IN THE MATTER OF THE APPLICATION OF PACIFICORP AND MIDAMERICAN ENERGY HOLDINGS COMPANY FOR AUTHORITY TO REORGANIZE PACIFICORP AS A WHOLLY-OWNED SUBSIDIARY OF MIDAMERICAN ENERGY HOLDINGS COMPANY

Docket No. 20000-EA-05-226

DIRECT TESTIMONY OF RONALD J. BINZ

ON BEHALF OF

WYOMING INDUSTRIAL ENERGY CONSUMERS (WIEC)

Filed: December 15, 2005
Q WHAT IS YOUR NAME AND ADDRESS?
A My name is Ronald J. Binz. My business address is 333 Eudora Street, Denver, Colorado 80220-5721.

Q ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS CASE?
A I am testifying on behalf of the Wyoming Industrial Energy Consumers (WIEC). WIEC is an unincorporated association of industrial corporations authorized to transact business in Wyoming.

Q WHAT IS YOUR OCCUPATION?
A I am President of Public Policy Consulting, a firm specializing in energy and telecommunications regulatory matters. I provide consulting services to a variety of public-sector and private-sector clients in the energy and telecommunications industries, primarily in the regulatory arena. My consulting practice dates to 1979, except for the years 1984-1995 when I served as Colorado Consumer Counsel. As consumer counsel, I represented the interests of residential, small business and agricultural consumers of telecommunications and energy before the Colorado Public Utilities Commission, the Federal Communications Commission (FCC), the Federal Energy Regulatory Commission (FERC), the courts and legislative bodies.

I am a frequent speaker and presenter at industry, regulatory and legislative conferences and symposia. I am a member of the Harvard Electricity Policy Group and recently served on two advisory commissions to the FCC. I have also testified
fifteen times before Congressional committees on energy and telecommunications matters. My curriculum vitae is attached as Appendix A to this testimony.

Q WHAT IS YOUR EDUCATIONAL BACKGROUND?
A I received a B.A. in Philosophy from St. Louis University in 1971. I received M.A. in Mathematics from the University of Colorado in 1978. I entered the Masters Program in Economics at the University of Colorado in 1980 and completed 27 hours of graduate work.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?
A PacifiCorp and MidAmerican Energy Holdings Company (“MidAmerican”) are petitioning the Commission for approval of their proposal to reorganize PacifiCorp as a wholly-owned subsidiary of MidAmerican. I was asked by WIEC to examine certain issues raised by the proposed reorganization and to make recommendations to the Commission. My testimony will address how net power costs should be regulated prospectively for PacifiCorp under its new ownership. As I will explain, this issue goes to the very basis of the relationship between MidAmerican, PacifiCorp, the Wyoming Public Service Commission, and energy consumers in this state.

Q HOW IS YOUR TESTIMONY ORGANIZED?
A First, I present an introduction to the testimony and a summary of my findings and recommendations. Second, I summarize the reorganization proposal and identify a critical issue implicated in this the application – the manner in which net power costs should be regulated if the reorganization is approved. Third, I briefly review the
history of the 2003 PacifiCorp case that led to the pending federal district court case.

Fourth, I discuss the proper nature and extent of state regulation of PacifiCorp’s net power costs and the effect on state regulation of PacifiCorp’s choice of legal process.

Finally, I summarize my findings and recommendations to the Commission.

I. INTRODUCTION AND SUMMARY OF TESTIMONY

Q MR. BINZ, WHY IS THIS CASE IMPORTANT TO WIEC?

A PacifiCorp and MidAmerican are proposing to transfer ownership of PacifiCorp from ScottishPower to MidAmerican. Any reorganization or acquisition raises substantial issues for state regulators. Eventually, the issues resolve to the question of the future ability of the new entity to provide reliable service at reasonable rates. These concerns are precisely the reason WIEC intervened in this reorganization proceeding.

The Commission is well aware of the strong interest that WIEC members have in the prices they pay for electricity and in the quality and reliability of utility service. The reorganization will likely affect both the prices and reliability of PacifiCorp’s service in the future. WIEC members are also concerned about the willingness of the new entity to work in good faith with all stakeholders in Wyoming, first among them the Wyoming PSC. As discussed below, this case represents an opportunity to improve the working relationships among the parties by eliminating a barrier imposed by ScottishPower.
Q PLEASE SUMMARIZE YOUR FINDINGS AND RECOMMENDATIONS TO
THE COMMISSION.

A After reviewing the Company’s proposal, its prefilled testimony and exhibits, together
with information produced in discovery, I have developed the following findings and
recommendations for the Commission:

Findings

• From a public policy perspective, the Commission should attach
  conditions to this reorganization that address the fundamental
  regulatory status of PacifiCorp under its new owner.

