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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION EL14-026
OF BLACK HILLS POWER, INC., FOR
AUTHORITY TO INCREASE ITS ELECTRIC
RATES

=====

Transcript of Proceedings
January 27 & 28, 2015

Volume I of II
January 27, 2015
REDACTED PUBLIC TRANSCRIPT

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BEFORE THE PUBLIC UTILITIES COMMISSION

CHRIS NELSON, CHAIRMAN
KRISTIE FIEGEN, VICE CHAIRMAN
GARY HANSON, COMMISSIONER

COMMISSION STAFF

John Smith
Karen Cremer
Greg Rislov
Tina Douglas
Katlyn Gustafson

APPEARANCES

Amy Koenig and Lee Magnuson, Black Hills Power, Inc.
Mark Moreno, Andrew Moratzka, and Chad Marriott, Industrial
Interveners
Caitlin Collier, Dakota Rural Action
Karen Cremer, Public Utilities Commission Staff

Reported By Cheri McComsey Wittler, RPR, CRR

1 of the regulatory asset we will provide for either
2 refunds, if the program does not cost as much and there
3 actually are adequate employees to be hired for these
4 retirees, or if it costs more, then we'll have the
5 opportunity to come before the Commission and recover
6 those costs.

7 But it is essentially an indicative cost if the
8 Commission were to believe that it would be good policy
9 for the company to initiate more aggressive measures for
10 hiring people in the future.

11 The Settlement does not provide for this program.

12 Q. Mr. White, you would not disagree, would you, that
13 there could be alternative, different views on how to
14 define measurement baseline?

15 A. I believe the company provided for measurements and
16 standards for the Commission to judge the success and
17 cost of the program, and I don't believe that he
18 characterized our program or our testimony properly.

19 Q. Mr. White, let's move on.

20 Incentive compensation. Please turn to page 10 of
21 your Rebuttal.

22 Are you there, Mr. White?

23 A. I am.

24 Q. Is it your testimony that a utility's profitability
25 is primarily influenced by the level of its expenses?

1 A. Well, my testimony addresses the fact that
2 profitability is driven by revenues, expenses, and sales
3 growth. And expenses are a key contributor in the
4 company's profitability, given the difficulty of filing
5 rate cases and the infrequency that they occur.

6 Q. You're not disagreeing, are you, Mr. White, that
7 growing rate base has -- can have a dramatic effect on
8 the utility's profitability?

9 A. Yes. I've been a party of several rate cases where
10 new generation's been added, and when the investors make
11 additional investment they earn an additional return
12 which increases the earnings of the corporation.

13 Q. And would you agree, Mr. White, that Black Hills
14 Power's currently in an expansion mode?

15 A. Black Hills Power is, I believe, at the completion
16 of an expansion mode. Because we've had significant
17 capital infrastructure investments to make to meet our
18 obligation to serve.

19 We provide in the Settlement a two-year rate freeze.
20 That's not possible if we're continuing with significant
21 expansion.

22 Q. Mr. White, I'd like to draw your attention to
23 page 13 of your testimony.

24 Are you there?

25 A. I am.

1 Q. On lines 7 and 8 I understand your testimony to be
2 that you believe Mr. Kollen is recommending disallowance
3 of all of Black Hills Power's incentive compensation.

4 A. I struggled with what he was asking to have happen.
5 And so as I look at page 35 of his answer testimony, he
6 says "The company seeks recovery of 1.554 million in
7 incentive compensation, expense tied to operating
8 performance and financial performance."

9 That was the only number that I could identify. He
10 generally has said incentive compensation is not
11 appropriate for recovery in rates.

12 Q. Thank you, Mr. White.

13 I'd like to walk through what I understand the
14 figures to be.

15 MR. MORATZKA: And with the indulgence of the
16 Commission, I have a few discovery responses that
17 Black Hills Power provided, if I could approach the
18 witness and show those to Mr. White and potentially
19 offer them into the record.

