

MPUC 23-423, 24-283, 23-425; OAH 25-2500-40508

EVIDENTIARY HEARING

AUGUST 28, 2025 - 9:00 A.M.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

AND MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of the Application of Benton Solar, LLC,  
for the 100 MW Solar Energy Generating System for the  
Benton Solar Project in Benton County, Minnesota; in the  
Matter of the Application of Benton Solar, LLC, for a  
Site Permit for the 100 MW Battery Energy Storage System  
for the Benton Solar Project in Benton County,  
Minnesota; and in the matter of the Application of  
Benton Solar, LLC, for a Route Permit for a 115 kV  
High-Voltage Transmission Line Associated with the  
Benton Solar Project in Benton County, Minnesota

DOCKET NOS.	IP7115/GS-23-423 (Solar Facility)
	IP7115/ESS-24-283 (Storage Facility)
	IP7115/TL-23-425 (Transmission Line)
OAH NO.:	25-2500-40508

IN-PERSON HEARING

AUGUST 28, 2025

9:00 A.M.

BEFORE:

JUDGE MEGAN J. MCKENZIE

STENOGRAPHIC COURT REPORTER: Jacquelyn Young, RPR

1 APPEARANCES:

2  
3 MARK R. JOHNSON, Attorney-at-Law,  
4 mark.r.johnson@nexteraenergy.com, appeared for and  
5 on behalf of the Applicant  
6

7 KEVIN PRANIS, Laborers' District  
8 Council of Minnesota and North Dakota,  
9 kpranis@liunagroc.com  
10

11 PUC STAFF: Cezar Panait, Jean Coleman  
12

13 NEXTERA ENERGY: Adam Gracia  
14

15 LIUNA: Lucas Franco  
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	WITNESS:	EXAMINATION BY:	PAGE:
1			
2			
3	ADAM GRACIA	Kevin Pranis	10
4		Mark Johnson	60
5		Kevin Pranis	63
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24		WHEREUPON, the following proceedings	
25		were duly had and entered of record, to wit:	

1 P R O C E E D I N G S

2 JUDGE MCKENZIE: Good morning,  
3 everyone. We are going on the record for the  
4 administrative hearing in the Matter of the  
5 Applications of Benton Solar, LLC, for Site Permits  
6 for the 100-MW Solar Generating System and 100-MW  
7 Battery Energy Storage System, and a Route Permit  
8 for the 115 Kilovolt High-Voltage Transmission Line  
9 Associated with the Benton Solar Project.

10 These are PUC Docket Nos. GS-23-423,  
11 TL-23-425, and ESS-24-283. This is Court of  
12 Administrative Hearings Docket No. 25-2500-40508.

13 I will take appearances for the  
14 record. Please state and spell your name for the  
15 court reporter.

16 Why don't we start on this side  
17 with -- with the PUC and work our way around.

18 MR. CEZAR PANAIT: Good morning, Your  
19 Honor. Cezar Panait with Public Utilities  
20 Commission staff. Oh, Cezar, C-e-z-a-r; Panait as  
21 in P, as in Paul, a-n-a-i-t.

22 MS. JEAN COLEMAN: Your Honor, Jean  
23 Coleman, Public Utilities Commission General Counsel  
24 representing the Public Utilities Commission.  
25 J-e-a-n, C-o-l-e-m-a-n.

1 MR. ADAM GRACIA: Good morning, Your  
2 Honor. Adam Gracia; A-d-a-m, G-r-a-c-i-a. I'm a  
3 developer for Benton Solar.

4 MR. MARK JOHNSON: Good morning, Your  
5 Honor. Mark Johnson; M-a-r-k, J-o-h-n-s-o-n, senior  
6 attorney with NextEra Energy Resources appearing on  
7 behalf of Benton Solar.

8 MR. KEVIN PRANIS: Good morning, Your  
9 Honor. Kevin Pranis appearing on behalf of LIUNA  
10 Minnesota and North Dakota. With me is my colleague  
11 Lucas Franco. I'll be representing us here today.  
12 He is here to assist.

13 JUDGE MCKENZIE: All right. Very  
14 good.

15 So I'd like to start with the  
16 exhibits. I did receive the exhibit lists. Thank  
17 you very much for -- for providing those.

18 They include Benton Solar Exhibits  
19 100 through 166. And then I have EERA 200 through  
20 206, PUC 250 through 272, and then LIUNA 400 through  
21 422.

22 Were there any objections to  
23 admitting any of those exhibits or are there any  
24 stipulations? What is the status?

25 I'll start with you, Mr. Pranis.

1 MR. KEVIN PRANIS: No objections, Your  
2 Honor. I would like to make one correction. I  
3 discovered this morning that your paper copy is  
4 updated. We realized that Mr. Franco's rebuttal  
5 testimony got inadvertently -- it was filed in  
6 edockets, but it was inadvertently left off the  
7 list. And so on your list for 10A is the rebuttal  
8 testimony of Lucas Franco, so we will update that  
9 in edockets. So that should be correct.

10 The only other thing I would point  
11 out is that we -- just in terms of the paper copies,  
12 I did not include -- we had filed incorrectly direct  
13 testimony without line numbers and then re-filed  
14 that same testimony with line numbers. I did not  
15 include the line numbered version or the  
16 non-numbered version just to avoid confusion, but  
17 it's in the exhibit list just so we have  
18 transparency. That's all from me.

19 JUDGE MCKENZIE: All right. Thank  
20 you, Mr. Pranis.

21 Mr. Johnson.

22 MR. MARK JOHNSON: Yes, Your Honor.  
23 Thank you. No objections and no corrections to our  
24 list.

25 We -- we do have a supplemental data

1 requests response that we had served yesterday, and  
2 it -- it does supplement a response, I believe, that  
3 is attached to one of the LIUNA witnesses'  
4 testimony, so we can do that separately, but we  
5 would have two new exhibits to move into evidence, a  
6 public and a nonpublic trade secret version. That  
7 would be Benton Solar Exhibits 167 and 168, and I  
8 have copies of those.

9 JUDGE MCKENZIE: And were those  
10 disclosed to Mr. Pranis?

11 MR. MARK JOHNSON: Correct. Yeah,  
12 they were served yesterday, and I believe Mr. Revell  
13 had a conversation with him about it.

14 JUDGE MCKENZIE: Mr. Pranis, do you  
15 have objections to the admission of those exhibits?  
16 What is your position?

17 MR. KEVIN PRANIS: Well, it's a little  
18 bit unusual less than 24 hours before the hearing to  
19 have new evidence. We don't object. We want a  
20 complete record. We don't object to its inclusion.  
21 Obviously we'll have some questions about it and,  
22 you know, sort of like in general what types of  
23 information is available. We don't object to the  
24 inclusion of those documents.

25 JUDGE MCKENZIE: Okay. So I will

1 admit LIUNA Exhibits 400 through 422 as listed in  
2 the exhibit list. I will admit the EERA Exhibits  
3 200 through 206, the PUC's Exhibits 250 through 272.  
4 I will admit Benton Solar Exhibits 100 through 166,  
5 and then I will admit --

6 You said they are 167 and 168?

7 MR. MARK JOHNSON: That's correct.

8 JUDGE MCKENZIE: And please file those  
9 in edockets promptly at the conclusion of the  
10 hearing.

11 MR. MARK JOHNSON: Will do. Thank  
12 you.

13 JUDGE MCKENZIE: And then I would also  
14 appreciate the filing of an updated exhibit list  
15 that reflects the inclusion of those new exhibits.

16 MR. MARK JOHNSON: Will do. Thank  
17 you.

18 JUDGE MCKENZIE: Is there any other  
19 preliminary business we should discuss before we  
20 move to the calling of witnesses?

21 I understand that an agreement was  
22 made to waive Mr. MacDonald, Mr. Bass, and  
23 Ms. Nunez, and they have been excused for today. So  
24 I understand we are going to be receiving cross of  
25 Mr. Gracia.

1                   And then I was not clear,  
2           Mr. Johnson, if you intended to cross any of LIUNA's  
3           witnesses.

4                   MR. MARK JOHNSON: Benton Solar has  
5           waived cross of the LIUNA witnesses.

6                   JUDGE MCKENZIE: Okay. Very good.

7                   So then it sounds like we will just  
8           proceed, then, with Mr. Gracia.

9                   So why don't you come to the stand,  
10          please.

11                   ADAM GRACIA,  
12                   having been first duly sworn,  
13                   testified as follows:

14                   JUDGE MCKENZIE: Thank you. Counsel,  
15           please proceed.

16                   And I don't know, Mr. Johnson, if  
17           you -- if you have discussed with Mr. Pranis, you  
18           know, doing a brief introduction of the witness  
19           before cross or if we just want to move straight to  
20           cross. I'll leave it to you folks.

21                   MR. MARK JOHNSON: We had not, but we  
22           are fine just tendering the witness for cross  
23           without any direct; of course, reserving the option  
24           for redirect.

25                   JUDGE MCKENZIE: Okay. Mr. Pranis.

1 MR. KEVIN PRANIS: Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. PRANIS:

4 Q Hello, Mr. Gracia. Thanks for being here. We've  
5 met, but my name is Kevin Pranis. I'm representing  
6 LIUNA, so just questions about your testimony and  
7 I'm trying to reconcile your testimony with the  
8 testimony of Dr. Franco and Mr. Cortina, who are  
9 witnesses.

10 And I think I'm going to bounce  
11 around a bit because my notes, we didn't get to  
12 organizing everything in a nice clean manner, but  
13 I'll try to be efficient.

14 So if we could go to Applicant -- I  
15 think it's Exhibit 161 {sic}, Schedule 1, I want to  
16 talk about the economic model.

17 To just start -- I want to start by  
18 sort of establishing a common understanding of what  
19 pronunciation -- Dr. Banaian, is that -- Do you  
20 know?

21 A Banyon (phonetic), Dr. Banaian.

22 Q Dr. Banaian's analysis that you provided as an  
23 attachment. And to clarify, Dr. Banaian is not  
24 offered as a witness here?

25 A Right.

1 Q It's just the work product that you are  
2 representing; is that correct?

3 A Correct.

4 Q All right. So the model, as we understand it,  
5 associates, if you look at Page -- It's a number of  
6 pages, but we're on --

7 JUDGE MCKENZIE: Can you remind me  
8 which exhibit you are on, Mr. Pranis?

9 MR. KEVIN PRANIS: 161. It's  
10 Applicant's 161. Is that correct? Or is that the  
11 wrong exhibit.

12 JUDGE MCKENZIE: My Benton Solar 161  
13 is a certificate of service.

14 MR. KEVIN PRANIS: Okay. Hold on. I  
15 apologize. Is there a paper copy of the exhibit  
16 list? Or I can --

17 UNIDENTIFIED SPEAKER: I don't have a  
18 paper copy. I'm sorry.

19 JUDGE MCKENZIE: Are you looking for  
20 the rebuttal testimony or --

21 MR. KEVIN PRANIS: I'm looking for,  
22 yes, the rebuttal testimony.

23 JUDGE MCKENZIE: I have that as 162.  
24 Does that track with everyone?

25 MR. KEVIN PRANIS: 162. I think I'm

1 looking at the old draft.

2 BY MR. PRANIS:

3 Q So 162, and is this Page 17 of the documents? I'm  
4 looking at the pdf. There's a table that says net  
5 economic impact of construction transition. Are  
6 you -- are you looking at that?

7 A Yes.

8 Q So the model, as I understand it, associates each  
9 construction job with a total amount of labor  
10 income, including benefits. Is that correct?

11 Or let me -- let me back up and ask a  
12 different question. So the inputs of the model for  
13 labor income are the number of jobs?

14 A Correct.

15 Q And the expected pay?

16 A Correct.

17 Q And then the model associates that expected pay with  
18 additional benefit amounts, other sort of rollup, I  
19 assume? I only see rates of wages, not benefits,  
20 but in the definition it indicates that the labor  
21 income includes benefits.

22 So is that your understanding, that  
23 the model is based on number of jobs, hourly rates  
24 of pay, and then the model performed some additional  
25 function to estimate what the value of benefits is?

1 A Yes. That is correct.

2 Q All right. And so -- and then through labor income,  
3 and then that -- that number of jobs then produces  
4 basically times the hourly rate times the hours with  
5 whatever add-on for benefits equals a labor income.  
6 Is that your understanding?

7 A That's my understanding.

8 Q Great. And in this case, we're looking at 180 jobs,  
9 and the reason that is 180 is because you directed  
10 Dr. Banaian to estimate the project based on 60  
11 percent local workforce; is that correct?

12 A That is correct.

13 Q And so 180 would be 60 percent of 300?

14 A Correct.

15 Q And then that same -- Do you know if the  
16 contributions to GDP, is that also a function of the  
17 number of jobs, wages, et cetera, or is that coming  
18 from some different input?

19 A That, I'm not sure of. I would have to get  
20 confirmation from Dr. Banaian on his input there.

21 Q And I'm assuming on output -- Do you know where  
22 that output number comes from?

23 A I do not. Again, I would have to get confirmation  
24 from Dr. Banaian. Just to clarify, we provided  
25 the -- the input for his assumptions and then he

1 owns the model and the -- the overall output of the  
2 study.

3 Q Right. So -- All right. Let's review the inputs  
4 that he's using. Dr. Banaian cites a figure of \$41  
5 an hour -- this is on the page before -- for  
6 electricians as a proxy for all skilled workers, and  
7 he uses a figure of \$37.66 an hour for general  
8 laborers. Are those the wages that you expect  
9 workers to be paid on this project?

10 A We did not provide those inputs to Dr. Banaian. He  
11 used that using publicly available data.

12 Q Okay. But are those the wages that you expect to be  
13 paid on this project?

14 A Using the publicly available data that Dr. Banaian  
15 had, we expect that to be consistent, yes.

16 Q The Company expects that these are the wages to be  
17 paid on this project, give or take?

18 A We provided, again, the inputs for the number of  
19 jobs to Dr. Banaian.

20 Q Right.

21 A In terms of the, you know, assumptions for the wages  
22 that would be paid, those were inputs that  
23 Dr. Banaian -- he did not take inputs from the  
24 Company on that.

25 Q Okay. And did you review Dr. Franco's surrebuttal

1 testimony responding to that?

2 A I did.

3 Q And you read in his surrebuttal testimony,  
4 Dr. Franco pointed out that those are not the  
5 correct prevailing wage rates that the project would  
6 be required to pay under Minnesota law?

7 A I did see that in Dr. Franco's testimony.

8 Q So then we agree that those aren't actually the  
9 right wage rates that Dr. Banaian used?

10 A I saw the rebuttal testimony from Dr. Franco  
11 clarifying the -- the wage rates that he would  
12 expect to be paid on this project. Again,  
13 Dr. Banaian was not using a project specific wage  
14 rate. He was using publicly available data.

15 Q Right. I just want to confirm that the wage rates  
16 that he's using are not the ones that will actually  
17 be paid on this project unless the Company intends  
18 to pay people wages below the legally required wage.

19 A We intend to pay the legally required wage.

20 Q Okay. Can I ask, in terms of how Dr. Banaian  
21 estimates the value of the health and retirement  
22 benefits, what goes into that? Is there a  
23 multiplier? Like what's the methodology?

24 A I'm -- I'm not sure there's a methodology that  
25 Dr. Banaian used for that. Again, we provided the

1       number of jobs for him, and he used publicly  
2       available data and his own assumptions for the other  
3       factors.

4   Q   Right, but we don't know what data or what  
5       assumptions?

6   A   I would -- I would have to confirm with Dr. Banaian.

7   Q   Okay. And you would agree that health and  
8       retirement benefits tend to vary greatly from one  
9       job to another; right? Can vary greatly?

10  A   I -- I don't know. I'm not --

11  Q   Okay. And would you agree that generally union  
12       construction jobs are understood to provide better,  
13       more generous benefits than, say, nonunion  
14       construction or other blue collar jobs?

15  A   I -- I mean, I -- I don't know affirmatively one way  
16       or the other.

17  Q   How does Dr. Banaian's estimate count for overtime?

18  A   We did not account for overtime in our --

19  Q   Is it common for construction workers to work  
20       overtime on large utility projects like Benton  
21       Solar?

22  A   I think it varies project by project.

23  Q   Do you -- do you think there's any project that  
24       NextEra builds that don't involve any overtime?

25  A   I have not looked at the, I guess, hours worked on

1 every single project, whether or not that accounts  
2 for overtime. So I can't definitively say one way  
3 or the other.

4 Q Okay. So the -- but if there were overtime, then  
5 those amounts would be higher; right? Say if you're  
6 assuming straight time and overtime is time and a  
7 half, then if there's overtime, those wage amounts  
8 would actually be higher; is that correct?

9 A Correct.

10 Q All right. And if the benefit amounts are higher  
11 than whatever average that Dr. Banaian used, then  
12 the economic benefit would be higher; correct?

13 A Correct.

14 Q All right. And then obviously if the wage rates,  
15 the actual wage rates that are required to be paid  
16 are higher, then the total labor income is going to  
17 be higher than what Dr. Banaian projects; is that  
18 correct?

19 A That would be correct.

20 Q So we would agree that there's probably actually  
21 greater economic benefits to the project in terms of  
22 labor income than are represented in Dr. Banaian's  
23 analysis?

24 A Based on the information you provided me, yeah, I  
25 would -- I would agree.

1 Q Okay. So -- and then because the labor income is  
2 based on the number of jobs and the hourly rate, if  
3 the project were -- let's say that instead of 60  
4 percent local workforce, it actually achieved 85  
5 percent local workforce, then the labor income would  
6 increase, is that correct, under the model?

7 A Correct. Yep. Under the model that Dr. Banaian  
8 used.

9 Q And if we go the other direction, let's say instead  
10 of 60 percent local workforce, it's only 30 percent,  
11 then that cuts the labor income in half; isn't that  
12 correct?

13 A That would be -- Not directly in half. I don't --  
14 I don't think it's a direct corollary because --

15 Q Well, I think we just went through, it's the number  
16 of jobs times hours times pay?

17 A Specific to local labor, yes. That's correct.

18 Q Okay. That's what I'm saying, in that report is  
19 that local --

20 A I understand, yep.

21 Q -- benefit; right? And so obviously if we cut it in  
22 half again to 15 percent, then 75 percent of that  
23 labor income is lost according to Dr. Banaian's  
24 model; is that correct?

25 A Correct.

1 Q All right. So on a project like Benton II wind  
2 project where we were in the 20 some percent, about  
3 half of that potential value is lost compared to a  
4 60 percent local project? That's correct?

