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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION OF EL12-062
BLACK HILLS POWER, INC. FOR THE
PHASE IN OF RATES REGARDING CONSTRUCTION
FINANCING COSTS OF CHEYENNE PRAIRIE
GENERATING STATION

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Transcript of Proceedings
September 17, 2013

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BEFORE THE PUBLIC UTILITIES COMMISSION,
GARY HANSON, CHAIRMAN
CHRIS NELSON, VICE CHAIRMAN
KRISTIE FIEGEN, COMMISSIONER

COMMISSION STAFF
John Smith
Karen Cremer
Kristen Edwards
Greg Rislov
Patrick Steffensen
Brittany Mehlhaff
Sherry Dickerson

APPEARANCES

Lee Magnuson, Black Hills Power
Todd Brink, Black Hills Power
Drew Moratzka, Black Hills Industrial Interveners
Mark Moreno, Black Hills Industrial Interveners

Reported By Cheri McComsey Wittler, RPR, CRR

1 TRANSCRIPT OF PROCEEDINGS, via the internet,
2 held in the above-entitled matter, at the South Dakota
3 State Capitol Building, 500 East Capitol Avenue, Pierre,
4 South Dakota, on the 17th day of September, 2013,
5 commencing at 9:30 a.m.

1 CHAIRMAN HANSON: This brings us to the next
2 docketed item which is EL12-062, In the Matter of the
3 Application of Black Hills Power, Incorporated For the
4 Phase In of Rates Regarding Construction Financing Costs
5 of Cheyenne Prairie Generating Station.

6 The question before the Commission is today
7 shall the Commission grant Black Hills Power and Black
8 Hills Industrial Interveners' Joint Motion For Approval
9 of Settlement Agreement?

10 We will follow that with the question shall the
11 Commission grant Staff's and Black Hills Power's Joint
12 Motion For Approval of Settlement Stipulation?

13 Mr. Magnuson.

14 MR. MAGNUSON: Thank you, Chairman Hanson. I'm
15 not going to repeat everything that I said in my initial
16 opening with regard to 061.

17 What I would note with regard to the phase-in
18 case is that Black Hills Power and Staff and Black Hills
19 Power and the Industrial Interveners have gone through a
20 lot of information, a lot of documents. They were able
21 to resolve this matter.

22 The Settlement between Black Hills Power and the
23 Industrials is before this Commission. We were able to
24 reach a resolution and would respectfully request that
25 that be approved.

1 With regard to Staff, the same thing. There has
2 been a lot of discovery. There's been a lot of
3 information going back and forth. There have been a lot
4 of documents that have been provided and that have been
5 reviewed.

6 And the Settlement Stipulation between Staff and
7 Black Hills Power is before the Commission today, and we
8 would respectfully request that that be approved by the
9 Commission.

10 There is one correction that I do need to make.
11 It is with regard to the Settlement Stipulation. It's
12 with regard to the confidential version; however, I do
13 not believe that it is necessary to go into confidential
14 session.

15 On page 6, paragraph 6, the last line, it
16 references "accept as outlined in No. 7 below." That
17 phrase should read "except as outlined in No. 8 below."

18 And I understand that Ms. Cremer and Staff
19 concurs and agrees with that correction, and we would
20 ask that the Commission note that correction on the
21 record.

22 CHAIRMAN HANSON: So noted. Thank you.

23 MR. MAGNUSON: With that, Commissioner Hanson
24 and Commissioners Nelson and Fiegen, we would thank you
25 for the opportunity to bring these Settlement

1 Stipulations before the Commission.

2 And as in the previous Docket, I have two
3 witnesses available, Mr. White and Mr. Kilpatrick, that I
4 believe would answer any questions that you might have.

5 Thank you.

6 CHAIRMAN HANSON: Thank you.

7 Mr. Moratzka.

8 MR. MORATZKA: Mr. Chair, Commissioners, I also
9 won't repeat my arguments. What I will do is note what
10 may not be evident in our Settlement with Black Hills
11 Power.

12 It may appear that the Settlement is, in fact,
13 pretty narrow with respect to the phase in. What I would
14 note is that the discovery that we did was heavily
15 weighted towards the phase-in plan, and approximately
16 two-thirds of our discovery questions were directed
17 towards Black Hills Power's request with respect to the
18 phase in.

19 And in reviewing the evidence and in
20 participating in the discussions with Commission Staff,
21 we feel very confident with not just our Settlement but
22 also with the Settlement that Commission Staff has
23 reached.

24 And so I urge the Commission to approve the
25 second portion of the Industrial Settlement and also

1 Black Hills Power's Settlement with Commission Staff.

2 CHAIRMAN HANSON: Thank you.

3 Staff.

4 MS. CREMER: Thank you. This is Karen Cremer of
5 Staff.

6 As in the rate case, the parties worked long and
7 hard on this matter to accept -- or to reach a result
8 that is acceptable to Black Hills and Staff. Staff
9 believes we have reached an appropriate balance of the
10 various parties' interests.

11 Staff analysts are here. Kavita and Dave are on
12 the phone and are available for any questions.

13 Staff would recommend the Commission grant the
14 Joint Motion For Approval of the Settlement Stipulation
15 and adopt the attached Stipulation without modification
16 for resolution of all the issues, subject to the phase in
17 for Docket EL12-062.

18 Thank you.

19 CHAIRMAN HANSON: Thank you.

20 Questions by the Commissioners.

21 Commissioner Nelson.

22 COMMISSIONER NELSON: I'm not sure how you want
23 to do this. I've got a number of questions that are
24 confidential and a number that are nonconfidential. I'd
25 prefer to do the confidential first because I think that

1 will help me set the stage for the nonconfidential but
2 however you want to work it.

3 CHAIRMAN HANSON: If you prefer to start that
4 way, that's what we will do. I see Sherry is going to
5 check the phones at the present time. And I'd just ask
6 anyone who is not a party to Docket 062, that if you're
7 on the line, please get off the line.

8 COMMISSIONER FIEGEN: Is this an Intervener
9 confidential question, or is this the whole docket?

10 COMMISSIONER NELSON: I've got questions that
11 apply to the confidential portion of the Settlement
12 Stipulation and to the Industrial Interveners'
13 Settlement. So it covers both.

14 COMMISSIONER FIEGEN: So just so Sherry knows
15 who to --

16 COMMISSIONER NELSON: And the portion of the
17 Settlement Stipulation, that applies to the Industrial
18 Interveners. So I think they need to be part of all of
19 this.

20 MR. MORATZKA: And I would just request
21 clarification that we've signed a number of
22 confidentiality agreements, as has Mr. Falkenberg on the
23 phone. And if Black Hills Power is okay with us being in
24 the room, then we'd remain.

25 MR. MAGNUSON: Black Hills Power is -- that is

1 acceptable to Black Hills Power that Mr. Moratzka and
2 Mr. Falkenberg be present during the discussions of
3 confidential matters.

4 There are confidentiality agreements that have
5 been signed and would bind those parties with any
6 confidential items.

7 COMMISSIONER FIEGEN: So our Staff that worked
8 with getting people off the phone understand that this is
9 just Interveners; correct, Chairman Hanson?

10 MR. SMITH: Is Wal-Mart off the --

11 MS. DICKERSON: Oh. No, she's not. Because
12 there's six active lines so there should only be five so
13 she needs to hang up.

14 MR. SMITH: I think Wal-Mart's portion of this
15 is done.

16 So, Ms. Rhoades, could you maybe get off the
17 line, please.

18 (Discussion off the record)