20 MR. SMITH: Ms. Koenig, do you have an opinion
21 on that?

22 MS. KOENIG: No objection.

23 MS. COLLIER: No objection.

24 MR. SMITH: Yes, you may.

25 MR. MORATZKA: Thank you.

1 MR. SMITH: Are these docs. currently exhibits
2 or not at this point?

3 MR. MORATZKA: They are not.

4 MR. SMITH: Okay. Thank you.

5 (Exhibit BHII 5 is marked for identification)

6 MR. MORATZKA: Mr. Smith, the next chunk of my
7 cross-examination will refer to confidential exhibits.

8 MR. SMITH: Okay. If that's the case, we're
9 going to have to go into confidential session then.

10 I guess enlighten me as to who in the room is
11 bound by a confidentiality agreement at this point in
12 time.

13 MS. KOENIG: The Black Hills Power attorneys and
14 representatives in the room are bound by the agreement,
15 as are the Industrial Interveners' attorneys.
16 Ms. Collier for DRA as well.

17 MR. SMITH: Okay.

18 And so I guess we're down to the folks in the
19 audience who are not among the groups that are bound.

20 Any folks that are in the room that are not
21 subject to a confidentiality covenant, I think we're
22 going to have to have you leave the room during the
23 confidential part.

24 Are there people on the phone out there?

25 MR. PETERSON: Yes. Dave Peterson's here.

1 MR. SMITH: Okay. Well, you're okay.

2 Anybody else?

3 MS. CREMER: I don't know. I don't think we did
4 a phone rollcall at all. I don't know who else would be
5 on the phone at this point, though.

6 MR. SMITH: Okay. We're going to have Katlyn do
7 a check so we know.

8 Should we take a short break while we're doing
9 that?

10 Apparently we checked the phone lines, and we're
11 okay. We have only people that are us.

12 Are you ready to proceed, Mr. Moratzka?

13 MR. MORATZKA: I am. Thank you.

14 MR. MORENO: Just one comment, counsel.

15 The record should indicate that the members of
16 the public and those who are not subject to the
17 confidentiality provisions are no longer in the room.

18 MR. SMITH: Okay. The record will so reflect.

19 Thank you.

20 (Beginning of confidential portion of the transcript.)

