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26-06016

Public Utilities Commission of Nevada
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BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

-oOo-

Application of Nexus Fulcrum LLC,
under the provisions of the Utility
Environmental Protection Act, for a
permit to construct ASR-IX
consisting of a nominal 510 MW
natural gas-fueled electric
generation plant and associated
facilities to be located on private
land within the Tahoe Reno
Industrial Center complex in Storey
County, Nevada.

Docket No. 26-06016

TRANSCRIPT OF PROCEEDINGS
HEARING

Wednesday
October 14, 2026
9:00 AM

Office of the Public Utilities Commission
1150 East William Street
Carson City, Nevada

Office of the Public Utilities Commission
9075 West Diablo Drive
Suite 250
Las Vegas, Nevada

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P R O C E E D I N G S

HEARING OFFICER: This hearing will come to order.

The record will reflect that this is the time and place set before the Public Utilities Commission of Nevada for a hearing regarding the application of Nexus Fulcrum LLC under the provisions of the Utility Environmental Protection Act for a permit to construct ASR-IX consisting of a nominal 510 megawatt natural gas fueled electric generation plant and associated facilities to be located on private land within the Tahoe-Reno Industrial Center Complex in Storey County, Nevada.

My name is Tammy Cordova and I am the Presiding Officer in this docket. With me today are Policy Manager Kim Lighthart and Policy Advisor Jason Martin. Also with me today is attorney Natanya Buban and Assistant General Counsel Adam Baker.

This proceeding is being video recorded and will be transcribed at a later date. To ensure accuracy of the record, please, when you first speak, clearly state and spell your name and any affiliation that you have for the purposes of this proceeding.

You only need to spell your name once but please restate your name at the beginning of any new series of questions, responses, objections or other comments. You don't need to restate your name each time that you respond or ask a question during an exchange with only one other person.

1 Who is appearing today for Nexus Fulcrum?

2 LINDA BULLEN: Good morning. This is Linda
3 Bullen. That's L-I-N-D-A. Last name Bullen, B-U-L-L-E-N.

4 HEARING OFFICER: Thank you, Ms. Bullen. Who's
5 appearing today—oh, go ahead.

6 LINDA BULLEN: And with me is Therese Stix.

7 THERESE STIX: Yes, Therese Stix. First name
8 is T-H-E-R-E-S-E, last name is S-T-I-X.

9 HEARING OFFICER: Thank you. Appearing today for
10 Nevadans for Clean Affordable Reliable Energy?

11 GEORGE CAVROS: Good morning, Commissioner.
12 George Cavros making an appearance on behalf of Nevadans for
13 Clean Affordable Reliable Energy or NCARE. The last name is
14 spelled C-A-V-R-O-S.

15 HEARING OFFICER: Okay. Appearing today for
16 Switch?

17 LUCAS FOLETTA: Good morning, Commissioner.
18 Lucas Foletta and with me I have Lucy Daugherty with Holland &
19 Hart.

20 HEARING OFFICER: Thank you. And can you spell
21 those names for me, please, Mr. Foletta? Just the last names.

22 LUCAS FOLETTA: Yes, I'm sorry. F-O-L-E-T-T-A.

23 LUCY DAUGHTERY: And Daugherty is D-A-U-G-H-E-R-
24 T-Y.

25

1 HEARING OFFICER: Thank you very much. Appearing
2 today for the Bureau of Consumer Protection.

3 SAM TAYLOR: Yes, Sam Taylor, T-A-Y-L-O-R, on
4 behalf of BCP along with Anthony Walsh, W-A-L-S-H.

5 HEARING OFFICER: Okay. And appearing for Staff.

6 SIERRA WAECHTER: Good morning, Commissioner
7 Sierra Waechter, W-A-E-C-H-T-E-R, and Don Lomoljo, L-O-M-O-L-
8 J-O on behalf of Staff.

9 HEARING OFFICER: Thank you, Ms. Waechter. Are
10 there any other persons who would like to make their presence
11 known to the Commission for the purpose of this hearing?
12 Seeing none, let the record reflect that no other persons have
13 come forward.

14 The record will reflect that on August 27, 2026, the
15 Commission published on the internet website of the Commission
16 and as otherwise provided by NAC 703.160 the notice of this
17 hearing for this time and place. Is there anyone present who
18 has any questions about the noticing? Hearing none, the
19 Commission deems that this—

20 GEORGE CAVROS: Commissioner.

21 HEARING OFFICER: Oh, yes.

22 GEORGE CAVROS: If I may be heard, George Cavros
23 on behalf of NCARE. I will note that there is a pending
24 motion to transfer the application. So, to the extent that
25 the Commission is requesting any approval of the parties

1 regarding the notice, NCARE would reserve judgment on that
2 notice until such time that the motion is resolved.

3 HEARING OFFICER: Okay. All right. Well, then
4 let's move past the notice and talk about the motion, and then
5 we can come back to the noticing. So, Nexus Fulcrum did file
6 a motion to transfer the application to Switch. Switch's
7 intervention was granted in this proceeding. So, I don't
8 know, Ms. Bullen, if there's anything additional you want to
9 add about the motion?

10 LINDA BULLEN: Linda Bullen. No, not at this
11 time.

12 HEARING OFFICER: Okay, great. Well, then I'm
13 going to give each party an opportunity to respond to the
14 motion, and I'll start with you, Mr. Cavros.

15 GEORGE CAVROS: Thank you, Commissioner. An
16 application was filed on June 17th in this docket with Nexus
17 Fulcrum as the applicant. On September 11th, Nexus disclosed
18 in direct testimony that Switch was the off-taker to the PPA
19 after previously objecting to discovery, asking the identity
20 of the off-taker.

21 And then, on October 1st, a late filed Petition for
22 Leave to Intervene was filed by Switch. NCARE did not oppose
23 that motion. And then, on October 9th on a Friday afternoon,
24 three business days before the hearing, Nexus filed a motion
25 to transfer the application to Switch, stating that Switch

1 recently determined that it's in its best interest to develop,
2 construct, and operate the project itself.

3 NCARE is concerned that such a transfer at the 11th
4 hour implicates some procedural and noticing issues. It's not
5 clear which representations and testimony and DR responses
6 would transfer to Switch, which statements Switch is assuming,
7 which are no longer valid.

8 The facts have now changed as the same corporate
9 entity will both be providing power and also be the customer
10 as well. And there's been no opportunity to conduct discovery
11 on these new facts.

12 A permit can be transferred pursuant to NRS 704.865
13 but not an application. Again, we note that Switch is a party
14 to this case. We did not oppose that and Switch can represent
15 its interest in the case without having the application
16 transferred to it.

17 So, we're opposed to the motion as filed. That
18 said, if the Commission is inclined to grant the motion to
19 transfer, we move that the Commission, at a minimum, continue
20 the hearing to a future date and allow the non-Switch parties
21 time for additional discovery.

22 HEARING OFFICER: Okay. Thank you for that, Mr.
23 Cavros. One of the questions I have for you is, my
24 understanding—and I'm going to have some follow-on questions
25 for Ms. Bullen as well, but my understanding is if we grant

1 the motion that the same witnesses with the same testimony are
2 going to be presented today, that there's been no change in
3 the application itself or the witnesses that are testifying or
4 their testimony.

5 So, it would be helpful for me if you could drill
6 down a little further and help me understand, if there's no
7 change to the witnesses and their testimony, how this is a
8 material change for you in the prosecution of your client's
9 interests.

10 GEORGE CAVROS: Sure. Well, I think our
11 discovery request certainly would have been different. We did
12 not ask questions regarding the off-taker. We did not know
13 who they were. We did not know and we didn't expect the
14 developer of the project to understand their needs, their
15 incremental needs, their needs and the timing of those needs,
16 which goes directly to the need of the project under
17 704.890(1)(b) and (c). So, I think at some level it goes to
18 the need, it would allow additional discovery on that point.

19 HEARING OFFICER: Okay. So, Ms. Bullen, if you
20 can illuminate me a little bit on why at this juncture, it was
21 important that your client wanted this or perhaps it was
22 Switch and maybe this is a question for Mr. Foletta as well,
23 as you know, why the timing of the filing of the motion? Why
24 is there a need to transfer the authority at this juncture and
25

1 not perhaps once the Commission has issued an order following
2 this hearing?

3 LINDA BULLEN: Linda Bullen. I don't want to
4 say that this was like coincidental but it just in the
5 interrelationship between the parties, this is the process.
6 It's just how it played out. And I will definitely defer to
7 Mr. Foletta to expound on that a bit more but one further
8 point I wanted to make is that to Mr. Cavros' point, they did--
9 NCARE did propound discovery to Switch and had that
10 opportunity, and in fact did so even before Switch was granted
11 intervention status.

12 So, there could have been a more expansive discovery
13 if they had wanted to at that point. But I think going back
14 to your point, I don't see that this proceeding has changed or
15 would change. The witnesses are the same, regardless of who
16 holds the application to the permit. But for the rest, I will
17 defer to Mr. Foletta.

18 HEARING OFFICER: Okay. Mr. Foletta.

19 LUCAS FOLETTA: Yes. Thank you. Yes, while I
20 do agree with Ms. Bullen's characterization of the timing, it
21 is, as we stated or as was stated in the motion, simply a
22 decision on Switch's part, in terms of defending and advancing
23 its interests in the most efficient way. And it reflects the
24 nature of the relationship between Switch and the party, the
25 developer advancing the application to this point.

1 That said, if granting the motion now causes
2 significant procedural concerns for you or for Mr. Cavros, as
3 you indicated, there's nothing about the presentation today
4 that was going to change as a result of it.

5 And so, we're happy to proceed as the parties had
6 contemplated going forward and leave the motion pending. It
7 is Switch's intent to obtain the permit pursuant to its
8 statutory right to have a permit transferred to it for a
9 project that it will be the beneficiary of.

10 So, with that said, the only other point I'd like to
11 address is the argument Mr. Cavros makes about the nature of
12 discovery. It's a bit curious. There were a couple of sets
13 of discovery that NCARE issued to Nexus Fulcrum, which asked
14 the specific questions that Mr. Cavros indicates he wanted to
15 ask.

16 They asked who the off-taker was. They asked the
17 nature of the relationship between the off-taker and the
18 property and the project owner. They asked for documents and
19 contracts reflecting that relationship. Those questions were
20 the subject of a discovery dispute and a discovery conference.
21 And as I understand it, in order by you, Commissioner, that
22 those, at least most of those questions were not relevant to
23 this proceeding.

24

25

1 So, but again, that being said, you know, we defer
2 to you on how you want to handle this procedurally and we are
3 absolutely and we want to proceed with the hearing today.

4 HEARING OFFICER: Okay. Great. So, what I'm
5 hearing as the applicant, Nexus, does not feel like it will be
6 prejudiced in any way if the authority doesn't transfer before
7 the hearing.

8 LINDA BULLEN: Yes, that is correct. This is
9 Linda Bullen.

10 HEARING OFFICER: Okay. So, let me continue. Mr.
11 Cavros, based on those responses, was there something else you
12 wanted to add? Because I still need to get to Staff and BCP
13 as well.

14 GEORGE CAVROS: Nothing at this time.

15 HEARING OFFICER: Okay. BCP, do you have a
16 position on the motion to transfer?

17 SAM TAYLOR: Initially, and before Mr.
18 Foletta spoke, I would have supported Mr. Cavros' motion. But
19 I think if you hold it in abeyance after the hearing, I would
20 not see a problem with that necessarily. I understand Mr.
21 Foletta's point about having Switch be the applicant for the
22 permit, so that does make some degree of sense to BCP. But
23 you know, it just depends on how you wish to approach it,
24 Commissioner.

1 HEARING OFFICER: Okay. Thank you, Mr. Taylor.
2 And Ms. Waechter.

3 SIERRA WAECHTER: At this time, Staff has no issue
4 with the motion being proposed. This is an application to
5 construct, so to Staff it feels irrelevant on who the off-
6 taker would be. However, we defer to the Commission on
7 however, if you would like to rule before or after the
8 hearing.

9 HEARING OFFICER: Okay. Great. Well, so then
10 what I'm going to do is I'm going to—I'm not going to rule on
11 it right now. We're going to go ahead and proceed with Nexus
12 Fulcrum as the applicant, putting up the witnesses. Switch is
13 a full party and can engage however it sees fit. And I may
14 rule on the motion at the end of the hearing or I may do that
15 in the order. We're going to proceed as the application was
16 filed.

17 So, based on that, back to you, Mr. Cavros, to hear
18 any response you have regarding the notice in this matter.

19 GEORGE CAVROS: We have no problem with the
20 notice.

21 HEARING OFFICER: Okay. Great. Thank you.

22 GEORGE CAVROS: [crosstalk]

23 HEARING OFFICER: Thank you. So, I'll do my
24 scripted, hearing none, the Commission deems that this matter
25 has been duly and properly noticed for a hearing at this time

1 and place. And we have dealt with Nexus Fulcrum's motion to
2 transfer the application and we will hold that in abeyance for
3 the purposes of the hearing today. Are there other issues
4 that any party needed to raise before we start calling
5 witnesses? Ms. Bullen?

6 LINDA BULLEN: Yes, Commissioner, thank you.
7 So, this morning we had delivered to both here in Carson City
8 and in Las Vegas a new document which conceivably could be an
9 exhibit but during our discussions yesterday and hearing
10 preparation, it became apparent to us that one of the tables
11 in the air permit application, which was part of our
12 application and part of what Mr. Mark Spencer, our witness,
13 our direct witness, relied upon had been subject to some
14 modification in a subsequent amendment to the air permit
15 application.

16 And because some of the predicate numbers in that
17 were modified slightly, we wanted to bring it to the
18 Commission's attention and to the attention of the parties.
19 And we have copies of all that for all the parties here.

20 And just felt that it was important that everyone
21 see that and hear what their positions are because, again, Mr.
22 Spencer relies on that air permit application. And in
23 particular, this calls out this table in the air permit
24 application as something that is part of his analysis and
25 conclusion.

1 So, again, I think you should have it there in Las
2 Vegas. And we'll let him say this as well, but it doesn't
3 change any of his conclusions, it doesn't change any of his
4 assertions, but again, we wanted to, in an effort to full
5 transparency for everyone to know about this.

6 HEARING OFFICER: Okay, great. And so, I see that
7 you're handing that out, and yes, we do have a copy of it here
8 in Las Vegas. What I'd like to do then is maybe take about 10
9 minutes off the record so everyone can take a look at it. And
10 then, we can come back on the record and have a discussion
11 about it.

12 So, I've got 9:25 right now. Why don't we come back
13 at 9:35? And then, just as a note for everyone as well, in
14 case you hadn't noticed, we do have an agenda scheduled for
15 10:00 AM today, so we'll have to take another break at that
16 point for the agenda. But let's go off the record and come
17 back at 9:35 when everyone has a had a chance to look at this
18 update. We are off the record.

19 SAM TAYLOR: Commissioner?

20 HEARING OFFICER: Oh, yes

21 SAM TAYLOR: If I may?

22 HEARING OFFICER: Sure.

23 SAM TAYLOR: Before we do go off record, I
24 would like to ask Ms. Bullen to point out specifically what
25

1 changed in the table, so it would be easier for us to evaluate
2 it.

3 HEARING OFFICER: Okay. Since all of you are in
4 that room together, why don't I encourage you to have that
5 conversation amongst yourselves, and I think that might be
6 more efficient than trying to step through it for the purposes
7 of the record. Is that okay, Mr. Taylor?

8 SAM TAYLOR: Absolutely. Thank you,
9 Commissioner.

10 HEARING OFFICER: Okay. So, let's do that, if you
11 can help everyone out Ms. Bullen while we're off the record.
12 Thank you.

13 OFF THE RECORD

14 ON THE RECORD

15 HEARING OFFICER: Well, let's go back on the
16 record. We took some time off the record to discuss this
17 modified table regarding the air permit that is in Mr.
18 Spencer's testimony. And so, what I think I'm going to do
19 with this at this point is let anyone weigh in that wants to
20 but hold it until we get to Mr. Spencer and then at that time
21 because it is a modification to his testimony, we'll have him
22 talk about it.

23 And then, at that point if there's some objections
24 or concerns, I'll allow an opportunity to raise those
25 objections or concerns. So, with that way of moving forward

1 with this document, is there anyone that has any concerns at
2 this time? Okay. I'm not hearing anyone.

3 So, Ms. Bullen you were explaining that this was an
4 issue we needed to talk about. Are there any other issues
5 that we need to talk about before we start calling witnesses?

6 LINDA BULLEN: We have none.

7 HEARING OFFICER: Okay. And NCARE, do you have
8 any issues we need to discuss before we start taking
9 witnesses?

10 GEORGE CAVROS: We do not, Commissioner.

11 HEARING OFFICER: Okay, great. Switch?

12 LUCAS FOLETTA: No, Commissioner. Thank you.

13 HEARING OFFICER: Okay. BCP?

14 SAM TAYLOR: Nothing at this time. Thank
15 you, Commissioner.

16 HEARING OFFICER: Okay. And Staff?

17 SIERRA WAECHTER: Nothing at this time. Thank you.

18 HEARING OFFICER: Okay. Great. Then just a
19 couple of things I wanted to say kind of foundationally before
20 we start cross examining witnesses because I've seen there's a
21 couple of issues that are floating around.

22 One is the extent to which the applicant should or
23 should not be a public utility in this state, I don't think
24 that's a jurisdictional determination I can make within the
25 scope of this proceeding.

1 Now, that doesn't mean that, you know, whether or
2 not it's appropriate to issue a UEPA permit to an entity,
3 that's a relevant question, but the question of should we then
4 enforce the law that requires them to be a public utility, I
5 think that's beyond the scope. So, I just want to be clear
6 about that.

7 I also want to be clear about the fact that the
8 Commission does not have the authority to decide whether or
9 not a data center is built in Storey County. That is within
10 the authority of the permitting authority for Storey County,
11 for the Tahoe Regional Industrial Center.

12 To the extent that the purpose of any cross-
13 examination is to figure out a way to not have the data center
14 be built in Storey County, I don't have the authority to make
15 that determination either.

16 And finally, the extent to which the RPS should or
17 should not apply to someone applying for a UEPA permit. I
18 think that's also beyond the scope of this proceeding. So,
19 whether or not it's environmentally appropriate for this
20 permit to be issued is certainly within the scope of what
21 we're doing here today. And the RPS and the requirements for
22 state law are a part of that. But I don't believe that it's
23 within my authority in this proceeding to make a determination
24 as to whether or not the RPS should apply to this particular
25 applicant.

1 So, I just put all of that out there because I want
2 to make sure that we don't get lost in some side conversations
3 about issues that are not within the scope of what I can and
4 cannot do in a UEPA application.

5 So, with all of that, let's move on and have the
6 applicant call their first witness.

7 LINDA BULLEN: I just have a preliminary
8 question. This is Linda Bullen. So, we have our exhibits
9 that we pre-marked. Are those the exhibit numbers that we
10 will be using moving forward or is the Commission going to
11 give me different numbers?

12 HEARING OFFICER: Yep. No, we can go ahead and
13 use the numbers that you have pre-marked. That's part of the
14 reason that we have them kind of provided in advance. So, if
15 you want to go ahead and start with the application, that
16 would be great.

17 LINDA BULLEN: All right. Thank you. I'm
18 sorry. When you say start with the application, do you want
19 me to call my first witness or go through the exhibits?

20 HEARING OFFICER: Sorry. So, let's do this.
21 Let's have you--before you call your witness, go ahead and mark
22 the application and any parts of the application that you need
23 to mark. So, you'll ask me to mark them for purposes of the
24 hearing. And then, once you've marked them, then I'll ask you
25 for a motion to admit them. And then, we'll admit them into

1 the record. And then, when that is done, then call up your
2 witness and then we will—you can ask me to mark his testimony.

3 LINDA BULLEN: The applications that we pre-
4 marked, or I'm sorry, the exhibits that we pre-marked, that we
5 would be asking you to mark accordingly are first of all, our
6 UEPA application as Exhibit Number 100. Number 101 is the
7 direct testimony of Mark Spencer. 102, the direct testimony
8 of Richard Salgo. Number 103, the rebuttal testimony of
9 Richard Salgo. 104, the rebuttal testimony of Derek
10 Furstenwerth. 105, these may be extraneous in the end, but
11 Nexus' response to Staff's DR Numbers 1-1 through 107.

12 HEARING OFFICER: So, hold on, Ms. Bullen. Are
13 the DR responses, have they been filed with the Commission?
14 Are they in the record? Is this something that you may be
15 using a cross-examination exhibit or something else of that
16 sort?

17 LINDA BULLEN: I think that they were included,
18 but I think we don't need to mark them as exhibits. So, we'll
19 just stop there. The last exhibit will be 104. That will be
20 sufficient, the rebuttal testimony of Derek Furstenwerth.

21 HEARING OFFICER: Okay.

22 LINDA BULLEN: So, at this time, we'll have 100
23 through 104.

24 HEARING OFFICER: Okay. So, then for purposes of
25 the record, I will mark the UEPA application in Docket 26-

1 06016 as Exhibit 100. And I will pre-mark Mr. Spencer's
2 direct testimony as Exhibit 101. And then, we will do the
3 rest of them as those witnesses come up. So, if you want to
4 go ahead and make a motion to admit Exhibits 100 and 101.

5 LINDA BULLEN: I would make that motion to
6 admit Exhibit numbers 100 and 101 into the record.

7 HEARING OFFICER: Okay. Is there any discussion
8 on that motion? Okay. Exhibits 100 and 101 are admitted. If
9 you want to call Mr. Spencer up, please, and I will swear him
10 in.

11 LINDA BULLEN: Okay. Nexus Fulcrum calls Mr.
12 Mark Spencer.

13 HEARING OFFICER: Hello, Mr. Spencer if you could
14 just state your name for the record, please. I think your
15 microphone is off. Is it green? Green is good.

16 MARK SPENCER: Mark Spencer, S-P-E-N-C-E-R.

17 HEARING OFFICER: Thank you, Mr. Spencer. And if
18 you can just raise your right hand for me, please. Do you
19 solemnly swear or affirm that the evidence you shall give in
20 this matter shall be the truth, the whole truth and nothing
21 but the truth?

22 MARK SPENCER: Yes, Commissioner.

23 HEARING OFFICER: Thank you very much. Ms.
24 Bullen, you may now introduce your witness.

25

1 LINDA BULLEN: Mr. Spencer, by whom are you
2 employed and in what capacity?

3 MARK SPENCER: I am employed by Advanced Power
4 Services NA, and I am the Senior Vice President of
5 Development.

6 LINDA BULLEN: It might be helpful at this
7 point if you explain the relationship between Advanced Power
8 and the applicant in this case, Nexus Fulcrum LLC.

9 MARK SPENCER: Yes. Advanced Power is an
10 affiliate of the applicant and we are providing development
11 services to advance the development of the project and
12 sponsoring the application.

13 LINDA BULLEN: Do you have before you what has
14 been marked Exhibit 101 in this matter, which is your prepared
15 direct testimony? Do you see that in front of you?

16 MARK SPENCER: Yes, I do.

17 LINDA BULLEN: Was that testimony prepared by
18 you or at your direction?

19 MARK SPENCER: Yes, it was.

20 LINDA BULLEN: Do you have any corrections or
21 edits that you'd like to provide to that testimony today?

22 MARK SPENCER: Yes, I do.

23 LINDA BULLEN: Do you want to tell us what page
24 and what line will be your first correction?

25

1 MARK SPENCER: On Page 1, Line 22. It should
2 read, in 2024, my role shifted again to focus on development
3 of fossil-fueled power plants.

4 LINDA BULLEN: Is there anything else?

5 MARK SPENCER: And I would like to replace
6 Table 5.

7 LINDA BULLEN: I think everyone here in the
8 room has the new Table 5 in front of them. Okay. I don't
9 think you have it.

10 HEARING OFFICER: And let's, Ms. Bullen, I would
11 like to mark the revised Table 5 that you handed out as the
12 errata to Mr. Spencer's testimony. Is that okay?

13 LINDA BULLEN: Yes. That is fine.

14 HEARING OFFICER: So, after, I don't know, maybe
15 I'll turn to my GC folks that if you can upload this or either
16 that or file it, I don't know, after the hearing, so that it's
17 part of the record. Okay. So, we'll be able to upload this
18 after the hearing so it'll be the errata to Mr. Spencer's
19 testimony. Okay, go ahead. And were you gonna have Mr.
20 Spencer explain what was different?

21 LINDA BULLEN: Yes. So, Mr. Spencer could you
22 please explain what is different between the errata which is
23 now in front of you and the other parties, and the original
24 Table 5 that is in your application?

25

1 MARK SPENCER: Yes, the errata updates the
2 annual emissions quantities for the turbine emissions, all
3 figures in the row were changed. And then, necessarily,
4 because the site wide annual emissions are in addition of the
5 turbine emissions, the diesel fire pump, and the natural gas
6 generator emissions, then the site wide annual emissions also
7 were changed.

8 LINDA BULLEN: And can you explain the reason
9 for that change?

10 MARK SPENCER: Yes. After we filed the UEP
11 application and through the normal course of discussion
12 between our consultant, us, and Nevada DEP, we came to an
13 agreement that we needed to modify the number of continuous
14 operating hours and the number of startup and shutdowns to
15 maintain maximum flexibility for the type of units that we
16 were permitting.

17 So, essentially, what we agreed to do was with NDEP,
18 was to increase the continuous number of—hours of
19 continuous operations under the permit. And then, also hold
20 the—allow for a similar number of startup and shutdown
21 events.

22 So, the accommodation increases the operational
23 flexibility of the facility to allow it to start up and shut
24 down, as necessary, to mitigate any run through or limitations
25

1 of requiring us to run if startup or shutdowns were otherwise
2 curtailed in the permit.