19 CHAIRMAN HANSON: Mr. Falkenberg.

20 MR. FALKENBERG: I'm here.

21 CHAIRMAN HANSON: Mr. Copeland.

22 MR. COPELAND: I'm here.

23 CHAIRMAN HANSON: Mr. Peterson.

24 MR. PETERSON: I'm here too.

25 CHAIRMAN HANSON: Ms. Maini.

1 MS. MAINI: I'm here.

2 CHAIRMAN HANSON: Is there anyone else on the
3 line with us at this time?

4 If someone said they are on the line, I did not
5 hear it. You may check your mute just in case.

6 Ms. Rhoades, are you on the line?

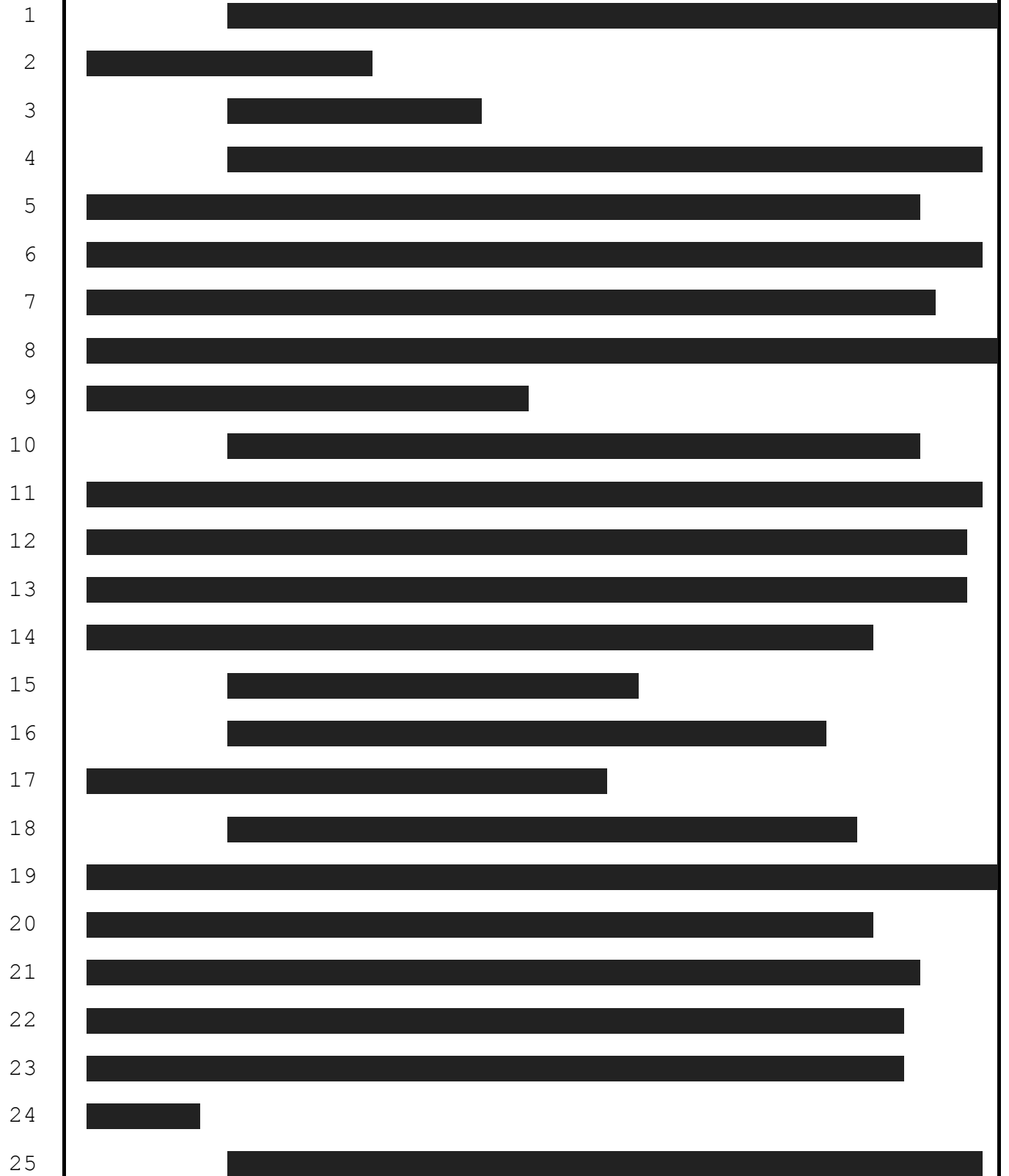
7 Sherry if the operator cannot locate -- the
8 operator's checking each one of them right now to see
9 who's on the line who shouldn't be?

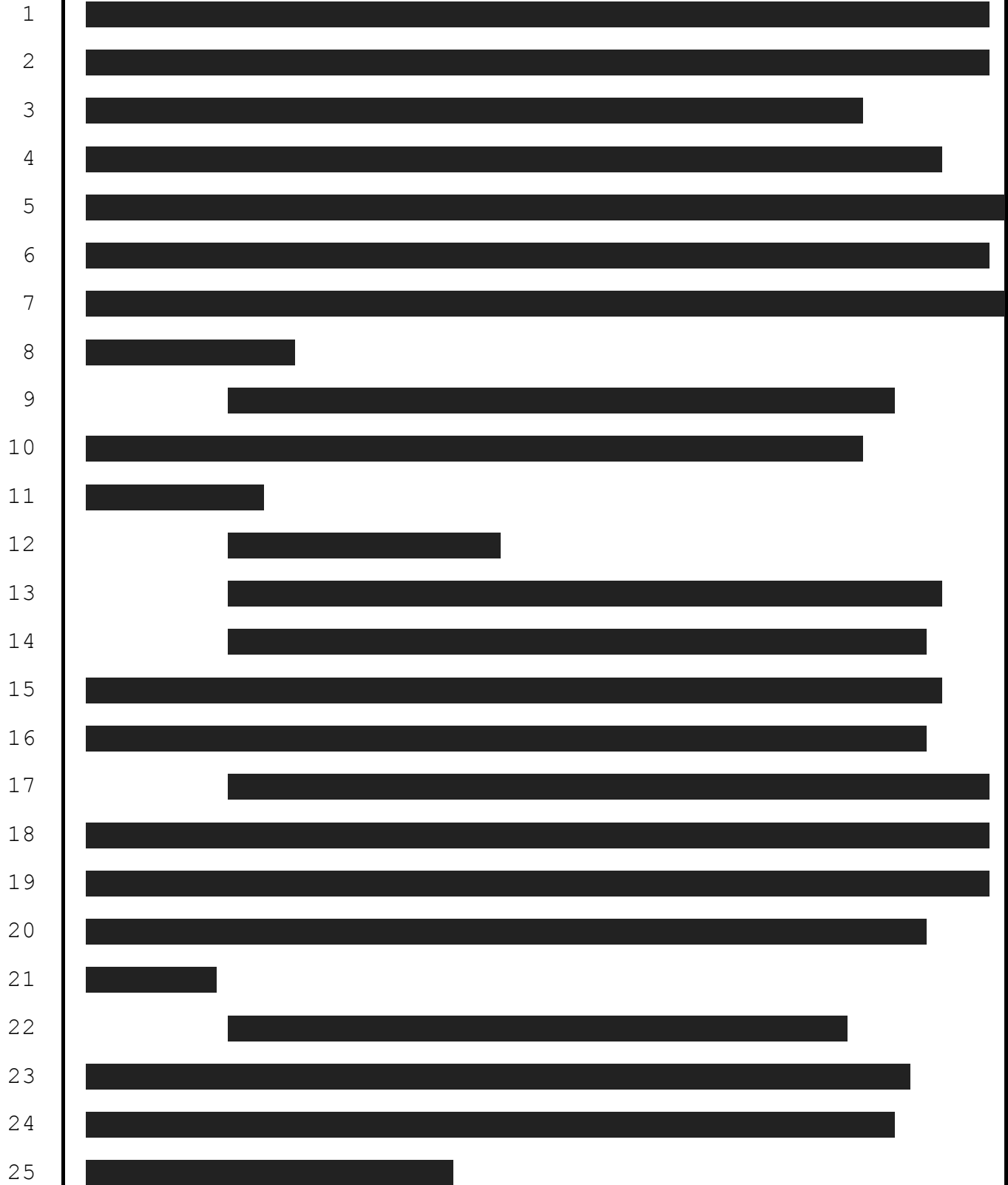
10 Thank you.

11 (Discussion off the record)

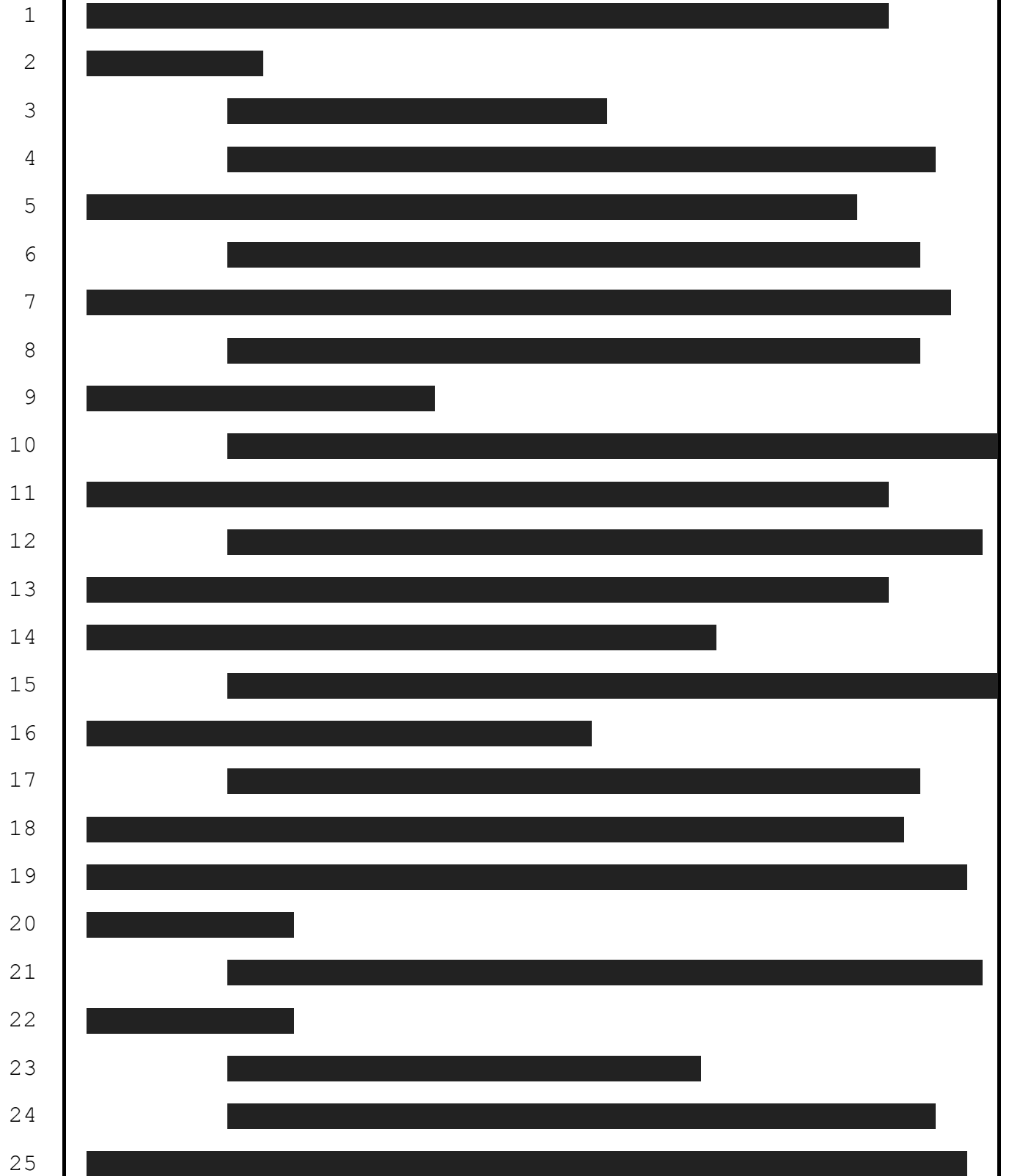
12 CHAIRMAN HANSON: We are going to confidential,
13 and I'm turning off the web.

