

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northern States Power Company :
2013 Electric Rate Increase : Case No. PU-12-813
Application :

Northern States Power Company :
Advanced Determination of : Case No. PU-13-706
Prudence - Courtenay Wind :
Project Application :

Northern States Power Company :
Advanced Determination of : Case No. PU-13-707
Prudence - Odell Wind Project :
Application :

Northern States Power Company :
Advanced Determination of : Case No. PU-13-708
Prudence - Pleasant Valley :
Wind Project Application :

Northern States Power Company :
Advanced Determination of : Case No. PU-13-742
Prudence - Border Winds Project :
Application :

Northern States Power Company :
150 MW Border Winds Project - : Case No. PU-13-743
Rolette County Public :
Convenience & Necessity :

Northern States Power Company :
Advanced Determination of : Case No. PU-13-194
Prudence - NG Generators :
Application :

Northern States Power Company :
Red River Valley NG Units 1 & 2 : Case No. PU-13-195
- Hankinson, ND Public :
Convenience and Necessity :

TRANSCRIPT OF HEARING
Taken At State Capitol
Bismarck, North Dakota
January 23, 2014

80 PU-13-195 Filed 02/07/2014 Pages: 285
Transcript of January 23, 2014 formal hearing
Emineth & Associates Court Reporters

74 PU-13-194 Filed 02/07/2014 Pages: 285
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BEFORE THE HON. PATRICK J. WARD
ADMINISTRATIVE LAW JUDGE

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74 PU-13-742 Filed 02/07/2014 Pages: 285
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73 PU-13-708 Filed 02/07/2014 Pages: 285
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A P P E A R A N C E S

COMMISSIONERS PRESENT:

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COMMISSIONER JULIE FEDORCHAK
COMMISSIONER RANDY CHRISTMANN

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ADVOCACY STAFF.

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AS COMMISSION ADVISER.

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NSP EXHIBITS:

<u>No.</u>	<u>Description</u>
1 2 3 4	NSP-1 Cover Letter, Index, Rate Petition, 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
	Deficiency & Proposed Revenue Schedules, Interim Petition and Schedules
	Interim Rate Tariffs (legislative and non-legislative)
	Tariff Summary and Proposed Tariffs (legislative and non-legislative)
	Revenue Analysis work papers
	Direct testimony of Laura McCarten (public)
	Rebuttal testimony of Laura McCarten (public)
	Direct testimony of Steven Foss (public)
	Direct testimony of Timothy O'Connor (public)
	Rebuttal testimony of Timothy O'Connor (public)
	Rebuttal testimony of Timothy O'Connor (non-public)
	Rebuttal testimony of Sharon Koenig (public)
	Rebuttal testimony of Sharon Koenig (non-public)
	Direct testimony of Lisa Perkett (public)
	Rebuttal testimony of Lisa Perkett (public)

C O N T E N T S
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NSP EXHIBITS:

<u>No.</u>	<u>Description</u>
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5	NSP-13 Rebuttal testimony of Scott Brockett (public)
6	NSP-14 Direct testimony of Ann Bulkley (public)
7	
8	NSP-15 Rebuttal testimony of Ann Bulkley (public)
9	NSP-16A Supplemental direct testimony of Steven Wishart (public)
10	
11	NSP-16B Supplemental direct testimony of Steven Wishart (non-public)
12	NSP-17 Rebuttal testimony of Steven Wishart (public)
13	
14	NSP-18 Direct testimony of Anne Heuer (public)
15	NSP-19 Rebuttal testimony of Anne Heuer (public)
16	
17	NSP-20 Direct testimony of Michael Peppin (public)
18	NSP-21 Direct testimony of Steven Huso (public)
19	
20	NSP-22 Rebuttal testimony of Steven Huso (public)
21	NSP-23 Opening statement of Laura McCarten
22	NSP-24 Opening statement of Steven Foss
23	NSP-25 Opening statement of Timothy O'Connor
24	NSP-26 Opening statement of Sharon Koenig
25	NSP-27 Opening statement of Lisa Perkett

C O N T E N T S
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NSP EXHIBITS:

<u>No.</u>	<u>Description</u>
NSP-28	Opening statement of Scott Brockett
NSP-29	Opening statement of Ann Bulkley
NSP-30	Opening statement of Steven Wishart
NSP-31	Opening statement of Anne Heuer
NSP-32	Opening statement of Michael Peppin
NSP-33	Opening statement of Steven Huso
NSP-34	NSP 10K (12-31-12)
NSP-35	Yahoo Finance 1-year look from August 2012 - August 2013
NSP-36	Moody's (St. Louis fed, corp bond) January 2012 - July 2013
NSP-37	DR1-004 Supplement
NSP-38	Corrections to filed testimony
NSP-39	Settlement Agreement, dated December 13, 2013, including cover letter, agreement and attachments A through G
NSP-40	Supplemental testimony of David Sparby supporting settlement (public)
NSP-41	Supplemental testimony of David Sederquist supporting settlement (public)
NSP-42	Supplemental testimony of David Sederquist supporting settlement (non-public)
NSP-43	Settlement work papers - non-public
NSP-44	NSP response to December 10, 2013 notice (12/20/13)

C O N T E N T S
(Continued)

PSC ADVOCACY STAFF EXHIBITS:

<u>No.</u>	<u>Description</u>
PSC-1	Direct testimony and exhibits of Michael J. Majoros
PSC-2	Supplemental testimony of Michael J. Majoros
PSC-3	Direct testimony and exhibits of Charles W. King
PSC-4	Revised direct testimony and exhibits of Dante Mugrace
PSC-5	Direct testimony and exhibits of Karl Pavlovic
PSC-6	Supplemental testimony of Karl Pavlovic
PSC-7	Direct testimony and exhibits of Sara Cardwell
PSC-8	Table from 8-15-13 Cable Report (reporting required from last rate case)
PSC-9	Attachment A to DR 10-003
PSC-10	GND Chamber info (3 pgs.)
PSC-11	DR Response 8-68 supplement
PSC-12	Monthly peaks 2005-2012 (Cardwell prepared graph from Brockett Schedule 2)
PSC-13	Empire distribution value line chart
PSC-14	DR Response 5-14
PSC-15	DR Response 5-65
PSC-16	Opening statement of Michael Majoros
PSC-17	Opening statement of Charles W. King

C O N T E N T S**(Continued)**PSC ADVOCACY STAFF EXHIBITS:

<u>No.</u>	<u>Description</u>
PSC-18	Blue Chip Forecast/Actual Comparison
PSC-19	Opening statement of Karl Pavlovic
PSC-20	Opening statement of Dante Mugrace
PSC-21	Opening statement of Sara Cardwell
PSC-22	Correction to Testimony (to be filed)
PSC-23	Direct testimony of Mike Diller, advocacy staff supporting settlement
PSC-24	Additional direct testimony of Mike Diller, advocacy staff supporting settlement
PSC-25	NSPSC December 10, 2013 Notice of Intent to Consider records in Case Nos.: PU-13-706, PU-13-07, PU-13-708, PU-13-194, PU-13-195, PU-13-742, PU-13-743, PU-09-61, PU-10-580, PU-07-790

ALJ DIRECTED LATE-FILED EXHIBITS:

<u>No.</u>	<u>Description</u>
A	Jurisdictional Demand Allocator - Order approving 12CP and identification of prior method used
B	Pending ADP cases for which cost recovery is not requested in PU-12-813
C	Trade Secret version of response to data request 2-8
D	Opportunity for use of Intelliteam switched in Grand Forks, Minot or more in Fargo

C O N T E N T S
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ALJ DIRECTED LATE-FILED EXHIBITS:

<u>No.</u>	<u>Description</u>
E	Demonstration of cost savings by having annual incentive plans
F	J.P. Morgan report (August 20, 2013)
G	State of New York orders demonstrating use of sustainable growth models
H	2012 End of Year ND jurisdiction utility plant in service
I	July 2013 sales forecast update - ND jurisdiction total sales for 2013 by customer class by month
J	Updated monthly billed/net unbilled and calendar interim rate revenues (update data request response 5-65 for Apr-Jul 2013)
K	Executive compensation assigned to ND jurisdiction
L	Lobbing cost - definition and rate case treatment
M	Pension - expected returns and % funding levels, including explanation
N	Comparison of staff and NSP capital structures
O	Comparison of staff and NSP revenue requirements by issue
P	Chronology of MN Legislative mandates and associated regulatory actions

(All exhibits were stipulated to by the parties.)

1 (The following proceedings herein were had
2 and made of record, commencing at 8:30 a.m.,
3 Thursday, January 23, 2014, as follows:)

4 JUDGE WARD: I'm going to open the record
5 here. This is the consolidated North Dakota Public
6 Service Commission hearing on the comprehensive
7 settlement of all open issues of NSP dba Xcel Energy
8 before the Public Service Commission. The
9 consolidated case number is PU-12-813.

10 My name is Pat Ward. I'm the
11 Administrative Law Judge designated by the Office of
12 Administrative Hearings at the request of the Public
13 Service Commission to serve as procedural hearing
14 officer for this consolidated hearing.

15 This hearing is on the application of NSP
16 for a comprehensive settlement of all issues pending
17 before the PSC in case Nos. PU-12-813, PU-13-706,
18 PU-13-707, PU-13-708, PU-13-742, PU-13-743,
19 PU-13-194, and PU-13-195.

20 The record will show it's a little past
21 8:30 a.m., Central Standard Time, on Thursday,
22 January 23rd, 2014, at the PSC Commission Room, 12th
23 floor, State Capitol, Bismarck, North Dakota, which
24 is the time, date and place set by the notice of
25 filing and notice of hearing issued by the Public

1 Service Commission on December 16th, 2013. The
2 notice of filing and notice of hearing for this
3 issue -- for this hearing specified the issue as
4 whether the settlement is reasonable and should be
5 adopted.

6 At this time I'd like appearances. First
7 of all, for NSP, Mr. Simpser, who is here
8 representing the company today. Mr. Simpser, would
9 you state who is at counsel table with you for the
10 record, please?

11 MR. SIMPSE: Zev Simpser, Briggs and
12 Morgan, on behalf of NSP. With me is Ms. Kari
13 Valley, Associate General Counsel of Xcel Energy
14 Services, Inc., on behalf of the company.

15 Ms. Valley will be performing the direct
16 witness examinations today.

17 JUDGE WARD: And is Ms. Valley a licensed
18 North Dakota attorney?

19 MR. SIMPSE: Yes, Your Honor. She's been
20 Pro Hac Viced by the Administrative Law Judge
21 presiding over Case No. PU-12-813, as well as
22 PU-13-706, 707, 708, and 742.

23 JUDGE WARD: Any objection to Ms. Valley
24 participating?

25 MR. NORRELL: No, Your Honor.

1 MR. ARMSTRONG: No, Your Honor.

2 MS. JEFFCOAT-SACCO: No.

3 JUDGE WARD: She will be allowed to
4 participate in the hearing.

5 MR. SIMPSON: Thank you, Your Honor.

6 JUDGE WARD: Mr. Norrell, would you state
7 who is going to be present on behalf of advocacy
8 staff for the Commission and any witnesses that are
9 at the table with you that might testify?

10 MR. NORRELL: Yes, Your Honor. Thank you.

11 Ryan Norrell, attorney for Public Service
12 Commission Advocacy Staff. And with me at counsel
13 table would be our witness for this particular
14 hearing, Mr. Mike Diller, and also Sara Cardwell,
15 who was the main advocacy staff witness in Case No.
16 12-813.

17 JUDGE WARD: And is it your intention that
18 either Mr. Diller or Ms. Cardwell will ask any
19 questions of any witnesses today?

20 MR. NORRELL: Not at this time, Your
21 Honor.

22 JUDGE WARD: Mr. Armstrong, would you
23 please state your appearance for the record and
24 anybody else that will be participating in the
25 hearing?

1 MR. ARMSTRONG: Yes, Your Honor. Mitch
2 Armstrong, Special Assistant Attorney General, on
3 behalf of the Commission in all of the listed cases.
4 With me is Illona Jeffcoat-Sacco, also attorney for
5 the Commission. Patrick Vaughn and Jerry Lien are
6 staff on the various cases. We don't expect them to
7 ask questions. If they do, they'll filter them
8 through counsel.

9 JUDGE WARD: Thank you. Before we begin,
10 any opening remarks from the Commissioners?

11 Chairman Kalk.

12 COMMISSIONER KALK: Thank you, Your Honor.
13 Thank you, everyone, for being here today and Xcel
14 yesterday. We all sat in those meetings downstairs,
15 so I appreciate everybody doing that as well. We
16 got a good team lined up again today. It seems like
17 we've been doing this for a long time and we have
18 been, and I hope we're getting to where we're ready
19 to make a vote here pretty soon.

20 So there's a few questions that I would
21 have today. I think a lot of those I asked in the
22 informal that we had, so I don't think any of those
23 should be a surprise. I don't have any particular
24 concerns about the wind projects, any particular
25 concerns about the gas projects that haven't been

1 answered. I'm still stuck on the three-year deal.
2 I like the idea of a one-year something and zero,
3 zero going forward. If you could maybe focus on
4 your willingness to adjust that, that would
5 certainly be helpful today. I look forward to a
6 good hearing. Thank you.

7 JUDGE WARD: Commissioner Fedorchak.

8 COMMISSIONER FEDORCHAK: Good morning,
9 everyone. I don't have a lot to say starting out
10 this morning, but I do want to again thank the
11 advocacy staff and the company for all the hard work
12 that went into this settlement. You guys really
13 went through kind of one by one and addressed a lot
14 of the issues that were outstanding in the rate
15 case, and a few of the big ones still kind of rein
16 supreme; the demand allocator being one of them for
17 myself, and then the three-year terms of the --
18 well, four-year term of this and the consecutive
19 rate increases, I want to learn more today about the
20 investment cycle that you're on and what would
21 justify those increases down the road.

22 So other than that, I look forward to the
23 rest of the deliberations this morning. Thank you.

24 JUDGE WARD: Commissioner Christmann.

25 COMMISSIONER CHRISTMANN: Thanks, Your

1 Honor. I think everything that is in question is
2 known, and I'm ready to get started.

3 JUDGE WARD: Thank you, Commissioners.

4 I'm looking around the room. The room is
5 quite full today. Looks to me like most of the
6 people present are either here on behalf of the
7 company or on behalf of the Commission, but if there
8 is anyone present other than witnesses for NSP or
9 the Commission who will or may want to testify or
10 comment regarding this matter today, would you
11 please raise your hand?

12 Okay. So it doesn't appear that there is
13 anybody at this time. We'll give that opportunity
14 again later after the company presents its case.

15 Mr. Simpson, any opening remarks at this
16 time?

17 MR. SIMPSON: No, Your Honor. We would
18 expect to call our witnesses and have them answer
19 Commissioners' questions.

20 JUDGE WARD: Okay. Mr. Norrell, any
21 opening comments?

22 MR. NORRELL: No, Your Honor.

23 JUDGE WARD: Mr. Armstrong?

24 MR. ARMSTRONG: No, Your Honor.

25 JUDGE WARD: Mr. Simpson, you can call

1 your first witness.

2 MR. SIMPSEY: The company calls Mr. Dave
3 Sparby.

4 JUDGE WARD: Mr. Sparby, I think maybe
5 you've been here before, but I'm required by law to
6 advise you of the penalty in North Dakota regarding
7 perjury. That penalty is up to five years in
8 prison, up to a \$5,000 fine, or both.

9 Having been advised of that penalty, will
10 you please raise your right hand to take the oath?

11 Do you promise to tell the truth, the
12 whole truth and nothing but the truth in this
13 proceeding?

14 THE WITNESS: I do.

15 JUDGE WARD: Thank you. Mr. Simpson.

16 MR. SIMPSEY: I defer to Ms. Valley.

17 MS. VALLEY: Thank you, Judge Ward.

18 DAVID M. SPARBY,
19 being first duly sworn, was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 BY MS. VALLEY:

23 Q. Mr. Sparby, do you have an opening
24 statement today?

25 A. Yes, a very brief one.

1 Good morning, Commissioners. I'm Dave
2 Sparby. I'm the Senior Vice-President for Xcel
3 Energy, responsible for the operating companies. I
4 appreciate the opportunity to testify in favor of
5 the settlement this morning. I want to thank the
6 staff for their very large contribution in its
7 completion.

8 I think the settlement provides a
9 reasonable framework for resolving the issues in the
10 case. It fairly balances the interests of the
11 parties. It's enforceable and moves us
12 significantly in the direction of implementing North
13 Dakota energy policy.

14 I'll be glad to answer the questions I can
15 about the agreement. We have additional staff
16 members that can answer more detailed questions.
17 And with that, I look forward to a good discussion
18 today and urge the Commission to consider its
19 adoption. Thank you.

20 MS. VALLEY: Thank you. Your Honor, this
21 witness is available for examination.

22 JUDGE WARD: Okay. Mr. Norrell.

23 MR. NORRELL: No questions, Your Honor.

24 JUDGE WARD: Mr. Armstrong.

25 MR. ARMSTRONG: Thank you, Your Honor.

CROSS-EXAMINATION

1
2 BY MR. ARMSTRONG:

3 Q. Mr. Sparby, we do have your pre-filed
4 testimony in the record already, but I do want to
5 ask you a few questions about that and maybe have
6 you summarize, from your position with the company,
7 why you believe the settlement should be approved.

8 So let's start with, what is your position
9 with the company?

10 A. Senior Vice-President of Xcel Energy.

11 Q. What do you do in that position?

12 A. I'm responsible directly for several
13 administrative functions; regulatory, legislative
14 and the like, and then have matrix responsibility
15 for operating functions.

16 Q. In that role why do you think the
17 settlement should be approved?

18 A. Well, the settlement provides an orderly
19 process to resolve many issues that have been a
20 concern of this Commission in the past, like some of
21 the PPAs, for example, that have been adopted. It
22 also provides an orderly process to resolve other
23 issues like the demand allocator. It balances the
24 interests of all the parties concerned in that it
25 allows for study periods as well as final adoption

1 by the Commission. So I think in a very
2 comprehensive fashion it pulls together a lot of
3 stakeholder input. It allows for some discussion
4 amongst the parties and ultimate approval by the
5 Commission.

6 Q. And I take it from your testimony that you
7 believe the settlement is fair for NSP's customers
8 and for the company?

9 A. That's correct.

10 Q. Why? Or is it just the same thing you
11 just said?

12 A. Well, I guess for two of the most basic
13 reasons; first of all, it results in reasonable
14 rates for customers and, second of all, it moves us
15 in the direction of North Dakota energy policy in
16 favor of the mandates of the North Dakota
17 Legislature.

18 Q. You heard the Commissioners' comments at
19 the beginning. Commissioner Kalk had mentioned he
20 was concerned about the increase three years in a
21 row --

22 A. Yes.

23 Q. -- and then no increase in 2016, and
24 Commissioner Fedorchak also asked about wanting more
25 information on that.

1 From your perspective, why is the tiered,
2 if you will, 5-5-5-0 rate increase appropriate?

3 A. Well, the company is spending
4 approximately \$1 billion a year replacing plant and
5 also adding plant across Northern States Power's
6 jurisdiction. You know, at a very high level the
7 revenue requirement associated with \$1 billion of
8 investment is about \$110 million. You're about 6.1
9 percent of that. You know, when you look at what
10 our operating and maintenance expenses are, they're
11 roughly between 1.2 and 1.3 billion using that same
12 allocation. Of course, this is at a very high
13 level, but certainly justifies the type of change in
14 rates that we're talking about.

15 Now, bringing that down to more plant-
16 specific projects, I know this Commission has seen
17 testimony with respect to the upgrade as well as the
18 lifecycle management project at Monticello. We've
19 talked about the steam generator replacement as well
20 as the lifecycle management project at Prairie
21 Island. There's a significant amount of
22 transmission being added across the system as well
23 as efforts to both refresh our distribution system
24 and address many other projects the company has
25 ahead of it, like cyber security concerns. And

1 those are, at a very high level, the basis for the 5
2 percent increases.

3 Q. With the structure of the settlement, a 5
4 percent increase for 2013, '14 and '15 --

5 A. Yes.

6 Q. -- is it -- why couldn't it be an increase
7 in '13 and then no increase in the latter years or
8 some other formulation?

9 A. Well, as a practical matter, you know,
10 accounting requires that we recognize earnings in
11 the year that we receive them and yet if we were to
12 receive all the earnings in one year, of course,
13 we're still going to be required to finance and
14 operate in those later years.

15 So, I mean, if it was the Commission's
16 mandate that we go back and try to look at something
17 like that, we can. It's just not a framework that
18 would work well and it's largely dictated by both
19 accounting and other requirements.

20 Q. Without the settlement, do you know what
21 the anticipated plan is, at least for NSP, as far as
22 filing additional rate cases in, say, the next four-
23 year period?

24 A. Well, we kind of cut through this current
25 investment cycle around 2016, at which time rate

1 cases should be very consistent with the level of
2 inflation, whatever that is at the time.

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

5 JUDGE WARD: Any questions from the
6 Commissioners?

7 MR. ARMSTRONG: Judge?

8 MS. JEFFCOAT-SACCO: Judge? Excuse me.

9 JUDGE WARD: Ms. Jeffcoat-Sacco.

10 MS. JEFFCOAT-SACCO: Excuse me. I should
11 appear on behalf of the Commission on the rate case
12 because I was assigned as Commission counsel on the
13 813 case. And so I didn't make that appearance when
14 we first went forward. Mitch was assigned for all
15 the other cases and then added to the rate case when
16 the settlement was imminent, but I would like the
17 opportunity to ask a couple of questions related to
18 that.

19 JUDGE WARD: Absolutely. You may.

20 CROSS-EXAMINATION

21 BY MS. JEFFCOAT-SACCO:

22 Q. Mr. Sparby, are you the witness that will
23 be responding to the staff's, Mike Diller's
24 suggestion in his testimony, which I believe is at
25 the end, his alternative to a demand allocator issue

1 where he goes into it on pages 9 and 10 and says one
2 of the reasons he's bringing it up, even though it's
3 late, is to get the company response?

4 Will you be providing the company
5 response?

6 A. The company response to the settlement
7 or --

8 Q. No, to the suggestion in Mike Diller's
9 testimony on page 9. I believe it starts on page 9.

10 A. You know, I apologize. Is this his
11 settlement testimony?

12 Q. This is his testimony filed on the 17th.

13 MR. DILLER: Excepting a fixed share of
14 generation assets.

15 Q. (MS. JEFFCOAT-SACCO CONTINUING) I didn't
16 look at the exhibit list. I apologize. Being that
17 you're the big guy here today, I did wonder if you
18 had any response or if you are deferring that to
19 someone else?

20 MR. SIMPSON: Is that page 9?

21 MS. JEFFCOAT-SACCO: Starting on page 9,
22 yes.

23 Q. (MS. JEFFCOAT-SACCO CONTINUING) An
24 alternative, the third alternative as Commissioner
25 Hagen used to look for always in his decisions, to

1 the demand allocator issue.

2 A. I guess I apologize. I'm not entirely
3 sure what other alternative Mr. Diller proposed. I
4 can respond generally to the issue of 12CP.

5 Q. I think what he's saying -- and I'm going
6 to oversimplify here and he will get on the stand
7 and correct me when the time is right.

8 But I think what he's saying is, figure
9 out a percentage, a number, five, seven,
10 two-and-a-half, whatever it is, and just apply it,
11 And don't participate, so to speak, in 12CP, 1CP or
12 any other CP.

13 A. Well, if I understand the question, I
14 mean, we need to derive a methodology as a starting
15 point for future proceedings and also for the
16 Commission to measure our earnings in this
17 proceeding and subsequent rate changes, so we -- I
18 see certainly some value in adopting this process
19 and this methodology for this settlement knowing
20 that we'll be filing enough information for the
21 Commission to continue to evaluate the
22 reasonableness of this allocation, as well as
23 perhaps move to others should that be the decision.

24 Q. So I don't mean to put words in your
25 mouth, but are you basically saying that could be

1 one of the ideas that goes into the study?

2 A. We're going to look at all the ideas
3 consistent with the settlement, yes.

4 Q. Okay. Well, I had a concern with the
5 settlement proposal in that regard with not
6 including upfront other jurisdictions. And if you
7 subscribe to the theory that it takes a lot of work
8 and some investigation and research to come up with
9 a truly correct allocator --

10 A. Yes.

11 Q. -- if you're going to deviate from the
12 default allocator, then I have a hard time saying --
13 or thinking that that can happen without your other
14 jurisdictions being involved.

15 So why is the company not including the
16 other jurisdictions in that research project and
17 that study from the beginning?

18 A. Well, I'm certain we will at some point
19 consult the other jurisdictions. This study, of
20 course, is on a relatively quick time frame. I
21 mean, it would be very difficult, I would think, for
22 us to assemble all the jurisdictions and develop
23 consensus by July of this year, but certainly --

24 Q. I agree with you there.

25 A. -- we will consult other states.

1 Q. But if the process was started -- I mean,
2 I agree with you it would be hard to get everybody
3 to the table --

4 A. Yes.

5 Q. -- hash it out and develop consensus by
6 July, but I'm more concerned about those people not
7 being at the table in the beginning and it being
8 perhaps a waste of six months then because we don't
9 have them at the table. So is the company willing
10 to bring them to the table even if the timeline has
11 to be extended? Which I have no authority from the
12 Commission to offer that, but that's my thought.

13 A. Of course, the company has no ability to
14 bring solvents to the table, but we certainly will
15 bring this to the attention of our other regulators.
16 I mean, we --

17 Q. But will you suggest that it be a joint
18 effort?

19 A. You know, I think what I'd like to do is
20 bring that back and talk with our team about it. I
21 certainly see some advantages in including other
22 regulators in that discussion. You know, I just
23 really haven't had a chance to talk about that with
24 the team. Certainly we've got ongoing rate cases
25 and other -- you know, other proceedings elsewhere

1 that wouldn't fit as well with this timing, but
2 certainly because it's a multi-jurisdictional
3 allocator, they'll be at least consulted at some
4 point, yes.

5 MS. JEFFCOAT-SACCO: That's all I have at
6 this time.

7 JUDGE WARD: Before we go to questions
8 from the Commissioners, is there anything,
9 Ms. Valley, that you want to follow up on with this
10 witness?

11 MS. VALLEY: Thank you, Judge Ward. I'll
12 reserve my questions for -- well, maybe I could
13 proceed with one now just to resolve
14 Ms. Jeffcoat-Sacco's issue on the study.

15 REDIRECT EXAMINATION

16 BY MS. VALLEY:

17 Q. As you indicated, Mr. Sparby, the study is
18 on a short time frame?

19 A. It is.

20 Q. And do you see the study as providing a
21 baseline document and the start of ongoing
22 discussions both with the North Dakota staff and
23 potentially with other jurisdictions?

24 A. Yes.

25 MS. VALLEY: Thank you, Mr. Sparby.

1 JUDGE WARD: Mr. Norrell, any follow-up to
2 that?

3 MR. NORRELL: No, Your Honor. Thank you.

4 JUDGE WARD: Mr. Armstrong.

5 MR. ARMSTRONG: No, Your Honor.

6 JUDGE WARD: Ms. Jeffcoat-Sacco.

7 RECROSS-EXAMINATION

8 BY MS. JEFFCOAT-SACCO:

9 Q. If it's a baseline document, which I
10 hadn't thought of that term, but I recall it from
11 the informal, what do you envision as the time frame
12 after that, the baseline document being due in six
13 months, for getting to and implementing the correct
14 jurisdictional allocator, whatever that may be?

15 A. I would imagine that that process could be
16 anywhere between four and six months to follow, just
17 depending on how much subsequent analysis is done on
18 that.

19 Q. So, realistically, the Commission can kind
20 of consider 2014 as a year with a default allocator
21 and if there were to be a change, it would probably
22 take effect in 2015?

23 A. Well, that would be to come to, of course,
24 conclusion with respect to what North Dakota's
25 interests are. If we're going to consult and work

1 with other states, that's going to be a longer
2 process. I think, as you may remember, we actually
3 did this in 1983 and pulling together the five
4 states and the Federal Energy Commission and coming
5 to agreement on an allocator was a very significant
6 task.

7 Q. Well, fortunately, I don't remember that.

8 A. Oh, okay. I apologize.

9 Q. That was a little bit before my time.
10 You're dating yourself there.

11 A. I will say --

12 Q. But you've piqued my curiosity. Is there
13 a final document from that process?

14 A. Yes, there is.

15 Q. I would love to read it, if you could
16 submit it, please.

17 A. Yes. The North Dakota Commission was the
18 signatory. It's the 12CP that we applied between
19 the jurisdictions.

20 Q. I think it should -- I mean, if there's no
21 objection, I think it should be part of this record
22 because I'd like to see what happened with who --

23 A. Yeah. When I say "signatory" --

24 Q. -- and how they arrived at the conclusion.

25 A. -- all the jurisdictions came to an

1 agreement. Actually, I was the signatory. It's an
2 agreement between NSP Minnesota and NSP Wisconsin
3 and what we were -- what was required of us to have
4 this adopted was all the state commissions as well
5 as the FERC had to agree to its reasonableness.

6 Q. But did it just apply then to the
7 interchange, whatever you call it, the federal issue
8 between the two companies as opposed to the
9 retail --

10 A. Well, the states, of course, were -- it
11 was important to them to ensure that the method that
12 we applied between the companies was consistent with
13 their methodology or you'd certainly inconsistency
14 in cost allocation.

15 Q. Okay. And this is educational for me.
16 Are you saying that if the -- all the Commissions
17 perhaps agreed to a different methodology, there
18 would then still have to be a federal approval, you
19 know, the flip side of that --

20 A. Well, the federal approval --

21 Q. -- for Minnesota, Wisconsin?

22 A. -- starts at, of course, the level of
23 defining costs for the company and --

24 Q. Right.

25 A. -- the allocation of costs between

1 companies is FERC jurisdiction.