3 LINDA BULLEN: Are you able to quantify
4 percentage wise or something similar, the amount of change in
5 each of these numbers?

6 MARK SPENCER: Yes. Some of the categories
7 changed very little. The category for the GHG emissions
8 changed approximately 3.9% or an increase of 3.9%.

9 LINDA BULLEN: And ultimately, did that change
10 whether or not the PSD threshold was exceeded in any of those
11 categories?

12 MARK SPENCER: No, it did not. The rows at the
13 bottom of the table on whether or not those thresholds were
14 triggered stayed the same. The conclusions in my testimony
15 remain the same and has no bearing on how the facility will be
16 operated or dispatched in the future.

17 LINDA BULLEN: Those are the only questions
18 that I had about that particular issue, Commissioner.

19 HEARING OFFICER: Okay. Then, if you want to go
20 ahead and finish up with your introduction of the witness.

21 LINDA BULLEN: Did you have any other
22 corrections or edits to your testimony?

23 MARK SPENCER: No, I do not.

24 LINDA BULLEN: If I asked you all, with the
25 exception of what we've just discussed, but if I asked you the

1 same questions that are in that testimony, that are included
2 in the testimony in front of you, would your answers be the
3 same today, again, with the exception of what we just
4 discussed?

5 MARK SPENCER: Yes, the answers are the same
6 except for what we discussed.

7 LINDA BULLEN: Thank you. I have no other
8 questions and I tender the witness for cross-examination.

9 HEARING OFFICER: Thank you, Ms. Bullen. Is there
10 any party that has any questions or concerns about the errata
11 to Mr. Spencer's testimony? Okay. I'm not seeing anyone
12 grabbing their microphone. I do have one question from Ms.
13 Lighthart about the introduction of your errata, Mr. Spencer,
14 so I'm going to let her go ahead and do that now.

15 KIM LIGHTHART: Good morning, Mr. Spencer. If I
16 understood you correctly, you said that the update was based
17 upon an increase in the continuous number of hours?

18 MARK SPENCER: Yes, ma'am, that's correct.

19 KIM LIGHTHART: So, what was that increase?

20 MARK SPENCER: So, the increase allows for
21 continuous operation of the facility for 8,760 hours per year.

22 KIM LIGHTHART: Okay. All right. Thank you.

23 HEARING OFFICER: Okay. Great. So, I think what
24 I'm going to do, because I suspect there will be some
25 questions for Mr. Spencer, is let's go ahead and take our

1 break now for the agenda rather than interrupting the flow of
2 any Counsel's cross-examination.

3 So, we'll go off the record here. And if everyone—I
4 expect the agenda will go until at least 10:15. It may go
5 longer, but if everyone can kind of be back in the room around
6 10:15, so if we are done with the agenda, we can pick back up.
7 So, we're off the record until 10:15 or after the agenda.
8 Thank you.

9 OFF THE RECORD

10 ON THE RECORD

11 HEARING OFFICER: Thank you for everyone's
12 patience in taking a detour for the agenda. And I believe is
13 Mr. Spencer still sitting there in the witness seat?

14 LINDA BULLEN: He is.

15 HEARING OFFICER: Fantastic. Okay. Then let's
16 see my list. Why don't we start with you, Mr. Cavros.

17 GEORGE CAVROS: Thank you, Commissioner. Good
18 morning, Mr. Spencer. Just a couple questions about your
19 Table 5. The capacity factor that was used previously in the
20 table provided, in the environmental statement and in your air
21 permit. What capacity factor did it assume?

22 MARK SPENCER: My understanding, this is Mark
23 Spencer. My understanding is that we did not use a capacity
24 factor, we used a number of hours of operation, which is
25 consistent and traditional with an air permit application.

1 The original application had 7,200 hours of continuous
2 operation and 307 stop and start events per turbine.

3 GEORGE CAVROS: And how many hours and how many
4 start and stop hours are assumed in this new table?

5 MARK SPENCER: In this new table, we are using
6 up to 8,700. We are using up to 8,760 continuous hours or a
7 combination of 307 start and stop events and accepting a
8 condition in the permit where CO emissions would not exceed
9 250 tons per year, given any combination of continuous hours
10 and start and stop events.

11 GEORGE CAVROS: Could you explain that condition
12 in the permit to me a bit more?

13 MARK SPENCER: Yes. So, the idea is that the
14 CO emissions would stay below the PSD threshold and would give
15 the facility the maximum operating flexibility to either run
16 continuously or to shut down as necessary to serve the load.
17 And so, the permit condition ultimately allows the facility to
18 match the load profile of the data center much more closely.

19 GEORGE CAVROS: So, the permit is conditioned on
20 keeping carbon monoxide emissions below 250, is that correct?

21 MARK SPENCER: That is one constraint. There
22 will be other constraints in the permit.

23 GEORGE CAVROS: If that constraint was not in
24 there and carbon monoxide emissions hit 250, would that then
25 trigger a PSD threshold?

1 LUCAS FOLETTA: I'm going to object,
2 Commissioner. He's outside the scope of the witness's
3 testimony and it's not relevant to this proceeding.

4 HEARING OFFICER: Did you want to—

5 LINDA BULLEN: And it also calls for
6 speculation, objection.

7 HEARING OFFICER: Okay. Mr. Cavros?

8 GEORGE CAVROS: It's not speculation and I don't
9 think it's outside the scope of, you know, this witness is
10 here to support the environmental statement. The air permit
11 is part and parcel of that. And we are discussing Clean Air
12 Act regulations right now, as it pertains to the permit. So,
13 I'm asking him, I'd like to ask him just a little bit about
14 PSD. What it is, what that threshold is. I think that's fair
15 game.

16 HEARING OFFICER: I agree. So, you can go ahead
17 and you may need to re-ask your question, unless the witness
18 remembers the question.

19 GEORGE CAVROS: Sure. Let me if I could
20 backtrack for a moment, Mr. Spencer. If we could go to the
21 very top row, NO_x is, if you see NO_x, NO_x is nitrogen oxide is
22 that correct?

23 MARK SPENCER: Yes, sir.

24 GEORGE CAVROS: Okay. And that's a criteria
25 pollutant, correct?

1 MARK SPENCER: Yes, sir.

2 GEORGE CAVROS: Under the Clean Air Act. Thank
3 you. And then CO is carbon monoxide, correct?

4 MARK SPENCER: Yes.

5 GEORGE CAVROS: And that's a criteria pollutant,
6 correct?

7 MARK SPENCER: Yes.

8 GEORGE CAVROS: VOC is volatile organic
9 compound, and that is a criteria pollutant, correct?

10 MARK SPENCER: Yes.

11 GEORGE CAVROS: And SO₂ is sulfur dioxide.

12 MARK SPENCER: Yes.

13 GEORGE CAVROS: And that is a criteria
14 pollutant?

15 MARK SPENCER: Yes.

16 GEORGE CAVROS: And then, the last two are
17 particulate matter. I guess, the last three particulate
18 matter, particulate matter 10, particulate matter 2.5. Those
19 three are criteria pollutants as well. Correct?

20 MARK SPENCER: Yes.

21 GEORGE CAVROS: And of course, GHGs is
22 greenhouse gas emissions. That is not a criteria pollutant,
23 correct?

24 MARK SPENCER: Correct.

25

1 GEORGE CAVROS: And my question to you was if
2 that carbon monoxide statewide emission figure, which in the
3 new table is 249.99 annual tons, if that were to hit 250,
4 would it trigger a PSD—would it trigger a higher standard of
5 review for the permit?

6 MARK SPENCER: If the application were modified
7 to show a request to emit more than 250 tons, yes, it would
8 trigger a different standard review.

9 GEORGE CAVROS: Okay. And PSD stands for
10 Prevention of Significant Deterioration, is that correct?

11 MARK SPENCER: Yes.

12 GEORGE CAVROS: And once that threshold is hit,
13 is it correct that then the facility would have to meet a best
14 available control technology limit?

15 MARK SPENCER: I would defer to my colleague to
16 answer questions on this. I am not an expert in air emissions
17 or modeling, and I can answer the basic high-level questions.
18 I can support testimony on Table 5, but I'm not an expert in
19 answering these types of detailed questions you're asking.

20 GEORGE CAVROS: Understood. And just one last
21 question on the PSD threshold being hit. It would be hit
22 because in that last row, one of the criteria pollutants would
23 be above 250. Is that correct?

24 MARK SPENCER: Yes.

25

1 GEORGE CAVROS: And just one last question on
2 that point. Well, actually, that's fine. I'll stop there. I
3 did want to ask you a question about the greenhouse, the
4 updated greenhouse gas emission figure. In short tons, it
5 appears to be about 100 tons more. In the parentheses there,
6 according to the footnote at the bottom, that represents
7 metric tons. Why are the metric tons unchanged?

8 MARK SPENCER: That was a clerical error that
9 the numbers in the parentheses under the greenhouse gas column
10 for turbine emissions and site wide annual emissions were not
11 properly updated. The numbers above those outside the
12 parentheticals are correct.

13 GEORGE CAVROS: Did you want to update the
14 parentheticals for us at this time?

15 MARK SPENCER: I would defer—

16 LINDA BULLEN: I'm going to object to the
17 question. What he wants to do and is not relevant to the
18 questions that are being asked. And Mr. Spencer indicated
19 there are probably other people better qualified to answer
20 that question than him.

21 HEARING OFFICER: Okay.

22 MARK SPENCER: And I'm not prepared to make
23 those calculations here at the witness stand.

24 HEARING OFFICER: Okay. So, the question was do
25 you want to update those parentheticals and I believe the

1 answer is that the witness is not prepared to do so. So, I
2 don't know that we need to have an objection ruled on. Are
3 you comfortable with that, Ms. Bullen?

4 LINDA BULLEN: Yes.

5 HEARING OFFICER: Okay. And Mr. Cavros, you can
6 go ahead.

7 GEORGE CAVROS: Thank you. Is there a witness
8 here today in the room that could update those figures?

9 MARK SPENCER: Yes, I believe so, that my
10 colleague Mr. Furstenwerth will be able to update those
11 numbers.

12 HEARING OFFICER: Okay. So, now we have a
13 homework assignment for Mr. Furstenwerth. I'm assuming he's
14 [inaudible]. Go ahead, Mr. Cavros.

15 GEORGE CAVROS: Thank you. Was this table filed
16 as an amendment to the to the air permit?

17 LINDA BULLEN: By that, I'm sorry, by that
18 question are you asking this table, the new table that we
19 presented this morning?

20 GEORGE CAVROS: Apologies. Yes, the table we're
21 looking at now, the pre-marked exhibit that you just testified
22 on, has this table been filed as an amendment to your air
23 permit in the NDEP docket?

24 MARK SPENCER: I do not know the answer to that
25 question, whether it was filed as an amendment or some other

1 type of piece of information filed in the docket. I do not
2 know.

3 HEARING OFFICER: Okay. Thank you, Mr. Spencer.
4 Ms. Bullen, can you make a representation as to whether this
5 table was provided to NDEP?

6 LINDA BULLEN: That is a question that I would
7 direct to Mr. Furstenwerth who will again be testifying here
8 in this proceeding later today.

9 HEARING OFFICER: Okay. Great.

10 GEORGE CAVROS: Earlier, Mr. Spencer, you
11 mentioned that the earlier table in the environmental
12 statement was based on about 7,200 hours of runtime. This
13 table is based on 8,760 hours. That appears to be about a
14 20%. Would you agree that that's about a 20% increase in the
15 runtime?

16 MARK SPENCER: I'll trust your judgment on
17 doing the math. I cannot do the math here on the witness
18 stand.

19 GEORGE CAVROS: Okay. And earlier, I believe
20 you testified that the turbine emissions are about 3.9%
21 higher. Is that correct?

22 MARK SPENCER: The greenhouse gas emissions
23 were 3.9% higher.

24

25

1 GEORGE CAVROS: Okay. How is it that you can
2 increase the runtime by about 20%, but only increase
3 greenhouse gas emissions by roughly 4%?

4 MARK SPENCER: I can talk to the process.
5 These numbers would be calculated based on the emissions
6 during steady state operations and emissions during startup
7 and shutdown. That calculation would have been supported by a
8 workbook that would have been reviewed by the environmental
9 consultants, and then also Nevada DEP. I do not have that
10 workbook available, nor can I explain the calculations of that
11 workbook.

12 GEORGE CAVROS: Thank you. That's all I have,
13 Commissioner.

14 HEARING OFFICER: Okay. Ms. Bullen, do you have
15 any redirect?

16 LINDA BULLEN: Not at this time.

17 HEARING OFFICER: Okay. Then let's move to
18 Switch.

19 LUCAS FOLETTA: Thank you, Mr. Spencer. You
20 were asked some questions about this new Table 5, specifically
21 the line sitewide annual emissions. Do you see that?

22 MARK SPENCER: Yes, I do.

23 LUCAS FOLETTA: You were asked a question about
24 the CEO column in which the number 249.99 appears. Do you see
25 that?

1 MARK SPENCER: Yes, I do.

2 LUCAS FOLETTA: Do you recall being asked
3 whether hypothetically, if that number hits 250, the PSD
4 threshold is triggered? Do you recall that?

5 MARK SPENCER: Yes.

6 LUCAS FOLETTA: To your knowledge, is there any
7 intent on the part of the applicant in that air permitting
8 matter to trigger a PSD threshold?

9 MARK SPENCER: No, there is no intent. In
10 fact, our intent is to avoid triggering that threshold through
11 some type of binding condition acceptable in the permit.

12 LUCAS FOLETTA: And is that permit process
13 ongoing?

14 MARK SPENCER: Yes, it is.

15 LUCAS FOLETTA: You described a workbook, I
16 think. You said you were going to speak to the process when
17 asked questions about percentage increases of runtimes. Do
18 you recall that?

19 MARK SPENCER: Yes, I do.

20 LUCAS FOLETTA: The question I believe that was
21 posed was how can you, generally speaking, I'm paraphrasing,
22 how can you increase the runtime by 20% but only the GHG
23 emissions by approximately 4%? Do you recall that?

24 MARK SPENCER: Yes, I recall.

25

1 LUCAS FOLETTA: Is it your understanding of the
2 air permitting process that NDEP as the jurisdictional
3 permitting agency will review that calculation amongst others?

4 MARK SPENCER: Yes, that's my understanding.

5 LUCAS FOLETTA: And NDEP's, is it fair to say
6 that at least part of NDEP's role in that review is to
7 determine whether a PSD threshold is met?

8 MARK SPENCER: That is my understanding is that
9 they would review that workbook in depth to make sure that
10 those thresholds are not triggered.

11 LUCAS FOLETTA: Thank you. No further
12 questions.

13 HEARING OFFICER: Okay. And this is a bit unusual
14 in terms of process but given that that felt an awful lot like
15 redirect, Mr. Cavros, I'm going to allow you to do recross if
16 you want to or if you're satisfied, we'll move on.

17 GEORGE CAVROS: I have no recross, thank you,
18 Commissioner.

19 HEARING OFFICER: Okay. Then let's move to the
20 BCP. Mr. Taylor.

21 SAM TAYLOR: Thank you, Commissioner. Good
22 morning, Mr. Spencer. How are you doing?

23 MARK SPENCER: Doing fine, sir.
24
25

1 SAM TAYLOR: Great. Could you please turn to
2 your direct testimony in Answer 5 on Page 2 for me? Are you
3 there?

4 MARK SPENCER: Yes.

5 SAM TAYLOR: Okay. In Answer 5, you state,
6 and I quote, "I describe how the application satisfies the
7 requirements of UEPA such that the Commission should approve
8 the application". Is this correct?

9 MARK SPENCER: That's correct.

10 SAM TAYLOR: Okay. And you're urging the
11 Commission to approve this application, correct?

12 MARK SPENCER: Yes.

13 SAM TAYLOR: Okay. And you're familiar with
14 NRS 704.890, correct?

15 MARK SPENCER: Yes.

16 SAM TAYLOR: Okay. And then, in Answer 5,
17 beginning at Line 13 through Line 7 on the next page, you laid
18 out basically, the provisions of 704.890, did you not?

19 MARK SPENCER: Yes.

20 SAM TAYLOR: Okay. Does the project
21 economics of this particular application depend on the price
22 of gas?

23 MARK SPENCER: It would be a factor. I'm not
24 sure it's the dispositive factor.

25

1 SAM TAYLOR: Okay. Are you familiar with
2 global markets for gas and how that market operates?

3 MARK SPENCER: Generally, yes.

4 SAM TAYLOR: Okay. Does this facility rely
5 on the type of gas that flows through the Strait of Hormuz?

6 MARK SPENCER: No.

7 SAM TAYLOR: Okay. Let me ask you another
8 question. You indicated in your testimony that you are not an
9 environmental professional, correct?

10 MARK SPENCER: Correct.

11 SAM TAYLOR: And you also stated that you
12 have experience reviewing project specific impacts and their
13 regulatory implications, correct?

14 MARK SPENCER: Yes.

15 SAM TAYLOR: Okay. Have you ever testified
16 before the Nevada PUC previously about a UEPA application?

17 MARK SPENCER: I have not.

18 SAM TAYLOR: Are you aware that there are
19 policy considerations in Nevada relative to renewable energy
20 and clean air goals?

21 MARK SPENCER: I'm generally aware that there
22 are policy goals, yes.

23 SAM TAYLOR: What are those goals that you're
24 aware of?

25

1 LUCAS FOLETTA: I'm going to object. Calls for
2 a legal conclusion.

3 SAM TAYLOR: It does not call for a legal
4 conclusion, Commissioner, because the person testifying, Mr.
5 Spencer, indicated that he's aware of the statute and that he
6 applied the statute when making the recommendation to the
7 Commission.

8 The questions I'm asking are relative to those
9 particular provisions in the statute. So, we should be able
10 to explore the depth of his knowledge on those particular
11 provisions and what he examined and what he did not and what
12 he was aware of and what he was not whenever he was making
13 those recommendations to the Commission.

14 HEARING OFFICER: Okay. I'm going to allow the
15 line of questioning, but I just want to remind you, Mr.
16 Taylor, that compliance with the RPS is not at issue here.
17 So, as you ask him questions about his familiarity with the
18 renewable energy goals and laws in Nevada, to not stray beyond
19 the scope of what we're doing here. And to the extent, Mr.
20 Spencer, that you don't have the information available to
21 answer those questions, that's an acceptable response. So, go
22 ahead, Mr. Taylor, and ask your question again.

23 SAM TAYLOR: Yes, and my question was what
24 goals, policy goals, were you aware of relative to renewables
25 in the State of Nevada?

1 MARK SPENCER: My understanding under the UEPA
2 process is if the generation facility produces greenhouse
3 gases, then there has to be an evaluation of the extent the
4 facility is needed to ensure reliable service. That's the
5 extent of this process.

6 SAM TAYLOR: Okay. But my question was,
7 goals that maybe exist outside of UEPA. Are you aware of any
8 other goals relative to renewables outside of UEPA and were
9 you aware of those when you were making, you know, preparing
10 your testimony?

11 MARK SPENCER: I'm not prepared to answer that
12 question. I have not reviewed those goals. Specifically, if
13 you have the statute or regulation, I can review that and
14 answer your question. But I do not have those committed to
15 memory.

16 SAM TAYLOR: Well, what I'm trying to
17 ascertain is, were you aware of those goals or other goals
18 outside of UEPA when you were preparing your testimony? So,
19 that would probably be a yes or no answer.

20 LINDA BULLEN: Objection asked and answered.

21 HEARING OFFICER: Mr. Taylor, do you want to
22 respond?

23 SAM TAYLOR: Yes. The question was not
24 answered because I asked him what goals he was aware of that
25 exist outside of UEPA at the time he was preparing his

1 testimony. He should be aware of those goals. And if there
2 were no goals, he should so state.

3 HEARING OFFICER: Okay. I do believe he has
4 answered this question, but I will allow you to ask it one
5 more time. Mr. Spencer, are you aware of any goals relating
6 to renewable energy or in the environment? What was your—

7 SAM TAYLOR: Renewables.

8 HEARING OFFICER: Renewables outside of those in
9 UEPA when you were preparing your testimony?

10 MARK SPENCER: We did review, but we concluded
11 that it wasn't relevant to the application because it wasn't a
12 determination under the statute. And so, therefore I cannot
13 answer that question today in terms of what the goals are,
14 since we determined that there was no further line of inquiry
15 at the time we made the application.

16 HEARING OFFICER: Okay. Mr. Taylor. Let me just
17 interject for a minute. Mr. Spencer when you say "we", who
18 are you referring to?

19 MARK SPENCER: Myself and my team.

20 HEARING OFFICER: Okay. Okay. Go ahead, Mr.
21 Taylor.

22 SAM TAYLOR: Okay. Do you believe that
23 policy goals set out in the Nevada Constitution and Nevada
24 statutes enacted by the legislature are reflections of the
25 public interest?

1 LINDA BULLEN: I will object, because this is
2 beyond the scope of his direct testimony.

3 SAM TAYLOR: It is not beyond the scope of
4 his direct testimony. He literally cited to the public
5 interest on Page 3 of his testimony. He's talking about how
6 he applied that particular statute, statutory scheme, which is
7 set out in his testimony to his recommendation to make
8 approval for this particular application. So, yeah, I think
9 it's directly related.

10 HEARING OFFICER: Okay. Mr. Spencer, are you an
11 attorney?

12 MARK SPENCER: I'm not.

13 HEARING OFFICER: Okay. And I do believe that
14 asking for constitutional interpretation will require a lawyer
15 to weigh in, Mr. Taylor, so if you can re-ask question in a
16 way that does not require the witness to have legal expertise,
17 I would appreciate that.

18 SAM TAYLOR: Well, I think Commissioner, if I
19 may, my question was directed to whether or not he personally
20 believes policy goals are reflections of the public interest
21 and those policy goals as set out in, for example, the
22 constitution and Nevada statutes. I think any lay person
23 could answer that question quite easily, whether or not they
24 believe personally those statements are in public interest or
25 reflective of the public interest.

1 HEARING OFFICER: Okay. And do—

2 LUCAS FOLETTA: I'm going to object. I mean,
3 that presumes knowledge of what those policy goals are and I
4 don't believe we've established that at all.

5 SAM TAYLOR: No, it does not require that. I
6 said policy goals in general. Are they reflections? It was
7 just a general question.

8 HEARING OFFICER: Okay. So, when you're
9 referring, Mr. Taylor, to policy goals in general, again, my
10 question would be, you're talking about renewable energy
11 requirements for the State in terms of the policy goals?

12 SAM TAYLOR: No, ma'am. I am talking about
13 any policy goals. In other words, our expressions set forth,
14 for example—and I'll just give an example, but it's not meant
15 to be the specific example. Article 4, Section 39 of the
16 Nevada Constitution was passed by people in the State of
17 Nevada. That, I think, is a reflective of the public interest
18 in terms of a policy goal. So, that is just an example.

19 LUCAS FOLETTA: But that's an example that
20 relies upon Mr. Taylor's knowledge of what's in that
21 particular article. I mean, there are portions of the Nevada
22 State Constitution that are 200 years old, that are one
23 sentence long and were put there by the framers and are
24 completely irrelevant and antiquated as we sit here today.
25 So, I just—I don't see the relevance of this.

1 If there is a specific policy goal that Mr. Taylor
2 would like to direct a witness to, then maybe the witness can
3 answer as to whether he believes that goal is representative
4 of the State of Nevada's public interest, but that question
5 strikes me as pretty problematic on its face.

6 SAM TAYLOR: Commissioner.

7 HEARING OFFICER: Yes.

8 SAM TAYLOR: Essentially, the question was
9 directed towards finding out whether Mr. Spencer believes that
10 statements or provisions in like, for example, the Nevada
11 Constitution or a statute are reflections of the public
12 interest. In other words, we have a representative form of
13 government, i.e., the public represents—they elect certain
14 people, those people pass laws, that is an expression of
15 public interest. And what I'm trying to do is have Mr.
16 Spencer acknowledge that fact.

17 HEARING OFFICER: Okay. So, that is not the
18 question that you asked Mr. Spencer about our representative
19 government. But I think that short of presenting him with the
20 goals, the policy goals that you specifically want to know if
21 he considered, I think a better question would be just a more
22 open question about what information he utilized in order to
23 determine what was in the public interest.

24 So, if you want to ask him that question or if you
25 want to direct him to specific policy goals that you believe

1 are enshrined in State law or in the Constitution, I think
2 that it is—you're asking him, making assumptions that he has
3 information that he does not have.

4 So, if you can ask him what he in fact relied on, I
5 think that's a perfectly acceptable question in interpreting
6 the public interest. But asking a more general just goals of
7 the state that people in the state want, I don't know that
8 that's a productive line of questioning. And so, I'm not
9 going to allow that.

10 SAM TAYLOR: Okay. Moving on. Please turn
11 to Answer 15 on Page 9 of your testimony. Are you there?

12 MARK SPENCER: Yes.

13 SAM TAYLOR: And you state in Answer 15 on
14 Page 9, and I quote, "the facility will provide a significant
15 reliability benefit to the NV Energy System", is that correct?

16 MARK SPENCER: Yes, that's correct.

17 SAM TAYLOR: Okay. Will the facility be
18 selling power to NV Energy?

19 MARK SPENCER: I have no knowledge of any
20 commercial constructs on how the facility will be sold into
21 the system or not.

22 SAM TAYLOR: Okay. How would you know then
23 that the system is going to be providing reliability to NV
24 Energy? Isn't it providing reliability to Switch, who is the
25 off-taker for all this power?

