

1 Lauckhart.

2 Mr. Uda, please proceed with your redirect.

3 MR. UDA: Thank you, Mr. Smith.

4 REDIRECT EXAMINATION

5 BY MR. UDA:

6 **Q.** Mr. Lauckhart, I want to ask you a few questions
7 about Mr. Brogan's examination of you. Specifically, he
8 asked you on page 3 about this whole legally enforceable
9 obligation issue. And I think you've established you're
10 not a legal expert.

11 But my question for you is are you aware whether
12 FERC has a role to play in whether or not the states
13 properly implement PURPA regulations, including LEO
14 obligations?

15 **A. Well, it's my understanding that FERC sets some**
16 **guidelines on what can be used to determine if an LEO has**
17 **been established. There's some flexibility in there for**
18 **states to provide additional guidelines as long as they**
19 **don't violate the FERC guidelines.**

20 **Q.** Okay. Thank you. Mr. Brogan also led you through
21 your Exhibit 3, I believe Column C, although I can't
22 really read my own handwriting. It has to do with your
23 calculation of rates to be paid to Oak Tree over the
24 20-year term commencing in 2012 and constant 2010 dollars?

25 **A. Yes.**

1 **Q.** And are you there?

2 **A. Yes.**

3 **Q.** And Mr. Brogan asked you and you agreed subject to
4 check that that's 175 percent increase. I want to ask
5 you first is that a valid way of looking at those
6 numbers?

7 **A. Well, I don't know if it's valid or not, but there**
8 **are some observations we should make here. First of all,**
9 **they essentially double between 2012 and 2016. These are**
10 **wholesale power rates, not retail rates.**

11 **Wholesale spot market power rates are doubling here**
12 **between 2012 and 2016. That's primarily caused by an**
13 **expectation in the market not only our forecast but in**
14 **the futures market that Steve Lewis used that gas prices**
15 **are now exceedingly low, for whatever reason we talked**
16 **about, and that is going to revert by 2016.**

17 **So you can see wholesale prices will move at gas**
18 **prices, and it's the fact that gas prices are exceedingly**
19 **low right now -- if you looked at my chart on where gas**
20 **prices have historically been, they're exceedingly low**
21 **right now. And people don't think that's going to**
22 **last -- you know, by 2016 that's going to go way up.**

23 **So a lot of this increase is caused simply by the**
24 **world's expectation, our expectation, the future market's**
25 **expectations. Those gas prices are going to go back up.**

1 **So the majority of that or a lot of that is caused by**
2 **that.**

3 **The balance is, of course, our view that things are**
4 **going to get tighter. And when we say \$90 seems to be**
5 **exceedingly high, it was not that long ago that \$90 was**
6 **the going prices in these markets. So this shouldn't be**
7 **viewed as an extreme case.**

8 **Q.** So I want to ask you another question about your
9 calculations in this case. And you were asked questions
10 about respect to how you deal with a situation where on
11 any given hour NorthWestern is long on resources and if
12 it buys output from a qualifying facility, in this case
13 Oak Tree, that NorthWestern might have to sell it at less
14 than what it's buying at.

15 And my question is does your long-term forecast take
16 this into account?

17 **A. Yes. I mean, if you look at our hourly prices that**
18 **we have, 176,000 of them between now and 2031, there are**
19 **many hours when we think the spot market prices is below**
20 **\$54. And we're saying, you know, it only has -- whatever**
21 **that value is, \$20 or whatever it is on that hour, we're**
22 **only giving it, the Oak Tree project, that value on that**
23 **hour. But, of course, there are other hours when the**
24 **price is well above \$54, and we've taken all of that into**
25 **account when we come up with the avoided costs that I**

1 **produced here called my brown value avoided cost.**

2 **Q.** Mr. Brogan asked you -- I believe it's on your
3 rebuttal testimony, page 9. This has to do with your
4 opinion about the South Dakota Renewable Energy Objective
5 versus the Montana Renewable Portfolio Standard. And he
6 asked you if you were aware that there had been utilities
7 that had been cited for violating those standards.

8 My first question is do you know anything about
9 those situations?

10 **A. No. I don't know why they were cited. I don't know**
11 **if they came in and asked for a variation and didn't get**
12 **it. I don't know anything about it.**

13 **Q.** Okay. But would it change your opinion that the two
14 laws that are essentially the same in effect that if the
15 utility can make the demonstration that it needs a
16 waiver, that it doesn't have to be fined?

17 **A. That's my view. And I think NorthWestern is more**
18 **sophisticated than some of those organizations that got**
19 **fined. And they will definitely go in and ask for a**
20 **waiver if they think they didn't meet it because it**
21 **wasn't cost-effective.**

22 **Q.** Okay. Mr. Brogan asked you a question with respect
23 to Mr. Lewis's gas price forecast and asked you isn't
24 indeed this in the low end of your natural gas price
25 forecast. Do you recall those questions?

1 everyone's getting kind of tired tonight. And I think
 2 we're going to do fine tomorrow with that. I don't think
 3 there's going to be a very lengthy Staff presentation, is
 4 there?

5 MS. SEMMLER: Oh, yeah.

6 MR. SMITH: There is?

7 MS. SEMMLER: No.

8 MR. SMITH: Why don't we recess for, what do you
 9 think, 10 minutes, Cheri, or 15?

10 Why don't we say quarter after. All right.

11 Quarter after.

12 (A short recess is taken)

13 MR. SMITH: I think we're at a quarter after,
 14 the appointed time for our -- so we'll reconvene the
 15 hearing.

16 This is EL11-006 Oak Tree v. NorthWestern.
 17 Mr. Bleau LaFave is on the stand, and, Oak Tree, your
 18 cross-examination may resume.

19 **Q.** (BY MR. UDA) Okay. I wanted to ask you,
 20 Mr. LaFave, this is again in Exhibit 3, and it would be
 21 Attachment 10, Tab 10, which is a letter from me to you
 22 dated February 25, 2011. It's previously been referred
 23 to as our LEO letter.

24 And, specifically, once you're there, I would like
 25 to refer you to the last paragraph of that letter. It's

1 on page 2.

2 **A. Okay.**

3 **Q.** Okay. At this point did I state to you whether --
 4 to indicate whether or not NorthWestern intends to
 5 negotiate to produce a mutually satisfactory arrangement
 6 for both parties?

7 **A. Did you state to me in this letter?**

8 **Q.** February 25, 2011. Page 2 of 2, last paragraph.
 9 Maybe I should just read it, and then you can -- I'll ask
 10 you a question.

11 **A. Okay.**

12 **Q.** "Oak Tree formally requests a response to this
 13 letter by March 1, 2011 on whether NorthWestern intends
 14 to accept Oak Tree's offer or whether NorthWestern Energy
 15 intends to negotiate with Oak Tree to produce a mutually
 16 satisfactory arrangement for both parties."

17 Do you see that?

18 **A. Yes, I do.**

19 **Q.** So we did say why don't you negotiate with us to
 20 produce a mutually satisfactory arrangement; correct?

21 **A. You requested a response from NorthWestern on
 22 whether it intends to negotiate with Oak Tree to produce
 23 a mutually satisfactory arrangement for both parties,
 24 yes.**

25 **Q.** Okay. Do you recall what your response was? If you