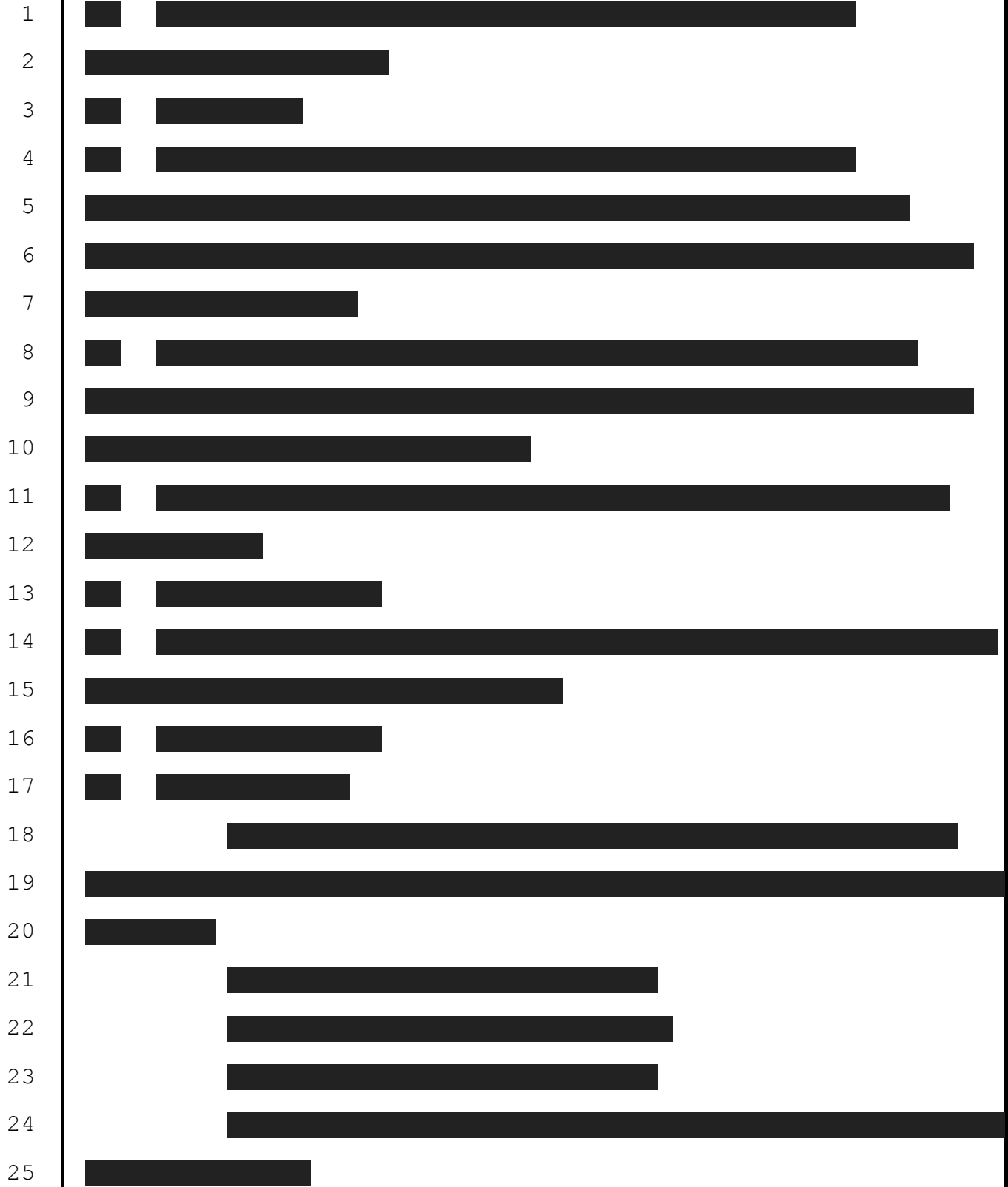
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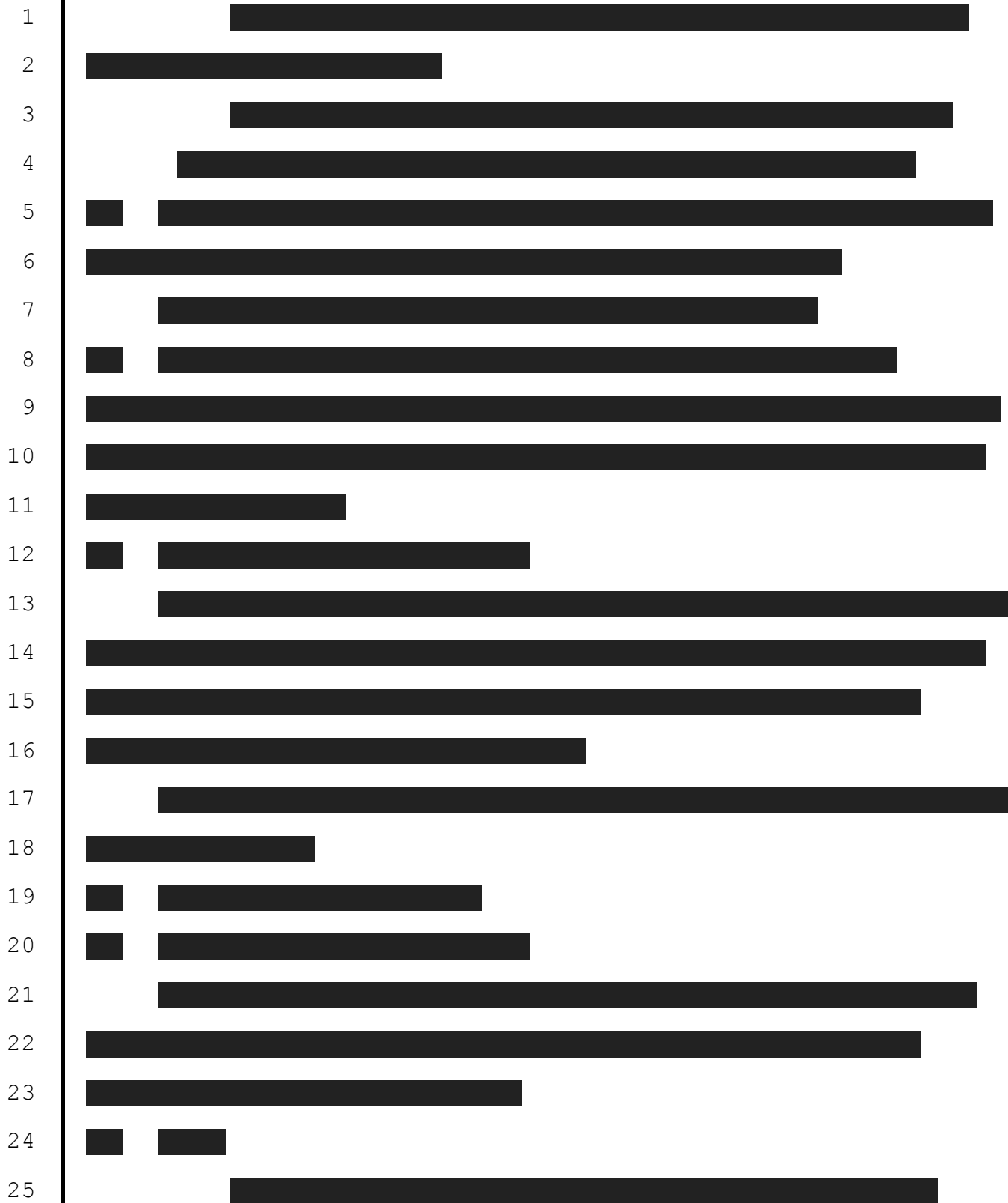
