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1 BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

2

WASHINGTON UTILITIES AND )

3 TRANSPORTATION COMMISSION, ) DOCKETS UE-090134

) and UG-090135

4 Complainant, ) (consolidated)

)

5 vs. ) VOLUME X

) Pages 750 to 1041

6 AVISTA CORPORATION, d/b/a )

AVISTA UTILITIES, )

7 )

Respondent. )

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)

9 In the Matter of the Petition ) DOCKET UG-060518

of ) (consolidated)

10 )

AVISTA CORPORATION, d/b/a ) VOLUME X

11 AVISTA UTILITIES, ) Pages 750 to 1041

)

12 For an Order Authorizing )

Implementation of a Natural )

13 Gas Decoupling Mechanism and )

to Record Accounting Entries )

14 Associated With the Mechanism.)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

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A hearing in the above matter was held on

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October 8, 2009, from 9:00 a.m to 6:20 p.m., at 1300

17

South Evergreen Park Drive Southwest, Room 206, Olympia,

18

Washington, before Administrative Law Judge ADAM TOREM

19

and CHAIRMAN JEFFREY D. GOLTZ and Commissioner PATRICK

20

J. OSHIE and Commissioner PHILIP B. JONES.

21

22

23

24

25 Joan E. Kinn, CCR, RPR

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

2 JUDGE TOREM: Good morning, everybody, it's a

3 little after 9:00, it's Thursday the 8th of October, and

4 we're back on the Avista rate case. Today's agenda has

5 us looking at the power supply contracts for Lancaster,

6 and I believe Richard Storro of Avista has already taken

7 the witness stand, we'll get him sworn in in just a

8 minute.

9 I let Mr. Trautman know this morning that

10 we're going to issue a Bench request to follow up on

11 some of the testimony from Danny Kermode yesterday. I

12 don't think we got quite the clarification we needed

13 from him on the stand, so we're going to put a Bench

14 request, because it's an accounting one we'll put it in

15 writing and issue it later today, and hopefully you'll

16 see that go out by E-mail this afternoon. If I have

17 printed copies over the lunch hour, I'll have them

18 waiting when we come back after lunch.

19 Second matter, after thinking and

20 reinterpreting my exchange with Mr. ffitch yesterday

21 about whether he would have a chance to respond to the

22 unknown potential testimony of Mr. Buckley, maybe I had

23 a little extra coffee in the system, so I apologize,

24 Mr. ffitch, if I was overly aggressive in telling you

25 what you would or wouldn't do. My understanding in

0757

1 discussing with you in the lobby this morning was that

2 the true intent was not to necessarily object to the

3 Bench calling him as a witness but a concern on the due

4 process and procedurally that you and any other party

5 for that matter that wishes to be able to respond to the

6 as of yet unknown testimony be given an adequate

7 opportunity to do so. And my hope is that if the Bench

8 today after hearing from the other witnesses scheduled

9 on the Lancaster topic chooses to call Mr. Buckley that

10 we will then take a break and allow the parties that

11 have not yet had a chance to prepare whatsoever to

12 consult with their experts, determine whether or not

13 there are questions they can be prepared to ask today,

14 and if so we'll proceed with some I guess redirect, if

15 you will, or recross as the case may be from the other

16 parties and flesh out the Staff's position on Lancaster,

17 assuming that there is any testimony and assuming that

18 there is a position to discuss. If that's not

19 sufficient preparation, then I'll hear from the parties

20 what their recommendations might be and how we might get

21 that into the record so that everybody has a chance to

22 respond prior to going to briefs and then again in the

23 briefs that will be due next month.

24 Mr. ffitch, is that satisfactory?

25 MR. FFITCH: Yes, thank you very much, Your

0758

1 Honor.

2 JUDGE TOREM: Any other parties want to

3 comment on that issue or we'll wait and see what happens

4 later today?

5 MR. MEYER: We'll just wait.

6 JUDGE TOREM: Mr. Buckley, for you I can't

7 offer any apologies or retreat, you're still on the hot

8 seat at some point, we just don't know when.

9 All right, Commissioners, any other

10 housekeeping from us from the Bench today?

11 Parties, anything else we need to be made

12 aware of?

13 All right, then I think we're ready to swear

14 in Mr. Storro.

15 (Witness RICHARD L. STORRO was sworn.)

16 JUDGE TOREM: All right, Mr. Meyer, if you

17 would check with your witness here and see if there's

18 any additions or corrections to his testimony which has

19 already been admitted.

20 MR. MEYER: There are none, Your Honor, he's

21 available for cross.

22 JUDGE TOREM: All right. And on the schedule

23 today, Mr. ffitch is the only scheduled party for Public

24 Counsel to examine both Mr. Storro, well, all four of

25 the witnesses that are for the Company, Mr. Kalich,

0759

1 Mr. Lafferty, and Mr. Johnson, and that's the order I

2 plan on taking them unless Mr. ffitch has some other

3 reason to call them differently.

4 MR. FFITCH: No, Your Honor, that's

5 satisfactory.

6 JUDGE TOREM: Okay, let's begin then.

7 MR. FFITCH: Thank you.

8 Good morning Commissioners and Judge Torem.

9

10 Whereupon,

11 RICHARD L. STORRO,

12 having been first duly sworn, was called as a witness

13 herein and was examined and testified as follows:

14

15 C R O S S - E X A M I N A T I O N

16 BY MR. FFITCH:

17 Q. Good morning, Mr. Storro.

18 A. Good morning.

19 Q. I don't know that we've met in the hearing

20 room before. As you know, I'm Simon ffitch, the

21 attorney for the Public Counsel Office in this case, and

22 I wanted to ask you some questions about the Lancaster

23 contracts. We're going to be primarily asking you

24 questions about your direct testimony, which is RLS-1T

25 and some exhibits and cross-exhibits. Can you please

0760

1 turn first to page 4 of your direct testimony.

2 A. I have that.

3 Q. All right. And if you would look at lines 10

4 and 11, there you say that the Company had forecasted

5 annual energy and capacity deficits starting in 2011 in

6 the 2007 electric IRP without the addition of the

7 Lancaster plant, correct?

8 A. Yes.

9 Q. So let's first talk about the capacity. Can

10 you please turn to what's been marked as Exhibit 24-X,

11 RLS-24-X.

12 JUDGE TOREM: Mr. ffitch, just so I have the

13 record clear, the testimony you just referred to is on

14 page 4 of RLS-1T?

15 MR. FFITCH: That's correct, Your Honor.

16 BY MR. FFITCH:

17 Q. Now I'm asking the witness to turn to the

18 excerpt from the 2009 IRP which has been marked RLS-24-X

19 and go to the second page of that exhibit.

20 A. Winter capacity position?

21 Q. Correct. And if we look at the years 2010,

22 well, first of all we're looking at Table 2.6, which is

23 page 2 of the exhibit, correct, and it's entitled winter

24 capacity position megawatts?

25 A. Yes.

0761

1 Q. And if we look at the years 2010 and 2011, at

2 the bottom of the column for those two years we see that

3 the capacity position in 2010 is greater than the

4 Lancaster plant's 275 megawatts for 2010 but less than

5 plant capacity in 2011, correct?

6 A. That's true.

7 Q. And then if we go over to Table 2.7 on the

8 next page, can you just tell us what we see there for

9 the capacity position in 2010 and 2011?

10 A. Well, Table 2.7 is a summer capacity

11 position.

12 Q. Okay.

13 A. And for 2010 shows 293 and for 2011 shows

14 124.

15 Q. Okay, so that shows that -- all right.

16 A. What these show that in 2010 we have even

17 with the addition of Lancaster slightly more capacity

18 during part of those -- some of those months of that

19 year.

20 Q. Mm-hm.

21 A. Than the Lancaster project had.

22 Q. Okay. And then in 2011 --

23 A. And the big difference here between 2010 and

24 11 is at the end of 2010 we lose a 100 megawatt contract

25 that we purchased 04 through 10 that expires at the end

0762

1 of 2010.

2 Q. Okay.

3 And if you return to your direct testimony at

4 page 9, that's RLS-1, now we're looking at page 9 of

5 RLS-1, and there at line 18 and 19 you state that Avista

6 Utilities was assigned the rights to the Lancaster PPA

7 starting January 1st, 2010, correct?

8 A. That says the Company has announced Avista

9 Utilities would have the rights to the Lancaster PPA

10 beginning January 1.

11 Q. Okay. So now we've just looked at the

12 numbers we've just looked at in those tables related to

13 capacity, correct?

14 A. One of those tables related or two of them

15 related to capacity, winter and summer.

16 Q. Right, and now we're going to talk about

17 energy.

18 A. Okay.

19 Q. Energy deficits. I mean in general if we go

20 actually back to, let's see, sorry to jump, let me hold

21 on a second before I make you jump around.

22 If you could look at now RLS-8-X, please, and

23 in this request Public Counsel in April of this year

24 asked the Company to summarize its energy position in

25 average megawatt hours, correct?

0763

1 A. That's right.

2 Q. And if we look at the chart on page 2 of that

3 exhibit, that shows that as of that time, April 2009,

4 Avista expected to have some quarterly energy short

5 positions in 2010 without Lancaster; is that right?

6 A. That's true, we show 16 average megawatts in

7 Q1 and 51 average megawatts in Q4 at that particular

8 time.

9 Q. All right. And that's in the bottom line of

10 that chart?

11 A. Yes.

12 Q. And those needs are well below the 275

13 megawatt capacity of the Lancaster plant, correct?

14 A. Yes.

15 Q. Did Avista forecast in its 2007 IRP that it

16 would have any such quarterly energy short positions in

17 2010?

18 A. I believe the quarterly positions in 2010 in

19 the 2007 RFP actually in quarters Q1, 3, and 4 were

20 about average of 51 average megawatts short, so the

21 position had changed a little bit between when the 07

22 IRP was done and when this chart was prepared in April I

23 believe. So our position actually improved slightly

24 from the time the 07 IRP was put together.

25 Q. All right. Now looking still at this chart

0764

1 on page 2, the energy needs here, the energy short

2 positions that you're showing here are not taken as

3 evidence of the need to procure capacity; is that

4 correct?

5 A. This is average energy.

6 Q. So they're not interpreted or --

7 A. They're not generally the same number even

8 though on some months they might be the same, so.

9 Q. All right. They're not taken as evidence of

10 need that you need to go out and procure capacity?

11 A. No, you would have to look at LNR4 capacity

12 to determine whether you have a need for capacity.

13 Q. And how would you normally meet these, you,

14 Avista, normally meet these short-term energy needs that

15 are shown on this chart?

16 A. Well, whether it's daily, monthly, or

17 quarterly, we would meet them with short-term energy

18 purchases.

19 Q. All right.

20 Could you please turn to your Exhibit RLS-4,

21 which is an attachment to your direct testimony.

22 A. I have that.

23 Q. All right. And this is an analysis or an

24 overview of the transaction, correct?

25 A. Yes.

0765

1 Q. And it's dated April 11, 2007, so I presume

2 it was prepared about that time?

3 A. Correct.

4 Q. And was this the first written analysis that

5 Avista performed of this transaction?

6 A. I believe there was another one that we,

7 well, no, this is the first initial study that we did

8 relative to the procurement of Lancaster.

9 Q. Okay. Would you please turn to page 5 of

10 this exhibit, Exhibit RLS-4, and under the first

11 underlined heading, which is power purchase agreement

12 availability date, you state that Avista analyzed the

13 PPA or power purchase agreement transfer dates of 2009,

14 2010, and 2011, correct?

15 A. Yes.

16 Q. And the last sentence of the paragraph

17 includes the phrase, the early inclusion of the power

18 purchase agreement prior to the deficit year decreases

19 its value relative to other options; is that correct?

20 A. That's what it says.

21 Q. Okay. Please turn to page 7 of the exhibit,

22 which is a chart, Table 3, entitled study results; do

23 you have that?

24 A. Yes, I do.

25 Q. It appears that if you read across the first

0766

1 line which is labeled cost of lease that the cost of the

2 Lancaster PPA declines as the start date is delayed from

3 2009 to 2010, correct?

4 A. I think I'd defer most of the questions

5 relative to this particular table in the exhibit to

6 Mr. Kalich. He prepared the table, and I think he's

7 more knowledgeable and will save all of our time in

8 talking about it.

9 Q. All right, even though it's attached to your

10 testimony?

11 A. Yes.

12 COMMISSIONER OSHIE: Mr. ffitch, if you

13 could, I'm a little lost on where exactly you're at.

14 MR. FFITCH: All right.

15 COMMISSIONER OSHIE: And I believe, I don't

16 know if the Chairman is but Commissioner Jones is as

17 well, so can you tell us what exhibit you're on and

18 where the table is, I'd appreciate it.

19 MR. FFITCH: I apologize, Your Honor, we are

20 in Exhibit RLS-4.

21 COMMISSIONER OSHIE: Okay.

22 MR. FFITCH: And we are at page --

23 COMMISSIONER OSHIE: The Chairman is

24 defending himself, he says that he wasn't lost.

25 COMMISSIONER JONES: That's why he's the

0767

1 Chairman.

2 COMMISSIONER OSHIE: That's why he's the

3 Chairman.

4 MR. FFITCH: Page 7 of the Exhibit RLS-4,

5 Table 3 study results.

6 COMMISSIONER OSHIE: Thank you, Mr. ffitch.

7 BY MR. FFITCH:

8 Q. This Exhibit RLS-4, Mr. Storro, is again an

9 overview prepared in April of the transaction attached

10 to your testimony supporting your testimony, correct?

11 A. That's true.

12 Q. And did you prepare this document RLS-4?

13 A. No, I did not.

14 Q. And you've asked us with regard to the

15 questions on Table 3 to talk to Mr. Kalich; is that

16 right?

17 A. Yes.

18 Q. All right.

19 Now I'm going to ask you to turn to page,

20 excuse me, Exhibit RLS-6, it's also an exhibit to your

21 testimony.

22 A. Yes.

23 Q. Just generally could you tell us what this

24 document is?

25 A. It's really just an overview of the Lancaster

0768

1 power purchase agreement acquisition.

2 Q. Right. And this document is from November

3 2007, correct?

4 A. That's correct.

5 Q. And could you turn to page 13 of this

6 exhibit. Let me make sure I've got -- this has got

7 parallel page numbers on it. In this case they match

8 fortunately, so page 13 of the exhibit Table Number 10,

9 do you have that?

10 A. I have that.

11 Q. And this shows the annual revenue requirement

12 impact of Lancaster and some other combined cycle gas

13 turbine CCGT alternatives, correct?

14 A. This is talking about revenue retirements of

15 a green field plant, a brown field plant, or the

16 Lancaster lease.

17 Q. All right. Now it appears that the first

18 three columns labeled revenue requirement impact, the

19 green field and the brown field alternates have zero

20 impact in 2010, but the Lancaster PPA or PPA's would

21 increase cost to Avista Utility customers by $12.9

22 Million per year, correct?

23 A. Yes, that's what this shows.

24 Q. And as a result, Avista's analysis showed the

25 customers would bear net costs of $12.9 Million in 2010

0769

1 before receiving any benefits, correct?

2 A. Well, I wouldn't say there would be no

3 benefits in 2010, because there are quarterly. Some of

4 the -- we do have quarterly deficits during that period.

5 And additionally, even if you get it early in 2010,

6 you're going to be looking at the value of that plant

7 and running it into the market whenever possible also to

8 defray the payments that are associated with it. The

9 other thing you have to realize here, this is a

10 long-term decision, it's not a one year decision, it's a

11 long-term decision, and I think you have to look at it

12 in that regard.

13 Q. All right. If we take out the $12.9 Million

14 from the top line here under Lancaster, wouldn't

15 eliminating that negative cash flow in 2010 increase the

16 value to customers shown as the levelized impact at the

17 bottom of the page?

18 A. There would be some slight increase.

19 Q. All right. In this docket Avista has

20 forecasted that the Lancaster PPA's will increase Avista

21 Utilities costs in 2010; isn't that right, in general?

22 A. Yes.

23 Q. And, for example, in your initial filing,

24 Avista forecast that the PPA would increase costs by

25 $16.6 Million on a system basis or $10.7 Million upon a

0770

1 Washington allocated basis, that's in Mr. Johnson's

2 testimony, right?

3 A. Okay.

4 Q. And it's true, is it not, that Avista

5 provided an updated forecast that the Lancaster PPA's

6 would increase costs by $18.3 Million on the system

7 basis later in the case, which is $11.8 Million on a

8 Washington allocated basis?

9 A. Subject to check, but I believe that's true.

10 Q. All right.

11 Please turn to your direct testimony, RLS-1,

12 at page 9, lines 11 to 13.

13 A. I have that.

14 Q. And there you say that the opportunity to

15 acquire the power purchase agreement or tolling rights

16 for Lancaster was a result of negotiations related to

17 the sale of Avista Energy, which held the rights to the

18 tolling arrangement, correct?

19 A. Yes, as a result of the negotiations going on

20 to sell Avista Energy, the opportunity came up to have

21 the opportunity for us to take the output of Lancaster

22 in 2009, 10, or 11, and we were asked to make that

23 analysis.

24 Q. Okay.

25 A. We went through that analysis and determined

0771

1 that this PPA or this tolling arrangement worked very

2 well for our needs going forward. We had identified

3 previously and were in the process of working on our 07

4 IRP that had I think 350 megawatts combined cycle

5 combustion turbines in it.

6 Q. Excuse me, Mr. Storro, I appreciate you've

7 addressed these things in your testimony, but if you

8 could just follow with my questions.

9 A. I thought I was, so.

10 Q. Can you turn, please, to Exhibit 19-X,

11 RLS-19-X, I'll ask you a bit more about the transaction.

12 A. I have that.

13 Q. And you just sort of referred to the sale of

14 Avista Energy, and if we -- would you please turn to

15 page 3 of this data request, Attachment A, and this

16 provides a graphic depiction of the transaction,

17 correct?

18 A. Yes, it does. It actually shows the -- all

19 of the entities under Avista Capital and where Avista

20 Energy was located and also Avista Turbine Power and

21 some of the transactions that occurred.

22 Q. Okay. Is it correct to say that Avista

23 Corporation was selling Avista Energy to Coral Energy?

24 A. That's correct, the assets, the top circle

25 there, number 2, says based on June 30th Avista sold its

0772

1 assets to Coral Energy.

2 Q. All right. And as part of that deal, Avista

3 Corporation is assigning the Lancaster PPA's to Avista

4 Utilities; is that correct?

5 A. The Lancaster deal actually rests with Avista

6 Turbine Power, and there's a short-term assignment of

7 the output of the Lancaster tolling, the tolling

8 agreement itself, the PPA, with -- to Coral Energy until

9 12/31 of 09, and then on January 1 of 10, utility will

10 take the output of the Lancaster project.

11 Q. All right. So right now Avista Turbine Power

12 Incorporated is the owner of the Lancaster PPA rights;

13 am I understanding that?

14 A. The owner of the rights that are temporarily

15 assigned to Coral.

16 Q. So the Lancaster PPA rights are temporarily

17 assigned to Coral but held by Avista Turbine Power?

18 A. I believe that's the case.

19 Q. Any of the entities shown on this page funded

20 by rate payers?

21 A. I don't believe so.

22 Q. So all of these subsidiaries rely solely on

23 revenues other than from Avista Utilities retail

24 electric rates, correct?

25 A. I believe that's the case.

0773

1 Q. And right now that includes responsibility

2 for the Lancaster related contracts until they are

3 assigned to Avista Utilities, correct?

4 A. Yes.

5 Q. And Avista's proposal in this case would

6 transfer the responsibility for those contracts to

7 Avista Utilities as of January 1st, 2010?

8 A. That's correct. Avista has the opportunity

9 which -- on a decision we made back in early March and

10 April of 07 to take the output of the project.

11 Q. Okay, well, you're reading my mind on where

12 my questions are going, because I wanted to ask you a

13 little bit about the timeline.

14 A. That makes me nervous.

15 Q. So Avista Utilities energy resources unit was

16 first asked to review the Lancaster contracts in March

17 2007; is that right?

18 A. I believe that's the approximate date.

19 Q. And the decision to assign the contracts from

20 Avista's unregulated affiliates to the utility rate

21 payers as of January 1st, 2010, was made in the time

22 frame of March 2007 to April 17th, 2007?

23 A. That's correct.

24 Q. All right.

25 A. That was made as a part of the negotiations

0774

1 after our initial assessment of the value and its fit

2 with the utility's need.

3 Q. Okay. Can you please turn to Cross-Exhibit

4 RLS-12-X.

5 A. I have that.

6 Q. All right. And this is a data request from

7 Public Counsel asking some questions about your

8 statement about the opportunity to acquire the PPA that

9 we've already just referred to, a number of questions

10 here. I'm sorry, I'm getting ahead of myself here.

11 With regard to this data request, we asked you to in

12 part D to identify the corporate officers who were

13 involved in negotiations. In part D you answered Malyn

14 Malquist, former Executive VP and CFO, and Marian

15 Durkin, Senior Vice President and General Counsel, and

16 other folks, correct?

17 A. That's true.

18 Q. And also numerous employees of Avista

19 Utilities?

20 A. Yes.

21 Q. And if you turn to RLS-15-X, do that, please,

22 there you were asked -- are you there?

23 A. Yes, I am.

24 Q. Okay. In this data request from Public

25 Counsel you were asked to provide all internal

0775

1 communications within Avista including within Avista

2 Utilities and among affiliates and subsidiaries related

3 to the request that energy resources analyze the

4 acquisition of the Lancaster PPA and also regarding

5 subsequent analysis, correct? I mean I'm just reading

6 it, I apologize, but --

7 A. No, that's okay, that's exactly true. But

8 what happened, there wasn't any actual written

9 communication, written stuff down on the initial

10 communication relative to the output of the project. We

11 were simply asked, I was asked by Malyn Malquist, we

12 have this opportunity as a result of the negotiations

13 with Avista Energy to get the output of the project. My

14 answer, knowing what I knew about the project at the

15 time, was yes. It's a project in our back yard, it's a

16 project that's 300 feet from our 230 --

17 Q. Mr. Storro, I'm not asking --

18 MR. MEYER: Please, Your Honor, this witness

19 is entitled to answer the question about the extent and

20 the scope of internal communications, and that's

21 directly responsive to the question.

22 JUDGE TOREM: Mr. ffitch, I'm going to

23 respectfully disagree with Mr. Meyer.

24 Mr. Storro, when you talk about the internal

25 communications, that's one thing. But all the

0776

1 justifications you're putting in behind it is

2 nonresponsive. I'll overrule that objection and direct

3 you, as Mr. ffitch did earlier, just try to stick with

4 the questions.

5 THE WITNESS: Okay.

6 JUDGE TOREM: There will be an opportunity

7 for redirect, and we have read your testimony.

8 THE WITNESS: Thank you.

9 MR. FFITCH: Thank you, Your Honor.

10 BY MR. FFITCH:

11 Q. So Avista has no documentation of how it

12 balanced the interests of shareholders and rate payers

13 with regard to the analysis of the assignment of the

14 contract; is that right?

15 A. Once more, please.

16 Q. So Avista has no documentation of how it

17 balanced the interests of shareholders and rate payers

18 in these communications with regard to the contract

19 assignment?

20 A. No. It was our analysis, it was my analysis

21 that it was in the interest of rate payers because of

22 the value of the project.

23 Q. All right.

24 Please turn to Exhibit RLS-22-X.

25 A. I have that.

0777

1 Q. And in Part A of this request, Public Counsel

2 asked the Company what UTC cost recovery terms and

3 conditions does Avista see as minimally necessary to

4 satisfy the above conditions for regulatory approval.

5 And the answer to that, you state, Avista states:

6 Avista sees the minimally necessary cost

7 recovery terms and conditions regarding

8 the Lancaster PPA as full cost recovery

9 beginning January 1st, 2010.

10 Which is what was submitted for in this case,

11 correct?

12 A. That's true.

13 Q. And what that seems to be suggesting is that

14 if Avista does not receive every single penny of cost

15 recovery that it has requested in this docket that it

16 will -- that that's all it will settle for in this case,

17 correct? And let's take a look at the answer to sub

18 part D before you answer that question, and there you

19 state:

20 If the UTC makes the determination on

21 cost recovery that is not as submitted

22 in this case, Avista Corporation would

23 seek to remarket the Lancaster PPA for

24 the rest of the contract period.

25 So essentially these two answers you're

0778

1 saying to the Commission it's an all or nothing

2 situation, otherwise the power will be remarketed

3 elsewhere; is that correct?

4 A. Well, we would expect full recovery, because

5 this is a prudent acquisition, prudent long-term

6 acquisition. I think if we do not get full recovery,

7 corporately we will have to take another look at where

8 we stand relative to this contract, and we would also

9 have to take another look at what we do to meet our

10 long-term energy needs.

11 Q. And any decision that Avista Utilities would

12 make subsequent to a decision on the Lancaster contracts

13 about acquiring power or remarketing would be subject to

14 a further prudence review by this Commission, wouldn't

15 it?

16 A. I don't know the answer to that.

17 Q. So essentially here Avista is insisting that

18 the Commission require the rate payers to pay the cost

19 for the contracts in 2010 as part of this deal even

20 though Avista has known since early 2007 that the

21 assignment in 2010 would increase rates in 2010,

22 correct?

23 A. That's correct, this is a package deal as a

24 part of the negotiations.

25 Q. All right.

0779

1 I want to move on to talk a little bit about

2 the BPA transmission contract that's part of this

3 proposal.

4 A. Okay.

5 Q. There's essentially three pieces, correct,

6 there's the power, there's the BPA transmission, and

7 there's gas transportation, correct?

8 A. Yes, that's true.

9 Q. So can you turn to page 10 of your testimony,

10 please.

11 A. Yes.

12 Q. And there you state starting at line 19 that

13 the, and going on to the next page, that:

14 The BPA transmission contract will also

15 be assigned to Avista Utilities along

16 with the Lancaster PPA itself.

17 Correct?

18 A. Yes.

19 Q. And then on page -- on that next page 19, I'm

20 sorry, page 11 at the top, you note that the Company is

21 evaluating interconnecting Lancaster directly to the

22 system, to its own system, correct?

23 A. Yes, we are.

24 Q. All right. Now I'm going to take you back to

25 your exhibit RLS-4 again, this is the April 2007

0780

1 analysis, can you please turn to page 3, RLS-4, page 3,

2 and there's a heading electric transportation

3 (transmission), correct?

4 A. Yes.

5 Q. And in that section there you state that

6 Avista is considering an interconnection between

7 Lancaster and its own control area at an estimated cost

8 of $3 Million per year, right?

9 A. Right.

10 Q. That's in the first paragraph, and in the

11 next paragraph you state that:

12 Under the assumption Avista can

13 interconnect Lancaster directly to its

14 system, Avista assumes it will recoverer

15 75% of the costs of the BPA contract

16 through remarketing or optimization.

17 Correct, that's what it says here in your --

18 A. That's right, our assumption is that between

19 those two contracts we would have an opportunity to

20 remarket 75% of the BPA transmission or possibly even

21 terminate one of the agreements.

22 Q. All right. So if a direct interconnection is

23 made with the Avista system, the BPA transmission

24 contract appears to have limited or much reduced value

25 to Avista Utility customers, doesn't it?

0781

1 A. If it is interconnected to our system, the

2 BPA contract would have less value to customers, because

3 we won't require BPA transmission to provide service to

4 our customers. However, I will add to that that part of

5 that BPA transmission could provide significant benefit

6 to customers because of other uses we may have for it in

7 conjunction with our other transmission needs and

8 generation projects.

9 Q. All right. We asked you some more

10 information about BPA transmission contract, if you

11 could turn to Exhibit 23-X, RLS-23-X, and there we did

12 ask essentially for more information about this matter,

13 and the response is the Company anticipates having more

14 information concerning studies and timelines in August

15 2009, correct?

16 A. Yes.

17 Q. We asked this in late June 2009?

18 A. Yeah, June 25th.

19 Q. I may need to ask Mr. Lafferty these next

20 questions, but you're aware that that information has

21 not yet been forthcoming, correct?

22 A. Well, if you say that hasn't been

23 forthcoming, then I'll take your word on that. We're

24 still working on that, and I know Mr. Lafferty can talk

25 very intelligently about that.

0782

1 Q. And we have a data request that he's

2 responded to on that, I will take that up with him.

3 Can you please turn to the Thorndike Landing

4 study now, that is marked as RLS-5 and is another

5 exhibit to your direct testimony.

6 A. I have that.

7 Q. Okay. And just generally that is an

8 independent evaluation by Thorndike Landing of the

9 Lancaster PPA tolling agreement, correct?

10 A. Yes, it is.

11 Q. And could you please turn to Appendix C, the

12 first page of that exhibit, that's page 28. I think

13 this is the one that may require a magnifying glass.

14 A. That's why I took my glasses off.

15 Q. Page 28 of 31, okay, about halfway, this is

16 a, excuse me, table entitled Lancaster toll base case,

17 correct?

18 A. I see that.

19 Q. And about halfway down the table is the

20 heading non-fuel fixed operating expenses, and then two

21 lines further transmission, correct?

22 A. I see those lines.

23 Q. Now the line labeled transmission starts with

24 a net cost in 2010 of $1.17 Million; is that right?

25 A. Yes.

0783

1 Q. And that figure escalates annually

2 thereafter, correct?

3 A. That's true.

4 Q. Is it your understanding that these net costs

5 reflect the assumption that 75% of BPA transmission

6 costs are remarketed because of the construction of the

7 direct connect with Avista's system?

8 A. I don't know the answer to that. I would

9 have to defer to Mr. Kalich for the specifics.

10 Q. Let's turn to page 12 of the Thorndike

11 Landing study, the same exhibit. I believe this has

12 mishmashed and mismatched page numbers, so this would

13 be, give me a moment to find this, page 12 of 31, it's

14 also shown as page 9 in the center at the bottom.

15 A. Yes.

16 Q. And in the paragraph at the top of the page

17 about 4 lines down, Thorndike Landing states:

18 We have assumed that a portion, 75%, of

19 the electric transmission capacity under

20 the BPA agreement is remarketed at cost

21 or otherwise used for utility load

22 service and therefore not born by the

23 facility/lessee.

24 Correct?

25 A. I believe that was their base case.

0784

1 Q. All right. So does that tell you that that

2 assumption was indeed built into the table that we just

3 looked at?

4 A. I don't know the answer to that.

5 Q. All right. Can we ask Mr. Kalich about that?

6 A. Of course.

7 Q. And Avista's proposal in this case as we saw

8 when we looked at Exhibit 22-X is to require Avista

9 Utilities rate payers to assume full responsibility for

10 all of the fixed costs of the BPA transmission contract

11 beginning January 2010?

12 A. Yes, it is.

13 Q. Can you take a look now, please, at the

14 Thorndike Landing report on page 11 of 31, which is

15 going back 1 page, now we're talking about the third

16 element here, the gas transportation piece of the three

17 components of the proposal. It's page 11 of 31, Exhibit

18 RLS-5, it's also shown as page 8, and in the first

19 section of text there Thorndike Landing states:

20 Note that the total gas transportation

21 exceeds the total gas needs of the plant

22 when operating at full capacity by

23 approximately 20%.

24 Correct?

25 A. That's what they say in this report.

0785

1 Q. Right.

2 A. We believe that was an error on their part.

3 This was truly an independent study by Thorndike

4 Landing, we don't believe they approached that part

5 correctly.

6 Q. Okay. And a couple of lines down they also

7 say, note that we did not include the cost for the

8 excess gas supply, correct?

9 A. What line is that on?

10 Q. It's just two lines down from the 20%.

11 A. Oh, yes, I see.

12 Q. Perhaps this is what you were just referring

13 to, but Avista witness Lafferty has said that the gas

14 contract capacity's not really excess to Avista's needs?

15 A. That's correct, and Mr. Lafferty can talk

16 about that later, but it basically ties into the use of

17 the plant for the normal base plant and then with the

18 addition of the duct burner.

19 Q. Okay.

20 A. I think you also have to add into that the

21 issue of our other gas plants and the possibility of

22 using gas transportation and supply to supply those

23 other plants, so all together it works out to not have

24 any excess.

25 Q. Now I have a couple more questions about

0786

1 this, and I was going to return you to the chart in

2 Appendix C with the very small print that we were just

3 looking at. Let's try those, if you need to defer them,

4 let me know. If you could please turn back to page 28

5 of the exhibit, which is again Appendix C, page 1, it's

6 the chart entitled Lancaster toll base case. And if you

7 look at the line labeled gas transportation, do you have

8 that?

9 A. Yes.

10 Q. That includes the costs that we were just

11 talking about, does it not?

12 A. I would assume that it does, but I would

13 again have to defer to Mr. Kalich for the specifics on

14 this chart.

15 Q. Okay. They start at $3.4 Million in 2010 and

16 escalate from there, that's what the chart shows,

17 correct?

18 A. Yes.

19 Q. I'm skipping a few things here that I will I

20 think just take up with subsequent witnesses. Just to

21 clarify, you're directing us to Mr. Lafferty on these

22 matters or Mr. Kalich?

23 A. On both the -- on the electric transmission

24 and gas transmission I would direct you to Mr. Lafferty.

