

Docket No. UE-190882 - Vol. I

In the Matter of: Avista Corporation, et al.

February 14, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the)
Investigation of Avista Corp.)
d/b/a Avista Utilities, Puget) Docket No. UE-190882
Sound Energy, and Pacific Power)
& Light Co. Regarding Prudency)
of Outage and Replacement Power)
Costs)
)

EVIDENTIARY HEARING - VOLUME I

ADMINISTRATIVE LAW JUDGE ANDREW J. O'CONNELL

(PORTIONS OF THIS TRANSCRIPT ARE DESIGNATED CONFIDENTIAL
AND ARE SEALED UNDER SEPARATE COVER.)

9:50 A.M.

February 14, 2020

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(All pre-filed exhibits were
admitted prior to the hearing.)

* * * * *

1 OLYMPIA, WASHINGTON; FEBRUARY 14, 2020

2 9:50 A.M.

3
4 P R O C E E D I N G S

5
6 JUDGE O'CONNELL: Let's be on the record.

7 Good morning. Today is Friday,
8 February 14, 2020. The time is approximately
9 9:50 a.m.

10 My name is Andrew O'Connell. I'm an
11 administrative law judge with Washington Utilities and
12 Transportation Commission, and I'll be presiding in
13 this matter along with the commissioners who will join
14 me in a moment.

15 As I mentioned before we came on the
16 record, Chair Danner is unavailable for this hearing
17 either in person or telephonically. He is sick. And
18 he will be perhaps at times attempting to listen in to
19 the hearing to pay attention as much as he can, but he
20 will review the transcript of this hearing, and we are
21 also making an audio recording just for him to be able
22 to review so that he can be fully aware of the
23 proceeding today.

24 We're here today for an evidentiary
25 hearing in Docket UE-190882, which is the Commission's

1 investigation into the prudence of decision-making
2 leading up to a 2018 outage at Colstrip, and the
3 prudence of replacement power costs associated with
4 that outage. This limited issue was removed from
5 Dockets UE-190222, UE-190324 and UE-190458 for
6 resolution here.

7 There's a sign-in sheet at the
8 Commission's reception just outside for this hearing
9 specifically. If you're a visitor and haven't already
10 been identified in the docket as being affiliated with
11 one of the parties, we'd ask that you please go ahead
12 and sign in.

13 Okay. Let's take short appearances
14 starting with the utilities, Avista, Pacific Power and
15 PSE, and then we'll hear from Staff and Public
16 Counsel.

17 MR. MEYER: Thank you, your Honor. David
18 Meyer for Avista.

19 MS. BARNETT: Donna Barnett with Perkins
20 Coie for Puget Sound Energy.

21 MS. MCDOWELL: Katherine McDowell here on
22 behalf of Pacific Power.

23 MR. KUMAR: Ajay Kumar on behalf of
24 Pacific Power.

25 MS. GAFKEN: Lisa Gafken, Assistant

1 Attorney General, here on behalf of Public Counsel.
2 And also here with me today are Public Counsel
3 witness, Avi Allison, and regulatory analyst, Sarah
4 Laycock.

5 MR. TELMOURI: Daniel Telmouri, Assistant
6 Attorney General, on behalf of Commission Staff.

7 MR. DALLAS: Joe Dallas, Assistant
8 Attorney General, on behalf of Commission Staff.

9 JUDGE O'CONNELL: Okay. Thank you.

10 AWEC, the Alliance of Western Energy
11 Consumers, is a party to this proceeding. They have
12 not filed any testimony or exhibits. They have had no
13 cross-examination questions, and they requested to be
14 excused from this hearing. The Commission granted
15 that request, and we'll proceed today without them.

16 Next I want to address exhibits. The
17 Commission received on February 7, 2020, revised
18 testimony exhibits from Pacific Power regarding
19 Exhibits CLT-1CCTr through CLT-10CCr.

20 The parties -- prior to coming on the
21 record, the parties have all indicated that they
22 stipulate to the admission of all pre-filed exhibits
23 and testimony, including cross-examination exhibits,
24 and the revised exhibits submitted by Pacific Power.

25 For the record, if there's any party that

1 objects and I was incorrect, please voice that
2 objection now. Hearing none, let's -- let's move on.

3 I will provide a copy of the exhibit list
4 at the end of the hearing to the court reporter so
5 that the exhibit list can be made part of the record.

6 Pacific Power's indicated that they have
7 identified portions of testimony and exhibits that can
8 be discussed non-confidentially. I want to get to
9 that in just one moment.

10 First, I want to address the Colstrip Air
11 Quality Permit from the Montana Department of
12 Environmental Quality. PSE witness Roberts includes
13 an excerpt from the permit, Appendix I, as Exhibit
14 RJR-6, and Avista witness Dempsey provides in rebuttal
15 testimony Exhibit TCD-4T, page 17, footnote 19, a web
16 address for the entire permit. That web address is
17 not marked as confidential or company confidential.
18 I've shared it with the parties before the hearing, as
19 well as the Commission's intent to take official
20 notice of that full permit.

21 But before I do, are there questions or
22 objections about the Commission taking official notice
23 of the permit?

24 MR. MEYER: Your Honor, not an objection.
25 We have hard copies, just two hard copies of that

1 permit if people are interested.

2 JUDGE O'CONNELL: Okay. Thank you.

3 And I appreciate the hard copies. For
4 myself, I have my computer available, and that's how I
5 intend to view most documents that we're going to
6 discuss today. The -- the commissioners have their
7 hard copies.

8 To the extent that any of the parties have
9 a computer available, I guess they'd be able to access
10 that web address in testimony. So -- okay. Hearing
11 nothing, the Commission takes official notice of that
12 permit.

13 Let's -- one more thing. Before -- before
14 we get to Pacific Power and the non-confidential
15 portions of the testimony and exhibits, the bench
16 request -- Bench Request No. 1 that the commissioners
17 want to request from the utilities, we -- the
18 commissioners want to have in the record an entire
19 unabridged, or I just -- I want to say full version of
20 the owner and operator contractual agreement for
21 Colstrip.

22 I think that there has been -- there have
23 been excerpts presented in exhibits in the docket, and
24 we would like to have the full version. I'd rather
25 not have three copies submitted, so I'd rather not ask

1 every utility to submit it to the record because we
2 really only need one copy.

3 Is there one company that can volunteer to
4 provide this on behalf of all three?

5 MS. MCDOWELL: Your Honor, I think that
6 Pacific Power can do it. Pacific Power did put in the
7 excerpts from the ownership agreement as an exhibit to
8 Mr. Tack's testimony, Exhibit 2, so we could -- if
9 you'd like, we could always swap out the full
10 ownership agreement for this exhibit as -- or we can
11 just file it as a response to the bench request,
12 whatever you prefer.

13 JUDGE O'CONNELL: It seems to make it
14 easier if we just have you file it as a revised CLT
15 Exhibit 2.

16 MS. MCDOWELL: It would be company
17 confidential, as is this exhibit, but, yes, we could
18 do that if that would be acceptable to the parties.

19 JUDGE O'CONNELL: We expected that it
20 would be company confidential.

21 Is there any objection from the parties
22 as -- two things -- as to Pacific Power providing
23 that, and that they provide it as a revised Exhibit
24 CLT-2CC? And primarily, I'm looking at Staff and
25 Public Counsel.

1 MS. GAFKEN: No objection from Public
2 Counsel.

3 MR. DALLAS: No objection.

4 JUDGE O'CONNELL: Thank you.

5 So let's -- let's do it that way. It
6 seems to be easier. Instead of making it a Bench
7 Request No. 1, for the record, we will just keep it as
8 CLT-2, and we'll ask that you file an updated copy
9 with the full version, with the understanding that it
10 is -- either all of it or a lot of it is going to be
11 company confidential. Understood? Okay.

12 And when is -- when would be reasonable
13 for us to expect that that could be provided? Is --
14 so is today too soon? I realize that we're going to
15 be here for a while, and -- but I'm curious because
16 it's something that we're interested in and we'd like
17 to have to be able to discuss so --

18 MR. KUMAR: I think we would have trouble
19 filing it today --

20 JUDGE O'CONNELL: Right.

21 MR. KUMAR: -- simply because we have to
22 pull the document, and we're -- we're filing -- our
23 filing center is filing a general rate case in Oregon
24 today, so they're a little bit busy. So I think --

25 JUDGE O'CONNELL: Understood.

1 MR. KUMAR: -- we could do probably next
2 week sometime, maybe the first couple days of next
3 week.

4 AUDIENCE MEMBER: Can you use the
5 microphone, please?

6 MR. KUMAR: Oh. We could probably use
7 the -- we could probably do the first couple days of
8 next week as the earliest we could file the exhibit.

9 JUDGE O'CONNELL: Okay.

10 MS. MCDOWELL: So your Honor, the
11 Commission's closed on Monday --

12 JUDGE O'CONNELL: Yes.

13 MS. MCDOWELL: -- I take it, so we could
14 file Tuesday, if that would be acceptable.

15 JUDGE O'CONNELL: Okay. Let's do that
16 then. Let's have a due date of Tuesday,
17 February 18th, 2020, for the filing of the updated
18 Exhibit CLT-2CC. Thank you.

19 Okay. The next thing I wanted to talk
20 about was confidentiality. So Mr. Kumar, I'd like to
21 turn to you. You had indicated that there's some
22 portions of testimony and exhibits that Pacific Power
23 believes could be discussed non-confidentially.

24 MR. KUMAR: Yes, your Honor. After we
25 received your -- your email yesterday, we took a look

1 through the testimony and the exhibits that we had
2 filed, and we have determined that some of the
3 information -- some of the high-level information
4 around the -- the CAM Plan and some of the stuff from
5 the permit is likely -- in order to facilitate the
6 hearing that we could probably make that
7 non-confidential.

8 So we went through, and I've handed out
9 essentially a chart that sort of discusses how we're
10 redesignating it. And if you'd like, I can go through
11 all those line items on the record and we can mark
12 testimony right now. Sorry.

13 JUDGE O'CONNELL: So, yes, in one moment.

14 I do want to remind everyone that we do
15 have a court reporter today. She will be transcribing
16 everything that is said, and so it will be important
17 for us to keep in mind the volume of which we speak as
18 well as the speed with which we speak.

19 And also, I know that we haven't had a
20 problem to this point, but to remind everyone to
21 please not speak over each other, because that can be
22 very difficult for the court reporter to transcribe
23 what everyone is saying when it goes back and forth
24 so --

25 MR. KUMAR: May I proceed, your Honor?

1 JUDGE O'CONNELL: Let me -- let me pull up
2 my exhibits so that I can follow along. Okay. Please
3 go ahead.

4 MR. KUMAR: I think the first exhibit we'd
5 like to adjust is MGW-3CCT. This is the rebuttal
6 testimony of Michael Wilding, and if you turn to
7 page 10 --

8 JUDGE O'CONNELL: Okay.

9 MR. KUMAR: -- this is -- this -- there
10 were, I believe, two sentences that were marked
11 confidential in Mr. Wilding's rebuttal testimony.
12 These were marked confidential to be consistent with
13 Staff's testimony. It seems likely to us that they
14 are probably not confidential, and so we have
15 designated them as probably not confidential with --
16 with -- without objection from the other parties.

17 JUDGE O'CONNELL: Let's take a moment to
18 let Avista and PSE look at it.

19 MR. KUMAR: And specifically, these are on
20 page 10, line 8, and lines 14 through 15.

21 JUDGE O'CONNELL: I see that these lines
22 in particular address a suggestion made by Staff in
23 its testimony. And I don't recall from the other two
24 companies whether they included any -- whether they
25 addressed that idea in their testimony. So I would be

1 curious whether that topic is something that the other
2 parties could agree can be discussed
3 non-confidentially.

4 MR. MEYER: No problem.

5 JUDGE O'CONNELL: Okay.

6 MS. BARNETT: Puget has no objection.

7 JUDGE O'CONNELL: Okay.

8 And I'm assuming Public Counsel and Staff
9 would have no objection with being able to discuss
10 that non-confidentially.

11 MS. GAFKEN: Public has no -- no
12 objection.

13 MR. DALLAS: Yeah. And Staff's position
14 is that -- that the companies are free to waive their
15 confidentiality. So if they're all in agreement,
16 Staff has no objection.

17 JUDGE O'CONNELL: Okay.

18 So this is in line with one of the things
19 I wanted to bring up before we went into the hearing
20 is, several topics seemed to be things that we ought
21 to be able to discuss non-confidentially. I think
22 this is one of them, which is -- now I think I can
23 mention that Staff has suggested a spring outage, a
24 planned spring outage. And so if we can discuss that
25 non-confidentially as far as questions from the

1 parties and from the bench, I would -- I would like to
2 have as much of that conversation open as we can.

3 So is my understanding correct that we can
4 talk about that idea non-confidentially?

5 MR. KUMAR: My understanding is -- is yes.
6 I do want to caveat that a little bit, that sometimes
7 some of those specific details may be company
8 confidential. Some of the specific details and
9 reasoning behind some of that could be company
10 confidential.

11 JUDGE O'CONNELL: Of course. So I
12 think -- and I'm going to speak from what I know about
13 the questions that the bench have planned. Many of
14 our questions are going to be coming from the point of
15 asking a question that doesn't disclose any
16 confidential or company confidential information, but
17 if an answer would delve into confidential information
18 in the opinion of the witness, we -- we'd like the
19 witness to tell us if they're about to get into
20 something that's confidential or company confidential.

21 Our questions that we've planned, we don't
22 believe are confidential. We do not -- we think they
23 can be answered non-confidentially, but if a witness
24 is going to get into confidential information, we
25 would appreciate if the witness would identify that

1 for us, and then we can bring it back up when we're in
2 confidential session. Okay?

3 MS. GAFKEN: Your Honor, Public Counsel
4 also had some questions with respect to this topic,
5 and my assumption was that our questioning would also
6 be non-confidential. That's how I'd planned it. And
7 so I guess I would ask for the -- the same caveat just
8 to be placed on witness answers to our cross as well.

9 JUDGE O'CONNELL: Yes. I think if, in
10 your question, you're not disclosing confidential
11 information, I think you can ask the question, and the
12 witness will let us know if their -- if their answer
13 would require them to go into confidential
14 information.

15 Mr. Kumar? Oh, I'm sorry. It looked like
16 you had something that you needed to say.

17 MR. KUMAR: I don't have anything to say
18 there.

19 JUDGE O'CONNELL: I apologize. Okay.

20 Let's -- Mr. Kumar, let me turn it back
21 over to you to move -- move along down the list that
22 you've provided.

23 MR. KUMAR: Thank you, your Honor.

24 I'd like to turn to CLT-1CCTr, and if we
25 could turn to page 6. And if you look at sort of

1 line 5 through line 8, so the first four bullet
2 points, I believe, on that page that have been marked
3 as company confidential, those are not confidential,
4 but the -- the remaining two remain confident- --
5 company confidential. So it's tricky, but I hope
6 everyone got that.

7 JUDGE O'CONNELL: So I'm finding this very
8 helpful, Mr. Kumar, because this is -- was going to be
9 what I thought was going to be a very long discussion,
10 and you're making it much easier because those four,
11 in particular, I was going to discuss how they are in
12 the publicly available permit as alternate indicators
13 or performance indicators. And the fact that you're
14 now making clear that those are non-confidential helps
15 me bring up the topic of the idea of these alternate
16 indicators, in particular, these four.

17 Can we have that discussion about
18 alternate indicators non-confidentially as it applies
19 to what is in the permit and what the operator and the
20 owners are aware of doing?

21 MR. KUMAR: So I think, your Honor, as you
22 find in going through this list, a lot of what we are
23 marking as non-confidential is sort of those alternate
24 indicators that are in the CAMS Plan and the data
25 behind that. However, there are exhibits that include

1 Mr. Chuck -- Mr. Tack's analysis of those indicators,
2 and we still consider that company confidential. And
3 there's -- and so I think that's -- that's sort of the
4 general logic behind a lot of these edits.

5 Is that helpful?

6 JUDGE O'CONNELL: Yes. And I assume we'll
7 get to those other exhibits in a moment and you can
8 explain what remains company confidential.

9 MR. KUMAR: Yes.

10 JUDGE O'CONNELL: Okay.

11 So thank you. Sorry for interrupting, and
12 please go ahead.

13 MR. KUMAR: Happy to be of service,
14 your Honor.

15 I think the -- the next item is on page 8,
16 line 4, and so starting at line 4 and ending in
17 line 10, in that sentence ending "Conditions," that
18 would be non-confidential, and then beginning again on
19 line 11, starting with "the" at the end of that line,
20 and going until page 9, line 2, would also be
21 non-confidential.

22 So the only company confidential piece
23 that's remaining is, there's a portion -- a sentence
24 on lines 10 and 11 of page 8.

25 JUDGE O'CONNELL: Okay.

1 MR. KUMAR: And that's it for Mr. Tack's
2 supplemental direct testimony. If we could move to
3 one of -- a few of his exhibits.

4 JUDGE O'CONNELL: Sure.

5 MR. KUMAR: CLT-4CC.

6 JUDGE O'CONNELL: Okay.

7 MR. KUMAR: This exhibit is
8 non-confidential.

9 JUDGE O'CONNELL: Okay. I would like to
10 touch base about the information in this exhibit and
11 related information. I had indicated in the email I
12 sent to the parties that I wanted to discuss Roberts
13 Exhibit RJR-3, and I feel like these two exhibits are
14 related, because this exhibit that Pacific Power is
15 saying is no longer company confidential, it has the
16 results of the official PM MATS testing for Colstrip
17 units going back a couple years. This looks like
18 2017.

19 Exhibit RJR-3 discloses the PM MATS tests
20 for Colstrip Units 3 and 4 from 2016 through December
21 of 2018, and I want to confirm with the companies that
22 the official test results from that time period, that
23 entire time period, that is non-confidential, and the
24 tests results could be discussed non-confidentially.

25 MR. KUMAR: That's our understanding.

1 MS. BARNETT: Yeah, same for PSE.

2 MR. MEYER: Same understanding for Avista.

3 JUDGE O'CONNELL: Okay. Thank you.

4 So in particular, then, that means we'll
5 be able to discuss Quarter 1 2018 official test
6 results for Units 3 and 4, and the Quarter 2 official
7 test results for Units 3 and 4 non-confidentially.

8 Okay. I'm seeing head nodding and
9 confirmation.

10 MR. KUMAR: Your Honor, I'd also just like
11 to -- I know you emphasized it in your response, but,
12 again, the official test results.

13 JUDGE O'CONNELL: Correct. That's my
14 understanding, and I -- I do understand that there may
15 be other things that remain company confidential,
16 which I think that we may get into during the company
17 confidential session.

18 Is there anything from Staff or Public
19 Counsel regarding the topic of the official PM MATS
20 test results that we just discussed?

21 MS. GAFKEN: Nothing from Public Counsel.

22 MR. DALLAS: So Staff would like to note
23 that in Company Confidential Exhibit CLT-7, the first
24 two rows contain the test results for the two official
25 Quarter 1 stack tests that occurred on February 7th

1 and February 14th.

2 Along with this, there were other pieces
3 of information, including the opacity recorded at that
4 time, and I was curious to see what the companies'
5 thoughts were on the designation of that information.

6 JUDGE O'CONNELL: So to clarify, the --
7 along with -- obviously, the companies have already
8 said that the official PM MATS test results are
9 non-confidential. Staff's question, if I am
10 understanding it correctly, is in CLT-7, if the
11 corresponding alternate indicator test results at the
12 time of the official PM MATS test results, if those
13 are also non-confidential.

14 MR. DALLAS: Yeah, that's correct. I
15 think Staff's question is, if -- if those two first
16 rows in Exhibit CLT-7 would be designated as
17 non-confidential or company confidential.

18 JUDGE O'CONNELL: Mr. Kumar?

19 MR. KUMAR: I'm looking at sort of CLT-7
20 and --

21 (Brief discussion off the record.)

22 MR. KUMAR: Yeah. I think that, you know,
23 the vast majority of this exhibit is company
24 confidential. And we are looking -- there are a
25 number of indicators and data in those first two rows

1 that may not be available in the permit, and, as a
2 result, we would like that to remain company
3 confidential.

4 JUDGE O'CONNELL: At the time, I think
5 that makes sense for now.

6 Mr. Dallas?

7 MR. DALLAS: Yeah. That makes sense to
8 me. I just wanted to know the company's position.

9 JUDGE O'CONNELL: Right. And you wanted
10 to know the limit?

11 MR. DALLAS: I wanted to know the limit,
12 and Staff has no objection --

13 JUDGE O'CONNELL: Okay.

14 MR. DALLAS: -- to keeping that company
15 confidential.

16 JUDGE O'CONNELL: Thank you.

17 Mr. Kumar, I think we're on until CLT-8CCr
18 now.

19 MR. KUMAR: Yes. And this exhibit, we
20 would also -- CLT-8CCr, we can make non-confidential.

21 JUDGE O'CONNELL: Okay. Thank you.

22 And that seems to be consistent with what
23 you have indicated from CLT-1CCTr, so thank you.

24 Let's go ahead and move on to CLT-14.

25 MR. KUMAR: Thank you, your Honor.

1 I think the first -- the first indication
2 is page 5, and the discussion running from page 5
3 beginning on line 17 and running to page 7, line 7,
4 we'd like to make that non-confidential.