1 LUCAS FOLETTA: I'm going to object. In Answer
2 15, the witness states, "as witness Richard Salgo testifies to
3 in more detail, the facility will provide a significant
4 reliability benefit to NV Energy system. I defer questions
5 regarding reliability contribution of the facility", dot, dot,
6 dot, to Mr. Salgo. I think Mr. Salgo is the right witness for
7 this question. This is beyond the scope of Mr. Spencer's
8 testimony.

9 SAM TAYLOR: He did make the statement. So,
10 the statement was the facility will provide a significant
11 reliability benefit to the NV Energy System. I am merely
12 questioning him about that statement that he made.

13 HEARING OFFICER: Yes, thank you. Mr. Foletta and
14 Mr. Taylor. Mr. Spencer can answer the question to the best
15 of his ability and he can defer it to another witness if he'd
16 like. So, go ahead, Mr. Spencer. Do you need the question
17 restated?

18 MARK SPENCER: Yes, could you restate the
19 question, please?

20 SAM TAYLOR: The question was, you said the
21 facility will provide a significant reliability benefit to the
22 NV Energy system. And my question from that was, what is that
23 benefit if the off-taker is Switch and you're not selling
24 power to NV Energy?
25

1 MARK SPENCER: Yes. So, the benefits of a
2 synchronous generator interconnected to the system are
3 manifold. The resource adequacy, which I think you're
4 referencing, is only one attribute of reliable service. The
5 North American Electric Reliability Corporation lists three
6 other essential reliability services and also has identified
7 inertia, which is an attribute of a synchronous generator, as
8 another.

9 Just by the fact that this facility will be
10 interconnected and what Mr. Salgo will testify to and what is
11 in his testimony is that the fact that you don't need a
12 commercial agreement and if the synchronous generator is
13 synchronized to the system, then it will provide voltage
14 control, frequency control, and inertia, which creates
15 resiliency and reliability for the local grid conditions.

16 SAM TAYLOR: But that requires transferring
17 power to NV Energy from your facility does it not?

18 MARK SPENCER: It requires an interconnection.
19 Those things are simply by the fact that is synchronized to
20 the grid that those attributes or services will be provided.

21 SAM TAYLOR: Okay. Let's make that more
22 clear. So, you're talking that somehow the facility, even
23 though it's not transferring any power whatsoever to NV Energy
24 is going to provide reliability to NV Energy?

1 MARK SPENCER: So, it will transfer energy in
2 certain circumstances and also control voltage on the system
3 irrespective of any type of commercial agreements. Because a
4 breaker—may I finish, sir?

5 SAM TAYLOR: Yes, sir.

6 MARK SPENCER: Because a breaker is closed and
7 the system or the generator is synchronized to the system,
8 there are flows of electrons between, without regard to any
9 commercial construct. That's just an aspect of physics.

10 SAM TAYLOR: Yes, but it does, in order for
11 that to take place, that synchronization that you're talking
12 about, there would need to be a transfer of some energy to the
13 NV Energy system, right?

14 MARK SPENCER: Correct, but the topology of
15 this facility is such that it will be interconnected to the
16 grid and the power will flow across the system to the Switch
17 facility. So, that the transfer that you're describing is a
18 matter of fact will occur.

19 SAM TAYLOR: So, this acts more like a backup
20 generation source to the NV Energy System, does it not? In
21 that capacity, what you just described?

22 MARK SPENCER: No. That's not correct. That's
23 not what I said.

24 SAM TAYLOR: Okay. So, it's not a mainline
25 generation source for NV Energy, is it?

1 MARK SPENCER: I'm not sure what a mainline
2 generation source—

3 SAM TAYLOR: It's a base load.

4 MARK SPENCER: It's not intended to be part of
5 the NV Energy resource adequacy system. So, no.

6 SAM TAYLOR: Okay. Thank you. Please go to
7 Answer 16 on Page 9. Are you there?

8 MARK SPENCER: Yes.

9 SAM TAYLOR: Okay, thank you. You state and
10 I quote, "Indeed, TRIC is experiencing substantial commercial
11 growth with the possibility of generating jobs, tax revenue,
12 Nevada economic brand value, and overall economic growth",
13 correct?

14 MARK SPENCER: Yes.

15 SAM TAYLOR: Okay. Are you arguing here or
16 stating in your testimony that the growth of TRIC has anything
17 to do with the application?

18 MARK SPENCER: I think the statements that you
19 quoted were to be contextualized with the entire response.

20 SAM TAYLOR: What do you mean by entire
21 response?

22 MARK SPENCER: The entire response, read as a
23 whole, is why the facility is needed. I think what I'm doing
24 is adding context by saying that this particular location is
25

1 experiencing substantial economic growth and the facility is
2 needed for its purpose.

3 SAM TAYLOR: Okay. Does the public interest
4 that you referenced in your answer to A5 on Page 3, this part
5 of the statute that we discussed earlier include only the
6 perceived economic benefits that you list, in your testimony?

7 MARK SPENCER: Yes. I believe that the public
8 interest has many aspects, one of which being the economic
9 benefits of the project.

10 SAM TAYLOR: Okay. Are renewables better for
11 the environment than a gas operated plant?

12 LINDA BULLEN: Objection. It is an opinion
13 that's not relevant to this proceeding.

14 SAM TAYLOR: Au contraire. It's absolutely
15 relevant to the proceeding. It's at the heart of proceeding.
16 That's part of what this proceeding is meant to do is examine
17 the environmental impact of this facility and compare it and
18 analyze it in the context of public interest and other
19 factors. That's what the statute requires.

20 LINDA BULLEN: I'm saying that Mr. Spencer's
21 opinion on this is not relevant.

22 SAM TAYLOR: It's directly relevant because
23 he generated testimony urging this application to be approved,
24 and he's also arguing that there's little to no environmental
25 impact as a result of this. So, yeah, I think his

1 understanding of the environmental impact of this facility is
2 central to this particular application and this hearing.

3 HEARING OFFICER: Okay. I do believe that given
4 that Mr. Spencer is testifying about the environmental impact
5 of this particular resource, that responding as to whether or
6 not an alternative resource; and for purposes of the question,
7 Mr. Taylor, can we agree that perhaps we could talk about a
8 solar and storage type of facility? When you say renewable
9 energy, that's a little bit general and hard--can we be a
10 little more specific and--

11 SAM TAYLOR: Sure.

12 HEARING OFFICER: --ask the witness if he believes
13 that a resource of that source, of that type, solar and
14 storage, adequately sized to serve this load, would have a
15 greater or less impact on the environment and why?

16 SAM TAYLOR: Yeah, that's a fair point,
17 Commissioner. So, yes, given what the Commissioner said about
18 the sizing and the nature of this, let's look at solar first.
19 Is solar as a renewable in terms of the battery system that
20 she was referring to as well as the solar array, is that
21 better for the environment than the gas-fired facility?

22 MARK SPENCER: I think all aspects of that
23 development would have to be taken in totality. While it
24 would have reduced emissions by going with a PV array and
25 battery storage system, it would have required a significant

1 footprint to put the PV array in some location. So,
2 disturbing undisturbed areas.

3 My understanding is there's no land adjacent to this
4 particular facility, so it would have also required disturbing
5 land for a transmission line. So, there are other aspects of
6 the hypothetical PV plus battery storage that would have had a
7 worse outcome than siting a gas fired power plant on already
8 disturbed facility adjacent to the data center, which reduces
9 the transmission tie.

10 SAM TAYLOR: Yeah. I was talking about harm
11 to the environment, not the economic cost to the developer.
12 So, in terms of environment, environment only, not economics,
13 is solar array better than gas-fired facility?

14 MARK SPENCER: I would argue that disturbing
15 virgin ground would be an environmental harm.

16 SAM TAYLOR: But is it worse? I mean, have
17 you seen a solar array?

18 MARK SPENCER: Yes.

19 SAM TAYLOR: Okay. They basically pour
20 concrete on the ground that disturb very little in terms of
21 the environment relative to building a solar array?

22 MARK SPENCER: I don't agree with that
23 characterization. And I think that, as I said, the factors
24 would have to be weighed and totality about the emissions
25 versus the—

1 SAM TAYLOR: Okay. What about a wind
2 facility?

3 LUCAS FOLETTA: I'm going to object,
4 Commissioner. These questions are very abstract. I don't
5 know that all wind facilities are the same. I don't know how,
6 I mean, to your point, if the question is how do they, you
7 know, is there a comparable alternative in all ways to what is
8 being proposed in the application? Perhaps that's a topic
9 that's worthy of discussion, but I don't know how these
10 answers benefit the record.

11 SAM TAYLOR: They benefit my record and what
12 I'm trying to show. Specifically, what I'm trying to show is,
13 and get the opinion of the witness is what is worse for the
14 environment. The gas facility versus solar array. And then I
15 asked him about wind, which you indicated that I could ask him
16 about the various types, Commissioner. So, I would like to
17 continue my questioning on this point.

18 HEARING OFFICER: Yes, I think that I will allow
19 the witness to—I will allow you, Counsel, to continue to ask
20 the witness these types of questions. But Mr. Taylor, I would
21 appreciate it if you asked questions as opposed to testifying.
22 Your opinion about what solar does to the ground is not what's
23 at issue here, it's the witness's opinion on what solar does
24 to the ground. So, if you want to go ahead and ask him about
25 whether he thinks it would be a greater environmental impact

1 for a wind farm versus this gas generation, that's an
2 acceptable question. So, go ahead.

3 SAM TAYLOR: Fair enough. Thank you,
4 Commissioner. So, relative to the wind farm, same question.
5 Wind farm compared to the gas, which one is environmentally
6 worse?

7 MARK SPENCER: Again, I would refer back to my
8 original statement you'd have to look at these in totality.
9 If you're talking about a hypothetical wind farm, the
10 footprint, the disturbed footprint of that would be even
11 greater than the PV array. Plus, you have to consider the
12 fact that the issue with wind in general is that you're
13 reliant on when the wind blows.

14 So, typically for a use like this, a load like this
15 that requires reliable generation then either you would have
16 to significantly overbuild it, distribute it across a very
17 vast area to get that dispersion so that the local
18 environmental conditions don't impact all of your generation
19 at once. So, there's a lot of aspects embedded in your
20 question that would result in a significant environmental
21 impact if you were to try to serve this load with, say, wind.

22 SAM TAYLOR: Okay. What in terms of wind and
23 solar both, we'll just do this. Which one produces more of a
24 discharge into the air, like say for example, the NO_x, CO₂,
25 what have you? Which one produces more?

1 LINDA BULLEN: I'm gonna object, this—we have
2 not established any foundation that this witness knows
3 anything of the caliber of that kind of information about
4 different types of facilities. And again, I question the
5 relevance of this, of questioning.

6 SAM TAYLOR: He's being held out as an expert
7 and he testified that the impact to this facility basically is
8 environmentally sound and I'm questioning whether or not
9 that's in fact correct. And I'm trying to get an
10 understanding of which one is worse. And I think that's a
11 fair question to ask. Does wind produce more noxious fumes
12 that go into the air or does the gas facility? I think that's
13 a simple question. I think he'd know the answer to that.

14 HEARING OFFICER: Okay. Thank you, Mr. Taylor.
15 In this instance, I do think in terms of hypotheticals, we've
16 gone a little bit too far. The degree of specificity you're
17 asking him to respond to, with a hypothetical, I'm not
18 comfortable that I would be able to rely on his answer.

19 He did in a previous response indicate that when
20 we're talking about a solar array that there would be less
21 air, environmental impact with the solar array than there
22 would with the gas facility but asking him to use different
23 hypothetical resources and talk about the specific air impacts
24 is—I think we've gone pretty far afield.

25

1 So, if you want to move on to your next line of
2 questioning. I'd appreciate it.

3 SAM TAYLOR: Sure, no problem. Let's see
4 here. How many people will work at a plant of this size and
5 nature?

6 MARK SPENCER: I would estimate between 25 to
7 35 full time employees. Plus, there would be some contract
8 staff support.

9 SAM TAYLOR: Okay. Are you aware whether or
10 not the applicant has filed or will request tax abatement for
11 this facility anyway?

12 MARK SPENCER: I am not aware.

13 HEARING OFFICER: Can I just interrupt for a
14 second, Mr. Taylor? When you say tax abatement for this
15 facility, are you talking about the gas plant or are you
16 talking about the data center?

17 SAM TAYLOR: Just the gas plant.

18 HEARING OFFICER: Okay. Just clarifying the
19 record. Thank you.

20 SAM TAYLOR: I realize that that's highly
21 unlikely, but I just wanted to find out. Okay. Please turn
22 to Answer 19 on Page 11. Are you there?

23 MARK SPENCER: Yes.

24 SAM TAYLOR: Okay. You state that the
25 public's interest is served because this facility will serve

1 Switch needs and provide support for the benefit of the
2 Northern Nevada electrical system, correct?

3 MARK SPENCER: Yes.

4 SAM TAYLOR: Okay. So, do you equate
5 Switch's needs to be public interest needs? I mean, like,
6 meeting public interest.

7 MARK SPENCER: My opinion is that it's one
8 aspect. We have identified several other aspects where this
9 facility provides public benefit.

10 SAM TAYLOR: So, is it your understanding
11 that this—currently, and I'm just going to ask you this, that
12 Switch currently is receiving 100, for its existing facilities
13 is receiving 100% of its energy from renewables, is it not?

14 LINDA BULLEN: I'm going to object. Go ahead,
15 Mr. Foletta.

16 LUCAS FOLETTA: Thank you. I'm going to object
17 as outside the bounds of the—

18 SAM TAYLOR: Foundational.

19 LUCAS FOLETTA: Excuse me? I'm going to object
20 as outside the bounds of this witness's testimony and
21 irrelevant.

22 HEARING OFFICER: Okay. Mr. Taylor do you want to
23 respond?

24 SAM TAYLOR: Yes, it was foundational, it was
25 laying the basis for my next question.

1 HEARING OFFICER: Okay. I'm not sure that that is
2 within the scope of this witness' testimony. But I'll allow
3 Mr. Spencer to answer as to whether or not he knows where
4 Switch is getting its current energy as a current customer.

5 MARK SPENCER: I do not know where Switch is
6 getting its energy.

7 SAM TAYLOR: Okay. You testified earlier
8 about your understanding of the NDEP, you know, air permit
9 process. You have a good understanding of that, correct?

10 MARK SPENCER: I have an understanding, yes.

11 SAM TAYLOR: Okay. Does NDEP evaluate the
12 public interest when looking at air permit?

13 MARK SPENCER: Not to my knowledge.

14 SAM TAYLOR: Okay. Thank you. I have no
15 further questions.

16 HEARING OFFICER: Okay. Thank you, Mr. Taylor.
17 Do you have a redirect, Ms. Bullen?

18 LINDA BULLEN: How is this project in the
19 public interest?

20 MARK SPENCER: It's in the public interest
21 because it avoids necessary investment by NV Energy,
22 potentially part of that being borne by ratepayers. So, in
23 accordance with the executive order, data center is providing
24 its own generation.

25

1 It is in the public interest because it does create
2 jobs and there's been testimony filed in the docket that shows
3 that that will inure, mostly to the benefit of the citizens of
4 Nevada.

5 And then, also there will be tax revenue benefits
6 for local jurisdictions from this facility and the
7 consequential data center that will be served by the facility.
8 There's probably other benefits here that I'm not describing,
9 but those are the main ones.

10 LINDA BULLEN: And you were asked about
11 renewable energy, possibly alternatives. Is there or was
12 there a renewable energy alternative that would work for this
13 facility to support it. To support the data center?

14 MARK SPENCER: It's my opinion that there were
15 no other feasible options other than what we are moving
16 forward with here with the Fulcrum facility. Reason being is
17 because of the reasons I articulated. One, the reliable needs
18 of the facility do not mesh with the intermittent delivery of
19 power from renewables, even with batteries. There have been
20 studies where there have been periods of time where there just
21 simply isn't enough storage to be able to weather what's
22 called wind or solar droughts. So, it's technically not the
23 best option here.

24 Two, the fact that this facility is being sited on
25 an otherwise disturbed area and is minimizing the

1 environmental impact also makes it beneficial or a better
2 option than others that would require a much larger footprint.
3 And the fact that it's co-located and reduces the length of
4 the gen-tie or transmission to serve the load is also a
5 benefit.

6 LINDA BULLEN: How many acres is the Nexus
7 Fulcrum site?

8 MARK SPENCER: I think it's 20 acres
9 approximately.

10 LINDA BULLEN: To the best of you—to the extent
11 that you can answer this, could you install or could a solar
12 facility be installed on a 20 acre site sufficient to power
13 the data center here?

14 SAM TAYLOR: Objection, beyond the scope of
15 direct.

16 HEARING OFFICER: I think that I gave you a
17 certain amount of leeway asking about a hypothetical solar
18 facility. So, I'm going to allow this question, but we're not
19 going to go down this hole very far. So, Mr. Spencer, if you
20 know how much land it would take to site a solar facility as
21 you were thinking of when you were asked the questions by Mr.
22 Taylor.

23 MARK SPENCER: I'll rely on Mr. Furstenwerth's
24 testimony. He indicates that we require about 2,500 acres to
25 site a PV array to serve the data center load.

1 LINDA BULLEN: I have no other questions.

2 HEARING OFFICER: Okay. Thank you. Then let's
3 move on to Staff.

4 SAM TAYLOR: Madam Chair.

5 HEARING OFFICER: Oh, did you want to do some
6 recross, Mr. Taylor?

7 SAM TAYLOR: Yes, please.

8 HEARING OFFICER: Okay. Go ahead.

9 SAM TAYLOR: Thank you. You indicated that
10 Nevada Energy would have to build capacity to service this
11 facility if it was not being constructed by Switch, correct?

12 LINDA BULLEN: I believe that is outside the
13 scope of my—

14 SAM TAYLOR: That was his answer when he
15 redirected.

16 HEARING OFFICER: Yeah, I'll allow it. Go ahead.

17 MARK SPENCER: Yes, that's what I stated.

18 SAM TAYLOR: Okay. If NV Energy wouldn't be
19 required to build this to basically service the Switch
20 facility, it would be subject to the renewable portfolio
21 standard, correct?

22 LINDA BULLEN: Objection. It's not within the
23 scope of this witness' knowledge.

24 HEARING OFFICER: Well, I tend to agree that this
25 is outside of the scope, actually, of the redirect that Ms.

1 Bullen did. Do you have any knowledge as to how the RPS
2 applies, Mr. Spencer?

3 MARK SPENCER: No.

4 HEARING OFFICER: Okay. Mr. Taylor?

5 SAM TAYLOR: Thank you.

6 HEARING OFFICER: Okay. Moving on to Staff.

7 SIERRA WAECHTER: Staff has no questions for this
8 witness. Thank you.

9 HEARING OFFICER: Okay. I think that's everyone
10 on my list. So, then, Mr. Martin. Do you have questions for
11 this witness?

12 JASON MARTIN: I do not have any questions.
13 Thank you.

14 HEARING OFFICER: Okay. Ms. Lighthart, do you
15 have questions?

16 KIM LIGHTHART: I do not. Thank you,
17 Commissioner.

18 HEARING OFFICER: Okay. And I don't have any
19 questions either. So, Mr. Spencer, you're excused at this
20 time.

21 LINDA BULLEN: Our next witness is Richard
22 Salgo.

23 HEARING OFFICER: Okay. And then we marked, let
24 me find out where I did it. Mr. Salgo's, oh, I need to mark
25

1 Mr. Salgo's pre-filed direct testimony as Exhibit 102. And
2 Ms. Bullen, do you have a motion regarding Exhibit 102?

3 LINDA BULLEN: Yes. We would move for the
4 introduction of the Exhibit 102 into evidence.

5 HEARING OFFICER: Okay. Any discussion on the
6 admission of Exhibit 102? Seeing none, Exhibit 102 is
7 admitted. And Mr. Salgo, if you could state your name for the
8 record, please.

9 RICHARD SALGO: Good morning. Richard J. Salgo.
10 That's spelled, S-A-L-G-O.

11 HEARING OFFICER: Great. And do you solemnly
12 swear—right hand back up—swear or affirm that the evidence you
13 shall give in this matter shall be the truth, the whole truth,
14 and nothing but the truth?

15 RICHARD SALGO: Yes, I do.

16 HEARING OFFICER: Because we all know that if you
17 don't raise your hand when you do that, it's not real, right?

18 RICHARD SALGO: Understood.

19 HEARING OFFICER: Okay. Ms. Bullen, if you'd like
20 to introduce this witness, please.

21 LINDA BULLEN: All right. Good morning, Mr.
22 Salgo. By whom are you employed and in what capacity?

23 RICHARD SALGO: Yeah, good morning. Yeah. I'm
24 employed by Qualus Incorporated. It's an engineering
25 consulting Firm. And I'm a senior consultant.

1 LINDA BULLEN: You should have before you what
2 has been marked in this proceeding as Exhibit 102. Do you see
3 that in front of you?

4 RICHARD SALGO: Yes, I do.

5 LINDA BULLEN: And that is your prepared direct
6 testimony in this case, correct?

7 RICHARD SALGO: Yes, it is.

8 LINDA BULLEN: Was that testimony prepared by
9 you or at your direction?

10 RICHARD SALGO: Yes, it was.

11 LINDA BULLEN: Do you have any corrections or
12 edits to that that you wish to provide to that testimony
13 today?

14 RICHARD SALGO: No, I have no revisions or
15 edits.

16 LINDA BULLEN: If I were to ask you the same
17 questions that are in that direct testimony, would your
18 answers be the same today as they are in Exhibit 102?

19 RICHARD SALGO: Yes, they would.

20 LINDA BULLEN: Thank you. With that, the
21 witness is tendered for cross-examination.

22 HEARING OFFICER: Okay. Mr. Cavros.

23 GEORGE CAVROS: No questions for this witness.
24 Thank you, Commissioner.

25 HEARING OFFICER: Thank you. Mr. Foletta.

1 LUCAS FOLETTA: No questions. Thank you.

2 HEARING OFFICER: Okay. Mr. Taylor.

3 SAM TAYLOR: Thank you, Commissioner. Salgo,
4 right? Is that how you pronounce your name?

5 RICHARD SALGO: Yes.

6 SAM TAYLOR: Okay. Mr. Salgo, can you please
7 turn to Answer 8 in your direct testimony, Page 3?

8 RICHARD SALGO: Yes.

9 SAM TAYLOR: In Answer 8, you basically said,
10 the Commission may not grant a permit to construct unless it
11 finds and determines in the case of a facility that emits
12 greenhouse gases and does not use renewable energy as its
13 primary source of fuel, the extent to which the facility is
14 needed to ensure reliable utilities service to customers in
15 Nevada. That's your statement, correct?

16 RICHARD SALGO: That is the statement, yes.

17 SAM TAYLOR: Okay. Are there other
18 considerations in NRS 704.890, other than what you stated in
19 your answer there?

20 RICHARD SALGO: There may be, but I'm not aware.
21 I'm not an expert in that.

22 SAM TAYLOR: Okay. Let's see. You were
23 present when Mr. Spencer testified and you listened to his
24 testimony, correct?

25 RICHARD SALGO: Yes, I was.

1 SAM TAYLOR: And he testified about the
2 nature of the connection to the grid and its effectiveness to
3 the grid and its effect on backup power and he indicated that
4 you have more expertise in that particular regard. Is that
5 correct?

6 RICHARD SALGO: Yes. That's correct. I heard
7 that.

8 SAM TAYLOR: Okay. So, you heard my
9 questions along that point. Is it your understanding that
10 this facility will not sell power to NV Energy?

11 RICHARD SALGO: It's my understanding that
12 there's no commercial agreement between the facility
13 owner/operator and NV Energy to procure or to sell power.

14 SAM TAYLOR: Okay. Can you turn to Answer
15 12, please? On Page 6.

16 RICHARD SALGO: Yes, I'm there.

17 SAM TAYLOR: Okay. You said that Switch
18 Limited is the resource off-taker and it's in discussion with
19 NV Energy regarding the possibility of providing certain
20 specific grid support services and as an interconnected
21 resource in NV Energy's balancing area. Would that include
22 the situation you described, the sale or transfer of energy
23 from this facility to NV Energy?

24

25

1 RICHARD SALGO: I'm not—I'm wondering if you can
2 rephrase your question a little bit. I'm not sure I'm
3 grasping what you're getting at.

4 SAM TAYLOR: It says, well, you're saying
5 that NV Energy is in discussion with Switch, okay, regarding
6 the possibility of providing certain specific grid support
7 services, does that include the transfer of any energy from
8 this facility subject to this application to NV Energy?

9 RICHARD SALGO: I guess, I would characterize it
10 as in the event that an agreement were reached between NV
11 Energy as the transmission owner/operator and Switch as the
12 off-taker to allow the facility to provide some sort of
13 energy, let's say in the instance of an emergency where NV
14 Energy needed to back up the loss of resources. In the event
15 that that were to happen, then there would be injection of
16 power from the facility into the grid interconnection point.

17 SAM TAYLOR: And that would be the—oh, I'm
18 sorry.

19 RICHARD SALGO: And that would therefore go
20 wherever it is needed, wherever the deficiency is in the
21 system. So, I don't want to characterize it as a transfer of
22 power from the facility to NV Energy. It's an injection into
23 the grid and the electrons flow where they go. The power goes
24 where it's demanded.

25

1 SAM TAYLOR: So, it does act in some respect
2 as a backup facility in the situation you just described.

3 RICHARD SALGO: In that, it would be used as an
4 emergency supply for a resource deficiency event.

5 SAM TAYLOR: And you would anticipate that in
6 the event that that transfer occurred, that NV Energy would
7 compensate Switch for whatever services or power it rendered
8 in that situation, would it not?

9 RICHARD SALGO: That may be beyond my knowledge.

10 SAM TAYLOR: Okay. Are you—you indicated
11 here that they're in the—that Switch and NV Energy are in
12 discussions. Are you aware whether or not they've completed
13 those discussions?

