

1 COMMISSIONER BAKER: Okay. Are we done
2 on the order of the witnesses for now?

3 MS. CONNELLY: We are, and I'll inform
4 Mr. Pardington he does not need to stay.

5 COMMISSIONER BAKER: Thanks for stopping
6 by.

7 Okay. Let's move on to the motion from
8 staff to strike testimony of Public Service, OCC, and
9 I think that's -- CoSEIA and WRA.

10 MS. BOTTERUD: Just for clarification
11 purposes, Your Honor, I think it was just Public
12 Service, OCC and WRA.

13 COMMISSIONER BAKER: Yes. Okay. And
14 would -- my inclination is not to strike this
15 testimony. I think some of it deals with responses to
16 Public Service's original application. I have some
17 concerns with why it was filed on April 1st, but would
18 you like to respond?

19 MS. BOTTERUD: Beg your pardon. I'm not
20 sure what the concern was.

21 COMMISSIONER BAKER: My concern was
22 that -- well, the testimony in question -- I guess I'm
23 a little -- I'm not inclined to strike testimony that
24 came from Public Service -- that's derived from Public
25 Service's original application, and I'm -- I'm clear on

1 where the time -- you know, the issues around -- the
2 issues that are listed in the scoping document appear
3 to me to be relatively clear.

4 Some of the issues that staff raise --
5 some of the testimony that staff is objecting to
6 seems -- well, I guess let me take a step back.

7 It seems to me that the testimony that
8 triggered the staff's objection was Frank Shafer's
9 answer testimony, and -- and then -- because they went
10 back and referred to Public Service's original
11 application and a couple cases that may have been a
12 little bit beyond the scope of the proceeding, and --
13 but so I'm a little concerned with the fact that this
14 issue came up on April 1st when Mr. Shafer's answer
15 testimony was February 20 -- sometime in February.

16 So I'm wondering why staff waited so long
17 to register this concern.

18 MS. BOTTERUD: May I have a moment?

19 COMMISSIONER BAKER: Sure.

20 MS. BOTTERUD: Well, Your Honor, looking
21 back at the procedural schedule, the last round of
22 rebuttal and cross answer testimony was filed on
23 March 23rd, and staff believed that just the roughly a
24 week in between the filing date and the submission of
25 its motion was appropriate, and typically motions to

1 strike generally aren't submitted until immediately
2 prior to the hearing in question.

3 COMMISSIONER BAKER: Anyone else want to
4 respond?

5 MS. CONNELLY: Thank you, Your Honor.
6 Public Service Company opposes the motion but not for
7 the reason that you articulated in terms of the
8 timeliness of its filing. We believe that motions to
9 strike can be filed as late as the day of hearing, so
10 we're not objecting based on timeliness.

11 However, Public Service does feel that
12 it's very important that the testimony and exhibits
13 that staff wishes to strike remain on this record.

14 The -- for example, staff wishes to
15 strike one column of Table 6-3, 6-4, while the rest of
16 the column makes no sense if you take out a column, the
17 numbers make no sense if you take out a column. The
18 explanation of what's in that column is on the list of
19 what needs to be struck.

20 So we believe that the record would be
21 more complete if you leave the testimony in. Now,
22 there -- and the exhibits in.

23 Now, I think there's a separate question
24 of what you actually decide in this case, and that gets
25 to the confusion over what is in this docket vis-a-vis

1 what's in the RES rule making docket, and the issue
2 involves whether or not Public Service Company's
3 proposal for a lockdown should be decided in this
4 docket as opposed to the rule making, and we would urge
5 you to decide it in this docket.

6 We under -- we believe, though, that your
7 scoping order was somewhat less than clear, which is
8 probably what engendered the staff's motion, because
9 they're arguing that, in fact, it should be decided in
10 the rule making docket.

11 COMMISSIONER BAKER: Right.

12 MS. CONNELLY: But let me explain why we
13 would like to have it decided in this docket.

14 What the lockdown principle is -- what
15 we're asking to be decided with the lockdown principle
16 is to have a process whereby the estimated net cost or
17 net savings from renewable energy purchases that are
18 going to hit our RESA budget be determined once and
19 then remain the determination for the life of the
20 contract.

21 This issue came up in the last renewable
22 energy compliance plan in a different form. There we
23 were concerned about can relooking at the RES/No-RES
24 plan by changing the gas prices, and we were facing a
25 situation last year where gas prices were actually

1 lower than expected, thereby -- at the end of the year,
2 thereby making the incremental cost higher than
3 expected, but yet we had already gone forward with a
4 plan to purchase renewable energy assuming there would
5 be a lower incremental cost hit to the RESA.

6 And in that case, in the 2008 compliance
7 plan case, the Commission said we do not have to go
8 back and reprice everything for gas prices. That was
9 the ruling in that case. So in this case, we're trying
10 to extend that principle beyond just gas prices.

11 We're saying we're -- we do our best job
12 of estimating what we think the incremental cost of a
13 resource is going to be and then at the time we acquire
14 it, or at the time of filing a plan, we want to lock it
15 in and then in subsequent plans that's what hits the
16 RESA. So that's the issue.

17 Now, staff didn't file any testimony on
18 the lockdown, but staff also didn't file any testimony
19 in the rule making docket about the lockdown. The only
20 place that the lockdown principle is teed up is here,
21 except that when we got your scoping order we were also
22 confused as to which docket it would be in. So we took
23 all the testimony from this case and we put it in the
24 rule making just for coverage. We didn't want to end
25 up with neither docket deciding this issue.