5 JUDGE O'CONNELL: The entirety of line 7,
6 or ending after the word "Operation," period? And
7 perhaps it doesn't matter, but I want to make sure.

8 MR. KUMAR: The -- the word that I have
9 ending on page 7, line 7 is Exhibit CLT-15CC.

10 JUDGE O'CONNELL: Oh, I'm sorry. You said
11 page 7. You did. Okay. I apologize. Thank you.
12 Okay.

13 So what I see here is a continuation of
14 what we previously discussed, that the idea of these
15 alternate indicators and that topic can be discussed
16 non-confidentially?

17 MR. KUMAR: Yes.

18 JUDGE O'CONNELL: Okay. Please -- please
19 continue.

20 MR. KUMAR: The next section is page 8,
21 lines 11 through 16.

22 JUDGE O'CONNELL: Okay.

23 MR. KUMAR: And that's consistent with the
24 redesignation of, I believe, CLT-8CCr.

25 JUDGE O'CONNELL: Okay. Thank you.

1 MR. KUMAR: The next section I have is
2 page 11.

3 JUDGE O'CONNELL: Before you go to
4 page 11, I just want to confirm, because I -- I think
5 I understand why this remains that way, but the topic
6 starting to be discussed on page 8 -- I'm sorry --
7 page 9, that topic will remain company confidential,
8 and that's my understanding.

9 MR. KUMAR: Yes, your Honor.

10 JUDGE O'CONNELL: Okay. All right.
11 Please continue.

12 MR. KUMAR: Page 11, lines 5 and 6.

13 JUDGE O'CONNELL: Yes. Thank you. That's
14 consistent with what we had discussed before.

15 MR. KUMAR: And then again, on page 12,
16 lines 1 through 13, that's also consistent with what
17 we discussed before.

18 JUDGE O'CONNELL: Yes. Thank you.

19 MR. KUMAR: And then the next section is
20 page 13, lines 11 through 14.

21 JUDGE O'CONNELL: And -- now, it's my
22 understanding, is the -- this mentions the RCA. The
23 RCA, then, is that going to be able to be discussed
24 non-confidentially?

25 MR. KUMAR: No, your Honor.

1 JUDGE O'CONNELL: Okay.

2 MR. KUMAR: We felt this is -- this is a
3 very, very high-level discussion of the RCA.

4 JUDGE O'CONNELL: Okay.

5 MR. KUMAR: I think actually most of the
6 details and very much most of what's in the RCA still
7 remains company confidential.

8 JUDGE O'CONNELL: Okay. Thank you. Go
9 ahead.

10 MR. KUMAR: And then again on page 13,
11 lines 18 through 21, and this is, again, consistent
12 with the discussion of the earlier planned outage.

13 JUDGE O'CONNELL: Okay. Thank you.

14 MR. KUMAR: And then the -- the final
15 sections are on page 17, and that's lines 1 through 6
16 and lines 18 and 19.

17 JUDGE O'CONNELL: And, again, I want to
18 thank you again for going through it like this. It
19 makes it much easier to address these topics than the
20 way I had envisioned I would have had to bring this
21 up.

22 The final report and the MDEQ decision,
23 would --

24 MR. KUMAR: The consent decree?

25 JUDGE O'CONNELL: The consent decree, yes,

1 that is a public document, and I recognize that this
2 information comes from that document, so I want to --
3 I would like to confirm my understanding that that
4 document and the contents of that document can be
5 discussed non-confidentially.

6 MR. KUMAR: The final version --

7 JUDGE O'CONNELL: The final version.

8 MR. KUMAR: -- of that document is public,
9 and I think that there's an implication there as well
10 for -- there's some company confidential around some
11 of that discussion that -- not the final version,
12 but --

13 JUDGE O'CONNELL: Right. Yeah, no, I
14 understand, and I want to be clear that the final
15 consent decree, being a public document that's filed
16 and publicly available from the Montana Department of
17 Environmental Quality.

18 MR. KUMAR: Yes.

19 JUDGE O'CONNELL: Okay.

20 So that's -- the entire page 17, then, is
21 non-confidential, and -- but the last item on your
22 list?

23 MR. KUMAR: Yes, the last item on my list
24 is CLT-15CC, and it may be helpful to provide some
25 more context around this. This is -- the entire

1 exhibit is non-confidential, and that is because this
2 exhibit is simply the data. It does not contain any
3 company analysis or information.

4 JUDGE O'CONNELL: Okay.

5 So this touches slightly upon what
6 Ms. McDowell has brought up, and what I'm hearing is
7 that the raw data, as presented here in 15CC, is
8 non-confidential, and the raw data could be -- the
9 results could be discussed non-confidentially. But
10 perhaps some of the expert witness testimony making
11 deductions from it may remain company confidential?

12 MR. KUMAR: That's correct, your Honor.
13 And I want to be specific that it's the raw data that
14 is identified in the official testing, and the raw
15 data that is identified in the PM CAMS Plan, that's
16 what's remaining non-confidential.

17 JUDGE O'CONNELL: Okay.

18 Is there anything from Staff?

19 MR. DALLAS: Staff understands the
20 distinction.

21 MS. GAFKEN: Actually, Public Counsel has
22 a question.

23 JUDGE O'CONNELL: Sure.

24 Ms. Gafken.

25 MS. GAFKEN: Thank you.

1 The charts that are in CLT-15 are fairly
2 similar to the charts that are in CLT-6, and I'm
3 wondering if there's a distinction there. Currently,
4 CLT-6 is still marked as confidential. I see that
5 there's also text in -- in No. 6, but --

6 MR. KUMAR: And I think that's the
7 distinction I discussed earlier, that CLT-6 contains
8 quite a bit of analysis and discussion of what's in
9 those charts, and that's what we would consider
10 company confidential.

11 MS. GAFKEN: Okay.

12 May I ask one more -- one more question
13 then?

14 JUDGE O'CONNELL: Go ahead.

15 MS. GAFKEN: So if we were to talk about
16 the charts, would the company consider that to be a
17 company confidential discussion or -- or not? Maybe
18 it's hard to know, but --

19 MR. KUMAR: I think you're quite right.
20 It's quite hard to know. I think -- you know, I think
21 we -- I know Katherine and I will be very vigilant
22 about sort of how the discussion goes, and try and
23 make that distinction. But I understand it's a --
24 it's sort of a tough distinction to make.

25 JUDGE O'CONNELL: Okay.

1 That brings us to a good transition into
2 what I wanted to say about confidentiality. We are
3 very aware of and concerned about the balance between
4 wanting to have a transparent, open process for this
5 hearing and all proceedings at the Commission, while
6 balancing that with another concern that we take very
7 seriously, which is ensuring that confidential
8 information that should not be publicly disclosed is
9 appropriately protected in our proceedings.

10 So because there's this balancing of those
11 interests, that's why we have decided that having a
12 part of this hearing that is completely
13 non-confidential, and having as much discussion as we
14 can in that part of the hearing, and then
15 transitioning into a confidential part of the hearing
16 only for those things that needs to be kept
17 confidential, that that is an appropriate way to
18 balance these interests that we take seriously.

19 So I want to discuss witness testimony and
20 how we'd like to go through the different steps of our
21 hearing today.

22 First, we're going to have a
23 non-confidential portion during which we will have
24 cross-examination of all non-confidential questions,
25 cross-examination of non-confidential questions that

1 any of the parties may have. We'll take the witnesses
2 in the order proposed by the parties. We'll first
3 have cross-examination for each witness, and then
4 redirect.

5 At the conclusion of all non-confidential
6 cross-examination of the company witnesses, we -- the
7 Commission wants to impanel the three particular
8 witnesses, one from each company, to bring them all
9 together after they've had a chance for
10 cross-examination and redirect to answer some bench
11 questions that we believe are most -- are easy -- easy
12 to address when we can pose them to the company
13 witnesses as a group, and, of course, we will direct
14 the questions to each witness and allow each witness
15 to respond. But instead of asking the same question
16 of each witness in a broken-up way, we'd like to ask
17 them of the witnesses as a panel.

18 And then we want to do the same thing and
19 follow the same procedure for the Staff witness and
20 Public Counsel witness. We want to allow for
21 cross-examination of non-confidential questions of
22 each witness and redirect of each witness, and then
23 the Commission wants to have those two witnesses
24 impanelled to answer questions that we believe are
25 most easily addressed to them, and it makes it a more

1 administratively efficient to ask them as a panel.
2 And we will ask -- we will direct the questions to
3 them individually in the same way that we are going to
4 ask the questions of the company witnesses
5 individually, but we just want them there together so
6 we don't have to have a shuffling back and forth.

7 So at that point, after those
8 non-confidential bench questions, we're going to take
9 a short break to clear the hearing room and turn off
10 the conference bridge line. As I mentioned, we have a
11 confidential conference bridge line that will be
12 available to the Chair in the event that he's able to
13 participate later and feels well enough, and that
14 information is only available to the commissioners and
15 administrative staff of the Commission, the
16 commissioners' administrative staff. Let me make that
17 clear.

18 Only persons who have signed the
19 appropriate company confidential nondisclosure
20 agreements will be allowed back in the hearing room
21 for the remaining company confidential portion of the
22 hearing. My understanding is that we will not be
23 discussing information that's been marked as
24 confidential, meaning information marked confidential
25 by one company that the other companies aren't able to

1 see. But we are only going to be addressing company
2 confidential information, or confidential information
3 that all the companies may be aware of.

4 And Mr. Kumar and Ms. McDowell, I'm
5 looking at you because you have cross-examination, and
6 you had indicated that you were not going to be
7 touching upon any confidential information, and I
8 would like to confirm that.

9 MS. MCDOWELL: We can confirm that,
10 your Honor.

11 JUDGE O'CONNELL: Okay. Thank you.

12 And I haven't heard from any other party
13 in their communications with me that they intend to
14 ask confidential questions.

15 Is that correct, Public Counsel and Staff.

16 MS. GAFKEN: That's correct for Public
17 Counsel. We do have some cross that touches on
18 company confidential, but not confidential.

19 JUDGE O'CONNELL: Mr. Dallas?

20 MR. DALLAS: And same with Staff. Staff's
21 cross-examination and closing statement will touch on
22 company confidential information, but will not touch
23 on confidential information.

24 JUDGE O'CONNELL: Okay. Thank you.

25 So when we get into the company

1 confidential portion of the hearing, it's going to
2 proceed the same way that the non-confidential session
3 did. We will then ask each of the witnesses to come
4 back up, and we will have cross-examination of each of
5 the witnesses on company confidential information.
6 Then we want to impanel the company witnesses for
7 bench questions that are company confidential. And
8 then after we have cross-examination of Staff and
9 Public Counsel's witness, we want to impanel those two
10 witnesses for company confidential questions from the
11 bench.

12 Then we will take a short break. We will
13 remain in company confidential session, and we will
14 have closing argument on -- from all parties. We will
15 afford 15 minutes to each party. The companies will
16 go first. They can reserve part of their 15 minutes
17 to rebut anything they hear from Staff or Public
18 Counsel in your closing arguments.

19 And then to reiterate, this will -- the
20 closing arguments will be presented in the company
21 confidential session. I don't see how I could expect
22 you to give two separate closings, one touching upon
23 non-confidential and one upon company confidential, so
24 I believe the only way to balance the interests of
25 wanting -- I'll slow down, I apologize -- to balance

1 the interests of full public disclosure and wanting to
2 ensure appropriate protection of company confidential
3 information is to have the closing arguments in the
4 company confidential session.

5 So as regards the confidentiality issue
6 that I was going to bring up, we've already discussed
7 the Appendix I to the Colstrip Air Quality Permit, and
8 that the permit is public and that information in it
9 can be discussed non-confidentially, including
10 performance indicators, in particular, opacity,
11 Particulate Matter Continuous Emission Monitors, or
12 PM CEMS, and I want to confirm with the companies,
13 scrubber plumb bob delta P is -- can be discussed --
14 at least as it is an indicator, a performance
15 indicator, it can be discussed non-confidentially?

16 MR. MEYER: Yes for Avista.

17 JUDGE O'CONNELL: Okay.

18 MS. BARNETT: Same.

19 MS. MCDOWELL: Yes for Pacific Power.

20 JUDGE O'CONNELL: Thank you.

21 We have discussed the official PM MATS
22 test results for Units 3 and 4, particularly as they
23 appear in several exhibits, including Exhibit RJR-3,
24 which has the official results from August 2016 to
25 December of 2018.

1 We have talked about the consent decree
2 between Talen and the Montana Department of
3 Environmental Quality. Okay.

4 The last question I have regarding
5 confidentiality, I want to clarify, is there anything
6 about alternate indicators that cannot be discussed
7 non-confidentially? And I know we've had a brief
8 discussion, but I'm curious, is there something
9 specific about the indicators that we can't discuss
10 non-confidentially? Maybe a yes, no, and then if we
11 have to go off the record and talk at the bench, we
12 will.

13 MR. MEYER: Avista's first reaction is no,
14 but if we learn additional information, we'll make
15 sure to raise our hand and bring that to your
16 attention.

17 JUDGE O'CONNELL: Okay.

18 MR. KUMAR: Your Honor, on behalf of
19 Pacific Power, I think it's okay, but if you'll give
20 us just a moment, I'd like to confer with a few of my
21 witnesses.

22 JUDGE O'CONNELL: Sure. Let's take --
23 let's take a few minutes. Let's be off the record
24 just for a few minutes. Thank you.

25 (A break was taken from

1 10:49 to 10:55 a.m.)

2 JUDGE O'CONNELL: Okay. Let's be back on
3 the record.

4 We had a short discussion off the record,
5 which helped to clarify for me what portions of the
6 discussion that might surround the alternative
7 indicators is company confidential, should remain
8 company confidential, and what parts may be openly
9 discussed non-confidentially.

10 With that, we've already discussed
11 procedure for today's hearing. Are there any
12 questions about how we're going to go forward today
13 before I go and get the commissioners?

14 Mr. Dallas.

15 MR. DALLAS: Yeah. I think my -- my
16 understanding, and before we went on the record, I
17 discussed that I blew up a copy of CLT-7 --

18 JUDGE O'CONNELL: Yes.

19 MR. DALLAS: -- because it's a very
20 difficult exhibit to read. My cross-examination does
21 touch on this exhibit, and the Commission has stated a
22 preference to have as much cross not in the company
23 confidential session as possible.

24 And I would like to ask the companies if
25 it would be okay if I asked questions pertaining to

1 the first two rows and the first four columns. So
2 column 1 -- I mean, sorry -- row 1, the first 4
3 columns, and row 2, the first 4 columns.

4 These columns pertain to two dates:
5 February 7th, 2018, and February 14th, 2018. They
6 state which units were tested, and the third column
7 indicates that these were the Quarter 1 compliance
8 tests, and column 4 represents the results of those
9 tests.

10 And I would like to -- to confirm with the
11 companies that I can touch upon those four columns.

12 JUDGE O'CONNELL: Let -- let me stop you.

13 MR. DALLAS: Okay.

14 JUDGE O'CONNELL: I'm -- I'm -- first, I'm
15 familiar with the CLT-7 --

16 MR. DALLAS: Okay.

17 JUDGE O'CONNELL: -- but I think that this
18 is a discussion that you need to have with opposing
19 counsel when we are on break and I go get the
20 commissioners.

21 MR. DALLAS: Okay.

22 JUDGE O'CONNELL: And you can have that
23 discussion, and then we can revisit when we come back.

24 And maybe, perhaps before you ask the questions, we
25 can -- I will hear from opposing counsel whether there

1 are going to be objections.

2 And if you get an indication from them
3 while I'm getting the commissioners, perhaps you
4 decide not to ask it, so I'm going to leave that up to
5 you and opposing counsel to discuss while I'm away.

6 Okay?

7 MR. DALLAS: Thank you, your Honor.

8 JUDGE O'CONNELL: All right.

9 I do want to mention, to avoid a lot of
10 shuffling around of attorneys and witnesses, what I'd
11 like to see, as far as logistics and where everyone is
12 sitting, I'd like to have these three tables to my
13 left to be for the company attorneys, and the two
14 tables directly across from the bench to be for the
15 witnesses.

16 So I know that usually we have our witness
17 stand over here to my left, but I'd like to ask that
18 the witnesses testify from where you are now sitting,
19 Ms. McDowell. And you'd be familiar with that
20 arrangement from an open meeting. So I think it would
21 be easier for the shuffling that we're going to have
22 with the witnesses if they sit there.

23 So are there any other questions,
24 procedure, before we -- before we go off the record
25 and I go get the commissioners? Okay.

1 Hearing none, the time is 11:00 a.m. in
2 the morning, and we will take a ten-minute break and
3 come back at 10 after 11:00, and I'll be back with the
4 commissioners. Thank you.

5 (A break was taken from
6 11:00 to 11:14 a.m.)

7 JUDGE O'CONNELL: Okay. Let's be back on
8 the record. We are back on the record following a
9 short break. I'm joined now by Commissioner Rendahl
10 and Commissioner Balasbas.

11 The parties have stipulated to the
12 admission of all the pre-filed exhibits,
13 cross-examination exhibits, and the revised exhibits
14 received from Pacific Power on February 7, 2020.

15 I have also indicated to the commissioners
16 the redesignation of certain information as
17 non-confidential as provided by Pacific Power earlier
18 in our hearing, and have indicated to them the limits
19 of that non-confidentiality, in particular for the
20 alternate performance indicators that we will address
21 at the end.

22 So with the commissioners here, let's take
23 short appearances again beginning with the companies.
24 Let's start with Pacific Power, and we will work our
25 way around the room.

1 MS. MCDOWELL: Katherine McDowell here on
2 behalf of Pacific Power.

3 MR. MEYER: David Meyer for Avista.

4 MS. BARNETT: Donna Barnett for Puget
5 Sound Energy.

6 MR. KUMAR: And Ajay Kumar also for
7 Pacific Power.

8 MS. GAFKEN: Lisa Gafken, Public Counsel.

9 MR. TELMOURI: Dan Telmouri, Assistant
10 Attorney General, on behalf of Commission Staff.

11 MR. DALLAS: Joe Dallas, Assistant
12 Attorney General on behalf of Commission Staff.

13 JUDGE O'CONNELL: Okay.

14 Let's begin with non-confidential
15 cross-examination according to the witness list
16 provided by the parties.

17 Public Counsel has indicated
18 cross-examination for Wilding from Pacific Power, Tack
19 from Pacific Power, Dempsey from Avista, Johnson from
20 Avista, and Roberts from PSE.

21 Staff has indicated cross-examination for
22 Tack from Pacific Power.

23 We will start with Pacific Power's
24 witnesses, Wilding first.

25 Michael Wilding, will you please come

1 forward to be sworn? Will you please stay standing
2 and raise your right hand.

3
4 MICHAEL WILDING, witness herein, having been
5 first duly sworn on oath,
6 was examined and testified
7 as follows:

8
9 JUDGE O'CONNELL: Please be seated.

10 Ms. McDowell, Mr. Kumar, would you like to introduce
11 and qualify the witness?

12 MR. KUMAR: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MR. KUMAR:

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

17 A. Yes. My name is Michael G. Wilding.

18 COMMISSIONER BALASBAS: Turn on the mic.

19 THE WITNESS: Thank you.

20 A. Yes, my name is Michael G. Wilding, spelled

21 M-I-C-H-A-E-L, middle initial G, last name

22 W-I-L-D-I-N-G.

23 BY MR. KUMAR:

24 **Q. Now, Mr. Wilding, by whom are you employed**
25 **and in what capacity?**

1 A. I'm employed by Pacific Power. I am the
2 director of net power costs and regulatory policy.

3 **Q. Thank you.**

4 **Mr. Wilding, with the corrections we**
5 **identified earlier, if I were to ask you the same**
6 **questions that are contained in your direct and**
7 **rebuttal testimony here today, would you give the same**
8 **answers?**

9 A. Yes.

10 MR. KUMAR: Your Honor, I would like to
11 make Mr. Wilding available for cross-examination.

12 JUDGE O'CONNELL: Okay. Thank you. Thank
13 you, Mr. Kumar.

14 Let's turn to Public Counsel. Ms. Gafken,
15 you may proceed with your cross-examination.

16 MS. GAFKEN: Thank you.

17 CROSS-EXAMINATION

18 BY MS. GAFKEN:

19 **Q. Good morning, Mr. Wilding.**

20 A. Good morning.

21 **Q. Would you please turn to your rebuttal**
22 **testimony, Exhibit MGW-3CCT, and go to page 10, lines**
23 **6 through 17?**

24 A. Okay.

25 **Q. You do not calculate a cost of a theoretical**

1 **spring outage, correct?**

2 A. In my rebuttal testimony, that is correct.

3 **Q. Would you please turn to Cross-Exhibit,**
4 **Exhibit MGW-4X?**

5 A. I'm there.

6 **Q. And Cross-Exhibit MGW-4X is PacifiCorp's**
7 **response to Public Counsel Data Request 350, correct?**

8 A. Yes.

9 **Q. In subsection A, the Company confirms that**
10 **the summer Colstrip outage was due to the official**
11 **MATS PM test results, correct?**

12 A. That is correct.

13 **Q. And subsection B confirms that testing would**
14 **generally take place while generating units are**
15 **operating, correct?**

16 A. Yes, that's correct.

17 **Q. The Colstrip plant did not exceed the MATS**
18 **limit in February 2018, correct?**

19 A. Yes, that's correct.

20 **Q. This means that Colstrip was not required to**
21 **shut down due to exceeding the MATS limit and did not**
22 **experience derate after the February tests, correct?**

23 A. That's my understanding, and I would have to
24 defer operational questions to Mr. Tack.

25 **Q. I'll go ahead and ask the next question. If**

1 **you have to defer to Mr. Tack, that's -- that's fine.**

2 A. Okay.

3 **Q. Doesn't this mean that Colstrip could have**
4 **continued operating while troubleshooting took place**
5 **had such troubleshooting begun in the spring instead**
6 **of in the summer?**

7 A. Yeah, I -- I would have to defer to Mr. Tack
8 as he's the -- the expert witness on -- on the
9 operations and -- of the Colstrip plant.