• The theory underlying PacifiCorp’s federal lawsuit sets up an
  unworkable situation for the Commission and other parties.

Recommendations

(1) The Commission should require, as a condition of approval of the
reorganization, that PacifiCorp commit to bring all issues associated with
its net power costs to the Wyoming PSC in the future, including any
theories concerning federal preemption and all constitutional and
statutory claims;

(2) The Commission should require, as a condition of approval of the
reorganization, that PacifiCorp commit voluntarily to refrain from
seeking a federal court trial in any future case that is similar to the 2003
excess net power case;

(3) If PacifiCorp prevails in the federal case and MidAmerican collects
$150 million in windfall revenues, the Commission should review the
entire regulatory structure applied to PacifiCorp. With the changed
regulatory bargain and PacifiCorp’s reduced risk, the Commission should
determine if it is appropriate for the PacifiCorp to use a PCAM
mechanism or the flow-through mechanisms authorized by Section 249
and 250 of the Commission’s rules.
II. THE APPLICATION

Q WHAT ARE PACIFICORP AND MIDAMERICAN SEEKING IN THIS APPLICATION?

A PacifiCorp and MidAmerican seek the Wyoming Public Service Commission’s approval of their proposal to transfer ownership of PacifiCorp from ScottishPower to MidAmerican. The sale has been approved by the boards of ScottishPower and MidAmerican.

Q DOES THE APPLICATION ACKNOWLEDGE THE WYOMING COMMISSION’S JURISDICTION OVER THE REORGANIZATION OF PACIFICORP?

A Yes. The application cites W.S. §37-1-104 as the Commission’s authority over the transaction.

Q IN YOUR OPINION, SHOULD THE COMMISSION ATTACH CONDITIONS TO THE SALE OF PACIFICORP TO MIDAMERICAN?

A Yes. The Commission may deny the application if it finds that the reorganization would adversely affect the utility’s ability to serve the public. In addition, the Commission has the general duty and authority to assure that rates that result from its regulation of a public utility are just and reasonable. But obviously a Commission can assure that rates are just and reasonable only if it has adequate jurisdiction over the reorganized entity. Similarly, the ability of a Commission to determine whether the acquisition “would adversely affect the utility’s ability to serve the public”
depends (tacitly) on the ability of the Commission to regulate the resulting entity effectively in the future. The Commission can find that the reorganization will not have negative effects only if it has reason to know that.

The pending federal lawsuit filed by PacifiCorp against two Commissioners of the Wyoming PSC presents a substantial challenge to the Commission’s ability to find that the reorganization will result in an entity that will serve the public and deliver service at just and reasonable rates. The issues raised in the federal lawsuit go to the very basis of the Commission’s authority over a large fraction of PacifiCorp’s cost. With dispute over issues this fundamental, I think the Commission has an obligation to attach such conditions to the reorganization which attempt to resolve the problem created by the lawsuit.

III. THE 2003 PACIFICORP CASE AND THE FEDERAL LAWSUIT

Q WERE YOU A WITNESS IN THE HEARINGS IN PACIFICORP’S EXCESS NET POWER CASES, DOCKET NO. 2000-ER-02-184?

A Yes. I testified on behalf of AARP in that docket.

Q PLEASE DISCUSS THE COMMISSION DECISION THAT LED TO THE LAWSUIT NOW PENDING IN WYOMING FEDERAL DISTRICT COURT.

A In May 2002, PacifiCorp filed to increase rates in Wyoming to recover excess net power costs that had been booked in a deferred account. The application sought to recoup $60.3 million related to higher-than-projected purchased power costs and an additional $30.7 million for power purchased during the same time frame to replace generation lost due to the outage of the Hunter generating plant.
Following extensive hearings over two weeks, the Commission ruled that it would not permit PacifiCorp to increase rates to recoup the deferred amounts. The Commission reasoned that PacifiCorp had foregone the opportunity over many years to institute a cost adjustment mechanism in Wyoming and that the Company had profited over those years between rate cases from gains in the wholesale power market. Here is an excerpt from the Commission’s decision:

The substantial evidence shows that PacifiCorp’s management implemented a specific strategy to emphasize and increase wholesale market activities for the company’s own gain which resulted in a sharp decline in the percentage of retail sales in comparison to overall sales. This strategy significantly increased the risk to PacifiCorp ratepayers and shareholders. Because it was PacifiCorp’s own choice to seek profit in the wholesale market through a strategy that exposed its rate payers to risk (which was exacerbated by the “power crisis” but not caused by it), it should not now be allowed to recover for the consequences of its decision.