25 Q. Okay.

0787

1 Could you turn to page 16 of the Thorndike

2 Landing study, that's still RLS-5. Actually, I

3 apologize, it's page 19 of 31, I confused myself here

4 with the page numbers. And look at the first bulleted

5 paragraph, Avista, excuse me, Thorndike Landing there

6 states that essentially Avista excluded gas

7 transportation costs from its initial analysis and also

8 that the internal assessment of gas transportation costs

9 has not been completed as of the date of the preliminary

10 analysis. Is that right, do you see that?

11 A. That's what that first bullet talks about.

12 Q. All right. That's based on discussions with

13 Avista personnel?

14 A. Yes.

15 Q. Is that a correct statement?

16 A. I would have to defer that to Mr. Kalich

17 also.

18 Q. And again with regard to this third

19 component, the gas transportation contracts, Avista is

20 requesting the Commission to assign full responsibility

21 to rate payers for all of the fixed costs of the gas

22 transportation contract beginning in 2010, correct?

23 A. That's correct. In order to operate the

24 plant, you have to have firm gas transportation to the

25 plant.

0788

1 Q. And that would be even if the costs were

2 excess according to the Thorndike Landing analysis

3 including the excess 20% which the Company is disputing?

4 A. We don't believe that the costs are excess.

5 We believe we have just sufficient capacity to provide

6 gas to this project, so we still would believe that all

7 the gas transportation costs should go along with the

8 project.

9 Q. All right. And that's the case although

10 Avista apparently has not completed its analysis with

11 regard to gas costs or had not when it first made the

12 decision to assign the contracts to Avista Utilities?

13 A. What we looked at when we first made the

14 decision to sign the contract was based on the gas

15 transmission, electric transmission costs that we knew

16 at the time plus the cost of the PPA in general, and so

17 all of those together, as it were, were what led us to

18 the decision to determine that this was a good deal for

19 customers.

20 Q. Okay. I'm going to move on to another topic

21 now, take you back to your direct testimony, RLS-1, go

22 to page 11 at lines 19 to 21. Do you have that?

23 A. Yes, I do.

24 Q. You state that of the CCGT or combined cycle

25 gas turbine plants in the Pacific Northwest, Avista did

0789

1 not know if any were for sale at the time the study was

2 completed, correct?

3 A. That's true.

4 Q. And in your Exhibit RLS-4, we can go there if

5 we need to, you list in a table Pacific Northwest

6 plants, and should I take you there?

7 A. Page 2?

8 Q. RLS-4, page 2, and there's a table.

9 A. That's correct.

10 Q. And there you also repeat the statement that

11 none of the plants are for sale to Avista's knowledge,

12 correct?

13 A. Yes.

14 Q. Can you please turn to RLS-25, 25-X.

15 A. I have that.

16 Q. Let me know if you want to defer these

17 questions. There are three exhibits actually in a

18 sequence, 25, 26, and 27-X, these are the documents from

19 the Northwest Power Planning Council.

20 A. Yes.

21 Q. And if we look at Exhibit 25-X on the second

22 page of that exhibit do you see a table 8-3 independent

23 power producers, correct?

24 A. I see figure 8-11, am I looking at the

25 wrong --

0790

1 COMMISSIONER JONES: It's the next page.

2 A. Oh, I got it now, thank you, yes.

3 Q. All right. And this table suggests that

4 several gas fired combined cycle gas turbines have

5 uncommitted capacity, correct?

6 A. That's the insinuation.

7 Q. All right. Big Hanaford, for example,

8 Hermiston Power Plant, Klamath Cogeneration, Lancaster,

9 all listed with uncommitted status?

10 A. That's what it says.

11 Q. All right. And this is from the Draft Sixth

12 Power Plan of September 2009, right, that's the cover

13 sheet of the exhibit?

14 A. That's right.

15 Q. Please turn to Exhibit 26-X, this is entitled

16 Pacific Northwest Regional Resource Adequacy Assessment.

17 A. Yes.

18 Q. And this is dated from May 2008, correct, top

19 left?

20 A. Yes.

21 Q. If you look at the last page of this exhibit,

22 it should be page 8 of 8, there's a list of uncommitted

23 IPP's, correct, independent power producers?

24 A. Right.

25 Q. And that list looks a lot like the list that

0791

1 we just saw in the previous exhibit, does it not?

2 A. Yeah, it does. However, I have to -- I don't

3 know exactly what uncommitted means in this case, if

4 that means uncommitted to just utilities in the

5 Northwest or simply they just weren't aware of any

6 offtake agreements associated with these projects.

7 Q. Okay.

8 A. Some of these projects are in the market

9 daily, and I know that they're selling odds and ends,

10 but I'm not sure about any -- the absence of any

11 long-term commitment from any of these projects. And

12 this is part of the resource adequacy assessment that

13 talks about the ability to serve your load for certain

14 durations of the time. It has nothing in -- I don't

15 think it lines up at all with what assessment you would

16 make for a long-term purchase.

17 Q. Can you turn to RLS-27-X, please, that's

18 headed Power Plants in the Pacific Northwest, Northwest

19 Power Planning Council, and if you turn to page 2 of

20 that under the load column we again see a list of plants

21 that's uncommitted as of March 2007?

22 A. Yes, that's true.

23 Q. Okay. And we again see a few of the combined

24 cycle plants on this list that were also on the list we

25 discussed earlier in the two previous exhibits, right?

0792

1 A. That's correct.

2 Q. Based on these reports, it appears that the

3 Northwest Power Planning Council believed that some

4 combined cycle plants were uncommitted, correct?

5 A. That was their analysis.

6 Q. Did Avista make any effort to make a formal

7 offer to consider buying any of these, of this resource

8 capacity such as through an RFP process?

9 A. No, we did not. Normally if these projects

10 were for sale, they are out visiting with us, talking

11 with us, letting us know that they're for sale, but to

12 our best of our knowledge, none of these projects were

13 for sale at the time we made this decision.

14 MR. FFITCH: Okay, thank you.

15 Can I have a moment, Your Honor.

16 Your Honor, those are all the questions I

17 have for the witness.

18 Thank you, Mr. Storro.

19 JUDGE TOREM: All right, thank you,

20 Mr. ffitch, you've cut in half your original estimate

21 with this witness, so I appreciate we'll be definitely

22 on schedule today. With that in mind, let's take 10

23 minutes, gives us a chance to prepare our questions in

24 light of what's already been asked, then we'll come back

25 at 10:15.

0793

1 (Recess taken.)

2 JUDGE TOREM: All right, thank you for your

3 patience as we took a little more extended break. I

4 hope the extra 4 or 5 minutes spent will be worth 20 in

5 the long run here. We're ready for the Commissioners I

6 think to take up their questions of Mr. Storro, and

7 we're going to start with Commissioner Jones today.

8

9 E X A M I N A T I O N

10 BY COMMISSIONER JONES:

11 Q. Good morning, Mr. Storro.

12 A. Good morning.

13 Q. Okay, I'm going to start with some timeline

14 related questions, and so -- because it's still a bit

15 confusing to me on the timeline of this transaction. So

16 in your testimony, I think your direct testimony, you go

17 through the evaluation overview, and then you state that

18 the plant is an option to the utility as part of Avista

19 Corporation's proposed sale of Avista Energy to Coral

20 Energy. So when did Avista, I think it's February or

21 March 2007, but what is your -- because you were -- you

22 were in constant communication with Mr. Malquist,

23 correct, on this or --

24 A. No, there wasn't constant communication.

25 Q. Okay.

0794

1 A. What happened at that particular time was

2 Malyn came down and asked were we interested in the

3 output of the project because it came up as part of the

4 negotiation. My answer at the time was, well, of course

5 we are subsequent to some analysis. So after doing that

6 analysis and looking at several years and looking at the

7 plant characteristics and the cost, our analysis

8 indicated it looked like a great deal for customers.

9 This project was in the $550 a kilowatt range.

10 Q. Right.

11 A. Other projects that had sold prior to that

12 were in the $700 plus kilowatt range.

13 Q. Mr. Storro, if you would just hold to the

14 question. I'm aware of that, I'm just interested in the

15 timeline.

16 A. Okay.

17 Q. So when did he call you? Was Malquist the

18 lead negotiator for the sale of Avista Energy?

19 A. I believe he was.

20 Q. Okay. When did he come to see you and ask --

21 A. I believe it was toward the end of February

22 or early March, I don't remember. I don't remember the

23 exact date when we had the verbal conversation.

24 Q. And as you stated in response to Mr. ffitch,

25 you did no formal study, cost benefit, detail cost

0795

1 benefit study of the plant, it was a verbal

2 representation of the values?

3 A. No, we did do a formal study at that time.

4 That's when we looked at the value that the project

5 would have to us in those - in 9, 10, and 11.

6 Q. Okay.

7 A. So we did do a formal study and did our own

8 analysis of what we thought the value at least on a cost

9 per kw basis was, and that's what we based our response

10 on.

11 Q. Okay. Now is that RLS-4, could you refer to

12 RLS-4, this is called Power Purchase Agreement

13 Evaluation Overview dated April 11th, 2007, it's a

14 6-page document.

15 A. Yes, that's correct.

16 Q. Is this the evaluation that you did?

17 A. Yes, it is, that's an overview of the

18 evaluation.

19 Q. Is that the extent of the evaluation, are

20 there any workpapers or notes or any other work

21 associated?

22 A. I don't believe so, but I would defer that to

23 Mr. Kalich, but I don't believe there are.

24 Q. Okay. And isn't it true that the Thorndike

25 Landing study was done after the sale of Avista Energy,

0796

1 the Thorndike Landing study is dated October 30th, 2007?

2 A. That's correct. We contracted with them I

3 believe in August, and then they conducted an

4 independent study of the transaction.

5 Q. So that is after the fact of the sale, and

6 RLS-6, which is called a white paper, I assume prepared

7 by the Company, was done in November of 2007?

8 A. That's right.

9 Q. So both of those studies were done after the

10 fact. So what the Commission has to rely on prior to

11 the sale of Avista Energy is RLS-4?

12 A. I think RLS-4 talks about the initial

13 analysis, but I think the other data is certainly

14 supportive of that initial analysis.

15 Q. Okay. As I mentioned in my opening statement

16 that the plant is an option to the utility, has Avista

17 Utilities exercised that option yet?

18 A. No, the plant has not been assigned

19 officially to the utility.

20 Q. What's the difference between assigned to the

21 utility and temporarily assigned? I'm getting confused

22 on the temporary assignment to --

23 A. The output right now is assigned to Coral

24 Energy until the end of this year, and then on January 1

25 of 2010, the project will be assigned to the utility.

0797

1 Q. And just to refer to the record on that,

2 that's that flow chart I think in RLS-11-X that

3 Mr. ffitch and you were discussing earlier?

4 A. Yes, I think that's right.

5 Q. And was this prepared by you?

6 A. No, it was not.

7 Q. Okay. Was this prepared by the Company?

8 A. Yes, it was.

9 Q. Okay. So yes, I think I'm beginning to

10 understand the flow here, so it goes from steps 2, 1, 3,

11 and 4. In step 2 here in the circle 2, Avista sold its

12 assets to Coral Energy 6/30/2007.

13 A. Right.

14 Q. Is that correct?

15 A. Yes, that's the date of the closing.

16 Q. Yeah. And circle 1 is Avista Energy assigned

17 the Lancaster PPA to Avista Turbine Power 6/11/1999.

18 A. Yes.

19 Q. And Avista Turbine Power has the contractual

20 right to all of the capacity and electrical output of

21 the facility.

22 A. That's right.

23 Q. Is that a correct statement?

24 A. Yes.

25 Q. Both capacity and energy, correct?

0798

1 A. Yes.

2 Q. And then circle 3 is Avista Turbine Power

3 assigned Lancaster PPA to Coral Power LLC on 6/30/2007

4 for 2 1/2 years?

5 A. Right.

6 Q. And circle 4 is, as you just stated,

7 Mr. Storro, the assignment of Lancaster PPA ends on

8 12/31 of this year?

9 A. Right, that's part of the overall

10 negotiations.

11 Q. Okay. So you have not or Avista Utility has

12 not exercised the option yet, okay.

13 When did the -- oh, first of all, who -- can

14 you describe to the Bench what consists -- what is

15 Avista Turbine Power, Inc., what it consists of and the

16 governance of it, is the CEO and chairman the head of

17 Avista Power, Avista Turbine Power, Inc., and who

18 controls its decisions?

19 A. I do not know the answer to that question. I

20 know that it has one employee at this particular time.

21 Q. Okay.

22 A. But I don't know the answer to that.

23 Q. Sounds to me like some sort of pass through

24 entity?

25 A. Possibly.

0799

1 Q. Okay.

2 When did the board of directors of Avista

3 Utilities approve the Lancaster contracts?

4 A. I don't know the exact date. I know there

5 was a presentation made to the board. I can't remember

6 whose testimony that is in or as part of a data request

7 that talked about the overall deal, but I don't remember

8 that date. We could find that and give that to you.

9 Q. I think that would be helpful.

10 Is there any other provision for canceling

11 the obligation under the contract?

12 A. Relative to?

13 Q. The obligation of the --

14 A. Well, Avista Turbine Power has the

15 obligation.

16 Q. Yeah, so Avista Turbine Power has the

17 obligation?

18 A. Yes.

19 Q. Okay.

20 COMMISSIONER JONES: I think it would be, and

21 this would be a Bench request, Judge, I think it would

22 be helpful to the Bench if we had a copy of the contract

23 that was negotiated between Avista Utilities or Avista

24 Corp. doing business as Avista Utilities and Coral

25 Energy, and could you also provide a copy of the minutes

0800

1 of any board meeting discussing or approving the

2 Lancaster contracts, and provide any briefings officers

3 or members of the board of Avista Utilities had prior to

4 the approval of the contracts.

5 JUDGE TOREM: All right, if I understand

6 correctly, Commissioner Jones, your first part of that

7 Bench request which we'll label Number 10, and for those

8 keeping track of the numbers the one I mentioned this

9 morning that will go out in writing will be Bench

10 Request 9, so this verbal only Bench request will be 10,

11 Commissioner Jones you're focused on that flow chart in

12 bubble number 2, getting the contractual documentation

13 for Avista Energy's sale of its assets to Coral Energy?

14 COMMISSIONER JONES: Well, I'm interested in

15 circle 2 and circle 3, both the sale of the assets to

16 Coral Energy and the Avista Turbine Power assigning the

17 Lancaster PPA to Coral.

18 JUDGE TOREM: Mr. Meyer, are you aware if

19 that's all one contract, or is that multiple contracts?

20 MR. MEYER: I'll have to check.

21 JUDGE TOREM: All right, so that's the first

22 part of the Bench request, circles 2 and 3 on this

23 exhibit flow chart, and the latter part was also --

24 COMMISSIONER JONES: Well, the minutes of the

25 board meeting, or if there was more than one then board

0801

1 meetings approving the Lancaster contracts and the

2 resolution as well of the board.

3 JUDGE TOREM: All right, so this is a bit of

4 a broad ranging Bench request, Mr. Meyer, but I want to

5 make sure that you understand what we're asking for. It

6 would be a copy of any contract having to do with Avista

7 Energy selling its assets to coral, any contracts

8 associated with the Turbine Power assignment of the

9 Lancaster power rights to Coral for the 2 1/2 year

10 period that ends the end of 2009, and also the copy of

11 any board meeting minutes that are relevant to the

12 Lancaster PPA, most particularly approval and any

13 resolution relating to that. So if there are historical

14 board meetings you're aware of where that came up where

15 it was held over meeting to meeting, let's include those

16 as well so we can see the development of any

17 discussions.

18 MR. MEYER: Sure.

19 JUDGE TOREM: And that would help

20 Commissioner Jones know how the board reached the

21 decision that he's ultimately looking for.

22 Commissioner Jones, does that adequately

23 summarize?

24 COMMISSIONER JONES: Yes, that's fine, Judge.

25 MR. MEYER: Happy to provide it.

0802

1 JUDGE TOREM: All right, so that will be

2 Bench Request 10, and if you're happy to provide it,

3 when will we be so happy to receive it?

4 MR. MEYER: Well, easy for me to say. I

5 would think that by say Tuesday of next -- say Wednesday

6 of next week. It's again easy for me to say.

7 JUDGE TOREM: All right, so that's Wednesday,

8 October the 14th, and again I won't -- I will remind you

9 at the end of the day that we have this obligation

10 outstanding but won't be sending any follow up in

11 writing for this one.

12 Commissioner Jones, back to you.

13 COMMISSIONER JONES: Just a few more

14 questions because I know my colleagues have questions as

15 well.

16 BY COMMISSIONER JONES:

17 Q. The next line of questioning is more the

18 parties to the transaction, Mr. Storro, I'm still a bit

19 confused with all these flow charts and circles and

20 previous discussions, so just a few follow-up questions.

21 You stated that the opportunity to acquire Lancaster

22 contracts was a result of negotiations related to the

23 sale of Avista Energy, and that January 1st, 2010, date

24 ultimately became the agreed upon transfer date. Again,

25 can you name for the record the negotiating team? I

0803

1 think this was in a Public Counsel data request, but

2 could you just name the key employees? I think they

3 were led by Mr. Malquist who led that negotiation.

4 A. I believe Malyn Malquist, our CFO at the

5 time, was involved, Marian Durkin, our Chief Counsel was

6 involved, and Ann Wilson who was our Treasurer

7 Controller at the time was involved in the negotiations.

8 And I don't know who was involved from Coral's side.

9 Q. Thank you. And is Mr. Malquist employed with

10 the Company now?

11 A. He retired.

12 Q. Where does he live right now?

13 A. I don't know the answer to that.

14 Q. Is he living in the state of Washington?

15 A. I don't know that.

16 Q. Okay.

17 A. He did, I'm just not sure whether he moved or

18 not.

19 MR. MEYER: He is.

20 Q. Were any of the employees who were involved

21 in the negotiation of the Lancaster contracts for the

22 utility, Avista Utilities, involved in the negotiations

23 to sell Avista Energy or vice versa?

24 A. No.

25 Q. And I had a question on who owns Avista

0804

1 Turbine Power, Inc. and governance, and you said

2 basically it's one person?

3 A. Well, the ownership is Avista, it's under the

4 Avista Capital umbrella.

5 Q. Okay.

6 A. I believe it just has one employee at this

7 particular time.

8 Q. So 100% of the equity or its worth is owned

9 by Avista?

10 A. Capital.

11 Q. Capital.

12 Just one other question, Cogentrix is listed

13 in the 6 Power Pan, you were going back and forth with

14 Mr. ffitch on the available combined cycle power plants

15 in the region and Lancaster was listed, but Cogentrix

16 was listed as the owner. What is Cogentrix?

17 A. It's the same plant. Well, Cogentrix was a

18 part owner of the project years ago, and now what's

19 happened I believe, if I can get this right now, what's

20 transpired over the years is Cogentrix is an entity of

21 Goldman, and the project is now owned 80% by Goldman, I

22 mean 20% by Goldman and 80% by another investment group

23 that invests in power plants.

24 Q. Are the initials of that group EIF or

25 something to that effect?

0805

1 A. Yeah, first time I thought it was EIEIO, but

2 it is something like that.

3 Q. So 20% by Goldman Sachs, which is a very

4 famous name these days on the front page of the Wall

5 Street Journal, and 80% by EI something?

6 A. Yes.

7 COMMISSIONER JONES: Okay, that's all I have

8 for now.

9 MR. MEYER: Before we go on, may I just

10 clarify with the witness one response he gave you,

11 because I don't want there to be any confusion on this

12 point?

13 COMMISSIONER JONES: Sure.

14 MR. MEYER: I think the question that you

15 asked, Commissioner Jones, was whether there were any

16 Avista Utilities employees involved in the negotiation

17 of the Avista Energy transaction, and I think the

18 witness said no, but I want to clarify right now with

19 the witness if I might.

20 COMMISSIONER JONES: Sure.

21 MR. FFITCH: Your Honor, this sounds like a

22 leading question coming.

23 JUDGE TOREM: It does, doesn't it?

24 So how are you going to ask this, Mr. Meyer?

25 MR. MEYER: Well, I'm going to ask --

0806

1 R E D I R E C T E X A M I N A T I O N

2 BY MR. MEYER:

3 Q. What was the status of Mr. Malquist and

4 Ms. Durkin as members of the negotiating team, were they

5 employees of Avista Corporation?

6 A. Oh, yes, of course they were.

7 Q. And is Avista Corporation --

8 A. I thought you meant other employees besides

9 the ones I had mentioned previously that were involved,

10 so I misunderstood.

11 COMMISSIONER JONES: So, Mr. Meyer, just so I

12 understand your response, because I -- and of course it

13 -- we approved the holding company for Avista, and this

14 all would have been a little bit clearer but one state

15 decided not to, but anyway I'm confused between Avista

16 Corp., Avista Utilities, Avista Capital, but the way I

17 understand it is Avista Corp. doing business as Avista

18 Utilities.

19 MR. MEYER: Correct.

20 COMMISSIONER JONES: So was Mr. Malquist and

21 Ms. Durkin, were they employees of Avista Corp., Avista

22 Utilities, both?

23 MR. MEYER: Well, they're employees of Avista

24 Corp., that's the corporation. They're doing business

25 as Avista Utilities. It's not a separate entity, so

0807

1 they're not separately employed. No one is separately

2 employed by Avista Utilities.

3 COMMISSIONER JONES: Okay.

4 MR. MEYER: It's the parent corporation, it's

5 the Avista Corp. that writes the checks, they're the

6 employer.

7 COMMISSIONER JONES: And you're employed by

8 Avista Corp. as well?

9 MR. MEYER: Correct.

10 COMMISSIONER JONES: Thank you.

11 JUDGE TOREM: Commissioner Oshie.

12 COMMISSIONER OSHIE: Thank you.

13 And the clarification does help, thank you,

14 Mr. Meyer.

15

16 E X A M I N A T I O N

17 BY COMMISSIONER OSHIE:

18 Q. I guess the -- I want to explore briefly,

19 Mr. Storro, the relationship if there -- between Avista

20 Turbine Power and Avista Utilities and the nature of

21 this agreement, because it sounds to me that the --

22 right now you say Avista Turbine Power holds the rights

23 to the Lancaster plant?

24 A. They hold the rights to the tolling agreement

25 with the Lancaster plant, that's correct.

0808

1 Q. To the tolling agreement, yes, thank you for

2 that clarification. And what the Utility is asking us

3 today is whether or and a result of this case, or at

4 least as part of it, that we find that the agreement

5 that has been reached between Avista Utilities and

6 Avista Turbine Power is in the public interest, is

7 prudent, and that the costs are just and reasonable?

8 A. That's correct.

9 Q. And so when the agreement, let's just start

10 maybe from the negotiation between the parties. Were

11 there any Avista Utility employees, I mean those that

12 are employed by the utility, I mean for example like

13 Mr. Kalich or, if he was even in that position then, or

14 Mr. Norwood, did they negotiate the agreement with

15 Avista Turbine Power? And we're talking about benefits

16 on both sides of the fence here, Avista Turbine Power

17 and then Avista Utilities for the benefit of the rate

18 payers.

19 A. No, I don't believe any of those were

20 involved it any of those negotiations.

21 Q. So if there was anyone there -- who would be

22 representing the interests of the utility only in

23 negotiations for the rights of the plant, the tolling

24 agreement, with Avista Turbine Power?

25 A. Well, Malyn Malquist, Marian Durkin, and the

0809

1 people that were involved would be looking at both

2 sides. I think it's important to note that although

3 they were negotiating the sale of Avista Energy, at that

4 time they were also very aware of the needs of the

5 utility, and as a result of this opportunity presenting

6 itself, there was very close alignment, very good

7 alignment with the opportunity on one side and the need

8 on the other side, and that's why it was brought to us.

9 Q. So it's basically then the same people that

10 were negotiating on behalf of Avista Energy, on behalf

11 of the parent corporation, and which includes the

12 utility, and Avista Turbine Power were all wearing the

13 same hats, the same people in the room, just but the

14 roles perhaps were somehow severable. Avista Energy,

15 it's all for the shareholders because there's no rate

16 payer interest there, and Avista Utilities as sort of

17 wears both hats if you will, one for the rate payers and

18 one for the shareholders, typically in the regulated

19 utility wears both of those hats, so is that the way to

20 frame it?

21 A. I think that's true, except that I would also

22 add that the reason they then came and presented that

23 opportunity to me and to Mr. Kalich was to analyze the

24 opportunity and for us to independently determine

25 whether it had an advantage to customers, and our

0810

1 analysis indicated that it certainly did.

2 Q. Now if we were to -- I mean I would

3 characterize just based on my understanding of the

4 agreement right now then this agreement as one of

5 between affiliated interests. This is an agreement on

6 paper between Avista Turbine Power and Avista Utilities,

7 Avista the utility, and so I think of that as an

8 agreement between an affiliated interest. Do you

9 disagree with my characterization?

10 A. No, I wouldn't disagree with that, they are

11 affiliates, they're associated with the corporation, and

12 that's why it's basically an at-cost agreement. The

13 transfer of the contract from the obligation that Avista

14 Energy had to the obligation that we would have under

15 this agreement is the same agreement, it's at cost,

16 there's no markup.

17 Q. And is there -- what's the -- I guess is that

18 quite as simple a statement, is that actually true? In

19 other words, the agreement, the plant was owned by

20 Avista Energy, was it not?

21 A. The plant was not owned -- originally there

22 was another entity that owned a portion of the plant

23 that was an Avista entity.

24 Q. So what you're saying is that the cost to

25 Avista Energy since it negotiated, since it was sort of

0811

1 dumped into Avista Turbine Power, is the same cost as

2 the rate payers would be possibly purchasing the rights

3 to that agreement today?

4 A. Yes.

5 Q. Okay. And is there any evidence in the

6 record as to that cost other than your representation of

7 what it is?

8 A. Well, I think the agreement would indicate

9 that cost. Is that what you're talking about, the

10 annual payment requirements?

11 Q. It would, but how would we, you know, how do

12 we know what is behind the numbers in the agreement?

13 A. Well, I'm sure there's nothing behind the

14 numbers in the agreement.

15 Q. Because I think our rule, and, you know, I'm

16 pushing a little bit here because I think this is

17 important and it's not, you know, this isn't a game of

18 got you, it's a question of, you know, our rule is

19 between affiliated transactions is that it's either the

20 lower of cost or market.

21 A. Yes, that's correct.

22 Q. And so is there any -- we would be looking

23 then to see in the record what the market value of that

24 property is and then your actual cost, and so your

25 actual cost in my mind is the cost of Avista, you know,

0812

1 Avista Energy's cost?

2 A. Yes.

3 Q. Or the market cost?

4 A. I think what we demonstrated very clearly in

5 our testimony that the cost was substantially below

6 market. This was a cost that we determined to be about

7 $550 a kilowatt. Market cost of previous sales, you

8 know, prior to that were in excess of $700 a kilowatt.

9 I think Mr. Kalich's rebuttal testimony, and I want to

10 talk more about this, that the costs -- plants that have

11 sold since then have been at substantially higher cost

12 than that.

13 Q. Isn't the difference is that there they're

14 actually buying a plant and not a tolling agreement or

15 the rights to operate a plant for a limited period of

16 time?

17 A. What we try to do in our analysis is equate

18 those two so that they're looked at in a similar

19 fashion.

20 Q. It probably would have been easier if the

21 Company had submitted a request for proposal or offered

22 one to the market, and then it would be having that in

23 hand, wouldn't it be easier to show what the market

24 price would have been for that resource?

25 A. I think that's a true statement, but I would

0813

1 like to add if I may that a request for proposal really

2 takes a long time to do. I think to do an adequate job

3 on a request for proposal it takes anywhere from six to

4 nine months. We typically work with Commission Staff,

5 do whatever we can to get that out right takes a long

6 time to do that.

7 Q. All right.

8 A. We had an opportunity that was basically was

9 a short time frame, and in this business part of the

10 deal is to know when the opportunity and sometimes you

11 have to take action. We viewed this as a very positive

12 deal for customers, and that's why we said yes to the

13 output of the agreement.

14 Q. When -- and was the option for Avista

15 Utilities that's locked in what, July of 2007?

16 A. I don't understand what you're asking.

17 Q. Wasn't the option that was agreed upon, in

18 other words there's a contract, an option contract here

19 that's -- I mean is there not? I mean I get -- maybe

20 I'm trying to -- in my mind there's still three parties,

21 you know, or at least there is the, excuse me, there's

22 two parties, Avista Turbine Power unregulated.

23 A. Yes.

24 Q. And Avista the utility.

25 A. Okay.

0814

1 Q. And so Avista the utility has to take before

2 2010 or Avista Turbine Power will you said try to

3 remarket the PPA?

4 A. That would be one option I guess they would

5 look at.

6 Q. Okay. So there's -- so that's I guess

7 there's no real obligation to take by Avista Utility; is

8 that true?

9 A. What we determined when we did the first

10 analysis that this was a good deal to customers and

11 indicated to senior management that that was the right

12 decision for us to make in light of our long-term

13 resource needs.

14 Q. Well, let's go back to my question. I mean

15 as I understand it, your testimony today is that there's

16 no obligation to take, for Avista Utilities to take

17 power under this contract. It can -- and Avista Turbine

18 Power would have the decision whether to keep it or not?

19 A. I think that's true.

20 Q. Okay. And so it seems to me that there would

21 have been at least a period here between when that

22 option was agreed upon and now that the Company could

23 have gone to the market to say, hey, what's out there,

24 we have to take by January 1, 2010, and so what are our

25 options now, and is this still a good deal now for the

0815

1 rate payers?

2 A. And I think you'll find based on other sales

3 that have been made since we did this, since we

4 obligated, since we said we wanted this deal, are

5 significantly higher priced. In our testimony we talk

6 about green field plants or new turbine projects that

7 are in the $800 a kilowatt range.

8 Q. Now is there -- if Avista Turbine Power would

9 remarket according to at least your representations as a

10 possible outcome, if I understand the agreement, the

11 decision has to be made by December 31st, 2009?

12 A. Yes, that's correct.

13 Q. Okay.

14 A. January 1 of 2010.

15 Q. Oh, okay, all right, thank you, Mr. Storro.

16 And our order is at least the drop dead or, you know,

17 time for us to get out of our obligation, if you will,

18 we have to exit -- how can I put it in contract terms, I

19 probably can't. We have to issue an order by December

20 23rd. I don't know if you -- you don't need to agree to

21 that but --

22 A. I heard it yesterday.

23 Q. Okay, that's all right. So there's -- if I

24 understand both of those timelines, then there would be

25 a week in which Avista Turbine Power would have to make

0816

1 a decision if we were to say no, that we don't -- that

2 we would agree perhaps with the position of Public

3 Counsel, that would leave a week for a decision to be

4 made on what to do with it. And by it, I mean the

5 Lancaster tolling agreement.

6 A. Well, January 1, 2010, Avista Turbine Power

7 will still have the rights to the project, and they will

8 -- and I'm sure they will -- and they'll operate the

9 project. What we're presented in this case is that we

10 think it's an opportunity for customers relative to

11 other options to assume those contracts, the power

12 purchase agreement and the transmission, gas and

13 electric transmission agreements, and that's in the best

14 interests of customers on a long-term basis.

15 Q. So does Avista Turbine Power have the -- do

16 they own -- they've been assigned the tolling agreement

17 until the end of until, what is it, 2026?

18 A. I assume that's the case, yes.

19 Q. Okay. And so if the -- because this is a

20 insider deal, if we said no, then the utility could wait

21 until 2011 or 2012 to -- I mean the resource is still

22 there, it's Avista Turbine Power?

23 A. Well, Avista Turbine Power would have to

24 decide what would happen to the -- what would we do with

25 the tolling arrangement prior to that date, or what do

0817

1 we do in the meantime. My assessment, I guess we would

2 have to look at that, but we would probably look at what

3 other opportunities are out there in the market the

4 output of the project. Our problem is that starting in

5 2011 we have a deficit, capacity energy deficit, and

6 we'll have to make some decision on some project. If

7 it's not this project, it will be another project.

8 Q. Okay, well, I think that helps clarify it,

9 because I was under the understanding that Avista

10 Turbine Power had to act to exercise the option at the

11 end of this year, and that was a decision that needed to

12 be made by Avista Corporation, but apparently that's not

13 true, all right.

14 JUDGE TOREM: So, Commissioner Oshie, again I

15 want to make sure, Chairman Goltz and I are going back

16 and forth, the question that started with Commissioner

17 Jones and then now you've picked up is actually

18 answered.

19

20 E X A M I N A T I O N

21 BY JUDGE TOREM:

22 Q. So, Mr. Storro, is there a contract between

23 the utility and the turbine power portions of Avista?

24 A. Not that I know of.

25 Q. So simply when the assignment that Avista

0818

1 Turbine Power made in that same exhibit bubble number 3

2 expires as shown in bubble number 4 on December 31st of

3 this year, that power is now back with Avista Turbine?

4 A. That's correct.

5 Q. And the tolling agreement itself, now the

6 rights belong to Avista Utility if we approve this

7 proposed acquisition?

8 A. If in the end those rights are assigned to

9 Avista Utilities, then Avista Utilities would have the

10 obligation to make the payments under those agreements,

11 but they wouldn't be assigned to the utility until

12 there's a decision made about this.

13 JUDGE TOREM: And I think that question's

14 answered now.

15 COMMISSIONER OSHIE: All right, thank you,

16 but I think this has been helpful to clarify what

17 exactly the obligations are and what entity is obligated

18 for what.

