

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co., :
a Division of MDU Resources : Case No.
Group, Inc. : PU-10-124
Electric Rate Increase Application :

TRANSCRIPT OF

HEARING

VOLUME IV

PAGE 915-1136

Taken At
State Capitol
Bismarck, North Dakota
November 12, 2010

BEFORE JUDGE AL WAHL
-- TEMPORARY ADMINISTRATIVE LAW JUDGE --

A P P E A R A N C E S

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COMMISSIONERS PRESENT:

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COMMISSIONER TONY CLARK
COMMISSIONER BRIAN KALK

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A P P E A R A N C E S (Continued)

MR. SCOTT SKOKOS
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FOR INTERVENOR,
MISSOURI VALLEY
RESOURCE COUNCIL.

1 (The proceedings continued, commencing at
2 8:31 a.m., Friday, November 12, 2010, as follows:)

3 JUDGE WAHL: All right. Let's be in
4 order. This is the continued hearing -- well, not
5 the continued hearing -- it's the hearing of the
6 application of Montana-Dakota Utilities Co., a
7 division of MDU Resources Group, Inc., for an
8 electric rate increase application. This is the
9 North Dakota Public Service Commission Case No.
10 PU-10-124, which was continued from November 10.

11 For the record, I note the absence of
12 James D. Roaché, who is an intervenor for these
13 proceedings. Mr. Roaché completed his presentation
14 on Wednesday, November 10, and will not participate
15 further in the actual hearing. Mr. Roaché,
16 however, will continue to participate for the
17 further proceedings for briefing and for submission
18 of any proposed findings of fact, conclusions of
19 law and order and briefing that the Commission will
20 ask for.

21 I also should say for anyone listening by
22 the Internet that for today's hearing, parties will
23 be participating by telephone. Sometimes we have a
24 little difficulty with the microphones and the
25 sound. People participating -- people listening by

1 the Internet should call the Public Service
2 Commission at 328-2400 if you have difficulty
3 hearing and we will have somebody check the
4 microphones and be sure that we're getting good
5 streaming SOUND for the Internet.

6 I also remind people that in this fourth
7 day of the hearing I really do expect to finish
8 today. I would like to think we would finish early
9 afternoon at the latest, so those of you who have
10 considered coming to the Commission hearing and
11 offering testimony regarding anything which you
12 think the Commission should know and should
13 consider for their determination of MDU's
14 application for an electric rate increase should
15 feel free to do so. I will be available during
16 recesses. I think we're going to have a couple of
17 recesses this morning.

18 And, in any event, at the conclusion of
19 the presentation of all of the evidence, if there
20 is anyone present who would then testify before the
21 Commission, I will recess again. I will be glad --
22 very happy to talk to you about how you can present
23 your testimony. If you have any documents that you
24 would want the Commission to have as part of its
25 record for its consideration, I will help you mark

1 those documents and offer them as evidence. I will
2 do what I can to help you with your testimony, so
3 please don't hesitate to come to this hearing and
4 participate however you would.

5 With that, let's proceed. Mr. Savelkoul,
6 what about -- I forgot to ask you about Mr. Neigum.
7 Were you going to recall him as part of your -- as
8 part of your cross-examination?

9 MR. SAVELKOUL: Yeah. My understanding
10 with respect to Mr. Neigum was Exhibit CAS 14.

11 JUDGE WAHL: That's right.

12 MR. SAVELKOUL: Just needed a little bit
13 of explanation about what the intent was.

14 JUDGE WAHL: Mr. Kuntz, can we do that now
15 to clean that up?

16 MR. KUNTZ: Well, we intend to call Mr.
17 Neigum anyhow, so he was going to be our start-off
18 witness to cover a couple things, so he can do
19 that.

20 JUDGE WAHL: Okay. Well, let me just talk
21 about that a little bit. Are you moving back into
22 rebuttal now? And I understand we've combined
23 rebuttal. I don't want to -- I want to be sure
24 that we present this in as orderly fashion as
25 possible to provide as much continuity as we can,

1 and you know that better -- or you and Mr.
2 Savelkoul know that better than I do.

3 MR. KUNTZ: We've got three witnesses left
4 to present, two of which you might call rebuttal or
5 surrebuttal, and that would be Mr. Neigum and Mr.
6 Goodin. My intent was to call Mr. Neigum and then
7 Mr. Goodin and then the final witness would be
8 Tamie Aberle on rate design. That was my plan.
9 We're flexible. We can take them in whatever order
10 you want, but that was my plan.

11 JUDGE WAHL: Well, I want to take them in
12 the order that provides the most comprehensible,
13 cogent presentation of the application and to
14 enable Mr. Savelkoul to follow up in a logical way.

15 Mr. Savelkoul, does Mr. Kuntz's proposal
16 meet with your agreement?

17 MR. SAVELKOUL: That's just fine. Now, we
18 also had one exhibit that I believe Witness Senger
19 was going to address and that's CAS 10.

20 MR. KUNTZ: Yes, we have -- Mr. Senger is
21 here. I don't have any questions for him, but if
22 you have questions, Mr. Savelkoul, he's available
23 to take the stand.

24 MR. SAVELKOUL: Thank you so much.

25 JUDGE WAHL: So what would you propose the

1 order be, Mr. Savelkoul?

2 MR. SAVELKOUL: I believe what witness for
3 the company -- just what counsel for the company
4 proposes is fine with the addition of Mr. Senger at
5 the end.

6 JUDGE WAHL: All right. That's
7 satisfactory. Ms. Jeffcoat-Sacco?

8 MS. JEFFCOAT-SACCO: Whatever the parties
9 want is fine with me.

10 JUDGE WAHL: All right. I agree. Let's
11 proceed then as you proposed, Mr. Kuntz.

12 MR. KUNTZ: First of all, Your Honor,
13 we've got a couple preliminary things.

14 JUDGE WAHL: All right.

15 MR. KUNTZ: There was a request for three
16 late-filed exhibits, MDU late-filed Exhibit 13, Mr.
17 Del Vecchio said he would check and see if he could
18 find the turnover calculations that he had
19 performed. I conferred with Mr. Del Vecchio. He
20 said that he went back and looked and the work that
21 he was referring to was done about four years ago
22 in support of a board presentation made by the then
23 vice president of human resources and he doesn't
24 have those calculations anymore in support of that
25 presentation.

1 Mr. Goodin has an exhibit regarding
2 employee turnover calculation specifically for the
3 utility and we will offer that when Mr. Goodin
4 takes the stand.

5 The other exhibit was MDU Exhibit 14. A
6 request was made to Mr. Del Vecchio regarding the
7 funding status of the non-bargaining and the
8 bargaining pension plans and I have that document
9 prepared by Mr. Del Vecchio, MDU 14. I think MDU
10 14 is pretty self-explanatory. The only line item
11 that I didn't understand when Mr. Del Vecchio
12 provided me this is the second line. It says,
13 "less credit carryover." It was explained to me
14 that under certain guidelines -- ERISA guidelines
15 if you overfunded one year, you can't count that in
16 determining your balance, so that's what that
17 negative \$5 million is on the second line.
18 Otherwise, I think this is pretty self-explanatory.

19 Then MDU Exhibit late-filed --

20 JUDGE WAHL: Let me note for the record,
21 with regard to MDU 14, this is a late-filed exhibit
22 which was previously received as a late-filed
23 exhibit.

24 MR. KUNTZ: Your Honor, I'm going to put a
25 separate copy over there so we don't forget that

1 Mr. Savelkoul can have. I'm sure somebody will be
2 able to get it to him. Then MDU late-filed Exhibit
3 15 was a request for the 2006 RFP that eventually
4 led to the decision to go forward with the Diamond
5 Willow I. I have copies of that document.

6 JUDGE WAHL: I've got them. I'm sorry.

7 MS. JEFFCOAT-SACCO: Your Honor.

8 JUDGE WAHL: Yes, Ms. Jeffcoat-Sacco.

9 MS. JEFFCOAT-SACCO: Are there two extra
10 copies so you could make two piles, one for Mr.
11 Savelkoul, one for Mr. Roaché? And then do we have
12 them or not?

13 JUDGE WAHL: I've already overlooked Mr.
14 Roaché. Thank you. Absence does not necessarily
15 make the heart grow fonder.

16 COMMISSIONER CRAMER: I miss him.

17 MR. KUNTZ: Pardon?

18 COMMISSIONER CRAMER: Nothing.

19 MR. KUNTZ: That takes care of the
20 preliminary matters. And just for the record we
21 would offer MDU Exhibits 14 and 15.

22 JUDGE WAHL: Yes. And I note for the
23 record, Mr. Kuntz, that both of these exhibits were
24 offered and received as late-filed exhibits.

25 MR. KUNTZ: Then we would call Mr. Darcy

1 Neigum -- recall Mr. Darcy Neigum.

2 JUDGE WAHL: Mr. Neigum, you understand,
3 of course, that your testimony continues under oath
4 and subject to penalties of perjury?

5 THE WITNESS: I do.

6 JUDGE WAHL: Mr. Kuntz.

7 MR. KUNTZ: Thank you.

8 **DARCY NEIGUM,**

9 being first duly sworn, was examined and testified
10 as follows:

11 **REDIRECT EXAMINATION**

12 **BY MR. KUNTZ:**

13 Q. Mr. Neigum, good morning. There were a
14 few questions that came up during the course of the
15 prior days' hearings. One was, there was a
16 question about the percentage of the company's
17 capacity -- generation capacity that was wind
18 versus other resources. Can you address that for
19 the Commission, please?

20 A. Yes, I can. I believe that was in
21 response to the question of the indication that
22 9 percent of our system capacity comes from
23 renewable resources and that would be the
24 percentage of wind investment, which would be 50
25 megawatts, as compared against the 540 megawatts of

1 total owned generating capacity that Montana-Dakota
2 has.

3 Q. Now, is that nameplate or certified
4 capacity?

5 A. That would be nameplate, so that would not
6 be accredited capacity. That would be the
7 generators' capability.

8 Q. That's their capability?

9 A. Yes.

10 Q. At maximum output?

11 A. Yes.

12 Q. And do you have a similar percentage with
13 respect to accredited capacity?

14 A. I think it was indicated before the
15 accredited capacity we receive from the wind is
16 about 1 percent.

17 Q. What about -- 1 percent of total
18 accredited capacity?

19 A. Correct.

20 Q. And what would be the company's total
21 accredited capacity of that 540 nameplate? Do you
22 know off the top of your head?

23 A. The total accredited capacity that
24 Montana-Dakota receives for its own generation is
25 about 517 megawatts.

1 Q. 517. And, Mr. Neigum, just now we marked
2 as MDU late-filed Exhibit 15 a copy of the 2006 MDU
3 request for proposals regarding a wind project.

4 You're familiar with that exhibit?

5 A. Yes, I am.

6 MR. KUNTZ: 23?

7 JUDGE WAHL: Yep, 23.

8 Q. (MR. KUNTZ CONTINUING) Showing you what's
9 been marked as MDU Exhibit No. 23, can you tell me
10 what that document is?

11 A. That document -- the first part of that
12 document is the summary of a presentation that was
13 given to IRP Public Advisory Group back in March of
14 2007. It shows a summary of the responses received
15 in the 2006 RFP for -- the Montana wind RFP and
16 also does an evaluation and shows the six bids that
17 were received on that and the relative cost of
18 each.

19 Q. And that would have been prepared by Mr.
20 Steen; is that correct?

21 A. That is correct.

22 MR. KUNTZ: We would offer MDU Exhibit 23.

23 JUDGE WAHL: Mr. Savelkoul?

24 MR. SAVELKOUL: I don't have a copy of
25 that.

1 JUDGE WAHL: Yeah, I know you don't.

2 MS. JEFFCOAT-SACCO: Your Honor --

3 JUDGE WAHL: Ms. Jeffcoat-Sacco.

4 MS. JEFFCOAT-SACCO: -- if there's a few
5 minutes, we can scan one and e-mail it to him.

6 That will work. If you're at your normal e-mail,
7 I'll go and do that.

8 MR. SAVELKOUL: I am. Thank you.

9 JUDGE WAHL: Yeah, let's do that.

10 MR. SAVELKOUL: If there are any other
11 known exhibits that the company would be proposing
12 today, that might be helpful to have, as well.

13 THE WITNESS: The only one that was
14 included in that package -- I'm sorry -- as well is
15 also summaries of the six proposals received, plus
16 also a copy of the RFP that was previously
17 distributed.

18 MR. KUNTZ: The RFP, itself, is part of
19 this exhibit?

20 THE WITNESS: Yes.

21 MR. KUNTZ: That would be the same as part
22 of our MDU Exhibit 15?

23 THE WITNESS: Correct. It would be the
24 same RFP.

25 MR. KUNTZ: I'm looking -- Mr. Savelkoul,

1 we have the turnover study that was done by
2 Montana-Dakota we intend to introduce. We will
3 also be introducing a response to a discovery
4 request, number 25, I believe it was, provided to
5 staff regarding incentive compensation. I believe
6 those are the only -- and Tamie's tariff. Is that
7 new?

8 MS. ABERLE: I just gave it to Illona.
9 She's sending it.

10 MR. KUNTZ: There's also a tariff exhibit
11 that Tamie Aberle will be sponsoring that is being
12 e-mailed to you, as well.

13 MR. SAVELKOUL: Thank you, counsel.

14 JUDGE WAHL: Mr. Savelkoul, will you let
15 me know when you've got that scan, I'm talking
16 about MDU 23 now, and then we'll proceed.

17 MR. KUNTZ: And I assume Mr. Savelkoul has
18 got a copy of staff response 25 because it's pretty
19 voluminous.

20 MR. SAVELKOUL: I'll verify that. One
21 second. I do.

22 Q. (MR. KUNTZ CONTINUING) Mr. Neigum, there
23 was another issue --

24 MR. SAVELKOUL: Actually, counsel, all I
25 have in the disc that was provided to me is there's

1 an Attachment M to that.

2 MR. KUNTZ: No. There's Attachments A
3 through L.

4 MR. SAVELKOUL: I see the cover sheet
5 mentions that.

6 MR. KUNTZ: Attachment M was sent at a
7 later date after the initial one.

8 MR. SAVELKOUL: That's all that I find
9 that I received.

10 MR. KUNTZ: Well, actually, Mr. Goodin is
11 going to be testifying primarily on one attachment
12 in that exhibit. Maybe what we could do is scan
13 that particular attachment. It would be
14 attachment --

15 MR. SAVELKOUL: E, I assume.

16 MR. KUNTZ: E, correct.

17 MS. JEFFCOAT-SACCO: He's doing it, but
18 they're not sent yet.

19 MR. KUNTZ: So we can pull that out and
20 scan that to you.

21 MR. SAVELKOUL: Thank you.

22 Q. (MR. KUNTZ CONTINUING) Mr. Neigum, there
23 was some questions raised regarding the cost
24 difference or the reason for the cost difference
25 between the Diamond Willow project and the Cedar

1 Hills project. Can you describe for the Commission
2 what cost differences there were and what they were
3 attributable to?

4 A. Yes, I can. There were cost difference as
5 far as capital goes between the construction cost
6 of the Diamond Willow project -- I project and the
7 Cedar Hills project. These projects were built
8 approximately two years apart in time from each
9 other, so the major reasons for the difference in
10 cost was in equipment escalation prices,
11 particularly in the wind turbines, that had
12 occurred, some design specification differences,
13 including foundations for the projects, and also
14 additional substation interconnect cost that we had
15 incurred with Cedar Hills.

16 Q. Have you reviewed Mr. Mathai's testimony
17 in this case?

18 A. Yes, I have.

19 Q. Mr. Mathai includes a calculation on page
20 14 suggesting that there was approximately a 14
21 percent premium associated with Diamond Willow II
22 in comparison to the Cedar Hills project. Are you
23 familiar with that calculation appearing on page 14
24 of his testimony? And that would be -- I forget
25 the exhibit number.

1 A. Yes, I am.

2 Q. And do you agree with the magnitude of the
3 premiums calculated by Mr. Mathai?

4 A. I would not agree with the premium as
5 calculated.

6 Q. Can you explain why?

7 A. This calculation, as I think it was Ms.
8 Mulkern indicated before, is under the assumption
9 that the earned income tax credit in the State of
10 North Dakota is all received at the time of
11 construction or at time zero, so there would be an
12 offset in the rate base as far as in the total
13 amount of that earned income tax credit. That
14 earned income tax credit is earned over a five-year
15 period, so you wouldn't receive it all at time
16 zero.

17 Q. If you take that into consideration, the
18 premium isn't as big then?

19 A. Correct.

20 Q. Then, also, did you review the exhibits
21 presented by Mr. Roaché in this proceeding?

22 A. Yes, I did.

23 Q. And did you agree with the conclusions
24 reached by Mr. Roaché in his analysis of the
25 exhibits provided by the company that were included

1 in his exhibits?

2 A. I guess I had some additional comments in
3 looking at what he had prepared. On the first one,
4 Exhibit 1, which was the first page which was
5 showing the number of hours that the generation was
6 less than 2 megawatt-hours or greater than 18, the
7 total number of hours, I looked at that and
8 estimate that was about 2,700 hours is what that
9 was equal to. If you actually look at all the
10 other hours the generation was between 2 megawatts
11 and 18 megawatts, you would end up finding it was
12 almost 6,000 hours, which would end up being closer
13 to probably 65, 70 percent of the time there was
14 actually production between 2 and 18 percent, so it
15 would be significantly more than the period of
16 times he had indicated on figure 1.

17 Q. Any other comments on his exhibits?

18 A. Yes, I did. Also in looking at his
19 exhibits, on page -- or Exhibit 14, which was
20 showing the relative by month total generation by
21 resource type, the wind investment, itself, only
22 represents 2 and a half percent of the total energy
23 requirement that comes from Diamond Willow I. At
24 this time in 2009 Diamond Willow I would have been
25 the only wind project that would have been on line

1 and it would have been about 2.5 percent of the
2 total generation, so it is a small percentage. The
3 other one that it does show as the significant
4 amount of generation we are dependent upon is
5 fossil generation and also in market purchases that
6 we do have.

7 Q. And then any other commentary on his
8 exhibits?

9 A. I had one other one which was on page --
10 or Exhibit 15, which was this graph that was
11 showing with the squiggly lines. What this
12 represents is by month. This would be January.
13 This ends up showing the average production for
14 each hour in the month. So on hour ending one the
15 average production would be about 13 megawatt-hours
16 that it would have averaged for the month. And
17 even though the individual details end up showing
18 that the wind is quite variable, as I don't think
19 anyone would argue, the history that we had with
20 Diamond Willow I and it being a good wind resource
21 is that the winds blow on average pretty much the
22 same on every hour in a given month, is what this
23 ends up showing. So you don't end up seeing a
24 situation where there's a significant portion or
25 disproportion of the generation during an off-peak

1 period.

2 Q. Mr. Neigum, do you agree or disagree with
3 Mr. Roaché's statement that there is no role in a
4 generation portfolio for wind generation?

5 A. I would disagree with that.

6 Q. And why?

7 A. I think wind can be included inside -- in
8 a balanced generation resource portfolio. For the
9 sake of Montana-Dakota it can take out some of the
10 volatility we talked about previously from energy
11 prices from purchasing from the market as
12 Montana-Dakota is a net buyer and also at least
13 shields us from the variability we end up seeing in
14 fossil fuels, with our other generation source.

15 MR. KUNTZ: That's all the questions I
16 have of Mr. Neigum.

17 JUDGE WAHL: Mr. Savelkoul.

18 **RECROSS-EXAMINATION**

19 **BY MR. SAVELKOUL:**

20 Q. I am just printing out this exhibit, but
21 first, with respect to your discussion on Exhibit
22 CAS 14, the 9 percent system nameplate that MDU
23 has, is that relevant from a system planning
24 perspective?

25 A. From the standpoint of a system planning

1 perspective it would be, I guess, an indication of
2 the balance in our portfolio that we have as far as
3 by looking at what percentage of our generation by
4 classification. I think, as Mr. Goodin indicated,
5 70 percent of our generation on a nameplate basis
6 is in coal-fired generation and our fossil fuels,
7 20 percent is on combustion turbines and 10 percent
8 is on renewables. So from an understanding of a
9 balance of generation in a portfolio, I think it
10 can be useful.

11 Q. But from what is needed to meet customers'
12 capacity needs, it's the 1 percent that is more
13 relevant, is it not?

14 A. Correct.

15 Q. With respect to your discussion on the
16 Montana premium, I just want to ask about your
17 response to the company's counsel in which you said
18 the premium is not as big for that project. Has
19 the company presented anything that you're aware of
20 in this case which specifies what the premium was?

21 A. I think we would have provided -- as a
22 part of data request 52, we had provided a cost
23 analysis showing what the relative generation costs
24 were for all three of the wind projects, which
25 would have shown on a levelized basis that they

1 were all comparable with each other.

2 Q. Now, 52 was responded to sometime prior to
3 the start of this proceeding?

4 A. Correct.

5 Q. And didn't Ms. Mulkern's rebuttal
6 testimony filed on the first day of -- or submitted
7 on the second day of the hearing suggest that the
8 North Dakota tax credit wasn't contemplated in this
9 filing until that amendment?

10 A. I think -- I think her comment was it was
11 not included in the revenue requirement calculation
12 as we had submitted our request for this rate case.

13 Q. Okay. I'm looking at Exhibit CAS 16.
14 That's discovery response 52. And I'm looking at
15 the amortization of the North Dakota income tax
16 credit which is received over five years and, as
17 opposed to passed right through, is amortized over
18 the life of the project. If it was passed right
19 through, I understand the company's argument -- has
20 an argument that it can't be or it shouldn't be,
21 but if it is passed right through as received,
22 wouldn't that affect the per-kilowatt-hour cost in
23 the first five years and, frankly, beyond?

24 A. I guess I wouldn't consider myself able to
25 speak as far as how amortization is treated.

1 Q. I'm not asking you whether this exhibit
2 presents it correct or incorrect. I'm asking you
3 if it is passed through as received in the first
4 five years, wouldn't that affect the
5 per-kilowatt-hour cost?

6 A. Yes, it would.

7 Q. And Exhibit 8R, if I could draw your
8 attention to that. It's Ms. Mulkern's rebuttal
9 testimony.

10 A. I have a copy of it.

11 Q. I'm looking at RAM 2 of 8. There's a line
12 indicating investment tax credits, 293.

13 A. 2 of 8?

14 Q. RAM-3, 2 of 8.

15 A. RAM-3, 2 of 8.

16 Q. And I'm comparing that to Exhibit 52 -- or
17 I'm sorry -- Exhibit CAS 16, that's the discovery
18 response 52 that we were just referring to, and I'm
19 looking specifically at the investment tax credit
20 line on page 2 of 8 and the amortization of North
21 Dakota state income tax credit line on 1 of 10,
22 Attachment C to Exhibit CAS 16.

23 A. I'm sorry. I'm not keeping up.

24 Q. Oh, I'm sorry. I will direct you
25 specifically to -- with respect to 52 Attachment C,

1 page 1 of 10.

2 A. Attachment C, 1 of 10. Okay.

3 Q. And then do you also have page 2 of 8 on
4 RAM-3, the rebuttal testimony of Ms. Mulkern?

5 A. I have Attachment C, 1 of 10 and RAM-3,
6 2 of 8, yes.

7 Q. That's correct. And RAM, 2 of 8, I direct
8 you to investment tax credits line and we see
9 \$293,000. Do you see that?

10 A. I do.

11 Q. And on page 1 of 10 there's an
12 amortization of North Dakota state income tax
13 credit line, which indicates 70,000 -- 71,000
14 roughly. Do you see that?

15 A. I do.

16 Q. Can you explain why -- what the difference
17 is?

18 A. I'm not able to explain the difference of
19 that. There may be someone who is more suitable to
20 do that, but I'm not able to.

21 Q. Do you know who that might be?

22 A. I would defer to Ms. Mulkern.

23 Q. Would you assume that one of those is
24 wrong?

25 A. I'm not sure what -- at this point and my

1 knowledge, I'm not sure I could make that
2 assumption.

3 Q. So you can't make an assumption as to
4 whether page 2 of 8 is a correct number?

5 A. I'm not familiar with amortization or the
6 preparation of this schedule, so I would not be
7 able to provide any sort of understanding as far as
8 if that number would be correct or not.

9 MR. SAVELKOUL: Can the company make
10 available Ms. Mulkern or whoever would be suitable
11 to discuss what the difference is?

12 MR. KUNTZ: Yes.

13 MR. SAVELKOUL: I'm going to grab those
14 exhibits, if I might just have one minute.

15 JUDGE WAHL: The only exhibit pending, Mr.
16 Savelkoul, for your response is MDU 23.

17 MR. SAVELKOUL: And that's the IRP Public
18 Advisory Group input?

19 JUDGE WAHL: That's correct.

20 Q. (MR. SAVELKOUL CONTINUING) Mr. Neigum, on
21 page 2 of the RFP, which is an attachment to this
22 report, I note that there was a criteria listed at
23 number 7 that it be located within MDU's service
24 territory.

25 A. Yes.

1 Q. Can you explain why that's relevant?

2 A. I think that would just be -- the
3 relevancy of that was we wanted to ensure that the
4 energy was deliverable and used by Montana-Dakota's
5 customers.

6 Q. But it could be used by Montana-Dakota's
7 customers provided it's within the MISO footprint,
8 could it not?

9 A. Yes, it would qualify to serve the energy
10 needs of Montana-Dakota's customers if it was in
11 the MISO footprint.

12 Q. So this project could have been located
13 anywhere where it could provide energy?

14 A. In order to -- in order to provide energy
15 it could have been located anywhere within MISO.
16 One of the considerations was around the
17 deliverability that we had to demonstrate to
18 Montana, so the farther that it gets away, the
19 harder it is to show the deliverability to qualify
20 as a resource for the Montana renewable portfolio
21 standard.

22 Q. So it was a criteria exclusive -- you
23 know, basically to satisfy the Montana mandate?

24 A. I think that's why we said we went out for
25 this RFP, was to look for resources that would

1 qualify and also provide and serve the needs of all
2 Montana-Dakota customers.

3 Q. So there's a significant limitation to who
4 could provide under this RFP, was there not?

5 A. I guess based on the criteria, we were
6 looking for something that was deliverable to MISO
7 and within MDU service territory.

8 Q. Yes or no, is that a significant
9 limitation to who can respond?

10 A. It can be.

11 Q. Is that a yes?

12 A. I would say it can be.

13 Q. Was it in this case?

14 A. I guess I can't say myself because I was
15 not involved with that process.

16 Q. This is an exhibit that you are testifying
17 to, is it not?

18 A. Yes, it is.

19 Q. And you can't respond to whether or not
20 this condition is a limitation?

21 MR. KUNTZ: Asked and answered.

22 JUDGE WAHL: Sustained.

23 THE WITNESS: From the criteria --

24 Q. (MR. SAVELKOUL CONTINUING) Is there
25 anybody for the company that could testify to that?

1 MR. KUNTZ: I think he's asking the
2 witness to speculate whether this would have
3 discouraged certain developers to submit a proposal
4 and he said it could have. Now, whether it did or
5 didn't, I guess you'd have to ask those developers,
6 and to that extent, no, we don't have any of those
7 developers in the room.