2 Q. Right. And I had thought that it didn't
3 matter, that part didn't matter to us, that they
4 didn't have to necessarily coordinate. I understand
5 that ours start with whatever Wisconsin doesn't get
6 as far as costs, you know, the Minnesota company's
7 costs is where we start --

8 A. Yes.

9 Q. -- but I thought I heard you saying just
10 now that there was some dependency, FERC had to sort
11 of approve what we do and we sort of have to approve
12 what they do?

13 A. Well, actually --

14 Q. I thought they were irrelevant.

15 A. -- I think FERC was very happy to stand
16 back and allow the states to come to agreement on
17 the allocator to be used. Certainly, FERC has some
18 guidelines that will apply, if necessary, but this
19 was ultimately a settled matter.

20 Q. Okay. Well, I'll be interested in reading
21 that final result.

22 A. Yes. Yes, we can get a copy of that.

23 MS. JEFFCOAT-SACCO: Thank you.

24 JUDGE WARD: I'm going to go now to
25 questions from the Commissioners and then I'll give

1 you an opportunity to follow up on everything. This
2 is Commissioner Fedorchak's portfolio, I think. Do
3 you want to go first?

4 COMMISSIONER FEDORCHAK: Sure.

5 JUDGE WARD: Commissioner Fedorchak.

6 EXAMINATION

7 BY COMMISSIONER FEDORCHAK:

8 Q. Okay. Morning. Thanks again for being
9 here. So you piqued my interest as well with the
10 discussion on the 1983 process.

11 A. Yes.

12 Q. So can you step back and just kind of give
13 me an overview of that? Tell me again what it was,
14 what triggered it and just sort of set the stage for
15 that. I'll read it when we receive it as well, but
16 I'd like to get the foundation set in my brain a
17 little bit now.

18 A. Okay. There's several ways to allocate
19 costs between affiliates and some do it through just
20 a standard power supply agreement, which would look
21 like, for example, Minnesota would sell -- NSP
22 Minnesota would sell NSP Wisconsin 100 megawatts of
23 energy and we would price that. And that's what --
24 for example, that kind of format is what ALLETE
25 would use in selling to Minnesota Power Wisconsin.

1 Because NSP Wisconsin sells power to NSP Minnesota
2 and NSP Minnesota sells power to NSP Wisconsin, what
3 we did was, and this is a general term, did a cost-
4 sharing agreement. So we look at what investments
5 were made in Wisconsin. We look at what investments
6 are made here and then apply a load ratio sharing to
7 ensure that each company pays, you know, the
8 appropriate revenue requirement for the investment
9 made. Now, an allocation factor must be applied to
10 that investment and the 12CP method was the one that
11 was adopted.

12 Q. Okay. And so what would a changing of
13 that allocation factor used within the states within
14 NSP Minnesota, how would that affect that?

15 A. Well, what it would do, you know,
16 depending on if there was a change, it would either
17 bring more cost to Minnesota or it would bring more
18 cost to Wisconsin.

19 Q. Okay. All right.

20 A. And then from that, we would allocate down
21 to individual jurisdictions.

22 Q. The way the settlement is set up, we do
23 the study -- as I understand it, we do the study on
24 allocation factor this year and then it doesn't
25 take -- whatever is found in that study doesn't take

1 any effect until a future rate case?

2 A. Correct.

3 Q. And if we adopt the settlement, there
4 won't be a future rate case until after 2016?

5 A. Correct.

6 Q. Would the company be open to any sort of
7 process that might have the study completed and the
8 allocation factor implemented prior to a future rate
9 case, have that be part of the terms of the
10 settlement?

11 A. Well, at this point, Commissioner, I mean,
12 the settlement is a comprehensive agreement to both
13 some costs and benefits and, you know, I think
14 without either side knowing what the Commission
15 would adopt, it would certainly, you know, enhance
16 the agreement for one side and detract from the
17 agreement on the other. Now, you know, if the
18 Commission wanted to request the parties look at any
19 additional terms or conditions, I mean, certainly
20 the parties would come back and consider that as I
21 have stated. However, at this point, the agreement
22 we've offered is considered as a whole.

23 Q. Mm-hmm. Okay. The other -- my other
24 thought on the allocation study is that it's
25 driven -- it's all driven by the company. And it

1 feels like it would be more -- less bias, perhaps,
2 if there was a third party involved. That's another
3 piece of the, you know, terms that I'd like to think
4 about moving forward, having some sort of a third
5 party involved in that study so it's not -- has a
6 little bit more meat on it in terms of impartiality.
7 So just throw that out there for now. What --
8 I'd like to talk to you a little bit about the build
9 cycle. You mentioned looking at completing it
10 around the year 2016.

11 A. Mm-hmm.

12 Q. So until then, you feel like the company
13 has had a fairly consistent increase set; 7.4
14 percent in 2007, 8.37 in 2010, another 1.23 percent
15 in 2010, and then it's seeking three more years of 5
16 percent.

17 A. Mm-hmm.

18 Q. Tell me, how do we justify that to our
19 customers.

20 A. Well, Commissioner, I think we've provided
21 in the work papers the very detail of the plant
22 additions that we've made and I know we've talked
23 about this at a very high level, but, you know, I
24 think customers understand in the '60s and '70s
25 states like North Dakota, as well as Minnesota and

1 South Dakota, grew very fast.

2 I think Cass County had some decades that
3 grew at almost 20 percent, and a lot of the
4 infrastructure, as well as the power supply the
5 company built at that time is now 50 and 60 years
6 old. Certainly some of the plants that we licensed,
7 like the nuclear plants have 40-year licenses, and
8 the infrastructure at that point needs to be looked
9 at it and refreshed.

10 Infrastructure failure for us is not an
11 option. Electricity is required by our customers.
12 And we're moving along a very prudent path to life-
13 extend, refresh and replace that infrastructure
14 where it's prudent to do so. And we do have in the
15 work papers both the projects, as well as the cost
16 estimates associated with them at very detailed
17 levels.

18 Q. Is it largely the refreshing of the
19 existing system -- you mentioned earlier that you're
20 also adding plant, which I would be interested in
21 hearing you talk a little bit about that,
22 considering that your load is not growing. So what
23 are the additions and what's driving those?

24 A. Well, we're -- you know, we're required --
25 we're adding, for example, IT, cyber security

1 improvements. You know, for some plants, you know,
2 additional pollution control equipment has been
3 required. Nuclear in particular is an area where
4 over time the NRC has seen fit to have licensees add
5 significant additional equipment. I'm sure the
6 Commission is aware of events like Fukushima, for
7 example, has caused the NRC to rethink the operation
8 of several plant processes and make improvements and
9 additions.

10 Q. Yesterday we had a daylong discussion here
11 on carbon regulation.

12 A. Yes.

13 Q. Do you feel your company, if -- I mean,
14 obviously, you don't have a crystal ball. I
15 recognize you can't completely predict here, but if
16 there's a major new federal carbon regulation,
17 should customers be prepared for significant
18 additional changes beyond 2016? Does that kind of
19 change what you'd be saying today, or do you expect
20 that you're pretty well positioned?

21 A. Well, I'd like to think that the
22 investments that we've made provide a hedge against
23 those future regulations. NSP is probably one of
24 the very few companies that has about 50 percent of
25 its megawatt hours carbon free. So it's a very

1 significant hedge that we bring to the table against
2 future carbon regulation.

3 Q. Oh, and has NSP ever signed onto such a
4 comprehensive long-term, say, four-year settlement,
5 or is this new ground for you?

6 A. No, it's a -- we recently agreed to a
7 three-year settlement with the Colorado Commission,
8 so, in fact, it's not new ground. I think it's
9 worked very well there. I think we agreed to it a
10 little earlier in the process, though. Probably the
11 look ahead is about the same as with this agreement
12 at this point, but I think the Colorado Commission
13 would say, yeah, that agreement has worked pretty
14 well.

15 Q. What risks does the agreement provide or
16 carry for your company? There seems to be a lot of
17 certainty that you get with the 5 -- you know, three
18 consecutive 5 percent increases. What are the risks
19 that you see?

20 A. Well, the risks are certainly that costs
21 are going to increase faster than we expect, that
22 sales will decrease faster than we expect, so
23 there's certainly a significant amount of financial
24 risk for us here.

25 We also, of course, have agreed to several

1 other processes as a part of this that we are also
2 going to have to manage, including the restack
3 provision of this agreement, which imposes
4 potentially significant risk on us.

5 Q. How would you compare your risk versus
6 that of the customers?

7 A. I think the risks are significantly tilted
8 towards us.

9 Q. How so?

10 A. Well, I think that the chances of not
11 seeing a decrease in the restacked portfolio is not
12 likely. I think what we've shown you is that the
13 rate of return that we expect in 2016 is in that 8
14 to 8 and a half percent range, which would certainly
15 not be acceptable to investors. And even when you
16 look to 2013, the rate of return we agreed to is
17 below the national average approved by other
18 regulators. So it appears to me that the risks
19 taken as a whole as reflected by the agreement are
20 certainly on us and as reflected by the rate of
21 return.

22 Q. So why did you agree to this?

23 A. Well, it gets at a lot of long-standing
24 issues that we think we need to agree with the --
25 come to agreement with the staff and the Commission

1 on. Certainly, there's a value to us in the
2 certainty of the agreement over time and the
3 resolution of these issues in an orderly fashion.

4 COMMISSIONER FEDORCHAK: Okay. Thank you.
5 I don't have any more questions.

6 JUDGE WARD: Chairman Kalk.

7 COMMISSIONER KALK: Thank you, Your Honor.

8 EXAMINATION

9 BY COMMISSIONER KALK:

10 Q. Thank you, David, for coming out today.

11 A. Thank you.

12 Q. Let me understand one more time. Do you
13 work directly for Ben?

14 A. Yes, I do.

15 Q. So I'll make a commitment that I still
16 have not been down there yet, but I obviously won't
17 talk about cases, but I need to get done and, if
18 possible, get a meeting with you and I and Laura and
19 Ben and just sit down and just talk about state
20 energy policies in a very candid, direct manner
21 because this issue is not going to go away.

22 A. Well, we would look forward to that.

23 Q. Because, you know, it's very easy. I've
24 been out -- Dave Gooden when he was here and now
25 Frank, they're right here in town. You just run

1 into these guys and gals a lot more, so I think
2 there needs to be a better dialogue, and I'll take
3 ownership of that. So maybe on the break, Laura, we
4 can sit down and figure out something that will
5 work. That would be great to get that on the
6 schedule to start having some general discussions
7 because -- you know, step back just one more step.

8 The challenges that keep emerging from
9 North Dakota are things that I'm trying to better
10 understand in Minnesota, you know, why Xcel Energy
11 has a 30 percent renewable and other companies don't
12 and so I talk to friends of mine that are
13 legislators over there from both sides, and I said,
14 you know, how does that work? Is that because Xcel
15 wants a higher renewable, and his answer was
16 absolutely not, it's retribution from some
17 legislators that don't like your nuclear portfolio.

18 I mean, what would be your answer as to
19 why you have 30 percent and not like the other
20 companies have a lower number of renewable as your
21 mandate, if you will, out of Minnesota?

22 A. Well, Commissioner, I think that -- and
23 it's hard to speak for a legislature.

24 Q. No. Why do you think you have a higher
25 number?

1 A. Well, I think that --

2 Q. You've been around for a long time.

3 A. I think that many well-intended
4 legislators actually see the opportunity with these
5 renewables. I think that they see the opportunity
6 that we were able to realize with this last wind
7 purchase where we expect to actually save
8 customers --

9 Q. No, but just to the point. Why do you
10 have 30 percent renewable and the other investor-
11 owned don't have 30 percent in Minnesota? Why did
12 the Minnesota Legislature give you 30 percent?

13 A. Well, the difference between 30 and 25?

14 Q. Yeah.

15 A. Well, the difference was at the time the
16 mandate was passed, we already had like 700
17 megawatts of wind in place and they wanted to level-
18 set all the utilities, if we were given credit for
19 all the wind that we had in place.

20 Q. Okay. So you were not given credit for
21 the previous investments, they pushed a higher
22 number?

23 A. Well, what they did -- we got some. They
24 just wanted to have it closer to level-set so that
25 they could kind of keep the utilities -- various

1 utilities somewhat in sync.

2 Q. Because it's one thing to have different
3 policies between North Dakota and Minnesota and
4 South Dakota, but then when I dig deeper and then
5 there's different policies inside Minnesota yet for
6 Xcel Energy, it makes it even harder --

7 A. Yes. Yes. And that's the answer --

8 Q. -- as a regulator.

9 A. -- is reflective of the investments we had
10 made.

11 Q. Okay. Fair enough. So the competitive
12 bid process, once again, I didn't know about that at
13 the first couple rate cases because it never came
14 out as an issue, and then now in this case it
15 certainly has come out as an issue, but then I dig a
16 little bit deeper and Otter Tail doesn't have a
17 competitive bid process and they're a Minnesota
18 company as well. Once again, you're the only
19 company that came to light that has the competitive
20 bid process for generation.

21 How did you guys get nailed with that when
22 the other companies don't have to do that, because
23 that doesn't seem fair?

24 A. Well, frankly, I can't speak to, you know,
25 Otter Tail's regulatory history. Certainly --

1 Q. Wouldn't you agree it's not fair if
2 different investor-ownedes have different standards
3 inside their own state?

4 A. Well, if that were the only consideration,
5 yes. I mean, I think that all investor-ownedes
6 should have a level playing field, yes, I agree with
7 that.

8 Q. So when you make your pitch to the
9 legislature, you don't win when you go in with that
10 position?

11 A. You know, I guess I don't know that the
12 resource acquisition process doesn't apply to Otter
13 Tail or Minnesota Power. I mean, in my recollection
14 I can think of at least one --

15 Q. I don't know about Minnesota Power, but I
16 do know about Otter Tail because they're an
17 investor-owned that we regulate and I've had that
18 discussion with them.

19 A. Yes. And so I guess all I can say is I
20 know it applies to other IOUs. If there's an
21 exception for Otter Tail, I'm not aware of it.

22 Q. Okay. And this is just all in the
23 backdrop of trying to have a decision in North
24 Dakota that understands the complexities that you
25 operate in Minnesota with a company that works in

1 several jurisdictions.

2 A. Yes.

3 Q. And it goes back to the questions that
4 Commissioner Fedorchak was asking about 12CP and
5 1CP. It's a very complex issue and I look -- in my
6 mind, you have transmission policy, which is states
7 get together and figure out what transmission policy
8 needs to be and we all figure out a cost allocation
9 and many folks before me were heavily involved in
10 that. And as Illona, our attorney, was talking
11 about, all these states being involved in the
12 discussion of 12CP, 1CP, I don't know that I think
13 that's a good idea. I think that we would come back
14 with 12CP. I think for North Dakota we're
15 different.

16 So then how do you do that balance of
17 what's right for North Dakota and hold that
18 position, or do you just forego that position and
19 say, hey, the way we do cost allocation, the way we
20 do the peaks is just like transmission planning
21 where we're going to get together as a region and
22 figure that out. So I think I want to have that
23 issue solved in this rate case before I make a
24 decision.

25 I know we talked about 1983, but in 1983

1 did states have renewable portfolio standards?

2 A. I don't believe so.

3 Q. They didn't, so the situation in 1983 is
4 probably not applicable to 2014?

5 A. Well, I think the -- I think the
6 investment framework looks very much the same. Xcel
7 Energy's system has always been a heavy energy
8 system. It's not a system where the investment is
9 driven by peaks. Peaks are probably less than 5
10 percent of our cost. And so when you look at how
11 the system costs should be allocated, looking at
12 more hours than one is always more accurate, and
13 accuracy is a principle that this Commission has
14 relied on --

15 Q. Sure.

16 A. -- and other commissions as well. And so
17 I do --

18 Q. You're not going to give that point away
19 that quick?

20 A. I do believe it is a more accurate method
21 than the 1CP.

22 Q. Just a couple other general questions.
23 Let me look at my notes here.

24 Oh, the Fukushima plant, that's different
25 than your plants, though?

1 A. Well, yes, but as a result --

2 Q. The design is completely --

3 JUDGE WARD: I don't mean to interrupt,
4 but we've got a court reporter today. Very
5 difficult for her to take down when two people are
6 talking at the same time, especially when one of you
7 is talking so fast. If you could just at least wait
8 and not talk over --

9 COMMISSIONER KALK: Thank you, Your Honor.

10 JUDGE WARD: -- each other, please. It's
11 a great exchange.

12 Q. (COMMISSIONER KALK CONTINUING) The
13 Fukushima plant, I understand, is different than
14 your plants?

15 A. Certainly there's some design differences,
16 but as a result of that, it's caused NRC to go back
17 and look at some of their processes and procedures
18 and recommend changes in operations across the
19 country.

20 Q. Okay. To get back to the settlement
21 agreement, I was ready to put a vote forward on the
22 wind projects and the gas projects before this
23 settlement agreement came in. That kind of gets put
24 on hold because it doesn't make sense to vote on
25 that as part of a settlement agreement.

1 If this settlement agreement gets
2 rejected, would your preference be to keep all those
3 in this and keep working the settlement agreement or
4 to have a vote on those individual projects?

5 A. I guess, Commissioner, if the settlement
6 was rejected, we would take the reasons for the
7 rejection back and consider those together with how
8 to best go forward.

9 Q. Is there a reason that you would like a
10 decision on the wind farms and the gas earlier than
11 later?

12 A. Well, having information earlier is always
13 more helpful, but it's most helpful always to get
14 the right decision or the most informed decision as
15 we do our planning.

16 Q. Okay. And then back to -- Commissioner
17 Fedorchak talked about this quite a bit and Illona a
18 little bit, the 5-5-5-0. Explain to me again why it
19 can't be 10-0-0-0. I didn't understand your logic.

20 A. Well, certainly --

21 Q. If you know how much money you need in
22 this period, if you collect it early --

23 A. Well, what we're doing here is trying to
24 match our costs and our revenues. I mean, we --
25 we're evaluated. We do financing. We do our

1 planning by annual periods. And so what we have in
2 front of us is an agreement that allows us to earn a
3 reasonable return or something approaching that in
4 each of these periods.

5 Now, you know, if we were to recognize,
6 for example, all of the earnings in year one and no
7 earnings in year three, obviously, our financial
8 position in year three is significantly degraded.
9 We don't have the ability to say --

10 Q. I don't think I understand that, why
11 you're saying it's degraded in year three when
12 you've already collected the revenue?

13 A. Well, if we would earn everything in year
14 one, in year three we would have a zero percent rate
15 of return and that would be, you know, certainly
16 unacceptable to an investment community. For
17 example, if we were to sell bonds or sell equity and
18 we had a zero rate of return. I mean, we wouldn't
19 meet our required credit metrics.

20 Q. Okay. I'll talk more about that in work
21 session with my folks.

22 A. Okay.

23 COMMISSIONER KALK: I think that might be
24 it, sir. Thank you.

25 THE WITNESS: Thank you.

1 JUDGE WARD: Commissioner Christmann.

2 COMMISSIONER CHRISTMANN: Well, just to
3 start, Your Honor, with where we left off.

4 EXAMINATION

5 BY COMMISSIONER CHRISTMANN:

6 Q. In the opposite direction, instead of a
7 big amount at the beginning and then a string of
8 zeros, I'm thinking that a more appropriate method
9 is -- and I don't know the exact number, something
10 less than five that gets it to the same amount, but
11 in four even increases.

12 What would you say to your customers when
13 they say you're just doing your financing on our
14 backs interest free? You're taking our money in
15 advance so you can do all your projects and get this
16 all out of the way and we're financing for you?

17 A. Well, the -- I hope the customers would
18 understand that the investments we're making are
19 very much on their behalf, very, very much on their
20 behalf. I mean, what we've got is a system with
21 very high reliability. It's less than the national
22 average in cost. It's operated in a very
23 environmentally sound manner. There's great value
24 in the investments we're making.

25 These nuclear plants, for example, have

1 been wonderful performers over the years. I think
2 they would be the envy of any utility to have those
3 facilities, and I hope customers that looked into
4 this would be proud that we life-extended them.

5 Q. Well, having those facilities might be the
6 envy, but all the additional responsibilities having
7 been tagged onto you so you can keep them running,
8 I'm not sure is exactly the envy of every other
9 company.

10 North Dakota ratepayers being a rather
11 small part of your company as a whole, though, if
12 they are paying the increases at four, four and a
13 half percent or whatever it would be in four equal
14 payments, are you suggesting that your costs are
15 calculated out that precisely, that that's going to
16 throw your financing off if it comes in four equal
17 payments --

18 A. Well, I guess --

19 Q. -- or four equal increases instead of
20 three?

21 A. I'm sorry. I didn't mean to talk over.
22 What I'm saying is, why it's not -- why we wouldn't
23 encourage to, for example, earn all of our return in
24 one year versus, you know, meeting our return every
25 year. As to whether it would impact us in any

1 particular year as a result of what happened in
2 North Dakota, we'd have to take a look at that.

3 Q. Does it not kind of defy logic to think
4 that there's not going to be any inflation or
5 anything in the fourth year so that some of this
6 increase is actually needed for the fourth year, not
7 the first three?

8 A. Well, in fact, the revenues we'll earn in
9 year three, we'll also earn in year four.

10 Q. But the fourth year most likely would have
11 some inflationary increases and yet you will not be
12 getting any increase, and so is it not illogical to
13 assume that there's going to be some increase --

14 A. Yes, there will be some increase of
15 costs --

16 Q. -- in your costs in the fourth year?

17 A. -- and that's why we're earning a much
18 lower rate of return.

19 Q. But you're getting it from the customers
20 in advance to cover that expected inflationary
21 increase?

22 A. Now what we're doing is over time we're
23 matching investments and revenue, so we're earning,
24 you know, with the three five percent increases,
25 nine, seven, five, and I think it goes to ten, ten

1 and a quarter. And what's happening is, is when
2 those rate increases drop off, so does our return.

3 Q. Is one of the goals of the 5-5-5-0
4 increase model to -- at the end of this settlement
5 to have a nice opening to the dialogue that, oh,
6 gosh, we have not had a raise all last year, so, you
7 know, we're really due here?

8 A. If I understand the question, I think what
9 we're seeing is post 2016 we've kind of cut through
10 this investment cycle. Our revenue requirement
11 needs drop pretty significantly and we should see
12 only rate increases consistent with the level of
13 inflation.

14 Q. Historically with your long service to the
15 company --

16 A. Yes.

17 Q. -- do you really -- I mean, do you really
18 believe that in the fourth year the investment is
19 going to drop that much, or is the first three just
20 what's clearly on the picture, but four years out
21 really who knows?

22 A. No, our -- I think our revenue requirement
23 models suggest a lower revenue requirement. I mean,
24 there's a lot of indications of that. For example,
25 in Minnesota I think we're -- we've submitted some

1 information in that regard showing post 2016 our
2 revenue requirement models tell us that rate
3 increases should be much closer to the level of
4 inflation. We've completed the upgrade and
5 repowering of our nuclear plants. We've made some
6 significant investments at that point in Sherco. We
7 will have gotten most of the plant in service from
8 our transmission projects in place by the end of
9 2016, so a lot of the infrastructure improvements
10 underway will have been completed.

11 I mean, there really -- I can't think of
12 another project of that magnitude post 2016 at this
13 point, other than some transmission, but nothing of
14 the magnitude of CapX.

15 Q. Do you understand why I'm skeptical that
16 that investment plan is -- that that investment
17 forecast, let's say, is going to be very accurate
18 four years out when a little over a year ago you
19 went to market looking for 150 or 200 megawatts of
20 wind and found that it was on sale and want to come
21 home with 750? That's a pretty big change in plans
22 in one year, much less four years.

23 A. I do not think that should cause you to be
24 skeptical. My belief is that you would expect any
25 time we can save our customers money by making an

1 investment, that we go ahead and do that to the
2 extent reasonably possible.

3 Q. Okay. I'm going to kind of paraphrase
4 something that you said earlier.

5 A. Sure.

6 Q. I'm wondering if this is accurate. When
7 Commissioner Kalk was talking about the wind and gas
8 projects --

9 A. Yes.

10 Q. -- you said something to the effect that
11 getting the information earlier is always better
12 than later, but the right information is the most
13 important thing?

14 A. Yes, I think that's a correct paraphrase.

15 Q. Doesn't that completely fly in the face of
16 what we're talking about doing as far as figuring
17 out a demand allocator where in this case now we're
18 going to make our decision and then get the
19 information later, but agree not to take it into
20 consideration for four years when it's fairly
21 outdated again?

22 A. Commissioner, I think that the base to
23 which you apply that is considerably different. I
24 guess it's my recollection that this issue has been
25 before this Commission at least seven times during

1 my tenure. Over that period of time, several
2 Commission witnesses themselves have recanted their
3 position in that regard. I've never seen any
4 credible case for a 1CP made before this Commission
5 in all candor. And I've worked with many Commission
6 staff people over the years, including Dr. Dobesh
7 and others, who have come to 12CP conclusions, so I
8 think you have the right information before you. I
9 certainly understand the Commission wanting to do a
10 deeper dive, take another look, anticipate possible
11 changes over time, but I believe you have a solid
12 record with a 12CP before this Commission.

13 Q. You seem very confident that what we're
14 doing here is the right allocation method --

15 A. Yes.

16 Q. -- so are we just kind of blowing the
17 ratepayers' money doing the study?

18 A. Well, I think that certainly looking at
19 allocations is something that all commissions do
20 from time to time. Rate cases don't afford
21 typically a time frame to take a look at them.
22 Certainly, this is a good opportunity to do this, if
23 this is a concern of the Commission looking over the
24 long-term. Certainly, the incremental cost is not
25 too significant or significant enough to outweigh

1 that interest. At the same time, I think the
2 Commission has a very solid record before it to
3 approve the 12CP in this settlement.

4 COMMISSIONER CHRISTMANN: Okay. Thank
5 you. I have no other questions, Your Honor.

6 JUDGE WARD: Commissioner Fedorchak.

7 FURTHER EXAMINATION

8 BY COMMISSIONER FEDORCHAK:

9 Q. Mr. Sparby, I neglected to ask you about
10 two of the things that are also big components of
11 this. I wanted to circle back, if I may.

12 I'm interested in getting your thoughts on
13 this proposal to sort of create a North Dakota
14 generation mix or restacking --

15 A. Yes.

16 Q. -- of what we count for our customers.

17 A. Yes.

18 Q. Just talk to me about any thoughts you
19 have on that; concerns, opportunities, benefits.
20 Why should we do that? What do you see as the
21 benefit for us and how that works with your company,
22 risks, all of that?

23 A. Sure. Sure. I think it's been a
24 longstanding interest of this company to have the
25 generation portfolio stacked in a manner that's more

1 consistent with North Dakota energy policy. The
2 process that we've laid out here is the one that the
3 parties have concluded best gets at that. It
4 provides -- we work with staff to come to that
5 conclusion. There's some time frames and it
6 includes a default provision that if we can't come
7 to any other negotiated conclusion, that these
8 purchase power agreements or the agreements attached
9 would drop off. And if we do come to an agreement,
10 it must be approved by the Commission.

11 Q. Is it -- is this the necessary tool to do
12 that, or could we not through rate cases be
13 disallowing some of these things that we don't like,
14 like some of the projects in certain, I forget what
15 they're called, CPD or --

16 A. I'm not sure exactly what the -- I'd have
17 to look at the statutory scope of your rate cases
18 and, you know, what's included in the record of
19 those, but the intent here was to provide a process
20 that specifically was able to get at the
21 Commission's concerns about our generation portfolio
22 here, and I think it's a pretty good process.

23 Q. Do you have concerns from an operational
24 standpoint about how that's going to work? Will you
25 have stranded investments --

1 A. Well, certainly we've got to recover the
2 costs from other jurisdictions where we have to, you
3 know, accept a lower return overall, so certainly
4 there's financial risk on the company here.

5 Q. All right. And then also your thoughts on
6 committing to the North Dakota generation, you know,
7 is that something you've done in other
8 jurisdictions, committing to build something in a
9 place?

10 A. I don't recall that we've ever committed
11 to that in other jurisdictions.

12 Q. Do you have concerns about that as a
13 precedent? How will that work its way out?

14 A. I guess I believe this Commission and
15 others are certainly reasonable about this. I don't
16 necessarily see this spreading to other
17 jurisdictions and am comfortable with the commitment
18 that we made.

19 Q. Okay. And then just to circle back for a
20 minute on the 5-5-5-0 --

21 A. Yes.

22 Q. -- if I'm understanding you correctly, if
23 you were to do like 10 and 0-0-0 or if you were to
24 go along 15 --

25 A. Yes.

1 Q. -- which is what -- and front end it, what
2 you're saying is, you'd have too much revenue in
3 year one and what would -- you'd have no way to bank
4 that and use that?

5 A. Yes. Yes.

6 Q. Is that correct? You'd have no way to
7 bank that kind of --

8 A. Right. And we have people here that have
9 a much greater understanding of GAAP --

10 Q. I don't need technical, just like the
11 basics.

12 A. In fact, everybody here probably has a
13 better understanding of GAAP accounting than myself.
14 But, yes, we have to record earnings in the period
15 in which we receive them.

16 Q. And then because of the revenue sharing
17 agreement that's also part of this, if you were to
18 overearn, would you not be returning half of those
19 back?

20 A. We would return half of it back, yes.

21 Q. Okay. So that would be another additional
22 complication to reshaping it that way?

23 A. Well, we would have to -- certainly,
24 you're correct in that we would have to rethink that
25 part of the agreement, because right now anything

1 over that allowed rate of return, we return half of
2 that back to customers.

3 Q. Okay. And then just to follow up a little
4 bit on Commissioner Christmann's questions, in 2016,
5 the company -- the way I view this, is you need --
6 you're investing, you know, 2013, '14, '15, your
7 investment cycle is, you anticipate, done in 2016,
8 so it's sort of similar to not -- to the years in
9 between rate cases where you don't come back for
10 rate cases. You've got what you need. You just
11 continue on with the revenue structure that is in
12 place?