19

20 E X A M I N A T I O N

21 BY COMMISSIONER OSHIE:

22 Q. Mr. Storro, are you familiar with our action

23 in approving the settlement which created the energy

24 recovery mechanism?

25 A. I can't say that I am.

0819

1 Q. Okay. Would you accept subject to check that

2 that was Docket Number UE-011595?

3 A. Of course.

4 Q. Okay, thank you. And would you also accept

5 subject to check that on page 7 of that agreement there

6 is a paragraph, and I will read it for the record, and

7 it's entitled transactions with Avista Energy:

8 The Company agrees that it will not

9 enter into any electric or natural gas

10 commodity transactions with Avista

11 Energy related to Avista Utilities

12 electric operations until the energy

13 cost deferral balance carries a net

14 credit balance.

15 Does that -- are you familiar with that

16 provision?

17 A. Yes, I am.

18 Q. Okay. As this transaction originated with

19 Avista Energy with the retention of rights by Avista

20 Turbine Power with the possibility that it would go to

21 Avista Utilities, is that transaction captured by that

22 in your opinion, by that provision?

23 A. No, it's not, this is not a commodity

24 transaction.

25 Q. It is a tolling agreement, it's -- what is

0820

1 the output of a tolling agreement?

2 A. A tolling agreement is basically a rental

3 agreement. It's a lease agreement. It's we basically

4 bring gas to the project, they convert it to

5 electricity, and we take the electricity away. It's a

6 rental agreement or lease agreement. There's no

7 commodity transaction involved at all.

8 Q. There's no commodity output from that

9 agreement that is beneficial to the rate payers of

10 Avista Utilities?

11 A. The conversion itself and the transfer of the

12 lease is not a commodity.

13 Q. Well, if you weren't producing electricity

14 from that plant, why would you buy it?

15 A. Well, maybe I don't understand your question.

16 Q. Well, I'm just digging down a little bit

17 deeper about your answer that no it's not a commodity

18 agreement because it's just a lease of a plant. I mean

19 what's the purpose of the plant?

20 A. Well, we are not buying gas or buying

21 electricity from Avista Energy or from Avista Turbine

22 Power. We are purchasing in this case the right to

23 convert gas to electricity.

24 Q. And so I guess there's no relationship then

25 for between, as a result of your answer in your opinion

0821

1 there's no relationship between Avista's interest in

2 zeroing out the ERM by our order when we get it out and

3 this provision in our original ERM settlement order?

4 A. Well, we don't believe that this deal

5 violates the requirement.

6 COMMISSIONER OSHIE: All right, thank you.

7 I don't think I have any other questions,

8 Judge.

9 JUDGE TOREM: Chairman Goltz.

10

11 E X A M I N A T I O N

12 BY CHAIRMAN GOLTZ:

13 Q. Forgive me if I ask a question that perhaps

14 has been asked and answered already, I will do my best.

15 A. I'll try to answer it the same way.

16 Q. That's the test.

17 So you had stated first on Exhibit RLS-2-X at

18 the bottom, page 1 of 1, and then orally who represented

19 Avista Corporation and Avista Utilities in that

20 transaction, and I gather when you say Avista

21 Corporation or Avista Utilities it's synonymous, it's

22 the same entity?

23 A. Yes.

24 Q. Okay. And then I believe you testified that

25 you didn't know who was negotiating the deal on the side

0822

1 of Coral?

2 A. I do not.

3 Q. Okay. So then referring over to the chart

4 with the bubbles and squares, which is page 3 of 3 of

5 RLS-19-X, as part of the overall agreement was there a

6 third party, in other words or that there was Avista

7 Utilities, there was, I'm sorry, there's Avista Energy,

8 there was Coral, and as part of the same agreement was

9 Avista Turbine Power part of that same agreement?

10 A. The entities that -- the individuals that

11 were negotiating on behalf of the corporation at that

12 time would include the interests of Avista Turbine

13 Power, so the same individuals.

14 Q. Okay. And so basically the agreement, the

15 people that you listed as negotiating on behalf of

16 Avista Utilities, Avista Utilities was not a signatory

17 to this agreement, it was Turbine Power?

18 A. I don't know if I know the answer to that

19 question.

20 JUDGE TOREM: Chairman Goltz, I think we'll

21 have the document itself and see who the signatories

22 were in response to that Bench request.

23 CHAIRMAN GOLTZ: Sure.

24 BY CHAIRMAN GOLTZ:

25 Q. As I understand it, so Turbine Power had the

0823

1 rights to the power starting in June 1999?

2 A. I believe that's the correct.

3 Q. And that's again --

4 A. Part of that chart.

5 Q. -- part of that chart, and I gather that they

6 then were marketing the power from the plant?

7 A. Avista Energy was marketing the power on

8 behalf of Avista Turbine Power, or basically the

9 agreement was assigned to Avista Energy and Avista

10 Energy was managing the agreement.

11 Q. That's right, because it was just one

12 employee?

13 A. Yeah.

14 Q. Okay. So then was some of the power then

15 sold to Avista Utilities?

16 A. No.

17 Q. None of the power was?

18 A. No.

19 Q. Now during from June 2000, June 30th, 2007,

20 through the end of this year, Coral Power has the rights

21 to the output of the plant?

22 A. That's correct.

23 Q. And is it your understanding that they're

24 marketing the output?

25 A. Yes, they are.

0824

1 Q. And again, is Avista Utilities purchasing any

2 of that power, if you know?

3 A. Well, Coral Energy is a separate entity, and

4 it's quite possible that from time to time we can get

5 matched up with them on the market. Whether the output

6 actually comes from this project or not, I don't know,

7 but I do know that we do business with Coral Energy.

8 Q. And on your Exhibit RLS-4, which I believe

9 you stated was the evaluation, the only document

10 evaluation of this transaction before it was entered

11 into; is that correct?

12 A. Yes.

13 Q. Was there, to the extent that this has some

14 sort of a, it's really not a formal cost benefit

15 analysis but you're listing benefits, was among the

16 benefits the opportunity to market some of the power

17 that would not be needed?

18 A. Well, of course that's what we would look at.

19 Any time that the project might be surplus, we would be

20 looking at opportunities to optimize the value of the

21 project.

22 Q. Just going through this very quickly, I

23 didn't see that as sort of a described opportunity, but

24 maybe it's in here. Do you recall that being part of

25 the --

0825

1 A. I'm sure it was, absolutely.

2 Q. In your Exhibit 6, RLS-6, page 11 of 14, I'm

3 sorry, that's not right, page 13 of 14, Mr. ffitch

4 directed you to this, it showed the revenue requirement

5 impact of the Lancaster agreement as $12.9 Million in

6 2010, and I believe he was making the point that you

7 didn't need the power in that year, and your response

8 was, well, yes, but we can -- we'll be marketing some of

9 that power, is that --

10 A. Well, yeah, the point is that there are some

11 quarters of the year that we do need the power, and

12 there's other quarters that we do not, but it's the same

13 as we have with any of our other resources.

14 Q. All right. And your -- I thought you were

15 saying that, well, yeah, we don't need the power all the

16 time, and some of the time, and then for the times when

17 we don't need, we'll be able to at least some of the

18 remaining time we will market that power?

19 A. Absolutely, we would optimize the project,

20 any time don't need the energy or if it's surplus and

21 it's still valuable in the market, we'll sell it into

22 the market.

23 Q. And one question that I will have, and I

24 don't know if -- I think you're the witness for this but

25 I can maybe ask Mr. Buckley or someone else as to how

0826

1 that then revenue gets factored into rates, if at all?

2 A. I think Mr. Johnson would be the right

3 witness to ask that question.

4 Q. But as far as you recall, when you were

5 evaluating this project, there was -- was there any

6 really specific analysis of here's how much we think we

7 can get for marketing this power?

8 A. I'm sure there was. Based on prices at the

9 time, there was an analysis made.

10 Q. But if there was an analysis made, it would

11 have shown up in your Exhibit RLS-4, wouldn't it?

12 A. I'm not sure, I think it would show up later

13 in another financial part of the project, so.

14 Q. Right.

15 A. Although I would have to admit, that was part

16 of the decisionmaking process too, that this showed that

17 it still had value to us in 2010.

18 Q. I guess that goes back to what I thought was

19 your testimony I believe in response to Commissioner

20 Jones was that the only document, the only pre-agreement

21 documentation was this what is RLS-4?

22 A. That's correct.

23 Q. And I believe in response to a question or

24 data request from Mr. ffitch you said there was no other

25 -- you have no documents of internal communications?

0827

1 A. No.

2 Q. So it sounds like other than RLS-4, the

3 evaluation was oral?

4 A. Well, keep in mind that what we were

5 evaluating was not whether this -- first thing we've got

6 to establish that I think there's general recognition

7 that we had a need for energy resources. This analysis

8 was really was this the right way to meet the need, was

9 this the right resource, did this make sense relative to

10 other purchases in the market. That's what that

11 analysis was based on, and we believe we demonstrated

12 that.

13 Q. So is there a separate agreement between

14 Turbine Power and Avista Utilities that's basically the

15 option that the utilities has to exercise before the end

16 of this year?

17 A. I don't know that there's an agreement like

18 that exists.

19 Q. Because I believe you said that sometime by

20 the end of the year the utilities, Avista Utilities has

21 to figure out if it's going to take it or not?

22 A. Well, we've already made the decision that we

23 want to take it, but I guess it's subject to this

24 discussion and the action of this Commission.

25 Q. I understand, but hypothetically if the

0828

1 Commission were to agree with Public Counsel, then I

2 thought you said the utilities, Avista Utilities would

3 have to kind of revisit that intent?

4 A. The corporation would have to revisit the

5 entire issue.

6 Q. Right. So my question is, if they have an

7 agreement with turbine power which gives them an out or

8 if there's no agreement at all?

9 A. I'm not aware of any agreement that the

10 utility has with turbine power.

11 CHAIRMAN GOLTZ: I have no further questions.

12

13 E X A M I N A T I O N

14 BY JUDGE TOREM:

15 Q. Mr. Storro, I just want to follow up on the

16 Chairman's point. If the Commission hypothetically

17 agrees with Public Counsel's position, you'll still have

18 the energy deficits you laid out for those two quarters

19 of 2010; is that right?

20 A. Yes.

21 Q. And how would you propose to address that if

22 the Lancaster PPA was disallowed?

23 A. What would happen in those cases, we would

24 factor that into our power -- we put it basically in our

25 position report, and we would, you know, look at the

0829

1 market and do our best to fill those needs.

2 Q. And in 2011, how many quarters are you

3 projecting a deficit?

4 A. Three. In 2011 we deficit in all quarters

5 there on out except for second quarter which is

6 typically a high hydro quarter, so it's significant

7 deficits in those quarters that we'll have to look at

8 separately. The point is it's a long-term need, it's

9 not a short-term need.

10 Q. No, I understand it's a 16 year power

11 purchase agreement.

12 My next question was going to be, would a 15

13 year power purchase agreement still be available to the

14 Company?

15 A. I don't know the answer to that.

16

17 E X A M I N A T I O N

18 BY CHAIRMAN GOLTZ:

19 Q. I'm sorry, I made notes here but I apparently

20 can't read them, but so if you recall during the

21 negotiations where this was arranged, what -- there is

22 there a 2 1/2 year assignment back to Coral and then the

23 date picked of January 1, 2010, for Turbine Power to

24 then get the output, you know, how were those dates

25 picked? I mean was there negotiation, was there part of

0830

1 the negotiation like, okay, how about January 1, 2011,

2 2012?

3 A. You know, I wasn't involved in the

4 negotiations, so I don't know the answer to that. It

5 was part of the overall negotiation of the sale of

6 Avista Energy, and the parties involved not only were

7 aware of what was trying to be accomplished there but

8 also aware of what the utility's need was. Saw that

9 opportunity, and the two line up very well, and it's

10 basically an at-cost low cost opportunity for the

11 Company.

12 Q. Well, then why wasn't it January 1, 2009?

13 A. I don't know the answer to that.

14 JUDGE TOREM: Commissioner Jones.

15

16 E X A M I N A T I O N

17 BY COMMISSIONER JONES:

18 Q. Mr. Storro, when you say that the Company

19 needs the plant on a longer term basis, I think you've

20 stated that several times, energy, that you need the

21 energy, but isn't the point that you need capacity?

22 A. Oh, yes, of course, yes, energy and capacity

23 both.

24 Q. And the value of this plant is both for

25 capacity --

0831

1 A. Absolutely.

2 Q. -- and energy?

3 A. Yes.

4 Q. And as you build more renewables into the

5 system, that this plant might be valuable in providing

6 capacity?

7 A. Considerably more valuable, that's correct.

8 Q. I have a couple questions about the what we

9 call the following the money of the sale of Avista

10 Energy. Maybe you are not the appropriate person to ask

11 this, maybe Mr. Kalich or Norwood is, but I'll try.

12 Does Avista consider the moneys from the sale of Avista

13 Energy in April of 2007 as belonging to the balance

14 sheet of Avista Utilities or the shareholders, how was

15 that done at the time of the sale of Avista Energy?

16 A. I'm sure that whether it was a loss or a gain

17 it belonged to the shareholders.

18 Q. Do you recall where the net proceeds from the

19 sale of Avista Energy went? As I recall, and there's

20 nothing in the record that I see, there was a

21 substantial gain from the sale, and a certain amount was

22 injected I think as equity into the utility.

23 A. I don't know the answer to that.

24 COMMISSIONER JONES: Mr. Meyer, who would be

25 the appropriate person to direct these questions to?

0832

1 MR. MEYER: Well, in this room probably

2 Mr. Norwood.

3 COMMISSIONER JONES: Well, Judge, I suggest

4 at some point, maybe after lunch or the appropriate

5 time, that we ask these questions to Mr. Norwood then.

6 JUDGE TOREM: Sounds like you're changing

7 Mr. Norwood's lunch plans.

8 All right, Commissioners, any other

9 questions?

10 COMMISSIONER JONES: Just one more.

11 BY COMMISSIONER JONES:

12 Q. Either in your own study or in the Thorndike

13 Landing study, was the evaluation of the purchase of the

14 plant seriously considered, not the tolling agreement?

15 A. Yes.

16 Q. Answer that first.

17 A. Yes, it was. Both in our analysis and then I

18 believe both theirs, it definitely was looked at, and it

19 looked like a good opportunity. A better opportunity

20 would be to purchase the plant. In fact, we did submit

21 a bid after this, because when this project was for sale

22 with 13 other projects that Goldman had, we submitted a

23 bid into that deal. And they wanted to sell all of

24 them, we only wanted to buy the one, and our bid was

25 rejected. But that is an opportunity that we will

0833

1 continue to pursue.

2 COMMISSIONER JONES: Thank you, that's all I

3 have.

4 JUDGE TOREM: All right, I'm not sure,

5 Mr. Meyer, if you want to take any redirect or if I

6 should go back to Mr. ffitch for any recross and you can

7 have all the redirect at the end.

8 MR. MEYER: I'll stay at the end.

9 JUDGE TOREM: Mr. ffitch.

10 MR. FFITCH: Thank you, Your Honor.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. FFITCH:

14 Q. I'm going to ask the burning question that's

15 on everybody's mind perhaps, who is the sole employee of

16 Avista Turbine?

17 A. I believe it's Brent Guier.

18 COMMISSIONER JONES: Mr. ffitch, remember in

19 a previous proceeding you had a chart that you referred

20 to?

21 MR. FFITCH: I do recall.

22 BY MR. FFITCH:

23 Q. And could you spell that name, please, for

24 the record.

25 A. G-U-I-E-R, first name is Brent.

0834

1 Q. Brent, B-R-E-N-T?

2 A. Yes.

3 Q. Is that person also an employee of any other

4 Avista entities?

5 A. Not that I know of.

6 Q. If Avista -- do you know what the duties of

7 that employee are?

8 A. I wouldn't say that I know all the duties.

9 Q. Any of the duties?

10 A. I think he's basically representing the

11 interests of Avista Turbine Power in relationship with

12 the plant owner.

13 Q. Where is the workplace of, is it Guier?

14 A. Guier, G-U-I-E-R.

15 Q. Where is the workplace of Mr. Guier?

16 A. I believe he works in an office downtown

17 Spokane.

18 Q. And what are his professional qualifications?

19 A. I know he was -- he worked at Avista Energy

20 previously, he's an electrical engineer, he worked at

21 Avista Utility, you know, prior to going to Avista

22 Energy, and then he was of course involved when the

23 project was built and has worked there. I think his

24 main duties had to do with the operation of the plant.

25 Q. If Avista Turbine Power has to make a

0835

1 decision about what to do with the tolling agreement if

2 the UTC disallows the transaction, who would be making

3 that decision for Avista Turbine Power?

4 A. I assume it would be the officers of the

5 corporation, senior officers of the corporation.

6 Q. You had indicated in response to Commissioner

7 Oshie's question that Avista Turbine holds the rights to

8 the tolling agreement. There are some other components

9 to what we're referring to as the Lancaster contracts

10 and who is holding -- and the other components as I

11 understand it are the gas transportation contract and

12 the Bonneville Power transmission piece. Can you tell

13 me who holds the rights to those components of the

14 Lancaster contract?

15 A. I believe that, well, I know that Avista

16 Energy originally held the transmission agreements, and

17 I'm not sure what has transpired relative to those

18 agreements. I know they're temporarily assigned to

19 Coral, but I'm not familiar with who is the actual

20 holder of the agreements.

21 Q. That's the Bonneville?

22 A. Bonneville one and the gas agreements.

23 Q. So right now they're temporarily assigned to

24 Coral?

25 A. Yes. They're integral to the operation of

0836

1 the plant, both the gas and electric transmission

2 agreements.

3 MR. FFITCH: This next question, Your Honor,

4 may be a little cumbersome. Commissioner Oshie asked a

5 question towards the end of his time about the need of I

6 believe Avista Turbine to make a decision or not to make

7 a decision by December 31st, 2009, and the witness did

8 not actually answer the question, was silent at that

9 time. And I tried to recreate the question in my notes

10 and could not. So what I thought I would request, Your

11 Honor, is if the court reporter could go back to

12 Commissioner Oshie's question and read the question back

13 and we could get an answer from the witness on that

14 point.

15 JUDGE TOREM: Let me see if there's an easier

16 way that Commissioner Oshie may just be able to restate

17 his own question.

18 COMMISSIONER OSHIE: I don't think so, Judge,

19 but thank you for the opportunity. If I had written

20 cross questions, maybe I could, but.

21 JUDGE TOREM: All right, well, then let's see

22 if we can go back on the record, we'll just stop for a

23 minute and see what we can get read back on the screen.

24 (Recess taken.)

25 JUDGE TOREM: All right, I think we're ready

0837

1 to go back on the record. I understand that we've been

2 able to locate the question.

3 MR. FFITCH: Yes, Your Honor, and if I may, I

4 would like to ask the court reporter to read the

5 question back.

6 (Record read as follows.)

7 Okay, well, I think that helps clarify

8 it, because I was under the

9 understanding that Avista Turbine Power

10 had to act to exercise the option at the

11 end of this year, and that was a

12 decision that needed to be made by

13 Avista Corporation, but apparently

14 that's not true, all right.

15 BY MR. FFITCH:

16 Q. And, Mr. Storro, my question is, is

17 Commissioner Oshie's statement a correct statement?

18 THE WITNESS: Read it one more time.

19 (Record read as follows.)

20 Okay, well, I think that helps clarify

21 it, because I was under the

22 understanding that Avista Turbine Power

23 had to act to exercise the option at the

24 end of this year, and that was a

25 decision that needed to be made by

0838

1 Avista Corporation, but apparently

2 that's not true, all right.

3 A. There isn't any option that has to be

4 exercised.

5 MR. FFITCH: All right, thank you.

6 I believe that's all my questions if I may

7 just check.

8 Oh, there was one other matter.

9 BY MR. FFITCH:

10 Q. Mr. Storro, could you please turn to Exhibit

11 RLS-6, which is the November 2007 analysis attached to

12 your direct, and go to Table 10 on page 13 of 14.

13 Chairman Goltz was asking you about this in his

14 questioning.

15 COMMISSIONER OSHIE: Excuse me, counsel, if

16 you could cite again where you would like us to be.

17 MR. FFITCH: It's Exhibit RLS-6, and it is

18 page 13 of 14, Table Number 10.

19 COMMISSIONER OSHIE: Thank you.

20 BY MR. FFITCH:

21 Q. Do you have that, Mr. Storro?

22 A. Yes, I do.

23 Q. And if you will recall that Chairman Goltz

24 was asking you about essentially your previous answer

25 that the $12.9 Million revenue requirement impact might

0839

1 be -- I think you were suggesting it might be mitigated

2 somewhat by other sales during the year 2010. Is that a

3 fair summary of your point?

4 A. Well, what I'm not sure about on that

5 particular chart is whether that number isn't already a

6 reflection of some sales.

7 Q. Okay, well, let's look up at the second

8 paragraph of the statement. Well, first of all in your

9 response to Chairman Goltz you stated that this number

10 was essentially going to be lower because there would be

11 other sales, correct?

12 A. That's true.

13 Q. If you could look at the second paragraph of

14 the document.

15 A. It basically says that the revenue

16 requirement impact is calculated by subtracting the spot

17 market energy value of the plant from the total plant

18 cost.

19 Q. All right, so these numbers shown on Table

20 Number 10 are net numbers, correct?

21 A. They should be net numbers.

22 MR. FFITCH: Thank you, those are all my

23 questions.

24 Thank you, Your Honor.

25 Thank you, Mr. Storro.

0840

1 JUDGE TOREM: Commissioners, anything else

2 before redirect?

3

4 E X A M I N A T I O N

5 BY CHAIRMAN GOLTZ:

6 Q. Just on the question that was read and

7 reread, there's no option to be exercised by Turbine,

8 there's an option to be exercised by the utility,

9 correct?

10 A. No option exists. The utility has the

11 opportunity to take assignment of the contracts prior to

12 January 1, 2010, to be effective on January 1, 2010.

13 Q. But has no contractual option?

14 A. No.

15 JUDGE TOREM: Mr. Meyer.

16 MR. MEYER: Thank you.

17

18 R E D I R E C T E X A M I N A T I O N

19 BY MR. MEYER:

20 Q. Mr. Storro, to the best of your knowledge is

21 there or was there any obligation on the part of Avista

22 Energy to put this Lancaster PPA to Avista Utilities in

23 2007?

24 A. No, there was not.

25 Q. So Avista Energy at the time could have taken

0841

1 this opportunity elsewhere?

2 A. Yes.

3 Q. Now if Avista had passed on this opportunity

4 in 2007, is there any assurance that Avista Energy

5 wouldn't have remarketed this elsewhere?

6 A. If we would have passed on the opportunity in

7 2007, in order to indicate value to the customers, other

8 -- I'm sure they would have had to look at other options

9 to do with this agreement at that time, and we would

10 have missed the opportunity.

11 Q. So would you comment then on whether this

12 would have represented a lost opportunity for the

13 utility?

14 A. It certainly would have been a lost

15 opportunity for the utility. This basically is an

16 at-cost agreement based on a project that was built for

17 $130 Million, so it's a good opportunity. We believe we

18 demonstrated in testimony it's a good opportunity

19 relative to other projects that have been sold and other

20 projects that have been sold since.

21 Q. Now because Avista Utilities did elect to go

22 forward with the expression of interest to acquire this,

23 to the best of your knowledge did that result in the

24 structuring of the transaction to essentially create a

25 way of keeping this in reserve until such time as it

0842

1 would come into the utility on January 1 of 2010?

2 MR. FFITCH: Objection, leading.

3 JUDGE TOREM: Sustained.

4 BY MR. MEYER:

5 Q. Would you comment on the impact of the

6 corporate structure that was put in place set forth in

7 RLS-19-X and how it relates to this transaction?

8 A. I'm confident that that overall structure

9 would have been different had we not elected to take the

10 output of the project on January 1 of 2010. As a part

11 of the negotiations, they were all negotiations, Coral

12 wanted the project or at least accepted the project

13 through that date an assignment with assignment to the

14 utility afterwards. And had that not occurred, had we

15 not expressed an interest, there would have been some

16 other arrangement that would have been put in place to

17 deal with the output of the project in the meantime or

18 long term.

19 Q. So do you know whether if that expression of

20 interest had not taken place whether Avista Energy would

21 have taken this elsewhere?

22 A. They would have had to.

23 Q. Now next question, to what extent does the

24 Avista 2007 IRP call for a combustion turbine, any

25 combustion turbine, as its next resource of choice?

0843

1 A. Well, as a part of the preferred resource

2 strategy in the IRP I believe we identified 300 or 350

3 megawatts of combined cycle turbine capacity. Same

4 thing happened in our 2009 IRP and about the same

5 amount, combined cycle turbine capacity requirement

6 substantially greater than the Lancaster plant.

7 Q. So has anything substantially changed in that

8 regard between the 2007 and the 2009 IRP's?

9 A. Not substantially, no.

10 Q. So did you just testify that the next

11 resource of choice is still a combustion turbine?

12 A. Absolutely it is.

13 Q. Would you please comment on what Avista

14 Utilities would do if it were to pass on this

15 opportunity to acquire the Lancaster BPA?

16 A. Well, as I commented earlier, we have a need,

17 significant need, starting 2011, that we would have to

18 make other arrangements to meet that need. But it's a

19 long-term need, so our -- likely our response would be

20 to look at another combined cycle turbine.

21 Q. And do you have any sense for what that other

22 combined cycle combustion turbine might cost relative to

23 the Lancaster BPA?

24 A. Based on what we've seen in the market, based

25 on what we've seen costs that others have advertised, if

0844

1 we decided to build another project probably in excess

2 of $800 a kilowatt.

3 Q. And are you aware of any information

4 contained within Mr. Kalich's testimony that calculates

5 or shares recent pricing information with respect to

6 what's available?

7 A. Right. There's a table in Mr. Kalich's

8 testimony, I believe it's Table 2, that shows all the

9 costs of various plants that have been built or

10 proposed.

11 Q. Now the opportunity that you spoke about

12 earlier in terms of your discussion with the

13 Commissioners regarding the sequence of events, was that

14 in a sense a narrow window of opportunity, and in what

15 sense was it?

16 A. Well, it was an extremely narrow opportunity.

17 We had literally a few weeks, because the negotiation

18 was going on, to analyze. So basically what happened at

19 that time, Mr. Kalich's group kind of dropped what they

20 were doing now and devoted their time to looking at the

21 value of this agreement.

22 Q. And as you testified just a few moments ago,

23 again if Avista Energy during or if Avista Utilities

24 during this narrow window of opportunity had passed on

25 this opportunity, I believe your earlier testimony was

0845

1 that Avista Energy, no guaranty that Avista Energy

2 wouldn't have taken this project elsewhere, correct?

3 A. If we would have not expressed an interest

4 and another utility would have a need for it, they would

5 have -- I am confident they would have been forced to

6 take it elsewhere.

7 Q. All right. Now why did you do the --

8 commission a Thorndike study after the fact, if you

9 will?

10 A. Well, we typically do that any time we're

11 looking at a decision, a resource decision, it's been

12 our practice to normally employ an independent third

13 party to take a look at our decisionmaking process. Did

14 we cover everything, did we look at everything, were we

15 looking at this properly, you know. In this case

16 Thorndike not only validated the decision, but they also

17 validated the methodology, so that's another issue of

18 concern about -- it's just another set of eyes to verify

19 that you made the right decision.

20 Q. So are you testifying that it essentially

21 confirmed the decision that was made earlier?

22 A. Yes, it did.

23 Q. All right.

24 The question was raised in terms of what

25 benefit this project has starting in 2010 for the

0846

1 utility and why it should essentially be brought into

2 rates at that time. Would you please comment.

3 A. Well, I think the main point there is that

4 the 2010 date was established as a result of the overall

5 negotiations. This is a long-term deal. It's no

6 different than a construction contract or any other type

7 of deal where you're not going to necessarily control

8 exactly the timing. As a result of that, in this case

9 we have a specific date, and although people contend

10 it's a little bit early, we still have needs in that

11 time, we still have needs in 2010, and basically it

12 aligns very closely with the need, whether it was this

13 project or whether we would have engaged in a

14 construction project.

15 Q. There was a question about the transfer by

16 Avista Energy of the PPA at cost; do you recall that

17 exchange?

18 A. Yes, I do.

19 Q. Now I believe Commissioner Jones expressed

20 some interest in identifying where that documentation of

21 an at-cost transfer might be found; do you recall that?

22 A. Yes, I do.

23 Q. Now do you understand that the Company will

24 be responding to Bench Request Number 10, which will

25 have copies of tolling arrangements and of the other

0847

1 transactional documents?

2 A. Yes.

3 Q. To the best of your knowledge, would that be

4 a source for purposes of answering that question?

5 A. Should be.

6 MR. FFITCH: Excuse me, Your Honor, could we

7 clarify whether the witness said could be or should be.

8 A. It will be.

9 Q. All right, now can one infer from the

10 negotiation process that occurred between or as part of

11 the Avista Energy sale -- strike that, ask it

12 differently.

13 Because this PPA was transferred at cost, by

14 definition does that mean that there was no markup of

15 any kind as it was transferred or will be transferred to

16 the utility?

17 A. That's correct. We were assuming the exact

18 agreement that Avista Energy had relative to payment

19 obligations.

20 Q. And what makes that transfer at cost so

21 valuable to the utility's rate payers?

22 A. Well, in this particular case that cost, that

23 PPA, that tolling arrangement was -- is based on a

24 project that was built, you know, in -- I believe on

25 line in 2001 at a cost of about $130 Million, so the

0848

1 cost of that project is about $400 a kilowatt. And even

2 if you take that and mark it up, of course which they

3 did to get the PPA, it's still a significantly lower

4 cost than any project that has been purchased or any

5 project that -- or almost half the cost of a new

6 project.

7 Q. So irrespective of how the negotiation

8 process occurred or who was involved, isn't it true that

9 the final result was a transfer at cost?

10 A. Yes.

11 Q. Would you have expected it be to transferred

12 at less than cost?

13 A. No.

14 Q. A word or two or a question about commodity

15 transactions. Commissioner Oshie asked you why this

16 isn't a commodity transaction, and I would like you to

17 please elaborate on your response at this time.

18 A. Well, in this case we buy the commodity and

19 bring it to the plant. We're paying the plant to

20 convert one commodity to another, but there's no

21 commodity transaction in this case with any affiliates.

22 Q. Well, I believe your analogy before was to

23 essentially renting a plant or leasing a plant?

24 A. That's correct.

25 Q. Can you provide perhaps another example if

0849

1 any comes to mind, an analogy?

2 MR. FFITCH: Your Honor, I'm going to object,

3 I think there's an attempt to lead the witness here by

4 simply repeating earlier testimony and fishing for

5 something.

6 MR. MEYER: I just want to make sure the

7 Commissioners understand, whether they agree or not,

8 with our point of view on what a tolling arrangement

9 really is, because that phrase gets bandied about a lot,

10 but there may not be a common understanding.

11 JUDGE TOREM: I'm going to overrule the

12 objection. And, Mr. Storro, if you have a ready

13 analogy, you can give it. And if you would like to give

14 a legal portion of your brief as to what tolling

15 agreements are and what a commodity is and how one can

16 be converted into another and it not be a commodity

17 arrangement under this affiliate transaction, the brief

18 is the perfect place. Because it sounds like this is

19 going to be a definitional and a legal issue in the long

20 run. So, Mr. Storro, do you have an additional analogy.

21 A. Well, I assume one analogy would be the

22 rental of an automobile where you're buying gas to move

23 that vehicle. The gas is off leased commodity, but the

24 rental agreement you make with the car company is not a

25 commodity. So in this case what we're doing is we're

0850

1 renting the right to convert one commodity to another.

2 JUDGE TOREM: And you have to return the

3 plant full, right?

4 THE WITNESS: Yes.

5 JUDGE TOREM: Any further questions,

6 Mr. Meyer?

7 MR. MEYER: Just one or two more, it will

8 just take a minute.

9 BY MR. MEYER:

10 Q. There were some questions early on about the

11 transmission and transportation agreements associated

12 with the Lancaster PPA; do you recall that?

13 A. Yes, I do.

14 Q. To what extent were those part and parcel of

15 the deal?

16 A. Those agreements are integral to the deal.

17 In order to operate the plant, in order to get any value

18 out of the plant, you have to have gas transportation to

19 get to the plant and you have to have electric

20 transmission to move the product away from the plant, so

21 they're integral to the agreement.

22 Q. And to what extent, if any, would the utility

23 be oversubscribed over the life of the plant to either

24 transmission or transportation?

25 A. Oh, we don't believe we're oversubscribed at

0851

1 all.

2 MR. MEYER: All right, that's all my

3 redirect, thank you.

4

5 E X A M I N A T I O N

6 BY JUDGE TOREM:

7 Q. Mr. Storro, I want to go back to RLS-19-X,

8 and something that's come up in the course of the

9 beginning of Mr. Meyer's questions were a follow-up on

10 what this narrow window of opportunity -- what was going

11 on then. It appears that the sale that Avista Energy

12 made to Coral in bubble 2 was June 30th, 2007, and on

13 that same date Avista Turbine Power assigned PPA to

14 Coral for 2 1/2 years.

15 A. Well, June 30th is the sale of the Avista

16 Energy assets to Coral, and at the same time this

17 project, the PPA and the transmission agreements were

18 temporarily assigned to Coral so that for this period of

19 time they can operate the plant just the same as we

20 propose to do on January 1 of 2010, so all of the

21 agreements were temporarily assigned.