5 A We didn't -- we didn't do any distinct economic  
6 impact study for the Benton II -- or the Lake Benton  
7 II wind project, if that's the one you're referring  
8 to. So, I mean, I can't say definitively if that  
9 was the case for Lake Benton II. I do know that was  
10 the percentage for the local labor that you  
11 mentioned.

12 Q Right. But that's how the model worked, is the  
13 number of jobs --

14 A Per the model that Dr. Banaian was using, yes.

15 Q And the less local jobs, the less money; right?  
16 Proportionally?

17 A Correct.

18 Q So I want to go to the project labor agreement you  
19 mentioned with Blattner. I think that was in your  
20 surrebuttal testimony; is that correct?

21 A Correct. Yep.

22 Q And so who are the parties, in your understanding,  
23 to that project labor agreement?

24 A My understanding is the parties are Blattner Energy  
25 and LIUNA as one of the signatories. We have other

1 local labor halls on there as well.

2 Q And NextEra is not a party to that agreement and is  
3 not bound to its terms; is that correct?

4 A NextEra is not a party to that agreement, that is  
5 correct.

6 Q And you indicated that Blattner has been selected at  
7 this point as the EPC contractor; is that correct?

8 A That is correct.

9 Q Can you imagine any circumstance in which NextEra  
10 would end up selecting another contractor to build  
11 the project?

12 A No.

13 Q You can't imagine any circumstance?

14 A We -- we -- at this point we have a signed EPC  
15 agreement with Blattner Energy to perform the work  
16 for the Benton solar project. So as that contract  
17 stands, they are performing the work for the Benton  
18 solar project.

19 Q As that contract stands. Are you aware of any  
20 instance in which NextEra changed its plan from one  
21 contractor to another?

22 A I'm not aware of any.

23 Q You're not aware of any of the Company's projects  
24 that it has ever changed contractors?

25 A Not to my knowledge, no.

1 Q All right. How many projects would your knowledge  
2 comprise?

3 A I work on five projects in -- in Minnesota, but --

4 Q Okay. So based on those five projects, the  
5 contractors didn't change?

6 A (No response.)

7 Q And then if -- if for some reason the -- Blattner  
8 were, say, to be unable to perform the project,  
9 NextEra said, for whatever reason, they ended up not  
10 using Blattner, you would agree that that project  
11 labor agreement wouldn't really have any effect if  
12 Blattner were not building the project; is that  
13 correct?

14 A We would have -- if we were to ever select a  
15 separate or a different EPC for this project, we  
16 filed a commitment letter onto the docket stating  
17 that we will select a general contractor who will  
18 enter into a project labor agreement. So regardless  
19 of who the engineering and procurement contractor is  
20 for Benton Solar, our expectation is they will enter  
21 into a project labor agreement.

22 Q All right. Is that commitment letter a binding  
23 legal contract with someone?

24 MR. MARK JOHNSON: I'm just going  
25 to --

1 MR. KEVIN PRANIS: Sorry.

2 MR. MARK JOHNSON: Yeah. Just object  
3 to the extent that the questions are asking him to  
4 draw legal conclusions or interpret contractual  
5 language or commitments; you know, that he not be  
6 required to enter into that area.

7 MR. KEVIN PRANIS: Withdrawn.

8 BY MR. PRANIS:

9 Q So I want to talk a little bit about NextEra's past  
10 performance, and I want to talk specifically about  
11 North Dakota for a little bit, construction labor.

12 Would you say it's fair to say that  
13 based on the data that we now have in front of us,  
14 that the Company's performance in terms of local  
15 construction workforce and -- the local construction  
16 workforce has not been great?

17 A I think it's fair to say there's a very different  
18 labor market in North Dakota and Minnesota, and our  
19 contracting is -- is different in both states  
20 because of those different markets.

21 Q Okay. So in your testimony you cite two specific  
22 reasons for those differences. The first reason you  
23 cite is differences between labor markets, and we'll  
24 get to what that means, including, and I quote,  
25 significant mining and coal plant employment

1 opportunities in North Dakota; correct?

2 A Correct.

3 Q Is it your view that North Dakota's coal economy is  
4 booming and crowding out other industries?

5 A That is not my view in the testimony. I have not  
6 made that statement.

7 Q Okay. Well, maybe you could characterize in what  
8 way the existence of mining and coal plant jobs  
9 prevents NextEra and its contractors from being able  
10 to recruit more local workers?

11 A That is -- I wouldn't say that is necessarily the  
12 case. Again, they are different labor markets, so  
13 our contracting comes through our general  
14 contractors for these projects. There are a  
15 different -- a different labor market in the State  
16 of Minnesota versus the State of North Dakota for  
17 contracting labor for every renewable energy  
18 project.

19 Our general contractor is the one who  
20 does the subcontracting for these projects. We --  
21 you know, we hire a general contractor to then  
22 contract labor for each individual project. So the  
23 way that a general contractor acts in either state  
24 is entirely different so.

25 Q But help me out here, because first you said the

1 labor markets are different. I'd like to get into  
2 that. But then you just said how the contractor  
3 acts is different.

4 So I want to be clear. Are you  
5 saying the labor markets are different or how the  
6 contractor acts is different or don't you know?

7 MR. MARK JOHNSON: Mr. Pranis, one  
8 quick clarification. Could you point us to where in  
9 the testimony you were --

10 MR. KEVIN PRANIS: Yes. My apologies.  
11 So we are on Page No. -- I don't see a page number.  
12 We are on my pdf Page 10, but I don't see a page  
13 number here in Mr. Gracia's rebuttal testimony.

14 The question that begins --  
15 Mr. Cortina's direct testimony starts at the end of  
16 my Page 9 and goes onto Page 10.

17 MR. MARK JOHNSON: That is LIUNA 4.

18 MR. KEVIN PRANIS: LIUNA 4.

19 JUDGE MCKENZIE: Can we just pause for  
20 a second and deal with whatever that beeping is?

21 (Discussion held off the record from  
22 9:32 a.m. to 9:32 a.m.)

23 JUDGE MCKENZIE: So we are on the  
24 rebuttal testimony. You indicated, Mr. Pranis, at  
25 the bottom of Page 9, Mr. Cortina's direct

1 testimony. That was what you were referring to?

2 MR. KEVIN PRANIS: It begins at the  
3 bottom of Page 9 and the answers are on Page 10 or  
4 at least -- Again, this is Page 10 of my pdf. I  
5 don't see --

6 JUDGE MCKENZIE: Yeah, I don't have  
7 page numbers either, but it's towards the end of  
8 the -- before the schedule.

9 MR. KEVIN PRANIS: Right. Yes.

10 THE WITNESS: Yes.

11 JUDGE MCKENZIE: So we're all on the  
12 same page.

13 MR. MARK JOHNSON: You are correct.  
14 The second to the last page, and I think what you're  
15 referring to, Mr. Pranis, is we're on like Line 6.

16 MR. KEVIN PRANIS: Yes. Exactly. So  
17 specifically the market states including as noted by  
18 Mr. Cortina as significant mining and coal plant  
19 employment opportunities in North Dakota.

20 BY MR. PRANIS:

21 Q So on that question -- so we're back to my question.  
22 The -- You had mentioned differences in labor  
23 markets, which I want to get into, but then you said  
24 differences in how the contractor behaves.

25 A To -- to clarify, I -- so when we are bidding these

1 projects or taking bids from general contractors  
2 in North Dakota and in, you know, the states that we  
3 operate in, is a competitive bidding process and a  
4 competitive market to build these projects.

5 If we don't have a competitive, you  
6 know, bidding process or EPC, that impacts the  
7 overall price of the project and our ability to  
8 competitively bid that to off-takers to ultimately  
9 construct the project.

10 The way our general contractors will  
11 bid into our projects is different in North Dakota  
12 versus in Minnesota.

13 Q Help me. In what way is it different? You're  
14 saying that contractors that hire local workers  
15 won't bid your projects in North Dakota?

16 A No. What I'm saying is, in Minnesota, there's a  
17 requirement to pay prevailing wage for energy  
18 projects, such as Benton Solar. There is no  
19 statutory requirement for that in North Dakota.  
20 And our -- and that impacts the competitive bidding  
21 process for our general contractors for these  
22 projects.

23 Q So would that be because the contractors are paying  
24 much lower wages in North Dakota that they don't  
25 have to pay higher wages and therefore you can't get

1 local workers to work?

2 MR. MARK JOHNSON: I'm just going to  
3 object to the vagueness in terms of much lower wages  
4 and higher wages, what those terms mean.

5 MR. KEVIN PRANIS: Your Honor, I'm  
6 just trying to -- I'm just trying to understand what  
7 the mechanism is, so we can rephrase the question if  
8 that's helpful. But the witness is trying to  
9 explain why there's such different outcomes, and I'm  
10 still trying to understand what specifically is  
11 contributing to those.

12 JUDGE MCKENZIE: I'm going to overrule  
13 the objection, and to the extent the witness can  
14 answer it, he can offer an answer.

15 A So, again, with the -- there's a regulatory  
16 framework in place in the state of Minnesota  
17 requiring the use of prevailing wage for these  
18 energy projects. That is reflected in the  
19 engineering and procurement contract bids that we  
20 get for projects in the state of Minnesota. That  
21 requirement is not in place in North Dakota, and  
22 that is often reflected in the bids that we receive  
23 for contractors in North Dakota.

24 Q To be clear, you agree that NextEra could require  
25 payment of prevailing wage for any contractor

1       whether it's a legal requirement or not? Is that  
2       fair?

3       A    I don't think that's -- We could require that.  
4       However, that also impacts the overall project  
5       costs, which then leads to our ability to secure an  
6       off-taker for these projects and ultimately  
7       construct them. So it's not quite as simple as  
8       making that a requirement.

9       Q    Can you explain why not requiring payment of  
10      prevailing wages in North Dakota results in very,  
11      very few local workers on the project?

12      A    I think in -- in Dr. Franco's testimony, he -- he  
13      even called out that there are -- oftentimes there's  
14      a correlation between local labor and union labor,  
15      but, again, with the way that the EPC bids, the  
16      bidding process in North Dakota, right, a  
17      competitive bid may not include prevailing wage,  
18      which will have an impact on the local labor that's  
19      available to that general contractor when they're  
20      constructing the project.

21      Q    Did NextEra consider nonunion bids for construction  
22      for Benton Solar?

23      A    We made a requirement that our -- we made a  
24      commitment in the docket that our engineering and  
25      procurement contractor would enter into a project

1 labor agreement as indicated in the letter that we  
2 filed earlier this year.

3 Q Right. So, again, it's fully within the power of  
4 NextEra to set its expectations for contractors in  
5 terms of their pay, their labor relations, or the  
6 degree to which they make an effort to recruit local  
7 workforce; is that correct?

8 MR. MARK JOHNSON: I'm just going to  
9 object. This is asked and answered. I think we've  
10 gone over this multiple times and he's explained  
11 they operate in two different markets.

12 JUDGE MCKENZIE: I'm going to sustain  
13 that.

14 MR. KEVIN PRANIS: That's fine.

15 BY MR. PRANIS:

16 Q We can talk about coal plant employment as a factor.  
17 You, again, indicated that was a factor. You  
18 reviewed Mr. Cortina's testimony in which he  
19 specifically says that the loss of jobs in the coal  
20 industry is one of the reasons that our members are  
21 so eager to have opportunities to work on wind  
22 projects; is that correct?

23 A That is correct, in Mr. Cortina's testimony.

24 Q All right. And you don't have any evidence to  
25 refute that, do you?

1     A     Can you make the statement again?  I don't have it  
2           right in front of me to review.

3     Q     Sure.

4                     MR. MARK JOHNSON:  And sorry.  Could  
5           we also put Mr. Cortina's testimony in front of him?

6                     MR. KEVIN PRANIS:  Sorry.  My  
7           apologies.

8                     MR. MARK JOHNSON:  Because he is  
9           referring to that testimony in regards to the  
10          statement.

11                    MR. KEVIN PRANIS:  Yes.  It's in the  
12          surrebuttal testimony of Mr. Cortina.  We can use  
13          the public version that's Exhibit 14.

14                    MR. MARK JOHNSON:  The --  Just to  
15          clarify, the -- the cite that's in Mr. Gracia's  
16          rebuttal on Line 8 is the Cortina corrected cite  
17          that mentioned the significant mining and coal plant  
18          employment opportunities in North Dakota.

19                    MR. KEVIN PRANIS:  Right.  I was  
20          referring Mr. Gracia to Mr. Cortina's surrebuttal  
21          testimony in response to Mr. Gracia's testimony.

22                    JUDGE MCKENZIE:  And what page,  
23          Mr. Pranis?  I'm sorry.

24                    MR. KEVIN PRANIS:  We would be on  
25          Page 3.  If we go to -- for example, on Line 15,

1 Mr. Cortina states in fact, it was the exact  
2 opposite from the testimony from the union members  
3 who work in coal plants that the wind job  
4 opportunities are needed because the opportunities  
5 in coal have been disappearing.

6 BY MR. PRANIS:

7 Q So if I can rephrase my question --

8 A Yes.

9 Q -- it would be, do you have any reason or evidence  
10 to dispute Mr. Cortina's characterization of the  
11 reality of coal employment in North Dakota?

12 A I do not.

13 Q So I want to talk about the -- the labor market, so  
14 the labor market conditions. We talked about coal.  
15 You mentioned the prevailing wage condition, and  
16 then you also talked about regulatory barriers, but  
17 I -- and we -- so the regulatory barriers.

18 You're not suggesting that North  
19 Dakota has some different or higher standards that  
20 they require to work on a project to be operating  
21 engineer, etc., that prevent local workers from  
22 being able to do that work in North Dakota; is that  
23 correct?

24 A Correct. I'm referring to the requirement to -- to  
25 pay prevailing wage for energy projects in Minnesota

1       versus North Dakota.

2       Q     Right.  So that wouldn't really be a regulatory  
3       barrier to the Company choosing to prioritize local  
4       workforce?

5       A     It is not.

6       Q     But instead it would be a regulatory requirement  
7       that might support local use of workforce in  
8       Minnesota; is that correct?

9       A     Correct.  It is not a barrier, but, again, it  
10      influences the bidding process for the general  
11      contractors that we select for these projects and,  
12      again, the ultimate ability for us to construct  
13      these projects by securing an off-take agreement.

14      Q     Okay.  How does it affect your ability to secure an  
15      off-take agreement?

16      A     Because our -- the bidding -- or the price of labor  
17      from our general contractors impacts the overall  
18      price of the project, which impacts the overall  
19      purchase price of the energy for each project.  So  
20      there's --

21      Q     By paying lower wages to workers, you could get a  
22      less cost of the project, and then you could be more  
23      competitive in bidding.  Is that the argument?

24      A     No.  The argument is that in the state of North  
25      Dakota, they -- there's a -- without that

1 requirement for prevailing wage, engineering and  
2 procurement contractors who are bidding to build our  
3 projects, coming in, they provide a competitive bid  
4 for these projects, which we allow with our --  
5 which we will select based on our project economics  
6 to be able to construct and ultimately sell the  
7 project. Without being able to sell the project,  
8 we won't build the project -- we can't build the  
9 project in the first place.

10 Q Because you're able to pay lower wages?

11 A The -- again, that's reflected in our -- or that's  
12 a result of the bids that we receive from our  
13 general contractors.

14 Q So -- and I want to confirm that NextEra didn't  
15 perform any other analysis of labor markets,  
16 comparative labor markets, that would look at the  
17 availability of labor at the wages that are paid in  
18 the state of North Dakota versus Minnesota.

19 A Not to my knowledge.

20 Q And you -- There's no evidence in this record that  
21 shows that not paying prevailing wage prevents the  
22 Company from being able to recruit local workers to  
23 work on these projects in North Dakota; is that  
24 correct?

25 A I'm not sure I understand the question.

1 Q So actually can you point me to anything in the  
2 record that explains why -- or I should say rather,  
3 point me to anything in the record that shows that  
4 the lack of prevailing wage results in difficulties  
5 recruiting local workforce in North Dakota.

6 MR. MARK JOHNSON: Your Honor, I'm  
7 just going to object in terms of relevance and  
8 scope. This is a Benton Solar project in Minnesota.  
9 It's not an inquiry into -- you know, or the  
10 difference between North Dakota and Minnesota sites.  
11 I'm just unclear as to relevance to where this is  
12 going.

13 MR. KEVIN PRANIS: So I'm happy to  
14 address this. I think, first of all, obviously the  
15 Commission very specifically thought it was relevant  
16 to look at the Company's labor practices in other  
17 states. That argument was had in front of the  
18 Commission. The Company objected to the scope of  
19 discovery, including projects in other states, but  
20 then the Commission sided with us because they  
21 believe it is relevant.

22 We believe the relevance in this case  
23 is to establish, the question before the Commission,  
24 is whether the project should be approved based on  
25 local socioeconomic impacts and whether the

1 Commission needs to add any conditions or  
2 requirements to the project to ensure that.

3 I'm trying to explore what happens in  
4 a case with NextEra in a case where they are not  
5 actually required to use local workforce and there  
6 aren't binding commitments that can be used to  
7 obtain local workforce. So we're just trying to  
8 understand why it's so different in North Dakota.

9 MR. MARK JOHNSON: And I'd just  
10 respond, we've got a project labor agreement that's  
11 signed. We have a commitment letter in this docket.  
12 North Dakota just has -- has no relevance. We've  
13 produced all the discovery that was requested.

14 I just don't understand the relevance  
15 of continuing to pursue questions about North Dakota  
16 when we have prevailing wage in Minnesota, we're  
17 paying that, and I believe your witnesses said and  
18 testified to the fact that the union requirement is  
19 effectively also local -- it ticks the box on the  
20 local requirement as well. So I don't know that  
21 there's anything further to contest or argue about  
22 Minnesota with respect to our commitment.

23 MR. KEVIN PRANIS: There's no legal --  
24 I don't have a legal witness available who can speak  
25 to the -- you know, what the binding commitments

1 are. I've already established that if Blattner  
2 builds this project, there is an agreement that  
3 protects that. I don't know that for a fact. I  
4 don't know that Blattner will, in fact, build the  
5 project.

6 If something were to happen and  
7 Blattner weren't to build the project after the  
8 permits are already issued, it's important to make  
9 sure that the Commission understands, do we need to  
10 have some other requirement to ensure that that's  
11 what actually happens.