The wholesale market in which PacifiCorp made its purchases is beyond the jurisdiction of the Commission and its regulation is in the hands of the federal government, and specifically the Federal Energy Regulatory Commission. The purchased commodity cost adjustment and balancing account mechanisms which we set up under Rules 249 and 250 were designed to address the situation in which wholesale commodity costs vary. These Rules allow the costs to be identified, scrutinized and collected accurately so that, in the end, retail customers would pay those costs, and the utility would collect them, on a dollar-for-dollar basis. The use of the mechanism offered by these rules is not mandatory, and utilities may elect to go forward without the protection they offer. PacifiCorp elected in the past not to utilize the mechanism but to rely on the amounts allowed in base rates to collect the power costs. In this situation, the result may be that rates over collect power costs to the benefit of the company and its shareholders or that they under collect power costs to their detriment. In this case, rate payers see neither the benefit nor the burden of market fluctuations except when rates are examined in general rate
proceedings and the allowance in rates for power purchases is adjusted.1

Q WHAT WAS THE OUTCOME OF THE COMMISSION’S ORDER IN THAT CASE?

A After PacifiCorp had sought unsuccessfully for the Commission to modify its order, the Company appealed the decision to the Wyoming courts. PacifiCorp argued that the Commission had used inappropriate standards in deciding the case. In December 2004, the Wyoming Supreme Court affirmed the Commission’s decision and found that the PSC had been within its authority to deny the rate relief to PacifiCorp. In its decision, the Supreme Court’s reasoning paralleled that of the Wyoming PSC:

[¶34] The Commission found that PacifiCorp’s deliberate business decision to increase its wholesale power market trading activities, without the protection of a pass-on mechanism, dictates against a finding that PacifiCorp’s current requested surcharges are just and reasonable. The Commission did not hold that PacifiCorp could only recover its excess purchased power costs through the timely adoption of the Commission’s pass-on mechanism. Instead, the Commission fulfilled its obligation to independently determine if the requested surcharges were just and reasonable within the context they were sought. We find no error in the Commission’s analysis. Indeed, it would set a poor precedent if PacifiCorp were allowed to recover under these circumstances. PacifiCorp knowingly placed itself in a position which, while earning a profit when things went well, was very risky in that PacifiCorp could incur great losses if the market turned. There would be no risk to this decision if PacifiCorp could turn around and force ratepayers to reimburse it for those losses. PacifiCorp made its bed. It is just and reasonable to require PacifiCorp now to lie in that bed.2

1Wyoming Public Service Commission, Docket No. 20000-ER-02-184, Order dated March 6, 2003.

2 103 P3d 862, 874 (2004)
In summary, the Court concluded the Commission was acting within its authority and that PacifiCorp had not proved its case:

[¶43] Ultimately, the Commission denied PacifiCorp’s request to recover its prior costs by means of a surcharge because PacifiCorp presented no adequate argument on why such recovery would be just and reasonable under the circumstances. The Commission has wide discretion in determining how to handle the recovery of costs. Utility companies, however, also bear a burden to ensure that, when they seek to recover costs, they do so in a way that is just and reasonable. The Commission determined that the requested surcharge was not a just and reasonable method for PacifiCorp to recover past costs. Under these particular facts and circumstances we do not find the decision to be arbitrary or capricious. PacifiCorp did not bear its burden of proving by substantial evidence that imposing surcharges on current Wyoming ratepayers to recover costs incurred several years ago would be just and reasonable.3

Q PLEASE DESCRIBE PACIFICORP'S FEDERAL COURT CASE.

While the appeal of the PSC decision was pending before the Wyoming Supreme Court, PacifiCorp filed a federal action challenging the Commission’s decision. PacifiCorp advanced several theories in its federal lawsuit, none of which had been raised before the Wyoming Commission or before the Wyoming courts.

Of particular interest is the theory that the PSC lacks jurisdiction to deny PacifiCorp recovery of costs for power purchases because those sales had occurred at rates that had been approved by the Federal Energy Regulatory Commission (FERC). In its federal lawsuit, PacifiCorp seeks a de novo review by the Wyoming Federal District Court of the facts in the case. In other words, PacifiCorp is seeking a new trial on the

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3103 P3d 862, 876 (2004)
same information contained in the application filed with the Wyoming Commission in 2003.

Q PLEASE EXPLAIN THE CONCEPT OF “NET POWER COSTS.”
A Net power costs refer to PacifiCorp’s cost of fuel for its own generation, plus the cost of power purchased from other suppliers, plus the expenses for wheeling, minus proceeds from sales of power. On a total-Company basis, PacifiCorp estimates that its net power costs will be $746 million for the year ending September 30, 2006. Wyoming’s share is about 15% of the total – approximately $109 million.

In Wyoming, estimates of future net power costs traditionally have been included in the ratemaking formula by which base rates are determined. In the PacifiCorp rate case currently pending before the Commission, Docket No. 20000-ER-05-230, net power costs comprise more than one-third of the Company’s operating expenses projected for the year ending September 30, 2006. The following chart shows the fraction of net operating costs that net power costs comprise.
Q WHAT FRACTION OF NET POWER COSTS ARE REPRESENTED BY
WHOLESALE SALES AND PURCHASES?

