

Control Number: 49831



Item Number: 619

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**SOAH DOCKET NO. 473-19-6677
PUC DOCKET NO. 49831**

APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY FOR AUTHORITY TO CHANGE RATES	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**OFFICE OF PUBLIC UTILITY COUNSEL'S RESPONSE TO
SOUTHWESTERN PUBLIC SERVICE COMPANY'S
FIRST REQUEST FOR INFORMATION**

The Office of Public Utility Counsel ("OPUC") submits this response to Southwestern Public Service Company's ("SPS") First Request for Information that was received on February 12, 2020. Pursuant to State Office of Administrative Hearings Order No. 2, OPUC's response is timely filed within 4 working days of receipt of SPS's discovery request. OPUC stipulates that all parties may treat this response as if it were filed under oath.

Dated: February 19, 2020

Respectfully submitted,

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SOAH Docket No. 473-19-6677
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OPUC's Response to Southwestern Public Service Company's
First Request for Information

Question No. SPS-OPUC 1-1:

Please refer to the direct testimonies of Ms. Cannady and Mr. Marcus. To the extent not already provided, please provide all exhibits, graphs, schedules, attachments, tables, figures, and supporting workpapers in electronic format with all formulas intact supporting the testimonies of:

- (a) Ms. Cannady; and
- (b) Mr. Marcus.

RESPONSE:

- (a) Please see the Direct Testimony and Workpapers of Ms. Constance T. Cannady.
- (b) Please see the Direct Testimony and Workpapers of Mr. William P. Marcus.

Prepared By: Counsel

Sponsored By: Constance T. Cannady and William Marcus

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Question No. SPS-OPUC 1-2:

Please refer to the direct testimonies of Ms. Cannady and Mr. Marcus. To the extent not already provided, please provide copies of any document cited in or relied upon in the pre-filed direct testimony submitted on behalf of:

- (a) Ms. Cannady; and
- (b) Mr. Marcus.

RESPONSE:

- (a) Please see the Direct Testimony of Ms. Constance T. Cannady. Responsive documents have been provided either in attachments or workpapers to Ms. Cannady's Direct Testimony. Documents cited in or relied upon in Ms. Cannady's Direct Testimony, which are specifically identified by docket number in her testimony and not included in attachments or workpapers, are available on the Public Utility Commission of Texas's ("PUCT" or "Commission") Interchange.
- (b) Please see the Direct Testimony of Mr. William P. Marcus. Responsive documents have been provided either in attachments or workpapers to Mr. Marcus's Direct Testimony. Documents cited in or relied upon in Mr. Marcus's Direct Testimony, which are specifically identified by docket number in his testimony and not included in attachments or workpapers, are available on the PUCT's Interchange.

Prepared By: Counsel

Sponsored By: Constance T. Cannady and William P. Marcus.

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Question No. SPS-OPUC 1-3:

To the extent not already provided, please provide the following information or material regarding each testifying expert testifying on behalf of OPUC in this proceeding:

- (a) the expert's name, address, and telephone number;
- (b) the subject matter on which the expert will testify; and
- (c) the expert's current resume and bibliography.

RESPONSE:

- (a) Constance T. Cannady
2803 Bowie Street
Amarillo, Texas 79109
(806) 553-5427

William P. Marcus
618 Court Street, Suite C
Woodland, California 95695
(530) 650-8261
- (b) Please see the Redacted Direct Testimony of Ms. Constance T. Cannady and the Direct Testimony of Mr. William P. Marcus.
- (c) Please see Attachment A of the Redacted Direct Testimony of Ms. Constance T. Cannady and Attachment WM-RD/RR-1 of the Direct Testimony of Mr. William P. Marcus.

Prepared By: Counsel

Sponsored By: Constance T. Cannady and William P. Marcus

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Question No. SPS-OPUC 1-4:

Please identify any consulting expert whose mental impressions or opinions have been reviewed by any testifying expert testifying on behalf of OPUC in this proceeding. For each such expert, please provide the following information:

- (a) the expert's address and telephone number;
- (b) the subject matter on which the expert formed mental impressions or opinions;
- (c) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this proceeding, regardless of when and how the information was acquired;
- (d) the general substance of the expert's mental impressions and opinions formed or made in connection with this proceeding, any methods used to derive those impressions and opinions, and a brief summary of the basis for the impressions and opinions;
- (e) any bias of the expert;
- (f) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of his or her testimony; and
- (g) the expert's current resume and bibliography.