8 MR. SAVELKOUL: What I asked is whether he
9 perceives it as a limitation to who could respond.

10 MR. KUNTZ: And he answered. That's what
11 was asked and answered and he said it could be.

12 MR. SAVELKOUL: Okay.

13 JUDGE WAHL: Well, that wasn't my
14 understanding of the question, and perhaps I
15 misunderstood it, but, Mr. Savelkoul, if you can
16 rephrase your question one more time to make one
17 last chance to get the information that you're
18 looking for, I will allow it. The question that I
19 understood was whether this -- whether the criteria
20 for a location within MDU's service territory was
21 because of the Montana renewable portfolio
22 standards. Did I misunderstand that, Mr.
23 Savelkoul?

24 MR. SAVELKOUL: That was one of the
25 questions, yes.

1 JUDGE WAHL: But not the question which is
2 at issue now? Well, in any event, rephrase your
3 question, please, and let's put it forward again.

4 Q. (MR. SAVELKOUL CONTINUING) I'll ask that
5 question. Was this criteria added to satisfy
6 Montana mandate?

7 A. I would say no.

8 Q. Can you explain what -- can you explain
9 what the reason for adding this criteria was?

10 A. The reason for that criteria as I would
11 look at it would be one to show that the energy is
12 available and used by Montana-Dakota's customers,
13 not connected to somebody else's system.

14 Q. Okay. And Montana-Dakota Utility
15 customers can use energy deliverable to the MISO
16 system, can it not?

17 A. Yes, it can.

18 Q. So what is the purpose of that -- adding
19 that provision?

20 A. It would be our -- at least it would be
21 from a criteria standpoint, it would be our desire
22 to have those resources connected to our system to
23 show that it's used by our customers.

24 Q. Can you explain to the Court -- or the
25 Commission why that is important?

1 A. I guess one of the things that occurs, if
2 you end up even within the MISO system or if it's
3 connected to somebody else's system that's not
4 MISO, and we did have three proposals of the six
5 that were received that were not included inside
6 Montana-Dakota's service territory, so to say that
7 excluded it, I would say no, because we had two on
8 the western interconnection, which we said before
9 weren't deliverable, and we had one in the eastern
10 grid that was connected to WAPA's system. If it
11 connects to someone else's system, there's an
12 additional cost of transmission service to end up
13 getting it to a MISO load.

14 The other one that occurs, depending where
15 a wind generator or resource can be located,
16 because we talked about before if you have
17 congestion or constraints on the transmission
18 system, there can end up being pricing differences
19 between the price that generation receives and the
20 price that load pays, and so you may not get the
21 full benefit of the energy at the price that you
22 paid for it to serve your load.

23 Q. But that transmission cost is
24 quantifiable, is it not?

25 A. If it's on someone else's system, yes, but

1 the transmission cost if it's located outside
2 Montana-Dakota's pricing zone would not be.

3 Q. MISO has tariffs that address
4 transmission, does it not?

5 A. It has tariffs for transmission, but the
6 pricing differences are calculated as part of the
7 local marginal price and that includes a component
8 for congestion which can be in addition to what the
9 tariff has for -- might assign for a transmission
10 charge, and load in MISO pays transmission, not the
11 generator.

12 Q. And that is a quantifiable number?

13 A. Not in the case of delivery of wind energy
14 or any energy from outside one's pricing zone, it
15 is not.

16 Q. You can't project the cost?

17 A. No. It's based upon system conditions and
18 congestion. If you have a resource that's located
19 a state away or some distance away from your load,
20 based upon actual transmission usage, it can create
21 congestion on the transmission system and there is
22 a pricing difference that can occur on the LMP
23 prices between one node and another node.

24 Q. Well, in your entire system planning isn't
25 that what is done, you estimate the cost of power

1 delivered from MISO?

2 A. That's -- I would say we're talking about
3 a different thing.

4 Q. Yeah. I'm proposing that it's a
5 quantifiable number that is done in other
6 situations.

7 A. From the standpoint of generation
8 resources that connect to our system, we know what
9 those transmission costs are and they end up being
10 included in our rates, so they're quantifiable. If
11 you end up having transmission service from a
12 generating resource that's outside your system, you
13 can go off and you can request a transmission
14 service request of which you'll pay a tariff rate
15 for, but if it comes back to an energy price that
16 you receive at a generating node, there is a
17 difference that can occur in the real time based
18 upon congestion that creates a pricing difference,
19 and that's not -- I would say not specifically
20 quantifiable like for a tariff.

21 Q. But you could estimate it?

22 A. You could estimate it on historical
23 conditions.

24 Q. Thank you. Number 8 in that criteria, an
25 option for utility ownership, can you explain why

1 that was selected?

2 A. I think that was just one of the requests
3 that we had. I don't know that we discouraged
4 ownership of facilities, but that was one of the
5 considerations we were looking for in this RFP, was
6 to have potential ownership interest largely for
7 the control of a project. Our prior experience
8 with renewables and wind projects is we had
9 actually entered into two power purchase agreements
10 with two other prior wind projects, neither of
11 those got built, and so we never received any
12 energy or resources supplied from those power
13 purchase agreements.

14 Q. And, again, those power purchase
15 agreements were entered into at a price which MDU
16 thought was fair for its ratepayers; correct?

17 A. They would have been negotiated prices
18 that would have been considered to be fair with
19 both the developer and Montana-Dakota.

20 Q. On behalf of its ratepayers?

21 A. Yes.

22 Q. And that price wasn't sufficient to
23 complete the project; is that correct?

24 A. That would be up to the developers'
25 decision as to why they didn't complete those

1 projects. The price was probably certainly an
2 issue for them.

3 Q. So now in this RFP we've created a
4 criteria which would be an additional hurdle and a
5 consideration to remove price concerns with a PPA;
6 is that correct?

7 A. I would say that the ownership is an
8 option, so it wasn't a requirement that was all
9 considered.

10 Q. So in your reading of this criteria, if
11 there were a company that only wanted to submit a
12 PPA because it had a large farm that was
13 cost-effective that it wanted to maintain ownership
14 on and did not want to provide an ownership option
15 for the company, reading this criteria, is it your
16 view that that company would be discouraged from
17 submitting a PPA-only response?

18 A. I guess I would say in regards to the six
19 proposals we received, there were several of them
20 that were PPA only and did not include a purchase
21 option, so there were individuals and companies
22 that did submit bids without an ownership option.

23 Q. Do you believe that this would discourage
24 a PPA-only response to your request?

25 A. I would say no. And I would say no

1 because it's an option. It's not a requirement
2 that says those are the only proposals that we
3 would consider.

4 Q. The line under criteria directly above
5 these eight items reads, "Among the criteria that
6 will be considered in determining a preferred
7 responder are the following," and then number 8 is
8 an option for utility ownership. So I read that to
9 state a response that does not include a utility
10 ownership option may be considered nonresponsive or
11 not be a preferred responder. Would you not?

12 A. I guess I would also look under process
13 where it says that Montana-Dakota will assess all
14 proposals to determine the most economical,
15 feasible and viable options.

16 Q. And number 8 is a condition that would be
17 preferred under that process?

18 A. It was a preferred as part of the
19 criteria.

20 Q. Okay. One of the criteria -- or I'm
21 sorry. If I could direct your attention to page 5
22 of that same document, it reads, "The project must
23 be able to be certifiable in a renewable energy
24 credit market that will operate within the eastern
25 grid system to be determined by the Montana Public

1 Service Commission." Can you explain to me what
2 was meant by that statement?

3 A. There is one market that I understand in
4 the entire eastern interconnection grid that
5 handles the production of renewable energy credits
6 and the retirement of, and that ends up being
7 MRETS, and so that's what it would refer to, is
8 that they have to be able to have the renewable
9 energy credits included inside the MRETS market or
10 system.

11 Q. What is the eastern grid system?

12 A. The electric grid in the United States is
13 broken into three systems, Texas is a grid by
14 itself, and then there is an east, west system. So
15 the eastern edge of Montana is separated from the
16 central and the western part of Montana and there
17 is a line that runs from that point down to
18 basically Texas that divides the electric grid in
19 the U.S. in half.

20 Q. So that eastern grid system does not refer
21 to the eastern grid system of Montana; is that
22 correct?

23 A. That would be the eastern grid in the
24 United States.

25 Q. Does this report in Exhibit 23 include any

1 analysis as to the cost-effectiveness of this RFP
2 process as compared to other nonrenewable
3 resources?

4 A. This summary only provides a comparison of
5 the proposals against each other. As we had talked
6 before, the other considerations would have been
7 around what natural gas prices were and energy
8 prices were that Montana-Dakota was using to
9 purchase energy from the MISO system to service
10 customer needs.

11 Q. And this report doesn't address that?

12 A. This report only shows a comparison of the
13 proposals received to the RFP.

14 MR. SAVELKOUL: Okay. I don't have
15 anything further. Thank you.

16 JUDGE WAHL: This Exhibit MDU 23 is
17 pending, Mr. Savelkoul. Do you object?

18 MR. SAVELKOUL: I do not.

19 JUDGE WAHL: Mr. Skokos?

20 MR. SKOKOS: I don't.

21 JUDGE WAHL: Ms. Jeffcoat-Sacco?

22 MS. JEFFCOAT-SACCO: No objection.

23 JUDGE WAHL: MDU 23 is received. Mr.
24 Skokos, any questions for Mr. Neigum?

25 MR. SKOKOS: Just a couple.

RECROSS-EXAMINATION

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BY MR. SKOKOS:

Q. Mr. Neigum, is it your understanding that North Dakota has one of the most robust resources in the Northern Plains for wind energy?

A. I would say a significant portion of the Upper Midwest would qualify.

Q. Would North Dakota be part of that?

A. North Dakota would be part of that.

Q. Okay. Is it also your understanding that several out-of-state interests are investing in North Dakota's wind resource as we speak?

A. Yes, I guess I would agree with that.

Q. Okay. With the influx of investment in North Dakota wind, do you think it is better for in-state companies to invest in this wind while it's still available? So with the influx of lots of out-of-state companies investing in North Dakota's wind, do you think it's more advantageous to invest now before the wind resource is not necessarily taken up, but there's lots of other out-of-state interests that are investing in the wind prior to?

A. I guess I would say that it depends upon the need that an entity has. You know, there's a

1 significant portion, you know, of the wind that's
2 being developed that's going outside the state, and
3 certainly there is a cost advantage the sooner that
4 it's developed, you know, as far as locations,
5 access to transmission, you know, less amount of
6 network upgrades that are required and depending
7 upon tax treatments that are available certainly
8 factors into a time whether a project is
9 cost-effective.

10 Q. Okay. Just to follow up on some of Mr.
11 Savelkoul's questions, what percentage of your
12 power resources are located specifically in MDU's
13 service territory? Do you know that?

14 A. The only generating resource that would
15 not be located within our service territory would
16 be the Big Stone plant.

17 Q. Okay. So you'd say a vast majority of
18 your resources --

19 A. Yes.

20 Q. -- are within your territory, and that is
21 the precedent you set in the past?

22 A. Yes.

23 Q. Okay. Then just to follow up on that, is
24 it cheaper to build a resource in MDU's service
25 territory versus building a resource outside of

1 MDU's service territory?

2 A. To build?

3 Q. Or just to build and to interconnect into
4 the transmission system.

5 A. I would say that all depends on our
6 location. As far as the cost to build an
7 interconnect is all location dependent.

8 MR. SKOKOS: Okay. No further questions.

9 JUDGE WAHL: Questions, Ms.

10 Jeffcoat-Sacco?

11 **RECROSS-EXAMINATION**

12 **BY MS. JEFFCOAT-SACCO:**

13 Q. Page 5 of the RFP --

14 A. Yes.

15 Q. -- at the top, the end of section 10,
16 before section 11, the paragraph discussing the
17 certifiable renewable energy credit market as
18 determined by the Montana Public Service
19 Commission, has Montana Public Service Commission
20 designated a renewable energy credit market?

21 A. At the time of this RFP there was not a
22 defined MRETS market that was in existence. MRETS
23 ended up being defined and was approved for the
24 whole eastern grid at the time that Diamond Willow
25 I was being constructed, and that has been accepted

1 by Montana as a source for tracking renewable
2 energy credits in the eastern grid.

3 Q. So that is the MRETS market now and
4 Montana has agreed that they're part of the MRETS
5 market?

6 A. For the eastern grid, yes.

7 MS. JEFFCOAT-SACCO: Thanks. That's all I
8 have.

9 JUDGE WAHL: Questions by the
10 Commissioner? Commissioner Cramer.

11 **FURTHER EXAMINATION**

12 **BY COMMISSIONER CRAMER:**

13 Q. Good morning, Darcy. You're going to have
14 to forgive my simple mind, but with regard to
15 Exhibit 23 and the RFP that's attached, on page 1
16 in the opening paragraph it says that "MDU desires
17 to incorporate wind generated energy into its
18 generation portfolio, from Montana wind resources,
19 either through a long-term," and so on and so
20 forth. Then under its supported goals, goal number
21 1 is to "support the economy in areas of Montana
22 that are served by MDU." Doesn't that almost make
23 it required to be built in Montana?

24 A. I would agree with your reading that there
25 would be a strong indication for that. The other

1 one would just be the criteria would be the other
2 determining factor.

3 Q. But if the criteria -- well, I'm trying to
4 reconcile it all as one package and it seems to me
5 that while you might be able to explain away any
6 one of these things, but when you put it in the
7 context of an opening statement that says the goal
8 -- or that the RFP is to solicit proposals with a
9 desire to incorporate wind energy generated from
10 Montana wind resources, that -- I guess if I was a
11 developer in South Dakota, I'd read this and I
12 guess I'd say it would be silly for me to build a
13 wind project in South Dakota when the opening
14 paragraph says the desire is that they come from
15 Montana wind resources. To me it looks like it's
16 mandated to be built in Montana. Am I wrong?

17 A. You're right in your reading of the first
18 paragraph. That is the way that it's written. The
19 other one I would just point back to would just be
20 the criteria which says, you know, MISO
21 deliverability in Montana-Dakota's system. It
22 doesn't say exclusive to Montana.

23 Q. Sure. Okay. Then under the supporting
24 goals -- or the following goals, that goal number
25 1, support the economy in areas of Montana that are

1 served by MDU, is that referring to supporting the
2 economy by having low-cost electricity, or is that
3 referring to supporting the economy by building it
4 in Montana and the supporting jobs and wealth that
5 are created by having a project in Montana?

6 A. I think some of this language and I think,
7 as we've said, one of the reasons that we issued
8 this request for proposal was because of the
9 Montana RPF standard that had come out, and so I
10 think a significant portion of this opening
11 language did come from the Montana Annotated Code
12 for inclusion. So I would just say there's
13 probably more just of that direct correlation. You
14 know, we had looked, you know, certainly to use
15 this as a resource for our entire integrated system
16 as we have the rest of our generating resources.

17 COMMISSIONER CRAMER: I have nothing
18 further. Thank you.

19 JUDGE WAHL: Commissioner Clark.

20 COMMISSIONER CLARK: Thank you.

21 **FURTHER EXAMINATION**

22 **BY COMMISSIONER CLARK:**

23 Q. Do you have the -- or maybe it's in the
24 record somewhere -- the score sheets, as it were,
25 available so the Commission could understand how

1 much weight was given to various criteria?

2 A. I think by looking at the listing, I think
3 the majority of the criteria was either, one, the
4 deliverability. So as far as the two projects that
5 are in the western interconnect, you know, they're
6 not deliverable, so that really leaves four
7 projects and really would basically come down to
8 more so the price at least by looking at this slide
9 here.

10 Q. Right. But I'm just wondering if there's
11 anywhere in the record or provided to Commission or
12 to Commission advocacy staff, was there the actual
13 tabulations? At some point was there a systematic
14 quantification of these criteria where there was a
15 score sheet and for each of the projects that was
16 submitted they had a final score and we could
17 determine, well, this is why this one was picked
18 versus this one versus some other one?

19 A. I don't believe there was other than just
20 a pricing comparison.

21 Q. Okay. On CAS 14 there were questions
22 about the final sentence and that related to
23 approximately 9 percent of system capacity and I
24 understand how that was calculated. The 7 percent
25 of total energy requirements, could you explain how

1 that's arrived at and, again, to use Commissioner
2 Cramer's terminology, in my simple mind, I would
3 think, okay, we're thinking roughly 40 percent
4 capacity factors for wind resources, wouldn't it be
5 roughly 40 percent or less than half of the 9
6 percent, or why is it 7 percent? It seems high to
7 me actually from what I know.

8 A. What this would look at, there was a
9 calculation looking at 2011 when we would have the
10 three wind projects and also the Glen Ullin project
11 which would be in operation for a full year, so
12 they would supply, I think roughly it was, about
13 210,000 megawatt-hours of energy, so that would be
14 about 7 percent of the total energy requirements
15 for all of our electric customers.

16 Q. Glen Ullin is how many megawatts?

17 A. It is -- it's rated at 5.3 megawatts.

18 Q. And its rated capacity is what?

19 A. Its annual capacity factor is estimated at
20 about 70 percent.

21 Q. I guess I'm not fast enough to do the math
22 on the fly, but does that all work out right, that
23 if you took 39 percent roughly of 50 megawatts and
24 70 percent of 5.3 megawatts, would that get you at
25 7 percent of 540 megawatts total capacity?

1 A. No. I think you would be at 210,000
2 megawatt-hours.

3 Q. Okay.

4 A. You have to multiply that by 8760 then as
5 far as to get total energy.

6 Q. It's a function of the total delivered --
7 the total delivered energy?

8 A. Of the percentage of the energy
9 requirements for our customers, renewables will
10 provide roughly 7 percent.

11 Q. So you can't take it into total nameplate
12 value? That's where I'm --

13 A. I guess I was trying to explain the 7.
14 I'm not sure what comparison you were trying to do.

15 Q. I was -- as I said, it just seemed high to
16 me given the capacity factors that we always hear
17 about from, say, wind, but I think I'm
18 understanding that I may be comparing apples and
19 oranges when I do that, that the number that needs
20 to be divided into is the total megawatt-hours over
21 a year on the system; is that right?

22 A. Right, which would be roughly, I think,
23 2.6 or 2.7 million megawatt-hours.

24 COMMISSIONER CLARK: Got it. Thank you.

25 THE WITNESS: You're welcome.

1 JUDGE WAHL: Further questions from the
2 Commission? Follow up, Mr. Kuntz?

3 MR. KUNTZ: Yes. Thank you.

4 **REDIRECT EXAMINATION**

5 **BY MR. KUNTZ:**

6 Q. Mr. Neigum, just on that last series of
7 questions, so, for example, if you had 20 percent
8 of your capacity was gas, you wouldn't necessarily
9 expect that 20 percent of your energy would be
10 generated by gas turbines, would you?

11 A. No, you would not.

12 Q. It might be zero?

13 A. And that's actually what Mr. Roaché had in
14 his graph where he was showing all generation. If
15 you take a look at our gas turbines, you would
16 ending up seeing they basically are zero to the
17 bottom line as far as on production.

18 Q. Even though their capacity is what
19 percentage nameplate of your production ballpark?

20 A. It would roughly be ballpark I think about
21 25 percent.

22 Q. And then you recall the question about why
23 Montana-Dakota's territory service versus anywhere
24 in MISO?

25 A. Yes.

1 Q. Has Montana-Dakota always been a member of
2 MISO?

3 A. It has not.

4 Q. And has there been times in the past since
5 it's been a member of MISO when it's considered
6 withdrawing from MISO or even considered whether it
7 should join a different transmission system?

8 A. Yes, we have.

9 Q. And if the company were to do that
10 sometime in the next 20 years and that generation
11 source was not in MDU's service territory, would
12 you expect that there would then be a cost
13 associated with moving that power from that other
14 -- that other -- the old MISO system into
15 Montana-Dakota's new system, whatever that might
16 be?

17 A. Yes, there would be an additional
18 transmission tariff cost to deliver that energy.

19 Q. You mentioned that prior to doing this
20 RFP -- the 2006 RFP, the company had entered into
21 two power purchase contracts for wind projects on
22 its system; is that correct?

23 A. That is correct.

24 Q. Where were those projects to be located?

25 A. The one project was located on our system

1 near the Ellendale-Edgeley area and the other
2 project would have been located near Java, South
3 Dakota, by Mobridge.

4 Q. And did those two projects -- were they
5 influenced at all by the Montana renewable
6 mandates, as far as you know?

7 A. They were not, to my knowledge.

8 Q. And you were asked to look at some
9 language on page 5 of the RFP. Would you turn to
10 that page again?

11 A. Yes.

12 Q. And under section 12 on that page 5, does
13 that discuss whether or not the company would
14 consider PPAs?

15 A. It does say that, yes, that the company
16 should -- would consider PPAs.

17 Q. And it describes the terms under which it
18 would consider a PPA; is that correct?

19 A. Correct.

20 Q. And regarding the eastern grid, if you'd
21 turn to the second page of Exhibit 23.

22 A. Yes.

23 Q. You see there's kind of a black sort of
24 vertical line across that exhibit?

25 A. Yes.

1 Q. Is that roughly the line that divides the
2 eastern and the western grids?

3 A. It would be as it runs through Montana,
4 Wyoming and South Dakota, yes.

5 Q. And is all of Montana-Dakota's integrated
6 system in the eastern grid as opposed to the
7 western grid?

8 A. All of our load is in the -- is considered
9 to be in the eastern grid.

10 Q. Of the integrated system?

11 A. Of the integrated system.

12 Q. Do you also have load that's in the
13 western grid?

14 A. Yes, we do.

15 Q. What is that?

16 A. That ends up being the load that we have
17 in Wyoming that serves our Sheridan customers.

18 Q. And that's not part of the integrated
19 system?

20 A. It is not.

21 Q. And then you mentioned in response to
22 Commissioner Clark whether there was like a score
23 sheet that kind of summarized or evaluated the
24 project with respect to each other. Do the
25 attachments that are behind the pricing sheet of

1 Exhibit 23 go through an analysis of each of the
2 projects, including the economics?

3 A. Yes, they provide a summary of the
4 proposals that were received. There also would
5 have been a part of the price analysis.

6 MR. KUNTZ: That's all I have.

7 JUDGE WAHL: Followup, Mr. Savelkoul?

8 **RECROSS-EXAMINATION**

9 **BY MR. SAVELKOUL:**

10 Q. Mr. Neigum, you were discussing the
11 concern of locating outside of Montana-Dakota's
12 system. Now, isn't Big Stone II outside of
13 Montana-Dakota's system?

14 A. I'm sorry. I didn't understand the
15 question.

16 Q. Is the company's interest in Big Stone II
17 located outside of Montana-Dakota's service
18 territory?

19 A. It is, and we invested in transmission to
20 deliver that energy to Montana-Dakota's customers
21 as part of the construction and ownership of that
22 facility, so we have dedicated transmission rights
23 from Big Stone to our service territory.

24 Q. So that's a quantifiable number?

25 A. Yes.

1 Q. And the addition -- the proposed addition
2 to Big Stone II would have also required
3 transmission rights, would it not?

4 A. As a part of that, we had a transmission
5 service request where we -- in addition to just the
6 generating facility, we would have invested in
7 transmission upgrades that would have provided
8 transmission service rights to us to deliver that
9 energy to Montana-Dakota.

10 Q. And that was a quantifiable and estimated
11 number?

12 A. Yes.

13 Q. The PPAs that were entered into that did
14 not succeed, are you familiar with the pricing on
15 those PPAs?

16 A. I think I understand the relative price
17 that they were, not the -- I don't know the details
18 of it.

19 Q. Okay. Can you tell me what the relative
20 pricing on those was?

21 A. The first power purchase agreement, which
22 would have been entered into about 2002, would have
23 been in the low \$20 per megawatt-hour, and the
24 second power purchase agreement, which would have
25 been entered into in 2005, would have been in the

1 \$40 range per megawatt-hour.

2 Q. And the projects we installed in the
3 system are in the \$55 price range?

4 A. Correct.

5 Q. Those projects were lower in cost and,
6 therefore, may have been more justifiable to enter
7 into them without respect to any mandates, wouldn't
8 you agree?

9 A. I guess we did enter into agreements for
10 those projects prior to the RFP, and both of those
11 agreements had terminated because the developer did
12 not complete their projects and bring them on line,
13 so they weren't available as options at the timing
14 of the RFP.

15 Q. Correct. You entered into them because
16 they were lower price irrespective of a mandate?

17 A. They would have been -- the price would
18 have been a determination as far as when we entered
19 into those, yes.

20 MR. SAVELKOUL: Okay. I have nothing
21 further.

22 JUDGE WAHL: Mr. Savelkoul, are you able
23 to -- or did you plan on offering Exhibit CAS 14
24 with Mr. Neigum's testimony, or is that exhibit
25 still pending?

1 MR. SAVELKOUL: I am, frankly, not sure
2 where it stands. I would offer it now.

3 MR. KUNTZ: No objection.

4 JUDGE WAHL: Mr. Skokos?

5 MR. SKOKOS: No objection.

6 JUDGE WAHL: Ms. Jeffcoat-Sacco?

7 MS. JEFFCOAT-SACCO: No objection.

8 JUDGE WAHL: Exhibit CAS 14 is received.

9 Mr. Skokos, followup?

10 MR. SKOKOS: No followup.

11 JUDGE WAHL: Ms. Jeffcoat-Sacco?

12 MS. JEFFCOAT-SACCO: No questions.

13 JUDGE WAHL: Followup by the Commission?

14 COMMISSIONER CLARK: None.

15 JUDGE WAHL: Thank you very much, Mr.

16 Neigum. You may actually be done this time.

17 THE WITNESS: Thank you.

18 MR. KUNTZ: Mr. Savelkoul indicated he may
19 have some questions of Mr. Senger. Since those are
20 financial questions that might spill over into the
21 revenue requirement, I wonder if we shouldn't call
22 -- take Mr. Senger now in case there are questions
23 that then have to relate back to Ms. Mulkern and we
24 then can call her to address the question raised by
25 Mr. Savelkoul with respect to the exhibits that he

1 referred to.

2 JUDGE WAHL: Mr. Savelkoul?

3 MR. SAVELKOUL: That sounds fine to me.

4 MR. KUNTZ: We would call Garret Senger
5 then.

6 JUDGE WAHL: Mr. Kuntz and Mr. Savelkoul,
7 I remind you that we must recess at ten o'clock for
8 a special meeting of the Commission that's
9 scheduled, and so whatever the situation is at ten
10 o'clock, I will recess for at least 10 minutes.

11 Mr. Senger, you understand, of course,
12 that your testimony considers -- continues to be
13 under oath and subject to penalties of perjury?

14 THE WITNESS: Yes.

15 JUDGE WAHL: Mr. Kuntz.

16 **GARRET SENGER,**

17 having been previously duly sworn, was examined and
18 testified as follows:

19 **REDIRECT EXAMINATION**

20 **BY MR. KUNTZ:**

21 Q. Mr. Senger, just restate your name,
22 please.

23 A. Garret Senger.

24 Q. And, Mr. Senger, at Mr. Savelkoul's
25 request did you provide him with certain documents

1 related to the wind generation projects?

2 A. I provided to Mr. Savelkoul the analysis
3 that was completed in regards to choosing the
4 production tax credit in lieu of the federal energy
5 tax credit.

6 MR. KUNTZ: Mr. Savelkoul, did you want me
7 to mark what Mr. Senger provided to you so that you
8 could question him, because I don't have any
9 questions?

10 MR. SAVELKOUL: Yeah, if you could. Maybe
11 we should mark it CAS 10A.

12 JUDGE WAHL: I'm going to have to rely on
13 you, Mr. Savelkoul, for that marking, and I'm
14 perfectly willing to mark it as you suggest, but
15 now I'm counting on you to have that all correct.
16 So the documents that I have now been handed and
17 which Mr. Kuntz has just described for the record
18 will be CAS 10A, Mr. Savelkoul?