14 RICHARD SALGO: No, I'm not aware.

15 SAM TAYLOR: So, you're not aware of any
16 agreement between NV Energy and Switch in this particular
17 regard?

18 RICHARD SALGO: No, I'm not.

19 SAM TAYLOR: Okay. And that's not part of
20 the record, is it?

21 RICHARD SALGO: The agreement?

22 SAM TAYLOR: Yes.

23 RICHARD SALGO: No.

24

25

1 SAM TAYLOR: Okay. Currently, Switch does
2 not rely on NV Energy for power, correct? With its existing
3 facilities?

4 LUCAS FOLETTA: That is outside the scope of his
5 testimony and perhaps outside the scope of this witness'
6 knowledge.

7 HEARING OFFICER: Mr. Taylor, did you want to
8 respond? Because—

9 SAM TAYLOR: Because what, Commissioner?

10 HEARING OFFICER: Go ahead. Did you want to
11 respond?

12 SAM TAYLOR: Yes, please. I think it is
13 within the scope of the witness' testimony as the witness has
14 testified in great detail about the nature and extent of
15 Switch's existing system and the facility itself and what this
16 facility is going to provide to Switch. So, I think in during
17 the course of his preparation of this testimony, that he would
18 have some degree of understanding what Switch's current
19 electronic capacity is and who's providing it.

20 LINDA BULLEN: I join in the objection. I
21 mean, this testimony relates to this one facility. There's no
22 indication that this witness knows anything more general about
23 Switch's operations, and it is beyond the scope of the
24 testimony that is before this Commission.

25

1 HEARING OFFICER: Yeah. And I'm inclined to
2 agree. I don't think that information about how Switch
3 currently receives resources for existing load is relevant to
4 what we're talking about in terms of a permit to construct for
5 an additional facility. So, if you want to move on, Mr.
6 Taylor, please.

7 SAM TAYLOR: Thank you. Commissioner, I
8 would ask is asking the witness whether he understands that
9 this particular facility would serve Switch's expansion
10 desires. Is that fair game?

11 HEARING OFFICER: Sure, go ahead and ask him that
12 question.

13 SAM TAYLOR: Yeah. So, is the purpose of
14 this facility to support Switch's expansion of its existing
15 facilities?

16 LUCAS FOLETTA: Objection. Calls for
17 speculation. It's not relevant. It's outside the scope of
18 the witness's testimony. Also, to the extent the witness has
19 knowledge implicates proprietary-potentially proprietary and
20 confidential information about Switch's business operations.

21 HEARING OFFICER: Okay. I appreciate all of that.
22 Mr. Foletta, but I did tell Mr. Taylor that he could ask this
23 question. So, to the extent, Mr. Salgo, that you have the
24 information and are available and are able to share it, can
25 you answer the question or do you need the question restated?

1 RICHARD SALGO: I would like it restated.

2 HEARING OFFICER: Okay. Mr. Taylor, go ahead.

3 SAM TAYLOR: Will this facility be used to
4 support Switch's expansion of its existing facility?

5 LUCAS FOLETTA: Can I—I'm sorry. I appreciate
6 that you're authorizing this question. Could we get a little
7 more specificity as to what the "existing facility" is and the
8 expansion Mr. Taylor is referencing?

9 SAM TAYLOR: Existing facility means what
10 Switch has on the ground right now that is built and completed
11 and being used.

12 LUCAS FOLETTA: There are numerous Switch
13 facilities on the ground in TRIC. There are facilities in
14 various states of construction. I don't know how the witness
15 can answer the question.

16 SAM TAYLOR: It goes to basically whether or
17 not the witness knows whether or not they're going to support
18 expansion of Switch's facilities as they exist right now. I
19 think that's a fair question.

20 HEARING OFFICER: Okay. Mr. Salgo, take a crack
21 at it.

22 RICHARD SALGO: Okay. I have no knowledge of
23 how Switch's existing facilities are served, what agreements
24 they have, what arrangements they have for energy supply. My
25 limited understanding for the purposes of this proceeding is

1 that there is a single off-taker for the power produced by
2 this plant. And subsequently, I became aware that it may be
3 Switch.

4 SAM TAYLOR: I have no further questions.
5 Thanks.

6 HEARING OFFICER: Okay. Ms. Bullen, do you have a
7 redirect?

8 LINDA BULLEN: I do not.

9 HEARING OFFICER: Okay. Then we'll move to Staff.
10 Do you have any questions for Mr. Salgo?

11 SIERRA WAECHTER: Staff has no questions for this
12 witness at this time. Thank you.

13 HEARING OFFICER: Okay. Thank you. Mr. Martin,
14 do you have questions?

15 JASON MARTIN: I also have no questions at this
16 time. Thank you.

17 HEARING OFFICER: Thank you. I believe Ms.
18 Lighthart has a question.

19 KIM LIGHTHART: Yes, thank you, Commissioner.
20 Mr. Salgo, when you are discussing the reliability benefits in
21 your Q&A 12, are those things that might, when you're talking
22 about specific grid support services, are those that we might
23 be things that we are familiar with as what's called ancillary
24 services?

25

1 RICHARD SALGO: Yes, yes, they are ancillary
2 services such as voltage support and frequency support.

3 KIM LIGHTHART: Okay. And within that are there
4 also obligations for a generating facility if it's
5 interconnected to the grid rather than just by it standing by
6 itself? Are there obligations under the FERC OATT? Are there
7 other obligations with requirements to provide those ancillary
8 services?

9 RICHARD SALGO: Yes. My understanding is that a
10 generator that interconnects well, particularly a generator of
11 this—a facility of this size, that it would need to meet
12 certain thresholds for interconnection performance. Those are
13 set out by NERC, as you referenced, and also they would be
14 subject to the FERC process for interconnection.

15 KIM LIGHTHART: All right. Thank you. Thank
16 you, Commissioner. That's all that I had.

17 HEARING OFFICER: Okay. And I don't have any
18 questions for Mr. Salgo, so thank you very much, Mr. Salgo.
19 You're excused at this time. Okay. I believe that completes
20 the applicant's direct case, Ms. Bullen.

21 LINDA BULLEN: Yes, that is correct.

22 HEARING OFFICER: Okay. Why don't we go ahead and
23 take a health break for 10 minutes. And then, when we come
24 back we will have, I believe NCARE's witness available for
25 cross-examination. Does that work, Mr. Cavros?

1 GEORGE CAVROS: It does work Commissioner. Just
2 a point of clarification. Have we entered the direct
3 testimonies of both Spencer and Salgo into the record and
4 including this new table, including table—this new table?

5 HEARING OFFICER: Yes, I believe we did.
6 Although, I'm not sure that we had a separate motion on the
7 errata, but I think we did enter Mr. Spencer and Mr. Salgo's
8 testimony. But if you feel like you missed that and you had a
9 concern you can go ahead and raise it at this time.

10 GEORGE CAVROS: Yeah, I don't have a concern
11 other than maybe just a point of clarification if someone
12 could let me know the exhibit number for the for the table,
13 I'd appreciate it.

14 LINDA BULLEN: If I could, we didn't, it was
15 just identified as being an errata to the—

16 GEORGE CAVROS: An errata.

17 LINDA BULLEN: —existing Table 5. We didn't
18 mark it separately as an exhibit.

19 HEARING OFFICER: Let me let Mr. Baker weigh in.
20 Mr. Baker, it looks like he wants to say something.

21 ADAM BAKER: I uploaded it as Exhibit 109E to
22 your public pre-filed direct testimony or direct exhibits.

23 LINDA BULLEN: Thank you.
24
25

1 HEARING OFFICER: Okay. So, then maybe to your
2 point, Mr. Cavros, I need a motion to admit Exhibit 109E from
3 you, Ms. Bullen.

4 LINDA BULLEN: Yes. And with that, I request
5 that our Exhibit 109E be admitted into the record.

6 HEARING OFFICER: Okay. And then, discussion on
7 that motion? Okay. I'm not seeing any. So, Exhibit 109E,
8 which is the errata to Mr. Spencer's testimony consisting of a
9 one-page table is admitted. So, thank you for clearing that
10 up for us Mr. Cavros, I appreciate it. Any other issues
11 before we take our health break? I'm not seeing any, so we
12 will be back at 11:40. Thank you.

13 OFF THE RECORD

14 ON THE RECORD

15 HEARING OFFICER: Let's go ahead and get back on
16 the record and move to NCARE, if you want to call your witness
17 and mark your testimony.

18 GEORGE CAVROS: Thank you, Commissioner. NCARE
19 calls Dr. Zoe Harrold to the stand. We can mark her testimony
20 at this point. It's Exhibit 400. It's a direct testimony of
21 Dr. Zoe Harrold.

22 HEARING OFFICER: Okay. Dr. Harrold's pre-filed
23 testimony is marked as Exhibit 400. And Dr. Harrold, if you
24 could state your name for the record, please.

25 ZOE HARROLD: Zoe Harrold, H-A-R-R-O-L-D.

1 HEARING OFFICER: Okay. And if you can raise your
2 right hand for me, please? Do you solemnly swear or affirm
3 that the evidence you shall give in this matter shall be the
4 truth, the whole truth and nothing but the truth?

5 ZOE HARROLD: Yes.

6 HEARING OFFICER: Great. And then, why don't you
7 finish your introduction of Dr. Harrold, Mr. Cavros, and then
8 I will accept a motion to admit.

9 GEORGE CAVROS: Thank you, Commissioner. Good
10 morning, Dr. Harrold.

11 ZOE HARROLD: Good morning.

12 GEORGE CAVROS: Since you've already restated
13 your full name and spelled it for the record. I won't ask you
14 that. But can you let us know by whom you're employed and
15 what the title of your position is?

16 ZOE HARROLD: I am employed by Western
17 Resources Advocates or WRA and the title of my position is
18 Senior Policy Advisor for the Nevada Clean Energy Program.

19 GEORGE CAVROS: And on whose behalf are you
20 filing testimony?

21 ZOE HARROLD: I'm filing testimony on behalf
22 of NCARE.

23 GEORGE CAVROS: And do you have in front of you
24 what has been marked as NCARE Exhibit 400?

25 ZOE HARROLD: Yes.

1 GEORGE CAVROS: Do you recognize Exhibit 400 as
2 your direct testimony?

3 ZOE HARROLD: Yes.

4 GEORGE CAVROS: And was the testimony and the
5 associated exhibits prepared by you or prepared under your
6 direct supervision and control?

7 ZOE HARROLD: Yes, it was.

8 GEORGE CAVROS: And do you have any corrections
9 to Exhibit 400?

10 ZOE HARROLD: No corrections.

11 GEORGE CAVROS: And if I asked you the same
12 questions in the exhibit today, would your answer be the same?

13 ZOE HARROLD: Yes.

14 GEORGE CAVROS: And I will move at this time to
15 admit NCARE 400 into evidence.

16 HEARING OFFICER: Okay. Any discussion on the
17 motion to admit Exhibit 400? Seeing none, Exhibit 400 is
18 admitted.

19 GEORGE CAVROS: Thank you, Commissioner.

20 HEARING OFFICER: Go ahead. Mr. Cavros. I'm
21 sorry.

22 GEORGE CAVROS: Yeah, I was just going to say
23 that Dr. Harrold is available for cross-examination.

24 HEARING OFFICER: Great, thank you very much.

25 We'll start with Mr. Foletta.

1 LUCAS FOLETTA: Thank you. Dr. Harrold, I want
2 to ask you about Q&A 11. You say there on my Page 8, Lines 5
3 and 6, that this UEPA application is the first and only
4 opportunity within the PUCN to contest the project
5 construction on the grounds of its environmental impacts in
6 relation to its needs. Do you see that?

7 ZOE HARROLD: Lines 5 and 6, yes, I see it.

8 LUCAS FOLETTA: And you understand, I think that
9 as part of this process, the applicant will ultimately produce
10 for this Commission as compliance items a series of required
11 state, federal, and local permits, is that right?

12 ZOE HARROLD: Yes.

13 LUCAS FOLETTA: And do you understand and agree
14 with me that the issuances of those state and local and
15 federal permits are subject to protests and challenge of
16 various types?

17 ZOE HARROLD: Yes.

18 LUCAS FOLETTA: So, for example, the no hazard
19 determination issued by the FAA, the Class 1 Air Quality
20 Permit to Construct, the Surface Area Disturbance Permit and
21 all the permits that are identified on the table at Section 11
22 of the application can be commented upon and challenged?

23 ZOE HARROLD: I assume so, though I'm not
24 familiar with the FAA process. So, yes.

25

1 LUCAS FOLETTA: Okay. Do you know if NCARE has
2 lodged, challenged or protests of any of those particular
3 permits?

4 ZOE HARROLD: NCARE has not filed challenges
5 to any of those permits.

6 LUCAS FOLETTA: Do you know if NCARE intends to
7 file challenges to those permits?

8 GEORGE CAVROS: Objection. That's gonna—that's
9 dragging into attorney-client privilege. Attorney-client
10 mental impressions, it's not relevant. And I'll stop there.

11 HEARING OFFICER: Okay. Thank you, Mr. Cavros.
12 Do you have a response, Mr. Foletta?

13 LUCAS FOLETTA: Yes. The witness argues
14 throughout her testimony that it's imperative that the
15 Commission perform an environmental review, a substantive
16 environmental review of the project and its impacts, because—
17 and she argues this is the appropriate place to do it because
18 of limited or non-existent opportunities in other forums. So,
19 I'm just trying to understand her testimony in that regard.

20 GEORGE CAVROS: Commissioner, if I may, I think
21 it's—

22 HEARING OFFICER: Mr. Cavros [crosstalk]

23 GEORGE CAVROS: I think it's okay to establish
24 that those opportunities exist, but it is not okay to ask the
25

1 witness about any legal action related to this permit that
2 they may or may not take in the future.

3 HEARING OFFICER: Okay, Mr. Cavros, I appreciate
4 that objection and to the extent that there are future plans
5 that are still subject to discussion at NCARE between the
6 attorney and client, I think that is attorney-client
7 privileged. But to the extent that decisions have been made,
8 I think that the answer is fair game.

9 So, Dr. Harrold I don't know if there are—I believe
10 you already answered that there is—that to your knowledge
11 there have been no protests filed in any of these other
12 places. Are you aware of an intention to do so that isn't
13 still subject to attorney-client discussion with your counsel?

14 ZOE HARROLD: There are no decisions made at
15 this time.

16 HEARING OFFICER: Okay. All right, Mr. Foletta,
17 if you want to proceed.

18 LUCAS FOLETTA: To your knowledge, if NCARE
19 desired to raise an issue with the Class 1 Air Quality
20 Operating Permit to Construct, could it pursue a challenge of
21 that permit with NDEP?

22 ZOE HARROLD: To be honest, I haven't looked
23 into the detailed process of challenging the OPTC Class 1 Air
24 Permit.

25

1 LLUCAS FOLETTA: In this sentence that I
2 read to you, you also indicate that this is again, the only
3 opportunity to contest project construction on the grounds of
4 its environmental impact test project construction on the
5 grounds of its environmental impacts before the Public
6 Utilities Commission of Nevada. Is that right?

7 ZOE HARROLD: That is what the sentence says.

8 LUCAS FOLETTA: And in other portions of your
9 testimony, you point out that some utility developed or owned
10 assets that come before the Commission in the UEPA process are
11 also subject to resource planning requirements, subject to the
12 Commission's jurisdiction. Is that right?

13 ZOE HARROLD: Can you restate that question?

14 LUCAS FOLETTA: Yes. In other places in your
15 testimony, you describe the fact that utility owned and
16 developed generation resources are subject to resource
17 planning requirements. Is that right?

18 ZOE HARROLD: Yes.

19 LUCAS FOLETTA: And that resource planning
20 occurs in front of the Commission?

21 ZOE HARROLD: Yes.

22 LUCAS FOLETTA: Do you understand that
23 generation facilities that are not utility owned and operated
24 and are not intended for use as part of a utility's retail
25 portfolio are not required to go through resource planning?

1 ZOE HARROLD: Yes.

2 LUCAS FOLETTA: You spend a few Q&A's talking
3 about SB 254 and the State's greenhouse gas goals as you
4 characterize them. Do you recall that?

5 ZOE HARROLD: Can you point to the question
6 section in pages?

7 LUCAS FOLETTA: You talk about it at Q&A 10, in
8 part. You say there are two other statutes and regulatory
9 processes that are relevant to serving the public interest.
10 Do you see that?

11 ZOE HARROLD: Yes.

12 LUCAS FOLETTA: And did you say they include the
13 statewide greenhouse gas emissions reduction statute
14 established by SB 254? See that?

15 ZOE HARROLD: Yes.

16 LUCAS FOLETTA: Yes. You agree with me, do you
17 not, that SB 254 does not include a specific binding legal
18 requirement to reduce greenhouse gas emissions?

19 ZOE HARROLD: Yes.

20 LUCAS FOLETTA: I don't have any further
21 questions. Thank you, Commissioner.

22 HEARING OFFICER: Okay. Thank you, Mr. Foletta.
23 Mr. Cavros, do you have redirect?

24 GEORGE CAVROS: I do have one redirect question
25 I'd like to pose to the witness. Dr. Harrold, if you remember

1 on Page 8, Lines 5 to 7. You had a discussion with Mr.
2 Foletta regarding your sentence there, starting with this UEPA
3 application. Do you recall that?

4 ZOE HARROLD: Yes.

5 GEORGE CAVROS: I just want to give you an
6 opportunity to read that complete sentence because there was a
7 lot of discussion there regarding environmental impacts, but
8 I'm not sure it captured the intent of your sentence. Could
9 you just—if you could—

10 ZOE HARROLD: Yeah, should I start at the
11 beginning on Line 5?

12 GEORGE CAVROS: Perfect.

13 ZOE HARROLD: This is not the case for the
14 proposed project. This UEPA application is the first and only
15 opportunity within the PUCN to contest the project
16 construction on the grounds of its environmental impacts in
17 relation to its need among other UEPA criteria.

18 GEORGE CAVROS: Thank you.

19 HEARING OFFICER: Anything further, Mr. Cavros?

20 GEORGE CAVROS: Nothing further. Thank you.

21 HEARING OFFICER: Okay, great. Any recross on
22 that, Mr. Foletta?

23 LUCAS FOLETTA: No, thank you.

24 HEARING OFFICER: Okay. Then we will move on to
25 Ms. Bullen? Oh, actually, sorry, Ms. Bullen, you're the

1 applicant. Let me do BCP and Staff first. So, BCP, Mr.
2 Taylor.

3 SAM TAYLOR: Thank you, Commissioner. I do
4 have some questions for Ms. Harrold. Good morning, Ms.
5 Harrold. How are you doing today?

6 ZOE HARROLD: Good morning.

7 SAM TAYLOR: Mr. Foletta in his cross asked
8 you about various permits that the applicant must complete
9 prior to receiving approval from the Commission. Do any of
10 these permits include a review of public interest?

11 ZOE HARROLD: No, they do not to my knowledge.

12 SAM TAYLOR: Do any of those permits examine,
13 like for example, the air quality permit, examine anything
14 other than the quality of discharge from the stacks at the
15 plant?

16 ZOE HARROLD: No.

17 SAM TAYLOR: Okay. So, in other words, the
18 review by other entities is very limited and not really within
19 the confines of the statute. They don't look at the UEP
20 statute to determine whether or not to grant the permit,
21 correct?

22 LUCAS FOLETTA: I'm going to object, Counsel is
23 testifying.

24 HEARING OFFICER: Mr. Taylor. I'm inclined to
25 agree, so why don't you rephrase your question, please.

1 SAM TAYLOR: Yeah, the question was already
2 answered, so I'll just move on. Thanks. In this application,
3 basically, the plant is going to be 510 megawatts of power, is
4 that correct?

5 ZOE HARROLD: Correct.

6 SAM TAYLOR: Is this facility a relatively
7 large plant?

8 ZOE HARROLD: Yes, it is.

9 SAM TAYLOR: Okay. Would a plant of this
10 size be able to power about 400,000 to 500,000 homes?

11 ZOE HARROLD: I don't recall the exact number,
12 but yes, that sounds right.

13 SAM TAYLOR: Okay. How much carbon dioxide
14 will this plant produce annually?

15 ZOE HARROLD: Annually, the range that I
16 estimated is in the 1.93 mmT of CO₂ to 0.93 mmT CO₂. But the
17 changes to the table in the environmental statement associated
18 with this application increase that emission amount by about
19 4%. So, that would increase.

20 SAM TAYLOR: Okay. Is carbon dioxide harmful
21 to humans?

22 ZOE HARROLD: Yes, through essentially the
23 pathway of global warming. So, independently as a gas in the
24 atmosphere, that pathway is through trapping heat in the
25

1 atmosphere. And that trapping of heat results in a lot of
2 downstream impacts to the environment.

3 SAM TAYLOR: Okay. Do you have the
4 application in front of you by chance?

5 ZOE HARROLD: I have a section of it.

6 SAM TAYLOR: Okay. Can you look at Page 3,
7 the application on Lines 11 through 13?

8 ZOE HARROLD: Yes, Page 3, 11 through 13.

9 SAM TAYLOR: Okay. Do you see where the
10 proposed facility will consume—is estimated to consume 145
11 acre feet of water per year during its operation?

12 ZOE HARROLD: Yes.

13 SAM TAYLOR: Okay. Are you aware that this
14 equates to 47,248,395 gallons per year?

15 THERESE STIX: Objection, Your Honor. Counsel
16 is testifying.

17 SAM TAYLOR: I just asked if she's aware.

18 HEARING OFFICER: Okay. First, who was speaking?

19 THERESE STIX: I'm sorry. It's Therese Stix.

20 HEARING OFFICER: Okay. Thank you, Ms. Stix. And
21 I'm going to allow—Mr. Taylor, I'm gonna allow the question,
22 but I am gonna again remind you that I can only rely on the
23 witness's answers. So, when you provide a leading question it
24 isn't a terribly helpful response when I just get yes or no.
25 So, if the witness can—

1 SAM TAYLOR: I understand.

2 HEARING OFFICER: -agree with your math, which
3 lawyer math, I'm a lawyer, I don't know, Mr. Taylor, if that's
4 a good idea, but in any event, if she agrees with your math,
5 that's fine. But can you please exercise caution with these
6 types of questions?

7 SAM TAYLOR: Sure. I will do so. You heard
8 the amount that I gave. Is that your understanding of the
9 correct amount of conversion of acre feet to gallons?

10 ZOE HARROLD: If that's the conversion of the
11 acre feet to gallons, then that is in this section of the
12 application.

13 SAM TAYLOR: Okay. Is that a lot of water?
14 Is 145 acre feet a lot of water?

15 THERESE STIX: Again, it calls for speculation.

16 SAM TAYLOR: It's an environmental impact.
17 She's qualified to make a determination whether or not that's
18 a lot or not.

19 THERESE STIX: You're asking for what a lot
20 means. That's very relative. And speculative.

21 SAM TAYLOR: She can decide for herself how
22 to answer that.

23 HEARING OFFICER: Thank you. I'm going to allow
24 the witness to answer the question whether or not Dr. Harrold,
25 do you believe that that's a lot of water?

1 ZOE HARROLD: I have not specifically looked
2 at the assessment of 145 acre feet of water per year against
3 the available water in the development area. But it would
4 increase the water requirements on that specific area.

5 SAM TAYLOR: That amount of water is not
6 really good for a dry state like Nevada is it?

7 ZOE HARROLD: Nevada, with climate change, is
8 certainly facing increased concerns of drought. That drought
9 is associated with essentially a lot of factors. So, you have
10 increased, basically, rates of snowpack loss and changes to
11 that snowpack loss from increase in temperatures. Also, the
12 shift of precipitation from snow to rain. And so, you have
13 water moving through the system faster. Not allowing it to
14 percolate into the environment as it normally would with a
15 slow melt phase, pre-global warming impacts.

16 So, in addition to that, with the additional heat
17 and the dryness in Nevada, there's a very high likelihood,
18 high confidence of increased drought due to evaporative
19 pressure from that elevated heat in dry air. So, certainly,
20 the region is facing and expecting to face a lot of drought
21 stress and pressures, and this is essentially an additional
22 demand on that water resource.

23 SAM TAYLOR: So, what you just described is a
24 process where the rain travels through faster than snow melt.
25 That would basically mean the sub-basin, where this facility

1 is going to be located is less likely to recharge at a rate
2 necessary to sustain the current allocation?

3 LUCAS FOLETTA: I'm going to object again that
4 Counsel is testifying.

5 HEARING OFFICER: Yes, Mr. Taylor, you are
6 testifying. Can you ask Dr. Harrold a more open ended
7 question that would ask her about what the impacts are of
8 drought on the watershed?

9 SAM TAYLOR: Okay. Will the lack of snowpack
10 or the reduction in snowpack result in less water going into
11 the sub-basin?

12 LUCAS FOLETTA: I'm gonna object, there's no
13 foundation for the question.

14 SAM TAYLOR: Yeah, okay.

15 LUCAS FOLETTA: Snowpack is not the subject of
16 this witness's testimony. Nor is drought.

17 THERESE STIX: I would second that objection,
18 Therese Stix. This witness is not a hydrogeologist.

19 HEARING OFFICER: Yep, I appreciate all of that,
20 but the witness, Dr. Harrold, did indicate in response to some
21 questioning that she had some knowledge about the drought
22 conditions in Nevada. So, I am going to allow Mr. Taylor to
23 continue on this line of questioning. So, Mr. Taylor, ask
24 your question again, please.

25

1 SAM TAYLOR: I'll ask a more open ended
2 question. What is the impact to a sub-basin whenever you have
3 rain as opposed to snowpack?