RESPONSE:

(a) – (g) Not applicable.

Prepared By: Counsel

Sponsored By: Constance T. Cannady and William P. Marcus

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Question No. SPS-OPUC 1-5:

To the extent not already provided, please provide any presentations, speeches, articles or other published works prepared by a testifying expert, or a consulting expert whose mental impression or opinions have been reviewed by a testifying expert, during the last five years. If a document is publicly available, please identify where and/or how it can be accessed.

RESPONSE:

Please see SPS-OPUC 1-5, Exhibit 1-5.a for responsive presentations, speeches, articles, or other published works prepared by Ms. Constance T. Cannady.

Responsive presentations, speeches, articles, or other published works prepared by Mr. William P. Marcus include the following:

J. Lazar, P. Chernick, W. Marcus, and M. LeBel (ed.) **Electric Cost Allocation for a New Era: A Manual**. Montpelier Vt, Regulatory Assistance Project, January 2020. This document is accessible at <https://www.raponline.org/knowledge-center/electric-cost-allocation-new-era/>

J. Caldwell, W. Marcus, V.J. White, and E. Anthony. **A Cost Effective and Reliable Zero Carbon Replacement Strategy for Diablo Canyon Power Plant**. Prepared for Friends of the Earth. June 2016. This document is accessible at <https://1bps6437gg8c169i0y1drtgz-wpengine.netdna-ssl.com/wp-content/uploads/2017/legacy/PlanBfinal.pdf>

W. Marcus, "Low Carbon Grid Study: Comparison of 2030 Costs of Renewables, Efficiency, and Integration with Production Cost Savings," December 2015. This document is included as SPS-OPUC 1-5, Exhibit 1-5.b.

Prepared By: Counsel

Sponsored By: Constance T. Cannady and William P. Marcus

WITNESS PREPARATION

Day 1

Day 1- Agenda

- Course Introduction and Overview
- Dynamics of Expert Witnessing
- Rules, Filings, and Procedures
- Rate Case Preparation and Management
- Introduction to Group Exercise
- Strategies for Expert Witnesses in Pre-Filing Testimony
- Group Exercise: Strategy Formulation and Assignments
- Preparing Written Credentials for Pre-Filed Testimony
- Preparing Pre-Filed Testimony
- Writing Exercise: Pre-Filed Testimony
- Questions and Wrap-up

■ Course Introduction and Overview

- Course overview
 - Focus on administrative law
 - Rate case process
 - Mock hearing
 - Prepare own pre-filed written testimony
 - Present oral testimony
 - Highly interactive
 - Day 1: Focus on written testimony
 - Day 2: Focus on oral testimony

■ Course Introduction and Overview

- Instructors
 - NewGen Strategies and Solutions, LLC
 - Connie Cannady
 - TBD

■ Course Introduction and Overview

- Logistics and process
 - Reference materials / handouts
 - Bring laptops for testimony preparation
 - Breaks
 - Q&A

■ Course Introduction and Overview

- Experience, views, and perceptions of an expert witness
 - Class discussion

Dynamics of Expert Witnessing

Dynamics of Expert Witnessing

“An expert is one who knows more and more
about less and less”

~Nobel laureate Nicholas Butler

Dynamics of Expert Witnessing

- What is an expert witness?
 - Investigates
 - Evaluates
 - Educates
 - Explains
 - Testifies

Dynamics of Expert Witnessing

- Investigates
 - Researches subject matter
 - Performs tests
 - Evaluates and analyzes findings
- Evaluates
 - Assesses the merits of claims
 - Documents work with written report of findings

Dynamics of Expert Witnessing

- Educates
 - Explains what happened or what should have happened
 - Analyzes position of opposing side
 - Recommends strategies
 - History and precedent
- Explains
 - Scientific and technical issues
 - Standards of practice in trade
 - Meaning of specific terminology under trade usage
 - Policy