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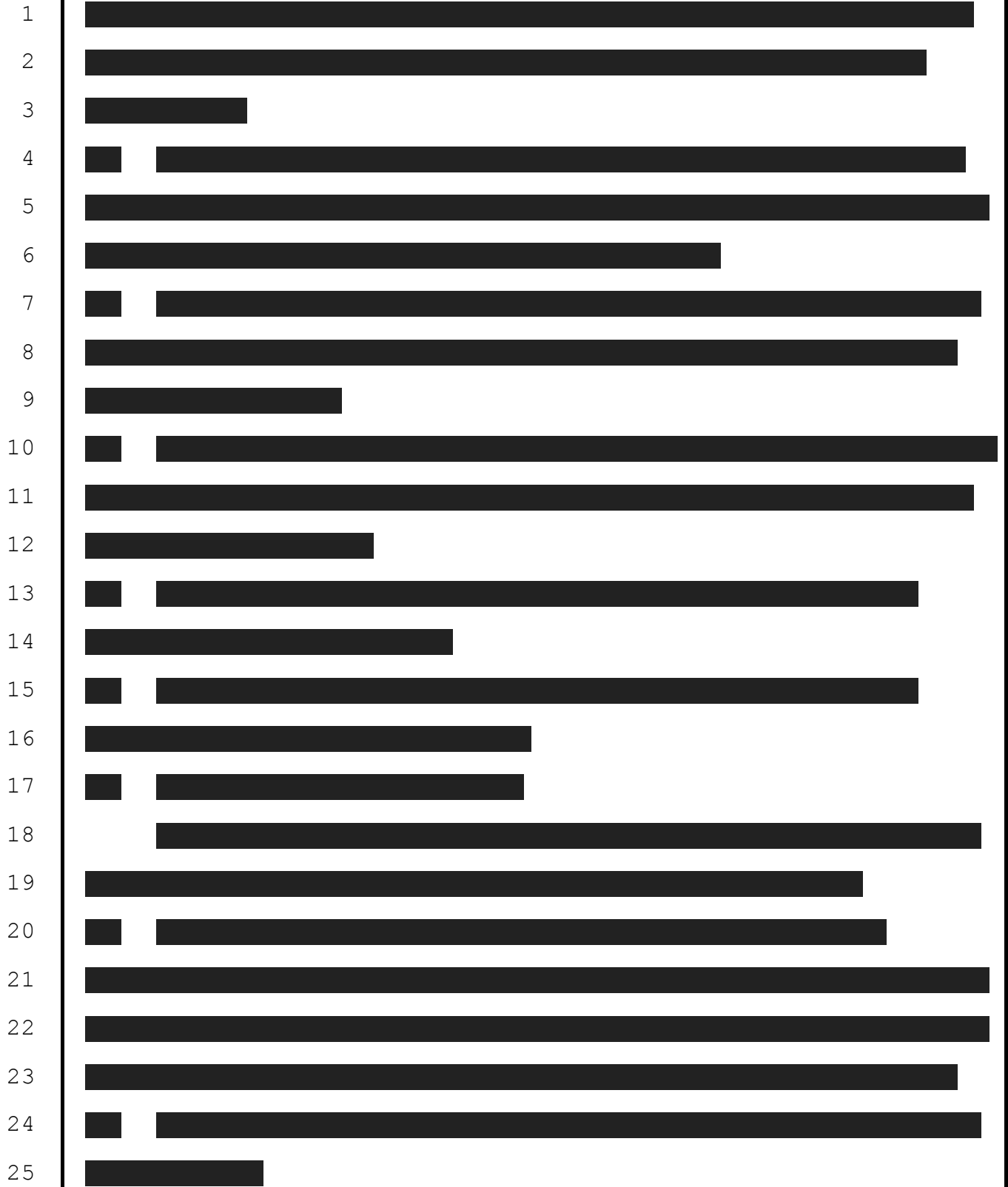