19 MR. SAVELKOUL: Yes.

20 MR. KUNTZ: Unfortunately, Your Honor, we
21 did not make extra copies. We can do that at the
22 break. The witness has a copy and you have a copy
23 and I have a copy. That's the only --

24 JUDGE WAHL: I'm going to staple my copy
25 and I will make -- and, Mr. Savelkoul, I'm going to

1 staple these papers all together as one document
2 and I'm going to hand my copy to the Commission and
3 they can share as necessary, I guess, in the
4 circumstances.

5 Mr. Savelkoul, you may proceed.

6 **RE-CROSS-EXAMINATION**

7 **BY MR. SAVELKOUL:**

8 Q. Mr. Senger, what has been marked as
9 Exhibit 10A and put in front of you is support for
10 the computations provided in Exhibit 10 which was
11 discussed during your cross-examination a couple of
12 days ago; is that correct?

13 A. That is correct.

14 Q. And this Exhibit 10A in essence provides
15 additional support behind how Exhibit 10 was
16 arrived at?

17 A. That's correct.

18 Q. In Exhibit 10A, was bonus depreciation --
19 50 percent bonus depreciation used for these
20 projects when analyzed in this exhibit?

21 A. Bonus depreciation at the time these
22 models and analysis was prepared was not an option,
23 so it was not included in these exhibits. One
24 thing I should note, though, is that it would have
25 the same impact on both models. The impacts for

1 bonus depreciation would be the same.

2 Q. Okay. The federal -- can you explain the
3 federal tax credit, how -- my understanding it's
4 sometimes referred to as a grant and sometimes --
5 can you explain what it is?

6 A. It's 30 percent of the investment in an
7 upfront payment or credit, is what it represents.
8 And what would be included then -- or would reduce
9 the rate base then in the revenue requirement.

10 Q. Okay. And can you direct us to the
11 location on these sheets where that is reflected?

12 A. Yes. If you were to realize the rate base
13 effect, if you turn to the ITC model and turn to
14 the tab and the page heading. On the top it says
15 "North Dakota wind generation project - owned by
16 MDU" and the next line says "Capitalization. If"
17 you then look at the bottom of that page, there is
18 a bolded that says "rate base," and at the bottom
19 the second -- would be the fourth number from the
20 bottom it says accumulated federal ITC, that 11.8
21 million, that's represented as the reduction to
22 rate base in year one.

23 Q. I'm not sure I'm at the right place here.

24 A. If you look at the capitalization heading.

25 MR. KUNTZ: Mr Senger, what page of the

1 exhibit because I'm not following you, either?

2 THE WITNESS: Depending upon how it was
3 printed out, first you have to turn to the ITC
4 model scenario.

5 MR. KUNTZ: That's this 8-and-a-half-by-11
6 sheet?

7 THE WITNESS: Right.

8 MR. KUNTZ: Okay.

9 THE WITNESS: Then the way I have it
10 stapled together, and I'm not sure that everyone
11 else has it that way, I have it attached as the
12 last attachment.

13 MR. KUNTZ: The last page of the exhibit?

14 THE WITNESS: The last page, right.

15 MR. KUNTZ: Let me show you if this is the
16 correct page you're referring to.

17 THE WITNESS: That's the page I'm
18 referring to and that is the number.

19 MR. KUNTZ: So for the exhibit that was
20 handed out to the Commissioners and for the record,
21 it would be the third page from the back of MDU
22 Exhibit 10A.

23 THE WITNESS: And, again, the bottom half
24 of that schedule shows a rate base calculation, and
25 if you look on the line that says accum federal

1 ITC, there it shows accumulated federal ITC as a
2 rate base deduction on the 43 million investment in
3 this project. So we have a net rate base then
4 after one year of 26 million as a result. And that
5 supports then the revenue requirement calculation
6 used and the net present value calculation in
7 determining the analysis.

8 JUDGE WAHL: Anything further, Mr.
9 Savelkoul?

10 MR. SAVELKOUL: I'm just looking, Your
11 Honor.

12 JUDGE WAHL: I don't mean to push you. I
13 just want to be sure I still had a connection.

14 MR. SAVELKOUL: Thank you.

15 Q. (MR. SAVELKOUL CONTINUING) Can you direct
16 us to where rate base is calculated if the ITC is
17 selected?

18 A. That you were -- if the ITC is selected,
19 you were just on that page as Mr. Kuntz directed
20 out.

21 Q. I'm sorry. The production tax credit.

22 A. It would be that same schedule in the
23 production tax credit scenario, and the rate base
24 amount under the production tax scenario after year
25 one would be 37.6 million compared to that 26

1 million for the ITC scenario.

2 Q. Okay. Generally if the production tax
3 credit is selected, is there a difference to
4 earnings on this asset -- or these assets for the
5 company if one is selected versus the other due to
6 the difference in rate base?

7 A. There would be a difference in the revenue
8 requirement, that's correct. I guess what I would
9 point out, Mr. Savelkoul, if you look on the income
10 statement, the purpose of this analysis is to
11 determine the net present value of the revenue
12 requirements on this project over the life of the
13 project, is it a better option to use PTCs or the
14 federal energy tax credit. If you turn to the
15 income statement page and go down about
16 three-quarters of the page where it has total
17 revenue requirement --

18 Q. Mm-hmm.

19 A. -- on a present value basis, under the
20 PTC, the revenue requirement is 36.8 million over
21 the life of the project and under the federal
22 energy tax credit it's 42.2 million, so there's a
23 substantial savings to the customer by selecting
24 the PTC.

25 Q. Okay. On that same page, if I'm on the

1 same page as you, there's a federal and North
2 Dakota tax credit amortization.

3 A. Correct.

4 Q. And in that you're amortizing the cost of
5 both these credits over the life of the project as
6 opposed to passing them through at the time of
7 received; isn't that correct?

8 A. That's correct. But you also have to
9 remember that the customer does receive the benefit
10 of that through a rate base deduction, so, I mean,
11 that statement is -- your question wasn't exactly
12 on point.

13 Q. Okay. And there's --

14 JUDGE WAHL: Mr. Savelkoul, I'm sorry, I
15 need to interrupt you. If you can make a note of
16 your thought, we will be in recess for
17 approximately -- I emphasize, approximately -- 10
18 minutes. Let's say we will be in recess for at
19 least 10 minutes and as long as the special meeting
20 of the Commission takes. So we'll be in recess
21 until 10 minutes after 10 and until the Commission
22 completes its special meeting, which will be held
23 at this time.

24 MR. SAVELKOUL: And you'll call me back,
25 Your Honor?

1 JUDGE WAHL: No. Just mute your
2 telephone, please, Mr. Savelkoul.

3 MR. SAVELKOUL: Thank you.

4 (Recess taken at 10:01 a.m. to 10:38 a.m.)

5 JUDGE WAHL: Let me be sure that we've got
6 everything running. All right. Mr. Savelkoul, you
7 may proceed.

8 MR. SAVELKOUL: Thank you, Your Honor.

9 Q. (MR. SAVELKOUL CONTINUING) Mr. Senger, we
10 were discussing the federal tax credits or grant
11 and the amortization of that.

12 A. Correct.

13 Q. And based on prior testimony, it's my
14 understanding that one of the reasons that isn't
15 passed back immediately is due to a tax election on
16 how MDU has elected to treat those types of
17 credits; is that correct?

18 A. That's correct. MDU is an option 1
19 company, and under option 1 you amortize it over
20 the life of that property on an equal basis, then
21 set it up as a rate base deduction.

22 Q. And then is that an election that can be
23 broken or reversed or a different election can be
24 taken to treat it a different way?

25 A. It's my understanding that once you make

1 an election, you need to stick with that election.

2 Q. Okay. Do you have any -- if another
3 utility in the state has elected to use this grant,
4 do you have any understanding as to why that
5 utility may have come out with a calculation that
6 showed use of the grant was very beneficial to
7 ratepayers as opposed to -- or explanation why it
8 may not be for MDU ratepayers?

9 A. Without seeing their analysis, I could
10 only speculate. I don't know. Based on the
11 calculations and models that we prepared, it's
12 certainly in the customers' advantage to use the
13 PTC model.

14 MR. SAVELKOUL: Okay. And I don't have
15 any further questions. Thank you.

16 MR. KUNTZ: I have no further followup.

17 JUDGE WAHL: Mr. Skokos?

18 MR. SKOKOS: No further questions.

19 JUDGE WAHL: Ms. Jeffcoat-Sacco?

20 MS. JEFFCOAT-SACCO: I have no questions.

21 JUDGE WAHL: Questions by the Commission?

22 Commissioner Clark.

23 **FURTHER EXAMINATION**

24 **BY COMMISSIONER CLARK:**

25 Q. Just briefly, are both of these tax

1 credits refundable -- fully refundable credits?
2 in other words, they're applied after -- below the
3 line and if you have a negative liability, do
4 they --

5 A. You amortize it out to zero, so it would
6 be fully amortized over that 20-year period.

7 Q. Okay. So they're treated the same way?

8 A. You're talking about --

9 Q. The PTC versus the --

10 A. No, the PTC is on an annual calculation
11 based on the generation. That goes to the bottom
12 line and to the customers' benefit immediately in
13 that year.

14 Q. Okay.

15 A. It's an annual calculation.

16 Q. It is.

17 A. Based on usage or generation from the
18 site.

19 Q. Okay. I may not be asking this right or
20 you may be giving me the right answer and it
21 doesn't make sense to me. I guess my question is,
22 let's say that a company gets to the -- you know
23 has experienced a number of losses in a year, they
24 don't have a tax liability. Is the PTC refundable
25 to the company? In other words, so you can --

1 maybe I'll just stop there. Is the PTC refundable?

2 A. I guess your question is, is there a
3 carryover?

4 Q. Okay.

5 A. I'm not sure on that, if there's a
6 carryover or not on the amount that wasn't -- that
7 the company wasn't able to utilize.

8 Q. Okay. And is that the same with the --
9 what sometimes is described as the grant or the --

10 A. It's certainly the same with the North
11 Dakota ITC that Ms. Mulkern explained in her
12 testimony on the state basis.

13 Q. But with regard to the federal credit?

14 A. I think for the federal credit, the
15 probability that we would be in that situation
16 would be far remote where we wouldn't be able to
17 utilize it.

18 COMMISSIONER CLARK: Okay. All right.
19 That's all I've got.

20 JUDGE WAHL: Further questions from the
21 Commission? Followup, Mr. Kuntz?

22 MR. KUNTZ: None.

23 JUDGE WAHL: Followup, Mr. Savelkoul?

24 MR. SAVELKOUL: I just offer Exhibit CAS
25 10A.

1 MR. KUNTZ: No objection.

2 JUDGE WAHL: Mr. Skokos?

3 MR. SKOKOS: No objection.

4 JUDGE WAHL: Ms. Jeffcoat-Sacco?

5 MS. JEFFCOAT-SACCO: No objection.

6 JUDGE WAHL: Exhibit CAS 10A is received.

7 Mr. Skokos, followup?

8 MR. SKOKOS: No followup.

9 JUDGE WAHL: Ms. Jeffcoat-Sacco, followup?

10 MS. JEFFCOAT-SACCO: None. Thank you.

11 JUDGE WAHL: Any followup by the
12 Commission? Thank you very much, Mr. Senger.

13 Next, counsel, is it Ms. Mulkern again?

14 MR. KUNTZ: We'll recall Ms. Mulkern for
15 the purpose of addressing Mr. Savelkoul's question.

16 JUDGE WAHL: Ms. Mulkern, you understand,
17 I guess, for the second, if not the third time,
18 that your testimony continues under oath and
19 subject to penalties of perjury?

20 THE WITNESS: I do.

21 JUDGE WAHL: Mr. Savelkoul.

22 MR. SAVELKOUL: Thank you, Your Honor.

23 **RITA A. MULKERN,**

24 having been previously duly sworn, was examined and
25 testified as follows:

RE-CROSS-EXAMINATION

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BY MR. SAVELKOUL:

Q. Good morning, Mrs. Mulkern.

A. Good morning.

Q. Okay. I assume you were present and following with respect to my question, and do you have those same two pages up?

A. I have them before me.

Q. Thank you. Again, on page 2 of 8 of RAM-3 and 1 of 10, there is a line for the investment tax credits and the North Dakota state income tax credits. Can you please explain why that number is different?

A. Yes, I can. In RAM-3, page 2 of 8, we are showing the investment tax credit as a rate base deduction, and one of the major factors that affected that is the bonus tax depreciation that I discussed the other day in that because of the bonus tax depreciation, Montana-Dakota will not be able to take the full credit the first year, and if you look at Exhibit No. RAM-3, page 8, that shows what the investment tax credit balances will be over the life of the wind unit and it also shows that, although we're not able to take the full credit the first year, we will take that credit the

1 sixth year and we will get the full credit.

2 On the Cedar Hills generation project,
3 this is, if I'm correct, PSC 52, Attachment C, page
4 1, there the investment tax credit is calculated
5 actually as a tax deduction rather than a rate base
6 deduction, and the difference between the two in
7 terms of revenue requirement is very small.

8 So just to summarize, there are two
9 differences. One is the change due to the bonus
10 tax depreciation which was not reflected in this
11 data request response, and the second is in this
12 response it's shown as a tax credit rather than a
13 rate base deduction.

14 Q. Can you explain why in one evaluation it's
15 used as a tax credit and one it's used as a rate
16 base deduction?

17 A. In the analysis in the data request it was
18 in response to a data request asking that the
19 company do an analysis over the life of the
20 project, and in this analysis it was run as a tax
21 credit. The way -- as Mr. Senger mentioned and I
22 discussed, since we are an option 1 company, we
23 will take it as a rate base deduct and show it that
24 way. I can't explain exactly why they're
25 different, but the impact on the revenue

1 requirement is small -- the difference between the
2 two.

3 MR. SAVELKOUL: Okay. I've got no further
4 questions then.

5 JUDGE WAHL: Followup, Mr. Kuntz?

6 MR. KUNTZ: I have no questions.

7 JUDGE WAHL: Mr. Skokos?

8 MR. SKOKOS: No questions.

9 JUDGE WAHL: Ms. Jeffcoat-Sacco?

10 MS. JEFFCOAT-SACCO: No questions.

11 JUDGE WAHL: Questions by the Commission?

12 COMMISSIONER KALK: I have one, Judge.

13 JUDGE WAHL: Commissioner Kalk.

14 **FURTHER EXAMINATION**

15 **BY COMMISSIONER KALK:**

16 Q. Thank you for coming up here again today.
17 Just a hypothetical question. Suppose the rate
18 case gets done, we figure out with some dollar
19 amount, but next year some big federal tax credit
20 comes to MDU and it's a huge dollar amount. How
21 would MDU approach that? I'm sure you would
22 incorporate it into your model, but it would be
23 something that we hadn't considered here today.
24 Would you just keep benefiting from that until the
25 next rate case, or is there an amount that would be

1 big enough that you might come back and ask us to
2 adjust the rates?

3 A. You're talking about a tax or something
4 associated with the wind?

5 Q. Something coming out of the federal
6 government that would benefit MDU to such that --
7 it's a dollar amount that could potentially lower
8 the rates or even raise the rates. I guess raising
9 the rates, I think you'd come back.

10 A. I think I can give you an example, and
11 this goes way, way back. The Tax Reform Act of
12 1986 lowered the federal income tax rate initially
13 from 46 percent down over a couple years to 35 --
14 or actually 34 and then went back up, and something
15 like that, if there's a big change, that would
16 probably entail the company coming and filing or
17 the Commission asking the companies to come in and
18 reflect those changes in its rates. And that's
19 what happened when the Tax Reform Act was enacted,
20 is that --

21 Q. Perfect scenario. Thank you. One other
22 question, clarification. Yesterday, and it didn't
23 hit me until I was thinking about it last night, is
24 you had discussion with Mr. Savelkoul, and I think
25 you made a comment, something like, we're not

1 against pulling the wind out for a rider. Did you
2 say something like that?

3 A. Yeah, we're not opposed to having it in a
4 rider. In fact, one Ms. Aberle sponsored, we did
5 put in this case a renewable energy rider as one of
6 the tariffs in this case.

7 Q. So did that mean -- I guess, how do I
8 explain this one? So that means keeping the
9 current case structure the way it is? You're not
10 saying you'd agree to pulling out all the wind
11 costs out of this rate case and bringing back a
12 separate rider at a later date?

13 A. No. I think what we intend -- would
14 intend if -- and a lot of -- I shouldn't say a lot.
15 What some companies have done or some states have
16 done is they have the rider, and then when a new
17 project comes on, rather than coming in and filing
18 a rate case --

19 Q. Sure.

20 A. -- that's done until the next general
21 rate, then it's considered or moved into part of
22 the overall base rates. And that's kind of what we
23 were in our case going on that assumption.

24 COMMISSIONER KALK: Okay. That's perfect.
25 Thank you.

1 JUDGE WAHL: Any further questions from
2 the Commission? Followup, Mr. Kuntz?

3 MR. KUNTZ: I have none.

4 JUDGE WAHL: Mr. Savelkoul?

5 MR. SAVELKOUL: None. Thank you.

6 JUDGE WAHL: Mr. Skokos?

7 MR. SKOKOS: None.

8 JUDGE WAHL: Ms. Jeffcoat-Sacco?

9 MS. JEFFCOAT-SACCO: None.

10 JUDGE WAHL: All right. Thank you very
11 much, Ms. Mulkern.

12 MR. KUNTZ: The company would recall David
13 Goodin -- or recall David Goodin.

14 JUDGE WAHL: Mr. Goodin, you understand,
15 of course, that your testimony continues under oath
16 and subject to penalties of perjury?

17 THE WITNESS: I understand that, correct.

18 JUDGE WAHL: Mr. Kuntz.

19 MR. KUNTZ: Your Honor, we would have
20 marked MDU Exhibit 24, I believe.

21 JUDGE WAHL: MDU 24 is right.

22 COMMISSIONER KALK: Oh, wow, more paper.
23 Thank you. Just for the record, I like prefilled
24 exhibits.

25 **DAVID L. GOODIN,**

1 having been previously duly sworn, was examined and
2 testified as follows:

3 **REDIRECT EXAMINATION**

4 **BY MR. KUNTZ:**

5 Q. Mr. Goodin, I'm going to show you what has
6 been marked as MDU Exhibit 24. Do you see that
7 document?

8 A. I see about an inch and a half of paper
9 all contained in those documents, correct.

10 Q. And do you recognize that to be the
11 company's response to PSC's data request number
12 025?

13 A. Yes, I do.

14 Q. Can you, very high level, describe what is
15 included in MDU Exhibit 24?

16 A. Well, in response to the question of
17 please provide copies of the company's documents
18 that define the methods of pay increases overtime,
19 compensatory time, incentives, et cetera, we gave
20 both a historic perspective of all those plans as
21 well as the plans currently in place.

22 Q. Now, on Monday during your direct
23 testimony you provided a summary of the 2010 plans
24 that are in place at the present time; is that
25 correct?

1 A. That is correct.

2 Q. Where -- there's a reference in MDU
3 Exhibit 24, the first page, to various attachments.
4 Which of those attachments would reference the
5 current 2010 plans?

6 A. Attachment E specifically and also
7 Attachment H.

8 Q. And what about the safety plan, is that
9 included in here -- the 2010 safety plan?

10 A. The 2010 safety plan made reference to the
11 other day would be Attachment K, a third
12 attachment.

13 Q. So let's turn to Attachment E. Do you
14 find that document?

15 A. I have it in front of me.

16 Q. And what is Attachment E?

17 A. Attachment E is titled the Employee
18 Incentive Plan.

19 Q. And what employees would be -- what
20 Montana-Dakota employees would be covered by this
21 particular plan?

22 A. Well, if one turns to page 3 of 6, it
23 really defines which pay grades are encompassed in
24 the plan. Overall I would say this would cover
25 approximately, and I'll emphasize approximately,

1 probably 85 to 90 percent of our employee groups.

2 Q. And does this plan describe the metrics
3 that -- or lay out the metrics that you described
4 in your direct testimony on Monday?

5 A. They do. In fact, if you stayed on page 3
6 of 6, the other day I described that of the three
7 goals, one being a financial goal, the other being
8 an operation, maintenance or a spend goal, and then
9 the third one being a customer satisfaction goal,
10 that each of those has equal weighting of
11 one-third, one-third and one-third.

12 Q. Towards the target amount?

13 A. Of the targeted amount.

14 Q. And I believe you testified on Monday that
15 the company in developing its 2010 incentive plans,
16 or revising those, its purpose was to keep the
17 targeted dollar amount of the incentive plans the
18 same as what they had been historically; is that
19 correct?

20 A. That is correct. In fact, that was some
21 of the criteria that I asked of our HR
22 professionals when I asked for a redesigned plan or
23 a relook at the plan that there would be -- the
24 plans would be similar in nature from a payout
25 perspective.

1 Q. And do you have an understanding of how
2 that was done then by your HR department?

3 A. Well, previous incentive plans had
4 specific safety metrics contained within them.
5 Those would be other attachments within that large
6 volume of paper that you have in front of you. We
7 took safety out of this particular plan, and that's
8 that Attachment K that I referenced so far as a
9 2010 safety recognition program. So when we look
10 at a comparable plan for 2010 versus previous
11 years, we carved out, if you will, the 2010 safety
12 recognition program. That also has specific payout
13 metrics associated with under the safety plan, and
14 so when you sum together the 2010 safety
15 recognition program along with the employee
16 incentive program, that's where we had a comparable
17 nature so far as the payout potential.

18 MR. KUNTZ: We would offer Exhibit MDU 24.

19 JUDGE WAHL: Mr. Savelkoul?

20 MR. SAVELKOUL: No objection.

21 JUDGE WAHL: Mr. Skokos?

22 MR. SKOKOS: No objection.

23 JUDGE WAHL: Ms. Jeffcoat-Sacco?

24 MS. JEFFCOAT-SACCO: No objection.

25 JUDGE WAHL: Exhibit MDU 24 is received.

1 Q. (MR. KUNTZ CONTINUING) Mr. Goodin,
2 yesterday there was introduced as Exhibits MDU 21
3 and 22, testimony by witnesses from Xcel Energy and
4 Otter Tail Power. Have you reviewed those
5 exhibits?

6 A. I have had an opportunity to review those,
7 yes.

8 Q. And do you agree with the principles
9 stated by those witnesses with respect to incentive
10 compensation within a compensation plan?

11 A. I do agree with those comments within both
12 of those documents, 21 and 22. In fact, I think
13 they closely parallel, if not replicate, my
14 comments made earlier.

15 Q. There was also testimony or a summary of
16 testimony, I guess, from Dr. Mathai that suggested
17 from MDU Exhibits 21 and 22 that MDU may be at
18 competitive levels even without the inclusion of
19 incentive pay in its compensation program. Do you
20 agree with that?

21 A. I would disagree with that.

22 Q. And explain why.

23 A. As I've stated earlier, we subscribe to,
24 say, a total compensation philosophy which
25 encompasses both base pay, incentive pay and health

1 and welfare benefits, and we look at that as a
2 total package. And when we look at that as a total
3 package, that's how we make our comparisons with
4 our neighboring utilities and the industry as a
5 whole. When we take a look at that, we try to
6 target, I'll say, approximately the median as a
7 total from a compensation philosophy.

8 Q. And specifically what -- can you give me a
9 recent example of how the company went about
10 comparing itself with its peers with respect to its
11 bargaining employees prior to going into its most
12 recent bargaining agreement?

13 A. I can describe having solicited
14 information from our HR department that 10 separate
15 companies were solicited in the neighboring states
16 from North Dakota, South Dakota, Montana, Minnesota
17 and Wisconsin. When we take a look at that and
18 leading into whether it be in negotiations with our
19 bargaining unit or, say, a similar process we
20 employ on a contact basis with those same peer
21 groups, we want to make sure that we understand
22 what the market is for all our varied positions.

23 This particular study that I'd asked our
24 folks to do leading into our 2006 negotiations
25 encompasses much more than base pay. Base pay is

1 certainly a significant portion, but it's
2 everything from health and welfare, it's everything
3 from holidays, it's from K plan match, it's
4 everything from incentive pay. There's just many,
5 many categories that one looks at so far as saying
6 how competitive is our business and our ability to
7 attract and retain a qualified workforce in
8 comparison with our neighbors, because that would
9 be the target market that we would have from a
10 labor market.

11 Q. And that would be the process that you
12 would go through prior to entering into
13 negotiations with your bargaining unit or in
14 setting compensation for nonbargaining employees on
15 a regular basis?

16 A. That would be the same-type process.

17 Q. There was also a question raised yesterday
18 of whether there was a concern that the culture or
19 matrix having a financial goal might result in
20 employees sacrificing safety measures. Do you
21 share that concern, or what would be your response
22 to that concern?

23 A. I would be deeply concerned if that was
24 the cause defect. In fact, that may be one of the
25 reasons that we chose to pull out safety entirely

1 from a financial metric.

2 Q. And what has been the company's experience
3 with respect to its safety history even with
4 financial metrics in its incentive compensation
5 plan?

6 A. With our 2009, which would be our most
7 recently completed full year, we were recognized by
8 the American Gas Association with the lowest
9 incident rate from a personal injury perspective
10 among all mid-sized combination utilities in the
11 U.S.

12 Q. And in the first day of testimony there
13 was a question of Mr. Del Vecchio regarding
14 employee turnover. Has Montana-Dakota specifically
15 looked at employee turnover within the utility?

16 A. Yes, we do. In fact, I retrieved
17 information, and we can provide that as a submittal
18 here today. In fact, we went back 10 years because
19 this is an ongoing statistic we look at, and our
20 turnover rate varies from about 4 and a half
21 percent, which would be the low point over the last
22 10 years, to a high point is actually nearly 17
23 percent turnover.

24 Q. I'm showing you what is marked as MDU
25 Exhibit 25. Can you identify that document?

1 A. I have it in front of me, yes.

2 Q. And what is it?

3 A. This shows, again -- probably repeating
4 myself, but actually the last -- well, since 1999
5 through the most current year of 2009, shows by
6 year our employee counts. It also shows a prior
7 year employee count, and at the same time it shows
8 the number of employees that left us either through
9 retiring or leaving for other reasons on each year.
10 And then the far right column would indicate a
11 turnover rate.

12 Q. Now, I noticed in 2009 that the turnover
13 rate as a percentage was significantly higher than
14 the prior years. Can you explain the reason for
15 that?

16 A. 2009 we underwent, I'll say, a significant
17 business reorganization within our utility. Part
18 of that reorganization was attributable to some of
19 the economic realities we found in certain parts of
20 our service territory so far as a work slowdown
21 from construction. We also closed virtually all of
22 our field offices to walk-in customer traffic and
23 we opened up some pay stations as part of that, and
24 so there was employee reductions in force that we
25 incurred substantially in 2009.