14 (Beginning of confidential portion of the transcript.)
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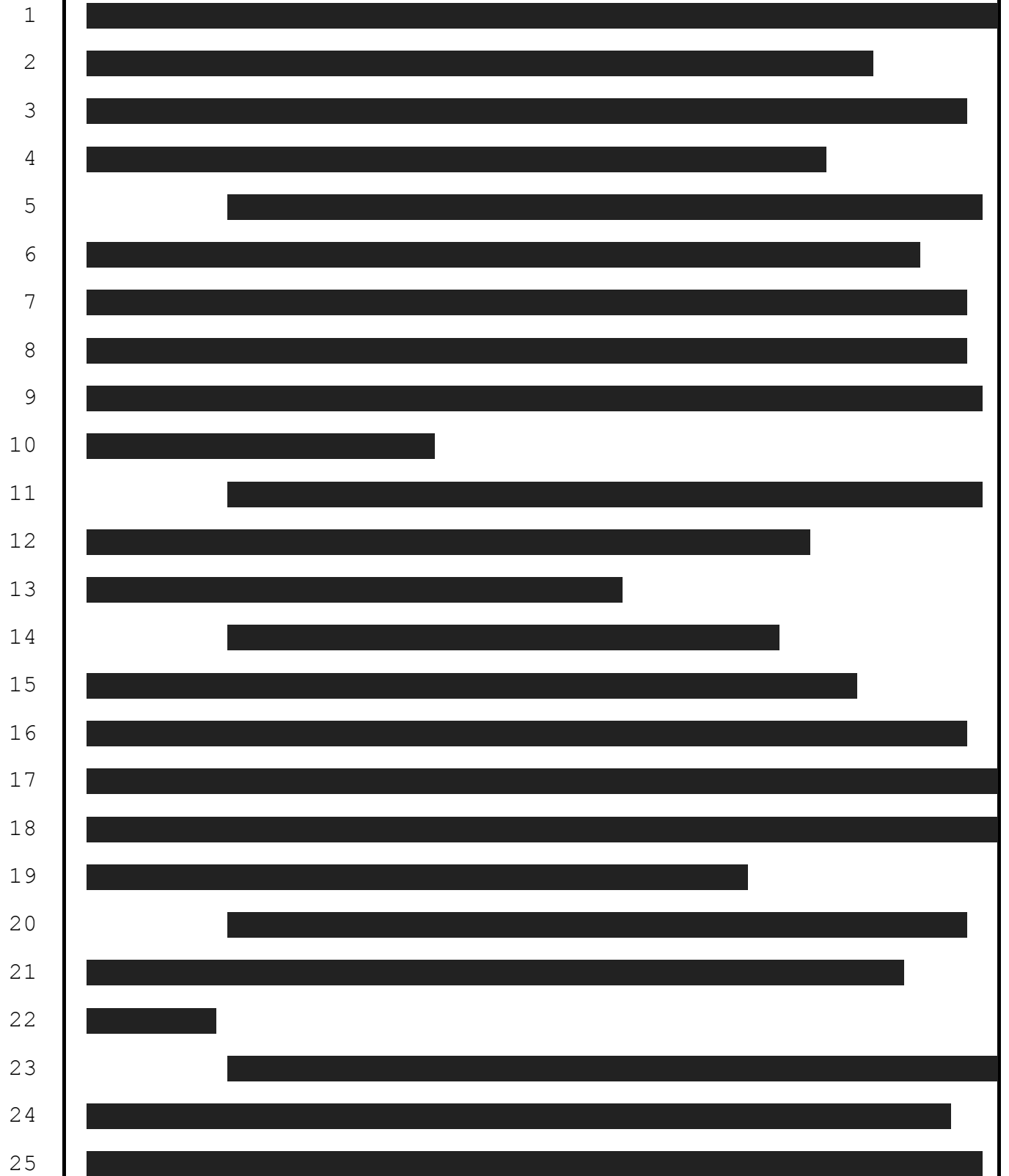
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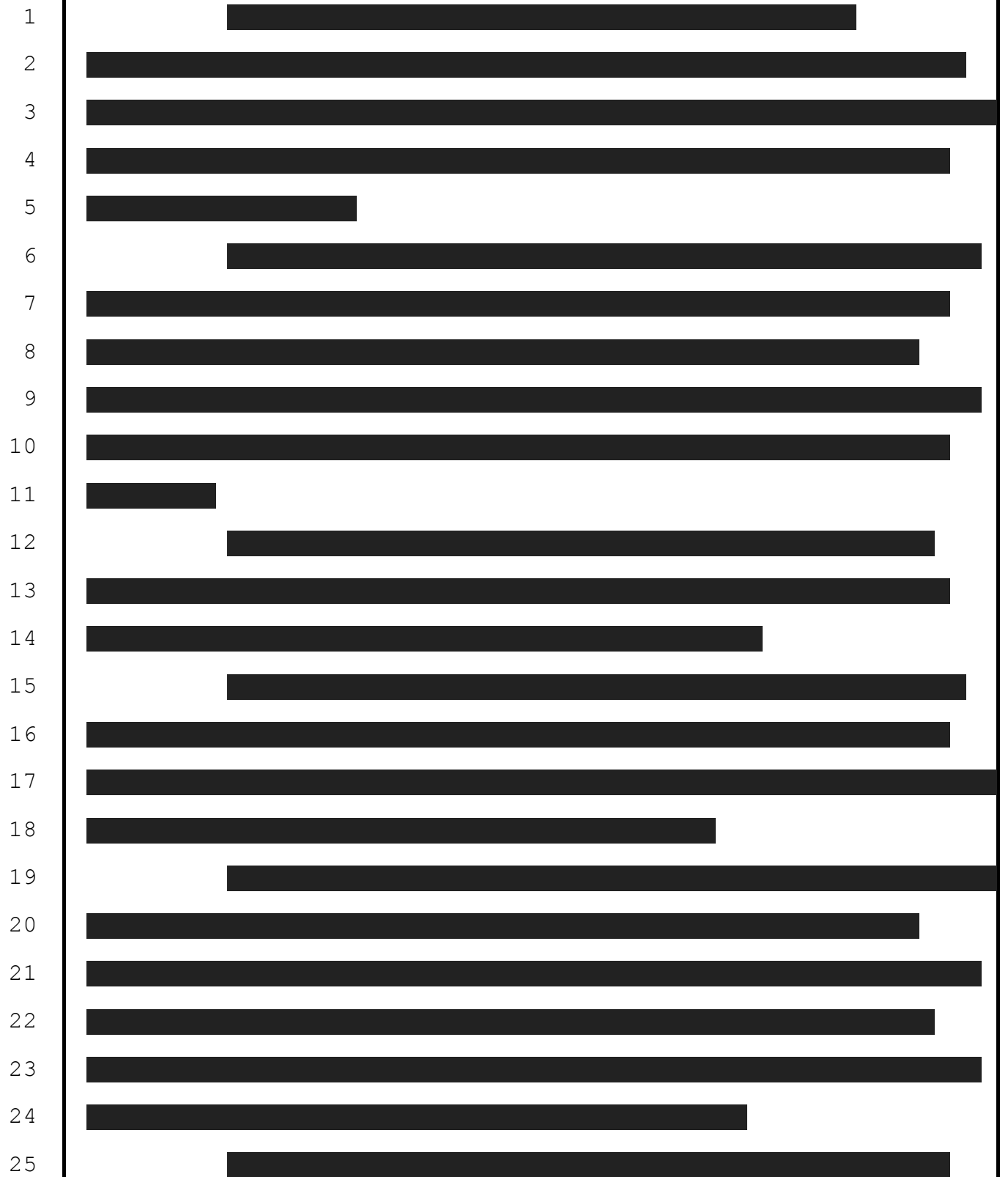