Dynamics of Expert Witnessing

- Testifies
 - May be written and/or oral
 - May be in depositions, court, or other setting
 - Holds up under cross examination

■ Dynamics of Expert Witnessing

- When is an expert witness needed?
 - When the testimony of an expert is required by law
 - When a legal case involves complex, technological issues that are beyond the experience of laymen
 - When client / legal counsel perceives a need to verify or counter the expert testimony of another expert

Dynamics of Expert Witnessing

- Professional ethics and standards
 - Adherence to your professional ethical standards
 - Engineering (PE)
 - Accounting (CPA)
 - Financial (CFP)
 - Appraiser (ASA)
 - Etc.

■ Dynamics of Expert Witnessing

- Professional ethics and standards (cont.)
 - Professional expert witness versus an expert in your field
 - Subject matter expert
 - Experience
 - Balancing act
 - Supporting the case
 - Reasonableness and defensibility of position
 - Weight of facts

■ Dynamics of Expert Witnessing

- Professional ethics and standards (cont.)
 - Understand your role on the team
 - Assist the decision-makers in understanding the evidence
 - Degree of independence and objectivity
 - Scope of testimony
 - Full disclosure of how you arrived at your opinions

Dynamics of Expert Witnessing

- Understanding your role on the team
 - Understand the ‘big picture’
 - How does the scope of your testimony contribute to the case?
 - Relative importance of your issue(s)

■ Dynamics of Expert Witnessing

- Understanding your role on the team (cont'd)
 - Understand the major players
 - Home team
 - Opposing team
 - Commission staff
 - Administrative law judge
 - Commissioners

Dynamics of Expert Witnessing

- Understanding your role on the team (cont'd)
 - Primary Objective: Communicate your position in a clear and forthright manner
 - Case strategy formulated by counsel often contribute to the win or loss of an issue given position taken compared to other factors:
 - State Policy
 - Commission Precedent
 - Etc.
 - ALJ's and Commissioners decided key issues in the case which create winners and losers

■ Dynamics of Expert Witnessing

- Interfacing with others
 - Overarching rule: treat others as you would like to be treated
 - Be responsive
 - Positive demeanor
 - Be thorough (work papers, etc.)

Dynamics of Expert Witnessing

- Interfacing with your legal counsel / client
 - Home team
 - Full disclosure within scope of responsibilities
 - Material (materiality) facts
 - Good, bad, and ugly
 - Options
 - Risks
 - Costs
 - Benefits
 - Strengths
 - Weaknesses
 - Advice (if asked)

Dynamics of Expert Witnessing

- Interfacing with opposing legal counsel
 - Limit interaction
 - Pleasant and respectful demeanor
 - Never alone
 - Receive permission from your own legal counsel

■ Dynamics of Expert Witnessing

- Interfacing with Commission staff
 - Be highly responsive and helpful
 - Pleasant and respectful demeanor
 - Never alone
 - Receive permission from your own legal counsel
 - Face-to-face communication is preferable

Dynamics of Expert Witnessing

- Interfacing with public and media inquiries
 - Do not speak with public or media concerning case unless you have been instructed to do so by your legal counsel / client
 - If required, review / script statement with your legal counsel or client
 - Minimize visibility in the media

■ Dynamics of Expert Witnessing

- Treatment of confidential information
 - Understand the boundary between confidential and public information
 - Boundary is different for every party in the case
 - Rely on legal counsel advice
 - Always err on the side of caution
 - Check before you provide any information to other parties

■ Dynamics of Expert Witnessing

- Retention policies and discovery
 - Emails
 - Workpapers
 - Notes
 - Return or destroy confidential information

Rules, Filings, and Procedures

Rules, Filings, and Procedures

- Rule basics
 - Enabling statutes exist to regulate utility rates
 - Pursuant to the statutory authority, Federal Energy Regulatory Commission (FERC) or state utility commission adopts rules detailing how rates are to be established
 - Statutes periodically changed by legislation
 - Commission rules periodically changed
 - Legislative mandate
 - Stakeholder participation