12 JUDGE MCKENZIE: So, Mr. Pranis, I'll  
13 let you pursue the line of questioning. Let's try  
14 to keep it more narrowly tailored to issues in the  
15 North Dakota project that could, in fact, be similar  
16 to -- to Minnesota, if you understand what I'm  
17 saying. Let's just, you know, try and keep it --  
18 But I understand your argument and I'll let you  
19 pursue that line of questioning.

20 MR. KEVIN PRANIS: Thank you, Your  
21 Honor.

22 Let me -- let me jump to sort of like  
23 efforts on recruitment, on recruitment of local  
24 workforce, and I'd like to -- and how the Company  
25 represents projects, and I'd like to provide a

1 couple of documents for the witness. These are  
2 copies and they are cited in our comments that are  
3 already in the record, but I want to provide the  
4 original documents, which are copies of  
5 applications that were submitted for three of the  
6 wind projects in North Dakota.

7 I apologize because I'm somehow short  
8 copies of one of them, but they all say basically  
9 the same thing.

10 THE WITNESS: Thank you.

11 MR. KEVIN PRANIS: So if we can start  
12 with --

13 JUDGE MCKENZIE: And, Mr. Pranis --

14 MR. KEVIN PRANIS: Yes.

15 JUDGE MCKENZIE: -- I don't have a  
16 copy.

17 MR. KEVIN PRANIS: I'm sorry.

18 JUDGE MCKENZIE: Thank you.

19 BY MR. PRANIS:

20 Q Why don't we just, for convenience, if we want to  
21 start with the document that's titled Application  
22 for Northern Divide Wind Energy Center. And do you  
23 recognize that application as the Company's  
24 application to the North Dakota Public Service  
25 Commission for that project?

1 A Yes.

2 Q All right. And flip to the other side. I did not  
3 print the whole application, just the relevant page.

4 The first paragraph, can you read the  
5 first two sentences of the first paragraph?

6 A Approximately 200 to 200 temporary construction  
7 workers are expected to be required for the  
8 approximately six-month construction period. It is  
9 likely that general skilled labor is available  
10 either in the county or the state to serve the basic  
11 infrastructure and site development needs.

12 Q Okay. And if you turn to the Northern Divide -- Or  
13 sorry. If you turn to the Oliver IV Wind Energy  
14 Center application. Do you recognize that  
15 application as well, the application for the Oliver  
16 IV wind project?

17 A Yes.

18 Q And then in the second paragraph, the first  
19 sentence, could you just read that sentence?

20 A It is likely that general skilled labor is available  
21 either in the county or the state to serve the basic  
22 infrastructure and site development needs.

23 MR. KEVIN PRANIS: And I apologize.

24 I didn't make enough copies of the Emmons. I  
25 made -- I have two copies of the Emmons one, which

1       says the same thing.

2       BY MR. PRANIS:

3       Q     So I would just ask -- so in your applications it's  
4             true that the Company represented that they would --  
5             that labor was expected to come from the state, if  
6             not the actual county where it was located, for a  
7             significant portion of the project, the site  
8             development and infrastructure?

9       A     That is correct. I mean, I think significant is not  
10            referenced in here. Any -- you know, any quantity  
11            of local labor. You know, we do -- again, we do  
12            bid out -- subcontracting does come from the general  
13            contractors for these projects, who then go out and  
14            secure the local labor.

15      Q     But if we turn to Mr. Cortina's surrebuttal  
16            testimony -- That's probably the best place to look  
17            for this. I don't want to go --

18                    So I guess the question I would ask  
19            is, given the percentage of local labor that was  
20            actually used on the project -- And we don't need  
21            to go into closed session, I think. I'll just  
22            indicate what was actually used. Is it really true  
23            that the labor for all of the site development and  
24            infrastructure work came from the county or the  
25            state? Is that what happened on either of those

1 projects?

2 MR. MARK JOHNSON: Just an objection  
3 to the extent that it mischaracterizes what the  
4 application says. I think you're saying all of the  
5 labor.

6 MR. KEVIN PRANIS: No. It says all  
7 the infrastructure and site development.

8 MR. MARK JOHNSON: Well, I'll  
9 respectfully disagree that it says all. I'm looking  
10 at Northern Divide. It is likely general skilled  
11 labor is available.

12 MR. KEVIN PRANIS: For basic  
13 infrastructure and site development.

14 MR. MARK JOHNSON: I just -- I just  
15 read it differently. I don't -- I don't agree that  
16 it says all the labor will be sourced locally.

17 JUDGE MCKENZIE: Can you repeat the  
18 question, Mr. Pranis?

19 BY MR. PRANIS:

20 Q The question is, on Oliver Wind, on Northern Divide,  
21 on Emmons-Logan, in any of those projects was it  
22 true that general skilled labor for site  
23 infrastructure and site development construction  
24 came from the county or the state based on the  
25 information that you have available on percentage

1 of local workforce on those projects?

2 A I'm trying to find the -- Do we have the trade  
3 secret data that I can reference just to refresh my  
4 knowledge on that?

5 MR. MARK JOHNSON: We do. I believe  
6 only the Judge has the trade secret data in her  
7 binder.

8 JUDGE MCKENZIE: Which exhibit?

9 THE WITNESS: It should be the  
10 Cortina surrebuttal. I don't have the -- I don't  
11 have the exhibit number.

12 MR. KEVIN PRANIS: It should be in  
13 your packet from us.

14 JUDGE MCKENZIE: I think that there  
15 is a packet from LIUNA on the witness stand.

16 THE WITNESS: I understand.

17 JUDGE MCKENZIE: Maybe you can direct  
18 us, Mr. Pranis.

19 MR. KEVIN PRANIS: It's toward the  
20 end. This will be -- well, it's LIUNA 422, and I  
21 think -- Yes, 422 is our last exhibit.

22 BY MR. PRANIS:

23 Q If you turn to the North Dakota projects on Page 7.  
24 Yep. There on Page 7. And if you look at the  
25 column in the middle, percentage of labor hours by

1       instate workers, you can see those numbers.

2       A    Can you repeat the question?   Sorry.

3       Q    Sure.   So would you say, based on these numbers,  
4       that NextEra's prediction that general skilled labor  
5       would come from the county or the state to serve  
6       basic infrastructure and site development needs was  
7       fulfilled?

8       A    The percentage -- the percentage of labor hours by  
9       instate workers was lower on those projects than in  
10      our, you know, Minnesota projects.   Again, a  
11      function of the general contractor and their  
12      subcontracting.

13      Q    But that's not the question I asked.   The question  
14      I asked was whether the Company's prediction that  
15      the general skilled labor for infrastructure and  
16      site development needs would come from the state of  
17      North Dakota was actually fulfilled based on those  
18      numbers on any of those projects?

19      A    The statement made in the application, as  
20      Mr. Johnson pointed out, does not specify a certain  
21      percentage or a certain, you know, minimum number.  
22      There are -- again, there's a small percentage that  
23      is -- does come from instate there.   So it is not  
24      directly contrary to that statement.

25      Q    What do you think basic infrastructure and site

1 development means?

2 A That does not imply a number of jobs or a number of  
3 workers or --

4 Q I asked -- My question was, what do you think basic  
5 infrastructure and site development means?

6 A General construction work on the project. I don't  
7 have anything --

8 Q General --

9 A -- more specific.

10 Q So clearing? I mean, clearing paths? Is that in  
11 site development?

12 A Yes.

13 Q Storm water controls, site development?

14 A (Shakes head.)

15 Q Right? The spotters for the bulldozers, site  
16 development?

17 A Yes.

18 Q Digging holes for the foundation, is that site  
19 development?

20 A Yes.

21 Q Would you say placement of concrete of the  
22 foundations is part of the general construction?

23 A Yes.

24 Q So erection of the towers, is that part of site  
25 development or general construction or have we

1       crossed over at that point?

2       A    I'm not -- I'm not sure if -- Again, I'm the  
3       Applicant for the Benton Solar project, so the exact  
4       delineation of construction jobs is not what I can  
5       speak to.

6       Q    So that's very distinctive, very substantial. So  
7       we're talking about the operators running  
8       bulldozers, the spotters. We're talking about  
9       people putting together bolt cages, placing the  
10      concrete. That's a whole lot of jobs on a wind  
11      project. Is that fair?

12      A    I -- I can't speak to the exact number of jobs that  
13      encompasses but --

14      Q    Okay. And you -- Do you think it's reasonable that  
15      that could be only five percent of all the jobs to  
16      do all the site work and putting in all the  
17      foundations? Do you think that's only five percent  
18      of the labor on the job?

19      A    I can't speak to that definitively. Again, our  
20      application does not state --

21      Q    Okay.

22      A    -- you know, how much we intend to use. The  
23      statement I read in the applications for  
24      Emmons-Logan and all the other ones.

25      Q    But for a general member of the public, if -- do you

1 think it's reasonable that a general member of the  
2 public, if they heard that statement, they would  
3 think that there might be hundreds of jobs; on a  
4 project that promised 200 or 300 jobs, that there  
5 could be 100 or 150 jobs available to local workers?

6 MR. MARK JOHNSON: Objection. It  
7 calls for speculation. Again, I think this has been  
8 answered -- asked and answered.

9 MR. KEVIN PRANIS: Withdrawn.

10 BY MR. PRANIS:

11 Q So I want to talk about efforts to recruit local  
12 workforce, and -- or actually first I want to talk  
13 about the information on the local workforce.

14 So when we filed our information  
15 request, we were told that the Company, and this is  
16 indicated in the responses, that the Company would  
17 have to request this information from its  
18 contractors because NextEra did not maintain any of  
19 this information within the Company.

20 A Correct.

21 Q And you then undertook to get information  
22 voluntarily from contractors who were not obligated  
23 to provide it but some of whom nonetheless did; is  
24 that correct?

25 A That is correct.

1 Q Okay. So workforce is not something that the  
2 Company has tracked at all internally or was -- or  
3 you had no awareness of what these actual numbers  
4 were until you asked the contractors to provide the  
5 information?

6 MR. MARK JOHNSON: Mr. Pranis, would  
7 you be able to point us to the discovery --

8 MR. KEVIN PRANIS: Yes.

9 MR. MARK JOHNSON: -- response?

10 MR. KEVIN PRANIS: Yes.

11 BY MR. PRANIS:

12 Q So on Page 3 of LIUNA 422, and this is not part of  
13 the trade secret information. The second sentence  
14 on Page 3, third -- second -- no, third sentence:  
15 Because the contractor is responsible for hiring,  
16 NextEra does not collect or maintain information  
17 related to those practices unless it is required for  
18 compliance with local, state, or federal  
19 requirements. So that's correct, that the Company  
20 has not been tracking any of this information prior  
21 to receiving the request from LIUNA?

22 MR. MARK JOHNSON: I'm going to  
23 object. That is a mischaracterization of what you  
24 just read.

25 MR. KEVIN PRANIS: Well, then --

1 MR. MARK JOHNSON: It says unless  
2 required for compliance with local, state or federal  
3 requirements. Minnesota is one of those states  
4 where we are --

5 MR. KEVIN PRANIS: Can I ask that the  
6 witness do the testifying? If my question -- if I  
7 mischaracterized, I mean, the witness is welcome to  
8 answer the question, but counsel is now answering  
9 half the questions.

10 A So as -- as you stated, we do maintain and collect  
11 information for compliance for local, state, and  
12 federal regulations.

13 Q My question was whether the Company -- was  
14 confirming the Company was not collecting  
15 information not required for that compliance.

16 A That information is collected and maintained by the  
17 general contractors.

18 Q And NextEra does -- has not, until requested to do  
19 so by LIUNA, collected any of that information  
20 itself except as required for compliance?

21 A That is correct.

22 Q Okay. And then on efforts to recruit local  
23 workforce, which is -- this would be our 4.1. A  
24 question on a similar set of projects regarding  
25 efforts made to recruit local workforce. And

1       there's an updated -- I think I have a copy. This  
2       is --

3                   MR. KEVIN PRANIS: Did you file the  
4       updated?

5                   MR. MARK JOHNSON: We're going to file  
6       that after the hearing.

7                   MR. KEVIN PRANIS: Okay.

8                   MR. MARK JOHNSON: We just served --  
9       Yeah. If people need copies, I do have copies.

10                  MR. KEVIN PRANIS: I have a copy. And  
11       our -- and ours, 421 is the original. This is what  
12       we were originally provided, and then there's the  
13       updated supplement that was provided to us about 24  
14       hours ago.

15   BY MR. PRANIS:

16   Q   So on the question of efforts made by contractors on  
17       these projects that we're discussing in North  
18       Dakota, is it correct that the NextEra had, prior  
19       to LIUNA's request, no information about what  
20       efforts those contractors might have undertaken to  
21       recruit local workforce?

22                  JUDGE MCKENZIE: Is that in the  
23       binder?

24                  MR. MARK JOHNSON: I have the binder,  
25       Your Honor.

1 MR. KEVIN PRANIS: The original copy  
2 that we were provided is in our -- 421 in ours, and  
3 then I don't know about the Applicants.

4 JUDGE MCKENZIE: This is one of the  
5 new exhibits?

6 MR. MARK JOHNSON: This is the  
7 supplement, 167.

8 JUDGE MCKENZIE: Thank you.

9 A I'm sorry, Mr. Pranis. Can you repeat the question  
10 if there was one for me.

11 Q So the question is, I want to confirm that prior to  
12 LIUNA's request, NextEra did not maintain any  
13 information about efforts made by its contractors  
14 to recruit local workforce for any of the projects  
15 that we've been discussing in North Dakota?

16 A Not to my knowledge.

17 Q And specifically to the wind farm construction,  
18 separate from the electrical, the wind farm EPC, was  
19 the contractor responsible able to provide any  
20 information on any recruitment efforts or any  
21 efforts to obtain local workforce in the first  
22 information request response that was provided to  
23 us?

24 A I'm looking for the specific response that we have  
25 from Blattner so I can -- I don't want to misquote

1 it.

2 Q Sure. Absolutely.

3 A And this is in -- still referring to LIUNA 421?

4 Q Yep.

5 A Okay.

6 Q I think we would be on --

7 A Page 12.

8 Q Page 10, 9 and 10.

9 A Correct. For those projects our engineering and  
10 procurement contractor did not provide the -- did  
11 not provide information for that.

12 Q Correct. So some of these projects -- Emmons-Logan  
13 has been built for quite a few years already; right?

14 A Correct.

15 Q And North Divide has been operating since COVID,  
16 right after COVID, maybe 2021?

17 A I don't -- I don't know the exact date.

18 Q And Oliver has already been built. So over all  
19 this time, NextEra had no information, contractors  
20 had no information. Months after we submit an  
21 information request, the contractor has information.  
22 The contractor was able to provide one piece of  
23 information; is that correct? Maybe we can turn  
24 to -- turn to the new -- the attachment --

25 A That is correct. Blattner hosted a job fair in

1 Bismarck for the Oliver IV wind project.

2 Q So can we turn to your Attachment A, and this is  
3 once again one of the new attachments that the  
4 Company just provided us.

5 A I -- I don't have a copy of that up here as well.

6 MR. MARK JOHNSON: Mr. Pranis, do you  
7 have an extra copy of that?

8 MR. KEVIN PRANIS: I do. I have  
9 copies for everyone.

10 JUDGE MCKENZIE: I have a copy.

11 BY MR. PRANIS:

12 Q Okay. Could you describe the information in  
13 Attachment A?

14 A Yes. This is describing an e-mail chain from  
15 Blattner Energy to participate in the job fair for  
16 Oliver IV.

17 Q All right. So this is an e-mail. And to whom is  
18 this e-mail addressed?

19 A It's to -- the initial e-mail is to Jay -- Jay  
20 Meyer.

21 Q Okay. Who is Jay Meyer?

22 A I -- I am not sure. I've never interacted with  
23 Jay Meyer. This was an e-mail chain provided  
24 outlining Blattner's efforts to secure a job fair  
25 in Bismarck.

1 Q Okay.

2 A I don't want to assume, you know, their role or  
3 anything like that. Or Jay's role.

4 Q Okay. Do we know if Blattner actually attended the  
5 job fair?

6 A I believe they did. I don't have this in the -- I  
7 mean, that's not in Attachment A whether or not they  
8 attended.

9 Q You believe they did, and what's the basis for your  
10 belief?

11 A The -- the indication that they were signing up for  
12 this job fair to attend but --

13 Q So just -- just this e-mail. We don't have -- You  
14 have no other basis to believe that Blattner  
15 attended the job fair; is that correct?

16 A I -- I do not have any other evidence showing that  
17 Blattner attended the job fair.

18 Q What job fair was this?

19 A It is a -- I don't have the specific details of  
20 the -- or the name of the job fair or anything like  
21 that. Again, this is the flier that they provided  
22 to the e-mail and the flier they provided for -- for  
23 a job fair in Bismarck, North Dakota, in relation to  
24 the Oliver IV project.

25 Q So we believe from this that there is a job fair.

1 Do we know when the job fair was?

2 A I do not have that date.

3 Q Okay. And this -- to be clear, this is the -- this  
4 is the one piece of evidence that we have that  
5 suggests that probably Blattner attended one job  
6 fair? Across all of the projects that we've been  
7 discussing in North Dakota, this is the sum total  
8 of information they were able --

9 A Specifically Oliver IV, yes.

10 Q Thank you. Mr. Gracia, are you familiar with the  
11 Energy Community Tax Credit Bonus under the  
12 Inflation Reduction Act?

13 A Yes.

14 Q And can you just briefly summarize the program for  
15 us as you understand it, what it is?

16 A For the -- You said production tax credit? Was  
17 that your question?

18 Q For the Inflation Reduction --

19 A Yes.

20 Q Specifically the Energy Community Tax Credit Bonus.

21 A The Energy Community Tax Credit?

22 Q Yes.

23 A So operating in an energy community near or adjacent  
24 to a retired coal plant or if the average  
25 unemployment is less than the national average, I

1 believe.

2 Q All right. Or isn't it also if there's a high  
3 percentage of people employed in fossil fuel  
4 industries within the local area?

5 A Correct.

6 Q And what does a developer get for that if they  
7 qualify?

8 A If they qualify, it's an additional, up to ten  
9 percent, on top of the production tax credit on  
10 investment tax credit.

11 Q Is it your understanding that Benton Solar is  
12 potentially eligible for a Energy Community Tax  
13 Credit?

14 A Yes.

15 Q And you'd agree that the purpose of that is to  
16 encourage economic development, creation of  
17 high-quality jobs for local residents of those areas  
18 or affected communities? Let me withdraw that  
19 question.