10 MS. GAFKEN: I have no further questions
11 for Mr. Wilding.

12 JUDGE O'CONNELL: Okay.

13 Redirect?

14 MR. KUMAR: I have no redirect,
15 your Honor.

16 JUDGE O'CONNELL: Okay.

17 Well, there will be no bench questions at
18 this time. We're going to save those for the bench
19 panel. So Mr. Wilding, for now, you may take a seat
20 back in the audience. Thank you.

21 THE WITNESS: Thank you.

22 JUDGE O'CONNELL: Let's -- let's proceed
23 the next Pacific Power witness, Charles Tack. Will
24 you please come forward to be sworn in. And will you
25 please stay standing and raise your right hand.

1 CHARLES TACK, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5
6 JUDGE O'CONNELL: Please be seated.
7 Ms. McDowell, Mr. Kumar, would you like to introduce
8 and qualify the witness?

9 MS. MCDOWELL: Thank you, your Honor.

10 DIRECT EXAMINATION

11 BY MS. MCDOWELL:

12 **Q. Good morning, Mr. Tack.**

13 A. Good morning.

14 **Q. Can you please state and spell your name for**
15 **the record?**

16 A. My name is Charles L. Tack.

17 MR. KUMAR: Please use the microphone.

18 JUDGE O'CONNELL: I apologize. There's a
19 light around the base of the microphone. It's red
20 when it's turned off. When you press the button to
21 turn it on, it turns green. Thank you.

22 A. It's Charles L. Tack, I go by Chuck, and it's
23 C-H-A-R-L-E-S, L, and then T-A-C-K.

24 BY MS. MCDOWELL:

25 **Q. Mr. Tack, how are you employed?**

1 A. I am employed by Pacific Power as the managing
2 director of generation support.

3 **Q. In that capacity, have you prepared testimony**
4 **in this proceeding?**

5 A. Yes.

6 **Q. Do you have any changes or corrections to**
7 **that testimony?**

8 A. No.

9 **Q. If I were to ask you the questions that are**
10 **set forth in your pre-filed testimony here today,**
11 **would your answers be the same?**

12 A. Yes.

13 MS. MCDOWELL: Mr. Tack is available for
14 cross-examination.

15 JUDGE O'CONNELL: Thank you, Ms. McDowell.

16 So I notice that Staff and Public Counsel
17 have questions. Have you had a discussion about who
18 would like to go first?

19 MS. GAFKEN: No, but I'm happy if Staff
20 would like to -- I mean, kind of the --

21 JUDGE O'CONNELL: Sure.

22 MS. GAFKEN: -- ordinary order. I'm fine
23 with that.

24 JUDGE O'CONNELL: Typically, Staff does --

25 MS. GAFKEN: Yes.

1 JUDGE O'CONNELL: -- ask their questions
2 first, but I was curious whether there had been any
3 agreement between the two of you.

4 MR. DALLAS: And that's fine with Staff.

5 JUDGE O'CONNELL: Okay.

6 MR. DALLAS: But before I ask Mr. Tack
7 questions, can I talk to the Commission?

8 JUDGE O'CONNELL: Is it about Exhibit
9 CLT-7?

10 MR. DALLAS: That's correct.

11 JUDGE O'CONNELL: Yes, please -- please
12 tell us.

13 MR. DALLAS: So earlier in the proceeding,
14 I talked about how CLT-7 is difficult to read. And in
15 preparation for this hearing, I have passed around a
16 larger, blown-up exhibit. And I just want to make
17 sure that this is available to the commissioners and
18 also the witness.

19 JUDGE O'CONNELL: And I remember asking if
20 Pacific Power had confirmed that it was an accurate
21 representation, and I'm curious, can Pacific Power
22 confirm that it's an accurate representation of CLT-7?

23 MR. KUMAR: Yes.

24 JUDGE O'CONNELL: Okay.

25 I do think it would be useful for the

1 commissioners to have the enlarged copy, if we could.

2 MR. KUMAR: Can I -- can I give it to my
3 witness?

4 JUDGE O'CONNELL: Yes, please.

5 Do you have enlarged copies for us?

6 MR. DALLAS: I -- I believe I printed off
7 15, so there should be a few extras.

8 MR. MEYER: We have some extras here.

9 JUDGE O'CONNELL: Okay.

10 MR. MEYER: I made a mark on this one, so
11 don't -- I'm all good. I've got mine over here.

12 MR. DALLAS: And I would also like to let
13 the Commission know that this is a company
14 confidential exhibit, but I have conferred with each
15 of the companies, and they have allowed me to talk
16 about certain information within this company
17 confidential exhibit within the non-confidential
18 cross-section of this hearing.

19 JUDGE O'CONNELL: Okay.

20 And that information that you're going to
21 be discussing is the -- the parts of this that is
22 non-confidential, because it appears elsewhere without
23 the context, that would remain company confidential,
24 correct?

25 MR. DALLAS: That is correct.

1 JUDGE O'CONNELL: Okay.

2 With that understanding between you and
3 the other parties, let's go ahead and proceed.

4 MR. DALLAS: Thank you.

5 CROSS-EXAMINATION

6 BY MR. DALLAS:

7 **Q. Mr. Tack, can you please refer to what has**
8 **been marked as Company Confidential Exhibit CLT-7?**

9 A. Yep, I'm there.

10 **Q. This exhibit contains a spreadsheet that I**
11 **would like to ask you some questions about.**

12 **Now, Pacific Power has titled this exhibit as**
13 **the spreadsheet used by Talen to track alternative**
14 **indicators. Accordingly, this spreadsheet was used by**
15 **the operator to track its investigative efforts**
16 **between the first quarter and second quarter official**
17 **PM emission tests, correct?**

18 A. I don't think that's a hundred percent
19 correct. This was troubleshooting efforts that they
20 put forward, and a lot of this is confidential. I
21 know the first two lines are. But in general, this
22 was troubleshooting efforts that we can get into
23 the -- the confidential part so I can explain what
24 went on here.

25 **Q. Okay.**

1 **And I guess for the purposes of this**
2 **question, was this -- was this spreadsheet used by the**
3 **operator when it was conducting its efforts?**

4 A. This was part of the effort. There was more
5 than just this. But this was a piece of what they
6 used.

7 **Q. All right. Thank you.**

8 **Starting at the first row, dated**
9 **February 7th, 2018, does this row pertain to the**
10 **official Q1 PM emission test for Colstrip Unit 3?**

11 A. Yes. This row is showing the official result
12 from February as a baseline point is why they put that
13 on here.

14 **Q. And is the quarterly PM emission test the**
15 **determinative test submitted to the Montana Department**
16 **of Environmental Quality to determine if the Colstrip**
17 **units are within PM compliance?**

18 A. Yes. The official MATS PM test is quarterly,
19 and it was done in February and June, that's correct.

20 **Q. And Mr. Tack, what are the consequences of**
21 **Colstrip units failing a quarterly PM emission test by**
22 **operating over the PM emission limit?**

23 A. The consequences would be, when they violate
24 their limits, is to shut the unit down. But there's
25 more to it than just this. The actual limit is a

1 30-day rolling average for the entire site, Units 1,
2 Unit 2, Unit 3 and Unit 4, and that's what ends up
3 being your compliance limit.

4 So the .030 limit that we're talking about is
5 the overall site's rolling average on a 30-day
6 average.

7 **Q. Okay.**

8 **And averaged among all the units that are**
9 **operating, isn't it true that PM compliance limit**
10 **is .030 pounds per British Thermal Units?**

11 A. That's correct. The limit for the site
12 is .030 pounds per million BTU.

13 **Q. Okay.**

14 **Now, referring back to row 1, what were the**
15 **results of the Quarter 1 official PM emission test at**
16 **Unit 3?**

17 A. On -- on the row here, so it would be the
18 column 4, and it shows Unit 3 as a .027.

19 **Q. Therefore, isn't it true that Unit 3**
20 **individually was operating at .003 under the PM**
21 **emission limit?**

22 A. So you're saying .003 as in thousandths below
23 the actual .030?

24 **Q. Correct.**

25 A. Because it's hundredths and thousandths place.

1 So yes, it is below by itself. But, again, it's a
2 site-wide rolling average, but, yes, it is, by itself,
3 below the limit.

4 **Q. Thank you.**

5 **Mr. Tack, can we move down to the second row,**
6 **dated February 14th, 2018? Does this row pertain to**
7 **the official Quarter 1 PM test for Colstrip Unit 4?**

8 A. Yeah, that's correct. That's correct. This
9 is for Unit 4.

10 **Q. And Mr. Tack, what were the results of the**
11 **Quarter 1 official PM emission test at Unit 4?**

12 A. For Unit 4 alone, the result is a .034 pounds
13 per million BTU. But, again, it's within compliance
14 because it's a site-wide rolling 30-day average.

15 **Q. Okay.**

16 A. This is just one data point. It's a rolling
17 average site-wide.

18 **Q. So individually, just Unit 4, Unit 4 tested**
19 **at .004 above the PM emission limit?**

20 A. That's correct.

21 **Q. So Unit 3 tested at .027 and Unit 4 was**
22 **tested at .034; is that correct?**

23 A. That's correct.

24 **Q. Therefore, isn't it true that these units**
25 **averaged together at or very near the compliance limit**

1 **of .030?**

2 A. The actual official numbers that came out from
3 the site-wide rolling average was right at the limit,
4 the compliance limit of .030, and it was still within
5 compliance.

6 MR. DALLAS: And -- thank you. No further
7 questions.

8 JUDGE O'CONNELL: Okay.

9 Any redirect?

10 MS. MCDOWELL: No, your Honor.

11 JUDGE O'CONNELL: Okay.

12 Then let's move on to Public Counsel's
13 cross-examination. Ms. Gafken.

14 CROSS-EXAMINATION

15 BY MS. GAFKEN:

16 **Q. Good morning, Mr. Tack.**

17 A. Good morning.

18 **Q. I'm going to start with the questions that**
19 **Mr. Wilding handed to you.**

20 **We were referring to Cross-Exhibit MGW-4X.**

21 **Do you have a copy of that?**

22 A. I -- I don't have a copy of his.

23 MS. GAFKEN: Does counsel have it? Or I
24 can give him one.

25 MR. KUMAR: I got it.

1 THE WITNESS: Okay.

2 BY MS. GAFKEN:

3 **Q. So I think you've already -- I think you just**
4 **stated this, but I'm going to ask the question just to**
5 **set the next question up.**

6 **So the Colstrip plant did not exceed the MATS**
7 **limits in the February 2018 test, correct?**

8 A. Correct.

9 **Q. This means that Colstrip was not required to**
10 **shut down due to exceeding the MATS limits, and did**
11 **not experience derate after the February test,**
12 **correct?**

13 A. That's correct. They did not derate, and they
14 were not required to shut down because they were
15 within compliance.

16 **Q. Doesn't this mean that Colstrip could have**
17 **continued operating while troubleshooting if such**
18 **troubleshooting had taken place in the spring after**
19 **the February test instead of in the summer?**

20 A. Yes. And they did do troubleshooting
21 activities that started in February.

22 **Q. I'm pausing just because we have it split**
23 **between how we're talking about these things. I think**
24 **we'll get into that --**

25 A. Yeah.

1 **Q. -- in the company confidential session.**

2 **For now, could you turn to your rebuttal**
3 **testimony, Exhibit CLT-14CCT, and go to page 7?**

4 A. I'm there.

5 **Q. And refer to lines 2 through 5.**

6 **There you state that the alternative**
7 **indicators have accurately portrayed PM levels since**
8 **2016 except for the two formal stack tests in Q1 and**
9 **Q2 of 2018, correct?**

10 A. That's correct.

11 **Q. By formal stack tests, are you referring to**
12 **the official compliance tests used to measure**
13 **compliance with MATS?**

14 A. That's correct. These are the -- the official
15 MDEQ formal stack tests.

16 **Q. And the official compliance tests are the**
17 **only tests that determine compliance with MATS,**
18 **correct?**

19 A. That's -- that's mostly correct. The official
20 MDEQ parameter for the MATS PM is the official test
21 that takes place -- took place in February and June.

22 However, there is a Title 5 permit that
23 Colstrip is required to be in compliance with, which
24 is a CAM Plan, a Continuance -- a Continuous Assurance
25 Monitoring Plan, that has three alternate indicators

1 that they're also to follow as well.

2 **Q. And those -- those alternate indicators,**
3 **they're -- they're higher than the MATS test; is that**
4 **correct?**

5 A. There's -- there's not a direct correlation.
6 When -- when you say higher, could you give me a
7 little more detail? Because it's not a direct, this
8 number equivalates [sic] to this number --

9 **Q. Okay.**

10 A. -- so I'm trying to understand.

11 **Q. So there's a .03 threshold for MATS --**

12 **JUDGE O'CONNELL: If we can pause for just**
13 **a moment. If you are on the conference bridge line,**
14 **we can hear the rustling of your microphone. If you**
15 **would mind please muting your microphone. Thank you.**

16 BY MS. GAFKEN:

17 **Q. Under the CAM Plan that you were just**
18 **referring to for Units 3 and 4, isn't the threshold**
19 **a .05?**

20 A. No. I don't know where you're getting
21 the .05.

22 **Q. We'll -- we'll save those for another.**

23 A. Okay.

24 **Q. Diagnostic testing is not used to determine**
25 **compliance with MATS, correct?**

1 A. That's correct. We do not use diagnostic
2 testing -- unofficial in-stack testing to assure
3 compliance with the official in-stack testing.

4 **Q. Turning back to the quote on page 7, lines 2**
5 **through 5, by "Q1," are you referring to the**
6 **February 2018 MATS test?**

7 A. That's correct. I'm referring to the February
8 official stack test.

9 **Q. And by "Q2," are you referring to the**
10 **June 2018 official MATS test?**

11 A. That's correct.

12 **Q. Would you please turn to your rebuttal**
13 **testimony, CLT-14CCT, and go to page 17, lines 8**
14 **through 9?**

15 A. Okay.

16 **Q. There you state that MDEQ imposed a**
17 **relatively minor eight percent circumstances penalty**
18 **in its final assessment, correct?**

19 A. That's correct.

20 **Q. Okay.**

21 **There's two exhibits that refer to the same**
22 **type of information. I'm going to refer you to CLT-6,**
23 **page 3. The other exhibit is CLT-15, but I just want**
24 **to refer to the chart. There's two charts.**

25 A. Okay. I'm on CLT-6, page 3.

1 **Q. There's a solid line at 36 on the two graphs**
2 **on that page, and the line is labeled PM CAMS Plan, PM**
3 **CEMS Limit less than 36.**

4 **What does that line indicate?**

5 A. So from my understanding, for the operator,
6 what they do is they set -- they set these bands on
7 these lines that -- what ends up happening is, through
8 the course of operation, if they approach and start to
9 approach these limits, there should be a conservative
10 value regarding the official PM MATS number.

11 So what they're doing is, it's almost kind of
12 like an alert or a warning, hey, if we're approaching
13 these, we might have some other issues before we
14 actually go into noncompliance.

15 I want -- I want to be clear on these lines,
16 though. There's something here that -- this isn't a
17 direct permit limit or something like that. What they
18 do with these, sometimes equipment's worn out, so
19 they'll move them. Sometimes they've been testing for
20 a long time. These can be adjusted by the operator to
21 where they feel it is appropriate to give them a
22 warning of another issue.

23 **Q. So if -- I don't think this question is**
24 **confidential, but the companies will alert us, I**
25 **think.**

1 **If the results went above that line, would**
2 **there be any consequence?**

3 A. Not a -- officially, no. What they would do
4 is, they would let the MDEQ know, because -- MDEQ know
5 it's part of their CAM Plan. But on top of that, when
6 we're talking consequence, like, is there -- is there
7 something you're going to be in consequence, or is it
8 just information? Is it, like -- I'm trying to
9 understand what you mean by consequence. They
10 would -- they would obviously evaluate, and they
11 should be evaluating before it gets there as well.

12 **Q. Okay.**

13 **So you stated that if -- if a result ended up**
14 **above that 36 line, they would let MDEQ know about**
15 **that, correct?**

16 A. From my understanding, yes.

17 **Q. But that wouldn't put them in forced outage**
18 **or a derate?**

19 A. No.

20 **Q. Does that line 36 correspond with -- with a**
21 **pound per MMBTU unit [sic]?**

22 A. I don't have the units in front of me, but I
23 don't think it's a direct correlation. I have -- I
24 have to validate that. I don't have the units in
25 front of me.

1 **Q. All right.**

2 **Are you familiar with the operating permit**
3 **that's issued by MDEQ?**

4 A. I could reference it. I couldn't recall it.

5 **Q. An excerpt was provided in Mr. Robert's**
6 **testimony as Exhibit RG -- I just the lost it --**

7 **RJR-6. I don't know if you have a copy of that.**

8 A. I don't have that, yeah. Well, actually, I --
9 I don't think I have RJR-6.

10 **Q. Okay.**

11 **So your counsel just provided you with RJR-6.**
12 **If you could look at page 1. There's a chart under B,**
13 **which is titled Applicable Regulations, Emission**
14 **Limits and Monitoring Requirements.**

15 **Do you see that?**

16 A. Yeah, I see it.

17 **Q. Does the column entitled Emission Limits help**
18 **you answer whether the -- the line 36 correlates to a**
19 **pound per MBTU threshold?**

20 A. With just this information here, I -- I
21 couldn't directly correlate this, yeah.

22 MS. GAFKEN: I think that's all I have for
23 the non-confidential portion of my questions.

24 JUDGE O'CONNELL: Okay. Thank you.

25 Any redirect?

1 MS. MCDOWELL: No redirect, your Honor.

2 JUDGE O'CONNELL: Okay.

3 There are no bench questions at the
4 moment. We'll save those for a bench panel. So
5 Mr. Tack, please take a seat in the audience and we
6 will call you back up in a moment. Thank you.

7 THE WITNESS: Thank you.

8 JUDGE O'CONNELL: Let's turn now to
9 cross-examination questions, non-confidential
10 questions for Avista witnesses.

11 We'll start with Thomas Dempsey. Will you
12 please come forward and be sworn in. Will you please
13 stay standing and raise your right hand.

14

15 THOMAS DEMPSEY, witness herein, having been
16 first duly sworn on oath,
17 was examined and testified
18 as follows:

19

20 JUDGE O'CONNELL: Thank you. Please be
21 seated.

22 MR. MEYER: Mr. Dempsey will have one very
23 minor correction on one page that -- cite that I'll
24 provide.

25 JUDGE O'CONNELL: Okay.

1 Mr. Meyer, please go ahead.

2 DIRECT EXAMINATION

3 BY MR. MEYER:

4 **Q. For the record, would you please state your**
5 **name and your employer?**

6 A. Thomas Dempsey, Avista Utilities.

7 **Q. Thank you.**

8 **And have you prepared and pre-filed exhibits**
9 **that have been marked and introduced into evidence?**

10 A. I have.

11 **Q. Would you identify any corrections or**
12 **changes?**

13 A. Yes, we have one correction, and it's in
14 Exhibit TCD-4, and it's on page 14 on lines 11 and 13.
15 The word MATS PM appears, and it should say RM5 PM in
16 both locations.

17 **Q. So let's -- one more time, please, for those**
18 **who are still finding it. Just -- just pause for a**
19 **moment.**

20 **Okay. Try it -- try it again.**

21 A. Page 14 of TCD-4T, on lines 11 and 13, the
22 word MATS should be replaced with RM5.

23 **Q. So Mr. Dempsey, if I were to ask you the**
24 **questions that appear in your pre-filed and admitted**
25 **exhibit with that change having been made, would your**

1 **answers be true and correct?**

2 A. Yes.

3 MR. MEYER: With that, he's available for
4 cross-examination.

5 JUDGE O'CONNELL: Thank you.

6 Ms. Gafken, you may proceed with your
7 cross-examination.

8 MS. GAFKEN: Before I get into the
9 questions, the Public Counsel had identified an
10 exhibit for Mr. Johnson, and that exhibit has been
11 marked WGJ-4X. And after discussions with Mr. Meyer,
12 that exhibit is being redirected to Mr. Dempsey. So
13 that's where we'll start.