A Net wholesale transactions (purchases minus sales) are projected to account for only
about 4% of PacifiCorp’s net power costs for the test period in the pending Wyoming
case. That means that fuel costs and wheeling expenses make up 96% of the total.
But this statistic can be misleading and it belies the size of the wholesale transactions
that underlie the net amount. Net wholesale transactions represent the difference
between purchases and sales, each of which can be a very large number.

The following chart shows the relative size of all the components of net power costs
for the test year in the pending case. Wholesale purchases and sales are represented
by the first two columns. The middle column, “net wholesale,” represents the
difference between the first two columns. The fourth and fifth columns represent Fuel and Wheeling costs, respectively.

The chart shows that, while “net wholesale transactions” are only 4% of total net power costs, each of the quantities “Purchases” and “Sales” are significantly larger than fuel costs in magnitude.

Q WHICH TRANSACTIONS DOES PACIFICORP ARGUE ARE PREEMPTED IN THEIR REGULATION BY FEDERAL REGULATION?

A In its federal lawsuit, PacifiCorp is claiming that the Wyoming Commission does not have jurisdiction to disallow recovery of the costs of wholesale transactions. In other
words, PacifiCorp argues that the Wyoming Commission does not have authority over the costs and revenues represented in the first two columns of the graph.

**Q** DO YOU AGREE WITH PACIFICORP’S ARGUMENT?

**A** I would not presume to judge PacifiCorp’s legal arguments. However, as a person who is familiar with state and federal power regulation, I think that PacifiCorp’s argument concerning federal jurisdiction is wrong from a policy perspective. Decisions of the Wyoming Commission concerning the “recovery” of net power costs are not based on the prices of the service, which are approved by the FERC. Instead, the WPSC decisions are based on a plethora of state ratemaking considerations; the WPSC decisions in fact take the federally-approved prices as a given. The Wyoming Supreme Court affirmed that the Commission acted within its statutory authority and fulfilled its statutory requirements in the 2003 case. It is difficult for me to see how the Wyoming Commission’s action entails federal power regulation in any way.

Another way to look at the question is to follow the implications of PacifiCorp’s theory. By doing that, we see that the PacifiCorp argument proves too much. PacifiCorp’s theory would apparently mean that the FERC could require pass-through mechanisms for purchased power costs (or the equivalent) in every state in which utilities purchase wholesale power. This is true even though state commissions functioned for many decades without cost adjustment clauses and are generally prohibited from retroactive ratemaking. Under PacifiCorp’s theory, any state regulatory regime that did not guarantee “recovery” of wholesale power costs would be subject to federal preemption.
Further, in its federal lawsuit, PacifiCorp argues that the WPSC decision denying recovery of the past costs interfered with interstate commerce by raising the cost of capital for PacifiCorp’s operations in other states. This claim leads to an absurd result. Nothing prevents this same argument from being lodged anytime a state commission regulating PacifiCorp fails to award the requested revenue increase, regardless of the source of the claimed revenue shortfall. State commissions in the PacifiCorp region would apparently have to move in lock-step, awarding the same rate of return, and accepting the same regulatory approach in each state. Otherwise, states that award relatively smaller rate increases could be argued to be raising costs in other states – allegedly interfering with interstate commerce.

Q WHAT IS THE EFFECT OF PACIFICORP’S RECURSE TO FEDERAL DISTRICT COURT IN THIS CASE?

A PacifiCorp bypassed the Wyoming PSC and the Wyoming courts with its theory of federal preemption. The issue was not raised before the Wyoming PSC or before the Wyoming courts. By failing to adjudicate this and other federal claims before state regulators and state courts, PacifiCorp has set the stage for a new trial on its original application, this time before the federal district judge. Reviewing pleadings in the federal lawsuit, I note that PacifiCorp anticipates calling witnesses and presenting evidence. In other words, PacifiCorp is not asking the court to review the Wyoming PSC decision; PacifiCorp is asking the court to try the case anew.

As illustrated graphically above, PacifiCorp is asking the federal district court (and, indirectly the FERC) to replace the Wyoming Commission as the regulator of
hundreds of millions of dollars in transactions involving the purchase and sale of power necessary to serve customers in Wyoming.

PacifiCorp’s vision of this new regulatory regime differs significantly from traditional state regulation or even traditional appellate review. In the federal lawsuit, the Company attempted to block the intervention of parties who had intervened in the case before the Commission, including the OCA and WIEC. In PacifiCorp’s view, the Commission would assume the role of defendant, with no other parties permitted to intervene. In this new order, the Commission (formerly the trier of fact) would presumably be required to put on evidence and be cross-examined by the Company. The Commission would have to decide what evidence from its own proceeding would be appropriate to introduce in the trial court, including, presumably, the expert testimony (sponsored by one or more parties before it) that it used to reach its prior decision. The Commission would have to issue discovery, respond to discovery, and be prepared to respond to new evidence introduced in the trial court.

