have that -- I
19 mean, do I understand ICNU's position, and if you
20 could, I'd like you to elaborate on each of those
21 points.

22 A. Well, the first point, I think you're pretty
23 close to what we're saying, but just to make it
24 really clear, we're proposing some adjustments in
25 this case, and we proposed them in the Oregon case,

0629

1 to deal with the cost shifting issue. And we put
2 together an exhibit in Oregon that listed the things
3 we would like to change in the revised protocol. And
4 one of the things that we wanted to see was that the
5 Commission had the opportunity to fashion some kind
6 of a growth solution independent of what other states
7 might have adopted or not.

8 Q. Well, is there no growth solution within the
9 revised protocol, or were you recommending that
10 Oregon adopt something different?

11 A. There is a growth solution within the
12 revised protocol that we don't feel is -- really does
13 the entire job. There is the indication that the
14 standing committee is supposed to study that issue
15 and to develop potential procedures that could be
16 implemented if their -- it's determined that the
17 growth differential produces a material -- you know,
18 a material problem.

19 And our problem with it, really, more is
20 that we're not sure that that language about a
21 material problem is really going to carry much
22 weight, because there's not even necessarily full
23 agreement now that there's a problem. So that's our
24 fundamental issue on the matter of growth.

25 On the matter of the hydro issues, the West

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1 is being allocated 100 percent of the cost of the
2 hydro resources, and it, in turn, is getting a value
3 from the rest of the system in terms of not having to
4 pay all of the costs of some of the thermal plants.
5 It's being credited for the difference between what a
6 hydro plant costs and what a thermal plant costs.

7 Our problem with that is hydro adds other
8 value to the system in terms of its ability to follow
9 load and its ability to provide spinning reserve.
10 The spinning reserve is really a benefit that really
11 inures to the Eastern Control Area, as opposed to the
12 West. So we proposed adjustments to address that
13 problem.

14 Q. Is the -- what's the magnitude of the
15 adjustments, then, as to the hydro, the additional
16 hydro benefits?

17 A. Those are shown, again, on my table one, but
18 the reserves in load following is about \$2 million,
19 it's 1.9 million for Washington. That's it. That's
20 the magnitude of it.

21 Q. Does ICNU have a recommendation as to how
22 to, at least in its opinion, correct revised protocol
23 to -- I guess to affirmatively address these uneven
24 load growth issues?

25 A. Yes.

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1 Q. And what might that be?

2 A. The proposal that I made in Oregon and in
3 this case is the same. It would be that new plants,
4 as they come online, would be priced at the market
5 revenue that they produce. In effect, the Company
6 would be allowed to keep the market revenue. And
7 that's really the solution.

8 Now, we're not saying that's the only
9 solution, but that's the solution I came up with for
10 purposes of this case and for purposes of the Oregon
11 case, because the defect in this regard is very
12 similar in the two methodologies, under original
13 protocol or revised protocol. The defect is the same
14 and I think the solution is pretty much the same.

15 COMMISSIONER OSHIE: All right. Thank you.

16 CHAIRWOMAN SHOWALTER: I have one more
17 question.

18

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

20 BY CHAIRWOMAN SHOWALTER:

21 Q. In your opinion, are Oregon's and
22 Washington's interests aligned? Or maybe a better
23 way to put it is to say do you think the effect of
24 any allocation methodology is similar on Oregon and
25 Washington, or do you see tensions between Oregon and

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1 Washington that might mean that one state would have
2 a greater interest in one form of methodology than
3 another? And I do not mean to talk about individual
4 people and their principles; I just mean in terms of
5 effect on the system.

6 A. Sure. Well, there's always going to be --
7 you know, we're dividing up the pie, which, you know,
8 one party gets a bigger piece, another person gets a
9 smaller piece, but with respect to the revised
10 protocol, at least, some of the issues that were of
11 greater concern to me in Oregon are not as big of a
12 concern for Washington.

13 For example, there's an allocation of the QF
14 projects to each state, and that produces a pretty
15 high cost for Oregon and it produces a sort of small
16 benefit for Washington. So one of the big concerns
17 we had in Oregon was that that was linked to the
18 Mid-Columbia allocation, and if the QF contracts were
19 paid off and then the allocation to Mid-Columbia
20 changed, it would be as if Oregon was paying the
21 cost, but not getting the benefit.

22 And that's something that doesn't exist from
23 the point of view of Washington. Washington isn't as
24 affected by that problem, because it's not seeing the
25 big cost with the QFs; it's actually seeing a small

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1 benefit.

2 Another example would be on the seasonal
3 allocation of combustion turbines, which is a rather
4 large benefit for Oregon and it's a very small cost
5 for Washington. One of the concerns we have is that
6 the standing committee is supposed to investigate the
7 seasonal allocation, and so a concern we have, from
8 Oregon's point of view, is that perhaps that seasonal
9 allocation might change and Oregon might lose some of
10 its benefit.

11 Q. The standing committee is? You said the
12 standing committee.

13 A. The standing committee is supposed to
14 investigate that and recommend potential changes if
15 they see a need for that.

16 Q. And I just mean, for the record, the
17 standing committee of what?

18 A. Oh, right, under revised protocol, there is
19 a standing committee, which is supposed to appoint a
20 Commissioner or a delegate from each state to go to
21 meetings and meet with a facilitator that PacifiCorp
22 would provide to try to resolve these issues and
23 study these kinds of issues with the hope of making
24 this a more sustainable methodology over time.

25 Q. I'm sorry. I interrupted you, so --

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1 A. Well, I guess my point is that the standing
2 committee is looking at some of these issues that are
3 important, and at least with respect to the seasonal
4 allocation, I don't see that as as big of a potential
5 problem for Washington as Oregon. Washington has
6 less to lose, so -- you know, I guess my point is
7 that, with respect to the revised protocol versus
8 original protocol, there are less concerns I have
9 about Washington than I did about Oregon. The level
10 of concern is somewhat lower, even though we still
11 have some of the same issues relating to growth and
12 hydro value and that sort of thing.

13 Q. But if revised protocol satisfies you in
14 Oregon or satisfies Oregon, you do not see that as
15 coming at the cost to Washington in any significant
16 measure?

17 A. No, actually, that's right. I mean, if
18 Oregon is satisfied with revised protocol, it's not
19 really because that's coming at the expense of
20 Washington.

21 CHAIRWOMAN SHOWALTER: Thank you.

22 JUDGE MOSS: I think we'll take up any
23 follow-up questions and any redirect after the lunch
24 recess. Let's do be back at 1:30, though.

25 (Lunch recess taken.)

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1 JUDGE MOSS: All right. Let's be on the
2 record. Mr. Falkenberg, before the break, you
3 testified with respect to a bench request response
4 that you thought Mr. Schoenbeck had provided that
5 gave a overall recommendation of revenue requirement.
6 Did you -- could you give me the number? Do you know
7 specifically what that was? Or I can put the
8 question to your counsel if you don't know.

9 THE WITNESS: I'm afraid I don't know for
10 sure.

11 JUDGE MOSS: Let me put the question, then,
12 to you, Ms. Davison. I immediately thought Bench
13 Request Three, but it appears that there's not such a
14 number in response to Bench Request Three.

15 MS. DAVISON: I believe that what Mr.
16 Falkenberg was testifying to was Bench Request Three,
17 and --

18 JUDGE MOSS: It just may not include a total
19 number?

20 MS. DAVISON: It does not. And basically,
21 what happened last week is Mr. Schoenbeck said Bench
22 Request Three was the ICNU adjustments, but ICNU was
23 also relying on the testimony of Mr. Hill and some
24 other adjustments of Public Counsel to get to that \$5
25 million number.

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1 JUDGE MOSS: What \$5 million number? That's
2 the total number?

3 MS. DAVISON: That was the number that Mr.
4 Schoenbeck testified to last week.

5 JUDGE MOSS: So we need to look to our
6 transcript for what the total adjustment is in Mr.
7 Schoenbeck's testimony?

8 MS. DAVISON: That's correct, Your Honor.

9 JUDGE MOSS: Okay. Thank you. All right.
10 Did you have any follow-up questions, based on the
11 examination from the bench?

12 MR. VAN NOSTRAND: No, Your Honor.

13 JUDGE MOSS: Okay. Did you have any
14 redirect?

15 MS. DAVISON: I did, Your Honor, just a
16 couple of quick questions.

17

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

19 BY MS. DAVISON:

20 Q. Mr. Falkenberg, let's put aside your
21 preference for hybrid and your preference for a
22 bifurcated proceeding that you talked about earlier.
23 Could you support revised protocol in Washington in
24 this case if the Commission adopted your
25 recommendations regarding load growth, the missing

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1 hydro benefits, the most favored nations clause, and
2 a reopener provision like the one that they have in
3 both the Oregon and Utah stipulations?

4 A. Yes.

5 Q. Hypothetically, let's assume that Oregon,
6 Utah, Wyoming and the Idaho Commissions adopt revised
7 protocol along with the various side stipulations in
8 those states. Do you see a benefit in Washington
9 adopting revised protocol in this proceeding?

10 A. Well, I think there would be value to the
11 Commission and to the customers if there was an
12 agreement among all states. There is value in that,
13 yes.

14 MS. DAVISON: I don't have any further
15 questions.

16 JUDGE MOSS: Thank you. All right. If that
17 completes our examination of Mr. Falkenberg, then we
18 will thank him very much. Thank you very much, Mr.
19 Falkenberg, for being here and testifying today, and
20 you may step down.

21 I believe that we had a scheduling issue for
22 Mr. Braden, and so agreed that we would take him
23 first from among the panelists, and now he'll be
24 crossed with respect to his pre-filed direct, or the
25 Staff's response testimony. And you've already been

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1 sworn, Mr. Braden, and you remain under oath.

2 MR. BRADEN: I understand.

3 MS. SMITH: Your Honor, before we go back --
4 or may we go off the record for just a moment?

5 JUDGE MOSS: Sure. And when you speak, be
6 sure to use your microphone.

7 (Discussion off the record.)

8 JUDGE MOSS: We'll be back on the record.
9 Did you want to just briefly introduce the witness
10 for the record, and then we'll -- I assume we're
11 ready to go immediately to cross?

12 MS. SMITH: Yes, Your Honor.

13 Whereupon,

14 ROGER A. BRADEN,
15 having been previously duly sworn, was re-called as a
16 witness herein and was examined and testified as
17 follows:

18

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

20 BY MS. SMITH:

21 Q. Good afternoon, Mr. Braden.

22 A. Good afternoon.

23 Q. Since the last time you testified, do you
24 have any additional changes to your pre-filed
25 response testimony?

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1 A. No, I do not.

2 MS. SMITH: With that, Your Honor, the
3 witness is available for cross-examination.

4 JUDGE MOSS: Let's see. We have ICNU and
5 Public Counsel both indicating a desire to cross Mr.
6 Braden. Does that remain the case?

7 MS. DAVISON: Yes, Your Honor.

8 MR. CROMWELL: I would anticipate very
9 little, if anything, depending upon the scope of Ms.
10 Davison's --

11 JUDGE MOSS: Okay. Ms. Davison's indicated
12 60 minutes. She'll probably cover all the subjects.

13 MS. DAVISON: I won't be 60 minutes.

14 JUDGE MOSS: Go ahead, Ms. Davison.

15 MS. DAVISON: Thank you, Your Honor.

16

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

18 BY MS. DAVISON:

19 Q. Good afternoon, Mr. Braden. Could you turn
20 to page 10, line 20 of your testimony, which I
21 believe is Exhibit 561, please?

22 A. I'm there. Which lines, please?

23 Q. It's the bottom, line 20, that goes over to
24 page 11. Do you see where you say that you recommend
25 a cooperative process that will require at least two

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1 years to complete? Is that referring to an MSP
2 process?

3 A. That's referring to an effort to resolve
4 the differences that existed at the time this
5 testimony was filed, and it was an attempt to kind of
6 cover the outside parameters we thought would be
7 sufficient time.