13 A. Correct. Yes.

14 Q. The only thing that would change that is
15 if you have additional investments, larger
16 investments, that you don't have in rate base that
17 you haven't anticipated needing?

18 A. As a general rule, unless sales fall off
19 or, you know, something else unanticipated happens,
20 yes, that's true.

21 Q. Do you also anticipate that perhaps sales
22 will increase by then? Do you look that far in
23 advance in sales forecast?

24 A. That's a great question. You know,
25 certainly I think sales would get -- come back a

1 little bit, but, you know, in North Dakota like
2 Minnesota where we have service territories, a lot
3 of the comeback will be in areas that we don't
4 serve. Typically, we're surrounded by co-ops so a
5 lot of new developments aren't in our service
6 territory. So we'll see some growth, but I don't
7 expect it to be the explosive growth that we might
8 have seen in our service territories in the past.
9 This is certainly an area where Mr. Sederquist could
10 speak very informatively.

11 COMMISSIONER FEDORCHAK: Okay. Thank you,
12 Mr. Sparby. That's all my questions.

13 COMMISSIONER KALK: Your Honor, I have
14 two, if I could?

15 JUDGE WARD: Yes. Chairman Kalk.

16 FURTHER EXAMINATION

17 BY COMMISSIONER KALK:

18 Q. Thank you, Dave. Round two. I forgot to
19 ask the question and Commissioner Fedorchak brought
20 it up a little bit. You know, the commitment of the
21 company to develop up to 400 megawatts of thermal
22 generation no later than 2036 --

23 A. Yes.

24 Q. -- as long as it's cost-effective, after
25 taking into account the benefits of locating

1 generation nearer to North Dakota, hasn't the
2 company made previous commitments to build
3 generation in North Dakota and then never got
4 followed through on? What's the hook that this
5 Commission would have if you never build anything?

6 A. Commissioner, this Commission has the
7 authority to enforce this. This agreement, if
8 accepted and adopted by the Commission, you know, is
9 a binding agreement amongst the parties and this
10 Commission has the authority to enforce it.

11 Q. Okay. Well, how do I enforce it? I tell
12 you to build it and you say, no. What do I do?

13 A. Well, I don't want to get into the --

14 Q. But I do.

15 A. Well, okay. Just let me speculate then.
16 Typically, a Commission would show a show cause
17 order to enforce an agreement like this. I mean,
18 maybe I can defer to Ms. Valley or Mr. Simpser.

19 MR. SIMPSEY: Well, let's --

20 COMMISSIONER KALK: Once again, the court
21 reporter is here. I think if --

22 JUDGE WARD: Mr. Simpser, just wait. I'm
23 going to give you a chance.

24 COMMISSIONER KALK: I think that would be
25 something that a witness can get on the stand and

1 talk about, not the attorney talking to me. If
2 you're not the right person for that, but somebody
3 needs to answer that question how that would
4 practically work on the ground.

5 MR. SIMPSON: Commissioner Kalk, we can
6 certainly get into that. It is fundamentally a
7 legal question about this Commission's enforcement
8 authority, what its statutory authority is to
9 enforce its orders. I think, as Mr. Sparby just
10 said, we certainly view that if the Commission
11 adopts the settlement, it will be enforceable as an
12 order of this Commission and subject to all of your
13 enforcement authorities; civil penalties, criminal
14 penalties, and those sorts of things.

15 And so we did contemplate that, but it is
16 really a legal issue. We can get a witness, but I
17 don't know that we have one here -- prepared here
18 today. If we want to discuss this, we can also, you
19 know, discuss this with your staff attorneys and
20 other staff about the scope of the Commission's
21 enforcement authority.

22 COMMISSIONER KALK: Well, what I had
23 envisioned is something the company offers up in
24 their settlement agreement that says, if we don't do
25 this, we will do this, so it doesn't have to go to

1 that route of -- we fine people for Call Before You
2 Dig and they don't pay us and it goes nowhere
3 because it doesn't end up working through the legal
4 process to actually go after them, but there would
5 be something in the agreement that will say we are
6 going to build this by a certain year or we will
7 almost like a self-penalty, but we can defer that, I
8 guess, to the work session, but that was one
9 question I forgot the first time.

10 Q. (COMMISSIONER KALK CONTINUING) I have
11 just one follow-up. When you were talking with
12 Commissioner Christmann about the 12CP discussion, I
13 was stunned with your answer back. I think
14 Commissioner Christmann was right. It sounds to me
15 like you're adamantly convinced that 12CP is the
16 right number, so why would you even look at a study?
17 If the head of the company says he's absolutely
18 convinced the study is going to come back saying
19 12CP is the correct method, that's a perception that
20 certainly was put out there, the way I perceived it.

21 A. I'm sorry. If I conveyed that, I didn't
22 intend to. What I intended to convey was certainly
23 there is sufficient Commission precedent and a
24 record in this case to conclude 12CP is a reasonable
25 basis for the settlement.

1 Q. Okay. There's also -- I don't share that
2 feeling and that's why we're here, I think, today.
3 We have staff working papers that have developed as
4 this issue has become bigger that are not yet in the
5 record, and, you know, maybe it is time that we
6 enter those staff working papers in this and we take
7 it all the way to the North Dakota Supreme Court to
8 get this issue settled once and for all because I
9 think this will become a very -- it is a big issue.

10 A. Yes.

11 Q. And, obviously, has been an issue.

12 A. Yes.

13 Q. And in talking to general counsel, it
14 doesn't appear we can ever point back to a really
15 good point that says, yes, this issue is absolutely
16 settled. So I just throw that out there for general
17 discussion. Thank you for your time.

18 A. Thank you, Commissioner.

19 JUDGE WARD: Commissioner Christmann, do
20 you have anything else?

21 COMMISSIONER CHRISTMANN: I do, Your
22 Honor.

23 FURTHER EXAMINATION

24 BY COMMISSIONER CHRISTMANN:

25 Q. Getting back to the discussion and not the

1 legal question that Mr. Kalk was talking about, but
2 as far as the enforceability of a plan to build
3 something --

4 A. Yes.

5 Q. -- in 20 years, if you chose to want to do
6 that or to not want to do that in the future,
7 wouldn't that be part of a case that you would bring
8 to the Commission and regardless whether we had
9 taken a proactive approach and built it into the
10 plan now, in which case if you didn't want to do it,
11 you would come to whatever Commission is sitting
12 here somewhere between now and then and say, well,
13 this isn't going to work for us and you'd just as
14 easily, if you're willing to build it, could come to
15 a future Commission when the time is closer and say
16 we're looking for an ADP to build this?

17 A. Yes.

18 Q. So, really, what we do now in that regard,
19 besides just being kind of a strategic plan for the
20 future, do you see that it holds any real final
21 authority?

22 A. Commissioner, absolutely. It's a binding,
23 enforceable order by the -- within the authority of
24 the Commission. I expect the Commission to have
25 regular updates, maybe annual updates taking a look

1 at this, seeing how we're doing. I guess I'm not
2 aware of us submitting a binding, enforceable
3 agreement like this here before or in any other
4 jurisdictions, so I do think it has meaning.

5 Q. And then getting back to the annual
6 increases --

7 A. Yes, sir.

8 Q. -- whether it were three 5 percent
9 increases and a zero or four increases of the same
10 amount that gives the company the same return --

11 A. Yes.

12 Q. -- is there any precedent, either with NSP
13 or other companies, that you're aware of, when you
14 have these cases that involve future rate increases
15 and a current refund for -- I don't know if it's
16 called the overcharge that we've had during 2013
17 here with the interim rates, what is going to be a
18 refund, is there any precedent for just mixing that
19 refund or subtracting that refund from the future
20 rate increases?

21 A. Sure. And I don't want to suggest we
22 can't reshape the 5-5-5. I mean, if you want us to
23 go back and, you know, look at some kind of --
24 something going the other way or more front-loaded,
25 I mean, I'm not sure exactly what -- you know, at

1 extremes it becomes a bit of an issue, but I don't
2 want to suggest we won't go back and look at that.
3 And if you'd rather us start out at 4 and end up
4 with 6 or something like that, I mean, we'll
5 certainly go back and take a look at that and see.
6 We have to, of course, come to agreement with staff,
7 but if that's the Commission's request. We came to
8 what we thought was the best possible agreement. If
9 there's something else you request we look at, we'll
10 go back and do that.

11 Q. Maybe I shouldn't have used either option
12 as part of the question, because I think the
13 question got lost in that.

14 A. I'm sorry.

15 Q. Let's just base everything on the 5-5-5-0.

16 A. Yes.

17 Q. Would there be precedent for doing three
18 annual increases of some smaller amount and not
19 doing the refund now for the interim rates?

20 A. Yes.

21 Q. That's been done before in some cases?

22 A. I can't think of where it's been done
23 before, but I'm sure we can take a look at that.

24 Q. There'd be no legal issues or --

25 A. Nothing here, but I'd like the opportunity

1 to consult with --

2 JUDGE WARD: I'm going to jump in here
3 because I'm sitting here -- I'm thinking we're
4 probably due for a break, anyway, but just some
5 thoughts that I have, you know, since what we're
6 really talking about is a comprehensive settlement
7 agreement and hashing out a settlement agreement
8 today and there's so much involved and I get the
9 sense that there's been a great deal of work put
10 into this already and a great deal of agreement and
11 there's some sticking points that maybe need to be
12 worked out, what I would suggest is that we take a
13 little break right now and instead of just five
14 minutes, let's come back on the hour and that would
15 give you an opportunity to talk to your people and
16 maybe a chance for the attorneys to confer and see
17 if there's some areas of agreement that are possible
18 here before we go back on the record.

19 Commissioner Fedorchak.

20 COMMISSIONER FEDORCHAK: I would -- before
21 we lose Mr. Sparby --

22 JUDGE WARD: I guess what I'm saying is,
23 Mr. Sparby would still be on the stand when we come
24 back, but I think maybe his attorneys and counsel
25 may have some more questions for him, too, so I'll

1 suggest we take a break here and come back with
2 Mr. Sparby. Do you want to ask him a question
3 before break?

4 COMMISSIONER FEDORCHAK: I think we're
5 close to being done with Mr. Sparby, personally.

6 MS. JEFFCOAT-SACCO: I have questions.

7 JUDGE WARD: I think we're going to have
8 quite a few more, so let's take a ten-minute break.

9 (Recess was taken.)

10 JUDGE WARD: We'll go back on the record.

11 Mr. Sparby, you're still under oath.

12 Commissioner Fedorchak, did you want to
13 question Mr. Sparby some more?

14 FURTHER EXAMINATION

15 BY COMMISSIONER FEDORCHAK:

16 Q. I did have one additional question on the
17 commitment to North Dakota generation. This is just
18 from a practical standpoint. When I look at how the
19 gas -- your fleet additions here for 2017 kind of
20 transpired in your resource conditions, you applied,
21 you said, here's our plan and then Minnesota said
22 now we've got to do this competitive acquisition,
23 you went through that and then they have picked
24 something totally different, and the company kind of
25 backed away from its original proposal even in the

1 competitive acquisition process, kind of backed away
2 from its North Dakota generation with Black Dog.

3 The way I view the tool in this settlement
4 agreement is it's a potential tool for the company
5 to use in a situation like that where you have sort
6 of a whole plateful of kind of competitive, similar
7 projects and it sways you to say but we're going to
8 pick this one and it gives you a tool to say to the
9 Minnesota Commission or anybody else who is
10 interested, we have to do this because of a North
11 Dakota order. So it's sort of our way of exercising
12 kind of our policy priorities, while Minnesota has a
13 whole bunch of tools doing the same thing.

14 Is that a correct way to kind of view that
15 from a strategy standpoint?

16 A. I think so. I mean, I hear you saying it
17 commits us to building generation here. It's
18 similar to some commitments we've seen in other
19 states and I think, to that extent, there are a lot
20 of similarities.

21 Q. And it would probably be helpful as a way
22 to persuade other jurisdictions that you have --
23 this is what you have to do and so, sorry, Minnesota
24 or whoever is saying you need to do something else,
25 this is what we have to do because of this order and

1 this is why the company is pushing this project?

2 A. It does commit us to build here. We are
3 intent on keeping that commitment, and as I offered
4 earlier, certainly I'd support updates as to how
5 we're doing. Mr. Wishart might testify, if you
6 wish, on how we could implement that.

7 Q. And I was very appreciative of the many
8 caveats in the settlement agreement that emphasize
9 that it needs to be -- you know --

10 A. Yes.

11 Q. -- when the demand is needed and it's the
12 most cost-effective and all of those considerations
13 which are just vital to good energy development
14 ratemaking moving forward and making sure it's low
15 cost and serves the customers as well. So all
16 right. Thank you.

17 COMMISSIONER FEDORCHAK: That was my final
18 question.

19 JUDGE WARD: Thank you, Commission.
20 Counsel, Mr. Armstrong.

21 RECROSS-EXAMINATION

22 BY MR. ARMSTRONG:

23 Q. Mr. Sparby, I've got some questions. I've
24 going to try not to cover ground that you already
25 covered, but I've got some, I think, clarifications

1 to make sure that I understand the testimony.

2 I'm going to start off first with what I
3 think you described as the 1983 document, and I
4 think you referred to it as kind of a cost-sharing
5 agreement with Minnesota?

6 A. Yes, it's technically called an
7 interchange agreement. The FERC staff would turn up
8 their noses at something called cost-sharing, but it
9 has the effect of cost-sharing. I don't want to
10 sound too precise as to the date. It's around that
11 '83 time frame.

12 Q. Sure. And my understanding of how you
13 explained it is that was a way to regulate how NSP
14 Wisconsin and NSP Minnesota bought power from each
15 other?

16 A. It's a way to determine how the costs are
17 assigned, yes.

18 Q. And you talked about there being a
19 signatory to the 12CP at that time. Do you know if
20 there was a study about whether 12CP was the
21 appropriate demand allocator at that time or if it
22 was just an agreement that it would be the
23 allocator.

24 A. Well, and let me say I hoped I'd clarified
25 that. Actually, the companies are the signatories,

1 but the jurisdictions all bought off on that. I'm
2 sure we did some studies. You know, I don't have
3 them in mind right now, but I remember several
4 meetings of all the jurisdictions and my
5 recollection is they all brought information with
6 them.

7 Q. Okay. And is that information on the --
8 on the allocator, or is that information on more the
9 purpose of the whole agreement; do you know what I'm
10 saying?

11 A. The information they brought dealt with
12 how the plant should be allocated or assigned.

13 Q. And as I understand it, the purpose of the
14 study proposed in the settlement that we're here to
15 address today is to gather information, all sorts of
16 information, to make an informed decision on whether
17 12CP or some other allocator should be the
18 appropriate method going forward?

19 A. Yes.

20 Q. And that would -- part of that would be,
21 you know, maybe we need a different sort of
22 allocation like Mr. Diller proposed, maybe a
23 percentage considering many different options?

24 A. There are many options, yes.

25 Q. And part of that would be just finding out

1 what information is out there to evaluate that issue
2 and explore it and see how it would apply?

3 A. Yes, I agree.

4 Q. Is the study -- it's got a July 2014 date
5 on it, but what do you see, the company see as the
6 end result to use that study, some sort of document
7 or work papers or what coming from the study?

8 A. Well, I think that -- and some of this, of
9 course, will depend on what staff would like to see,
10 but I think there's the development of some baseline
11 information with respect to relative cost of
12 generation and use by hours. There's also with that
13 I think a continuum of outcomes that look at all
14 from a single-hour year or 1CP to looking at many
15 hours over the course of the year, so it's the
16 development of both the information as well as the
17 costs and kind of stratified over time.

18 Q. The next kind of area I want to talk to
19 you about is this 5-5-5-0, again, the rate
20 increases.

21 A. Yes.

22 Q. In your testimony I think you had
23 mentioned the work papers in your discussion --

24 A. Yes.

25 Q. -- of how that -- and I know those have

1 been filed as trade secret, so I don't necessarily
2 want to get into numbers right now in the open
3 hearing, but how are the work papers used to support
4 the 5-5-5-0 increases?

5 A. How do the work papers support that?

6 Q. Yeah, what's the relationship between the
7 work papers?

8 A. Well, we've got work papers that support
9 plant additions and, of course, as we look out,
10 they're at a higher level, but I believe that we
11 have provided staff all the plant additions,
12 especially by the early years so that they could be
13 evaluated and audited and the Commission can be
14 assured that, in fact, our revenue requirement is
15 based on what our operational costs have been.

16 Q. If I was to sum up your testimony, and I
17 just want to make sure I'm hearing it correctly, but
18 Commissioner Kalk had asked you about 10 percent in
19 the beginning and Commissioner Christmann had asked
20 you about a lower percent spread out all the way.
21 Thinking about that and what's proposed in the
22 settlement, what I think I heard you say was, you're
23 trying to match investments in revenue for the first
24 three years and, basically, have agreed as part of
25 the tradeoff in the settlement, that in the fourth

1 year we're just going to take zero; is that
2 accurate?

3 A. Would take a zero rate increase, yes.

4 Q. Was that part of the back and forth --

5 A. Yes.

6 Q. -- you know, I'm assuming it was.

7 A. Yes.

8 Q. Because I'm assuming there would be some
9 sort of matching of revenue to costs in year 2016
10 also, just that the company has agreed it would not
11 ask for an increase in that year? As part of the
12 settlement it would not have an increase in rates
13 for that year?

14 A. Yes, I mean, other than any potential
15 impact of the riders. I mean, this settles the base
16 rate case increase. I mean, there's things going
17 both ways. You could see a change in the rate as a
18 result of the generation stack going one way and the
19 riders going the other way. I guess I don't have a
20 good sense for how they might come out net net right
21 now, but our anticipated rate of return is
22 definitely lower in that out year.

23 Q. Then I did want to clarify one thing that
24 Commissioner Kalk was asking you about, because you
25 had said if we do 10 percent in the year 2013, we

1 would have, I think you said, a zero percent return
2 in the following years, but I think maybe there was
3 miscommunication there, because if you had 10
4 percent in 2013, that rate increase would carry
5 across the later years, there would still be a
6 return; correct?

7 A. I guess I was referring to the rate of the
8 increase. I guess I'm sorry if I was confused.

9 Q. So what you meant was there would be zero
10 percent increase in the following years?

11 A. Correct. Correct.

12 Q. Not that you --

13 A. Well, and -- I'm sorry. Also just to
14 explain why it is that matching is important and
15 taking -- if you took it to extreme and we were to
16 earn multiple years of earnings in one year and none
17 in another why that -- what sort of financial
18 mismatch that creates.

19 Q. So, in other words, in 2013 a 10 percent
20 rate increase wouldn't match with your increased
21 costs?

22 A. That's correct, but I also want to come
23 back and say I think Commissioner Christmann had
24 suggested, you know, taking a look at what we could
25 do with interim rates, potential interim rate

1 refund, which is a good idea. I mean, if the
2 Commission wants us to come back and look at some
3 kind of reshaping of that, you know, we'll do it.
4 We came to this as what we thought was the best
5 solution after a lot of back and forth, but if
6 there's another pattern, we'll go back and look at
7 it.

8 Q. And I kind of wanted to come back around
9 to being here on the settlement between advocacy
10 staff and counsel. And I understand from looking at
11 your resume that's filed that you are an attorney;
12 correct?

13 A. Yes, I am.

14 Q. Could you explain maybe some of what you
15 see as the benefits or things that can be done with
16 this settlement that maybe can't be done in just
17 deciding the straight rate case issues?

18 A. Well, this settlement, I think, you know,
19 involves a very comprehensive resolution of many
20 issues that in some cases are difficult to decide
21 individually. And it's really having the ability, I
22 think, for us to weigh in and evaluate the
23 trade-offs of all of these in this universal
24 agreement that make this such a rare opportunity.

25 For example, to decide the -- or evaluate

1 the impact of the generation restack without an
2 understanding of what your rates may look like
3 outside of that is difficult and it's the look at
4 the relative relationship of these issues that make
5 us conclude that this is the best possible
6 resolution and provides really a rare opportunity to
7 do that.

8 MR. ARMSTRONG: I think I'll turn it over
9 to Ms. Jeffcoat-Sacco at this point.

10 MS. JEFFCOAT-SACCO: Thank you.

11 RE CROSS-EXAMINATION

12 BY MS. JEFFCOAT-SACCO:

13 Q. And I'm going to follow Mitch's question.
14 That was even deeper. I thought I knew what he was
15 asking, but that was a deeper answer. So let's go
16 back to the simple version.

17 Are there piece parts of the settlement
18 that would not be able to typically be ordered or
19 required in a typical rate order? Can you tick
20 those off, if there are any?

21 A. I guess I'm not familiar enough with the
22 Commission's authority to know without the force of
23 this agreement whether they could exercise some of
24 those things, ordering to build a plant, for
25 example, and ordering some of the fuel clause

1 reduction and the like. I'm not saying they don't
2 have that authority. I'm just saying I'm not
3 familiar enough to give you my opinion on that.

4 Q. I appreciate it. Maybe it was unfair of
5 me to try to ask that, but I do appreciate the
6 previous answer at that, because I hadn't thought of
7 that one. I have a couple questions on the
8 commitment to build.

9 A. Yes.

10 Q. I don't want to get into the legal
11 analysis, but, you know, the sentence that I was
12 reading in your testimony from page 10, you know,
13 the commitment is consistent with prudent resource
14 planning requirements, and Commissioner Fedorchak
15 mentioned a few other sort of limitations on the
16 commitment that seemed reasonable.

17 A. Yes.

18 Q. But if the Commission -- if the company
19 were to not fulfill its commitment and if the
20 Commission were to pursue a legal proceeding to
21 force the commitment, as I understand it, there are
22 factual issues that might be litigated in that
23 proceeding, one of which would be whether the
24 resource the Commission is trying to make the
25 company build is prudent; is that correct?

1 A. That could be, yes.

2 Q. Another one might be, as Commissioner
3 Fedorchak mentioned, is it needed?

4 A. Yes.

5 Q. Okay. So the commitment is dependent on
6 those factual -- the factual bases existing in order
7 for the company to fulfill its commitment, and the
8 settlement recognizes that; is that correct?

9 A. Yes. Yes.

10 Q. So following that and moving to the
11 restack --

12 A. Yes.

13 Q. -- if I understand correctly, the restack
14 applies only to -- the concept in the settlement
15 applies only to generation that would be paid for
16 through the fuel adjustment, at least at this point
17 in time, is that correct, and not to generation
18 that's already in rates, base rates? And I'm asking
19 because I'm not --

20 A. Well, I guess I'm trying to think that
21 through because the cost of all generation flows
22 through the fuel clause.

23 Q. Well, the cost of fuel flows through the
24 fuel clause?

25 A. Yes. Yes, it does.

1 Q. Okay. But then, as I understand it, then
2 the cost of other generation that isn't fuel flows
3 through the fuel clause. And I have this question
4 because, let's say, for example, we were Minnesota
5 and we didn't like nuclear and you were going to
6 restack your generation mix to exclude nuclear,
7 when, in fact, nuclear might be, for the sake of
8 this question, the most prudent, reasonable and
9 efficient resource?

10 A. Yes.

11 Q. I am trying to get to the bottom of how a
12 company could promise such a thing and how a
13 Commission could approve such a thing. If all of
14 these factual assumptions, you know, existed, I have
15 a problem with the ratemaking principle and I need
16 to know if the company sees the same problem.

17 So if nuclear and coal and some of your
18 base rate generation is part of this restacking --

19 A. Yes.

20 Q. -- I need to know the answer to that, even
21 if North Dakota loves it at the moment? It's sort
22 of a long question, but I need to know, first, if
23 it's all the resources or just these resources that
24 go through the fuel adjustment?

25 A. My counsel is just going to hand me

1 something. The agreement says that -- talks about
2 how we've allocated resources in the past and talks
3 about the North Dakota objective.

4 Q. And what page are you on in the agreement?

5 A. Page 14.

6 Q. Page what?

7 A. Page 14.

8 Q. Okay. I'm going to take a minute and get
9 to it.

10 A. I could also suggest Mr. Sederquist or
11 Mr. Wishart, who are also very familiar with this
12 provision, can also answer these questions, but,
13 please, go ahead.

14 Q. Okay. I will ask them some questions, but
15 I would like to ask you one ratemaking theory
16 question because I know you're probably the expert
17 on that. I struggle with how -- not so much with
18 how a company could restack and choose to charge a
19 jurisdiction --

20 A. Yes.

21 Q. -- a certain dollar figure, because I
22 think you probably are entitled to do whatever you
23 want, whether it's smart, dumb, bad, good or
24 whatever, but how could a Commission approve the
25 charging of its ratepayers for a made-up generation

1 mix that may not be the most prudent, reasonable,
2 least-cost resource?

3 A. I think this process is carefully designed
4 to get you a prudent resource. I mean, it certainly
5 identifies principles, all of which are well
6 accepted, and provides the basis for the resource
7 selection process, and I think results in a mix
8 that's very consistent with the state's policy
9 objective. So I guess I see the basis for deriving
10 a reasonable rate from that component to be very
11 defensible.

12 Q. So if the parties stick to the principles
13 in the settlement --

14 A. Yes.

15 Q. -- and if the Commission holds them to
16 that promise --

17 A. Yes.

18 Q. -- in your opinion, it should not have the
19 effect of coming up with an unreasonable resource
20 mix?

21 A. Yes.

22 Q. Is that what you're saying?

23 A. Yes.

24 Q. Okay. Thank you.

25 A. Thank you.

1 MS. JEFFCOAT-SACCO: That's all I have.

2 JUDGE WARD: Mr. Norrell, any more
3 questions for Mr. Sparby?

4 MR. NORRELL: No, Your Honor. Thank you.

5 JUDGE WARD: Mr. Simpser or Ms. Valley?

6 MS. VALLEY: Thank you. I just have a few
7 follow-up questions from the conversation today.

8 REDIRECT EXAMINATION

9 BY MS. VALLEY:

10 Q. Previously, in your discussions with
11 Commissioner Fedorchak, you had referenced your
12 investment in plant.

13 A. Yes.

14 Q. Is that limited to just generation?

15 A. No. I guess I'm applying an accounting
16 point of view to that. I meant to suggest any
17 utility property. Could be generation or could be
18 transmission. I think of it in terms of utility
19 plant. I apologize if I'm too general in that
20 regard.

21 COMMISSIONER FEDORCHAK: Do you remember
22 what line of questioning that was part of? I'd like
23 to reconnect it.

24 MS. VALLEY: I apologize. I can't
25 remember the direct question.

1 Q. (MS. VALLEY CONTINUING) Now, much of the
2 discussion today has centered on the multiyear rate
3 plan --

4 A. Yes.

5 Q. -- component of the agreement, and you've
6 indicated in your discussions today that the company
7 is willing to look at some additional alternatives
8 that have been raised; is that correct?

9 A. Yes, we are.

10 Q. One issue that might be helpful as we go
11 through the course of the day, though, is how you
12 got to the plan that you are at today. And do you
13 have the testimony, supplemental testimony of Dave
14 Sederquist in front of you?

15 A. Yes, I do.

16 Q. And I would point you to page 17 where
17 Mr. Sederquist begins discussing about the different
18 options and the multiyear plan. The plan proposed
19 is the 5-5-5-0 plan, and was the intent of that to
20 match costs and revenues over the multiyear?

21 A. Yes, that was the intent.

22 Q. And does this plan reflect a balance of
23 risks to the company and to the customers that
24 ultimately results in customers receiving the
25 benefit of any overearnings, but the company taking

1 any underearnings?

2 A. Yes.

3 Q. And does the company under this plan
4 predict an underearning in 2016?

5 A. Yes, we do.

6 Q. And I would turn -- please, turn to page
7 18. And under this scenario the company reviewed a
8 percentage increase of 3.75 per year; is that
9 correct?

10 A. Yes.

11 Q. And can you explain why this approach is
12 less desirable than the 5-5-5-0 approach?

13 A. Well, of course, the resulting returns are
14 for us considerably less desirable. I mean,
15 obviously, the earned return differs from the
16 authorized return significantly under this plan.

17 Q. Okay. And, Mr. Sparby, on page 19, you've
18 also evaluated another proposal, which includes more
19 front-loading of the rate increase?

20 A. Yes.

21 Q. And can you please explain why that is a
22 less desirable outcome for your customers than
23 5-5-5-0?

24 A. Well, there's really two reasons. First
25 of all, it's a much more volatile pattern for

1 customers. Customers who are on the system in 2014
2 are obviously going to pay more than their cost of
3 service relative to customers in 2016. It does not
4 match our cost and revenue pattern well and, also,
5 of course, this staff was intent on overearning
6 sharing and we'd have to revise the settlement
7 agreement in that regard.

8 Finally, I'll just say in terms of
9 predictability for customers introduces less of
10 that, but at the same time I want to say once again,
11 you know, if you'd like us to go back and think
12 about something with interim rates or other things
13 or reshaping this differently, we'll do it.

14 Q. And, Mr. Sparby, Commissioner Christmann
15 had raised the prospect of whether you could utilize
16 the interim rate refund as some offset to rates.
17 And if that were the case, are there some accounting
18 treatments, that you're aware of, that would be
19 necessary, such as a deferral order?

20 A. Yes, we would have to seek additional
21 authority.

22 REDIRECT EXAMINATION

23 BY MR. SIMPSON:

24 Q. Mr. Sparby, I only have one question, I
25 think. A big part of this settlement really

1 reflects a several-year look at both the system and
2 the way the company does business?

3 A. Yes.

4 Q. And if there was no multiyear rate outcome
5 as part of the settlement, that doesn't eliminate
6 the need for additional revenue for the company
7 during its investment cycle; is that correct?

8 A. No, the fact of the investment pattern of
9 the next few years is we would be in for a rate case
10 every year.

11 Q. And does the multiyear aspect of the
12 settlement provide an opportunity for the company to
13 implement a lot of the policy-driven issues such
14 that by putting a multiyear rate plan in place, you
15 can address a lot of the other concerns that have
16 been raised here in an orderly fashion?