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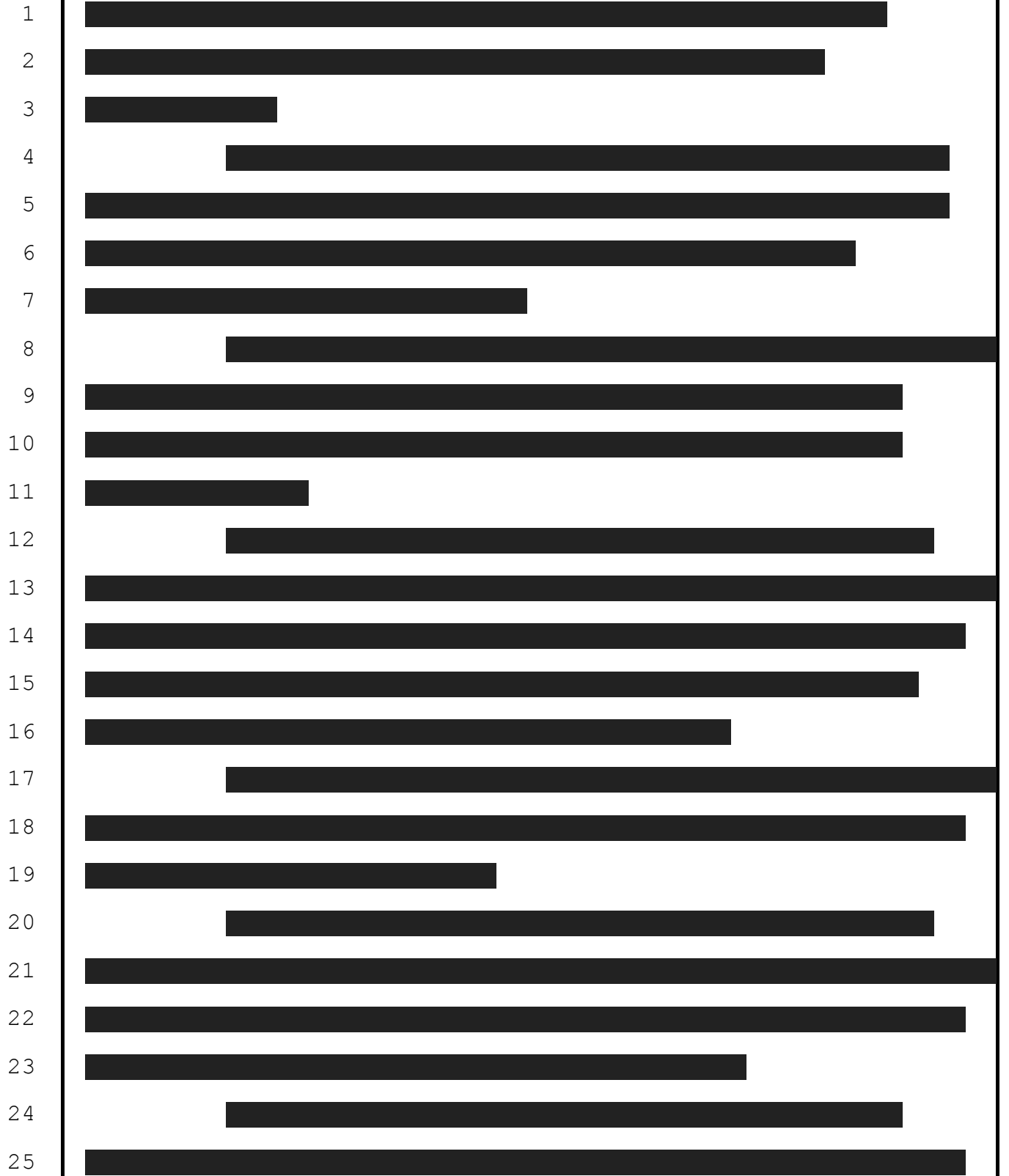
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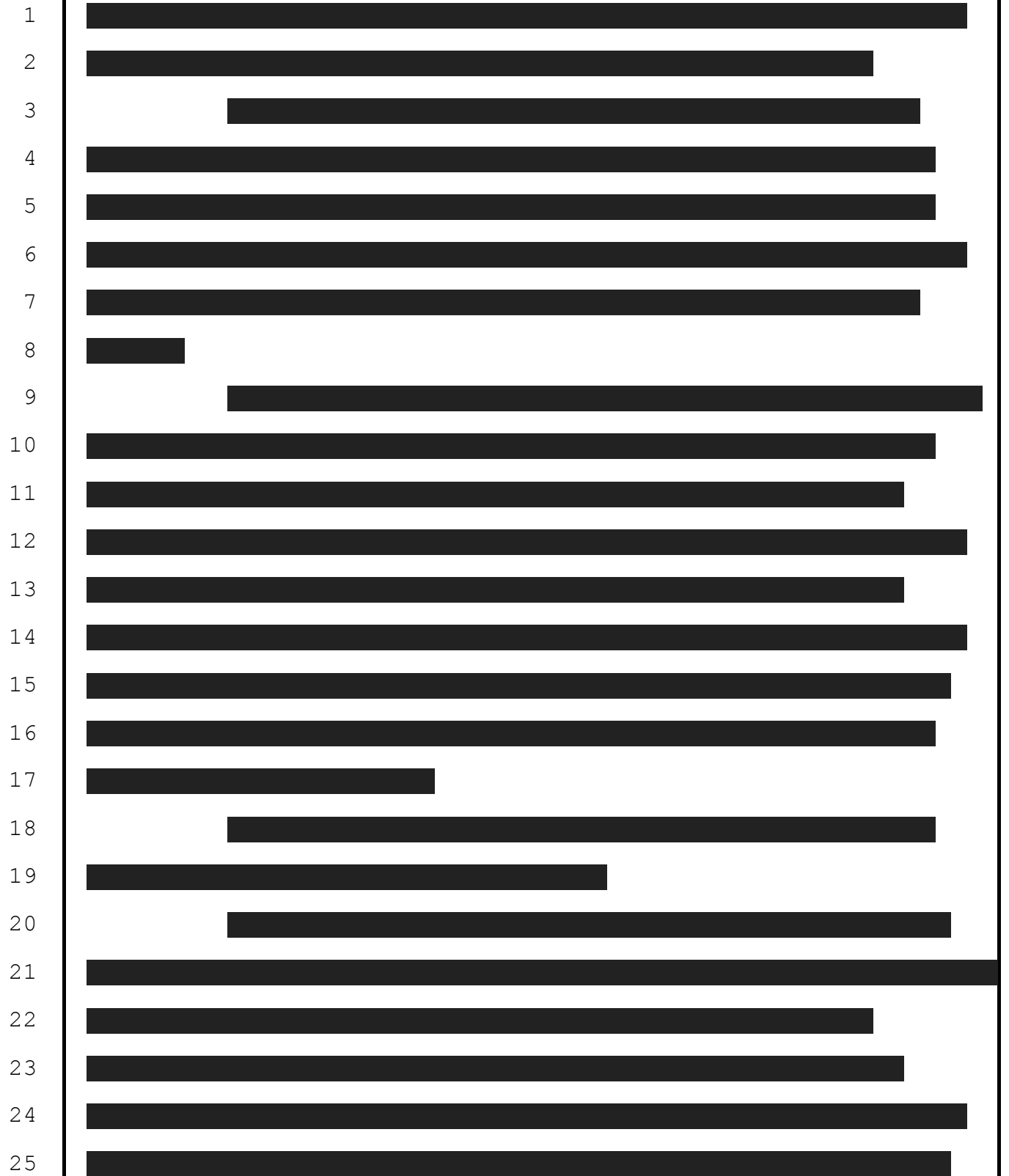
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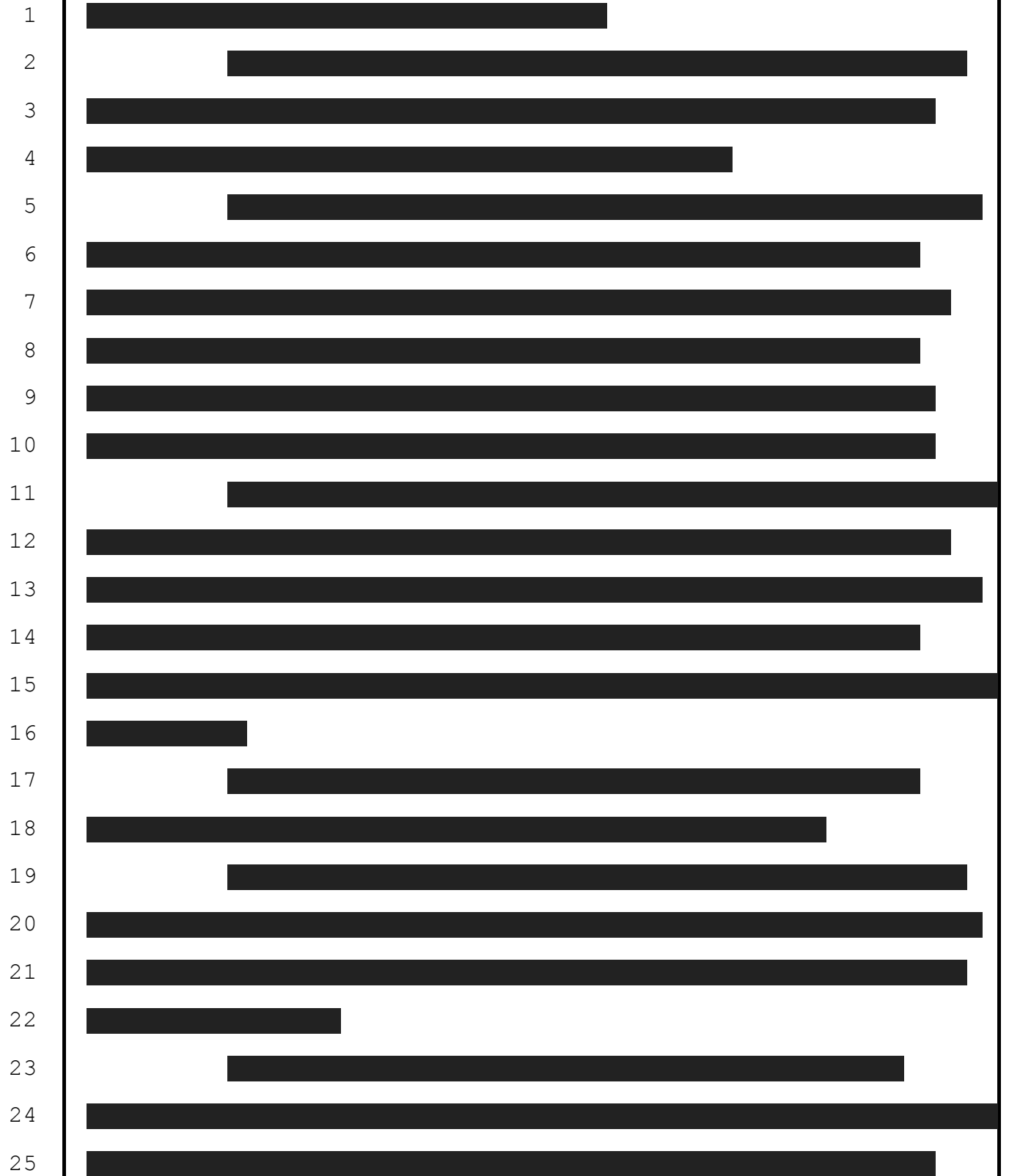