8 Q. Do you still agree with that statement?

9 A. No, I think it can be considerably shorter
10 now in light of the -- what I would call the fact
11 that the protocol has more or less stopped moving,
12 stopped mutating to the extent that it was at the
13 time this testimony was prepared. It was still very
14 much in flux at that time.

15 Q. And on page 10, you're referring to the
16 testimony of Mr. Buckley. Is it still Staff's
17 preference to support the control area methodology?

18 A. We supported the control area methodology
19 only for the purposes of the present case. As is
20 pointed out in Mr. Buckley's testimony, we had a
21 number of questions about whether it was a truly
22 sufficient tool for long range analysis, and so the
23 extent of our support was strictly as an interim tool
24 in this case.

25 Q. And do you support the control area

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1 methodology as it relates to this two-year process
2 that you discuss on pages 10 and 11?

3 A. The process, whether it's the two-year
4 process there or the one that's proposed in the
5 settlement stipulation, is intended to be more open
6 ended. We have committed to work with an open mind
7 and examine not only the protocol in its current
8 form, and hopefully final form, but also other ideas,
9 including possibly a variation on the control area
10 approach, or yet some different methodology the
11 parties might develop.

12 Q. Does Staff believe that PacifiCorp's
13 Washington rates should include the costs associated
14 with serving load growth in PacifiCorp's Eastern
15 Control Area?

16 A. In general, no.

17 Q. Have you done any analysis or evaluation of
18 the PacifiCorp decoupling mechanism that was in place
19 in Oregon?

20 A. I have not.

21 MS. DAVISON: I have no further questions,
22 Your Honor.

23 JUDGE MOSS: Thank you.

24 MR. CROMWELL: Your Honor, I do have one
25 question of Mr. Braden.

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1 JUDGE MOSS: All right. We'll see. You've
2 said that before. Let's see. Go ahead.

3 MR. CROMWELL: I'll try to limit the
4 compounding of my phrases.

5

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

7 BY MR. CROMWELL:

8 Q. Good afternoon, Mr. Braden. Did you analyze
9 the costs associated with the Trail Mountain Mine and
10 environmental remediation elements of the Company's
11 case?

12 A. I did not personally analyze those. That
13 analysis was performed primarily by Mr. Schooley.

14 MR. CROMWELL: Thank you. Nothing further,
15 Your Honor.

16 JUDGE MOSS: Thank you. Do we have any
17 questions from the bench for Mr. Braden?

18

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

20 BY CHAIRWOMAN SHOWALTER:

21 Q. Mr. Braden, were you -- did you hear Mr.
22 Falkenberg's testimony --

23 A. Yes, I did.

24 Q. -- this morning? He was able, anyway, to
25 compare the original protocol to the revised protocol

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1 in a number of dimensions, and I guess I had
2 understood from you earlier that the Staff has really
3 not been able to digest the revised protocol. And
4 I'm wondering why. I mean, we do have cases where
5 there are adjustments in positions that go along the
6 way, and sometimes a new position is major and
7 requires a lot of analysis, sometimes an adjustment
8 is something that the parties can understand fairly
9 readily what it means.

10 And I guess my real question is why can't
11 we, in this proceeding, deal with the revised
12 protocol, because it's out there, it's here, and does
13 it really take another proceeding to address it? Or
14 at least could we address it in some provisional way
15 in this proceeding? The settlement already has it
16 provisionally, at least for reporting purposes, but
17 not for, you know, an adoption purpose.

18 But what really holds us up? I understand
19 what the terms of the settlement are, but that's --
20 but, really, it's the why behind it. Why can't we
21 get to where the Staff does have an opinion on
22 revised protocol?

23 I apologize for this long introduction, but
24 I realize that's my question. Why can't the Staff
25 form an opinion on the revised protocol and let us

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1 know what it is?

2 A. Well, in order to respond to your question,
3 I have to kind of back up to the point that the case
4 before us was not premised on the revised protocol.

5 Q. Right.

6 A. And at no time has the Company asked for the
7 decision to be made on the basis of that. So as
8 Staff analyzed the Company's request, we had to work
9 with the foundation created by their filing. And you
10 will have observed Mr. Buckley's testimony being in
11 the range of 150 pages plus. I think it is a
12 statement as to the complexity of analyzing the
13 protocol and all of the implications associated with
14 the vast service area that the protocol encompasses,
15 all of PacifiCorp's various jurisdictions.

16 So we felt compelled to focus our attention
17 on what was, in fact, the allocation foundation for
18 the Company's case.

19 The revised protocol, while we have seen it
20 in its earlier manifestations, was not fixed until a
21 fairly late stage in this process. And while Mr.
22 Falkenberg testified that he felt there were
23 relatively few differences, we're frankly not
24 convinced that that's the case. We think there may
25 be some inherent trade-offs, if you will, in the

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1 changes that led to the revised protocol that may, in
2 fact, be prejudicial to Washington in one way or
3 another, and frankly, simply the complexity of
4 analyzing the base case simply did not allow
5 sufficient time to look at the revised version to
6 determine the extent of the differences and the
7 potential long-term impact to those differences.

8 So as I said in response to one of the
9 earlier cross questions, we're trying to take a very
10 open mind in how we look at both the revised protocol
11 and other potential approaches we might take, and
12 feel that the time frame is not the two years
13 originally testified to, but much shorter, because of
14 the fact now that we have a better understanding of
15 the original and feel like it will be relatively easy
16 to go in and look at the revised one outside the
17 context of a rate case and the associated deadlines,
18 and perhaps come back advocating something along that
19 line or some modification of that. At least be able
20 to come, I think, to a fairly quick conclusion that
21 we either agree or disagree, and if we disagree, come
22 back with a clear alternative for the Commission.

23 Q. Well, you know, depending on how quick, does
24 it make sense to extend this proceeding by the couple
25 of months that it would have to be extended if we

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1 reject the settlement? And I understand what the
2 Company's concern is. They're here. We have this
3 strange situation where the Staff and the Company
4 agree on a rate, but not on the methodology, the
5 Company and ICNU agree on the methodology, but not on
6 a rate, and I guess the Company and Public Counsel
7 agree on neither, maybe. We'll need to -- I think
8 that's correct.

9 A. The problem I see with trying to do it in
10 that context is that the resources we'd need to do
11 the analysis and the discussions with the Company
12 would have to be consumed in the recast case. So we
13 wouldn't have Staff available and we would be in a
14 litigation context once again, where it's more
15 difficult to have open and free discussions.

16 Q. Is the settlement, then, almost like an
17 interim rate? That is, a rate that the Staff and the
18 Company have agreed on as fair pending the real
19 resolution of many other issues, the allocation being
20 one of them, but also some of the particulars are not
21 -- that is, actual adjustments and things like that.

22 Isn't this in the nature of an interim rate
23 pending the next rate case, along with an allocation?

24 A. To some extent, all rates are interim in
25 nature, as you know, but it does bear some

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1 similarities in the sense that we are hoping that
2 we'll be able to resolve this within a relatively
3 short time, perhaps not much more than an interim
4 rate might ordinarily be in effect for, but it is
5 intended to be a full general rate, and to take such
6 time as necessary to resolve this.

7 And the Company has made a statement that it
8 fully expects to be back with a general rate case
9 within, I would say, 12 to 18 months, is my estimate.
10 I believe that's consistent with the Company's prior
11 testimony. So in that sense, yes, it bears
12 similarities, but it is, in fact, a true general rate
13 case and would have ongoing viability until such time
14 as there's a subsequent filing.

15 CHAIRWOMAN SHOWALTER: Thank you.

16

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

18 BY COMMISSIONER HEMSTAD:

19 Q. I believe Mr. Falkenberg testified to the
20 effect that leaving the allocation issue unresolved
21 poses real problems on a going forward basis. Do you
22 agree with that?

23 A. There is that potential. I believe it was
24 discussed in connection with the panel testimony, to
25 some extent. I believe Chairwoman Showalter raised a

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1 similar sort of issue, that there could be interim
2 filings that would raise the allocation issue prior
3 to the parties reaching any resolution. But that's a
4 matter that, to a significant extent, is within
5 control of the Company. And I believe the Company's
6 good faith commitment to resolve this issue will
7 control and that, in fact, we'll either have resolved
8 it or we'll have clearly defined positions for
9 long-term allocation the next time a matter comes
10 before you, regardless of the nature of that case.

11 I think it's the Company's intent and the
12 Staff's hope that that would be in the context of the
13 next general rate case, but there's a possibility it
14 could arise sooner.

15 Q. Well, I'm trying to think of concrete
16 circumstances of filings that the Company will make
17 if the settlement were approved that would be using
18 revised protocol. Would those filings, as a
19 practical matter, be other than simply information?

20 A. I'm not an expert in the area of reports
21 that are ordinarily generated that are intended to
22 utilize the revised protocol format. Mr. Schooley
23 might be better able to answer that for you,
24 Commissioner.

25 Q. Okay. What if the Company, within some

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1 reasonable period of time, doesn't file a rate case?
2 What would the Staff do then? (A), either in the
3 circumstance where an agreement has been reached with
4 regard to an appropriate allocation methodology, or
5 (B), if there is no agreement?

6 A. In the instance of an agreement being
7 reached, I would anticipate that a component of the
8 agreement will be a decision on how to proceed to
9 present that to the Commission, including an
10 appropriate time line, whether it be in a separate
11 proceeding or as part of a general rate case.

12 In the absence of an agreement, basically
13 Staff would have to determine whether there was any
14 sufficient basis for initiating an action through a
15 complaint. In the absence of that that, in fact, as
16 I explained a moment ago to Chairwoman Showalter,
17 there would be an ongoing effective rate in place
18 until such time as, in fact, a case was filed, which
19 inevitably would occur at some point in time.

20 But the bad side of that that, to me,
21 militates against that situation arising is that that
22 would leave the Company with the allocation issue
23 essentially unresolved, which it appears to be in
24 their strong interest to get it resolved.

25 Q. I take it, from your remarks as a member of

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1 the panel, that the Staff ultimately now is
2 comfortable that settlement number is -- well,
3 results in fair, just, reasonable and sufficient
4 rates, even though the methodologies may not have
5 been agreed to by the parties?

6 A. That's correct.

7 COMMISSIONER HEMSTAD: That's all I have.

8 COMMISSIONER OSHIE: And I don't have any
9 questions, Mr. Braden. Thank you.

10

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

12 BY JUDGE MOSS:

13 Q. Just one area, at least. In terms of what
14 happens going forward, we've had some testimony, and
15 I don't know of anything conclusive in the record,
16 but there's been some suggestion through the
17 testimony of a couple of witnesses that the revised
18 protocol actually allocates fewer costs to Washington
19 than does the original protocol upon which the case
20 was filed, and the settlement, at least analysis,
21 depends in part.

22 Has Staff considered whether the fact that
23 the method being adopted through the settlement
24 arguably allocates more costs to Washington than
25 would the revised protocol, whether that creates a

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1 disincentive for the Company to file another rate
2 case in this state in the near term?

3 A. You raise an issue I hadn't considered
4 previously, which is the -- and let me -- allow me to
5 restate what I take your question to be, which is
6 that, under the settlement, they may actually be
7 getting more money than they would get under the
8 revised protocol, and therefore they wouldn't want to
9 use the revised protocol in the future.

10 I think that, as time goes by, that money is
11 to become relatively inconsequential, because, in
12 fact, you know, costs are continuing to grow and
13 there's going to need to be a need for a rate case
14 regardless of the allocation methodology that
15 ultimately is utilized. In other words, this
16 particular rate increase will only have a relatively
17 limited shelf life, I believe, in the present economy
18 and marketplace.

19 JUDGE MOSS: That's all I had. Is there any
20 follow-up to the bench's questions before we turn to
21 Staff to see if there's any redirect?