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1 Q. Do you believe that it is over 15 percent?

2 A. I suspect that it is over 15 percent.

3 MS. COLLIER: That is all the questions I have.

4 MR. SMITH: Commission Staff.

5 MS. CREMER: Staff does not have any questions.

6 Thank you.

7 MR. SMITH: Okay. Ms. Koenig, do you have
8 redirect?

9 MS. KOENIG: I do. Thank you.

10 REDIRECT EXAMINATION

11 BY MS. KOENIG:

12 Q. Mr. White, would you please pull out Black Hills
13 Industrial Interveners Exhibit 7.

14 Do you have it in front of you?

15 A. I do.

16 Q. Would you please turn to page 83 on the definition
17 of restricted stock and read that definition, please.

18 A. Yes. "Item 2.40. Restricted stock means an award
19 granted to a participant pursuant to Article 8."

20 Q. Have you had an opportunity to review Article 8
21 since the questioning regarding this exhibit earlier this
22 morning?

23 A. Yes. The rate was helpful in me getting familiar
24 with this document.

25 MR. SMITH: I note we're back into a

1 confidential document here. Thank you, Katlyn.

2 I mean, this thing hits me as borderline, but I
3 suppose you don't want industry or -- disclosure to
4 industry folks.

5 Should we go back into confidential?

6 MS. KOENIG: Yes, please.

7 MR. SMITH: Okay.

8 (Beginning of confidential portion of transcript.)