20 Let me ask, what is your  
21 understanding of the purpose of awarding an extra  
22 bonus to projects that invest in these energy  
23 communities that have historic high fossil fuel  
24 employment?

25 A I'm aware of the tax credit. I can't speak to the

1 motivation or incentive behind adding that tax  
2 credit.

3 Q Okay. Do you know if Oliver IV was eligible for the  
4 Energy Community Tax Credit Bonus?

5 A I do not know.

6 Q Moving on. So I want to talk about the --  
7 concerning Oliver IV. You've reviewed Mr. Cortina's  
8 testimony about the meeting with NextEra immediately  
9 prior to the hearing for Oliver IV; correct?

10 A Correct.

11 Q All right. And you're aware that Mr. Cortina was a  
12 direct witness and participant to that meeting; is  
13 that correct?

14 A Correct.

15 Q Okay. And your testimony indicates that you have a  
16 different interpretation of what was said at the  
17 meeting with Mr. Cortina; is that correct?

18 A Yes. I have -- I have colleagues who were -- who  
19 attended that meeting, spoken to them numerous  
20 times, and, yes, we do not agree with Mr. Cortina's  
21 characterization of the commitments made at that  
22 meeting.

23 Q Were any of those colleagues made available as  
24 witnesses for this proceeding?

25 A No. I'm here as the Applicant for Benton Solar and

1 the developer for the Benton Solar project.

2 Q Any idea why the Company didn't provide an actual  
3 witness to the meeting to testify about what they  
4 say happened at the meeting under oath?

5 MR. MARK JOHNSON: Objection to the  
6 extent this requires the witness to wade into  
7 attorney-client privilege, attorney work product.

8 JUDGE MCKENZIE: Don't -- If you can  
9 only answer the question by revealing conversations  
10 that you've had with your attorney, we don't want  
11 you to reveal protected attorney-client information.  
12 So don't -- Answer the question to the extent and  
13 the best you can without -- and if you need to  
14 refer -- you know, if your understanding is colored  
15 by that, then just let us know but --

16 A Can you repeat the question with that in mind?

17 Q Sure. Just asking why someone who is a direct  
18 witness to the meeting wasn't made available to  
19 provide testimony to speak to their interpretation  
20 of the meeting?

21 A Again, I'm -- I'm the Applicant for -- or  
22 representing Benton Solar, who is the Applicant for  
23 this project, and have educated myself by speaking  
24 with my colleagues who were present at that meeting,  
25 and that's why I'm the witness for this proceeding.

1 Q Which colleagues were present at the meeting did you  
2 speak to about the meeting?

3 A Mr. Clay Cameron, Mr. Charlie Gauger, and Ms. Tracy  
4 Davis.

5 Q Okay. So did they all have the same recount of the  
6 meeting?

7 A They did.

8 Q And what specifically did they say?

9 A So their recount was they met prior to the night of  
10 the hearing and the -- with yourself and  
11 Mr. Cortina. I think -- believe there was another  
12 representative, I'm not entirely certain, on LIUNA's  
13 side, and the conversation was about, you know,  
14 ways to try to get LIUNA workers involved in  
15 Oliver IV. The commitment -- Our understanding of  
16 the conversation was very short about that  
17 particular topic, and the commitment that Oliver IV  
18 Wind was to contact the engineering and procurement  
19 contractor who had already been selected for the  
20 project to try to carve out some scope for Oliver  
21 Wind IV on the wind project as well as the  
22 substation construction.

23 Q Okay. So I want to -- Let's see.

24 JUDGE MCKENZIE: Mr. Pranis, our court  
25 reporter is going to need a break in probably 10 to

1 15 minutes, so just keep that in mind as you --

2 MR. KEVIN PRANIS: I'd be happy taking  
3 it now because then I can get better organized.

4 JUDGE MCKENZIE: Yes, that's fine.

5 MR. KEVIN PRANIS: I'm getting close  
6 to wrapping up, I think.

7 JUDGE MCKENZIE: Okay. Well, why  
8 don't we take a 15-minute break and give everyone a  
9 chance to use the restroom and give the court  
10 reporter a break.

11 (Recess taken from 10:17 a.m. to  
12 10:32 a.m.)

13 JUDGE MCKENZIE: I think we are all  
14 back, so Mr. Pranis.

15 MR. KEVIN PRANIS: Yes. I do not have  
16 much left.

17 BY MR. PRANIS:

18 Q So if Mr. Gracia could turn to Cortina direct with  
19 line numbers. It's Page 412. On 412, Page 7,  
20 Lines 4 to 9.

21 A Say that page again. Seven?

22 Q Seven, yes. Lines 4 to 9. Here Mr. Cortina is  
23 providing our estimates based on license plate  
24 counts of -- for the three wind projects in  
25 North Dakota, and without revealing specific trade

1       secret information, would you generally agree that  
2       LIUNA's estimates are fairly close to actual  
3       results?

4     A    Yes, consistent with our discovery -- the data from  
5       the discovery request.

6     Q    And do you have any reason to dispute Mr. Cortina's  
7       claim that based on his license plate counts, it  
8       looks like NextEra created almost ten times more  
9       construction jobs for Texas workers than North  
10      Dakota workers across the project?

11    A    I -- I can't state that affirmatively. He gives a  
12      percentage of license plates from North Dakota and  
13      then says the rest were all over the country and  
14      the majority were from Texas. So the value of ten  
15      times, I can't -- I can't speak to that or -- or  
16      affirm.

17    Q    I'm not asking you to affirm it. I'm asking whether  
18      you have any evidence or reason to dispute it?

19    A    Not based on the information provided in our  
20      discovery request. Again, we're looking  
21      specifically at local, not at other states so.

22    Q    Yep. And then -- so I think you got this, but I  
23      want to confirm that you agree with Dr. Franco's  
24      analysis that use of union labor in the data that  
25      we have available in this docket is associated with

1 a significantly higher level of local workforce  
2 participation than use of nonunion labor on the  
3 project?

4 A In general, yes.

5 MR. KEVIN PRANIS: Okay. I think  
6 that's all I have. Thank you very much.

7 JUDGE MCKENZIE: Mr. Johnson,  
8 redirect?

9 MR. MARK JOHNSON: Yeah, Your Honor.  
10 Thank you. Just, I think, briefly. I just had two  
11 questions.

12 REDIRECT EXAMINATION

13 BY MR. JOHNSON:

14 Q There was a part of Mr. Pranis's cross-examination,  
15 I think you were talking about Cortina direct  
16 testimony and surrebuttal testimony. It was on the  
17 issue of coal jobs and -- and perhaps local labor to  
18 the extent, I guess, to which local labor was  
19 occupied with -- with coal work.

20 And so I just wanted to ask you about  
21 that reference in your rebuttal testimony that  
22 relied on Cortina's direct testimony. If you can  
23 just illuminate further what you meant by that.

24 A Yes. So I was specifically referring to  
25 Mr. Cortina's direct testimony on Page 6 starting

1 on Line 9 where he says a large majority of our  
2 North Dakota members split themselves and their  
3 families by building and maintaining power plants  
4 and pipelines, and -- and we've done that work for  
5 generations. Coal plants in particular need  
6 maintenance year in and year out and they are a main  
7 source of income for hundreds of our members.

8 Q Thank you. And then I think just my last question  
9 was related to the back and forth that you had with  
10 Mr. Pranis about the difference in markets and  
11 regulatory structures between prevailing wage states  
12 like Minnesota and a state like North Dakota that  
13 relies more on market-based labor rates.

14 And I'm just wondering if you could  
15 further expound upon how NextEra can operate in a  
16 state like North Dakota and whether, to  
17 Mr. Pranis's point, NextEra could or unilaterally  
18 impose like a union labor requirement on its  
19 projects there and then feel those projects would  
20 still be built.

21 A I don't think it's fair to say we could unilaterally  
22 impose that requirement across the state of North  
23 Dakota. As you mentioned, it is a competitive labor  
24 market, as we discussed earlier.

25 As we were looking for -- as we are,

1       you know, developing these projects, we need to take  
2       into account whether or not we can ultimately sell  
3       the project to an off-taker. The ability to sell  
4       the project to an off-taker is dependent on the  
5       overall cost to build the project, and the cost of  
6       labor is a significant factor in the overall cost  
7       to build the project.

8                     Our bidding process for off-takers  
9       reflects that and the bidding process that we  
10      undertake for general contractors to perform the  
11      work on our projects reflects that.

12                    I think it's very distinctly  
13      different in Minnesota where there is the prevailing  
14      wage requirement and that it's reflected in the  
15      price for us to build our projects and it's  
16      reflected in the price that our general contractors  
17      bid when they're trying to get work for these  
18      projects.

19    Q   Thank you. And then are any of your off-takers on  
20       renewable projects, I'm just speaking generally, are  
21       they regulated electric utilities sometimes?

22    A   Yes, some of our off-takers are regulated utilities.

23    Q   And then those regulated utilities pass the cost of  
24       the power on to their customers; correct?

25    A   Correct.

1 Q And those rates are regulated by state PUCs and they  
2 review those rates for prudent and reasonableness;  
3 correct?

4 A Correct.

5 MR. MARK JOHNSON: Thank you. I have  
6 nothing further.

7 JUDGE MCKENZIE: Mr. Pranis.

8 MR. KEVIN PRANIS: Yes, Your Honor. A  
9 couple on those last redirect questions.

10 RECROSS-EXAMINATION

11 BY MR. PRANIS:

12 Q Which of your North Dakota projects have regulated  
13 utility off-takers?

14 A I was speaking generally that we do have projects  
15 that are with regulated utilities. I don't know  
16 the specific off-takers for all of our North Dakota  
17 projects.

18 Q Do you know of any North Dakota project that has a  
19 regulated utility off-taker?

20 A I can't speak to, again, the specific ones. I'm  
21 the developer in Minnesota for Benton Solar  
22 projects, so I'm not aware.

23 Q Okay. So I'm just trying to figure out if there  
24 was some basis for that in terms of -- So that  
25 doesn't explain anything in North Dakota if we don't

1 know if any of those projects have regulated utility  
2 off-takers; is that correct?

3 A The question wasn't specific about North Dakota. It  
4 was about operating in states that don't have a  
5 regulatory requirement for prevailing wage.

6 Q Okay. And then in terms of your statement that  
7 NextEra unilaterally imposing a union labor  
8 requirement, can you explain what you mean by  
9 unilaterally?

10 A That was, I think, one of -- from your line of  
11 questioning from earlier saying that -- asking why  
12 we can't have a -- I don't want to mischaracterize  
13 your questions, but, you know, why can't we impose  
14 a union labor -- a union labor requirement on all  
15 of our projects across North Dakota. So that was  
16 in reference to that line of questioning.

17 Q Can NextEra require union labor on a project in  
18 North Dakota if it wishes to?

19 A Yes, but, again, that goes into the conversation  
20 that we had about the ability to secure an off-taker  
21 for projects.

22 Q I understand.

23 A Yep.

24 Q I'm just -- Your statement was that you couldn't  
25 unilaterally impose a requirement, but, in fact, the

1 Company can, it just has concerns about the impact,  
2 the market impact; is that correct?

3 A I said it was not fair to state that we could do  
4 that across the board for all of our projects.  
5 Again, leading into our ability to ultimately sell  
6 the project and build the project.

7 Q Did I state that, for whatever state, that you could  
8 do that across the board for other projects in  
9 North Dakota?

10 A I believe you asked me that question. I would have  
11 to verify, but that's -- that's how I understood  
12 your question to me.

13 Q Okay. So -- And then to the issue about coal, that  
14 coal is a main source of income for hundreds of  
15 members. We've already discussed -- we've already  
16 discussed sort of like the testimony from members.

17 Are you aware that we had members who  
18 worked in coal plants who attended the Oliver IV  
19 hearing in the hope of working on the wind project?

20 A I believe that was referenced in Mr. Cortina's  
21 testimony.

22 Q That was referenced. And how long is the wind  
23 project typically? You know, sort of -- what would  
24 be a typical construction season for a wind project?

25 A Between six to nine months.

1 Q Between six to nine months; all right. Do you know,  
2 any idea how long -- how long a coal plant  
3 turn-around might take?

4 A I do not.

5 MR. KEVIN PRANIS: Okay. That's it.

6 JUDGE MCKENZIE: Mr. Johnson.

7 MR. MARK JOHNSON: Nothing further.

8 Thank you.

9 JUDGE MCKENZIE: Thank you. The  
10 witness is excused.

11 THE WITNESS: Thank you, Your Honor.

12 JUDGE MCKENZIE: Does any party have  
13 witness -- any other witnesses they are calling for  
14 cross today?

15 MR. KEVIN PRANIS: No, Your Honor.

16 MR. MARK JOHNSON: No.

17 JUDGE MCKENZIE: Okay. Then we can  
18 adjourn.

19

20 (Proceedings concluded at 10:43 a.m.)

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1 STATE OF MINNESOTA)

2 COUNTY OF HENNEPIN)

3  
4 I, JACQUELYN YOUNG, Certified Court  
5 Reporter, do hereby certify that the foregoing  
6 transcript consisting of sixty-seven pages is a true and  
7 correct reproduction of my steno notes taken in said  
8 matter.

9 Dated this 11th day of September 2025.

10  
11 \_\_\_\_/s/ Jacquelyn Young\_\_\_\_

12 Jacquelyn Young, Court Reporter  
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	<b>adjacent (1)</b> 53:23	<b>5:6,9</b>	<b>7:23;14:11,14;</b>	<b>belief (1)</b> 52:10
<b>\$</b>	<b>adjourn (1)</b> 66:18	<b>Applicant (5)</b> 10:14;44:3;55:25;	<b>15:14;16:2;28:19;</b>	<b>below (1)</b> 15:18
<b>\$37.66 (1)</b> 14:7	<b>administrative (2)</b> 4:4,12	<b>Applicants (1)</b> 49:3	<b>35:24;38:9,20;40:11,</b>	<b>benefit (4)</b> 12:18;17:10,12;
<b>\$41 (1)</b> 14:4	<b>admission (1)</b> 7:15	<b>Applicant's (1)</b> 11:10	<b>25;45:5;55:23;56:18;</b>	18:21
<b>{</b>	<b>admit (4)</b> 8:1,2,4,5	<b>Application (10)</b> 37:21,23,24;38:3,	<b>59:25</b>	<b>benefits (9)</b> 12:10,19,21,25;
<b>{sic} (1)</b> 10:15	<b>admitting (1)</b> 5:23	14,15,15;40:4;42:19;	<b>average (3)</b> 17:11;53:24,25	13:5;15:22;16:8,13;
<b>A</b>	<b>affect (1)</b> 32:14	44:20	<b>avoid (1)</b> 6:16	17:21
<b>ability (7)</b> 26:7;28:5;32:12,14;	<b>affected (1)</b> 54:18	<b>Applications (4)</b> 4:5;37:5;39:3;	<b>awarding (1)</b> 54:21	<b>Benton (26)</b> 4:5,9;5:3,7,18;7:7;
62:3;64:20;65:5	<b>affirm (2)</b> 59:16,17	44:23	<b>aware (7)</b> 20:19,22,23;54:25;	8:4;9:4;11:12;16:20;
<b>able (10)</b> 23:9;31:22;33:6,7,	<b>affirmatively (2)</b> 16:15;59:11	<b>appreciate (1)</b> 8:14	55:11;63:22;65:17	19:1,6,6,9;20:16,17;
10,22;46:7;49:19;	<b>Again (29)</b> 13:23;14:18;15:12,	<b>approved (1)</b> 34:24	<b>awareness (1)</b> 46:3	21:20;26:18;28:22;
50:22;53:8	25;18:22;23:12;25:4;	<b>Approximately (2)</b> 38:6,8	<b>B</b>	34:8;44:3;54:11;
<b>Absolutely (1)</b> 50:2	27:15;28:15;29:3,17;	<b>area (2)</b> 22:6;54:4	<b>back (4)</b> 12:11;25:21;58:14;	55:25;56:1,22;63:21
<b>according (1)</b> 18:23	30:1;32:9,12;33:11;	<b>areas (1)</b> 54:17	61:9	<b>best (2)</b> 39:16;56:13
<b>account (2)</b> 16:18;62:2	39:11;42:10,22;44:2,	<b>argue (1)</b> 35:21	<b>Banaian (20)</b> 10:19,21,23;13:10,	<b>better (2)</b> 16:12;58:3
<b>accounts (1)</b> 17:1	19:45;7:51:3;52:21;	<b>argument (4)</b> 32:23,24;34:17;	20,24;14:4,10,14,19,	<b>bid (7)</b> 26:8,11,15;28:17;
<b>achieved (1)</b> 18:4	56:21;58:21;59:20;	36:18	23;15:9,13,20,25;	33:3;39:12;62:17
<b>Across (6)</b> 53:6;59:10;61:22;	63:20;64:19;65:5	<b>around (2)</b> 4:17;10:11	16:6;17:11,17;18:7;	<b>bidding (11)</b> 25:25;26:3,6,20;
64:15;65:4,8	<b>ago (1)</b> 48:14	<b>assist (1)</b> 5:12	19:14	28:16;32:10,16,23;
<b>Act (1)</b> 53:12	<b>agree (12)</b> 15:8;16:7,11;17:20,	<b>Associated (2)</b> 4:9;59:25	<b>Banaian's (4)</b> 10:22;16:17;17:22;	33:2;62:8,9
<b>acts (3)</b> 23:23;24:3,6	25;21:10;27:24;	<b>associates (3)</b> 11:5;12:8,17	18:23	<b>bids (6)</b> 26:1;27:19,22;
<b>actual (5)</b> 17:15;39:6;46:3;	40:15;54:15;55:20;	<b>assume (2)</b> 12:19;52:2	<b>Banyon (1)</b> 10:21	28:15,21;33:12
56:2;59:2	59:1,23	<b>assuming (2)</b> 13:21;17:6	<b>barrier (2)</b> 32:3,9	<b>binder (3)</b> 41:7;48:23,24
<b>actually (13)</b> 15:8,16;17:8,20;	<b>agreement (14)</b> 8:21;19:18,23;20:2,	<b>assumptions (4)</b> 13:25;14:21;16:2,5	<b>barriers (2)</b> 31:16,17	<b>binding (3)</b> 21:22;35:6,25
18:4;34:1;35:5;36:11;	4,15;21:11,18,21;	<b>attached (1)</b> 7:3	<b>based (14)</b> 12:23;13:10;17:24;	<b>Bismarck (3)</b> 51:1,25;52:23
39:20,22;42:17;	29:1;32:13,15;35:10;	<b>attachment (5)</b> 10:23;50:24;51:2,	18:2;21:4;22:13;33:5;	<b>bit (4)</b> 7:18;10:11;22:9,11
45:12;52:4	36:2	13:52:7	34:24;40:24;42:3,17;	<b>Blattner (17)</b> 19:19,24;20:6,15;
<b>ADAM (4)</b> 3:3;5:1,2;9:11	<b>allow (1)</b> 33:4	<b>attachments (1)</b> 51:3	58:23;59:7,19	21:7,10,12;36:1,4,7;
<b>A-d-a-m (1)</b> 5:2	<b>almost (1)</b> 59:8	<b>attend (1)</b> 52:12	<b>basic (6)</b> 38:10,21;40:12;	49:25;50:25;51:15;
<b>add (1)</b> 35:1	<b>amount (1)</b> 12:9	<b>attended (7)</b> 52:4,8,15,17;53:5;	42:6,25;43:4	52:4,14,17;53:5
<b>adding (1)</b> 55:1	<b>amounts (4)</b> 12:18;17:5,7,10	55:19;65:18	<b>basically (2)</b> 13:4;37:8	<b>Blattner's (1)</b> 51:24
<b>additional (3)</b> 12:18,24;54:8	<b>a-n-a-i-t (1)</b> 4:21	<b>attorney (3)</b> 5:6;56:7,10	<b>basis (3)</b> 52:9,14;63:24	<b>blue (1)</b> 16:14
<b>add-on (1)</b> 13:5	<b>analysis (4)</b> 10:22;17:23;33:15;	<b>attorney-client (2)</b> 56:7,11	<b>Bass (1)</b> 8:22	<b>board (2)</b> 65:4,8
<b>address (1)</b> 34:14	59:24	<b>availability (1)</b> 33:17	<b>Battery (1)</b> 4:7	<b>bolt (1)</b> 44:9
<b>addressed (1)</b> 51:18	<b>answered (3)</b> 29:9;45:8,8	<b>available (15)</b>	<b>beeping (1)</b> 24:20	<b>Bonus (4)</b> 53:11,20;54:22;
	<b>apologies (2)</b> 24:10;30:7		<b>begins (2)</b> 24:14;25:2	55:4
	<b>apologize (3)</b> 11:15;37:7;38:23		<b>behalf (2)</b> 5:7,9	<b>booming (1)</b> 23:4
	<b>appearances (1)</b> 4:13		<b>behaves (1)</b> 25:24	<b>both (1)</b> 22:19
	<b>appearing (2)</b>		<b>behind (1)</b> 55:1	<b>bottom (2)</b> 24:25;25:3
				<b>bounce (1)</b>