22 MS. DAVISON: I just have a couple
23 questions.

24

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

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1 BY MS. DAVISON:

2 Q. Mr. Braden, isn't a provisional resolution
3 of the allocation methodology with an opportunity to
4 revisit the issue better than having no allocation
5 methodology resolved in Washington?

6 A. I find it difficult to really see a
7 significant distinction. The discussion that went on
8 earlier, when Mr. Falkenberg was on the stand, in
9 fact, sounds very similar to what the settlement is
10 proposing. That is, we would have a resolution of
11 the current case generating revenue requirement
12 numbers and associated rate increases while the
13 parties proceed to iron out the differences and the
14 details of a long term allocation agreement.

15 It seems very similar, essentially
16 equivalent to the bifurcation concept that was
17 discussed.

18 Q. Well, isn't it true, Mr. Braden, that Mr.
19 Falkenberg's proposed resolution actually will result
20 in approximately two and a half million dollars less
21 in revenue requirement for Washington customers than
22 having original protocol in place for the revenue
23 requirement and revised protocol in place for future
24 filings?

25 A. I believe that number was disputed by some

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1 of the testimony because of the fact that the
2 settlement implicitly takes that into account to some
3 significant extent. Now, I can't identify the
4 specific ways or the specific numbers, because that's
5 the nature of the settlement compromises, but I
6 believe that, in essence, that has already been
7 factored into the proposal that the parties have
8 stipulated to.

9 Q. Do you have any information to dispute Mr.
10 Falkenberg's testimony this morning that the two and
11 a half million dollars will, in fact, be less, but
12 just a little bit less?

13 A. That's his opinion, and I would accept that
14 as his opinion.

15 Q. Do you have any information that would
16 suggest otherwise?

17 A. Nothing other than the testimony by, I
18 believe, Mr. Furman and other parties earlier.

19 MS. DAVISON: Thank you.

20 JUDGE MOSS: Okay. Any redirect? Oh,
21 sorry, we have another question from the bench, I
22 think.

23

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

25 BY CHAIRWOMAN SHOWALTER:

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1 Q. Well, it's a follow-up to Ms. Davison's
2 question. But using this term provisional
3 resolution, if there were a provisional resolution of
4 the allocation, then wouldn't it at least address the
5 situation which may or may not arise where the
6 Company wants deferred accounting of some unusual
7 cost, which of course is exactly how this whole
8 process started off. There was an asserted
9 extraordinary cost, the Company wanted deferred
10 accounting of it, the Commission didn't know really
11 how to begin to account for it.

12 The settlement uses the revised protocol for
13 reporting purposes, but through some testimony
14 earlier, I believe that would not cover how to
15 account or entertain a deferred accounting petition.
16 At least -- I now cannot recall which witness said it
17 would not address that. But supposing it did. I
18 mean, supposing we actually used, as opposed to just
19 for reporting purposes, used the revised protocol for
20 now. Then, if a deferred petition came in, we would
21 know how to set up the account, if we approved the
22 petition, that is, and even -- but even deferred
23 accounting petitions are just that. They aren't the
24 final resolution of anything.

25 I guess the one example I raised was the RTO

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1 costs, and I think we agreed on that, that that's not
2 the kind of problematic petition that we're thinking
3 about. But we have had -- we had one in the past.
4 Why might not there be some unexpected cost three
5 months from now, and the Company, under ordinary
6 circumstances, would have, you know, a reasonable
7 expectation of coming in and petitioning for
8 accounting treatment. And if it wants to do that,
9 we're not going to know how to handle it or what to
10 do.

11 A. I believe you're correct in the sense that a
12 provisional approval would provide you with that
13 tool, but at the same time, I think it's important,
14 as you're considering such a decision, to recognize
15 there are some greater risks associated with that.

16 The reason -- one of the reasons the Staff
17 has been kind of wishy washy, in a sense, on its
18 response to the revised protocol is that we're not
19 sure that all of the ways that it will operate are
20 going to accurately reflect service to the customers
21 of Washington, which is our primary goal in any
22 allocation methodology. And so if it were utilized
23 for reporting, that has developed a minimal, if any,
24 net effect, but if it were actually used for a
25 determination in the interim, as you say, it could

0656

1 have an unanticipated adverse effect, simply because
2 we do not understand it well enough at this stage.

3 Nonetheless, your basic premise is correct.
4 It would provide a tool; it just has some risks
5 inherent with it.

6 Q. And I guess the risk, you have identified a
7 risk, but the risk the other way is we really don't
8 have any methodology. That was our problem, and it
9 is our problem, and I guess I think that certainly
10 poses a risk to the Company. I'm not sure what other
11 risks it imposes, but it certainly doesn't seem like
12 good regulatory housekeeping not to have, at least
13 after, you know, some period of time, which has
14 already elapsed, a basic way to go about allocating
15 always subject to change, either in a general --
16 another general rate case or even in a proceeding on
17 a deferred accounting petition.

18 It seems to me that the problem is we don't
19 really even have a way to set up such an account.
20 Now, maybe I shouldn't be worried about deferred
21 accounting petitions, because they don't necessarily
22 happen. But we're talking about some period of time
23 to go without the methodology; right? I mean,
24 originally it was two years, but perhaps one year?

25 A. Yeah, my estimate now is something within

0657

1 the time frame before the Company files its next
2 general case, which would be one year to 18 months,
3 somewhere in that ballpark. But I believe, with
4 recognition of the risks on both sides, the issue, as
5 you've identified, that is certainly an option for
6 the Commission to consider.

7 Q. But the posture this case is in makes it
8 somewhat problematic. That is, well, we can either
9 proceed, finish this rate case, that would be one
10 way, perhaps we have enough information in this
11 proceeding, including through tomorrow, to accept the
12 settlement with some kind of condition. I'm not
13 sure, and I'm not trying to predict anything. I'm
14 simply -- this is a difficult case to figure out what
15 -- where we are in terms of the evidence in front of
16 us, because we have both the settlement and the rate
17 case, but pieces of the rate case have not been fully
18 developed because of the settlement.

19 A. I appreciate your quandary. It's a similar
20 quandary we went through in trying to analyze the
21 basic case itself.

22 CHAIRWOMAN SHOWALTER: Thank you.

23

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

25 BY COMMISSIONER HEMSTAD:

0658

1 Q. Well, in summary, see if you agree with
2 this. The Company has filed a case based on the
3 protocol, which it now does not itself support.
4 Staff prepared the case using a control area that
5 it's -- it would want to use only for this case.

6 A. That's correct.

7 Q. Not on a going forward basis. And the
8 Company now has filed a revised protocol for at least
9 informational purposes that it would appear to
10 essentially support, but the Staff is unprepared to
11 come to any conclusions about it, so we have three
12 different allocation methods, none of which seem to
13 have anybody's -- well, comprehensive support for any
14 of them.

15 A. I'm afraid that's another good restatement
16 of the quandary, yes.

17 COMMISSIONER HEMSTAD: That's all I have.

18 JUDGE MOSS: Okay. That would appear to
19 bring us to the point of redirect, if any.

20 MS. SMITH: There is none. Thank you, Your
21 Honor.

22 JUDGE MOSS: Thank you. Did you have one
23 more thing, Ms. Davison?

24 MS. DAVISON: I did. I'm sorry, Your Honor.

25

0659

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

2 BY MS. DAVISON:

3 Q. Just one quick question. Mr. Braden,
4 wouldn't it be inequitable to accept the settlement
5 based on original protocol, but say that we're going
6 to use revised protocol on a going forward basis and
7 not give the customers the benefit of the reduction
8 in rates, whatever that may be, associated with
9 revised protocol?

10 A. I can't characterize the situation the same
11 way in order to give you a simple yes or no answer,
12 because we don't feel that the settlement position of
13 the Staff and our basis for entering into the
14 stipulation is truly based on adoption of the
15 original protocol. It's based on our evaluation of
16 the overall case, looking at our own evaluation
17 methodologies and then striking a compromise.

18 So I feel that the compromise in and of
19 itself is fair, regardless of which allocation
20 methodology you might use to add up or combine the
21 numbers in different ways to reach that result. So
22 it's really the bottom line revenue requirement
23 that's encapsulated in the stipulation that we
24 support as fair, just, reasonable and sufficient.

25 Q. So am I incorrect in my assumption that the

0660

1 settlement utilized the original protocol methodology
2 to arrive at the numbers that you agreed upon with
3 the Company?

4 A. I think that's true in terms of the
5 documentation, so that we would be talking apples to
6 apples, but our assessment utilized our internal
7 evaluation tools, which are different from the
8 original protocol. The number is the same. The
9 bottom line number is the same in both instances.

10 MS. DAVISON: Thank you.

11

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

13 BY CHAIRWOMAN SHOWALTER:

14 Q. Well, now I have a follow-up question, which
15 is is the settlement rate within the range of
16 reasonableness under the revised protocol
17 methodology?

18 A. I can't answer that because of the lack of
19 of analysis under that format, but I believe it is
20 likely to be.

21 CHAIRWOMAN SHOWALTER: Thank you.

22 JUDGE MOSS: All right. That would appear
23 to complete our questions for Mr. Braden at this
24 time, and we thank you very much for your testimony.
25 Step down. Let's be off the record.

0661

1 (Discussion off the record.)

2 JUDGE MOSS: Let's go back on the record.

3 All right. Mr. Widmer, you have previously been
4 sworn, and of course you remain under oath. Thank
5 you.

6 MR. WIDMER: Yes.

7 MR. VAN NOSTRAND: Your Honor, his exhibits
8 and testimony have already been admitted; correct?

9 JUDGE MOSS: Do you know the number right
10 offhand?

11 MR. VAN NOSTRAND: 131 through 141.

12 JUDGE MOSS: 131. Actually, we may have
13 done that by stipulation, I don't recall. My notes
14 don't show that, but is there any objection to 131
15 through 141? No objection, then they'll be admitted.
16 So if we haven't previously done it, it's done now.
17 Whereupon,

18 MARK T. WIDMER,
19 having been previously duly sworn, was re-called as a
20 witness herein and was examined and testified as
21 follows:

22

23 DIRECT EXAMINATION

24 BY MR. VAN NOSTRAND:

25 Q. Mr. Widmer, do you have any corrections or

0662

1 additions to make to your testimony, other than those
2 included in the revised pages dated September 2,
3 2004?

4 A. I do not.

5 MR. VAN NOSTRAND: Your Honor, Mr. Widmer is
6 available for cross-examination.

7 JUDGE MOSS: We have previously admitted the
8 ICNU exhibits by stipulation, and -- let's see.
9 Well, my notes are incomplete. Did ICNU have cross
10 for Mr. Widmer?

11 MS. DAVISON: We do, Your Honor.

12 JUDGE MOSS: Okay. Go ahead.

13 MS. DAVISON: Thank you, Your Honor.

14

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

16 BY MS. DAVISON:

17 Q. Good afternoon, Mr. Widmer.

18 A. Good afternoon.

19 Q. Can you tell us what the pro forma period
20 is, please?

21 A. Yes, it's 12 months ending March 2004.

22 Q. And is it correct that you're using the pro
23 forma period for establishing power costs in this
24 case?

25 A. Yes, we actually use the actual test period

0663

1 and adjust those costs based on known and measurable
2 changes for the pro forma period.

3 Q. And to just be precise, is it correct that
4 the pro forma period covers April 1, 2003, through
5 March 31, 2004?

6 A. That's correct.

7 Q. Could you turn to your testimony, Exhibit
8 137, your rebuttal testimony, Exhibit 137, page 23,
9 please? Could you look at line eight of your
10 testimony, please? Do you see that? And could you
11 tell us the relevance, then, given the pro forma
12 period of the period April 2003 through September 29,
13 2004? Or maybe I should state it this way. Isn't it
14 correct that September 29, 2004, is outside your pro
15 forma period?

16 A. That would actually be a typo. That should
17 be September 2003.

18 Q. Could you turn to line 14? And do you see
19 June 1, 2004, through September 30, 2004? Wouldn't
20 that entire time period be outside your pro forma
21 period?