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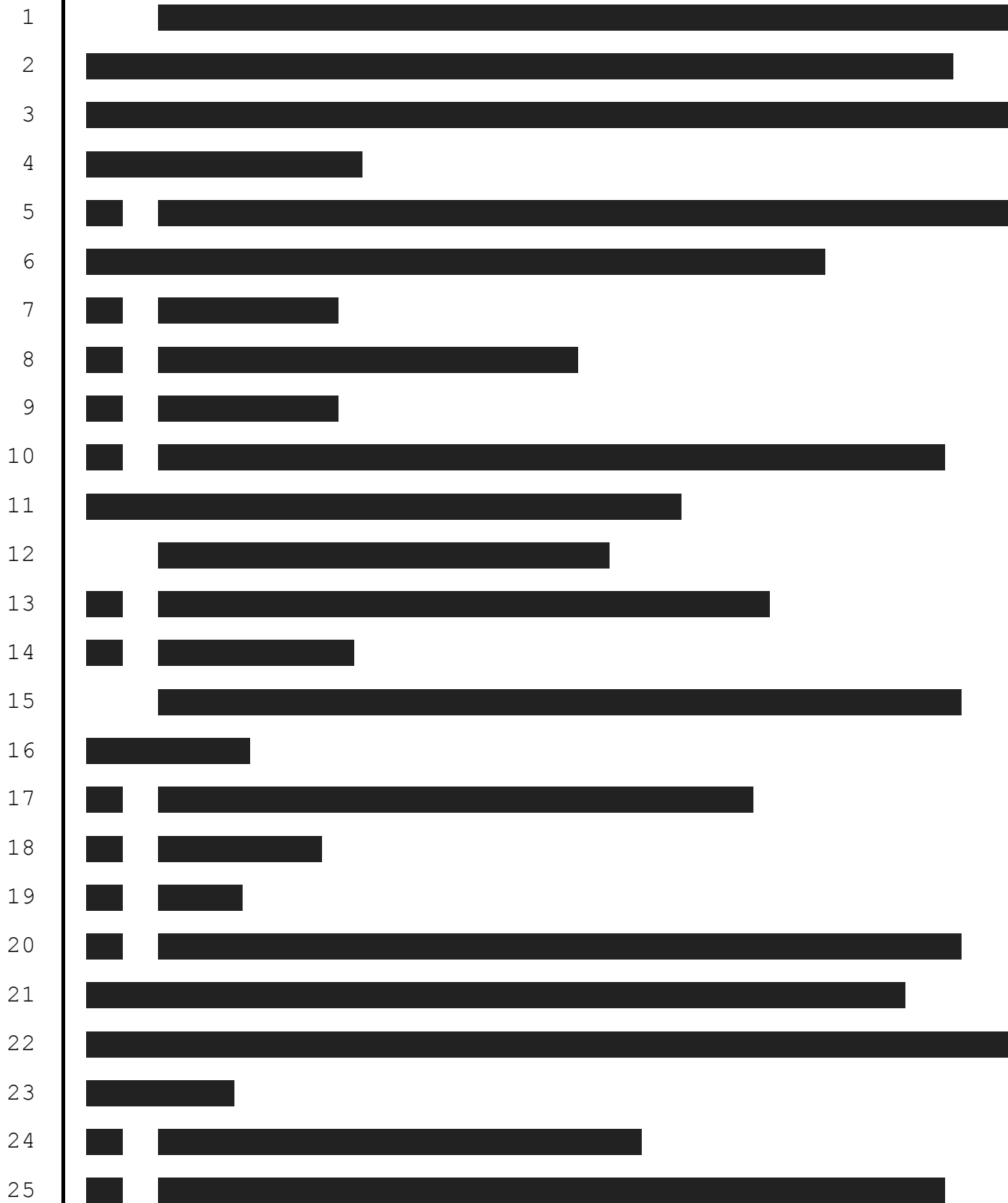
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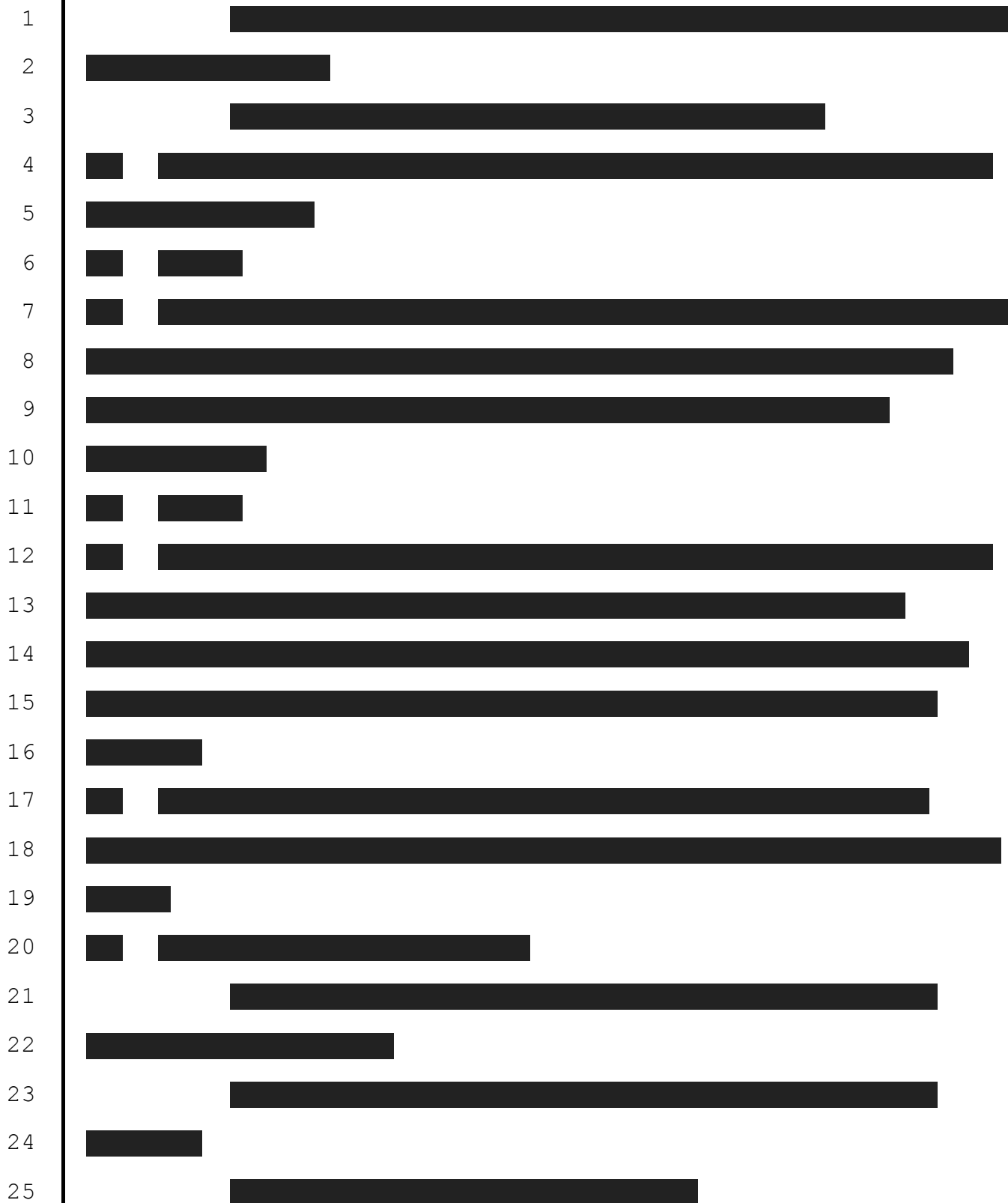
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1 within 24 months of the last month of the test period
2 used for this section and unless expected changes in
3 revenue are also shown for the same period.