1 MR. KUNTZ: We would offer MDU Exhibit 25.

2 JUDGE WAHL: Mr. Savelkoul?

3 MR. SAVELKOUL: No objection, Your Honor.

4 JUDGE WAHL: Mr. Skokos?

5 MR. SKOKOS: No objection.

6 JUDGE WAHL: Ms. Jeffcoat-Sacco?

7 MS. JEFFCOAT-SACCO: No objection.

8 JUDGE WAHL: Exhibit MDU 25 is received.

9 MR. KUNTZ: And I have no further
10 questions of this witness.

11 JUDGE WAHL: Mr. Savelkoul?

12 MR. SAVELKOUL: Just a couple follow-up
13 questions, Your Honor.

14 **REXCROSS-EXAMINATION**

15 **BY MR. SAVELKOUL:**

16 Q. Mr. Goodin, you spoke of, I believe,
17 looking at compensation and how -- total
18 compensation and how it measures up to other peers.
19 Do you believe it's appropriate to analyze the
20 company's rates as compared to its peers when
21 determining rates approved in a rate case?

22 A. Are you referring to the rates that our
23 customers pay as part of their cost of service?

24 Q. Yes.

25 A. I believe each company needs to provide

1 its own analysis from a cost of service perspective
2 because there may be differences or uniquenesses
3 between one company and another from a variety of
4 factors, I would say whether it be a geographic-
5 challenged area or whether it be metropolitan-type
6 areas or even the demographics of the customers.
7 So while we are extremely sensitive of what our
8 rates are to our customers, and we do compare our
9 rates with our neighboring utilities, I would say
10 that's to the extent that we do that analysis.

11 Q. Okay. Now, with respect to the turnovers,
12 Exhibit 25, that you provided, was there any
13 analysis of these turnovers as to which ones left
14 for better-paying jobs or better bonus structures?

15 A. Not included in the overall turnover rate
16 that we're referring to here. Certainly there
17 would be some on a case-by-case basis. Oftentimes
18 when an employee departs us preretirement,
19 oftentimes, maybe not in all cases because of
20 geographic challenges, our HR department does sort
21 of an exit interview, and that may vary depending
22 on the certain circumstances of the employees
23 choosing to transfer or leave us for one reason or
24 another. But that would be -- that would be a
25 source of information, but that's not quantified on

1 this spreadsheet.

2 Q. So this spreadsheet says nothing with
3 respect to compensation or incentive levels that
4 may have an influence on why they turned over?

5 A. It was my understanding that the question
6 was, what has the turnover been at MDU and the
7 purpose of this spreadsheet was really in response
8 of that to be specific year by year of what
9 turnover we've actually been experiencing.

10 Q. Okay. The context of the previous witness
11 and which I think this is trying to address is
12 whether there was a turnover study and what that
13 found with respect to compensation, so I'm just
14 trying to ascertain whether you believe this says
15 anything with respect to compensation levels and
16 turnover.

17 A. I would say compensation levels would be
18 part of that turnover. Again, it could be a
19 variety of factors why people are leaving, whether
20 it be through retirement, early retirement, other
21 job opportunities, pay opportunities, spouses
22 finding other employment in other areas. It's
23 difficult to quantify specifically. Again, the
24 purpose here was to show what our turnovers have
25 been over the last 10 years.

1 Q. And this does nothing to show why that
2 turnover took place?

3 A. That would require further analysis.

4 MR. SAVELKOUL: I don't have anything
5 further. Thank you, Mr. Goodin.

6 JUDGE WAHL: Mr. Skokos?

7 MR. SKOKOS: No questions.

8 JUDGE WAHL: Ms. Jeffcoat-Sacco?

9 **RE-CROSS-EXAMINATION**

10 **BY MS. JEFFCOAT-SACCO:**

11 Q. I do have a couple. You may have
12 explained this, but as I was looking for the
13 different attachments I didn't find it. Where is
14 the safety plan attachment? I thought you said H,
15 but H is something else.

16 A. If I said H, I meant it's actually
17 Attachment K. It's termed the 2010 safety
18 recognition program.

19 Q. Okay. And that applies to all categories?
20 I'm just getting it open now.

21 A. That applies to -- in fact, let me pull
22 that out. It's only about a one or two-page.

23 Q. I think it's one page. I have one page.

24 A. It's quite a stack of paper here.

25 THE WITNESS: Rita, do you have that

1 handy?

2 MR. KUNTZ: Right here.

3 Q. (MS. JEFFCOAT-SACCO CONTINUING) I take it
4 it's a one-time payment?

5 A. I'm sorry.

6 Q. I'm just quickly looking at it.
7 Recognition, and it talks about a check in
8 February, so it's like a one-time payment
9 recognizing?

10 A. Yes, and it's for all employees at MDU
11 with the exception of officers. So I would be --
12 there would be only five of us that would be exempt
13 from this.

14 Q. Okay. And so it doesn't really affect the
15 weighting that was in the matrix that you pointed
16 out?

17 A. No. It's completely independent. It's a
18 fixed number for every employee, does not vary.

19 MS. JEFFCOAT-SACCO: That's all I have.
20 Thanks.

21 JUDGE WAHL: Questions from the
22 Commission? Commissioner Kalk.

23 **FURTHER EXAMINATION**

24 **BY COMMISSIONER KALK:**

25 Q. Mr. Goodin, just a general question I just

1 thought of when you're talking about the changes of
2 the landscape in the state for customer service
3 centers. We had a hearing in Killdeer the other
4 day and I noticed that that's one of the spots, I
5 think, you kind of scaled back. What's the
6 long-term plan for these buildings when employees
7 no longer are going to work there every day? Are
8 you going to sell them off or -- I mean, in
9 general?

10 A. In general, Commissioner, we look at our
11 real estate holdings on a continuous basis. Some
12 locations -- Killdeer was actually an office that
13 we closed in about 1996. We actually, I think,
14 closed 45 offices back in '95-'96 time frame. We
15 retain our servicemen in the Killdeer area. Mr.
16 Chuck Boschee is our serviceperson there. He
17 operates in coordination with our Dickinson office.
18 But we look at our assets, our land holdings on a
19 regular basis to see, is it still appropriate for
20 us to have what we have, do we need to have more
21 facilities or less facilities.

22 Q. Have you turned over any of those customer
23 centers just completely? I guess now it's, like
24 you said, the service bay. But is there any of
25 those that you've just completely gotten rid of

1 since you closed them now, or are they still kind
2 of waiting to see how they shape out?

3 A. I'm thinking through. You know, some of
4 those that were done in the '90s, certainly we've
5 sold off those assets and there have been sales
6 that would offset our invested capital, our
7 invested rate base. So it's kind of on a
8 case-by-case basis, Commissioner.

9 COMMISSIONER KALK: Thank you.

10 JUDGE WAHL: Any further questions?

11 Commissioner Clark.

12 **FURTHER EXAMINATION**

13 **BY COMMISSIONER CLARK:**

14 Q. Just one to clarify on the attachments.
15 You had mentioned E and H as current performance
16 plans; is that correct?

17 A. Actually it was E and K, Commissioner. K
18 was that safety recognition program.

19 MR. KUNTZ: And also H.

20 THE WITNESS: Oh, and H is a senior plan,
21 correct.

22 Q. (COMMISSIONER CLARK CONTINUING) So E and
23 H are the current performance plans, one for senior
24 level employees, one for the -- I think the one you
25 said covered the vast majority of employees and

1 then K is the current safety plan?

2 A. That is correct.

3 COMMISSIONER CLARK: Okay. Thank you.

4 JUDGE WAHL: Any further questions from
5 the Commission? Commissioner Cramer.

6 **FURTHER EXAMINATION**

7 **BY COMMISSIONER CRAMER:**

8 Q. I might just say because it's on my mind
9 right now. It might be just something for us all
10 to think about, but it's been a little while since
11 some of the consolidation of the services, and
12 those ideas are always great ideas as long as the
13 consolidation brings all the service to your
14 jurisdiction, and, of course, in Montana-Dakota's
15 case that wasn't the case. It might be for the
16 future -- I'm just thinking about future
17 planning -- maybe an update on all of that and how
18 it's appropriate. Your testimony sparked my
19 interest.

20 A. We would be glad to do that, Commissioner.
21 And certainly, you know, as another thought of
22 that, all of those, I'll say, efficiencies --

23 Q. Yes.

24 A. -- gained are also reflective as savings
25 within this rate proceeding.

1 Q. And I understand that and I gathered that.

2 A. We would be glad to do that.

3 COMMISSIONER CRAMER: I appreciate that.
4 Thank you. I have nothing else, Your Honor. Thank
5 you.

6 JUDGE WAHL: Any further questions from
7 the Commission? Followup, Mr. Kuntz?

8 MR. KUNTZ: Just one.

9 **REDIRECT EXAMINATION**

10 **BY MR. KUNTZ:**

11 Q. Mr. Goodin, you were asked a question
12 about the sale of real estate property. Was the
13 company able to consolidate its facilities in
14 Bismarck as a result of the program that you talked
15 about and sell some real estate in Bismarck as an
16 example?

17 A. Yeah, we did. We had an office that was
18 in the downtown area and we actually built on and
19 did a little, I'll say, remodeling out at our
20 service center on Airport Road, brought all our
21 operations under one roof and then sold the
22 property downtown.

23 MR. KUNTZ: That's all I have.

24 JUDGE WAHL: Mr. Savelkoul?

25 MR. SAVELKOUL: Nothing, Your Honor.

1 Thank you.

2 JUDGE WAHL: Mr. Skokos?

3 MR. SKOKOS: Nothing, Your Honor.

4 JUDGE WAHL: Ms. Jeffcoat-Sacco?

5 MS. JEFFCOAT-SACCO: Nothing, Your Honor.

6 JUDGE WAHL: Anything further from the
7 Commission? Thank you very much, Mr. Goodin.

8 THE WITNESS: Thank you.

9 MR. KUNTZ: Saving our star witness for
10 last.

11 COMMISSIONER KALK: The closer.

12 MR. KUNTZ: Our closer.

13 COMMISSIONER KALK: It's the bottom of the
14 ninth, Tamie steps to the plate. Are you going to
15 borrow Rita's calculator, the one the size of a
16 license plate?

17 MS. ABERLE: It was actually mine.

18 MR. KUNTZ: We would call Tamie Aberle.

19 COMMISSIONER KALK: We might have approved
20 your rate case right there if that's your
21 calculator.

22 JUDGE WAHL: Be seated, Ms. Aberle. Ms.
23 Aberle, as you know, your testimony is required to
24 be under oath and I'm required by law to advise you
25 regarding perjury before administering the oath.

1 Perjury is a false statement of material fact which
2 you do not believe to be true. In North Dakota
3 perjury is a Class C felony, punishable by a fine
4 up to \$5,000, imprisonment for a period of up to
5 five years, or both.

6 **TAMIE A. ABERLE,**
7 being first duly sworn, was examined and testified
8 as follows:

9 JUDGE WAHL: Mr. Kuntz.

10 **DIRECT EXAMINATION**

11 **BY MR. KUNTZ:**

12 Q. Ms. Aberle, please state your full name.

13 A. My name is Tamie A. Aberle.

14 Q. What's your business address?

15 A. 400 North Fourth Street, Bismarck, North
16 Dakota.

17 Q. Whom are you employed by?

18 A. Montana-Dakota Utilities Company.

19 Q. And what's your position with
20 Montana-Dakota?

21 A. I'm the pricing and tariff manager.

22 Q. And as part of this proceeding did you
23 cause to be prepared what has been marked as MDU
24 Exhibit 12 as prefiled direct testimony of Tamie A.
25 Aberle and I believe you had some rebuttal

1 testimony, as well, did you not, that would have
2 been marked as -- no, just direct testimony;
3 correct?

4 A. Yes.

5 Q. So it would be just MDU Exhibit 12; is
6 that correct?

7 A. Yes, that is correct.

8 Q. And if I asked you the questions that
9 appear in MDU Exhibit 12 today, would your answers
10 be the same?

11 A. Yes.

12 MR. KUNTZ: We would offer MDU Exhibit 12,
13 Your Honor.

14 JUDGE WAHL: Mr. Savelkoul?

15 MR. SAVELKOUL: No objection.

16 JUDGE WAHL: Mr. Skokos?

17 MR. SKOKOS: No objection, Your Honor.

18 JUDGE WAHL: Ms. Jeffcoat-Sacco?

19 MS. JEFFCOAT-SACCO: No objection.

20 JUDGE WAHL: Exhibit MDU 12 is received.

21 Q. (MR. KUNTZ CONTINUING) Ms. Aberle, would
22 you provide the Commission with a brief summary of
23 your direct testimony as contained in MDU Exhibit
24 12?

25 A. Yes. In MDU Exhibit 12 I presented the

1 results of the class cost of service study and the
2 proposed design of rates to recover the revenue
3 requirement identified by the company in this case.
4 I am sponsoring the tariff sheets proposed in
5 Appendix B of the application, exhibits attached to
6 my direct and amended testimony, the class cost of
7 service study and Statement O and the rate design
8 presented in Statement P.

9 The class cost of service study provides
10 an allocation of the revenue requirement to each of
11 the rate classes. The cost allocations are based
12 on cost causation with direct assignments made
13 where possible. The remaining costs are allocated
14 based primarily on customer-related, demand-related
15 and energy-related factors.

16 The class cost of service study was used
17 as a guide in the rate design process. The class
18 study and rate design results discussed at the
19 input sessions held in July were based on the
20 application amended to reflect removal of the
21 generation development costs and the return
22 settlement with advocacy staff which represented an
23 overall revenue requirement of 11.35 million, or
24 10.4 percent.

25 The proposed increase for the residential

1 class based on that revenue requirement equated to
2 a monthly increase of \$5.50 for a customer using
3 750 kilowatt-hours per month. Based on the revenue
4 requirement provided in MDU Exhibit 8R, which we
5 have been discussing here this week, of 8.8
6 million, to put that in the same perspective, a
7 residential customer using 750 kilowatt-hours would
8 see an increase of \$4.15 per month, or 8 percent.

9 In addition to the rate of return by
10 class, which is presented by the class cost of
11 service study, it also provides the cost per
12 component associated with providing service, and
13 that would be the customer demand and energy-
14 related costs. We have proposed an increase in the
15 customer component of each rate schedule in this
16 case to move those closer to the identified costs
17 in that embedded class study. While a residential
18 fixed monthly charge of \$16.25 per month is
19 supported by the class study, we are proposing to
20 increase the current \$5.50 charge under Rate 10 for
21 the residential service to 35 cents per day or
22 \$10.64 per month.

23 19 out of 23 rate schedules that I
24 reviewed available in North Dakota have base rates
25 that are \$10 or higher available -- applicable

1 today. We are also proposing to change the name of
2 the fixed monthly rate component to basic service
3 charge and, as I noted earlier, to apply that
4 charge on a daily basis. We believe the increase
5 in this component is warranted in order to recover
6 fixed costs through a fixed charge in order to
7 minimize subsidization of small users by large
8 users within the class and also to minimize the
9 fixed costs recovered through the energy or usage
10 charge. We have also proposed changes in the
11 demand charges under the schedules where there is
12 an applicable demand charge.

13 The energy rate for each rate schedule
14 reflects the residual of the revenues required to
15 be collected from each rate schedule after
16 deducting the basic service charge revenues and the
17 demand charge revenues where applicable. Upon
18 determination of the appropriate revenue
19 requirement in this case, the company recommends
20 the proposed base rates be implemented and energy
21 charges changed accordingly.

22 The company is proposing to retain the
23 seasonal rate structure authorized in the last rate
24 case.

25 We have also proposed a new rate schedule

1 that will provide the opportunity for residential
2 customers to take advantage of an off-peak rate by
3 utilizing a thermal energy storage device that will
4 allow energy purchased during the night to be used
5 throughout the day.

6 As you heard on Monday from the Steffes
7 representative, the company has been working with
8 Steffes, who is one manufacturer of such equipment,
9 and subsequent to the filing the company in working
10 with the Steffes Manufacturing has agreed to make
11 some changes in the tariff as proposed in the
12 original application. The company has agreed that
13 the off-peak hours should be 10 p.m. to 8 a.m.,
14 which reflects a two-hour extension from what we
15 originally filed.

16 And we also agreed after looking at it
17 further that in order to more efficiently serve the
18 installations, we could provide this service under
19 one schedule. As proposed, we were looking at
20 metering that thermal storage unit separately, but
21 we have looked into and we can build that correctly
22 with one meter, which then makes it a more
23 cost-effective option for the customer. We have
24 also agreed in the off-peak rate to increase the
25 differential in that rate to one and a half cents

1 from the over 750 KW charge we had proposed.

2 So we believe the above adjustments to the
3 rate, coupled with the rebate available through
4 current efficiency programs, will provide a
5 suitable payback for customers to consider the
6 investment necessary to utilize this off-peak
7 storage.

8 We've also proposed three tracking
9 adjustment tariffs to be utilized for future cost
10 recovery of demand-side management and energy-
11 efficiency programs, transmission investments and
12 federally regulated transmission-related charges
13 passed on to Montana-Dakota. As mentioned earlier,
14 there's also a rider for renewable resources, and,
15 again, when we approached this case, we saw that
16 that would be utilized for future investments, if
17 any, but we could also see the investments we have
18 in this case be moved into that rider.

19 Finally, we propose to combine various
20 terms and conditions of service to a single
21 schedule for ease of reference. This concludes my
22 summary.

23 Q. Thank you, Ms. Aberle. You mentioned
24 revisions to tariff number 13 regarding the thermal
25 storage rate.

1 A. Yes.

2 Q. Have you prepared a revised exhibit or
3 tariff to reflect those changes?

4 A. Yes, I have.

5 JUDGE WAHL: 26.

6 Q. (MR. KUNTZ CONTINUING) Ms. Aberle, I'm
7 showing you what's been marked as MDU Exhibit 26.
8 Can you identify that document, please?

9 A. Yes. This is the proposed thermal energy
10 storage, Service Rate 13, that I described. There
11 are four pages in this exhibit. The front two are
12 the copy reflecting the changes I described, and
13 the second two pages are showing the changes from
14 what was originally submitted in the application.

15 MR. KUNTZ: We would offer MDU Exhibit 26.

16 JUDGE WAHL: Mr. Savelkoul?

17 MR. SAVELKOUL: No objection.

18 JUDGE WAHL: Mr. Skokos?

19 MR. SKOKOS: No objection.

20 JUDGE WAHL: Ms. Jeffcoat-Sacco?

21 MS. JEFFCOAT-SACCO: No objection.

22 JUDGE WAHL: Exhibit MDU 26 is received.

23 Q. (MR. KUNTZ CONTINUING) Ms. Aberle, were
24 you in the hearing room yesterday to hear the
25 summary presented by Witness Mathai?

1 A. Yes, on Wednesday.

2 Q. And do you recall from that summary -- I'm
3 sorry, Wednesday. Do you recall from that summary
4 that Mr. Mathai referenced various data requests
5 that he had made to the company regarding wind
6 generation?

7 A. Yes.

8 Q. Are you familiar with those data requests?

9 A. Yes, I am.

10 Q. Showing you what's been marked as MDU
11 Exhibit 27, can you identify that document?

12 A. MDU Exhibit 27 is a number of data
13 responses that were referenced in Mr. Mathai's
14 summary that he provided on Wednesday.

15 Q. So these would be the requests and the
16 responses that the company provided to those data
17 requests?

18 A. Yes.

19 MR. KUNTZ: We'd offer MDU Exhibit 27.

20 JUDGE WAHL: Mr. Savelkoul?

21 MR. SAVELKOUL: Can you list those
22 exhibits, please -- or those responses?

23 THE WITNESS: Yes. It would be response
24 number 45, 46, 47, 48, 49, 50, 51, 52, 54, 58, 61,
25 73, 74, 75, 79, 80, 81, 82, 91 and a conference

1 request from September 7th, 2010.

2 Q. (MR. KUNTZ CONTINUING) Did you say 53?
3 Is 53 in that group?

4 COMMISSIONER CRAMER: She didn't and it
5 is.

6 THE WITNESS: Yes, it is in the package.
7 53, as well.

8 JUDGE WAHL: Mr. Savelkoul?

9 MR. SAVELKOUL: No objection.

10 JUDGE WAHL: Mr. Skokos?

11 MR. SKOKOS: No objection.

12 JUDGE WAHL: Ms. Jeffcoat-Sacco?

13 MS. JEFFCOAT-SACCO: No objection.

14 JUDGE WAHL: Exhibit MDU 27 is received.

15 Q. (MR. KUNTZ CONTINUING) Then the final
16 area, Ms. Aberle, there were questions on Wednesday
17 regarding the company's treatment of renewable
18 energy credits associated with its wind projects.
19 Do you recall that line of questioning?

20 A. Yes, I do.

21 Q. Can you tell the Commission what is the
22 status of the renewable energy credits or RECs that
23 have been generated so far from the renewable
24 energy projects?

25 A. Yes. As of October 31st, 2010, 247,940

1 RECs, or renewable energy credits, have been
2 generated by the renewable resources that are on
3 line today.

4 Q. And how many of those have been retired to
5 satisfy the Montana mandate?

6 A. 69,738, or 28 percent, of those have been
7 retired to date.

8 Q. And what is your understanding with
9 respect to whether these RECs are needed to satisfy
10 the North Dakota objective?

11 A. My understanding is the RECs are not
12 required to meet the objective today.

13 Q. So the North Dakota allocation of RECs, if
14 you will, would not necessarily have to follow the
15 use of the power?

16 A. That is correct.

17 Q. So could Montana-Dakota then sell those
18 RECs to another utility?

19 A. Yes.

20 Q. Or it could use them to satisfy objectives
21 in other states?

22 A. Yes.

23 Q. And still meet the North Dakota objective?

24 A. Yes.

25 MR. KUNTZ: That's all I have.

1 JUDGE WAHL: Mr. Savelkoul?

2 CROSS EXAMINATION

3 BY MR. SAVELKOUL:

4 Q. Ms. Aberle, you listed a number of data
5 requests in MDU 27. Are the responses to those
6 data requests accurate today?

7 A. There is -- in looking through this set of
8 responses, I believe we discussed PSC 52 earlier.
9 While the response is accurate, I believe we
10 discussed that it does not include the bonus tax
11 depreciation that we included in the most recent
12 revenue requirement.

13 Q. There's a question in there that -- I
14 believe it's 51 that relates to all wind farms and
15 I believe the company suggested it couldn't or it
16 didn't track information in that way so it couldn't
17 respond. Has the company subsequently provided all
18 of that information?

19 A. It is my understanding that subsequent to
20 this response and in attempting to pull out all of
21 the wind from our cost of service that there was a
22 revenue requirement for existing wind provided in
23 MDU Exhibit 8R.

24 Q. Okay. So that isn't the complete answer
25 in 51?

1 A. At the time that we responded, we had not
2 performed a separate revenue requirement
3 calculation for the Diamond Willow I that was
4 within the -- what we refer to as the per-books
5 data.

6 Q. Okay. So in these responses in several
7 spots there are changes to the depreciation rate,
8 as a result of that several changes to deferred tax
9 and several other changes that in essence make
10 these responses not accurate as it is today?

11 A. I do not necessarily agree. For example,
12 the 51 -- response 51 was really looking at a
13 comparison of the various projects, and while the
14 treatment may have been different than in the
15 revenue requirement presented, you know, recently,
16 the numbers that were presented there were the
17 numbers that were looked at when providing that
18 levelized cost over the life of the investment.

19 Q. And those numbers aren't the same as were
20 submitted by Exhibit 8R, are they?

21 A. There have been changes since this data
22 response was put together.

23 Q. Okay. Can you tell me on an annual basis
24 how many renewable energy credits are generated
25 currently?

1 A. I do not have that information in that
2 format. Because we have just recently brought on
3 line Cedar Hills and the second increment of
4 Diamond Willow, I cannot divide my number by three
5 or by the number of years, so I do not have that
6 available with me.

7 Q. Can you give us an approximation of how
8 many renewable energy credits are created annually?

9 A. I do not have that information with me.

10 Q. Can you please provide that to the Court
11 when available?

12 A. Yes.

13 MR. KUNTZ: We'll provide that as a
14 late-filed Exhibit No. 28.

15 JUDGE WAHL: Let's do it as MDU 28, and
16 how will the exhibit be described?

17 MR. KUNTZ: Projection of renewable energy
18 credits -- annual renewable energy credits from the
19 wind projects.

20 Q. (MR. SAVELKOUL CONTINUING) And, Ms.
21 Aberle, can you --

22 JUDGE WAHL: Just a moment. Just a
23 moment, Mr. Savelkoul.

24 MR. SAVELKOUL: I apologize.

25 JUDGE WAHL: All right. For the record,

1 MDU -- Exhibit MDU 28 will be a late-filed exhibit
2 showing annual renewable energy credits. Mr.
3 Kuntz?

4 MR. KUNTZ: No objection.

5 JUDGE WAHL: And, Mr. Skokos?

6 MR. SKOKOS: No objection.

7 JUDGE WAHL: And Ms. Jeffcoat-Sacco?

8 MS. JEFFCOAT-SACCO: No objection.

9 JUDGE WAHL: MDU 28 is received.

10 Q. (MR. SAVELKOUL CONTINUING) Ms. Aberle,
11 can you tell the Commission the number of renewable
12 energy credits that are required to be retired
13 annually in Montana for 2010?

14 A. For the 2010 compliance year, we will need
15 to retire approximately 70,000 renewable energy
16 credits.

17 Q. And what does that estimate increase to in
18 2015?

19 A. It would increase to 15 percent, so that
20 would be approximately 105,000 renewable energy
21 credits.

22 MR. SAVELKOUL: Okay. I've got nothing
23 further. Thank you.

24 JUDGE WAHL: Mr. Skokos?
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CROSS-EXAMINATION

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BY MR. SKOKOS:

Q. Just some brief questions about some of your tracking adjustments, specifically Rate 54, and just to kind of preface the question, you offer -- it's my understanding that MDU offers energy efficiency programs in the other two states besides Wyoming that it serves, Montana and in South Dakota?

A. We offer energy efficiency programs in Montana and Wyoming -- electric energy efficiency programs, and in South Dakota gas.

Q. Are those programs through the Reinvestment Act, or are those programs that are specific just to those states?

A. Those are specific to those states.

Q. Okay. So for the load management tracking adjustment 54, is the reason why your current recovery is zero cents per kilowatt-hour primarily because it's a program that may occur in the future, if you do plan on doing that in North Dakota?

A. Yes.

Q. So it's essentially looking towards the future for energy?

1 A. That is correct.

2 MR. SKOKOS: Okay. No further questions.

3 JUDGE WAHL: Ms. Jeffcoat-Sacco?

4 MS. JEFFCOAT-SACCO: I have no questions.

5 JUDGE WAHL: Questions from the
6 Commission? Commissioner Clark.

7 COMMISSIONER CLARK: Thank you, Judge.

8 **EXAMINATION**

9 **BY COMMISSIONER CLARK:**

10 Q. Moving to your -- I'm working off, I'm
11 going to call it, the red line version of the --
12 kind of legislative draft version of the proposed
13 tariff.

14 A. Okay.

15 Q. On Rate Schedule 10, first of all, and
16 this is probably covered in your testimony, but if
17 you could just also describe it to me from the
18 stand, the addition of the base fuel and purchased
19 power charge, what's the rationale for that, how is
20 it arrived at compared to how it exists under
21 current tariff?

22 A. Yes. The base fuel and purchased power in
23 our current tariff is really part of the energy
24 charge.

25 Q. Okay.

1 A. So it's a bundled charge. In this case we
2 are proposing to bifurcate that much like we do on
3 our natural gas service, so we would have base fuel
4 and purchased power set forth on the residential --
5 for example, residential schedule, and then changes
6 from that point will be part of the -- we'll bill
7 the total amount through the fuel and purchased
8 power cost adjustments.