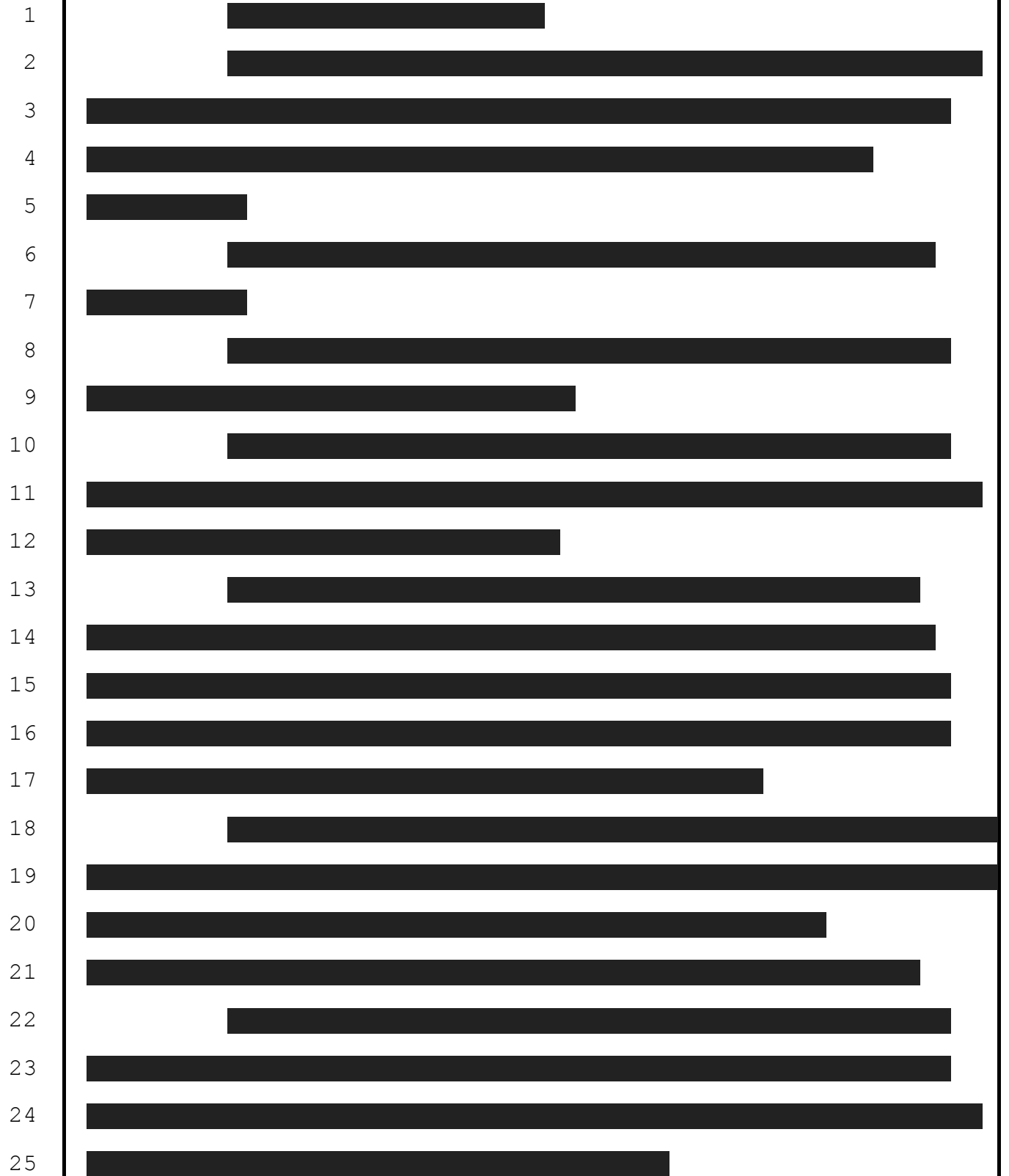


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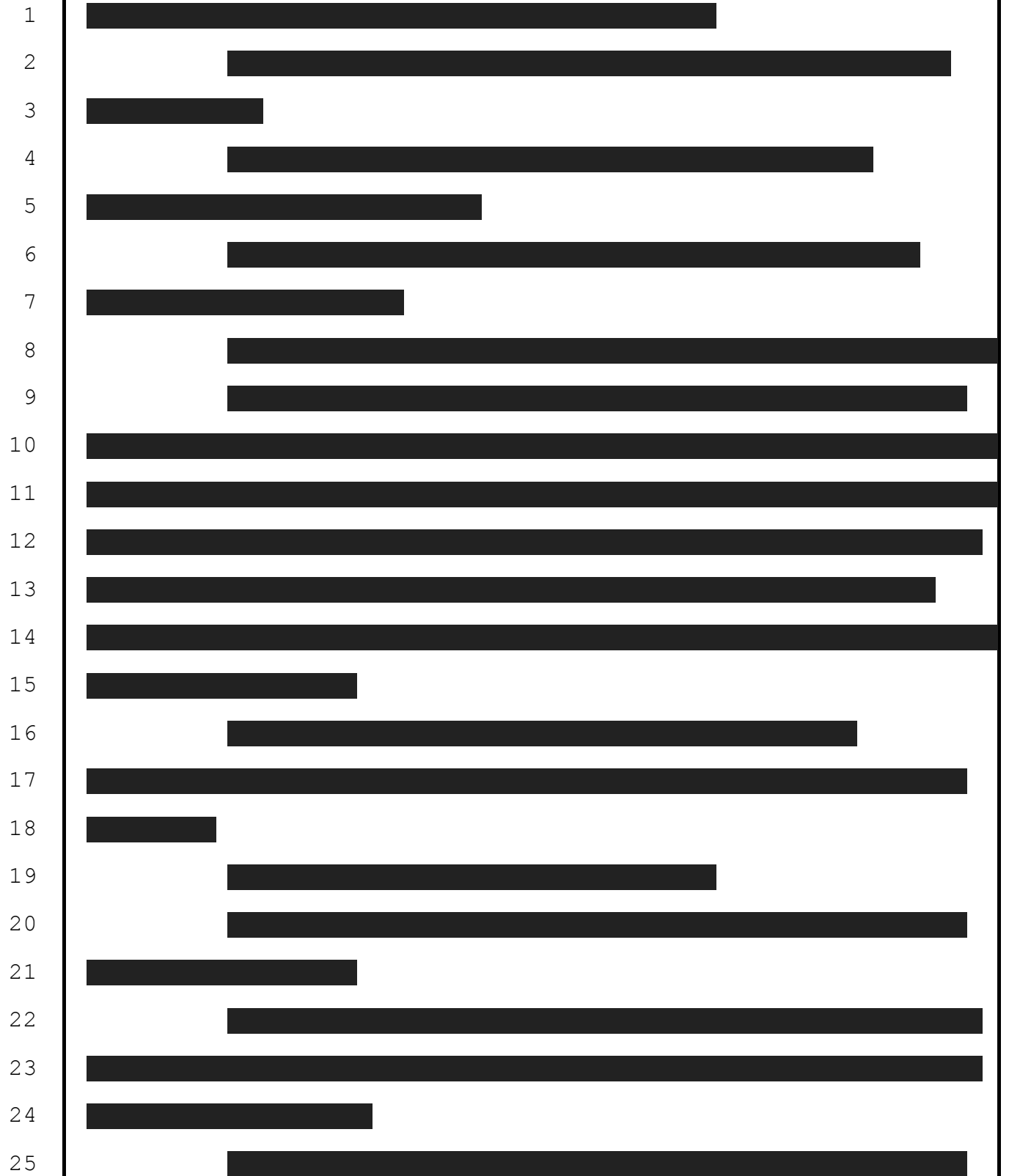


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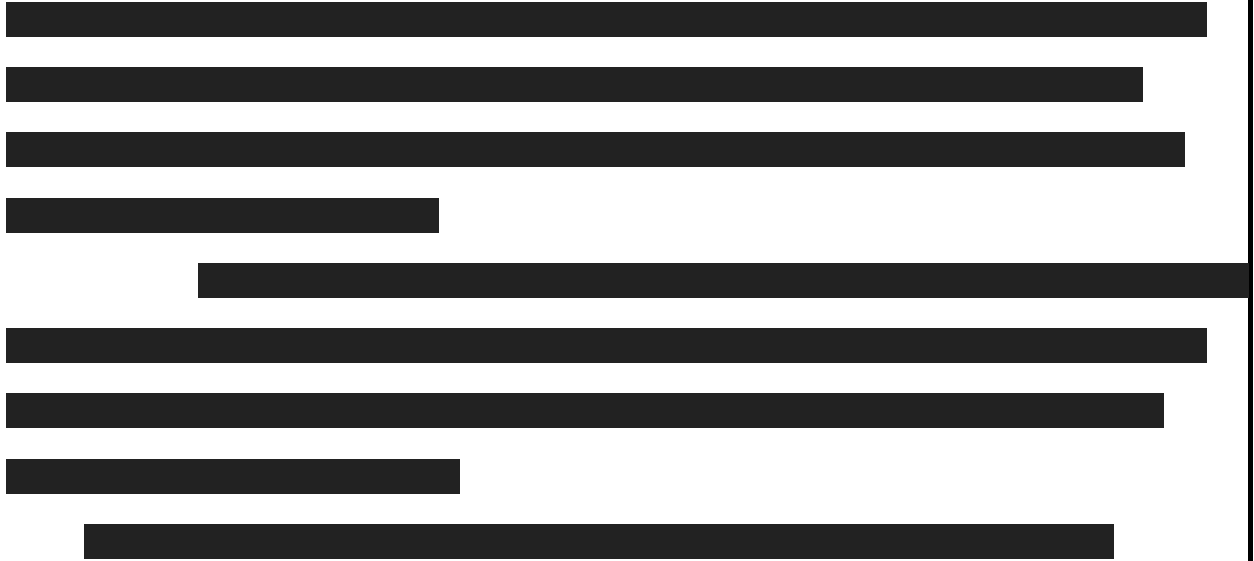
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1 CHAIRMAN HANSON: The web is back on, and it
2 should be noted we are no longer in confidential. And I
3 would turn to Commissioner Fiegen if you have some at
4 this juncture.