22 A. As stated there, it is, but that's also a
23 typo. That should be June 1, 2003, through September
24 30, 2003.

25 Q. If you -- do you have the settlement in

0664

1 front of you?

2 A. I do.

3 Q. If you look at Attachment Three of the
4 settlement agreement, which is Exhibit 3, you see a
5 summary of the adjustments to power costs; is that
6 correct?

7 A. Yes.

8 Q. Is it correct that the settlement adopts
9 approximately 7.5, on a Company-wide basis, of Mr.
10 Falkenberg's adjustments?

11 A. Yes.

12 Q. Does the Company agree to these adjustments
13 regardless of whether the Commission approves the
14 settlement agreement?

15 A. The 7.5 million in adjustments are
16 adjustments that were adopted by the Company
17 irregardless of the settlement.

18 Q. Has the Company given notice of its intent
19 to terminate the West Valley contract in May of 2005?

20 A. The Company has given notice of its intent
21 to terminate the West Valley contract. However,
22 there's two notice periods. The other notice period
23 is at the end of September, at which time we will
24 either inform the owners of West Valley that we
25 intend to go through with the termination or whether

0665

1 or not we intend to continue the lease.

2 The purpose of the two termination periods
3 is so that the Company has an opportunity to evaluate
4 alternative resources that they could use to replace
5 West Valley and see if there's anything economic
6 enough to do so in the market.

7 Q. But sitting here today, you don't know
8 whether the Company will or will not terminate the
9 West Valley lease, do you?

10 A. That decision has not been made yet.

11 Q. Thank you. If you turn to your rebuttal
12 testimony, page 20, which is Exhibit 137, lines five
13 through eight, is it correct that you believe that
14 customers are expected to benefit from the breaking
15 of the rate plan?

16 A. My testimony there merely relays information
17 that was included in the order of the Company's
18 deferred power cost case. It's Commission language,
19 and I think that language stands on its own.

20 Q. So if this proceeding results in the
21 settlement being approved and rates are increased by
22 \$15.5 million, as the Company and Staff are
23 recommending, and no MSP allocation methodology is
24 adopted, can you see how customers are benefited from
25 that?

0666

1 A. Well, I think the -- one of the reasons
2 elicited by the Commission why there would be a
3 benefit would have been the fact that there hasn't
4 been a litigated rate case for approximately 18
5 years.

6 If you look back to the Company's prior
7 general rate case, we had a settlement in that case,
8 also. However, there were no findings pursuant to
9 the settlement. We merely agreed to a bottom line
10 number. In this settlement that we've worked on in
11 this case, there are numbers that support the
12 settlement. There will be findings if the settlement
13 is adopted. For example, there was no authorized net
14 power cost in the last settlement, yet in this
15 settlement, there is a number. It's \$534 million.

16 So with that all said, I do think one of the
17 benefits of allowing the Company to refile is
18 certainly met through this settlement.

19 Q. And my question to you is how are customers
20 benefited?

21 A. I think they're benefited from the fact that
22 the Commission is able to regulate the utility so
23 that rates are just, fair and reasonable, and that
24 you have a healthy utility that can continue to
25 provide excellent service to its customers.

0667

1 MS. DAVISON: I have nothing further.

2 JUDGE MOSS: Thank you. Did you have cross?

3 MR. CROMWELL: No, Your Honor.

4 JUDGE MOSS: Are there any questions from
5 the bench for Mr. Widmer?

6 CHAIRWOMAN SHOWALTER: No.

7 COMMISSIONER HEMSTAD: No.

8 JUDGE MOSS: Apparently there are none. Is
9 there any redirect?

10 MR. VAN NOSTRAND: Just a couple of
11 questions, Your Honor.

12

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

14 BY MR. VAN NOSTRAND:

15 Q. Mr. Widmer, returning back to the West
16 Valley lease, if the Company proceeds to exercise the
17 termination pursuant to the notice it's given, when
18 would the termination of the lease become effective?

19 A. That would be May 2005.

20 Q. And is May 2005 outside the pro forma period
21 in this case?

22 A. Yes, it is.

23 Q. Are there any other power costs that you're
24 proposing to update through May of 2005?

25 A. There are not.

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1 MR. VAN NOSTRAND: No further questions,
2 Your Honor.

3 JUDGE MOSS: Okay. Mr. Widmer, thank you
4 very much for being with us this afternoon.

5 THE WITNESS: Thank you.

6 JUDGE MOSS: And our next witness?

7 MR. GALLOWAY: Ms. Kelly.

8 JUDGE MOSS: Ms. Kelly.

9 Whereupon,

10 ANDREA L. KELLY,
11 having been previously duly sworn, was re-called as a
12 witness herein and was examined and testified as
13 follows:

14 JUDGE MOSS: Good afternoon, Ms. Kelly.
15 Having been previously sworn, you remain under oath.

16

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

18 BY MR. GALLOWAY:

19 Q. Good afternoon, Ms. Kelly. Are you the same
20 Andrea Kelly that has previously provided testimony
21 in these proceedings as part of a panel in support of
22 the proposed settlement?

23 A. I am.

24 Q. And are you now prepared to submit to
25 cross-examination in respect to your direct and

0669

1 rebuttal testimony that have been previously marked
2 and admitted as Exhibits 71 and 73?

3 A. Yes.

4 Q. Are there any additional changes you'd like
5 to make in those exhibits at this time?

6 A. No.

7 MR. GALLOWAY: Ms. Kelly is available for
8 cross-examination.

9 JUDGE MOSS: Thank you. Mr. Galloway, I'm
10 trusting that your notes are better than mine, and
11 that you're confident that 71 through 75 have been
12 admitted.

13 MR. GALLOWAY: It was my recollection that
14 all of the testimony and exhibits of the panel
15 members were admitted at the same time.

16 JUDGE MOSS: I think you're probably right.
17 All right, then. The ICNU exhibits appear to have
18 previously been admitted by stipulation, except
19 perhaps 76. Did we have an issue with respect to 76,
20 or is it just a failure of my notes?

21 MR. GALLOWAY: I believe the matter was
22 argued and resolved in favor of admission of that
23 exhibit.

24 JUDGE MOSS: Thank you. All right. The
25 witness is available for cross. I gather you still

0670

1 have some cross, Ms. Davison?

2 MS. DAVISON: In a day full of surprises, I
3 have none.

4 JUDGE MOSS: It is a surprise indeed. I
5 won't characterize it further. Mr. Cromwell.

6 MR. CROMWELL: I do have some
7 cross-examination for Ms. Kelly, and I am prepared to
8 proceed.

9 JUDGE MOSS: All right. Go ahead.

10 MR. CROMWELL: Thank you.

11

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

13 BY MR. CROMWELL:

14 Q. Good afternoon, Ms. Kelly.

15 A. Good afternoon.

16 Q. My name is Robert Cromwell. I'm an
17 Assistant Attorney General representing the Public
18 Counsel section. Would you please turn to Exhibit
19 73, your rebuttal testimony, and then turn to page
20 seven?

21 A. I'm there.

22 Q. The Company's Utah stipulation that you
23 discuss in your testimony contains rate caps, does it
24 not?

25 A. It contains rate mitigation measures, and

0671

1 the caps are applied to the difference between the
2 rolled-in allocation method and the revised protocol
3 method. So they do not cap the amount of the rate
4 increase; they cap the amount of the rate increase
5 relative to two different allocation methods.

6 Q. And those caps run, for various periods,
7 with at least one element running out to 2014; is
8 that correct?

9 A. The caps are for the years, fiscal years
10 2006 and seven and eight and nine. For fiscal years
11 2010, 11 and 12, there are rate mitigation premiums
12 that allow the Company, in lieu of a deferral, to
13 collect an amount in addition or over what would
14 result from the revised protocol.

15 Q. Well, using that example of the rate
16 mitigation premium, it's the one quarter percent over
17 revised protocol. That's a limit, isn't it? The
18 Company couldn't collect a half percent or three
19 percent over the amount calculated under the revised
20 protocol method, could they?

21 A. That's correct.

22 Q. So then the one quarter percent over revised
23 protocol would be the cap for those periods?

24 A. Sure, if you want to look at it that way.

25 Q. Okay. And the same is true for the

0672

1 provision that runs 2010 to 2014, in terms of
2 providing an outer limit on the ability of the
3 Company to collect in Utah?

4 A. It provides a mechanism that is used as a
5 threshold of continued support, so if, during this
6 time period, our forecasts are such that Utah
7 customers are to see a decrease between the revised
8 protocol and rolled in, and so this allows for an
9 increase over what we have forecasted. And if that
10 increase were to occur, then the Company would have
11 the right to propose changes to the revised protocol
12 in order to deal with these unforeseen circumstances.

13 Q. And am I correct in understanding the Utah
14 stipulation, that the Company has committed to
15 bearing any shortfall associated therewith?

16 A. That's correct.

17 Q. Last week, you were present for Mr. Furman's
18 testimony, were you not?

19 A. I was.

20 Q. And you heard him state, under
21 cross-examination by Ms. Davison, regarding the
22 protocol methodologies that we've -- quote, The
23 process has to be consensual and collaborative. Did
24 you hear him make that statement?

25 A. I don't recall in what context you're

0673

1 reading from.

2 Q. Okay.

3 A. I could get the transcript in front of me,
4 if you'd like.

5 Q. It's not that important. Would you accept,
6 subject to check, that Mr. Furman was referring to
7 the protocol methodology and the process that the
8 Company's undergone, would you agree with his view
9 that that process, to be successful, has to be
10 consensual and collaborative?

11 A. I'm not sure what you mean by the protocol
12 itself has to be consensual and collaborative. Is
13 there --

14 Q. I'm sorry.

15 A. Is there a cite in the transcript, and then
16 I probably could accept it.

17 Q. I believe he was referring to the process of
18 reaching a resolution. And I guess I have my answer.
19 Thank you.

20 Is it correct that Public Counsel has not
21 participated in the MSP process?

22 A. That's correct.

23 Q. Have you or, to your knowledge, has any
24 PacifiCorp employee sent a copy of the revised
25 protocol to Public Counsel prior to the Company's

0674

1 filing of its rebuttal testimony in this proceeding?

2 A. I believe it was provided in responses to
3 data requests and, to the extent that Public Counsel
4 had asked for copies of data requests that were
5 served on other parties, it would have been provided
6 in those responses, but I'm not sure. I cannot say
7 for sure that those were served on Public Counsel.

8 Q. Do you have available to you or could your
9 counsel make available to you Exhibit 510, the
10 Commission's order in U-86-02?

11 A. I don't have it.

12 Q. And if I could direct your attention to what
13 is marked as page 33 of the order, Bates stamped by
14 the Company as page 36, and there's a Roman section
15 VIII, Jurisdictional Allocation?

16 A. Yes, I'm there.

17 Q. Would you take a moment to review that page
18 and the following page that address jurisdictional
19 allocation?

20 A. I've read it. I must admit that I have not
21 read it in the past.

22 Q. Can you tell us the last time the Company
23 applied this jurisdictional allocation methodology?

24 A. I can't.

25 Q. So you can't tell us the last time the

0675

1 Company was in compliance with this order?

2 A. I don't know what you mean by in compliance
3 with this order. Could you clarify?

4 Q. Sure. This order appears to establish a
5 five point jurisdictional allocation methodology that
6 also utilizes an attrition year and a 25 percent
7 phase-in. And my question to you is do you know the
8 last time the Company applied this jurisdictional
9 allocation methodology in its regulatory proceedings
10 in its jurisdictions?

11 A. I believe once the merger between Utah Power
12 and Light and Pacific Power and Light occurred, there
13 were allocation methodologies that came about as part
14 of PITA that were -- overcame this allocation
15 methodology, if that helps.

16 Q. Good. And would the first of those be what
17 has been referenced as the accord method?

18 A. No.

19 Q. Oh, I'm sorry. What preceded the accord
20 methodology?

21 A. Several, as I understand it. I was not at
22 the Company at that time, but I understand there have
23 been the bold course and the consensus and the accord
24 and the modified accord and rolled-in and others, so
25 -- but, again, I'm not specifically familiar with

0676

1 each and every one of them.