22 Q. Do you have any idea why they chose 2 1/2

23 years?

24 A. I'm sure that's a part of the negotiations,

25 but I don't know the reason.

0852

1 Q. Would there have been any consequence to

2 Avista Utilities' ability to seek out this reassignment

3 of the rights back from Avista Turbine Power to the

4 utility had it only been 1 1/2 years, say it was January

5 1st of 2009?

6 A. I guess I don't understand the question.

7 Q. I'm just trying -- there's a lot of things

8 that are rolling up right here to January 1st, 2010.

9 A. Yes.

10 Q. And I don't even watch CSI, but I just have

11 seen a lot of things focus on this one date, and I'm now

12 looking to see if there was a good reason why it was

13 just 2 1/2 years, Coral only needed a power outlet for

14 that period of time?

15 A. I'm sure it was just a part of the

16 negotiation process. For all I know, Coral wanted it

17 longer. I don't know the answer to that question. It

18 was a part of the negotiation as a part of the overall

19 package the, you know, January 1 date was arrived at.

20 Q. And the RLS-4 exhibit had the date right on

21 that was within about five or six weeks of the sale, it

22 was an August document of 2007; is that correct?

23 A. Which document?

24 Q. This is the power purchase agreement

25 evaluation, I'm sorry, it's April 11th.

0853

1 A. Right.

2 Q. So was this viewed, this evaluation done then

3 prior to the actual sale?

4 A. Right, the sale was done -- finalized on June

5 30th.

6 Q. So Avista Utilities based on RLS-4 knew it

7 wanted the power at some point in the future, so did

8 Avista Utilities can I assume have some input into how

9 long they would allow Coral to take the power so they

10 would retain their interest?

11 A. The question to us was, does this plant have

12 value to customers and what is the value in 9, 10, and

13 11. We indicated that it had value since it was a

14 long-term deal in each of those years, and as a result

15 of the negotiations it ended up on January 1, 2010.

16 Q. But you said in this document it also had

17 potential value in 2009?

18 A. Keep in mind that what we're looking at here

19 is a long-term arrangement, and what we want, we did not

20 want to give up the opportunity to miss the long-term

21 opportunity.

22 Q. No, I see that, I just thought that if Coral

23 got a short-term opportunity, and I'm trying to just

24 sort out what, if any, arrangement, and maybe this is

25 just there's nothing there, but if there was a reason

0854

1 why Coral only got 2 1/2 years, I would like to know any

2 insight you have?

3 A. Well, I couldn't speculate why they only got

4 2 1/2. I mean for all I know they wanted 5 1/2 and only

5 got this period of time. I don't know the answer to

6 that. The point is that an energy marketing company

7 like Coral operates from a different set, a different

8 business plan than the utility. We're looking at a need

9 to serve our customers. That obligation is not a case

10 of choosing whether to buy a resource or not, in our

11 case it's which resource do you buy to meet that

12 obligation. Coral isn't operating under that same

13 scenario.

14 COMMISSIONER JONES: Judge, are you finished,

15 I have a question very much related to your line of

16 inquiry here, and it's on RLS-4.

17 JUDGE TOREM: Please go ahead, Commissioner

18 Jones.

19

20 E X A M I N A T I O N

21 BY COMMISSIONER JONES:

22 Q. Could you turn to page 5 of your analysis

23 overview. This relates to the PPA availability date,

24 Mr. Storro. Tell me when you're there.

25 A. I have it.

0855

1 Q. Do you see the header called PPA availability

2 date?

3 A. Yes, I do.

4 Q. So you were asked by Mr. Malquist I assume

5 and the negotiators for the sale of AE to look at these

6 three dates?

7 A. That's correct.

8 Q. And you did at least on April, and you say

9 negotiations were ongoing with Coral Energy at that

10 point, and the date of this document is April 1st, 2007,

11 right, correct?

12 A. April 11th.

13 Q. Yes. So you did do an analysis of these

14 various dates for when the PPA would become effective?

15 A. That's correct.

16 Q. Did Mr. Malquist or the negotiators at any

17 point after you did this analysis come back to you and

18 ask for more information, for example say, well, could

19 you do a little bit more on 2010 or 2009?

20 A. No, I don't believe so.

21 Q. So this is the only analysis that you did on

22 the availability date of the PPA?

23 A. That's correct.

24 Q. And as it says here that you did do in this

25 analysis an identification as you say where the PPA is

0856

1 transferred to Avista in 2009 and the IRP methodology

2 identifies a 2011 deficit, PPA costs and benefits begin

3 in 2009?

4 A. Yes.

5 Q. So you did do an analysis of that?

6 A. Right.

7 Q. Okay. But that analysis is not, at least the

8 details of that analysis is not in this record?

9 A. Well, there was only one analysis. Maybe I

10 misunderstood your question. The analysis we did was to

11 look at the value in those three particular years and

12 indicate then, as a result of that, indicate it to

13 Mr. Malquist that it did have value, especially had

14 long-term value. So, you know, I guess what I would ask

15 is that if there's any other particular questions about

16 that, Mr. Kalich's group did the analysis, and maybe he

17 will comment on that better than I can.

18 Q. And just a final question before we adjourn

19 to lunch, who owns the plant, not the rights of the PPA,

20 but my understanding is the plant is actually owned by

21 whom?

22 A. There's a data request here, and I would have

23 to look that up, but I could find out the exact

24 ownership. I know it's 20% Goldman and 80% that other

25 entity that I don't remember the exact acronym or the

0857

1 name of.

2 Q. So in essence Coral Energy is acting as a

3 marketer on behalf of that ownership entity, they are

4 marketing temporarily at least during this 2 1/2 year

5 period, they have the rights to market that energy in

6 the wholesale market?

7 A. Yeah, they are the holder of the agreements

8 and are a -- they're a party to the agreement, not

9 actually necessarily on behalf of the owners, but

10 they're acting as an off -- as the tolling controller in

11 this case, so.

12 Q. So the appropriate description of them is

13 tolling controller?

14 A. I never heard that one before, but it sounds

15 pretty descriptive, so.

16 Q. I think you just said it.

17 A. Okay.

18 COMMISSIONER JONES: Thank you, Mr. Storro.

19 MR. FFITCH: Your Honor, for the assistance

20 of the Bench, I believe that Exhibit RLS-19-X is the one

21 the witness was referring to. He can confirm that, but

22 that contains information about the plant ownership.

23 THE WITNESS: That's correct, that's good,

24 thank you.

25 JUDGE TOREM: All right, we're at 12:07 or 8

0858

1 depending on how you read that clock, I think we'll take

2 an hour and a quarter for lunch, so let's gather back

3 here at 1:25. If we can get on the record before 1:30,

4 we will, and I believe we'll start with Mr. Kalich.

5 CHAIRMAN GOLTZ: Why don't we say 1:30.

6 JUDGE TOREM: You guys like round numbers,

7 all right, 1:30, 1:30 for Mr. Kalich.

8 (Luncheon recess taken at 12:10 p.m.)

9

10 A F T E R N O O N S E S S I O N

11 (1:30 p.m.)

12 JUDGE TOREM: All right we're back after the

13 lunch break, it's a little after 1:30. During the lunch

14 break I was able to reduce Bench Request 9 to writing,

15 and that went out electronic service. It will go in the

16 mail I imagine later this afternoon. If folks need a

17 hard copy because they're not where they can get their

18 E-mail or not where they can get their mail, let me know

19 and I can get hard copies to you at the end of the day.

20 The due date is going to be Monday, October 12th at

21 3:00. That's when I was advised Mr. Kermode would be

22 able to provide that. I do note Monday is Columbus Day,

23 so the service by mail, the postmark date will be the

24 following day, and that's referenced in the Bench

25 request thanks to our attentive staff downstairs

0859

1 reminding me of Columbus's importance at least to the

2 federal government.

3 All right, any other housekeeping matters?

4 Mr. Meyer.

5 MR. MEYER: Yes, I do, and I would like to do

6 this on the record. As always, we try and make sure

7 that what goes into the record is accurate, and I

8 believe that at one point Mr. Storro may have indicated

9 that there was, other than just what you see here in

10 RLS-4, which is that April 11th study of Lancaster,

11 there wasn't any other supporting documentation. Well,

12 during the lunch hour we reviewed our files, and in fact

13 we had provided some even in response to a Public

14 Counsel data request, and that request dealt with one

15 aspect of it, and so even that response to that request

16 wouldn't be the complete package of things. So I guess

17 I would invite a Bench request asking us to provide any

18 and all backup on that RLS-4 exhibit, and we would be

19 happy to provide that.

20 MR. FFITCH: Your Honor, I'm going to object

21 to the proposal by the Company. We've essentially had

22 Mr. Meyer testifying not under oath and trying to change

23 the testimony under oath of one of the Company witnesses

24 and making representations about what is and is not in

25 the record. We'd be happy to take a look at the data

0860

1 request that he's talking about, I don't know which one

2 that is yet, but I don't think this is an appropriate

3 way to modify the record or to change the testimony of a

4 witness.

5 MR. MEYER: Well, Your Honor, as an officer

6 of the court I have to bring to your attention a

7 misstatement when I'm aware of it. I'm aware of a

8 misstatement by a witness, whether it helps us or hurts

9 us.

10 JUDGE TOREM: If I understand, Mr. Meyer,

11 what you're suggesting is there are documents that are

12 not in the record at this time that were produced to

13 some party or other from a data request, but they're not

14 a cross-exhibit or another exhibit to your knowledge.

15 MR. MEYER: Correct. And even in that

16 regard, only part of them were produced in response to a

17 data request, because the data request didn't ask for

18 everything. So the point being we have backup

19 documentation for this which we can provide, but the

20 record as it stands now is not accurate.

21 JUDGE TOREM: Can you proffer for me what

22 sort of documents these might be?

23 MR. MEYER: You know, Mr. Kalich who's now on

24 the stand can speak to those. He is familiar with those

25 files.

0861

1 MR. FFITCH: Your Honor, may I make a

2 comment?

3 JUDGE TOREM: Certainly.

4 MR. FFITCH: We have conducted extensive

5 discovery with Avista regarding the Lancaster

6 transaction and will be happy to go back and look at our

7 discovery, but at the present time we're not aware of

8 the documents that Mr. Meyer is referring to.

9 MR. MEYER: I can help, Your Honor, Public

10 Counsel Data Request 108C.

11 Please provide data and workpapers

12 documenting the assumption that the cost

13 of the Lancaster Cascade PPA would rise

14 by $66 Million if no transmission

15 capacity is remarketed or otherwise

16 optimized as stated on page 3 of RLS-4

17 to the direct testimony.

18 And we responded to that aspect of RLS-4 with

19 several sheets of backup. But if the question is, is

20 there additional documentation supporting all of RLS-4,

21 I think the answer that you can verify with this witness

22 is that there is, and I don't want the record to be

23 wrong.

24 JUDGE TOREM: All right, let me suggest first

25 that if there are backup documents as you described that

0862

1 explain how RLS-4 was created and any of the backup

2 discussions, studies, or otherwise, find all of them,

3 show them to the other parties, and then come back with

4 a proffer of that as an exhibit to be sponsored by an

5 appropriate witness. That way we all know what it is.

6 The Bench has already asked the question, so I'm not

7 going to issue a Bench request for items that were

8 already asked and answered by that witness. That

9 question may yet get reposed given the posture of the

10 case with further witnesses this afternoon who have

11 better knowledge than Mr. Storro of his own exhibits.

12 So with that said, we'll see those documents to

13 Mr. ffitch and any other interested parties and see if

14 there will still be an objection. There may not be once

15 he's aware of what they are. I certainly would expect

16 an objection if there was another full-blown analysis

17 that's not described either as the Thorndike or the

18 overview study and that suddenly comes out of the

19 woodwork, but it doesn't sound like that's what we're

20 anticipating.

21 MR. MEYER: I'm not aware of it as I speak.

22 JUDGE TOREM: So to be clear, the evidence is

23 that there were two studies, one in April and one after

24 the fact as it was called. As to what went into

25 creating the April 2007 document, you are going to

0863

1 provide to other parties these backup documents now,

2 which are not currently in the record but you believe

3 some or all of which have already come to other parties'

4 attention and just simply were not offered into

5 evidence.

6 MR. MEYER: Correct. And what we will do yet

7 this afternoon is, and a lot of them I think, I haven't

8 seen them, are spreadsheets and calculations, but I

9 think it's pretty voluminous, and so we may be printing

10 out a stack of sheets with numbers on them. I haven't

11 seen them, so I can't accurately describe them, but

12 whatever it is, you got it to look at it.

13 JUDGE TOREM: All right, and I don't think

14 any of us are anticipating that the numbers came out of

15 thin air and there wasn't some work to put them

16 together. In those documents there are a variety of

17 tables, essentially having the workpapers for those,

18 we'll see again if there's an objection later.

19 If you have documents now, you can start with

20 those this afternoon, but it may be -- I'll leave it to

21 your discretion as to offer them all at once today,

22 tomorrow, how long into the night your mobile printers

23 are working we'll see.

24 MR. MEYER: All right, I just had to bring it

25 to your attention.

0864

1 JUDGE TOREM: I appreciate that.

2 Is there any other housekeeping or questions

3 on that matter?

4 Mr. ffitch, is that going to work for you?

5 MR. FFITCH: Yes, thank you, Your Honor.

6 JUDGE TOREM: All right, seeing no other

7 housekeeping matters, welcome, Mr. Roseman, we'll note

8 for the record you joined us before lunch and are now at

9 the table.

10 MR. ROSEMAN: Thank you.

11 JUDGE TOREM: No baseball score update?

12 MR. ROSEMAN: Not when I was driving down.

13 JUDGE TOREM: All right, 4 nothing Rockies I

14 think in the 6th.

15 Mr. Kalich, if you'll stand and take the

16 oath.

17 (Witness CLINT G. KALICH was sworn.)

18 JUDGE TOREM: All right, Mr. Kalich has been

19 sworn, Mr. Meyer, any updates to this witness's

20 testimony?

21 MR. MEYER: No.

22 JUDGE TOREM: Not yet, okay.

23 Mr. ffitch.

24 MR. FFITCH: Thank you, Your Honor.

25

0865

1 Whereupon,

2 CLINT G. KALICH,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. FFITCH:

8 Q. Good afternoon, Mr. Kalich.

9 A. Good afternoon.

10 Q. And I'm going to start by retracing some

11 steps. A couple of questions were deferred to you by

12 Mr. Storro, so I'm going to try to go back and

13 reconstruct those. First of all could you please turn

14 to Exhibit RLS-4, which is Mr. Storro's April study

15 exhibit, and go to the Table 3 which was on page 7.

16 A. I'm there.

17 Q. That's entitled study results, and the first

18 line of information is entitled Lancaster lease value

19 cost of lease, correct?

20 A. Yes.

21 Q. And if you read across the first line with

22 numbers in it, this indicates that the cost of the

23 Lancaster PPA declines as the start date is delayed from

24 2009 to 2010 and then declines further if the start date

25 is delayed from 2010 to 2011, correct?

0866

1 A. Yes.

2 Q. And then if you look at the last set of three

3 lines with numbers, which is entitled lease savings

4 versus, the savings appear to increase as the start date

5 is delayed from 2009 to 2010 and then again increase as

6 the start date is delayed from 2010 to 2011; is that

7 correct?

8 A. Yes.

9 MR. MEYER: I'm sorry, may I have that

10 reference to that cross-exhibit again.

11 MR. FFITCH: This is RLS-4.

12 MR. MEYER: RLS-4.

13 MR. FFITCH: Page 7, which is Table 3.

14 MR. MEYER: Got you, thank you so much.

15 BY MR. FFITCH:

16 Q. Isn't it true then, Mr. Kalich, that when

17 Avista was analyzing the appropriate time for assigning

18 the Lancaster contracts to rate payers in early 2007,

19 April 2007, that Avista's analysis showed that the

20 lowest cost outcome was for Avista Utilities to take on

21 the Lancaster PPA starting in 2011, correct, not in

22 2010?

23 A. The analysis as I think witness Storro

24 explained was we were asked to look at three different

25 years, and certainly your mathematics are correct,

0867

1 assuming we had the choice to pick one of those three

2 years. I was asked and I performed this analysis to

3 determine if the utility would be interested in

4 procuring the resource in any of those years. In other

5 words, would the resource provide long-term value to our

6 customers, and this was the result you see here. But

7 your specific question, does the value go down as the

8 plant comes to the utility sooner, yes.

9 Q. All right, thank you.

10 Next we're going to another table,

11 unfortunately it's the table with the very small

12 numbers, that's the Thorndike Landing study which is

13 marked as Exhibit RLS-5, very next one, and it's page

14 28 --

15 A. I'm there.

16 Q. -- of 31. Now this again is Exhibit RLS-5,

17 and this is the Thorndike Landing study, correct?

18 A. Yes, it is.

19 Q. And this is Appendix C to that study, which

20 is the Lancaster toll base case. And if we look halfway

21 down, about halfway down the table, we see the

22 transmission line. Do you have that?

23 A. Yes.

24 Q. And that line starts with a net cost of $1.17

25 Million and then escalates annually thereafter, correct?

0868

1 A. Yes.

2 Q. And we I think confirmed with Mr. Storro that

3 that includes the assumption that 75% of the BPA

4 transmission costs are remarketed because of the

5 construction of the direct connect. Do you agree with

6 that?

7 A. My recollection was he asked for me to answer

8 that question, but that is my understanding.

9 Q. Okay.

10 A. That this is 25% of the cost of that

11 contract.

12 Q. All right. Now if in fact the

13 interconnection is not built, would not the figures in

14 these lines be four times the amount that is shown here

15 in this exhibit?

16 A. Probably in the simplest form the answer

17 would be yes. However, as we would not run the plant

18 year round, we likely would recover some of those

19 revenues through surplus sales or other optimization of

20 other assets in our portfolio.

21 Q. All right. If the numbers did increase by 4,

22 a factor of 4 in 2010, the figure would be in excess of

23 $4 Million rather than $1.17 Million, correct?

24 A. 4.5, 4.7, sure.

25 Q. All right. And wouldn't any such increases

0869

1 in those costs reduce the value of Lancaster shown at

2 the bottom of the table under total NPV, net present

3 value?

4 A. It would, but I don't believe it would push

5 it into negative territory.

6 Q. All right. And the greater the number of

7 years that pass before a direct connect is built, the

8 lower will be the project's value; is that right?

9 A. That's true, and I guess the statement I made

10 earlier was under the assumption that you made earlier

11 whereas over the entire term we would retain the

12 transmission.

13 Q. All right. Can you please turn to page 19 of

14 the study, and that's Table 6 if that's the right page.

15 I apologize, that's page 22 of 31 in the lower left-hand

16 corner, and I'm asking you to look at Table 6, which is

17 the base case total values as a function of the BPA

18 transmission cost to remarket it, correct?

19 A. Yes.

20 Q. And this shows that if the assumption is that

21 only 25% of the transmission costs are remarketed, the

22 Lancaster contracts have a minimal value there of $2 per

23 kilowatt hour, correct?

24 A. Based on this scenario that was performed by

25 Thorndike Landing. I'm not so certain that this --

0870

1 well, I know it's not a perfect comparison with the

2 utility perspective or utility look. But just under a

3 merchant tolling arrangement, this table would imply a

4 modest value associated with that contract.

5 Q. Okay. And in the line above that, it

6 actually indicates that if none of the power is

7 remarketed, the contracts have a value of negative $29

8 per kilowatt hour, correct?

9 A. Yes, this table implies the only circumstance

10 where the project would be negative would be if we could

11 remarket absolutely none of the transmission.

12 Q. All right.

13 One other deferred matter, give me a moment,

14 and if you could turn to page 16, I'm sorry, page 19 of

15 31 in the study, and we did discuss this with Mr. Storro

16 also, can you confirm that in the first two sentences of

17 the bulleted paragraph Thorndike Landing is indicating

18 that Avista did two things, excluded gas transportation

19 costs from its initial analysis, and (b) "internal

20 assessment of gas transportation costs had not been

21 completed as of the date of the preliminary analysis".

22 Are those correct statements?

23 A. Well, having been the analyst who performed

24 the work, I would view those two sentences as maybe not

25 the best representation of the analysis performed. I

0871

1 can certainly extrapolate on that if you would like, but

2 I guess I can't agree with the verbatim statement there

3 in those two sentences.

4 Q. Okay, well, let's take the first one,

5 representation by Thorndike Landing that Avista excluded

6 gas transportation costs from its initial analysis; do

7 you disagree with that?

8 A. I disagree with what I think folks are

9 thinking it implies. Again, Thorndike Landing performed

10 four different evaluations of the Lancaster lease, only

11 one of which I would suggest is very similar to the way

12 the utility did the analysis. When we did our analysis,

13 we looked at identical plants essentially that would

14 come in, so in other words, Lancaster, green field, or

15 brown field plants. In all cases, those plants would

16 require substantially the same amount of natural gas

17 transportation and a generally similar relative level of

18 cost. So it's not that we ignored, it was the fact that

19 because we essentially were doing apples to apples

20 comparison, it would be like adding the number 10 to

21 each one of those scenarios. Each one of them would not

22 affect the outcome of the result.

23 Q. Okay. So that's the reason why you excluded

24 them?

25 A. We didn't exclude them analytically, we

0872

1 excluded them from the numbers in the analysis. Because

2 again, on the comparative basis it's like adding 10 to

3 each side of an equal sign, you get 10.

4 Q. And then on the second point regarding the

5 completion of the internal assessment, do you believe

6 that this is an incorrect statement by Thorndike

7 Landing? And I believe it says based on our discussion

8 with Avista personnel that they reached this conclusion.

9 A. Again, I think one can miss -- can read too

10 much into that statement. Again, based on my

11 understanding of the analysis at the time, I was

12 informed that the plant would come with appropriate

13 amount of transportation to allow the plant to operate

14 to its capacity. So again, I think I definitely would

15 agree to the extent that I hadn't seen the contracts

16 yet, which I had not, but it had been represented to me

17 that there was gas contracts available to bring gas to

18 the plant.

19 Q. Okay. I think that concludes the follow-up

20 hand-off questions, I just have a couple more areas to

21 cover.

22 Can you turn to your rebuttal testimony,

23 which is CGK-4T at page 3.

24 A. I'm there.

25 Q. Lines 1 through 5, basically there you're

0873

1 stating that resources don't always come into service at

2 the ideal time due to the "lumpiness" factor, correct?

3 A. Yeah, I think that's an ex -- this resource

4 is an excellent example of that.

5 Q. Okay. And you -- I don't think we need to go

6 to this exhibit, it's pretty clear throughout the record

7 that the Lancaster plant comes into service -- came into

8 service in 2001, correct?

9 A. That's my understanding, yes.

10 Q. And that's shown in Exhibit 6-X, your

11 response to a data request if you want to look at that

12 but -- just to confirm that.

13 A. Yes.

14 Q. So the lumpiness issue with the Lancaster

15 plant is not based on the uncertainty of construction of

16 a new plant, is it?

17 A. No, it's surely not. In fact, that's one of

18 the items we identified as a value of this plant, we

19 would not have any construction risk associated with it.

20 Q. Okay. So it's based instead on when the

21 contracts for Lancaster could be made available either

22 externally or on an intracompany basis, that's the cause

23 of the lumpiness?

24 A. In this specific example, all things equal

25 the utility would take it in 2011. However, as we've --

0874

1 there's been lots of testimony in this case, the utility

2 was afforded an option to grab the -- an option isn't

3 the right word actually. We were afforded the project

4 in 2010 if it was something we were interested in.

5 Q. Okay.

6 Please turn to your Cross-Exhibit CGK-7-X.

7 Do you have that?

8 A. I do.

9 Q. And there you stated in the response that

10 Avista did not compare the Lancaster contracts to a

11 CCGT, combined cycle gas turbine, built in 2009 or 2010

12 because you did not need a plant until 2011, correct?

13 A. That's true.

14 Q. And then you go on to say that procuring

15 Lancaster in 2010 when it was made available would be

16 2.3% lower in cost relative to a new 2011, pardon me,

17 relative to a 2011 new CCGT plant that the Company would

18 otherwise construct; is that right?

19 A. Yes.

20 Q. So there you're appearing to state that the

21 alternative to the Lancaster contracts is the

22 construction of a new plant as of January 1st, 2011, at

23 least that's the alternative against which Avista

24 measured the value of the contracts, correct?

25 A. Well, this was just one evaluation we took.

0875

1 Certainly the analysis that was in witness Storro's

2 Exhibit 4 indicates another look. Since that time

3 there's lots of information out there identifying the

4 cost of new and even potentially green field plants that

5 have transacted since that time. But all I was trying

6 to do in this data response was explain our integrated

7 resource plan. The draft, essentially final draft

8 preferred resource strategy was in place at the time

9 that this plant was offered to us, and because we were

10 right there, it was in the flesh, we decided to go ahead

11 and put into our preferred -- I get a model that

12 identifies the preferred resource strategy or at least

13 helps management do that, so what we did is a test to

14 try to determine what the value of Lancaster would be

15 and try to help illustrate for management what the trade

16 outs would be as though if they were picking up

17 Lancaster versus waiting another year to 2011 was to go

18 ahead and put that resource into our mix and rerun the

19 preferred -- the Prism model that identifies our

20 strategy. And what it showed was that the cost to

21 customers over the life of the integrated resource plan

22 was $43 Million lower than if we took the plan absent

23 Lancaster and went in another direction in other words.

24 Q. Okay. But one of the measures that you did

25 use was a comparison with the construction of a new

0876

1 plant?

2 A. Oh, yes, certainly. Actually the Prism model

3 was able to look more broadly at all the resource

4 options available in the integrated resource plan. When

5 we put Lancaster in, what we found was it reduced the

6 additional amount of combine cycle plant by a resource

7 that would be selected by the Prism model.

8 Q. How long does it take to site permit, build,

9 and bring to operation a new combined cycle plant in the

10 Pacific Northwest approximately?

11 A. That's a great question. I think -- it

12 really is. Used to be maybe a little less of a good

13 question. We used to think that wind plants could go in

14 in about a year, but we're not so certain any more. But

15 I think I will just rely on the Power Council for lack

16 of better information, I have no reason at least in this

17 instance to disagree, you know, two to three years.

18 Q. Okay. And the Commission in this case is set

19 to reach a decision in December of this year, just about

20 a year before January 1, 2011, correct?

21 A. Yes.

22 Q. So if the Commission rejects the proposed

23 assignment or Avista rejects any conditions that the

24 Commission places on the assignment, Avista will not be

25 filling its short-term capacity needs with construction

0877

1 of a new plant, will it?

2 A. I don't know if I can answer that. I mean I

3 suppose the utility potentially would have the

4 opportunity to acquire a resource maybe that has gone

5 substantially through permitting that we're not aware of

6 today. But if we built the resource ourselves, in my

7 professional opinion it might take us a couple of years,

8 which would be beyond that term, yes.

9 Q. So Avista would be doing something else if

10 that set of circumstances evolved to acquire power?

11 A. I think that's the whole premise here and

12 that was the concern when I was afforded the opportunity

13 to look at this analysis, do this analysis, was could I

14 get a plant in 2010 that would be, you know, $500 plus a

15 kilowatt, or would my alternative be to do something

16 else that would be quite a bit more expensive for

17 customers. And just speaking personally about the

18 evaluation at the time, I was very excited to be able to

19 have this opportunity for customers just because of the

20 savings we've identified here today in our testimony.

21 Q. Well, if this scenario occurs, wouldn't

22 Avista instead rather than building a plant which there

23 would not be time for, wouldn't Avista try to procure

24 some combined cycle capacity from the market?

25 A. You're getting into an area of speculation

0878

1 there. I don't know where -- what we would end up

2 acquiring in that short a period of time. As likely as

3 any could be a combined cycle combustion turbine plant,

4 but, you know, the question would be could you actually

5 procure one for one year. You'd probably be more likely

6 to enter into some other type of an arrangement. But

7 you certainly aren't going to -- my fear would be we

8 would lose the opportunity for this resource over time

9 potentially.

10 Q. Would Avista issue an RFP in order to get the

11 capacity for this time period?

12 A. Again I think we're speculating here, I mean

13 that certainly would be one option. But given the time

14 frame, I think witness Storro talked about the time

15 frame required to do an RFP, but I'm sure we would do

16 some sort of competitive acquisition.

17 Q. And if Avista's unregulated affiliates were

18 to bid into the RFP, wouldn't they be required to do so

19 based on their cost of service?

20 A. I don't think I can answer that.

21 Q. Would they have to bid in the Lancaster power

22 at cost?

23 A. I'll have to speculate if you would like me

24 to answer that question.

25 Q. Sure.

0879

1 A. I would speculate that they would bid in

2 competitively at a market price which would be

3 substantially higher than the cost being afforded the

4 utility today, again through an RFP bidding process.

5 Again just speculation.

6 MR. FFITCH: All right, no further questions

7 for Mr. Kalich, Your Honor.

8 Thank you, Mr. Kalich.

9 JUDGE TOREM: Commissioner Jones, any

10 questions for Mr. Kalich?

11 COMMISSIONER JONES: Yes, Your Honor.

12

13 E X A M I N A T I O N

14 BY COMMISSIONER JONES:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. How are you? I'm going to go back to your

18 rebuttal testimony, and I think Mr. ffitch had you at

19 pages 4 and 5 so let's turn to page 5. And I think

20 Mr. Storro got into this issue of acquiring Lancaster at

21 cost, and at the top there, lines 1 and 2, you state the

22 contracts will provide -- will be provided to Avista

23 Utility customers at cost without any markups. Can you

24 justify that statement? I mean what's your analysis

25 behind that statement?

0880

1 A. My analysis is based upon the contracts that

2 I was provided in doing my analysis, and what was

3 related to me by senior management was that we would

4 assume those exact contracts. Therefore, the analyses

5 we did were based upon the costs contained within those

6 contracts.

7 Q. So it was based on information provided by

8 senior management?

9 A. That's right.

10 Q. Okay. I'm not talking about an affiliated

11 transaction here, but is that common in the competitive

12 marketplace for contracts to be offered at no cost?

13 A. I don't know that it's common per se. I

14 guess it would depend upon the circumstances and what

15 the other party felt. I think in this case we were --

16 we had some side boards up based upon our obligations to

17 our customers where it has to be the lower of market or

18 cost. I don't think it would have been reasonable to

19 get anything besides that.

20 Q. Okay.

21 Now let's get into the issue of other CCGT

22 plants available, and I think you cite four of them

23 including Lancaster on page 5, but what -- and then in

24 another part of your testimony you talk about how cost

25 effective the acquisition was based on plants acquired

0881

1 in the last I think four or five years. But let's talk

2 about 2007, because our prudence determination at the

3 Commission really rests on what was available at the

4 time and based on the information at that time. So what

5 were the specific plants that you being the lead analyst

6 looked at, other CCGT plants in the region as being the

7 most comparable to Lancaster?

8 A. Okay, and for that I think I would reference

9 us back to witness Storro's exhibit, direct filed

10 testimony, Exhibit 4, which lists the plants and what

11 the numbers we looked at. If you want to go back there,

12 certainly can.

13 Q. Okay, I have it in front of me, so those are

14 -- do you have that in front of you?

15 A. Give me one moment.

16 Q. Okay. I think those are in Table 1.

17 A. Thank you.

18 Q. But we have a Table 2 as well.

19 A. Yes. So, yeah, table --

20 Q. I think we're talking about Table 2, aren't

21 we, Fredrickson?

22 A. Yes.

23 Q. To talk about them specifically, Fredrickson

24 of PSE?

25 A. That's right.

0882

1 Q. Coyote Springs 2 of you, and Goldendale of

2 PSE?

3 A. Yes, exactly.

4 Q. Okay. So could you just state for the record

5 what the purchase price was?

6 A. Yes, and Table 2 provides two data points.

7 One is the purchase price in the calendar year.

8 Q. Yes.

9 A. The other is the 2010 purchase price with

10 inflation adjusted, you know, if we went to 2010. I

11 would also ask the Commission to consider the fact that

12 we were in this analysis not addressing the significant

13 differences which I include in my rebuttal testimony we

14 were aware of at the time but didn't have time to

15 analyze associated with some of the characteristics of

16 having a plant located in Idaho in our service

17 territory, which is a substantial additional cost,

18 probably in the range of $250 a kilowatt. But what this

19 shows at least if it's okay if I use the 2010 price,

20 because that would be equivalent to the time, Goldendale

21 from Puget Sound Energy was at 525, Coyote was at 533,

22 Fredrickson was at 726. And then of course the year

23 purchases is listed in here as well. Goldendale is

24 interesting -- go ahead.

25 Q. Let me stop you there for a minute, let's go

0883

1 through each of those again. Was Goldendale acquired

2 out of bankruptcy to your knowledge?

3 A. You know, I'm proud to say I don't recall.

4 Q. I think it was, but subject to check.

5 Fredrickson, was that -- how was that

6 acquired, according to open market purchase, was it

7 subject to an RFP?

8 A. Again that was a while back. I'm all but

9 certain it was not acquired through an RFP. In fact, my

10 understanding is Puget -- none of Puget's three plants

11 they've acquired were acquired through an RFP.

12 Q. And then Avista, your Coyote Springs 2 plant,

13 that's a self build, right?