17 A. Yes, it does. It's a very rare
18 opportunity for a comprehensive settlement of many
19 issues before the Commission and that's why I extend
20 my thanks to staff to bring this opportunity to our
21 attention and to move us closer to implementing a
22 North Dakota energy policy. It's a rare opportunity
23 to do this.

24 MR. SIMPSON: I have nothing further.

25 JUDGE WARD: Commissioners, any more

1 questions for this witness?

2 COMMISSIONER FEDORCHAK: None for me.

3 JUDGE WARD: Mr. Sparby, you may step
4 down.

5 COMMISSIONER FEDORCHAK: Thank you.

6 THE WITNESS: Thank you.

7 JUDGE WARD: Next witness.

8 MR. SIMPSEY: The company calls Mr. Dave
9 Sparby. I'm sorry. Mr. Dave Sederquist. We were
10 just having so much fun.

11 JUDGE WARD: I know you've been chomping
12 at the bit to get up here and take this oath.

13 Mr. Sederquist, you heard the perjury
14 admonition at the beginning of Mr. Sparby's
15 testimony, so please raise your right hand.

16 Do you promise to tell the truth, the
17 whole truth and nothing but the truth in this
18 proceeding?

19 THE WITNESS: Yes, I do.

20 JUDGE WARD: Thank you. Ms. Valley.

21 DAVID H. SEDERQUIST,

22 being first duly sworn, was examined and testified
23 as follows:

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DIRECT EXAMINATION

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BY MS. VALLEY:

Q. Mr. Sederquist, your supplemental testimony in this case has been stipulated into the record. Do you have any corrections to that testimony today?

A. I do have one small correction here. Let me see if I can find it here. On page 24, there's a chart. The footnote provides the source of the data and in the footnote in parentheses it says, "all customer classes." This chart is really focused on residential. I just want to make that clear.

Q. Thank you, Mr. Sederquist. And do you have an opening statement today?

A. I do.

Q. Please proceed.

A. Good morning, Chairman Kalk, and Commissioners Christmann, Commissioner Fedorchak. I'm really pleased to be here today and have the opportunity to support the settlement.

As you know by now, this is a pretty unique settlement. I believe that the issues that it addresses and the ways in which it does so are really quite unprecedented, certainly here in North Dakota, and it's also remarkably comprehensive. It

1 addresses a wide array of policy and financial and
2 reporting issues that have come out of this case,
3 but also prior dockets and seven other open cases
4 that are pending before you.

5 Why do I believe the settlement should be
6 approved? Quite frankly, because of what it
7 accomplishes. It's really like a very big honey do
8 list with all the items checked off.

9 First of all, it addresses cost recovery,
10 not for a single test year, but for a four-year
11 period which bridges the company's current
12 investment cycle. You've heard us say that many
13 times. The rate adjustments were designed with
14 several goals in mind and this is the important
15 aspect when we talk about why did we land on what we
16 landed on. These goals are to provide more rate
17 stability and predictability, minimize the customer
18 impact on bills, reduce the frequency of rate
19 filings and their attendant costs, and offer a
20 chance for the company to earn a reasonable return
21 on its investment each year of the four-year term.

22 The settlement responds directly to the
23 Commission's desire to create a path for approving
24 an Xcel Energy resource mix that matches the North
25 Dakota priorities. Regardless of the mandates or

1 requirements that are in place in other states we
2 serve, North Dakota regulators would have a
3 framework to set lower rates reflecting generating
4 resources that, in your view, best meet our
5 customers' needs at least cost or as otherwise
6 dictated by North Dakota policy. Commissioner Kalk,
7 it would be great to have you visit Ben and Dave and
8 Laura, but this settlement does resolve many of your
9 issues.

10 With this settlement the company will
11 begin formally planning its first thermal generating
12 plant in North Dakota to meet a future capacity
13 need, and in doing so, Xcel Energy will achieve
14 greater geographic diversity for its dispatchable
15 generating fleet and it will enhance reliability in
16 the areas of North Dakota that we do serve. While
17 our commitment time frame does extend 20 years out,
18 we believe that fulfillment of this objective could
19 be achieved much sooner than that, and with respect
20 to the most significant allocator of system costs to
21 North Dakota, the settlement calls for the first
22 separate North Dakota proceeding to study demand
23 allocation and focus on it. It will likely be the
24 most thorough as well, in terms of both the
25 technical analysis and the level of participation by

1 perhaps regulatory personnel from other states,
2 perhaps other utilities and perhaps even other
3 third-party consultants, whoever we deem should be
4 at the table.

5 These landmark actions and reforms are by
6 themselves fairly dramatic, but the settlement
7 accomplishes much more. It reduces by over \$1
8 million the number of selected test year expenses.
9 It resolves pending ADPs and cost recovery for five
10 natural gas and wind generating facilities, three of
11 which are proposed to be located in North Dakota.
12 It requires Commission notification when new power
13 contracts are included in our fuel cost rider. It
14 establishes two rider tariffs to enable timely cost
15 recovery of future transmission infrastructure in
16 North Dakota wind generation that we will own.

17 The settlement calls for development of a
18 meaningful residential time-of-day rate that could
19 lower North Dakota energy demand and ultimately
20 customer bills. It requires the company to pursue
21 reforms for selling renewable energy credits, to
22 expedite and increase the proceeds that could be
23 credited to North Dakota customers. It expands the
24 reliability improvement initiatives we began in
25 2012. And, finally, it requires improved

1 jurisdictional financial updating of data and
2 reporting and a more understandable electric rate
3 book.

4 The North Dakota Commission does have a
5 strong history of regulatory innovation. I've been
6 fortunate to experience that, see that firsthand,
7 and I know that it's motivated principally by an
8 emphasis on results and getting to those results
9 with limited resources. I've had the pleasure of
10 working with the Commission and staff for 20 years
11 and I sincerely mean that. I think I had more hair,
12 though, 20 years ago.

13 MS. CARDWELL: Prove it.

14 THE WITNESS: But I know that whether it's
15 performance-based regulation or fixed monthly gas
16 charges or earnings-sharing mechanisms or revenue
17 true ups or formula rate caps, even pre-discovery
18 phase rate settlements, this Commission has done it
19 and done it successfully. So there's a lot of
20 progress just ready to be made here that would not
21 otherwise be possible without this settlement. As
22 Commissioner Kalk has alluded to, it's time to get
23 going, and with your approval we can get those
24 initiatives underway for the benefit of our North
25 Dakota customers and our other stakeholders.

1 freeze in 2016 is a recognition that what was being
2 proposed the first three years is a stretch. I
3 mean, it's new. It's something that we knew there
4 might be some uncomfortableness with. Secondly,
5 2016 also puts the onus on us to remedy the issue
6 around the restack. We have several million dollars
7 at risk there. If we can get recovery for what is
8 restacked out of North Dakota in other
9 jurisdictions, we can be okay in 2016. So that's
10 another reason why there's really not a built-in
11 increase in 2016, but we're on the hook for that
12 and, you know, it shows our financial projections
13 are low in that year because of it.

14 Q. Okay. You touched on it a little bit in
15 your answer, but I want to focus the question a
16 little more on it. Why is, in your opinion, the
17 rate increase of 5 percent, 5 percent, 5 percent, 0
18 the best or most appropriate way to go, whichever
19 way you want to phrase it?

20 A. Well, we did have a lot of discussion
21 about the proper way to approach rate recovery, and
22 I guess I'll just maybe preface my comments by
23 saying the investment plan that we've talked about
24 in the informal and that Mr. Sparby has referred to
25 is a very real investment plan. It's very

1 significant. We're building these plants. We're
2 re-powering plants. We're refurbishing. We're
3 extending the lives of these plants because we have
4 thousands of customers depending on us and we do not
5 have the luxury to wait until the last minute. We
6 need to make these expenditures to our grid so that
7 we can reliably generate the power and deliver it to
8 our customers.

9 They're real dollars, they will happen and
10 they will drive costs. So the key issue becomes how
11 do we take that series of costs and how do we
12 recover those from customers in a way that virtually
13 minimizes the impact. I mean, there is going to be
14 an impact. We're not talking about eliminating the
15 impact. We're talking about how do we make that as
16 easy as we possibly can for customers and yet still
17 keep the company financially healthy.

18 So what we do, first of all, is we agree
19 to the ROE. And we did agree to the lowest ROE, I
20 think, that's ever been or that ever would be
21 approved, if this settlement is approved, 9.75 for
22 the starting year. Staff did agree to bump that up
23 in the ensuing years, probably out of recognition of
24 the long-term risk there. Once we agreed to that,
25 then we needed to refine our long-term forecast. We

1 needed to not look at a single year, we needed to go
2 out and revisit our five-year forecast, which, if
3 you'll recall, part of the settlement -- the delay
4 in the settlement was in making sure we had fully
5 vetted that forecast because we knew the importance.
6 Now, there's absolutely no incentive for us to have
7 a forecast that's not good, that's overstated. I've
8 been around this business long enough to know that
9 this Commission gets the last word on everything so
10 we're very motivated in a sense to make sure that
11 that forecast was accurate. And, you know, quite
12 frankly, we share -- we have probably more risk with
13 that forecast than our customers do. We're going to
14 share half of anything that would ever go over the
15 authorized return and we have no recourse if we
16 underearn.

17 And as I mentioned before, those increases
18 are fixed. So we take a look at that forecast and
19 we go, okay, now we want to minimize the impacts and
20 we want to provide some rate predictability. We
21 don't really want to have 10 percent in one year and
22 nothing the next year and 5 percent the next year.
23 We want this to be very easy to remember, very
24 predictable. We have a number of customers who
25 really value knowing what the rates are going to be

1 in the next year or two. They call us and ask us
2 what's going to happen. So we wanted that to be
3 very predictable.

4 Another goal is that we wanted to be able
5 to provide the opportunity for the company to earn
6 its authorized -- Commissioner Fedorchak, we've
7 heard you mention what can we do to help the company
8 realize its authorized earnings each year. Well,
9 this is the method that most closely allows us to
10 get to that agreed-to ROE. We wanted to make sure
11 that the implementation would be simple, relatively
12 simple, so we weren't interested in a lot of
13 deferrals and refunds and back and forth and we
14 wanted to keep this as simple as possible. So we've
15 minimized that with this 5-5-5-0 plan.

16 So those are the goals that we kind of --
17 that guided us through the selection of the 5-5-5-0.

18 Q. Does this settlement take you through the
19 rate increases as a result of what you've termed
20 your current investment cycle?

21 A. I would use the term that the revenue
22 streams would be minimally sufficient. We think we
23 can get close in those first three years and 2016 we
24 have a lot of work to do to get there.

25 Q. But -- and thank you for that, but kind of

1 the purpose of my question -- I maybe didn't ask it
2 right. We've heard a lot of talk about the current
3 investment cycle and all the costs with the rate
4 increases and this settlement is intended to stop
5 the constant -- I don't know -- consistent rate
6 increase application so it says the company cannot
7 apply again in 2017.

8 Does this settlement address at least most
9 of that current investment cycle, or would it be
10 expected in 2017 that -- or the next rate
11 application that this investment cycle that's talked
12 about is still continuing in the next rate case, if
13 you will?

14 A. Our company capital expenditures do
15 significantly drop off in 2016. Obviously, they
16 don't go away, but we are in an elevated mode right
17 now and they clearly drop off. So what I could
18 envision after this, some of you may recall that in
19 the early 2000s, we actually had a five-year
20 performance-based plan which worked well on more of
21 a maintenance level, from a rate maintenance
22 standpoint. It wouldn't necessarily accommodate
23 large investments, but you could see coming out of
24 this agreement some potential for a performance-
25 based-type framework going forward that would

1 require the company to meet certain performance
2 targets and possibly be in a position to get some
3 rate relief, if it's needed, on a minimal basis.

4 So that's just one thought. We certainly
5 hope that, you know, when we get through this
6 investment cycle, that there won't be the frequency
7 of rate cases, that we can stay out even longer, you
8 know, than the 2017 time period, but that's a long
9 ways out too, let's not forget. That's out there a
10 ways.

11 Q. In talking about the current investment
12 cycle, I know Mr. Sparby had said a lot of it was
13 updating plant and things that had been built in the
14 1960s and '70s, but it's fair to say also the
15 investment cycle is somewhat driven by energy
16 policies throughout the jurisdictions that Xcel does
17 business; isn't it? Such as renewable policies?

18 A. My thought on that is not really. If I
19 look at, for example, the renewable energy standard
20 in Minnesota, we have met most of that through
21 purchase contracts. Granted, we do own a couple
22 farms. So those costs, you know, run through the
23 fuel cost rider, they don't create a lot of
24 investment for us. The recent slate of wind
25 projects that we are working on right now, the 750

1 megawatts, we will own at least two of those
2 projects, but those projects are -- as Mr. Sparby
3 referred to, those were opportunities to reduce
4 costs net net for customers, so a little bit
5 different maybe, perhaps, than earlier efforts to
6 meet that RES. So I don't know that the investment
7 is driven by mandates in other states.

8 Q. Can you give me the plain English version
9 of what the restack does?

10 A. The restack gives North Dakota what
11 they've been asking for. It should be a favorable
12 arrangement for the Commission because they
13 shouldn't really have to worry about what other
14 states want to do in terms of energy policy. We are
15 agreeing to work with the staff to develop a
16 framework that would allow us, when we file for
17 rates in North Dakota, to reflect what would have
18 occurred under North Dakota policy for resource
19 selection, not what would have occurred as a result
20 of another state's mandates or requirements. So I
21 guess that's about the easiest way I can say it.

22 Q. If this is approved, do you know what or
23 if or how the company has to react to that in its
24 other jurisdictions?

25 A. I don't know fully all the ramifications

1 or communication that we'll need to have. I would
2 anticipate, however, that once the restack framework
3 is formalized and we can see what the results are in
4 North Dakota and we understand which types of
5 resources we're perhaps no longer recovering fully
6 here, that we'll have to approach, in particular,
7 Minnesota -- most of these projects, you know, do
8 stem from mandates there -- and lay it out there and
9 make a case for, you know, recovery from Minnesota
10 retail customers for those costs.

11 Q. And if Minnesota wouldn't allow that type
12 of recovery, am I correct in interpreting the
13 settlement agreement that the company can't then
14 come seek further recovery of that from North Dakota
15 customers?

16 A. Yeah, that would really defeat the purpose
17 of the whole process.

18 Q. I thought so. Just wanted to make sure.
19 Page 8 of your testimony, you're talking a little
20 bit about the restack and you had indicated -- it's
21 on lines 20 through 23 of your testimony, that the
22 restack is expected to lower North Dakota rates in
23 the near term by at least several million dollars
24 beginning as early as 2016. Could you elaborate on
25 that?

1 A. Yeah. I'm trying to convey the magnitude
2 of this provision in the settlement, but I'm also
3 being a little cagey at the same time because it's
4 difficult to know before July of 2015 how this is
5 all going to shake out. But there is a provision in
6 the settlement, as the Commission is probably aware,
7 that if we can't get to a framework, we can't get it
8 done, that there is sort of an automatic restack
9 that occurs based on discussions we've already had
10 an analysis that's already been done on our resource
11 mix. And that particular automatic restack we're
12 costing out to be between \$5 and \$6 million, so I
13 would envision that the final product might be
14 somewhere in that neighborhood.

15 Q. I guess kind of my question when I was
16 looking at that is, how likely is it to lower rates
17 and what's the likely amount and what's the near
18 term? Can you kind of give us what you --

19 A. For the restack?

20 Q. Yeah.

21 A. Well, I think that we probably are looking
22 at 2016 as an effective date for the final product.
23 I mean, our goal is to have a framework filed and we
24 would assume that within six months the Commission
25 could approve it. Now, if they have -- take issue

1 with it, you know, that could cause a delay, but,
2 you know, after January 1, 2016, we're ready to
3 implement it as soon as it can be implemented.

4 Q. Okay. So I understand what you mean. So
5 when you said "near term," you were saying it would
6 be by 2016. I was thinking what you were saying was
7 2016 and for a short while after that?

8 A. Oh, no, this would go on for as long as we
9 think it can, you know.

10 Q. Thank you. That answers my question.

11 A. You know, the restack -- I might add, the
12 restack kind of looks at what's existing, but it
13 also -- we intend on that framework to address
14 future issues.

15 Q. Is that -- when I was looking at page 27
16 of your testimony, the last paragraph, again,
17 talking about the restack and where you discuss that
18 it will result in immediate cost savings, at least
19 in the immediate future, are we talking about
20 something different than we were just discussing?
21 What is this?

22 A. No. That's a reference to this two-sided
23 nature of restacking the resource. You know, there
24 are benefits and there are risks, and it would
25 appear that in the near term there would appear to

1 be benefits in terms of price, but, of course,
2 depending on how the industry changes, how natural
3 gas price change, many other different things, you
4 know, there's the potential that the Commission
5 might be giving up on the hedging qualities of some
6 of these contracts. So that's what that's a
7 reference to, is we know that in the short term
8 there would be rate reductions or bill reductions,
9 but not necessarily in the long term.

10 Q. And the restack itself is kind of shaped
11 on what I think you've determined or everybody has
12 called North Dakota energy policies. Those can also
13 change over time; correct?

14 A. Yes.

15 Q. So as those change and evolve, how would
16 you anticipate this restack to change and evolve?

17 A. Those changed preferences would change
18 prospectively, just like any other policy change.

19 Q. So I'm gathering the restack would be in
20 effect until the next rate case and then it could be
21 evaluated again during the next proceeding?

22 A. Well, I guess maybe I'm being overly
23 optimistic, but I would expect the framework would
24 be set and would accommodate policy changes so that
25 if, let's say, 20 years from now a Commission says,

1 you know, we really want more wind, then that would
2 be reflected in the next rate process and if the
3 company is adding wind, North Dakota would gladly
4 pay a portion of that and have the wind serve North
5 Dakota customers. So I guess what I'm trying to say
6 is, I don't see a future Commission going, whoa,
7 whoa, time out, you know, they really screwed up 20
8 years ago, let's restack everything all over again.

9 Q. That's, I guess, kind of the purpose of my
10 question, was how long this restack would be
11 effective and how it would work, so thank you.

12 One of the things we dealt with in the
13 ADPs that are part of this settlement is the desire
14 from advocacy staff to have generation based in
15 North Dakota, thermal generation, and the kind of
16 competing principle of the company having to go
17 through the Minnesota competitive acquisition
18 process. You're familiar with that interplay;
19 correct?

20 A. Mm-hmm.

21 Q. In the settlement there's been a
22 commitment to, basically, if it's prudent, build
23 some generation in North Dakota by 2036. And during
24 the ADPs, I don't recall which witness it was, but
25 they basically, I thought, testified they could not

1 build that generation if it didn't get approved
2 through the Minnesota competitive acquisition
3 process. Is that your recollection -- I know you
4 were here for the hearings -- or your understanding
5 of how it has to work, at least as how the law is
6 now?

7 A. Well, I can tell you how I understand the
8 settlement to work and to address that issue.

9 Q. Well, that's really what I'm getting at,
10 is there's this commitment that it may be -- you
11 know, if it's prudent to build it. There's also
12 this prior history of testimony that we can't build
13 it if it's not approved and there were some small
14 differences in the numbers in what got approved, so
15 how do you anticipate the settlement working with
16 the Minnesota capital acquisition process?

17 A. I think that could potentially be another
18 risk item for us in the settlement, because what the
19 settlement is saying is, in an upcoming capacity
20 need and there may be more than one in the next 20
21 years, if we have clearly demonstrated that a North
22 Dakota plant is the least cost option and we don't
23 follow through with it or if through the cap process
24 we're ordered to do another alternative, then that's
25 just -- then we're not following the settlement.

1 We've gone back on the settlement. So it's on us to
2 make sure that if it is the least cost option, that
3 the plant gets built before 2036.

4 Q. That brings me back a little bit to the
5 ADP proceedings because we were talking about some
6 of the nonmonetary benefits of having local
7 generation. There were some relatively small
8 differences between what was being promoted versus
9 the Hankinson or Red River Valley 1 unit. And I
10 think what the Commission was asking or kind of
11 hoping in some of the questioning was that the
12 company maybe would push harder for this North
13 Dakota generation given the relatively small dollar
14 difference?

15 A. Right.

16 Q. And is that what's trying to be addressed
17 in this settlement, kind of forcing the company to
18 push harder for North Dakota generation to comply
19 with the order?

20 A. I think you've nailed it right on the
21 head. I mean, this settlement means we push harder.
22 My understanding is that in our planning criteria,
23 we will more formally integrate the value of the
24 reliability into the assessment of the plan. So
25 we'll give value to that and the geographic

1 diversity, we're going to work harder to show that
2 the plant is the best option.

3 Q. Going back to those ADP proceedings, I
4 know that at that time -- and I'm talking about the
5 gas ADPs, the Black Dog and the Red River Valleys,
6 at that time during that hearing there was -- I
7 think the Red River Valley was third on the list of
8 what was being pushed at or sought and there was an
9 wind energy, and then I'm forgetting the name of the
10 other one. As I understand how that proceeding
11 shook out, at least initially, was the
12 administrative law judge said, nah, go with the
13 solar, something to that effect.

14 What's your understanding of where that
15 stands?

16 A. I would probably defer answering that to
17 Mr. Wishart. I haven't followed it closely. I'm
18 aware of the ALJ's recommendation, but beyond that,
19 I don't know that I would be able to answer that.

20 Q. Maybe it's not entirely relevant, but at
21 least as far as this settlement goes, the company's
22 position is that we'll push harder in North Dakota,
23 we bear risks if we can't get it through the cap
24 process of this Commission taking whatever
25 enforcement provisions it may have against us if we

1 can't get the generation built; is that true?

2 A. Yeah, I mean, I think the important
3 element with the commitment is that -- and I think
4 Mr. Diller talks about this in his testimony. I
5 mean, I don't think the North Dakota Commission
6 wants a plant built by 2036 that isn't economic or
7 that is just this gift plant to North Dakota. I
8 think that -- so providing the 20-year time frame
9 gives us enough time to not only, you know, develop
10 a least cost option in North Dakota, but also to
11 look at, you know, where should it be located and
12 what will the -- what will the gas supply look like
13 in 10 years versus today or even 15 years. Where --
14 you know, there's probably a better place to put a
15 plant and the economics could very well change, so
16 that's why we don't just want to flat-out say there
17 will be a plant here regardless of some of those
18 economics.

19 Q. I understand. I mean, you don't build it
20 just to have it. I mean, there's got to be a need
21 and it's got to be prudent and reasonable and all of
22 that and that's what's built into the settlement,
23 but those aren't necessarily the considerations
24 given or the only considerations given when the
25 project would be reviewed in the Minnesota capital

1 acquisition process?

2 A. Right. The onus is on us to get it
3 through that process. And I might just add to the
4 backstop that the Commission would still have is the
5 restack framework that should be in place by then
6 too, so if there's absolutely no way that plant can
7 get built here and some other less optimal resource
8 is being selected or whatever, that that also then
9 could lend itself to application to the restack.

10 Q. All right. And agree, disagree or don't
11 answer, but the point of my question being, it's not
12 just a sufficient excuse to not build generation to
13 say, oh, it didn't get approved by Minnesota cap
14 process?

15 A. I would agree.

16 MR. ARMSTRONG: Thank you. That's all I
17 have.

18 JUDGE WARD: Ms. Jeffcoat-Sacco.

19 CROSS-EXAMINATION

20 BY MS. JEFFCOAT-SACCO:

21 Q. Dave, I'd like you to talk a little bit
22 more about the restack, especially in light of this
23 whole conversation because I see all the same issues
24 of prudence and reasonableness and everything with
25 this restack. And Mr. Sparby referred to you when I

1 was asking him some of those questions.

2 So why don't you just walk me through, if
3 you would, the restack plan, proposal, whatever you
4 want to call it and how it fits ratemaking
5 principles that we're obligated to comply with?

6 A. I will do that, and before I do that, I
7 will also again suggest that Mr. Wishart perhaps
8 answer some of the particular restacking kinds of
9 things that could happen.

10 You know, your question sort of shows why
11 we've given ourselves a year-and-a-half to work this
12 through. I mean, it's complex, quite frankly, and
13 we're going to need some time to talk about some of
14 these issues. I've never been one to shy too far
15 away from accounting kinds of limitations and things
16 like that, so my -- I'm not at all concerned by the
17 fact that what we would be doing certainly today
18 affects the fuel cost rider, but may in the future
19 affect how base rates are developed.

20 Q. Okay.

21 A. So that I'm not closing the door on that,
22 if that was one of your concerns earlier.

23 Q. Yes, but it's not affecting it today?

24 A. Right.

25 Q. It might in some future case, rate case?

1 A. Right. My understanding is that even the
2 automatic restack that would occur if we didn't come
3 to an agreement, I'm pretty sure it's pretty much
4 all purchase contract related. I think -- yeah,
5 subject to check, I guess, I would have to revisit
6 that, but we've kept it fairly straightforward and
7 simple. Now, the process and the guidelines that
8 we've established in the settlement, you know,
9 they're there to guide us through that discussion
10 about how do we determine replacement price for a
11 resource that's being rejected.

12 Q. Well, can I -- I'm going to interrupt and
13 ask a question before that.

14 A. Okay.

15 Q. How could you reject a resource if it's
16 truly least cost, most efficient, most prudent
17 reasonable resource? I guess, again, the company
18 can ask to have recovery on whatever it wants, but
19 how could a Commission bless rejecting that?

20 A. I guess -- I'm having a hard time trying
21 to envision why the least cost options would be
22 rejected, so I don't think that would ever happen.

23 Q. But I don't know that that's clear. I
24 mean, I've read the settlement and the testimony
25 now. I didn't see it blatantly in there. Maybe it

1 has to be more blatant for me. I don't know.

2 That's why I'm asking the question.

3 A. I mean, I'll -- I suppose that there could
4 be other considerations such as the effect of
5 intermittent resources on the system that could
6 create a basis for wanting to, you know, reprice
7 that with a different option because the Commission
8 is not comfortable with that approach. I suppose
9 there are other things than price, but I would
10 generally think and, certainly staff has indicated
11 thus far in our settlement, you know, there's a
12 certain level of reasonableness here that we're
13 hoping permeates our discussions in the development
14 of that framework, but it's still a good question.
15 I mean, it's something that, you know, we would have
16 to -- we'd have to address that when we get to it.

17 Q. I guess my problem here with this part of
18 it is, if you have prudent, reasonable least cost
19 efficient resources you're asking North Dakota to
20 pay for, there's nothing to restack?

21 A. Correct.

22 Q. And if you are saying, oh, we're going to
23 restack it to conform to North Dakota policy,
24 whatever that is, then you're implying that in order
25 to make -- you know, to satisfy Commissioners or

1 other policymakers, we will include something that
2 isn't prudent -- you know, we'll take something out
3 that is prudent and least cost and put something in
4 that isn't prudent and least cost. Otherwise, why
5 would you restack anything?

6 A. Well, I think the assumption is that
7 what's prudent in one state may not be prudent in
8 another state or what needs to be complied with in
9 one state may not be considered prudent in another
10 state. The restack recognizes those differences and
11 says if you don't think that this resource is
12 prudent, then we would reprice that energy using
13 what would have been the prudent alternative in the
14 eyes of this Commission.

15 Q. Except for an integrated system, those
16 answers should be the same in both states, in a
17 perfect world?

18 A. There you go, yeah.

19 Q. In the last case that's closed and done.

20 A. For decades that's the way we operated.
21 All of the commissions generally agreed on the
22 resource decisions, but we've seen in the last, you
23 know, 10, 20 years, a real divergence there and it's
24 a problem and it needs to be resolved. The
25 settlement directly faces that problem, which, by

1 the way, does sort of color every regulator filing
2 we make here. It becomes part of the issue and
3 we're attempting to resolve this huge problem, but
4 we do need time to do that, too, as well.

5 Q. And here's something else I didn't see.
6 It might be in there. To face that problem head-on,
7 does the restack directly or maybe impliedly result
8 in not having an ADP filing for every purchase that
9 comes down the pike?

10 A. I hadn't thought of that. I don't know.
11 I would want to think about that a little more
12 before responding.

13 Q. Well, that is a question I think for both
14 parties that would maybe -- you can talk about it a
15 little bit and see if that's something you want to
16 add to that.

17 I did have one question, a request for
18 some information that Jerry has asked for. And
19 could the company provide, please, a late-filed
20 exhibit with current or updated, if necessary, costs
21 that would be coming through the transmission rider
22 so that we have more accurate, more up-to-date
23 information for that?

24 A. Yes, I think we can provide that.

25 MR. SIMPSON: We'd be happy to --

1 MS. JEFFCOAT-SACCO: Excuse me. He's
2 corrected me. He wants to know what's in the test
3 year related to the -- I thought he wanted the
4 current, but he wants to know what's in the test
5 year for the transmission rider.

6 THE WITNESS: And if we're talking about
7 the originally filed test year?

8 MR. LIEN: Whatever the settlement test
9 year is.

10 THE WITNESS: The figures that were part
11 of our forecast essentially.

12 MR. LIEN: Yes. Can I talk?

13 MS. JEFFCOAT-SACCO: Yes, with your
14 permission.

15 JUDGE WARD: Yes, you may.

16 MR. LIEN: I'd like to know what's in the
17 settlement for transmission expenses already on the
18 projects that we have going on out there right now.
19 There's CapX and there's MISO Schedule 26 charges
20 and stuff like that, so if we could get whatever the
21 level is that we've got included in this settlement
22 package already.

23 THE WITNESS: Okay. Yeah.

24 MR. SIMPSON: Just to clarify, Jerry, is
25 that what we would include in the TCR, or what's in

1 base rates for the '13 test year?

2 MR. LIEN: I want to be able to look at
3 this and the TCR together to see how much of the
4 total expenses are being recovered where, so we're
5 looking at CWIP and stuff like that right now.

6 MR. SIMPSON: Okay. Thank you.

7 MS. JEFFCOAT-SACCO: Thank you. That's
8 all the questions I have, except to give that
9 late-filed exhibit a number, please.