10:10 <b>bound (1)</b> 20:3 <b>box (1)</b> 35:19 <b>break (3)</b> 57:25;58:8,10 <b>brief (1)</b> 9:18 <b>briefly (2)</b> 53:14;60:10 <b>build (11)</b> 20:10;26:4;33:2,8; 8;36:4,7;62:5,7,15; 65:6 <b>building (2)</b> 21:12;61:3 <b>builds (2)</b> 16:24;36:2 <b>built (3)</b> 50:13,18;61:20 <b>bulldozers (2)</b> 43:15;44:8 <b>business (1)</b> 8:19	<b>cetera (1)</b> 13:17 <b>CEZAR (3)</b> 4:18,19,20 <b>C-e-z-a-r (1)</b> 4:20 <b>chain (2)</b> 51:14,23 <b>chance (1)</b> 58:9 <b>change (1)</b> 21:5 <b>changed (2)</b> 20:20,24 <b>characterization (2)</b> 31:10;55:21 <b>characterize (1)</b> 23:7 <b>Charlie (1)</b> 57:3 <b>choosing (1)</b> 32:3 <b>circumstance (2)</b> 20:9,13 <b>cite (4)</b> 22:21,23;30:15,16 <b>cited (1)</b> 37:2 <b>cites (1)</b> 14:4 <b>claim (1)</b> 59:7 <b>clarification (1)</b> 24:8 <b>clarify (4)</b> 10:23;13:24;25:25; 30:15 <b>clarifying (1)</b> 15:11 <b>Clay (1)</b> 57:3 <b>clean (1)</b> 10:12 <b>clear (4)</b> 9:1;24:4;27:24; 53:3 <b>clearing (2)</b> 43:10,10 <b>close (2)</b> 58:5;59:2 <b>closed (1)</b> 39:21 <b>coal (19)</b> 22:25;23:3,8;25:18; 29:16,19;30:17;31:3, 5,11,14;53:24;60:17, 19;61:5;65:13,14,18; 66:2 <b>COLEMAN (2)</b> 4:22,23 <b>C-o-l-e-m-a-n (1)</b> 4:25 <b>collar (1)</b>	16:14 <b>colleague (1)</b> 5:10 <b>colleagues (4)</b> 55:18,23;56:24; 57:1 <b>collect (2)</b> 46:16;47:10 <b>collected (2)</b> 47:16,19 <b>collecting (1)</b> 47:14 <b>colored (1)</b> 56:14 <b>column (1)</b> 41:25 <b>coming (2)</b> 13:17;33:3 <b>comments (1)</b> 37:2 <b>Commission (10)</b> 4:20,23,24;34:15, 18,20,23;35:1;36:9; 37:25 <b>commitment (7)</b> 21:16,22;28:24; 35:11,22;57:15,17 <b>commitments (4)</b> 22:5;35:6,25;55:21 <b>common (2)</b> 10:18;16:19 <b>communities (2)</b> 54:18,23 <b>Community (6)</b> 53:11,20,21,23; 54:12;55:4 <b>Company (18)</b> 14:16,24;15:17; 32:3;33:22;34:18; 36:24;39:4;45:15,16, 19;46:2,19;47:13,14; 51:4;56:2;65:1 <b>Company's (5)</b> 20:23;22:14;34:16; 37:23;42:14 <b>comparative (1)</b> 33:16 <b>compared (1)</b> 19:3 <b>competitive (8)</b> 26:3,4,5,20;28:17; 32:23;33:3;61:23 <b>competitively (1)</b> 26:8 <b>complete (1)</b> 7:20 <b>compliance (5)</b> 46:18;47:2,11,15, 20 <b>comprise (1)</b> 21:2 <b>concerning (1)</b> 55:7	<b>concerns (1)</b> 65:1 <b>concluded (1)</b> 66:20 <b>conclusion (1)</b> 8:9 <b>conclusions (1)</b> 22:4 <b>concrete (2)</b> 43:21;44:10 <b>condition (1)</b> 31:15 <b>conditions (2)</b> 31:14;35:1 <b>confirm (5)</b> 15:15;16:6;33:14; 49:11;59:23 <b>confirmation (2)</b> 13:20,23 <b>confirming (1)</b> 47:14 <b>confusion (1)</b> 6:16 <b>consider (1)</b> 28:21 <b>consistent (2)</b> 14:15;59:4 <b>construct (4)</b> 26:9;28:7;32:12; 33:6 <b>constructing (1)</b> 28:20 <b>construction (20)</b> 12:5,9;16:12,14,19; 22:11,15,15;28:21; 38:6,8;40:23;43:6,22, 25;44:4;49:17;57:22; 59:9;65:24 <b>contact (1)</b> 57:18 <b>contest (1)</b> 35:21 <b>continuing (1)</b> 35:15 <b>contract (5)</b> 20:16,19;21:23; 23:22;27:19 <b>contracting (3)</b> 22:19;23:13,17 <b>contractor (21)</b> 20:7,10,21;21:17, 19;23:19,21,23;24:2, 6;25:24;27:25;28:19, 25;42:11;46:15; 49:19;50:10,21,22; 57:19 <b>contractors (26)</b> 20:24;21:5;23:9,14; 26:1,10,14,21,23; 27:23;29:4;32:11,17; 33:2,13;39:13;45:18, 22;46:4;47:17;48:16, 20;49:13;50:19;	62:10,16 <b>contractual (1)</b> 22:4 <b>contrary (1)</b> 42:24 <b>contributing (1)</b> 27:11 <b>contributions (1)</b> 13:16 <b>controls (1)</b> 43:13 <b>convenience (1)</b> 37:20 <b>conversation (4)</b> 7:13;57:13,16; 64:19 <b>conversations (1)</b> 56:9 <b>copies (10)</b> 6:11;7:8;37:2,4,8; 38:24,25;48:9,9;51:9 <b>copy (10)</b> 6:3;11:15,18;37:16; 48:1,10;49:1;51:5,7, 10 <b>corollary (1)</b> 18:14 <b>corrected (1)</b> 30:16 <b>correction (1)</b> 6:2 <b>corrections (1)</b> 6:23 <b>correlation (1)</b> 28:14 <b>Cortina (12)</b> 10:8;25:18;30:12, 16;31:1;41:10;55:11, 17;57:11;58:18,22; 60:15 <b>Cortina's (14)</b> 24:15,25;29:18,23; 30:5,20;31:10;39:15; 55:7,20;59:6;60:22, 25;65:20 <b>cost (5)</b> 32:22;62:5,5,6,23 <b>costs (1)</b> 28:5 <b>Counsel (3)</b> 4:23;9:14;47:8 <b>count (1)</b> 16:17 <b>country (1)</b> 59:13 <b>counts (2)</b> 58:24;59:7 <b>county (6)</b> 38:10,21;39:6,24; 40:24;42:5 <b>couple (2)</b> 37:1;63:9 <b>course (1)</b>
<b>C</b>				
<b>cages (1)</b> 44:9 <b>called (1)</b> 28:13 <b>calling (2)</b> 8:20;66:13 <b>calls (1)</b> 45:7 <b>came (2)</b> 39:24;40:24 <b>Cameron (1)</b> 57:3 <b>can (43)</b> 7:4;11:7,16;15:20; 16:9;20:9;24:19;27:7, 13,14;28:9;29:16; 30:1,12;31:7;34:1; 35:6,24;37:11;38:4; 40:17;41:3,17;42:1,2; 44:4;47:5;49:9,25; 50:23;51:2;53:14; 56:8,13,16;58:3; 60:22;61:15;62:2; 64:8,17;65:1;66:17 <b>carve (1)</b> 57:20 <b>case (6)</b> 13:8;19:9;23:12; 34:22;35:4,4 <b>Center (2)</b> 37:22;38:14 <b>certain (3)</b> 42:20,21;57:12 <b>certificate (1)</b> 11:13				

<p>9:23 <b>Court (4)</b> 4:11,15;57:24;58:9 <b>COVID (2)</b> 50:15,16 <b>created (1)</b> 59:8 <b>creation (1)</b> 54:16 <b>Credit (10)</b> 53:11,16,20,21; 54:9,10,13,25;55:2,4 <b>cross (7)</b> 8:24;9:2,5,19,20, 22;66:14 <b>crossed (1)</b> 44:1 <b>CROSS-EXAMINATION (2)</b> 10:2;60:14 <b>crowding (1)</b> 23:4 <b>customers (1)</b> 62:24 <b>cut (1)</b> 18:21 <b>cuts (1)</b> 18:11</p>	<p><b>dependent (1)</b> 62:4 <b>describe (1)</b> 51:12 <b>describing (1)</b> 51:14 <b>details (1)</b> 52:19 <b>developer (4)</b> 5:3;54:6;56:1; 63:21 <b>developing (1)</b> 62:1 <b>development (17)</b> 38:11,22;39:8,23; 40:7,13,23;42:6,16; 43:1,5,11,13,16,19, 25;54:16 <b>difference (2)</b> 34:10;61:10 <b>differences (4)</b> 22:22,23;25:22,24 <b>different (22)</b> 12:12;13:18;21:15; 22:17,19,20;23:12,15, 15,24;24:1,3,5,6; 26:11,13;27:9;29:11; 31:19;35:8;55:16; 62:13 <b>differently (1)</b> 40:15 <b>difficulties (1)</b> 34:4 <b>Digging (1)</b> 43:18 <b>direct (12)</b> 6:12;9:23;18:14; 24:15,25;41:17; 55:12;56:17;58:18; 60:15,22,25 <b>directed (1)</b> 13:9 <b>direction (1)</b> 18:9 <b>directly (2)</b> 18:13;42:24 <b>disagree (1)</b> 40:9 <b>disappearing (1)</b> 31:5 <b>disclosed (1)</b> 7:10 <b>discovered (1)</b> 6:3 <b>discovery (6)</b> 34:19;35:13;46:7; 59:4,5,20 <b>discuss (1)</b> 8:19 <b>discussed (4)</b> 9:17;61:24;65:15, 16 <b>discussing (3)</b></p>	<p>48:17;49:15;53:7 <b>Discussion (1)</b> 24:21 <b>dispute (3)</b> 31:10;59:6,18 <b>distinct (1)</b> 19:5 <b>distinctive (1)</b> 44:6 <b>distinctly (1)</b> 62:12 <b>Divide (5)</b> 37:22;38:12;40:10, 20;50:15 <b>Docket (6)</b> 4:10,12;21:16; 28:24;35:11;59:25 <b>document (1)</b> 37:21 <b>documents (4)</b> 7:24;12:3;37:1,4 <b>done (1)</b> 61:4 <b>Dr (31)</b> 10:8,19,21,22,23; 13:10,20,24;14:4,10, 14,19,23,25;15:4,7,9, 10,13,20,25;16:6,17; 17:11,17,22;18:7,23; 19:14;28:12;59:23 <b>draft (1)</b> 12:1 <b>draw (1)</b> 22:4 <b>duly (2)</b> 3:25;9:12</p>	<p>29:6 <b>efforts (10)</b> 36:23;45:11;47:22, 25;48:16,20;49:13,20, 21;51:24 <b>either (5)</b> 23:23;25:7;38:10, 21;39:25 <b>electric (1)</b> 62:21 <b>electrical (1)</b> 49:18 <b>electricians (1)</b> 14:6 <b>eligible (2)</b> 54:12;55:3 <b>e-mail (7)</b> 51:14,17,18,19,23; 52:13,22 <b>Emmons (2)</b> 38:24,25 <b>Emmons-Logan (3)</b> 40:21;44:24;50:12 <b>employed (1)</b> 54:3 <b>employment (6)</b> 22:25;25:19;29:16; 30:18;31:11;54:24 <b>encompasses (1)</b> 44:13 <b>encourage (1)</b> 54:16 <b>end (4)</b> 20:10;24:15;25:7; 41:20 <b>ended (1)</b> 21:9 <b>Energy (19)</b> 4:7;5:6;19:24; 20:15;23:17;26:17; 27:18;31:25;32:19; 37:22;38:13;51:15; 53:11,20,21,23;54:12, 22;55:4 <b>engineer (1)</b> 31:21 <b>engineering (6)</b> 21:19;27:19;28:24; 33:1;50:9;57:18 <b>enough (1)</b> 38:24 <b>ensure (2)</b> 35:2;36:10 <b>enter (4)</b> 21:18,20;22:6; 28:25 <b>entered (1)</b> 3:25 <b>entirely (2)</b> 23:24;57:12 <b>EPC (6)</b> 20:7,14;21:15;26:6; 28:15;49:18</p>	<p><b>equals (1)</b> 13:5 <b>erection (1)</b> 43:24 <b>ESS-24-283 (1)</b> 4:11 <b>establish (1)</b> 34:23 <b>established (1)</b> 36:1 <b>establishing (1)</b> 10:18 <b>estimate (3)</b> 12:25;13:10;16:17 <b>estimates (3)</b> 15:21;58:23;59:2 <b>et (1)</b> 13:17 <b>etc (1)</b> 31:21 <b>even (1)</b> 28:13 <b>everyone (4)</b> 4:3;11:24;51:9; 58:8 <b>evidence (8)</b> 7:5,19;29:24;31:9; 33:20;52:16;53:4; 59:18 <b>exact (4)</b> 31:1;44:3,12;50:17 <b>Exactly (1)</b> 25:16 <b>EXAMINATION (2)</b> 3:1;60:12 <b>example (1)</b> 30:25 <b>except (1)</b> 47:20 <b>excused (2)</b> 8:23;66:10 <b>exhibit (12)</b> 5:16;6:17;8:2,14; 10:15;11:8,11,15; 30:13;41:8,11,21 <b>exhibits (12)</b> 5:16,18,23;7:5,7, 15;8:1,2,3,4,15;49:5 <b>existence (1)</b> 23:8 <b>expect (4)</b> 14:8,12,15;15:12 <b>expectation (1)</b> 21:20 <b>expectations (1)</b> 29:4 <b>expected (4)</b> 12:15,17;38:7;39:5 <b>expects (1)</b> 14:16 <b>explain (4)</b> 27:9;28:9;63:25; 64:8</p>
<p><b>D</b></p>				
<p><b>Dakota (52)</b> 5:10;22:11,18;23:1, 16;25:19;26:2,11,15, 19,24;27:21,23;28:10, 16;30:18;31:11,19, 22;32:1,25;33:18,23; 34:5,10;35:8,12,15; 36:15;37:6,24;41:23; 42:17;48:18;49:15; 52:23;53:7;58:25; 59:10,12;61:2,12,16, 23;63:12,16,18,25; 64:3,15,18;65:9 <b>Dakota's (1)</b> 23:3 <b>data (11)</b> 6:25;14:11,14; 15:14;16:2,4;22:13; 41:3,6;59:4,24 <b>date (2)</b> 50:17;53:2 <b>Davis (1)</b> 57:4 <b>deal (1)</b> 24:20 <b>definition (1)</b> 12:20 <b>definitively (3)</b> 17:2;19:8;44:19 <b>degree (1)</b> 29:6 <b>delineation (1)</b> 44:4</p>				
		<p><b>E</b></p>		
		<p><b>eager (1)</b> 29:21 <b>earlier (3)</b> 29:2;61:24;64:11 <b>economic (6)</b> 10:16;12:5;17:12, 21;19:5;54:16 <b>economics (1)</b> 33:5 <b>economy (1)</b> 23:3 <b>edockets (3)</b> 6:6,9;8:9 <b>educated (1)</b> 56:23 <b>EERA (2)</b> 5:19;8:2 <b>effect (1)</b> 21:11 <b>effectively (1)</b> 35:19 <b>efficient (1)</b> 10:13 <b>effort (1)</b></p>		