Finally, besides the “through the looking-glass” feel about this new process, the Commission would also have to fund its involvement before the trial court. Given the Commission’s limited budget, this would likely require a special appropriation from the Wyoming legislature.

**Q** WHAT PROBLEMS DOES PACIFICORP’S STRATEGY CREATE?

**A** Setting aside the weaknesses in PacifiCorp’s arguments, the Company’s theory is an affront to the authority of the Wyoming PSC. Besides damaging the comity among the stakeholders that is essential for effective regulation, PacifiCorp’s vision creates
an unworkable regulatory regime in which state regulation is preempted by the FERC for a significant portion of the Company’s costs and revenues. At a practical level, the litigation originated by PacifiCorp is costly to all concerned. The Company is proposing to retry the case in federal court because it did not like the result obtained from the WPSC.

Q WHAT ALTERNATIVE DO YOU RECOMMEND?
A First, WIEC strongly recommends that the new owners of PacifiCorp reconsider the decision to pursue the federal lawsuit. WIEC is confident that the PSC will prevail in the litigation; dismissing the lawsuit will go a long way to reestablish the working relationship among the parties.

Second, I recommend that the Commission consider the impact of the continuing threat of future federal litigation as it considers this reorganization. If the Commission agrees with WIEC that the theory pursued by PacifiCorp has unacceptable consequences for state regulation, it should invite MidAmerican to commit to a more workable regulatory relationship. Specifically, I recommend that the Commission require, as a condition of reorganization approval, that PacifiCorp commit to bring all future issues associated with net power costs to the Wyoming PSC, including any theories concerning federal preemption and any constitutional and statutory claims.

Further, the Commission should require that, as a condition of approval of the reorganization, PacifiCorp commit voluntarily to refrain from seeking a trial in federal count in any future case similar to the 2003 case dealing with excess net
power costs. Assuming that MidAmerican wishes to deal in good faith with the Commission and other stakeholders in Wyoming, this is a reasonable requirement.

Q ARE YOU RECOMMENDING THAT THE COMMISSION REQUIRE PACIFICORP TO WAIVE ITS RIGHT TO APPEAL A COMMISSION DECISION?

A No, not at all. The Commission should not ask PacifiCorp to waive its right to argue that the Company was denied due process or that a particular decision of the Commission constitutes an impermissible “takings”, to cite two examples. Instead, I suggest simply that the Commission require PacifiCorp to refrain from the strategy used in the current federal lawsuit – constructing an end run around state regulation and state law. I suggest that the Commission ask the MidAmerican and PacifiCorp, as a gesture of comity and good faith dealing, to refrain from using the procedural option to split claims and seek a de novo review of the same facts brought previously to the Commission.

Q ASSUMING PACIFICORP PREVAILS IN THE PENDING FEDERAL LAWSUIT, HOW SHOULD THIS PROSPECT AFFECT THIS CASE?

A It appears that any benefits to PacifiCorp of a favorable ruling in the federal lawsuit will accrue to MidAmerican, and not to ScottishPower. Although the litigation was brought while PacifiCorp was owned by ScottishPower (who apparently injected capital into PacifiCorp following the “Western power crisis”), the proceeds from successful litigation would be paid to PacifiCorp and MidAmerican. If PacifiCorp succeeds in obtaining federal preemption relative to the totality of excess wholesale
power costs incurred by the Company during the “western power crisis,” this could amount to as much as $150 million. By any measure, this would be a windfall to MidAmerican.

Under this scenario, the Wyoming PSC might not have authority to prevent MidAmerican from charging new rates to collect this hypothetical award. However, this outcome should trigger a Commission review of the entire regulatory regime used for PacifiCorp. In light of such materially changed circumstances, the Commission should consider carefully, for example, whether PacifiCorp should have the ability to use flow-through mechanisms authorized by the Commission in its Rules 249 and 250 or any PCAM-type mechanism adopted by the Commission in the pending case.

Such action would be appropriate since, in this scenario, the Commission would have been stripped of its jurisdiction over many of the costs subject to these pass-through mechanisms. State regulation has many interdependent features and it is reasonable for the Commission to evaluate the impact on the whole when a significant change is made to one of the parts. In line with this, the Commission should review whether to make other adjustments to account for the lower risk faced by PacifiCorp to the extent recovery of its purchased power expenses are guaranteed by the FERC. Finally, if PacifiCorp prevails on its jurisdiction argument, it may be appropriate for the FERC to specify cost recovery mechanisms that must be used by the Wyoming Commission.
V. SUMMARY OF RECOMMENDATIONS

Q PLEASE SUMMARIZE YOUR RECOMMENDATIONS TO THE

COMMISSION.