1 But we think it's better to decide it
2 here. You've got real numbers before you, you've
3 got -- you've got the parties weighing in that wanted
4 to weigh in on this, addressing it in this docket, and
5 it really isn't teed up in the rule making docket
6 because we threw that in after we got your scoping
7 order and that was after the rule making hearing.

8 Also, we believe that the issues that are
9 addressed in the rule making docket are somewhat
10 distinct from the lockdown issue.

11 In the rule making docket, the -- what's
12 teed up there is how do we measure the incremental cost
13 to begin with. Right now the current rule uses a
14 strategist model to determine the RES and the No-RES.

15 What's proposed in the proposed rule in
16 the rule making docket is to use more of a spreadsheet
17 that looks at a resource, a renewable resource and then
18 tries to find a match in a nonrenewable resource and
19 then adds them up.

20 And we've got a debate going on in the
21 rule making as to which is the better way to determine,
22 in the first instance, what is the incremental cost.

23 The lockdown is like a second order
24 issue. After you've decided what the incremental cost
25 is, what do you do with it, and do you revisit it,

1 constantly revisit it.

2 So we think, irrespective of how the rule
3 making determines the incremental cost issue, the
4 second order issue also needs to be decided.

5 Finally, what your order did say on
6 Page 8 was that with respect -- I'm reading from
7 Paragraph 24, "With respect to the retail rate impact
8 calculation, the Hearing Commissioner finds this matter
9 will be addressed in this docket according to the
10 Commission's existing RES rules with a focus on the
11 acquisition of solar resources in 2009 and on the net
12 costs of the SunE Alamosa facility and the on-site
13 solar projects that the company has acquired through
14 December 31st, 2008."

15 Now, we believe that the lockdown
16 principle can be accommodated under the existing rules,
17 and we believe that 3661(h)(II) can be interpreted to
18 allow for the lockdown, and I can either explain that
19 to you now or set it forth in closing statement of
20 position if you'd like further explanation.

21 In other words, we think it can be
22 accommodated under the existing rules.

23 Plus your reference to the net costs of
24 SunE Alamosa, the SunE Alamosa facility net costs are
25 the only costs that we have asked be locked down in

1 this case, so we think that your order can be
2 interpreted as saying that this lockdown is appropriate
3 for this round.

4 But I sympathize with the staff. We were
5 confused, as well, as to whether this principle was in
6 or out, which is why we also filed the testimony in the
7 rule making docket.

8 But bottom line is we'd like it decided
9 here and we'd like the testimony to stay here.

10 MS. BOTTERUD: Just a couple of points,
11 Your Honor. First, I'd like to note that trial staff,
12 as is traditional, is not participating as a party in
13 the RES rule making docket, so I would note that I
14 think Ms. Connelly's comment about trial staff not
15 filing testimony in the rule making docket is a bit
16 misleading. As I said, traditionally trial staff does
17 not participate in rule making dockets.

18 We have a fundamental difference in
19 interpretation in the language of your order. We
20 believe that it was very clear that you were removing
21 the time fence and the lockdown issue from this
22 particular proceeding, and, again, would take it up in
23 the RES rule making docket. That was the fundamental
24 reason why staff did not file testimony on that -- on
25 those issues in this docket.

1 In the rule making docket, as you've seen
2 by the attachments in staff's motion to strike, Public
3 Service has had the opportunity to file its position
4 and comments on the lockdown issue.

5 There have been other parties in that
6 docket who have filed comments and submitted testimony
7 on the issue.

8 That would provide the Commission with an
9 opportunity to fully vet the matter in that proceeding
10 rather than this one, and, again, to belabor the point,
11 that was the basis for staff's not filing testimony in
12 this docket.

13 COMMISSIONER BAKER: Okay. Ms. Botterud,
14 were you done?

15 MS. BOTTERUD: Yes, I was, Your Honor.

16 MS. MANDELL: The staff -- the trial
17 staff motion includes a request to strike limited
18 testimony by Ms. Brown on behalf of Western Resource
19 Advocates, and I'd like to respond.

20 WRA shares the concern that you
21 expressed, Commissioner Baker, about the timing of the
22 motion. It was filed late in the proceeding, after
23 significant investment by other parties on the issue,
24 and it could have been filed much earlier, and I think
25 there's some due process issues with filing it this

1 late once the parties have invested that type of time
2 and energy into looking at it, the analysis.

3 And the only other point was that we
4 would ask that testimony of Ms. Brown be treated
5 consistently with the way that the testimony of the
6 other parties be treated with regard to the striking.

7 Thank you.

8 MR. IRBY: Mr. Commissioner, thank you.
9 The OCC also opposes the motion to strike. We
10 interpreted your order the same way that Public Service
11 interpreted your order, as your discussion of the net
12 cost of the SunE Alamosa facility.

13 Our testimony in the rule making docket
14 is that the OCC believes the lockdown should be
15 determined in the RES compliance dockets, and so we
16 believe that that issue is properly placed in this
17 docket, and we interpreted your order not to exclude
18 that issue and we think for completeness, as
19 Ms. Connelly said, too, it would be better placed in
20 this docket.

21 COMMISSIONER BAKER: Any other comments
22 from other parties?

23 I can tell you that what I was thinking
24 when I wrote the scoping order was that the -- the
25 issues around this compliance plan and the lockdown as

1 it applied to this compliance plan were to be a part of
2 the scope of this proceeding.