4 Many of the adjustments that Black Hills Industrial
5 Interveners proposes in addition to those that are
6 reflected in the Proposed Settlement are because the
7 company did not comply with these very specific revisions
8 of the law.

9 Based upon my reading of what appears to be a fairly
10 straightforward Commission rule, the initial presumption
11 is that no changes to the test year are allowed. In
12 other words, you start with the historic cost. The
13 presumption is no changes are allowed.

14 But if such adjustments are even to be considered,
15 the utility must first determine that they are known and
16 measurable at the time of the filing, not at some later
17 date when actual costs come in and who knows what they
18 are. The utility must first demonstrate that they're
19 known and measurable at the time of the filing, which
20 would be March 31, 2014. And, second, the utility must
21 include any expected changes in revenue, which it did
22 not.

23 In its filing the company appears to have ignored
24 the presumption and requested numerous adjustments that
25 were not known with reasonable certainty or measurable

1 STATE OF SOUTH DAKOTA)

2 :SS CERTIFICATE

3 COUNTY OF SULLY)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 27th day of
11 January, 2015, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 4th day of
14 February, 2015.

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Cheri McComsey Wittler,
Notary Public and
Registered Professional Reporter
Certified Realtime Reporter

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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TRANSCRIPT OF PROCEEDINGS, held in the
above-entitled matter, at the Joe Foss Building,
Matthews Training Center, 523 East Capitol Avenue,
Pierre, South Dakota, on the 28th day of January, 2015,
commencing at 8 o'clock a.m.

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1 rate case. There's the application and initial direct
2 testimony of the company.

3 If the drafters of this rule intended it to be at
4 the time of the application, the word would be
5 application, not filing.

6 The Interveners filed testimony. The Staff filed
7 testimony. You're asking for permission to file
8 posthearing briefs. Like I said, there are many filings
9 in the case, and the term is simply not defined in the
10 rule.

11 So the Commission Staff has interpreted it that the
12 adjustments have to be sufficiently known and measurable
13 at the time of their review within the filings of the
14 case.

15 Q. Thank you, Mr. Peterson.

16 You would agree, wouldn't you, that the word
17 "filing" is used multiple times in 20:10:13:44, would you
18 not?

19 A. Yes.

20 Q. Thank you.

21 Briefly, Mr. Peterson, could I have you turn to
22 page 19 of your testimony?

23 A. Yes. I'm there.

24 Q. And you would agree that -- or at least as I
25 understand your testimony, you agree that Mr. Kollen

1 properly identified -- or correctly identified an error
2 in certain Black Hills Utility Holding Company figures
3 that were allocated to the South Dakota retail
4 jurisdiction under the Settlement?

5 A. Yes. That's correct.

6 Q. In other words then, the revenue requirement as set
7 forth in the Proposed Settlement includes \$286,000 that
8 the customers of -- or at least per Black Hills Power's
9 books, will not be paying?

10 A. I'm not sure that I would go that far. We believe
11 that the end result of the -- of the Settlement is --
12 results in just and reasonable rates, and it reasonably
13 reflects the cost that the company will incur going
14 forward.

15 There were a number of issues with which the Staff
16 and the company disagree on. The Staff's resolution of
17 those issues are stated in the Settlement Memorandum, but
18 the company had its own basis for settling certain
19 issues which were either advantageous or adverse to the
20 company.

21 We did not -- we don't see the company's analysis of
22 that. But the end result, we believe, was just and
23 reasonable rates and reasonably reflects the cost that
24 the company expects to incur going forward.

25 Q. Thank you, Mr. Peterson.

1 STATE OF SOUTH DAKOTA)

2 :SS CERTIFICATE

3 COUNTY OF SULLY)

4

5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter, Certified Realtime Reporter and
7 Notary Public in and for the State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 28th day of
11 January, 2015, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 4th day of
14 February, 2015.

15

16

17

18 _____
19 Cheri McComsey Wittler,
20 Notary Public and
21 Registered Professional Reporter
22 Certified Realtime Reporter

23

24

25