9 Q. So is this an assumed --

10 A. Yes, this is part of --

11 Q. I don't know if that's the right way to
12 put it. It's an assumed sort of base fuel charge
13 that's going to be there every month; is that --

14 A. It's really a starting point, if you will.

15 Q. Okay.

16 A. We have a base in our current schedules.
17 We just don't present that separately, so it really
18 reflects that redispatch of resources to match the
19 revenues with -- the fuel revenues with the fuel
20 expense.

21 Q. Okay. And then moving up the schedule
22 just a little bit, MDU continues to propose for
23 October through May on Rate 10 the declining block
24 rate. I know some utilities around the country are
25 getting away from declining block rates. Could you

1 talk a little bit about why you chose to continue
2 to include that in the tariff?

3 A. Yes. It is a declining block rate, but it
4 is also a cost-based rate for service associated
5 with that time of the year. So in the class cost
6 of service study we looked at, it's really -- I
7 took a look at allocating production and
8 transmission costs on an energy basis, I saw about
9 this differential between the two periods. So as
10 we heard earlier this week, it helps to smooth out
11 the low profile in providing an opportunity for
12 electric space heating customers, but I believe
13 it's also to be a cost-based rate. And the other
14 piece of it is we're not at our full base rate, so
15 that first 750 kilowatt-hours is really capturing
16 some of those fixed costs that were not covered in
17 the basic service charge.

18 Q. Okay. And, again, you can testify that
19 the June through September rate is also cost-based
20 on the cost of service study that was done?

21 A. Yes.

22 Q. Can we move to Rate 100? As I understand
23 it from your testimony, Rate 100 is in many ways a
24 consolidation of other rates from the previous
25 tariff, is that right, or it hopes to clean up a

1 lot of old schedules that existed in the tariff?

2 A. That's correct. In the past a number of
3 the provisions which I consider to be general
4 provisions associated with service were on
5 separately numbered schedules and it was trying to
6 remember what that was, so it really is just so
7 that it's all in one place.

8 Q. I noted a couple of changes with regard to
9 penalty provisions and things like that.

10 A. There is one change.

11 Q. Is it just the returned check?

12 A. Proposed in the returned check charge,
13 yes. We are proposing to increase that charge from
14 -- let me just double-check -- from \$10 to \$15 and
15 we looked at what other -- our own costs are with
16 processing that returned check and really what
17 others are charging.

18 Q. Are there any other fee changes that exist
19 in here, whether it's reconnection fees or anything
20 else?

21 A. No. That is the only change.

22 Q. That is the only one. Okay. I'm flipping
23 backwards now here again to the optional
24 time-of-use rate. That's 16, I believe. On 16
25 before we get into the time-of-day rates, has MDU

1 considered even more aggressive time-of-day pricing
2 or even more specific time-of-day pricing?

3 A. Commissioner, we do continue to evaluate
4 that. We're still with regard to systems not at a
5 place where we can offer more periods, if you will.
6 I think that we'd like to see perhaps that there
7 would be a shorter or narrower on-peak, perhaps
8 some shoulder and then an off-peak period, for
9 example. Our current billing system, we're in the
10 process of an upgrade to that billing system, but
11 today could not effectively produce that bill.

12 We also are really still finding all of
13 the ways that we can leverage our new metering
14 system so within that network metering system we're
15 able to get interval data from a good portion of
16 our customers, and we believe that once that is
17 fully in place -- the metering side is fully
18 functional, but we need that tie between that
19 system and the new customer information system or
20 billing system to really move forward with that.

21 Q. Well, the reason I ask is, and I've had
22 conversations with staff about this and others
23 around the country, we hear a lot about smart grid
24 and if you had absolute time responsive demand
25 pricing and real time pricing, you could do this,

1 that and the other thing, and I sometimes wonder if
2 90 percent of the benefit that you might get from
3 true pricing of electricity, if could you get the
4 same thing by just fairly aggressive, but somewhat
5 broad, use of time-of-day rates that might not
6 require the same sort of system responsiveness and
7 real high-end smart grid applications to do that.
8 I mean, does that make sense that you could achieve
9 almost all of the benefit of load shaping that you
10 get from demand responsive pricing, but not need to
11 go all the way to real time pricing?

12 A. I do not have any numbers to support what
13 would the results be, but what I was describing was
14 more -- not a real time price, but more of a --

15 Q. Right.

16 A. And we have the same thoughts. Until we
17 understand -- you know, there's equipment that is
18 available today, but I don't believe generally
19 available for communication, you know, on a real
20 time basis with our system, so, you know, that's
21 going to be a customer expense, I believe that
22 that, if it does make sense, is out there a ways
23 for our system.

24 Q. Mm-hmm.

25 A. We really want to focus on providing some

1 price signals, but we need to provide the education
2 along with that and then, as time and as those
3 technologies evolve, may move into more of that
4 real time application, if it makes sense to do so
5 at that time.

6 COMMISSIONER CLARK: Sure. I'm just
7 wondering if you can get better bang for your buck
8 with some of the, like I said, somewhat more crude,
9 but aggressive time-of-day schedules. Anyway, I
10 would encourage MDU and all the utilities to
11 continue to look at that. It seems like load
12 shaping in all its forms from thermal storage
13 devices to just better time-of-use rates or
14 time-of-day rates can achieve an awful lot.

15 That's all I've got. Thank you.

16 JUDGE WAHL: Further questions from the
17 Commission? Commissioner Kalk.

18 **EXAMINATION**

19 **BY COMMISSIONER KALK:**

20 Q. Tamie, I just have one. It was a followup
21 to kind of Tony's line of thinking. I was just
22 looking at residential Rate 10, amended page 2 of 2
23 of your Exhibit 12, just so you kind of know what
24 I'm talking about. But just in general it looks
25 like the current base rate was 5.50 a month. If

1 you roughed it out to 35 cents a day, that's
2 roughly 10.50 a month.

3 A. Yes.

4 Q. How high would that number for base rate
5 have to become to get rid of the stair-stepping of
6 the first 750 cost you mentioned and the second 750
7 the rate changes, I mean, because to me if you
8 raise your base rate to a certain point, then you
9 could just stagger those costs all the way up. Is
10 there an amount that you can get to that a base
11 rate is enough that you can then have the same
12 price per kilowatt from the very first one to the
13 millionth one?

14 A. The percentage of the class study --

15 Q. I guess how do you get to these numbers to
16 even propose them?

17 A. We look at the embedded class cost of
18 service study, so we take all of the costs
19 associated with providing service. We look at
20 what's assigned to, in this case, the residential
21 class and based on what we've identified through
22 that allocation process as fixed-related costs, we
23 determined that that number would be \$16.25 per
24 month. And that would certainly minimize this
25 block differential. You know, in some of what -- I

1 would like to retain that block differential even
2 with that just to look at space heating load
3 because we don't require customers to separately
4 meter that space heating load, so it provides
5 really that every -- the usage that is occurring
6 during the day and during the on-peak hours, which
7 space heating does, as well, but at that first --
8 maybe a first step and all other energy at a second
9 step. I think you see -- there's a number of
10 companies that offer a space heating rate, but it's
11 separately metered and a separate schedule, where
12 we're trying to accomplish the same through one
13 schedule.

14 COMMISSIONER KALK: Right. Thank you.

15 JUDGE WAHL: Commissioner Cramer.

16 **EXAMINATION**

17 **BY COMMISSIONER CRAMER:**

18 Q. Just following along with that because I
19 had the exact, same question. What percentage of
20 the bill -- of a customer's bill would be energy if
21 you actually recovered the 16.25 in base rates, I
22 guess? Because if I understand your line is you
23 want to create an incentive for efficiency for
24 conservation. Is that a mis --

25 A. That's certainly a goal. And I don't --

1 we don't see a lower rate after a certain amount of
2 use as a promotional rate.

3 Q. Sure.

4 A. Bottom line, the customer's bill is going
5 to be higher. So I don't know that that moves them
6 to do something -- you know, add something in their
7 home just to get to that next step. I think it
8 recognizes that for the majority of that use,
9 October through May is space heating load, but I
10 don't think that incentivizes customers to use
11 more. And I don't know that it says don't
12 conserve, because every kilowatt-hour they
13 conserve, their bill will go down. So I think it's
14 that balance, and I believe customers look at their
15 total rate -- or total bill -- excuse me -- and do
16 not look at necessarily those charges to try to
17 change their behavior.

18 Q. Sure. Of course, my personal advice is
19 the clearer the price signals, the better and I
20 would love to have a 16.25 basic service charge,
21 but I realize both the political and, you know,
22 cultural realities of that transition to that at
23 some point. What I just want to ascertain is if
24 you got to that point -- and I think you've
25 answered it very well, by the way -- would the

1 remainder of the customer's bill still be enough
2 to -- to not become an incentive -- a promotional
3 incentive, if you will --

4 A. Yes.

5 Q. -- and I think you've answered it very
6 well.

7 COMMISSIONER CRAMER: So thank you. I
8 have nothing further.

9 JUDGE WAHL: Commissioner Clark.

10 **FURTHER EXAMINATION**

11 **BY COMMISSIONER CLARK:**

12 Q. Just a couple more and these are a little
13 bit more open-ended, but if you've got some data
14 that indicates MDU has looked into this, let me
15 know.

16 There are a couple of different models
17 that people around the country have been using to
18 try to make the utility company more agnostic to
19 whether their consumers engage in energy
20 efficiency. One is a decoupled rate design where
21 it really doesn't matter how many kilowatt-hours
22 you sell, MDU makes the same either way. The other
23 is where you actually have a third-party energy
24 efficiency vendor come into the state and the
25 vendor is funded through whatever mechanism a

1 utility customer is billed, but then that vendor
2 makes their profit and can increase their profit by
3 encouraging the adoption of energy-efficiency
4 programs so that the utility, itself, isn't in
5 charge of that end of things, that it's some other
6 third party whose job it is to do it and the profit
7 incentive is to get energy efficiency out there and
8 implemented. Has MDU studied either of those two
9 ideas and to what degree do you think that we might
10 move towards that, or if you didn't choose to think
11 of some of those things, why not?

12 A. We have evaluated decoupling over the
13 years, and continue to do so, and we believe that
14 there is merit in severing that tie, if you will,
15 especially in trying to recover fixed costs over a
16 variable component.

17 Q. Mm-hmm.

18 A. We have not moved forward with a
19 decoupling proposal in any of our jurisdictions as
20 of yet, but we are looking at those avenues and
21 really looking out there -- there's a couple of
22 states that they've been around for a few years --
23 and trying to discern, if you will, that it fits
24 our system and our demographics. With regard to
25 the third-party vendor, we are actually evaluating

1 such a proposal today and may have more information
2 to share with you in the future on that.

3 Q. Good. Did MDU give any consideration to
4 some sort of evaluation measurement tracking of
5 energy efficiency and then providing some sort of
6 mechanism to kind of true-up MDU's revenue stream?
7 Is this making any sense to you? It's not true
8 decoupling, but it's almost like weather
9 normalization, but it's for efficiency as opposed
10 to weather swing.

11 A. And that is exactly what we've proposed in
12 this tracking adjustment tariff. You know, we
13 started out with, we provided a proposal back in
14 2009, I believe, looking at a comprehensive
15 portfolio of programs, and along with that a
16 lost -- you know, it's called lost revenue
17 recovery, or that component trying to identify what
18 has been installed and what energy was associated
19 with that and recover that then as part of the cost
20 of the program.

21 After filing that -- and in fact it's
22 still on file at the Commission, we've never pulled
23 it, but we then were approached, as were all the
24 utilities in the state, to try to work with the
25 Department of Commerce in getting the stimulus

1 dollars out to the citizens of North Dakota. So
2 that program really, if you will, took the place of
3 what we had proposed for the time being because
4 it's a very comprehensive program. So we don't
5 have that mechanism with those programs which we
6 would like to have, but we don't have that tied
7 together at this point in time, so you can expect
8 to see if we come in with another revised
9 portfolio, we'll look at how it went with the
10 programs that were being promoted in the stimulus
11 dollars and come back with a new portfolio or a
12 revamped portfolio. You'll expect to see that
13 we're going to ask to be able to recover those
14 costs associated with lost revenue.

15 COMMISSIONER CLARK: Okay. Thank you.

16 JUDGE WAHL: Any further questions from
17 the Commission? Followup, Mr. Kuntz?

18 MR. KUNTZ: Yes, just a couple.

19 **REDIRECT EXAMINATION**

20 **BY MR. KUNTZ:**

21 Q. Ms. Aberle, you mentioned that you're a
22 manager in the regulatory affairs department of
23 Montana-Dakota. How many managers are in that
24 department?

25 A. There are two managers, Rita Mulkern and

1 myself.

2 Q. And Exhibit 27, were the responses
3 included in Exhibit 27 true and correct, to the
4 best of Montana-Dakota's information and belief as
5 of the date that they were prepared?

6 A. Yes.

7 Q. And, for example, Exhibit No. 51, does it
8 show the date it was prepared?

9 A. I don't believe that we put the date on
10 there.

11 Q. It would show the date of the request,
12 though, wouldn't it?

13 A. Yes, it has the date of the request.

14 Q. And generally how quickly did you try to
15 respond to those requests?

16 A. We tried as quickly as we could. I can't
17 answer when that one was exactly filed.

18 Q. So DR-051 was dated August 23, 2010. Do
19 you see that?

20 A. Yes, I do.

21 Q. And so would your response to that
22 particular data request have been able to reflect
23 the bonus depreciation that Ms. Mulkern testified
24 was enacted after that date?

25 A. No, it would not.

1 MR. KUNTZ: That's all I have.

2 JUDGE WAHL: Mr. Savelkoul?

3 **RE-CROSS-EXAMINATION**

4 **BY MR. SAVELKOUL:**

5 Q. With respect to that same exhibit, you
6 don't know when that was responded to, though;
7 correct?

8 A. I do not know with certainty.

9 Q. So that could have been responded to after
10 the availability of the bonus depreciation, could
11 it not?

12 A. No.

13 Q. I thought you just said you didn't know.

14 A. Well, no, I don't know the exact date, but
15 I do know that we -- the bonus tax depreciation was
16 a relatively recent finding -- or enactment. I
17 don't recall the date of the enactment of that, but
18 it would not have been available at the time this
19 response was prepared.

20 Q. I'm sorry. I'm confused. I thought you
21 said you didn't know when this was responded to.

22 A. I do not know the date.

23 Q. Okay. And knowledge of bonus depreciation
24 was available sometime in September; isn't that
25 correct?

1 A. I believe that was late September.

2 Q. Okay. And that's a significant time
3 period prior to the company filing information with
4 respect to that, isn't it?

5 A. I believe September -- the end of
6 September was when it was enacted. I'm not sure
7 when that information became available to us in the
8 regulatory department to prepare revised schedules.

9 Q. Okay. Now, specifically with respect to
10 51, generally it asks for a revenue calculation for
11 each wind farm. If the company had chosen to
12 respond to that, it had the information to do so,
13 did it not?

14 MR. KUNTZ: Objection to the form of the
15 question. The company did respond to it. The
16 response is contained in the exhibit.

17 JUDGE WAHL: Sustained.

18 Q. (MR. SAVELKOUL CONTINUING) The response
19 could have included information with respect to
20 Diamond Willow I, could it not?

21 A. We did not have the revenue requirements
22 split apart at the time of that response.

23 Q. It did not have it computed, it's not that
24 it didn't have the information; isn't that correct?

25 A. The information was actual data, so the

1 information was there, but not -- it's not tracked,
2 it was not maintained in a form to have a revenue
3 requirement associated with each, in this case,
4 generating unit.

5 MR. SAVELKOUL: I've got nothing further.
6 Thank you.

7 JUDGE WAHL: Mr. Skokos?

8 **RECROSS-EXAMINATION**

9 **BY MR. SKOKOS:**

10 Q. Ms. Aberle, is it your understanding that
11 the ACEEE, American Council for an Energy-Efficient
12 Economy, ranked North Dakota 51 out of the 51
13 jurisdictions in their report?

14 A. I'm not aware of that.

15 Q. Oh, okay. Well, the ACEEE is an
16 organization that ranks states based on their
17 energy-efficiency ratings based on the programs
18 that they use. Based on studies like that, have
19 you evaluated any other studies similar to that
20 about North Dakota?

21 A. I have not.

22 Q. You have not. Okay. Are you aware that
23 North Dakota has one of the lowest kilowatt --
24 per-kilowatt-hour rates in the United States?

25 A. Yes, I am.

1 Q. Are you also aware that North Dakota pays
2 more on -- North Dakotans pay more on their bill
3 per month than states with higher kilowatt-hour
4 rates?

5 A. I am not. I generally look at average
6 rates. I don't necessarily look at total bills.

7 Q. Okay. Do you have plans -- you spoke
8 about some plans to do energy efficiency in the
9 future. Are your plans planned out after the
10 Reinvestment Act money is no longer being
11 disbursed?

12 A. We would try to time that with that. My
13 understanding is the investment money is available
14 -- those program dollars are available through
15 December 2011.

16 Q. Okay. So you have plans beyond 2011?

17 A. Yes, we do.

18 Q. Do you have plans to come before the
19 Commission and ask to recover for energy efficiency
20 based on these rate schedules?

21 A. As I noted, yes, we do.

22 MR. SKOKOS: Okay. No further questions.

23 JUDGE WAHL: Ms. Jeffcoat-Sacco?

24 MS. JEFFCOAT-SACCO: I have no questions.

25 Thank you.

1 A. That is true.

2 COMMISSIONER CRAMER: Yeah. I thought so.

3 I have nothing further.

4 JUDGE WAHL: Commissioner Clark.

5 COMMISSIONER CLARK: Thanks.

6 **FURTHER EXAMINATION**

7 **BY COMMISSIONER CLARK:**

8 Q. Tamie, if a report like the aforementioned
9 ACEEE report contained major problems in it, for
10 example, not having North Dakota's decoupled gas
11 rates with Xcel Energy in it or left out other
12 significant issues or facts from North Dakota, do
13 you think it would undercut the credibility of the
14 report, just generally speaking?

15 A. I would say it would depending upon the
16 preface of what the quote was.

17 Q. Sure.

18 A. I don't know what they looked at in terms
19 of determining North Dakota was 51st.

20 COMMISSIONER CLARK: Okay. Thanks.

21 JUDGE WAHL: Followup, Mr. Kuntz?

22 MR. KUNTZ: No, Your Honor, nothing
23 further.

24 JUDGE WAHL: Mr. Savelkoul?

25 MR. SAVELKOUL: Nothing, Your Honor.

1 JUDGE WAHL: Mr. Skokos?

2 MR. SKOKOS: Nothing.

3 JUDGE WAHL: Ms. Jeffcoat-Sacco?

4 MS. JEFFCOAT-SACCO: Nothing.

5 JUDGE WAHL: Thank you very much, Ms.

6 Aberle. We will recess until one o'clock.

7 MR. SAVELKOUL: Your Honor.

8 JUDGE WAHL: Mr. Savelkoul.

9 MR. SAVELKOUL: One request. Does anybody
10 have any cross-examination for Mr. Goodner?

11 MR. KUNTZ: I do not.

12 JUDGE WAHL: Mr. Skokos?

13 MR. SAVELKOUL: Or the Commission have any
14 questions?

15 MR. SKOKOS: No.

16 COMMISSIONER CRAMER: I don't.

17 COMMISSIONER KALK: Your Honor --

18 JUDGE WAHL: Ms. Jeffcoat-Sacco?

19 MS. JEFFCOAT-SACCO: Not at this point.

20 JUDGE WAHL: That's the problem. So

21 what's the proposal, Mr. Savelkoul?

22 MR. SAVELKOUL: I was just proposing if
23 nobody had any questions for him, if we might be
24 able to do him before lunch and just get that out
25 of the way. I know he's got availability concerns

1 in the afternoon.

2 JUDGE WAHL: No. I would rather recess
3 until one o'clock.

4 MR. KUNTZ: Your Honor, from my
5 standpoint, I would be willing to stipulate to the
6 introduction and foundation of his exhibit so he
7 wouldn't even need to put him on the phone, but I
8 can't speak for the rest of the room.

9 JUDGE WAHL: Mr. Skokos?

10 MR. SKOKOS: No objection.

11 JUDGE WAHL: Ms. Jeffcoat-Sacco?

12 MS. JEFFCOAT-SACCO: I really have no
13 problem with that, but there were quite a few rate
14 design questions of the company that were different
15 from -- deviating from the filed testimony so the
16 Commissioners may have some rate design questions
17 along with advocacy staff witness. I really don't
18 myself, but I just want to make sure people
19 understand what that means then if the person is
20 not here.

21 JUDGE WAHL: In short, Commissioners, you
22 won't be able to ask questions.

23 COMMISSIONER CLARK: I didn't write down
24 any in advance for that particular witness.

25 COMMISSIONER KALK: Your Honor, what do we

1 have -- what's left here on the docket, because I
2 have a hard commitment at 2:30, so what is left
3 here to do? I'm seeing one I know we haven't
4 talked to here. I'm just trying to get a sense
5 of -- maybe it would be well just to push through
6 and be done in an hour and a half instead of taking
7 a break. I just don't know what's out there yet,
8 kind of get a feel for that.

9 JUDGE WAHL: Well, Mr. Kuntz, you're
10 finished?

11 MR. KUNTZ: We're done subject to
12 confirmation that all of our exhibits that have
13 been marked have been offered and received.

14 JUDGE WAHL: Right. Which you're going to
15 have?

16 MR. KUNTZ: Pardon?

17 JUDGE WAHL: Which you're going to look at
18 and confirm that for yourself?

19 MR. KUNTZ: Right.

20 JUDGE WAHL: And, Mr. Savelkoul, we have
21 Mr. Diller and Goodall, is it -- Goodner?

22 MR. SAVELKOUL: Goodner, yes.

23 JUDGE WAHL: So that's your only
24 witnesses?

25 MR. SAVELKOUL: Correct.

1 JUDGE WAHL: And then you have one
2 witness?

3 MR. SKOKOS: One witness.

4 MR. SVELKOUL: I'm sorry?

5 JUDGE WAHL: No, I was talking to Mr.
6 Skokos.

7 MR. SKOKOS: One.

8 JUDGE WAHL: Well, you know --

9 MR. KUNTZ: How about a 30-minute break
10 just to grab a sandwich or something, would that
11 work better?

12 COMMISSIONER KALK: I'm good with that.

13 COMMISSIONER CRAMER: I'm good with that.

14 JUDGE WAHL: Commissioner Clark?

15 COMMISSIONER CLARK: Yeah, that's fine.

16 JUDGE WAHL: All right. Then let's be in
17 recess until 12:30.

18 MR. SVELKOUL: Your Honor.

19 JUDGE WAHL: Mr. Savelkoul.

20 MR. SVELKOUL: So I just want to clarify.

21 Was there a stipulation to Mr. Goodner's testimony?

22 I just want to contact him.

23 JUDGE WAHL: No. I don't --

24 COMMISSIONER KALK: I'm okay with that.

25 We're okay with that.

1 JUDGE WAHL: Just a minute.

2 Commissioners, are you willing to stipulate to --

3 COMMISSIONER CRAMER: I'm comfortable with
4 the stipulation, frankly, because to the degree
5 that there are some differences, I think they can
6 stand as differences and I have no questions for
7 him.

8 JUDGE WAHL: Then if you don't have any
9 questions, there's nothing to be done.

10 COMMISSIONER CRAMER: Right.

11 JUDGE WAHL: All right. Mr. Savelkoul,
12 we're in agreement, but I'll take that up as part
13 of your presentation beginning at 12:30, but the
14 parties will stipulate to Goodner's testimony.

15 MR. SAVELKOUL: Thanks so much.

16 (Recess taken at 12:08 p.m. to 1:42 p.m.)

17 JUDGE WAHL: All right. We're running.

18 Mr. Savelkoul, you're there? Hello, Mr. Savelkoul.

19 MR. SAVELKOUL: Hi. Yes. Thank you.

20 JUDGE WAHL: And, Mr. Diller, you're
21 there?

22 MR. DILLER: I am.

23 JUDGE WAHL: Okay. You may proceed, Mr.
24 Savelkoul.

25 MR. SAVELKOUL: Could I have the testimony

1 of staff witness Mr. Steve Goodner marked, please?
2 I believe we are on CAS 19.

3 JUDGE WAHL: No. We're on CAS 20, but let
4 me see why it's not 19. CAS 19 was renewable
5 resource standard audit report, so it's 20.

6 MR. SAVELKOUL: Okay. I have that as 18.
7 Thank you.

8 JUDGE WAHL: Oh, come on, now. 18 -- CAS
9 18 is summary, NSP.

10 MR. SAVELKOUL: Okay.

11 JUDGE WAHL: Yeah, I think I'm right, Mr.
12 Savelkoul.

13 MR. SAVELKOUL: I believe you are, as
14 well. Thank you.

15 JUDGE WAHL: All right. For the record,
16 I'm marking the testimony -- the direct testimony
17 of Steve Goodner as CAS 20.

18 MR. SAVELKOUL: And, Your Honor, the
19 parties have stipulated to admission of this
20 exhibit, so I would offer it.

21 JUDGE WAHL: All right. Apparently I have
22 copies to distribute; is that correct? I've got a
23 whole handful of copies, or has that been filed?

24 MR. SAVELKOUL: That has been filed. You
25 also have copies.

1 JUDGE WAHL: I've got plenty of copies.
2 Mr. Kuntz?

3 MR. KUNTZ: No objection.

4 JUDGE WAHL: Mr. Skokos?

5 MR. SKOKOS: No objection.

6 JUDGE WAHL: Ms. Jeffcoat-Sacco?

7 MS. JEFFCOAT-SACCO: No objection.

8 JUDGE WAHL: The Exhibit CAS 20 is
9 received.

10 MR. SAVELKOUL: Thank you, Your Honor.
11 And at this point staff would like to call Mike
12 Diller.

13 JUDGE WAHL: Mr. Diller, as well you know,
14 your testimony is required to be under oath and I'm
15 required by law to advise you regarding perjury
16 before administering the oath. Perjury is a false
17 statement of material fact which you do not believe
18 to be true. In North Dakota perjury is a Class C
19 felony, punishable by a fine up to \$5,000,
20 imprisonment for a period of up to five years, or
21 both.

22 **MICHAEL DILLER,**
23 being first duly sworn, was examined and testified
24 as follows:

25 JUDGE WAHL: Mr. Savelkoul.

DIRECT EXAMINATION1
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25**BY MR. SAVELKOUL:**

Q. Mr. Diller, please provide your testimony and statement to the Court.

A. Thank you, Rich. First of all, I'd just like to say to the judge and commissioners, thank you for letting me do this long distance. This morning I was greeted with a great big smile from my granddaughter, Gwyneth Catherine Marie. I wanted to get her name in the record. I look forward to concluding this matter today because I have a more important matter to attend to here.

I feel a little bit like the ninth batter. All the big hitters have already gone so I'll try to be as succinct and descriptive as I can.

Commissioners, I've been here -- I've worked for you for, well, almost a quarter of a century now, so that speaks to my qualifications, more specifically about 23 years with the North Dakota Public Service Commission. Am I coming across?

JUDGE WAHL: You're doing just fine, Mr. Diller.

THE WITNESS: Okay. I thought it might be important before I get into discussing the issues

1 that I want to bring to your attention just kind of
2 where I think we are as far as dollars are
3 concerned.