3 What we didn't want to do was bring in
4 something that might have an implication for a future
5 compliance plan into this, so I think -- so -- and what
6 I'd like to do is during the break just go back and
7 revisit -- reread for the third time the scoping order
8 and come back with a decision after that time period.

9 But issues around how to treat
10 acquisitions that were made this year and resources
11 that are part of this plan, and I -- and SunE Alamosa
12 would be one of them, or at least part -- and how those
13 costs would be looked at in future years were in my
14 mind a part of the scope of this docket at this time.

15 So I'll come back with a decision after
16 the break on that. I just want to review the scoping
17 order and then relook at some of staff's concerns.

18 So let's --

19 MR. IRBY: Mr. Commissioner, if I may.

20 COMMISSIONER BAKER: Yes.

21 MR. IRBY: I might be wrong, but I
22 think -- maybe not with Mr. Cox, but I know for
23 Mr. Ahrens, some of the other parties I've talked with,
24 that -- whether or not the lockdown issue's included in
25 this docket or not will significantly affect the

1 cross-examination, just so you know.

2 COMMISSIONER BAKER: Okay. Well, maybe
3 we'll take a break early, then, on that issue, just to
4 be clear.

5 The second motion to strike was Public
6 Service's motion to strike the testimony of -- the
7 cross answer testimony of Beth Hart and Leslie
8 Glustrom.

9 The -- would the parties like to add
10 anything before I discuss my thoughts on it? Public
11 Service in particular.

12 MS. CONNELLY: We filed the motion, as we
13 stated, because we believe that both Ms. Hart and
14 Ms. Glustrom filed improper cross answer testimony.
15 Cross answer testimony is testimony that needs to be
16 directed to the answer testimony of other parties.
17 Neither Ms. Glustrom nor Ms. Hart made any attempt to
18 address any issues raised by the other parties.

19 Ms. Glustrom introduced a whole new issue
20 and Ms. Hart basically bolstered her original direct
21 case but didn't address any issues in which she was
22 opposing the position of any other party, and,
23 therefore, we believe procedurally these testimonies
24 are improper and should be stricken.

25 COMMISSIONER BAKER: Okay. CoSEIA and

1 MR. BECKETT: Nothing.

2 COMMISSIONER BAKER: I have no questions.

3 Thank you very much, Mr. Cox.

4 Okay. We will take a break until five
5 after 10:00 just to deal with the staff motion. So
6 we'll be back.

7 (A recess was taken from 9:52 a.m. to
8 10:07 a.m.)

9 COMMISSIONER BAKER: Okay. We're back.
10 And I have a couple thoughts on staff's motion.

11 One, it was the intention of this hearing
12 officer to allow for discussion around the lockdown for
13 SunE Alamosa and the acquisitions that were going to be
14 made this calendar -- or this -- within this compliance
15 plan.

16 I was also assuming -- so that was
17 assuming that the on-site acquisitions that were
18 occurring this year would also be part of this -- part
19 of this proceeding as it related to the lockdown issue.

20 The -- I apologize, though, for the less
21 than artful way that the scoping order laid this out,
22 and, one, I am wondering if there are -- well, first to
23 Public Service, I believe I just captured what you were
24 proposing to lock down in this proceeding, in the
25 discussion around that. Is that correct or am I

1 missing something? Is it SunE Alamosa and the
2 acquisitions that are being made this year?

3 MS. CONNELLY: That's the lockdown that
4 is set forth on Tables 6-1 through 6-4.

5 If possible, of course, we'd like a more
6 generic ruling on lockdowns, because we have, for
7 example, already proposed this year a new wind facility
8 that the Commission has approved, we've proposed the
9 Microgy biogas project, which has projected savings in
10 there. We will be filing the results of our early
11 solar.

12 So if possible we'd like a broader
13 statement on lockdown, but all that is -- all that is
14 shown in the testimony is a lockdown of SunE Alamosa
15 and the on-site solar as of the end of December 31st,
16 2008.

17 COMMISSIONER BAKER: Yeah. And then
18 Mr. Ahrens on Page 22 of his direct testimony, I
19 believe that is -- that alludes to -- what you're
20 saying is encompassed in what he is also -- what he's
21 requesting there as well?

22 MS. CONNELLY: What he's describing there
23 is what shows up in the Table 6-1 through 6-4 as the
24 ongoing costs of the eligible energy resources that are
25 being recovered through the RESA as of December 31st,

1 2008. It's SunE Alamosa and on-site solar.

2 COMMISSIONER BAKER: Gotcha. Okay. So
3 that was our intention.

4 I'm also interested, though, in hearing
5 staff's position on this issue, and so what I would
6 like to do is I would like to grant them some time to
7 present their position.

8 So deny their motion to strike but as
9 relief allow them to present their position on these
10 issues verbally, allowing rebuttal from the other
11 testimony -- from the other parties who seek to rebut.
12 And ideally this would happen this afternoon while --
13 before a number of witnesses could get on the stand.

14 Staff counsel?

15 MS. BOTTERUD: Your Honor, if I -- I
16 anticipated you might deny staff's motion to strike,
17 and I had -- was going to request if that was the case
18 then to permit Mr. Dalton to address the issues when he
19 gets -- orally when he gets on the stand to enter his
20 testimony into evidence and respond to rebuttal. But
21 we could do it either way.

22 COMMISSIONER BAKER: Do the parties have
23 a preference?

24 MS. CONNELLY: Public Service's only
25 preference is that since we do not know Mr. Dalton's

1 position that we be given the opportunity to present a
2 rebuttal witness if we disagree with his position after
3 he articulates it.