A The federal lawsuit filed by PacifiCorp in response to the Commission’s final order in
Docket No. 20000-ER-02-184 threatens the Wyoming regulatory regime in a
fundamental way. While WIEC is confident the Commission will prevail in the
federal lawsuit, the Commission should act to prevent such lawsuits in the future by
attaching conditions to its approval of the proposed reorganization. Imposing such
conditions is appropriate and consistent with the Commission’s statutory duties and
authority.

- The Commission should require, as a condition of approval of the
  reorganization, that PacifiCorp commit to bring all issues associated with its
  net power costs to the Wyoming PSC in the future, including any theories
  concerning federal preemption and all constitutional and statutory claims;

- The Commission should require, as a condition of approval of the
  reorganization, that PacifiCorp commit voluntarily to refrain from seeking a
  federal court trial in any future case that is similar to the 2003 excess net
  power case;

- If PacifiCorp prevails in the federal case and MidAmerican collects $150
  million in windfall revenues, the Commission should review the entire
  regulatory structure applied to PacifiCorp. With the changed regulatory
  bargain and PacifiCorp’s reduced risk, the Commission should determine if it
is appropriate for the Company to use a PCAM mechanism or the flow

through mechanisms authorized by Section 249 and 250 of the Commission’s

rules.

Q DOES THIS CONCLUDE YOUR TESTIMONY?

A Yes.
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Employment History

1995-present  President, Public Policy Consulting

Consultant, specializing in energy and telecommunications regulatory policy issues. Assignments include strategic counsel to clients and research and testimony before regulatory and legislative bodies. Since 1995, a wide range of clients has included: consumer advocate offices, rural electric utilities, senior citizen advocacy groups, industrial electric users, homebuilders, telecommunications resellers, an incumbent local exchange company, low-income advocacy organizations, and municipal utilities.

1996-present  President and Policy Director, Competition Policy Institute

Competition Policy Institute is an independent non-profit organization that advocates state and federal policies to bring competition to energy and telecommunications markets in ways that benefit consumers. Duties include: determining the organization’s policy position on a wide range of telecommunications and energy issues; conducting research, producing policy papers, presenting testimony in regulatory and legislative forums, hosting educational symposia for state regulators and state legislators.

1984-1995  Director, Colorado Office of Consumer Counsel

Director of Colorado's first state-funded utility consumer advocate office. By statute, the OCC represents residential, small business and agricultural utility consumers before state and federal regulatory agencies. The office has been a party to more than two hundred legal cases before the Colorado Public Utilities Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission and the courts. Annual office budget is $1 million.

Managed a staff of eleven, including attorneys, economists, and rate analysts who conduct economic, financial and engineering research in public utility matters.

Testified as an expert witness on subjects of utility rates and regulation. Negotiated rate settlement agreements with utility companies. Regularly testified before the Colorado general assembly and spoke to professional business and consumer organizations on utility rate matters. Consulted with advisory board of consumer leaders from around the state.

Leadership role in National Association of State Utility Consumer Advocates. Member of high-level advisory boards to Federal Communications Commission (Network Reliability Council) and Environmental Protection Agency (Acid Rain Advisory Council). Frequent witness before
congressional committees and invited speaker before national industry and regulatory forums.

**1977-1984  Consulting Utility Rate Analyst**

Represented clients in public utility rate cases and testified as an expert witness in more than twenty utility cases before regulatory commissions in Utah, Wyoming, Colorado and South Dakota. Clients included state and local governments, low income advocacy groups, irrigation farmers and consumer groups. Testimony spanned topics of telephone rate design, electric cost-of-service studies, avoided cost valuation of nuclear generation, electric rate design for irrigation customers and municipal water rate design.

**1975-1984  Instructor in Mathematics**

Taught mathematics at the University of Colorado, Denver and Boulder campuses. Nominated three times for outstanding part-time faculty member.

**1971-1974  Manager, Blue Cross and Blue Shield**

Managed major medical claims processing department. Responsibilities included budgets, hiring, training, managing supervisors, and coordinating with medical peer review committee.

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**Other Business Interests**

**1994-present  Managing Partner, Trail Ridge Winery**

Partner and Secretary/Treasurer of Trail Ridge Winery. Trail Ridge is a Colorado winery located in Loveland, Colorado, producing a variety of wines from Colorado-grown grapes. Duties include service on board of directors; duties of corporate secretary/treasurer; development of business plans; legislative, regulatory and other external affairs; assistance in winery operations and tasting room; assistance in public relations and marketing.

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**Education**

M.A. (Mathematics) 1977. University of Colorado. Course requirements met for Ph.D.