5 COMMISSIONER FIEGEN: First of all, you know,
6 this is interesting to have a phase-in case in front of
7 us because it's relatively new for all of us. And when
8 we look at your financing we certainly appreciate that
9 your team has worked extremely hard to get a low rate for
10 financing.

11 I certainly see this Docket as a finance case.
12 And when we're looking at financing in South Dakota I
13 personally believe that we legally cannot preapprove any
14 type of generation. So I look at it as financing.

15 I understand the Staff might not oppose the
16 generation, but the Commission still needs to look at it
17 again because we don't have preapproval. But I certainly
18 appreciate the financing.

19 But, in your own words, Black Hills Power, and
20 I'm going to come to the Staff too, just so we can -- and
21 we're not in confidential session, but I certainly want
22 the public to hear from the officers of Black Hills Power
23 and then the Staff to make their comments on the need for
24 the power plant.

25 Cheyenne, it appears to me that they are in need

1 of capacity. There is certainly all sorts of opinions if
2 Black Hills Power needs this right now. I also
3 understand that timing isn't always perfect, and you just
4 can't make it perfect all the time. And there are some
5 things that I see that I certainly appreciate that I'll
6 talk about later.

7 But I want to hear from Black Hills Power, and
8 tie it into why you need it and why Black Hills Power
9 consumers or rate payers should not only pay for the
10 financing but possibly put it into rates in the future,
11 possibly, if the Commission agrees with that. Tie it
12 into the closure of the coal fire power plants. Also
13 additional EPA requirements that certainly it seems like
14 every day there's something new with the EPA that are
15 increasing rate payers' costs.

16 And then also the need for the combined cycle
17 plant. And when you analyze that and tell us all of that
18 I also want to hear on your Integrated Resource Plan,
19 what other alternatives that you looked at.

20 MR. WHITE: Okay. Well, this is a very
21 important decision for the customers of Black Hills
22 Power. And we take those decisions very seriously.
23 There are resource planning processes, resource planning
24 tools that utilities utilize to make these decisions.

25 In this case, we had not anticipated that we

1 would be replacing generation any time in the near
2 future. But we have had a change in our power supply
3 resources available to us. In 2011 we had a 25-year
4 purchase power agreement with Rocky Mountain Power
5 expire.

6 A reduction to the loss of that contract reduced
7 the capacity available to us to meet our summer peak
8 demands by 28 megawatts. We are a summer peak demand of
9 about 452 megawatts. So it's a pretty material change in
10 the resources that are available.

11 We also became aware in 2011 when this work was
12 done that the Environmental Protection Agency was going
13 to enact some changes for industrial boilers. And
14 essentially for us that meant industrial boilers as
15 applied to small coal-fired power plants.

16 And so power plants that had been serving our
17 customers for between 40 and 60 years now became the
18 focus of new environmental regulations that will take
19 effect next year, March 21, 2014.

20 In looking at our alternatives, one of the
21 considerations was are there changes to those power
22 plants that we could make that would be cost effective?
23 And what we determined was that because of their size,
24 because of the way they were constructed, because of
25 their age, it would not be cost-effective to retrofit

1 them for these new pollution control technologies or to
2 life extend them to allow for an appropriate amortization
3 of the benefit of those new pollution control
4 technologies.

5 We also considered whether they could be
6 converted to natural gas for their fuel source. That has
7 been done to some of these smaller coal fired power
8 plants. But what you find is they have a very high heat
9 rate. And what heat rate means is the amount of fuel
10 consumed in relation to the electricity produced.

11 And so what it came down to was we need today's
12 technologies to meet today's environmental regulations.
13 And the Integrated Resource Plan then considered our
14 loads and resources, considered environmental differences
15 in the future, regulations, in particular what may occur
16 with CO2 taxes, what would change in natural gas prices,
17 whether we could have lower loads, higher loads. A wide
18 variety of things were considered.

19 And we also then considered power plants that
20 were relative to our size. So peaking combustion
21 turbines fired on natural gas, combined cycle units which
22 are peeking combustion turbines with a heat recovery
23 steam generator on them, and then also coal fired and
24 renewables, and some demand side management.

25 Across all the scenarios what we found was that

1 we needed basically to have resources available to
2 diversify against our coal fired generation and to have
3 the ability to meet intermediate loads.

4 And customers have base load resources. That's
5 basically the loads that you're serving at night. And
6 then the loads that you're serving in the mornings and
7 the evenings, those are your intermediate resources. And
8 then the loads serving really on summer and winter
9 extreme weather days are your peak demand resources.

10 Intermediate resources kind of are in between.
11 You use them not as much as a base load resources but a
12 lot -- or a little bit more than a peaking resource.

13 Under the wide variety of scenarios, the
14 combined cycle resource built jointly with our sister
15 utility, Cheyenne Light, Fuel & Power became the
16 preferred option. That preferred option is good in ways
17 beyond just the economics of the modeling that was done
18 that selected it.

19 It is at a location where we developed a new
20 generation site. With the retirement of these coal fired
21 power plants more and more of our generation is
22 concentrated in about a square mile just east of
23 Gillette. That has some risks associated with it. If a
24 tornado were to go through, if there were problems with
25 the transmission system. We now have a new site in

1 Cheyenne.

2 It also gives us an ability to expand this site.
3 There is great access to natural gas. Multiple natural
4 gas interstate pipelines are at that location. Plus
5 because it's in partnership with Cheyenne Light, we
6 essentially have no transmission costs to bring that
7 power from Cheyenne to the Black Hills because we
8 essentially exchange power.

9 They have generation in Gillette. We have
10 generation in Cheyenne. We utilize each other's
11 generation to serve our customers.

12 So a lot of good operating strategic advantages,
13 along with what we felt was a justified economic result.
14 We didn't start this process with an intent to add
15 resources, but it was clear that with losing roughly
16 100 megawatts of resources over a three-year period of
17 time something would need to be added.

18 And this opportunity was the best opportunity we
19 believe for Black Hills Power's customers. It's about 55
20 megawatts. It will go into service in October of 2014
21 and serve customers for 30 to 40 years in a very
22 economical way.

23 The other thing that is unique is that rather
24 than being a peaking resource that has about a 9,500 BTU
25 heat rate, this is 7,500. And so there's considerable

1 fuel savings when we do have to run it. And we
2 demonstrate in some of the integrated resource planning
3 that it will be utilized, you know, 20 to 40 percent of
4 the time, depending on what future scenarios we're
5 looking at for load growth in the Black Hills.

6 So it does impact our customers' prices. We're
7 sensitive to that. This phase-in plan is a way to help
8 address those customer concerns.

9 We were able to substitute short-term interest
10 rates through a line of credit that the company has. The
11 interest rate that's being reflected in this phase-in
12 plan is less than 2 percent currently. Very, very
13 attractive construction financing costs.

14 In addition, by having worked with the
15 Commission and other utilities to pass this phase-in
16 legislation, which became effective last year, there's
17 the opportunity to reduce the company's investment in
18 this generation.

19 Traditionally utilities will record on their
20 books, their accounting records, an allowance for funds
21 used during construction, essentially the cost of
22 financing construction. Our customers are essentially
23 prepaying that which will reduce the investment required
24 in this power generation by 8 and a half million dollars.
25 And that's 8 and a half million dollars on a 95 million

1 dollar project. 8 percent or more.

2 In addition, we are able to phase in rates on a
3 quarterly basis. Customers are seeing roughly a
4 1 percent increase every quarter. That helps them with
5 their budgets. That helps reduce the impact when this
6 power plant goes into rates next year on October 1.
7 We'll get about halfway there or so on the rate increase,
8 we believe.

9 The company will still have to file a rate case,
10 as Commissioner Fiegen indicated, to have this power
11 plant included in base rates, and that will occur next
12 year.

13 But we believe that we have been in full
14 compliance with the actual requirements of the statute
15 and the spirit of the statute in that it provides
16 long-term savings for customers and mitigates rate
17 impacts currently for our Black Hills Power customers.

18 So difficult decision, one that's been
19 thoroughly evaluated, and a unique opportunity was
20 pursued in partnering in Cheyenne with our sister utility
21 which provides savings for both companies. And the
22 Black Hills continue to be a great place to live, and
23 we'll be a responsible provider of electric service now
24 and for a long time.