14 A. That was actually the second half of Coyote

15 Springs 2 so --

16 Q. Purchased from --

17 A. -- purchased from --

18 Q. So to summarize, it was purchased from a

19 independent power producer?

20 A. That's correct.

21 Q. So those were the plants available at the

22 time in April of 2007?

23 A. They were recent transactions.

24 Q. Right.

25 A. I guess at the time, but they were indicative

0884

1 of what the market recently had been.

2 Q. Okay. And then what you did is that you

3 projected forward to the 2010 costs, or Mr. Storro did

4 that, and you were involved in this analysis deeply,

5 weren't you deeply involved with Mr. Storro and the

6 analysis in RLS-4?

7 A. Yes, I actually performed all of that

8 analysis myself.

9 Q. Okay.

10 A. While working for Mr. Storro.

11 Q. And the purpose of, if you could turn to page

12 2 of your testimony, your rebuttal testimony, the

13 purpose of including these recent -- excuse me, are you

14 there?

15 A. My rebuttal or direct?

16 Q. Your rebuttal.

17 A. Okay, thank you.

18 Q. The purpose of including this chart in your

19 rebuttal testimony is not to demonstrate to the

20 Commission that these plants were around at the time of

21 2007, which is what we have to look at for our prudency

22 determination, but you included these just to show

23 regional CCT projects in the region had come in roughly

24 at these costs per installed kilowatt?

25 A. That's correct, and I think it was also to

0885

1 illustrate the fact that Avista -- that this resource

2 procurement was one of the lowest cost procurements

3 opportunities out there in -- prior to and post the

4 decision. But you're correct, a number of these plants,

5 not all of them, were after the 2007 decision.

6 COMMISSIONER JONES: Okay, I think that's all

7 I have for now, thank you, Judge.

8 JUDGE TOREM: Commissioner Oshie.

9

10 E X A M I N A T I O N

11 BY COMMISSIONER OSHIE:

12 Q. Mr. Kalich, I have just a couple questions,

13 but one first I guess is that you weren't part of the

14 negotiating team that was part of the Avista Energy to

15 Goldman Sachs contract negotiations?

16 A. No, I was not.

17 Q. And so the information that you're testifying

18 to today has either been, as you said earlier, it was

19 represented to you by management, that was with regard

20 to the cost, the actual cost of the contract, and then

21 if I understand it was also represented to you that the

22 contract wouldn't have been available in 2011, the start

23 date?

24 A. That's --

25 Q. Maybe I can rephrase it. You were told that

0886

1 the start date of contract was 2010?

2 A. That's what I was told it would be made

3 available to the utility.

4 Q. All right, okay. Most of the, you know, the

5 comparisons here both in your testimony and I think even

6 in the work that was done by Thorndike Landing use a CCT

7 purchase, in other words the plant purchase in

8 comparison to this PPA purchase; is that true?

9 A. Yes, it is.

10 Q. Is there any value to obtaining the plant

11 itself, taking ownership, over a PPA?

12 A. There are, and in fact in our analysis in --

13 that was done in April accounted for things such as end

14 effects. In other words, if we owned an asset versus

15 having a PPA, at the end of October 2026 we would still

16 retain that asset, and it may have another 10 year

17 useful life for example. Thorndike actually in their

18 study somewhat to my surprise, although I've also

19 learned later this isn't entirely unique, assumed no

20 residual value at the end of the life of the plant. We

21 actually in this analysis assumed a residual value and

22 assumed we had to replace it with another combined cycle

23 combustion turbine at inflation adjusted cost for the

24 last 2 years to get a relative comparison as if we had

25 owned the plant itself. We did try to account for and I

0887

1 think did account for well the fact that it was a PPA

2 and not an actual, you know, owned asset.

3 Q. And did Thorndike just look at it as far as

4 the depreciated value over the life of its assumed

5 useful life?

6 A. What they assumed at the end, my

7 understanding is they did not credit any value to an

8 existing asset beyond the term of the PPA. We did in

9 ours, however.

10 Q. And as a matter of fact, the utility owns

11 many facilities that have useful lives perhaps greater

12 than what was -- than may have been anticipated when

13 they were built, for example your hydroelectric

14 facilities that are many, many, many, decades old?

15 A. Absolutely, and certainly there's major

16 upgrades and so forth that have to go into those

17 projects, but I'm sure you're getting to the point where

18 there's added value to retaining that site if nothing

19 else. Yes, you're right.

20 COMMISSIONER OSHIE: I don't have any other

21 questions, Mr. Kalich, thank you.

22 JUDGE TOREM: Chairman Goltz.

23 CHAIRMAN GOLTZ: Yes, thank you.

24

25

0888

1 E X A M I N A T I O N

2 BY CHAIRMAN GOLTZ:

3 Q. Following up on a question that Commissioner

4 Jones had referring to page 5 of your rebuttal testimony

5 where you say at the top, Avista will acquire Lancaster

6 at cost. Does that -- when you say Avista there, do you

7 mean Avista Utilities or do you mean Avista Turbine

8 Power?

9 A. I wasn't thinking Turbine Power so Avista

10 Utilities.

11 Q. Then who is it acquiring it from?

12 A. It will be transferred from Avista Turbine

13 Power.

14 Q. So it will be acquired at the cost of Avista

15 Turbine Power? In other words, that's what you're

16 comparing, the cost to the utility would be the same as

17 the cost to Avista Turbine Power?

18 A. Which is just for clarification is the same

19 cost as when the contract was struck back in 2000 for

20 starting 2001, so it's the same contract, it's just

21 getting handed off to a couple different entities over

22 time and we will be the latest.

23 Q. I'm sorry, 2001?

24 A. Well, the plant entered, as we just talked

25 earlier, it entered service in 2001 when Avista Energy

0889

1 had the contract, and then with the sale of Avista

2 Energy to Coral, and again I may have this maybe not

3 quite correctly, maybe some redirect, but with the sale

4 ultimately in 2010 that contract comes back to Turbine

5 Power, and then that contract will be assigned to

6 Avista, you know, Avista Utilities. But again all the

7 way through the ownership of that tolling arrangement,

8 the cost structure stayed exactly the same, the terms

9 and conditions associated with the tolling arrangement

10 itself.

11 CHAIRMAN GOLTZ: Okay, and that is one of the

12 items that we're getting in the Bench request?

13 MR. MEYER: We will provide the source

14 documents that should describe the cost amount of this,

15 they're part of the transactional documents.

16 BY CHAIRMAN GOLTZ:

17 Q. And I was looking at Exhibit 19-X, RLS-19-X,

18 which is the chart that we -- do you have that?

19 A. I do.

20 Q. Okay. And I see that in a bubble kind of in

21 the middle of the page it says Avista Energy assigned

22 the Lancaster PPA to Avista Turbine Power in June of

23 1999.

24 A. I was sitting in the back of the room hoping

25 to goodness I would not have to look at this chart on

0890

1 the stand. I'm not familiar with it. I certainly could

2 study it if you would like me to.

3 Q. No, I'm just wondering that June of 1999, and

4 you're saying the plant started production in 2001?

5 A. I misspoke I guess this would say. Took the

6 risk of trying to clarify, and I just confused the

7 issue, I'm sorry.

8 Q. So the cost would have been -- what you're

9 saying is that ultimately after all this series of

10 transactions, Avista Utilities will receive the

11 Lancaster PPA at Avista Energy's cost when it assigned

12 the PPA to Avista Turbine?

13 A. Way back in '99, yes.

14 Q. We have an exhibit that shows the plant

15 didn't come into service until 2001, so you did not

16 misspeak, but there must have been -- it looks to me

17 like there's some transaction that took place prior to

18 the plant coming in service?

19 A. Yeah, again I would have to speculate, but

20 often times entities sign the contract, and then the

21 construction will begin, and then --

22 Q. About two years to build the project?

23 A. There you go. Those were the good old days

24 though.

25 Q. One other, again following up on what

0891

1 Commissioner Oshie asked, so you performed the analysis

2 in April of 2007, that was your work?

3 A. That's correct, it was completed in April.

4 My recollection is I started in late March.

5 Q. Right. And there's no one else -- of all the

6 analysis that was done, you were aware of it all, you

7 either did it all or you were aware of it all?

8 A. Yes.

9 Q. And did you do it all?

10 A. Yes.

11 Q. Okay. So then that information went to the

12 negotiators, and off they went to negotiate the

13 contract?

14 A. You know, I don't, to be honest with you, I

15 don't recall -- I'm trying to think of who I handed that

16 information off to. I would have no -- I wouldn't be

17 surprised if that was the result. But I was asked to --

18 if the Company would be interested in the plant in one

19 of those -- in any of those three years or all of those

20 years, and I provided that analysis to senior

21 management.

22 Q. And as I recall, your analysis said that the

23 contract had less value the earlier you acquired it?

24 A. Yes. For example, had we been assigned the

25 contract in 2009, which I suppose could have been an

0892

1 outcome, there would have been less value for customers

2 in 2009, but it came in 2010.

3 Q. And there would have been more value in 2011?

4 A. Sure.

5 Q. Those are the three years that you evaluated?

6 A. That's right.

7 Q. So you provided that information to Company

8 management, which I assume includes the negotiators; is

9 that true?

10 A. Again, I guess I would have to infer that

11 that's the case.

12 Q. And you don't know whether there was

13 negotiation about the start date, whether it was there

14 was some deal said, oh, we really want 2011, but we

15 can't get it, so we'll negotiate some other -- there was

16 some give and take and they ended up on 2010, you don't

17 know how that happened?

18 A. Yeah, I really handed the analysis off, and

19 then pretty much the next thing I knew we in my opinion

20 fortunate enough to be assigned the contract in 2010.

21 Q. What was the time lag between when you were

22 done with your analysis and when you heard that it was a

23 done deal?

24 A. Well, I think it was pretty much the public

25 information, the press release of the sale of the

0893

1 project, that was the June 30 date, yeah.

2 Q. Now this was raised by Mr. Meyer, and I know

3 there's going to be some discussion, but since you did

4 all the analysis, what -- can you just briefly describe

5 the other documents that you prepared in the March,

6 April time frame of 2007?

7 A. Oh, that were referenced by Mr. Meyer earlier

8 today?

9 Q. Or which weren't referenced by Mr. Meyer,

10 whatever you prepared.

11 A. The summary you see in RLS-4, which has a

12 summary Table 3, that's the culmination of -- I think

13 they were going to print it out at lunch but then

14 realized that 1,300 pages would take a little longer

15 than --

16 MR. MEYER: May I, I'm sorry to interrupt,

17 but we actually have people as we speak printing out

18 1,300 pages, and do I tell them to print out at this

19 point in time multiple copies or just one copy for

20 people to look at?

21 CHAIRMAN GOLTZ: I think one copy.

22 MR. MEYER: Just one copy, thank you.

23 CHAIRMAN GOLTZ: That's my view anyway.

24 A. So I guess the point I'm making is we try to

25 make concise the -- concise results provided in the

0894

1 document. There was a substantial amount of work behind

2 that analysis that's contained in Public Counsel Data

3 Request 108C, which again they may not have been aware

4 just because the question -- it was a more comprehensive

5 answer to a less comprehensive question, but all that

6 information is contained within that spread -- it's just

7 an 8 megabyte spreadsheet, which could be bigger, could

8 be smaller.

9 BY CHAIRMAN GOLTZ:

10 Q. Just 8 megabytes?

11 A. 1,300 pages, yeah.

12 Q. So but it sounds like what you're saying is

13 that all of that, the data request -- so you described

14 two things, the response to data requests.

15 A. Which is that file.

16 Q. Which is that file, so basically you're

17 saying that the only thing besides RLS-4 is 1,300 pages

18 or 8 megabytes of background to RLS-4?

19 A. Yes. RLS-4 again in the time frame I had was

20 an attempt to explain the analyses that were performed

21 substantially in one location, one file. I tend to try

22 to do that just to not have to be chasing lots of

23 different documents, so there's a lot of analysis

24 contained within that. So RLS-4 is an explanation at a

25 level people can actually comprehend. And I will admit

0895

1 going back to that spreadsheet myself, it was all --

2 Q. Is it all Excel type spreadsheets of data, or

3 is there also narrative?

4 A. The spreadsheet has very little, if any,

5 narrative in it. I think there's a little discussion

6 about some of the apples to apples comparison with a

7 plant like Fredrickson that sits within the state of

8 Washington, dispatches many, many, maybe two thirds as

9 much as a plant located outside of the state, primarily

10 due to the gas taxes placed on the state of Washington.

11 Washington state gas plants are the last dispatch in the

12 stack just because of that 4% gas tax. They all have a

13 similar heat rate so Washington state plants are 4% more

14 expensive to run than --

15 Q. So just to maybe oversimplify, RLS-4 is sort

16 of the executive summary of an 8 megabyte file?

17 A. Yeah, that's a great way to describe it.

18 Q. And that's -- and between RLS-4 and the 8

19 megabyte file, that's the universe of analysis?

20 A. Of the documented analysis completed, yes.

21 CHAIRMAN GOLTZ: Okay, I have no further

22 questions.

23 JUDGE TOREM: Commissioners, any other

24 questions?

25 All right, seeing none, Mr. ffitch, did you

0896

1 want to do any further cross which the Commissioners

2 brought up?

3 MR. FFITCH: I had a couple, yes, Your Honor,

4 I had a couple of questions, just one or two, if I may

5 have just a moment.

6

7 C R O S S - E X A M I N A T I O N

8 BY MR. FFITCH:

9 Q. Can you turn to or perhaps have your counsel

10 give you one of Mr. Storro's cross exhibits, RLS-18-X.

11 MR. MEYER: Do you have that?

12 A. I have it, I'm there.

13 Q. You were asked by the Commission, one of the

14 Commissioners, essentially about the time frame in which

15 your work product in RLS-4 was delivered to the

16 negotiating team and how that fit in with the whole

17 process. RLS-4 which you produced was dated April 11,

18 2007, correct?

19 A. Yes.

20 Q. And in RLS-18-X, this is the DR where Public

21 Counsel asked for the decisional time frame for the

22 analysis and the decision regarding the transaction, we

23 asked Mr. Storro about this, and the response here

24 indicates that it was between March 2007 and the public

25 announcement on April 17th, 2007, correct?

0897

1 A. Yes. And by that I misspoke earlier on the

2 June announcement, so clearly I would have been made

3 aware of this April 17th. I hadn't realized that it was

4 that soon earlier than the actual transaction was

5 completed.

6 Q. So obviously just by calendar reading the

7 work product in RLS-4 was produced six days prior to the

8 public announcement?

9 A. I can say that it was produced six days after

10 the documents were arranged and it was actually written

11 up so that there would be a written documentation of the

12 analysis, and I can't -- it certainly wasn't going to be

13 weeks prior to that because I was doing the analysis in

14 late March, early April.

15 MR. FFITCH: All right, that was the only

16 question as it turns out, Your Honor, thank you.

17 JUDGE TOREM: Redirect.

18 MR. MEYER: Yes, and thanks for correcting

19 that date, I was going to do that on redirect.

20

21 R E D I R E C T E X A M I N A T I O N

22 BY MR. MEYER:

23 Q. Let's go back to your cross exhibit that was

24 CGK-7.

25 A. Okay, I'm there.

0898

1 Q. All right. As I recall, was it your

2 testimony a few minutes ago that the acquisition, the

3 point here in this response to this DR is that in

4 Avista's view the acquisition of the PPA in 2010 was --

5 MR. FFITCH: Your Honor, I'm going to object

6 to counsel essentially testifying and recharacterizing a

7 document that we have in the record in front of us that

8 speaks for itself. Recharacterization of it for the

9 witness is inappropriate.

10 JUDGE TOREM: Mr. Meyer, can you just

11 rephrase the question.

12 MR. MEYER: Surely.

13 BY MR. MEYER:

14 Q. Do you have anything to say about whether or

15 not the Company was still better off taking this PPA in

16 2010 rather than 2011, even assuming it was not needed

17 until 2011?

18 MR. FFITCH: I'm going to object, Your Honor,

19 for the record, this is simply an open ended request for

20 a narrative. I'm not sure that it's tied to anything

21 specific in either cross-examination or specific

22 Commissioner questions.

23 MR. MEYER: Your Honor, I don't know how to

24 more simply direct the question to the witness. He was

25 asked a couple of questions about this particular

0899

1 exhibit, and I'm entitled to inquire of the witness what

2 the take away is, what he concludes from this.

3 JUDGE TOREM: Let's try this.

4

5 E X A M I N A T I O N

6 BY JUDGE TOREM:

7 Q. Mr. Kalich, you said you were happy to know

8 you could get the plant in 2010, would you still have

9 been as happy to get it in 2011 if that was presented to

10 you?

11 JUDGE TOREM: Does that suffice? Not quite?

12 MR. MEYER: Not really, but let's see where

13 the witness goes with it.

14 BY JUDGE TOREM:

15 Q. So, Mr. Kalich, what would be your response

16 if you were told you were getting the plant but not

17 until 2011?

18 A. I would have been happy with that just as I

19 would have had it in 2010 or 2009.

20 Q. So was there any degree of happiness we can

21 put between those three years?

22 A. Sure would have made today a lot simpler.

23 JUDGE TOREM: All right, so from that point,

24 Mr. Meyer, let's go ahead.

25 MR. MEYER: All right, well, we can all read

0900

1 the last sentence of that response, do it in the brief.

2

3 R E D I R E C T E X A M I N A T I O N

4 BY MR. MEYER:

5 Q. Next thing I would like to draw your

6 attention to is there was some questioning by

7 Commissioner Jones with reference to the at cost, I

8 think Chairman Goltz also had some questions in that

9 regard. To what extent was your testimony premised on

10 information provided only by senior management, or was

11 it also based on review of the underlying contracts?

12 MR. FFITCH: Objection, leading.

13 MR. MEYER: It's going to be a long

14 afternoon, Your Honor, if we don't cut to the heart of

15 some of these things. I'll be happy to rephrase it, but

16 the question could be simply --

17 BY MR. MEYER:

18 Q. What information, if any, besides what senior

19 management provided did you rely on for your assessment

20 that this was transferred at cost?

21 A. Well, I think that probably the number one

22 thing was actually obtaining the contract itself, so our

23 model costs were based on that contract. I was provided

24 copies of the contract that was signed in 1998, 1999.

25 MR. MEYER: All right, and that's all, thank

0901

1 you.

2 JUDGE TOREM: Thank you.

3 Anything further for Mr. Kalich?

4 Thank you very much, sir, appreciate it.

5 Mr. Lafferty is next.

6 MR. MEYER: May I inquire of the Bench, at

7 some point there was a question deferred to Mr. Norwood,

8 and were you intending to take him after Mr. Lafferty?

9 JUDGE TOREM: After Mr. Lafferty or after

10 Mr. Johnson?

11 MR. MEYER: Do you have a preference?

12 JUDGE TOREM: Mr. ffitch.

13 MR. FFITCH: Your Honor, we have no questions

14 for Mr. Johnson.

15 JUDGE TOREM: Oh, so that's new to my

16 attention, so we won't be calling him?

17 MR. FFITCH: That's correct, Your Honor, we

18 determined over the lunch hour. I apologize for not --

19 JUDGE TOREM: So the Bench will still call

20 him, so then it doesn't make any difference to me

21 whether we take Mr. Johnson or Mr. Norwood.

22 Commissioners, any preference after

23 Mr. Lafferty?

24 CHAIRMAN GOLTZ: I don't recall the question

25 deferred to Mr. Norwood.

0902

1 JUDGE TOREM: It's Commissioner Jones'

2 question, I know he will recall it, the money trail --

3 COMMISSIONER JONES: Yeah, it's the money

4 trail question on the sale of Avista Energy.

5 I think Mr. Norwood would be fine after this,

6 it's not going to take a long time.

7 JUDGE TOREM: All right.

8 COMMISSIONER JONES: It will be relatively

9 short.

10 JUDGE TOREM: So I'll swear in Mr. Lafferty,

11 then, Mr. Norwood, you can be ready to answer the money

12 trail question, and then we'll take Mr. Johnson since

13 the Bench has questions.

14 Mr. Lafferty, raise your right hand.

15 (Witness ROBERT J. LAFFERTY was sworn.)

16 MR. MEYER: Your Honor, we do have one very

17 minor correction to make to one page of his testimony,

18 so this is page 6 of his rebuttal testimony marked

19 RJL-1T, and once you're there, I will direct your

20 attention to it.

21 JUDGE TOREM: Page 6?

22 MR. MEYER: Yes, line 8.

23 JUDGE TOREM: Go ahead.

24

25

0903

1 Whereupon,

2 ROBERT J. LAFFERTY,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 D I R E C T E X A M I N A T I O N

7 BY MR. MEYER:

8 Q. The reference in the parenthetical there is

9 to Exhibit RLS-6, it should be RLS-5, and the page

10 reference should not be page 11, it should be page 8.

11 Mr. Lafferty, have I correctly read those?

12 A. That is correct.

13 JUDGE TOREM: So it's simply on RJL-1T, page

14 6, line 8, you're correcting the parenthetical response

15 to the Thorndike Landing evaluation, and it should be

16 RLS-5, page 8, okay, that's now part of the record.

17 No other corrections?

18 Then we'll tender this witness to Mr. ffitch

19 for cross and then the Bench.

20 MR. FFITCH: Thank you, Your Honor.

21

22 C R O S S - E X A M I N A T I O N

23 BY MR. FFITCH:

24 Q. Good afternoon, Mr. Lafferty.

25 A. Good afternoon.

0904

1 Q. I've cut out some of my questions, so I might

2 be stopping and starting as I make sure where we're

3 going here.

4 We heard from Mr. Storro earlier today that

5 the possible interconnection between the plant and

6 Avista's system was noted as early as April 2007; is

7 that correct? That was in RLS-4.

8 A. It was included in the analysis, is that your

9 statement?

10 Q. Yes. Is that correct?

11 A. Yes, it was included in the analysis.

12 Q. And this showed that -- well, I'm sorry,

13 let's first have you turn to Exhibit 3-X, what's been

14 marked as RJL-3-X.

15 A. Okay, I'm there.

16 Q. Okay, I'm not yet.

17 All right, now this is a data request

18 numbered 529 from Public Counsel, and in the request we

19 note that in response to an earlier DR the Company

20 stated that more information about the studies and

21 projected timelines for interconnection would be

22 available in August 2009, and then we -- and more

23 details would be available later. And then we asked in

24 September, on September 17th, 2009, we asked if the

25 information had become available. That's essentially

0905

1 what the question says, right?

2 A. Correct.

3 Q. And that earlier response was provided by

4 Mr. Storro, correct?

5 A. I'll accept that.

6 Q. All right. And now this response is provided

7 by you September 17th, and I just need to correct

8 myself, I think I stated that we asked this on the 17th,

9 that was the date of your response.

10 A. Response, right, I know what you meant.

11 Q. And we asked, please state when the

12 information will be available and provide such

13 information. Your answer is first you say, no, which is

14 a statement that the information was not available in

15 August 2009, correct?

16 A. That is correct.

17 Q. Then you go on to explain simply what's going

18 on with the Bonneville transmission matter, and you

19 state there that the process is essentially just

20 beginning now. Am I correct in that general

21 characterization?

22 A. That's right, the process is underway. And

23 as a matter of fact, yesterday just before coming to

24 this hearing I was able to listen to a portion of the

25 initial conference meeting that's referred to in the BPA

0906

1 letter where they're starting to lay out the work plan

2 for the project, the joint work plan between the

3 parties.

4 Q. All right.

5 And let's go to the previous Cross-Exhibit

6 RJL-2-X, and in part B of this data request we asked the

7 range of potential on line dates for this

8 interconnection, did we not?

9 A. Correct.

10 Q. And your answer to part B states that the

11 timeline will be approximately two years, "this would

12 indicate an operational date of approximately January

13 2012", correct?

14 A. That would be an estimate, mm-hm.

15 Q. So customers will it appears need full BPA

16 contract capacity for at least 2010, correct?

17 A. They would need it until such time as an

18 interconnection could be built and would become

19 operational.

20 Q. Right, so that could be 2010, it could

21 include 2011, it might even be beyond that date?

22 A. Yeah, this estimate says January 2012.

23 Q. All right. So for those years customers

24 would not benefit from the remarketing of 75% of

25 Bonneville capacity, correct?

0907

1 A. Yeah, we would probably estimate that some

2 portion -- because the plant will run throughout the

3 whole year, so to the extent that we had excess

4 transmission as we do today, we use excess transmission

5 on a fairly regular basis for optimization of all of our

6 resources, or if it's in excess we would have the

7 opportunity to remarket that.

8 Q. But this Bonneville transmission would be

9 fully utilized for the Lancaster plant during this

10 period?

11 A. When the plant is operating.

12 Q. And would not be available for remarketing?

13 A. That is correct, when the plant is operating.

14 MR. FFITCH: If I can just have one more

15 moment, Your Honor, I think I am close to being

16 finished.

17 BY MR. FFITCH:

18 Q. Can you please turn to your Cross-Exhibit

19 5-X, RJL-5-X, and this relates to gas transportation

20 costs, doesn't it, generally?

21 A. Yes.

22 Q. All right. And in your testimony you state

23 that there's a $3.4 Million worth of gas transportation

24 costs in Mr. Storro's testimony?

25 A. Can you refer me to that?

0908

1 Q. It's in the Thorndike Landing study.

2 A. Oh, okay. I may not have -- I was noticing I

3 don't have all the same page numbers you have, so you

4 might have to direct me to a page.

5 Q. At least a couple sets.

6 A. I think I have the original page numbers.

7 Q. This is the small print base case document

8 that we have been looking at a little bit here, it's

9 page 28 of 31 in Exhibit RLS-5.

10 JUDGE TOREM: I see that Mr. Kalich is

11 bringing forward a copy that corresponds to your page

12 numbers, Mr. ffitch.

13 A. I think we have it, mine just doesn't have a

14 page number on it.

15 Okay, it says Lancaster toll base case.

16 Q. Correct.

17 A. Appendix C, page 1, okay.

18 Q. That is correct.

19 All right, and so under gas transportation in

20 the column under 2010 it reads $3.4 Million of costs,

21 correct?

22 A. In year 2010 it says 3.41, yes.

23 Q. All right. Now how does that compare to the

24 Lancaster related gas costs which are shown on your

25 Exhibit RJL-5-X where I had you a minute ago? Apologize

0909

1 for the back and forth.

2 A. Okay.

3 Q. You show $5.3 Million worth of Lancaster gas

4 related costs in your own exhibit, do you not?

5 A. That appears to be the fixed cost, yes.

6 Q. All right. And that's in Attachment B to

7 RJL-5-X?

8 A. That's correct.

9 Q. So the costs in the Thorndike Landing study

10 appear to be quite a bit lower than your projections;

11 isn't that true?

12 A. I observe they are different.

13 Q. Wouldn't any such increase -- I'm sorry, were

14 you finished?

15 A. Well, I think we maybe missed an opportunity

16 to ask Mr. Kalich a little bit more in detail about

17 these assumptions in this study.

18 Q. Well, I guess what I'm really interested in

19 is your number being higher.

20 A. Well, okay.

21 Q. The number in your exhibit is now a couple of

22 million dollars higher than this number, correct?

23 A. The number is higher, but if you're implying

24 -- if that's a comment on the Thorndike study itself,

25 then I would have to get additional information about

0910

1 the dynamics, the whole dynamics of their study.

2 Q. All right, well --

3 A. I'm not going to comment on their study.

4 Q. All right. That's not exactly where my

5 question was going, so let me ask my question and see

6 how we go.

7 Wouldn't any such increases in these costs

8 reduce the value of Lancaster that is shown at the

9 bottom of the table that we were just looking at, the

10 Thorndike Landing table under total net present value?

11 In other words, if we plug in your number into the table

12 on page 28, the Thorndike Landing study, doesn't that

13 reduce the net present value?

14 A. I'm honestly not sure how to answer this

15 question, because if you change any of the numbers in

16 the table, you certainly change the answer. The

17 important thing I think is the reason why you would

18 change a number on the table, and that implies to have

19 knowledge of how the study was done in some more detail

20 than I have. Does that make sense? I think you're

21 asking me to draw a conclusion about the study and the

22 knowledge about how they included the gas costs

23 specifically in this table, and if I substituted one

24 number for the other, doesn't that change the answer.

25 Q. Well, I understand your comment, my question

0911

1 is -- well, and I'll --

2 A. If you change the number, I would expect the

3 number at the bottom to change.

4 Q. All right, it's a matter of mathematics.

5 A. Is it appropriate to change the number,

6 that's a different kind of question.

7 JUDGE TOREM: Mr. Lafferty, the Bench

8 understands the concern.

9 THE WITNESS: Okay.

10 JUDGE TOREM: If we just assume they are

11 apples and apples and you do the math that Mr. ffitch is

12 requesting, can you answer the question that way.

13 A. Okay, so your question is if I change this to

14 $5.3 Million, how does that change the answer at the

15 bottom, which is the 40.5 net present value number?

16 BY MR. FFITCH:

17 Q. And that would reduce the net present value

18 number, correct?

19 A. If I can take a minute here.

20 Yes, subject to check it appears to change

21 that number that direction.

22 Q. And are you confident about the number in

23 your own Exhibit 5-X in Appendix B, that is the $5.3

24 Million number?

25 A. We're confident about those numbers.

0912

1 MR. FFITCH: Thank you.

2 JUDGE TOREM: Anything else, Mr. ffitch?

3 MR. FFITCH: I don't believe so, no, thank

4 you, Your Honor.

5 Thank you, Mr. Lafferty.

6 JUDGE TOREM: Commissioner Jones,

7 Commissioner Oshie, any questions?

8 COMMISSIONER OSHIE: No questions, Judge.

9 COMMISSIONER JONES: No questions.

10

11 E X A M I N A T I O N

12 BY JUDGE TOREM:

13 Q. Mr. Lafferty, are you confident that the

14 numbers in your study in RJL-5-X mean the same as the

15 numbers in the Thorndike Landing study?

16 A. I am not, I would have to get more

17 information.

18 JUDGE TOREM: I just wanted to make sure out

19 of fairness that we were clear on that as well.

20 Mr. Meyer.

21 MR. MEYER: No redirect, thank you.

22 JUDGE TOREM: Thank you very much,

23 Mr. Lafferty.

24 I think we're ready for Mr. Norwood. Does

25 the Bench want to take a break before we hear about the

0913

1 money trail?

2 Does the court reporter want to take a break?

3 All right, then we'll put Mr. Norwood on.

4 Mr. Norwood, since we've done it twice

5 already I'm going to assume the warranty on my oath has

6 not expired quite yet, I think I asked you for the

7 course of the proceeding, so I won't reswear you in.

8 THE WITNESS: I will tell the truth.

9 JUDGE TOREM: Commissioner Jones has a

10 question for you.

11

12 Whereupon,

13 KELLY O. NORWOOD,

14 having been previously duly sworn, was called as a

15 witness herein and was examined and testified as

16 follows:

17

18 E X A M I N A T I O N

19 BY COMMISSIONER JONES:

20 Q. Mr. Norwood, good afternoon again.

21 A. Good afternoon.

22 Q. So this will be fairly short I think. You

23 are not the CFO of the company, but I think you know

24 where the money goes from sales of affiliates, so

25 basically where did the proceeds and how much were the

0914

1 net proceeds from the sale of Avista Energy in April of

2 2007; do you recall?

3 A. I actually had the opportunity to ask some

4 questions to verify my recollection. The sale did

5 conclude at June 30th, '07, and as a result of that sale

6 I believe there was $169 Million that went into Avista

7 Energy. After that time in September of '07 there was

8 $155 Million that was transferred from Avista Capital

9 into Avista Corp., basically into the utility. And then

10 in December of '07 there was another $6 Million that was

11 transferred from Avista Capital into Avista Corp. for

12 Avista Utilities. And in prior cases we had had the

13 discussion and in fact in a Commission order here,

14 Commission had directed the utility to increase its

15 equity layer, and so these dollars were brought into

16 utility in part to address that issue. And it was used

17 to pay down debt as well as invest in and cover part of

18 the capital budget that we've already talked about.

19 You also had talked about or asked the

20 question at the time about whether there was a gain or

21 loss associated with the sale of Avista Energy, and

22 there was a loss recognized at the time that we sold

23 Avista Energy of $4.3 Million, and that was recorded in

24 the second quarter of 2007, and that's included in our

25 report to the Securities and Exchange Commission for the

0915

1 second quarter 2007.

2 Q. So just to summarize, $155 Million was

3 injected from Avista Capital, Avista Corp., September

4 and $6 Million in December of that year, that gets you a

5 total of $161 Million?

6 A. That's right, and that is not a profit or

7 loss.

8 Q. Right.

9 A. It's we basically cashed out the assets of

10 Avista Energy and brought it into the utility.

11 Q. And when you injected that into the utility,

12 you used it both to increase the equity layer in the

13 capital structure, which as you correctly state the

14 Commission did have an equity building mechanism?

15 A. Yes.

16 Q. I think we called it EBM, so that supported

17 that goal of increasing the equity layer, and you also

18 used part of it to pay down some of the high interest

19 bearing debt?

20 A. That's correct.

21 COMMISSIONER JONES: That's all I have.

22 JUDGE TOREM: Thank you.

23 Other Commissioner questions?

24 Parties with additional questions for

25 Mr. Norwood or, Mr. Meyer, anything to clear up from

0916

1 that?