■ Rules, Filings, and Procedures

- How filings are made and requirements
 - File an application or rate filing package
 - “Test year” used to determine utility’s cost
 - Requirements vary by regulator
 - Rate filing packages
 - Historical information
 - Workpapers

■ Rules, Filings, and Procedures

- Utilities have latitude to file rate applications in various formats

■ Rules, Filings, and Procedures

- Rate case procedures
 - Distribution of tasks
 - Utility company staff / Commission staff
 - Consultants / attorneys
 - Legal counsel
 - Pre-filed testimony
 - Hearings
 - Briefs and decisions

Rules, Filings, and Procedures

- Concept of pre-filed testimony
 - Because of the complex nature of ratemaking, the need for a full examination of issues, and a desire for transparency, written testimony is better suited for ratemaking purposes than live testimony
 - The utility is also permitted to present rebuttal testimony
 - May also be cross-rebuttal and surrebuttal

■ Rules, Filings, and Procedures

- FERC and State rules on the length of time for Commission to render a Final Order

Rate Case Preparation and Management

Rate Case Preparation and Management

- How to plan and manage a successful case
 - Once it is determined that rate relief is necessary – Company
 - Rate team assembled
 - Timeline prepared
 - Schedules developed
 - Testimony drafted
 - Rate application prepared

Rate Case Preparation and Management

- Forming a successful team
 - Members of the utility to testify
 - Must be knowledgeable
 - Consultants
 - Experience in that jurisdiction – understanding of various rules and laws
 - Reputation
 - Legal counsel
 - Experience
 - Reputation

Rate Case Preparation and Management

- Organization, time, and budget considerations
 - Develop a flow chart of the case
 - Identify major analyses and staff responsibilities
 - List major milestones and calendar due dates
 - Completion of analysis
 - Draft testimony
 - Testimony due date
 - Hearings
 - Post hearing filings
 - Internal progress meetings

Rate Case Preparation and Management

- Develop staff and expert work requirements and estimated costs
 - Provide estimates of time requirements by expert witness that include all additional staff requirements
 - To the extent required, cost out analysis and expert testimony (preparation and delivery) based on time and materials
 - Include review of budget to actual analysis (hours and if required, costs) in each of the internal progress meetings
 - Be sure any outside consultants or counsel document rate case expenses for recovery

Rate Case Preparation and Management

- Doing the essential homework (Company or Intervenor)
 - Contacting Commission staff
 - Identifying weaknesses
 - Research precedent
 - Knowing opposition
 - Identifying regulatory, legislative, and political risk

Rate Case Preparation and Management

- A framework for assessing the internal strengths and weaknesses of the case – (Company/Staff/Intervenors)
 - The relationship between the utility's employees and the consultants / legal team
 - Anticipate issues and weaknesses in advance
 - Communicate!

Introduction to Group Exercise

Introduction to Group Exercise

- The situation
- The players
 - Mile Hi Utilities
 - Mega Mine Inc.
 - Our Planet
 - Colorado Public Utilities Commission

■ Morning Break



Strategies for Expert Witnesses in Pre-Filing Testimony

Strategies for Expert Witnesses in Pre-Filing Testimony

- Identify and understand the strategies and goals of the utility
 - Why did the utility file the case?
 - New plant investment
 - Major changes in operations
 - Acquisitions
 - Re-engineering efforts
 - Centralized services costs
 - Fuel pricing
 - Favorable rulings in another jurisdiction
 - Required based on Commission rules or prior order

Strategies for Expert Witnesses in Pre-Filing Testimony

- Identify the key issues in the filing
 - Based on rate impact
 - Do not forget the issues that could have precedential impacts
 - Test year adjustment methodologies
 - Centralized services allocation methodologies
 - Research Commission precedents in your jurisdiction and others where the utility operates

Strategies for Expert Witnesses in Pre-Filing Testimony

- Planning for your side of the case
 - Based on the issue identification from initial filing review and discussion with legal counsel
 - Assign issues based on staff expertise
 - Determine where certain expertise may be lacking in in-house staff
 - Determine need for outside consultants or coordination with other intervenor groups
 - Discuss impacts of not including certain issues in your particular case strategy