25 COMMISSIONER FIEGEN: Staff, do you have

1 additional comments and -- for the rate payer?

2 MS. MEHLHAFF: I don't know that I really have
3 anything to add. I think Kyle stated it --

4 COMMISSIONER FIEGEN: So you agree with
5 Mr. White?

6 MS. MEHLHAFF: I agree that these -- this power
7 plant is providing benefits to customers, diversity with
8 the generation, where it's located, and the type of
9 generation, and is a plant that will provide benefits for
10 customers in the future.

11 COMMISSIONER FIEGEN: Thank you.

12 CHAIRMAN HANSON: Need is one of the -- I had a
13 number of questions that were covered real well. But I
14 just want to hear from Staff. And I appreciate your
15 answer to Commissioner Fiegen.

16 Flat out, you do see the need for this plant
17 then?

18 MS. MEHLHAFF: Overall, looking at the big
19 picture, I think there is a need for it. We did have
20 concerns, which we've already discussed. The Settlement
21 addresses those concerns.

22 CHAIRMAN HANSON: Thank you.

23 And I just need some clarification. There was
24 some discussion on -- well, if we go to page 5,
25 paragraph 3, on the CPGS, it states that -- I'm concerned

1 a little bit with the semantics and how this would
2 work -- "Commission Staff agrees to support the
3 Stipulation and not to oppose the inclusion of CPGS in
4 rate base for determination of company's South Dakota
5 revenue requirement in company's next and subsequent rate
6 cases."

7 That's basically saying that Staff agrees in
8 perpetuity never to challenge that. And I'm curious --
9 perhaps counsel can help me a little bit with this. We
10 heard from Mr. White, I believe, that says that Staff
11 agreed to this. The Commission doesn't necessarily agree
12 to it.

13 How does this work then? Maybe, Ms. Mehlhaff,
14 you can help me out. Do we then have to order the Staff
15 to consider it? I mean, because we're trifurcated here.
16 We have the Commission and then the Commission Staff, the
17 counsel that works with -- that's not a part -- that we
18 can't talk to.

19 How would that work?

20 MS. MEHLHAFF: They will have to come back next
21 year for a rate case to ask for approval to include this
22 planned in rate base. Staff will not oppose that
23 request. Our analysis would be no different next year
24 than it is right now. We don't feel we need to go
25 through all of this IRP analysis again. I think if you

1 approve the phase in --

2 CHAIRMAN HANSON: Excuse me. Sherry, we're no
3 longer in confidential. He can be here. You can be
4 here. That's all right. Sherry makes a great sergeant
5 at arms. Excuse me.

6 MS. MEHLHAFF: Obviously, we do not have
7 preapproval authority in South Dakota. This is just
8 saying when the company comes back next year for a rate
9 case Staff is not going to oppose it, but they will need
10 Commission approval at that time.

11 CHAIRMAN HANSON: Thank you. And perhaps I
12 should have asked Ms. Maini her concern. She had
13 expressed some concern regarding CPGS and need.

14 Do you wish to -- I don't believe that's
15 confidential.

16 MS. MEHLHAFF: I think her answer might get into
17 confidential.

18 CHAIRMAN HANSON: Oh, all right. Well, thank
19 you. We have a clairvoyant -- Ms. Maini, would you wait
20 just for a second. I'm going to see if I have any other
21 questions that I need to point out, and then I'll get to
22 that one.

23 MS. MAINI: Sure.

24 CHAIRMAN HANSON: NG cost adjustment, there's a
25 great deal of discussion on the ECA. And Staff and

1 Black Hills Power, is there anything that is
2 nonconfidential that you wish to discuss at this juncture
3 on that?

4 Ask a question like that, of course, an
5 attorney's going to say, no, we don't have anything.

6 MR. MAGNUSON: Nothing with regard to those
7 sections. They are confidential.

8 CHAIRMAN HANSON: Okay. Staff expressed a
9 concern with the past experience with volatility and
10 natural gas price risk being a factor. And yet in
11 Mark Lux's direct testimony he states that "It will
12 provide a hedge against increases in future and natural
13 gas prices."

14 And perhaps that was a question for long ago,
15 but is there someone that can help me with that, how CPGS
16 would provide a hedge against increases in future natural
17 gas prices? It seems counterintuitive.

18 MR. WHITE: It's a comparison hedge. And the
19 comparison is if we were to have built a peaking
20 combustion turbine at a heat rate of 9,500 BTUs per
21 kilowatt hour, that would consume more gas than the
22 combined cycle unit that has a 7,500 BTUs per hour.

23 So to the extent that you're burning less
24 natural gas that creates the perception of a hedge
25 against gas prices.

1 CHAIRMAN HANSON: Okay. Relatively speaking.
2 Everything's relative depending on what we compare it
3 to.

4 MR. WHITE: Exactly.

5 CHAIRMAN HANSON: As opposed to a nuclear power
6 plant which --

7 MR. WHITE: Doesn't use any gas.

8 CHAIRMAN HANSON: Okay. Thank you. Well, then
9 the only questions I have I believe are confidential, and
10 I don't know that they'll also take a long time to
11 answer. Forgive me for not asking those earlier. We'll
12 go to confidential then.

13 I'm turning off the web because Ms. Maini is on
14 the phone. Please remain on the phone.

15 (Beginning of confidential portion of the transcript.)
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1 CHAIRMAN HANSON: And the web is on, and we are
2 back into regular discussion.

3 Any questions that are not confidential?
4 Commissioner Nelson.

5 COMMISSIONER NELSON: Thank you. And I'm going
6 to -- I'm going down the same trail that Commissioner
7 Hanson was going down. And looking at the Staff memo,
8 bottom of page 6, where Staff has said that you will not
9 oppose the inclusion of CPGS in rate base when the next
10 rate case comes in.

11 You've talked all the way around this, but I
12 don't find anywhere -- and correct me if I'm wrong --
13 that you have specifically determined that this is, in
14 fact, prudent and said it in that many words.

15 Am I missing it, or are you not at that point?

16 MS. MEHLHAFF: You're not missing it. The
17 standard we're looking at is just and reasonable rates.
18 And we feel that this Settlement results in just and
19 reasonable rates. I guess this goes back to the
20 discussion we just had in confidential about need.

21 And saying the word prudent, I guess we didn't
22 feel we needed to -- we feel the Settlement results in
23 just and reasonable rates, and that's the standard we are
24 trying to meet.

25 COMMISSIONER NELSON: The commitment that you've

1 made to not oppose the inclusion of this plant in rate
2 base, how important is that for you to make today?
3 Because I will tell you I am greatly troubled by your
4 making that commitment today.

5 How important is that to you?

6 MS. MEHLHAFF: I think it's just important that
7 we've gone through all of this work of evaluating the IRP
8 and the decision to build this plant. We felt it was
9 necessary to do so at this time before the phase-in rates
10 were approved. And our analysis would be the same next
11 year.

12 And I realize we do not have a preapproval
13 authority, and we don't want to do that. It's just that
14 our analysis wouldn't be any different. Staff doesn't
15 feel we need to do the analysis again. At the same time,
16 we do realize that the Commission will need to provide
17 its approval next year.

18 COMMISSIONER NELSON: I think that's all the
19 questions I've got.

20 CHAIRMAN HANSON: Commissioner Fiegen, do you
21 have any questions?

22 COMMISSIONER FIEGEN: (Shakes head).

23 CHAIRMAN HANSON: I was going to say
24 Commissioner Rislov, but I skipped that part.

25 Mr. Rislov.

1 MR. RISLOV: If I could follow that up,
2 Brittany, why won't the analysis change between now and
3 next year?

4 MS. MEHLHAFF: When we're looking at IRP
5 analysis we're looking back at the decision that was made
6 in 2011 when we did the IRP, that's not going to change.
7 We'd still look at the analysis in the same way. All the
8 information would be the same. It's looking back at what
9 happened in 2011.

10 COMMISSIONER NELSON: If I could ask a follow
11 up, Mr. Chairman.

12 But my understanding is correct that you will --
13 you do reserve the right to examine the reasonableness of
14 the expenditures.

15 MS. MEHLHAFF: Correct.

16 COMMISSIONER NELSON: With a fine-toothed comb.

17 MS. MEHLHAFF: Yes.

18 COMMISSIONER NELSON: My words, not yours.

19 MS. MEHLHAFF: Yes.

20 COMMISSIONER NELSON: Thank you.

21 CHAIRMAN HANSON: Any further questions?

22 Hearing none, do we have a Motion?

23 This is on EL12-062. I move that the Commission
24 grant Black Hills Power and Black Hills Industrial
25 Intervenors' Joint Motion For Approval of Settlement

1 Agreement.

2 Do I need to state that that's -- no, I don't.
3 That's my Motion.

4 Discussion?

5 Commissioner Nelson.

6 COMMISSIONER NELSON: Aye.

7 CHAIRMAN HANSON: Commissioner Fiegen.

8 COMMISSIONER FIEGEN: Fiegen votes aye.

9 CHAIRMAN HANSON: Hanson votes aye.

10 The Motion carries.

11 Is there a Motion on the next portion?

12 I will move that in EL12-062 that the Commission
13 grant Staff's and Black Hills Power Joint Motion For
14 Approval of Settlement Stipulation.

15 Is there discussion on that Motion?

16 COMMISSIONER FIEGEN: I do have a couple of
17 comments when you're ready.

18 CHAIRMAN HANSON: I think we all do.

19 Commissioner Fiegen.

20 COMMISSIONER FIEGEN: Once again, I want to
21 thank Black Hills Power for really working hard for a low
22 finance rate. It's a short-term rate, but it certainly
23 saves rate payers money.