2 Q. Neither am I. Fair to say that there have
3 been a number of allocation methodologies that the
4 Company has utilized from the period of time when
5 this Commission order was issued here in Washington
6 and the present date?

7 A. I think it's fair to say that. I guess the
8 common thread through all of them would be what you
9 see in sort of the first line there, which is that
10 all new resources of the Company and post merger
11 investments in capital were allocated on a rolled-in
12 basis across its six states, and that's been a common
13 thread.

14 Q. And since the entry of this order, Exhibit
15 510, can you point me to any Commission orders that
16 have been entered by the Washington State Utilities
17 and Transportation Commission that have approved any
18 of the allocation methodologies that the Company has
19 applied since that date?

20 A. I don't believe there's been explicit
21 approval of allocation methodologies, but there has
22 been the use of allocation methodologies, for
23 example, for determining the allocation of the gain
24 on Centralia and regular sort of filings that the
25 Company has made over that time. So different

0677

1 allocation methodologies have been used for purposes
2 of setting rates in Washington, but no specific
3 allocation methodology has been approved by this
4 Commission.

5 MR. CROMWELL: Thank you. Nothing further,
6 Your Honor. Thank you.

7 JUDGE MOSS: Thank you. Any questions from
8 the bench?

9 CHAIRWOMAN SHOWALTER: No.

10 COMMISSIONER HEMSTAD: No.

11 JUDGE MOSS: Apparently not. Do we have any
12 redirect?

13 MR. GALLOWAY: We do.

14

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

16 BY MR. GALLOWAY:

17 Q. Ms. Kelly, you were asked by Mr. Cromwell
18 about the rate mitigation premiums that are in effect
19 for three years under the Utah stipulation. Do you
20 recall that testimony?

21 A. I do.

22 Q. And do those rate mitigation premiums permit
23 the Company to recover more than its actual cost
24 computed pursuant to the revised protocol method?

25 A. They do.

0678

1 Q. So it is the Company's actual costs that
2 effectively cap rates, not the premium -- rate
3 mitigation premium itself, isn't it?

4 A. I think that's a fair characterization, yes.

5 Q. And you mentioned, in the course of that
6 answer, that those rate mitigation premiums were in
7 lieu of a deferral method -- methodology. Do you
8 recall that?

9 A. I did.

10 Q. Could you expand on that answer a bit?

11 A. Sure. In the early years of the rate
12 mitigation measures, the Company will suffer some
13 under-recovery of costs in Utah, or is forecast to.
14 We don't know for sure. And rather than placing that
15 under-recovery into a deferral account and tracking
16 those dollars, in the course of negotiations, it was
17 agreed that there would be a premium over our actual
18 costs for a three-year period to allow us to recover
19 some of that under-recovery.

20 Q. Mr. Cromwell asked you if Public Counsel had
21 been provided with a copy of the revised protocol.
22 Do you recall that?

23 A. I do.

24 Q. Was the Public Counsel invited to
25 participate in the MSP process?

0679

1 A. Yes.

2 Q. Were they regularly copied on documents that
3 were generated in the course of that process?

4 A. I believe that their consultant, Mr. Lazar,
5 was copied on some of the -- on much of those
6 documents, but I wouldn't -- I can't confirm that
7 they were sent to -- they were sent to the
8 participants in the process, of which Public Counsel
9 was not one.

10 Q. Was Public Counsel provided with a laptop
11 computer at the beginning of the process in order to
12 participate in the modeling exercises?

13 A. I don't recall.

14 MR. GALLOWAY: I have nothing further.

15 JUDGE MOSS: Thank you. All right. If
16 there's nothing further for Ms. Kelly, then we will
17 release her from the stand. Thank you very much for
18 your testimony this afternoon. And I believe that
19 will bring us to Mr. Schooley to complete the circle.

20 And I think it was the case we previously
21 admitted Mr. Schooley's exhibits when he appeared as
22 a panelist, but just to confirm that there are no
23 objections? All right. They'll be part of the
24 record.

25 Whereupon,

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1 THOMAS E. SCHOOLEY,
2 having been previously duly sworn, was re-called as a
3 witness herein and was examined and testified as
4 follows:

5 JUDGE MOSS: And of course, Mr. Schooley,
6 you remain under oath.

7

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

9 BY MS. SMITH:

10 Q. Good afternoon, Mr. Schooley.

11 A. Hello.

12 Q. Do you have before you the exhibits that you
13 prepared in this docket?

14 A. Yes.

15 Q. Do you have any further changes to them?

16 A. No.

17 MS. SMITH: The witness is available for
18 cross-examination.

19 JUDGE MOSS: Allright. And both ICNU and
20 Public Counsel had indicated cross. Ms. Davison, do
21 you still have some cross? You're going to surprise
22 me again.

23 MS. DAVISON: I am. A pattern is
24 developing. I have no cross, Your Honor.

25 JUDGE MOSS: Okay. How about you, Mr.

0681

1 Cromwell?

2 MR. CROMWELL: I have a handful of
3 questions.

4 JUDGE MOSS: All right. Thank you. Go
5 ahead.

6

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

8 BY MR. CROMWELL:

9 Q. Good afternoon, Mr. Schooley. Would you
10 please turn to your testimony, Exhibit 641?

11 A. Yes.

12 Q. And I'm looking -- I should state, starting
13 on page 12 of your testimony, you address the Trail
14 Mountain Mine, and then, a few pages thereafter, you
15 also addressed environmental remediation expenses;
16 correct?

17 A. Yes.

18 Q. And in your testimony, your responsive
19 testimony filed in this case, you recommended
20 exclusion of Trail Mountain Mine closure expenses on
21 the basis that the cost related to the Eastern
22 Control Area; correct?

23 A. Yes.

24 Q. And did you analyze the prudence of the
25 specific costs asserted regarding Trail Mountain

0682

1 Mine, or did the Eastern Control Area aspect of that
2 proposed cost end the Staff's analysis?

3 A. My recommendation in testimony was simply
4 based on the fact that they were Eastern Control Area
5 related. The Company did file an accounting petition
6 concerning these costs and that has been reviewed, as
7 well.

8 Q. All right. I'm just trying to get at, for
9 the record, the depth of the analysis that the
10 Commission Staff performed on this element of the
11 case.

12 A. It was because it was in the Eastern Control
13 Area.

14 Q. Okay. And that was it?

15 A. Yes.

16 Q. Thank you. Turning to pages 14 through 17,
17 where you address environmental remediation -- and
18 I'm focusing on the paragraph that begins on page 15
19 and then continues over to page 16. Does the
20 settlement reflect your testimony in this point?

21 A. I think in concept it does. I don't know if
22 the calculations are equivalent.

23 Q. Well, you predicted my next question,
24 whether the rate base adjustments found here in your
25 testimony are embedded in the settlement, as well?

0683

1 A. Not specifically.

2 MR. CROMWELL: All right. Thank you. I
3 have nothing further of Mr. Schooley, Your Honor.

4 JUDGE MOSS: Does the bench have any
5 questions for Mr. Schooley?

6 CHAIRWOMAN SHOWALTER: No.

7

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

9 BY COMMISSIONER HEMSTAD:

10 Q. Well, Mr. Braden deferred the question I
11 asked him to you. What is your view of the risks on
12 a going forward basis of using the revised protocol
13 for the basis for Company reporting?

14 A. For the purpose of Company reporting, the
15 risk I see is that revised protocol gains momentum as
16 a means of evaluating the Company's profit, loss,
17 return on rate base. We do need to look at that
18 system more carefully to determine the impacts it has
19 on Washington. Staff hasn't given it the attention
20 it needs to make a full evaluation of that, and
21 that's why we, in the settlement, request more time
22 to do so.

23 Q. Well, Chairwoman Showalter gave the example
24 of a petition for a deferred accounting. Taking that
25 example, that is more than just an informational

0684

1 filing. How would you see the Staff handling that?

2 A. I think the deferred accounting situation on
3 a large item would be evaluated on the basis of a
4 system-wide or Company-wide prudence or necessity for
5 those purposes, and then how it is allocated to
6 Washington would change as a different allocation
7 system would be put into place.

8 So if we used control area in the end or
9 some manner which does not include the entire system,
10 then, even though the Commission may have said that,
11 yes, those are -- that was a prudent need, deferral,
12 then it may not then, in the end, be allocated to
13 Washington.

14 Q. And that -- well, it would be the Staff
15 position that that issue would await a rate case and
16 the resolution of the allocation issue?

17 A. Certainly the resolution of the allocation
18 issue, in that the settlement anticipates that that
19 may be a separate filing or discussion.

20 Q. Are there any other kinds of filings that
21 you can readily think of that would have more than
22 simply informational filing consequences?

23 A. Not that I can think of at the moment.

24 COMMISSIONER HEMSTAD: That's all I have.
25 Thank you.

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1 CHAIRWOMAN SHOWALTER: Can I ask a follow-up
2 on that?

3 COMMISSIONER OSHIE: I don't have any
4 questions, so go right ahead.

5 CHAIRWOMAN SHOWALTER: Okay. Thank you.

6

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

8 BY CHAIRWOMAN SHOWALTER:

9 Q. But in the example that you just went over,
10 I'm unclear. if the Company comes in with a petition
11 for a deferral accounting, let's say a big disaster
12 occurs and the Company is out a lot of money and
13 maybe there's a dispute over whether the Company was
14 at fault or not, so the Company comes in and wants to
15 set up a deferred account. And if we were to approve
16 such a thing, it would have the usual we haven't
17 ruled on prudence and, you know, we haven't made a
18 final determination, but start your account and we'll
19 figure it out later. That's sort of the nature of a
20 deferral account, would you agree?

21 A. Unfortunately, that's the direction it's
22 been going. I don't fully agree with that way of
23 doing things, so --

24 Q. All right. Well, then, I take your point
25 there, but just in order to establish one, don't you

0686

1 need to know in what account or what box or what
2 state to put certain dollars?

3 A. Ideally, I would say so, but if you looked
4 at it from the system-wide basis and said, yes, on a
5 system-wide, this event occurred and we will allow it
6 to be recovered in rates in the future, under
7 protocol or even modified accord or revised protocol,
8 methods that are allocating system resources will
9 allocate different portions to Washington, and the
10 amortization of that would be one thing.

11 If we do go to a control area, it does
12 become more problematic as to say, yes, that was an
13 unfortunate event and you may recover those costs,
14 but we're not allocating any of them to Washington.
15 I can see the dilemma that raises, but I don't know
16 really how to handle that unless we have the
17 circumstances before us. Hopefully nothing will
18 happen by the time we can resolve this.

19 Q. So is what you're saying that it is not
20 essential to have a methodology, as long as you start
21 the account running, and then you figure it out
22 later?

23 A. Yes, and presumably the Company would be
24 asking the other states for the same thing. If we
25 were the outlier in approving something like that, it

0687

1 would be the oddest circumstance, and we may be
2 accepting expenses that the other states have not at
3 that point. I don't know. It does seem like it's
4 not incumbent to have a specific allocation process
5 to identify, on a Company-wide basis, expenses that
6 may be deferred.

7 Q. How does the Company report to Wall Street,
8 Okay, we had a disaster and here's what we've asked
9 in different states and, let's say in Oregon and
10 Utah, we have a methodology, and so here's their
11 share. In Washington, we're not certain. Is that
12 what would happen?

13 A. Probably. I don't -- I don't know how much
14 detail they get into those. It's mostly between
15 themselves and their accountants as to whether they
16 will continue booking something.

17 Q. Isn't it the case that when you get one of
18 -- that if the Company wants to go ahead with this in
19 order to book -- maybe that's the wrong verb -- isn't
20 it supposed to make representations to -- I'll use
21 the term Wall Street, that it has a reasonable or I
22 think even a likely probability of recovering before
23 it puts the dollars in a particular account?