14 MR. MEYER: Mr. Dempsey, do you have that
15 before you?

16 THE WITNESS: I do. Did you say --

17 MS. GAFKEN: WGJ-4X.

18 THE WITNESS: Yes, I have that before me.

19 CROSS-EXAMINATION

20 BY MS. GAFKEN:

21 **Q. And WGJ-4X is Avista's response to Public**
22 **Counsel Data Request No. 322, correct?**

23 A. That is correct.

24 **Q. In subsection A, Avista confirms that the**
25 **summer Colstrip outage is primarily the result of the**

1 **MATS emission standard rather than efforts to reduce**
2 **emissions, correct?**

3 A. That's correct.

4 **Q. And in subsection B, Avista confirms that**
5 **testing would generally take place when generating**
6 **units are operating, correct?**

7 A. That's correct.

8 MR. MEYER: Mr. Dempsey, would you move
9 your mic a little closer to you? Thank you.

10 BY MS. GAFKEN:

11 **Q. And the Colstrip plant did not exceed the**
12 **MATS limits in February 2018, correct?**

13 A. That's correct.

14 **Q. This means that -- that Colstrip was not**
15 **required to shut down due to exceeding the MATS limits**
16 **and did not experience derate in the -- after the**
17 **February test, correct?**

18 A. That's correct.

19 **Q. Doesn't this mean that Colstrip could have**
20 **continued operating while troubleshooting took place**
21 **had such troubleshooting begun in the spring instead**
22 **of in the summer of 2018?**

23 A. Yes. And they did begin diagtoc- --
24 diagnostic testing in February.

25 **Q. And, again, we'll get into more of those**

1 **details in the company confidential session.**

2 A. Okay.

3 MS. GAFKEN: I think the rest of my
4 questions do pertain to the company confidential
5 session of the hearing, so I will pause here.

6 JUDGE O'CONNELL: Thank you.

7 Ms. McDowell and Mr. Kumar, any redirect?

8 MR. MEYER: That would be my witness.

9 JUDGE O'CONNELL: I apologize. Habit from
10 the first two, I guess. Apologies, Mr. Meyer.

11 MR. MEYER: I'm not sure how to take that.

12 MS. MCDOWELL: Neither am I.

13 MR. MEYER: But I don't, in answer to your
14 question.

15 JUDGE O'CONNELL: Okay. Well, I don't --
16 I don't feel as bad as I might then. Okay.

17 Well, no bench questions at this time.
18 We're going to call back up some witnesses for bench
19 questions, but for now, please take a seat in the
20 audience, Mr. Dempsey. Thank you.

21 So next, Mr. William Johnson, would you
22 please come forward to be sworn in. And will you
23 please stay standing and raise your right hand.

24 ///

25 ///

1 WILLIAM JOHNSON, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5
6 JUDGE O'CONNELL: Please be seated.

7 Mr. Meyer, would you like to introduce and
8 qualify the witness, please.

9 MR. MEYER: Thank you. I'm glad to.

10 DIRECT EXAMINATION

11 BY MR. MEYER:

12 **Q. Are you ready?**

13 A. Yes.

14 **Q. Okay. Thank you.**

15 **For the record, please state your name and**
16 **your employer.**

17 A. William G. Johnson, and I'm employed by
18 Avista.

19 **Q. And in what capacity?**

20 A. I'm a wholesale marketing manager in the power
21 supply department.

22 **Q. And did you cause to be prepared and filed**
23 **various exhibits that have already been identified and**
24 **marked and entered into the record?**

25 A. Yes, I did.

1 **Q. Any changes or corrections?**

2 A. No.

3 MR. MEYER: With that, I tender the
4 witness.

5 JUDGE O'CONNELL: Okay. Thank you.

6 Ms. Gafken, your cross-examination,
7 please.

8 MS. GAFKEN: I'm happy to say, I think
9 we'll get through all of this cross-examination
10 without having to go into the confidential portion of
11 the hearing.

12 JUDGE O'CONNELL: Thank you.

13 CROSS-EXAMINATION

14 BY MS. GAFKEN:

15 **Q. Good morning, Mr. Johnson.**

16 A. Good morning.

17 **Q. In your initial testimony filed in**
18 **Avista's -- Avista's IRM Docket UE-190222, you**
19 **calculated the impact on Avista's net power costs**
20 **resulting from the summer 2018 Colstrip outage,**
21 **correct?**

22 A. That's correct.

23 **Q. And in your rebuttal testimony, you calculate**
24 **the impact of the outage on Avista's net power costs**
25 **to reflect arguments made by Commission Staff and**

1 **Public Counsel, correct?**

2 A. Could you repeat that?

3 **Q. Sure.**

4 **So I'm referring to the rebuttal testimony**
5 **that you filed in the docket that we're here on today.**

6 **You recalculate the impact of the outage on Avista's**
7 **net power costs to reflect arguments made by**
8 **Commission Staff and Public Counsel, correct?**

9 A. I recalculated to address Mr. Allison and
10 Gomez's suggestion that a spring outage would have
11 been less expensive. So I calculated a spring outage,
12 and took the delta from that from the summer outage to
13 come up with a new estimate of impact to power costs.

14 **Q. Thank you. That's exactly what I was**
15 **referring to.**

16 **I'll go ahead and ask the next question. I**
17 **think you kind of anticipated it.**

18 **In particular, you reduced the incremental**
19 **costs incurred by the summer -- I'm sorry. You**
20 **reduced the incremental cost incurred in the summer of**
21 **2018 by your estimate of incremental power costs for a**
22 **similar outage had it occurred -- occurred in the**
23 **spring, correct?**

24 A. That's correct.

25 **Q. Would you please turn to your rebuttal**

1 **testimony, which is Exhibit WGJ-2T, and go to page 2,**
2 **line 8?**

3 A. Okay.

4 **Q. There you characterize Staff and Public**
5 **Counsel's testimony as being that it would have been**
6 **better to take the outage or derate in the spring,**
7 **correct?**

8 A. I took their suggestion in their testimony
9 that it would have been less expensive because of
10 typically lower power prices in the spring to have had
11 the outage occur in the spring.

12 **Q. By outage/derate, do you mean to interpret**
13 **Staff and Public Counsel's position as being that**
14 **Colstrip would not be able to operate in the spring in**
15 **the same way that it was not able to operate in the**
16 **summer after the June test?**

17 A. I simply wanted to address their issue that
18 spring prices are typically lower than summer prices,
19 and to try to quantify what that meant. So I took a
20 similar outage to the summer and just applied it to
21 the March and April months instead of July and August.

22 **Q. Do you assume in your calculation that**
23 **Colstrip would have experienced an outage similar in**
24 **length and scope in the spring as to what actually**
25 **occurred in the summer?**

1 A. Like I just said, because I didn't want to
2 make this whole analysis any more hypothetical than it
3 already is, I assumed that it would be a magni- -- the
4 magnitude and duration of the outage would have
5 been -- would have been identical had it happened in
6 the spring as it did in the summer.

7 **Q. If I were to ask you operations questions,**
8 **would you defer those to Mr. Dempsey?**

9 A. Yes, I would.

10 **Q. Okay.**

11 **Would you please turn to Cross-Exhibit**
12 **WGJ-4X, which is Avista's response to Public Counsel**
13 **Data Request No. 322?**

14 A. I'm there.

15 **Q. In subsection B, Avista confirms that testing**
16 **would generally take place when operating units -- or**
17 **I'm sorry -- when generating units are operating,**
18 **correct?**

19 A. Correct.

20 MS. GAFKEN: I have no further questions
21 for Mr. Johnson.

22 JUDGE O'CONNELL: Mr. Meyer, any redirect?

23 MR. MEYER: I do. Thank you.

24 JUDGE O'CONNELL: Okay. Thank you. Go
25 ahead.

1 REDIRECT EXAMINATION

2 BY MR. MEYER:

3 **Q. I would like to just explore briefly two**
4 **areas. Let's begin with questioning around your**
5 **initial pre-filed testimony way back when our IRM**
6 **docket was started, and that has been marked as**
7 **WGJ-1T. And you don't have to turn to any particular**
8 **page there, because I know you're familiar with it.**

9 **But when the company made the filing, what**
10 **did the company estimate to be the net impact of the**
11 **Colstrip two-and-a-half-month outage to be on the IRM**
12 **entries for the entire calendar year of 2018?**

13 A. For the entire year, we did -- we always do an
14 analysis of the impacts of every variation we have in
15 our IRM, and for the entire year, you'd have --

16 (Phone interruption in the
17 audience.)

18 BY MR. MEYER:

19 **Q. Excuse me. Okay. Let's pick up where you**
20 **left off.**

21 **For the entire year, you were saying?**

22 A. For the entire year, the Colstrip plant only
23 contributed an additional \$209,000 of additional power
24 supply expense for the year, even despite the hiccup
25 in July and August.

1 The plant ran better than expected for the
2 other months, so the impact for the entire calendar
3 year, which we usually evaluate the IRM, was \$209,000
4 in the surcharge direction.

5 **Q. All right.**

6 **And that includes any impact of the outage**
7 **that we're discussing here this morning?**

8 A. That includes the impact of the outage in the
9 summer.

10 **Q. Okay.**

11 **Now, that's a different number than, of**
12 **course, the -- do you recall what the replacement**
13 **power cost estimates were for Staff and yourself under**
14 **what you called a hypothetical analysis?**

15 A. The hypothetical summer outage analysis was
16 roughly three-and-a-half million dollars. When you
17 adjusted out the spring, it was about \$2.4 million.

18 **Q. And you were asked about those analyses. And**
19 **why did you state in response to questioning that --**
20 **why did you characterize those as hypothetical?**

21 A. Because they -- they're -- they're hindsight
22 estimates. They're not based on any actual booked
23 expenses. I mean, the IRM is about true, actual
24 booked expenses. And what we're doing here is kind of
25 going back and said [sic], well, if this wouldn't have

1 happened, what might have been the booked expenses.

2 So you have to make a bunch of -- you have to
3 make some assumptions about what -- you know, how much
4 reduced generation there was, what the replacement
5 power cost was, and you're doing the hypothetical. I
6 mean, it has to be hypothetical.

7 **Q. And in that hypothetical, did you take into**
8 **account the impact on market prices in the spring if**
9 **that much plant generation was taken out of service?**

10 A. No, I didn't. And -- you know, I tried to
11 keep it as simple as possible and just do the same
12 identical analysis to the -- to the summer, because
13 that was the contention of Mr. Allison and Mr. Gomez,
14 that prices are lower and, yet, they were lower. So I
15 just tried to keep it as straightforward and simple as
16 possible, not try to add new assumptions or subjective
17 assumptions to make the whole thing even -- even
18 further from actuals.

19 **Q. Last question.**

20 **So you don't place much stock in those**
21 **hypothetical calculations?**

22 A. They're -- they're informational. They're --
23 they were provided as informational information.
24 They're not -- there's no identifiable booked expenses
25 in the IRM that you can identify these numbers, so

1 they're -- they're informational is what I would
2 classify them as.

3 MR. MEYER: Okay. Thank you. That's all
4 I have.

5 JUDGE O'CONNELL: Thank you.

6 Ms. Gafken, recross?

7 MS. GAFKEN: I guess, actually, just one
8 question.

9 RECCROSS-EXAMINATION

10 BY MS. GAFKEN:

11 **Q. Mr. Johnson, you were talking with Mr. Meyer**
12 **about hypotheticals, and I understand that the spring**
13 **number is a hypothetical.**

14 **Do you characterize the summer estimate that**
15 **you had also included in your original testimony to be**
16 **a hypothetical number?**

17 A. Well, it's hypothetical because we don't know
18 exactly what it cost. There's no line item that we
19 can identify. We didn't book expenses as this is
20 Colstrip replacement power. It's just part of our
21 system, so we're having to make assumptions about
22 what -- what the real impact of that was.

23 MS. GAFKEN: Okay. Thank you.

24 JUDGE O'CONNELL: Mr. Meyer, I don't think
25 there would be any redirect from that, but is there?

1 MR. MEYER: There is not.

2 JUDGE O'CONNELL: Okay. Thank you.

3 Ms. Gafken, you had indicated perhaps
4 operational questions for Mr. Dempsey instead of
5 asking them of Mr. Johnson.

6 MS. GAFKEN: I already asked them.

7 JUDGE O'CONNELL: Oh, okay. I wanted to
8 make sure.

9 MS. GAFKEN: Thank you.

10 JUDGE O'CONNELL: Okay.

11 Mr. Johnson, we have no bench questions
12 for you, so thank you -- or one moment, please. So
13 thank you for your testimony. You're excused.

14 Or Ms. Gafken, I want to confirm, all of
15 your questions for Mr. Johnson were asked. You do not
16 have any company confidential questions for
17 Mr. Johnson for later?

18 MS. GAFKEN: That is correct.

19 JUDGE O'CONNELL: Okay. That's what I
20 wanted to make sure.

21 Thank you, Mr. Johnson.

22 Okay. Let's -- let's move on, then, to
23 Ronald Roberts from PSE. Please come forward and be
24 sworn in. Please remain standing and raise your right
25 hand.

1 RONALD ROBERTS, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5
6 JUDGE O'CONNELL: Please sit.

7 And Ms. Barnett, would you like to
8 introduce and qualify the witness?

9 MS. BARNETT: Yes. Thank you.

10 DIRECT EXAMINATION

11 BY MS. BARNETT:

12 **Q. Mr. Roberts, please state your name and title**
13 **and spell your name for the court reporter.**

14 A. Make sure the mic is on, which it is not.

15 Is it on now?

16 **Q. Yes.**

17 A. Great.

18 Name is Ronald Roberts. That's R-O-B-E-R-T-S.

19 I'm the director of generation and natural gas storage
20 for Puget Sound Energy.

21 **Q. Mr. Roberts, do you have before you what were**
22 **marked and entered as Exhibits RJR-1T through RJR-7?**

23 A. I do.

24 **Q. And do you have any corrections to any of**
25 **your exhibits or testimony at this time?**

1 A. I do not.

2 **Q. Are your pre-filed direct and rebuttal**
3 **testimony and accompanying exhibits true and correct**
4 **to the best of your information and belief?**

5 A. Yes, they are.

6 MS. BARNETT: Your Honor, PSE offers
7 Ronald Roberts for cross-examination at this time.

8 JUDGE O'CONNELL: Okay. Thank you.

9 Public Counsel has indicated
10 cross-examination. Ms. Gafken, please proceed.

11 MS. GAFKEN: Thank you.

12 CROSS-EXAMINATION

13 BY MS. GAFKEN:

14 **Q. Good morning, Mr. Roberts.**

15 A. Good morning -- well, good afternoon now, I
16 guess, so yes.

17 **Q. You are correct.**

18 **I'm just confirming we're still in the**
19 **non-confidential portion of this.**

20 **Would you please turn to your rebuttal**
21 **testimony, Exhibit RJR-4CCT, and go to page 6?**

22 A. Page 6, you said?

23 **Q. Page 6.**

24 A. Okay. I am there.

25 **Q. And refer to lines 5 through 7.**

1 A. Yes.

2 **Q. There you state that the elevated PM levels**
3 **shown in the February 2018 compliance tests were**
4 **within the range of historical variability, correct?**

5 A. Correct.

6 **Q. Would you please turn to Cross-Exhibit**
7 **RJR-8X?**

8 A. Let me find that one. Hang on for a second.
9 Did you say 8? It's that one right in front of me,
10 yes.

11 **Q. Cross-Exhibit RJR-8X is Puget Sound Energy's**
12 **response to Public Counsel Data Request No. 332,**
13 **correct?**

14 A. Correct.

15 **Q. In subsection A, the response states that the**
16 **February 2018 test indicated the highest PM emissions**
17 **rate for Unit 3 ever reported in an official MATS**
18 **compliance test up to that point, correct?**

19 A. Correct.

20 **Q. And subsection B confirms that the**
21 **February 2018 test indicated the highest PM emissions**
22 **rate for Unit 4 ever reported in an official MATS**
23 **compliance test up to that point, correct?**

24 A. That is correct.

25 **Q. Subsection C addresses the history of tests**

1 **that you considered when you stated that the February**
2 **test results fell within the range of historical**
3 **variability, right?**

4 A. That is correct. There are tests that were
5 done to measure particulate matter well before the PM
6 MATS. PM MATS is basically -- utilizes particulate
7 matter to -- as a surrogate for the MATS portion. So
8 Colstrip had been doing particulate testing for many,
9 many years under EPA guidelines.

10 **Q. Mr. Roberts, you anticipated my next**
11 **question.**

12 A. Oh, sorry.

13 **Q. That's okay.**

14 **The last two lines of subsection C list**
15 **various historical test results for Units 3 and 4,**
16 **correct?**

17 A. Correct.

18 **Q. The high end of the example test results**
19 **listed there are unacceptably high for the MATS PM**
20 **compliance purposes, correct?**

21 A. They are, but that was prior to MATS
22 compliance being a requirement.

23 **Q. Understood.**

24 **Would you turn to your rebuttal testimony,**
25 **RJR-4CCT, and go to page 20?**

1 A. I'm there.

2 **Q. You're faster than I am.**

3 A. I had help.

4 **Q. At lines 18 through 20, you testified that**
5 **MDEQ essentially stated that the operator was prudent**
6 **in its actions. Is that a correct characterization of**
7 **your testimony there?**

8 A. Yes, it is.

9 **Q. Would you please turn -- would you please**
10 **turn to Cross-Exhibit RJR-14X? RJR-14X is Puget Sound**
11 **Energy's response to Public Counsel Data Request 339,**
12 **correct?**

13 A. That is correct.

14 **Q. That response discusses the circumstances**
15 **that warrant an increase in the base penalty, correct?**

16 A. It does.

17 MS. GAFKEN: I think most of my other
18 questions fall in the confidential portion of the
19 hearing.

20 JUDGE O'CONNELL: Okay. Thank you.

21 Ms. Barnett, do you have any redirect?

22 MS. BARNETT: Just a follow-up on this
23 same exhibit.

24 ///

25 ///

1 REDIRECT EXAMINATION

2 BY MS. BARNETT:

3 **Q. Mr. Roberts, what is your understanding of**
4 **the adjusted base penalty -- the maximum adjusted**
5 **base -- adjusted base penalty that MDEQ could apply?**

6 A. The maximum under their guidelines is a
7 30 percent penalty to adjust off of the base.

8 **Q. And how much did they apply in this case?**

9 A. Eight percent.

10 MS. BARNETT: No further questions.

11 JUDGE O'CONNELL: Ms. Gafken, any recross
12 from what you heard?

13 MS. GAFKEN: No.

14 JUDGE O'CONNELL: Okay. Thank you.

15 Hold on one moment, Mr. Roberts.

16 (Discussion off the record.)

17 JUDGE O'CONNELL: All right.

18 Mr. Roberts, you're going to stay seated
19 there. We'd like to also ask Mr. Dempsey, Avista's
20 witness, and Mr. Tack, Pacific Power's witness, to
21 come join Mr. Roberts at the witness table, and we
22 have non-confidential bench questions that we'd like
23 to have the witnesses answer.

24 Welcome back. I'd like to remind you all
25 that you remain under oath. I'm going to start the

1 questions from the bench.

2 Mr. Tack, I have a follow-up question on
3 something that you testified to. The 30-day rolling
4 average for determining the PM MATS results, how does
5 that 30-day rolling average, how does that work?

6 MR. TACK: So, from my understanding, what
7 they do is they take the official results from the
8 different testings on Unit 1, Unit 2, Unit 3, Unit 4,
9 they can average them out. But where it gets kinda
10 complex is, it is a rolling average.

11 So basically, kind of an analogy, I guess,
12 is, let's say you started January 1st, had a
13 January 30th result, when you hit January 31st, the
14 first day falls off -- you see what I'm saying -- for
15 that test. And it just kind of keeps rolling down.

16 But they take the overall site-wide
17 average, and that's how we have the official
18 compliance standard is to the site.

19 JUDGE O'CONNELL: Okay.

20 Can you explain to me, then, the
21 significance of having any particular date designated
22 for the -- the official test for any particular unit?

23 For example, let's take Quarter 1 for
24 the -- in 2018, for Unit 3 and 4. Those were on
25 different days. How does the 30-day average work when

1 you have that one day where you're starting that
2 evaluation?

3 MR. TACK: We would have to do some math
4 on that, but I could tell you, there's no significance
5 to why they set them that way. A lot of times it's
6 resources. Just to go in and do the test, it's a
7 process. There's, you know, the maintenance staff,
8 operations staff, the formality of it. And that's
9 kind of why they offset them.

10 But we would have to go look at the actual
11 results to see -- there should be in the -- in the
12 rolling 30-day, you should have always that average
13 carryforward. I don't believe it's one that just
14 falls off like the test overall. It's an overall
15 average.

16 JUDGE O'CONNELL: Are there any
17 operational conditions that have to be factored into
18 that in those 30 days where some days drop off because
19 of operational factors?

20 MR. TACK: I don't want to speak to the
21 drop-off, but operational factors are extremely
22 important because the test is required to be run at
23 normal operating conditions, which is 90 to 110
24 percent power. They have to run the unit at that
25 load. So essentially, all the tests are apples to

1 apples as they're rolling through.

2 They -- they don't want a lot of variance,
3 so they do have standards to operationally run those
4 units. But you wouldn't just drag it out to throw
5 your number down. That -- it doesn't work that way.