4 ZOE HARROLD: I can't speak specifically to
5 this sub-basin. In general, Nevada has a high confidence for
6 increase of extreme drought and changes to water availability
7 and flow and infiltration rates associated with a shift of
8 precipitation from snow to rain and faster melting of the
9 snowpack.

10 SAM TAYLOR: Okay. Are you aware whether or
11 not Nevada is getting hotter or cooler?

12 ZOE HARROLD: Nevada is getting hotter.

13 SAM TAYLOR: And what is the effect of that
14 on, say, for example, the availability of water in a sub-
15 basin?

16 ZOE HARROLD: So, the increasing temperatures
17 in Nevada are driving essentially increasing evaporation and
18 again, you know, extreme drought conditions. So, when you
19 heat up dry air it can hold more water and that evaporation
20 process can increase in rate and put stress on water
21 reservoirs.

22 SAM TAYLOR: Thank you. Please take a look
23 at the application at Page 10, Lines 16 through 17. Do you
24 see where the application states, and I quote, "the project
25

1 will not have any significant unmitigated impacts on the
2 environment". Do you see that?

3 ZOE HARROLD: Yes, I see that.

4 SAM TAYLOR: Okay. Do you agree with this
5 statement?

6 ZOE HARROLD: I do not agree with that
7 statement.

8 SAM TAYLOR: Why do you not agree with that
9 statement?

10 ZOE HARROLD: Well, the project is pretty much
11 guaranteed to have unmitigated impacts on the environment in
12 association with the carbon dioxide emissions and the
13 resulting global warming impacts and downstream impacts to
14 Nevada's environment, its economy and its public.

15 SAM TAYLOR: Okay. Do you notice how that
16 statement refers back to Section 7 on Page 5 of the
17 application?

18 ZOE HARROLD: Yes.

19 SAM TAYLOR: Okay.

20 SIERRA WAECHTER: Commissioner, Sierra Waechter,
21 for the record. We would like to object. This is starting to
22 get into territory of friendly cross.

23 HEARING OFFICER: Yep, I appreciate that, Ms.
24 Waechter. Mr. Taylor, do you have a response?

25

1 SAM TAYLOR: I'm trying to ascertain what is
2 basically on the witness's mind and what does she understand
3 and what does she not understand. And I'm not aware of any
4 requirement that I have to be hostile to the witness.

5 SIERRA WAECHTER: Commissioner, if I may.

6 HEARING OFFICER: Go ahead, Ms. Waechter.

7 SIERRA WAECHTER: Staff just feels that this could
8 have been addressed in her testimony if this was a line of
9 inquiry she wanted to pursue, which she did not.

10 HEARING OFFICER: Okay. And Mr. Taylor, to your
11 point, it is not required that you be hostile to the witness.
12 But it is in the regulations that's within the scope of my
13 authority to limit cross that is friendly cross for precisely
14 the reason Ms. Waechter is pointing out. And that is that
15 parties that have a position to put forth, they should be
16 putting those forth in testimony as opposed to trying to
17 elucidate them on cross examination. Cross examination is to
18 point out weaknesses in a witness's testimony or areas of
19 concern.

20 So, no, you do not have to be hostile, but it is
21 within my authority to limit friendly cross. And so, to the
22 extent, I don't know, how much of this type of cross do you
23 intend to have?

24 SAM TAYLOR: Well, if I may, Commissioner,
25 there's a reason that this type of cross is occurring. And

1 that is unfortunately because we came into this process late.
2 We did not present our own testimony. So, I would now ask for
3 a little bit of leeway in this regard. So, it's—I am kind of
4 stuck with what I'm faced with in this particular proceeding.
5 Obviously, we missed the deadline for filing testimony.

6 So, while I understand and appreciate what you're
7 saying, I will try to limit my questions to sort of questions
8 that relate to her testimony, but that I'm trying to get
9 information from and ask information on the record and satisfy
10 what we're trying to accomplish.

11 SIERRA WAECHTER: Commissioner?

12 HEARING OFFICER: Ms. Waechter.

13 SIERRA WAECHTER: If I may. There was no
14 indication by BCP to why they were so late into the
15 proceedings. So, I don't see a valid reason that coming in
16 late allows them to go down this line because they didn't
17 provide testimony. I think that is on their onus at this
18 point.

19 HEARING OFFICER: Thank you, Ms. Waechter. And
20 it's true. I mean, normally, if you have someone that does
21 not have a right to participate, they're required to provide a
22 reason why they would file late. BCP has a right to
23 participate in any proceeding before the Commission. So, BCP
24 was not required to explain why their notice of intervention
25 was passed the intervention deadline.

1 I do intend to give you some leeway, Mr. Taylor,
2 because you do represent the consumer's interest. However, if
3 you can try and keep it as tight as possible, I would
4 appreciate that. We did only allocate the one day for this
5 hearing and I want to keep us on track in being able to
6 accomplish that.

7 SAM TAYLOR: Okay. I have just a few more
8 questions.

9 HEARING OFFICER: Okay.

10 SAM TAYLOR: I will severely curtail the
11 amount of questions I was going to ask. And I'll just ask a
12 few more.

13 HEARING OFFICER: Okay. Thank you, Mr. Taylor.

14 SAM TAYLOR: If that's okay?

15 HEARING OFFICER: Yep.

16 SAM TAYLOR: Thank you. One of the questions
17 that I think has not been really fleshed out yet and that is,
18 what you feel the public's interest is regarding this
19 facility, your thoughts on that. What is the public interest
20 here in your view?

21 LUCAS FOLETTA: I'm gonna object to that. I
22 mean, the witness does provide testimony on that topic, and I
23 think it speaks for itself.

24 SAM TAYLOR: Okay. I would just ask her to
25 elucidate a little bit more than what's in her testimony.

1 LUCAS FOLETTA: I appreciate the question. But
2 there is also an issue of prejudice to the parties who've
3 already conducted their cross-examination. Now, we're
4 creating a new record that is affirmatively adding evidence
5 that was not previously submitted by the witness, and we've
6 not had the notice of that content or the opportunity to cross
7 on it. So, at the very least I would ask to be authorized to
8 reinitiate my cross based on the new information Mr. Taylor is
9 putting into the record.

10 HEARING OFFICER: Okay.

11 SAM TAYLOR: I would have no objection to
12 additional cross from Mr. Foletta.

13 HEARING OFFICER: Fantastic. So, Mr. Taylor, why
14 don't you go ahead?

15 SAM TAYLOR: Okay. So, again, please explain
16 what you feel the public's interest is in regarding this
17 particular facility in the application.

18 THERESE STIX: I'm going to object. This is
19 Therese Stix. This calls for speculation on what the witness
20 feels might be in the public interest. She's not aware of all
21 of the public.

22 HEARING OFFICER: Okay.

23 SAM TAYLOR: If I may, most-all of the
24 witnesses, including those of the applicant testified about
25 what they felt was the public interest. I think it's only

1 fair to ask this witness about what her thoughts are on the
2 public interest.

3 HEARING OFFICER: I agree. I'm going to allow
4 questioning about the public interest. So, Mr. Taylor, if you
5 want to try again with your question.

6 SAM TAYLOR: Third time's a charm. Again,
7 what are your thoughts relative to the public interest for
8 this particular application?

9 ZOE HARROLD: The public interest to this
10 particular application, specifically the gas generating unit,
11 on the positive side could be the jobs that that unit would
12 provide, potentially tax revenue. On the negative side of the
13 public interest. That includes the CO₂ emissions from
14 operations over the duration of the lifespan of that unit and
15 the cost impacts to Nevadans.

16 SAM TAYLOR: What exactly are those cost
17 impacts to Nevadans that you just referenced?

18 ZOE HARROLD: We can estimate cost impacts
19 from the social cost of carbon. That's actually a global cost
20 impact. So, those cost impacts are between \$1.1 and \$2.3
21 billion in costs over the lifespan of the unit.

22 SAM TAYLOR: Would those costs include
23 impacts to say like, farming, ranching, recreation, tourism?

24 THERESE STIX: Objection, counsel is
25 testifying.

1 SAM TAYLOR: No, it's a question I'm asking.

2 HEARING OFFICER: Mr. Taylor, why don't you ask
3 her what those impacts are?

4 SAM TAYLOR: Okay. What are those impacts
5 then?

6 ZOE HARROLD: Sure. They're outlined in my
7 testimony already. So, those are in Questions 19 and 20. But
8 I can certainly expound on that. So, associated impacts with
9 greenhouse gas emissions including those emissions that would
10 come from the Nexus Fulcrum LLC gas plant that's being
11 proposed herein include high confidence for increase in heat
12 and heat waves, high confidence for increase in drought and
13 severity in Nevada, high confidence in loss of snow and
14 earlier snowpack melt in Nevada. High confidence of floods in
15 Nevada. And high confidence for increase in wildfire
16 frequency and severity in Nevada.

17 The downstream impacts of those are many. I won't
18 list them all, but they do include impacts to recreational-
19 based revenue. Impacts to personal property from wildfire
20 damage. You can even look at the impacts to Nevadans through
21 simply the mitigation of the increase through simply the
22 mitigation of the increased wildfire risk.

23 For example, power safety shutoffs, which can then
24 impact essentially work time of individuals impacted by those
25 power shutdowns, public health in association with the need

1 for power to power medical devices. And business revenue
2 losses associated with loss of business operating hours, food,
3 et cetera.

4 That's a really narrow explanation of those impacts.
5 The impacts are wide, and I don't think we have enough time
6 here today to go over all of them. But they essentially touch
7 all aspects of Nevadans and Nevadans' lives.

8 SAM TAYLOR: Okay. Final question. Your
9 testimony talks a lot about CO₂ emissions. Are there any
10 other emissions that are concerning to you? And if so, what
11 are they, and why?

12 ZOE HARROLD: Certainly, there is interest in
13 other emissions in association with natural gas-fired power
14 plants. Those of particular interest are identified as the
15 criteria pollutants. Criteria pollutants, depending
16 essentially on a lot of factors. So, including air basin
17 dynamics, and then the population within that air basin, air
18 currents can impact individuals' health.

19 SAM TAYLOR: Thank you. No further
20 questions.

21 HEARING OFFICER: Thank you very much, Mr. Taylor,
22 for being efficient with our time. Mr. Foletta, did you want
23 to do some additional cross?

24 LUCAS FOLETTA: Yes, please. Thank you. Ms.
25 Harrold, I'm going to go back to the 145 acre feet of water

1 that you identify as a problematic use of water. What is your
2 understanding of the source of the water?

3 ZOE HARROLD: I have not prepared detailed
4 testimony or review of the source of the water. Simply, my
5 response is that increased demand or draw on water in this
6 region is an increased demand or draw on water. And that's
7 the extent of my response there.

8 In terms of the specific source of the basin, as I
9 said before, my knowledge of the impacts on this specific
10 basin's water and how that will change in regard to climate
11 change, I don't have knowledge on that for this basin. Just
12 the general impacts that are expected across Nevada.

13 LUCAS FOLETTA: Do you understand that the water
14 purveyor who's gonna provide the water is TRI-GID?

15 ZOE HARROLD: No, I have not looked into that
16 in detail.

17 LUCAS FOLETTA: So, do you understand that TRI-
18 GID is a water utility or rather is a general improvement
19 district authorized to distribute and provide water service?

20 ZOE HARROLD: As previously stated, I have not
21 looked into that.

22 LUCAS FOLETTA: Okay. So, to your knowledge,
23 when you say that this—you characterize this 145 acre feet
24 annually as an increased draw on water. What is that based
25 on?

1 ZOE HARROLD: Well, an additional 145 acre
2 feet of water per year by definition is an increased need for
3 water.

4 LUCAS FOLETTA: Yes. But how do you know that
5 there is a net increase of 145 acre feet per year being used
6 in TRIC and being delivered by TRI-GID as a result of this
7 project?

8 ZOE HARROLD: I didn't say net increase. An
9 additional 145 acre feet of water is expected to be used
10 during operation. This unit doesn't yet exist. So,
11 presumably that's in addition to what currently exists in
12 demand in TRIC.

13 LUCAS FOLETTA: So, is that NCARE's position
14 that there should be no further development in TRIC that
15 requires consumption of water?

16 ZOE HARROLD: No.

17 LUCAS FOLETTA: Is it NCARE's position that
18 there should be no further development in TRIC that requires
19 the annual consumption of 145 acre feet of water?

20 GEORGE CAVROS: Yeah. And I'm going to object
21 to this line of questioning. It's not in her testimony. She
22 was asked for her best expertise in this issue. She has
23 stated that she has not examined this particular water basin.
24 So, I'm not sure the value of this continued cross.

25

1 LUCAS FOLETTA: I would love to not be asking
2 these questions, but the witness provided extensive testimony
3 on the impact of the additional use, "of 145 acre feet of
4 water". And frankly, extrapolated from that use, increased
5 drought conditions, decreased snowpack and a variety of other
6 rather dramatic effects. So, I think it's fair cross.

7 GEORGE CAVROS: And I'll just add that that was
8 in relation generally to climate change.

9 LUCAS FOLETTA: Great, I mean, climate change
10 couldn't be a broader topic. But if the witness wants to
11 offer opinions about it through friendly cross then it's—I
12 think it's perfectly appropriate. They don't get to make a
13 record and then not have it challenged.

14 HEARING OFFICER: Okay, let's do this. I'm gonna
15 allow questioning about the water because it did come up on
16 cross. However, I'm gonna give you the same admonition that I
17 gave Mr. Taylor, Mr. Foletta, and that is let's not testify.
18 Go ahead and ask Dr. Harrold, if she knows, questions about
19 the water use and the impact in the TRIC, because that was an
20 issue that was discussed and we'll go from there.

21 LUCAS FOLETTA: Do you know how much water the
22 biorefinery that was previously constructed at this particular
23 site was scheduled to consume on an annual basis?

24 ZOE HARROLD: No.
25

1 LUCAS FOLETTA: Do you know how much water is
2 consumed in TRIC on an annual basis?

3 ZOE HARROLD: No.

4 LUCAS FOLETTA: Do you know what the capacity is
5 of TRI-GID to serve additional water consumption at TRIC?

6 ZOE HARROLD: No.

7 LUCAS FOLETTA: Do you know where TRI-GID gets
8 its water?

9 ZOE HARROLD: No.

10 LUCAS FOLETTA: No further questions. Thank
11 you.

12 HEARING OFFICER: Okay. Where was I at? BCP,
13 Staff, I believe. Staff, do you have questions for Dr.
14 Harrold?

15 SIERRA WAECHTER: Staff has no questions for this
16 witness. Thank you.

17 HEARING OFFICER: Thank you. Then we go back to
18 Ms. Bullen. Do you have questions for this witness?

19 LINDA BULLEN: We do have a couple of
20 questions. You heard Mr. Salgo's testimony a little bit
21 earlier this morning, correct, regarding grid reliability?

22 ZOE HARROLD: Yes.

23 LINDA BULLEN: Would you—and you've also
24 testified about the public interest. Isn't that an increase
25 in grid reliability in the public interest?

1 GEORGE CAVROS: I'm going to object with—to the
2 question. It seems like there's a lack of foundation. Could
3 you describe what you mean by grid reliability and what
4 statement by Mr. Salgo she's supposed to be remembering?

5 LINDA BULLEN: Mr. Salgo testified that there
6 was an increase in grid reliability as a result of this. It's
7 also in his direct testimony. It's a simple question.

8 HEARING OFFICER: Okay. Ms. Bullen, if you could
9 direct Dr. Harrold to where it was. We'll first see if she
10 has Mr. Salgo's testimony. If not, we'll need to provide it
11 to her. And then, if you can direct her to that place. Mr.
12 Salgo did testify about this but I think it's fair for the
13 witness to be able to see that testimony in order to—I see
14 that Counsel has provided the witness, I believe it's Mr.
15 Salgo's testimony. So, Ms. Bullen, if you want to direct Dr.
16 Harrold to where Mr. Salgo makes those statements and we'll
17 give her a chance to look at that. And then, you can ask your
18 question.

19 LINDA BULLEN: What I'd like to do is come back
20 to that. I have just a couple of other questions while we
21 identify the exact line in his direct testimony that we're
22 talking about. So, we'll just put that aside if we might, for
23 just a moment.

24 HEARING OFFICER: Okay.
25

1 LINDA BULLEN: You also testified that you
2 disagreed with the statement in the application that there
3 were no significant unmitigated impacts from this project. Is
4 that correct?

5 ZOE HARROLD: Yes, I disagree.

6 LINDA BULLEN: If you could please explain what
7 significant versus not significant means to you.

8 ZOE HARROLD: Oh, well, that's a loaded
9 question. I actually have been technically trained to not use
10 the word significant unless you can back it up with error
11 values. So, you will find very careful use of the word
12 significant in my testimony and all of my work. Significant
13 means that you can literally show a quantitative number and
14 defend that number against a change in a baseline, in this
15 case and I don't see that here.

16 LINDA BULLEN: Did you do a specific
17 quantitative analysis of the impacts of this project according
18 to the regime that you were just discussing?

19 ZOE HARROLD: Yes. So, I have looked and have
20 shown that there is a significant change, to use the word
21 technically correct, in the CO₂ emissions as a result of
22 operating this project for the duration of the project,
23 meaning it is technically measurable above and beyond Nevada's
24 electric sector emissions.

25

1 And in addition, looking at the social cost of
2 carbon, that value provides a significant number, certainly
3 with error above and below. But it is an increase in the
4 associated cost impacts of Nevada's electric sector overall.

5 LINDA BULLEN: You've testified and certainly
6 heard about the air permit application that's currently
7 pending for this project. Isn't mitigation the purpose of the
8 various permits, including the air permit that this project is
9 in the process of obtaining?

10 ZOE HARROLD: The purpose of the Class 1 Air
11 Permit is to essentially be able to limit and track against
12 that limit. And so, I think it depends on in what context
13 you're talking about mitigate. Can you please clarify your
14 question?

15 LINDA BULLEN: We're going to go back if we
16 could please, and I appreciate that response. To Q&A 14 in
17 Mr. Salgo's testimony. It's on Page 7. It's a long response,
18 I appreciate that. Okay. Actually, I'm going to redirect you
19 if I might. Sorry.

20 Page 4 of his testimony, Q&A 9, where he makes a
21 statement as further discussed—as discussed further below, the
22 facility has the potential to bring additional dispatchable
23 generating resources to the region and it offers additional
24 reliability improvements to the grid that will have
25

1 significant benefits for Northern Nevada electric customers.

2 Do you see that statement?

3 ZOE HARROLD: I do see it.

4 LINDA BULLEN: Do you believe that increasing
5 grid reliability in Northern Nevada by this facility would be
6 in the public interest?

7 ZOE HARROLD: I think that question, it evokes
8 a balancing test of whether or not it's in the public
9 interest. There's two aspects, as I understand it, to the
10 suggested reliability improvements to the grid. The first is
11 the stated ancillary services. And the second is a potential
12 direct benefit in potentially grid stress conditions where
13 energy may be sold to NV Energy to provide reliability,
14 essentially, support services to NV Energy. The latter there
15 is no agreement in place, the former those benefits have not
16 been quantified.

17 On a whole, on the negative side, we have the carbon
18 dioxide emissions that are a significant increase in Nevada's
19 electric sector, carbon dioxide emissions and a significant
20 associated increase in the social cost of carbon and costs
21 associated with downstream impacts to Nevadans.

22 So, without a quantitative assessment of what those
23 reliability improvements could be in balance with the negative
24 impacts. I can't say that that is in the public interest.

25

1 LINDA BULLEN: Would you say that a more
2 reliable grid is a better grid for the public?

3 ZOE HARROLD: In an isolated statement on its
4 own, a more reliable grid is preferred.

5 LINDA BULLEN: Thank you. I have no other
6 questions.

7 HEARING OFFICER: Okay. Mr. Cavros, do you have a
8 redirect?

9 GEORGE CAVROS: Just a couple, thank you. The
10 Q&A 9 that Ms. Bullen was just asking you about. Have you
11 seen a quantitative assessment of the grid reliability
12 statements made in that paragraph?

13 ZOE HARROLD: I have not, no.

14 GEORGE CAVROS: And do you remember when you
15 were talking about the air permit and its role in mitigation,
16 the question you received from Ms. Bullen?

17 ZOE HARROLD: Yes.

18 GEORGE CAVROS: Given that this air permit will
19 not trigger a PSD review, will greenhouse gas emissions be
20 mitigated?

21 ZOE HARROLD: No, they will not.

22 GEORGE CAVROS: Thank you. That's all I have.

23 HEARING OFFICER: Okay. Ms. Bullen, was there any
24 recross?

25 LINDA BULLEN: I have nothing further.

1 HEARING OFFICER: Okay. I think I've gone all the
2 way around the room. Great. Okay. So, Mr. Martin, do you
3 have questions for Dr. Harrold?

4 JASON MARTIN: I do not have any questions.
5 Thank you, Commissioner.

6 HEARING OFFICER: Okay. I believe Ms. Lighthart
7 has a question.

8 KIM LIGHTHART: Yes, thank you, Commissioner.
9 Good afternoon, Dr. Harrold.

10 ZOE HARROLD: Hello.

11 KIM LIGHTHART: A couple of items. First, on
12 Page 48 of your testimony, there's the bullet points that are
13 summarizing your recommendations, and I'm looking at the
14 bullet point that is summarized on Lines 15 through 19. Can
15 you go there?

16 ZOE HARROLD: Yes.

17 KIM LIGHTHART: Okay. And so, my understanding
18 in looking at this is that your criticism is that the
19 application. And the references are not evaluating
20 alternative non-emitting resources to the project. Is that
21 accurate?

22 ZOE HARROLD: Sorry. Can you restate that
23 question? I was reading.

24 KIM LIGHTHART: Are you finished reading? I
25 want to make sure.

1 ZOE HARROLD: Thank you. Yes, please go
2 ahead.

3 KIM LIGHTHART: Yeah, sorry. It's a little
4 difficult when we're in different rooms. If I understand your
5 criticism correctly here, it is that the application or any
6 references therein did not perform any analysis of alternative
7 non-emitting resources. Is that accurate, for the project?

8 ZOE HARROLD: It does reference the lack of a
9 showing of alternative non-emitting resources considered prior
10 to and beyond the limitations of a pre-selected project site.

11 KIM LIGHTHART: Okay. And to be clear that was
12 not done by yourself in this, in your testimony, correct?

13 ZOE HARROLD: Just to clarify. You're asking
14 whether or not I assess the viability of alternative non-
15 emitting resources or of alternative project sites?

16 KIM LIGHTHART: With respect to the non-emitting
17 resources, I just wanted to clarify that you did not evaluate
18 that for the purposes of your testimony.

19 ZOE HARROLD: Yes. Correct. That is outside
20 the scope of my work.

21 KIM LIGHTHART: Okay. And if I understood your
22 discussion a few moments ago with respect to the
23 quantification of the grid benefits, are you familiar with
24 what is included in typically ancillary services or the
25 requirements for a large generation interconnection?

1 ZOE HARROLD: Not the specific regulation or
2 values.

3 KIM LIGHTHART: Okay. All right. And so, also,
4 are you aware that there are other facilities within Nevada
5 that don't serve Nevadans, for example, that are contracted to
6 serve customers in California?

7 ZOE HARROLD: I can't point to a specific
8 unit, but yes.

9 KIM LIGHTHART: Okay. And I think that's all my
10 questions. Thank you, Commissioner.

11 HEARING OFFICER: Okay. Thank you, Ms. Lighthart.
12 And then, Dr. Harrold, since I have you, I just have a follow-
13 up to what Ms. Lighthart was asking you. And that's, I think,
14 if you were here at the beginning, I indicated that I don't
15 believe it's within the scope of my authority to decide
16 whether or not facilities get built in the TRIC. Were you
17 there—were you here yet when I mentioned that?

18 ZOE HARROLD: Yes.

19 HEARING OFFICER: Okay, great. And so, you know,
20 I find myself needing to make a decision with my colleagues
21 about whether or not the environmental impact of this
22 particular facility is appropriate in this instance. But I
23 also find myself not being able to control the need for power
24 in that region of the state.

25

1 And as a regulator, it's my obligation to make sure
2 that power needs are met within the service territories of the
3 utilities I regulate. And so, my question to you would be,
4 you know, what would be the least impact on the environment in
5 your view in solving the conundrum that we're finding
6 ourselves with out in that area of the state? I can't just
7 say, no, you don't get to build anything. So, what in your
8 expertise would be an appropriate recommendation?

9 ZOE HARROLD: That requires an analysis. It
10 requires an analysis of the alternative potential site
11 characteristics, the impacts of the development of an
12 alternative site, specifically for a different resource
13 technology. And I'll be technology agnostic here because
14 there's no reason to designate a specific technology type.

15 So, there's—essentially, we're discussing two parts
16 of the project. The construction of the project. And so, an
17 analysis would need to be done to understand what the impacts
18 of an alternative site analysis and developing that site would
19 be. And in addition to that, an analysis would need to be
20 done on essentially avoided emissions in association with that
21 alternative generation technology and site development.

22 HEARING OFFICER: Okay. And so, in reading your
23 testimony and hearing your response, it does appear to me that
24 there is a priority that that your organization is placing on
25 air emissions in terms of the evaluation that the Commission

1 has to conduct as to, you know, what are the environmental
2 impacts?

3 ZOE HARROLD: I wouldn't say it's a priority.
4 It's a deficit in the application. So, the application goes
5 into substantial detail about the site and into some detail
6 about the environmental impacts of the construction of the new
7 facility on that site. What it's entirely devoid of is an
8 assessment of the emissions, the accumulative emissions and
9 the environmental impacts of those emissions in association
10 with operating the project. Does that answer your question or
11 do you want to—

12 HEARING OFFICER: No, that helps.

13 ZOE HARROLD: —ask it again?

14 HEARING OFFICER: Yes. Well, I'm going to ask a
15 different question, and that is—so, then based on that, are
16 you comfortable with the statement that the application makes
17 about mitigation as it relates to all of the other
18 environmental impacts?