24 And this is our first experiment kind of at a
25 phase in. And the finance rate is extremely low when you

1 look at 2 percent or less or whatever you negotiated, and
2 that saves the rate payers money at the end.

3 As all three Commissioners -- you can tell that
4 when we read that Staff will not oppose the facility at
5 the next rate base hearing, which we all know is coming
6 because in South Dakota we don't pay for a plant until it
7 is used -- or useful, but the Commission still has the
8 authority to look at that and see if it is prudent.

9 And I am comfortable that the law has certainly
10 given us that responsibility to look at it after it is
11 built.

12 I appreciate the diversity of the generation,
13 not only the generation but also the location. You're
14 right. If there is a tornado out in Gillette, Wyoming,
15 which I hope not because I have relatives out there and
16 there's many great people out in Wyoming, but that could
17 cause a reliability issue. And I believe the combined
18 cycle certainly helps us with some diversity in
19 generation but also location.

20 So I'm certainly supporting the Motion today,
21 and I'm thankful that both of you worked out a Settlement
22 that really benefits our consumers.

23 CHAIRMAN HANSON: Thank you.

24 Commissioner Nelson.

25 COMMISSIONER NELSON: Let me start with a

1 statement. I guess, the first statement would be that
2 the financing plan that you have offered here I think is
3 phenomenal. You've obviously gone to great lengths to
4 make sure you've done this as cheaply as possible on the
5 financing portion and certainly want to support that.

6 Let me just throw one final question if I could
7 to the company. If we were as a Commission to remove the
8 singular phrase that Staff has offered that they will not
9 oppose inclusion of rate base, if we were to remove
10 that -- now remove from the Settlement but obviously
11 we're not giving them any direction as to where they're
12 going to ultimately end up next year, but if we were to
13 remove that from the Settlement, is that a deal breaker
14 for you?

15 MR. WHITE: Well, though the Commission is not
16 viewing this as essentially a review of the decision to
17 build Cheyenne Prairie, the Staff certainly did. And
18 they hired a consultant to review the decisions in 2011.
19 They formed opinions. And we had extensive negotiations,
20 extensive discussion.

21 The company made some fairly significant
22 compromises in order to satisfy concerns of Staff. Those
23 compromises were in exchange for this being an issue that
24 Staff would no longer bring forward. So it would be a
25 deal breaker.

1 COMMISSIONER NELSON: Let me just turn to my two
2 fellow Commissioners. I don't want to put you on the
3 spot, but I've got a little heartburn here. But I also
4 understand where both sides are coming from. And I don't
5 necessarily disagree with that.

6 It's just -- you know, Kyle, you were very up
7 front in your direct testimony that, you know, this is
8 something we're going to decide next year. And I
9 appreciate that because I think you were right in that.
10 And then when we get this Settlement all of a sudden it's
11 like, well, no it's a done deal and we're not going to
12 necessarily deal with it next year.

13 So I'd just like to ask my two fellow
14 Commissioners, what are you thinking on this? Am I out
15 here on the Lone Ranger Commission, or what are you
16 thinking?

17 CHAIRMAN HANSON: Well, my final remarks would
18 have addressed it to an extent. I think you can see on
19 my screen I have the agreement, and I have that paragraph
20 still on my screen regarding the CPGS. And that's why I
21 asked for that clarification. And my notes are still
22 turned to that. It's of utmost importance to me.

23 I don't like making deals where I lock myself or
24 I lock future commissions into a particular situation. I
25 like to have options available. And in business I think

1 you just have to do that.

2 This was last night even, as a matter of fact, I
3 was -- I generally work late, and that's where I see the
4 analysts. They're always working late too. And
5 Ms. Mehlhaff happened to walk by my door as she was, I
6 don't know, fixing dinner or something at about 8 o'clock
7 at night or 9 o'clock.

8 And I said, well, it will all be over tomorrow.
9 And then we both kind of looked at each other and
10 thought, well, maybe it will, maybe it won't. And that's
11 as much as we can chat with each other about these things
12 when we're outside of this room.

13 I had this as a huge sticking point. Until we
14 got into the semantics and I heard Mr. White state that
15 Staff can't bring it up. The Commission can bring it up.
16 And it's obvious that the Commission is going to bring it
17 up, that it is a concern to the Commission.

18 So from that perspective when I read and I look
19 at this particular paragraph where it says Commission
20 Staff agrees to support the Stipulation, not to oppose
21 it, et cetera, in subsequent rate cases, I do not feel
22 constrained.

23 I do not feel that the Commissioners cannot
24 discuss it or bring it up. And certainly I don't think
25 we can lock a future Commission into that either.

1 So from that standpoint, no, I don't look at it
2 in the way that this has been drawn up as a deal breaker,
3 to answer your question.

4 COMMISSIONER NELSON: Thank you.

5 COMMISSIONER FIEGEN: As you can tell, all three
6 Commissioners were -- it was a red flag for all three
7 Commissioners. I remember e-mailing or texting our
8 advisor, Mr. Greg, right away when I read that and I
9 asked him all sorts of questions and we went back and
10 forth, several e-mails and then phone calls and face to
11 face conversations because I don't think the
12 Commission -- you can tell that the Commission absolutely
13 takes our legal authority very literal. And preapproval
14 certainly is not part of that.

15 I believe the Commission has the authority that
16 it needs on next April or October to maybe say no. If
17 it's -- if we don't think the need is there.

18 But the Staff have worked pretty hard on this.
19 And I feel like to take it out of the Settlement is a
20 deal breaker, and also it adds to more workload when we
21 have our next rate case when they already looked at
22 this.

23 I do believe there needs to be some diversity in
24 generation at Black Hills Power. When you look at your
25 base load and you look at coal generation and we hear

1 from the EPA and we get on phone calls with them and they
2 tell us they're going to be flexible, I think all of us
3 laughed pretty hard about two weeks ago when they told us
4 that.

5 So it's not -- it's hard to be a visionary in an
6 electrical company right now in the U.S. because of where
7 our regulations from the Federal Government is coming.
8 But I certainly believe the Commission has the right to
9 change -- to make a final decision on the need during the
10 rate case, which the law says, and Staff made an
11 agreement with Black Hills Power that they won't oppose
12 it. It doesn't mean the Commission won't oppose it.

13 COMMISSIONER NELSON: Thank you.

14 I just want to publicly thank both of you for
15 kind of fleshing that out with me. I appreciate it.

16 CHAIRMAN HANSON: Further discussion on the
17 Motion?

18 I would just like to add that I agree
19 wholeheartedly with both of my fellow Commissioners, that
20 the folks outside of this room, other than those people
21 who are a part of the rate making process, simply don't
22 know how extraordinarily challenging it is and how
23 nuanced a rate case is from the standpoint of all the
24 different things that have to be examined and the
25 tremendous amount of work that people go into.

1 I know from experience with my Staff how hard
2 they work in these rate cases. I can imagine that it is
3 similar for the Staff of the utility companies when we
4 receive the mounds and mounds of papers and the
5 tremendous amount of give and take and discussion that
6 has to go -- has to transcend through the process.

7 And I believe that this is a very comprehensive
8 agreement, that it is a very well balanced agreement,
9 that it's fair and just, and it's equitable, and from the
10 standpoint of making certain that a utility company can
11 continue to function, which is of utmost importance in
12 order to have reliability, everyone wants to have a safe,
13 reliable, affordable resources from the utility company.
14 The utility company has to be able to survive, and that's
15 why we have rate cases.

16 At the same time, it's our responsibility not
17 only to make certain that a utility can survive but that
18 the rate payer is not taken advantage of. And I
19 tremendously appreciate the amount of work that was done
20 by Staff and going through all of the processes in order
21 to make certain that the citizens of South Dakota are
22 protected. And they did an admirable job of that. We
23 truly appreciate that.

24 With that, those are my final comments. And
25 Commissioner Nelson has a final comment.

1 COMMISSIONER NELSON: Just want to reiterate how
2 impressed I am with the financing package that the
3 company came up with. I mean, I think this is a perfect
4 use of the phase-in statutes, great way to do it.

5 I certainly support that but would also
6 reiterate what my two fellow Commissioners have said that
7 we as a Commission reserve the right to very carefully
8 examine the inclusion of the plant in rate base when that
9 time comes.

10 Any further discussion?

11 Hearing none, Commissioner Nelson, on the
12 Motion.

13 COMMISSIONER NELSON: Aye.

14 CHAIRMAN HANSON: Commissioner Fiegen.

15 COMMISSIONER FIEGEN: Fiegen votes aye.

16 CHAIRMAN HANSON: Hanson votes aye.

17 The Motion carries.

18 And thank you all very, very much for your
19 participation and the hard work that you did. Those of
20 you on the phone, thank you.

21 Is there a Motion to adjourn?

22 COMMISSIONER NELSON: Move to adjourn.

23 CHAIRMAN HANSON: We have a Motion to adjourn.
24 Commissioner Nelson.

25 COMMISSIONER NELSON: Aye.

1 CHAIRMAN HANSON: Commissioner Fiegen.

2 COMMISSIONER FIEGEN: Fiegen votes aye.

3 CHAIRMAN HANSON: Hanson votes aye.

4 The Motion carries. We stand adjourned.

5 Please travel safely, everyone.

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1 STATE OF SOUTH DAKOTA)

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CERTIFICATE

3 COUNTY OF SULLY)

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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 17th day of
11 September, 2013, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Onida, South Dakota this 26th day of
14 September, 2013.

15

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17

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

22

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