6 JUDGE O'CONNELL: Okay.

7 MR. TACK: So --

8 COMMISSIONER RENDAHL: Just to be clear,
9 so assuming that Units 1 and 2 were operating, because
10 they weren't operating at that time, and you take a
11 30-day rolling average for the site, and you started
12 with Unit 1 sometime in January, and you did Unit 2
13 and Unit 3 and Unit 4, so it's that one -- it's that
14 one test over the four units, each one test at each
15 unit over a 30-day period that you calculate, there's
16 no other test that you factor into that 30-day period,
17 right? It's just those --

18 MR. TACK: It's the official tests only is
19 what they factor into those results.

20 COMMISSIONER RENDAHL: Over the 30-day
21 rolling period?

22 MR. TACK: Um-hmm.

23 COMMISSIONER RENDAHL: So for your Exhibit
24 CLT-7CC, and I don't think this is confidential
25 because I think Staff asked you questions about this,

1 the very two top lines referring to February 7 and
2 February 14th, those were within a rolling 30-day
3 period, so that constituted the test, correct?

4 MR. TACK: They were, but from my
5 understanding, it's not like -- like you would always
6 have results from each plant in that quarter, so it's
7 not like one of these just falls off and it pulls the
8 limit down. They still average them. They use those
9 official results.

10 But, yes, these are the official from
11 those days --

12 COMMISSIONER RENDAHL: Right.

13 MR. TACK: -- that would have factored
14 into the overall result.

15 COMMISSIONER RENDAHL: So within that
16 rolling 30-day period, these are the two points that
17 you would average within that 30- -- 30-day period?

18 MR. TACK: Correct, with the other two
19 units.

20 COMMISSIONER RENDAHL: If they were
21 operating?

22 MR. TACK: I'm pretty sure, yeah, if they
23 were -- and I -- I don't know their status at that
24 time, Unit 1 and 2.

25 COMMISSIONER RENDAHL: All right. Thank

1 you.

2 JUDGE O'CONNELL: Thank you, Mr. Tack.

3 Let's -- we have other questions.

4 COMMISSIONER RENDAHL: Yeah, I have more,
5 just -- not just that one.

6 Okay. So, actually, for Mr. Dempsey,
7 something that came up in your cross, I just want to
8 clarify with you.

9 So in your testimony, your rebuttal
10 testimony, TCD-4T, do you have that?

11 MR. DEMPSEY: I do, yes.

12 COMMISSIONER RENDAHL: Okay.

13 And you made a correction to your
14 testimony on page 14 that removed the acronym MATS and
15 replaced RM5?

16 MR. DEMPSEY: That's correct.

17 COMMISSIONER RENDAHL: Okay.

18 So if you look at page 18 of your
19 testimony, it also refers to an acronym of MATS RM5.

20 MR. DEMPSEY: That's correct, yes.

21 COMMISSIONER RENDAHL: Is that different
22 from RM5 PM?

23 MR. DEMPSEY: Yes, it is. RM stands for
24 Reference Method 5. It's an EPA-specified test used
25 for compliance with particulate regulations. And so

1 particulate testing -- Reference Method 5 testing has
2 been conducted for many years. In 20'6, that same
3 testing was then -- it was used for compliance not
4 only with particulate matter emissions themselves, but
5 as a surrogate to estimate non-mercury metal
6 emissions.

7 So when I said MATS RM5 in the testimony,
8 I'm referring to that test that -- an RM5 test that
9 happened during the period in which MATS was also in
10 effect, which would have been used for particulate
11 compliance and MATS compliance.

12 COMMISSIONER RENDAHL: Okay. Thank you
13 for that clarification.

14 Okay. So continuing with you,
15 Mr. Dempsey, and I'm assuming if there's any answer to
16 my question that is confidential, just let me know and
17 then we'll reserve that to the confidential portion of
18 the hearing, but I hope that this won't generate a
19 confidential answer.

20 MR. DEMPSEY: Okay.

21 COMMISSIONER RENDAHL: When the February
22 Quarter 1 2018 PM MATS test -- or is that actually the
23 RM5 MATS test? Is that what I should call it?

24 MR. DEMPSEY: It's both. If you're
25 talking about February 2018, it was an RM5 test that

1 was used for MATS as well as particulate matter
2 compliance.

3 COMMISSIONER RENDAHL: Okay.

4 So referring to that test, when it was
5 conducted, and then immediately thereafter, were there
6 any red flags that went up for you or for Avista?

7 MR. DEMPSEY: So the February -- the
8 February MATS compliance test was conducted on those
9 two days, and I don't have those two dates in front of
10 me. The -- Talen -- we had an owner and operations
11 meeting in February of 2018. I was not at that
12 meeting at Colstrip. We did not have an Avista
13 representative at that meeting, which is when they
14 raised it with the ownership group.

15 In 15 years of being the Colstrip rep, and
16 preparation for it, that is the only meeting I know of
17 missing, but they did raise that issue with the
18 ownership in February of 2018.

19 COMMISSIONER RENDAHL: So was there no
20 other Avista representative at the meeting?

21 MR. DEMPSEY: Not for that February 2018
22 meeting, that's correct.

23 JUDGE O'CONNELL: Okay.

24 So Mr. Dempsey, as to the Q1 PM MATS test
25 results, if no Avista representative was at that O&O

1 committee meeting, when did Avista become aware of
2 the -- the MATS results from the Q1?

3 MR. DEMPSEY: I did participate in the
4 March 2018 meeting. I don't specifically recall the
5 discussion there, although it has been testified by
6 others that they did give an update on those results
7 that were seen in February of 2018.

8 It's my understanding they were in
9 compliance, and that the indications and operational
10 indicators that were looked into and evaluated did not
11 reflect any anomalous operation; in fact, those
12 indicators had been declining.

13 So the update would have been that -- that
14 things were improving, so I --

15 JUDGE O'CONNELL: Well --

16 MR. DEMPSEY: -- I don't specifically
17 recall when I learned of the February MATS results.

18 JUDGE O'CONNELL: So I'm curious just
19 about the official MATS results and -- I mean, it's a
20 public information test, and it's been disclosed in
21 RJR-3, and it's, you know, in discussion this morning
22 that those official test results are non-confidential.

23 I'm just curious, shouldn't you, as a
24 co-owner, know about the PM MATS results as soon as
25 that test gets taken?

1 MR. DEMPSEY: Those -- those tests are
2 filed publicly, and we have that available to us.

3 COMMISSIONER RENDAHL: So when did you
4 know about them?

5 MR. DEMPSEY: As I said, I don't
6 specifically recall when I -- when we learned of the
7 test results. They had passed. It wouldn't be
8 something that was brought to my attention if it -- if
9 it -- you know, when the test failed in Q2, I knew
10 immediately. But in Q1, with the results passing, I
11 didn't become aware of them for a while. I was in New
12 Zealand so --

13 JUDGE O'CONNELL: Okay.

14 So to follow up on the Commissioner's
15 first question then, the test result came back
16 at .030, and there were no red flags being raised at
17 Avista because of that test result because you would
18 have known, I'm assuming, right away if there were red
19 flags?

20 MR. DEMPSEY: If they had failed the test,
21 they might have called us all immediately. Well, I'm
22 sure they would have, because it would be required to
23 shut down the units as they did for -- as they did in
24 Q2.

25 We weren't at that meeting. I did not

1 receive, that I can recall, any communication that
2 they had passed but were close to the limit.

3 COMMISSIONER RENDAHL: Okay. Thank you.

4 So Mr. Roberts, were you at the owner and
5 operators meeting when they disclosed the --

6 MR. ROBERTS: No, I was not, but I did
7 have two representatives at that meeting. So we were
8 aware of it in February that they were nearing
9 compliance limits.

10 COMMISSIONER RENDAHL: And so for your
11 folks that were there, when they came back, did that
12 give you any red flags --

13 MR. ROBERTS: It certainly --

14 COMMISSIONER RENDAHL: -- about the
15 operations?

16 MR. ROBERTS: It certainly raised a
17 concern that they were close to the limit. At that
18 point, Talen had presented a plan for the things that
19 they were going to look at in terms of the alternative
20 measures.

21 It's much like anything in a -- in a plant
22 troubleshooting environment, if you have an indication
23 that something is wrong, you need to go figure out, is
24 it real, first of all, and second, you need to look at
25 all the other parameters around that to find out if

1 there's any data that might indicate that the reading
2 was false. And Talen had a plan for doing that, and
3 proceeded to do that after the February test.

4 COMMISSIONER RENDAHL: So did they
5 communicate that to you as a -- as a co-owner?

6 MR. ROBERTS: At the owners meetings, they
7 started to communicate the plan, but there was an
8 email later, and I don't remember the exact date, that
9 they had sent out with a plan that they were following
10 to look at that.

11 COMMISSIONER RENDAHL: Okay. And I
12 believe that's in the record.

13 MR. ROBERTS: Yes.

14 COMMISSIONER RENDAHL: So did you -- after
15 that owner-operator meeting and the email from the
16 operator, did you consider or discuss with any others
17 at the company about having a contingency plan for if
18 the emissions continued to be high, or if the limit
19 was exceeded?

20 MR. ROBERTS: We did not discuss a plan
21 like that, because at that point in time, all the
22 indications that we had from Talen that they were
23 supplying to us was that they were not going to have
24 compliance issues at the Q2 test.

25 So at that point, we were relying somewhat

1 on the information supplied by the operator, who's
2 been running that facility for 40 years, that they did
3 not see a problem based off of the indicators that
4 they had from the other alternative methods to look at
5 emissions.

6 COMMISSIONER RENDAHL: So you didn't see a
7 need after that owner-operator meeting, and after the
8 test, to talk to the trading floor at Avista about
9 hedging or any other -- other contingency in the event
10 there was a failure?

11 MR. ROBERTS: I think I'd be in trouble if
12 I talked to Avista's trade floor, but no --

13 COMMISSIONER RENDAHL: Probably would.

14 MR. ROBERTS: -- I didn't do that. No, we
15 did not talk to the trade floor about that as a -- as
16 an issue.

17 COMMISSIONER RENDAHL: Thank you. Okay.

18 So Mr. Tack, so you were at the
19 owner-operator meeting when they disclosed the results
20 of the February test, correct?

21 MR. TACK: Correct.

22 COMMISSIONER RENDAHL: Okay.

23 So did it raise any red flags for you?

24 MR. TACK: Yes.

25 COMMISSIONER RENDAHL: Okay.

1 So did you, after this, consider or
2 discuss with others at PacifiCorp any contingency
3 plans for if the emissions continued to be high, or if
4 the limit was exceeded?

5 MR. TACK: So from my conversations with
6 Talen, I was comfortable with the direction and the
7 results and the alternate indications, so I didn't go
8 back and talk to marketing. But I went back and asked
9 lots of questions of my own experts to ensure what
10 they were telling me was the accurate approach and the
11 right direction.

12 So we definitely discussed it and talked,
13 you know, overall what's going on. But, again, with
14 the information given from Talen, I was extremely
15 comfortable.

16 And if you don't mind, I want to give a
17 little bit of why I'm so biased to this and I
18 understand it so well.

19 I hold a senior reactor operator license
20 in nuclear power where I was an operator for
21 approximately eight years, and it is considered the
22 gold standard of operations. For two years, all
23 [sic] we did was train, so I pick up on a lot of these
24 things pretty fast.

25 I was not concerned because they were

1 within compliance, but I went over and I talked to
2 them and said, what do we do -- what do we got going
3 here? We're in compliance, but what are we going to
4 do moving forward?

5 So that was the best approach to me. And
6 when I listened to them, and they talked about the
7 alternate indicators, how the plant's looking, the
8 scrubber, the boiler, they were ready, they were
9 prepared. They knew what was going on. Like not the
10 actual event, but they knew what to do from an
11 operational practice to proceed forward, so I was
12 comfortable with that.

13 Am I going too fast?

14 COMMISSIONER RENDAHL: You're talking very
15 fast, and the court reporter can't take it all down.

16 MR. TACK: Sorry. I apologize.

17 COMMISSIONER RENDAHL: So you're going to
18 have to -- do you need him to repeat any of that?

19 THE COURT REPORTER: No.

20 MR. TACK: I'm pretty passionate about it,
21 so --

22 COMMISSIONER RENDAHL: Okay. So just
23 think slow.

24 MR. TACK: Okay. Okay. So we'll go back.

25 So back at the senior reactor operator

1 license, which is, again, considered the gold standard
2 in operations, for two years, alls [sic] we're trained
3 to do is to catch up on other parameters, alternate
4 indicators, what -- I apologize.

5 THE COURT REPORTER: Keep going.

6 MR. TACK: Okay.

7 Basically, what is the plant telling me?
8 What -- what do we got going on here? You got to
9 remember, these aren't just a simple vehicle. This is
10 a massive, acres and acres of equipment, thousands of
11 pieces of components, different indications. So it
12 takes time to look into these, but you know your plant
13 as an operator.

14 So when I look at these guys and I talk to
15 them and I ask them what they're doing, they
16 understand these different parameters. What are we
17 seeing over here? What are we seeing over here? They
18 were beyond confident that they were okay. Everything
19 that told me it was an anomalous test.

20 It had been elevated. It brought concern.
21 Let's go monitor, let's go see what we're doing here,
22 and 100 percent in line with what I would have done
23 with my experience as well.

24 COMMISSIONER RENDAHL: Okay. Thank you.

25 So -- so Mr. Roberts, did you ask similar

1 questions of the company after the February results
2 and the owner-operator meeting?

3 MR. ROBERTS: Our owners' reps did ask
4 similar questions about what is the plan, what are you
5 looking at, are you seeing things that are going on,
6 and, yes, similar questions.

7 COMMISSIONER RENDAHL: And is there
8 documentation in the record about those?

9 MR. ROBERTS: No. No. Commissioner,
10 those are typically operational discussions.

11 COMMISSIONER RENDAHL: I'm sorry. You
12 don't have a mic in front of you.

13 MR. ROBERTS: I'm sorry.

14 No, there was no documentation of that.
15 These are more phone calls, conversations, they're
16 operational in nature, which operational things happen
17 in realtime. And a lot of these things are just quick
18 phone calls, hey, what are you seeing here, what --
19 what kinds of things are you doing.

20 We don't go through formal documentation
21 of every operational issue that happens at a facility
22 or we would never operate a facility because there
23 would be so much to do with that. So when there's
24 normal courses of things happening, those are quick
25 decisions that are made and quick phone calls to

1 update people.

2 COMMISSIONER RENDAHL: So would you call
3 this normal operations, what was going on in February?

4 MR. ROBERTS: I would. You know, they had
5 an elevated test reading, it was not out of
6 compliance, and it was anomalous. It was a -- one
7 bump up.

8 And I think, in my opinion, you know, and
9 having been the manager of power generation and the
10 operations manager at Colstrip, I have a pretty good
11 history and knowledge of both the people there, as
12 well as the equipment. And in my opinion, at that
13 point, this was kind of a one-off, we better look and
14 see and make sure we understand what's going on. And
15 I have confidence in the people there that were doing
16 that.

17 COMMISSIONER RENDAHL: Okay. Thank you.

18 JUDGE O'CONNELL: Mr. Tack, about your
19 communication with Talen, you -- you said that there
20 were red flags going up for you after you heard about
21 the February test, that you did follow up with Talen
22 and had many conversations.

23 Do you have any documentation in the email
24 trail showing that you had these conversations with
25 Talen during that time period?

1 MR. TACK: So specific, those
2 conversations, no. Do we have emails of things that
3 back up what we discussed? Yes, that are -- we'll
4 talk about. I guess they're confidential.

5 But remember this too. When I'm in that
6 room, I feel like I'm one of the best when it comes to
7 the operators, the way I've been trained, right? So
8 when these things are talking to me [sic], I
9 completely understand it.

10 And this is just one issue. You gotta
11 remember, they might have been talking about a
12 transformer over here that's elevated, a feed pump
13 over here. These are just things that they pick up to
14 me because it was elevated.

15 I wasn't concerned because we were in
16 compliance. If they would have said we were out of
17 compliance, it's a different story. Hey, we're
18 elevated. Where's our next step going? Where are we
19 gonna be, and how do we know we're gonna get there?
20 That's -- that's kind of the process, and that's why I
21 was comfortable with it.

22 And that's -- again, but you don't -- you
23 don't write those things down because there's --
24 there's so many of them, and it is operational, it's
25 dynamic. And from my experience, 99 out of 100 times,

1 it turns down at the next point.

2 I sat in a control room for years, and
3 I've watched spikes all the time on random equipment.
4 You don't jump on it. You sit back, you look at other
5 parameters, you gotta understand what's going on. It
6 happens all the time.

7 Noise, instrumentation, somebody walks by,
8 there's a lot of things there that it makes sense to
9 kind of step back, what do we have going on big
10 picture. This point could be anomalous.

11 So we just -- that -- that's basically
12 their approach, which I fully understand. So that's
13 kind of why there's, I guess, no official writing from
14 me, but there is emails from them.

15 JUDGE O'CONNELL: Okay. Thank you.

16 COMMISSIONER BALASBAS: All right.

17 I'd like to turn to the alternative
18 indicators or measures. And I'm going to ask a series
19 of questions, and as my colleague indicated earlier,
20 if your answer is covering confidential information, I
21 will reserve the question to the confidential portion
22 of today's session.

23 So Mr. Dempsey, I'm going to start with
24 you. So my first question is, in between official
25 PM -- PM MATS stack testing, how does the operator

1 customarily monitor the emissions of the plant to
2 ensure compliance with the next official test?

3 MR. DEMPSEY: So the permit has within it
4 a PM CAM Plan that identifies various alternative
5 indicators that are used to monitor that are
6 correlated with PM emissions and allow them to -- to
7 gauge the performance of the unit when it's operating
8 at all different levels, when it is in steady state
9 and parked at high load. These are -- these are
10 continuously monitored all the time.

11 COMMISSIONER BALASBAS: And so after the
12 February 2018 test, and in March and again in April,
13 what, if anything, did Avista inquire as to what was
14 being done in addition to those measures?

15 MR. DEMPSEY: As I have -- as I have
16 testified earlier, I don't recall specifically being
17 told the results of the -- the Q1 test.

18 However, having the discussions and
19 looking back, they -- they looked at the PM CEMS, the
20 opacity, plumb bob DP, other -- I think those are --
21 there's one other that I'm missing here, but other
22 factors to -- to kind of gauge the performance of the
23 unit.

24 They also did some additional diagnostic
25 things, like burner tilts, other just boiler

1 operations-type activities.

2 COMMISSIONER BALASBAS: So did you or
3 anyone else at Avista recommend to Talen or other
4 co-owners any additional monitoring or testing in
5 addition to the things that you just discussed?

6 MR. DEMPSEY: No, we did not.

7 COMMISSIONER BALASBAS: Okay.

8 So Mr. Roberts, I'm going to ask you the
9 same series of questions here. So would you add
10 anything to Mr. Dempsey's response about what the
11 operator would customarily do to monitor emissions for
12 the next upcoming test?

13 MR. ROBERTS: I would just add that,
14 again, kind of a little bit off of what Chuck had said
15 earlier, Colstrip is an incredibly complex machine. I
16 think the boiler operations and the scrubber
17 operations are inherently high priorities in terms of
18 making sure that the unit remains in compliance.

19 There was a lot of discussion on burners,
20 coal quality, scrubber operations throughout that time
21 period. So I would just add that it is not a -- a
22 very simple thing to look at a boiler that size and --
23 and come up with something.

24 So Talen, I think, in my opinion, did a
25 pretty reasonable job, so we didn't need to add

1 anything to what they were doing.

2 COMMISSIONER BALASBAS: And so -- so then,
3 did you inquire as to anything done in addition in the
4 February, March or April time frame?

5 MR. ROBERTS: In the March and April time
6 frame, there were continued discussions on what they
7 were looking at from a troubleshooting standpoint, and
8 I don't have exact details of that.

9 COMMISSIONER BALASBAS: Okay.
10 So you did not, then -- I think you just
11 stated this, but you did not, then, recommend anything
12 to Talen or any of the other co-owners to anything in
13 addition to what was already being done?

14 MR. ROBERTS: Not at that point, no.

15 COMMISSIONER BALASBAS: Okay. Thank you.

16 So Mr. Tack, I will turn to you now for
17 the first question of how the operator would
18 customarily monitor the emissions for the next
19 upcoming test, and is there anything you would add to
20 Mr. Dempsey and Mr. Roberts' responses?

21 MR. TACK: Just -- just kind of overall in
22 general, they have the CAM plan. So they've got three
23 good indicators over here, we've got kind of an
24 anomalous point over here, and on top of that, the
25 operators are out checking scrubber performance,

1 boiler performance, something they see every day.
2 How's it looking? Do we see anything odd? Everything
3 looked okay.

4 So that operator was going through that.
5 The actual details of it, that's -- that's up to the
6 operator. They gotta feel that out in dynamic time.
7 Where do I see my challenges? Is there something I'm
8 concerned about?

9 So -- I know. I'm going too fast for her.
10 So to slow down and let her catch up here.

11 So basically, they went through, we talked
12 about that at the February. In March when I saw them
13 again, how we looking? How do we feel? We feel okay.
14 Our plant's looking good. Our CAM Plan, our old --
15 our parameters, they look good. They were trending
16 down, if anything. We feel comfortable with the
17 direction the plant is going, and that's how it kept
18 moving forward.