10 JUDGE WARD: I think we're at 38 or 39.
11 We've already had one -- we're at -- NSP 38 was
12 corrections to filed testimony. Late-filed exhibits
13 you want to use a different numbering system?

14 MS. VALLEY: Thank you, Your Honor. For
15 the exhibits that we've had in the rate case
16 hearing, we did label them with a letter and I
17 believe the last one was P, so we could go to Q.

18 JUDGE WARD: We also have already talked
19 about a late-filed exhibit, which was going to be
20 the 1983 five-state comprehensive settlement. Do
21 you want to assign that a letter as well?

22 MS. VALLEY: Sure. We could certainly
23 call that S -- or R.

24 JUDGE WARD: So this one will be P; is
25 that correct?

1 MS. VALLEY: Q for this, the request by
2 Mr. Lien, and then I believe we could assign S to
3 the agreement that was questioned -- or R. Thank
4 you.

5 JUDGE WARD: R? Thank you.

6 MR. ARMSTRONG: Your Honor?

7 JUDGE WARD: Everybody has got that?

8 MR. ARMSTRONG: Your Honor, kind of a
9 matter of order now that we're talking about
10 exhibits.

11 JUDGE WARD: Yep.

12 MR. ARMSTRONG: We had the conference
13 yesterday on stipulated exhibits for today. We
14 didn't address it at all at the beginning of the
15 hearing, but was it from yesterday's hearing that
16 the pre-filed testimony, all of that is just
17 entered, or should we handle that?

18 JUDGE WARD: I think we should probably
19 handle that for the record. My understanding was
20 that we were going to be adding NSP 23 through 38.
21 There was a stipulation to that yesterday. They are
22 on the exhibit list that was presented today. There
23 were no objections yesterday.

24 MR. ARMSTRONG: And, Your Honor, my
25 understanding was it was going to be NSP 39 through

1 NSP 44.

2 JUDGE WARD: Oh, I'm sorry. Those are
3 already stipulated. So when I'm looking at the
4 exhibit list, there's an NSP 23 through 38. Have
5 those been admitted?

6 MR. ARMSTRONG: Yes. And then for
7 purposes of today's hearing, I understand the
8 exhibits were NSP 39 through NSP 44 and PSC 23
9 through PSC 25 that the parties and Commission
10 counsel agreed to stipulate to the entry today.

11 JUDGE WARD: Those were stipulated to
12 yesterday at the prehearing conference and they will
13 be received and the exhibit list already indicates
14 that those document have been stipulated. Thanks
15 for clearing that up.

16 Okay. I want to go now, I think, to
17 questions from the Commissioners.

18 Commissioner Fedorchak.

19 EXAMINATION

20 BY COMMISSIONER FEDORCHAK:

21 Q. I'll just stick with the restack since
22 that's where we left off with Illona.

23 And I don't want to belabor this because I
24 realize there's a lot that just needs to be
25 developed and then we can analyze it and see how it

1 looks, but since it is one of the key provisions
2 that you and advocacy staff think are one of the
3 benefits of this, I want to make sure I fully
4 understand some of it, some of these things.

5 So I think what would be helpful for me is
6 on -- if we went to page 27 of your testimony, Dave,
7 starting on line 24 where you talk about, "The
8 restack will first adjust costs based on a current
9 resource mix serving our North Dakota customers as
10 if it had been historically developed..."

11 So can you just make up like on the fly
12 just some example of this? Create a little proxy
13 resource mix and tell us how this would -- how this
14 would work.

15 A. I'll try to do that. I think that in our
16 discussions we -- for example, we're looking at all
17 of NSP's generating resources, the stuff we own, the
18 contracts that we have, and it's fairly apparent
19 that the legacy plants, the baseload plants,
20 nuclear, Prairie Island, Monticello, the large coal
21 plants we have, Sherco Units 1, 2 and 3, King plant,
22 some of those well-run legacy plants that have had
23 good operating records, that we all agree that those
24 were wise generating resources to build and to
25 select and so those kind of become accepted under

1 the normal, usual allocation processes. And, again,
2 the allocation process is another issue here, but
3 those would fall under that.

4 Then, you know, you really start -- then
5 you look at, for example, the renewable policies of
6 each state. One state has a goal of 10 percent.
7 One state has a mandate of 30 percent, and so you
8 go, okay, well, we want to meet the goal, right,
9 yeah, we want to meet the goal in North Dakota, so
10 what would comprise the 10 percent. What projects
11 would do that? So I think, you know, we didn't --
12 we haven't done this yet, but I'm going to envision
13 what I can see happening, but we go back in time and
14 we look at the wind that's been added and we look at
15 why that wind was added and we look at what kind of
16 price that wind was added at and we just kind of
17 take a view of those wind selections and try to be
18 as realistic as possible about what would fit the
19 North Dakota thinking or preference around wind to
20 meet the 10 percent.

21 That's not going to be easy and there's
22 going to be a lot of subjectivity around that, but
23 we are going to have to agree on something. So we
24 do that and what doesn't make that list presumably
25 starts getting put on the out list, the restack out.

1 There may be other types of plants or contracts that
2 aren't wind. Well, I guess another thing is we have
3 refuse-derived fuel plants, which burn garbage and
4 create energy. So, I mean, there is -- I guess
5 nothing is off the board. We look at everything and
6 kind of try to make a decision about how that fits
7 the North Dakota policy framework.

8 But, yeah, when you start getting to the
9 renewables and some of the newer things, the solar,
10 some of the biomass, I mean, that's really where the
11 rubber will hit the road and we'll have to come to
12 some agreement, again, guided by the principles of
13 the settlement as to what would North Dakota have
14 done under a different set of circumstances if they
15 would have been calling the shots more or less, how
16 would that have affected our resource mix. So you
17 design your own mix based on that basis and then we
18 determine how that would translate into rates.

19 Q. Moving forward?

20 A. Moving forward. Moving forward. And,
21 now, I've already mentioned that the current
22 projects that we have looked at primarily are
23 purchase power agreements so they're cleanly running
24 through the fuel cost rider so it's relatively easy
25 to identify them and reprice them at what would have

1 been -- what would have replaced them or what would
2 have been selected in their stead, so, generally
3 speaking, there's looking at the market at some LMP
4 price. In the case of one of the biomass projects
5 that you read about in the settlement, we would
6 reprice that using our King coal plant because the
7 biomass contract is more of a baseload kind of
8 plant. It's running all the time. So we would use,
9 you know, what makes sense for that plant, and if
10 there's a capacity piece and an energy piece, then
11 we need to reprice both pieces. You can't just look
12 at one. You have to kind of figure out, well, what
13 would it have been, what would the capacity price be
14 under this scenario.

15 Q. I might be oversimplifying this, but would
16 you be basically coming up with a price that would
17 be sort of the acceptable price for baseload and
18 acceptable price for renewables, acceptable price
19 for peakers and then applying that --

20 A. Well, I think --

21 Q. -- across the board?

22 A. -- I'd have to go beyond just saying
23 acceptable to it would be what would the other
24 viable option be to meet the need that we're trying
25 to meet here. So what presents itself or presented

1 itself, if we're going back in time, but what
2 presents itself as the viable alternative is
3 probably a better way to view it, not just some
4 general, you know, how much does coal cost. It
5 would be, no, how much would it be to either, you
6 know, build a coal plant or, you know, that kind of
7 thinking, as situational as possible.

8 Q. Okay. So then I'm, again, probably
9 oversimplifying here, but if I'm kind of reading
10 between the lines of the clause that exists if there
11 can't be an agreement reached, all of these in the
12 settlement agreement on attachment E, all the
13 identified renewable PPAs on page 1 and the
14 identified biomass PPAs on page 2, since those would
15 be the ones that would be automatically kicked out,
16 I'm kind of assuming that those are the ones that we
17 approved over the years and maybe don't fall within
18 the North Dakota energy policy, perceived policy
19 standard, and maybe, dare I say, aren't that
20 prudent?

21 A. I think you can dare say that, from your
22 perspective.

23 Q. Right. I wasn't here then. I wasn't
24 involved in this, so I'm just looking backwards in
25 time thinking maybe they were approved, but --

1 A. But, again, I mean, if you've got to
2 comply with a requirement, it's prudent to comply
3 with the requirement. So prudent in one sense may
4 not be prudent in the mind of the North Dakota
5 Commission.

6 Q. I'm writing down a question for Mike
7 Diller because I'm going to ask him the next
8 question that came to mind, not you, because it's
9 more appropriate for him.

10 All righty. I think that's it for those
11 questions on the resource mix, the restack. Oh, no,
12 one other question on that. Since you mentioned,
13 when I originally read this, I saw kind of the risk,
14 the natural risk of committing to this and then over
15 time different factors come on board making our
16 original desire to have all the fossil fuel
17 generation, et cetera, and not maybe as much
18 renewable. Over time that doesn't work out because
19 of federal regulatory changes, et cetera. But then
20 you told Mitch that there is this -- you know, it's
21 flexible, so this is going to change over time or
22 there's the ability to, so then it feels like why
23 wouldn't we just cherry pick what's the best for us
24 and when we want to change it, we change it?

25 A. Yeah, I probably wasn't clear enough. My

1 take on the restack is that in the future when
2 another need arises and the Commission in North
3 Dakota makes its decision through the restack as to
4 what the best resource is to meet that need, that
5 doesn't change. That particular selection is there,
6 just like the plant got built that the Commission
7 decided on, so we're not saying that you got
8 backsies. I think that's how we've referred to it.
9 You don't get that option to, oh, my gosh we
10 shouldn't have done that. And so I guess therein
11 the Commission now does put itself in a little more
12 of the driver's seat and that may or may not result
13 in the end in lower cost, as I indicated earlier,
14 because now there's -- you know, there's a short-
15 term and there's a long-term aspect and there's this
16 whole looking out into the future and trying to, you
17 know, guess everything that's going to happen.

18 Q. So to use a real example, if you come
19 forward with a solar project, we say, no, we want no
20 part of solar. We say -- and we replace whatever
21 that is with a comparable, the proxy, and then over
22 time the solar turns out to be a really good deal
23 and the proxy is far more expensive, we're stuck
24 with the proxy?

25 A. Yes, if that's a solar contract, for the

1 life of that contract it will be priced at whatever
2 the selection was that it should be priced at. So
3 if that proxy ends up being something that's
4 variable, if it's somehow tied to the market or some
5 other and those prices go up, then, yeah, that's
6 still going to be the price --

7 Q. Okay.

8 A. -- that that energy will be delivered at.

9 Q. Okay. That helps me better understand
10 that. Thank you.

11 If we could go to the revenues for a
12 minute and sort of dig in a little bit more from
13 Mr. Sparby's testimony.

14 On page 17 of your -- yeah, your submitted
15 testimony, there's the chart, the bar graphs there,
16 and it shows the 5-5-5-0 and the -- you know,
17 obviously, you don't earn your ROE on your 2016.
18 Now, you guys, you stated earlier that the revenue
19 needs decline in 2016 and I'm trying to think of
20 like 2016 and then moving beyond that, there's this
21 inability to earn your ROE, but if your revenue
22 needs have declined in 2016, why can't you earn your
23 ROE?

24 A. Well, actually, I believe I may have
25 stated that our capital expenditures and our

1 investment cycle declines dramatically in 2016.
2 Keep in mind every time we spend a dollar of
3 investment, it generates cost for the next, you
4 know, 30 to 40 years. As we depreciate it, as it
5 generates property taxes, as it requires a return on
6 the investment, it's there so, you know, there are
7 still upward revenue requirement pressures even from
8 the investments that we're making today. In fact,
9 even part of this present case is being impacted by
10 investments that were made in maybe late 2012 that
11 weren't fully reflected in the last case. So you
12 just have to keep in mind that it's not a year-by-
13 year thing where you spend a dollar, you recover it.
14 No, it builds and builds and so investment drives a
15 lot of other different revenue requirement costs.

16 Q. So there's going to be a sort --

17 A. So there is --

18 Q. -- of a shortfall?

19 A. -- 2016, I'm sure if we looked at the
20 revenue requirements, they would be higher than
21 2015. The previous three-year increases do, you
22 know, stay with us, but they're just not sufficient
23 to carry 2016, but the real problem in 2016 is that
24 we're modeling that we have not recovered the part
25 of the restack from other jurisdictions, so we are

1 just flat-out out that recovery and that's the
2 millions of dollars we talked about before. So
3 that's the major driver in 2016. If we can solve
4 that problem, then the 2016 bar goes closer to the
5 authorized level.

6 Q. Okay.

7 A. It's a very significant incentive for the
8 company to address that part of the restack
9 provision.

10 Q. Mm-hmm. Okay. Then I think my -- I'd
11 like to move into the allocation factor study.
12 Okay. On page 31 and 32 you cover that in your
13 testimony. When I look at on page 32 what will be
14 the criteria to analyze the various methods, we talk
15 about fairness, any demand allocator should be
16 fairly apportioned -- should fairly apportion costs
17 based on the cost causation principle - the key goal
18 of setting the demand allocator.

19 So that tells me, yes, that is going to
20 address North Dakota's big issue, is are we unfairly
21 paying for costs that we aren't causing? That's our
22 big concern. When you get into -- so I'm curious
23 how in this study you're going to evaluate, get at
24 what are the costs that North Dakota customers are
25 creating and causing? How can we get at that in

1 this study?

2 A. Well, we get some people in the room that
3 have worked with this stuff for a long time and we
4 sprinkle a few of us other people, Mr. Diller and
5 myself, and we get the input of other parties to get
6 their perspective and we probably initially learn
7 from each other a lot and try to understand the
8 different perspectives and, if possible, pull it all
9 together into some level of consensus. I guess I'm
10 not fond of that word, but some level of agreement,
11 that, yeah, that's really what we need to look for.
12 That's what we need to focus on.

13 And so I think doing a review of a number
14 of different allocators based on some of those
15 principles or discussions that we have at the front
16 end should get us pretty close. And you're right,
17 the cost causation is, again, going back to the
18 perfect world analogy, that would be the only
19 consideration. What is the absolute purest
20 allocator depending on who is driving the costs?
21 But, unfortunately, it's not a perfect world and we
22 all need to get along. And perhaps, more
23 importantly, the North Dakota Commission should not
24 lose sight that it's very important for electric
25 service in North Dakota to have a healthy utility

1 and having a healthy utility is a utility that is
2 able to recover 100 percent of its allocated costs.
3 So the issue of consistency that's on here is not
4 just simply a convenience thing, it gets to the core
5 of what the allocator needs to do so that, you know,
6 service can be rendered safely and reliably.

7 Q. Do you envision going sort of -- digging
8 down to the level of sort of looking at the various
9 peaks, what facilities are running during those
10 peaks and how much North Dakota is using during the
11 peaks, like what our percentage of the peak is and
12 kind of digging way down into kind of like a one-by-
13 one, or is this going to be more of a theoretical
14 like, here's this formula, plug all the numbers in,
15 here's what we get, here's this one, plug all the
16 numbers in?

17 A. Well, that discussion I was talking about
18 earlier is where we avoid getting to -- just too
19 academic about it, that we make sure we've got a
20 sound footing, a reasoned footing for selecting
21 certain allocators. And one thing that -- you know,
22 I've been looking at demand allocator for North
23 Dakota for literally 20 years, because it's kind of
24 my job to understand what our earnings are in the
25 state and ensure that we're getting cost recovery

1 and the allocator has been a big deal forever, so
2 I've been watching that and learning.

3 And the way that I have come to understand
4 this demand allocation is that it's just not true
5 that we plan our system to meet one peak. It's just
6 not true, and if it was true, our system would only
7 have a big collection of peaking plants, because it
8 costs a lot less to build a peaking plant than it
9 does to build a baseload or even an intermediate
10 plant. So the fact that we have good baseload
11 plants on our system is proof positive that we don't
12 plan only for the peak.

13 We also plan -- there's another criteria
14 and it was clearly stated in Mr. Brockett's direct
15 testimony. The other consideration besides meeting
16 that peak, which is sort of the reliability side,
17 the other consideration is what is the absolute
18 least cost that we can generate power throughout the
19 whole year, and that's where baseload plants and
20 intermediate plants come into play, because, you
21 know, they are \$2,000 to \$3,000 per kilowatt to
22 build versus \$700 for a peaking plant, so how do you
23 justify putting a plant in place that costs \$3,000 a
24 kilowatt when you could have done it for \$600 or
25 \$700? Well, the reason is, because it's working

1 24/7 and thereby those costs are being spread and in
2 the end you're actually better off.

3 So there's just -- in my mind, there's no
4 way that an allocator for all of these costs,
5 baseload, intermediate, peaking, can possibly only
6 look at only one hour in the year. It's just not
7 the way it works. So, in my mind, we will look at
8 the 1CP. We will probably look at a 3CP. We will
9 look at peaking methods, but the way I understand it
10 and the way that I'm comfortable with the 12CP is
11 that it does recognize both elements of how we plan
12 the system and how North Dakota contributes to the
13 system needs. Quite frankly, yes, North Dakota does
14 not contribute as much to the peak, but North Dakota
15 contributes a lot more to the other non-peak energy
16 use than -- you know, than you would think. So
17 it's -- it only makes sense then that North Dakota
18 would pay a little bit more for the fixed costs that
19 are related to cheaper energy than they might pay
20 for the fixed costs related to meeting that single
21 peak, and that's what this all boils down to.

22 So I'm -- yeah, we'll look at everything,
23 but, you know, I just think the way this thing will
24 work out is, the more refined way to allocate these
25 costs is to look at breaking off -- breaking your

1 generating costs into the peak piece and the energy
2 piece, and once we go there, the 12CP is a very
3 reasonable proxy. And, quite frankly, if you were
4 to do it as pure as possible and segregate the
5 energy piece and allocate it on energy and segregate
6 the peak piece and allocate it on the 1CP, you'd
7 probably end up with a combined allocator that would
8 be higher for North Dakota than the 12CP.

9 So I'm just very comfortable at the 12CP.
10 It's a great proxy. I don't want to foreclose on
11 the outcome of the study. Mike and I have talked
12 about this. You know, this is an opportunity for
13 this study to actually lead, and for the North
14 Dakota Commission to say it's time to do a study, we
15 do the study and we go to the other state
16 jurisdictions and we say, look what we found, look
17 what this analysis came up with, it makes sense,
18 doesn't it? Well, in fact, you were involved, so
19 you know it makes sense. I mean, you know, it's a
20 chance to lead, rather than North Dakota just sort
21 of accepting policy. Now North Dakota is leading
22 with an effort to try to make it right. So I guess
23 maybe if that's too optimistic, that's the way it
24 is, but I think it could be a very productive and
25 healthy process. I'm actually a little concerned

1 that we've only given ourselves six months to do it,
2 but we'll do the best we can.

3 Q. I'm hearing mutual goal. I would like to
4 lead with a study that shows, you know, as true as
5 we can, but what you kind of outlined sounded to me
6 like you've already got it in your mind that it's
7 12CP.

8 A. I have it my mind, but --

9 Q. How do we get that out of the study? If
10 you're leading it, how is the study not already
11 biased in that direction?

12 A. Iron sharpens iron. I am not so naive to
13 think that I am the be-all end-all for the demand
14 allocator. So I have a perspective. Mr. Diller has
15 a perspective, and we come together and as
16 reasonable people we learn new perspectives. I had
17 never thought of that and we go through that process
18 and we do study it all. I'm just telling you --
19 maybe I shouldn't be. I'm just telling you what my
20 understanding is and what my -- after years of
21 struggling at times with this and wondering is this
22 the right thing to do and then, you know, kind of
23 going on that journey that maybe you're going on
24 now, this is where I'm at, but that doesn't mean
25 that that's the way the study will work. I am not

1 going to run the study.

2 Q. Well, and that's what -- I mean, I think
3 the study -- I'm very comfortable with the study as
4 a process. It's a big issue. It needs to be done
5 right. I recognize the importance of not leaving
6 you guys with a bunch of stranded investments that
7 you can't recover and how that would put you in a
8 bad position and threaten, you know, the future
9 reliability of service to our customers. I get
10 that. But I want the study to be unbiased and I'm
11 not comfortable that the settlement agreement is
12 clear enough on the methodology and how we're going
13 to get at that unbiased study that isn't just kind
14 of the company running things through a bunch of
15 different formulas and producing what you kind of
16 want it to, which is the 12CP. So that's my
17 concern.

18 A. We would certainly be willing to
19 strengthen the language around that process to
20 ensure that it includes, as I mentioned before,
21 other states agencies, other utility companies, and
22 perhaps even a consultant, if there's some interest
23 in that.

24 And, quite frankly, Commissioner, I
25 believe that the Commission would be driving this

1 study, because we would be touching base with you
2 and saying here's where we're at so far, here is
3 what we've determined, and if the Commission thinks
4 that we're, you know, getting off the tracks or it's
5 not making sense, that will be the opportunity for
6 you to make that known, so --

7 Q. All right. My final question. This is
8 more general. And it's something I asked Zev in the
9 informal or he responded, but tell me what were the
10 company's greatest gives in this settlement?

11 A. Greatest gives. Man, I had a great little
12 list here. Let me just pull it up. You know, as I
13 look back on the settlement, I mean, it's clear in
14 my mind that the primary benefit to the company is
15 the opportunity to recover these costs that are
16 going to be there. They're not -- they're going to
17 be there. They're legitimate, prudent costs and,
18 you know, it's the cost of being a good company that
19 provides good, reliable service. So that's our big
20 with them, if you will.

21 You know, there's the other sort of
22 smaller benefits that are sort of mutual, I mean,
23 avoiding -- filing rate cases is exhausting and not
24 always very productive, quite frankly. I hate to
25 point to this case, but, I mean, wow. So those are

1 the things that we kind of get out of it.

2 I would almost suggest that every other
3 provision in the settlement is a concession on our
4 part, whether it's, you know, earnings sharing, the
5 historically low ROE, the restack, the loss of
6 recovery potential there, huge. The commitment to
7 build generation, you know, we want to build
8 generation in North Dakota, but, quite frankly, a
9 commitment like that does limit you a little bit.
10 Now, that's a consideration. It's a bit of a
11 concession. The longer amortization of the
12 nonrecurring expenses, the rate cases, those
13 adjustments, we can see the staff position on those
14 expense adjustments. Developing a robust time-of-
15 day rate, something that staff has wanted to do,
16 we're willing to come alongside there. Passing back
17 100 percent of rec sales now instead of 90, passing
18 back 100 percent of wholesale margin proceeds
19 instead of 85. We're going to have to go through
20 and do a better job on our tariff book, quite
21 frankly. That's a lot of work, but it's -- you
22 know, it's good work. We have to improve our
23 jurisdictional test year reporting so when we're in
24 the midst of a case and you guys ask for an update
25 with this month's data, we can turn around and do

1 that.

2 So there's a lot of things in here, a lot
3 of -- it's a big honey do list, a lot of checkmarks,
4 but the big item for us is the ability to get
5 through the next year -- next four years with a rate
6 plan. And, you know, this -- if you look at it, the
7 settlement -- the rate plan is more than the
8 5-5-5-0. I mean, the rate plan encompasses a number
9 of things. It's the riders. It's the rate plan.
10 It's -- even the restack affects the rates or could
11 or will in 2016. So it's a package of rate
12 mechanisms, if you will, the 50-50 sharing, another
13 rate impacting provision, but it's a package that
14 gets us through the next four years without spending
15 half a million or \$600,000 per rate case. I mean,
16 that's just not -- you know, that's not that
17 efficient. I'm sure I'm -- I shouldn't diss the
18 traditional regulatory process, but, you know, the
19 world is changing fast and maybe too fast sometimes
20 for some of the ways that we're used to doing
21 things, so that's my two cents on that.

22 Q. Okay. I'm going to ask one more question.
23 So the original -- I forget what the original rate
24 increase was, request was?

25 A. \$17 million.

1 Q. But the percentage?

2 A. 9.25.

3 Q. And now you're accepting with this
4 settlement 5 percent for 2013. How does the company
5 manage that?

6 A. Yes. Don't forget the 5 percent relates
7 to the base rate. Another provision -- and it's
8 sort of a creative way to bridge this gap that
9 you've just brought up, but we have about
10 \$10,000,000 of Department of Energy proceeds that we
11 won because of a litigation around their inability
12 to accept spent fuel. We credited customers with
13 about half of it in the last case and what we're
14 proposing in this case is using the other half to
15 buy down those base rate increases. So the company
16 would retain the remaining half of those, reduce the
17 base rate increase, which is good, because you don't
18 want to bake in a higher increase. It's there
19 forever then, so it helps customers. And that's how
20 we bridge that gap that first year.

21 COMMISSIONER FEDORCHAK: Okay. All right.
22 Thank you.

23 JUDGE WARD: Commissioners and counsel, I
24 think I'd like to break for lunch about now. Do you
25 want to -- would that be okay and come back and ask

1 your questions of Mr. Sederquist?

2 COMMISSIONER KALK: You know, Judge, I've
3 got one question. We can at least move it on down
4 the road a little bit.

5 JUDGE WARD: Okay. Go ahead.

6 EXAMINATION

7 BY COMMISSIONER KALK:

8 Q. Just one question. What's the
9 interconnection update with Border Winds? Do you
10 know that, Dave?

11 A. I don't --

12 Q. Okay. That's fine.

13 A. -- but Mr. Wishart maybe could address
14 that.

15 Q. That's fine.

16 A. I will just say I'm hearing good things.
17 I'm hearing good things, encouraging.

18 Q. And my one comment to you is about the gas
19 plant. I've talked before about you guys buy your
20 power to serve Minot. You could build a big natural
21 gas plant up in Minot, too, and you could sell a
22 whole bunch to Basin Electric and MDU. There's
23 always opportunity to build stuff in North Dakota,
24 if you just reach out and do it. You guys build a
25 big 250-megawatt gas plant, you could use it forever

1 and make a whole bunch of money selling it.

2 A. Yeah. Again, I think the settlement is
3 the beginning of a future that's more -- would be
4 more like that, so --

5 COMMISSIONER KALK: Thank you, sir.

6 JUDGE WARD: Commissioner Christmann,
7 anything before lunch?

8 COMMISSIONER CHRISTMANN: I can wait.
9 It's only a few. It's up to you, I guess.

10 JUDGE WARD: We'll break now. I know some
11 of the attorneys want to get to the Big Muddy Bar
12 luncheon and there's a vote there today that's
13 important to some people. Why don't we come back at
14 1:15. That should give us plenty of time. Thank
15 you all. Off the record.

16 (Lunch recess was taken.)

17 JUDGE WARD: Back on the record after
18 lunch. It's 1:15. We have Mr. Sederquist on the
19 stand. Mr. Sederquist, you're still under oath and
20 we'll move now to some questions from Commissioner
21 Christmann.

22 COMMISSIONER CHRISTMANN: Thanks, Your
23 Honor.

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EXAMINATION

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BY COMMISSIONER CHRISTMANN:

Q. I was going to look this up over the lunch break and then got to doing something else and didn't, but refresh me. What's the return on equity in your most recent case?

A. Commissioner, are you referring to our most recent report of actual earnings in 2000 --

Q. No. What was the last North Dakota?

A. Oh, the allowed return?

Q. Yes.

A. Was 10.4, I believe.

Q. And wasn't there something in here where Minnesota and South Dakota's last ones were like 9.25 and 9.83?

A. I know that Minnesota was 9.83. I don't recall what South Dakota's ROE was.

Q. With Minnesota at 9.83, was that for multiple years or one year?

A. It was for one year.

Q. So if they didn't -- let's use 9.83 and this settlement would be 9.75 and then 10 and 10 and 10.25; correct?

A. Yes.

Q. Is that really historically low?

1 A. The 9.75 is absolutely historically low in
2 North Dakota. I've never seen anything that low in
3 the state. Typically, for whatever reason, North
4 Dakota authorized returns have been usually higher
5 than Minnesota.

6 Q. But it's eight one-hundredths of a percent
7 lower than what you have in Minnesota and then
8 immediately jumps back up for the next three years?

9 A. Yes.

10 Q. Okay. In discussing the demand allocation
11 study, you said you would bring people from other
12 jurisdictions to the table, if you thought it was
13 necessary?

14 A. Yes.

15 Q. Based on your clear bias and Mr. Sparby's
16 clear bias, shouldn't we really be having the study
17 led by advocacy staff or by the Commission here and
18 let someone unbiased be deciding who is coming to
19 the table and lead the study?

20 A. That may very well be the way that this is
21 run. Maybe the staff directs most of the study
22 parameters and we participate. And I think that --
23 I think that that's our intent, anyway, is to have a
24 lot of collaboration between the staff and whoever
25 else is involved. I certainly didn't want to paint

1 the picture that we would be steering the study. I,
2 obviously, have, you know, my thoughts, but if the
3 Commission would be more comfortable even having a
4 third party direct how the study is done, I think
5 we'd be amenable to that, too. Trying to get to the
6 bottom, trying to get the information that you need,
7 that's the bottom line goal.

8 Q. So have you set an amount that you expect
9 to expend to do this study?

10 A. No.

11 Q. What kind of numbers do you think -- I
12 mean, is this a few people getting together and
13 having pizza over lunch and coming up with an
14 answer, or is this something that's going to bring
15 in an expert and gather information and really
16 invest some effort into doing a study?

17 A. Well, I mean, I think we definitely want
18 to hear if the Commission has a preference. You
19 know, I guess the costs start to become significant
20 when, you know, consultants are hired and those kind
21 of things, so that's when things start costing more.
22 I mean, it wouldn't need to involve consultants and
23 if it didn't, then we would be talking minimal costs
24 to get together and meet and come to a, you know,
25 agreement, but so I guess what I'm saying is, it

1 could go from being very, very low cost to being
2 wherever the Commission would like us to go.

3 Q. Was any consideration given to just
4 getting in touch with the advocacy staff's
5 consultant on demand allocation and -- I mean, he
6 must hold quite a bit of credibility since he came
7 in wanting to do one thing, heard your testimony and
8 as this report puts it, waffled then. So clearly he
9 comes into these things with some open mind, just
10 contacting him and getting him more information and
11 looking at that as seeing what he feels is the best
12 solution?