B.A. with Honors (Philosophy) 1971. St. Louis University.

Professional Associations and Activities

Colorado Legislative Task Force on Information Policy, Gubernatorial Appointee 2000-2001

National Association of State Utility Consumer Advocates
   Chair, Telecommunications Committee 1992-1995

Network Reliability Council to the Federal Communications Commission

North American Numbering Council to Federal Communications Commission, Co-Chair

Harvard Electric Policy Group, John F. Kennedy School, Harvard University

Denver Mayor's Council on Telecommunications Policy

Exchange Carriers Standards Association Network Reliability Steering Committee

Colorado Telecommunications Working Group, Gubernatorial Appointee

Colorado Energy Assistance Foundation, Board Member, Past Chairman

Legislative Commission on Low-Income Energy Assistance, Past President

Colorado Public Interest Research Foundation, Board Member

Colorado Common Cause, Board Member, Treasurer, Board Chairman

Acid Rain Advisory Council to the Environmental Protection Agency

Outreach Committee, Western States Coordinating Council Regional Planning Committee

Total Compensation Advisory Council to the State of Colorado Department of Personnel

New Mexico State University Public Utilities Program, Faculty and Advisory Council

Aspen Institute for Humanistic Studies, Telecommunications Policy Meetings 1986-1997

Who's Who in Denver Business

Council on Economic Regulation, Past Fellow

Colorado Wine Industry Development Board, Chairman

American Vintners Association, Executive Committee, Membership Chair
Recent Regulatory Testimony and Presentations

Since 1977, Mr. Binz has participated in more than 150 regulatory proceedings before the Federal Energy Regulatory Commission, the Federal Communications Commission, State and Federal District Courts, the 8th Circuit, 10th Circuit and D.C. Circuit Courts of Appeal, the U.S. Supreme Court and state regulatory commissions in California, Colorado, Georgia, Idaho, Maine, Michigan, Minnesota, New Mexico, New York, North Dakota, Oregon, South Dakota, Texas, Utah, and Wyoming.

He has filed testimony in more than sixty proceedings before these bodies. His testimony and comments have addressed a wide variety of technical and policy issues in telecommunications, electricity, natural gas and water regulation. Following is a sample of recent testimony and presentations before regulatory commissions.

**Testimony**

Before the Colorado Public Utilities Commission.  In the Matter of the Tariff Sheets Filed By Public Service Company of Colorado with Advice Letter No. 647-Gas. Docket No. 05S-264G. Testimony on behalf of Energy Outreach Colorado (EOC) and AARP.  (October 2005)

Before the Colorado Public Utilities Commission.  In The Matter Of The Application Of Lake Durango Water Company for an Order Authorizing Lake Durango Water Company to Proceed with the Construction of the Lightner Creek Project and Enter into an Agreement with Tierra Hermosa LLC for Taps as Payment for Development of the Lightner Creek Project and its Funding.  Docket No. 04A-524W. Testimony On Behalf Of Durango West Metropolitan District No. 1 (DW1) and Durango West Metropolitan District No. 2 (DW2) (October 2005)


Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of The Application Of PacifiCorp For A Retail Electric Utility Rate Increase Of $41.8 Million Per Year Docket No. 20000-ER-03-198 (January 2004).

Before the Wyoming Public Service Commission. Public hearings testimony on behalf of AARP in the matter of an application by Kinder Morgan to modify the provider selection process in its Choice Gas Program. (December 2003).

Before the North Dakota Public Service Commission. Testimony on behalf of AARP in the matter
of In the Matter of the Notice of Montana-Dakota Utilities Co. for an Electric Rate Change. Case No. PU-399-03-296. (October 2003)


Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of an application by PacifiCorp to increase rates, recover excess net power costs, and recover purchase power costs related to the Hunter Unit 1 outage. Docket No. 20000-ER-02-184. Testimony Concerning A Proposed General Rate Increase And Surcharge For Previous Power Costs. (November 2002).

Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of an application by PacifiCorp to increase rates, recover excess net power costs, and recover purchase power costs related to the Hunter Unit 1 outage. Docket No. 20000-ER-02-184. Testimony Concerning Hunter Unit 1 Issues. (November 2002).