19 JUDGE O'CONNELL: Mr. Tack, it's the speed
20 with which you are speaking regularly that is causing
21 the trouble for the court reporter, not the speed
22 quickly and then allow time for her to catch up. It's
23 the constant flow that makes it challenging. So
24 just -- we'd like to be conscious --

25 MR. TACK: I'll do my best to slow down.

1 JUDGE O'CONNELL: Thank you.

2 COMMISSIONER BALASBAS: So Mr. Tack, then,
3 you or anyone at Pacific Power did not recommend any
4 additional things to Talen or the other co-owners to
5 do to monitor the emissions other than what was -- has
6 already been mentioned?

7 MR. TACK: No. I was comfortable with the
8 direction they were going. There was no further
9 recommendation. Every indication they gave me, we
10 were comfortable, and there was enough data points to
11 be comfortable, but nothing else. What they were
12 doing was the right direction.

13 COMMISSIONER BALASBAS: Okay.

14 So this next question is for all three of
15 you, and, again, I will start with Mr. Dempsey.

16 So when an official in-stack test reading
17 is high, what is the industry standard practice or
18 view for relying on the alternative measures or
19 indicators?

20 MR. DEMPSEY: So the -- the EPA Reference
21 Method 5 test is the only test that's actually
22 sanctioned for determining compliance. The -- the PM
23 CEMS equipment, for example, the opacity indication,
24 those types of tools are usually dia- -- diagnostic
25 tools. They're not used to directly calculate the --

1 the pound per million BTU compliance emissions.

2 Now, what is specifically done for
3 Colstrip in this case is, each quarter, they're
4 required to take a look at the results from the RM5
5 test, the official compliance test. They have to
6 compare -- they have to compare their PM CEMS
7 indications, and if it falls within a specific
8 tolerance, they can then use those indications as they
9 are to continue and assure compliance going forward.

10 If, as in the case, for example, Q2 of
11 2018, they completely failed to correlate, they are
12 required to recalibrate and retest with five -- with I
13 believe five tests, and reestablish a correlation
14 between those alternative indicators and the test.

15 So they have to check the validity of
16 those alternative indicators on a quarterly basis, and
17 that report is a public document and -- and -- and out
18 there for review, and I -- I base some of my analysis
19 that maybe is in the confidential section on that.

20 COMMISSIONER BALASBAS: Okay.

21 Mr. Roberts, same question as I just asked
22 Mr. Dempsey. Would you like me to repeat it?

23 MR. ROBERTS: No, I think I can --

24 COMMISSIONER BALASBAS: Okay.

25 MR. ROBERTS: -- I can go from there.

1 I think industry best practice when you
2 see any elevated reading, whether it's an
3 environmental parameter or whether it's a pump that's
4 running hotter than normal, is the same process. And
5 it's the, look at the reading, go back, and try and
6 verify through alternate methods, is it real or not.
7 And also look at the conditions around that to see if
8 it's still operating within reasonable terms, and if
9 everything is still functioning properly.

10 I think industry best practice is to take
11 that approach rather than to slam everything down just
12 because you get an elevated blip. That's just not how
13 things are done. It's a troubleshooting process, and
14 the unit, frankly, needs to be online to troubleshoot.

15 COMMISSIONER BALASBAS: Okay. Thank you.

16 Mr. Tack, would you add anything to
17 Mr. Dempsey or Mr. Roberts' answers?

18 MR. TACK: Not specifically, but in
19 general, you know, it's -- like they said, it's -- you
20 can't chase momentary blips. Whether it's an official
21 test or not, you can't. You'll get yourself in
22 trouble.

23 And -- and if we would have -- let's just
24 say we believed in that indication and shut down, I
25 believe the outage would have went significantly

1 longer than it did.

2 All that troubleshooting, all the
3 information gathered over those next few months into
4 June was a huge asset to that operator when it came
5 time when they actually didn't pass. They had tons of
6 information, things they'd been chasing, so they were
7 way out ahead of the game when the official thing
8 came.

9 If they would have went down and wanted to
10 go down, it's not the right direction. So what they
11 did is appropriate, and it gathered a lot of valuable
12 information over the next couple months.

13 COMMISSIONER BALASBAS: All right.

14 So my last question, again, will be to all
15 three of you, and I will start again back with
16 Mr. Dempsey. Do you believe that the alternative
17 measures and the actions taken here were enough given
18 that the February 2018 test was right at the
19 compliance limit?

20 MR. DEMPSEY: I do. And in particular, I
21 do because they followed the permit as written, and
22 with regards to compliance monitoring, again, to
23 reiterate Chuck's point about anomalous indications.

24 One thing I want to call out is that the
25 elevated Q1 result in 2018, the PM CEMS indication was

1 elevated in the same way from the prior quarter. So
2 they didn't have any reason, given the information at
3 the time, to believe those alternative indicators
4 weren't accurate.

5 COMMISSIONER BALASBAS: So do you believe,
6 then, that any extraordinary actions were taken in
7 response to the February 2018 PM test?

8 MR. DEMPSEY: Well, certainly,
9 extraordinary actions were taken. They -- they did
10 see a result that was higher than expected. They
11 didn't -- they began diagnostics even though, you
12 know, it was a momentarily blip up. There had been a
13 similar blip up three quarters prior -- three quarters
14 prior on one of the units.

15 They began to take diagnostic action, look
16 at -- the plant manager sent an email around to his
17 operations team asking them to look at a variety of
18 parameters that would -- that might contribute to the
19 higher result. I've opened that here. It's in the
20 CLT-5CC, and I can't -- is this a confidential --

21 MR. MEYER: It's confidential probably.

22 MR. DEMPSEY: Okay. We'll -- we'll take
23 that to the confidential section, then, if that's
24 okay.

25 COMMISSIONER BALASBAS: All right.

1 So Mr. Roberts, I will turn to you now,
2 same question. Do you believe that the alternative
3 measures are enough when you were right at the -- or
4 when the plant was right at the edge of compliance?

5 MR. ROBERTS: I do feel that they are.

6 COMMISSIONER BALASBAS: And, again, any --
7 do you believe that extraordinary actions were taken
8 in response to that?

9 MR. ROBERTS: I do believe that they took
10 appropriate actions to look at all the other
11 conditions that could have affected that result, so I
12 think they took the appropriate actions.

13 COMMISSIONER BALASBAS: But you would not
14 consider those actions extraordinary?

15 MR. ROBERTS: I guess it's in a
16 definitional thing. Extraordinary in that it was
17 different than what they typically looked at, and
18 after a good test, I would say yes. But in reality, I
19 think they were doing their job, which is to try and
20 figure out, is this real or not.

21 JUDGE O'CONNELL: Okay.

22 COMMISSIONER BALASBAS: And then,
23 Mr. Tack, your turn to respond to the same questions.

24 MR. TACK: So I kind of have kind of --
25 this is extremely complex, and I want to kind of talk

1 about something else and why it's so important to use
2 alternate indicators.

3 Let's assume that it failed accurate.

4 Let's assume it failed at quite a bit below the limit,
5 but my alternate indicators are all trending up.
6 That's -- it's the same thing vice versa. I don't
7 just trust it.

8 If this is my compliance point, even
9 though I could go tell MDEQ, oh, look, we're okay,
10 I've got another indication over here telling me I've
11 got a problem, that's why it's so important to use so
12 many different parameters.

13 And when it comes to extraordinary, it is
14 in the definition, but they did what I expected. If I
15 would have stood up there and they would have said,
16 oh, we're elevated, we're okay, I would have been
17 bothered by it. But the fact that they were going
18 after it, challenging it, evaluating more points tells
19 me they're taking operational direction. This is
20 important to them. Let's go see what's going on.

21 COMMISSIONER RENDAHL: So I'm going to
22 turn a little bit of a different direction. I'm going
23 to ask a few questions about in-stack testing. I know
24 most of them are confidential, but I think the ones
25 I'm going to ask you are not, but you can tell me if

1 I'm wrong.

2 Okay. Starting with you, Mr. Dempsey, if
3 you turn to your testimony, TCD-4T at page 18, lines
4 11 through 19.

5 MR. DEMPSEY: I'm there.

6 COMMISSIONER RENDAHL: Okay.

7 So this is talking about the operating
8 conditions for the formal in-stack test, correct, for
9 the RMS [sic] MATS test?

10 MR. DEMPSEY: Yes, the EPA formal complete
11 test, yes.

12 COMMISSIONER RENDAHL: Okay.

13 So what does the -- the load need to be
14 for an in-stack test, or the operating conditions?

15 MR. DEMPSEY: In terms of specific
16 megawatts, I don't know that exactly. This -- my
17 testimony says 90 percent here.

18 COMMISSIONER RENDAHL: Okay.

19 So it has to be greater than 90 percent is
20 what I read.

21 MR. DEMPSEY: That's my understanding,
22 yes.

23 COMMISSIONER RENDAHL: Okay.

24 So -- and you also identify that, on lines
25 13 and 14, that there's specific requirements for

1 releasing -- the companies have to release dispatch
2 control, too, for these tests, correct?

3 MR. DEMPSEY: That's correct. The -- the
4 operators at the plant need to park the unit at a
5 steady load, and it can't be moved around following
6 wind or just the general daily load patterns of the
7 companies.

8 COMMISSIONER RENDAHL: Okay.

9 So you've released your dispatch control
10 to Talen not to follow your load?

11 MR. DEMPSEY: That's correct. And we're
12 still receiving our share of the generation, and we
13 have to work around that with our other assets to meet
14 our load requirements.

15 COMMISSIONER RENDAHL: Okay.

16 So these are the official test
17 requirements. Are these the same requirements for an
18 official test, the EPA test, and an unofficial
19 in-stack test that the operator might do on its own?

20 MR. DEMPSEY: So I would say -- and, you
21 know, I'm not a -- I'm not a testing expert, I will
22 preface that, but, you know, with respect to their own
23 diagnostic approach, I would imagine that they would
24 probably try to catch it at the same situation,
25 although it might not have the same rigor. It might

1 not be the average of three tests.

2 But if I was testing, I would try to --
3 try to mimic the conditions to get the most indicative
4 I could. But it's not prescribed and have to be that
5 way. They may find that they're getting good, or at
6 least valuable diagnostic information from testing at
7 a different load.

8 COMMISSIONER RENDAHL: So the operator
9 would not need to tell you, an owner, for an
10 unofficial test, to release dispatch control?

11 MR. DEMPSEY: I would say not necessarily.
12 They might request it. They might contact our
13 marketing group and say, hey, you know, we want to
14 park it at 600 megawatts to do some diagnostic
15 testing, and they would contact everybody individually
16 and ask them for permission to do that if they wanted
17 that -- that level.

18 I would say that they wouldn't necessarily
19 have to. Colstrip, depending on the time of year,
20 will run at full load pretty -- pretty reliably, and
21 they could do that test without necessarily contacting
22 if they -- presumably.

23 COMMISSIONER RENDAHL: So moving from a
24 hypothetical to what happened after February, would it
25 be confidential if I were to ask you whether you

1 received a request from Talen to release dispatch
2 control?

3 MR. DEMPSEY: Well, I'm not sure whether
4 it's confidential or not, but I -- I don't have that
5 information. That -- that would have been something
6 that was directed to our marketing group directly, and
7 I'm not necessarily in the loop on that.

8 COMMISSIONER RENDAHL: Okay.

9 Would that be a question Mr. Johnson could
10 answer in confidential session?

11 MR. DEMPSEY: I don't think so.

12 COMMISSIONER RENDAHL: Okay.

13 JUDGE O'CONNELL: Mr. Dempsey, is -- those
14 requests, these hypothetical requests, if they were to
15 ask for the release of dispatch control, would there
16 be documentation of that? Confidentially or not
17 confidentially, is it something that there would be an
18 email or an official request for, or is it just a
19 phone call?

20 MR. DEMPSEY: Yeah, so phone call
21 communications with our marketing group, I believe,
22 are all recorded, so there would be a record of that.
23 When -- so let -- so let me be clear on -- on
24 communications, like, for an official quarterly test.

25 That would come out in an email. It would

1 be -- it would be directed to our marketing group. I
2 would be copied on that. The marketing groups from
3 the companies, it's my understanding, they -- they
4 could be presented with alternatives and they could
5 vote, and then they -- there would be an announcement
6 of the time, and so I would see that. I'm not the one
7 responding to it or approving it, but I would see it.

8 With respect to an ad hoc test, if they
9 contacted our marketing group, that would be a
10 recorded phone call, and emails, of course, are kept
11 as well.

12 COMMISSIONER RENDAHL: Okay. Thank you.

13 I'm going to move on to Mr. Roberts. So
14 this is the way this is going to go. We're going to
15 ask you guys these questions individually so you get
16 the benefit of hearing Mr. Dempsey first.

17 So do you agree with Mr. Dempsey's
18 testimony about the conditions that are required for
19 the official test?

20 MR. ROBERTS: I do. They have to be
21 between 90 percent and 110 percent of load. So yes, I
22 agree with Thomas's --

23 COMMISSIONER RENDAHL: And PSE would have
24 to release dispatch control?

25 MR. ROBERTS: That is true.

1 COMMISSIONER RENDAHL: And there would be
2 an official record of that?

3 MR. ROBERTS: There is.

4 COMMISSIONER RENDAHL: Okay.

5 So is it the same for an official test and
6 an unofficial test?

7 MR. ROBERTS: I would answer that as a
8 hypothetical, that it could be handled different ways
9 depending on the time of year. Obviously, if it's
10 done in the summer or the deep of winter when a unit
11 is already running at full load, it's likely that the
12 operator could go in and do an informal test without
13 us relinquishing control.

14 If it's done at a period of time when the
15 market is down and the units aren't fully dispatched,
16 that might be a different story, where we would need
17 to give input on that. Because any time we raise load
18 when it's lower, it's -- it's not in the money for a
19 reason, and we aren't running it at load, so those --
20 those decisions would go through our trade floor.

21 COMMISSIONER RENDAHL: Okay.

22 And the same questions for you, Mr. Tack.
23 Do you concur that the conditions that Mr. Dempsey has
24 described in his testimony here today, that those are
25 the conditions for running the official test?

1 MR. TACK: Yes. There are -- there are
2 requirements like he listed for running an official
3 MATS PM test.

4 COMMISSIONER RENDAHL: Okay.

5 And in your experience, are those the same
6 conditions for an official test or an unofficial
7 in-stack test?

8 MR. TACK: No, they can change them
9 around. So you can do them lined up with the plant,
10 which is what these guys are talking about, but you
11 can also do them with lower load as well.

12 These are -- so -- so to kind of give a
13 little bit of a -- like a teaching on this, the -- the
14 official MATS PM is three different points that they
15 do these tests and then they average them.

16 An in-stack test, they can do at any time.
17 They can go in, they can do it right now, they can do
18 it at low load. They're going to try and correlate,
19 but it's about diagnostic and troubleshooting.

20 Like Thomas said, and Ron did, in a
21 perfect situation, you'd be up there, the same
22 conditions, kind of comparing apples to apples. But a
23 lot of times, you don't have that privilege. If
24 market's low, they're gonna go in and take advantage
25 of it when it's low.

1 So it's kind of all right, but they can do
2 it -- the unofficial in-stack testing, they'll go in
3 one time, take a quick point, go from there. They
4 won't do this overall averaging so --

5 COMMISSIONER RENDAHL: So there may be a
6 time that you don't know what's going on because they
7 don't contact the company about releasing dispatch
8 control?

9 MR. TACK: That's correct. In those
10 situations, it -- it wouldn't be the dispatch control.
11 They could go in and do it on their own as an operator
12 as part of their troubleshooting.

13 COMMISSIONER RENDAHL: Okay.
14 You need to slow down.

15 MR. TACK: Okay.

16 COMMISSIONER RENDAHL: If there was a
17 request to release dispatch control, would PacifiCorp,
18 similar to Avista and PSE, have a record of that
19 request to release dispatch control?

20 MR. TACK: I believe so. I'd have to
21 contact marketing, because I'm actually out of that
22 loop. So they work directly with our marketing
23 department.

24 COMMISSIONER RENDAHL: Okay. Thank you.

25 So I'm going to move on to another set of

1 questions, and hopefully these won't take that long,
2 but they might.

3 So in looking at the testimony and the
4 exhibits in the case that all the companies have
5 provided, and from Staff, it looks like the companies
6 provided minutes of the owner and operator meetings to
7 Staff in response to a Staff data request response.

8 Do you recall that?

9 MR. TACK: Yes.

10 COMMISSIONER RENDAHL: Okay.

11 But those minutes don't appear in the
12 exhibits that we have. Are there any minutes of the
13 owner and operator meetings that were held between
14 February 1st and September 30th, 2018?

15 MR. TACK: They all have been provided.
16 They're -- they're pretty generic, but they've all
17 been provided through the data requests that I
18 understand.

19 COMMISSIONER RENDAHL: Okay.

20 So just so you know, that goes to the
21 parties. We don't see any of that.

22 MR. TACK: Okay.

23 COMMISSIONER RENDAHL: So Mr. Gomez
24 indicated in his testimony that these minutes weren't
25 very substantive or helpful. Is that your

1 understanding?

2 MR. TACK: I think it depends on somebody
3 from the outside versus somebody from the inside.
4 When I'm sitting in that room, you know, I track
5 things that are important to me. This might be
6 something different to Puget, something different to
7 Avista, but there is not a lot of detail in their
8 minutes.

9 COMMISSIONER RENDAHL: Okay.
10 When you say you would track them, would
11 you write notes on those minutes?

12 MR. TACK: A lot of times what I do
13 because, again, this is something I just understand, I
14 go home and I create my weekly report to my boss if
15 it's something that I think is substantial, and then
16 that's been provided.

17 COMMISSIONER RENDAHL: Okay.
18 So I guess I'm going to ask as a bench
19 request, and it might be the same for all of you, just
20 so that we have them in our record, to see these
21 minutes for the owners and operators meetings that
22 were held between February 1st and September 30th,
23 okay, of 2018.

24 MR. DEMPSEY: Can I ask a question? Were
25 you asking --

1 COMMISSIONER RENDAHL: That request will
2 go to your counsel and they'll work with you. But
3 yes, that request goes to all three companies, but if
4 they're all the same, then I think one single response
5 would be the same.

6 MR. DEMPSEY: The -- the question that --
7 that Mr. Tack responded to, did you want us to weigh
8 in on --

9 COMMISSIONER RENDAHL: You do not need to
10 weigh in on that question.

11 But I'm going to start with you,
12 Mr. Dempsey, on my next line of questions, because it
13 goes to your testimony, unless you have a question,
14 Mr. O'Connell.

15 JUDGE O'CONNELL: Regarding the bench
16 request --

17 COMMISSIONER RENDAHL: Yes.

18 JUDGE O'CONNELL: -- we're going to number
19 that Bench Request No. 1. As the commissioner
20 mentioned, we really need only one copy of the O&O
21 committee meeting minutes. Is -- instead of requiring
22 that of all three companies, is there a company that
23 will provide it on behalf of all three? Otherwise, we
24 can require it of all three.

25 COMMISSIONER RENDAHL: You can consult on

1 that and --

2 MR. ROBERTS: PSE --

3 COMMISSIONER RENDAHL: -- let us know at a
4 break.

5 MR. ROBERTS: PSE will do it.

6 MR. KUMAR: I mean, I think we all

7 provided them in discovery so --

8 COMMISSIONER RENDAHL: We'll work on that.

9 MS. BARNETT: Do a joint response.

10 JUDGE O'CONNELL: And since you've already

11 provided them before, it should be rather easy to file

12 them in the docket in response to the bench request.

13 Is this something that could also be

14 provided by Tuesday along with the updated CLT-2?

15 Okay. Let's make that the due date then.

16 Okay. Thank you.

17 COMMISSIONER RENDAHL: Okay.

18 So Mr. Dempsey, you -- in your testimony

19 now at Exhibit TCD-4T at page 22, on lines 16

20 through 19, you referenced a project committee.

21 MR. DEMPSEY: Yes.

22 COMMISSIONER RENDAHL: And you state that

23 the operator is required to use its best efforts to

24 keep all members of the project committee informed of

25 all significant matters with respect to the operation

1 and maintenance of the units.

2 You see that?

3 MR. DEMPSEY: Yes.

4 COMMISSIONER RENDAHL: Okay.

5 Are all owners of the plants members of
6 the project committee?

7 MR. DEMPSEY: Yes, that's correct.

8 COMMISSIONER RENDAHL: And are you a
9 member of the project committee?

10 MR. DEMPSEY: I -- Steve Wenke has been --
11 recently been assigned those responsibilities for
12 Colstrip. He's working for me in that capacity.

13 COMMISSIONER RENDAHL: Did you used to
14 attend these project committee meetings?

15 MR. DEMPSEY: Yes.

16 COMMISSIONER RENDAHL: And did you attend
17 them at the time that we're talking about?

18 MR. DEMPSEY: Yes, with the exception of
19 the February 2018 meeting.

20 COMMISSIONER RENDAHL: Okay.

21 And so how frequently does the project
22 committee meet?

23 MR. DEMPSEY: The project committee meets
24 on a monthly basis.

25 COMMISSIONER RENDAHL: Okay.

1 And similar to my questions about the O&O
2 meetings, are there any minutes of project committee
3 meetings?

4 MR. DEMPSEY: It's the same meeting.

5 COMMISSIONER RENDAHL: Project committees
6 are the same as the O- --

7 MR. DEMPSEY: That's -- that's the meeting
8 that we're talking about. There's a set of minutes
9 for those, as well as a significant volume of handouts
10 and other information that are provided to the group,
11 and we have provided in response to data requests.