2 MR. MEYER: No, thank you.

3 JUDGE TOREM: All right, thank you,

4 Mr. Norwood.

5 All right, then we'll get to William Johnson

6 for questions from the Bench, and I think at that point

7 we'll take a brief break before we hear Public Counsel's

8 witness, Kevin Woodruff.

9 (Witness WILLIAM G. JOHNSON was sworn.)

10 JUDGE TOREM: Okay, Mr. Johnson has been

11 sworn, Mr. Meyer, was there anything about his testimony

12 to clarify before I turn him over to the Bench for

13 questions?

14 MR. MEYER: I'm not aware of any.

15 JUDGE TOREM: Commissioners, who had the

16 questions for Mr. Johnson?

17 CHAIRMAN GOLTZ: I have some.

18 JUDGE TOREM: We'll start with the Chairman

19 then.

20

21 Whereupon,

22 WILLIAM G. JOHNSON,

23 having been first duly sworn, was called as a witness

24 herein and was examined and testified as follows:

25

0917

1 E X A M I N A T I O N

2 BY CHAIRMAN GOLTZ:

3 Q. Good afternoon. I believe this question was

4 deferred to you by an earlier witness. I had some

5 inquiries about the revenues from marketing of power

6 from the Lancaster plant that was not needed by the

7 Company. And the question was, assuming that, focusing

8 on the year 2010 when the testimony was not as much of

9 the power from Lancaster would be needed by the utility

10 and some of the power, unneeded power, could be marketed

11 perhaps, how does the revenues from that sale of power,

12 how are those -- flow into rates, if at all?

13 A. Yes, Chairman Goltz, when we put together the

14 pro forma for the rate case, we dispatch all the power

15 plants based on the economics. And to the extent the

16 resources are needed to serve retail load, they serve

17 retail load, and any surplus resources are sold in the

18 short-term market within our Aurora modeling that we use

19 to develop pro forma. So all the power that isn't going

20 to serve retail load is sold in the marketplace.

21 Q. Right, and so how are those revenues

22 accounted for, are the revenues from that just go to the

23 Company, or is there to rate payers in some way?

24 A. They go completely 100% to the rate payers.

25 There is a line item called short-term power sales in

0918

1 our pro forma, and all the revenue goes to reducing our

2 revenue requirement.

3 Q. Is that through the energy recovery

4 mechanism?

5 A. No, that's through our base rate setting in

6 developing the pro forma power supply expense in the

7 case.

8 Q. Okay. And that is a -- and so if the power

9 sales are higher than modeled, that still goes to the

10 rate payers?

11 A. If the power sales are higher than modeled,

12 that would go through the energy recovery mechanism.

13 Q. And if they're lower than modeled?

14 A. That would also flow through the ERM.

15 Q. And so I don't know if there's anything in

16 the record on the ERM, is it possible for you to explain

17 that just very briefly?

18 A. Briefly what that does is track the

19 difference between our actual power supply expenses in

20 the rate year and our -- the pro forma model, basically

21 the amount built into base rates in the rate here.

22 Q. So if these power sales of Lancaster are

23 higher than modeled, then the benefit of that is shared

24 between the Company and the rate payers; is that

25 correct?

0919

1 A. The benefit would all flow through the ERM,

2 and depending on where you were with the dead band, some

3 percentage or maybe all or maybe none depending on where

4 you were would flow through to the rate payers.

5 Q. Could you explain the dead band?

6 A. The dead band operates as the first $4

7 Million deviation from the base rates, either plus or

8 minus, is absorbed by the Company. The next $6 Million

9 is absorbed 50/50 if costs are higher and 75% to the

10 customer if costs are lower. And then beyond $10

11 Million it's a 90/10 sharing, 90% to the customers and

12 10% to the Company.

13 Q. So if everything was just as modeled -- I'm

14 sorry, going back, and this is done on an annual basis?

15 A. On an annual basis, yes.

16 Q. So if everything is done just exactly as

17 modeled and the Lancaster contract in 2010 shows $2

18 Million in excess of what was modeled of revenues, then

19 all that $2 Million would go to the Company?

20 A. That's correct.

21 Q. And likewise if it showed $2 Million less,

22 the Company would eat that?

23 A. Would absorb the full $2 Million.

24 Q. And so you may recall and I don't know if you

25 have in front of you Exhibit RLS-6?

0920

1 A. I don't have that.

2 MR. MEYER: May I provide a copy?

3 CHAIRMAN GOLTZ: Sure.

4 THE WITNESS: Okay.

5 BY CHAIRMAN GOLTZ:

6 Q. And I'm looking at page 13 of 14.

7 A. I've got it.

8 Q. And at Table 10 in the year 2010 in the third

9 column over, it's the revenue requirement impact for the

10 Lancaster lease, it says $12.9 Million. Am I correct,

11 again then referring up to the second full paragraph,

12 second to the last sentence where it says, the revenue

13 requirement impact is calculated by subtracting the spot

14 market energy value of the plant from the total plant

15 cost, that that $12.9 Million is net of some wholesale

16 power sales?

17 A. That is correct, that's my understanding,

18 that that number is net of the wholesale power sales.

19 Q. Okay. So then that determination of the net

20 is the modeling that you described?

21 A. Correct, that is the modeling of any

22 surpluses are sold in the wholesale market and credited

23 back to the customers.

24 CHAIRMAN GOLTZ: Okay, I have no further

25 questions.

0921

1 JUDGE TOREM: Commissioner Jones.

2

3 E X A M I N A T I O N

4 BY COMMISSIONER JONES:

5 Q. Afternoon, Mr. Johnson.

6 A. Afternoon.

7 Q. Could you please confirm that the Lancaster

8 revenue and costs are included in the determination of

9 power costs incorporated in the settlement agreement?

10 A. I think you need to clarify, maybe clarify

11 that. You asked me if the Lancaster costs were included

12 in settlement power supply costs?

13 Q. Yeah, I think there's an attachment to the

14 settlement agreement, isn't there, where there's a

15 calculation of power costs and adjustments? I don't

16 have that in front of me.

17 MR. MEYER: We'll get a copy.

18 A. Okay, I have that.

19 Q. So to take you through that, at least the one

20 I have, this has changed a little bit, and Mr. Meyer

21 provided something to the Bench yesterday, I don't know

22 if it's the same, but there is a calculation if you go

23 to Attachment A, the original settlement agreement, you

24 have power supply, and it consists of sub 3, 4, 5, 6, 7,

25 8, and then you have a total power supply adjustment.

0922

1 So the question is, are the Lancaster revenues and costs

2 included in this calculation, overall calculation of

3 power supply?

4 A. Yes, this calculation of power supply expense

5 for the settlement still includes the Lancaster plant,

6 so it still includes the Lancaster expenses and the

7 Lancaster revenues.

8 Q. Both?

9 A. That's correct.

10 COMMISSIONER JONES: That's all, thank you.

11 JUDGE TOREM: It appears there's no further

12 questions from the Bench, any other parties have

13 questions for this witness?

14 Mr. Meyer, anything on redirect?

15 MR. MEYER: No, thank you.

16 JUDGE TOREM: All right, it is 3:00,

17 Commissioners, 10 minute break before we get to

18 Mr. Woodruff. All right, so we'll come back with Kevin

19 Woodruff on the stand as close to 10 after 3:00 as

20 possible, thank you.

21 (Recess taken.)

22 JUDGE TOREM: We're back on the record, it's

23 now 20 after 3:00. Mr. Meyer, you informed me and

24 Mr. ffitch as well that you've located the documents to

25 this inquiry made by Public Counsel, a much more narrow

0923

1 inquiry I think it was, what was the Public Counsel data

2 request number again?

3 MR. MEYER: It was PC 108C for confidential,

4 PC 108C.

5 JUDGE TOREM: And so I see in front of you

6 the stack that's been printed out is all confidential

7 numbers from an Aurora modeling run, and you indicated

8 that's probably 1,300 or so pages, the first 8 to 10 of

9 which may have some narrative comments, and you've shown

10 it to Mr. ffitch, he wants his witness Mr. Woodruff,

11 once we're done with cross-exam here, to take a look at

12 the electronic version of that and determine Public

13 Counsel's position whether they would be lodging an

14 objection to making that part of the record or not, so

15 that's where we stand on that.

16 MR. FFITCH: Thank you, Your Honor, and also

17 we might wish an opportunity to examine the appropriate

18 Avista witness, Mr. Kalich or other witness, with regard

19 to this once we've had a chance to look at it.

20 JUDGE TOREM: All right, so let me know once

21 Mr. Woodruff reaches a decision on what relevance or

22 irrelevance it might have.

23 Mr. Woodruff, I need to swear you in, and I

24 think we'll turn you over to Mr. Meyer for cross-exam,

25 and then we'll see if the Bench has questions after

0924

1 that.

2 (Witness KEVIN D. WOODRUFF was sworn.)

3 MR. FFITCH: And, Your Honor, I just have a

4 preliminary matter or two.

5

6 Whereupon,

7 KEVIN D. WOODRUFF,

8 having been first duly sworn, was called as a witness

9 herein and was examined and testified as follows:

10

11 D I R E C T E X A M I N A T I O N

12 BY MR. FFITCH:

13 Q. Good afternoon, Mr. Woodruff.

14 A. Good afternoon.

15 JUDGE TOREM: Before you go forward, I do see

16 on my notes I have a preliminary matter for those that

17 might be on the bridge line. We've had it on mute, and

18 I've just unmuted it, I don't hear the baseball game

19 still coming in that apparently some of the callers on

20 the bridge line were enjoying. I do know that the

21 Rockies were ahead by 1 in the bottom of the 9th, but

22 apparently we're not going to be advised of that over

23 the bridge line. Whoever might have their phone

24 unmuted, please do the courtesy of muting it for the

25 other callers, thank you.

0925

1 Now we can get back to you, Mr. ffitch, after

2 this commercial interruption.

3 MR. FFITCH: Thank you, Your Honor.

4 BY MR. FFITCH:

5 Q. Good afternoon, Mr. Woodruff.

6 A. Good afternoon.

7 Q. And you were retained by Public Counsel to

8 provide testimony with regard to Avista's power costs in

9 this case; is that correct?

10 A. That's correct.

11 Q. And you filed direct testimony in this case

12 and exhibits, correct?

13 A. Correct.

14 Q. And those include a revised piece of

15 testimony, revised direct testimony dated September 2nd,

16 2009, correct?

17 A. Correct.

18 Q. So that's what we'll be referring to in the

19 hearing. Those documents have been admitted to the

20 record. Do you have any changes or corrections to your

21 revised testimony at this time?

22 A. Just one.

23 Q. Could you take us to that place in the

24 testimony, please.

25 A. Certainly. It's at page 13, line 18, and

0926

1 there's a phrase there in the middle of the line,

2 prepared in early 2007, the word early should be

3 November.

4 Q. Thank you.

5 Do you have any other changes or corrections

6 to your testimony?

7 A. No.

8 MR. FFITCH: Your Honor, Mr. Woodruff is

9 available for cross-examination.

10 JUDGE TOREM: Mr. Meyer.

11 MR. MEYER: Thank you.

12

13 C R O S S - E X A M I N A T I O N

14 BY MR. MEYER:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. I would like you first to turn to your

18 resume' of qualifications, that would be Exhibit KDW-2

19 as well as KDW-3.

20 A. It's just KDW-2.

21 Q. You have a listing of I think representative

22 clients there that appear as well as part of that

23 resume' of qualifications, correct?

24 A. Correct.

25 Q. Okay. Now as we look through this exhibit, I

0927

1 see you've done work for a number of different clients

2 in various capacities. You've worked on a project in

3 Arkansas; is that correct?

4 A. Correct.

5 Q. Worked on a project in Maine; is that

6 correct?

7 A. Correct.

8 Q. You've done several items of consulting work

9 in California; is that correct?

10 A. More than several, but I -- a dozen or two

11 you might say depending on how you count.

12 Q. I see. Now other than this case where you're

13 appearing on behalf of Public Counsel, have you done any

14 prior consulting work in the Pacific Northwest?

15 A. At my prior employer, Henwood Energy

16 Services, I know I worked on a few engagements for

17 entities based in the Northwest. I remember one

18 independent power developer in particular. I don't have

19 memory, it was, you know, I was there a long time and,

20 you know, in a managerial position and supervised a lot

21 of different things, but I remember one independent

22 developer up here I was involved with. There may have

23 been some other --

24 Q. Do you remember when that was and who that

25 was?

0928

1 A. Oh, that was the mid to late 1990's, and I'm

2 not even sure I can get the name of the firm right.

3 They're not around any more. Might have been Northwest

4 Power Enterprises, but I don't recall the name.

5 Q. So is this -- is it fair then to say that

6 this really is your first opportunity to testify before

7 this Commission on Northwest power supply related

8 issues?

9 A. This is the first time I've testified before

10 this Commission, yes.

11 Q. On any issues?

12 A. On any issue, correct.

13 Q. And then have you had any prior occasion to

14 review in this region prior to your engagement in this

15 case any power projects or transmission projects or

16 natural gas transportation projects?

17 A. Yes.

18 Q. Okay. And when specifically did you and who

19 did you consult with on which specific power projects in

20 this region?

21 A. On specific power projects?

22 Q. Yes.

23 A. I mentioned a client before that I know we

24 looked at one particular project they were trying to

25 develop. We helped a developer, not based in the

0929

1 Northwest, in the early '90's trying to sell a project

2 to Northwestern utilities. I've had occasion to look at

3 the Northwestern power system on behalf of clients

4 outside the Northwest, you know, over the years as well.

5 Another project comes to mind that we looked at in an

6 Oregon based project, natural gas fire combined cycle.

7 In fact, it was the Klamath Cogen project. We had an

8 engagement for the PacifiCorp subsidiary that was

9 developing that.

10 Q. Do you recall when that was?

11 A. In the 1990's sometime.

12 Q. Sometime in the 1990's?

13 A. Right.

14 Q. All right.

15 A. When the project was being developed.

16 Q. How would you characterize generally your

17 familiarity even now with the Northwest transmission

18 grid?

19 A. The Northwest transmission grid?

20 Q. Yeah.

21 A. I'm trying to pick the right word. I'll say

22 it's modest. It's not -- I'm not completely unfamiliar,

23 but I'm not as familiar with the details of the various

24 cut plains and substations as, you know, I assume you or

25 your staff is.

0930

1 Q. I see. And in particular even Avista's

2 transmission and distribution system, would you say

3 you're quite familiar or only as you say modestly

4 familiar?

5 A. Modestly at best for Avista.

6 Q. At best?

7 A. For Avista's system.

8 Q. Sure.

9 And also with respect to the natural gas

10 transportation pipelines that serve the Pacific

11 Northwest, do you have a -- would you characterize it as

12 a very good understanding of the physical configuration

13 as well as the capacities?

14 A. Modest I would say again, although I used to

15 -- I mean up through the mid '90's I knew it a lot

16 better, because I helped clients up here that were

17 developing -- actually other clients I was working with

18 on projects are coming to mind as I speak, because I had

19 to deal with pipelines and, you know, gas commodity

20 developers in the process of helping people develop

21 their projects. I also helped a California client, an

22 electric utility that was bidding on what was then the

23 PGT pipeline expansion, which is now the GTM pipeline

24 between Canada and Northern California. So I've had,

25 you know, some exposure to the pipeline grid up here

0931

1 over the years.

2 Q. When were you engaged to appear on behalf of

3 Public Counsel in this case, just the month and the

4 year, please?

5 A. My resume' says February of 2009, and I would

6 be virtually certain that's when we signed the contract.

7 Q. All right. So prior to February of 2009, had

8 you had any reason to familiarize yourself with

9 available green field and brown field projects specific

10 to the Northwest?

11 A. I think I was more familiar back in the

12 '90's. If you look, you know, before February 2009 for

13 the couple years before that or the few years before

14 that I didn't have a working knowledge of them. I would

15 see the names in trade press because I would see them

16 through clearing up every week, but I --

17 Q. Okay.

18 A. So I recognize the names of virtually all of

19 these projects, but I've not, you know, followed their

20 status.

21 Q. And I believe you just testified for at least

22 certainly the few years prior to this engagement prior

23 to 2009 you hadn't had a reason to familiarize yourself

24 with those projects?

25 A. No particular client driven reason, no.

0932

1 Q. I see. So is it safe to assume that you did

2 not bring with you to this hearing any knowledge gained

3 through your involvement in the 2007 through 2009 time

4 period with respect to available green field or brown

5 field projects?

6 A. I don't agree with the way you've asked that

7 question. Prior to February 2009 I didn't. During the

8 course of this, my work during this year, I've gotten

9 more familiar in the course of doing some research for

10 this project.

11 Q. At the time Avista made its decision in 2007

12 to acquire the project or the PPA from Lancaster, were

13 you involved and did you become familiar with in 2007

14 available projects or PPA's available in the region?

15 A. No.

16 Q. Okay. So after you became engaged in 2009,

17 then do I read your testimony to be that you then

18 attempted to familiarize yourself with the universe of

19 available combustion turbines in the 2007 through 2009

20 time frame, or did you do it even then?

21 A. I did some research on them. I don't want to

22 overstate the research I've done, but I read your

23 testimony, I did some independent research, you know,

24 looking through various web sites. But yeah, I made

25 myself more familiar with the various projects up here.

0933

1 Q. So you're not here to testify today that

2 based on your familiarity in 2007 that you're aware of

3 any green field or brown field site that Avista could

4 have acquired that was less expensive than the Lancaster

5 PPA?

6 A. Yeah, I don't know what would or would not

7 have been available to them as of that date.

8 Q. I see. Nor have you in your testimony

9 provided a single example of a green field or a brown

10 field site that would have been less expensive, have

11 you?

12 A. No, I didn't, I don't have the burden of

13 proof here, so.

14 Q. Lastly, were you -- am I to assume that since

15 your involvement prior to 2009 in the Pacific Northwest

16 was limited that you did not find yourself involved in

17 any way in the review of Avista's 2007 IRP or even its

18 2009 IRP?

19 A. I did not review their 2007 IRP at all. I

20 have looked at the 2009 IRP postings on their web site

21 from time to time during my engagement on this case.

22 MR. MEYER: That's all I have, thank you.

23 JUDGE TOREM: That's all the cross for this

24 witness total?

25 MR. MEYER: It is.

0934

1 JUDGE TOREM: Okay.

2 Commissioners, anything for Mr. Woodruff?

3 COMMISSIONER OSHIE: I have no questions.

4 CHAIRMAN GOLTZ: No questions.

5 JUDGE TOREM: Okay, no questions from the

6 Bench.

7 Mr. ffitch, anything that you wanted to

8 follow up on?

9 MR. FFITCH: Just one question, Your Honor,

10 along the lines of the inquiry from Company counsel.

11

12 R E D I R E C T E X A M I N A T I O N

13 BY MR FFITCH:

14 Q. Mr. Woodruff, could you please comment on the

15 scope and extent of the research and discovery that you

16 conducted in investigating Avista's proposal in this

17 case after you were retained by Public Counsel?

18 A. Certainly. I was retained in February to

19 look at Avista's power supply cost issues in general. I

20 read through the testimony of the various witnesses, all

21 the various witnesses. The Lancaster power, you know,

22 those set of Lancaster contracts seemed like a

23 particularly large issue. And I, you know, read in

24 detail the testimony, propounded a lot of data requests,

25 read them all, and, you know, considered them all in my

0935

1 -- in preparing my testimony. I also did some

2 independent research on Pacific Northwest power issues

3 including some of the, you know, issues that, you know,

4 Mr. Meyer discussed, you know, to reach my conclusions.

5 And since I filed my testimony in August I've, you know,

6 tried to stay current as well including developing some

7 of the exhibits, you know, cross-examination exhibits

8 for the witnesses. So I did I think a reasonably

9 complete research project on the Lancaster power

10 purchase agreements, this Commission's policies about

11 prudence and the like, and how they should have decided

12 to procure resources. It's also the case that you don't

13 really know what's on the market until you ask, so it's

14 very difficult for a consultant working for a non-market

15 participating party to get the kind of market

16 information that a utility can get when they ask.

17 Q. If you recall, how many data requests did you

18 propound through Public Counsel office to the Company?

19 A. I don't recall. It's in the dozens, tens or

20 dozens, maybe close to 100 on my own. That were all

21 mixed in with others, so I don't remember the sequential

22 numbering, I don't remember from that, but.

23 Q. Do you remember you characterized the amount

24 of time that you spent analyzing the Lancaster issue as

25 part of your work for Public Counsel in terms of hours,

0936

1 if you can?

2 A. Let me think about that. Probably on

3 Lancaster alone I've probably spent the bulk of my time,

4 probably going to be 160 hours of the, you know, of the

5 200 or so I billed to this project or will have billed.

6 MR. FFITCH: Those are all my questions,

7 thank you, Your Honor.

8 Thank you, Mr. Woodruff.

9 JUDGE TOREM: Counsel, Commissioners, any

10 last questions for Mr. Woodruff?

11 He does have a large pile of yellow paper

12 awaiting him or an electronic version thereof, all

13 right, Mr. Woodruff, I will let you get to that.

14 I believe that exhausts the list of witnesses

15 for the Lancaster forecast. However, Mr. Buckley, I

16 haven't forgotten, Commissioners have some questions for

17 Alan Buckley regarding Staff's position on the Lancaster

18 contracts. Commissioners, after hearing everything

19 today, do we still have questions for Mr. Buckley?

20 All right, I'm seeing the nods of heads, so,

21 Mr. Buckley, if you'll come take the witness stand, have

22 a seat here, and I'll note that you do have a

23 qualifications page in the resume' that was attached to

24 your joint testimony with Mr. Schoenbeck on other

25 issues, so if counsel are wondering about it, we don't

0937

1 need to do a Bench request for your qualifications,

2 they've already been admitted to the record. So I'm

3 going to swear you in, and then we'll see where the

4 Commissioners want to go.

5 (Witness ALAN P. BUCKLEY was sworn.)

6 JUDGE TOREM: Commissioner Jones.

7

8 Whereupon,

9 ALAN P. BUCKLEY,

10 having been first duly sworn, was called as a witness

11 herein and was examined and testified as follows:

12

13 E X A M I N A T I O N

14 BY COMMISSIONER JONES:

15 Q. Good afternoon, Mr. Buckley.

16 A. Good afternoon.

17 Q. You're been patiently waiting in the back, so

18 I guess I'll start, and I'm sure my colleagues will or

19 may chime in as well. The first question really relates

20 to your review of this material, so did you review the

21 Company's inclusion of the Lancaster contract costs in

22 this rate request?

23 A. Yes, we did. We carried out not only an

24 initial review based on the Company's filing,

25 workpapers, and some initial data requests by Staff, but

0938

1 also, you know, as the case progressed we also looked at

2 the DR responses from Public Counsel and others on the

3 issue, and so we did do an analysis. What we did not do

4 related to Lancaster was we did not submit separate

5 testimony regarding our position on that. I took the

6 approach that Lancaster, although large, was one of many

7 of the power supply expense line items that were in

8 there. It is an expense item that's not going into rate

9 base, so I took the approach that it didn't need a

10 separate finding of prudence like we pretty much do for

11 large resources such as going on with the other utility

12 now regarding Mint Farm and Chehalis. So, you know, in

13 retrospect perhaps that was not the right way to do it,

14 but that's the way that it came out so that our ultimate

15 recommendation, even though it was backed by lots of

16 analysis similar to all the other items on the power

17 supply portfolio, was just not to -- our position is

18 that we're not contesting the Company's inclusion of

19 these costs into the power supply base rates.

20 Q. So just to fine tune this a little bit more,

21 so you had an opportunity to review and study the

22 documents that have been discussed during the hearing

23 today, and I'm referring to the RLS-4 study in April of

24 2007, that study, that 6-page study that Avista did?

25 A. Yes. I can't say that, you know, I reviewed

0939

1 them to the extent of Public Counsel's witness,

2 Mr. Woodruff, because we knew at the time that, you

3 know, Public Counsel was concentrating on this issue,

4 and we also had other issues to address. But, you know,

5 in general we did look at all those items.

6 Q. And the Thorndike Landing study as well?

7 A. Yes.

8 Q. Do you support the inclusion, I guess you're

9 saying that you are not contesting the inclusion of

10 Lancaster, the three contracts, in the calculation of

11 power costs that was settled, but does that mean that

12 you support the inclusion of Lancaster contracts in

13 rates?

14 A. Yes.

15 Q. Pursuant to the settlement agreement?

16 A. Yes, we do.

17 Q. Okay.

18 And you mentioned the prudency issue, and one

19 of the reasons that you didn't file testimony was

20 related that you didn't -- you weren't going to file

21 testimony on a finding of prudence, so what's your

22 recommendation to the Commission on this question of

23 prudency, is it necessary, and would you support a

24 finding of prudency for the Lancaster contracts?

25 A. Yes, I would now. In retrospect I think

0940

1 given the attention paid to it that we would have

2 probably submitted separate testimony and maybe asked

3 for a separate finding of prudence. We never know quite

4 where to draw that line. There's no official line

5 that's drawn between a power supply expense, you know,

6 of a couple million dollars a year versus a acquisition

7 of a 500 megawatt plant. Obviously plants that go into

8 rate base need a separate finding, but I don't believe

9 we have one necessarily for large, you know, PPA's such

10 as this, although I have a suspicion that we probably

11 now have one. So yes, I would, given Staff's

12 perspective of how we looked at the case, which is

13 different than I'm guessing Public Counsel's, and we can

14 get into that if you like, we would say that we believe

15 that the acquisition of the PPA's, Lancaster PPA's, is

16 prudent.

17 Q. Just a final question and then I'm done, so

18 is there any other PPA, you know, of this magnitude or

19 smaller, it could be smaller or larger, is there any

20 other purchase power agreement that the Commission has

21 reviewed recently that you would compare this to, you

22 know, by this utility or I guess maybe not Avista but

23 another utility that you've had the chance to review?

24 A. Probably not of this magnitude. I think most

25 purchase power agreements tend to be in the 50 to 100 to

0941

1 150 megawatt range. Most of the large acquisitions that

2 we're dealing with now in the recent past are basically

3 purchases that would go into rate base. So this is a

4 bit of an anomaly having something this big, which is

5 why I go back to saying perhaps now we have a standard

6 on submitting specific testimony on ones this large.

7 COMMISSIONER JONES: Thank you.

8 JUDGE TOREM: Commissioner Oshie.

9 COMMISSIONER OSHIE: Thank you, Judge.

10

11 E X A M I N A T I O N

12 BY COMMISSIONER OSHIE:

13 Q. Mr. Buckley, were you here present in the

14 hearing room when we were cross-examining Mr. Storro?

15 A. Yes, I was here for most of it I believe.

16 Q. Do you recall the line of questioning that

17 had to do with the order UE-011595 and the settlement

18 regarding the ERM mechanism?

19 A. Yes.

20 Q. And just to refresh on page 7 of that

21 settlement stipulation, there is a section, Section E:

22 Transactions with Avista Energy. The

23 Company agrees it will not enter into

24 any electric or natural gas commodity

25 transactions with Avista Energy related

0942

1 to Avista Utilities electric operations

2 until the energy cost deferral balance

3 carries a net credit balance.

4 A. Yes, I'm familiar with that.

5 Q. Do you believe that that section of the

6 settlement stipulation is applicable to the Lancaster

7 transaction?

8 A. No, I do not. I was part of that settlement,

9 and although we always have to admit that people have

10 different viewpoints even on settlement, that was meant

11 more to address the concerns at the time of making

12 hourly, more secondary market purchases, hourly market

13 purchases, from Avista Energy to the Company, not what I

14 would characterize this as, is essentially a

15 acquisition, if nothing else, in the full operating

16 rights of a large power plant. To me they're two

17 separate, not even close. And I think, you know, as far

18 as issues that were brought up by Public Counsel, that's

19 probably the one that we may disagree on. I understand

20 there are other issues they raise perfectly and we just

21 come to different conclusions in regard to those, but

22 this is the one that I think we probably disagree with.

23 Q. What was the issue then with the, you know,

24 with the parties with this particular paragraph of the

25 stipulation when you made reference to, well, it really

0943

1 applies to maybe hourly purchases, I don't know, daily

2 purchases, short-term, you know, purchases of

3 electricity or natural gas, so why was that an issue

4 with the parties, was it because they didn't like Avista

5 Energy, or was there another reason?

6 A. No, I think it was more of just one way to

7 avoid potential problems is to don't get into the same

8 room with those parties you may have problems with.

9 Q. What kind of problems are you talking about?

10 A. Well, arms length, the idea of arms length

11 issues on small day-to-day transactions. At the time,

12 you know, Avista Energy was having -- had access to what

13 we call iron, so they were out selling basically

14 commodities on an hourly basis into the market, and at

15 the time just to be safe in the settlement we didn't

16 want the two companies really to be interacting together

17 on something on a day-to-day basis like that. And it

18 was -- it would be hard to during the reviews of costs

19 and the ERM to separate out things, and we just kind of

20 felt like let's just keep it separate. It was just a

21 precautionary kind of inclusion. It wasn't meant that

22 we didn't, you know, the parties disliked Avista Energy,

23 it was just let's not get into this issue. The Company

24 volunteered that and said, fine, you know, we won't be

25 selling basically on an hourly basis to Avista

0944

1 Utilities, we'll just stay out of that market.

2 Q. Well, that's not what this stipulation

3 paragraph says, is it, that it's only limited to hourly

4 basis contracts?

5 A. No, I'm sorry, in my definition of commodity,

6 commodity in this business is, at least as I would

7 define it as, would be more the short-term transactions,

8 both on the gas and the electric side.

9 Q. And so --

10 A. I don't think we anticipated the events that

11 would happen later, and settlements never do, and we're

12 always going back and looking at settlements, but at the

13 time it was more these short-term secondary

14 transactions.

15 Q. So the Staff wouldn't consider a power

16 purchase agreement to be an agreement to acquire a

17 commodity?

18 A. Not of 275 to 300 megawatts, no.

19 Q. Why does the number of megawatts make a

20 difference?

21 A. Well, I think it's not only the size of the

22 purchase, it's the length, it's the ability of the

23 utility to completely control essentially the operations

24 of the plant. We don't picture it as a -- I don't

25 picture that as a market transaction that's made over

0945

1 the phone from one entity or in a marketing room or a

2 marketing situation the same as hopefully negotiations

3 where you're dealing with full operating rights and a

4 long term of a resource.

5 Q. Does the Staff believe that the -- our

6 treatment of affiliated transactions, that being the

7 cost to the rate payer would be the lower of cost or

8 market, to have an effect on this transaction?

9 A. On the Lancaster transaction?

10 Q. Yes.

11 A. I think in that -- obviously it's a gray area

12 in this case, and that's part of my analysis conclusion.

13 But yes, I do consider it a affiliate transaction, so

14 therefore what I tried to do was kind of cut through the

15 middle part and get to the point, and the point is what

16 we're trying to do with our affiliated action,

17 affiliated --

18 Q. Transaction.

19 A. Pardon me, transaction rules is to protect

20 the rate payer and try to maintain sort of hands off or

21 arms lengths transactions, and hopefully that's the

22 case. In this case I felt that ultimately when you

23 looked at the questionable or the questions surrounding

24 the affiliated transaction nature of this versus the end

25 result of what I believe is a fairly low cost resource

0946

1 compared to others that were out there in the market and

2 others that we were familiar with, along with many other

3 factors I looked at in our analysis, that in that

4 conclusion that it overrode, if you will, my concerns on

5 the affiliated transactions. I was confident enough

6 that the price, the terms, and how this resource fit in

7 using more qualitative measures, more qualitative

8 measures, were enough to override my, you know, any

9 concerns we would have on the affiliated transaction.

10 Q. Was Staff aware in its analysis that there's

11 no contract between Avista Utilities, that being the

12 electric utility in this circumstance, and Avista

13 Turbine, who's holding the rights to the Lancaster

14 facility?

15 A. Well, I think there's an agreement.

16 Q. Did Staff review that agreement?

17 A. Yes, we looked at the agreements if I recall

18 long, you know, at the very beginning of the case.

19 Q. Well, Mr. Storro said there was no written

20 agreement between Avista Utilities, that being the real

21 utility, not the umbrella corporation, and Avista

22 Turbine.

23 A. Well, we looked at what was provided to us,

24 which essentially is in their filing, plus one of the

25 very first things we look at is the board meeting

0947

1 minutes of the approval, so we did look at that. And I

2 don't recall just off hand if it specifically was a

3 contract or a written agreement. There's memos that

4 passed me, so copies of memos and numerous E-mails and

5 things like that, you know, the whole package.

6 Q. Well, I guess it was a surprise, at least it

7 was to me, that there's no written agreement between

8 Avista the utility and Avista Turbine for the assignment

9 for the option to take control of the Lancaster

10 facility.

11 A. And I would agree to that, I would think

12 that's such an obvious thing that you wouldn't think

13 that you need to find it because you would believe it

14 would be there, so I agree with you.

15 Q. Did you borrow that one from Yogi Berra? I

16 think I've heard it before.

17 A. I don't think I can say it again.

18 Q. The court reporter is adept at rereading

19 things back into the record.

20 Well, if there's a -- did Staff look at the

21 -- other than what the Company had provided to you,

22 which it probably would have been -- why don't you --

23 what in your opinion was the most influential filing or

24 influential piece of information that the utility gave

25 you in your analysis of the Lancaster contract that

0948

1 persuaded you that it was a good deal for Avista the

2 utility?