4 COMMISSIONER BAKER: Then that seems
5 reasonable. I was just trying to save time in case
6 there were witnesses --

7 MS. CONNELLY: And we are indifferent
8 whether he does it today or Wednesday so long as there
9 is time for us to present a rebuttal witness on that
10 issue.

11 MS. BOTTERUD: We'd prefer to do it on
12 Wednesday if at all possible.

13 MS. MANDELL: Just concurring with the
14 comment that Public Service counsel made, we would also
15 appreciate that opportunity to be able to do on our --
16 on our issue rebuttal, having just heard -- that would
17 be the first time we would have heard staff's position
18 on that.

19 COMMISSIONER BAKER: Okay. Yes.

20 MS. MANDELL: Just one other point is it
21 would be helpful for her to be able to have heard
22 staff's testimony before she gets on the stand
23 tomorrow. Before Mr. Shafer. Thank you.

24 COMMISSIONER BAKER: So you're requesting
25 that it be done earlier?

1 MS. MANDELL: Yes. Thank you.

2 COMMISSIONER BAKER: Okay. How about we
3 do it first thing tomorrow, just around this testimony,
4 and then we can bring Mr. Dalton back for his entire
5 testimony on -- at his regularly scheduled time.

6 MS. BOTTERUD: That will be fine.

7 COMMISSIONER BAKER: Any objections to
8 that?

9 MS. CONNELLY: No objection.

10 COMMISSIONER BAKER: Okay. All right.
11 So I believe the next witness is Mr. Ahrens.

12 DANIEL AHRENS,
13 called as a witness on behalf of Public Service Company
14 of Colorado, having been first duly sworn, testified as
15 follows:

16 COMMISSIONER BAKER: Please be seated.
17 Mr. Ahrens' testimony is prenumbered as --

18 MS. CONNELLY: I'll walk him through that
19 if you'd like.

20 COMMISSIONER BAKER: Okay.

21 DIRECT EXAMINATION

22 BY MS. CONNELLY:

23 Q Mr. Ahrens, will you spell your name for
24 the reporter, please?

25 A Yes. Last name is Ahrens, A-h-r-e-n-s.

1 COMMISSIONER BAKER: Are there any
2 objections to this testimony?

3 (No response).

4 COMMISSIONER BAKER: Okay. The amended
5 exhibits are admitted.

6 (Whereupon, Exhibit Nos. 1 through 4
7 admitted into evidence.)

8 MS. CONNELLY: Public Service tenders
9 Mr. Ahrens for cross-examination Your Honor.

10 COMMISSIONER BAKER: Ms. King, do you
11 want to do your questioning there? You can do it
12 there, or there it's up to you.

13 MS. KING: I'm here now, so ...

14 CROSS-EXAMINATION

15 BY MS. KING:

16 Q Good morning Mr. Ahrens.

17 A Good morning, Ms. King.

18 Q I wish I could say that all of those
19 typos took care of all my questions, but unfortunately
20 they did not.

21 I'd like to begin with the discussion of
22 the design of the RESA. It's your testimony that the
23 RESA's designed to recover only the incremental costs
24 of eligible energy plus the program administrative
25 costs; is that right?

1 And I can refer you to your testimony.

2 Your direct testimony at Page 4, Line 20, carrying on
3 to Page 5, Line 1.

4 A That's correct.

5 Q And you described those incremental
6 costs -- and I'm quoting from Lines 22 and 3, "to the
7 costs in excess of what would have been paid to acquire
8 new, nonrenewable resources reasonably available at
9 that time." Do you see that?

10 A I do.

11 Q And those costs are determined by finding
12 the incremental difference of the RES plan over the No-
13 RES plan for each year; is that correct?

14 A That is correct.

15 Q And so just to nail it down, you say that
16 these incremental costs are what are recovered through
17 the RESA, correct?

18 A That is correct.

19 Q And while in theory the RESA may be
20 intended to collect incremental costs, in practice the
21 RESA right of revenues are derived differently, aren't
22 they?

23 A I'm not too sure I can agree with you. I
24 don't know why you would think that the RESA right of
25 revenues are determined differently.

1 Q Okay. So let's -- well, let's walk
2 through it, then.

3 A Okay.

4 Q The formula you give on how the RESA
5 costs will be established for any one year will be the
6 differences between the RES and No-RES scenarios, plus
7 program and administrative costs, less projected
8 credits from wind source sales; is that correct?

9 A That's accurate.

10 Q Okay. So what I'd like to do now is walk
11 through that equation by way of Table 6-4 of Volume II
12 of the compliance plan.

13 COMMISSIONER BAKER: You said 6-4?

14 MS. KING: 6-4.

15 Q (By Ms. King) It might help if you have a
16 calculator handy.

17 A I do.

18 Q Okay. Great. Thanks. So are you at
19 6-4?

20 A I am.

21 Q Okay. So we take the model of
22 incremental costs in Column H, and those would be the
23 differences between the RES and No-RES scenarios; is
24 that right?

25 A That is correct.

1 Q Okay. And that -- the figures in
2 Column H are taken from the calculations in Table 6-1
3 and 6-2; is that right?

4 A Yes.

5 Q Okay. And so then, based on your
6 formula, we add the RESA program and admin costs from
7 Column L, is that correct, and then we would subtract
8 the wind source credits.

9 Now, the problem that I'm having is that
10 we don't get to the figure that's set forth in Column M
11 for the RESA right of revenue; is that right?