12 COMMISSIONER RENDAHL: So when you say
13 there was a significant volume of information, is --
14 at those meetings, so there was -- I'm aware of the
15 Staff's data request about the minutes. Have the
16 information that was also handed out at those meetings
17 been provided to Staff in a data request?

18 MR. DEMPSEY: They have. That would
19 include -- we get an environmental report, a safety
20 report, a budget report, a loss generation report,
21 just off the top of my head. Those were all provided
22 in response to data request.

23 COMMISSIONER RENDAHL: Okay.

24 So -- and this may end up being a
25 confidential question, or an answer, confidential

1 answer. So if the operator was required at these
2 meetings to keep all members informed of significant
3 matters, wouldn't the issues between February and June
4 be significant matters for members?

5 MR. DEMPSEY: I would think that's a --
6 yes, that's fair.

7 COMMISSIONER RENDAHL: All right.

8 So Mr. Roberts, you've heard these
9 questions, so I guess I was unaware that project
10 committee meetings were the same as owner and operator
11 meetings. But would you agree with what Mr. Dempsey
12 had said?

13 MR. ROBERTS: I would agree. I would add
14 to it a little bit as well. As the ownership
15 agreement requires quarterly meetings, and back in, I
16 would say, early '17, the ownership group decided that
17 more regular interface on Colstrip was appropriate, so
18 the ownership committee began meeting monthly at
19 Colstrip.

20 During that time frame, and I'm going to
21 answer the rest of the questions, we had two owners'
22 reps for Colstrip during the February and March time
23 frame, Charles Wharton, who has since retired from the
24 company, and his replacement, Nancy Atwood, attended
25 those meetings.

1 COMMISSIONER RENDAHL: Okay.

2 And Mr. Tack, any different response for
3 PacifiCorp?

4 MR. TACK: Do you mind kind of repeating
5 your question?

6 COMMISSIONER RENDAHL: Sure.

7 So I -- I had assumed that the project
8 committee was something different than the owner and
9 operators meeting. That's why these questions are
10 helpful.

11 So I guess the key question, because I
12 think you've answered the other ones previously, but
13 if the owner is required to inform -- if the operator
14 is required to inform owners of all significant
15 matters related to the operation and maintenance of
16 the units, wouldn't the issues that occurred between
17 February and June that we're talking about in this
18 case be significant to owners?

19 MR. TACK: Hindsight, yes. In the moment,
20 no. They did bring it up in the February meeting that
21 it was elevated, but there was no significance. We
22 were fully expecting to recover.

23 So looking back, absolutely, this -- this
24 would have turned into -- but at that time, if you
25 could take yourself to February and to March, we're

1 tracking it, we're trending, there was -- all this
2 information wasn't out there. And what ended up
3 happening, that's all hindsight.

4 So again, through that event, they talked
5 about it, they addressed it, they talked about these
6 situations, but not in a significant -- it was of
7 importance, but it wasn't -- you know, when I hear
8 significant, I'm thinking the failure.

9 So that's kind of the context of -- of the
10 meetings, but, yes, they did talk about it and address
11 it.

12 COMMISSIONER RENDAHL: Okay.

13 I think the remainder of my questions
14 about that would have to be in confidential session.

15 JUDGE O'CONNELL: I'll ask a follow-up
16 question about the O&O committee meetings, the monthly
17 meetings.

18 When were the monthly meetings held in
19 April and May of 2018?

20 MR. TACK: They're all --

21 JUDGE O'CONNELL: Do you have that
22 information?

23 MR. TACK: Yeah, they're all the third
24 Wednesday of the month.

25 JUDGE O'CONNELL: Okay.

1 So for the commissioners' data -- Bench
2 Request No. 1, I'd like to clarify that we're
3 expecting to see also the minutes -- whatever minutes
4 there are from all of the committee meetings,
5 including the April and May committee meetings.

6 COMMISSIONER RENDAHL: Right. So every
7 month between February 1st and September 30th of 2018.

8 JUDGE O'CONNELL: Okay.

9 I have a couple questions that Chair
10 Danner has directed me to ask of the company witnesses
11 that are non-confidential.

12 So I'd like to ask Mr. Wilding, if you
13 could come join the witnesses, and Mr. Tack, you can
14 be excused. Thank you.

15 My first question, Mr. Roberts, you argue
16 in your testimony that Staff witness Gomez has never
17 run a coal plant and so we should disregard his
18 recommendations. Well, none of us on the bench have
19 ever run a coal plant either. Are you saying that we
20 should just rubberstamp whatever you recommend?

21 MR. ROBERTS: No. I'm just stating that
22 Mr. Gomez doesn't have the level of experience around
23 running a coal plant that the witnesses do. I'm not
24 in any way discrediting his capabilities or yours to
25 ask questions about it. But at times the questions

1 were, I think, argumentative from Mr. Gomez.

2 JUDGE O'CONNELL: My next question is
3 about the initial filings from the companies, and I'll
4 ask for a response from each of the witnesses in turn.

5 Pacific Power filed a couple pages
6 regarding the Colstrip outage, PSE filed something
7 around six pages, and Avista, something around four
8 pages and your testimony.

9 Do you think you met your burden of proof
10 with your initial filings? I mean, we, the Commission
11 and Staff, have had to do a lot of detective work to
12 bring the issues out and develop the issues. This was
13 an indulgence Staff didn't have to afford the
14 companies. Staff could have just as easily argued
15 that you haven't met your burden and been done with
16 this several months ago.

17 So, Mr. Dempsey, do you think you did meet
18 your burden in the initial filings?

19 MR. MEYER: Just -- this is not an
20 objection, per se, but recognizing that the burden of
21 proof, burden of persuasion have different meanings in
22 a legal context, and this witness, of course, is not a
23 lawyer. But from what he understands from a lay
24 perspective, I don't have any problem with the
25 question.

1 JUDGE O'CONNELL: Yes. And to his extent,
2 does he think he -- he put forward enough that we
3 could support a finding that we need to?

4 MR. MEYER: Sure. Thank you.

5 MR. DEMPSEY: So as a point of
6 clarification, are you referring to the initial
7 discussion that was 190222 --

8 JUDGE O'CONNELL: Correct.

9 MR. DEMPSEY: -- testimony?

10 JUDGE O'CONNELL: Correct.

11 MR. DEMPSEY: May I have just a moment to
12 take a look at that?

13 JUDGE O'CONNELL: Sure.

14 MR. DEMPSEY: So that initial testimony
15 as -- as I responded there was almost entirely
16 focused, which we -- we expected was the concern, on
17 the actions that occurred after the unit was found to
18 be out of compliance in Q2.

19 With respect to that, we, at the time, did
20 not have any sort of understanding or awareness of the
21 fact that the issues between the Q1 test, which the
22 plant was in compliance, and the Q2 test would be at
23 issue, so we didn't address that.

24 Based on -- based on that testimony, which
25 was focused on the time period after the violation

1 occurred, we do feel that the standard was met. And I
2 may have -- standard may not be the right word. I
3 forgot what you said a minute ago.

4 JUDGE O'CONNELL: Right.

5 Mr. Roberts, let's hear from you next.

6 MR. ROBERTS: I feel there was a lot of
7 misconception of what the questions were during this
8 process. And during the initial filing, I -- I felt
9 like we addressed what we thought the issue was, which
10 was the time period that Colstrip was out of
11 compliance, which was the June test, post-June test.

12 That is what we felt we were answering
13 throughout the entire process, only later to find out
14 that really we were concerned about this time period,
15 the interim time period between the February and the
16 June test.

17 So for us, I think there was a little bit
18 of misconception of what we were trying to answer in
19 the initial filing, versus what we were really trying
20 to get to is what actions were taken between having an
21 elevated reading in February and noncompliance in
22 June.

23 JUDGE O'CONNELL: Okay. Thank you.

24 And Mr. Wilding?

25 MR. WILDING: Yes. Thank you.

1 In -- before when we were preparing our
2 initial PCAM filing, our Power Cost Adjustment
3 Mechanism filing, PacifiCorp did receive an email from
4 Staff asking us to address the Colstrip outage in our
5 initial testimony.

6 And specifically, they asked for two
7 things. They asked for the cause of the outage and
8 the replacement power costs. At the time that we
9 filed, we still had not received the Root Cause
10 Analysis, which to us is really the document that
11 explains what caused the analysis, and really the gold
12 standard in the industry to look back and know the --
13 the cause of the -- the outage.

14 And so we complied with both those things
15 to the best of our ability. We said, there was an
16 outage due to the PM test exceedance. We do not have
17 the Root Cause Analysis. And we offered to supplement
18 the testimony with that Root Cause Analysis as soon as
19 we had it.

20 And then we did calculate the replacement
21 power costs for that outage. And we were the last
22 ones to file our -- our power cost true-up mechanism,
23 that PCAM mechanism.

24 And so then, as soon as we started
25 receiving data requests from Staff, we reached out to

1 Staff on multiple occasions and offered, we said,
2 whoa, we -- like, obviously, we had our wires crossed
3 a little bit. We didn't have the Root Cause Analysis
4 yet. And -- but you're asking a lot of questions
5 leading up to the outage, which we didn't understand
6 was going to be kind of the -- the -- the focus of
7 their investigation or their questions.

8 And like I said, we were the last ones to
9 file, so we hadn't been told anything other than the
10 cause of the outage and the replacement power cost.

11 And so after reaching out to Staff
12 multiple times offering to have workshops, you know,
13 we got together, we got Mr. Tack, who's our --
14 obviously our expert, highly qualified, trained, knows
15 this stuff inside and out, and we got him in the room
16 with Staff.

17 He was able to answer a lot of questions,
18 provide a narrative, provide some of the data that
19 they were looking for. Through the data requests, we
20 provided contemporaneous documentation in the form of
21 the data that the -- that the operator was looking at
22 and using to make decisions.

23 And once we got Mr. Tack in the room and
24 we were able to really clarify what Staff was looking
25 for, then we decided to file the supplemental

1 testimony explaining what had gone on at the outage
2 and leading up to the outage.

3 So once we filed our supplemental
4 testimony and initial filing, I do feel that we -- we
5 met our burden of proof, and we took that very
6 seriously.

7 And I will say for PacifiCorp, our net
8 power costs are very large, and -- and so in our
9 initial filing, we go through and we kind of explained
10 what happened. And the Colstrip Unit 4, PacifiCorp is
11 very small. We just have 10 percent of Unit 4 in our
12 rates, which is essentially -- and then once you
13 allocate that to Washington, it's essentially
14 17 megawatts.

15 And so we do try to explain everything,
16 and that kind of moved around, what was different from
17 our base period into the actuals. And then once --
18 like I said, once we really understood what Staff was
19 looking for, yes, I do feel like we met our burden of
20 proof after we had filed that initial testimony and
21 were able to work with Staff to really respond to
22 their questions.

23 JUDGE O'CONNELL: Okay. Thank you very
24 much.

25 Okay. So we're going to take our lunch

1 break at this time. When we come back, we'll continue
2 non-confidential questions, cross-examination of
3 Staff's witness and Public Counsel's witness, and then
4 we will go into confidential session afterwards.

5 So we will break for one hour and return
6 at 2:15 p.m. We'll be off the record. Thank you.

7 (Lunch recess was taken from
8 1:13 p.m. to 2:15 p.m.)

9 JUDGE O'CONNELL: Okay. Let's be back on
10 the record.

11 We are back from our lunchtime break and
12 we are ready to begin the non-confidential
13 cross-examination questions of Staff and Public
14 Counsel.

15 After we do cross-examination and
16 redirect, we will impanel both witnesses to take
17 questions from the bench on non-confidential issues.
18 Okay.

19 I see that Mr. Gomez is here already. Is
20 there anything that we should discuss before we begin
21 cross-examination? Okay. Seeing nothing, Mr. Gomez,
22 please stand

23 ///

24 ///

25 ///

1 DAVID GOMEZ, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5
6 JUDGE O'CONNELL: Please sit.

7 Okay. Mr. Dallas, would you like to
8 introduce and qualify the witness?

9 MR. DALLAS: Yes, your Honor.

10 DIRECT EXAMINATION

11 BY MR. DALLAS:

12 **Q. Can you please state and spell your last name**
13 **for the record?**

14 A. David C. Gomez, D-A-V-I-D, C, G-O-M-E-Z.

15 **Q. And can you state your current occupation?**

16 A. My current position here at the Commission is
17 assistant manager for power supply.

18 **Q. And in this capacity, have you provided**
19 **testimony in this docket?**

20 A. Yes, I have.

21 **Q. Are there any changes or corrections you**
22 **would like to make to your testimony at this time?**

23 A. No.

24 MR. DALLAS: Mr. Gomez is available for
25 cross-examination.

1 JUDGE O'CONNELL: Okay. Thank you.

2 Ms. McDowell? Mr. Kumar?

3 MS. MCDOWELL: Thank you, your Honor.

4 CROSS-EXAMINATION

5 BY MS. MCDOWELL:

6 **Q. Good afternoon, Mr. Gomez.**

7 A. Good afternoon.

8 **Q. You know, I'm just going to ask you a few**
9 **questions. Most of my questions are confidential, but**
10 **the judge has instructed us to ask even foundational**
11 **questions in the non-confidential section, so I'll**
12 **just ask you a very few number of questions, and then**
13 **more later on this afternoon.**

14 **So can you tell me how long you've been**
15 **employed at the Commission?**

16 A. I've been at the Commission since 2007.

17 **Q. Is it safe to assume that, during that time,**
18 **you've reviewed a number of Root Cause Analysis**
19 **reports?**

20 A. I would think that, again, based on
21 recollection, without total certainty, yes, I have
22 looked at Root Cause Analysis reports in the past.

23 **Q. And do you agree the purpose of these reports**
24 **is to determine the cause of an incident and figure**
25 **out the steps necessary to prevent such an incident**

1 **from recurring in the future?**

2 A. Yes.

3 **Q. And there are -- these RCAs are usually**
4 **conducted by a third-party expert; is that correct?**

5 A. I wouldn't know about usually. I would just
6 say that they're conducted typically to determine what
7 caused a particular incident, and as you had
8 mentioned, to prevent any further reoccurrence. But
9 whether or not they were done by a third party or not,
10 I couldn't tell you. I've seen cases where it's been
11 done by the organization.

12 **Q. By the company itself?**

13 A. Yeah.

14 **Q. Okay. Thank you.**

15 **So the RCA here was conducted by Sologic LLP;**
16 **are you aware of that?**

17 A. Yes, I am.

18 **Q. And there was some testimony in**
19 **Avista's testi- -- in Avista's testimony describing**
20 **them as a large international firm that focuses**
21 **exclusively on RCA investigations.**

22 **Is that your understanding?**

23 A. It -- I am not aware of Sologic's reputation.
24 But as recommended by Mr. Dempsey or as Avista, I
25 would -- I would be okay with accepting that, yes.

1 **Q. And you would agree, wouldn't you, that a**
2 **Root Cause Analysis report is an important part of a**
3 **prudence investigation?**

4 A. Not necessarily, nor in this case. In this
5 case, root cause was something that's important to
6 understand and know in totality with regards to the
7 outage.

8 But before the outage actually even occurred,
9 there were steps and actions that needed to take place
10 in order to determine -- in order to be able to
11 respond to the PM limits at the compliance limit, and
12 what was alternative indicators that weren't
13 correlating. So --

14 **Q. Well -- so Mr. Gomez, if Talen and the**
15 **co-owners had not conducted a Root Cause Analysis**
16 **report, wouldn't you have faulted them for that?**

17 A. Again, yes, I would say -- I would say that if
18 they had not determined the root cause, yes, that that
19 would be a problem, not necessarily imprudent, because
20 I think we would have to look at the entirety of it
21 relative to the Commission's standard.

22 **Q. So can you turn to page 46 of your testimony?**
23 **That's DCG-1CCT. Do you have that?**

24 A. I'm there.

25 **Q. And that's where you begin your prudence**

1 **recommendation and summarizing your testimony.**

2 A. Yes, I see it.

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

4 **So can you point to where you discuss the**
5 **Root Cause Analysis in your recommendation?**

6 A. Again, the facts of this case, the RCA, within
7 the context of the testimony that I provided, and the
8 recommendations, relate to more with what the control
9 and management was. What were the decisions and
10 actions? How are those arrived at at Colstrip? How
11 can Staff --

12 **Q. Mr. Gomez, I don't mean to interrupt you --**

13 A. Oh, I'm sorry.

14 **Q. -- but my question is, can you point to where**
15 **you discuss the RCA in your prudence recommendation?**

16 A. I believe I talk about the RCA relative to
17 other issues in my testimony, but I'm not altogether
18 sure --

19 **Q. But not in your prudence recommendation?**

20 A. If -- I will say no, it's not there, but that
21 doesn't -- again --

22 MS. MCDOWELL: All right. That's all I
23 have in this section of the questioning. I'll have
24 more questions about the Root Cause Analysis once we
25 go into the confidential session.

1 THE WITNESS: Great. Thank you.

2 MS. MCDOWELL: Thank you.

3 JUDGE O'CONNELL: Thank you, Ms. McDowell.

4 Mr. Dallas, any redirect?

5 MR. DALLAS: Yes, your Honor.

6 REDIRECT EXAMINATION

7 BY MR. DALLAS:

8 **Q. Mr. Gomez, can you turn to page 42 of your**
9 **testimony?**

10 A. Okay. I'm there.

11 [*CONFIDENTIAL*

12

13

14

15

16 *CONFIDENTIAL*]

17 MR. KUMAR: Your Honor, I think --

18 THE WITNESS: I think we're in

19 confidential. Sorry.

20 MS. MCDOWELL: I think we are.

21 MR. DALLAS: I would agree with that.

22 BY MR. DALLAS:

23 **Q. So --**

24 **JUDGE O'CONNELL: Let's move on,**

25 **Mr. Dallas.**

1 MR. DALLAS: Okay.

2 BY MR. DALLAS:

3 **Q. Let's go ahead and move on.**

4 **But just for the purposes of this question,**
5 **you did talk about the Root Cause Analysis in your**
6 **testimony?**

7 A. Yes, I did.

8 MR. DALLAS: No further questions.

9 MR. KUMAR: Your Honor, at this point, I
10 would like to move to, I think, mark that --
11 Mr. Gomez's response to that last question as
12 confidential and make it unavailable to the public
13 transcript.

14 JUDGE O'CONNELL: Is there any objection?

15 MR. DALLAS: There's no objection to
16 Mr. Gomez's response that pertained to the substance
17 of the RCA.

18 JUDGE O'CONNELL: Okay.

19 Then the -- the transcript will be marked
20 as to the response to Mr. Dallas's question, the
21 entirety of the answer will be marked as company
22 confidential.

23 And the second question that Mr. Dallas
24 asked regarding whether Mr. Gomez referred to the RCA
25 in his testimony, that part is not confidential. That

1 response was not company confidential, but the first
2 question and the response will be marked as company
3 confidential.

4 There are -- as we discussed at the
5 opening -- the outside of this proceeding, there are
6 two levels or two separate indications of
7 confidentiality. There is confidential information,
8 which a company may designate, and that information
9 may not be viewable by the other companies in this
10 proceeding. However, there is another confidential
11 indicator, company confidential information, which,
12 while it is confidential information, it is shared
13 between the companies and, therefore, can be shared in
14 this proceeding amongst the companies.

15 Okay. Is there -- no further redirect
16 from Mr. Dallas, correct?

17 MR. DALLAS: That is correct.

18 JUDGE O'CONNELL: Okay.

19 Is there any recross?

20 MS. MCDOWELL: No, your Honor.

21 JUDGE O'CONNELL: Great.

22 Well, there's no bench questions at this
23 time. We will call you back up with Mr. Allison for
24 non-confidential bench questions. So please return to
25 the audience.

1 THE WITNESS: Yes, your Honor.

2 JUDGE O'CONNELL: Thank you, Mr. Gomez.

3 Now, let's have Avi Allison, will you
4 please come forward and be sworn in? Please stand --
5 stay standing and raise your right hand.

6
7 AVI ALLISON, witness herein, having been
8 first duly sworn on oath,
9 was examined and testified
10 as follows:

11
12 JUDGE O'CONNELL: Please be seated.