4 MDU's request after the rate of return
5 adjustment is -- and you can see it in the
6 settlement is \$11,519,000. From that number then
7 we have settled issues totaling \$1,220,000. We've
8 also removed incentives and bonuses of about 1.2
9 million. And then if I use Ms. Mulkern's number of
10 \$8.6 million associated with wind, I believe that
11 staff's position as of today is that MDU would be
12 entitled to a rate increase under our case at least
13 of \$500,000 or about a half-million dollars.

14 Now, moving on to the purpose of my
15 testimony, I want to provide a couple of instances
16 where direct assignment of environmental costs have
17 occurred in the past and are familiar to this
18 Commission. I also want to offer support for the
19 cost of capital.

20 I'm getting feedback. Is that somebody
21 talking or is that just me?

22 JUDGE WAHL: That's just you, Mr. Diller,
23 I believe. We're not hearing anything, although
24 you broke up just a little bit.

25 THE WITNESS: Okay. Number two, I want to

1 support the cost of capital settlement filed on
2 June 16th, 2010. I want to support the settlement
3 of various issues filed on Monday, November 8th,
4 2010. And then I'll just provide some closing
5 remarks.

6 With regard to specific allocation, the
7 Commission and the ratepayers it protects has a
8 history of not paying for costs associated with
9 used and useful programs of another state if the
10 programs are not cost-effective. While they may be
11 used and useful, the cost of these programs exceed
12 the expected benefits to North Dakota ratepayers.

13 In this case the financial information we
14 have seen, the high RPs that we have reviewed
15 dating back to 2005, the testimony heard by the
16 Commission in Big Stone II, combined with the lack
17 of financial information requested at least in time
18 for this hearing, it has led staff to conclude that
19 the wind investment associated with Montana's
20 renewable mandates are not cost-effective.

21 Now, with respect to specific examples
22 that exist regarding the direct assignment of costs
23 associated with another state that it also provides
24 benefits to North Dakota, conservation incentive
25 plans, or CIPs as they're often referred to, and

1 for the court reporter, C-I-P -- they are required
2 in South Dakota and Minnesota and vast sums of
3 money are spent on the various programs approved by
4 their respective commissions.

5 For instance, in Minnesota 1.5 percent of
6 electric revenues collected are required to be
7 spent on CIP programs, 2 percent if you own a
8 nuclear plant in Minnesota. The cost of these
9 programs are borne entirely by the ratepayers of
10 Minnesota, and rightfully so.

11 North Dakota ratepayers do not pay for CIP
12 programs required by other states despite the
13 integration of a regional company system. The CIPs
14 indirectly benefit North Dakota ratepayers because
15 while another state's ratepayers are paying the
16 cost of these programs, the programs are indeed
17 reducing the integrated system's overall demand and
18 energy requirements. These programs reduce use of
19 the existing system and delay the need for bringing
20 on new and, generally speaking, more expensive
21 generation facilities.

22 Another large direct assignment associated
23 with environmental cost is the Renewable
24 Development Fund in Minnesota. Basically Northern
25 States Power Company needed additional dry cast

1 storage for its nuclear generation facilities, but
2 it couldn't get the needed regulatory approvals for
3 more casts until it agreed to cough up tens of
4 millions of dollars through the collection of RDF
5 dollars, which, of course, ultimately come from NSP
6 ratepayers. The RDF dollars are then disbursed for
7 various renewable projects deemed appropriate by an
8 oversight board comprised of primarily, if not
9 entirely, Minnesotans.

10 Beginning in 2002 NSP made the first of
11 three filings with this Commission to recover North
12 Dakota's allocated share of RDF costs, which is
13 about 5 or 6 percent of NSP's total system costs.
14 Thankfully, the Commission did not yield to those
15 requests and North Dakotans did not and have not
16 paid for their share of these so-called integrated
17 system costs. The recovery of RDFs in North Dakota
18 was sold to this Commission as a necessary cost of
19 an integrated system.

20 Certainly, North Dakota ratepayers benefit
21 from the low-cost energy of NSP's nuclear
22 facilities in Minnesota. However, I think the
23 Commission was right to balk at paying for
24 Minnesota RDF funds. To do otherwise sets a bad
25 policy enabling one state to enrich itself at the

1 expense of another state for its own pet projects.

2 In this case Montanans want green energy,
3 but evidently they don't want to pay for it, or at
4 least that seems to be the case here. Perhaps if
5 MDU -- perhaps if MDU -- I'm getting feedback
6 again. I'm sorry. Perhaps if MDU sought recovery
7 from Montana for the Diamond Willow wind farm,
8 which was built to meet the Montana renewable
9 portfolio standard, we wouldn't be here today.

10 To that end, I recommend the Commission
11 dismiss the Diamond Willow projects from rate
12 recovery in North Dakota. My calculations indicate
13 that the renewable energy credits from Diamond
14 Willow alone will be insufficient to meet the full
15 requirements of the Montana RPFs. If the
16 Commission decides that Cedar Hills was a prudent
17 investment for the system, Montana's share of Cedar
18 Hills would likely resolve that shortfall.

19 I believe these instances provide further
20 justification for staff's overall position on the
21 removal of these wind projects. Staff believes
22 that from an integrated system planning perspective
23 these wind farms are not least cost. We just don't
24 know by how much.

25 With regard to the settlement relating to

1 the cost of capital filed on June 16, 2010, the
2 settlement of this issue resulted in a fair and
3 reasonable rate of return based on a number of
4 considerations, including the fact that similar
5 agreements were reached with Otter Tail and NSP in
6 previous rate cases and accepted by the Commission.
7 Also, MDU has restructured its debt to the benefit
8 of its ratepayers. In the past the staff has
9 complained about MDU's high cost of debt relative
10 to Otter Tail Power and NSP, and MDU's refinancing
11 efforts have erased those concerns.

12 Also, I would just note to the
13 Commissioners that the ROE is a little high for
14 today's economy compared to the ROE authorized
15 across the nation by various commissions, but that
16 is offset, I believe, with the built-in sharing
17 mechanism for earnings above the 10.75 percent ROE
18 agreed to in this settlement. In my mind, the
19 backstop on earnings is worth a little higher
20 return on equity. Also, MDU's capital structure is
21 around the normal 50-50 debt-to-equity ratio for
22 most healthy utilities.

23 In the end, the rate of return settlement
24 represents an overall agreement as well as staff's
25 strategic decision to focus its limited resources

1 elsewhere.

2 With regard to Monday's settlement
3 agreement, it is probably one of the easiest
4 settlements in terms of deciding what to give up
5 and what to hold onto and not settle. However, I
6 was not inclined to settle deep into the settlement
7 process. My inclination not to settle was not with
8 the economic issues that were settled. Some of our
9 adjustments were wrong and needed to be fixed.
10 Similarly, some of the company's positions were
11 wrong and needed to be fixed.

12 Instead, my main worry was staff's desire
13 for complete and accurate information on a
14 going-forward basis would be lost in a settlement.
15 Staff's concerns behind my inclination not to
16 settle led us to putting into the agreement
17 committals both on the part of the company and
18 staff to try and resolve this before the next rate
19 case filing.

20 Quite frankly, while we have an agreement
21 to work on what is basically a concern over the
22 gathering of data, the accuracy of the data and the
23 ability to verify it, I remain largely skeptical
24 that we can get it done. That skepticism led me to
25 add in a funding mechanism of \$125,000 to the

1 settlement at quite literally the 11th hour before
2 the hearing to fund such an effort if funding is
3 indeed necessary. It was staff's last-minute
4 attempt to see if MDU was serious about addressing
5 staff's concerns, and they agreed to fund it.

6 I have been with this Commission for 23
7 years and over the years I've tried to figure out
8 what it is that makes working with MDU rather
9 difficult in comparison to other utility companies.
10 I have often wondered why it is necessary to ask
11 the right question in the right way and in some
12 cases several different ways in order to get an
13 answer -- a good answer or what I like to call a
14 real answer.

15 Over the years I've wondered if it wasn't
16 just the culture of MDU in general to be evasive.
17 Generally speaking, those of us in the business
18 know the questions before they are asked and why
19 they are being asked. When I saw George's
20 testimony, I thought perhaps a Holy Grail had been
21 found, that maybe it was just a bad accounting
22 system. You know me well, Commissioners. I find
23 an open style of dialogue to be better for everyone
24 involved. I prefer dealing with people who are
25 willing to disclose the good, the bad and the ugly

1 trusting that the thorough exchange of information
2 will work toward a good and just decision, not a
3 contrived decision based on part of the truth.
4 Trust is a precious commodity which is hard to
5 develop. I don't think this rate case or this
6 hearing has done anything to engender trust in
7 either direction.

8 Commissioners, I want to give you a simple
9 illustration of what I am talking about here today.
10 I have sent you lots of Excel worksheets over the
11 years, both as your accountant in charge of
12 internal operations, as well as for various kinds
13 and types of information. While none of you are
14 accountants, I'm sure you understand that many --
15 the many values of electronic spreadsheets. One of
16 those values is the self-formulas in a worksheet
17 leave a trail of assumptions for the creator as
18 well as anyone the document is passed on to. I
19 cannot tell you how often I receive Excel
20 worksheets from MDU that do not contain the
21 formulas. I, personally, don't know how to turn
22 that off.

23 In any event, when formulas are removed or
24 hidden from the worksheets, one has to guess at
25 what numbers are added or multiplied or present-

1 valued in order to follow the calculations and the
2 assumptions. The purpose of any form of
3 communication is to communicate. It seems like a
4 small thing, but it is one clear example of what I
5 call stonewalling. I guess you could say that
6 technically speaking the information is provided,
7 but it leaves me and other interested parties
8 guessing at how it was arrived at and whether it is
9 accurate.

10 This was one of the first things that Mr.
11 Mathai brought to my attention, and all I could do
12 was give a deep sigh and instruct him to ask for a
13 version with the formulas, a quite regular
14 occurrence for me. I think it is just a tad
15 disrespectful and it definitely slows down the
16 learning curve.

17 When trust is absent and confidence in the
18 other party is lacking, harder positions are taken
19 by necessity. Harder positions are taken because
20 when you are operating in a cloud of mystery or a
21 shroud of darkness, you are always worried that the
22 other party is getting more than its fair share,
23 you just aren't smart enough to figure out where it
24 is. This kind of approach lends itself to
25 confusion, errors and quite possibly bad decisions

1 by the Commission.

2 In this instance, if the company had been
3 more responsive and more willing to share the
4 information related to costs and revenue
5 requirements of the wind farms upfront, we very
6 well might have discovered that they were making
7 mistakes in failing to use bonus depreciation or
8 North Dakota investment tax credits or the proper
9 depreciation rates as set forth in Mulkern's
10 rebuttal testimony filed in the afternoon of the
11 last business day before the hearing started.

12 To me this case is about more than
13 windmills or incentive compensation. My greatest
14 desire in this proceeding is to convince this
15 company to work with me and work with staff in a
16 cooperative and constructive manner that encourages
17 learning and understanding and in the end better
18 decisions and better nights of rest for all. I
19 think everyone would agree that this proceeding has
20 taken a tremendous toll on all of us. This has not
21 been fun and I don't believe it's necessary.

22 I also want the Commission to know that I
23 have committed to myself that I will not put
24 advocacy staff in this position again without
25 attempting to get a case like this one dismissed.

1 I made a mistake in this case, and I do not intend
2 to make it again to whatever the fullest extent of
3 the law will provide. Mr. Mathai and Mr. Savelkoul
4 have worked tirelessly in this case to cover for my
5 lack of judgment in this matter. Circling now all
6 the way back to the numbers of the settlement, I am
7 able to go through every adjustment and the
8 judgments that were exercised in arriving at two
9 signatures on the settlement, if that is something
10 the Commission is interested in doing. I think you
11 will find that very little horse trading was done
12 other than to correct errors in facts and
13 assumptions, but, again, Commissioners, I stand
14 ready to discuss every item if that is your desire.

15 As stated in my opening, incentives and
16 bonuses need adjusting, board of director
17 allocations need adjusting, and wind investments
18 need to be removed. This removal entirely or to a
19 rider needs a detailed compliance filing so all the
20 parties can agree on the right numbers to use.

21 On incentives, bonuses and director
22 adjustments I am as much a free market or free
23 enterprise as anyone. Nothing beats the power of a
24 free market. In a free market regulators or
25 government should not have anything to say about a

1 company's incentive pay.

2 Utility companies are monopoly enterprises
3 by design primarily to avoid the unnecessary
4 duplication of facilities that a truly free market
5 would require. In this instance the Commission is
6 the surrogate for the rigors of a marketplace. In
7 a free market bonuses and incentive pay are not
8 guaranteed at a hundred percent of budgeted or
9 expected cost. I believe the Commission has the
10 responsibility to the captive ratepayers of MDU to
11 be the market surrogate and to exercise its
12 authoritative judgment.

13 You have a lot of experience with this
14 company and you should draw upon that in your
15 decision. With respect to wind, we do not have any
16 confidence in the final numbers that were last
17 updated on Tuesday -- at least Tuesday for me, the
18 second day of this hearing. The revised rebuttal
19 includes a material adjustment to fuel cost which
20 staff and the company have not been able to come to
21 a conclusion on as to the correctness of the
22 adjustment. This difference of two and a half
23 million dollars can be seen by comparing last
24 Friday's rebuttal testimony to the rebuttal
25 testimony that was offered during the hearing on

1 Tuesday through Ms. Mulkern's testimony.

2 Due to the moving target related to wind
3 costs in this proceeding, I believe a detailed
4 compliance filing is in order regardless of whether
5 wind is included or excluded from rate base.

6 Finally, I recommend that if the
7 Commission includes any wind facilities in its
8 order, it should be bifurcated and the same rigors
9 of accounting and analysis should be applied to it
10 as is customary with this Commission. The
11 information provided to staff and through this
12 hearing process raises more questions than answers.
13 The numbers have changed too many times and too
14 late in the game for staff to give any type of
15 attestation to the numbers in this proceeding.

16 If the Commission decides to allow the
17 wind projects or part of the wind projects, we
18 recommend that MDU be required to file it in the
19 same form and style that Otter Tail Power used
20 during its ADP process and now provides in its
21 annual updates for its renewable energy rider. NSP
22 more or less adopted Otter Tail Power's method of
23 depicting revenue requirements in its ADP
24 application. There is value in having the
25 information displayed in a similar format across

1 the jurisdictions regulated by the Commission and
2 we are able to provide that to MDU.

3 While this process has been stressful and
4 has certainly strained my relationship with this
5 company, I am hopeful that in the end good things
6 come of it. Willingness to be open in my mind can
7 resolve a host of issues and concerns. While I
8 remain -- and because I'm under oath, while I
9 remain skeptical that change can occur, I remain
10 open and hopeful. I hope that the pain will not be
11 for naught.

12 And this concludes my testimony. I'm
13 going to have to get a drink after yelling into the
14 phone. Is everybody still there?

15 MR. SAVELKOUL: Yes.

16 JUDGE WAHL: We're here, Mr. Diller. Mr.
17 Savelkoul, do you have additional questions for Mr.
18 Diller?

19 MR. SAVELKOUL: Mr. Diller just referenced
20 that Friday filing. I would request that we make
21 official notice of that in the record.

22 JUDGE WAHL: Mr. Kuntz?

23 MR. KUNTZ: I have no objection.

24 JUDGE WAHL: Mr. Skokos?

25 MR. SKOKOS: No objection.

1 JUDGE WAHL: Ms. Jeffcoat-Sacco?

2 MS. JEFFCOAT-SACCO: I'm confused. What
3 Friday filing? The rebuttal testimony?

4 JUDGE WAHL: Well, frankly, I am, too, but
5 since Mr. Kuntz --

6 MR. KUNTZ: It would have been the
7 prefiled rebuttal testimony the company filed last
8 Friday, I assume is what he's asking for.

9 MS. JEFFCOAT-SACCO: That is in the docket
10 and whatever piece, parts of it might have been
11 introduced into evidence to this point is in
12 evidence. I would not recommend putting the other
13 parts of it that are docketed into evidence unless
14 somebody -- the witnesses --

15 JUDGE WAHL: I don't think that was the
16 request. Mr. Savelkoul.

17 MR. SAVELKOUL: We could narrow it. It
18 was filed as a packet of rebuttal testimony of the
19 rebuttal witnesses. The only portion that we
20 understand changed from Friday to the hearing was
21 Ms. Mulkern's. We can focus the request with
22 respect to that portion of the filing.

23 JUDGE WAHL: All right. With that
24 explanation, the motion is granted.

25 Anything further, Mr. Savelkoul?

1 MR. SAVELKOUL: Nothing further, Your
2 Honor.

3 JUDGE WAHL: Mr. Kuntz.

4 MR. KUNTZ: Thank you, Your Honor. I'm at
5 a bit of a loss here in terms of what to do.
6 Obviously, you know, Mr. Diller has expressed some
7 frustrations, but I don't really have much in the
8 way of testimony that came from Mr. Diller. It was
9 mostly argument and frustrations. Obviously we
10 understand his frustrations, we've tried to address
11 those in conversations with him and through the
12 settlement agreement and will work hard to try to
13 resolve those, but I don't think it would be
14 appropriate for me to try to cross-examine him on
15 his argument, if you will. Like I said, we heard
16 his frustrations and we will try to address them
17 going forward.

18 JUDGE WAHL: Mr. Skokos?

19 MR. SKOKOS: No questions.

20 JUDGE WAHL: Ms. Jeffcoat-Sacco?

21 MS. JEFFCOAT-SACCO: No questions.

22 JUDGE WAHL: Questions from the
23 Commission? Commissioner Clark.

24 **EXAMINATION**

25 **BY COMMISSIONER CLARK:**

1 Q. Mike, when you had referenced a detailed
2 compliance filing, are there some specific
3 recommendations that you're talking about with
4 regard to that? How would that differ from a
5 regular compliance filing post-rate case?

6 A. Well, I guess I'm concerned that -- I'm
7 concerned that if we just do a part of this rate
8 case, that we won't -- we won't explore it enough.
9 I think that it needs to be filed in the same
10 format and style that the other utility companies
11 have provided because it is a concise and
12 descriptive explanation of rate of return
13 requirements from year one all the way to the end
14 of the projects. I guess you can handle that
15 through this proceeding.

16 I'm not trying to do something fancy here
17 where the company would lose interim rates for the
18 time that has expired since they first filed for
19 rates. I'm not after that at all. I just want an
20 opportunity to give the ratepayers due diligence.
21 That's really all I'm after. I don't know if I
22 answered your question.

23 Q. Yeah, I'm not sure if you did or not,
24 either. I was just trying to figure out if there's
25 something -- I understand the desire to have the

1 format similar to our other utility companies. I
2 just didn't know with regard to revenue
3 requirements for specific projects, but I just
4 didn't know if there was something specific
5 different that you were -- specifically different
6 that you were asking the Commission to order with
7 regard to the compliance filing that's done after a
8 rate case that wouldn't otherwise be done in any
9 other particular rate case.

10 A. Whatever form it takes, I just want to
11 apply the same rigors of analysis to it that I have
12 for the Commission in regard to Otter Tail and
13 NSP's wind farms.

14 COMMISSIONER CLARK: Okay.

15 JUDGE WAHL: Further questions from the
16 Commission? Commissioner Cramer.

17 **EXAMINATION**

18 **BY COMMISSIONER CRAMER:**

19 Q. Yeah, Mike, you referenced some Xcel
20 Minnesota examples of times when the Commission has
21 rejected paying for what has been referred to
22 before as parochial, I guess, policies. You
23 referred to the RDF. There was something else.
24 What was the other specific?

25 A. Conservation incentive programs.

1 the Commission? Followup, Mr. Kuntz.

2 MR. KUNTZ: None.

3 JUDGE WAHL: Mr. Skokos?

4 MR. SKOKOS: None.

5 JUDGE WAHL: Ms. Jeffcoat-Sacco.

6 MS. JEFFCOAT-SACCO: I don't have any
7 questions. I wanted to make a comment in response
8 to Commissioner Clark. The normal rate case
9 compliance filing would be tariff filing which was
10 implementing dollars decided in a rate case, and I
11 think what I heard staff -- what Mike and staff's
12 position is, bifurcate the case and require the
13 detail in the form staff would like to see it about
14 the wind, and then he said something, and I don't
15 want to put words in his mouth, but something about
16 if you decide to include wind, then still require
17 that information. I don't know that I am hearing
18 from staff -- unless you exclude wind a hundred
19 percent, I'm hearing the standard request for
20 compliance filing like we would have in a normal
21 rate case where the dollars are figured out. If
22 you excluded wind a hundred percent, you could ask
23 for a compliance filing for the remaining 500,000
24 that staff is -- the settlement basically proposes.
25 That's what I understood. Maybe Mike can correct

1 it.

2 THE WITNESS: Again, I just want -- I
3 guess I'm asking that we have an opportunity in
4 working with the company to come up with what we
5 believe are real numbers. I don't believe the
6 Commission today has the knowledge and the
7 information necessary to even write an order, at
8 least -- I suppose Pat Fahn is sitting there taking
9 notes. Maybe he has a better idea than I do. But
10 I just think it will be beneficial to the parties
11 -- to all the parties and the Commission if we work
12 all this out. I'm sorry, Illona. I'm just not
13 really an administrative guru like you are, so I
14 guess I'll have to rely on your judgment.

15 MR. SAVELKOUL: Your Honor, if I might ask
16 Mr. Diller a little cross, I could clarify this --
17 redirect. I'm sorry.

18 JUDGE WAHL: Proceed, Mr. Savelkoul.

19 **REDIRECT EXAMINATION**

20 **BY MR. SAVELKOUL:**

21 Q. Mr. Diller, in removing of the wind, is it
22 your expectation that a detailed computation of
23 what is being removed from the request be made?

24 A. Yes.

25 Q. And would that detail -- or would that

1 removal provide the adjustment as well as all
2 supporting schedules as to how the adjustments were
3 arrived at?

4 A. Yes.

5 Q. Would that allow for staff to review and
6 inquire as to the accuracy of what is being
7 removed?

8 A. I certainly would hope so.

9 Q. With respect to the separate rider, if any
10 of the wind is ordered to be recovered via a rider,
11 do you expect a spreadsheet similar to what --

12 MR. KUNTZ: I think this is the ultimate
13 leading question. Objection.

14 JUDGE WAHL: Mr. Savelkoul, just a moment,
15 please. Well, yes and no. But I'm going to allow
16 it.

17 MR. KUNTZ: I understand, but just an
18 objection for the record.

19 JUDGE WAHL: You may proceed.

20 THE WITNESS: Yes. Yes.

21 (Discussion had off the record.)

22 JUDGE WAHL: Mr. Savelkoul, we may have
23 lost either a question or a response. Let's do it
24 this way. This is hopeless, I'm afraid, but Madam
25 Reporter, go back to the last full question and

1 answer, please.

2 (Record read as requested.)

3 JUDGE WAHL: Can you pick up there,
4 please.

5 MR. SAVELKOUL: I can, Your Honor.

6 Q. (MR. SAVELKOUL CONTINUING) -- similar to
7 those utilities, Otter Tail and Xcel, have filed
8 with the Commission?

9 A. Sounds like a half a question, but, yes, I
10 know what you're talking about. Yes, that's
11 exactly what I desire, and we've already offered, I
12 believe, to MDU to provide them with the Excel
13 spreadsheets that have been used already in front
14 of the Commission, and so I anticipate providing
15 that to MDU.

16 Q. And that would include all of the
17 supporting schedules and calculations as to how
18 those numbers that are included in those filings
19 are calculated?

20 A. Yes. Yes, in case you didn't hear.

21 Q. Would you expect to have or is it your
22 desire that that filing provide for an opportunity
23 to do discovery and ascertain the accuracy or
24 questions staff may have as it relates to the
25 filing? Did you hear my question, Mr. Diller?

1 their cost of capital or their capital structure so
2 that they're around that 50-50 debt-to-equity
3 ratio.

4 Q. Okay.

5 A. So I don't think that would change.

6 COMMISSIONER CRAMER: Sure. All right.
7 Thank you.

8 JUDGE WAHL: Any further questions from
9 the Commissioners? Followup, Mr. Savelkoul?

10 MR. SAVELKOUL: I have nothing further,
11 Your Honor.

12 JUDGE WAHL: Mr. Kuntz?

13 MR. KUNTZ: No, Your Honor.

14 JUDGE WAHL: Mr. Skokos?

15 MR. SKOKOS: Nothing further.

16 JUDGE WAHL: Ms. Jeffcoat-Sacco?

17 MS. JEFFCOAT-SACCO: No.

18 JUDGE WAHL: Thank you very much, Mr.
19 Diller. I think, Mr. Diller, you can simply hang
20 up the phone.

21 THE WITNESS: All right. Thank you.

22 JUDGE WAHL: Thank you.

23 THE WITNESS: Good day -- good day from
24 Canada. Eh?

25 JUDGE WAHL: Mr. Savelkoul, anything

1 further?

2 MR. SAVELKOUL: Nothing further, Your
3 Honor.

4 JUDGE WAHL: All right. Mr. Skokos, it's
5 your turn.

6 MR. SKOKOS: I would just like to do a
7 brief opening statement.

8 JUDGE WAHL: You may.

9 MR. SKOKOS: I'm here on behalf of
10 Missouri Valley Resource Council. Missouri Valley
11 Resource Council is an organization that's out of
12 Bismarck, North Dakota. It serves people -- our
13 members are represented by people in Burleigh and
14 Morton County for the most part.

15 We're here because, like all utility
16 customers, the members of Missouri Valley Resource
17 Council want a reliable, safe, efficient and
18 affordable electricity distribution system. In
19 addition, our members want an electricity system
20 that's compatible with the cleaner environment and
21 one that moves us towards reduced emissions of
22 carbon dioxide and other greenhouse gases.

23 In this regard, given our outstanding wind
24 resources in North Dakota, Missouri Valley Resource
25 Council favors robust development of this resource.

1 We also favor aggressive energy-efficiency efforts
2 that will reduce our energy needs without
3 compromising the standard of living of North
4 Dakotans.

5 To achieve these outcomes, we believe we
6 need smart and creative utility companies to
7 navigate our challenging energy terrain while
8 continuing to serve customers adequately by making
9 sound investment choices. That's my opening
10 statement.

11 I would like to bring forth Verle Reinicke
12 as our witness.

13 JUDGE WAHL: Mr. Reinicke, if you will be
14 seated, please. Mr. Reinicke, as you're obviously
15 well aware by now, your testimony is required to be
16 under oath and I'm required by law to advise you
17 regarding perjury before administering the oath.
18 Perjury is a false statement of material fact which
19 you do not believe to be true. In North Dakota
20 perjury is a Class C felony, punishable by a fine
21 up to \$5,000, imprisonment for a period of up to
22 five years, or both.

23 **VERLE REINICKE,**
24 being first duly sworn, was examined and testified
25 as follows:

DIRECT EXAMINATION

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BY MR. SKOKOS:

Q. Mr. Reinicke, can you please state your name -- full name and address?

A. Verle Reinicke, 1224 North First Street, Bismarck, North Dakota 58501.

Q. What is your profession?

A. I'm a retired clergy person.

Q. Are you currently an MDU ratepayer?

A. Yes.

Q. Okay.

A. And I have been since 1997.

Q. What is your current involvement with the organization, Missouri Valley Resource Council?

A. I am presently the chair of the organization.

Q. What are your current duties as the chair of Missouri Valley Resource Council?

A. To oversee the functioning of the organization, to set meetings, to chair meetings, to see that they function properly.