13 A. Yeah, actually, this past week I received
14 a copy of a memo from Mike to Pat and there was
15 discussion of engaging the consultant in the case to
16 perhaps take a look, do a study. And, I mean, right
17 away my first thought was, well, let's involve
18 Mr. Pavlovic in a broader study, take a little more
19 time and do it, rather than just a week or two. So
20 certainly, that's an excellent idea.

21 Q. Okay. And I'll just throw this out there
22 and you can respond to it. I think I've expressed
23 before my concern that it's too late. If this could
24 be done in six months, it should have been started
25 six months ago and doing a study right after we've

1 made a decision is just not the best idea, but if
2 it's going to be done, I really think that it
3 needs -- you all need to distance yourselves from
4 it. Certainly be involved and provide the
5 information. Nobody can do the study without the
6 information, but certainly not be the lead on it or
7 it just isn't going to have much merit, I don't
8 think.

9 A. Yeah, well, I mean, I wouldn't want to be
10 completely distanced from it. We would want some
11 involvement. We have a lot at stake, too, so I
12 would certainly hope that regardless of who led the
13 effort, that the company could have sufficient
14 involvement. We have a lot of expertise in the
15 company as well that could go towards, you know,
16 informing people. And so I guess I would just hope
17 that we don't get pushed to the side on a project of
18 that significance.

19 COMMISSIONER CHRISTMANN: Okay. I have no
20 other questions. Thanks.

21 COMMISSIONER KALK: Your Honor, I have one
22 based on Randy's question, if I could.

23 JUDGE WARD: Commissioner Kalk.
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FURTHER EXAMINATION

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BY COMMISSIONER KALK:

Q. I know you remember when you and I went through the ordeal about the billing change back in 2009 and you got that group of people, Gem or something came in --

A. Yes.

Q. -- and did a top-to-bottom assessment of all your bills. How is that structured again? Did they do it independently or did you guide them?

A. Well, we engaged Gem to do a thorough review of our -- all of your billing, the whole process and then, you know, they provided recommendations for us to make improvements, if they found any. We were fortunate that, you know, in general, they held our process up in high regard, but there were a number of items that we followed up with and made improvements on too, but that was someone that we engaged, I believe.

Q. I'm trying to remember, I think they came back with 22 different items and we had a lot of meetings on it. But were they -- I'm trying to figure out the relationship to extend upon Commissioners Christmann and Fedorchak's question, where it was said, okay, you told them look at our

1 bill and then they were left alone and they came
2 back or if you worked with them through the whole
3 time? That's, I guess, the question.

4 A. We worked with them so that they had the
5 information they needed. I guess I probably can't
6 speak to the level of independence, you know, in
7 their assessment. I wasn't intimately involved.
8 Most of that work was done in our corporate offices
9 dealing with, you know, the folks in our billing
10 system and metering and all that.

11 Q. I just throw that out as a move forward.
12 I thought that was a really good process as it
13 worked out. They came back with clearly their
14 viewpoint of what they thought needed to be done,
15 because I remember the friction in the room when
16 they said some of things they wanted to do and you
17 didn't necessarily agree with it, but it was a good
18 discussion back and forth. So if we do go down that
19 road, maybe that's a template we could look at.

20 A. Yeah. We were even discussing over noon,
21 you know, what are some of the reputable firms that
22 we have experience with in the past and who might,
23 you know, be a good candidate to conduct a study
24 like that.

25 COMMISSIONER KALK: Thank you, Dave.

1 Thank you, Your Honor.

2 JUDGE WARD: Mr. Norrell, anything further
3 for Mr. Sederquist?

4 MR. NORRELL: Yes, Your Honor. I have a
5 couple questions.

6 CROSS-EXAMINATION

7 BY MR. NORRELL:

8 Q. Mr. Sederquist, good afternoon. I don't
9 know if you recall before lunch there was some
10 discussion about prudence -- restacking of the
11 resources and prudence in one state might not be
12 prudence in another state. Would you agree that
13 prudence is a regulatory substitute for competition?

14 A. I'm not sure I see the direct link there.

15 Q. Okay. I've got a case here, if I may read
16 from a case, and I can provide the cite to counsel
17 as well. It's Gulf State Utilities Company. It's a
18 case out of New York. Like I say, I can provide the
19 cite, if you would like, but the cite reads like
20 this: A principle of prudence has been developed in
21 part to counterbalance the monopoly power of public
22 utilities. If a competitive enterprise tried to
23 impose on its customers costs from imprudent
24 actions, the customers could take their business to
25 a more efficient provider. A utility's ratepayers

1 have no such choice.

2 Would you agree with that?

3 A. Not fully.

4 Q. Okay. And why not?

5 A. Well, I just think there is a certain
6 level of choice that may be available, depending
7 upon the customer, you know, you could be talking
8 about a large customer who may be able to, you know,
9 move to a different service area or close their
10 plant and open up another one. I mean, there's many
11 different considerations. It's not quite as black
12 and white as that statement, in my mind.

13 Q. Okay. Fair enough, but your average
14 residential customer is subject to a presumption of
15 prudent investments --

16 A. Sure.

17 Q. -- on behalf of the utility. So the
18 company came before the Commission here looking for
19 prudence on three combustion turbines. And let's
20 say hypothetically the Commission grants prudence on
21 those. So the ratepayers of North Dakota can -- the
22 company is assured that there will be recovery on
23 those investments in North Dakota. But at the same
24 time that you put those three combustion turbines
25 forward for prudence in North Dakota, you were

1 subject to a competitive bid process in Minnesota;
2 is that correct?

3 A. Yes.

4 Q. And that competitive bid process, the ALJ
5 recommended solar panels to meet a capacity need; is
6 that correct?

7 A. That was part of the ALJ's recommendation.

8 Q. And there were capacity buys from Great
9 River as well.

10 A. (Nods.)

11 Q. Part of the conversation, the judge, the
12 ALJ's recommendation focused very heavily on
13 Minnesota's solar mandate and that is what swayed
14 the judge. In addition to cost, location, capacity,
15 there was a large portion of that discussion focused
16 on Minnesota's solar mandate and that is what, in
17 effect, swayed the judge towards the Geronimo solar
18 mandate. Would you agree with that? Have you seen
19 that? Are you familiar with that?

20 A. I'm fairly certain that the mandate
21 influenced the judge's decision.

22 Q. And the judge recommended that the solar
23 issue or the solar panels, coupled with the capacity
24 buys from Great River, was the most competitive
25 option; is that correct?

1 A. I don't know if that was the reasoning.

2 Q. But I guess the point I'm trying -- I'm
3 wondering, could this be an instance where something
4 that appears to be more competitive in Minnesota
5 based on Minnesota law would not necessarily be the
6 most prudent for North Dakota ratepayers for the
7 Commission?

8 A. It's perhaps as good of an example as any
9 I've heard recently.

10 Q. And there was also some discussion earlier
11 on about the 5-5-5-0 benefits and detriments. Do
12 you have your testimony in front of you?

13 A. Yes.

14 Q. Could you go to page 9 of your testimony?
15 On the stand you had mentioned that one of the
16 benefits of the 5-5-5-0 plan is that it meets your
17 expenses in a way that minimizes the impact to
18 customers. Looking over lines 1 through 12, could
19 you summarize, is there a correlation between those
20 two statements, what you said on the stand,
21 minimizing the impact to customers, and what is in
22 lines 1 through 12?

23 A. (Witness reviews document.) I think the
24 primary point that I was trying to make here is that
25 given that today and for the past -- well, nearly a

1 year, customers have been paying an interim increase
2 level and the 5-5-5-0 plan, if adopted, would for
3 2014 only slightly impact customers because if you
4 just think about it, simply two fives is 10 percent
5 and the 10 percent is just moderately above the
6 existing level so that there wouldn't really be
7 any -- much of a perceptible impact on their bills
8 even in 2014.

9 MR. NORRELL: Thank you. I have no
10 further questions.

11 JUDGE WARD: Mr. Armstrong.

12 MR. ARMSTRONG: I don't have any further
13 questions.

14 JUDGE WARD: Ms. Jeffcoat-Sacco.

15 MS. JEFFCOAT-SACCO: I just have one
16 question.

17 RE-CROSS-EXAMINATION

18 BY MS. JEFFCOAT-SACCO:

19 Q. Sometime back in the beginning of your
20 testimony in response to a question, I think from
21 Commissioner Fedorchak, where you were talking
22 about -- in your testimony you also talked about in
23 the restacking the potential for savings and the
24 risk of potentially having higher rates in North
25 Dakota from such a thing. And I understood that to

1 mean the risk of foregoing, say, a hedging choice
2 against high gas prices and then you're always stuck
3 with the high gas prices or the high coal prices or
4 something like that or a nuclear repair or something
5 like that. But you had used the example of being
6 stuck with a decision, say an anti-solar decision.

7 And are you not familiar with the statute
8 that permits the Commission to amend decisions
9 subject to notice to the company and the appropriate
10 opportunity? Are you familiar with that statute?

11 A. Not particularly.

12 MS. JEFFCOAT-SACCO: Okay. That's all I
13 have.

14 JUDGE WARD: Ms. Valley.

15 MS. VALLEY: Thank you, Judge Ward.

16 REDIRECT EXAMINATION

17 BY MS. VALLEY:

18 Q. I just have a few follow-up questions,
19 Mr. Sederquist. First, on the allocator study that
20 we've been discussing today, is it the company's
21 commitment that there will be an unbiased and
22 thorough study?

23 A. Yes.

24 Q. And is the company willing to engage a
25 third party to assist in that effort?

1 A. Yes.

2 Q. And will the structure of that study be
3 informed by, you know, the views and input by
4 Commission staff?

5 A. Most certainly.

6 Q. Okay. And will there be an opportunity
7 for the Commission to review that and offer its
8 input and further study to result from that?

9 A. Yes.

10 Q. Okay. And regarding the restack, counsel
11 has raised some questions regarding the legality of
12 this restack. And the settlement agreement sets
13 forth a framework for that restack; is that correct?

14 A. Yes.

15 Q. And will the parties, including the
16 company and the Commission staff work -- and counsel
17 work together to establish what that restack will
18 be?

19 A. Yes.

20 Q. And if we can't get counsel comfortable
21 with that, what happens?

22 A. If we can't achieve the framework, then we
23 have got the provision in there for the automatic
24 restack and the resulting financial impacts.

25 MS. VALLEY: Thank you, Mr. Sederquist. I

1 don't have any further questions.

2 JUDGE WARD: Commissioners? Commissioner
3 Fedorchak.

4 COMMISSIONER FEDORCHAK: (Shakes head.)

5 JUDGE WARD: Anybody? Mr. Sederquist, you
6 are excused. Thank you. Ms. Valley.

7 MS. VALLEY: Thank you, Judge Ward.

8 Today, throughout the discussions, we've
9 had some references to Mr. Wishart, who is our
10 director of resource planning, and the company would
11 like to call Mr. Wishart to the stand to answer some
12 questions.

13 JUDGE WARD: Okay. Mr. Wishart, hello
14 again. We met before. You've heard the admonition,
15 so I'm going to ask you to raise your right hand.

16 Do you promise to tell the truth, the
17 whole truth and nothing but the truth in this
18 proceeding?

19 THE WITNESS: I do.

20 JUDGE WARD: Thank you. You may proceed.

21 MS. VALLEY: Thank you.

22 STEVEN WISHART,

23 being first duly sworn, was examined and testified
24 as follows:

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DIRECT EXAMINATION

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BY MS. VALLEY:

Q. Mr. Wishart, have you filed testimony in the cases --

A. In the rate case?

Q. I was going to ask in the cases subject to the settlement agreement and if you could specify which ones those are?

A. Yeah. I filed testimony in both the wind dockets and the advanced determination of prudence for the gas plants.

Q. And what is your exact title with Xcel Energy?

A. I am director of resource planning and bidding for the NSP service territory.

Q. And are you familiar with the commitment to build up to 400 megawatts of thermal generation in North Dakota?

A. Yes, I am.

Q. And can you describe how your resource planning process will accommodate that commitment?

A. Sure. As best as I can envision it right now. Through the resource planning process, we've previously demonstrated other states' energy policies, for example, the Minnesota renewable

1 energy mandate. Within our resource plan, we come
2 up with a 15-year forward-looking plan that lays out
3 which type of generation additions we will make in
4 each year. This time around we have a resource plan
5 due in July of this year and I envision reflecting
6 our commitment in North Dakota in a very similar
7 way. So in addition to seeing maybe wind additions
8 to meet the Minnesota renewable energy mandate,
9 we'll also see North Dakota thermal generation in
10 that expansion plan, too, that reflects our
11 commitment to the commitment we're making here.

12 And just because we have it in an
13 expansion plan table doesn't necessarily mean that
14 it's a done deal at that point, but I think it does
15 lay the groundwork and it gets -- it socializes the
16 concept and it gets the process moving. Of course,
17 once we come to an actual resource decision, we'll
18 do another prudence review to make sure it's in the
19 best interests of our customers, make sure the
20 capacity is needed, but I feel that including it in
21 the resource planning in that fashion is going to be
22 very valuable.

23 Q. Thank you. And one other question that
24 had come up today was the interconnection process
25 with Borders. Do you have an update on the

1 interconnection?

2 A. We received the results of MISO's
3 definitive planning phase, DPP, study a few weeks
4 ago, and the transmission substation work that we
5 were afraid of was not identified as a needed
6 improvement to the grid to integrate the Borders'
7 wind, so as of now, the project is a go. We think
8 it's going to come in on cost and on time at this
9 point.

10 MS. VALLEY: Thank you, Mr. Wishart.

11 Your Honor, this witness is available for
12 examination.

13 JUDGE WARD: Mr. Norrell.

14 MR. NORRELL: No questions, Your Honor.

15 JUDGE WARD: Mr. Armstrong.

16 MR. ARMSTRONG: No questions.

17 JUDGE WARD: Ms. Jeffcoat-Sacco.

18 MS. JEFFCOAT-SACCO: No questions.

19 JUDGE WARD: Commissioners.

20 COMMISSIONER FEDORCHAK: I don't think I
21 have any questions.

22 JUDGE WARD: Commissioner Kalk.

23 COMMISSIONER KALK: I just have one.
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EXAMINATION

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BY COMMISSIONER KALK:

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Q. The MISO process now, we don't need to do any more upgrades, you're good to plug it in when it gets built?

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A. That's the way the MISO transmission study came out. MISO reconducts the study annually, but there should be nothing in the models that changes that outcome.

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Q. Okay. Perfect. And then just to acknowledge an opportunity for me to learn here. When you do your resource planning it makes sense you figure out what you might need and you build something.

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How do you evaluate opportunity to do things like build something big south of Minot where you could meet the Minot needs for 50 years and you could also have opportunity in near term years. How does that go into a mix? I just don't understand how that would go.

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A. That's a complicated issue. The resource planning process is primarily focused on meeting our customers' own needs. The concept you're bringing up sounds much more like a resource that would serve the needs for the surrounding, neighboring

1 communities.

2 Q. Well, like when you build a nuclear plant,
3 you know it's got to be built really big. You
4 probably don't have that need in the beginning so
5 you build it --

6 A. Sure.

7 Q. -- and over time the demand catches up.
8 Couldn't you use that same process for a natural gas
9 plant?

10 A. Yes, I think we could, and even the
11 natural gas plants we're talking about right now,
12 when they're added in 200-megawatt increments, we
13 might have an extra 100 megawatts of excess
14 capacity, you know, over the first couple years.
15 So, indeed, when we do look at building in North
16 Dakota, Minot isn't necessarily off the table by any
17 regards. I think for us, the way we've identified
18 the best and least cost location for natural gas
19 plants is trying to find a good spot where there's
20 good natural gas supply and good transmission
21 outlet. And if Minot is identified as a good
22 location for that, I don't see any reason why not.

23 Q. What data do you put in that makes
24 locations jump out?

25 A. The process we went through last time is

1 that we work with our energy supply group and they
2 actually -- I think they start looking at the
3 transmission level, looking at big substations where
4 you could possibly interconnect, and then their
5 second step is to look at the natural gas
6 infrastructure and see which locations are -- you
7 know, have both. Last time around I believe they
8 looked at six or seven sites, including Wisconsin
9 and Minnesota and a couple of locations in the
10 Dakotas, and they came up with the Black Dog site
11 because it really had all that existing
12 infrastructure already, and then the Hankinson site
13 because it only needed some -- it needed less work
14 than the other sites.

15 Q. Okay. But transmission is the big thing,
16 just like you don't put a wind farm in the middle of
17 nowhere unless there's a transmission out there?

18 A. Exactly. Transmission is the driving
19 factor for sure.

20 COMMISSIONER KALK: Thank you.

21 JUDGE WARD: Commissioner Christmann.

22 EXAMINATION

23 BY COMMISSIONER CHRISTMANN:

24 Q. You mentioned the Borders'
25 interconnection. Wasn't there some issue at

1 Courtenay too as far as crossing someone else's
2 lines or something like that, or is everything
3 resolved there?

4 A. The transmission wasn't as big of a
5 concern at Courtenay, from what I recall. I do
6 remember there was an issue, I think with the
7 privately-owned airfield, that may have interfered
8 with some of the turbine siting.

9 Q. That was a siting issue, but as far as the
10 transmission, everything is taken care of there?

11 A. Yeah. Yeah. And I'd like to clarify that
12 MISO continued to run their models and study those
13 things. MISO is a fairly independent process from
14 us and we'll keep you updated as they update their
15 models, but as far as we know, the information that
16 we have in hand is that both of those projects are
17 looking good from a transmission perspective.

18 Q. In the Minnesota court case where the
19 judge chose the solar and the power purchase
20 combination, the power purchase part is from GRE?

21 A. Yes, sir.

22 Q. Is that -- well, maybe you don't concern
23 yourself about where they're getting it from, but is
24 that what is going to cause them to start up their
25 Spiritwood plant, or is that just from an existing

1 plant?

2 A. Yeah, you were right on your first point.
3 We really look at that as they're just selling us
4 the capacity. Where it's actually coming from isn't
5 part of -- our part of the transaction.

6 Q. What is that amount of capacity that you
7 will be purchasing?

8 A. They gave us options for either 100 or 200
9 megawatts for the periods 2016 -- no -- '17, '18,
10 '19. So it's a short-term capacity purchase option.

11 Q. And have you chosen between 100 or 200?

12 A. If we get pushed in that direction, we
13 would probably lean toward the higher amount. Our
14 identified capacity need is in the 300-megawatt
15 range by 2019. That's subject to change. But our,
16 you know, most recent estimate puts it in that
17 ballpark, so we would be looking at the larger
18 amount, but I would like to clarify that the ALJ's
19 recommendation is just that. It's a recommendation
20 at this point. We're not bound to do exactly as he
21 says at this point and parties in the case have
22 filed exemptions to his report and Minnesota
23 Department of Commerce, along with us, have actually
24 come out fairly strongly against the recommendation
25 of solar and the GRE purchase. We all continue to

1 believe that if we're going to build something, it's
2 better to have something dispatchable and iron in
3 the ground at this point.

4 COMMISSIONER CHRISTMANN: Okay. No other
5 questions.

6 JUDGE WARD: Commissioner Fedorchak.

7 EXAMINATION

8 BY COMMISSIONER FEDORCHAK:

9 Q. Just to follow up on that a little bit,
10 can you walk me through the next steps of that
11 process?

12 A. Sure. We filed exemptions to the ALJ's
13 report and then there's reply exemptions and then
14 the Minnesota Public Utilities Commission will be
15 hearing the matter in late March, and at that time
16 we will have their order, which I think is the much
17 more binding part of the deal.

18 Q. And whatever they say, you'll do?

19 A. Yeah.

20 Q. Okay. And that's in March?

21 A. Yep. Yes, ma'am.

22 Q. Okay. And I apologize if I should have
23 asked this to Dave Sederquist, but the one thing
24 about the three-year rate increase plus the -- you
25 know, well, four-year terms is we don't really get

1 to see what the revenue needs are each year and it's
2 sort of -- I know you spell out -- Dave spells out
3 in his testimony, you know, from a, you know, large
4 kind of thousand-foot view what you're spending
5 money on, but it's very difficult to determine like
6 what North Dakota's share of that would be or when
7 those expenditures are going to come into play.

8 If you can -- if you guys have filed
9 something more specific that you can direct me to,
10 that would be helpful.

11 A. I'd love to help you. It's a little bit
12 outside of my realm of resource planning.

13 MR. SIMPSON: Commissioner, we have filed
14 a set of work papers tying the capital expenditures
15 described in Mr. Sederquist's testimony to capital
16 addition numbers which then tie out to revenue
17 requirements. The work papers also include
18 additional information with respect to our operation
19 and maintenance drivers, and it was our goal with
20 those work papers that we'd be able to tie out
21 exactly your question, here's what we see.

22 Unfortunately, because they're forward-
23 looking, we have filed those work papers as trade
24 secret, but they are available for the
25 Commissioners' review.

1 COMMISSIONER FEDORCHAK: Is it by year?

2 MR. SIMPSEY: Yes.

3 COMMISSIONER FEDORCHAK: Okay. Great.

4 Thank you.

5 JUDGE WARD: Okay. Anything else for
6 Mr. Wishart? Okay. You may step down, sir.

7 THE WITNESS: Thank you very much.

8 JUDGE WARD: Ms. Valley.

9 MS. VALLEY: Thank you, Commissioners,
10 Judge Ward. We do not intend to call any other
11 witnesses, unless the Commissioners have additional
12 questions.

13 JUDGE WARD: Commissioners? Anybody else?

14 COMMISSIONER KALK: I have one question.
15 Maybe you can answer it. The deferred accounting,
16 if we can use deferred accounting to credit the --
17 instead of refunding money back to the customers, if
18 we can use deferred accounting to keep that money in
19 a pool, why can't we use deferred accounting to
20 overcollect the first year and then earn it through
21 the next three years? So whoever can answer that
22 question.

23 MR. SIMPSEY: Commissioner, I think we'd
24 be comfortable looking at creative solutions, if
25 that's what you're recommending and seeing what

1 deferred accounting can actually do for us. Again,
2 we've put 5-5-5-0 together because it really does
3 create a simple way to manage all that without a lot
4 of accounting gimmicks, but, you know, it's
5 certainly something we can talk about with --

6 COMMISSIONER KALK: As long as it's legal;
7 correct?

8 MR. SIMPSON: That's exactly right. As
9 long as it's legal.

10 COMMISSIONER KALK: Okay. Thank you.

11 JUDGE WARD: So you are resting your case
12 in chief?

13 MS. VALLEY: Thank you, Your Honor. Yes.

14 JUDGE WARD: All right. Mr. Norrell.

15 MR. NORRELL: Thank you, Your Honor. I
16 would call Mike Diller to the stand, please.

17 JUDGE WARD: Mr. Diller, you know the
18 drill.

19 Do you promise to tell the truth, the
20 whole truth and nothing but the truth in this
21 proceeding?

22 THE WITNESS: I do.

23 JUDGE WARD: Thank you.

24 MR. NORRELL: Thank you, Judge.

25

1 the 2 on line 21. Line 21, the number, ratepayers
2 about 1.2 million, not 2 million, but 1.2 million a
3 year.

4 And then if you move down to line 29, I
5 would like to scratch out beginning with
6 "incorporating," and then onto the next line through
7 forego and replace that with "discussing the
8 possibility of foregoing." So that would read
9 rather than, "We have already begun that process by
10 incorporating into the settlement our agreement to
11 forego," it would read, "We have already begun that
12 process by discussing the possibility of foregoing
13 North Dakota's participation in both the Odell and
14 Pleasant Valley wind projects."

15 And that's all the changes I have.

16 MR. NORRELL: Thank you. Your Honor, I
17 would tender this witness for cross.

18 JUDGE WARD: Who is going to do it?
19 Mr. Simpser.

20 MR. SIMPSEY: No questions, Your Honor.

21 JUDGE WARD: Ms. Valley.

22 MS. VALLEY: Thank you. No questions,
23 Your Honor.

24 JUDGE WARD: Okay. Mr. Armstrong.

25 MR. ARMSTRONG: Just a couple.

EXAMINATION

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BY MR. ARMSTRONG:

Q. Mike, Mr. Diller, you've been sitting here for the company's presentation of its case and this is a review of a comprehensive settlement agreed to by advocacy staff and the company. Some of the issues that have come up, one of them is the 5-5-5-0. Why is advocacy staff comfortable and agreeable to that mechanism?

A. Thank you for that question. We -- during the negotiation process, as you might imagine, the 5-5-5-0 that was necessary to cover investment costs appeared to be going to be made in the future, that was a little hard for us. It was really the only thing hard about the settlement agreement. I agree with what I've heard, I think it was Mr. Sederquist talking about, you know, really the company is giving on just about everything in the settlement other than the 5-5-5-0. That is what we gave in this process.

After looking at the forecast for investment and operating expenses and after having some discussion and explanations of what would be causing those drivers of future needs, I agreed in principle to the 5-5-5-0 just because -- because as

1 long as -- I should say as long as there was a
2 backstop in place. It's really difficult to project
3 out three or four years with any certainty. A lot
4 of things can change in that time frame. And so
5 with that backstop of sharing and even the force
6 majeure that we've not talked about today, but the
7 fact that if something were to occur outside of the
8 company's control more than \$1.5 million up or down,
9 we would have recourse. I mean, those two things
10 together gave me some comfort in swallowing really
11 the only pill that advocacy staff had to swallow.

12 Q. I want to go through that in a little bit
13 more detail. But you had mentioned a discussion
14 about the revenue requirements in talking about the
15 company. Were you, advocacy staff, comfortable with
16 their numbers and you've heard the testimony today
17 that the 5-5-5-0 is expected to meet their -- now I
18 lost the language?

19 A. Revenue requirements, future revenue
20 requirements.

21 Q. Yeah. And you were, I guess, persuaded
22 that that was at least accurate or close enough to
23 justify those amounts?

24 A. Well, I think about all I can say to that,
25 Mitch, is what I just said. I don't know that -- I

1 certainly wouldn't attest -- I wouldn't attest to
2 the numbers, but I asked all the questions that I
3 thought needed to be asked. They provided answers
4 to those questions. Was I 100 percent certain when
5 we were done that, yeah, those are the exact
6 numbers? Well, of course not. I know they're not
7 the exact numbers. These are three- and four-year
8 projections. I'm comfortable enough with those
9 backstops that I talked about to agree to the terms
10 of the settlement agreement and, of course, I'm
11 thinking about all the other benefits of the
12 settlement when I make that decision.

13 Q. And I'll ask the first question. You keep
14 referring to it as backstops, but what in the
15 settlement are you referring to specifically as the
16 backstops?

17 A. Sure. Well, first of all, the sharing
18 agreement and it's an asymmetrical sharing
19 agreement. If they underearn, then the company eats
20 those losses. If it's an overearning situation in
21 any of those given years, then, in fact, the company
22 would keep half of that excess and the ratepayers
23 would get half of that.

24 Q. You had also mentioned the force majeure
25 part of it. What is that?

1 A. Well, it's contained on page 31 of the
2 settlement agreement. It's a lot of legal mumbo
3 jumbo, but we cut it down as far as we could, thanks
4 to Sara's work in keeping Zev at bay a little bit.
5 But you can read in there that the \$1.5 million I
6 referenced is on the last line of page 31.

7 And so if you want an example of some
8 practical applications of that, let's say North
9 Dakota has a referendum on property taxes and the
10 State of North Dakota decides we're not paying
11 property taxes anymore to government authorities,
12 that very well probably would cause a \$1.5 million
13 change and so under this force majeure clause then,
14 we, in fact, would be able to capture those savings,
15 but, you know, a while back President Reagan, one of
16 the best presidents ever, I might add, while I'm at
17 it, you know, he lowered the tax rate from I don't
18 remember what it was. Well, close to 50 percent
19 down to 34 percent and then Bill Clinton got to
20 enjoy all of his hard work in his years in office,
21 but, anyway, I'm getting sidetracked. So in that --
22 if that were to occur again, more likely it would go
23 the other way, but that, again, if it's over a
24 million and a half dollars worth of difference, then
25 we would be able to capture that or the company

1 would be able to capture it, up or down, either way.

2 Q. And you mentioned those two and then you
3 also mentioned the other benefits of the settlement
4 and I know it's a long agreement, but why don't you
5 maybe hit the high points that advocacy staff
6 thought were very important?

7 A. Yes, they've been talked about quite a bit
8 today and so I won't give you a bunch of detail on
9 it, but I put some pluses by the ones that I thought
10 were a little more significant.

11 We have had some discussion about the ROE
12 being the lowest. It's probably not the lowest
13 ever, because the records I have only go back to
14 '77. I'm sure interest rates were a lot lower way,
15 way back, but as far as since 1977 and I've been
16 keeping record of ROEs being authorized, the
17 Commission has never authorized anything lower than
18 10.4. Now we're starting at 9.75. So to me that
19 was rather significant. Just the fact that the
20 weighted cost of capital for all three years is
21 under 8 percent, I look at that and I go, you know,
22 it probably is a good time to make investments when
23 you have access to that kind of money. Maybe NSP is
24 actually a lot smarter than we thought by going into
25 this investment phase when they did to access that

1 low money, just like a lot of us have done with
2 upgrading on our houses and taking advantage of low-
3 interest financing.

4 The fuel cost rider reforms, that kind of
5 gets to, I think Commissioner Fedorchak was asking a
6 while back, couldn't we do some of these things
7 anyway? Yes, we could, but the fact of the matter
8 is we haven't, and these seabed projects and these
9 turkey litter burning generation facilities and big
10 batteries and all those things, they, in fact, are
11 going through the fuel clause adjustment right now.
12 We haven't dealt with those, and this is just part
13 of the whole comprehensive nature. Why haven't we,
14 that would be the next question; right? Why haven't
15 you done that, Mike, you're the director of economic
16 regulation? Well, everything boils down to time and
17 in the past our share, our little share of those
18 didn't amount to much, but now time has worn on and
19 Minnesota has gone further and further into those
20 kind of things and so now it's become material and
21 now we're dealing with it. Very nice thing about
22 the settlement agreement.