<p><b>explained (1)</b> 29:10</p> <p><b>explains (1)</b> 34:2</p> <p><b>explore (1)</b> 35:3</p> <p><b>expound (1)</b> 61:15</p> <p><b>extent (6)</b> 22:3;27:13;40:3; 56:6,12;60:18</p> <p><b>extra (2)</b> 51:7;54:21</p>	<p>52:21,22</p> <p><b>flip (1)</b> 38:2</p> <p><b>folks (1)</b> 9:20</p> <p><b>following (1)</b> 3:24</p> <p><b>follows (1)</b> 9:13</p> <p><b>forth (1)</b> 61:9</p> <p><b>fossil (2)</b> 54:3,23</p> <p><b>foundation (1)</b> 43:18</p> <p><b>foundations (2)</b> 43:22;44:17</p> <p><b>framework (1)</b> 27:16</p> <p><b>Franco (5)</b> 5:11;6:8;10:8;15:4, 10</p> <p><b>Franco's (5)</b> 6:4;14:25;15:7; 28:12;59:23</p> <p><b>front (4)</b> 22:13;30:2,5;34:17</p> <p><b>fuel (2)</b> 54:3,23</p> <p><b>fulfilled (2)</b> 42:7,17</p> <p><b>fully (1)</b> 29:3</p> <p><b>function (3)</b> 12:25;13:16;42:11</p> <p><b>further (5)</b> 35:21;60:23;61:15; 63:6;66:7</p>	<p><b>given (1)</b> 39:19</p> <p><b>gives (1)</b> 59:11</p> <p><b>goes (3)</b> 15:22;24:16;64:19</p> <p><b>Good (7)</b> 4:2,18;5:1,4,8,14; 9:6</p> <p><b>GRACIA (10)</b> 3:3;5:1,2;8:25;9:8, 11;10:4;30:20;53:10; 58:18</p> <p><b>G-r-a-c-i-a (1)</b> 5:2</p> <p><b>Gracia's (3)</b> 24:13;30:15,21</p> <p><b>Great (2)</b> 13:8;22:16</p> <p><b>greater (1)</b> 17:21</p> <p><b>greatly (2)</b> 16:8,9</p> <p><b>GS-23-423 (1)</b> 4:10</p> <p><b>guess (3)</b> 16:25;39:18;60:18</p>	<p>54:2,23</p> <p><b>higher (10)</b> 17:5,8,10,12,16,17; 26:25;27:4;31:19; 60:1</p> <p><b>high-quality (1)</b> 54:17</p> <p><b>High-Voltage (1)</b> 4:8</p> <p><b>hire (2)</b> 23:21;26:14</p> <p><b>hiring (1)</b> 46:15</p> <p><b>historic (1)</b> 54:23</p> <p><b>Hold (1)</b> 11:14</p> <p><b>holes (1)</b> 43:18</p> <p><b>Honor (15)</b> 4:19,22;5:2,5,9;6:2, 22;27:5;34:6;36:21; 48:25;60:9;63:8; 66:11,15</p> <p><b>hope (1)</b> 65:19</p> <p><b>hosted (1)</b> 50:25</p> <p><b>hour (2)</b> 14:5,7</p> <p><b>hourly (3)</b> 12:23;13:4;18:2</p> <p><b>hours (7)</b> 7:18;13:4;16:25; 18:16;41:25;42:8; 48:14</p> <p><b>hundreds (3)</b> 45:3;61:7;65:14</p>	<p><b>imposing (1)</b> 64:7</p> <p><b>inadvertently (2)</b> 6:5,6</p> <p><b>incentive (1)</b> 55:1</p> <p><b>include (4)</b> 5:18;6:12,15;28:17</p> <p><b>includes (1)</b> 12:21</p> <p><b>including (4)</b> 12:10;22:24;25:17; 34:19</p> <p><b>inclusion (3)</b> 7:20,24;8:15</p> <p><b>income (13)</b> 12:10,13,21;13:2,5; 17:16,22;18:1,5,11, 23;61:7;65:14</p> <p><b>incorrectly (1)</b> 6:12</p> <p><b>increase (1)</b> 18:6</p> <p><b>indicate (1)</b> 39:22</p> <p><b>indicated (5)</b> 20:6;24:24;29:1,17; 45:16</p> <p><b>indicates (2)</b> 12:20;55:15</p> <p><b>indication (1)</b> 52:11</p> <p><b>individual (1)</b> 23:22</p> <p><b>industries (2)</b> 23:4;54:4</p> <p><b>industry (1)</b> 29:20</p> <p><b>Inflation (2)</b> 53:12,18</p> <p><b>influences (1)</b> 32:10</p> <p><b>information (31)</b> 7:23;17:24;40:25; 45:13,14,17,19,21; 46:5,13,16,20;47:11, 15,16,19;48:19;49:13, 20,22;50:11,19,20,21, 21,23;51:12;53:8; 56:11;59:1,19</p> <p><b>infrastructure (11)</b> 38:11,22;39:8,24; 40:7,13,23;42:6,15, 25;43:5</p> <p><b>initial (1)</b> 51:19</p> <p><b>input (3)</b> 13:18,20,25</p> <p><b>inputs (6)</b> 12:12;14:3,10,18, 22,23</p> <p><b>inquiry (1)</b> 34:9</p>
<b>F</b>				
<p><b>fact (6)</b> 31:1;35:18;36:3,4, 15;64:25</p> <p><b>factor (3)</b> 29:16,17;62:6</p> <p><b>factors (1)</b> 16:3</p> <p><b>fair (19)</b> 22:12,17;28:2; 44:11;50:25;51:15, 24;52:5,12,15,17,18, 20,23,25;53:1,6; 61:21;65:3</p> <p><b>fairly (1)</b> 59:2</p> <p><b>familiar (1)</b> 53:10</p> <p><b>families (1)</b> 61:3</p> <p><b>farm (2)</b> 49:17,18</p> <p><b>federal (3)</b> 46:18;47:2,12</p> <p><b>feel (1)</b> 61:19</p> <p><b>few (2)</b> 28:11;50:13</p> <p><b>figure (3)</b> 14:4,7;63:23</p> <p><b>file (3)</b> 8:8;48:3,5</p> <p><b>filed (5)</b> 6:5,12;21:16;29:2; 45:14</p> <p><b>filing (1)</b> 8:14</p> <p><b>find (1)</b> 41:2</p> <p><b>fine (3)</b> 9:22;29:14;58:4</p> <p><b>first (11)</b> 9:12;22:22;23:25; 33:9;34:14;38:4,5,5, 18;45:12;49:21</p> <p><b>five (4)</b> 21:3,4;44:15,17</p> <p><b>flier (2)</b></p>	<p><b>G</b></p> <p><b>Gauger (1)</b> 57:3</p> <p><b>GDP (1)</b> 13:16</p> <p><b>General (33)</b> 4:23;7:22;14:7; 21:17;23:13,19,21,23; 26:1,10,21;28:19; 32:10,17;33:13;38:9, 20;39:12;40:10,22; 42:4,11,15;43:6,8,22, 25;44:25;45:1,47:17; 60:4;62:10,16</p> <p><b>generally (4)</b> 16:11;59:1;62:20; 63:14</p> <p><b>Generating (1)</b> 4:6</p> <p><b>generations (1)</b> 61:5</p> <p><b>generous (1)</b> 16:13</p>	<p><b>H</b></p> <p><b>half (6)</b> 17:7;18:11,13,22; 19:3;47:9</p> <p><b>halls (1)</b> 20:1</p> <p><b>happen (1)</b> 36:6</p> <p><b>happened (2)</b> 39:25;56:4</p> <p><b>happens (2)</b> 35:3;36:11</p> <p><b>happy (2)</b> 34:13;58:2</p> <p><b>head (1)</b> 43:14</p> <p><b>health (2)</b> 15:21;16:7</p> <p><b>heard (1)</b> 45:2</p> <p><b>hearing (7)</b> 4:4;7:18;8:10;48:6; 55:9;57:10;65:19</p> <p><b>Hearings (1)</b> 4:12</p> <p><b>held (1)</b> 24:21</p> <p><b>Hello (1)</b> 10:4</p> <p><b>help (2)</b> 23:25;26:13</p> <p><b>helpful (1)</b> 27:8</p> <p><b>high (2)</b></p>	<p><b>I</b></p> <p><b>idea (2)</b> 56:2;66:2</p> <p><b>II (4)</b> 19:1,6,7,9</p> <p><b>illuminate (1)</b> 60:23</p> <p><b>imagine (2)</b> 20:9,13</p> <p><b>immediately (1)</b> 55:8</p> <p><b>impact (5)</b> 12:5;19:6;28:18; 65:1,2</p> <p><b>impacts (6)</b> 26:6,20;28:4;32:17, 18;34:25</p> <p><b>imply (1)</b> 43:2</p> <p><b>important (1)</b> 36:8</p> <p><b>impose (4)</b> 61:18,22;64:13,25</p>	

<b>instance (1)</b> 20:20 <b>instate (3)</b> 42:1,9,23 <b>instead (3)</b> 18:3,9;32:6 <b>intend (2)</b> 15:19;44:22 <b>intended (1)</b> 9:2 <b>intends (1)</b> 15:17 <b>interacted (1)</b> 51:22 <b>internally (1)</b> 46:2 <b>interpret (1)</b> 22:4 <b>interpretation (2)</b> 55:16;56:19 <b>into (15)</b> 7:5;15:22;21:18,21; 22:6;24:1;25:23; 26:11;28:25;34:9; 39:21;56:6;62:2; 64:19;65:5 <b>introduction (1)</b> 9:18 <b>invest (1)</b> 54:22 <b>investment (1)</b> 54:10 <b>involve (1)</b> 16:24 <b>involved (1)</b> 57:14 <b>issue (2)</b> 60:17;65:13 <b>issued (1)</b> 36:8 <b>issues (1)</b> 36:14 <b>IV (13)</b> 38:13,16;51:1,16; 52:24;53:9;55:3,7,9; 57:15,17,21;65:18  <b>J</b>  <b>Jay (4)</b> 51:19,19,21,23 <b>Jay's (1)</b> 52:3 <b>JEAN (2)</b> 4:22,22 <b>J-e-a-n (1)</b> 4:25 <b>job (17)</b> 12:9;16:9;31:3; 44:18;50:25;51:15, 24;52:5,12,15,17,18, 20,23,25;53:1,5 <b>jobs (26)</b>	12:13,23;13:3,8,17; 14:19;16:1,12,14; 18:2,16;19:13,15; 23:8;29:19;43:2;44:4, 10,12,15;45:3,4,5; 54:17;59:9;60:17 <b>Johnson (48)</b> 3:4;5:4,5;6:21,22; 7:11;8:7,11,16;9:2,4, 16,21;21:24;22:2; 24:7,17;25:13;27:2; 29:8;30:4,8,14;34:6; 35:9;40:2,8,14;41:5; 42:20;45:6;46:6,9,22; 47:1;48:5,8,24;49:6; 51:6;56:5;60:7,9,13; 63:5;66:6,7,16 <b>J-o-h-n-s-o-n (1)</b> 5:5 <b>JUDGE (48)</b> 4:2;5:13;6:19;7:9, 14,25;8:8,13,18;9:6, 14,25;10:1;11:7,12, 19,23;24:19,23;25:6, 11;27:12;29:12; 30:22;36:12;37:13, 15,18;40:17;41:6,8, 14,17;48:22;49:4,8; 51:10;56:8;57:24; 58:4,7,13;60:7;63:7; 66:6,9,12,17 <b>jump (1)</b> 36:22  <b>K</b>  <b>keep (3)</b> 36:14,17;58:1 <b>Kevin (53)</b> 3:3,5;5:8,9;6:1; 7:17;10:1,5;11:9,14, 21,25;22:1,7;24:10, 18;25:2,9,16;27:5; 29:14;30:6,11,19,24; 34:13;35:23;36:20; 37:11,14,17;38:23; 40:6,12;41:12,19; 45:9;46:8,10,25;47:5; 48:3,7,10;49:1;51:8; 58:2,5,15;60:5;63:8; 66:5,15 <b>Kilovolt (1)</b> 4:8 <b>knowledge (5)</b> 20:25;21:1;33:19; 41:4;49:16  <b>L</b>  <b>labor (70)</b> 12:9,13,20;13:2,5; 17:16,22;18:1,5,11, 17,23;19:10,18,23; 20:1;21:11,18,21; 22:11,18,23;23:12,15, 17,22;24:1,5;25:22; 28:14,14,18;29:1,5; 31:13,14;32:16; 33:15,16,17;34:16; 35:10;38:9,20;39:5, 11,14,19,23;40:5,11, 16,22;41:25;42:4,8, 15;44:18;59:24;60:2, 17,18;61:13,18,23; 62:6;64:7,14,14,17 <b>laborers (1)</b> 14:8 <b>lack (1)</b> 34:4 <b>Lake (2)</b> 19:6,9 <b>language (1)</b> 22:5 <b>large (2)</b> 16:20;61:1 <b>last (4)</b> 25:14;41:21;61:8; 63:9 <b>law (1)</b> 15:6 <b>leading (1)</b> 65:5 <b>leads (1)</b> 28:5 <b>least (1)</b> 25:4 <b>leave (1)</b> 9:20 <b>left (2)</b> 6:6;58:16 <b>legal (5)</b> 21:23;22:4;28:1; 35:23,24 <b>legally (2)</b> 15:18,19 <b>less (5)</b> 7:18;19:15,15; 32:22;53:25 <b>letter (4)</b> 21:16,22;29:1; 35:11 <b>level (1)</b> 60:1 <b>license (3)</b> 58:23;59:7,12 <b>likely (3)</b> 38:9,20;40:10 <b>Line (13)</b> 4:8;6:13,14,15; 25:15;30:16,25; 36:13,19;58:19;61:1; 64:10,16 <b>Lines (2)</b> 58:20,22 <b>list (7)</b> 6:7,7,17,24;8:2,14; 11:16 <b>listed (1)</b> 8:1 <b>lists (1)</b> 5:16 <b>little (3)</b> 7:17;22:9,11 <b>LIUNA (16)</b> 5:9,20;7:3;8:1;9:5; 10:6;19:25;24:17,18; 41:15,20;46:12,21; 47:19;50:3;57:14 <b>LIUNA's (5)</b> 9:2;48:19;49:12; 57:12;59:2 <b>LLC (1)</b> 4:5 <b>local (51)</b> 13:11;18:4,5,10,17, 19;19:4,10,15;20:1; 22:14,15;23:10; 26:14;27:1;28:11,14, 18;29:6;31:21;32:3,7; 33:22;34:5,25;35:5,7, 19,20;36:23;39:11,14, 19;41:1,45;5,11,13; 46:18;47:2,11,22,25; 48:21;49:14,21;54:4, 17;59:21;60:1,17,18 <b>locally (1)</b> 40:16 <b>located (1)</b> 39:6 <b>long (3)</b> 65:22;66:2,2 <b>look (5)</b> 11:5;33:16;34:16; 39:16;41:24 <b>looked (1)</b> 16:25 <b>looking (10)</b> 11:19,21;12:1,4,6; 13:8;40:9;49:24; 59:20;61:25 <b>looks (1)</b> 59:8 <b>loss (1)</b> 29:19 <b>lost (2)</b> 18:23;19:3 <b>lot (1)</b> 44:10 <b>lower (5)</b> 26:24;27:3;32:21; 33:10;42:9 <b>Lucas (2)</b> 5:11;6:8  <b>M</b>  <b>MacDonald (1)</b> 8:22 <b>main (2)</b>	61:6;65:14 <b>maintain (4)</b> 45:18;46:16;47:10; 49:12 <b>maintained (1)</b> 47:16 <b>maintaining (1)</b> 61:3 <b>maintenance (1)</b> 61:6 <b>majority (2)</b> 59:14;61:1 <b>making (1)</b> 28:8 <b>manner (1)</b> 10:12 <b>many (1)</b> 21:1 <b>Mark (41)</b> 3:4;5:4,5;6:22; 7:11;8:7,11,16;9:4, 21;21:24;22:2;24:7, 17;25:13;27:2;29:8; 30:4,8,14;34:6;35:9; 40:2,8,14;41:5;45:6; 46:6,9,22;47:1;48:5,8, 24;49:6;51:6;56:5; 60:9;63:5;66:7,16 <b>M-a-r-k (1)</b> 5:5 <b>market (8)</b> 22:18;23:15;25:17; 26:4;31:13,14;61:24; 65:2 <b>market-based (1)</b> 61:13 <b>markets (10)</b> 22:20,23;23:12; 24:1,5;25:23;29:11; 33:15,16;61:10 <b>Matter (1)</b> 4:4 <b>may (1)</b> 28:17 <b>maybe (4)</b> 23:7;41:17;50:16, 23 <b>McKENZIE (46)</b> 4:2;5:13;6:19;7:9, 14,25;8:8,13,18;9:6, 14,25;11:7,12,19,23; 24:19,23;25:6,11; 27:12;29:12;30:22; 36:12;37:13,15,18; 40:17;41:8,14,17; 48:22;49:4,8;51:10; 56:8;57:24;58:4,7,13; 60:7;63:7;66:6,9,12, 17 <b>mean (8)</b> 16:15;19:8;27:4; 39:9;43:10;47:7;52:7; 64:8
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<b>means (3)</b> 22:24;43:1,5 <b>meant (1)</b> 60:23 <b>mechanism (1)</b> 27:7 <b>meeting (13)</b> 55:8,12,17,19,22; 56:3,4,18,20,24;57:1, 2,6 <b>member (2)</b> 44:25;45:1 <b>members (7)</b> 29:20;31:2;61:2,7; 65:15,16,17 <b>mentioned (6)</b> 19:11,19;25:22; 30:17;31:15;61:23 <b>met (2)</b> 10:5;57:9 <b>methodology (2)</b> 15:23,24 <b>Meyer (3)</b> 51:20,21,23 <b>middle (1)</b> 41:25 <b>might (4)</b> 32:7;45:3;48:20; 66:3 <b>mind (2)</b> 56:16;58:1 <b>minimum (1)</b> 42:21 <b>mining (4)</b> 22:25;23:8;25:18; 30:17 <b>Minnesota (22)</b> 5:10;15:6;21:3; 22:18;23:16;26:12, 16;27:16,20;31:25; 32:8;33:18;34:8,10; 35:16,22;36:16; 42:10;47:3;61:12; 62:13;63:21 <b>minutes (1)</b> 58:1 <b>mischaracterization (1)</b> 46:23 <b>mischaracterize (1)</b> 64:12 <b>mischaracterized (1)</b> 47:7 <b>mischaracterizes (1)</b> 40:3 <b>misquote (1)</b> 49:25 <b>model (13)</b> 10:16;11:4;12:8,12, 17,23,24;14:1;18:6,7, 24;19:12,14 <b>money (1)</b> 19:15 <b>Months (3)</b>	50:20;65:25;66:1 <b>more (7)</b> 16:13;23:10;32:22; 36:14;43:9;59:8; 61:13 <b>morning (6)</b> 4:2,18;5:1,4,8;6:3 <b>motivation (1)</b> 55:1 <b>move (3)</b> 7:5;8:20;9:19 <b>Moving (1)</b> 55:6 <b>much (6)</b> 5:17;26:24;27:3; 44:22;58:16;60:6 <b>multiple (1)</b> 29:10 <b>multiplier (1)</b> 15:23 <b>myself (1)</b> 56:23	<b>nine (2)</b> 65:25;66:1 <b>nonetheless (1)</b> 45:23 <b>non-numbered (1)</b> 6:16 <b>nonpublic (1)</b> 7:6 <b>nonunion (3)</b> 16:13;28:21;60:2 <b>North (54)</b> 5:10;22:11,18;23:1, 3,16;25:19;26:2,11, 15,19,24;27:21,23; 28:10,16;30:18; 31:11,18,22;32:1,24; 33:18,23;34:5,10; 35:8,12,15;36:15; 37:6,24;41:23;42:17; 48:17;49:15;50:15; 52:23;53:7;58:25; 59:9,12;61:2,12,16, 22;63:12,16,18,25; 64:3,15,18;65:9 <b>Northern (4)</b> 37:22;38:12;40:10, 20 <b>Nos (1)</b> 4:10 <b>noted (1)</b> 25:17 <b>notes (1)</b> 10:11 <b>number (18)</b> 11:5;12:13,23;13:3, 17,22;14:18;16:1; 18:2,15;19:13;24:11, 13;41:11;42:21;43:2, 2;44:12 <b>numbered (1)</b> 6:15 <b>numbers (8)</b> 6:13,14;25:7;42:1, 3,18;46:3;58:19 <b>numerous (1)</b> 55:19 <b>Nunez (1)</b> 8:23	<b>obligated (1)</b> 45:22 <b>obtain (2)</b> 35:7;49:21 <b>Obviously (4)</b> 7:21;17:14;18:21; 34:14 <b>occupied (1)</b> 60:19 <b>off (2)</b> 6:6;24:21 <b>offer (1)</b> 27:14 <b>offered (1)</b> 10:24 <b>off-take (2)</b> 32:13,15 <b>off-taker (5)</b> 28:6;62:3,4;63:19; 64:20 <b>off-takers (7)</b> 26:8;62:8,19,22; 63:13,16;64:2 <b>often (1)</b> 27:22 <b>oftentimes (1)</b> 28:13 <b>old (1)</b> 12:1 <b>Oliver (15)</b> 38:13,15;40:20; 50:18;51:1,16;52:24; 53:9;55:3,7,9;57:15, 17,20;65:18 <b>once (1)</b> 51:3 <b>one (21)</b> 6:2;7:3;16:8,15; 17:2;19:7,25;20:20; 23:19;24:7;29:20; 37:8;38:25;47:3;49:4, 10;50:22;51:3;53:4,5; 64:10 <b>ones (3)</b> 15:16;44:24;63:20 <b>only (7)</b> 6:10;12:19;18:10; 41:6;44:15,17;56:9 <b>onto (2)</b> 21:16;24:16 <b>operate (3)</b> 26:3;29:11;61:15 <b>operating (4)</b> 31:20;50:15;53:23; 64:4 <b>operators (1)</b> 44:7 <b>opportunities (6)</b> 23:1;25:19;29:21; 30:18;31:4,4 <b>opposite (1)</b> 31:2 <b>option (1)</b>	9:23 <b>organized (1)</b> 58:3 <b>organizing (1)</b> 10:12 <b>original (3)</b> 37:4;48:11;49:1 <b>originally (1)</b> 48:12 <b>ours (2)</b> 48:11;49:2 <b>out (11)</b> 6:11;15:4;23:4,25; 28:13;39:12,13; 42:20;57:20;61:6; 63:23 <b>outcomes (1)</b> 27:9 <b>outlining (1)</b> 51:24 <b>output (3)</b> 13:21,22;14:1 <b>over (4)</b> 29:10;44:1;50:18; 59:13 <b>overall (7)</b> 14:1;26:7;28:4; 32:17,18;62:5,6 <b>overrule (1)</b> 27:12 <b>overtime (8)</b> 16:17,18,20,24; 17:2,4,6,7 <b>own (1)</b> 16:2 <b>owns (1)</b> 14:1
	N			P
	<b>name (3)</b> 4:14;10:5;52:20 <b>narrowly (1)</b> 36:14 <b>national (1)</b> 53:25 <b>near (1)</b> 53:23 <b>necessarily (1)</b> 23:11 <b>need (7)</b> 36:9;39:20;48:9; 56:13;57:25;61:5; 62:1 <b>needed (1)</b> 31:4 <b>needs (5)</b> 35:1;38:11,22;42:6, 16 <b>net (1)</b> 12:4 <b>new (6)</b> 7:5,19;8:15;49:5; 50:24;51:3 <b>NextEra (25)</b> 5:6;16:24;20:2,4,9, 20;21:9;23:9;27:24; 28:21;29:4;33:14; 35:4;45:18;46:16; 47:18;48:18;49:12; 50:19;55:8;59:8; 61:15,17;64:7,17 <b>NextEra's (2)</b> 22:9;42:4 <b>nice (1)</b> 10:12 <b>night (1)</b> 57:9	<b>oath (1)</b> 56:4 <b>object (8)</b> 7:19,20,23;22:2; 27:3;29:9;34:7;46:23 <b>objected (1)</b> 34:18 <b>objection (4)</b> 27:13;40:2;45:6; 56:5 <b>objections (4)</b> 5:22;6:1,23;7:15		<b>packet (2)</b> 41:13,15 <b>PAGE (30)</b> 3:1;11:5;12:3;14:5; 24:11,11,12,12,16,16, 25;25:3,3,4,7,12,14; 30:22,25;38:3;41:23, 24;46:12,14;50:7,8; 58:19,19,21;60:25 <b>pages (1)</b> 11:6 <b>paid (8)</b> 14:9,13,17,22; 15:12,17;17:15;33:17 <b>PANAIT (3)</b> 4:18,19,20 <b>paper (4)</b> 6:3,11;11:15,18 <b>paragraph (3)</b> 38:4,5,18 <b>part (4)</b> 43:22,24;46:12; 60:14