24 A. Yes, under FAS 71, it says there should be
25 the likelihood of recovery in rates of an expense

0688

1 that otherwise would have been incurred in the past.

2 Q. And that's something that the Company does,
3 not this Commission; that the Company makes that
4 representation if it feels it is able to; correct?

5 A. Yes.

6 Q. But how would the Company even get to the
7 first stage of making that judgment if we didn't have
8 an allocation? I suppose it could take the minimum
9 amount that it might recover under any of the
10 allocations?

11 A. It can, and there may be here a distinction
12 to be made between the FERC uniform system of
13 accounts, Account 186, which is miscellaneous
14 deferred debits, and Account 182.3, which is
15 regulatory assets.

16 When a Commission approves something for
17 recovery in rates, it may be placed in Account 182.3,
18 where there is an assurance of recovery. The Company
19 itself may book something into Account 186,
20 miscellaneous deferred debits, pending the resolution
21 of the disposition of that debit. Its expenses,
22 which are debits, are then placed on the balance
23 sheet instead of in the income statement.

24 And this, in essence, is what the
25 Commission's been doing when they say we'll consider

0689

1 the prudence of it and you're not assured full
2 recovery. Those types of things, to my mind, should
3 only be placed in Account 186, where that assurance
4 of recovery has not been given as yet.

5 So the Company can put something in
6 miscellaneous deferred debits, and if their auditors
7 don't take issue with it, then it can stay there
8 until the Commission has taken specific actions
9 regarding it.

10 CHAIRWOMAN SHOWALTER: Thank you.

11 JUDGE MOSS: Okay. Any redirect?

12 MS. SMITH: No.

13 JUDGE MOSS: Or I should have asked if
14 there's any follow-up. Mr. Schooley, we thank you
15 for being with us this afternoon. You may step down.

16 Now, this brings us to -- we have two
17 remaining witnesses, I believe, for the Company, and
18 then -- well, we had previously talked about --
19 scheduled Mr. Buckley for today, but I understand he
20 has flexibility and can appear tomorrow. Would you
21 prefer to have your Company witnesses, and get that
22 perhaps completed this afternoon?

23 MR. VAN NOSTRAND: Yes, Your Honor.

24 JUDGE MOSS: Okay. Mr. Woolley or Mr.
25 Martin?

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1 MR. VAN NOSTRAND: Mr. Woolley would be
2 next.

3 JUDGE MOSS: We'll get you sworn and then
4 we'll take a brief recess. If you'll just remain
5 standing and raise your right hand.

6 Whereupon,

7 RICHARD C. WOOLLEY,
8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10 JUDGE MOSS: Thank you. Please be seated or
11 otherwise relax. We'll be off the record for 15
12 minutes. Be back at 10 after the hour, please.

13 (Recess taken.)

14 JUDGE MOSS: All right. Let's be back on
15 the record. Mr. Van Nostrand.

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

17

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

19 BY MR. VAN NOSTRAND:

20 Q. Mr. Woolley, could you state your name,
21 please?

22 A. My name is Richard C. Woolley.

23 Q. And what's your position with the Company?

24 A. I'm a Vice President of Thermal Production
25 and System Coordination in the Generation Business

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1 Unit.

2 Q. And did you pre-file rebuttal testimony and
3 accompanying exhibits in this case?

4 A. I did.

5 Q. And your pre-filed rebuttal testimony,
6 Exhibit 331, do you have any corrections or additions
7 to make to that document?

8 A. Yes, I do. I have three. The first one is
9 on page 10, line 10. 2002 is changed to 2004.

10 JUDGE MOSS: Better slow down for a second
11 while we find our place. Page 10?

12 THE WITNESS: Right, line 10.

13 JUDGE MOSS: Ah. It should say what year?

14 THE WITNESS: 2004. And that was corrected
15 with a response to ICNU Data Request 13.127.

16 The next two changes are both on page 11.
17 The first of those is on page eight -- I mean, line
18 eight. The 196 is changed to 552. That also was
19 changed and corrected on the response to ICNU Data
20 Request 13.131.

21 And the last change was on line 10 and 11,
22 where the .2 was changed to .1, and a .4 was changed
23 to .3. And that also was corrected with a response
24 to ICNU Data Request 13.131.

25 Q. Does that complete your corrections, Mr.

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1 Woolley?

2 A. That's correct.

3 Q. And if I asked you the questions set forth
4 in Exhibit 331, would your answers be the same today?

5 A. Yes.

6 Q. And you also have Exhibits 332 and 333
7 accompanying your rebuttal testimony. Are those true
8 and correct, to the best of your knowledge?

9 A. Yes.

10 Q. You have no additions or corrections to make
11 to those?

12 A. No.

13 MR. VAN NOSTRAND: Your Honor, I'd move the
14 admission of 331, 332 and 333, and Mr. Woolley is
15 available for cross-examination.

16 JUDGE MOSS: Thank you. Hearing no
17 objection, those will be admitted as marked. We've
18 previously admitted 334 through 341, ICNU's
19 cross-examination exhibits by stipulation. Ms.
20 Davison, you have some questions for this witness?

21 MS. DAVISON: I do, Your Honor.

22

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

24 BY MS. DAVISON:

25 Q. Good afternoon, Mr. Woolley. I would refer

0693

1 you generally to your testimony at pages five through
2 ten. And you discuss issues of imprudence and
3 personnel error. And my question is how do you
4 define imprudence?

5 A. I think that imprudence, from the standpoint
6 of operating equipment in a system such as ours, has
7 to do with avoiding your fiduciary responsibilities.
8 And whatever responsibility that we're talking about
9 has a pretty broad sense in that regard.

10 Q. On page five of your testimony, Exhibit 331,
11 you discuss the Hunter 1 outage. Is the Hunter 1
12 outage the most significant and costly outage
13 experienced by the Company in recent years?

14 A. I'm not sure if that's the case, but it's
15 certainly large.

16 Q. Can you describe the personnel error that
17 contributed to the Jim Bridger Unit 4 outage?

18 A. That particular situation had to do with a
19 operator observance of the conditions.

20 Q. Can you elaborate?

21 A. No, I can't.

22 Q. Is that because you don't know?

23 A. That's because I don't know that particular
24 issue.

25 Q. What do you mean by operator observance?

0694

1 A. Well, my understanding of -- not having been
2 there, but my understanding of the situation is that
3 the operator could have been more observant as to the
4 exact conditions of the equipment.

5 Q. Is it your view that personnel errors cannot
6 constitute evidence of the Company's imprudence?

7 A. I think that in all cases in regarding
8 equipment failures where personnel errors are
9 involved, personnel errors by themselves are not
10 evidence of imprudence.

11 Q. Are there any types of personnel errors that
12 you believe would constitute imprudence?

13 A. Imprudence in the way that you're describing
14 is imprudence by the Company, and in the -- in that
15 regard, an individual act of personnel error does not
16 constitute imprudence. Imprudence for a company is
17 what have they done or not done in the way of trying
18 to eliminate those personnel errors.

19 Q. Is it your view that the Company will
20 experience a catastrophic outage similar in magnitude
21 and cost to the Hunter 1 outage once every four
22 years?

23 A. I think that statistically, and that's what
24 you're really referring to, statistically, we can
25 pretty well predict and we have predicted that you

0695

1 will have some type of catastrophic type failure,
2 large failure, equipment failure, component failure,
3 and personnel error on a pretty predictable basis,
4 but you will very -- hardly ever be able to predict
5 which exact event will occur or that it will reoccur.

6 Q. How many years of data would be sufficient
7 for you to form an opinion of normal overhaul costs
8 or trends?

9 A. Well, I think that, first of all, you have
10 to look at what is evident in an overhaul trend or
11 pattern, and I think that the types of questions that
12 have risen in this particular case do not form a
13 sound basis for predicting that type of pattern or
14 trend. A much better basis, though, is the overall
15 O&M expense cost, of which overhauls make up actually
16 a small portion of that overall trend.

17 Q. Could you turn to page 10 of Exhibit 331,
18 and I'd refer you to the table of outages.

19 A. Mm-hmm.

20 Q. Does this table cover 1983 through 2004?

21 A. Yes, it does.

22 Q. Are you aware that the outage rates in the
23 grid model for this case are based on the four years
24 ending March 31, 2003?

25 A. Excuse me. You're talking about the -- are

0696

1 you referring to the 1983 to 2004 grid, or are you
2 referring to something else?

3 Q. I'm referring to the outage rates that are
4 in the grid model for purposes of establishing the
5 revenue requirement in this rate case. Are you aware
6 that they are based on the four years ending March
7 31, 2003?

8 A. Well, the data that's in here, as we've
9 stated, is for the period 1983 through 2004. Is that
10 what you're referring to?

11 Q. No, I'm referring to the grid model and the
12 outage rates that are actually included in the grid
13 model that are used to establish the revenue
14 requirement in this rate case.

15 A. Well, that may be. I'd have to see the
16 model that you're referring to.

17 Q. Referring to your table, in addition to
18 encompassing a time period that's not covered in this
19 general rate case for purposes of setting the revenue
20 requirement, isn't it also true that many of these
21 plants were not exclusively owned by PacifiCorp,
22 particularly in the 1980s?

23 A. That's -- that's true.

24 Q. Then, turning to page 11, lines nine through
25 13, you provide numbers for the 1998 through 2002

0697

1 time period; is that correct?

2 A. That is correct.

3 Q. And isn't that true that this also does not
4 encompass the time period for this rate case, which
5 is April 1999 through March 2003?

6 A. That's correct.

7 MS. DAVISON: I have no further questions,
8 Your Honor.

9 JUDGE MOSS: Thank you. I believe ICNU was
10 the only party to indicate cross for Mr. Woolley, so
11 I'll ask if the bench has any questions. There are
12 no questions from the bench. Is there any redirect?

13 MR. VAN NOSTRAND: No, Your Honor.

14 JUDGE MOSS: Then, Mr. Woolley, we
15 appreciate you being here this afternoon. You may
16 step down.

17 THE WITNESS: Thank you.

18 JUDGE MOSS: And I believe Mr. Martin will
19 be your last witness.

20 Whereupon,

21 LARRY O. MARTIN,
22 having been first duly sworn, was called as a witness
23 herein and was examined and testified as follows:

24 JUDGE MOSS: Thank you. Please be seated.

25

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

2 BY MR. HALL:

3 Q. Good afternoon, Mr. Martin. Would you
4 please state your full name for the record?

5 A. Larry O. Martin.

6 Q. And Mr. Martin, what is your position with
7 the Company?

8 A. Director of Tax.

9 Q. And has direct and rebuttal testimony been
10 filed on your behalf in this case?

11 A. Yes.

12 Q. And do you have any corrections to your
13 testimony at this time?

14 A. No, I do not.

15 Q. And if I were to ask you the questions
16 contained in the testimony, would your answers be the
17 same today?

18 A. Yes, they would.

19 MR. HALL: Your Honor, at this time I move
20 for the admission of Exhibits 281, 282 and 283.

21 JUDGE MOSS: Hearing no objection, those
22 will be admitted.

23 MR. HALL: Your Honor, Mr. Martin is
24 available for cross-examination.

25 JUDGE MOSS: And I'm not sure about my notes

0699

1 here, but they reflect a couple of other pre-filed
2 exhibits. Were those not going to be offered, 284,
3 285?

4 MR. HALL: Not at this time, Your Honor.

5 JUDGE MOSS: They won't be offered. Okay.
6 Fine. All right. Let's see. I think the only party
7 indicating a desire to cross Mr. Martin was Public
8 Counsel. Mr. Cromwell.

9 MR. CROMWELL: I'm ready, Your Honor.

10 JUDGE MOSS: Then proceed.

11 MR. CROMWELL: Thank you.

12

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

14 BY MR. CROMWELL:

15 Q. Good afternoon, Mr. Martin.

16 A. Good afternoon.

17 Q. Do you recognize what has been marked for
18 identification as Exhibit 284-HC as your LOM 4-C and
19 Exhibit 285-HC as your LOM 5-C?