19 ZOE HARROLD: It's not in my testimony, so no,
20 I won't say that I'm comfortable with that because I did not
21 do a specific thorough assessment of the gaps in the
22 construction plan and the environmental impact management plan
23 for the construction of the unit.

24 HEARING OFFICER: Okay. And I realized I asked
25 you a vague question, and by all the other impacts, I meant

1 land use impacts, cultural impacts, you know, there's a great
2 deal of different types of environmental concerns that an
3 applicant has to look at aside from just the air impacts. And
4 so, that's just making sure we're on the same page when I use
5 the term all the other impacts.

6 ZOE HARROLD: Sure, sure, so right. I mean,
7 to your point, there's this breadth of impacts and the glaring
8 deficit is the impacts of the CO₂ emissions from the
9 anticipated burning and combustion of fossil fuel natural gas.
10 And that it's very possible that the dollar amount and the
11 impact outweighs and really has an outsized impact on the
12 total impact of this project. And I think outweighs isn't
13 even really fair. It's literally just additive. So, it's an
14 entire additive component that is not included in the
15 application.

16 HEARING OFFICER: And then, one final question,
17 and that is, for example, this morning when we took the break
18 for the agenda, there were four different UEPA applications
19 addressed on our agenda this morning alone and that has been
20 the trend for some time. We are seeing tens of these UEPA
21 applications for permits to construct significant resources in
22 Nevada.

23 Has NCARE looked at any of these other applications
24 to consider why this particular application was a priority
25 versus the many, many others that the Commission is seeing?

1 ZOE HARROLD: UEPA applications cover a range
2 of facilities. So, I mean, I am aware that there are also
3 UEPA applications for, for example, infrastructure buildout
4 for wires and substations. That's quite different from this
5 particular application, which specifically involves an
6 emitting resource that does not use renewables. And so, it
7 triggers an assessment under very specific UEPA criteria
8 that's very different from other UEPA applications.

9 HEARING OFFICER: Okay. Did you have something
10 else you wanted to add?

11 ZOE HARROLD: I can leave it at that.

12 HEARING OFFICER: Okay. Thank you. Great. Well,
13 thank you, Dr. Harrold, very much for being here today. You
14 are excused. It is now 12:45. So, before I do that, Mr.
15 Cavros, I believe that completes your case.

16 GEORGE CAVROS: It does. Thank you,
17 Commissioner.

18 HEARING OFFICER: Thank you. And it is 12:45.
19 So, I think this would be a good time to take our lunch break.
20 I believe our next witness up will be Mr. Sinclair from Staff.
21 Is that correct, Ms. Waechter?

22 SIERRA WAECHTER: Yes, that's correct.

23 HEARING OFFICER: Okay. Great. So, we'll come
24 back in an hour at 1:45 and we'll pick up with Mr. Sinclair.
25 We're off the record.

1 OFF THE RECORD

2 ON THE RECORD

3 HEARING OFFICER: Let's go back on the record and
4 turn to you, Ms. Waechter, to introduce your witness.

5 SIERRA WAECHTER: So, Mr. Sinclair's already at
6 the stand, if I could have him sworn.

7 HEARING OFFICER: Yes, Mr. Sinclair, can you
8 please state your name for the record?

9 RYAN SINCLAIR: Ryan Sinclair, S-I-N-C-L-A-I-R.

10 HEARING OFFICER: Okay. And if you can raise your
11 right hand for me. Do you solemnly swear or affirm that the
12 evidence you shall give in this matter will be the truth, the
13 whole truth and nothing but the truth?

14 RYAN SINCLAIR: I do.

15 HEARING OFFICER: Thank you.

16 SIERRA WAECHTER: I would like to start with
17 marking his pre-filed testimony as Exhibit 300 and I would
18 move for that to be entered into the record.

19 HEARING OFFICER: Okay. The pre-filed testimony
20 of Ryan Sinclair is marked as Exhibit 300. Any discussion on
21 the motion to admit? Seeing none, Exhibit 300 is admitted.

22 SIERRA WAECHTER: Good afternoon. Mr. Sinclair.

23 RYAN SINCLAIR: Good afternoon.

24 SIERRA WAECHTER: What is your position on Staff?
25

1 RYAN SINCLAIR: I'm a Regulatory Engineer for
2 Staff.

3 SIERRA WAECHTER: Do you have your prepared direct
4 testimony, which has been pre-marked as Exhibit 300 in front
5 of you?

6 RYAN SINCLAIR: Yes, I do.

7 SIERRA WAECHTER: Was Exhibit 300 prepared by you
8 or under your supervision?

9 RYAN SINCLAIR: Yes, it was.

10 SIERRA WAECHTER: Do you have any revisions or
11 corrections to your testimony?

12 RYAN SINCLAIR: Yes, I have a few. So, I'll
13 start on Page 4, Line 16. That'd be Page 4, Line 16. In the
14 middle of that it says Docket Number 26-04026. I would like
15 to change that to Docket Numbers 26-04026 and 26-04027.

16 And then, I'll make a similar edit down below on
17 Footnote 2 and 3. I'll replace the whole Docket Number with
18 Docket Numbers 26-04026 and 26-04027. And that would apply to
19 both Footnote 2 and 3.

20 And then, fast forward to Page 12, Lines 22 through
21 24, where it says, South Valley Temporary Power Generation
22 Facility consisting of a temporary 144 megawatt natural gas
23 fueled electric generating facility and associated facilities.
24 I'd like to replace that with ASR-IX consisting of a nominal
25

1 510 megawatt natural gas fueled electric generating plant and
2 associated facilities.

3 And then, a roughly similar edit on Page 13, Line
4 14, or yeah, Line 14 through 15. I'd like to replace a
5 temporary 144 megawatt natural gas fueled electric generating
6 facility with a nominal 510 megawatt natural gas fueled
7 electric generating plant.

8 And then, the final edit would be on Page 11 and 13.
9 It's bullet point I, it says Storey County special use
10 building. That should be building permit. So, replace
11 special use building with building permit on bullet point I on
12 Page 11 and page 13.

13 And I believe that would conclude my edits.

14 SIERRA WAECHTER: Okay.

15 HEARING OFFICER: Time out. Sorry, Ms. Waechter.
16 I just want to make sure that we got all of those. So, for
17 the purposes of the record. So, I got Page 11 and page 13,
18 little I, adding the word permit to special use building. So,
19 that's on Page 11 at Line 19 and Page 13 at Line, I don't
20 know, 27.

21 And then, also—

22 RYAN SINCLAIR: That would be to get rid of,
23 oops sorry, to get rid of special use and add building permit.
24 So, it wouldn't be a special use building permit. It was a
25 building permit.

1 HEARING OFFICER: Okay. I did not catch that.
2 So, we have that should read now just building permit in both
3 locations.

4 RYAN SINCLAIR: Right.

5 HEARING OFFICER: Okay. And then, we've got also
6 on Page 13 at Line 14, we're going to make that the nominal
7 510 megawatt natural gas fueled electric generating facility.

8 RYAN SINCLAIR: Correct.

9 HEARING OFFICER: Okay. And then, in the question
10 on Page 12, Question 17, you change that to say the ASR-IX 510
11 megawatt natural gas field electric generating facility. Did
12 I get that right?

13 RYAN SINCLAIR: Yeah. Yes, correct.

14 HEARING OFFICER: And I think we got the—and then,
15 the docket numbers, I got that. So, I think we should be
16 good. Let me just check. You feeling good over there, Mr.
17 Baker.

18 ADAM BAKER: Yes, I am.

19 HEARING OFFICER: Okay, great. Okay. Sorry about
20 that. I just want to make sure that that we got them all.
21 Okay, Ms. Waechter, please go ahead.

22 SIERRA WAECHTER: No problem. Mr. Sinclair, if I
23 were to ask you the questions in your testimony with the
24 corrections you've made today, would your answers be the same?

25 RYAN SINCLAIR: Yes, they would.

1 SIERRA WAECHTER: And I tender Mr. Sinclair for
2 cross.

3 HEARING OFFICER: Okay. Well. Then let's start
4 with NCARE. Mr. Cavros, please go ahead.

5 GEORGE CAVROS: Thank you, Commissioner. I just
6 have a few questions for Mr. Sinclair, but if I could, I would
7 just like to pass out copies of 704.890, might reference it
8 during the questions I ask. And it might just, for ease of
9 reference, people will have it in front of them if that's
10 okay. I have a colleague in Las Vegas who is there to pass
11 out exhibits as well, but I think most of the party's
12 representatives are here in Carson City.

13 HEARING OFFICER: Yep, we are—your colleague here
14 has handed some copies of that to the Dais. And that's fine
15 for you to pass out there in Carson City and given that it's a
16 piece of statute, we won't mark it, but please feel free to
17 refer to it

18 GEORGE CAVROS: Thank you. Mr. Sinclair, Good
19 afternoon, by the way.

20 RYAN SINCLAIR: Good afternoon.

21 GEORGE CAVROS: Good to see you again. Could
22 you turn to Page 5 of your testimony? And in Q&A 10, the
23 question you asked there is, has Staff recently reviewed a
24 UEPA application similar to the two projects and discuss
25

1 below? And I think what you meant there is to the project
2 discuss below. Is that correct?

3 RYAN SINCLAIR: Yes, that's correct.

4 GEORGE CAVROS: And the first project you cite
5 is Docket Number 25-08008, which is the Valmy Capacity
6 Project, correct?

7 RYAN SINCLAIR: Yes. That's correct.

8 GEORGE CAVROS: And the Valmy Project went
9 through an IRP process where the Commission approved the need
10 for the project. Isn't that right?

11 RYAN SINCLAIR: Yes, that's correct.

12 GEORGE CAVROS: And the next is Fulcrum project,
13 the subject of this proceeding, has not gone through that IRP
14 approval process, right?

15 RYAN SINCLAIR: No, it has not.

16 GEORGE CAVROS: And then, next you cite Dockets
17 26-04026 and 26-04027, correct?

18 RYAN SINCLAIR: Correct.

19 GEORGE CAVROS: Okay. And those are both fossil
20 fuel projects, correct?

21 RYAN SINCLAIR: Yes, that's correct.

22 GEORGE CAVROS: And you cite that the Docket was
23 unanimously approved by the Commission in both those
24 paragraphs. There's no final order in those cases, correct?

25

1 SIERRA WAECHTER: Objection that calls for a legal
2 conclusion that does not pertain to his expertise.

3 HEARING OFFICER: Mr. Cavros.

4 GEORGE CAVROS: Fair enough. I'll move on.

5 HEARING OFFICER: Okay.

6 GEORGE CAVROS: Could you turn to Page 3, Mr.
7 Sinclair?

8 RYAN SINCLAIR: Okay, I'm there.

9 GEORGE CAVROS: Great. And if I could direct
10 you to Line 24, I'm going to go ahead and read that sentence
11 there. It says, it is beyond the Commission's authority to
12 conduct any duplicative environmental review and the
13 Commission is bound by NDEP's determination, which carries
14 over to the next page. Did I read that correctly?

15 RYAN SINCLAIR: Yes, you did.

16 GEORGE CAVROS: And by duplicative, you mean the
17 same, right?

18 RYAN SINCLAIR: I would say this is the
19 Commission's words, not mine. This is taken directly out of
20 that order.

21 GEORGE CAVROS: Do you want to opine on what the
22 Commission may have meant by duplicative?

23 RYAN SINCLAIR: To me, it would mean doing the
24 same work twice.

25

1 GEORGE CAVROS: Thank you. And there's a
2 footnote, too, at the end of that sentence, correct?

3 RYAN SINCLAIR: Yeah, on Page 4?

4 GEORGE CAVROS: Yes.

5 RYAN SINCLAIR: Yes.

6 GEORGE CAVROS: Okay. And it references the
7 order in Docket 26-04026, and 027, correct?

8 RYAN SINCLAIR: Yes, that's correct.

9 GEORGE CAVROS: Paragraph 38.

10 RYAN SINCLAIR: Yes, that's correct.

11 GEORGE CAVROS: Okay. Doesn't the Commission,
12 in its order in Paragraph 38, note that NRS 704.877 requires
13 the Commission to accept findings and conclusions of
14 environmental review already conducted by a federal, state,
15 and local agency?

16 SIERRA WAECHTER: Apologies. Commissioner, I
17 don't believe that Mr. Sinclair has the order in front of him,
18 so I don't believe he would be able to answer that.

19 HEARING OFFICER: Okay. So, Mr.—

20 GEORGE CAVROS: Yeah, just in response, I'd be
21 happy to mark that as an exhibit, Commissioner.

22 HEARING OFFICER: Okay. Well, I tell you what,
23 since it's a Commission's order, we can take administrative
24 notice of the order. I'm wondering, do we want to take
25 administrative notice just of the order that Mr. Sinclair has

1 referred to or for the balance of the docket? Is there any
2 preference on your part or Ms. Waechter's part?

3 GEORGE CAVROS: I think the order suffices with
4 me.

5 HEARING OFFICER: Ms. Waechter?

6 SIERRA WAECHTER: Apologies, Commissioner, I did
7 not hear your whole question. Could you repeat yourself?

8 HEARING OFFICER: Sure. So, Mr. Cavros suggested
9 that we mark the order in Docket Numbers 26-04026 and 27. Or
10 no, maybe it's 36.

11 SIERRA WAECHTER: You're correct. It's 26 and 27.

12 HEARING OFFICER: Okay. There's another typo.
13 Okay. And I indicated that we can just take administrative
14 notice of an order in that docket. He's comfortable with
15 taking administrative notice of the order. Because that's
16 what Mr. Sinclair refers to in his testimony and my question
17 to him had been, did you also want to take administrative
18 notice of the docket? You know, all of the other filings in
19 that docket or if this order was sufficient. Mr. Cavros said
20 the order was sufficient and I just wanted to make sure that
21 you're comfortable with proceeding in that way with your
22 witness.

23 SIERRA WAECHTER: At this point, Staff would
24 prefer to take administrative notice of the entire record, if
25 that's the line we'd like to go down.

1 HEARING OFFICER: Then we will take administrative
2 notice of the record in Docket Numbers 26-04026 and 26-04027.
3 Having done that, however, if we want to talk to Mr. Sinclair
4 about the order, then I would appreciate it if he had a copy
5 of the order, and I'm fine with us taking some time. Looks
6 like somebody has provided him with a piece of paper. Ms.
7 Waechter, do you also have a copy of that?

8 SIERRA WAECHTER: Not currently but it's making
9 its way around.

10 HEARING OFFICER: Okay. Fantastic. So, then
11 let's just take a couple minutes and get everybody comfortable
12 with that order again, and when you're ready, Mr. Sinclair,
13 you can let Mr. Cavros know.

14 RYAN SINCLAIR: Okay. Thank you.

15 GEORGE CAVROS: And just to clarify,
16 Commissioner, it's an excerpt of the order.

17 HEARING OFFICER: Okay. Thank you, Mr. Cavros.

18 RYAN SINCLAIR: And then, Mr. Cavros. We're
19 only focusing on Paragraph 38 right now, correct?

20 GEORGE CAVROS: Correct.

21 RYAN SINCLAIR: Okay. I've read Paragraph 38.

22 GEORGE CAVROS: Okay. So, then I'll go ahead
23 and re-ask the question. In that first sentence of Paragraph
24 38, doesn't the Commission note that it's beyond the
25 Commission's authority to conduct any duplicative

1 environmental review of federal, state and local agencies
2 that's already been conducted?

3 RYAN SINCLAIR: Can you repeat the question?
4 Sorry, it's kind of broken up in the order, so I'm trying to
5 piece it together.

6 GEORGE CAVROS: Sure. So, in Paragraph 38, if
7 you look at the fourth sentence it states that, comma, that
8 has already been conducted by an appropriate federal agency or
9 state or regional agency. And it says up at the top that the
10 Commission's required to accept and incorporate those findings
11 into an environmental review.

12 RYAN SINCLAIR: I mean, that's what the order
13 says.

14 GEORGE CAVROS: Okay. In this case, no such
15 environmental review has yet been conducted, correct?

16 LUCAS FOLETTA: I'm just going to object as to
17 vague. Such environmental review. Could we be more specific?

18 HEARING OFFICER: Mr. Cavros, can you be more
19 specific?

20 GEORGE CAVROS: Sure. Is there an approved air
21 permit application in this case?

22 RYAN SINCLAIR: I know the air permit's
23 required. I don't know if there's an approved. I haven't
24 seen one filed though. So, I don't know if it's approved or
25 not filed. But I know it's required for this UEPa.

1 GEORGE CAVROS: Does environmental review mean
2 to you mean, a completed environmental review?

3 RYAN SINCLAIR: I guess, I don't know what you
4 mean by completed environmental review. I would point to the
5 environmental review in this proceeding being the attached
6 environmental study that was original--in the original
7 application.

8 GEORGE CAVROS: But that's not issued by a
9 state, federal or local authority. Paragraph 38 refers to
10 environmental reviews that have been conducted by appropriate
11 federal agencies or by state, regional, or local agency. And--

12 RYAN SINCLAIR: I guess, I'll just answer your
13 question with the--about the fifth sentence down. The
14 Commission states, while NDEP's environmental review has not
15 been conducted, that review is a condition precedent for any
16 UEPA permit to construct that the Commission would issue.

17 So, I believe that this same paragraph, not speaking
18 for the Commission, but could apply to the Nexus case we're in
19 right now.

20 GEORGE CAVROS: Okay. Let me turn your
21 attention, if I could, to Q&A 7 on Page 4 and that would be
22 Line 13.

23 RYAN SINCLAIR: Okay.

24 GEORGE CAVROS: And there's a sentence there
25 that starts at the end of that line. Staff relies on NDEP air

1 permitting process to evaluate the potential effects of
2 greenhouse gas emissions on the State. Did I read that
3 correctly?

4 RYAN SINCLAIR: Yes, you did.

5 GEORGE CAVROS: And you're generally familiar
6 with the NDEP air permitting process, I assume?

7 RYAN SINCLAIR: As a Staff member I try to stay
8 out of the NDEP process. It should be a separate entity from
9 us so Staff doesn't intervene or make any recommendations to
10 NDEP on their processes.

11 GEORGE CAVROS: Are you generally familiar,
12 though, with the air permitting process?

13 RYAN SINCLAIR: I know that one's required for--
14 NDEP air permitting is required for this project and that will
15 last about a year. And then, after that, they have to get an
16 updated air permit for operating times, which is on a five
17 year time frame.

18 GEORGE CAVROS: Okay.

19 RYAN SINCLAIR: That's about the max of my
20 knowledge of the process.

21 GEORGE CAVROS: Okay. But you rely on that NDEP
22 air permitting process to evaluate the potential effects of
23 greenhouse gas emissions on the state, correct?

24 RYAN SINCLAIR: We rely on NDEP, who is the
25 agency in Nevada who's responsible for environmental

1 protection. And they're more equipped to deal with the air
2 permitting process of the greenhouse gas emissions than Staff
3 is.

4 GEORGE CAVROS: At this point, Commissioner, I
5 don't know that I need to mark this exhibit, but I would like
6 to share and you know, I think share that table from the air
7 permit application that has been circulated this morning and I
8 think folks will be pretty familiar with it. But I don't know
9 that we need to mark it as an exhibit as the errata to the
10 Nexus to Mr. Spencer's testimony has already been filed that
11 has the new table on it, but those—the change in those values
12 is not relevant for the questions I want to ask Mr. Sinclair.

13 HEARING OFFICER: Okay. Mr. Cavros, we did mark
14 that errata to Mr. Sinclair's testimony as Exhibit 109E. So,
15 yes, it has been marked and admitted and you are free to use
16 it as a cross-examination exhibit. But I believe I talked
17 over you and maybe somebody else in the room, so.

18 GEORGE CAVROS: No, that's fine but I don't know
19 that we have enough copies to go around of that errata. So,
20 with the understanding that that table has been updated, those
21 values have been updated just by a little bit, I would still
22 like to use the old table for purposes of a few questions
23 here.

24 HEARING OFFICER: Okay.
25

1 LINDA BULLEN: If I might, Commissioner. That
2 old table is already in part of Mr. Spencer's testimony and it
3 was part of the application.

4 GEORGE CAVROS: Right. It's also, as Counsel
5 stated in the environmental statement as well, it's just that
6 this table is easier to read for purposes of cross-
7 examination.

8 HEARING OFFICER: That's fine.

9 GEORGE CAVROS: I defer to the Commission.

10 HEARING OFFICER: Yeah. So, long as we're clear
11 what document you're using and so long as the witness and
12 Counsel have a copy of it for the purposes of cross-
13 examination. It is in fact part of Mr. Sinclair's testimony
14 in the application, so it does exist in the record. Just
15 clarity about what document we're using, but that's fine. You
16 can use that as a cross-examination exhibit. [pause]

17 RYAN SINCLAIR: Are you waiting on me for
18 something?

19 GEORGE CAVROS: Actually, I'm just waiting for
20 Counsel to make sure no one has any objections to me using
21 this as an exhibit for purposes of cross.

22 LUCAS FOLETTA: I don't have any objections
23 based on the form of it.

24 LINDA BULLEN: I guess, no objection. It is
25 slightly differently formatted than what we were talking about

1 earlier because we were referring to Table 5. And this is a
2 Table 3.1 with a different title but it appears to have the
3 same substantive information in it. So, no objection.

4 HEARING OFFICER: Okay. Go ahead—

5 SIERRA WAECHTER: Staff would just ask, sorry.
6 Apologies. I guess Staff would just ask if it does have a
7 different title where this—it does appear to be the same but
8 where did Counsel obtain this specific version?

9 GEORGE CAVROS: This is directly from the air
10 permit, Ms. Waechter.

11 SIERRA WAECHTER: Okay.

12 GEORGE CAVROS: The air permit application,
13 apologies.

14 SIERRA WAECHTER: From?

15 GEORGE CAVROS: From NDEP, the NDEP air permit
16 application. Okay. Mr. Sinclair, on the very top row there,
17 there is reference to certain pollutants, NO_x, carbon
18 monoxide, volatile organic compounds, sulfur dioxide, PM₁₀ and
19 PM_{2.5}, do you understand those to be criteria pollutants?

20 RYAN SINCLAIR: Yes. I understand that to be
21 pollutants in general for NDEP purposes.

22 GEORGE CAVROS: Okay. And then, when we go over
23 to the last column on turbine emissions or the metric tons
24 produced by the facility will be roughly 1.94 million tons.
25 Do you see that in parentheses, 1,938,821?

1 RYAN SINCLAIR: That's what this one says. I
2 don't remember what the errata said off top of my head. But
3 that's what this one says.

4 GEORGE CAVROS: Okay, thank you. Then let's
5 look at the NDEP Class 1, threshold and for that threshold for
6 a Class 1 permit, the threshold there is—and that's the one,
7 two, three, four, five, six, the seventh row, that's 100 tons
8 for those criteria pollutants, correct?

9 RYAN SINCLAIR: Your top, I don't think I'm
10 following you. NDEP Class 1 threshold is where we're at, that
11 row?

12 GEORGE CAVROS: Correct, correct, that that row.
13 And then, if you go to the, you know, if you count over or if
14 you look at the first five columns, that threshold is 100.
15 The first six columns that threshold is 100, correct?

16 RYAN SINCLAIR: I mean, it says 100. But I
17 don't see a definition of exactly what 100 is.

18 GEORGE CAVROS: Right.

19 RYAN SINCLAIR: It just says it does say 100.

20 GEORGE CAVROS: Okay. Do you see the title of
21 the table at the top that says Annual Emissions, TPY?

22 RYAN SINCLAIR: Oh, yes. I apologize. Now I
23 see that, yes.

24 GEORGE CAVROS: Okay, great. And if you cross
25 over all the way to the greenhouse gas column, you'll see that

1 there's no threshold for greenhouse gases under a Class 1
2 permit, did you see that?

3 RYAN SINCLAIR: I wouldn't say that it doesn't
4 show there isn't one, it just shows nothing populated in that
5 column. So, I don't know if there is one or isn't one, but
6 there's nothing populated in that column you're referring to.

7 GEORGE CAVROS: Okay. Thank you. Then let's go
8 down to two more rows to the PSD threshold tons per year. And
9 then, if we go across those six columns you'll see that that
10 threshold is 250 tons per year. Do you see that?

11 RYAN SINCLAIR: That's what the table shows.

12 GEORGE CAVROS: And it's not until you, if you
13 take that column all the way across, it's not until you get to
14 the, I'm sorry, to this row and look at the greenhouse gas
15 column that you see that the threshold for PSD review is
16 75,000 tons. Do you see that, metric tons?

17 RYAN SINCLAIR: I see it says 75,000 in
18 parentheses but there's a number in front of it. I don't see
19 where it says that's the threshold. We're in the threshold
20 column and there's two numbers in there.

21 GEORGE CAVROS: Correct.

22 RYAN SINCLAIR: So, for me to tell you which one
23 is the threshold, I don't know. But there's two numbers in
24 there. And one of those numbers is 75,000.

25

1 GEORGE CAVROS: Okay. Thank you. And then
2 there is a—and then, let's go, actually, to just that final
3 row where it asks if emissions exceed PSD thresholds. And can
4 you see that there's a no under all the criteria pollutants?

5 RYAN SINCLAIR: Yes.

6 GEORGE CAVROS: And then, if you go all the way
7 over to greenhouse gas emissions, it has a note that says see
8 Footnote 5.