3 A. Well, I have to say I don't think there was a

4 single one, I think it's worth discussing a little bit

5 about how it fits in with our perspective of looking at

6 these transactions plus the context in which it was

7 made. It was sort of this evaluation of all the items

8 are given plus the context, and I'll discuss that in a

9 second. But I guess I can admit that the bottom line

10 often comes down to one of price and the benefits to

11 rate payers or the combination of those two. However,

12 there are other issues, and it's worth discussing just

13 for a few minutes.

14 When we evaluate these, we have a perspective

15 of a balancing act between shareholders, rate payers,

16 and the Company. That's our perspective of the way we

17 look at these. So when we're evaluating all the

18 studies, everything else, you know, we're trying to

19 maintain that balance. So that's one of the

20 perspectives we looked at or I looked at.

21 The other one that's important and may be

22 ultimately the most important is the long-term effect on

23 rates, not the effect today, the next year, but more on

24 a long-term basis. For power supply expenses, which are

25 calculated on a normalized basis unlike many of the

0949

1 accounting adjustments, I tend to concentrate on that

2 long-term effect on what the Company does.

3 The other issue maybe perspective is one of

4 what kind of administrative burden, if you will, or

5 administrative workload does it create for us. And what

6 I mean by that is you can have an issue or an item, and

7 let's just take this for an example, when you're

8 evaluating these costs down the line, whether it be for

9 base rates or whether it be for the annual ERM review,

10 that it is -- it may be less burdensome, easier to deal

11 with plants or contracts or whatever that the Company

12 has kind of in house versus looking at something that's

13 exterior such as market purchases. And an example of

14 that would be it's easier to kind of have a control over

15 if you had a resource that you were putting in rate

16 base, you had a rate base component, you have an O&M

17 component which is in house to the Company, and you have

18 typically gas prices, which are somewhat transparent.

19 And then you analyze that versus -- you compare that to

20 the potential to have some large amount of transactions,

21 market transactions, on an hour-to-hour basis for 365

22 day of the year, 24 hours a day, that you would have to

23 or could analyze. So that's what I mean by one of the

24 perspectives is looking at administrative burden.

25 Then there's when I looked at this, and I

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1 will be specific on Lancaster, is it's also the kind of

2 qualitative context of the way that I'm looking at the

3 Company's case and the subsequent data responses. I had

4 to take into consideration, you know, frankly that what

5 the other utilities were acquiring. We have a history,

6 recent history, of the utilities acquiring opportunistic

7 resources, if you will, that, you know, are somewhat

8 similar to this in that you might say that there's a

9 short time frame, there's negotiations going on, there's

10 a bankruptcy, there's some third party that wants to get

11 out of something, and we have companies -- we have some

12 before us now before you now on other cases and we've

13 done some in the past that we have to kind of consider

14 how this fits in with that.

15 Q. And what projects are you referring to,

16 Mr. Buckley?

17 A. Well, most significantly, well, ones that are

18 before you now or will be before you are Mint Farm that

19 Puget has and Chehalis which is PacifiCorp.

20 Q. Were there others that --

21 A. In the past we've had there was the second

22 half of Coyote Springs 2, which was, you know, one of

23 these deals that the Company got some resources at we

24 think a fairly good price. I believe Fredrickson,

25 Goldendale, a number of these, and that's been the norm

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1 for the last few years rather than put out an RFP, get

2 RFP responses, you know, and then proceed that way.

3 That's worked well for some, but that's the norm

4 nowadays.

5 Q. Let me ask you a question about these

6 resources. Let's start with Coyote Springs 2, do you

7 know if the Company acquired that facility at a market

8 price or one that -- or the price that the seller paid

9 for that project?

10 A. Coyote, the second part of Coyote Springs 2,

11 the latest?

12 Q. Coyote Springs 2.

13 A. Right this second I could not say with any

14 certainty. I believe it was -- I know that the price

15 compared or installed to a kilowatt hour basis was very

16 favorable, but I don't recall how it fits in.

17 Q. What about the Goldendale project, do you

18 recall any information about that project that would

19 tell you that the price that was paid by the utility was

20 the market price at the time or what the owner, what it

21 actually cost the owner to acquire or build?

22 A. Well, I think it was -- I did not work on

23 those particular cases, one of the other Staff members

24 did, but I did -- I don't believe it was at market, I

25 believe it was below market, but how it compares to the

0952

1 actual price, that I'm not sure on.

2 Q. Would you say the same would be true for

3 Fredrickson?

4 A. Yes.

5 Q. And I'm not going to ask you about Mint Farm

6 or Chehalis because they're both coming up, but wasn't

7 the idea that the certain projects were available to the

8 utility at a cost lower than it could build of course,

9 but also at a cost that was essentially a fire sale and

10 which I assume means that the seller was selling it for

11 less than its cost?

12 A. That's the way I would characterize it I

13 think. I mean it depends on your definition of what --

14 how fire sale -- how much a fire sale is. But yes, we

15 think they were acquired at very favorable rates. They

16 were resources that were within the companies' control

17 area typically or located very good for purposes of

18 generation, as is Lancaster. The ones that I can

19 remember, and again we won't get into the ones that will

20 be before you now, but I believe that the ones in the

21 past were favorably priced. Whether you define it as a

22 fire sale depends on your viewpoint.

23 Q. It's just a term.

24 A. Yes.

25 There's also other issues, you know, that we

0953

1 have that I looked at in these. It's like there's,

2 well, we discussed a little bit about the location. One

3 of the -- some of the other items that don't show up in

4 a dollar evaluation are future potential for reserves.

5 We are having lots of wind projects come in and other

6 renewables. Well, every wind project that's built has

7 to have reserves from somewhere. So even though it may

8 not be incorporated into the analysis of that specific

9 resource, we can kind of look ahead and go, well, as

10 compared to a market purchase which may not provide any

11 reserves, as compared to having to take up reserves of

12 existing hydro plants, you will have either through

13 ownership or through a PPA such as this the ability to

14 count that as reserves in your service territory.

15 There's also one kind maybe other kind of

16 major item that I looked at when I was coming to my

17 ultimate recommendation, or lack of recommendation, is

18 that you take a look at what you're -- what's going on

19 right now and how the Company should react, and one of

20 those is, and this addresses maybe the timing issue a

21 little bit, timing is never perfect on these, but for

22 example this -- we started evaluating this in relatively

23 early 2009. Well, what happened in early 2009 is one of

24 the Colstrip units went out and has been out for an

25 extended period of time. So part of the thinking in

0954

1 whether this, and this is a qualitative thinking, of

2 whether this resource is appropriate is, okay, if the

3 Company had had this, what would its effect be on

4 customer rates, and would it be like we're going to have

5 which is where you're going to be relying upon the

6 market, which usually is -- usually your outages are

7 going to happen when market prices are not favorable,

8 versus having a resource that allows you, you know, to

9 fill those needs. So just these external kind of

10 qualitative things that are out there is also what

11 ultimately came to my conclusion of accepting the

12 Company's case.

13 Q. How did Staff evaluate the market price of

14 Lancaster?

15 A. The --

16 Q. Maybe I can -- go ahead.

17 A. Well, I think in general it's market price is

18 I think at the most fundamental level is the cost for

19 this type resource is the basically the dollar cost per

20 kw installed. These are -- can be base load plants, so

21 that works out well. We relied upon the information

22 from the Company which was -- had, you know, I think was

23 in line with what I remember from what happened in

24 previous cases, what other Staff members remember from

25 previous cases, plus we knew prices that resources were

0955

1 being paid for by other regulated utilities. We have

2 kind of a long-term history of in general knowing the --

3 following the price of installed capacity of combustion

4 cycle turbines. At one point the old rate used to be

5 $800 was the standard, and I think even in the

6 short-term period when we were short on turbines it went

7 up to $1,200, maybe higher than that back during the

8 energy crisis. So this was done in a kind of a

9 qualitative analysis looking ahead at information and

10 came to the conclusion that at the price this was, it

11 was reasonable for rate payers.

12 Q. Did it make any difference to Staff that this

13 was a tolling agreement and not actual acquisition of a

14 plant, for example as it was for Fredrickson or

15 Goldendale or Coyote Springs 2?

16 A. Given the length of the time, it did not.

17 And I also kind of looked at this and fully expect

18 something in the not too distant future where perhaps it

19 will become something other than tolling and more of an

20 ownership situation. But as long as -- for operations

21 purposes and for rates purposes, which are the two main

22 things I looked at, it really is about the same.

23 Q. So --

24 A. And in some cases maybe a little bit better

25 because of the maintenance contracts and things along

0956

1 those lines.

2 Q. So Staff made a judgment call, let me just

3 restate your testimony, that other than the information

4 that was provided by the Company, which I believe is

5 we've seen today in evidence, thank you, Mr. Buckley,

6 that Staff made a judgment call that this was a good

7 deal and it's satisfied that it meets the test of the

8 lower of cost or market?

9 A. Yes, I do.

10 Q. And I believe this is already in the record

11 and but I just want to perhaps state it again and see if

12 you agree that when this contract was first -- well,

13 let's put it this way. When Avista Utility, Avista

14 Turbine acquired the rights to Lancaster in 2007, you've

15 said that there's no -- you haven't seen a contract

16 between Avista Turbine and Avista the utility to acquire

17 the Lancaster facility; is that right?

18 JUDGE TOREM: Can I make a correction,

19 Commissioner Oshie, I think Avista Turbine may have had

20 the rights long before, and they assigned them for the 2

21 1/2 year period.

22 COMMISSIONER OSHIE: That's right.

23 A. Yes, because that's not something we would

24 have concentrated on for some of the other material. I

25 think that would have came in more in place when you

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1 were more talking about the affiliated transaction

2 problem or issue, if you will. And I have to admit

3 that, you know, I looked at that, but with all the other

4 issues kind of weighing in on a more favorable side, I

5 won't say I turned a cheek, but said that I think it

6 outweighs it and these other things satisfied those

7 concerns. So it was not the structure between

8 affiliates, and who holds what in the contracts was not

9 something that I spent a lot of time on. It was

10 definitely more the bottom line and the operational side

11 of things.

12 BY COMMISSIONER OSHIE:

13 Q. Would it have made a difference to Staff if

14 the Company had gone to the market with a request for

15 proposal for a resource similar to a Lancaster between

16 2007 and the end of 2009?

17 A. Would it have made a difference in?

18 Q. In your thinking of the market value of this

19 facility.

20 A. Well, I don't think my ultimate conclusion

21 would have changed, because we did have I believe some

22 RFP's from other utilities, and you had other

23 transactions that were being made. I think in

24 retrospect the Company may have -- should have tried to,

25 perhaps realizing that this would be an issue, may have

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1 tried to put out some kind of a quick RFP, if you will,

2 to see what was out there. When I looked at their

3 information of what their conclusions of what was out

4 there, I didn't see anything that was inconsistent of

5 what we already knew by following our other regulated

6 companies and the transactions that they've been

7 entering into in the same area. So I think obviously

8 more information would help anybody's decision, I don't

9 think it would change the results.

10 Q. Does Staff, you know, when does Staff believe

11 that an RFP is required for the utilities that are

12 looking to fulfill a resource need?

13 A. Well, we have specific rules on when the

14 companies are required to file RFP's.

15 Q. Was an RFP required to be filed by Avista in

16 2007?

17 A. I do not know.

18 Q. Would that be important information?

19 A. I can certainly find out. We have had --

20 Q. Just in a general way, Mr. Buckley.

21 A. Yes, and, well, first of all, I have to go

22 back, the companies, none of the companies are required

23 to file an RFP before acquiring a resource. If they

24 acquire something, a resource outside an RFP, then they

25 have obviously a little bit more of a burden of proof to

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1 do that. So when this came up and, you know, it was not

2 the result of an RFP, I knew that, but, you know, I did

3 not concentrate on the RFP nature of it because they're

4 perfectly allowed to acquire resources outside an RFP as

5 long as they provide all the information and their

6 justification for doing so. So it, you know, I knew

7 that they had not had one for combustion turbines, most

8 of the ones that have been recent years have been for

9 renewables, but, you know, it wasn't a stumbling block

10 to continue the analysis on whether this was a resource

11 that would be prudent for them to acquire.

12 Q. Let me perhaps restate your testimony that

13 when Staff looked at this agreement or the PPA, it took

14 the long-term look and agreed that this, by looking at

15 it long term, this contract was in the public interest,

16 to use that term, just, reasonable, prudent, actually

17 didn't make a prudency judgment on it, but I guess you

18 perhaps did in your earlier testimony, excuse me, but

19 it's the long term that Staff's really concerned about

20 here?

21 A. Yes.

22 Q. Okay. Staff's aware that the analysis that's

23 been provided by the Company and I think was focused on

24 by Public Counsel's cross-examination was that this

25 project if it were to be acquired by Avista the utility

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1 in the beginning of 2010 has the potential to be a

2 loser, it's forecasted to be a loser by $12.9 Million

3 for that period?

4 A. Well, I'm aware of that analysis, and that

5 conclusion is based on the parameters that were given

6 that analysis.

7 Q. Isn't that the -- aren't those the same

8 parameters that Staff used in part to analyze the

9 contract? I mean wasn't that part of the evidence that

10 the utility supplied to Staff and the other parties to

11 support the agreement?

12 A. Yes, it was, but again because we look at the

13 long-term nature of acquisitions, we don't concentrate

14 on, you know, a first year effect as compared to some

15 other alternative that may or may not have certain other

16 issues built into it. There's no certainty that, you

17 know, as compared to that other alternative that there's

18 -- it could have been built, there's no certainty that

19 the alternative, let's say starting it in 2011, would

20 have been available. Again by taking the long-term

21 approach in many cases there may be a short-term

22 detrimental effect in favor of the long term.

23 Q. Does it -- how does Staff view at least what

24 I believe to be the evidence as presented today or

25 that's in the record that Avista Turbine with no

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1 agreement, from at least the way I interpret it because

2 there's no agreement between Avista Turbine and Avista

3 Utility, there's no obligation to take this PPA in 2010,

4 it could be 2011, matter of fact that was one of the

5 analytical details that went into the study, it could

6 have been 2009. And Mr. Kalich said, well, the longer

7 we wait, the better the deal it is for the rate payers.

8 A. Again, I think you start getting into a

9 situation of two things. One is you're forgetting the

10 longer term approach, and we often --

11 Q. Well, now wait, hold on, Mr. Buckley, I

12 understand, and I just wanted to -- I'm not forgetting

13 the longer term approach, that's the backbone of Staff's

14 analysis. What I'm saying is that the evidence as I've

15 heard it is there's no binding legal agreement for

16 Avista the utility to take this project in 2010.

17 There's an understanding. And if they could wait until

18 2011, wouldn't that be a better deal for the rate payers

19 and then get the long-term benefits from this PPA?

20 A. I think the numbers show that, but I honestly

21 believe that there's other things besides just the

22 numbers. I think we start getting into a kind of a

23 dangerous situation where you can -- the Company may not

24 want to make some transactions that are beneficial in

25 the long term if, you know, you kind of get into this

0962

1 situation almost like a should have, could have way.

2 And I recognize that with no binding contract it's

3 something they can change now, but that's this

4 particular maybe transaction that's a little odd. If

5 you --

6 Q. Well, are you saying then that the Company

7 would walk away from this longer term deal if the

8 Commission said that, you know, we agree that this is in

9 the best interests but not until 2011?

10 A. I can't speak to that, because I can't

11 speculate whether it would be even available in 2011.

12 For the companies that are out there right now,

13 primarily because of needing to acquire new resources,

14 we have several companies that are out there, that

15 whether this resource would still be available then,

16 that's the question mark. And then you get a situation,

17 well, of course it's being controlled right now by, no

18 matter how you look at it, it's being controlled, the

19 decision is being controlled by Avista, but, you know,

20 are you going to have them hold off maybe some other

21 transaction that they could handle these plants with or

22 do with some other utility to save this for Avista

23 Utilities in 2011. Is that prudent for them to do from

24 a, you know, maybe a shareholder standpoint perhaps. It

25 might be prudent to do from a rate payer, pure rate

0963

1 payer standpoint if you have that ability to do so, but

2 what I was trying to make a point is maybe transactions

3 aren't quite like this. I would hate to see them not

4 make transactions that are at least beneficial in the

5 long term because there are some short-term problems or

6 some issues that said, well, we could have, you know,

7 this can be delayed a year or another year or another

8 year.

9 When I looked at this, it was a hope that,

10 two things, we recognized that there was some issues

11 related to the short-term cost, but we're kind of also

12 hoping that through the ERM either we would get some

13 more benefits that would counter those costs, or if it

14 went the other way, frankly all else given equal, the

15 Company would be eating the first $4 Million of those

16 costs plus sharing 50/50 in the rest. So there was less

17 risk to rate payers, and this is what I don't think some

18 of those studies do because it doesn't recognize the

19 operation of the ERM, there is less risk to rate payers

20 than what you might expect from that $12.9 Million for

21 the first year. And I think that's kind of an important

22 thing to realize that the ERM is out there.

23 Q. And I think you would agree that there is

24 certainly less risk to shareholders if the utility picks

25 this project up in 2010?

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1 A. That depends on the market prices and what

2 happens and what they could do with the energy.

3 Q. And there's nothing really in the record

4 about the market prices today for that facility?

5 A. No, I think we have in the Company's analysis

6 their Aurora runs, there's market price assumptions in

7 that, it's selling at a -- into the market at those

8 prices.

9 Q. But the value of the project is what I was

10 getting at.

11 A. Oh.

12 Q. Other than the Aurora runs.

13 A. Yes.

14 Q. Okay.

15 Do you know what this project has been doing

16 since 2007, has it been operating?

17 A. Yes, I believe it has.

18 Q. Okay. Do you know whether the project has

19 been in the money in 2007?

20 A. No, I don't have that information.

21 Q. 2008, 2009?

22 A. Well, I don't -- when you say in the money, I

23 guess we need to define, go backwards, we need to define

24 it. We have not been following the operations of it as

25 -- I guess. It's out there, it's available, but whether

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1 it's been the spark spread analysis running for the

2 owner of it and the operator of the plant now, we don't

3 have their -- it's a non-regulated company, we don't

4 have their financials to determine how they analyzed

5 their spark spread decisions.

6 Q. Okay. Would you agree that if a project is

7 in the money it's worth more to a potential buyer?

8 A. I think there's so many complicated things

9 that go with that, you just can't say yes or no.

10 There's the effective reserves that it has. I mean

11 obviously if a resource has a favorable load factor and

12 therefore is in the money more than one without a

13 favorable load factor, then its value to anybody is

14 better with or without consideration of reserves or any

15 other factor that goes with that plan. And, you know,

16 this one is a fairly good efficient plant.

17 COMMISSIONER OSHIE: All right, well, it's

18 been quite a while, Mr. Buckley, thank you for your

19 testimony.

20 THE WITNESS: Thank you.

21 CHAIRMAN GOLTZ: Just very brief I hope.

22

23 E X A M I N A T I O N

24 BY CHAIRMAN GOLTZ:

25 Q. Following up a little bit on what

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1 Commissioner Oshie was saying, listening to all of this

2 today and reading the testimony, I understand that you

3 take the position as this Company, you have to look at

4 the big picture, the long view. And we heard testimony

5 from the Company, and this was also a suggestion of

6 Mr. ffitch, that while that may be true, looking in the

7 near term, at least in the first year, 2010, 2011,

8 perhaps it's really not that good of a deal. And I

9 gather you're saying, well, yeah, but you have to take

10 the long view. One of the sort of set of facts that

11 gives me pause, and we may get some clarification in the

12 brief on this, is during the analysis that Mr. Kalich

13 did in March and April of 2007 where he said it would be

14 a better deal if we started in 2011, and that went into

15 negotiations, and that's sort of a black box, and, you

16 know, I don't know if it would have been possible for

17 the Company to have negotiated a better deal or not. So

18 my question is, in your review of all of this did you

19 get any insights into that black box, or is that just

20 not, the negotiations, or is that just not something you

21 would look at?

22 A. That really is not something I looked at. I

23 took the fact that it was coming in in 2010, you know,

24 one, knew that it was part of a negotiation and try the

25 deal with just what was there, what we were looking at

0967

1 before us. And, you know, particularly in that kind of

2 negotiation of somewhat -- I mean any resource, you can

3 get in a situation I believe that when you're acquiring

4 bulky resources where you may have a need of 10

5 megawatts but the resource comes in 50 megawatt blocks,

6 you're always going to a have a timing issue, and it is

7 always, unless market prices are virtually nothing, it

8 usually, I said almost always, is going to be favorable

9 to wait.

10 The issue becomes, you know, just how much

11 can you wait and at what risk. When there was no plants

12 out there and we had to build everything, it became one

13 of, well, how much were costs going up, was siting going

14 to be available, so a bird in the hand was something

15 definitely worth money even though on paper it didn't

16 maybe pencil out that you would have been better to

17 wait. And this one, although it's not quite as simple

18 because there apparently was some kind of ability to

19 delay it, you know, a year, I didn't really consider

20 that as an option and just took, you know, 2010, how it

21 fits in in 2010 and the long term and with all the

22 other, you know, qualitative things I mentioned and said

23 that I believe it is good enough without an adjustment.

24 That's my perspective, not Public Counsel's.

25 Q. That's my question is I just don't -- it's

0968

1 fuzzy to me whether or not there was some potential

2 ability to delay this a year from the record we have.

3 The only other question I have is I asked

4 Mr. Johnson of the Company to just describe briefly how

5 say hypothetically in 2010 where there is not as much

6 need for this power from Lancaster and there's sales

7 into the wholesale market how the revenues from those

8 sales would be put into rates, and he gave an answer,

9 and I was just wondering if you heard the answer and if

10 you agree with that?

11 A. Yes, and it's not only the sales from

12 Lancaster, but also the transmission and the gas

13 transportation would flow through the ERM. I think the

14 thing I would add to his, I believe he did say this

15 once, was that the actual effect at the time it may

16 happen depends on where you sit in the dead band at

17 whatever month that it may happen.

18 Q. Right.

19 A. And so it's kind of hard to tell whether it

20 would be within the $4 Million or out of the $4 Million,

21 it depends, because everything gets kind of thrown into

22 the pot.

23 CHAIRMAN GOLTZ: Thank you, I have nothing

24 further.

25 JUDGE TOREM: Commissioner Jones, follow up?

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1 COMMISSIONER JONES: Just a -- this will

2 hopefully be short.

3

4 E X A M I N A T I O N

5 BY COMMISSIONER JONES:

6 Q. Just to follow on Commissioner Oshie's

7 questions and your comments about other CCT plants in

8 the region, I think you mentioned a figure of, you know,

9 $800 per installed kilowatt or something. Have you had

10 a chance to review Mr. Kalich's rebuttal testimony?

11 A. I've looked at it briefly, I don't have --

12 Q. There's a chart in there, and I'm sure you

13 have all these perhaps memorized, but it basically cites

14 that the average in recent CCGT projects is $865 per

15 installed kilowatt. Is that roughly your understanding

16 of the marketplace in the Northwest?

17 A. I believe so, yes.

18 Q. And did you -- do you agree with his

19 characterization of Lancaster costs in that graph of

20 roughly he has it posted at $550 per installed kilowatt?

21 A. Yes.

22 Q. You're familiar with the process of the

23 Commission if an IPP has an objection to the RFP process

24 there's an ability to complain?

25 A. Yes.

0970

1 Q. Has there -- have you heard anything from the

2 IPP groups in the region complaining about this project

3 or the nature of the project, do you have any

4 recollection of that?

5 A. Not on this project, I don't have any

6 recollection.

7 Q. Okay. On others perhaps?

8 A. On others I believe there has been some where

9 similar situations have happened and potential bid

10 parties have raised questions. Whether it's been done

11 formally or informally I don't remember.

12 Q. And just the last one on prudency, so what

13 are you recommending, are you advising the Commission

14 that we don't have to make a determination of prudence

15 in this because it's a PPA or not?

16 A. Well, that's the way I initially structured

17 my testimony.

18 Q. Yeah.

19 A. And through potential cross answering

20 testimony I think given now that I probably would have

21 made specific requests for a finding that this PPA is

22 prudent given the cost and the size of it. I think it

23 might be a good idea sometime in the future to discuss

24 some type of size standard or cost standard for what the

25 Commission wants to see on some of these power supply

0971

1 items.

2 Q. And then, Mr. Buckley, as the Commission

3 makes the determination of prudency, what other proxy

4 plants should we be looking at in your view? Should we

5 be going back just to April 2007 based on what you heard

6 today, or should we look at the total universe of --

7 obviously we can't look at pending cases before us, but

8 there have been other transactions in the recent past,

9 should we be able to look at all that in your view?

10 A. Yes, obviously we have the plants that are

11 pending before you in the other dockets, but I think

12 it's a good idea to do recent ones, and I think it's a

13 good idea not necessarily to spend a lot of time on but

14 don't forget what may have happened, you know, six,

15 seven, eight years ago during the energy crisis when

16 certain events happened that caused some of these things

17 to go way up. So I think it's just -- it's a good idea

18 not to forget history, so I think it's a good idea to

19 remember that things have a tendency to go up much more

20 than they do down, so I think that's an important

21 consideration too besides the more recent.

22 COMMISSIONER JONES: I am a student of

23 history, so I appreciate that comment. Thank you,

24 Mr. Buckley.

25 JUDGE TOREM: Additional Bench questions for

0972

1 Mr. Buckley?

2

3 E X A M I N A T I O N

4 BY JUDGE TOREM:

5 Q. I just have one that I want to try to sum up.

6 In listening intently, Mr. Buckley, to what you've been

7 saying, I appreciate the qualitative/quantitative

8 approaches and what I would roughly call just the

9 judgment call approach that you appeared to initially

10 put to and still now reiterate here that this was a good

11 idea for the Company, shareholders, and rate payers,

12 particularly when you look at it at the long term. But

13 at the end of the day for the Bench, Public Counsel has

14 raised what I see as a legal standard objection, and

15 unless I'm understanding you now to say that that legal

16 standard just doesn't apply, assuming for a moment that

17 it does, the legal standard of prudency and further

18 arguments under affiliate transactions, did the Staff

19 look at this again or would you today and say they've

20 met, the Company has met the burden of proving prudence

21 under a legal standard that does apply?

22 A. The legal standard that I think I'm more

23 familiar with is what would reasonable management have

24 done at the time, that line of it, without getting into

25 the affiliated interest side it, because that's -- I'm

0973

1 not an expert on affiliated interest. I think that the

2 Company's filing as filed and the workpapers and the

3 exhibits meets that standard.

4 Q. And we can make that analysis without knowing

5 the 2007 forecast for market prices for 2009 or 2010?

6 A. Within the Company's analysis, there's

7 forecasts out, you'll probably see in the Aurora runs,

8 of what market prices will be back in 2007. Their

9 analysis that Mr. Kalich did is based on the prices at

10 the time and such, along with not just the prices at the

11 time, but the analysis also takes into consideration

12 higher prices, lower prices, a range, so that analysis

13 is in there. And that's why there's a range of benefits

14 as well as all this being normalized as well. So yes,

15 there is on the record, there is pricing information

16 inherent in that analysis of a range. Looking at things

17 today, the range may be different, it may be the same,

18 you know, we don't know depending on whether that range

19 would be the high-low gas case is typically how we

20 analyze this.

21 I think that some of the issues probably that

22 they did not capture in the analysis is some of those

23 qualitative ones, talking about particularly, you know,

24 reserves being available for wind and things like

25 location, although they did cover some of the location

0974

1 issues based on the difference in the gas tax. Some of

2 that is in the analysis.

3 But, you know, when I relied upon their

4 analysis in the past prudency cases, Staff has done, you

5 know, their own independent analysis if they disagree

6 with the Company's analysis. The first step is looking

7 at what's been done, and so I think what's available and

8 so I think that is sufficient there. I do agree that

9 there is some weakness on the affiliated transaction

10 side of it, but I think ultimately I tried to get for

11 purposes of this just kind of bottom line it, and I

12 think that probably was and continues to be a problem.

13 Q. All right. So we don't have that same easy

14 way out writing an opinion on this, so I just wanted to

15 see what your thoughts or guidance might be today.

16 A. And I think, you know, from, you know, Public

17 Counsel's, you know, I definitely respect their

18 analysis. They did a lot of work on this case, and, you

19 know, a lot of analysis and a lot of good analysis.

20 There are issues I think fundamentally where we come

21 that we just disagree on the conclusion of those, of the

22 various package of issues that are out there. You can,

23 you know, draw a conclusion, and they can be different,

24 and that's why I think we had this issue the other day

25 of what Staff's position even though we in this case we

0975

1 did not -- we were silent in the sense that we agreed

2 with the Company's costs that were put into this, we

3 were silent, and we said the other day that we were

4 neutral, we're not taking a position on Public Counsel's

5 case, and that is really due out of respect for their

6 analysis and their analysis coming from their

7 perspective.

8 JUDGE TOREM: Well, this was an hour well

9 spent in fleshing out the difference between Staff's

10 approach and Public Counsel's and telling us Staff's

11 position affirmatively, I appreciate you being available

12 for this.

13 THE WITNESS: It will be in testimony next

14 time.

15 JUDGE TOREM: We'll see.

16 It's now a chance for the other counsel to

17 let me know from what they've heard here what, if any,

18 questions they want to put forth today or what other

19 option, Mr. ffitch particularly, you would want to have

20 to cross-examine Mr. Buckley at some other time you

21 might recommend.

22 MR. FFITCH: Your Honor, I would like to

23 request a few minutes to talk with my expert witness

24 before we make a request or a proposal about procedure.

25 JUDGE TOREM: All right, given the time is

0976

1 4:35, why don't we take 5 minutes. Is that going to be

2 sufficient? Your witness is nodding his head. So we'll

3 come back in 5 minutes, everybody stay close, and we'll

4 see what you can do. If you can talk to Mr. Meyer at

5 the end of that 5 minutes and let him know, he may also

6 have some cross-exam, although I would, given the

7 substance of what we heard, have to call it friendly

8 cross, so I'm hoping that Mr. Meyer won't have a whole

9 lot of friendly cross for this witness, but let him know

10 your intent at the end of the next 5 minutes.

11 MR. FFITCH: We will do that.

12 (Recess taken.)

13 JUDGE TOREM: All right, it's 10 minutes to

14 5, we'll be back on the record. Mr. ffitch, I saw you

15 had a proposal there for Mr. Meyer, on bended knee.

16 MR. FFITCH: Yes, thank you, Your Honor,

17 appreciate the opportunity for a brief recess so we

18 could consult. Essentially Mr. Buckley has provided

19 what amounts to rebuttal testimony, or excuse me,

20 responsive testimony to the Company proposal on

21 Lancaster in his comments from the stand just now in

22 lieu of filing written testimony in the case on August

23 17th. What we would request, Your Honor, is two things.

24 We would like the opportunity to cross-examine

25 Mr. Buckley on his testimony in the morning after we

0977

1 have an opportunity to prepare that cross-examination,

2 and we would also request the opportunity for

3 Mr. Woodruff to take the stand and provide oral

4 cross-rebuttal. If Mr. Buckley had filed this testimony

5 on August 17th, we would have filed oral cross-rebuttal

6 I expect through Mr. Woodruff on September 11th, and so

7 we would request the opportunity for Mr. Woodruff to

8 make some comments in the nature of cross-rebuttal to

9 Mr. Buckley's testimony.

10 JUDGE TOREM: All right, so if I understand

11 correctly, we wouldn't take any further testimony on the

12 Lancaster contracts today, we would put Mr. Buckley back

13 on the stand tomorrow. He's nodding his head that he

14 thinks he's not available, but assuming we make him so,

15 then Mr. Woodruff would offer his verbal testimony in

16 cross-answering or rebuttal?

17 MR. FFITCH: Yes, Your Honor, that's correct,

18 and then he would be available for any questions.

19 JUDGE TOREM: Now assuming this is all made

20 to work somehow, how long do you think each of those

21 segments might take?

22 MR. FFITCH: Your Honor, I would expect that

23 that would take no more than 1 hour, each of the

24 segments, Your Honor, I would estimate approximately 30

25 minutes for Mr. Buckley and I'm going to say 30 minutes

0978

1 for Mr. Woodruff, but I suspect that that's quite

2 generous.

3 JUDGE TOREM: Let's be off the record for a

4 minute.

5 (Discussion on the Bench.)

6 JUDGE TOREM: Mr. ffitch, would all of those

7 segments still work, particularly the examination you

8 have for Mr. Buckley, for him to appear by telephone? I

9 know it may not be optimal, but could we make that work,

10 because that would make things work better for the

11 witness as well.

12 MR. FFITCH: Yes, Your Honor, that would be

13 workable for us if the witness were to appear by

14 telephone.

15 JUDGE TOREM: All right, so let me check with

16 the other parties and make sure if they have any

17 concerns on the suggestion that Mr. ffitch has just made

18 as well as the modification that Mr. Buckley's segment

19 of cross-exam be by telephone.

20 Mr. Meyer?

21 MR. MEYER: Well, I don't think so. And I

22 say I don't think so because I don't know what is going

23 to be said by Mr. Woodruff. I would not anticipate we

24 would have any cross of Mr. Buckley. Number two, I

25 would not anticipate -- I don't know if we're going to

0979

1 have any cross of Mr. Woodruff, and it may be, and I'm

2 not suggesting we even want to go down this path, but we

3 might want to recall for 10 minutes one of our witnesses

4 depending on what Mr. Woodruff says. Those are the sort

5 of thoughts going through my mind not knowing how this

6 will play out tomorrow, but we don't intend to belabor

7 this point.