12 A That is correct.

13 Q Okay. Mr. Ahrens, as the company witness
14 responsible for presenting all of the cost recovery
15 mechanisms, I trust you have a working -- a good
16 understanding of how the RESA right of revenue figures
17 in Column M in Table 6-3 and 6-4 is actually derived --

18 A Yes.

19 Q -- is that right?

20 MS. KING: Your Honor, may I approach,
21 please?

22 COMMISSIONER BAKER: Yes.

23 (Whereupon, Exhibit No. 29 marked for
24 identification.)

25 Q (By Ms. King) Mr. Ahrens, I've placed

1 before you what has been marked as Exhibit 29, and
2 it is a company response to a discovery request
3 propounded by the Office of Consumer Counsel. It's
4 a five-page document, and what -- I'd like to just
5 walk through page by page and ensure that you can
6 speak to what is contained on each of the pages.

7 So can you please take a moment and look
8 through the exhibit and identify what -- and just
9 identify Page 1 for the record?

10 A Sure. The first page is obviously the
11 request from the OCC, as you mentioned, with a response
12 that says, "Please see the attachments."

13 Q And now, the request seeks the models or
14 spreadsheets used to create Tables 4-1, 2, 3, 4 and
15 6-1, 2, 3 and 4 in Volume II. And I have not included
16 all of the tables because I don't need them, but I
17 want -- but I did include Table 6-3, which is on the
18 second page of this five-page exhibit.

19 And so what -- can you just please take a
20 moment to look over the figures here and verify that
21 the figures contained, that this is an accurate
22 reproduction of the company's response?

23 A Certainly.

24 COMMISSIONER BAKER: I'm sorry, Ms. King.
25 Which table were you referring to?

1 MS. KING: 6-3. It's the second page of
2 the five-page exhibit.

3 COMMISSIONER BAKER: Okay.

4 (Pause.)

5 Q (By Ms. King) And Mr. Ahrens, is that an
6 accurate reproduction of Attachment OCC 1-2.A4?

7 A It does appear from a quick review to be
8 the same information with some additional information
9 that's off to the right that is not on Table 6-3.

10 Q Okay. And so based on the figures that
11 are on the right, under the column "Total Forecasted
12 Electric Retail Sales," would those be the company's
13 production of numbers that form the basis for the
14 information contained in the sales that are on 6-3?

15 A I believe they were hidden sales that
16 were on the spreadsheet, yes.

17 Q Okay. And now turning to the third page
18 of the exhibit, this is a copy of Table 6-3, but
19 because the numbers on Table 6-3 are so small I've
20 taken the liberty to hide certain columns that we would
21 not need for purposes of my questions.

22 So would you just please take a moment
23 and -- and actually, one other thing that I did was
24 that I moved the total forecasted electric retail sales
25 so that they were next to Column M.

1 So can you just take a moment and verify
2 that the numbers are all still the same but for those
3 changes that I just mentioned?

4 A And you gave me the opportunity to do
5 that during break and I did do that. They do match up.

6 Q So the last two pages of the exhibit are
7 basically the same approach but with Table 6-4. So 6-4
8 is a reproduction of the company's table with those
9 hidden sales revealed and then the last page of the
10 exhibit is the modified version of that with certain
11 columns hidden so that we can actually read the numbers
12 that are on there.

13 A Much more legible.

14 Q Okay.

15 MS. KING: At this time I would like to
16 move the admission of Exhibit 29.

17 MS. CONNELLY: Mr. Chairman?

18 COMMISSIONER BAKER: Yes.

19 MS. CONNELLY: I have a question about
20 Exhibit 29. With your indulgence I'd like to ask
21 counsel, because part of Exhibit 29 was actually
22 prepared by her.

23 COMMISSIONER BAKER: Okay.

24 MS. CONNELLY: And that is on Page 3,
25 Ms. King, you have included certain columns from

1 Page 2, and then similarly on Page 5 you've included
2 certain columns from Page 4, but the columns that you
3 have chosen to include are different.

4 So I just wanted to -- for example, on
5 Page 5 you show the wholesale revenue credit but on
6 Page 3 you do not.

7 Now, I don't know if that's going to be
8 important to your cross-examination, but I do point out
9 that there are differences in what you've pulled
10 forward from each of these exhibits.

11 And with that understanding of how
12 Ms. King has chosen to use certain columns and not
13 others, we have no objection to its admission; however,
14 should the exhibit be used to try to draw some bottom
15 line conclusion to which those missing columns would be
16 relevant, we may have some concerns.

17 MS. KING: I appreciate the --
18 Ms. Connelly pointing out my foibles in the world of
19 Excel, and my intention as between my version of Table
20 6-3 and my version of Table 6-4 was merely to leave the
21 wind source portion of 6-4 in, and to the extent I was
22 not wholly accurate in that, those columns are not
23 going to be necessary. The wholesale revenue credit I
24 think is the -- the discrepancy but for the wind
25 source, and I won't be questioning Mr. Ahrens about

1 that.

2 MS. CONNELLY: We have no objection to
3 the admission of this exhibit.

4 COMMISSIONER BAKER: Okay. Exhibit 29 is
5 offered and admitted.

6 (Whereupon, Exhibit No. 29 was admitted
7 into evidence.)

8 Q (By Ms. King) Okay. So Mr. Ahrens, my
9 understanding, we were talking about Column M, which
10 are the modeled incremental costs. I'm sorry, which
11 was the RESA rider revenue.