Q. Is Missouri Valley Resource Council affiliated with the statewide group, Dakota Resource Council?

A. Yes.

1 Q. What specifically is Dakota Resource
2 Council?

3 A. Dakota Resource Council is a grassroots
4 volunteer organization organized a little over 30
5 years ago initially to help farmers and ranchers to
6 deal with leases on their mineral rights in western
7 North Dakota, and it has continued to function and
8 has broadened its perspective some to be concerned
9 about the issues that are being raised in this
10 hearing, for instance.

11 Q. Is Dakota Resource Council formed as a
12 501(c)(3) --

13 A. Yes, it is.

14 Q. -- nonprofit? Okay. Could you please
15 explain the relationship between Missouri Valley
16 Resource Council and Dakota Resource Council?

17 A. Dakota Resource Council is the parent
18 organization, and beyond that there are local
19 community, countywide organizations around the
20 state. There are a handful. I think right now
21 about five or six of them. And we are affiliated.
22 That's how we designate ourselves or how we are
23 designated by the organization.

24 Q. I think I passed out a packet of our
25 exhibits. I would like to bring to your attention

1 the one that's listed Exhibit 1 although we've
2 already brought in Exhibit 1 as another document.
3 This is the Missouri Valley Resource Council
4 bylaws. You don't have a copy, do you?

5 A. No, I don't.

6 Q. Mr. Reinicke, would you please look at
7 that and verify that those are the Missouri Valley
8 Resource Council bylaws?

9 A. Yes, they are.

10 Q. Okay. I'm also going to bring -- actually
11 I'll just bring all these documents up to you now.

12 Could you please take a look at the second
13 document there, it's minutes from a Dakota Resource
14 Council meeting. Could you verify the date there?

15 A. Yes, Saturday, August 4th, 2001.

16 Q. Was this the date that Missouri Valley
17 Resource Council was affiliated as a member of
18 Dakota Resource Council?

19 A. Right.

20 Q. Below that, if you go to the next document
21 underneath that, what is that document?

22 A. These are the Dakota Resource Council
23 bylaws amended as of October 26, 2002.

24 Q. And these bylaws, they explain how
25 affiliates operate --

1 A. Yeah.

2 Q. -- of Dakota Resource Council?

3 A. Yes, Article VII talks about that.

4 Q. What -- I mean, you spoke about the rights
5 of DRC affiliates earlier a little bit, but could
6 you further explain that a little bit?

7 A. Could you repeat the first part of the
8 question?

9 Q. You explained a little bit about Dakota
10 Resource Council affiliates and like what they do,
11 but can you -- can you kind of flesh out what their
12 level of autonomy is from Dakota Resource Council?

13 A. We have relatively free -- we're
14 relatively autonomous. That is to say, we have a
15 relationship with the larger organization to which
16 we report at every meeting that we have, and there
17 are those bimonthly, six of them during the year.
18 We will report what's going on and we look to the
19 larger organization for assistance and support.
20 For instance, you are a staff person, residence
21 here in Bismarck. The offices are in Dickinson.
22 And there is presently a staff person there.
23 There's a staff person here. There is a staff
24 person in Fargo. I think there are two in
25 Dickinson, aren't there?

1 Q. Yeah.

2 A. Or one is deployed until she moves here.

3 Q. So you have to be a member of Dakota
4 Resource Council to also be a member of Missouri
5 Valley Resource Council?

6 A. Yes.

7 Q. Can you be just a member of Missouri
8 Valley Resource Council?

9 A. No. As a matter of fact, to be a part of
10 the organization means that you are a part of the
11 larger organization and dues are levied. Now, as
12 an affiliate, our bylaws say that we also can ask
13 for some dues, and from time to time we do.

14 Q. Okay. So you must be a member of Dakota
15 Resource Council to be a member?

16 A. Yes.

17 Q. Okay. I just wanted to clarify that.
18 Were you -- how long have you been involved in
19 MVRC's decisionmaking to take part in this MDU rate
20 case proceedings that we are at today?

21 A. Are you talking specifically about this
22 one?

23 Q. Or just have you attended meetings
24 regarding this?

25 A. Yes. Shortly before my retirement I

1 started to be more actively involved in Missouri
2 Valley. I wasn't living here before and there were
3 times that I was out of town. So for the last
4 three years I have been very involved.

5 Q. No, I was asking actually specifically in
6 this case. Have you been in the voting process for
7 this case?

8 A. Yes, I have. Yes, I have.

9 Q. Why was -- as the chair, why -- as the
10 chair of Missouri Valley Resource Council, you
11 obviously know about the decision to intervene in
12 this case.

13 A. Yes.

14 Q. What were some factors that led to this
15 decision?

16 A. We as an organization are interested in
17 care of the environment. We're concerned about
18 emissions of carbon dioxide, and there are other
19 gases that are emitted, as well, that we reduce
20 those, because we are aware that there are -- there
21 is a future to that that is not particularly good
22 for us. And so we wanted to encourage MDU to use
23 wind power. We were -- initially until the meeting
24 last Friday, we were of the mind that
25 Montana-Dakota did not want to, and we found out

1 differently on Friday. And that's a significant
2 part.

3 And another piece to it is something
4 that's been broached today and that has -- maybe
5 some other times, I have been in a fog sometimes --
6 the need to be efficient. Mr. Goodin introduced
7 the term "efficient" in his opening comments with
8 reference to the company, and I think we want to
9 broaden that to include not just the company, but
10 those of us who are ratepayers.

11 Q. How does MVRC expect wind energy to
12 benefit customers?

13 A. I think it's a complex one. A lot of what
14 has been talked about in these hearings has been
15 the minimal amount of energy -- or that's the
16 stress, the minimal amount of energy that is
17 produced by wind, and yet at the same time what we
18 have relied on in the past, namely fossil fuels,
19 are starting to be called into question. And so
20 anything that this utility can do, I think, to
21 broaden its portfolio of where it gets energy is
22 something that we are interested and concerned
23 about and those are the reasons for us being
24 involved.

25 MR. SKOKOS: I would like to enter those

1 documents as MDU Exhibit 2.

2 JUDGE WAHL: What about MDU -- or MVRC
3 Exhibit 1?

4 MR. SKOKOS: Exhibit 1 was the article of
5 Andrea Stomberg.

6 JUDGE WAHL: No. Exhibit -- that exhibit
7 was Exhibit 4 -- MVRC 4.

8 MR. SKOKOS: 4. So we'll go with Exhibit
9 1 on this one.

10 JUDGE WAHL: This one what?

11 MR. SKOKOS: This would be MVRC Exhibit 1.

12 JUDGE WAHL: Are you talking about --

13 MR. SKOKOS: It would be the three
14 documents combined.

15 JUDGE WAHL: All right. So MVRC 1, Mr.
16 Kuntz, are the Missouri Valley Resource Council
17 bylaws and the amended bylaws --

18 MR. SKOKOS: And the minutes.

19 JUDGE WAHL: -- and the Dakota Resource --
20 wait a minute. Wait a minute. Okay. Let me
21 restate that. MVRC 1 consists of Missouri Valley
22 Resource Council bylaws, Dakota Resource Council
23 bylaws amended October 26, 2002, and Dakota
24 Resource Council minutes of a meeting had August 4,
25 2001. Mr. Kuntz?

1 MR. KUNTZ: No objection.

2 JUDGE WAHL: Ms. Jeffcoat-Sacco?

3 MS. JEFFCOAT-SACCO: No objection.

4 JUDGE WAHL: Exhibit MVRC 1 is received.

5 Next, Mr. Skokos.

6 Q. (MR. SKOKOS CONTINUING) Why do you think
7 North Dakota utilities should invest in wind
8 specifically in North Dakota?

9 A. Well, it's fairly obvious. Up until
10 fairly recently North Dakota was touted as having
11 the best wind resource in the country. That's
12 changed a little bit after some recalculations and
13 figures, but we're still very high, and there are
14 significant areas of the state which experience, I
15 was going to say reliable, but not entirely
16 reliable, but an adequate source of wind energy --
17 wind to produce electrical energy.

18 Q. Actually I'm going to bring this forth in
19 front of you. If you could take a look at this,
20 will you please explain to everyone what this map
21 is right there?

22 A. I've seen this map before.

23 Q. Could you please explain a little bit
24 about it?

25 A. Yeah. It is a map indicating, as it

1 says -- as it's titled a wind resource map, and it
2 indicates across the state the areas of different
3 levels of wind speed.

4 Q. What kind of -- who prepared this?

5 A. The U.S. Department of Energy, the
6 National Renewable Energy Laboratory.

7 Q. Could you please explain what kind of wind
8 classes that this map shows?

9 A. Well, it shows all the way from marginal
10 to outstanding, and that's anywhere from wind speed
11 at 50 miles an hour from 12.5 up to 19.7.

12 Q. So what classes of wind speed?

13 A. Marginal, fair, good, excellent,
14 outstanding.

15 Q. Okay. So almost over -- what is the
16 majority of this state -- the class?

17 A. The majority of the state, I would say, is
18 number 4 and above, that is good to outstanding.

19 Q. Is it your understanding that wind has
20 fuel costs?

21 A. No. No, it does not have costs.

22 MR. SKOKOS: I would like to actually also
23 enter this map in as MVRC Exhibit 2.

24 JUDGE WAHL: 2. Mr. Kuntz?

25 MR. KUNTZ: No objection.

1 JUDGE WAHL: Ms. Jeffcoat-Sacco?

2 MS. JEFFCOAT-SACCO: No.

3 JUDGE WAHL: Exhibit MVRC 2 is received.

4 Q. (MR. SKOKOS CONTINUING) One final
5 question, Mr. Reinicke. Would you favor
6 incorporating the MDU costs recovery for wind in a
7 renewable rider?

8 A. Say that once more.

9 Q. Would you favor incorporating the MDU
10 costs recovery for wind in a renewable rider?

11 A. In a renewable rider, yeah. Well, no.
12 Wait a minute. I'm not -- what is the rider? I
13 need to have clarification of that again.

14 Q. No, you can't ask that.

15 A. I'm sorry.

16 Q. Okay. Never mind.

17 A. Wait a minute. Wait a minute. I think I
18 do know. No, I do not. It means that it's added
19 as a line in the bill? I can't ask, I guess.

20 Q. No, you can't ask. That's over with.
21 You're supposed to rehearse this. I coached you on
22 it.

23 A. It comes to me. There's been a bit of a
24 fog, you know.

25 Q. Never mind. Lastly, Mr. Reinicke wants

1 to -- he has a prepared statement that he would
2 like to read briefly, I guess. Do you want to read
3 your brief statement that you prepared?

4 A. Yeah. I have a prepared statement and
5 then I have some other comments, if I may.

6 I've already given my name and that I'm
7 the chairperson of the Missouri Valley Resource
8 Council and the connection to the Dakota Resource
9 Council. I'm here also to speak on my own behalf
10 as a citizen, customer and ratepayer of
11 Montana-Dakota Utilities.

12 The core of my testimony is that I want to
13 urge the Public Service Commission to allow MDU to
14 recover its costs for the two already-built wind
15 farms in North Dakota, the one at Glen Ullin and
16 the other in Bowman County. I am not expert enough
17 to know what exactly the final costs recoverable
18 might be. My intent is simply to applaud MDU for
19 its foresight to include wind energy in its mix of
20 sources of electrical energy to provide to its
21 customers.

22 The Public Service Commission has stated
23 repeatedly that its purpose is to hold down the
24 cost of electricity. The Commissioners have stated
25 often that they are proud that North Dakota has

1 consistently maintained low rates to its people,
2 among the lowest in the nation. That is true. And
3 it is true that North Dakota uses more electricity
4 than our neighbors, Minnesota and Montana, for
5 instance. Using data from the U.S. Energy
6 Information Administration, the monthly bill among
7 these three states is almost the same. While it is
8 true that wind -- and I was looking only at
9 residential costs, not others.

10 While it is true that wind installations
11 have high upfront costs, it is my understanding
12 that after initial permitting and construction, the
13 upkeep costs are relatively low. Further, wind
14 farms need no fuel to generate electricity. There
15 are fluctuations in the availability of wind, but
16 they are only the result of the vagaries of the
17 difference between air masses which create the
18 wind, not because some foreign government on a whim
19 may turn off the spigot or the gas cock.

20 It is prudent -- a prudent thing then for
21 MDU as it plans for the future to consider wind as
22 it becomes more competitive with other kinds of
23 energy. Coal, which it is true is abundant -- so
24 is wind for that matter, wind will be here long
25 after the coal is depleted -- is becoming both

1 harder to harvest and more costly. Finding
2 alternatives such as wind to help bring down the
3 cost is a worthwhile endeavor. And MDU is being a
4 good corporate citizen by attempting to meet the
5 goal of renewable energy sources at 8 percent by
6 2015 -- at 10 percent. I'm sorry. We heard last
7 week in this space that MDU is already at 8
8 percent, almost there already and it's only 2010.

9 Finally, we make much in North Dakota
10 about our abundance of resources. The enthusiasm
11 for coal, oil and gas, however, has not spilled
12 over into the singing the praises of wind which,
13 though intermittent, is always present. Being
14 timid and reluctant about developing wind as a
15 resource, especially in North Dakota, which is, as
16 I have said, among the top places in the nation for
17 usable wind is, in my mind, to be shortsighted.

18 Again, I urge this Commission to grant the
19 petition by MDU to be able to recoup its costs.
20 Without such a positive response from this
21 Commission, if I were MDU, I would take it as a
22 clear signal that there is no way to make headway
23 with wind and an important company in North Dakota
24 will have to continue to function with its wings
25 clipped. Not a good thing.

1 I would also like to say that I want a
2 regulatory system and those charged with its
3 stewardship to make decisions based on all of the
4 information, just as we witnesses are asked to
5 share our testimony as it is the truth, the whole
6 truth and nothing but the truth. However, this
7 Commission is hobbled by the truth, by the North
8 Dakota statute that disallows consideration of
9 future costs when it comes to -- I lost my place --
10 deliberations like this one to take place. The
11 whole truth is not available. It is rather
12 truncated.

13 Interestingly the law, itself, was based
14 on testimony, as I remember reading it, that
15 recognized that in fact such future costs were on
16 the horizon with reference specifically at the time
17 to other states. We did not want to become
18 encumbered by that. The law then ironically slams
19 shut the door to an ongoing deliberation on that
20 issue. In fact, those future costs are already on
21 our doorstep.

22 Climate change, the result of human
23 activity, necessitating the need to severely reduce
24 the continued introduction into the atmosphere of
25 carbon dioxide, among other gases, is important to

1 recognize. The science on that issue is settled.
2 97 percent of the world's scientists, of climate
3 experts, are in agreement. That is unprecedented
4 in the scientific community.

5 There has been, and continues to be, those
6 who cast doubt on the veracity of those findings.
7 Those voices have been loud and incessant. Four
8 names consistently surface in this doubting group.
9 They are Fred Seitz, Fred Singer, William
10 Nierenberg and Robert Jastrow. All of them are
11 scientists of note, and all of them are
12 physicists -- not climatologists, but physicists.
13 Variousy their names are associated with the
14 Manhattan Project, the Scripps Institute of
15 Oceanography, the Goddard Institute for Space
16 Studies, government programs and laboratories.
17 They also circulated easily in government and power
18 circles. As well, they contributed significantly
19 in groups producing papers and things which shaped
20 policy with reference to climate.

21 Consistently all of them have manipulated,
22 redacted, failed to include fully significant
23 information in papers that were responsible -- that
24 they were responsible for and the like, all of
25 which was intended to cast doubt on the role of

1 solid science in our public life and discredit
2 particularly scientists, as well. Ironically, they
3 knew full well what the proper scientific method
4 is, namely peer review, deliberately ignored that
5 process and did not use it themselves. They were
6 responsible for creating the term "junk science"
7 and they foisted it off on traditional standard
8 science.

9 Ironically these very scientists turned
10 science against science. They were themselves
11 guilty of the moniker "junk science" and not
12 regular science, which they accused of not doing
13 things properly and scientifically.

14 Climate change and its ramifications are
15 real and I want to live in a North Dakota that
16 takes that seriously. Further, I want the
17 electricity I use to be provided by a company that
18 does take the future ramifications of continued
19 cumulative carbon releases seriously as it plans
20 for the future. That may not always have been the
21 case with MDU in its thinking, but I'm heartened
22 that now I think they are beginning to embrace that
23 and plan accordingly. Thank you.

24 JUDGE WAHL: Questions, Mr. Kuntz?

25 MR. KUNTZ: None.

1 JUDGE WAHL: Mr. Savelkoul, questions?

2 MR. SAVELKOUL: Nothing, Your Honor.

3 JUDGE WAHL: Actually, I'm sorry, Mr.
4 Skokos. I guess I can ask you now.

5 MR. SKOKOS: I have no further questions.

6 JUDGE WAHL: I'm assuming you were
7 finished.

8 MR. SKOKOS: I'm finished, yeah.

9 JUDGE WAHL: Ms. Jeffcoat-Sacco,
10 questions?

11 MS. JEFFCOAT-SACCO: No questions.

12 JUDGE WAHL: Questions by the
13 Commissioners? Thank you very much, Mr. Reinicke.

14 THE WITNESS: Thank you for the time.

15 COMMISSIONER KALK: Thank you for the
16 time.

17 JUDGE WAHL: All right. Mr. Kuntz, I
18 suppose you're still entitled to the last word.

19 MR. KUNTZ: We have no further
20 witnesses --

21 JUDGE WAHL: I don't suppose. You are
22 entitled to the last word. I'm sorry.

23 MR. KUNTZ: We have no further witnesses,
24 your Honor, but we would request the opportunity to
25 make a closing statement.

1 JUDGE WAHL: You may.

2 MR. KUNTZ: Thank you, Commissioners. We
3 appreciate the time that you spent, the
4 attentiveness that you've given this very important
5 matter to the company, and I know you've got other
6 things to do this afternoon, but I bear your
7 indulgence for a few minutes so we might make a
8 closing argument to you on this matter.

9 You've heard staff's frustration, if you
10 will. Frankly, that was new to me until a week ago
11 that we had this frustration, and I think it was
12 new to Mr. Goodin, as well, because Mr. Goodin's
13 office is six blocks away and if we had known there
14 was this kind of problem, we would have certainly
15 tried to address it.

16 You've had the opportunity for four days
17 to watch our witnesses in person, and these are
18 good, hard-working, honest people, people of
19 integrity. The staff has been frustrated perhaps,
20 but I can assure you our people have been
21 frustrated dealing with the staff's witness, as
22 well, who is new to our system, new to our company.
23 We tried to work the best we could. And a lot of
24 the frustration that's been raised during the
25 course of this case has been raised regarding the

1 frustration that the numbers changed at the last
2 minute.

3 I want to remind you that this is a
4 general rate case. The numbers that changed dealt
5 specifically with staff's adjustment to pull out
6 the wind. That's what's changed. We learned of
7 that adjustment three weeks ago, that that was even
8 being proposed in this particular case, and we have
9 tried to come and develop what is the correct
10 magnitude of that adjustment so you would have a
11 full measure of what we're talking about, and we
12 have tried to work with staff to get to that
13 particular number and that was a last-minute thing
14 and I explained to you earlier in this case how our
15 people were working nights and weekends at the same
16 time we were trying to reflect the settlement so
17 that you would have as good of numbers as we were
18 capable of presenting to you when this proceeding
19 started in terms of what you were looking at, what
20 was the magnitude of that adjustment.

21 So if that was late in the game, we
22 apologize, but we did our best to reflect that
23 adjustment. But I want to take you back and remind
24 you this is a general rate case. This is not an
25 ADP proceeding, this is not a tracker.

1 It was our understanding up until probably
2 today that it was the Commission's preference to
3 deal with these in general rate cases rather than
4 single-issue cases like ADPs or trackers. We now
5 find out, well, this wasn't presented in the same
6 way as we see it in a tracker and ADP. No, it
7 wasn't. It was filed as a general rate increase.

8 A general rate increase is the company
9 comes in and shows what its total investment is,
10 its total operating expenses and whether or not
11 it's earning a rate of return on that particular
12 investment. It doesn't go through and prove in
13 case-by-case, asset-by-asset the decisionmaking
14 process or what the revenue requirement is for that
15 particular asset. It does it as a total company.

16 There hasn't been really any serious
17 question that those initial numbers that were
18 submitted by the company in its amended application
19 reflected in the settlement are still the same
20 numbers with the exception of the settlement
21 agreement that we had with the staff that reflected
22 that adjustment, the bonus depreciation that Ms.
23 Mulkern talked about that resulted at the end of
24 September and a couple of odds and ends that the
25 staff pointed out that we corrected.

1 Other than that, the general rate increase
2 filing numbers that we've submitted are the same
3 numbers that we started with. That's got nothing
4 to do with the adjustment that Ms. Mulkern talked
5 about around wind generation. If the wind
6 generation is in this case, the numbers stay the
7 same.

8 That being said, we have absolutely no
9 problem with implementing a portion of that revenue
10 requirement through a compliance filing with a
11 rider to get staff comfortable, get their head
12 around the fact of what that looks like. We have
13 said all along we don't have a problem doing that,
14 understanding that that's still a portion of our
15 overall revenue requirement. We, of course, would
16 object seriously if it was pulled out, so to speak,
17 so that we would lose the benefit of our interim
18 rate increase.

19 Now, I want to talk a little bit about
20 something else that's been thrown around in this
21 case and that's burden of proof. There are two
22 components of burden of proof, and you don't have
23 to rely on me for this. There's Supreme Court
24 cases out there from North Dakota. Your counsel, I
25 think, will tell you the same thing. The two

1 components of burden of proof are the burden to go
2 forward and the burden of persuasion.

3 The burden of persuasion stays ultimately
4 with us. The burden of going forward shifts. The
5 burden of going forward is first for us to present
6 a prima facie case that we have a need for a rate
7 increase. That's that general application filing
8 that we make that shows that we're not earning
9 sufficient revenues or won't earn sufficient
10 revenues to pay our operating expenses and a
11 reasonable return on investment. That's a prima
12 facie case. If nothing else happens, we've met our
13 burden of persuasion by that prima facie case.

14 So once we've presented that, then the
15 burden of going forward shifts to the other party.
16 It then becomes their obligation if they don't
17 believe certain evidence that we've presented to
18 dispute that and put in evidence of their own, and
19 then ultimately the Commission is required to weigh
20 that evidence to determine if they're -- on the
21 areas of dispute where is the preponderance of the
22 evidence, who's presented the best quantity and
23 quality of evidence on a particular issue.

24 And let me touch on, for example, kind of
25 close to home here with respect to need and

1 least-cost alternative to give you an example of
2 how that might play out. Let's say the company
3 came in for a general rate increase that included
4 all its generation. Staff looks at it and says,
5 wait a minute, you just built a hundred megawatt
6 coal plant. You don't need a hundred megawatt coal
7 plant because your demand was only a demand for 70
8 megawatts, you don't have a need for that extra 30,
9 and, consequently, Commission, you shouldn't allow
10 a return on that extra 30.

11 Now, at that point the burden shifts to us
12 to determine whether or not there indeed is a need
13 for that extra 30 and we might come in and say,
14 well, we only had the opportunity to buy a hundred
15 megawatts or nothing. That's the only way it was
16 available to us, or we looked out at our demand and
17 it was going to grow and within three years we
18 would have been at a hundred megawatts and that's
19 why we think there was a need for a hundred
20 megawatts. And at the end of that determination
21 the Commission would have to determine whether or
22 not there was a need for that 30.

23 Now, you don't throw out the whole thing
24 and simply say the company didn't meet its burden
25 of proof is not evidence. Evidence is when you

1 come in and you show that difference between what
2 the company's demand was and what it built. That's
3 evidence. Simply coming in and saying, Well,
4 that's not the way I'm accustomed to seeing
5 companies do it or I would have expected a
6 different study based upon my experience in
7 Oklahoma, that's not evidence. Evidence is coming
8 in and showing that your demand and your supply did
9 not match up and you've got that extra piece.

10 And, likewise, with respect to the
11 question of least-cost alternative, that witness
12 could come in and say, well, wait a minute, you
13 know, you built a coal plant and really all you
14 needed was the peak, you could have gone out and
15 you could have built a natural gas turbine and done
16 the same thing for five megawatts an hour cheaper.
17 And then we might come in and say, burden shifts
18 back to us, was this the least-cost alternative,
19 and we come in and say, well, yeah, a combustion
20 turbine would have been cheaper, but we saw the
21 opportunity to make some off-system sales that
22 would have offset that particular fact or we saw
23 where our growth was going to be or whatever, and
24 then that would come back to us and ultimately you
25 would have to decide was that increment of cost

1 justified or not, was that the least-cost
2 alternative to meet that particular proposal.

3 But, again, even if you determine that you
4 should have built a CT instead of building a coal
5 plant, you don't throw out the whole coal plant.
6 You might be able to throw out the difference if
7 you felt that there was a difference between what
8 they built and what they should have built, but you
9 don't throw out the whole coal plant and you don't
10 simply -- it isn't evidence to simply say the
11 company didn't meet its burden. What was your
12 alternative that you're presenting that they should
13 have done that was cheaper? We haven't heard any
14 of that from staff.

15 Simply saying that's not what I'm used to
16 seeing is not evidence. That's where the burden of
17 proof here is -- what you've heard is argument by
18 staff that the company hasn't met its burden of
19 proof with respect to need or least cost, but you
20 haven't heard a shred of evidence in this case from
21 staff that this plant is operated today, being used
22 to provide service, providing a benefit, and even
23 staff admits it provides a benefit to the company,
24 would have to be replaced by something else if it
25 wasn't providing that particular energy. They

1 provide no alternatives. They provide no cost
2 estimates. They just want you to throw it out.

3 What we had here was the staff came in
4 with a predetermined position that they wanted to
5 get wind out of this case because of their feeling
6 that this was done because of a Montana mandate and
7 they wanted to establish a principle. And whether
8 that principle is right or wrong, the point is, the
9 plant is being used to provide service. And there
10 are cases in North Dakota, there's a federal case
11 and there's a North Dakota case that talk about the
12 allocation of costs, it's called the benefits and
13 fairness case test. There were two North Dakota
14 gas cases related to North Dakota, one was a
15 federal case, one was a North Dakota Supreme Court
16 case that came out of this Commission with respect
17 to gas cost where the courts talked about if an
18 asset or a commodity is providing a benefit to the
19 customers on an integrated system, those costs
20 should be spread across the integrated system if
21 indeed they're providing a tangible benefit.

22 I don't think there's any question that
23 these wind projects have provided a tangible
24 benefit to North Dakota customers. For almost
25 three years now customers of North Dakota have had

1 the benefit of lower fuel costs reflected in their
2 rates because of Diamond Willow I. In fact, if it
3 weren't for the other investments that we were
4 making that were all recited in the direct
5 testimony, we wouldn't even be in here for a rate
6 increase if it were simply Diamond Willow I. We
7 wouldn't have needed an increase. But we've
8 invested in a lot of other things that you heard
9 besides Diamond Willow I over the last six, eight
10 years, that there was a combination of those things
11 along with the lost margin from sales that
12 necessitated the need to come in here.

13 This isn't just an increase because of
14 wind. You can look at the wind and say, well, that
15 was the cause right there. That was no more the
16 cause than replacing the transmission line over the
17 bridge or building the new substation. All of
18 those contributed to the fact that we needed to
19 come in for a rate increase, and that's why you're
20 looking at a general rate increase here and not an
21 ADP or a rider.