23 Restacking generation, this is a
24 once-in-a-many-lifetime opportunity. I didn't think
25 I'd ever see the day that we would have this

1 opportunity, and so I think it's fantastic that the
2 company has finally realized that we want to be the
3 drivers of our train just as much as Minnesota does,
4 and so it's providing us with a one-time opportunity
5 to set everything right and then have a framework
6 for dealing with it going forward.

7 I know that it's been pooh-poohed a little
8 bit perhaps with the 2036 deadline for generation in
9 the eastern part of North Dakota. You know, they
10 haven't had any generation here in 100 years, so my
11 thinking when I entered into that agreement is what
12 is another 20 years. In fact, it gives them plenty
13 of time to prepare for it and do it in a way that's
14 beneficial to ratepayers, and so I think that's a
15 beautiful thing. It gives us time to study the
16 12CP. You've heard Dave Sederquist talk about why
17 1CP probably isn't the right answer. I've filed a
18 couple of rounds of testimony and I've participated
19 in informal hearings and talked about situations
20 where I don't think 1CP would work and in other
21 situations I don't think 12CP would work, and so we
22 need to take a holistic approach and I'm not so sure
23 it shouldn't be done in conjunction with the
24 restacking, but we've got -- we can only do so much
25 time -- or so much work in the time that we have and

1 so I get that.

2 Another nice thing about the settlement
3 agreement, it maybe hasn't been talked about too
4 much here today, is that these long -- people are --
5 I think people -- well, Commissioners. I think
6 Commissioners might be looking at this, why in the
7 world does it take you a year or two years to do
8 these kinds of things. Maybe it doesn't take us a
9 year or two to do those kind of things, but it takes
10 a long time to bring other stakeholders, other
11 states along, and so when we reached this settlement
12 agreement, we were thinking can we set this up so
13 that NSP -- the company would have a couple of
14 legislative sessions, for instance, if they needed
15 them. Let's say you can't get where you need to go
16 with the Commission themselves, it gives them an
17 opportunity to do it through legislation. And so
18 it's not like we're dragging our feet or don't want
19 to do it. It is a recognition of the many parties
20 involved, and so I think that's a good thing in the
21 settlement.

22 I guess I put pluses by too many of them
23 here. I think most of the others have already been
24 talked about, Mitch, so I'll just wait for another
25 question.

1 Q. Sure. My next question involves the study
2 on the allocator, because you've heard questions
3 today about that. The first question is what are
4 you envisioning the study to be? You've heard
5 Mr. Sederquist and Mr. Sparby discuss today, but
6 what is -- what are you, as advocacy staff, seeing
7 it be and your involvement in it?

8 A. Thank you for that question. It's
9 interesting. I called Mr. Pavlovic a couple of days
10 ago and I asked him that question because I knew
11 what I had in my mind. I was curious what the
12 expert would have in mind, the jurisdictional cost
13 allocation expert would have. And it was
14 interesting that he kind of laid out the same vision
15 that I have. And so I think it's a principle
16 vision, not based on what the end result will be,
17 but what is a principled approach to this thing.

18 And so my vision is, is that, first of
19 all, you have to look and see -- look at the demand
20 requirements of the total system, of North Dakota,
21 and I think you have to just start laying in
22 resources from old up until the current. And let me
23 talk a little bit about that because it's been a
24 discussion a lot here. Really, we haven't had any
25 difference of opinion between Minnesota and North

1 Dakota until the last ten years when we started
2 going off into the wind, the new wind era, we'll
3 call it, and so I don't anticipate changing anything
4 with the restack up until possibly the last ten
5 years. That's really what the focus is going to be
6 on for me, if we're looking at restacking.

7 I'm sorry. Did I -- did I switch over to
8 restacking?

9 MS. JEFFCOAT-SACCO: You switched over.

10 Q. (MR. ARMSTRONG CONTINUING) We'll come
11 back.

12 A. We'll come back. Should I keep going?

13 Q. Keep going on the allocator and we'll come
14 back to the restack.

15 A. Sorry about that. You can see that I do
16 view that as kind of together. Back to the
17 jurisdictional cost allocation factor. He said,
18 Mike, I think the right way to do it is, and he used
19 a couple of fancy words. We need to do a time-
20 differentiated analysis and a stacking analysis and
21 that's why I got into stacking. I was thinking
22 about his words. And so by that conversation with
23 him, I learned that he's not convinced that 12CP or
24 1CP either one is the right method. He's thinking
25 let's do a more complete study. And then in the

1 end -- in the end if the result is the same as the
2 simple mathematical formula of 1CP, 12CP, 4CP, then,
3 okay, agree to the one that most closely represents
4 the true study results. And so I think his approach
5 is going to be quite similar to what mine would be,
6 but --

7 Q. Are you concerned with the study being
8 undertaken in the sense that you've heard testified
9 today that NSP believes that 12CP is the appropriate
10 allocator?

11 A. I'm sorry. Say the question again. Do I
12 believe what?

13 Q. Are you concerned with the outcome or
14 effect of the study knowing that going in, that NSP
15 believes 12CP is the appropriate allocator?

16 A. Well, I think it's a legitimate concern.
17 I'm not concerned about it. I want to look at two
18 or three different ways myself, and I'm going to
19 demand that it be looked at two or three different
20 ways. I'd like to see -- I'd like to see us pretend
21 like it's a standalone utility company and we just
22 stack the resources in there until we get what we
23 need and then, okay, NSP, you can have the rest of
24 it. I mean, that would be one way to do it.

25 Another way would be -- well, I don't need

1 to get into all those, but, yeah, I'm going to
2 demand that it be done three or four different ways
3 and we're going to look at at least those, plus
4 whatever the company is advocating and now if we
5 have an independent consultant be part of that, they
6 may have their own ideas as well, but -- the risk of
7 NSP jimmying the modeling outcomes under different
8 scenarios is too great. They would be foolish to do
9 that and so I'm not worried about that. I have some
10 confidence in Steve Wishart and his ability to
11 model, so I'm really not concerned. I have my ideas
12 of what needs to be done and there will be -- it
13 won't be one method.

14 Q. And is it your belief that the terms of
15 the settlement allow your ideas to be used in the
16 study?

17 A. That's exactly why we've provided the
18 amount of time that we have.

19 Q. Why is advocacy staff comfortable with
20 keeping the status quo in the meantime, the 12CP,
21 until some future date?

22 A. Really, it's that same -- it's that same
23 argument that this is a big deal and we need -- we
24 need time to do the study and they need time to work
25 with all the other stakeholders, all the other

1 states. It's to provide time for that transition to
2 occur. I mean, we've been using this method for as
3 long as I've been here and then some, so -- and on
4 top of that, I'll just tell you this, that I suspect
5 that what we end up with, because I've looked at
6 this a little bit, I suspect that we'll end up
7 closer to 12CP than we will 1CP. And so that
8 should -- puts my mind, at least, a little at ease.

9 That doesn't make me -- I'm still
10 independent, but I've looked at it enough to
11 think -- to know that 1CP is an extreme here. 12CP
12 is not the extreme. There's other methods that can
13 bring -- 12CP is here, 1CP is here. There's other
14 methods that would be higher than 12CP. I can't
15 really imagine coming up with anything that would
16 end up with a lower result than 1CP would be for
17 North Dakota.

18 Q. And we went -- you started going off into
19 the restacking during the discussion of that.

20 A. I'm excited. It's such a good settlement.
21 I'm sorry. I may be talking too fast.

22 Q. Explain to me what you were talking about
23 with the restack analysis.

24 A. Right. Well, it might be different than
25 what NSP is thinking, but I guess to give -- try to

1 give a picture of what I'm thinking, again, we've
2 had the legacy -- let's call them legacy plants, the
3 plants older than ten years, the legacy plants. You
4 know, they've been in rates for a long time, which
5 makes them generally cheaper than brand-new
6 facilities, and they represent, I think we figured,
7 about 75 percent of the generation assets, these
8 legacy plants, and so I don't expect to argue to not
9 include those in restacking. The Commission has
10 made decisions based on those already, granted ADPs
11 in some cases. And so really we're talking about
12 the last 25 percent of the generation assets, those
13 assets that have been added in the last ten years.

14 And we've identified the ones that really
15 irritate us and it's part of the settlement. If we
16 don't come to an agreement, those are just
17 automatically disposed of. Could there be more?
18 There could be. But we've entered into this
19 agreement with the company to be fair with them.
20 We're not -- let's say -- let's just get right down
21 to brass tacks. Let's say, okay, we want 10 percent
22 renewable energy because that's what the objective
23 is in North Dakota. I mean, wouldn't it be great if
24 we could just pick the wind farms that came into
25 service in the last -- yeah, in the last few years

1 because the cost of wind farms is at an all time
2 low, but we've granted ADPs on some that aren't so
3 low, so how do we -- what's the right mix of those
4 wind farms to accomplish that 10 percent. It would
5 be very unfair of us to say we want the two- cent
6 wind energy and the six-cent energy that we
7 authorized through ADP. We don't want it. I mean,
8 that -- you know, so there's room in this agreement
9 for reasonableness and they're trusting us to be
10 reasonable and they're trusting Minnesota to be
11 reasonable.

12 And so it's -- I'd like to give you a
13 clear, cleaner, easier, simpler answer, but we
14 haven't done the work yet. But what we have agreed
15 to is to be reasonable people and come up with a
16 reasonable solution and then be able to convince the
17 Commission that it is, in fact, reasonable.

18 Q. And at least for the restack, if there's
19 not an agreement reached, the settlement has some
20 concrete terms for what happens if that's the case?

21 A. As near as we can tell, \$5.7 million
22 savings to customers beginning January 1, 2016.

23 Q. And as far as the allocator and the
24 results of the study, that would be something that
25 maybe would be argued in a rate case in the future

1 or some sort of an agreement be reached?

2 A. Well, if I remember, we're going to have
3 that work done by July 2014.

4 Q. And that's -- maybe you can help me on
5 that, but is there intended to be or written into
6 this settlement some sort of resolution of the CP
7 issue, or is it just a study of it; correct?

8 A. That's correct. We will work hard to come
9 up with a solution and then the company will file
10 that before the Commission and we'll have a hearing
11 on it.

12 MR. ARMSTRONG: I'll pass you off to
13 Ms. Jeffcoat-Sacco now and check my notes.

14 MS. JEFFCOAT-SACCO: You've taken every
15 question I could possibly have had, except for one
16 or two.

17 EXAMINATION

18 BY MS. JEFFCOAT-SACCO:

19 Q. And if you look at your notes, you
20 probably have those covered too.

21 A. I'm not a lawyer. I was just going to
22 anticipate the question.

23 Q. No, I won't ask you anything legal. I
24 wondered if you had thought about writing into this
25 settlement and the company doesn't have to

1 constantly file ADPs? You know, given what you're
2 doing with restacking, that sort of seemed implied
3 to me, but I wasn't sure it was really there,
4 although talk about saving resources, that might be
5 something you should consider. Or would staff be
6 more comfortable if the company also, even with the
7 restacking, came in for ADPs.

8 A. I like ADPs. I made that argument and so
9 I don't know that I can back off of that now.
10 There's been some -- I think some mixed ideas from
11 the Commissioners themselves about whether it's good
12 or bad and I like dealing with them when they --
13 when the decisions are being made as opposed to
14 sometimes two or three years later if we're in a
15 non-rate case filing mode. It's just easier to deal
16 with them upfront and it gives the opportunity to
17 dedicate a little more time and resources to one
18 issue, as opposed to in a rate case, you know, 20,
19 30, different issues. I get your point and I'll
20 think about it some more, but off the top of my
21 head, I like the filing of ADPs.

22 Q. Okay. My other question just concerns the
23 alternative, the possible alternatives that the
24 company said they were willing to discuss of, you
25 know, 3.75, 3.75 for four years in a row or 10-0-0.

1 Do you have an opinion for us or what's
2 your perspective on that of the pros and cons?

3 A. The pros and cons. Probably not much
4 beyond what has already been addressed.
5 Commissioner Kalk talked about deferred accounting.
6 Certainly, I think you could defer the recognition
7 of revenue as long as you had the order written by
8 the PSC. And so that would be possible. You read
9 in my testimony that it creates a little bit of an
10 intergenerational issue, customers in year one
11 paying more than they should so the customers later
12 are benefiting from, you know, customers in year
13 one.

14 I guess it's as good a time as any. I
15 mean, I suggested to the company at lunch that maybe
16 it seems to me like, if I can read body language and
17 questions coming from the Commission, that 5-5-5 and
18 0 seems to be a real sticking point. I mean -- and
19 so I suggested to the company that maybe they should
20 think about let's offer a two-year deal. Okay.
21 2013 and 2014 just stick with interim rate levels
22 already in today, in force today, keep the refund we
23 were planning on making and then you can't file
24 until 2015. So essentially no rate change other
25 than what's already been changed to date and then

1 you would be able to file for a rate increase
2 January 1, 2015.

3 The bad side about that -- I mean, I'll
4 tell you, I actually think that's a benefit to the
5 company. And I'm a ratepayer advocate. And so
6 you're saying why would you even say that then,
7 Mike? I'm trying to save a lot of good things, a
8 lot of good work that's in this thing, and so that's
9 why I would do it. Why do I think it might end up
10 being worse than 5-5-5-0? They may very well come
11 in on January 1, 2015 and ask for 5 and another 5
12 for 2016 and then I've lost; right? But if the
13 concern is all about too many rate increases in a
14 row, that's something that I've raised with the
15 company, they're not so sure about it. They're
16 thinking about it.

17 And so we, as parties to the case, we have
18 heard -- we've heard, I think, we're trying to guess
19 what the concerns are, but -- and so that's what I
20 suggested at lunchtime. Thanks for asking.

21 Q. Well, thanks for answering, but I'm
22 assuming from your answer that your preference as
23 staff is still what's in the settlement?

24 A. That's right. I mean, I signed the
25 agreement. That's why I'm here today, is to support

1 the agreement. I think it's probably a better
2 solution long-term for ratepayers than what I just
3 talked about, but I am willing to support that
4 alternative if it means we rescue the rest of the
5 good things that are in this settlement.

6 MS. JEFFCOAT-SACCO: Thank you. That's
7 all I have.

8 JUDGE WARD: Questions for Mr. Diller from
9 the Commissioners? Commissioner Fedorchak.

10 COMMISSIONER FEDORCHAK: I do.

11 EXAMINATION

12 BY COMMISSIONER FEDORCHAK:

13 Q. Thank you, Mike, for your work on this and
14 for your testimony so far and the pre-filed stuff as
15 well. As long as we're kind of talking about the
16 5-5-5-0, I'll start with those questions.

17 You've been here for -- since?

18 A. 1987, October 11th.

19 Q. Okay. And I'm looking back on the little
20 summary that Ms. Cardwell provided in her testimony
21 for the general rate increase, for that hearing, and
22 she compiled a table of all the past rate increases
23 for NSP, which is very helpful.

24 A. Did you take those off of my sheet?

25 Q. I'll just go through them. You don't need

1 to look at them. There's eight of them on there and
2 five of the eight are greater than 5 percent?

3 A. I only have seven, but --

4 Q. I go -- anyway --

5 A. Unless we're counting this -- are we
6 counting this file, too?

7 Q. Maybe the two in 2010 are combined in
8 yours, but mine are separated. If you combine those
9 and there's seven, then actually six of the seven
10 are higher -- anyway, more of them are higher than 5
11 percent. That's my whole point here. I'm trying to
12 think about this in terms of customers and the
13 likelihood -- we know the company has revenue needs
14 and they're going to be -- if we don't give it to
15 them all at once, they'll be back again for another
16 rate increase. And, I mean, obviously, if you're
17 going to be pure to the process, the best way would
18 be to take them each at a time and give the company
19 what they need each time?

20 A. That's right.

21 Q. But there's enough -- you've put together
22 the settlement and there's some advantages to
23 avoiding the annual rate increases, so here we have
24 an opportunity to look at the 5-5-5-0 and we need to
25 weigh, at least in my opinion, we need to weigh

1 whether it's likely that we would give the company
2 more if they -- be in a position to have to give
3 them more, if we could give the customers a better
4 deal now. And you've analyzed the working papers
5 and you said you feel comfortable with what's been
6 provided.

7 With your experience here, I guess two
8 things, what do you think the chances are that we
9 would have to give them more in a future rate case
10 than the 5 percent?

11 A. If we're talking -- so we're not talking
12 about my 8 percent deal. If the Commission
13 generated a 2013 test year order of 5 percent, what
14 are the chances we'd end up giving them more than
15 the 5-5-5-0? Because this is February -- I mean,
16 January 2014 and I don't believe they've started
17 working on another rate case, and it takes a while
18 to develop it, so how soon could they get another
19 rate case in here if Dave Sparby was standing over
20 Ann and the rest of them. You know, it's a big
21 company and they've got other things going on. It
22 might be six months before they could actually get
23 one filed. I don't know. They would be better able
24 to answer that. And so you could capture -- by
25 doing what you're suggesting, you could probably

1 capture six months. If you get what I'm saying, you
2 could capture six months of time by doing that. And
3 so then the question becomes, okay, so that six
4 months we capture here, is that worth more than the
5 12 months of promise not to increase rates in 2016.

6 Q. What I'm interested in knowing is what you
7 think the likelihood is that if we have to go back
8 into a rate case, is it going to be more than 5
9 percent after this, if we reject this and --

10 A. I guess I didn't get around to drawing the
11 conclusion of what I said there. So, in my mind --
12 in my mind, I think that it would be fairly close.
13 If they can't file a rate case within the next six
14 months, the end result might be fairly close. I
15 mean, of course, we wouldn't have any -- we wouldn't
16 have some of the other things that are in the
17 settlement agreement.

18 Q. Benefits?

19 A. But I think it might be pretty close.
20 We'll know in four years, we'll be able to look back
21 and see.

22 Q. Okay. So I'll switch gears a little bit.
23 This is kind of just a technicality, but I don't
24 recall anything about a renewable energy rider in
25 the actual rate case. Was that something you guys

1 added in? I don't recall that request. I remember
2 a transmission --

3 A. I don't recall it, either, but it -- yeah,
4 they don't have a renewable energy rider and it is
5 in the settlement agreement.

6 Q. So tell me why you agreed to that, what
7 you think the benefits are, because it's another
8 source of income for them?

9 A. Right. I mean, it's a package deal;
10 right? You have so many dollars of revenue
11 requirement and how do you get there. And so we
12 penciled in if we enacted a renewable energy rider,
13 how much additional revenue would that bring in, and
14 so that's part of the whole figuring out, you know,
15 how we could minimize or live with the 5-5-5-0.
16 That was just -- the same thing with the
17 transmission rider. There's additional revenues
18 coming in there too, but that was factored into the
19 overall revenue requirements.

20 Q. So where we're saying and the company has
21 said that they originally requested 9.25 percent or
22 whatever the increase was --

23 A. Yeah, 9.25.

24 Q. -- and this is 5 percent, they're taking
25 the money from DOE, that helped --

1 A. Right.

2 Q. -- and those used to go back to
3 customers --

4 A. Yeah.

5 Q. And they're also getting another rider,
6 two riders, so the net savings to customers isn't 4
7 percent?

8 A. Oh, between the 9 and the 5?

9 Q. Yeah.

10 A. Well, this is trade secret information,
11 but if I can look at that real quick. I thought I
12 brought a copy of that in here. So I don't know if
13 the rider amounts --

14 THE WITNESS: I mean, this isn't trade
15 secret, just the blocked-out; right?

16 MR. SIMPSON: (Nods.)

17 THE WITNESS: Yeah, the transmission
18 recovery rider adds \$3 million a year beginning in
19 2014. And the renewable rider adds \$1.2 million in
20 2015. I guess under the settlement agreement 2016
21 doesn't matter. Well, yeah, it does, it increases
22 to \$2.7 million, \$2.8 million in 2016. The DOE
23 proceeds you talked about was a \$3.9 million offset
24 in 2013 and a \$1.3 million offset in 2014.

25 Q. (COMMISSIONER FEDORCHAK CONTINUING) All

1 right. So if we were to -- we could take all those
2 figures and calculate a total customer -- percentage
3 customer increase?

4 A. Yes, we could.

5 Q. Did you happen to do that?

6 A. I didn't.

7 Q. Okay. We can do that and get that back at
8 some point.

9 A. Okay.

10 Q. Okay. Let's see. On the stacking --
11 restack proposal -- I'll let you finish writing
12 that.

13 A. Yep.

14 Q. Are you concerned that the restacking will
15 bind us and not allow us flexibility to adapt to
16 this pretty widely fluctuating landscape moving
17 forward with new technologies coming on that are
18 real expensive at first and come down in price over
19 time? I mean, is this the time to be committing to
20 a certain portfolio of resources?

21 A. Well, I'm trying to think of a
22 sophisticated way to say this, but I can't. I'm not
23 sophisticated.

24 Q. Me, either.

25 A. We're going to apply reasonable minds to

1 restacking the generation resources and we will
2 consider -- we will consider the political landscape
3 as we do that and we will consider the hedging that
4 various resources provide. And in the end, we're
5 going to have to bring that to you and ask for your
6 approval of it, so -- which you may or may not
7 agree, but I look forward to the opportunity to do
8 just that, though.

9 Q. Okay. So this list of projects that are
10 the recourse for getting the company to negotiate,
11 you've mentioned that we could have rejected those
12 over the years. And I think you started to say why
13 we didn't, but it's a lot of projects --

14 A. Mm-hmm.

15 Q. -- and I'm curious, what is it about the
16 momentum of these things that prevents during the
17 ADP process or rate cases from rejecting projects
18 that don't make sense to us?

19 A. Sure. Well, if you look at Attachment E,
20 that gives you an idea of the size of these things,
21 12 megawatts, 5 megawatts, 30 megawatts, and when
22 you apply our 5 percent share of those it gets down
23 to what's 5 percent of 20 megawatts, 1 megawatt
24 that's our share, so it just didn't rise to the
25 level of concern, but, you know, when you get 23 or

1 5 of them, then it starts to add up. It turns into
2 real money, so --

3 Q. So we have a critical mass now that we can
4 see?

5 A. And to further address your question, the
6 automatic nature of fuel clause adjustments each
7 month makes it easy to not fight every one of these
8 that comes through. And that's, again, part of the
9 beauty of the settlement agreement. It provides an
10 alert to the Commission not once, but twice; once
11 when it first comes through the fuel clause
12 adjustment and then annually, which the settlement
13 agreement gives the Commission six months after that
14 annual alert is provided to us, these things are now
15 going through the fuel cost adjustment, here's what
16 they're costing, here's the type of resource they
17 are and the Commission has six months to say yea or
18 nay, and so it fixes this rather systemic problem, I
19 guess.

20 Q. Okay. I'm glad you brought up that
21 component, because I wasn't sure when reading the
22 settlement, do we just get alerted once, or are we
23 alerted first when they're coming on and then --

24 A. Both.

25 Q. Both?

1 A. Yeah. Yeah. If it comes in in the month
2 of July, part of the fuel clause rider letter will
3 alert us that we've added this new resource and this
4 is the cost and be aware and then we get the same --
5 we get a list of them at the end of each year so
6 that if we don't deal with it that month, we have
7 another opportunity to deal with it at the end of
8 each year.

9 Q. They're automatically -- they
10 automatically start, right, charging customers and
11 if we decide we don't like them, they have to
12 refund?

13 A. You know, I don't know if we addressed
14 that. Again, most of these are so small and they're
15 going to continue to be small because they have to
16 continue -- unless we change the rules, they have to
17 continue to file ADPs for anything 50 megawatts or
18 greater so they're going to continue to be small.

19 Q. But maybe that's something to look back on
20 the mechanism for refunds, because I was looking for
21 how those would be handled.

22 Okay. Then I have one more question about
23 the rate cases, but I'll come back to that and ask
24 you to explain your costs in your testimony that you
25 just filed last week, if you want to explain your

1 other creative idea on the allocation.

2 A. Oh, sure.

3 Q. Page 9 of your --

4 A. January 17. Well, now that my kids are
5 away at school and sometimes I'm sitting there
6 drinking wine in my living room all by myself and I
7 think about silly things like this and that's, in
8 fact, what happened here, and I just got to thinking
9 about, wow, there's so much argument about this and
10 so much confusion and there's 49 different ways to
11 do this and isn't there some way to make this
12 easier.

13 And so here's my attempt to throw out an
14 idea. And at first I thought that's crazy, Mike,
15 but then I started thinking about the benefits of
16 setting a fixed share of generation and assets going
17 forward and the thing that really got me going and
18 the reason I ended up putting it down on paper was
19 the rest of the states could still use 12CP.

20 Q. So how does it work? What do you envision
21 here? I didn't quite get it.

22 A. Well, so let's make it simple. Let's say
23 NSP just decided, yeah, Mike, whatever assets you
24 want, generation assets you want for North Dakota --
25 to meet North Dakota's requirements, we'll give you

1 6 percent fixed in time forever, forever more. And
2 so then what that would mean, Commissioner, is that
3 the other states would end up using 12CP to allocate
4 94 percent of the generation assets. We wouldn't
5 need cooperation with the various states. They
6 could continue to use the same methods they've been
7 using. Now, on the negative side of that, though,
8 would be what if -- and that's occurring today.
9 It's a little unusual. Typically, in years past,
10 Minnesota load has been growing faster than North
11 Dakota's, but recently that's changed and so the
12 North Dakota load is growing faster than Minnesota,
13 and so maybe we don't want a fixed level of
14 generation. Maybe we want to ride that wave a
15 little longer and capture a little higher percentage
16 of those cheap legacy plants through some kind of
17 allocation factor to be determined in the future,
18 but it was just an idea.

19 Q. What about other costs, the non-generation
20 costs? I mean, how would those be allocated?

21 A. Much in the same way they are today. Some
22 are direct assigns. Some are indirect. Some come
23 through a general allocator. I mean, it would be
24 the same that they're being allocated today.

25 Q. The 12CP?

1 A. Oh, no. If generation was fixed for these
2 plants, you wouldn't worry about 12CP or 1CP. It
3 would be like having your own utility company. When
4 you buy generation asset, let's say 100 megawatts,
5 doesn't matter, 100 megawatts, if you buy it, it's
6 yours. If you need more or less, you have to make
7 accommodations, but you always have 100 megawatts.
8 In this case it would be the same thing, only we
9 would just have little pieces of all the NSP
10 generation facilities.

11 Q. But what about the costs for their, you
12 know, home office and all these other costs, how
13 would those be allocated? Six percent?

14 A. No. The demand allocator is just used for
15 allocating demand. And so home office would be a
16 general office-type expenditure that would be
17 allocated based on -- I don't recall offhand how
18 they allocate those kind of things. Could be based
19 on a factor based on number of employees, assets in
20 North Dakota, you know, those kinds of things.

21 Q. Mm-hmm. I see what you're saying. Okay.
22 Good.

23 A. Based on cost causation.

24 Q. And this can be one of the ideas that you
25 guys discuss?

1 A. Just one idea. And I think I was clear as
2 to why I stuck it in there. I wanted to hear a
3 response from the company and then, too, I just
4 wanted to show the Commission that we haven't even
5 come close to identifying all the potential ideas
6 that might come of more work, more study.

7 Q. Okay. And my last question is kind of
8 back to the multiyear agreement. I wanted to get
9 your thoughts. Dave Sederquist, you know, mentioned
10 that he's not so sure that in today's environment,
11 you know, annual rate increases are the way to go,
12 these multiple year might have some benefits.

13 What are your thoughts from a consumer
14 advocacy side, what's -- you know, is there an
15 argument to be made with the public that this is
16 better for them for what reasons in today's
17 environment?

18 A. I think -- I don't know if I have any
19 different words than I've already used answering
20 that a little earlier. And that is if -- in my --
21 based on the information that I've looked at, based
22 on the financial information that they provided me,
23 their forecast, if they come in as they forecasted
24 them, entering into a multiple-year agreement that
25 has zero for the last year would be better than

1 having a rate increase every year for the next four
2 years.

3 That is if -- and that's why I talked
4 about the delay in filing rate increases. If the
5 company is on top of their game and they get rate
6 cases filed in North Dakota in a timely manner as
7 they need them, which if their forecasts are right,
8 they need them every year, and so it's a little bit
9 of a gamble, so to speak, that we're just going to
10 give you 5 percent and good luck.

11 They might -- in the end -- in the end it
12 might harm ratepayers. It might be beneficial to
13 ratepayers. That would be outside of my control.
14 It's within their control. And it would be almost
15 like we were talking about the fuel cost adjustment,
16 Mike, why haven't you dealt with those in the past.
17 It will depend on their time, you know, and what
18 they're dealing with. We're a very small piece of
19 the NSP pie, so if they're distracted from North
20 Dakota and working on Minnesota rate cases,
21 Wisconsin rate cases, then I'd say one year the
22 ratepayers might benefit from that.

23 COMMISSIONER FEDORCHAK: Okay. That's all
24 my questions for now.

25 JUDGE WARD: Chairman Kalk.

1 would be another way of doing this and another way
2 that I'm going to want to see in the study, but
3 without checking, I can't testify 100 percent sure,
4 but I'm pretty sure their LCP method is different
5 than what has been proposed so far here today.

6 Q. Thank you, Mike. That's the conclusion I
7 came to as well. I just wanted to hear the same
8 thing.

9 A. You were just checking up on me.

10 Q. No, I just wanted to see if I read it the
11 same way. It just verifies there's a gazillion ways
12 to do this.

13 A. There is.

14 COMMISSIONER KALK: Thank you, Mike.

15 JUDGE WARD: Commissioner Christmann.

16 EXAMINATION

17 BY COMMISSIONER CHRISTMANN:

18 Q. Mike, if the study is done on the
19 allocation model, do you envision this as a study to
20 see what model would be best for North Dakota or
21 what model would be best for the company or what
22 model would be best for most states in general?
23 What do you think the study is seeking to learn?