Strategies for Expert Witnesses in Pre-Filing Testimony

- Identify data needs and gathering processes
 - Based on initial review of filing
 - Organize data needs by major issue category (e.g. rate of return, depreciation, plant-in service)
 - Continue to use this format in follow-up Requests for Information (RFI) with specific reference to an earlier response
 - Develop a cross reference on analysis results to be used by other witnesses

Strategies for Expert Witnesses in Pre-Filing Testimony

- Drafting an RFI
 - Be specific
 - Assume the party responding to the RFI will make the RFI process as time consuming and difficult as possible

Strategies for Expert Witnesses in Pre-Filing Testimony

- Example of RFIs subject to **broad interpretation**
 - Plant in service: please provide plant accounting detailed for the five year period from 2007 – 2012
 - Relocation of facilities: please provide relocations required by governmental entities during the test year

Strategies for Expert Witnesses in Pre-Filing Testimony

- Example of RFIs subject to **tight interpretation**
 - Plant in service: please provide the plant balances by FERC account for each of the last five years from 2007 – 2012
 - Include in your response the additions and retirements each year by FERC account
 - Relocation of facilities: please provide for each of the relocations required by governmental entities during the test year, the following:
 - Date the expense was incurred
 - Description of the manner in which the reimbursement was recorded with respect to the capitalization of the original expense
 - FERC account in which the expense is included in this filing and the related amount

Strategies for Expert Witnesses in Pre-Filing Testimony

- Coordinate RFIs with your team to eliminate overlap
 - Organize RFI numbering to represent expert witness needs (e.g. CC 1-1)
 - For multiple witness needs, keep internal document that identifies data needs so copies can be distributed
 - If you rely on another witness' RFI, be sure it includes all of the components you will need

Strategies for Expert Witnesses in Pre-Filing Testimony

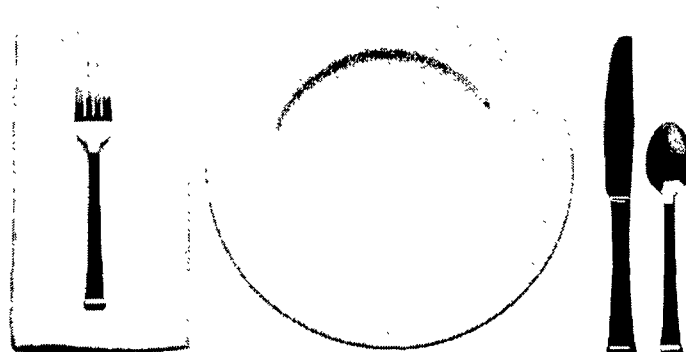
- Check with legal counsel to ensure formats comply with legal requirements
 - Data that is required in the rate filing package
 - Any limitations on number of years of data that can be requested
 - Timing for data responses

Strategies for Expert Witnesses in Pre-Filing Testimony

- Considerations in writing an RFI
 - Assume responder has no understanding of why you are requesting the data
 - Include as much description as you can
 - Provide for lettered components (e.g. a, b, etc.) for specific responses
 - Include confirm / deny where you are trying to verify your understanding of the data

Group Exercise: Strategy Formulation and Assignments

Lunch Break



Preparing Written Credentials for Pre-Filed Testimony

Preparing Written Credentials for Pre-Filed Testimony

- Techniques to more persuasively explain your credentials
 - Preparing a bio
 - Training / education
 - Prior experience
 - Knowledge / skill

Preparing Written Credentials for Pre-Filed Testimony

- Your credentials
 - Explaining your credentials
 - Short written summary statement
 - Emphasize substance of testimony instead of personal expertise
 - Understate your experience / qualifications
 - Refer to resume
 - » Update regularly
 - » Be knowledgeable of content

Preparing Written Credentials for Pre-Filed Testimony

- Curriculum Vitae (CV)
 - Your CV is your resume and will list everything pertinent to your field of experience
 - Your CV should only deal with one area of expertise
 - Make separate CVs if you have more than one area of expertise
 - The proper length of a CV is debatable
 - Longer CVs may make you look more impressive and qualified but can give opposing legal counsel more ammunition to use against you