9 RYAN SINCLAIR: Correct.

10 GEORGE CAVROS: And then, if you read—go to
11 Footnote 5. It reads, the 75,000 metric ton threshold for
12 greenhouse gas is only triggered when another criteria
13 pollutant exceeds the PSD threshold. Did I read that
14 correctly?

15 RYAN SINCLAIR: Yes.

16 GEORGE CAVROS: So, according to this table in
17 the air permit application, no criteria pollutants exceed the
18 250 PSD threshold. Correct?

19 LUCAS FOLETTA: I'm gonna object. That calls
20 for speculation. It also seems to be outside of respectfully
21 Mr. Sinclair's expertise. He's testified he's not familiar
22 with or does not participate in the air permitting process.
23 So, I don't think interpreting this form is in his purview. I
24 think he can say what are in these boxes, which he has been
25

1 doing, but drawing conclusions from it is, I think, something
2 he specifically said in his testimony he does not do.

3 SIERRA WAECHTER: And Staff would like to concur
4 in that objection.

5 GEORGE CAVROS: Commissioner, Staff relies on
6 the air permitting process to evaluate greenhouse gas
7 emissions of the state. I'm just simply taking him through
8 the table, asking him what the thresholds are for certain
9 regulations of this facility. It's kind of self-evident in
10 the table. So, I don't know that it necessarily requires any
11 expertise, but I do have just one or two more questions on
12 this table. And then, I'll be moving away from it and would
13 ask for just a little leniency here.

14 HEARING OFFICER: Okay, thank you, Mr. Cavros.

15 SIERRA WAECHTER: If I may?

16 HEARING OFFICER: Go ahead, Ms. Waechter.

17 SIERRA WAECHTER: I do believe at that point then
18 the table speaks for itself. It is not something that Mr.
19 Sinclair created. And so, to propound farther on the meaning
20 of the table, I think is beyond his level of expertise in this
21 area.

22 HEARING OFFICER: Thank you, Ms. Waechter. I
23 believe Mr. Sinclair has indicated that, but I am happy to let
24 him indicate again, and I'll have you restate your question,
25 Mr. Cavros, whether or not he can draw any conclusions or

1 opinions based on the questions that you want to ask him. So,
2 if you want to go ahead, Mr. Cavros and ask your question
3 again, I'm going to allow it.

4 GEORGE CAVROS: Sure. And maybe I'll just
5 reframe my last two questions. Were you here earlier, Mr.
6 Sinclair, when Mr. Spencer testified earlier that there will
7 be a condition in the permit that does not allow the applicant
8 to exceed carbon monoxide or any criteria, well, the carbon
9 monoxide pollution. Do you recall that?

10 LUCAS FOLETTA: I'm sorry, can we—just a point
11 of clarification. I'm not sure that states the testimony
12 accurately, and maybe that just wasn't a complete thought on
13 your part.

14 GEORGE CAVROS: I can try again.

15 HEARING OFFICER: Okay. Go ahead, Mr. Cavros.
16 Try again.

17 GEORGE CAVROS: Were you here earlier when Mr.
18 Spencer indicated that it is the applicant's intention not to
19 exceed PSD thresholds?

20 RYAN SINCLAIR: Sorry. I'm trying to remember
21 exactly what he said. I know he said something similar along
22 those lines, so I don't want to fully say no, but I know
23 something similar to that. I don't know if it's exactly how
24 you portrayed it, but yes.

25

1 GEORGE CAVROS: Okay. And then, I'll take you
2 back one more time to this table, to the extent you can
3 answer. Since the PSD threshold is not triggered, NDEP will
4 not mandate controls for greenhouse gas emissions. Is that
5 your understanding?

6 LUCAS FOLETTA: Objection. Objection. Calls
7 for speculation. It's outside the scope of his testimony.

8 HEARING OFFICER: Okay.

9 LUCAS FOLETTA: And expertise.

10 SIERRA WAECHTER: And Staff joins in that
11 objection. It is not his expertise of NDEP's processes.

12 HEARING OFFICER: Mr. Cavros?

13 GEORGE CAVROS: I would only add, Commissioner,
14 that Staff, Mr. Sinclair states in his testimony that Staff
15 relies on the NDEP air permitting process to evaluate
16 greenhouse gas emissions on the state, so I'm just probing
17 Staff's understanding of how NDEP does that.

18 LUCAS FOLETTA: I would just say, but underlying
19 Mr. Cavros' question is his own interpretation of this table,
20 which has not been admitted to evidence and Mr. Sinclair does
21 not have. I don't think it's appropriate for him to draw
22 conclusions about what this table says. We sponsored, or the
23 applicant sponsored the table, they can do cross on those
24 witnesses of what the implications are of it or their
25 understanding of it but I do think it's inappropriate here.

1 GEORGE CAVROS: I will also add that Mr.
2 Sinclair states earlier in his testimony that Staff did review
3 the environmental statement of which this table was part.

4 HEARING OFFICER: Okay. So, I had previously
5 indicated and I'm going to continue to indicate Mr. Sinclair's
6 testimony says he relies on NDEP. This is a table that's been
7 submitted to NDEP. If Mr. Sinclair has an opinion or can draw
8 some conclusions from this table, he is free to state them.
9 If, however, he does not, he is free to state that as well.
10 But I am going to allow the question. So, Mr. Cavros, do you
11 want to ask the question one more time?

12 GEORGE CAVROS: Thank you, Commissioner. Mr.
13 Sinclair, to the best of your knowledge given that none of the
14 criteria pollutants are exceeded in this application table,
15 and given Footnote 5, isn't it true that the facility, the
16 emissions at the facility, the greenhouse gas emissions at the
17 facility will not be mitigated through a permit condition.

18 SIERRA WAECHTER: Objection again, Commissioner.
19 That question is compounded. There's multiple parts to it. I
20 just want to make sure that it's clear what we're asking the
21 witness to answer.

22 HEARING OFFICER: Okay. Let me ask you. Mr.
23 Sinclair, Mr. Sinclair, do you understand what the question
24 is? You can say no.

25

1 RYAN SINCLAIR: I am a little lost at this
2 point. There's been a few back and forths. I mean, I guess
3 the best answer I can provide is if NDEP approves and issues
4 the air permit, then it falls within NDEP's processes, and
5 they've researched and investigated the effects of greenhouse
6 gas on Nevada, as they are the Nevada experts in that field.

7 So, if they're issuing the permit, then that's
8 their, you know, that's their purview. They can issue and put
9 any constraints that they feel they need to on that. So, that
10 would basically be my answer if that answers the question.

11 HEARING OFFICER: Okay. And I'm going to follow
12 up with one more of my own, Mr. Sinclair, and that is in
13 looking at this table, can you draw any conclusions about
14 whether or not this particular facility is going to exceed the
15 provisions of its air permit, once the air permit is issued?

16 RYAN SINCLAIR: No, because I don't know NDEP's
17 requirements for all these and what they would be looking for
18 not looking for in this individual application.

19 HEARING OFFICER: Okay. Mr. Cavros. Did we get
20 close enough?

21 GEORGE CAVROS: I think that's fine. We can
22 move on from the table.

23 HEARING OFFICER: Okay.

24

25

1 GEORGE CAVROS: Mr. Sinclair, could I have you
2 reference that statute I shared earlier, 704.890? And if you
3 could go to Subsection 1(c).

4 RYAN SINCLAIR: Okay.

5 GEORGE CAVROS: And you know, let's actually--can
6 I direct you to just Subsection 1 at the top there? And let
7 me read that to you because it may be hard to understand
8 Subsection C without it.

9 Except as otherwise provided in Subsection 3, the
10 Commission may not grant a permit for the construction,
11 operation, and maintenance of a utility facility, either as
12 proposed or as modified by the Commission to a person unless
13 it finds and determines.

14 And then, you go down to C, that the need for the
15 facility balances any adverse effects on the environment. And
16 my question to you is, it's the Commission, not NDEP that is
17 charged with balancing the need for the facility against any
18 adverse effect on the environment, correct?

19 RYAN SINCLAIR: Without providing a legal
20 conclusion, I'm not sure if I'm doing that here but I would
21 say, it's the Commission needs to determine if the facility
22 balances any adverse effect on the environment from the
23 information that's provided to them in the application up
24 front.

25

1 So, the environmental review that's attached or the
2 environmental statement, I believe in this case that's
3 attached and all the information contained in the filing, the
4 Commission can use that to balance the adverse effects on the
5 environment and the need for the facility.

6 GEORGE CAVROS: Thank you for that response, Mr.
7 Sinclair. Do you recall the 1.94 million metric tons
8 generally of greenhouse gas emissions that we just discussed
9 related to this table?

10 RYAN SINCLAIR: Yes. On the turbine emissions
11 column there?

12 GEORGE CAVROS: Yes, that's it. Do 1.94 million
13 metric tons of annual greenhouse gas emissions create adverse
14 impacts to the environment?

15 LUCAS FOLETTA: Objection. Calls for
16 speculations outside the scope of his testimony.

17 HEARING OFFICER: Mr. Cavros?

18 GEORGE CAVROS: Thank you, Commissioner. We
19 just established that the Commission required determination
20 that the need for the facility balances any adverse effect on
21 the environment. So, I'm simply trying to understand what
22 Staff considers an adverse impact. And whether the greenhouse
23 gas emissions at that scale are adverse impacts that need to
24 be balanced with the need for the facility.

25

1 HEARING OFFICER: Okay. So, I'll allow the
2 question as long as we characterize it as we're making a
3 presumption that that is the amount of greenhouse gas that a
4 particular facility is going to--so, this is a, I would say, a
5 hypothetical question in that sense because we don't actually
6 know what the greenhouse gas emissions are going to be. But
7 Mr. Sinclair, can you tender an opinion as to whether the 1.9
8 million metric tons of greenhouse gas emissions would have a
9 negative impact on the environment?

10 RYAN SINCLAIR: So, I'm pointing to Q&A 7, so we
11 don't, you know, we're not the greenhouse gas experts in this,
12 so I couldn't tell you if that's a small, large, huge impact
13 on the environment, from that perspective. I would point back
14 to NDEP. And if NDEP approves that air permit, then NDEP's
15 okay with that. And like I've said before, they are the
16 leaders of environmental protection for the State of Nevada.

17 GEORGE CAVROS: Let me try re-asking this again.
18 Mr. Sinclair, do you believe that 1.9 million metric tons is
19 an adverse impact to the environment?

20 LINDA BULLEN: Objection.

21 SIERRA WAECHTER: Objection.

22 LINDA BULLEN: Asked and answered.

23 SIERRA WAECHTER: Staff joins in the objection and
24 it's been asked and answered already.
25

1 HEARING OFFICER: So, was that Ms. Bullen or Ms.
2 Stix? I can't see anybody.

3 LINDA BULLEN: That was Bullen. Bullen.

4 HEARING OFFICER: Thank you, Ms. Bullen. Thank
5 you, Ms. Waechter. I agree, but because I stated your
6 question, Mr. Cavros, I will let you state your own question.
7 And Mr. Sinclair, if you want to respond, well, please
8 respond.

9 GEORGE CAVROS: And my question to you, Mr.
10 Sinclair, is does Staff have an opinion on whether greenhouse
11 gas emissions create adverse impacts?

12 RYAN SINCLAIR: Once again, I would go with my
13 same answer that we rely on NDEP to make that determination at
14 that time, as they are the environmental experts of the State
15 of Nevada.

16 GEORGE CAVROS: Okay. Could I direct you to
17 then, we'll leave this part of the cross. Can I direct you to
18 Page 9 of your testimony?

19 RYAN SINCLAIR: Okay, there.

20 GEORGE CAVROS: Great. Line 20. And there's a
21 I'm sorry—Line 8. And the first complete sentence there
22 starts out by saying by serving the 400 megawatt needs of
23 large load customer, the project will reduce the strain on NV
24 Energy's system in the area. Did I read that correctly?

25

1 RYAN SINCLAIR: Yes, and that's Nexus' response
2 to Staff DR3.

3 GEORGE CAVROS: Okay. In this application, the
4 need for the facility is driven by the power needs of the
5 customer, correct?

6 RYAN SINCLAIR: I'd say in general. Yes.

7 GEORGE CAVROS: Okay. And then, I've got—I'd
8 like to mark just two exhibits to close out my cross of Mr.
9 Sinclair. They are discovery responses to NCARE and I will
10 pass those out now.

11 SPEAKER: Commissioner.

12 HEARING OFFICER: Did somebody say Commissioner?

13 GEORGE CAVROS: And we—Kevin is in Las Vegas.
14 My colleague Kevin, to pass that out.

15 HEARING OFFICER: Yes, he's doing so.

16 GEORGE CAVROS: Oh, oh my gosh. No, I don't.
17 Well, hey, you know what? You know, he can have my copy.

18 HEARING OFFICER: Okay. While you're all playing
19 with paper, what I have been handed is a three page document.
20 The first page says, Data Request Numbers, NCARE 1-1 through
21 1-4 dated October 12, 2026. It looks like I have then NCARE
22 1-2, Question and Answer. And I have NCARE 1-4, Question and
23 Answer. Is that the correct exhibit, Mr. Cavros?

24 GEORGE CAVROS: That is correct, Commissioner.
25

1 HEARING OFFICER: Okay. And do you have an
2 exhibit number you'd like to assign to this document?

3 GEORGE CAVROS: Sure. I thought we would give
4 them different exhibit numbers given that they're two
5 different discovery responses. Or I can provide one whatever
6 your pleasure is Commissioner.

7 HEARING OFFICER: Since it is part of the original
8 group of 1-1 through 1-4, I'm okay with us giving that the
9 three-page document one number.

10 GEORGE CAVROS: Great. Well, this then would be
11 Staffs responses and to NCARE, DR1 and DR4.

12 HEARING OFFICER: Okay. But I need an exhibit
13 number.

14 GEORGE CAVROS: Oh, I'm sorry. The Exhibit
15 Number is 401.

16 HEARING OFFICER: 401. Okay. So, we'll mark this
17 for identification purposes as Exhibit 401, and then you can
18 conduct whatever cross you want to conduct and we'll see if
19 there's any objections to its admission.

20 GEORGE CAVROS: Okay. Mr. Sinclair. Do you
21 have NCARE 1-2 before you?

22 RYAN SINCLAIR: Yeah, and I'll just note that I
23 think you guys marked this as NCARE 1-1 and 1-4 but it's 1-2
24 and 1-4, is what I have.

25

1 GEORGE CAVROS: Oh, I'm sorry. Yes, that's-
2 that's what I meant. NCARE 1-2 and NCARE 1-4.

3 RYAN SINCLAIR: Okay. Yes, I have 1-2 and 1-4.

4 GEORGE CAVROS: These were received by NCARE on
5 October 12, 2026. I just wanted to confirm that you were the
6 responder to these data requests?

7 RYAN SINCLAIR: Yes, that's correct.

8 GEORGE CAVROS: Okay. And then, if you could
9 turn to NCARE 1-4. This was also received by NCARE on October
10 12, 2026. And just want to confirm that you are the responder
11 to this data request.

12 RYAN SINCLAIR: Correct, I am the responder.

13 GEORGE CAVROS: Okay. That's all I have,
14 Commissioner. Thank you.

15 HEARING OFFICER: Okay. Do you have a motion to
16 admit Exhibit 401?

17 GEORGE CAVROS: I would like to move that we
18 admit Exhibit 401.

19 HEARING OFFICER: Any discussion on that motion?
20 Okay, hearing none, Exhibit 401 is admitted. All right. Ms.
21 Waechter, do you have redirect for this witness?

22 SIERRA WAECHTER: I do not this time, thank you.

23 HEARING OFFICER: Okay. Then we will move to
24 Switch. Mr. Foletta.

25 LUCAS FOLETTA: No questions. Thank you.

1 HEARING OFFICER: Mr. Taylor for the BCP.

2 SAM TAYLOR: Yes, I have a few questions,
3 quick questions. Good afternoon, Mr. Sinclair, how are you?

4 RYAN SINCLAIR: Good afternoon. Good, how are
5 you?

6 SAM TAYLOR: I'm fine, thanks. Please turn
7 to Page 3, Answer A-6 of your testimony. Are you there?

8 RYAN SINCLAIR: Page 3, what—

9 SAM TAYLOR: 6.

10 RYAN SINCLAIR: Okay.

11 SAM TAYLOR: You there?

12 RYAN SINCLAIR: Yes. Sorry.

13 SAM TAYLOR: Okay. You indicated the Staff
14 did not conduct any independent environmental analysis of the
15 UEPA application, correct?

16 RYAN SINCLAIR: That's correct.

17 SAM TAYLOR: Okay. Did Staff independently
18 evaluate the veracity of any of the claims made by the
19 applicant in their environmental statement in the application?

20 RYAN SINCLAIR: No. Similar to the greenhouse
21 gas argument on Q&A 7, Staff relies on the environmental
22 professional's opinions that are found in the environmental
23 statement in this case.

24 SAM TAYLOR: Okay. Does NDEP examine any
25 environmental issues aside from air quality?

1 LUCAS FOLETTA: That actually calls for
2 speculation.

3 SAM TAYLOR: I think I'm just asking whether
4 or not he knows. I'm not asking him to speculate.

5 LUCAS FOLETTA: No, my issue is that this
6 witness, there's no foundation for this witness' expertise in
7 the area.

8 SAM TAYLOR: We just had a bunch of questions
9 about NDEP and what he knows about NDEP. So, I'm asking
10 questions regarding that.

11 HEARING OFFICER: Okay. I've heard the objection.
12 I am going to allow Mr. Sinclair to respond to what his
13 knowledge is about what environmental review NDEP conducts.
14 So, Mr. Taylor, if you want to ask your question again.

15 SAM TAYLOR: Thank you. Mr. Sinclair, does
16 NDEP examine any Environmental issues aside from air quality?

17 RYAN SINCLAIR: I'll just point you to Page 11
18 of my testimony where you can see NDEP needs to issue permits
19 for surface area disturbance, construction stormwater general
20 permit, a stormwater general permit, and a pollution discharge
21 and elimination system permit. So, outside of air quality,
22 they have additional permits that are needed that are outside
23 of air quality.

24 SAM TAYLOR: Thank you. How about any other
25 agency aside from NDEP? You aware of any?

1 RYAN SINCLAIR: I don't think I understood--
2 followed your question.

3 SAM TAYLOR: Conducting an environmental
4 analysis or examining the environmental statement in the
5 application.

6 LINDA BULLEN: This is an objection from Linda
7 Bullen. Those are two separate questions. This compound
8 question and I would request that they be broken down.

9 HEARING OFFICER: Yep. We can do that. Let's
10 take it one at a time, please, Mr. Taylor.

11 SAM TAYLOR: Sure. Does any other agency,
12 aside from NDEP, examine the veracity of the statements in the
13 environmental statement in the application?

14 LINDA BULLEN: Objection also calls for
15 speculation.

16 SAM TAYLOR: To the best of your knowledge.

17 RYAN SINCLAIR: I wouldn't know how deep they go
18 into the environmental review, but in this case, you have
19 Storey County is going to be issuing six different permits.
20 So, as far as how much they use the environmental review
21 that'd be a better question for each environmental or
22 permitting agency, I don't know off the top of my head.

23 SAM TAYLOR: Okay. To the best of your
24 knowledge, will the PUC undertake an independent analysis of
25 the claims made in the application?

1 SIERRA WAECHTER: I'm going to object to that.
2 That question is very vague. What does he mean by the PUC?
3 The Commission, Staff, who are we talking about?

4 SAM TAYLOR: The Commission, not Staff.

5 RYAN SINCLAIR: Does the Commission do that?

6 SAM TAYLOR: Yes.

7 RYAN SINCLAIR: I don't work for the Commission,
8 I'm not sure.

9 SAM TAYLOR: Okay.

10 RYAN SINCLAIR: I don't want to speak for the
11 Commission on what they do or don't do.

12 SAM TAYLOR: Thank you. No further
13 questions.

14 HEARING OFFICER: Okay. Ms. Waechter. Do you
15 have redirect?

16 SIERRA WAECHTER: I do not. Thank you.

17 HEARING OFFICER: Okay. Let's see who's next. I
18 think that would be you, Ms. Bullen.

19 LINDA BULLEN: It is. And if I could have just
20 ten seconds to consult with my client.

21 HEARING OFFICER: Absolutely.

22 LINDA BULLEN: Right here. [pause] One quick
23 question, Mr. Sinclair, and that, you, in your testimony, you
24 talk about the TRIC GID being the source of the water for the
25 project. Do you recall that?

1 RYAN SINCLAIR: Yes, on Page 7, looks like Lines
2 2 and 3.

3 LINDA BULLEN: And my question is just if you
4 know, do you know if TRIC GID recycles all of its water?

5 RYAN SINCLAIR: That I don't know. I don't
6 really work with the water side too much. But I do not know
7 that up top.

8 LINDA BULLEN: Fair enough. No other
9 questions. Thank you.

10 HEARING OFFICER: Okay. Any redirect based on
11 that, Ms. Waechter?

12 SIERRA WAECHTER: No, thank you.

13 HEARING OFFICER: Okay. Then let's see, Mr.
14 Martin, do you have questions?

15 JASON MARTIN: Thank you, Commissioner. I do
16 not have any questions at this time.

17 HEARING OFFICER: Okay. Ms. Lighthart?

18 KIM LIGHTHART: I have no questions. Thank you,
19 Commissioner.

20 HEARING OFFICER: Okay. Thank you. And Mr.
21 Sinclair, Mr. Baker has a question.

22 ADAM BAKER: Mr. Cavros, you'll need to
23 upload this Exhibit 401 to Teams so that it gets filed
24 properly.

25

1 GEORGE CAVROS: Thank you, Mr. Baker. We'll do
2 so.

3 ADAM BAKER: Okay. Thanks.

4 HEARING OFFICER: Okay. Great. And I don't have
5 any questions for you, Mr. Sinclair. Thank you for your time
6 this afternoon. You're excused.

7 RYAN SINCLAIR: Thank you.

8 HEARING OFFICER: And Ms. Waechter, I believe that
9 completes Staff's case?

10 SIERRA WAECHTER: That is correct.

11 HEARING OFFICER: All right. Then, next up I
12 think we will have rebuttal and who is our first rebuttal
13 witness, Ms. Bullen?

14 LINDA BULLEN: It is Richard Salgo.

15 HEARING OFFICER: Okay. Why don't we take our
16 health break and when we come back we will have Mr. Salgo on
17 rebuttal. So, we will come back at 2:55. We're off the
18 record.

19 OFF THE RECORD

20 ON THE RECORD

21 HEARING OFFICER: Let's go back on the record and
22 introduce—Mr. Salgo, you are still under oath from previously
23 today.

24 RICHARD SALGO: Understood.

25

1 HEARING OFFICER: Thank you. And then, I believe
2 Ms. Bullen, you had previously asked to mark Mr. Salgo's
3 rebuttal testimony is Exhibit 103, so that testimony is so
4 marked as Exhibit 103 and you could go ahead and reintroduce
5 your witness.

6 LINDA BULLEN: We'll pick it up—do you want me
7 to go through the name again and so forth?

8 HEARING OFFICER: No, he's already stated his name
9 but we need to ask about this particular piece of testimony.

10 LINDA BULLEN: Yes. So, Mr. Salgo, do you have
11 before you what has been marked Exhibit Number 103?

12 RICHARD SALGO: Yes, I do.

13 LINDA BULLEN: And is that your prepared
14 testimony in this docket?

15 RICHARD SALGO: My prepared rebuttal, yes.

16 LINDA BULLEN: Yes, rebuttal testimony. Thank
17 you. Was that rebuttal testimony prepared by you or at your
18 direction?

19 RICHARD SALGO: Yes, it was.

20 LINDA BULLEN: Do you have any corrections or
21 edits to that rebuttal testimony that you would like to make
22 at this time?

23 RICHARD SALGO: No, I do not.
24
25

1 LINDA BULLEN: If I were to ask you the same
2 questions that appear in that rebuttal testimony, would your
3 answers be the same today as they appear in that testimony?

4 RICHARD SALGO: Yes, they would.

5 LINDA BULLEN: Thank you. We ask that Exhibit
6 Number 103 be admitted into evidence and the witness is
7 tendered for cross examination.

8 HEARING OFFICER: Thank you very much, Ms. Bullen.
9 Any discussion on the motion to admit? Hearing none, Exhibit
10 103 is admitted. And Mr. Cavros, you can go ahead and
11 commence any cross you have of this witness.

12 GEORGE CAVROS: I have no cross. Thank you,
13 Commissioner.

14 HEARING OFFICER: Okay. Mr. Foletta.

15 LUCAS FOLETTA: No questions. Thank you.

16 HEARING OFFICER: Okay. Mr. Taylor?

17 SAM TAYLOR: Nada. No questions.

18 HEARING OFFICER: Okay. Thank you. Ms. Waechter?

19 SIERRA WAECHTER: Nothing from Staff. Thank you.

20 HEARING OFFICER: Clean sweep. Okay. Then, Mr.
21 Martin, do you have questions for Mr. Salgo?

22 JASON MARTIN: I do not have questions. Thank
23 you.

24 HEARING OFFICER: Ms. Lighthart?

25 KIM LIGHTHART: I have no questions. Thank you.

1 HEARING OFFICER: Okay. And there are no other
2 questions from the Dais. So, Mr. Salgo, thank you very much.
3 You are excused. Ms. Bullen, if you want to go ahead and call
4 your next rebuttal witness.

5 THERESE STIX: This is Therese Stix. We will
6 call Derek Furstenwerth to the stand. All right. We would be
7 asked that he be sworn in.