20 A. I do not have those with me. Are those
21 available?

22 MR. CROMWELL: Could his counsel make them
23 available to him?

24 MR. HALL: Mr. Cromwell, were those provided
25 in the cross-examination packet?

0700

1 MR. CROMWELL: Those were exhibits attached
2 to Mr. Martin's testimony that the Company filed.

3 MR. HALL: Just a moment, Your Honor. I'll
4 get those.

5 MR. CROMWELL: And Your Honor, if Mr. Hall
6 could also make available to Mr. Martin what has been
7 marked for identification as Exhibits 286 through
8 290.

9 JUDGE MOSS: Yeah, those were previously
10 identified by Public Counsel as potential
11 cross-examination exhibits.

12 THE WITNESS: 4-C and 5-C.

13 MR. HALL: Yep, 4-C and 5-C.

14 THE WITNESS: Okay, very good. I believe I
15 have those.

16 JUDGE MOSS: Okay. The witness is now fully
17 equipped.

18 Q. Thank you, Mr. Martin. I'll restate my
19 question. You recognize Exhibits 284 and 285 as LOM
20 4-C and 5-C to your testimony?

21 A. Yes, I recognize them as responses to data
22 requests.

23 Q. And they were included with your pre-filed
24 testimony, were they not? I'm sorry, I should be
25 specific. Your pre-filed rebuttal testimony?

0701

1 A. Okay. Yes.

2 Q. And do you recognize exhibits -- I'm sorry,
3 what has been marked for identification as Exhibits
4 286 through 290 as the Company's responses to five
5 different Public Counsel data requests?

6 A. I believe so. I have them identified by
7 data request number.

8 MR. CROMWELL: Great, thank you. Your
9 Honor, at this time I would move the admission of
10 Exhibits 284 through 290.

11 MR. HALL: No objection.

12 JUDGE MOSS: All right. Then they'll be
13 admitted as marked.

14 Q. Mr. Martin, would you agree with me that if,
15 in prior Washington jurisdictional rate cases, the
16 revenue requirement or cost of service was reduced by
17 virtue of flowing through a timing difference such
18 that cost of service developed income tax expense was
19 lowered, that when such timing differences turn
20 around in subsequent rate cases, then Washington
21 jurisdictional customers should be charged for the
22 increase in cost of service developed current income
23 tax expense in that subsequent rate case?

24 A. It's difficult to answer. I'm not sure --
25 there's some inconsistencies in what I would view in

0702

1 the question, so it makes it difficult to answer.
2 The flow-through basis basically takes tax return
3 type treatment to certain items and flows those
4 through to the customers. It does not provide for,
5 in Washington, for example, for recovery of deferred
6 taxes, and so somewhere in there you had deferred
7 taxes mentioned, and that doesn't seem to be
8 consistent with what you're asking. I'm not sure I
9 can follow the question.

10 Q. Let me restate it for you, if I could, and
11 perhaps it would be better said as a hypothetical.
12 Let's hypothetically assume that, in a prior rate
13 case here in Washington, that the Company's revenue
14 requirement or cost of service was reduced by virtue
15 of flowing through a timing difference such that the
16 cost of service developed income tax expense was
17 lowered. Do you understand that concept?

18 A. Sure.

19 Q. Okay. And that in some future time, there
20 was another rate case, and that, in that subsequent
21 rate case, that the timing difference has in fact
22 turned around by that point.

23 A. Okay.

24 Q. You're with me?

25 A. Sure.

0703

1 Q. Okay. In that future rate case, would you
2 agree with me that the Washington customers would be
3 charged for that increase in the cost of service
4 developed current income tax expense?

5 A. To the extent it is reversals of deferred
6 items, then that will be -- that would go through
7 rates and that would be recovered.

8 Q. Okay. And if we look at the inverse of that
9 example, and if a book/tax timing difference were
10 normalized in a prior Washington rate case, would you
11 then agree with me that Washington ratepayers should
12 not be charged again in the subsequent rate case for
13 the increase in current income tax expense that
14 occurs as a result of the turnaround of that book/tax
15 timing difference?

16 A. Yes, I would agree that if it had been
17 normalized difference, then it would not be
18 appropriate to charge them again for that.

19 Q. Would you also agree with me that if any of
20 the IRS settlement payments that the Company seeks to
21 amortize in this case relate to book/tax timing
22 differences that were afforded flow-through treatment
23 in prior Washington rate cases, that Washington
24 ratepayers should be responsible at this time for the
25 payment of such current income tax?

0704

1 A. I think so. I'm having difficulty with your
2 questioning. If -- basically, if it's been -- let me
3 see if I can help out. If it's been previously
4 deferred and that was normalized from a regulatory
5 standpoint, then they've paid that tax. And then
6 adjustments to that -- it would not be appropriate to
7 go back and seek that again.

8 To the extent that the customers have not
9 paid for that, then that's our position, is that we
10 are coming and seeking those amounts.

11 Q. Thank you. I'd like you now to turn to what
12 has been admitted as Exhibit 287, if you would,
13 please?

14 A. Do you have it by data request number?

15 Q. I'm sorry, yes. It's Public Counsel Data
16 Request 158, and the Company's response --

17 A. Okay.

18 Q. -- to that data request.

19 A. Okay. I have that.

20 Q. In that request, Public Counsel was
21 attempting to determine whether the Company was
22 conceding that at least a portion of the IRS
23 settlement payments should be charged against
24 accumulated deferred income taxes, rather than
25 current income for possible recovery from ratepayers

0705

1 through amortization of current expense.

2 My question for you is whether the Company
3 is conceding that a portion of the IRS settlement
4 payment should be charged against accumulated
5 deferred income tax?

6 A. Yes. And in fact, let me see if it's --
7 it's actually in the exhibit -- well, it's Data
8 Request 160, so would that be 288 potentially, or --

9 Q. I don't know that we're --

10 JUDGE MOSS: 289.

11 MR. CROMWELL: 289.

12 THE WITNESS: 289. The Company personnel
13 took a comprehensive look at each item in the -- that
14 was proposed by the IRS and for which the settlement
15 payments were made and identified those items for
16 which accumulated deferred income tax for which they
17 were already deferred items and had already been
18 recovered from ratepayers.

19 In the case of Washington, which is
20 primarily a flow-through state, that means that most
21 of these items have not been recovered from
22 ratepayers before. But there are some items on that
23 list that were not included in the totals included in
24 this case.

25 Q. So then, should I assume, Mr. Martin, that

0706

1 your response in Exhibit 289 modifies the position
2 taken in your rebuttal testimony on this issue?

3 A. I would need you to show me my position in
4 the rebuttal testimony you're referring to, because I
5 believe they're consistent.

6 Q. Yeah, I think your rebuttal testimony was
7 the same as the Company's direct on this specific
8 question, and what I was attempting to determine was
9 to what degree your response to 160 modified that
10 position. Are you --

11 A. I don't believe it modifies the position at
12 all. I think it's fully consistent.

13 Q. Wouldn't the result that you provide in 160
14 reduce the amount you identify in the amortization
15 reserve in your testimony?

16 A. The amount in 160 is already reduced by the
17 items that are included. In other words, that were
18 already -- for which there were already deferred tax
19 item balances set up. So it's already an amount
20 that's been reduced.

21 Q. Mr. Martin, would you please turn now to
22 Exhibit 283, your rebuttal testimony, at page five?

23 A. Okay.

24 Q. And I'm looking at lines 11 and 12.

25 A. Mm-hmm.

0707

1 Q. Can you tell me the last time that an
2 overall and common equity return was established for
3 PacifiCorp's Washington operations?

4 A. I cannot.

5 Q. Would you accept, subject to check, that
6 those specific numbers would have last been set in
7 the 1986 case, and that the overall return was
8 settlement at 10.42?

9 A. I can take that subject to check.

10 Q. Thank you. I might, just for your
11 reference, refer you to Exhibit 290 on that point.
12 And again, as to return on equity, it was 13.25 in
13 the 1986 case, as I understand it, and if you would
14 accept that subject to check?

15 A. Sure.

16 Q. Then is it your testimony that, for the
17 period of 1991 to 1998, the Company never earned its
18 authorized return? Are you basing that on an
19 assumption that the Company was expecting to earn
20 10.42 percent overall and a 13.25 percent return on
21 common equity, even though interest costs and overall
22 money costs fell significantly between 1986 and the
23 mid 1990s?

24 A. I think the way I'd have to shape the
25 response to this is that I'm basing this upon

0708

1 information that's calculated and provided to me, and
2 so, as a general conclusion, I'm able to see that,
3 from my viewpoint, it appears that we've
4 under-recovered or under-earned.

5 As to the adequacy of whether -- I think it
6 was the 10.42 and 13.25 that you cited, and whether
7 that's adequate related to market rates, you'd have
8 to put that to someone else. I'm not qualified in
9 that area.

10 Q. All right. Similarly, in looking at Exhibit
11 290, are you relying on information provided by some
12 other member of the Company staff for your
13 determinations that are reflected in the table that
14 was attached to that data response?

15 A. Excuse me, which one are you referring --
16 which table are you referring to?

17 Q. Sure. Pardon me. What I have as Exhibit
18 290, the Company's response to Public Counsel Data
19 Request 162.

20 A. Okay.

21 Q. There's, I guess, 14 pages of attachments
22 provided.

23 A. Well, yes, to be clear, all of the -- all of
24 the background work and everything that relates to
25 calculation of these returns and earnings figures are

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1 computed by someone else.

2 Q. So if I were to ask you what order you're
3 relying upon for different methodologies, you
4 wouldn't be aware of that?

5 A. No, that is correct.

6 Q. Turning again to the IRS settlement
7 payments, Mr. Martin, would you agree that the great
8 majority of items in dispute with the IRS, for which
9 settlement payments were made, that the great
10 majority relate to timing, rather than permanent
11 book/tax differences?

12 A. Yes.

13 Q. Could you turn to Exhibit 289, please? It's
14 the Company's response to Public Counsel Data Request
15 160.

16 A. Okay.

17 Q. And I'm looking at the column titled -- and
18 I'm going to use descriptors, given the
19 confidentiality of the information, without talking
20 about actual numbers. But looking in the column
21 titled Flow-through in the 1986 Washington Rate Case?

22 A. Yes.

23 Q. Do you see that column?

24 A. Mm-hmm.

25 CHAIRWOMAN SHOWALTER: What page are we on?

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1 MR. CROMWELL: I'm sorry, Your Honor. It's
2 marked page one of 10 in the bottom right-hand
3 corner.

4 CHAIRWOMAN SHOWALTER: All right.

5 MR. CROMWELL: It's the -- there was a blue
6 cover page, and then the first substantive page of
7 the exhibit.

8 Q. In that column, you have a number of
9 entries, No SCH M and Def. Could you just make a
10 record on what that phrase stands for?

11 A. Well, it's a simple way of saying no
12 book/tax differences. Basically, it's saying no
13 Schedule M and deferreds. So for each of the line
14 items throughout the 10 pages, there's hundreds of
15 them, the Company Staff have gone through and
16 identified those which have not been recovered
17 previously from Washington ratepayers.

18 And you'll also notice the designation A
19 that was used essentially to sum or identify those
20 that were added up to come to the total.

21 Q. Thank you. And similarly, the entry, No
22 deferred, you're looking at the 1986 rate case?

23 A. Yes.

24 Q. And you're identifying Schedule M items that
25 were included in the current income tax calculation,

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1 and for which there was no related deferred income
2 tax expense recognized in cost of service development
3 or determination?

4 A. Yes.

5 Q. Now, on the entries No Schedule M and
6 Deferred, I should say, are you assuming that all of
7 those entries that you've identified were flowed
8 through?

9 A. I would -- I would say it -- I would say it,
10 characterize it differently. I would say that those
11 have not been included in our rate cases, and they
12 therefore haven't been charged to customers.