22 I also want to briefly touch -- one other
23 thing I want to mention with respect to the wind is
24 on the need, and the staff's predetermined position
25 I think is particularly evident with respect to the

1 Cedar Hills project. Staff's position, go back and
2 read it. In at least three or four places in Mr.
3 Mathai's testimony he said the company showed no
4 need for Cedar Hills. He didn't know and he
5 acknowledged on the stand that he didn't know when
6 he wrote that testimony that we had come in for a
7 certificate of public convenience and necessity for
8 that wind project. And he still wouldn't change
9 his recommendation even after he found out. I
10 think it demonstrates the fact that the staff had
11 come in with a predetermined position that they
12 weren't going to change no matter what we showed
13 them.

14 I would agree with you that a certificate
15 of public convenience and necessity doesn't
16 necessarily mean that you're going to get rate
17 recovery, but it certainly shows a need for the
18 facility. The certificate says the public -- the
19 Commission has determined there is a public need
20 that requires the company to build this.

21 Now, if we built it and we spent -- and
22 the costs we spent building it were prudent, were
23 reasonable, that demands rate recovery. There were
24 cost numbers in that particular certificate of
25 public convenience and necessity filing, there was

1 notice of opportunity, there was an informal
2 hearing.

3 Now, if you wanted something different
4 before you granted that certificate of public
5 convenience and necessity, that was the opportunity
6 to say, wait a minute, we don't think you should be
7 building this wind project. We're not sure this is
8 the best thing for our customers.

9 You know, it's no revelation that wind on
10 an installed cost is kind of expensive, but yet the
11 fuel prices offset that as Mr. Neigum testified.
12 Also, the prudence -- we got the North Dakota
13 prudence statute that comes into play with Cedar
14 Hills. Mr. Mathai said that doesn't apply because
15 you didn't do an ADP application.

16 There's nothing in the statute that says
17 that the presumption of prudence for a North Dakota
18 project is dependent upon filing an application,
19 the Commission has never applied it in that way in
20 the past, and, in fact, what the staff's position
21 would be is that a plant that's not built, not
22 operating and not providing service is presumed
23 reasonable, but a plant that's up, built, operating
24 and providing service isn't reasonable -- isn't
25 entitled to the presumption. That's their position

1 if you read Mr. Mathai's testimony, and I think
2 that's absolutely ridiculous and it's inconsistent
3 with the way the Commission has applied that
4 statute in the past.

5 The other thing I want to talk about with
6 respect to the wind is the Commission's treatment
7 of other utilities. Commissioner Cramer asked what
8 have we done with respect to other utilities and
9 when they're building and their mandates to
10 Minnesota.

11 There is an exhibit that I brought forth
12 in this case with respect to NSP's application on
13 Merricourt. That application unabashedly says
14 they're buying that to meet the Minnesota mandate.
15 They're already well over the North Dakota
16 objective. They undeniably say that's why we're
17 building it. They provided the same justifications
18 that Mr. Neigum gave you, Ms. Stomberg gave you
19 that there are benefits to wind from the standpoint
20 of shaving off that marginal cost of fuel,
21 providing diversification in your portfolio. It's
22 the same justification that you heard on the stand
23 today. It's just that it wasn't in an ADP
24 proceeding.

25 You've done the same thing with Otter

1 Tail. Look at their filings. The same thing, your
2 own statement that we read out of that one order
3 finding for Otter Tail.

4 One of the things the Commission can't do
5 is be arbitrary. And I once remember reading
6 someplace from some court case some judge's
7 definition of being arbitrary is when you've got
8 one rule for Monday and a different rule for
9 Tuesday. Well, arbitrary in this case, in my
10 opinion, is when you've got one rule for Xcel and
11 Otter Tail and a different rule for Montana-Dakota,
12 because that's the way we see it in our view
13 because everything that we've done and justified in
14 this case has been the same things that the
15 Commission has approved for those particular
16 companies through riders. The only thing is we've
17 put it in a base case rather than a rider, we
18 haven't separated it out, but yet that's what this
19 particular case has been about.

20 And just briefly I want to touch on the
21 issue of incentive compensation and directors fees.
22 Staff acknowledges incentive compensation and
23 directors fees are a benefit to customers.
24 Everything we do, if we're doing it right, in
25 running our organization and keeping the lights on

1 should be a benefit to customers and stockholders,
2 because if we're doing it right, 50 years from now
3 we're going to be doing the same thing, and that
4 means shareholders have been rewarded and customers
5 have been rewarded. To take out one little piece
6 of those expenses and say, this is for the benefit
7 of customers or this is benefiting shareholders to
8 some degree and, therefore, we're going to pull it
9 out, you could say the same thing about base
10 salary, you could say the same thing about a pole
11 outside, they're all benefiting us, allowing us to
12 provide service and that benefits customers and
13 that benefits shareholders.

14 Mr. Mathai, his justification of pulling
15 it out, that's the way I've done it in Oklahoma.
16 He admitted his allocation was totally arbitrary,
17 said he didn't have enough information in terms of
18 our metrics. He had the plans. The plans that Mr.
19 Goodin went through this morning that had the
20 metrics for 2010, he had those all along and he
21 didn't come up with any sort of justification of
22 dividing out 60 percent other than that was
23 arbitrary, that's the way I've done it in Oklahoma.
24 That was his justification.

25 In North Dakota we've got a North Dakota

1 Supreme Court case that says employee compensation
2 is left largely to the deference and judgment of
3 management. We've also got North Dakota cases that
4 say the Commission is not to manage -- is not the
5 manager of the companies. These are legitimate
6 business expenses. This is how the company has
7 determined to pay its employees to promote the
8 cultural objectives that they believe are
9 important. There's been absolutely no testimony in
10 this case that the company has abused its deference
11 or its judgment in how it compensates its
12 employees.

13 I want to again thank you. That's the end
14 of my closing, but these are some points. We'll
15 have the opportunity, I'm sure, in posthearing
16 filings to make them, but these are points that I
17 felt I had to bring to you, that they didn't get
18 lost in terms of trying to bring you back to what
19 this case was all about and where some of the
20 frustrations derive from. Thank you.

21 JUDGE WAHL: Mr. Savelkoul, will you make
22 a closing argument?

23 MR. SAVELKOUL: Certainly, Your Honor.
24 Thank you. And thank you, Commissioners.

25 I'll let Mr. Diller's statement speak for

1 the Commission staff with respect to this process,
2 but I would like to respond and provide you with a
3 little bit about the burden of proof.

4 In this case, it's the company's
5 responsibility and the company has to demonstrate
6 that they are entitled to a rate increase. This is
7 the only spot where this company has allowed the
8 Commission to determine the prudence of these wind
9 investments. And it simply included them in its
10 entirety of its case.

11 Staff demonstrated that that was not
12 sufficient and there wasn't sufficient analysis on
13 these wind projects to ascertain that they were a
14 benefit to ratepayers sufficient for recovery.
15 Staff provided evidence to rebut any presumption
16 that may have been made or may have existed. This
17 evidence included rate IRPs, which said it is not
18 least cost. The case included testimony and other
19 proceedings before this court where the company
20 stated they're not least cost. Staff pointed out
21 that the company never asserted what the real cost
22 -- what economic impact these wind projects had for
23 ratepayers. The company did not to this date
24 provide the evidence necessary to demonstrate the
25 cost to ratepayers over and above any other option.

1 Now, the renewable statute requires that
2 analysis to be done. The Commission cannot do it
3 based on the information in front of them.

4 Now, with respect to NSP's filing in this
5 case -- or that was cited in this case, I just want
6 to draw your attention to the advance determination
7 process -- or prudence process that is contemplated
8 to be advanced. And the prudence to be determined
9 in that proceeding, that is what NSP did. That is
10 not what was done in the case of these wind farms.
11 Mr. Mathai's position did not change because the
12 prudence determination was not made and he could
13 not, and still cannot, determine that these
14 investments were prudent for MDU ratepayers.

15 Finally, with respect to used and useful,
16 there is a case that I would point out and further
17 address in briefing that suggests -- in this
18 instance it was an MDU gas case -- that gas
19 transmission facilities that were in excess of the
20 costs necessary to serve ratepayers be denied. In
21 this case what staff has demonstrated is that these
22 facilities are not least cost. The company has not
23 provided the information necessary for the
24 Commission to determine the amount that should be
25 denied. Similar to not satisfying the fulfillment

1 of the renewable statutes, the Commission does not
2 have the information necessary to determine the
3 amount that should be excluded as a result of the
4 excess payment.

5 Finally, with respect to the company's
6 position on incentive and bonus compensation, I
7 propose to the Commission that the cases that were
8 cited by counsel do not suggest the Commission has
9 no authority to adjust compensation. The
10 Commission has to make the determination of what is
11 fair and reasonable. Our briefing will address how
12 this case is distinguished from that case -- or
13 those cases. And with that we have nothing
14 further. Thank you.

15 JUDGE WAHL: Mr. Skokos, I advised you on
16 Friday last that I did not -- I really did not
17 expect counsel to make closing arguments and I
18 said, if I remember correctly, that you could
19 either make a closing argument or you could brief
20 and file what amounts to a closing argument.

21 Well, that obviously has changed. I'm not
22 -- Mr. Kuntz has not done anything wrong. He's
23 just done something differently than what I
24 expected. So contrary to my advice to you on
25 Friday, if you wish to make an opening -- a closing

1 statement now, you may do so and I will still allow
2 you to file and submit a closing argument or a
3 brief.

4 MR. SKOKOS: You can do both?

5 JUDGE WAHL: I will let you do both, is
6 what I'm telling you.

7 MR. SKOKOS: I would like to just close
8 with thanks a lot for everyone letting us come to
9 this hearing. It's been an interesting learning
10 experience.

11 COMMISSIONER KALK: For all of us.

12 MR. SKOKOS: Right. A lot of days here.
13 I would just like to reiterate that I think
14 Missouri Valley Resource Council thinks that this
15 company is actually doing the right thing in this
16 instance. Dakota Resource Council as an
17 organization was actually against them in their
18 previous step of Big Stone II. You probably
19 realized that we were there. And in this situation
20 we think that there's a change in the company's
21 investing in resources that we agree with.

22 Really I think that's the only thing that
23 needs to be encouraged in this state, especially
24 with the influx of out-of-state investors in wind
25 resources. I know that Google recently invested

1 38 -- is proposing to invest \$38 million in wind
2 resources in North Dakota. Other than that, I just
3 don't really have anything else. Thanks.

4 JUDGE WAHL: Mr. Kuntz.

5 MR. KUNTZ: Thank you, Commissioners.
6 Just briefly to touch on a couple things that Mr.
7 Savelkoul told you, and I'm glad that he brought up
8 the MDU case about the gas pipeline because it
9 precisely proves my point.

10 That was a situation where the Commission
11 at that time approved the certificate of public
12 convenience and necessity to build a gas pipeline
13 up in the northwestern part of the state, but there
14 was a disagreement in terms of what the size of
15 that pipeline should be. At that time to reach the
16 communities that they were going to they only
17 needed like a six-inch pipeline or whatever it was.
18 Montana-Dakota, though, had the idea that
19 eventually they would build further east, and if
20 they did, they wanted to size that to like a
21 12-inch pipeline.

22 Now, there wasn't a need yet at that point
23 because there weren't any customers out there yet
24 at that point, so the disagreement was how much is
25 needed and was that your least-cost alternative.

1 And the Court agreed with the Commission that the
2 extra cost of sizing that pipe should not be
3 included in current rates, but the difference was
4 there they didn't throw out the whole pipeline.
5 They made a determination of what was the
6 incremental costs associated with doing the piece
7 that wasn't needed and wasn't being used at that
8 time to provide service to customers, and that's
9 what was excluded.

10 In this case, Your Honors, you get to
11 weigh the preponderance of the evidence. You make
12 a determination what's the preponderance of the
13 evidence of whether or not these wind farms are
14 being used and useful to provide service to North
15 Dakota customers and whether they're providing a
16 benefit to North Dakota customers. When you strip
17 away the argument of staff's that they simply
18 haven't shown it and ignore all the testimony that
19 Mr. Neigum and Ms. Stomberg and Mr. Goodin gave you
20 with respect to what alternative prices were in the
21 market at the time that they made the decision, how
22 this particular asset fit into the portfolio, I
23 don't think there's more than -- it's not a
24 question of preponderance of the evidence, it's the
25 only evidence, that these assets are being used and

1 useful and do provide a benefit to North Dakota
2 customers as far as an integrated system. Thank
3 you again.

4 JUDGE WAHL: Closing comments by the
5 Commissioners. Commissioner Cramer.

6 COMMISSIONER CRAMER: Well, I've got pages
7 of them and I won't bore you with them, but I am a
8 little bit -- back to one of my issues and I'm just
9 responding to what Mr. Kuntz just said. I think
10 what I have taken from this from the staff is that
11 while your argument might be true, the problem is
12 the lack of information to determine what that
13 increment is, what is -- you know, what is the
14 difference, what part do we throw out if we decide
15 to throw out some of it. And I think the
16 frustration is that we've been dealt a hand that
17 sort of says you either dismiss and start over or
18 you give them everything, and we'll have to sort
19 through that, I suppose, with briefs and after we
20 go through all this information again.

21 A couple things I just want to say,
22 though, since the burden of proof shifts back and
23 forth depending on --

24 JUDGE WAHL: No.

25 COMMISSIONER CRAMER: Well, I understand,

1 but I'm trying to get to a point that Mr. Kuntz was
2 making -- or trying to make with me. My concern
3 with your illustration is that it gets back to the
4 resource issue again. If the expectation is that
5 in a general rate case you have this burden to
6 prove that, you know -- that you had to make these
7 generation investments and you're entitled to
8 recovery of costs and then it's up to then the
9 advocacy staff after that to prove some detail
10 otherwise, it gets back to my point about all of
11 the resources that the company is advantaged with,
12 that is to say unlimited, versus this very small
13 resource both of time and money to -- I don't like
14 to use the word defend against, but that's the best
15 illustration I can think of, concerns me, and it
16 gets back to the confidence issue. These are all
17 good people. We know that. We know these are
18 people we work with, they're people of integrity.
19 That doesn't mean that their information is good,
20 nor that we have to assume it's the truth just
21 because it was the last thing said.

22 And I think to provide some confidence in
23 this process, it may require some compromise on the
24 part of the company to make sure that these good
25 people with integrity that we know and love and

1 trust and live with and work with every day are
2 providing the right information.

3 That's my closing basically with that, and
4 then I would just close with this, a good
5 regulation can be taken for granted and once in a
6 while I think that's sometimes how we feel.

7 JUDGE WAHL: Commissioner Clark.

8 COMMISSIONER CLARK: Just thank you for
9 the very thorough hearing. We've got a lot of
10 information to sort through.

11 One of the things that I would ask, and I
12 suspect that perhaps it will be laid out in briefs,
13 but I know I'll be asking my own staff about this,
14 as well, is the issue of the rebuttable presumption
15 that exists within 49-15 -- or, I'm sorry,
16 49-05-16, which is the advance determination of
17 prudence statute. I think the way that I had
18 traditionally understood that to read was that the
19 rebuttable presumption that exists in subsection 6
20 of that section relates to applications made under
21 that section, itself. It sounds to me like there
22 may be a bit of disagreement on that and that MDU
23 may be reading that a little bit differently in
24 that, if I understand right, MDU may be arguing
25 that subsection 6 of that rebuttable presumption

1 carries over to other forms of ratemaking for the
2 Commission's purposes, that it's not limited to
3 that section of law and that it in fact affects
4 everything under Title 49.

5 That's an issue of statutory construction
6 that, you know, eventually we'll have to sort out,
7 but that is something that I would like to have
8 briefed out so I have a better understanding about
9 how each of the parties -- their legal reasoning
10 and position behind that.

11 Beyond that, thanks again for all your
12 time. I know it's a lot of it. It was a lot for
13 both applicant as well as staff and Commission and,
14 Judge Wahl, for your time, as well, and, as always,
15 a well-run hearing.

16 JUDGE WAHL: Commissioner Kalk.

17 COMMISSIONER KALK: Geez, Judge, I got
18 nine minutes; right? I just want to say thank you,
19 everyone, too, and all the things I've heard in the
20 last few days have been very insightful and we'll
21 make a good decision here. But the one thing that
22 does kind of jump out to me is that the change in
23 SEC rules and guidelines, whatever it might be,
24 that puts more of a burden on internal accounting
25 for MDU, maybe even changes some of the things we

1 do, that's very significant, not too much for this
2 rate case, but as we go forward, that's one thing
3 that I'll be spending some time with, making sure
4 that we're doing this kind of stuff the right way.

5 So thank you all for your hard work and,
6 Verle, thanks for sitting here the whole time.

7 JUDGE WAHL: Allow me to add my thanks to
8 counsel, my appreciation to counsel and to the
9 intervenors, certainly, for excellent presentations
10 and really for all of the changes, adjustments and
11 accommodations we made. Nevertheless, I thought a
12 difficult hearing that went quite well.

13 MR. KUNTZ: Thank you.

14 JUDGE WAHL: I really appreciate that.
15 With that, with the exception of counsel, the
16 hearing is closed.

17 Mr. Savelkoul, you're still with me, I
18 assume?

19 MR. SAVELKOUL: I am, Your Honor.

20 JUDGE WAHL: Findings of fact -- proposed
21 findings of fact, conclusions of law and order and
22 briefs, what is -- and let me tell you before you
23 give me some dates, some scheduling, you know, if
24 it's possible to do so, I would like to give the
25 intervenors an opportunity to reply to your briefs

1 rather than to file simultaneously. And, counsel,
2 you're certainly entitled to respond to the
3 intervenors' briefs if you feel a need to, but I
4 really would like to do that if that can be
5 reasonably done. I understand we've got some
6 timelines to meet. So, Mr. Kuntz, suggestions.

7 MR. KUNTZ: Well, I'd ask the court
8 reporter when the transcript would be done. I
9 think there would be some value in this case of
10 having the availability of a written transcript. I
11 also understand we, otherwise, would be running up
12 against the statutory deadline. We're agreeable to
13 extending that for a reasonable period of time to
14 accommodate a reasonable briefing schedule and time
15 for Commission consideration. Our goal would be
16 that if all things being equal, that we could have
17 an order that would allow us to implement rates by
18 the end of the year and so we can back up from
19 there if that's conceivable. That's where we would
20 like to be.

21 MS. JEFFCOAT-SACCO: I'm not writing any
22 briefs. I don't care.

23 JUDGE WAHL: Well, so let's just assume
24 whenever -- obviously the court reporters are going
25 to do the best that they can, so let's make that

1 assumption a given that I don't have any difficulty
2 with. Once you've got the transcript, Mr. Kuntz,
3 how many days to -- how many days to file your --
4 to make your filing?

5 MR. KUNTZ: I would ask the court reporter
6 how long do you think?

7 THE REPORTER: I don't know.

8 MR. KUNTZ: No idea? Three weeks after
9 the receipt of transcript for simultaneous briefs.

10 JUDGE WAHL: Then you think you're going
11 to get a decision?

12 MS. JEFFCOAT-SACCO: No, because that's
13 the end of the year.

14 JUDGE WAHL: Of course.

15 MS. JEFFCOAT-SACCO: A decision is coming
16 in January.

17 JUDGE WAHL: When it comes. So you want
18 three weeks to file -- three weeks from the filing
19 of the transcript, Mr. Kuntz?

20 MR. KUNTZ: Yeah, I think we do.

21 JUDGE WAHL: I'm not saying it's not
22 reasonable. Mr. Savelkoul.

23 MR. KUNTZ: And I assume that that's
24 findings of fact -- proposed findings of fact.

25 MR. SAVELKOUL: That sounds sufficient to

1 me. I want to clarify your intention with respect
2 to reply briefs, that the parties are able to reply
3 to each other as well as the intervenors.

4 JUDGE WAHL: We have not -- Mr. Savelkoul,
5 we have not done that in the past in my experience
6 unless this -- I'm trying to think of the last rate
7 case I did. I'm not sure. Mr. Kuntz, I was
8 talking about simultaneous briefs. Do you object
9 to responsive briefs?

10 MR. KUNTZ: If done on a short -- within a
11 week.

12 MS. JEFFCOAT-SACCO: Are you giving the --
13 you know, you're not going to have a whole bunch of
14 briefs, one flying in, another one responding to
15 him. Are you giving the intervenors only a week?

16 MR. SAVELKOUL: Somebody is moving paper
17 in front of a microphone that's making it very
18 difficult to hear.

19 MS. JEFFCOAT-SACCO: Everybody is. I'm
20 just thinking if there's going to be a bunch of
21 reply briefs, they should all be at the same time,
22 so you give your intervenors time to respond and
23 then -- I would give the intervenors time to
24 respond, and then if there's anything to respond
25 to, it be in that same filing. Otherwise, you're

1 going to have the parties filing in response to
2 each other and in response to intervenors, and I
3 think a week might be too short for the
4 intervenors.

5 JUDGE WAHL: Oh, I think a week is too
6 short for the intervenors.

7 MS. JEFFCOAT-SACCO: Okay. So that's why
8 I'm saying then, if there's going to be responses
9 to anything, they're all coming in in one filing --
10 one response, not 25, is my opinion. I don't know
11 what Mr. Savelkoul and Mr. --

12 JUDGE WAHL: Well, Mr. Savelkoul, what
13 would you -- let's start out with three weeks as a
14 reasonable time to file the proposed findings of
15 fact, conclusions of law and whatever briefing
16 you're going to do. Then what response -- what
17 response -- how long a period would you require for
18 the response?

19 MR. SAVELKOUL: Your Honor, I was just
20 trying to get clarification. I understood you to
21 say that we would file briefs and then the
22 intervenors would file briefs with the opportunity
23 for the company and staff to respond to those, and
24 I was just clarifying -- trying to clarify whether
25 that was your intent and/or whether to clarify that

1 if that is your intent, that we are, you know --
2 it's a responsive brief to the company's brief,
3 they have the opportunity to respond to staff and
4 staff have the opportunity to respond to the
5 company.

6 MR. KUNTZ: Mr. Examiner, I think
7 everybody should be treated the same. If the
8 intervenors want to file the initial round of
9 briefs, they can, then everybody gets a week to
10 respond to everybody else. So if the intervenors
11 pass on the first round, then they would have a
12 week to respond to the company's brief and we would
13 have a week to respond to each other's. Otherwise,
14 this is going to go on forever.

15 MR. SAVELKOUL: That's the process that
16 I'm used to and I would suggest that that's
17 appropriate, as well.

18 JUDGE WAHL: All right. I agree. Now,
19 then -- but if the intervenors pass on the first
20 round and simplify responsive briefs, then they
21 would have a month to respond.

22 MR. KUNTZ: No. They would respond within
23 that week after the initial filing by us and Mr.
24 Savelkoul.

25 JUDGE WAHL: Yes. But that's a month from

1 the filing of the transcript. Then you're saying
2 that they would -- you would then -- MDU and
3 advocacy staff would not respond at all?

4 MR. KUNTZ: How about if we say this, if
5 either Mr. Savelkoul or myself deem it necessary to
6 respond to something specifically raised by the
7 intervenors, that we would file a motion for the
8 opportunity to file that brief with you on a very
9 expedited-type basis. I can't imagine that
10 anything the intervenors would raise would be so
11 different from what had already been discussed,
12 that it would require any sort of extensive
13 briefing.

14 JUDGE WAHL: I agree. I agree. To recap,
15 MDU and advocacy staff will submit proposed
16 findings of fact, conclusions of law and any
17 briefing three weeks after the filing of the
18 transcript.

19 MR. KUNTZ: That's correct.

20 JUDGE WAHL: Then MDU and advocacy staff
21 will have one week to file a rebuttal brief. And
22 then the intervenors can do as they wish. They can
23 follow the schedule three weeks following the
24 filing of the transcript or they can take another
25 week and submit their filings at four weeks from

1 the filing of the transcript.

2 MR. KUNTZ: With the understanding, and I
3 don't think Mr. Savelkoul would disagree, that
4 between counsel for the staff and the company that
5 we would serve our briefs electronically on each
6 other.

7 JUDGE WAHL: Yes. Yes. I don't have any
8 -- I don't have any problem with that. And if
9 there is something that upsets you terribly in the
10 intervenors' briefing, that you will then get in
11 touch with me to arrange for simultaneous responses
12 expedited for the convenience of the Commission.

13 MR. KUNTZ: That's correct.

14 JUDGE WAHL: One last thing. There's no
15 point, I think -- well, strike that.

16 I think it's probably unreasonable to
17 expect the intervenors to file proposed findings of
18 fact, conclusions of law and an order, although
19 they may well be able to do so once they see yours.
20 And I would also advise them that while I expect
21 you're going to see nicely structured findings of
22 fact, conclusions of law, and so on, from MDU and
23 advocacy staff, in my judgment -- well, you may
24 choose particular findings of fact that relate to
25 you or particular conclusions of law without

1 worrying about a logical, organized structure, that
2 is, specifically with regard to Missouri Valley
3 Resource Council, there's a lot of that that don't
4 concern you at all. Your concern is fairly narrow.
5 So once you see what MDU and advocacy staff have
6 filed for findings of fact and conclusions of law,
7 you may very well be able to fashion your own
8 narrow, specific findings of fact and conclusions
9 of law and you can submit those as you wish. You
10 will have the benefit of seeing what they file.
11 That will help you.

12 MR. SKOKOS: Then we get seven days after
13 that?

14 JUDGE WAHL: Well, you get four weeks from
15 the filing --

16 MR. SKOKOS: Of the transcript.

17 JUDGE WAHL: -- of the transcript. And
18 you will have to -- you're not going to get a copy
19 of the transcript.

20 MR. SKOKOS: Okay.

21 JUDGE WAHL: But the Commission will have
22 copies of transcripts here. You can come up here
23 and use the transcript --

24 MR. SKOKOS: Okay.

25 JUDGE WAHL: -- if you feel a need to do

1 so.

2 All right. With that, any questions or
3 anything further? Mr. Kuntz, anything further for
4 the record?

5 MR. KUNTZ: No. Thank you, Your Honor.

6 JUDGE WAHL: Mr. Savelkoul, anything
7 further?

8 MR. SAVELKOUL: Nothing for the record,
9 Your Honor. Thank you.

10 JUDGE WAHL: Mr. Skokos?

11 MR. SKOKOS: Nothing.

12 JUDGE WAHL: Ms. Jeffcoat-Sacco, anything
13 further?

14 MS. JEFFCOAT-SACCO: No.

15 JUDGE WAHL: All right. We are indeed now
16 done and the record will be closed, also.

17 (Concluded at 2:34 p.m., November 12,
18 2010.)

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1 CERTIFICATE OF COURT REPORTER

2
3 I, Denise M. Andahl, a Registered
4 Professional Reporter,

5 DO HEREBY CERTIFY that I recorded in
6 shorthand the foregoing proceedings had and made of
7 record at the time and place hereinbefore
8 indicated.

9 I DO HEREBY FURTHER CERTIFY that the
10 foregoing typewritten pages (Pages 1-314 and
11 629-1136) contain an accurate transcript of my
12 shorthand notes then and there taken.

13 Bismarck, North Dakota, this 3rd day of
14 December, 2010.

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17 Denise M. Andahl
18 Registered Professional Reporter
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CERTIFICATE OF COURT REPORTER

I, Stephanie A. Smith, a Registered Professional Reporter,
DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages (pages 315-628) contain an accurate transcript of my shorthand notes then and there taken.

Bismarck, North Dakota, this 3rd day of December, 2010.

Stephanie A. Smith
Registered Professional Reporter

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