<b>participant (1)</b> 55:12	<b>phonetic (1)</b> 10:21	15	26:7,9;28:4,11,20,25; 31:20;32:18,19,22; 33:5,7,7,8,9;34:8,24; 35:2,10;36:2,5,7,15; 37:25;38:16;39:7,20; 43:6;44:3,11;45:4; 51:1;52:24;56:1,23; 57:20,21;59:10;60:3; 62:3,4,5,7;63:18; 64:17;65:6,6,19,23,24	63:1
<b>participate (1)</b> 51:15	<b>piece (2)</b> 50:22;53:4	<b>Pranis's (2)</b> 60:14;61:17		<b>PUC's (1)</b> 8:3
<b>participation (1)</b> 60:2	<b>pipelines (1)</b> 61:4	<b>prediction (2)</b> 42:4,14		<b>purchase (1)</b> 32:19
<b>particular (2)</b> 57:17;61:5	<b>place (4)</b> 27:16,21;33:9; 39:16	<b>preliminary (1)</b> 8:19		<b>purpose (2)</b> 54:15,21
<b>parties (2)</b> 19:22,24	<b>placement (1)</b> 43:21	<b>present (2)</b> 56:24;57:1		<b>pursue (3)</b> 35:15;36:13,19
<b>party (3)</b> 20:2,4;66:12	<b>placing (1)</b> 44:9	<b>prevailing (15)</b> 15:5;26:17;27:17, 25;28:10,17;31:15, 25;33:1,21;34:4; 35:16;61:11;62:13; 64:5	<b>projects (59)</b> 16:20;17:17;20:23; 21:1,3,4;23:14,20; 26:1,4,11,15,18,22; 27:18,20;28:6;29:22; 31:25;32:11,13;33:3, 4,23;34:19;36:25; 37:6;39:13;40:1,21; 41:1,23;42:9,10,18; 47:24;48:17;49:14; 50:9,12;53:6;54:22; 58:24;61:19,19;62:1, 11,15,18,20;63:12,14, 17,22;64:1,15,21; 65:4,8	<b>put (1)</b> 30:5
<b>pass (1)</b> 62:23	<b>plan (1)</b> 20:20	<b>prevent (1)</b> 31:21		<b>putting (2)</b> 44:9,16
<b>past (1)</b> 22:9	<b>plant (7)</b> 22:25;23:8;25:18; 29:16;30:17;53:24; 66:2	<b>prevents (2)</b> 23:9;33:21		<b>Q</b>
<b>paths (1)</b> 43:10	<b>plants (4)</b> 31:3;61:3,5;65:18	<b>price (6)</b> 26:7;32:16,18,19; 62:15,16		<b>qualify (2)</b> 54:7,8
<b>Paul (1)</b> 4:21	<b>plate (2)</b> 58:23;59:7	<b>print (1)</b> 38:3		<b>quantity (1)</b> 39:10
<b>pause (1)</b> 24:19	<b>plates (1)</b> 59:12	<b>prior (5)</b> 46:20;48:18;49:11; 55:9;57:9	<b>promised (1)</b> 45:4	<b>quick (1)</b> 24:8
<b>pay (12)</b> 12:15,17,24;15:6, 18,19;18:16;26:17, 25;29:5;31:25;33:10	<b>Please (4)</b> 4:14;8:8;9:10,15	<b>prioritize (1)</b> 32:3	<b>promptly (1)</b> 8:9	<b>quite (2)</b> 28:7;50:13
<b>paying (4)</b> 26:23;32:21;33:21; 35:17	<b>point (9)</b> 6:10;20:7,14;24:8; 34:1,3;44:1;46:7; 61:17	<b>privilege (1)</b> 56:7	<b>pronunciation (1)</b> 10:19	<b>quote (1)</b> 22:24
<b>payment (2)</b> 27:25;28:9	<b>pointed (2)</b> 15:4;42:20	<b>probably (4)</b> 17:20;39:16;53:5; 57:25	<b>proportionally (1)</b> 19:16	<b>R</b>
<b>pdf (3)</b> 12:4;24:12;25:4	<b>portion (1)</b> 39:7	<b>proceed (2)</b> 9:8,15	<b>protected (1)</b> 56:11	<b>rate (3)</b> 13:4;15:14;18:2
<b>people (4)</b> 15:18;44:9;48:9; 54:3	<b>position (1)</b> 7:16	<b>proceeding (2)</b> 55:24;56:25	<b>protects (1)</b> 36:3	<b>rates (11)</b> 12:19,23;15:5,9,11, 15;17:14,15;61:13; 63:1,2
<b>Per (1)</b> 19:14	<b>potential (1)</b> 19:3	<b>proceedings (2)</b> 3:24;66:20	<b>provide (13)</b> 14:10;16:12;33:3; 36:25;37:3;45:23; 46:4;49:19;50:10,11, 22;56:2,19	<b>rather (1)</b> 34:2
<b>percent (13)</b> 13:11,13;18:4,5,10, 10,22,22;19:2,4; 44:15,17;54:9	<b>potentially (1)</b> 54:12	<b>process (7)</b> 26:3,6,21;28:16; 32:10;62:8,9	<b>provided (14)</b> 10:22;13:24;14:18; 15:25;17:24;48:12, 13;49:2,22;51:4,23; 52:21,22;59:19	<b>read (6)</b> 15:3;38:4,19;40:15; 44:23;46:24
<b>percentage (10)</b> 19:10;39:19;40:25; 41:25;42:8,8,21,22; 54:3;59:12	<b>power (3)</b> 29:3;61:3;62:24	<b>procurement (6)</b> 21:19;27:19;28:25; 33:2;50:10;57:18	<b>providing (2)</b> 5:17;58:23	<b>reality (1)</b> 31:11
<b>perform (4)</b> 20:15;21:8;33:15; 62:10	<b>practices (2)</b> 34:16;46:17	<b>produced (1)</b> 35:13	<b>proxy (1)</b> 14:6	<b>realized (1)</b> 6:4
<b>performance (2)</b> 22:10,14	<b>Pranis (91)</b> 3:3,5;5:8,9,25;6:1, 20;7:10,14,17;9:17, 25;10:1,3,5;11:8,9,14, 21,25;12:2;22:1,7,8; 24:7,10,18,24;25:2,9, 15,16,20;27:5;29:14, 15;30:6,11,19,23,24; 31:6;34:13;35:23; 36:12,20;37:11,13,14, 17,19;38:23;39:2; 40:6,12,18,19;41:12, 18,19,22;45:9,10; 46:6,8,10,11,25;47:5; 48:3,7,10,15;49:1,9; 51:6,8,11;57:24;58:2, 5,14,15,17;60:5; 61:10;63:7,8,11;66:5,	<b>produces (1)</b> 13:3	<b>prudent (1)</b> 63:2	<b>really (3)</b> 21:11;32:2;39:22
<b>performed (1)</b> 12:24		<b>product (2)</b> 11:1;56:7	<b>Public (8)</b> 4:19,23,24;7:6; 30:13;37:24;44:25; 45:2	<b>reason (7)</b> 13:9;21:7,9;22:22; 31:9;59:6,18
<b>performing (1)</b> 20:17		<b>production (2)</b> 53:16;54:9	<b>publicly (4)</b> 14:11,14;15:14; 16:1	<b>reasonable (2)</b> 44:14;45:1
<b>perhaps (1)</b> 60:17		<b>program (1)</b> 53:14	<b>PUC (3)</b> 4:10,17;5:20	<b>reasonableness (1)</b> 63:2
<b>period (1)</b> 38:8		<b>Project (82)</b> 4:9;13:10;14:9,13, 17;15:5,12,13,17; 16:22,22,23;17:1,21; 18:3;19:1,2,4,7,18,23; 20:11,16,18;21:8,10, 12,15,18,21;23:18,22;	<b>PUCs (1)</b>	<b>reasons (2)</b> 22:22;29:20
<b>Permit (1)</b> 4:7				<b>rebuttal (9)</b> 6:4,7;11:20,22; 15:10;24:13,24; 30:16;60:21
<b>Permits (2)</b> 4:5;36:8				<b>receive (3)</b> 5:16;27:22;33:12
				<b>receiving (2)</b> 8:24;46:21

<b>Recess (1)</b> 58:11	52:23	<b>residents (1)</b> 54:17	6:14;13:15;25:12; 37:9;39:1;57:5	<b>side (3)</b> 4:16;38:2;57:13
<b>recognize (2)</b> 37:23;38:14	<b>relations (1)</b> 29:5	<b>Resources (1)</b> 5:6	<b>saw (1)</b> 15:10	<b>sided (1)</b> 34:20
<b>reconcile (1)</b> 10:7	<b>relevance (5)</b> 34:7,11,22;35:12, 14	<b>respect (1)</b> 35:22	<b>saying (7)</b> 18:18;24:5;26:14, 16;36:17;40:4;64:11	<b>signatories (1)</b> 19:25
<b>record (9)</b> 3:25;4:3,14;7:20; 24:21;33:20;34:2,3; 37:3	<b>relevant (3)</b> 34:15,21;38:3	<b>respectfully (1)</b> 40:9	<b>Schedule (2)</b> 10:15;25:8	<b>signed (2)</b> 20:14;35:11
<b>recount (2)</b> 57:5,9	<b>relied (1)</b> 60:22	<b>respond (1)</b> 35:10	<b>scope (3)</b> 34:8,18;57:20	<b>significant (6)</b> 22:25;25:18;30:17; 39:7,9;62:6
<b>RECROSS-EXAMINATION (1)</b> 63:10	<b>relies (1)</b> 61:13	<b>responding (1)</b> 15:1	<b>season (1)</b> 65:24	<b>significantly (1)</b> 60:1
<b>recruit (8)</b> 23:10;29:6;33:22; 45:11;47:22,25; 48:21;49:14	<b>remind (1)</b> 11:7	<b>response (7)</b> 7:1,2;21:6;30:21; 46:9;49:22,24	<b>second (5)</b> 24:20;25:14;38:18; 46:13,14	<b>signing (1)</b> 52:11
<b>recruiting (1)</b> 34:5	<b>renewable (2)</b> 23:17;62:20	<b>responses (1)</b> 45:16	<b>secret (5)</b> 7:6;41:3,6;46:13; 59:1	<b>similar (2)</b> 36:15;47:24
<b>recruitment (3)</b> 36:23,23;49:20	<b>repeat (4)</b> 40:17;42:2;49:9; 56:16	<b>responsible (2)</b> 46:15;49:19	<b>secure (5)</b> 28:5;32:14;39:14; 51:24;64:20	<b>simple (1)</b> 28:7
<b>redirect (4)</b> 9:24;60:8,12;63:9	<b>rephrase (2)</b> 27:7;31:7	<b>rest (1)</b> 59:13	<b>securing (1)</b> 32:13	<b>single (1)</b> 17:1
<b>Reduction (2)</b> 53:12,18	<b>report (1)</b> 18:18	<b>restroom (1)</b> 58:9	<b>select (4)</b> 21:14,17;32:11; 33:5	<b>Site (19)</b> 4:5;38:11,22;39:7, 23;40:7,13,22,23; 42:6,16,25;43:5,11, 13,15,18,24;44:16
<b>refer (1)</b> 56:14	<b>reporter (3)</b> 4:15;57:25;58:10	<b>result (1)</b> 33:12	<b>selected (2)</b> 20:6;57:19	<b>sites (1)</b> 34:10
<b>reference (3)</b> 41:3;60:21;64:16	<b>representative (1)</b> 57:12	<b>results (3)</b> 28:10;34:4;59:3	<b>selecting (1)</b> 20:10	<b>six (2)</b> 65:25;66:1
<b>referenced (3)</b> 39:10;65:20,22	<b>represented (2)</b> 17:22;39:4	<b>retired (1)</b> 53:24	<b>sell (5)</b> 33:6,7;62:2,3;65:5	<b>six-month (1)</b> 38:8
<b>referring (8)</b> 19:7;25:1,15;30:9, 20;31:24;50:3;60:24	<b>representing (5)</b> 4:24;5:11;10:5; 11:2;56:22	<b>retirement (2)</b> 15:21;16:8	<b>senior (1)</b> 5:5	<b>skilled (7)</b> 14:6;38:9,20;40:10, 22;42:4,15
<b>re-filed (1)</b> 6:13	<b>represents (1)</b> 36:25	<b>reveal (1)</b> 56:11	<b>sentence (4)</b> 38:19,19;46:13,14	<b>small (1)</b> 42:22
<b>reflected (5)</b> 27:18,22;33:11; 62:14,16	<b>request (9)</b> 45:15,17;46:21; 48:19;49:12,22; 50:21;59:5,20	<b>revealing (2)</b> 56:9;58:25	<b>sentences (1)</b> 38:5	<b>socioeconomic (1)</b> 34:25
<b>reflects (3)</b> 8:15;62:9,11	<b>requested (2)</b> 35:13;47:18	<b>Revell (1)</b> 7:12	<b>separate (2)</b> 21:15;49:18	<b>Solar (23)</b> 4:5,6,9;5:3,7,18; 7:7;8:4,9;4:11,12; 16:21;20:16,18; 21:20;26:18;28:22; 34:8;44:3;54:11; 55:25;56:1,22;63:21
<b>refresh (1)</b> 41:3	<b>requests (1)</b> 7:1	<b>review (4)</b> 14:3,25;30:2;63:2	<b>separately (1)</b> 7:4	<b>somehow (1)</b> 37:7
<b>refute (1)</b> 29:25	<b>require (4)</b> 27:24;28:3;31:20; 64:17	<b>reviewed (2)</b> 29:18;55:7	<b>serve (3)</b> 38:10,21;42:5	<b>someone (2)</b> 21:23;56:17
<b>regarding (1)</b> 47:24	<b>required (11)</b> 15:6,18,19;17:15; 22:6;35:5;38:7;46:17; 47:2,15,20	<b>right (36)</b> 5:13;6:19;10:25; 11:4;13:2;14:3,3,20; 15:9,15;16:4,9;17:5, 10,14;18:21;19:1,12, 15;21:1,22;25:9; 28:16;29:3,24;30:2, 19;32:2;38:2;43:15; 50:13,16;51:17;54:2; 55:11;66:1	<b>served (3)</b> 7:1,12;48:8	<b>sometimes (1)</b> 62:21
<b>regardless (1)</b> 21:18	<b>requirement (19)</b> 26:17,19;27:21; 28:1,8,23;31:24;32:6; 33:1;35:18,20;36:10; 61:18,22;62:14;64:5, 8,14,25	<b>role (2)</b> 52:2,3	<b>service (2)</b> 11:13;37:24	<b>sorry (9)</b> 11:18;22:1;30:4,6, 23;37:17;38:13;42:2; 49:9
<b>regards (1)</b> 30:9	<b>requirements (3)</b> 35:2;46:19;47:3	<b>rollup (1)</b> 12:18	<b>session (1)</b> 39:21	<b>sort (6)</b> 7:22;10:18;12:18; 36:22;65:16,23
<b>regulated (8)</b> 62:21,22,23;63:1, 12,15,19;64:1	<b>requires (1)</b> 56:6	<b>Route (1)</b> 4:7	<b>set (2)</b> 29:4;47:24	<b>sounds (1)</b> 9:7
<b>regulations (1)</b> 47:12	<b>requiring (2)</b> 27:17;28:9	<b>running (1)</b> 44:7	<b>Seven (2)</b> 58:21,22	<b>source (2)</b> 61:7;65:14
<b>regulatory (7)</b> 27:15;31:16,17; 32:2,6;61:11;64:5	<b>reserving (1)</b> 9:23	<b>S</b>	<b>Shakes (1)</b> 43:14	
<b>related (2)</b> 46:17;61:9		<b>same (6)</b>	<b>short (2)</b> 37:7;57:16	
<b>relation (1)</b>			<b>showing (1)</b> 52:16	
			<b>shows (2)</b> 33:21;34:3	