12 And my understanding of those figures is
13 that they are a flat 2 percent of the projected total
14 electric retail sales for each given year through 2020;
15 is that correct.

16 A That is correct.

17 Q So then -- and so we can see that by
18 comparing Column M with the total forecasted electric
19 retail sales on the Table 6-3, the modified 6-3, 6-4
20 and the modified 6-4, correct?

21 A Yes.

22 Q Okay. And so then if that's the case,
23 then your description that the RESA recovers the
24 incremental costs is not totally accurate, is it?

25 A I could see how there could be some

1 confusion.

2 Q And so, rather, the company, as you said,
3 is proposing now to recover a flat 2 percent of the
4 total retail rate revenues; is that correct?

5 A The RESA rider right now is set at
6 2 percent; that's correct.

7 Q And that 2 percent is of the total
8 electric retail sales.

9 A Revenues, yes.

10 Q Okay. Now, if the RESA rider is
11 2 percent on Table 6-3 and 6-4 of the total forecasted
12 electric retail sales, if the company's plan is
13 approved, will the company recover 2 percent of the
14 total forecast number or 2 percent of the total actual
15 electric retail sales?

16 A We will recover 2 percent of the actual
17 retail sales.

18 Q And the RESA, if allowed to go up to a
19 flat 2 percent, that's not going to be subject to a
20 true up, right?

21 A To the extent that the difference between
22 the actual costs that are incurred and revenues that
23 are collected go into a deferred balance, in effect,
24 they are being trued up. They're being accounted for.
25 Any differences between what is projected and what is

1 actually incurred is accounted for, if you will.

2 Q And so to the extent that there are any
3 unused dollars in the RESA that go into that deferred
4 account for a given year, Public Service Company is
5 seeking approval here to bank them for purposes of
6 prefunding future years' acquisitions, right?

7 A That is correct.

8 Q Okay. So now switching gears to the
9 design of the ECA as it's proposed in this case, the
10 modeled incremental dollars that we were just
11 discussing, so the cost difference between the RES and
12 No-RES plans, that's not really used for purposes of
13 setting the RESA, as we've just established, because
14 that's a flat 2 percent of the total retail electric
15 sales; rather, the modeled incremental costs are used
16 to derive the portion of the nonincremental RESA
17 dollars that will instead flow through the ECA; is that
18 correct?

19 A Yes, that is correct.

20 Q Okay. And so specifically, the ECA is
21 derived from the total renewable energy costs less the
22 modeled incremental costs, right?

23 A That is correct.

24 Q And so based on that formula, we can
25 agree, can't we, that the value of the estimated ECA

1 costs is affected by the amount of modeled incremental
2 costs.

3 A It's an allocation of dollars between two
4 buckets. So if one bucket changes the other bucket
5 changes also.

6 Q Okay. And so there's an inverse
7 correlation between the two, right? And what I mean by
8 that is that the amount -- were the amount of modeled
9 incremental costs to be lower, then when subtracted
10 from the total renewable energy costs we get a higher
11 estimated ECA. And vice versa, if the modeled
12 incremental costs were a larger number when subtracted
13 from the total renewable energy costs, we get a smaller
14 estimated ECA, right?

15 A Assuming the ECA estimated costs are the
16 same in both scenarios, that would be true.

17 Q And included within the modeled
18 incremental costs is an assumption of carbon costs,
19 right?

20 A That is correct.

21 Q And so those costs were included in the
22 RES and No-RES models, and so it follows that they're
23 included in the incremental cost difference between
24 those plans, right?

25 A That is correct.

1 Q And the carbon assumption the company
2 used was \$20 a ton escalating at 7 percent beginning in
3 2010, I believe; is that correct?

4 A I believe that's true.

5 Q And if the company used a different value
6 for the cost of carbon, that would directly affect the
7 modeled incremental costs, right?

8 A I assume it would.

9 Q And we've already established that a
10 change in the modeled incremental cost would impact the
11 value of the ECA. So -- is that correct?

12 A Yes.

13 Q So Mr. Ahrens, would you agree with me
14 that until such time as carbon legislation or
15 regulations are passed and put into effect, that the
16 carbon costs that have been assumed in the model at
17 this point are hypothetical and are not actual costs
18 that are incurred by the company?

19 A They are our best estimate of what the --
20 the carbon tax will be, yes.

21 Q But the carbon tax will be or might be,
22 but they're not actual costs right now, right?

23 A That is correct.

24 Q Okay. And so we can agree, can't we,
25 that until such time as carbon is regulated the company

1 cannot know or measure what those costs of compliance
2 will be, it can only give, as you said, its best
3 estimate; is that correct?

4 A It could be higher or it could be lower,
5 that's correct.

6 Q Okay. Now, unlike the RESA, the ECA will
7 be subject to a true up; is that right?

8 A Could we break that up into how we do it
9 now and how we're proposing to do it? That might be
10 helpful for me to respond to your question.

11 Q Certainly. So how you're proposing to do
12 it, the ECA will be subject to it -- the portion of the
13 EC -- let me back up.

14 How the company is proposing to do it,
15 the ECA will be subject to a true up, correct?

16 A Yes.

17 Q Okay. So how as a practical matter will
18 the commission or Public Service Company's rate payers
19 be able to meaningfully compare the actual ECA against
20 the estimated ECA when part of what has been collected
21 from customers is based on an unknowable, immeasurable
22 value?

23 A Like all assumptions that go into our
24 modeling, they are our best estimates of what the costs
25 are going to be.