Preparing Written Credentials for Pre-Filed Testimony

- Curriculum Vitae (cont.)
 - The CV must be honest and accurate
 - Your CV will be thoroughly checked by the opposing legal counsel and any errors or embellishments will come to light
 - Your CV will be entered into evidence
 - Your CV will speak for you long after you have left the witness stand
 - Ensure that all information that will help cement your position as an expert is included in your CV

Preparing Pre-Filed Testimony

■ Preparing Pre-Filed Testimony

- Writing a meaningful question to support your case and expert opinion
 - Creating a road map
 - Creating a theme
 - Telling a story

■ Preparing Pre-Filed Testimony

- Elements of effective pre-filed testimony
 - Well organized
 - Easy to read
 - Easy to understand
 - Memorable
 - Forceful summary
 - Applicable CV

■ Preparing Pre-Filed Testimony

- Organization
 - Create an outline of testimony
 - Table of contents
 - Introduction
 - Who are you representing?
 - What are your credentials?
 - What are your key points?

Preparing Pre-Filed Testimony

- Organization (cont.)
 - Create an outline of testimony
 - First point, etc.
 - Description of issue
 - Position taken
 - Proof of position
 - Recommendation
 - Summary and conclusions
- Review with legal counsel before writing

■ Preparing Pre-Filed Testimony

- Consideration of the layout of testimony – sequence
 - Table of contents
 - Resume
 - Outline of testimony
 - Summary of recommendations
 - Discussion of issues
 - Often, the amount of pages dedicated to a particular issue or area indicates how important that issue is to the witness

■ Preparing Pre-Filed Testimony

- Know your audience

“Never try to impress people with the profundity of your thought or by the obscurity of your language. Whatever has been thoroughly thought through can be stated simply”

~Unknown

■ Preparing Pre-Filed Testimony

- Testimony content
 - Balance quality vs. quantity
 - Purpose of testimony is to persuade; sequence facts and evidence to lead to a conclusion
 - Avoid long rambling discussions with large amounts of data
 - Appropriately weigh importance of issues
 - Place big issues up front in your testimony
 - Use tables and graphs to illustrate points
 - Do not overuse acronyms
 - Provide non-technical examples that illustrate your point

■ Preparing Pre-Filed Testimony

- Testimony content (cont.)
 - Limit opinions to your areas of expertise and do not venture into areas outside your expertise
 - Use Q&A format to improve understanding
 - Avoid using conjecture and exaggeration and other opinions not supported by the facts (never, always, etc.)

■ Preparing Pre-Filed Testimony

- Determine what information needs to be addressed
 - Understand clearly factual and legal issues
 - Paint weak areas in the best light possible
 - Balance saying too much with saying too little

■ Preparing Pre-Filed Testimony

- Bad Q&A example:

Q. Mr. Mancinelli, do you agree with the company's position?

A. No, I do not.

Q. Tell me why?

A. I have multiple issues with the company's position and I have discovered a myriad of problems...

■ Preparing Pre-Filed Testimony

- Good Q&A example:

Q. Mr. Mancinelli, do you agree with the company's position?

A. No, I do not, for three reasons.

Q. What are the three reasons?

A. First, costs are too high. Second, the company has made an error in their calculations. Third, the allocation method used is no longer applicable.

