CHAIRMAN NOBER: Well, good morning, everyone. And thank you all for coming.

As you know, today we will hear argument in another rate-reasonableness case, the Otter Tail Power Company versus the BNSF Railway Company.

For those of you that aren't familiar, the case involves a challenge to the reasonableness of rates for transporting coal from the Powder River Basin. The shipper has chosen to litigate under the stand alone cost constraint, which is typical of some large rate cases here.

Like the rate cases before it, this will rise and fall on its own merits.

In prior cases shippers have used a program for modeling the operations at their hypothetical railroad that the Board found lacking. But in this case the shipper has used a modeling program the Board has found acceptable in prior cases, and BNSF has also employed it. This raises the question whether the evidence in this case changes the
landscape in some way that entitles the shipper to more deference on at least some aspects of the case, and that's at least a point we'll be exploring this afternoon.

Because the shipper and the railroad have used the same model, we see a new emphasis in the arguments. Instead of arguing about whose model works better, the parties now emphasize the inputs to the model.

I'll get to the point where we ask you to turn off your cellphones now rather than later. Frankly, I think this is where the battleground should be, and I hope this will result in better, more accurate regulatory decisions.

The parties have also raised a number of issues here which we've seen in similar cases, which is the appropriateness of crossover traffic, methods for allocating revenue and the different ways of looking at productivity increases in the rail industry going forward, as well as some new matters as well. Despite having seen some of these issues in the past, I certainly have an open mind in the
issues before the case and look forward to exploring some of them today.

Now, a few administrative matters. We will hear from counsel from Otter Tail first, who has 40 minutes and it'll be up to Mr. DiMichael to have saved some time for rebuttal.

We'll then hear from counsel from BNSF, who has 40 minutes. And after each party's presentation, the Board members will ask questions and we'll do it on a rotating five minute basis.

And, as I said before, here is where I normally remind everyone to turn off their cellphones or pagers or put them on vibrate, at the least. And I'm sure that you've all done that by now.

So with that, I recognize Vice Chairman Buttrey for any comments he may have.