13 Ms. Gafken.

14 DIRECT EXAMINATION

15 BY MS. GAFKEN:

16 **Q. Good afternoon, Mr. Allison.**

17 A. Good afternoon.

18 **Q. Would you please state your name and spell
19 your last name for the record?**

20 A. Yes. My name is Avi Allison. Last name is
21 A-L-L-I-S-O-N.

22 **Q. And by whom are you employed?**

23 A. I'm employed by Synapse Energy Economics.

24 **Q. What is your position with Synapse?**

25 A. I am a senior associate.

1 **Q. And did you -- well, let me ask this**
2 **question.**

3 **On whose behalf are you testifying here**
4 **today?**

5 A. I'm testifying on behalf of Public Counsel.

6 **Q. Did you prepare testimony and exhibits that**
7 **were entered into the record earlier today?**

8 A. Yes, I did.

9 **Q. Do you have any changes to those -- to the**
10 **testimony or the exhibits?**

11 A. No, I do not.

12 MS. GAFKEN: Okay. Mr. Allison is
13 available for cross-examination.

14 JUDGE O'CONNELL: Thank you.

15 Mr. Kumar or Ms. McDowell, please go
16 ahead.

17 MR. KUMAR: Thank you, your Honor.

18 CROSS-EXAMINATION

19 BY MR. KUMAR:

20 **Q. Good afternoon, Mr. Allison. My name is Ajay**
21 **Kumar. I'm an attorney with Pacific Power.**

22 **AUDIENCE MEMBER: I'm sorry. I'm having**
23 **trouble hearing you.**

24 BY MR. KUMAR:

25 **Q. Good afternoon, Mr. Allison. My name is Ajay**

1 **Kumar. I'm an attorney with Pacific Power.**

2 **Could you turn to page 9 of your testimony?**

3 **JUDGE O'CONNELL: And could we please wait**
4 **a moment so that we can --**

5 A. I am there.

6 **JUDGE O'CONNELL: Okay. Thank you.**

7 **BY MR. KUMAR:**

8 **Q. Now, Mr. Allison, on page 9 of your testimony**
9 **on lines 10 through 19, you review the final MDEQ**
10 **penalty calculation; isn't that true?**

11 A. That's correct.

12 **Q. And based on your review of the MDEQ penalty**
13 **calculation, you conclude on page 9 that --**
14 **specifically lines 18 and 19, that the penalty appears**
15 **to reflect MDEQ's conclusion that the emissions**
16 **exceedance was foreseeable.**

17 **Am I stating that correctly?**

18 A. Yes, that's correct.

19 **Q. Now, Mr. Allison, isn't it true that that**
20 **penalty calculation is an attachment to the**
21 **stipulation for the consent decree, which was filed in**
22 **district court in Montana?**

23 A. Yes, that is my understanding.

24 **Q. Okay.**

25 **Mr. Allison, can I refer you to Exhibit**

1 **CLT-11? Do you have that with you?**

2 A. Yes, I do.

3 **Q. Could you turn to page 7 of that exhibit?**

4 A. Yes, I am there.

5 **Q. And this is the -- this is the consent decree**
6 **that we were just discussing, isn't it? Isn't that**
7 **true?**

8 A. Yes.

9 **Q. Now, at paragraph 22, in that first sentence,**
10 **it states that, prior to June 2018, Talen reviewed the**
11 **indicators in the CAM Plan and discovered no cause for**
12 **higher PM emissions, and no indication that the second**
13 **quarter PM test would suddenly deviate to an extent**
14 **never seen since MATS testing began.**

15 **Am I stating that correctly?**

16 A. Yes.

17 **Q. And the next sentence states that, prior to**
18 **June 2018, Talen reviewed the operation of Unit 3 and**
19 **Unit 4 and found no indications of abnormal**
20 **operations.**

21 **Am I stating that correctly?**

22 A. Yes.

23 **Q. And sort of the final sentence in that**
24 **section says that -- describes, however, a review of**
25 **scrubber operations and alternate indicators that we**

1 **have been discussing all indicated normal operation,**
2 **quote, suggesting PM emissions rates similar to what**
3 **had been previously seen for Units 3 and 4.**

4 **Am I stating that correctly?**

5 A. Yes.

6 MR. KUMAR: Thank you, your Honor. I have
7 no further questions.

8 JUDGE O'CONNELL: Is there any redirect?

9 REDIRECT EXAMINATION

10 BY MS. GAFKEN:

11 **Q. Mr. Allison, you were asked questions about**
12 **paragraph 22 on page 7 of CLT-11.**

13 A. Yes.

14 **Q. What is your understanding of the Compliance**
15 **Assurance Monitoring Plan and what's required of**
16 **companies under that?**

17 A. Yes. So the Compliance Assurance Monitoring
18 Plan requires tracking of these alternative
19 indicators. This requirement, as I understand it, has
20 been in effect since long before the Quarter 1 2018
21 test, so just noting that the monitoring of these
22 alternative indicators was not some new reaction to
23 the high levels. It was something that was happening
24 already.

25 And just referring to what that actual CAM

1 Plan is and says, it was attached as RJR-6 by
2 Mr. Roberts, Puget Sound Energy. And I think there's
3 a couple things to note with respect to that CAM Plan
4 that are important.

5 Number one is that, on -- and I can give folks
6 a chance to get to that exhibit, if they would like
7 to. Number one is that, on page 1 of that CAM Plan,
8 the emissions limit, the unit-specific emissions limit
9 that is stated for tracking is identified for Units 1
10 and 2 of Colstrip at 0.10 pounds per MMBTU. That is
11 more than three times the allowable site-wide limit;
12 and it is 0.05 pounds per MMBTU for Units 3 and 4.
13 That is about 66 percent higher than the site-wide
14 emissions limit.

15 Turning to page 8 of that CAM Plan, it states
16 that these alternative indicators were set to match up
17 to the emissions limits set forth on page 1. In other
18 words, they were set for compliance with a 0.05 pounds
19 per MMBTU threshold for Units 3 and 4, and 0.10 for
20 Units 1 and 2.

21 In other words, satisfaction of the thresholds
22 for the alternative indicators does not at all
23 indicate that you are likely to be on a path towards
24 compliance with the official MATS PM test.

25 The other thing I would finally note is that

1 it says, again, on page 8 of the PM CAM Plan at
2 paragraph F that these alternative indicators are
3 assumed to be a reasonable approximation for the
4 official test as long as they're within 25 percent of
5 the CAM Plan excursion limit.

6 And again, that CAM Plan excursion limit is
7 set at -- to approximate 0.05 pounds per million
8 British Thermal Units, so we're talking about an
9 acceptable correlation that is quite substantial.

10 I think that is all I have to say about the
11 CAM Plan.

12 MS. GAFKEN: Thank you. I have no further
13 questions.

14 JUDGE O'CONNELL: Mr. Kumar, recross on
15 what you heard from Mr. Allison?

16 MR. KUMAR: Yes, just a few questions.

17 JUDGE O'CONNELL: Sure.

18 RECROSS-EXAMINATION

19 BY MR. KUMAR:

20 **Q. Mr. Allison, you discussed the CAM Plan sort**
21 **of at length. And isn't it true that the agency**
22 **charged with sort of reviewing the CAM Plan and**
23 **administering -- sorry.**

24 **Isn't it true that the agency charged with,**
25 **you know, reviewing the CAM Plan and administering the**

1 **MATS standard is the Montana Department of**
2 **Environmental Quality?**

3 A. Yes, that is my understanding.

4 **Q. And could you turn back to -- could you turn**
5 **back to CLT-11?**

6 A. Yes.

7 **Q. And this consent decree was filed by the**
8 **Montana Department of Environmental Quality; isn't**
9 **that true?**

10 A. That is my understanding.

11 **Q. And paragraph 22 where we were talking about**
12 **before --**

13 A. Sorry. I would just amend that to say, it was
14 filed, I think, jointly by Montana Department of
15 Environmental Quality in cooperation following
16 settlement discussions jointly with Talen, so it
17 was not them alone.

18 **Q. And it sets out the agreed-upon sort of facts**
19 **of the outage between the Montana Department of**
20 **Environmental Quality and Talen?**

21 A. Yes.

22 **Q. And it states, I guess, in the -- that first**
23 **sentence that there was no indication that the second**
24 **quarter PM tests would suddenly deviate to an extent**
25 **never seen since MATS testing PM [sic] --**

1 MS. GAFKEN: Asked and answered.

2 BY MR. KUMAR:

3 **Q. -- MATS PM testing began in 2016.**

4 MS. GAFKEN: Asked and answered.

5 MR. KUMAR: Your Honor --

6 MS. GAFKEN: That was one of the questions

7 that was asked on original cross.

8 JUDGE O'CONNELL: I understand, but I

9 think we've allowed some latitude in cross and

10 redirect. I want to allow a little latitude here as

11 well. I'm going to overrule the objection.

12 Mr. Allison, even if it touches a little

13 bit on a response you've already given, please answer

14 the question.

15 A. Sorry. Could you please point me to the line

16 and restate the question?

17 BY MR. KUMAR:

18 **Q. So paragraph 22, I believe there's a -- in**

19 **that first sentence, starting sort of in the third**

20 **line down, it states that no indication that the**

21 **second quarter PM tests would suddenly deviate to an**

22 **extent never seen since MATS testing PM -- MATS PM**

23 **testing began in 2016.**

24 A. It does say that, and I would note that the

25 inclusion of the language "deviate to an extent never

1 seen," so folks may recall that, when it deviated in
2 the Quarter 2 2018, it did not deviate by a little
3 bit. It was far above the threshold for compliance.

4 And so I think -- I think that language is
5 instructive. Perhaps there was not reason to believe
6 that it would be so far out of compliance, but I think
7 there was a lot of evidence, and I think we will talk
8 about some of that later, to indicate that it was
9 going to be out of compliance.

10 MR. KUMAR: I have no further questions,
11 your Honor.

12 JUDGE O'CONNELL: So at this point, I'd
13 like to ask Mr. Gomez to come back and join
14 Mr. Allison at the witness desk. And I'll remind you
15 both that you remain under oath. And we will have
16 non-confidential bench questions from us.

17 COMMISSIONER RENDAHL: Good afternoon.

18 MR. GOMEZ: Good afternoon, Commissioner.

19 MR. ALLISON: Good afternoon.

20 COMMISSIONER RENDAHL: Okay. So
21 Mr. Gomez, let's begin with you.

22 So in your testimony, you've stated what
23 you think the utility should have done, or what Talen
24 should have done after the February 2018 PM MATS test.
25 And that test did meet the .03 pounds per MMBTU limit,

1 correct?

2 MR. GOMEZ: Yes, Commissioner.

3 COMMISSIONER RENDAHL: Okay.

4 So because the test met the standard, what
5 action do you think is prudent to shut down the units
6 to investigate why the limit was -- was just -- just
7 met or -- or not?

8 MR. GOMEZ: As we've heard from the
9 company witnesses, the in-stack testing could have
10 occurred at any time that the unit was operating. It
11 didn't require the full 90 percent load. That was for
12 the -- reserved for the official test.

13 So the company -- or Commission Staff
14 would have expected, first, an acknowledgement that
15 there was a divergence between the PM levels and the
16 alternative indicators. And as Mr. Allison has just
17 gotten done explaining, the reason why -- technically
18 why that was the issue.

19 So Staff would have expected a plan to --
20 to develop, a coord- -- a coordinated plan that would
21 have included the utilities, and perhaps would have
22 started the investigations that occurred after
23 May 30th, the in-stack testing, could have happened
24 sooner. And that if the units would have had to have
25 gone into forced outage to correct the problem, as

1 they did anyway, that that forced outage would have
2 happened sooner rather than later. And that --
3 that's --

4 COMMISSIONER RENDAHL: But you're not --
5 you're not suggesting that the -- that Talen should
6 have shut down the plant because -- just simply
7 because of the February test?

8 MR. GOMEZ: No, Commissioner.

9 COMMISSIONER RENDAHL: Okay.
10 If the test had come in at .029 pounds per
11 MMBTU, would your response have been the same?

12 MR. GOMEZ: I think so, yes, because that
13 would have been still very close to the margin, the
14 specification or tolerance, if you will.

15 COMMISSIONER RENDAHL: So you're saying
16 that they should have had a plan, but I thought I
17 heard them say that they did -- the operator did have
18 a plan for how to test, how to look at what was going
19 on.

20 MR. GOMEZ: Well, again, referring to
21 the -- to the exhibit that the company has indicated
22 to us was the plan, which is Mr. Tack's Exhibit CLT-5,
23 I don't see a plan, but I see an email calling for a
24 plan.

25 Staff won't contest that the -- that some

1 activities, investigative activities were embarked on
2 by Talen. It's simply -- the problem is the timing
3 and coordination and the -- the contemporaneous
4 evidence that indicates that those were the actions
5 that were being pursued.

6 All we have is what the companies and
7 Mr. Tack have verbally told us. And if you look at
8 Mr. Tack's evidence, most of it, with the exception of
9 CLT-7, are not contemporaneous records, but are, in
10 fact, information that Mr. Tack got from Talen after
11 the fact.

12 COMMISSIONER RENDAHL: Okay.

13 So Mr. Allison, in your testimony, or I
14 guess in your -- you know, given this February test
15 that had just met the .03 pounds for [sic] MMBTU
16 limit, what action do you think is prudent, shutting
17 down the units to investigate why the limit was hit,
18 or doing further investigation?

19 MR. ALLISON: Starting with the first
20 question, no, I do not believe shutting down the units
21 immediately would have been the right course of
22 action. I believe conducting additional testing would
23 have been the right course of action, doing additional
24 investigations.

25 And basically, my understanding is that

1 the companies chose to believe alternative indicators
2 over the test that actually matters for compliance,
3 and did not conduct any additional tests that actually
4 matter for compliance, or any approximation of those
5 tests for the next several months after that test in
6 February showed that they were right at the limit.

7 And I think that is one of the strangest
8 parts of this whole thing to me, and the part that I
9 would have expected would have -- should have been
10 different is conducting tests as part of the
11 investigation.

12 COMMISSIONER RENDAHL: And similarly, if
13 there was a -- if the test had resulted in a
14 .029 pounds for MMBTU limit result, would your
15 recommendations be the same?

16 MR. ALLISON: Yes, I think so. Given what
17 a jump that was from previous levels and how close
18 that would be to the ultimate threshold, yeah, I think
19 0.029 would have justified that reaction as well.

20 COMMISSIONER RENDAHL: Okay. Thanks.

21 COMMISSIONER BALASBAS: All right.

22 Good afternoon, Mr. Gomez and Mr. Allison.

23 MR. GOMEZ: Good afternoon, Commissioner.

24 COMMISSIONER BALASBAS: So Mr. Gomez, I
25 will start with you. PSE, Avista and Pacific Power

1 all provided on rebuttal different calculations for
2 the power cost -- replacement power costs related to
3 the outage that they would recommend if the Commission
4 were to disallow those costs.

5 Have you reviewed those, and do you agree
6 with those calculations?

7 MR. GOMEZ: We have reviewed them. I
8 agree with the calculation of Mr. Roberts of
9 17.9 million, which it was his revised testimony of
10 November 13th; 3.5 million for Avista, which was the
11 number that was provided by Mr. Johnson; and
12 the .5 million from Mr. Wilding for Pacific Power.

13 COMMISSIONER BALASBAS: So you would not
14 agree with the 11.7 million for PSE, the 2.4 million
15 for Avista or the 457,000 for Pacific Power?

16 MR. GOMEZ: That's correct.

17 COMMISSIONER BALASBAS: All right.

18 And Mr. Allison, the same question to you.

19 MR. ALLISON: So I think there are several
20 different components of the rebuttal testimony
21 calculations. I'll try to take them one by one.

22 One of -- there's one set of calculations
23 that Mr. Johnson performed assuming that there would
24 have been in this counterfactual scenario, where there
25 was an actual investigation conducted in the spring of

1 2018, that there would have had to be an outage of the
2 exact same length and magnitude as the outage that
3 occurred in the summer of 2018.

4 I do not believe there's any evidence to
5 support the idea that that is the case. I think
6 from -- based on the testimony we heard earlier today,
7 the reaction, that a further investigation would not
8 have required shutting down the units. On the
9 contrary, it would have required continuing to operate
10 them to conduct the testing. So I do not believe
11 there's much to support that aspect of the revision to
12 the power cost calculation that was presented in
13 direct testimony.

14 There was a second piece from Puget Sound
15 Energy where they are now, as I understand it,
16 claiming that the number in direct testimony included
17 a portion of power costs that they attributed to
18 Colstrip Units 3 and 4, that they are now saying
19 actually is not attributable to Units 3 and 4.

20 And I, frankly, do not fully understand
21 why those costs were attributed to Units 3 and 4 in
22 the first place, and are not -- now it's not -- it was
23 not totally clear to me from the responses provided,
24 so I -- so I don't have a good answer on that at this
25 point.

1 COMMISSIONER BALASBAS: So are you then --
2 are you staying with your recommended amounts for
3 disallowance if this Commiss- -- if the Commission
4 were to go that route in this case, based on your --

5 MR. ALLISON: Yes.

6 COMMISSIONER BALASBAS: -- testimony?

7 MR. ALLISON: And I -- just quickly,
8 there's a third piece, which is how those get passed
9 through the actual recovery mechanisms, dead bands,
10 sharing, I'm not touching on that. Yes, the amount
11 that was improperly incurred, I'm sticking with those
12 numbers from my direct testimony.

13 COMMISSIONER BALASBAS: All right. Thank
14 you.

15 So Mr. Gomez, regardless of the number for
16 power -- replacement power costs related to the
17 outage, for PSE, would you agree that there is no
18 impact to the ratepayers due to the dead bands and the
19 sharing pieces of their power cost mechan- -- PCA?

20 MR. GOMEZ: That's assuming that the --
21 that the outage costs are allowed to be actual costs
22 that would be passed through the bands.

23 My understanding of how that would be
24 handled in a disallowance is they wouldn't pass
25 through the bands at all. There would be a

1 restatement of the actuals, and that \$17.9 million
2 just -- would just not exist.

3 COMMISSIONER BALASBAS: Okay.

4 So then how would you -- for Avista, how
5 do you believe your recommendation would impact
6 flow-through in the IRM?

7 MR. GOMEZ: They would have to restate
8 their actuals as if the outage cost didn't exist.
9 That's my understanding of how the disallowance was
10 handled in Joy Longwall (phonetic).

11 COMMISSIONER BALASBAS: And would you say
12 the same for Pacific Power's PCAM?

13 MR. GOMEZ: Yes.

14 COMMISSIONER BALASBAS: All right.

15 So Mr. Gomez, in your testimony, you
16 stated that the utilities should be allowed to recover
17 their share of the 3.4 million in O&M and capital
18 expenses associated with corrective post-outage
19 action; is that correct?

20 MR. GOMEZ: That's correct, Commissioner.

21 COMMISSIONER BALASBAS: Did you provide
22 anywhere in your testimony or in the record a breakout
23 of that 3.4 million for each company's share of that
24 amount?

25 MR. GOMEZ: Yes, but I don't have it

1 immediately available. It would take me some time to
2 give you those numbers. I don't have them off the top
3 of my head.

4 COMMISSIONER BALASBAS: Okay.

5 I would like to make that a bench request.

6 JUDGE O'CONNELL: We'll make that Bench
7 Request No. 2 to have a response to the breakdown of
8 the \$3.4 million.

9 MR. GOMEZ: If I may, Commissioner, in the
10 Avista general rate case and in the Puget Sound
11 general rate case, for Puget Sound and Avista, those
12 numbers are broken up, but we would gladly provide
13 them in bench request also.

14 JUDGE O'CONNELL: I think we'd like to
15 have them consolidated in one place.

16 COMMISSIONER BALASBAS: Yes.

17 JUDGE O'CONNELL: Thank you.

18 COMMISSIONER BALASBAS: And Mr. --
19 Mr. Allison, again, on the 3.4 million in O&M costs,
20 do you agree with Mr. Gomez that the company should be
21 allowed to recover those costs?

22 MR. ALLISON: That's not something I
23 evaluated in my testimony, but I'm not disputing the
24 reasonableness of the ultimate response to the outage,
25 so I do not see a problem with that.

1 COMMISSIONER BALASBAS: And then finally,
2 Mr. Gomez, in your testimony in the Puget Sound Energy
3 general rate case, I believe you recommended
4 disallowance of some costs where you are recommending
5 recovery here.

6 Could you -- would you please -- would you
7 please state, what is your recommendation?

8 MR. GOMEZ: Yes, Commissioner.

9 The reason why the recommendation in the
10 Puget Sound rate case was to not allow recovery is
11 because we hadn't had a decision in this case yet. So
12 it's really a matter of there be [sic] a convergence
13 of the decisions so that the Commission could render a
14 decision either relative in the Puget Sound general
15 rate case, but I could not make my recommendation
16 there with having not completed my testimony in the
17 outage case.

18 COMMISSIONER BALASBAS: Okay. All right.
19 Thank you.

20 JUDGE O'CONNELL: Okay. That's all our
21 non-confidential bench questions for these two
22 witnesses. So that almost brings -- one moment.

23 Before we end our non-confidential
24 session, let me confer with the commissioners for a
25 moment.

1 (Brief discussion off the record.)

2 JUDGE O'CONNELL: Okay.

3 That is all of the non-confidential bench
4 questions we want to ask at this time. We are going
5 to close the non-confidential session of this hearing.

6 We're going to take a ten-minute break.

7 It is currently 10 till 3:00. We will clear the
8 court -- the hearing room, and at 3:00, we will return
9 in a company confidential session. Only persons
10 authorized to hear and be in the courtroom -- the
11 hearing room for company confidential information will
12 be allowed back in.

13 The public conference bridge line will be
14 turned off, and we will discuss company confidential
15 issues, including cross-examination and bench
16 questions.

17 So with that, we will be off the record.

18 We will return at 3:00. Thank you.

19 (End of non-confidential session.)

20 (A break was taken from
21 2:52 to 3:05 p.m.)

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(Hearing concluded at 6:33 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, ANITA W. SELF, a Certified Shorthand
Reporter in and for the State of Washington, do
hereby certify that the foregoing transcript is true
and accurate to the best of my knowledge, skill and
ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 18th day of February 2020.

ANITA W. SELF, RPR, CCR #3032