Q. Please describe why costs are too high.....

■ Preparing Pre-Filed Testimony

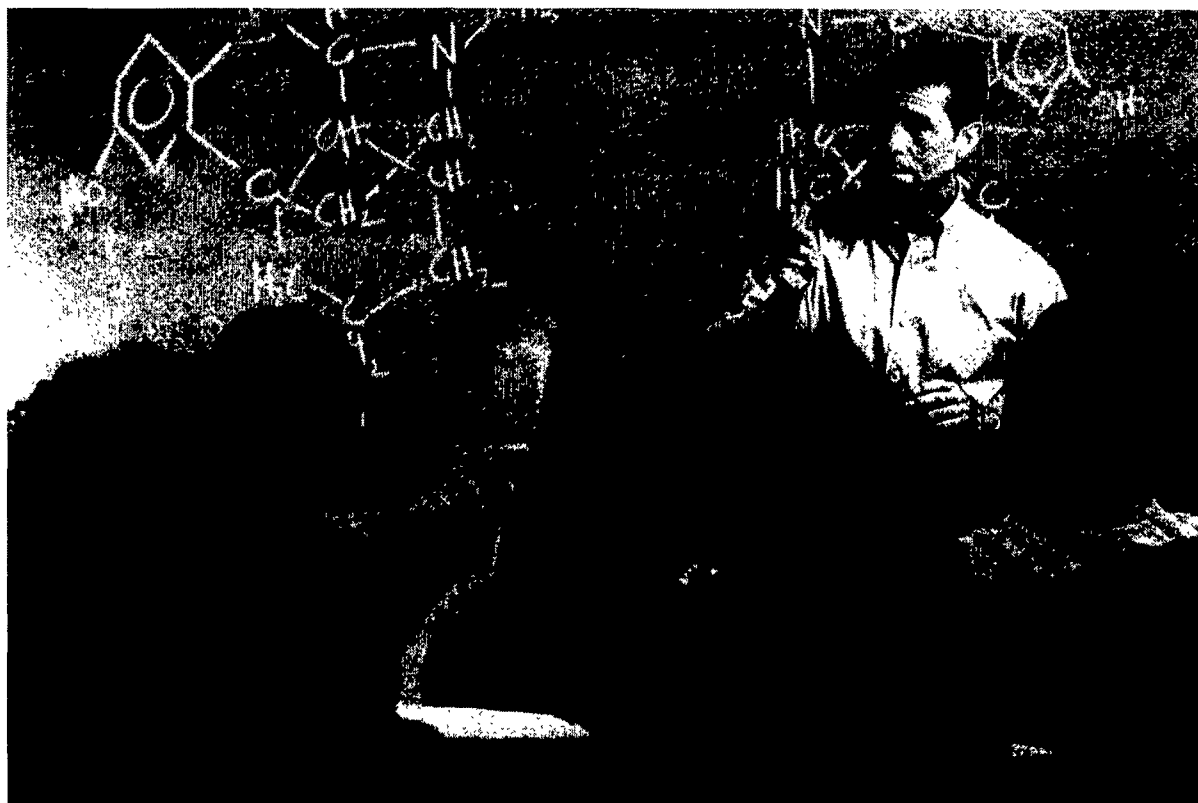
- Other considerations
 - Be clear and concise; avoid statements that could be misconstrued
 - Testimony should be consistent with your past testimony given in previous cases
 - If there are any conflicts, be upfront about the issue and give an explanation for any actual or perceived changes in opinion
 - Ensure all pre-filed testimony, RFIs, depositions, and written reports from all members on your team agree
 - Ensure all draft testimony documents are marked as draft so they cannot be construed as a final opinion

Pre-Filed Testimony Writing Exercise (including break)

Pre-Filed Testimony Writing Exercise

- Initial Q&A
 - Please state your name and business address
 - Please state your educational background
 - Would you briefly describe your professional experience?
 - Have you previously testified before this Commission?
 - On whose behalf are you submitting this testimony?
 - What is the purpose of your testimony in this proceeding?

Questions and Wrap-Up



WITNESS PREPARATION

Day 2

Day 1 - Review

- Questions and Comments

Day 2 - Agenda

- Describing Your Credentials in Verbal Format
- The Dynamics of Hearings: Direct and Cross Examination
- Persuasion Techniques for Expert Witnesses
- Protecting Yourself from Attacks on your Credibility and Credentials
- Bonding with the Administrative Law Judge
- Developing Productive Interaction with Opposing Counsel
- Effective Nonverbal Behavior and Communication
- Subjective Reactions and Effective Verbal Communication
- Skills Summary
- Mock Hearing Exercise
- Course Wrap-Up

Describing Your Credentials in Verbal Format

Describing Your Credentials in Verbal Format

- In your pre-filed testimony you already have described your expert witness credentials
- Be prepared to discuss what is included in your testimony and your resume
 - Voir dire (“that which is true”)