Before the Idaho Public Utilities Commission. Testimony on behalf of Astaris, in the matter of Case No. IPC-E-01-43 concerning the buy back rates under an electric load reduction program. (January 2002)


Before the Colorado Public Utilities Commission. Testimony in the formal complaint case of the Homebuilders Association of Metropolitan Denver against Public Service Company. Docket 01F-071G. (August 2001)

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Testimony of Ronald Binz at FCC Public Forum on SBC/Ameritech merger (May 1999)

Docket No. 97-106-TC -- Testimony of Ronald Binz before New Mexico State Corporation Commission on Investigation Concerning US West’s Compliance with Section 271(c) of the Telecommunications Act (July 1998)


Docket No. 6717-U Testimony before the Georgia Public Service Commission Concerning the Service Provider Selection Plan of Atlanta Gas Company. (January 1997)

Case 96-C-0603 and Case 96-C-0599--Testimony of Ronald J. Binz on behalf of CPI before the New York State Public Service Commission concerning the Bell Atlantic/NYNEX Merger (November 1996)


Before the Public Utilities Commission of the State of California Direct Testimony of Ronald J. Binz, CPI, On Behalf of Intervener, Utility Consumers Action Network. In the Matter of the Joint Application of Pacific Telesis Group (Telesis) and SBC Communications (SBC) for SBC to Control Pacific Bell (U 1001 C), Which Will Occur Indirectly as a Result of Telesis’ Merger With a Wholly Owned Subsidiary of SBC, SBC Communications (NV) Inc. Application No. 96-04-038 (September 1996)

Presentation to Federal-State Joint Board on Universal Service (April 12, 1996)


Presentations


"Are Telecommunications Customers Expecting Too Much Customer Service?" Presentation to the National Association of Regulatory Utility Commissioners (July 2003)


“CLEC Market Share--What do the Numbers Say?” Presentation to the Regional Oversight Committee of Qwest state regulators. Santa Fe, New Mexico. April 2002


"Consumer Issues in Natural Gas Unbundling" -- Presentation of Ron Binz before the National Association of Regulatory Utility Commissioners (November 9, 1999)

Ron Binz Presentation to the 25th Annual Rate Symposium on Competition for small customers in natural gas markets (April 27, 1999)

"Best Practices in Telecommunications Regulation”; Presentation before NARUC Communications Committee and National Regulatory Research Institute at NARUC Winter Meeting (February 1999)

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**Congressional Testimony**

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United States Senate Judiciary Committee; Antitrust, Business Rights and Competition

United States Senate Commerce Committee, Telecommunications Subcommittee, May 1998.
Testimony in oversight hearings concerning the performance of the Common Carrier Bureau of the
Federal Communications Commission.

United States Senate Judiciary Committee, Washington, D.C., September 1996. Presented testimony
on behalf of the Competition Policy Institute on the competitive impact of proposed mergers of
Regional Bell Operating Companies.

United States Senate Subcommitte on Antitrust, Washington, D.C., September 1994. Testimony
presenting NASUCA's position on S. 1822 by Senator Hollings.

United States House of Representatives Subcommitte on Telecommunications and Finance of the
on H.R. 3636.

United States House of Representatives Subcommitte on Economics and Commercial Law,
Washington, D.C., October 1992. Supplemental testimony presenting NASUCA's position on
legislation concerning the Modified Final Judgment introduced by Representative Brooks.

United States House of Representatives Subcommitte on Telecommunications and Finance,
Washington, D.C., October 1991. Testimony on RBOC entry into telecommunications
manufacturing and information services.

United States House of Representatives Subcommitte on Economics and Commercial Law,
legislation concerning the Modified Final Judgment.

United States Senate Subcommittee on Energy Regulation and Conservation, Denver, Colorado,
April 1991. Testimony presenting NASUCA's position on federal legislation concerning regulation
of the natural gas industry, introduced by Senator Wirth.

Testimony on behalf of NASUCA concerning S.173, telecommunications legislation introduced by
Senator Ernest Hollings.

United States Senate Communications Subcommittee, Washington, D.C., July 1990. Testimony on
behalf of NASUCA concerning S.2800, telecommunications legislation introduced by Senator
Conrad Burns.

United States House of Representatives Subcommitte on Telecommunications and Finance, July

Legislative Testimony

New Mexico State Legislature, Joint Oversight Committee on Regulation. November 2003. Testimony concerning the appropriate regulatory treatment of mid-sized telecommunications carriers.

Wyoming State Legislature, Senate Committee on Corporations, Elections & Political Subdivisions. February 2003. Testimony on legislation to create a division of utility consumer advocate within the Wyoming Public Services Commission.


Georgia State Legislature Interim Committee on Natural Gas Competition. Fall 1996. Testimony on the consumer impacts of restructuring the natural gas industry in Georgia.


Mr. Binz has published two reports, funded by the Energy Foundation, of the impact of a renewable energy standard in Colorado:


Mr. Binz is the co-author of two major reports on electric industry restructuring:

*Navigating a Course to Competition: A Consumer Perspective on Electric Restructuring.*

*Addressing Market Power: The Next Step in Electric Restructuring.*

In the telecommunications area, Mr. Binz published a major discussion paper entitled *Qwest, Consumers and Long Distance Entry: A Discussion Paper.*

These publications (along with copies of other testimony and reports) are available at the Public Policy Consulting website: [www.rbinz.com](http://www.rbinz.com).