1 Any one of those variables could likely
2 change, whether it be gas prices, whether it be
3 generation, whether it be a dispatch in the system or
4 whether it be carbon costs. So what we are doing now
5 is our best estimate of what the costs are going to be.

6 Now, to the extent that when costs are
7 actually incurred to design this cost recovery
8 mechanism such that only the actual costs are actually
9 billed to the customers. So that to the extent that
10 there might be variations, for the example of carbon
11 taxes, if it turns out to be higher or lower, it would
12 change how we would have allocated it, but still just
13 the costs are what we ultimately recover, the actual
14 costs that are incurred.

15 So to the extent that -- if, for example,
16 we assume \$5 gas, it would affect how we allocate the
17 costs between the ECA and the RESA, but yet when all is
18 said and done, we only recover the actual costs that
19 are incurred.

20 Q Now, I want to understand what it is that
21 you said, because the ECA -- through the ECA the
22 company collects -- the company collects from customers
23 the estimated ECA; is that correct?

24 A No.

25 Q So then what -- for what purpose is the

1 estimated ECA -- how -- explain that to me.

2 A I'll try.

3 Q Please.

4 A In our proposal, we are proposing to
5 split cost recovery between the ECA and the RESA, okay?
6 What we propose doing going forward is to collect all
7 the actual costs in the ECA. We also propose to credit
8 to the ECA our projected RESA revenues so that there's
9 an offset.

10 Today the way it works, and it's
11 different than what we're proposing, is that we
12 hardwire the ECA dollars and we build the ECA to
13 collect that amount, then we credit that amount to the
14 RESA.

15 So what we're proposing going forward is
16 just the opposite. We've proposed having the actual
17 costs go through the ECA, incurring the RESA revenues
18 against the ECA.

19 Q Okay. But what you collect through the
20 ECA, the nonincremental dollars, a part of that
21 component, since the nonincremental dollars are derived
22 by subtracting the modeled incremental costs from the
23 total renewable energy costs -- excuse me.

24 Since you're subtracting the modeled
25 incremental costs from the total renewable energy

1 costs, the modeled incremental costs is what has the
2 carbon assumptions contained in it, and so from that
3 number is where the ECA values come from; is that
4 correct?

5 A It's how we divide up our projected costs
6 between the ECA and the RESA.

7 Q Okay.

8 A However, in practicality, we're going to
9 collect all the costs through the ECA and credit to the
10 ECA that modeled number for the RESA.

11 Q And so to the extent that there aren't
12 carbon costs that are actually incurred, will those
13 also be credited to the ECA?

14 A The.

15 MS. CONNELLY: Objection. Can I have
16 that question read back, please?

17 (Last question read.)

18 MS. CONNELLY: I want to object to the
19 form of the question because I don't know how we credit
20 costs that aren't incurred.

21 Q (By Ms. King) So then the question is,
22 and I'll rephrase it, to the extent that there are
23 carbon costs that have been modeled into the modeled
24 incremental costs, and those -- there's no actual
25 carbon costs of compliance that have been incurred

1 by the company, will -- will customers see a credit
2 to the ECA for those modeled numbers?

3 A Since the actual costs are going to be in
4 the ECA, then there's no need to show a credit for the
5 carbon, because it's not being collected.

6 What's happening under that scenario is
7 that perhaps if one variable changes and all else is
8 the same, that there are no carbon taxes, that we
9 probably overestimated what the RESA dollars would be.

10 But since the ECA is the balancing
11 mechanism, it's the difference between the actual costs
12 that are incurred, the RESA revenues that are credited
13 against it, so there's no need to have a credit for
14 costs that were incurred because the costs
15 automatically flow into the ECA.

16 It might have been allocated a little bit
17 off, but that's true of any projection. There's going
18 to be variables that turn out to be different than what
19 we thought they would be.

20 Q So is it your testimony that as between
21 the ECA and the RESA, it all sort of comes out in the
22 wash, that there might be something that's over
23 allocated in one and not collected through the other,
24 and so at the end of the day it's all fair for
25 customers?

1 A I don't think that's what I'm trying to
2 say. I'm trying to say that through the ECA all the
3 costs will be placed in there, the revenues from the
4 RESA will be credited against it, leaving just the
5 remaining actual costs that are incurred.

6 Q So when you say through the ECA all the
7 costs will be put in there and then credited by
8 whatever revenues are collected through the RESA,
9 that -- what's giving me pause is all the costs that
10 are being put in the ECA, and so I'm just trying to
11 understand that better.

12 Will the estimated ECA costs be put in
13 the ECA --

14 A No.

15 Q -- and then credited against -- no?

16 A No, the actual costs. That's our
17 estimate of what the ECA costs will be, and we will put
18 the actual costs that are incurred in the ECA.

19 Q Okay. So the ECA will follow the cost
20 investments that have been made by the company?

21 A That's correct.

22 Q Okay. And so on Page 21 of your direct
23 testimony, which is Exhibit 3, you described the
24 lockdown, and now I want to understand that proposal
25 better.

1 You state at Lines 17 through 19 that the
2 incremental costs that affect the RESA should be set
3 for the life of that facility. Do you have that
4 testimony in mind?

5 A I do.

6 Q Okay. And so as a preliminary matter, we
7 talked about how the RESA is derived and how the RESA
8 isn't really a reflection of the incremental costs,
9 but, rather, is a 2 percent rate increase from the
10 total retail -- total electric retail sales; is that
11 right?

12 A Yes.

13 Q Okay. And so is it your testimony that
14 the modeled incremental costs are what should be locked
15 down for the life of that particular facility?