13 Q. Can you identify whether ratepayers in
14 Washington State have previously benefited from those
15 deductions?

16 A. Yeah, I'm not sure what you mean, those
17 deductions. I mean, most of these are an increase,
18 so when you say they've benefited from those
19 deductions, I'm not sure what you mean.

20 Q. If I understand your proposal in your
21 testimony, you're proposing that these expenses be
22 paid by ratepayers now; correct?

23 A. Yes.

24 Q. And was there previously a circumstance
25 where ratepayers benefited by not paying those taxes?

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1 A. Yes, that's what this is saying. In other
2 words, the amount of tax they paid did not include
3 any of these items as they were set up, so consistent
4 with the explanation that Mr. Dittmer provided, the
5 timing items or deferred items, typically tax will
6 have a greater deduction at the beginning than books,
7 and so you will have an adjustment for tax purposes
8 at the beginning that is reversed out over time.
9 Ratepayers were not charged with that up front.

10 Their total tax liability, on a flow-through
11 basis, was reduced by those accelerated tax
12 deductions, and so as the items are either reversed
13 normally, in the normal course, or they're reversed
14 through an IRS adjustment to those amounts, now we're
15 asking for those adjustments to be recovered. I
16 think that answers your question.

17 Q. Yes, thank you. Can you identify for me,
18 either in this exhibit or elsewhere in the record,
19 where that flow-through occurred, and in the previous
20 cases that taxpayers benefited thereby?

21 A. I don't believe there's anything in the
22 record that shows the reduced amount of taxes for the
23 prior years.

24 Q. Would you turn with me now to your rebuttal
25 testimony, which has been admitted as Exhibit 283?

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1 A. Okay.

2 Q. And I'm looking at page seven. Would you go
3 down to line 10?

4 A. Okay.

5 Q. And beginning, As a matter of fairness, read
6 the rest of that sentence.

7 A. As a matter of fairness, one would expect
8 Staff to support some sort of an audit contingency
9 expense to be built into the Company's cost of
10 service.

11 Q. Would you agree with me that the contingency
12 here would only be theoretically necessary for
13 permanent differences and/or timing differences
14 afforded flow-through treatment that may later cause
15 a dispute with the IRS?

16 A. I think I'm going to have to have you either
17 break that up or into pieces. The audit can -- I
18 mean, the whole concept of the audit contingency was
19 that this was, I guess, a potential alternative to
20 what I would call a cash basis recovery, which is as
21 we've made the tax settlement payments, we have come
22 and sought recovery. And the contingency would be
23 more of an accrual, as we go along, to estimate the
24 expenses that ultimately will be realized.

25 Q. And I guess my question to you goes to the

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1 issue of is that only necessary when there are
2 permanent differences or, in the circumstance where
3 timing differences afforded a flow-through treatment
4 that could then cause a later dispute with the IRS
5 that would have to be addressed?

6 A. Yes, that's correct.

7 MR. CROMWELL: Thank you, Your Honor. I
8 have nothing further for Mr. Martin.

9 JUDGE MOSS: Thank you. Any questions from
10 the bench?

11 CHAIRWOMAN SHOWALTER: No.

12 JUDGE MOSS: Okay. Any redirect?

13 MR. HALL: Just a little bit, Your Honor.

14

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

16 BY MR. HALL:

17 Q. Mr. Martin, are you familiar with the
18 settlement that is proposed between the Company and
19 the Staff?

20 A. Generally, yes.

21 Q. And in your direct testimony, you're seeking
22 \$5.7 million over five years. How has the settlement
23 affected that amount?

24 A. It has cut it in half.

25 MR. HALL: Thank you. No further questions.

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1 .HE (MARTIN - RECROSS BY CROMWELL)

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

3 BY MR. CROMWELL:

4 Q. I'm sorry, Mr. Martin. Could you direct me
5 to where in the settlement you're addressing your
6 response to Mr. Hall's redirect question?

7 A. I would be referring to, well, two things.

8 MR. HALL: That would be at tab --

9 THE WITNESS: Oh, I'm sorry. I'm referring
10 to settlement testimony that was joint testimony of
11 Roger A. Braden -- I don't know if there's an exhibit
12 number to this -- Thomas Schooley, Joelle Steward,
13 Christy Omohundro, Andrea Kelly, Mark T. Widmer,
14 Ralph Cavanagh, page eight, lines 15 through 20. And
15 more specifically, lines 18 through 20, where it
16 says, The settlement agreement adopts an agreed upon
17 amount for this adjustment, which is calculated as
18 approximately one-half the adjustment amount proposed
19 by Mr. Kermode.

20 Q. And just so that the record is clear, are
21 you then -- is that number reflected in Attachment A
22 to the settlement document itself, or where is it?

23 A. Yeah, in Attachment A to the settlement
24 document itself is actually a revenue requirement
25 number, so you're not going to see one half of the

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1 5.8 million, but that's the revenue requirement
2 impact of that one half.

3 Q. And that's at the line titled IRS
4 Settlement?

5 A. Yes.

6 Q. And anywhere else that you were referring to
7 in your --

8 A. No.

9 Q. -- response?

10 MR. CROMWELL: Okay. Thank you.

11 JUDGE MOSS: Okay. With that, I believe our
12 record is clear. Mr. Martin, we thank you for being
13 here and testifying this afternoon. You may step
14 down.

15 THE WITNESS: Thank you. Yes.

16 JUDGE MOSS: As previously mentioned, we're
17 going to have Mr. Dittmer tomorrow morning, and
18 followed by Mr. Buckley, and I believe that will
19 complete our witnesses, won't it?

20 MS. DAVISON: Your Honor, ICNU has no
21 cross-examination of Mr. Buckley.

22 JUDGE MOSS: Ah. How about Public Counsel?

23 MR. CROMWELL: I similarly have no questions
24 for Mr. Buckley, Your Honor.

25 JUDGE MOSS: Well, we do. So Mr. Buckley

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1 will need to be here in the morning.

2 MS. SMITH: He will be, Your Honor.

3 JUDGE MOSS: Very good. I have a few
4 housekeeping matters that -- we can let the
5 Commissioners leave the room, but let me ask the
6 parties if there's any final business today they
7 would like to present on the record --

8 MR. CROMWELL: No, Your Honor.

9 JUDGE MOSS: -- while the Commissioners
10 remain? All right. Well, then, I'm going to free
11 them up to leave. And I just have some exhibit
12 matters that I want to go over with the parties. I
13 want to do this on the record to make sure that we
14 are clear.

15 I apologize first. My notes are not up to
16 their usual standards. And so I need to confirm with
17 the parties the status of certain exhibits. With
18 respect to Mr. Hadaway, we had a number of exhibits
19 pre-marked. Was it everybody's intention that those
20 would just come in by stipulation? I know the
21 parties waived cross and I had some correspondence on
22 this, but my notes don't reflect the correspondence.
23 The parties are stipulating those in?

24 MR. CROMWELL: Yes, Your Honor. I have no
25 objection to entry of Mr. Hadaway's exhibits.

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1 JUDGE MOSS: So that would be 41 through 49.

2 And similarly, Mr. Hill, the same essential
3 situation. His would be admitted by stipulation?
4 That was a question.

5 MR. VAN NOSTRAND: Yes, Your Honor.

6 JUDGE MOSS: Okay.

7 MR. VAN NOSTRAND: I would propose that the
8 remainder of the Company's direct and rebuttal
9 pre-filed testimony and exhibits similarly be
10 stipulated in.

11 JUDGE MOSS: Yeah, maybe we can do it that
12 way. There are, of course, a significant number of
13 Company witnesses whose pre-filed -- or nobody wanted
14 cross-examination, but we still have their exhibits
15 identified, so can we just have those by stipulation?

16 MS. DAVISON: Yes, Your Honor.

17 MR. CROMWELL: Yes, Your Honor.

18 MS. SMITH: Your Honor, I would request the
19 same treatment of Staff's testimony and exhibits,
20 where no party has identified cross-examination.

21 JUDGE MOSS: The unexamined witnesses, such
22 as Dr. Merriam, Mr. Kermode.

23 MS. SMITH: That's correct, Your Honor.

24 JUDGE MOSS: Any objection?

25 MS. DAVISON: No, Your Honor.

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1 MR. CROMWELL: No, Your Honor.

2 JUDGE MOSS: All right. Now, there was some
3 collective testimony, joint testimony of Jim Lazar,
4 Don Schoenbeck and Joelle Steward. Are we going to
5 give that the same treatment?

6 MS. SMITH: That's Staff's intent, Your
7 Honor.

8 MR. CROMWELL: Yes, Your Honor.

9 MR. VAN NOSTRAND: Yes, Your Honor.

10 JUDGE MOSS: I think that probably covers
11 everything.

12 MR. VAN NOSTRAND: I think you also wanted
13 me to check on some energy project data requests.

14 JUDGE MOSS: Oh, yes, that's right.

15 MR. VAN NOSTRAND: And we have no problem
16 with the admission of 327 and 328, accompanying Mr.
17 Griffith. Cross-examination exhibits for Mr.
18 Griffith, and then I believe there were other ones
19 that were -- Ted Weston, 208 through 213.

20 JUDGE MOSS: All right. And we'll admit all
21 of those.

22 MR. CROMWELL: Your Honor, while we're in
23 that mode, may I submit the admission -- or request
24 the admission of Exhibits 521 through 532, Mr.
25 Dittmer's testimony and attachments to his direct

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1 testimony?

2 JUDGE MOSS: We can do that now, if that's
3 all right with the parties. Everybody's agreeable to
4 those? He'll be on the stand tomorrow. Any
5 objection to Mr. Dittmer's testimony and exhibits?

6 MR. VAN NOSTRAND: No, Your Honor.

7 MS. SMITH: Your Honor, can we just have a
8 moment, please, to check?

9 JUDGE MOSS: Sure, absolutely.

10 MS. SMITH: We didn't have an objection,
11 Your Honor. Thank you.

12 JUDGE MOSS: So Mr. Dittmer's pre-filed
13 testimony and exhibits will be admitted. That's 521
14 through 532. Now, we also have -- if we can go ahead
15 and take care of the cross on that. Staff had one --
16 two exhibits identified for cross of Mr. Dittmer, and
17 PacifiCorp had -- and that was 533 and 534. Then
18 PacifiCorp had identified 535 through 552. Does
19 anybody have objections to any of those?

20 MR. CROMWELL: Your Honor, we don't have an
21 objection to 533 or 534. I do wish to note that
22 those were not Public Counsel data requests
23 responses, and Mr. Dittmer's ability the address them
24 is commensurate.

25 JUDGE MOSS: Okay. But you don't object?

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1 MR. CROMWELL: No.

2 JUDGE MOSS: Okay. So Staff is warned, all
3 right. So there are no objection to these? All
4 right. We'll go ahead and mark 533 through 552 as
5 admitted, and that will save a little time tomorrow.

6 Now, for the purposes of the record, if it
7 will be adequate for the court reporter's purposes,
8 what we have just done is tantamount to saying that
9 all remaining exhibits that have not -- that are on
10 the exhibit list that have not previously been
11 addressed in the record are being admitted.

12 And so by reference to the exhibit list, I
13 will update the exhibit list to reflect this, and the
14 parties will correct me on any errors that I make and
15 then we'll have our final exhibit list that will
16 reflect for the record the admission of exhibits. We
17 had a few pre-identified that were not admitted, and
18 we did that on the record, so I think, by process of
19 elimination, we'll have all our numbers without going
20 through that laboriously now.

21 Is there any other business to conduct this
22 afternoon?

23 MR. CROMWELL: Your Honor, this could be an
24 off-the-record discussion.

25 JUDGE MOSS: All right. Let's go off the

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1 record.

2 (Discussion off the record.)

3 JUDGE MOSS: We'll be in recess until
4 tomorrow morning at 9:30.

5 (Proceedings adjourned at 4:09 p.m.)

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