<b>sourced (1)</b> 40:16 <b>speak (9)</b> 35:24;44:5,12,19; 54:25;56:19;57:2; 59:15;63:20 <b>SPEAKER (1)</b> 11:17 <b>speaking (3)</b> 56:23;62:20;63:14 <b>specific (10)</b> 15:13;18:17;22:21; 43:9;49:24;52:19; 58:25;63:16,20;64:3 <b>specifically (11)</b> 22:10;25:17;27:10; 29:19;34:15;49:17; 53:9,20;57:8;59:21; 60:24 <b>specify (1)</b> 42:20 <b>speculation (1)</b> 45:7 <b>spell (1)</b> 4:14 <b>split (1)</b> 61:2 <b>spoken (1)</b> 55:19 <b>spotters (2)</b> 43:15;44:8 <b>staff (1)</b> 4:20 <b>stand (2)</b> 9:9;41:15 <b>standards (1)</b> 31:19 <b>stands (2)</b> 20:17,19 <b>start (7)</b> 4:16;5:15,25;10:17, 17:37;11,21 <b>starting (1)</b> 60:25 <b>starts (1)</b> 24:15 <b>state (27)</b> 4:14;23:15,16,23; 27:16,20;32:24; 33:18;38:10,21;39:5, 25;40:24;42:5,16; 44:20;46:18;47:2,11; 59:11;61:12,16,22; 63:1;65:3,7,7 <b>stated (1)</b> 47:10 <b>statement (9)</b> 23:6;30:1,10;42:19, 24;44:23;45:2;64:6, 24 <b>states (10)</b> 22:19;25:17;26:2; 31:1;34:17,19;47:3;	59:21;61:11;64:4 <b>stating (1)</b> 21:16 <b>status (1)</b> 5:24 <b>statutory (1)</b> 26:19 <b>still (3)</b> 27:10;50:3;61:20 <b>stipulations (1)</b> 5:24 <b>Storage (1)</b> 4:7 <b>Storm (1)</b> 43:13 <b>straight (2)</b> 9:19;17:6 <b>structures (1)</b> 61:11 <b>study (2)</b> 14:2;19:6 <b>subcontracting (3)</b> 23:20;39:12;42:12 <b>submit (1)</b> 50:20 <b>submitted (1)</b> 37:5 <b>substantial (1)</b> 44:6 <b>substation (1)</b> 57:22 <b>suggesting (1)</b> 31:18 <b>suggests (1)</b> 53:5 <b>sum (1)</b> 53:7 <b>summarize (1)</b> 53:14 <b>supplement (3)</b> 7:2;48:13;49:7 <b>supplemental (1)</b> 6:25 <b>support (1)</b> 32:7 <b>sure (10)</b> 13:19;15:24;30:3; 33:25;36:9;42:3;44:2; 50:2;51:22;56:17 <b>surrebuttal (8)</b> 14:25;15:3;19:20; 30:12,20;39:15; 41:10;60:16 <b>sustain (1)</b> 29:12 <b>sworn (1)</b> 9:12 <b>System (2)</b> 4:6,7	12:4 <b>tailored (1)</b> 36:14 <b>talk (8)</b> 10:16;22:9,10; 29:16;31:13;45:11, 12;55:6 <b>talked (2)</b> 31:14,16 <b>talking (3)</b> 44:7,8;60:15 <b>Tax (10)</b> 53:11,16,20,21; 54:9,10,12,25;55:1,4 <b>temporary (1)</b> 38:6 <b>ten (3)</b> 54:8;59:8,14 <b>tend (1)</b> 16:8 <b>tendering (1)</b> 9:22 <b>terms (12)</b> 6:11;14:21;15:20; 17:21;20:3;22:14; 27:3,4;29:5;34:7; 63:24;64:6 <b>testified (2)</b> 9:13;35:18 <b>testify (1)</b> 56:3 <b>testifying (1)</b> 47:6 <b>testimony (42)</b> 6:5,8,13,14;7:4; 10:6,7,8;11:20,22; 15:1,3,7,10;19:20; 22:21;23:5;24:9,13, 15,24;25:1;28:12; 29:18,23;30:5,9,12, 21,21;31:2;39:16; 55:8,15;56:19;60:16, 16,21,22,25;65:16,21 <b>Texas (2)</b> 59:9,14 <b>Thanks (1)</b> 10:4 <b>therefore (1)</b> 26:25 <b>third (2)</b> 46:14,14 <b>thought (1)</b> 34:15 <b>three (2)</b> 37:5;58:24 <b>ticks (1)</b> 35:19 <b>times (8)</b> 13:4,4;18:16,16; 29:10;55:20;59:8,15 <b>titled (1)</b> 37:21 <b>TL-23-425 (1)</b>	4:11 <b>today (3)</b> 5:11;8:23;66:14 <b>together (1)</b> 44:9 <b>told (1)</b> 45:15 <b>top (1)</b> 54:9 <b>topic (1)</b> 57:17 <b>total (3)</b> 12:9;17:16;53:7 <b>toward (1)</b> 41:19 <b>towards (1)</b> 25:7 <b>towers (1)</b> 43:24 <b>track (1)</b> 11:24 <b>tracked (1)</b> 46:2 <b>tracking (1)</b> 46:20 <b>Tracy (1)</b> 57:3 <b>trade (5)</b> 7:6;41:2,6;46:13; 58:25 <b>transition (1)</b> 12:5 <b>Transmission (1)</b> 4:8 <b>transparency (1)</b> 6:18 <b>true (3)</b> 39:4,22;40:22 <b>try (5)</b> 10:13;36:13,17; 57:14,20 <b>trying (10)</b> 10:7;27:6,6,8,10; 35:3,7;41:2;62:17; 63:23 <b>turn (8)</b> 38:12,13;39:15; 41:23;50:23,24;51:2; 58:18 <b>turn-around (1)</b> 66:3 <b>two (6)</b> 7:5;22:21;29:11; 38:5,25;60:10 <b>types (1)</b> 7:22 <b>typical (1)</b> 65:24 <b>typically (1)</b> 65:23	<b>ultimate (1)</b> 32:12 <b>ultimately (5)</b> 26:8;28:6;33:6; 62:2;65:5 <b>unable (1)</b> 21:8 <b>unclear (1)</b> 34:11 <b>under (5)</b> 15:6;18:6,7;53:11; 56:4 <b>understands (1)</b> 36:9 <b>understood (2)</b> 16:12;65:11 <b>undertake (1)</b> 62:10 <b>undertaken (1)</b> 48:20 <b>undertook (1)</b> 45:21 <b>unemployment (1)</b> 53:25 <b>UNIDENTIFIED (1)</b> 11:17 <b>unilaterally (5)</b> 61:17,21;64:7,9,25 <b>union (10)</b> 16:11;28:14;31:2; 35:18;59:24;61:18; 64:7,14,14,17 <b>unless (3)</b> 15:17;46:17;47:1 <b>unusual (1)</b> 7:18 <b>up (7)</b> 12:11;20:10;21:9; 51:5;52:11;54:8;58:6 <b>update (1)</b> 6:8 <b>updated (5)</b> 6:4;8:14;48:1,4,13 <b>upon (1)</b> 61:15 <b>use (8)</b> 27:17;30:12;32:7; 35:5;44:22;58:9; 59:24;60:2 <b>used (9)</b> 14:11;15:9,25;16:1; 17:11;18:8;35:6; 39:20,22 <b>uses (1)</b> 14:7 <b>using (8)</b> 14:4,11,14;15:13, 14,16;19:14;21:10 <b>Utilities (7)</b> 4:19,23,24;62:21, 22,23;63:15 <b>utility (4)</b> 16:20;63:13,19;
	<b>T</b>		<b>U</b>	
<b>table (1)</b>				

64:1	<b>wind (20)</b> 19:1,7;29:21;31:3; 37:6,22;38:13,16; 40:20;44:10;49:17, 18;51:1;57:18,21,21; 58:24;65:19,22,24	<b>year (3)</b> 29:2;61:6,6 <b>years (1)</b> 50:13 <b>Yep (7)</b> 18:7,20;19:21; 41:24;50:4;59:22; 64:23 <b>yesterday (2)</b> 7:1,12	45:4 <b>2021 (1)</b> 50:16 <b>206 (2)</b> 5:20;8:3 <b>24 (2)</b> 7:18;48:13 <b>250 (2)</b> 5:20;8:3 <b>25-2500-40508 (1)</b> 4:12 <b>272 (2)</b> 5:20;8:3	
<b>V</b>	<b>wishes (1)</b> 64:18 <b>wit (1)</b> 3:25 <b>withdraw (1)</b> 54:18 <b>Withdrawn (2)</b> 22:7;45:9 <b>within (3)</b> 29:3;45:19;54:4 <b>without (6)</b> 6:13;9:23;32:25; 33:7;56:13;58:25 <b>WITNESS (23)</b> 3:1;9:18,22;10:24; 25:10;27:8,13;35:24; 37:1,10;41:9,15,16; 47:6,7;55:12;56:3,6, 18,25;66:10,11,13 <b>witnesses (7)</b> 8:20;9:3,5;10:9; 35:17;55:24;66:13 <b>witnesses' (1)</b> 7:3 <b>wondering (1)</b> 61:14 <b>work (20)</b> 4:17;11:1;16:19; 20:15,17;21:3;27:1; 29:21;31:3,20,22; 33:23;39:24;43:6; 44:16;56:7;60:19; 61:4;62:11,17 <b>worked (3)</b> 16:25;19:12;65:18 <b>workers (18)</b> 14:6,9;16:19;23:10; 26:14;27:1;28:11; 31:21;32:21;33:22; 38:7;42:1,9;43:3; 45:5;57:14;59:9,10 <b>workforce (23)</b> 13:11;18:4,5,10; 22:15,16;29:7;32:4,7; 34:5;35:5,7;36:24; 41:1;45:12,13;46:1; 47:23,25;48:21; 49:14,21;60:1 <b>working (1)</b> 65:19 <b>wrapping (1)</b> 58:6 <b>wrong (1)</b> 11:11	<b>1</b>	<b>3</b>	<b>9</b>
<b>vagueness (1)</b> 27:3 <b>value (4)</b> 12:25;15:21;19:3; 59:14 <b>varies (1)</b> 16:22 <b>vary (2)</b> 16:8,9 <b>verify (1)</b> 65:11 <b>version (4)</b> 6:15,16;7:6;30:13 <b>versus (4)</b> 23:16;26:12;32:1; 33:18 <b>view (2)</b> 23:3,5 <b>voluntarily (1)</b> 45:22	<b>WITNESS (23)</b> 3:1;9:18,22;10:24; 25:10;27:8,13;35:24; 37:1,10;41:9,15,16; 47:6,7;55:12;56:3,6, 18,25;66:10,11,13 <b>witnesses (7)</b> 8:20;9:3,5;10:9; 35:17;55:24;66:13 <b>witnesses' (1)</b> 7:3 <b>wondering (1)</b> 61:14 <b>work (20)</b> 4:17;11:1;16:19; 20:15,17;21:3;27:1; 29:21;31:3,20,22; 33:23;39:24;43:6; 44:16;56:7;60:19; 61:4;62:11,17 <b>worked (3)</b> 16:25;19:12;65:18 <b>workers (18)</b> 14:6,9;16:19;23:10; 26:14;27:1;28:11; 31:21;32:21;33:22; 38:7;42:1,9;43:3; 45:5;57:14;59:9,10 <b>workforce (23)</b> 13:11;18:4,5,10; 22:15,16;29:7;32:4,7; 34:5;35:5,7;36:24; 41:1;45:12,13;46:1; 47:23,25;48:21; 49:14,21;60:1 <b>working (1)</b> 65:19 <b>wrapping (1)</b> 58:6 <b>wrong (1)</b> 11:11	<b>1 (1)</b> 10:15 <b>10 (8)</b> 3:3;24:12,16;25:3, 4;50:8,8;57:25 <b>10:17 (1)</b> 58:11 <b>10:32 (1)</b> 58:12 <b>10:43 (1)</b> 66:20 <b>100 (3)</b> 5:19;8:4;45:5 <b>100-MW (2)</b> 4:6,6 <b>10A (1)</b> 6:7 <b>115 (1)</b> 4:8 <b>12 (1)</b> 50:7 <b>14 (1)</b> 30:13 <b>15 (3)</b> 18:22;30:25;58:1 <b>150 (1)</b> 45:5 <b>15-minute (1)</b> 58:8 <b>161 (4)</b> 10:15;11:9,10,12 <b>162 (3)</b> 11:23,25;12:3 <b>166 (2)</b> 5:19;8:4 <b>167 (3)</b> 7:7;8:6;49:7 <b>168 (2)</b> 7:7;8:6 <b>17 (1)</b> 12:3 <b>180 (3)</b> 13:8,9,13	<b>3 (3)</b> 30:25;46:12,14 <b>30 (1)</b> 18:10 <b>300 (2)</b> 13:13;45:4 <b>4</b> <b>4 (4)</b> 24:17,18;58:20,22 <b>4.1 (1)</b> 47:23 <b>400 (2)</b> 5:20;8:1 <b>412 (2)</b> 58:19,19 <b>421 (3)</b> 48:11;49:2;50:3 <b>422 (5)</b> 5:21;8:1;41:20,21; 46:12 <b>6</b> <b>6 (2)</b> 25:15;60:25 <b>60 (6)</b> 3:4;13:10,13;18:3, 10;19:4 <b>63 (1)</b> 3:5 <b>7</b> <b>7 (3)</b> 41:23,24;58:19 <b>75 (1)</b> 18:22 <b>8</b> <b>8 (1)</b> 30:16 <b>85 (1)</b> 18:4	<b>9 (7)</b> 24:16,25;25:3;50:8; 58:20,22;61:1 <b>9:32 (2)</b> 24:22,22
<b>W</b>	<b>wade (1)</b> 56:6 <b>wage (23)</b> 15:5,9,11,13,15,18, 19;17:7,14,15;26:17; 27:17,25;28:17; 31:15,25;33:1,21; 34:4;35:16;61:11; 62:14;64:5 <b>wages (15)</b> 12:19;13:17;14:8, 12,16,21;15:18;26:24, 25;27:3,4;28:10; 32:21;33:10,17 <b>waive (1)</b> 8:22 <b>waived (1)</b> 9:5 <b>water (1)</b> 43:13 <b>way (8)</b> 4:17;16:15;17:2; 23:8,23;26:10,13; 28:15 <b>ways (1)</b> 57:14 <b>welcome (1)</b> 47:7 <b>weren't (1)</b> 36:7 <b>what's (2)</b> 15:23;52:9 <b>WHEREUPON (1)</b> 3:24 <b>whole (2)</b> 38:3;44:10	<b>Y</b>		