24 A. D. Neither A, B, C, but D. And D is, I'm
25 interested in determining what the fair cost of

1 these assets are to North Dakota. That's my
2 objective. I am -- I'm a principle-driven person
3 and so the direction of the study is going to be
4 based on principles, not on outcome. I think that's
5 a terrible way to do things, because then you run
6 the risk of being overturned in court and looking
7 like a numbskull head. So you want -- I maybe
8 shouldn't have said that. That was over the top.
9 Sorry.

10 You want to determine the right allocation
11 of costs, the costs that are being caused by North
12 Dakota to be paid by North Dakota because you want
13 to be able to clearly show that you've studied it,
14 you've done your work, and that reasonable minds
15 have come to a reasonable conclusion and that will
16 stand up any day in a court of law, because they're
17 going to defer some to this agency because this is
18 the agency of experts.

19 Q. But fair and reasonable are in the eye of
20 the beholder. What's fair and reasonable for North
21 Dakota's share will likely be one model and what's
22 fair and reasonable for South Dakota or Minnesota's
23 share might be another model and if it turns out to
24 be three different ones, what's fair and reasonable
25 for the company they might say is to have a blend of

1 the three or something so that they only have to
2 deal with one. So I don't think that that is
3 something that is black and white, what is fair and
4 reasonable.

5 So I still need to know, are we talking
6 about specific to North Dakota, or is the fact that
7 it's much more convenient for the company to have
8 only one model to deal with a factor in this?

9 A. It certainly is more convenient for the
10 company. Certainly, they're going to have their own
11 interests at heart. They have a fiduciary
12 responsibility to their stockholders, and I get
13 that, but that's not my concern. I'm not concerned
14 about what might be good for South Dakota or
15 Minnesota. I'm -- my concern in the process will be
16 what is the right share of cost for North Dakota.
17 That's it.

18 Q. Okay. And you're convinced that that's
19 what their goal and finding in the study as well?

20 A. I guess you'd have to ask them. You'd
21 have to ask them.

22 Q. Okay. With the annual percentage
23 increases, let's just assume that it were going to
24 be the 5-5-5 and 0, what would be the benefits or
25 the negatives of lowering that to some other level

1 and not sending out the refunds for the overcharge
2 from the interim rates and just lessening it by
3 whatever is a fair amount to lessen it by?

4 A. Right. I don't -- I think the company
5 would be ambivalent to that. I had this
6 conversation with Sara at lunchtime. Sara said,
7 Mike, people like refunds, you've got to stay with
8 refunds, and I appreciate that, but in the end how
9 the people get their money back, whether it's
10 through lower rates or through a credit on their
11 bill or a check in the mail as we've done in times
12 past, to me it doesn't make any difference.

13 Q. And that number, whether it comes in the
14 form of a refund or in lower rates, the longer this
15 takes us to get things wrapped up, that's a
16 continually changing number every month; correct?

17 A. That's right.

18 COMMISSIONER CHRISTMANN: Okay. I have no
19 other questions.

20 JUDGE WARD: Commissioner Fedorchak.

21 COMMISSIONER FEDORCHAK: One follow-up to
22 that.

23 FURTHER EXAMINATION

24 BY COMMISSIONER FEDORCHAK:

25 Q. Wouldn't the logic behind giving the

1 refunds versus holding the money and using it to
2 offset some of the future rate, is that the people
3 paying today might not be the same group of people
4 paying next year?

5 A. This is the intergenerational argument I
6 mentioned earlier.

7 Q. So the people paying today wouldn't get
8 their refund, the people paying in that apartment or
9 whatever tomorrow would be enjoying the benefit of
10 what they pay before?

11 A. Right.

12 Q. So it would be more pure to the customers
13 to give them the refund and charge them the correct
14 amount the next time?

15 A. That would be more pure, yep.

16 COMMISSIONER FEDORCHAK: Okay.

17 JUDGE WARD: I have a sense we're getting
18 near the end here, but I'm wondering if we need a
19 little break? Are we getting close to wrapping up?

20 MR. SIMPSON: I just have one or two very
21 short questions, Your Honor. We might as well try
22 to get them in, unless the other parties have a
23 litany of stuff.

24 MR. ARMSTRONG: I don't have any right
25 now.

1 MR. NORRELL: I only have two questions on
2 redirect.

3 JUDGE WARD: How are you doing?

4 THE REPORTER: Let's take a break.

5 JUDGE WARD: We'll take -- it's five to
6 three. Let's come back at five after three.

7 (Recess was taken.)

8 JUDGE WARD: Back on the record. We're at
9 the stage where Mr. Simpson is going to cross
10 Mr. Diller.

11 Mr. Diller, you're still under oath. And
12 my understanding is that at some point after we're
13 done with Mr. Diller, we want to go off the record
14 to do the trade secret information; is that correct?

15 MR. ARMSTRONG: Yes, Your Honor. This is
16 Mitch Armstrong. We'll be calling Anne Heuer to
17 discuss NSP Exhibit 43, which has been filed as a
18 trade secret protected document.

19 JUDGE WARD: And that's okay with counsel
20 for NSP?

21 MR. SIMPSON: Yes, Your Honor.

22 JUDGE WARD: Okay. Mr. Simpson.

23 MR. SIMPSON: Thank you, Your Honor.

24

25

CROSS-EXAMINATION

1
2 BY MR. SIMPSE:

3 Q. Mr. Diller, just a couple of quick
4 questions. Commissioner Fedorchak raised the issue
5 of riders, and I just wanted to make sure that how
6 we've handled the riders in the comprehensive
7 settlement is clear to the Commission.

8 If you wouldn't mind turning to page 11,
9 I'm reading the paragraph right before the No. 3
10 that starts with, "Consistent with the company's
11 request," and just wanted to make sure that you
12 agree that this language here in the settlement
13 makes clear that the TCR is only being established
14 and that no actual costs will flow through it until
15 they're approved by the Commission?

16 A. That is true, but our revenue forecast
17 included the assumption that the company would
18 actually employ them.

19 Q. That is correct, and that was going to be
20 my next question. Your understanding is that we
21 forecasted some number that would likely be a
22 reasonable proxy, but, again, just to make clear
23 that the actual projects and costs that flow through
24 the rider are still within the Commission's control
25 during the rate term; correct?

1 A. That's right.

2 Q. And then with respect to the renewable
3 energy rider as well --

4 A. Yes.

5 Q. -- same page, just down a ways. Similar
6 to the TCR, is it also your understanding that the
7 settlement here also requires both an ADP and for a
8 project to be located in North Dakota?

9 A. That's true.

10 Q. And, to your knowledge, besides the Border
11 Winds project, would there be any other projects
12 that we are currently aware of?

13 A. No.

14 Q. And if the company -- would the rider
15 allow the company -- or do you believe the rider
16 encourages the company that if it does make any
17 major renewable energy investments during the rate
18 period, that -- to locate them in North Dakota?

19 A. I certainly would.

20 Q. And if they're not located in North
21 Dakota, would they be eligible for recovery?

22 A. If it's an owned wind resource, then you
23 would have to -- presumably, it's a size that you
24 would have to apply for an ADP. If it was a
25 purchase power agreement, I would assume you would

1 you'd utilize the rules in place in North Dakota and
2 flow that through a fuel cost adjustment.

3 MR. SIMPSON: Thank you very much,
4 Mr. Diller. I have nothing further.

5 JUDGE WARD: Mr. Norrell.

6 MR. NORRELL: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. NORRELL:

9 Q. Mr. Diller, sticking with riders, would
10 you agree that rate riders help customers see a more
11 gradual increase associated with new plants, rather
12 than waiting until after it's been built and it's in
13 service?

14 A. It depends. Some riders we put into place
15 actually do -- would allow the company -- well,
16 let's take Big Stone, the Big Stone environmental
17 upgrades as an example. In that case we allowed
18 them to start recovering costs, let's say, day one,
19 when they started working on the project going
20 forward, and so what that -- by doing it that way,
21 it's a gradual increase until the project is done
22 and there's no cost of capital added to that because
23 of the time between when they started and when they
24 finally got the project finished. So if it's a
25 project that you're building and you're accruing

1 AFUDC or cost of capital during that time frame
2 between when you start and when you finish the
3 project, I mean, that's a big chunk if it comes in
4 all at once. So it depends, I think, how it's
5 filed.

6 Q. So riders could have -- could benefit
7 customers in that way by smoothing out the cost?

8 A. We have -- we have done it that way for
9 Big Stone, for example, yeah.

10 Q. Do you have Mr. Sederquist's testimony in
11 front of you, by chance, in your packet at all?
12 This would be --

13 A. Yes.

14 Q. This is Exhibit No. 41.

15 A. Page 41?

16 Q. I'm sorry. No. Page 13. There's what's
17 been termed as figure 1.

18 A. Yes.

19 Q. Earlier in the day there was a lot of
20 question about the drivers behind the costs in this
21 investment cycle. Would you agree that these are
22 some of or the major projects driving those costs?

23 A. Yes, based on, I guess, I've been
24 following NSP for a few years now, and I think those
25 are the big ones, yes. In fact, we've had, you

1 know, ADPs on most of them. In fact, we've had ADPs
2 on all of them, I think. Maybe not Monticello. We
3 had one on Prairie Island for sure. Go ahead.

4 Sorry.

5 Q. No. That's fine. To your knowledge, are
6 there any other major drivers besides the ones that
7 are listed here?

8 A. I really haven't spent any time thinking
9 about that. I mean, the first one that really
10 started this investment cycle, you know, it was
11 indeed those NERC projects and that's the first one
12 you see on there. I think this captures most of the
13 big ones, that I can think of.

14 Q. Okay. And just based on your experience
15 as a consumer advocate, in your opinion, do you
16 think customers like refunds?

17 A. Well, I'm a sophisticated customer and so
18 if they send me a check instead of a credit on my
19 bill, I'm angry. I don't want to have to go to the
20 bank. I'd rather have a credit. But I don't care
21 how they reduce my bill, whether they credit it or
22 just lower my rates into the next year. It doesn't
23 matter to me one way or the other.

24 MR. NORRELL: No further questions.

25 JUDGE WARD: Mr. Armstrong.

1 MR. ARMSTRONG: Nothing.

2 JUDGE WARD: Ms. Jeffcoat-Sacco.

3 MS. JEFFCOAT-SACCO: Nothing. Thank you.

4 JUDGE WARD: Okay. Any of the
5 Commissioners? Mr. Diller, you may step down.
6 Thank you.

7 Mr. Norrell, anything else for the record?

8 MR. NORRELL: No, Your Honor. The
9 advocacy staff would rest its case.

10 JUDGE WARD: Mr. Armstrong.

11 MR. ARMSTRONG: Your Honor, at this time
12 I'm going to call Anne Heuer.

13 JUDGE WARD: I think what I'll do is, I'll
14 swear Ms. Heuer on the record and then we'll close
15 the record after she's identified as to who she is.

16 MR. ARMSTRONG: Your Honor, if I could
17 just -- before we close the proceedings, I want to
18 ask her identifying information, establish the
19 foundation for what I'm going to ask her about.

20 JUDGE WARD: Yeah.

21 Ms. Heuer, you've been in the room, I
22 think, all day. You heard the perjury admonition
23 this morning?

24 THE WITNESS: Yes, I did.

25 JUDGE WARD: Raise your right hand,

1 please.

2 Do you promise to tell the truth, the
3 whole truth and nothing but the truth in this
4 proceeding?

5 THE WITNESS: Yes, I do.

6 JUDGE WARD: Mr. Armstrong.

7 ANNE HEUER,

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

10 DIRECT EXAMINATION

11 BY MR. ARMSTRONG:

12 Q. Could you state your name, please.

13 A. Anne Heuer.

14 Q. And who are you employed by?

15 A. Xcel Energy Services.

16 Q. In what position?

17 A. Director of Revenue Analysis.

18 Q. And as part of your employment, have you
19 prepared what we have filed as NSP Exhibit 43, which
20 are settlement work papers? Are you familiar with
21 those?

22 A. Yes, I am.

23 Q. And those have been filed as trade secret
24 documents in this case?

25 A. Yes, they have.

1 Q. All of the questions I have for you relate
2 to those documents.

3 MR. ARMSTRONG: So, Your Honor, I would
4 ask the hearing be closed at this time.

5 JUDGE WARD: Is there any objection?

6 MR. SIMPSEY: No, Your Honor.

7 MR. NORRELL: No, Your Honor.

8 JUDGE WARD: At this time, for purposes of
9 anyone out there listening to the broadcast, we're
10 going to go off the record and deal with some trade
11 secret material. And everybody in the room has
12 signed a confidentiality provision that they will
13 abide by the confidentiality of the trade secret
14 information.

15 MR. SIMPSEY: On the record is fine. Your
16 Honor, I believe we'll still be on the record just
17 under trade secret protection, not public.

18 JUDGE WARD: It will be on the court
19 reporter's record, but we're not going to broadcast
20 out to the public.

21 MR. SIMPSEY: That's fine. Thank you,
22 Your Honor.

23 JUDGE WARD: There was a member of the
24 public here earlier, but she left the room, so as
25 far as I know everybody here is under the

1 confidentiality provisions.

2 Mr. Armstrong.

3 MR. ARMSTRONG: Thank you.

4 (Separate transcript of confidential
5 proceedings was prepared and is not contained
6 herein.)

7 [REDACTED]

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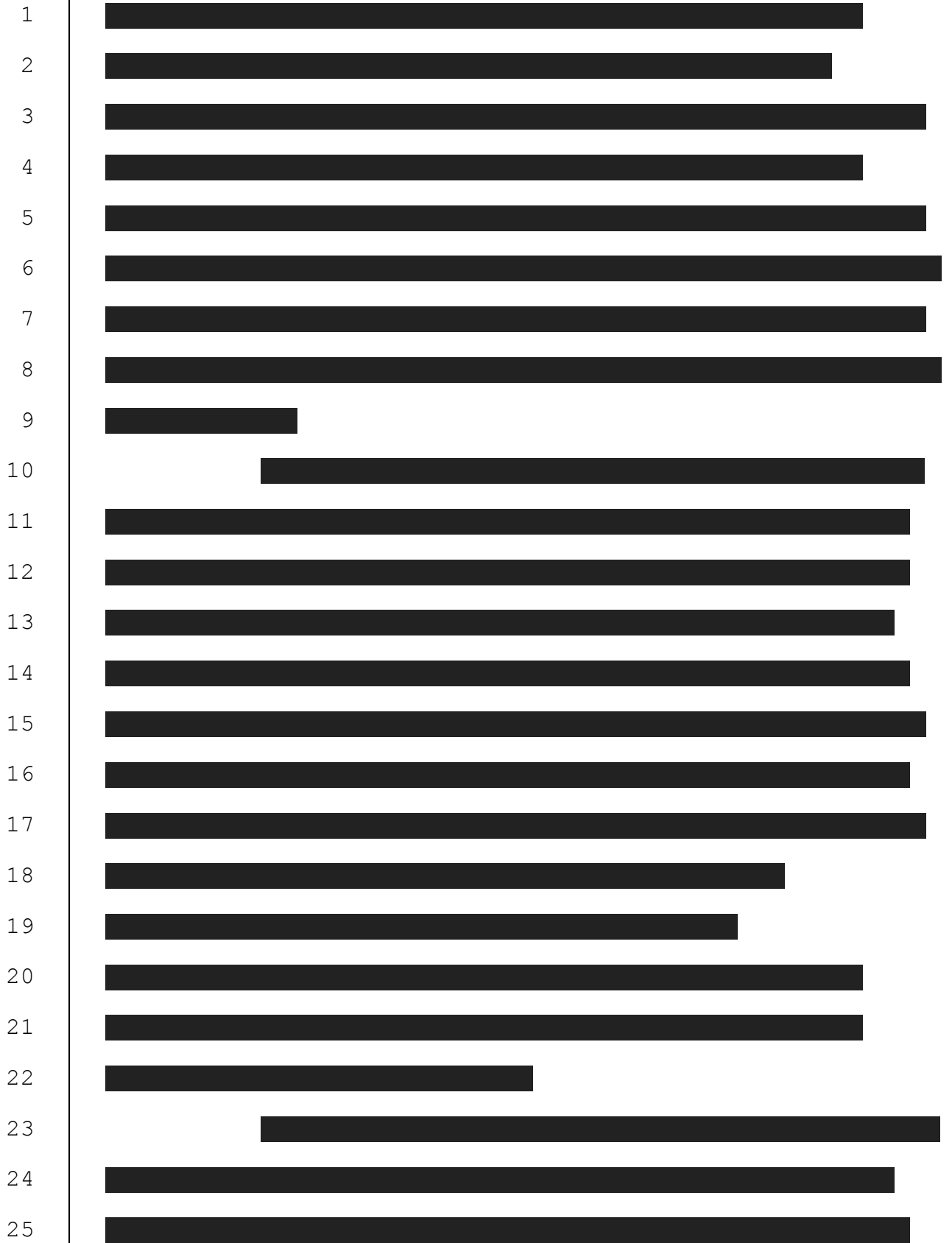
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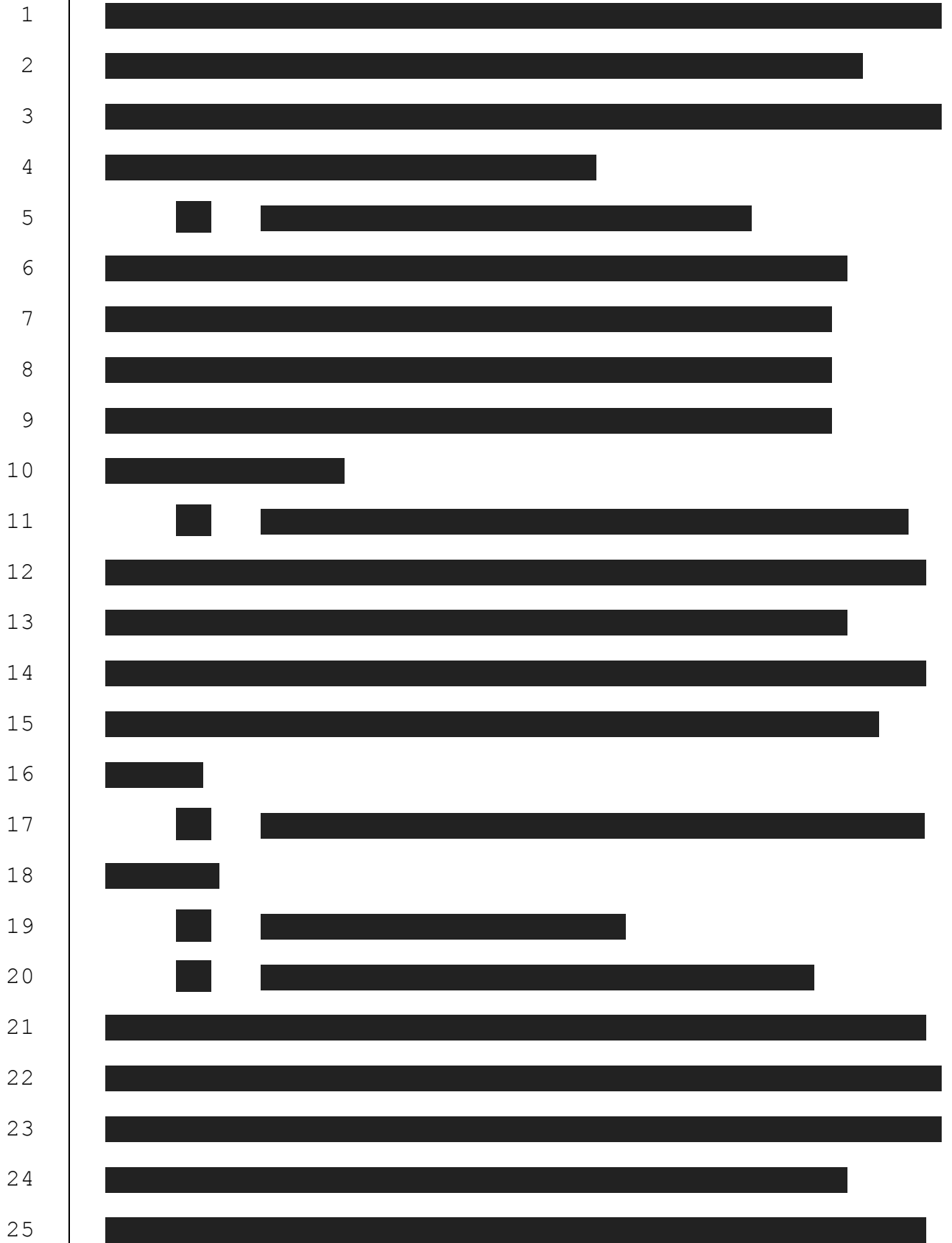


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JUDGE WARD: So those are all collected.

21

All right. We'll start the process to

22

reopen the hearing.

23

Okay. We are back on the broadcast, back

24

on the record after the trade secret timeout, so to

25

speak.

1 Mr. Armstrong, you had called Ms. Heuer.
2 She has now been excused. Do you have another
3 witness to call or anything else to present at this
4 time?

5 MR. ARMSTRONG: No, Your Honor.

6 JUDGE WARD: Ms. Jeffcoat-Sacco just left
7 the room. And I'm assuming she doesn't, either.

8 MR. ARMSTRONG: Correct.

9 JUDGE WARD: Okay. I guess that gets us
10 back around to you, Mr. Simpson. Is there any
11 rebuttal case you want to present?

12 MR. SIMPSON: We have nothing further,
13 Your Honor.

14 JUDGE WARD: Mr. Norrell.

15 MR. NORRELL: No, Your Honor.

16 JUDGE WARD: Mr. Armstrong, nothing more?

17 MR. ARMSTRONG: No.

18 JUDGE WARD: Okay. Do the parties want to
19 make closing remarks here today on the record, or
20 how do you want to approach that?

21 MR. SIMPSON: Your Honor, we have nothing
22 prepared, but if we can be brief.

23 We would appreciate the Commission's
24 feedback and interest in our settlement. We think
25 it's perhaps the best solution on a comprehensive

1 basis to both meet our customers' needs and address
2 some significant policy issues that have been up
3 here in North Dakota for quite some time.

4 We look forward to further input from the
5 Commissioners as we go forward, and we respectfully
6 request that you adopt the settlement.

7 JUDGE WARD: Mr. Norrell.

8 MR. NORRELL: Your Honor, nothing
9 different in substance. I would just echo
10 Mr. Simpson's comments, that I believe the case put
11 on today shows that this is a reasonable settlement.
12 We have explored some opportunities, alternatives,
13 and we have a framework in place that addresses this
14 long term for North Dakota ratepayers, and
15 respectfully request that this Commission adopts it.

16 JUDGE WARD: Mr. Armstrong.

17 MR. SIMPSON: Nothing, Your Honor.

18 JUDGE WARD: Ms. Jeffcoat-Sacco, any
19 closing remarks?

20 MS. JEFFCOAT-SACCO: Nothing. Just thank
21 you.

22 JUDGE WARD: Commissioners, any closing
23 remarks from the Commissioners? Commissioner
24 Fedorchak.

25 COMMISSIONER FEDORCHAK: Sure. Thank you

1 to everybody for sticking with it today and going
2 through this in such detail. I appreciate the
3 company's willingness to beef up the cost allocation
4 study. That was a big improvement, I think, and I
5 feel really good about what could be done with that.

6 For me, the big remaining issue is just
7 the philosophical decision regarding a multiyear
8 decision, so that's where I'm at. I think there's
9 been a ton of progress on so many good things and so
10 I just need to weigh whether I think that's in the
11 best interests of the ratepayers, the customers, and
12 the company, so thank you.

13 JUDGE WARD: Commissioner Kalk.

14 COMMISSIONER KALK: Thank you, Your Honor.

15 Just thank everyone for your testimony
16 today. Dave, thank you for staying around today.
17 Laura, I appreciate whenever you come out, everybody
18 else who made the journey. I'll try to talk slower.

19 I would just go back. Maybe there's some
20 lessons we can learn here, because we have advocacy
21 staff and the company present a settlement agreement
22 today and it's a reasonable agreement and we'll see
23 where it goes, but we also had a rate case that came
24 up with eight different contentious issues before we
25 even into the first hearing; 12CP, 1CP,

1 depreciation, ROE, compensation, so it certainly
2 would have been a lot more helpful to have this
3 settlement agreement, instead of having a hearing,
4 and then we have the hearing and the Commissioners
5 sit down and say, okay, well, you guys can't work it
6 out so here's what we're doing today, and then 12CP,
7 1CP becomes a big issue and we've got a potential
8 \$20 million swing, but you guys could have worked
9 this out before it ever got to the hearing. And
10 that's what it takes, Commissioners pushing things
11 to get this settlement agreement back out.

12 And that's where I'm really back to where
13 we started, in the sense that all the questions I
14 had after the first hearing, I still have a lot of
15 those questions out there and so it's kind of where
16 there's something that the Commissioners did that
17 forced the company to get serious with advocacy
18 staff to come up with this, and that's good, if
19 that's what it takes, but going forward, I'm very
20 eager to make decisions very quickly on this. And
21 if it means pulling out the wind farm for a separate
22 vote and pulling out the gas for a separate vote, I
23 don't think I will -- you never want to rule from
24 the bench, but it's very hard to imagine me
25 supporting this settlement agreement as it is right

1 now, but that doesn't mean it's not a very good
2 settlement agreement. We'll see where this goes.

3 I want to have a work session as quickly
4 as we can and see where my colleagues are at because
5 this has been around far too long. And I think that
6 no matter how this comes out, somewhere in this I
7 think needs to be the full discussion, research,
8 however we want to do it, on the 12CP, 1CP. And, I
9 mean, even a little bit broader, dealing with MDU
10 and Otter Tail. I was talking with Jerry a little
11 bit here back and forth that how we do cost
12 allocation for transmission lines is different, but
13 there's a lot of lessons we can even learn from that
14 because I think there's some really good value
15 driving Xcel doing the great things you do as a
16 completely integrated system. And I'm not convinced
17 we want to give that up as a benefit to North Dakota
18 because that may outweigh the little more renewables
19 you throw in the grid.

20 I think back to my colleague Tony Clark
21 always talked about, you know, solid ratemaking
22 principles. Don't get too squirrely around the
23 edges. Stick with the blocking and tackling of
24 doing rate cases, because we could wake up in 2017
25 and have created a heck of a mess or we could have a

1 great opportunity. We won't know that, but that's
2 why I think you stick with solid ratemaking
3 principles day-by-day, week-by-week so you don't
4 have those big swings for customers.

5 And I do think 12CP provides more
6 stability in the long run. So that's one thing that
7 I have in my mind. So just thank everyone for being
8 willing to listen to my pontification. I'm 100
9 percent committed to getting this to a vote as
10 quickly as possible. I know it's Julie's portfolio
11 on the electricity part of it, but, you know, prior
12 to the settlement agreement I had three orders
13 prepared; one for the rate case, one for the wind
14 farm and one for the gas plant, and so I still have
15 those. So we'll see how quick the work session --
16 if we don't get consensus in that work session, I'll
17 bring those three orders forward and we'll have a
18 vote and see where it goes, so at least we'll have
19 Commissioners forcing those decisions.

20 So thank you all for your time today and I
21 look forward to the work session. Thank you.

22 JUDGE WARD: Commissioner Christmann.

23 COMMISSIONER CHRISTMANN: I think there
24 was a lot of good explanation today and I appreciate
25 that. Some things that to me were show stoppers I

1 now feel maybe aren't quite as important as I
2 thought they were before and maybe aren't show
3 stoppers. However, that doesn't mean that
4 altogether, you know, without some changes, you
5 know, maybe cumulatively they're still a show
6 stopper, but I think I learned a lot today.

7 I guess the one admonishment that I would
8 put out, I still find it very bothersome that when
9 it comes to a discussion of 12CP versus 1CP, that
10 now suddenly we can get a study done within six
11 months or so, and I think it's important and if
12 everybody believes it's important enough to use
13 ratepayers' money on it, how come it hasn't been
14 done until now. I'm just disappointed that it
15 wasn't done before we ever even got to the initial
16 hearing, but it wasn't and so this is where we find
17 ourselves.

18 Other than that, I appreciate all the
19 information today. That's all I have.

20 JUDGE WARD: Counsel, is there anything
21 else we need to get on the record before we close
22 the hearing today?

23 MR. SIMPSON: On the record, no, Your
24 Honor, but certainly I would like to talk about next
25 steps with -- the Commission doesn't need to be

1 present, and make sure we have an opportunity for
2 briefing and other post hearing issues as they may
3 be necessary should the settlement be rejected.

4 JUDGE WARD: Okay. Mr. Norrell.

5 MR. NORRELL: Nothing, Your Honor.

6 JUDGE WARD: Mr. Armstrong.

7 MR. ARMSTRONG: Nothing.

8 JUDGE WARD: Ms. Jeffcoat-Sacco.

9 MS. JEFFCOAT-SACCO: No.

10 JUDGE WARD: The one thing I guess I'd ask
11 the company to file an updated exhibit list that
12 adds R and Q to the late-filed exhibits and provide
13 those late-filed exhibits as soon as possible.
14 Maybe we can talk about a time frame for that in the
15 next steps.

16 With that, I'm going to close the hearing
17 on the consolidated comprehensive settlement case
18 PSC Nos. PU-12-813, 13-706, 707, 708, 742, 743,
19 194, and 195.

20 Thank you all for a very, very well done
21 presentation by all involved. Thank you very much.

22 (Concluded at 3:58 p.m., the same day.)

23 -----

24

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CERTIFICATE OF COURT REPORTER

I, Linda L. Gingery, 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 contain an accurate
transcript of my shorthand notes then and there
taken.

Dated at Bismarck, North Dakota, this 7th
day of February, 2014.

Linda L. Gingery
Registered Professional Reporter

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