16 A I think it's better to refer to what we
17 have provided in the table, by Table 6-3, where we have
18 a separate column that quantifies the lockdown that
19 we're proposing; that's Column J.

20 You're right, it is the incremental cost,
21 but it is for facilities or purchases that have already
22 been incurred. So you lock it down, those numbers stay
23 as they are going forward until we add for it.

24 Q So the figures in Column J, are they
25 derived from Column H? Is there a relationship between

1 the two?

2 A I would have to defer that question to
3 Mr. Warren.

4 MS. KING: Okay. That -- those are all
5 the questions I have for you, Mr. Ahrens. Thank you.

6 MR. AHRENS: Thank you, Ms. King.

7 COMMISSIONER BAKER: Thank you, Ms. King
8 CoSEIA?

9 MR. COLCLASURE: Yes, Mr. Commissioner.
10 I'll ask my questions from the table.

11 COMMISSIONER BAKER: Thank you.

12 CROSS-EXAMINATION

13 BY MR. COLCLASURE:

14 Q Good morning, Mr. Ahrens.

15 A Good morning.

16 Q First I want to ask you about a statement
17 on Page 8 of your direct testimony, Lines 10 through
18 12. You state that the company's distributed
19 generation investment can be accommodated within the
20 retail rate impact limit.

21 A What lines were those?

22 Q Lines 10 through 12.

23 A Thank you.

24 Q On Page 8.

25 A I have that before me.

1 modeled; and since the benefits outweigh the costs, I
2 think it would create more headroom under the 2 percent
3 cap.

4 Q It would create more headroom.

5 A I believe so because there are more
6 benefits in the costs.

7 Q I understand that, but -- I think that's
8 the outcome that I think should happen; I'm just
9 wondering if that's the outcome that does happen if you
10 recover this through the RESA.

11 A I believe that's the way it was modeled,
12 both the costs and benefits were included; so it does
13 increase the headroom.

14 Q So could you walk me through -- let's say
15 you have got a million dollar WiP cost that gets
16 recovered through your RESA adjustment. At the same
17 time, let's say you have got \$2 million of energy
18 savings associated with that in a year. That's going
19 to reduce your ECA by \$2 million.

20 A But the difference from the RES and
21 No-RES will show a net gain of 2 million. That's where
22 the headroom is created.

23 Q Or a net gain of 1 million.

24 A I'm sorry, yes.

25 Q Even with your lockdown proposal?

1 to exist in writing?

2 A I am aware of an E-mail that has this
3 statement in it. I presume that it's in writing.

4 Q If such practices and policies are in
5 writing, would Public Service be willing to file them
6 with the Commission?

7 A Yes.

8 Q Do you know, Mr. Ahrens, whether those
9 policies and procedures would withstand the scrutiny of
10 either an internal or external audit?

11 A I assume they would.

12 Q But you don't know for sure?

13 A I think the only way to know is if there
14 was an internal or external audit.

15 Q Is there a company witness who is part of
16 this proceeding who may know more about the Home Smart
17 policies and procedures?

18 A Not that I'm aware of.

19 Q I would like to turn your attention back
20 to your direct testimony on page 20, where you begin
21 talking about the company's lockdown proposal.
22 Actually, your discussion begins on page 19, line 9;
23 but if I could, I'll direct your attention to the
24 bottom portion of page 20, beginning on line 13. Would
25 you describe what your lockdown concept is?

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1 go out and procure more, such that it would be not be a
2 negative number.

3 Q All right. Right before the lunch break
4 we had a lot of intervenors come up, still having a lot
5 of confusion about exactly how everything works. So I
6 think it might be helpful to the record if we walked
7 through how everything works. And this is based on the
8 questions of Ms. King, Mr. Michel, and some of
9 Commissioner Baker's.

10 And I want to talk about three different
11 things: How we set the rates when we set rates; how
12 between track costs and therefore determine the
13 deferred balances; and then finally, how we actually
14 transfer dollars. Okay?

15 A Okay.

16 Q Okay. Let's start with the first, how we
17 set the rates; and let's use -- I think it's a little
18 easier to use Table 6-3 because it's less complicated
19 by the Windsource and we will explain how Windsource
20 factors in.

21 A Okay.

22 MS. CONNELLY: Are we able to use the
23 board up there, Commissioner Baker; do you know?

24 COMMISSIONER BAKER: Sure. It might be
25 helpful.

1 with the proposed -- and the Commission has accepted
2 2% -- it allows us to maximize the amount of renewable
3 energy that we can acquire. It's not -- I am not
4 recommending that we go out and securitize future RESA
5 revenues to be spent today. That's not what I'm
6 proposing.

7 Q If the company were to borrow money and
8 securitize the loan with RESA revenues, it's true, is
9 it not that, then, the RESA revenues would not be
10 available to spend on any additional resources? They
11 would be pledged to buying back the loan?

12 A We would have to change this plan.

13 Q Now, there's been a lot of discussion
14 about the lockdown, what it does or does not entail.
15 And, again, let's look at Table 6.3, if you will.

16 A I have it.

17 Q Okay. Now, I believe you testified --
18 either you testified or I stated, when we were arguing
19 about the motion to strike earlier -- that what the
20 company has quantified as a lockdown, so far, was the
21 SunE Alamosa costs and the on-site solar as of the end
22 of December 31st. Do you recall that?

23 A Yes.

24 Q Let's look at Column J, and the numbers
25 that are in Column J. Do you see that the numbers in

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