Describing Your Credentials in Verbal Format

- Prepare for tough questions that put in doubt your characterization as an “Expert”
 - Prepare (but don’t rehearse) responses that connect the dots
 - Lack of experience
 - Prior positions that appear contradictory
 - Educational background

Describing Your Credentials in Verbal Format

- How did you acquire your knowledge of the issues?
 - Relevant work experience
 - Cases with same or similar issues
 - Analysis of particular utility operations (not necessarily rate case related)
 - Number of years on the job
 - Specific analyses, research, presentations, written articles
 - Be sure to review prior reports, depositions, presentations, etc. to refresh positions taken
 - Be sure to review the types of data used in these analyses
 - Ability to use specific areas of expertise for use in regulatory analyses
 - Accounting requirements beyond GAAP
 - Economics tailored to rate of return issues in regulatory environment
 - Engineering issues addressed in plant in service investment

Describing Your Credentials in Verbal Format

- Prior testimony
 - Highlight your experience in providing testimony on regulatory issues
 - Refer to a separate listing of all prior testimonies, depositions, mitigation activities
 - Include client, docket number, date, general listing of issues
 - As discussed earlier, let attorney know any changes in positions taken
 - Can be used for impeachment

Describing Your Credentials in Verbal Format

- Education
 - Importance of educational degrees
 - Based on your CV, this is highlighted for degrees that support your expertise
 - Education is more important with first testimony
 - Be prepared to discuss your education if asked, and include training as well

The Dynamics of Hearings: Direct and Cross Examination

The Dynamics of Hearings: Direct and Cross Examination

- Principles of direct and redirect examination
 - Direct Examination
 - Friendly exchange between you and your attorney
 - Allows witness to make key points
 - Your attorney is working with you as a team, so you want to present a united front
 - Answer the question they are trying to ask even if it is not quite right or confusing
 - Re-Direct Examination
 - After the witness is cross examined by opposing counsel, the witness's attorney will have the opportunity to ask redirecting questions
 - This is an opportunity for the witness to better explain, clarify, or otherwise qualify answers given during cross examination
 - Typically, redirect is limited to the scope of the cross examination

The Dynamics of Hearings: Direct and Cross Examination

- Principles of cross examination
 - Opposing counsel is attempting to use you to strengthen his or her case and weaken yours by destroying your credibility
 - Do not give more information than is asked – simply answer the question
 - The lawyer cross examining the witness has already crafted a theory of the case before he or she began asking the witness questions and will only ask questions that further the arguments he or she seeks to develop
 - The lawyer will most likely be asking you questions to which they already know the witness's answer
 - Resist the urge to fill the void

The Dynamics of Hearings: Direct and Cross Examination

- Resist memorizing answers to anticipated questions
 - It is good to rehearse with your attorney or other members of the team
 - Anticipate cross examination questions and be prepared for your response
 - Have key points ready to state
 - Do not practice to the point of sounding like a rehearsed response

The Dynamics of Hearings: Direct and Cross Examination

- Listen to the questions
 - The questions actually asked may not be exactly as you have rehearsed
 - Listen carefully to each question (without interrupting) so that you can answer appropriately
 - Expound on your answer only if:
 - The question raises an area of importance that your written testimony may not have fully explained
 - Being able to determine this will take some practice
 - Try to have your pre-filed testimony include necessary arguments and supporting information

The Dynamics of Hearings: Direct and Cross Examination

- Listen to the questions (cont'd)
 - If the questioner is only looking for a yes or no answer and you believe the answer requires some explanation, attempt to provide additional explanation, if appropriate
 - Be prepared that opposing attorney will move to strike your response
 - Do not pass an opportunity to have meaningful and respectful repartees with opposing attorneys
 - The key is to always respond in a manner that will enhance your credibility as an expert on the issues

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- Protecting testimony from becoming distorted or mischaracterized
 - Use your own words
 - If your attorney makes an objection, stop speaking immediately
 - Always portray confidence, openness, attentiveness, subject matter authority
 - Look at whoever is speaking to you