8 HEARING OFFICER: Okay. Thank you, Ms. Stix. Mr.
9 Furstenwerth, if you could please state your name for the
10 record.

11 DEREK FURSTENWERTH: Derek Furstenwerth. F-U-R-S-T-
12 E-N-W-E-R-T-H.

13 HEARING OFFICER: Thank you. Can you please raise
14 your right hand? Do you solemnly swear or affirm that the
15 evidence you shall give in this matter shall be the truth, the
16 whole truth and nothing but the truth?

17 DEREK FURSTENWERTH: I do.

18 HEARING OFFICER: Thank you. And I believe we had
19 discussed marking Mr. Furstenwerth's rebuttal testimony as
20 Exhibit 104. So, that testimony is marked for identification
21 as Exhibit 104.

22 THERESE STIX: Thank you. Okay. This is
23 Therese Stix, again. Mr. Furstenwerth, can you tell us whom
24 you're employed and what capacity?

25

1 DEREK FURSTENWERTH: Yes. I'm the Senior Vice
2 President of Environmental Resources for Consolidated Asset
3 Management Services LLC. We are the owner's representative
4 for Switch with respect to the Nexus Fulcrum development.

5 THERESE STIX: Okay. And Exhibit 104 that's in
6 front of you, did you prepare that testimony or was it
7 prepared under your direction?

8 DEREK FURSTENWERTH: Yes.

9 THERESE STIX: Do you have any edits or
10 corrections?

11 DEREK FURSTENWERTH: I do not.

12 THERESE STIX: If asked today would your
13 responses be the same?

14 DEREK FURSTENWERTH: Yes.

15 THERESE STIX: I would move to admit Exhibit
16 104 into evidence.

17 HEARING OFFICER: Okay. Any discussion on the
18 motion to admit Exhibit 104? Seeing none, Exhibit 104 is
19 admitted. Okay, Mr. Furstenwerth, can you—one moment please?
20 Okay, thank you. I'm gonna have you turn to the errata
21 Exhibit 109E.

22 DEREK FURSTENWERTH: Okay, I have it.

23 THERESE STIX: Okay. And were you in the room
24 earlier today when we talked about the parentheticals in that
25 exhibit?

1 DEREK FURSTENWERTH: I was.

2 SIERRA WAECHTER: Commissioner, if I may interject
3 here, I'm just curious, I guess, where this is going. Are we
4 crossing our own witness?

5 THERESE STIX: No. So, we offered him up
6 earlier to answer the questions, so I was just gonna have him
7 correct these parentheticals, but I can submit him for cross
8 and you guys can correct it.

9 SIERRA WAECHTER: I was just making sure we were
10 clear on what was happening.

11 THERESE STIX: Okay.

12 HEARING OFFICER: Thank you, Ms. Waechter. And
13 yes, I believe that we had had some discussion when the errata
14 was first introduced with updating some figures that a
15 question had been raised about. And I wondered who the best
16 person to do the math was, and we landed on this particular
17 witness.

18 So, I think the scope of the direct is going to be
19 limited to updating the numbers in the parentheticals in what
20 is this document, 109E. And then, we will move towards cross.

21 THERESE STIX: Correct, thank you. Mr.
22 Furstenwerth, can you please tell us what those updates in
23 those parentheticals should be? And when you do that, please
24 identify which columns and rows you're looking at.

25

1 DEREK FURSTENWERTH: Yes, based on calculations I did
2 today, based on permit application numbers, I want to correct
3 two of the parenthetical numbers here. The first one is in
4 the first row that's entitled turbine emissions in the GHG
5 column, and the current number that's in there is 1,938,821.72
6 metric tons, and the correct number should be 2,015,370.62
7 metric tons.

8 HEARING OFFICER: Okay. Hold on, Mr.
9 Furstenwerth. Can you just say that number one more time?

10 DEREK FURSTENWERTH: Absolutely. 2,015,370.62.

11 HEARING OFFICER: Thank you.

12 DEREK FURSTENWERTH: I next direct your attention to
13 the fourth line of this, which is entitled site-wide annual
14 emissions, fourth row, excuse me, same column, GHG. The
15 current number there in the errata sheet is 1,939,016.12
16 metric tons. The correct number should be 2,015,565.02 metric
17 tons. 2,015,565.02.

18 HEARING OFFICER: Thank you.

19 THERESE STIX: All right, thank you. I would
20 offer Mr. Furstenwerth for cross.

21 HEARING OFFICER: Okay. Mr. Cavros.

22 GEORGE CAVROS: Thank you. Just a couple quick
23 questions. Thank you for updating the table, Mr.
24 Furstenwerth. I don't know if you recall the conversation I
25 had with Mr. Spencer regarding whether an air permit that

1 triggers a PSD review requires best available control
2 technology. And honestly, I don't recall if he referenced you
3 as an expert or not. But would you have a response to that if
4 I asked you that same question?

5 DEREK FURSTENWERTH: The control technology that the
6 facility has was not within the—I don't think it was within
7 the scope of the testimony here that I provided the rebuttal
8 testimony. But if you believe it was, you can certainly
9 direct me to the appropriate area.

10 GEORGE CAVROS: That's fine. I won't ask you to
11 go outside of the scope of your testimony. I was just
12 wondering if you had a professional opinion on it or not. Who
13 were you retained by to provide testimony in this case?

14 DEREK FURSTENWERTH: By Switch.

15 GEORGE CAVROS: By Switch, okay. And when were
16 you retained by Switch?

17 DEREK FURSTENWERTH: It was around July.

18 GEORGE CAVROS: Okay. And you're based in
19 Texas, right?

20 DEREK FURSTENWERTH: Correct.

21 GEORGE CAVROS: And you've never engaged in the
22 docket in Nevada, correct?

23 DEREK FURSTENWERTH: I've not testified in a docket
24 in Nevada, that's right.

25

1 GEORGE CAVROS: And you're not barred as an
2 attorney in any state, correct?

3 DEREK FURSTENWERTH: That's right.

4 GEORGE CAVROS: And you don't have a law degree,
5 correct?

6 DEREK FURSTENWERTH: I do not have a law degree.

7 GEORGE CAVROS: That's all I have. Thank you.

8 HEARING OFFICER: Okay. Thank you, Mr. Cavros.
9 Is there any redirect?

10 THERESE STIX: No. Thank you.

11 HEARING OFFICER: Thank you, Ms. Stix Let's go to
12 BCP. BCP, do you have any questions for this witness?

13 SAM TAYLOR: I do, yes. Mr. Furstenwerth,
14 can you please turn to Page 9 of your rebuttal, Answer 17?

15 DEREK FURSTENWERTH: Okay, I'm there.

16 SAM TAYLOR: Okay. You indicate in Lines 19,
17 I guess, through 22 on that page, that Switch tracked the
18 benefits to Nevada's workers and economy for a Storey and
19 Clark County, and that was for 2025, correct?

20 DEREK FURSTENWERTH: Correct.

21 SAM TAYLOR: Okay. So, that's not related to
22 this application, correct? That predates the application?

23 DEREK FURSTENWERTH: That was provided as an example
24 of the type of employment on previous projects.
25

1 SAM TAYLOR: Right, but it predates the
2 application. Does it not?

3 DEREK FURSTENWERTH: It does predate the application.

4 SAM TAYLOR: Okay. Same thing when you're
5 talking about the 89% of the construction workforce. That was
6 also predating the application too, correct?

7 DEREK FURSTENWERTH: Yes.

8 SAM TAYLOR: 58% of the construction
9 workforce that also predated the application?

10 DEREK FURSTENWERTH: Yes.

11 SAM TAYLOR: And then, 91% of the total labor
12 hours performed also predated the application?

13 DEREK FURSTENWERTH: Yes.

14 SAM TAYLOR: Okay. So, it's not really
15 relevant to the application in terms of determining economic
16 benefit for this particular application, is it?

17 DEREK FURSTENWERTH: I think it's relevant in the
18 sense that it gives an example of the fact that Switch
19 construction projects of which this will be one, have employed
20 many people. We can't speculate into the future. We can't
21 predict—let me back up. It's the best example we have of
22 actual construction labor for projects.

23 SAM TAYLOR: Correct me if I'm wrong, but did
24 not the application itself indicate that there was going to be
25 about 200 construction workers on the project?

1 DEREK FURSTENWERTH: I couldn't cite the number out
2 of the application.

3 SAM TAYLOR: Also, previously, did you hear
4 the testimony—I think it was Mr. Spencer who indicated there
5 was going to be 10 to 20 workers on the facility once it's
6 completed?

7 DEREK FURSTENWERTH: My recollection of his testimony
8 was that it was 30 to 40 employees. That would be typical for
9 a power plant of this size.

10 SAM TAYLOR: Yeah. I don't think that was
11 correct, but—

12 DEREK FURSTENWERTH: That's what I recall.

13 SAM TAYLOR: Okay, fair enough. That
14 essentially, though, the information you provided was not
15 applicable to this specific application. It would pre-dated
16 it, correct?

17 DEREK FURSTENWERTH: Which information are you
18 talking about?

19 SAM TAYLOR: In the answer we just went over.

20 DEREK FURSTENWERTH: Again, I believe it was
21 relevant, it predated—

22 SAM TAYLOR: No, I asked if it predated—

23 HEARING OFFICER: Mr. Taylor, Mr. Taylor, Mr.
24 Taylor. You are not letting the witness answer your questions
25 and so the two of you are talking over each other and I'm not

1 in the room to throw hands at either of you, but I need you to
2 let the witness answer the full question. Make sure he's done
3 and then ask your next question. So, I think—

4 SAM TAYLOR: Yes—

5 HEARING OFFICER: Wait. You had just asked him
6 was whether or not this was relevant, if you want to re-ask
7 that question and then let him finish.

8 SAM TAYLOR: I did not ask if it was
9 relevant. I asked if it predated it.

10 SIERRA WAECHTER: I'm going to object this was
11 asked and answered.

12 HEARING OFFICER: Okay. Given all the talking
13 over each other, I'm going to let him answer that question
14 again. So, you asked him if the information predated it, and
15 I think he was asking you what information you were talking
16 about. So, Mr. Taylor.

17 SAM TAYLOR: Actually, Commissioner, I asked
18 if it predated it and he said it was relevant and I didn't ask
19 him if it was relevant. I did not mention the word relevant
20 in my question.

21 HEARING OFFICER: Okay. Did you want to ask him a
22 question or are you done?

23 SAM TAYLOR: No, it's fine. I'll move on.
24 Thanks. Yes, can you go to A19, please, on, what page is that
25 on?

1 DEREK FURSTENWERTH: Okay. I'm there.

2 SAM TAYLOR: You indicated and Ms. Harrold
3 acknowledged that Switch is a 704B customer with a long
4 history of going above and beyond the RPS by committing to
5 offset 100% of its electricity use in the state with renewable
6 energy. And my question to you is you were not trying to
7 respond to whether or not Switch was going to adhere to the
8 100% renewable, were you?

9 LUCAS FOLETTA: Can I just object, it's a bit
10 vague. I'm not sure I followed the question about what a 100%
11 renewable is. The question--the Q&A here is what it is. Maybe
12 we could be a little more specific.

13 SAM TAYLOR: Well, in Answer 19, if I may,
14 Commissioner, his answer was no, Ms. Harrold acknowledges that
15 Switch is a 704B customer with long history in Nevada going
16 above and beyond the RPS by committing to offset 100% of its
17 electricity use in the State renewable energy. That, I was
18 asking him whether or not that he was stating in that
19 particular answer or adhering to or committing Switch to
20 committing to renewables moving forward, 100% renewables
21 moving forward.

22 HEARING OFFICER: Okay.

23 DEREK FURSTENWERTH: No, I can't make that
24 representation for Switch.

25 SAM TAYLOR: All right. Going to A14.

1 DEREK FURSTENWERTH: I am there.

2 SAM TAYLOR: Line 5, beginning with
3 furthermore, solar, geothermal and fuel cell technology are
4 not feasible alternatives. Solar generation at capacity of
5 ASR-1X would take approximately 2,500 acres. Essentially,
6 what you're talking about in terms of feasible is the economic
7 aspect of feasibility, correct? Like, for example, acquiring
8 the 2,500 acres, running a line from that acreage to the
9 facilities, that's what you're referring to in that answer,
10 correct?

11 DEREK FURSTENWERTH: I would not characterize it as
12 only economic. No.

13 SAM TAYLOR: What other aspects would come
14 into play there?

15 DEREK FURSTENWERTH: Land use. 2,500 acres has a
16 significantly different land use footprint than the 20 acres
17 of an already disturbed site here, as one, timing is another.
18 Ability of the type of technology to serve the off-takers
19 load.

20 SAM TAYLOR: Okay. Thank you. Let's explore
21 the timing. The timing of the need for this facility is
22 driven entirely by Switch, is it not?

23 DEREK FURSTENWERTH: As I understand Mr. Salgo's
24 testimony, it talks about there being a need for additional
25 load in Nevada. In '29, there's the loss of load probability

1 study, which I didn't testify on, I just saw his testimony.
2 But that there is an issue in '29, which may be resolved in
3 the successive years 2031, '30, '31, '32. Sometime in there.
4 This project will be available in 2029. But the timing is
5 relevant.

6 SAM TAYLOR: Well, the timing is Switch's own
7 determination, correct? I mean, if Switch decided it didn't
8 want to build this facility, then the availability of power in
9 the future for other—for NV Energy or other entities is not
10 really an issue, is it?

11 DEREK FURSTENWERTH: I don't know if I could draw
12 that conclusion. That's speculative.

13 SAM TAYLOR: Well. Let's—okay. Speculative.
14 I don't think it is speculative. If Switch chose not to build
15 the facility, then it would be NV Energy's responsibility to
16 provide power to the facilities or other entities aside from
17 Switch providing their power for themselves, correct?

18 THERESE STIX: I'm going to object that this is
19 speculation and you're testifying as well.

20 HEARING OFFICER: Mr. Taylor. Do you want to
21 respond?

22 SAM TAYLOR: Yeah. He was—Mr. Furstenwerth
23 was basically indicating and intimating that somehow that this
24 project is necessary for NV Energy to sustain its ability to
25 provide electricity in Northern Nevada in the future. And my

1 question to him is, whether or not this was Switch's decision
2 to build this facility and that is what was driving this
3 application. He then went on to basically, intimate that
4 somehow, no, it doesn't have anything to do with Switch. It
5 just has something to do with the need for power production in
6 the North. And I think it's a fair question to determine
7 whether or not that actually is the case.

8 THERESE STIX: And Your Honor, if I may, I
9 believe that that comment classification misstates the
10 witness' testimony.

11 HEARING OFFICER: Okay. Thank you, Ms. Stix. I
12 also believe that your characterization, Mr. Taylor, misstates
13 what the witness said, but why don't we start over, and if you
14 want to ask him again about the timing of this facility and
15 the impact that that timing has, then we can start there. But
16 I would prefer that you not, again, not testify, not
17 characterize his testimony, just ask questions.

18 SAM TAYLOR: Okay. So, Mr. Furstenwerth,
19 this application is being driven by Switch's demand, is it
20 not? In other words, the offload—the person or the entity
21 taking the power from this facility is Switch, is it not?

22 DEREK FURSTENWERTH: Switch is the off-taker for the
23 power generated by this facility, yes.

24 SAM TAYLOR: Okay. If Switch did not build
25 this facility or did not construct this facility by 2029, NV

1 Energy would have sufficient capacity to serve the residents
2 of Nevada given its IRP and its plans to build other plants
3 and production facilities?

4 DEREK FURSTENWERTH: I don't know, I'm not qualified
5 to answer that question.

6 SAM TAYLOR: Okay. Now, the construction of
7 this facility is scheduled to be completed in the fourth
8 quarter of 2029, is it?

9 DEREK FURSTENWERTH: Yes.

10 SAM TAYLOR: Is that correct?

11 DEREK FURSTENWERTH: Yes.

12 SAM TAYLOR: Is this due to Switch
13 constructing new facilities?

14 LUCAS FOLETTA: Object. It calls for
15 speculation. I think the application speaks for itself.

16 THERESE STIX: And I'll second that objection,
17 I think it relies on facts not in evidence.

18 HEARING OFFICER: Okay. Mr. Taylor, what I'm
19 gonna ask you to do is maybe restate the question because I do
20 think—the question, I think that you're trying to get to is
21 the timing of any facility that Switch's constructing being—is
22 that the driving factor of the timing for the construction of
23 the gas plant? Is that the question you're trying to ask?

24 SAM TAYLOR: Yes, Commissioner. That is
25 exactly correct. I'm trying to figure out, there's a certain

1 sizing to this facility. It's 510 megawatts. What I'm trying
2 to figure out is Mr. Furstenwerth is indicating the
3 construction is scheduled to be completed in Quarter 4, 2029
4 in his rebuttal. Does that tie in, that completion date, tie
5 into the need for this power, for the full power from this
6 facility by that date? Maybe that question alone would
7 suffice.

8 DEREK FURSTENWERTH: The timing of the construction
9 schedule is to meet the commercial terms that we were told
10 needed to be met. So, exactly how Switch intends to use that,
11 I can't speak to what happens beyond what's in the offtake.
12 The plans for the offtake.

13 SAM TAYLOR: Have you had discussions with
14 switch about what They intend to build and when?

15 LUCAS FOLETTA: Objection. Calls for
16 speculation. It's irrelevant. Potentially privileged. No
17 foundation.

18 HEARING OFFICER: Okay. Thank you, Mr. Foletta.
19 Do you have any response to that, Mr. Taylor?

20 SAM TAYLOR: No. Although I would say it was
21 not speculative. I was just asking if he had any discussion.
22 So, that's just a question of whether or not he actually
23 engaged in a discussion.

24 HEARING OFFICER: Okay. So, how about we ask the
25 witness if the witness has any non-privileged information

1 about the construction schedule for any switch facilities in
2 the TRIC?

3 DEREK FURSTENWERTH: No.

4 SAM TAYLOR: Okay, thank you. Answer 18,
5 please. Page 10. On Line 8, you indicate that there are
6 other economic benefits for the State. What exactly are those
7 other economic benefits for the State?

8 DEREK FURSTENWERTH: So, as noted, immediately, below
9 a previously disturbed industrial facility that has gone out
10 of business is going to be replaced with an economically
11 productive power plant. So, that in itself will be a benefit
12 to the State. As noted in other testimony, it will support
13 the industrial load and the TRIC, which also helps contribute
14 potentially to the economic development there as well.

15 SAM TAYLOR: Okay. Question 13 on or Answer
16 13 on Page 7.

17 DEREK FURSTENWERTH: Okay.

18 SAM TAYLOR: Line 9, beginning with, based on
19 my understanding of UEPA, these arguments reflect a
20 misunderstanding of the permitting requirements at issue here.
21 UEPA is a permitting requirement, you go on to say, that
22 should apply the same to all utility facilities. Is that
23 really the case when it comes to renewables?

24 DEREK FURSTENWERTH: Can you restate? I'm not sure I
25 understand your question.

1 SAM TAYLOR: So, if somebody wants to build a
2 renewable facility, I mean, the considerations would be the
3 same. Is that what you're saying?

4 LUCAS FOLETTA: I'm going to object as vague.
5 Can we formulate the hypothetical a little bit more clearly?

6 SAM TAYLOR: I've been trying to avoid
7 hypotheticals, so as I've been getting objections, but I will
8 try to narrow it down if I may, Commissioner.

9 HEARING OFFICER: Go ahead.

10 SAM TAYLOR: Okay. Essentially, you're
11 arguing that Ms. Harrold misunderstands the UEPA permitting
12 process, correct?

13 DEREK FURSTENWERTH: Yes.

14 SAM TAYLOR: Okay. And that you said and I
15 quote, "UEPA is a permitting requirement that should apply the
16 same to all utility facilities, regardless of whether that
17 facility is being proposed by the Nevada retail utility
18 provider", but if the UEPA permitting process or the
19 evaluation was the same, would it be the same for a renewable
20 facility as opposed to a gas-fired facility?

21 DEREK FURSTENWERTH: I don't know that because I have
22 not permitted a renewable facility in the State. However,
23 what I was responding to here was continual references to the
24 analysis framework that applies for projects that are in the
25

1 Integrated Resource Planning process, which is not applicable
2 to this facility.

3 And so, the context for the statement there is, it
4 seems as though the preference would be for all power plants
5 to go through the integrated resource process when, in fact,
6 what's required for this facility is UEPA and not IRP. That
7 was the context of what I was trying to say there.

8 SAM TAYLOR: You go on in Line 15, that same
9 answer, to state my understanding is the Commission does not
10 perform any independent review of greenhouse gas emissions.
11 Is that still your understanding after all the testimony
12 today?

13 DEREK FURSTENWERTH: Yeah, just yes.

14 SAM TAYLOR: Okay. No more questions. Thank
15 you, Madam Chair.

16 HEARING OFFICER: Okay. Thank you, Mr. Taylor.
17 Ms. Stix, do you have redirect?

18 THERESE STIX: No, Your Honor.

19 HEARING OFFICER: Okay. Then, let us move to, oh,
20 I think I skipped Switch, but I think I did that on purpose.
21 Switch, Mr. Foletta. Do you have questions?

22 LUCAS FOLETTA: I think you're signaling quite
23 clearly that I shouldn't have any so—

24 HEARING OFFICER: No, no, no. I'm not signaling
25 that but what I was signaling is that I—that earlier there

1 seemed to be some questions that then caused what appeared to
2 be redirect and I was trying to avoid that but I'm perfectly
3 happy for you to ask some questions, Mr. Foletta.

4 LUCAS FOLETTA: I will, I'm perfectly happy with
5 where we stand, so thank you very much. No questions.

6 HEARING OFFICER: Okay, thank you. Then I'll move
7 to Staff. Ms. Waechter, do you have questions?

8 SIERRA WAECHTER: There are no questions from
9 Staff. Thank you.

10 HEARING OFFICER: Okay. All right. We went all
11 the way around the table. Fantastic. Mr. Martin, do you have
12 questions?

13 JASON MARTIN: Again, I have no questions at
14 this time. Thank you, Commissioner.

15 HEARING OFFICER: Okay. And then, Ms. Lighthart,
16 do you have questions?

17 KIM LIGHTHART: I have no questions. Thank you,
18 Commissioner.

19 HEARING OFFICER: Okay, great. Well, I have no
20 questions either, so you are excused, Mr. Furstenwerth. Thank
21 you for being here with us.

22 DEREK FURSTENWERTH: Thank you, Commissioner.

23 HEARING OFFICER: And I believe that concludes the
24 rebuttal case, Ms. Bullen or Ms. Stix?

25

1 LINDA BULLEN: That is correct. It is
2 concluded.

3 HEARING OFFICER: Okay. We've got all of the
4 testimony entered into the record. And then, I still need to
5 have an additional discussion on the Motion to Transfer. But
6 before I do that, are there any other issues we need to take
7 up for the purposes of this hearing, Ms. Bullen?

8 LINDA BULLEN: None that I'm aware of, no.

9 THERESE STIX: This is Ms. Stix, Your Honor. I
10 just want to confirm that Exhibit 109E was actually admitted.
11 It kind of got brought in under a few of the other exhibits,
12 so I just wanted to clarify making sure that that was admitted
13 and if not, deal with it.

14 HEARING OFFICER: Okay. Well, why don't we, you
15 know, let's belt and suspenders the thing, and if you want to
16 make a motion for its admission.

17 THERESE STIX: Okay. I will move to admit
18 Exhibit 109E.

19 HEARING OFFICER: Any discussion on that motion?
20 Seeing none, Exhibit 109E is admitted.

21 THERESE STIX: Thank you.

22 HEARING OFFICER: Great. Okay, Mr. Cavros, other
23 things that we need to deal with today for this hearing?

24 GEORGE CAVROS: None from NCARE, thank you.

25 HEARING OFFICER: Okay, Mr. Foletta.

1 LUCAS FOLETTA: No, thank you.

2 HEARING OFFICER: Okay, Mr. Taylor.

3 SAM TAYLOR: Yeah. I'd just like to
4 apologize to everybody for not being as prepared as I normally
5 would be because I came into this one late, a little off
6 balance. So, you have my sincere apologies. Not my finest
7 hour but not my worst either.

8 HEARING OFFICER: Mr. Taylor, I think you have
9 done a fine job of representing your client here today, so
10 thank you for being with us.

11 SAM TAYLOR: Thank you.

12 HEARING OFFICER: And then, how about from Staff?

13 SIERRA WAECHTER: Nothing further from Staff.
14 Thank you, Commissioner.

15 HEARING OFFICER: Okay. Thank you. So, as far as
16 the Motion to Transfer Authority, it's my intention to deny
17 that without prejudice at this time. So, if, at some point
18 subsequent to this, there's an interest in filing an
19 additional Motion to Transfer Authority, you're not barred
20 against doing that.

21 But I think for the purposes of the hearing and the
22 order that I'm going to issue coming out of this hearing, it
23 makes more sense for us to keep the application with the
24 applicant. I think we've had a robust hearing today and
25 everyone's interests have been represented. So, I'm going to

1 deny that but without prejudice. Anybody have any follow-up
2 questions on that? Okay. I'm not seeing any.

3 So, this particular docket has a statutory effective
4 date of November 14th, unless that has slid, I don't think it
5 has, so you would expect to see me bring forward a draft order
6 for the Commission's consideration prior to or on November
7 14th. Thank you so much, everyone, for your participation
8 today and we are adjourned.

9 [end of proceeding]

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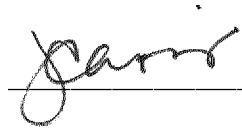
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I, Jaime Caris, as the Official Transcriber, hereby certify that the attached transcript is the original transcript thereof and that the statements that appear in this transcript were transcribed by me to the best of my ability.

I further certify that this transcript is a true, complete and accurate record of the digital file that took place in this matter in Las Vegas, Nevada.



Jaime Caris
Always On Time
October 20, 2026