8 JUDGE TOREM: Commissioners, any input on

9 this?

10 CHAIRMAN GOLTZ: Why don't we just pick a

11 time, it doesn't have to be first thing.

12 MR. BUCKLEY: First thing.

13 CHAIRMAN GOLTZ: If that's what's most

14 convenient, Mr. Buckley, first thing?

15 MR. BUCKLEY: Yes.

16 JUDGE TOREM: Is 8:30 going to work for

17 everybody to be ready to go on the record tomorrow?

18 MR. MEYER: Works for Avista.

19 MR. FFITCH: Yes, Your Honor, that will work,

20 thank you.

21 JUDGE TOREM: All right, then tomorrow

22 morning if it works for our court reporter we'll

23 schedule 8:30 for Mr. Buckley to call in on the bridge

24 line.

25 MR. BUCKLEY: Yes, and if other arrangements

0980

1 can be made, then I will come down and be here in person

2 if tonight I can make those arrangements.

3 JUDGE TOREM: All right, I appreciate that.

4 So tomorrow morning if everybody will mark their

5 calendars we'll start at 8:30 a.m., we'll begin with

6 Mr. Buckley and then follow on as necessary with the

7 rebuttal verbal testimony from Mr. Woodruff, and then

8 we'll check in again as to where other parties are on

9 necessary further cross of Mr. Woodruff on his rebuttal

10 testimony and/or additional witnesses to be recalled.

11 All right, that puts us at 5 minutes to 5:00

12 today.

13 Mr. Buckley, thank you, you can step down for

14 the afternoon.

15 The estimates for decoupling that came in are

16 somewhere in the neighborhood of 10 hours, and we're

17 going to take the first hour tomorrow it sounds like or

18 thereabouts to complete this. In consulting with the

19 Commissioners, and I gave I think most of you fair

20 warning, we think it's best to get started on the

21 decoupling issues today. So Mr. Norwood is scheduled

22 for cross-exam by Commission Staff, Public Counsel, The

23 Energy Project, and the Northwest Energy Coalition for a

24 total of 90 minutes. It's now almost 5:00. The

25 cross-estimates have been generous up to this point, so

0981

1 if we were to push all the way through Mr. Norwood's

2 scheduled cross it would take us to 6:30 if it was

3 accurate. I'm hoping it's not, I'm hoping it's an

4 overestimate and we'll get done closer to 6:00. It's at

5 that point of the day where the court reporter's comfort

6 is, well, in question just to keep going, but she's

7 agreed to go and will let me know when she needs to take

8 a break, and we'll go by her schedule so that she can

9 continue to do her job. So let's get started and put

10 Mr. Norwood back on the stand. He's already been sworn.

11 Counsel, who is going to initiate the cross,

12 Mr. Trautman?

13 MR. TRAUTMAN: Yes.

14 JUDGE TOREM: All right, so if everybody will

15 switch their minds over to decoupling.

16 MR. FFITCH: Your Honor, may our witness

17 Mr. Woodruff be excused from the hearing room?

18 JUDGE TOREM: Up to you, Simon, he's not on

19 my payroll.

20 MR. FFITCH: Thank you, Your Honor.

21 JUDGE TOREM: Mr. Trautman, all yours.

22

23 Whereupon,

24 KELLY O. NORWOOD,

25 having been previously duly sworn, was called as a

0982

1 witness herein and was examined and testified as

2 follows:

3

4 C R O S S - E X A M I N A T I O N

5 BY MR. TRAUTMAN:

6 Q. Good evening, Mr. Norwood.

7 A. Good evening.

8 Q. I just have a few questions which are related

9 to your rebuttal testimony, and that's KON-1T, and if

10 you could turn to page 36.

11 A. I'm there.

12 Q. And looking at your discussion of DSM

13 programs in the paragraph starting at line 13, has

14 electric DSM program investment increased more than

15 natural gas DSM program investment?

16 A. I'm not sure what the answer to that would

17 be. Mr. Folsom I'm sure would know or Mr. Powell.

18 Q. Perhaps Mr. Powell, okay.

19 A. Yes.

20 Q. Powell or Folsom?

21 A. Yes.

22 Q. All right.

23 And if you could turn to page 40.

24 A. Yes.

25 Q. On line 15 you state that the Company ramped

0983

1 up natural gas DSM prior to the approval of the

2 decoupling mechanism; is that correct?

3 A. Yes, that's correct.

4 Q. Do you intend to ramp down natural gas DSM if

5 decoupling is not approved?

6 A. As I mentioned in my testimony, the presence

7 of some form of mechanism to recover fixed costs

8 associated with energy efficiency is a really important

9 factor in the decisionmaking process as we look at our

10 DSM programs. And the ramp up that we did is with the

11 expectation to be some form there which we have one

12 today. I would not speculate as to what the Company

13 might do through the future depending on the outcome of

14 this case, but I will tell you that we are committed to

15 DSM, and I would expect us to continue to have a

16 meaningful DSM program going forward.

17 Q. So are you saying you do not plan to ramp it

18 down if decoupling is not approved?

19 A. I would not be the one to make that decision.

20 Senior management would make that decision, and I don't

21 know what the answer to that would be.

22 Q. On line 16 of the same page, you state that

23 the Company has continued growth in electric and natural

24 gas DSM offerings for its other jurisdictions; is that

25 correct?

0984

1 A. That is correct.

2 Q. Is Idaho one of those other jurisdictions?

3 A. Yes, it is.

4 Q. And do you have decoupling in Idaho?

5 A. We do not.

6 Q. Turning to page 43, line 6, here you speak of

7 the time spent by the advisory group developing the

8 evaluation plan. Do you know, have you -- and you used

9 the term significant, you say a significant amount of

10 time was devoted to that. Do you see that?

11 A. Yes, I do.

12 Q. Do you know how many hours Avista staff spent

13 on the evaluation advisory group in the last year?

14 A. I do not, but I do believe that significant

15 is representative of that.

16 Q. But you don't know how many hours they spent?

17 A. I do not. I know Mr. Hirschkorn is one who

18 reports to me, I know that he has spent a lot of hours

19 on this. Mr. Powell also has spent a lot of hours on

20 this. So they might be able to give you a sense for how

21 many hours they've dedicated to this.

22 Q. Do you know how much time was spent by Avista

23 staff on decoupling in general?

24 A. I do not.

25 Q. And turning to page 45, you start your

0985

1 discussion of issue 5, rate design issues, with a

2 parenthetical saying specifically straight fixed

3 variable.

4 A. Yes, I see that.

5 Q. Is Staff's proposal a straight fixed variable

6 design?

7 A. No, I would not consider it a straight fixed

8 variable. My view of that would be where you would

9 identify the fixed, all the fixed costs associated with

10 providing service to customers, and those would be

11 charged to customers in a fixed charge. The variable

12 rate would apply primarily to just the commodity piece.

13 MR. TRAUTMAN: Thank you, that's all I have.

14 JUDGE TOREM: Mr. ffitch.

15 MR. FFITCH: Thank you.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. FFITCH:

19 Q. If the evening starts at 5:00 p.m. I will say

20 good evening, Mr. Norwood.

21 A. Good evening, Mr. ffitch.

22 Q. At least it's happy hour.

23 Just following up on a question from Staff,

24 Mr. Norwood, you indicated that I think in your

25 testimony a significant amount of time was spent on the

0986

1 evaluation process. I think in that same testimony you

2 ascribed at least part of that to participation of one

3 or more parties who were opposed to decoupling; is that

4 correct?

5 A. That's correct.

6 Q. All right. It's not your position that the

7 advisory committee should have been comprised of only

8 parties who advocated for or supported decoupling, is

9 it?

10 A. No, it is not.

11 Q. All right. If we can talk now about your

12 rebuttal, other parts of your rebuttal testimony, you

13 propose in your rebuttal to continue decoupling but to

14 revise the Company's deferral level from 90% downward to

15 70%; is that correct?

16 A. That is correct.

17 Q. Was there any analytical support provided in

18 this testimony for the 70% value that was included in

19 your recommendation?

20 A. No, that was a judgment call on our part to

21 try to balance the issues that have been raised through

22 the course of the pilot itself as well as the testimony

23 and information that has been presented through this

24 case. Our conclusion based on the pilot itself and the

25 testimony was that it would be reasonable to reduce the

0987

1 deferral down somewhat from 90%, but we felt like it was

2 important that it remain in that 70% range to account

3 for the fixed costs, lost margin essentially related to

4 both the programmatic DSM programs as well as the what I

5 will call non-programmatic, which would be education

6 efforts and communications around energy efficiency.

7 Q. All right. It was a change of position,

8 because in direct testimony for Avista Mr. Hirschkorn

9 advocated continuation of decoupling at the previous 90%

10 level, correct?

11 A. That is correct.

12 Q. So as you stated, this is essentially an

13 attempt to moderate the request in response to

14 opposition from other parties in the case, correct?

15 A. That's correct.

16 Q. And in your testimony you also state that

17 decoupling, and I will take you to this since I'm going

18 to quote you, this is on page 32, line 13, of your

19 testimony.

20 A. I'm there.

21 Q. And you state there that the decoupling

22 mechanism "removed the disincentive for the Company to

23 expand its natural gas DSM offerings"; is that correct?

24 A. Yes, it is.

25 Q. Has Avista to your knowledge ever refused to

0988

1 implement any DSM measure that was reviewed and

2 acknowledged by the Commission as part of the IRP

3 process?

4 A. I'm sorry, I didn't follow the question.

5 Q. Has Avista ever refused to implement any DSM

6 measure that was reviewed and acknowledged by the

7 Commission as part of its IRP process?

8 A. I think the answer is no. I think what

9 confuses me is the DSM programs that we have implemented

10 were ones that were proposed by the Company together

11 with -- worked with EEE board and others, and so it's

12 really a recommendation to the Commission which they

13 have approved funding for through Schedule 91, 191.

14 Q. All right. But none of those programs, the

15 Company has never declined to proceed on any of those

16 programs?

17 A. Not to my knowledge.

18 Q. Does the Company have any decoupling

19 mechanism for its electric business?

20 A. Not at this time.

21 Q. Does Avista have a complete set of electric

22 DSM programs?

23 A. Yes, we do.

24 Q. And is it the case that these receive greater

25 funding than the Company's gas DSM programs?

0989

1 A. I believe that's correct.

2 Q. And it's true, is it not, that Avista has

3 increased its electric DSM spending in recent years

4 although there is no decoupling mechanism in place for

5 Avista to reduce the disincentive that you spoke of in

6 your testimony?

7 A. You would have to confirm with Mr. Folsom or

8 Mr. Powell as to the change in DSM funding. But as I

9 mentioned before in response to your question, these

10 programs have been implemented with the expectation that

11 in the future there will be some kind of mechanism to

12 address lost margin. And we are planning to file in the

13 other jurisdictions decoupling mechanisms. We are in

14 this for the long term, and with the changes in

15 commodity costs, higher prices, it's DSM is more

16 important, and it's increasingly important to address

17 the lost margin issue. This is a pilot that we've been

18 through, we will learn from this, you can see that we've

19 made modifications to it, and through what we've learned

20 here it will shape what we choose to file likely very

21 soon in the other jurisdictions.

22 Q. Now I just want to I guess understand your

23 testimony. Are you testifying that the DSM programs

24 that Avista has have been adopted in anticipation of

25 some future approval of decoupling on the electric side?

0990

1 A. Yes.

2 Q. Is it your testimony that the only reason why

3 Avista has adopted any gas or electric DSM programs is

4 because of the anticipation that some day decoupling

5 will be approved for both electric and gas?

6 A. Not the only reason, no.

7 Q. Is it your testimony that Avista will

8 discontinue its electric and gas DSM programs if

9 decoupling is not approved for gas DSM or in the future

10 for electric DSM?

11 A. We would not discontinue the programs, but as

12 I mentioned earlier, the presence or absence would be

13 taken into consideration as we look for programs to the

14 future.

15 Q. Would you please turn to page 38 of your

16 rebuttal. Here you're describing the increases in DSM

17 acquisitions noted in the evaluation report, and you

18 summarize this in Chart 1 on the next page?

19 A. Yes.

20 Q. Have you presented any chart comparable to

21 Chart 1 comparing electric to gas DSM results?

22 A. I have not.

23 Q. Have you -- and if we go to the next page, we

24 see Chart 2, which is a depiction of gas DSM

25 expenditures, correct?

0991

1 A. Yes.

2 Q. And have you prepared any chart comparable to

3 Chart 2 comparing electric to gas DSM spending trends?

4 A. I personally have not, no.

5 Q. Can you please turn to page 41, the next page

6 of the exhibit. Are you there?

7 A. Yes, I am.

8 Q. At line 3 of that testimony, you agree at

9 line 3 with Mr. Brosch that the Company has least cost

10 planning requirements as part of electric and gas IRP

11 procedures, and you refer to the targets, and then you

12 go on to argue at line 7 about the, "disincentive for

13 the Company to push for programmatic DSM above IRP

14 targets, to push for tougher building and appliance

15 codes, and to support non-programmatic DSM programming

16 and messaging", and I have a couple questions about

17 that. That's a correct quote from your testimony,

18 correct?

19 A. Yes, it is.

20 Q. And I believe you just actually referred to

21 those same factors a moment ago in your testimony also.

22 First question, has the Company been lax or reluctant in

23 pushing for electric DSM achievement due to the lack of

24 decoupling for the electric business?

25 A. To my knowledge in recent years, no.

0992

1 Q. Second question, if Avista has any impact

2 upon building codes, wouldn't that impact touch both its

3 gas and electric businesses?

4 A. Yes.

5 Q. Third question, if Avista's Every Little Bit

6 non-programmatic advertising messages have an impact

7 upon gas usage levels as you suggest in your testimony,

8 wouldn't that message also touch electric consumption

9 habits of your customers?

10 A. Yes, it would.

11 Q. Can you please turn back to page 33, line 14.

12 A. I'm there.

13 Q. And there you state:

14 When the majority of fixed costs are

15 recovered through sales volumes and the

16 sales volumes are lower than expected,

17 the recovery of fixed costs falls short

18 of the level authorized by the

19 Commission.

20 Correct?

21 A. Yes.

22 Q. Do you mean to imply that gas expenses other

23 than purchased gas are truly fixed and do not change

24 from year to year?

25 A. No, they would change from year to year.

0993

1 Q. All right. And would you agree that these

2 costs are subject to inflation, changes in regulations,

3 economic conditions, commodity prices for example for

4 steel and plastic, and productivity gains, and maybe

5 other factors as well?

6 A. Yes, that's correct. But as I point out in

7 my testimony, the mechanism is not designed to track

8 those costs, only the ones that were reviewed and

9 approved in the last rate case.

10 Q. All right. Has the Washington Commission

11 ever included in its gas rate case orders a directive

12 that Avista shall recover a specific amount of fixed

13 costs without regard to changes in future sales volumes?

14 A. I don't recall that specific language, no.

15 Q. Is it your testimony that if overall costs do

16 not change after a test year but sales and margin

17 revenue decline, the Company will have trouble earning

18 the authorized return?

19 A. I'm sorry, would you repeat the question.

20 Q. Are you saying in your testimony that if

21 overall costs do not change after a test year but sales

22 and margin revenues decline, the Company will have

23 trouble earning its authorized rate of return?

24 A. Yes, the Company would not recover its rate

25 of return, but the focus of this mechanism in particular

0994

1 is related to those changes related to energy

2 efficiency, whether programmatic or non-programmatic,

3 and the fact that we're looking at a 70% recognizing

4 that there are other factors that will affect that

5 usage.

6 Q. To the extent that you've agreed with my

7 question about difficulty earning the authorized return,

8 isn't decoupling really just a form of an attrition

9 remedy?

10 A. No, not at all. The mechanism is designed

11 specifically to address the energy efficiency issue and

12 the reduction in fixed cost recovery related to energy

13 efficiency.

14 Q. Is it your understanding that the Commission

15 projects future sales volumes in rate case test years to

16 estimate what sales are expected in the later years?

17 A. On the gas side? Would you repeat your

18 question, please.

19 Q. Yes, it is on the gas side. Is it your

20 understanding that the Commission projects future sales

21 volumes in rate case test years to estimate what sales

22 are expected in the later years?

23 A. You may need to address this question to

24 Mr. Hirschkorn. I'm not sure on the gas side for the

25 rate case that we use the projected load.

0995

1 Q. All right, I'll make a note for

2 Mr. Hirschkorn.

3 You used the phrase in your testimony sales

4 volumes lower than expected, that's the initial quote

5 that I read to you at the beginning of this line of

6 questioning, starts at line 14. With respect to that

7 phrase, should we assume that --

8 A. I'm sorry, are we on page 33?

9 Q. Still on page 33.

10 A. Okay.

11 Q. And the quote starting at line 14 uses the

12 phrase sales volumes lower than expected.

13 A. I see that.

14 Q. Should we assume by that reference that you

15 would exclude the large gains in sales volumes Avista

16 has enjoyed from serving new customers?

17 A. We've explained in our testimony that when we

18 have new customers there are increased revenues

19 associated with that, but Mr. Hirschkorn goes into

20 detail to explain the increased costs associated with

21 adding those customers, and what it shows at least the

22 last couple of years there is no net increase in margin

23 to the Company associated with that increase in

24 customers.

25 Q. All right, but your reference to sales

0996

1 volumes or lower sales volumes does exclude, does it

2 not, any gains in sales volumes from new customers when

3 you use that phrase here?

4 A. Yes, it does.

5 Q. Thank you, I'll also pursue this with

6 Mr. Hirschkorn.

7 Okay, at line 16, we're moving on 2 more

8 lines, you state recovery of just the fixed costs

9 resulting from programmatic DSM savings is just one

10 piece of this, not the whole picture, and that's a

11 correct statement, right?

12 A. Yes.

13 Q. Is the Every Little Bit program you next

14 discuss another part of what you're calling the whole

15 picture that Avista would like to have considered?

16 A. It's another component, yes.

17 Q. Can you please turn to page 41 of your

18 testimony.

19 A. I'm there.

20 Q. And line 8, you mention tougher building

21 codes and appliance standards, correct?

22 A. Yes.

23 Q. And are those changes also part of your whole

24 picture where these regulatory changes, federal and

25 local, help to justify a continuation of decoupling?

0997

1 A. Yes.

2 Q. Which, if any, of the appliance standards

3 that you reference would not exist but for Avista's work

4 and support?

5 A. I think you'll have to talk to Mr. Powell

6 about that, who is directly involved in Avista's

7 involvement in those standards.

8 Q. And same question with respect to tougher

9 building codes, which building codes would not exist but

10 for Avista's work and support?

11 A. Mr. Powell would also need to address that.

12 Q. Would you please take a look at your

13 cross-examination Exhibit KON-2-X.

14 A. I have it.

15 Q. Which of the bullet point items listed in

16 this response relate to measures that would reduce

17 electric rather than gas only energy consumption?

18 A. Well, we can go down the list here. Turning

19 off lights, electronic equipment, in some cases

20 thermostat settings, compact florescent bulbs, in some

21 cases avoid heating unoccupied areas, in some cases wash

22 clothes or dishes, although it would also involve

23 possibly natural gas heat for hot water.

24 Q. All right, I'm sorry, let me just interrupt

25 for clarification. So far you're identifying those as

0998

1 items that would involve electricity --

2 A. Yes.

3 Q. -- in whole or in part?

4 A. That's correct.

5 Q. You may continue.

6 A. With drying clothes it could be both gas and

7 electric, lower water temperature could be gas or

8 electric, heating system could be gas or electric, and

9 weather stripping could be gas or electric.

10 Q. All right.

11 Can you please go to page 42 of your

12 testimony, that's the next page, and starting at line

13 14.

14 A. I'm there.

15 Q. You quarrel with the conclusion of Mr. Brosch

16 and Ms. Reynolds for Staff that the decoupling process

17 is complicated and time consuming, and you provide a

18 summarization of the monthly deferral process in seven

19 numbered steps below that; is that correct?

20 A. Yes.

21 Q. Starting with item 1, and you may have a

22 moment there if you --

23 A. I think I'm okay, go ahead, thank you.

24 Q. Starting with item 1, Schedule 101 actual

25 billed therms are collected monthly, correct?

0999

1 A. That's correct.

2 Q. Is this derived from accounting data?

3 A. Yes, our billing records.

4 Q. And when you say billed therms, isn't there a

5 monthly accrual and reversal of unbilled revenues on the

6 books that establishes therms sold that have not yet

7 been billed to customers?

8 A. That's correct.

9 Q. And is this the separate calculation at

10 numbered item number 3?

11 A. That's correct.

12 Q. What is meant by using previously applied

13 methodology?

14 A. Methodologies that we have used in the most

15 recent rate case to calculate unbilled revenue.

16 Q. And this phrase in item number 3 says

17 previously approved methodology, not previously applied

18 methodology, so can you clarify what is the meaning of

19 previously approved methodology?

20 A. I guess that may be a good point, that the

21 specific methodology may not be specifically identified

22 or specifically approved, but it's a methodology that

23 we've consistently used in the past for rate making

24 purposes. And Ms. Knox can provide a little more

25 information related to this particular calculation.

1000

1 Q. All right.

2 Does that mean at least in theory that if it

3 hasn't been previously approved it could be a matter of

4 dispute as to the methodology for calculating unbilled

5 therms?

6 A. It could be, but in prior rate cases we've

7 addressed the unbilled revenue calculation. You know,

8 once you establish a methodology, then I think it's

9 pretty straightforward to use it going forward.

10 Q. All right.

11 Could you explain for the Commission what

12 input data from which internal Avista data sources are

13 used by the Company's accountants to estimate and price

14 out the unbilled therms and revenues each month?

15 A. Ms. Knox can answer that question.

16 Q. I don't think we had her down as a decoupling

17 witness, but maybe she's on the list.

18 How specifically is the unbilled revenue

19 adjusted for weather, if you know?

20 A. I don't know. In fact, Ms. Knox, I'm

21 wondering also if Mr. Hirschkorn could do that since he

22 is a witness related to decoupling. Perhaps that would

23 be most appropriate, and he could probably also address

24 the unbilled revenue.

25 Q. All right, we can try him first, and if he

1001

1 needs to call on Ms. Knox, then call on her.

2 Going back to item 2, you would deduct new

3 customer usage, correct?

4 A. That's correct.

5 Q. What accounting reports are used to isolate

6 each of the new customers and their individual usage?

7 A. Mr. Hirschkorn can talk to the specifics of

8 that.

9 Q. If one wanted to audit these reports of new

10 customer usage, would billing records for each new

11 customer need to be sampled and analyzed?

12 A. Again I think Mr. Hirschkorn can speak to the

13 detail there.

14 Q. Okay.

15 Do you know whether or not it's true that in

16 2009 Avista identified an error it had made regarding

17 the new customer adjustment?

18 A. I don't recall. Seems like I do remember

19 something to that effect.

20 Q. Would you accept that this error is described

21 in the Titus Report?

22 A. I would accept that.

23 Q. And that the error was corrected in 2009

24 decreasing decoupling deferrals by about $22,000; do you

25 recall that?

1002

1 A. I don't recall that, but I would accept it

2 subject to check.

3 Q. All right, that's a report at page 9 of the

4 Titus Report.

5 A. Thank you.

6 Q. If you wanted to check that.

7 Item 4 is weather adjustment, which you

8 characterize as the most complicated part of the process

9 so far, correct?

10 A. Yes.

11 Q. Can you step us through the input data and

12 sources for that data that is required each month to

13 calculate the weather normalization piece of decoupling?

14 A. Again I would point to Mr. Hirschkorn for

15 those details.

16 Q. All right. I will just, the other weather

17 questions I have here, shall I reserve those for

18 Mr. Hirschkorn if I have other questions related to

19 the --

20 A. That is correct.

21 Q. All right.

22 A. And of course Mr. Hirschkorn and Ms. Knox

23 report to me, and this testimony is based on our working

24 relationship and knowledge of the mechanism.

25 Q. All right.

1003

1 After the weather adjustments are made, are

2 the therm input values, that's therm input values, and

3 margin rates applied to steps 5 and 6 carried forward

4 from workpapers used in the most recent rate case?

5 A. Again, Mr. ffitch, I would point you to

6 Mr. Hirschkorn for those detailed questions.

7 Q. All right.

8 And you list in item 7 in your rebuttal, you

9 say multiplied by 90%, under your proposal now it would

10 be multiplied by 70%; is that correct?

11 A. That is correct.

12 Q. There are items involved with the decoupling

13 calculation that are not included on your list; isn't

14 that right?

15 A. I'm sure there are other adjustments that are

16 a part of it. These are the major components of it.

17 Q. You do not include the new rate switching

18 modification proposed in Mr. Hirschkorn's -- rate

19 schedule switching modification proposed in

20 Mr. Hirschkorn's testimony; is that correct?

21 A. That's correct, that is an addition that's

22 proposed in this case.

23 Q. And then in addition to that, there is a

24 process missing through which DSM savings must be

25 estimated and verified independently and then applied to

1004

1 a matrix to see if any deferrals up to the maximum are

2 recoverable under the DSM test, correct?

3 A. That's correct, but again that's pretty

4 straightforward, we're going to measure the savings in

5 any event.

6 Q. And can we turn to page 36 of your testimony,

7 lines 2 through 9.

8 A. I'm on page 36.

9 Q. All right. At the top of page 36 there's two

10 tables.

11 A. Yes.

12 Q. And that shows the current and proposed new

13 DSM performance matrixes or matrices to be used as part

14 of the decoupling DSM test, correct?

15 A. Yes.

16 Q. In addition to the other tests or

17 calculations that we've just been discussing that are

18 involved in decoupling, isn't there also an earnings

19 test that requires the preparation of a rate of return

20 calculation to see if decoupling deferrals should be

21 reduced or eliminated due to excessive earnings?

22 A. That's correct, and that report is put

23 together every year by April 30th in any event.

24 Q. If rigorously analyzed, would you agree that

25 the earnings test could become nearly as complicated as

1005

1 a rate case where adjustments may be needed for any

2 abnormal transactions that are embedded within per book

3 results?

4 A. I'm not sure it would be necessary to do

5 that. The report's put together every year, and it's

6 filed with the Commission, and obviously we pay

7 attention to and try to do that correctly.

8 Q. But it's true, is if not, that if another

9 party such as the Commission Staff or Public Counsel or

10 the Northwest Energy Coalition or The Energy Project or

11 another party wish to check your work rigorously, that

12 could potentially become almost as complicated as a rate

13 case?

14 A. It could involve more time, yes.

15 Q. And isn't there another missing step that we

16 haven't talked about yet, namely the application of the

17 2% test to see if the resulting rate changes are

18 acceptable or not?

19 A. Yes, but I think that's pretty

20 straightforward to compare the number to 2%.

21 Q. What must be calculated in order to apply the

22 2% test?

23 A. Well, all the adjustments that we've talked

24 about before, the calculations to arrive at the deferred

25 cost, and then there would be an accumulation of the 12

1006

1 months of deferred costs, and then that total dollar

2 amount would be calculated and divided by term sales to

3 determine the price change to customers, and then there

4 would be a change, a comparison to the 2%.

5 Q. All right.

6 And there's a further step, is there not,

7 Mr. Norwood?

8 A. I'm listening.

9 Q. The Company's recommended the application of

10 a new limited income test in which 5% of programmatic

11 DSM savings must come from the limited income sector,

12 and that's on page 42 of your testimony.

13 A. That's correct, we've included that in

14 response to testimony filed in this case.

15 Q. If we go to page 42, this is -- see if I'm

16 giving you the correct reference. I'm sorry, I've

17 referred you to the wrong page, it's page 49, line 1,

18 apologize.

19 A. That's okay, I'm there.

20 Q. All right. In that box at the top of the

21 page is the so-called two-trigger DSM test?

22 A. Yes.

23 Q. All right. And that's used with the

24 procedures that are set forth at the bottom of the page?

25 A. That's correct.

1007

1 Q. And what data would need to be gathered and

2 analyzed to calculate and apply the new two-trigger

3 limited income test?

4 A. Mr. Powell would be familiar with the data

5 that we collect and have available related to limited

6 income customers.

7 Q. All right.

8 I don't know if you've been counting, I

9 believe we're up to 12 steps.

10 A. I have not been counting.

11 Q. All right.

12 A. But many of them are very straightforward as

13 we've heard.

14 Q. And you do suggest in your testimony that

15 going forward the time spent evaluating the mechanism

16 should decrease substantially, correct?

17 A. Absolutely.

18 Q. Is this based upon your evaluation that when

19 the Company calculates the decoupling deferral, there's

20 little potential for any errors due to the simplicity of

21 the calculations?

22 A. No, any time you're dealing with a lot of

23 numbers, there's going to be occasional errors that do

24 occur.

25 MR. FFITCH: May I have a moment, Your Honor,

1008

1 getting close to the end of the testimony.

2 I think I just have one other question, your

3 honor.

4 BY MR. FFITCH:

5 Q. Mr. Norwood, could you state, please, to the

6 Commission what the Company's present plans are for

7 filing its next general rate case or when that would

8 occur?

9 A. We have not made a decision in that regard,

10 but my expectation is that it would be early in 2010.

11 Q. All right. Is it possible that that rate

12 case would be filed in January of 2010?

13 A. It's possible, but as I noted, we have not

14 made that decision.

15 Q. All right. And you haven't ruled out filing

16 it in January of 2010?

17 A. Have not.

18 MR. FFITCH: I don't have any further

19 questions, Your Honor.

20 Thank you, Mr. Norwood.

21 JUDGE TOREM: We have questions remaining

22 from Mr. Roseman and Mr. Johnson. Mr. Roseman, why

23 don't you proceed.

24 MR. ROSEMAN: Thank you, Your Honor.

25

1009

1 C R O S S - E X A M I N A T I O N

2 BY MR. ROSEMAN:

3 Q. Mr. Norwood, it sounds like you caught

4 Mr. Meyer's --

5 A. I have been blaming him for my cold.

6 Q. Well, I hope I won't prolong this too much.

7 I have a few questions, and as no surprise to you, most

8 of my focus will be on the limited income customers.

9 A. Yes.

10 Q. Okay. I guess would the Company agree that

11 there is a capital barrier for limited income customers

12 to take advantage of the conservation rebate programs

13 offered by the Company?

14 A. Yes, I think one of the other witnesses,

15 either Mr. Powell or Mr. Folsom, addressed that issue.

16 Q. And you agree with that?

17 A. I believe that's the case, yes.

18 Q. Okay. And then at page -- I could read --

19 well, let me tell you, at page 34, line 1 and 3, I think

20 it's an answer to the question of where -- well, I will

21 read the question.

22 Mr. Brosch, an Energy Project witness,

23 and Ms. Alexander both discuss

24 non-programmatic DSM efforts the Company

25 has undertaken, specifically its Every

1010

1 Little Bit program. Do you believe that

2 this program has led to declining use

3 per customer?

4 A. Absolutely.

5 Q. Okay. Will you go on and read the second,

6 the sentence that follows absolutely, you say absolutely

7 and then it continues.

8 A. How far would you like me to go?

9 Q. Just the first sentence.

10 A. (Reading.)

11 The Every Little Bit web site provides

12 extensive information to customers

13 regarding the Company's DSM programs and

14 rebates as well as low cost/no cost

15 steps customers can take to reduce their

16 energy usage.

17 Q. Have there been any studies or surveys or

18 analysis or projections that would document the validity

19 of that assertion?

20 A. Not a study in the last couple of years, but

21 in response to actually it's Exhibit KON-2-X there's a

22 reference there to a survey that was conducted in 2006,

23 and the information that's provided there is from that

24 survey. And what it shows is that more than three

25 quarters, I'm reading from the second paragraph in the

1011

1 response from KON-5-X, I'm sorry, I gave you the wrong

2 reference, it's KON-2-X:

3 More than three quarters of the

4 customers surveyed initiated some action

5 based on the home energy center

6 recommendations.

7 And I looked through that survey, and the

8 survey said that over 52% of the individuals in that

9 particular survey actually went to Avista Utilities' web

10 site looking for no cost/low cost ideas. So even though

11 we don't have a recent survey, this one certainly

12 indicates that customers are looking for energy

13 efficiency ideas and are looking for Avista to help them

14 with that.

15 Q. Okay. Now I want to break it down to the

16 group that I'm interested in asking questions about.

17 Regarding that survey, do you know how many of those

18 individuals were limited income customers?

19 A. I do not know.

20 Q. Okay. Do you know if the Company knows which

21 customers participate in the low income programs LIRAP,

22 LIHEAP, or Limited Income DSM?

23 A. I do not, but Mr. Powell probably would have

24 more information related to that.

25 Q. I have a couple more questions, and they

1012

1 regard the limited income DSM test at pages 48 and 49

2 where if the Company achieves 5% or more from the low

3 income sector they will recover 100% of the allowed

4 deferral amount.

5 A. Yes.

6 Q. I think is how that works.

7 A. That's correct. Well, it's 100% of the 70%.

8 Q. Okay. I would like you to look at

9 Cross-Exhibit KON-4-X.

10 A. I have it.

11 Q. And for year 2006, did the Company meet that

12 5% test?

13 A. Yes, we did, it shows 6.81%.

14 Q. And in 2007?

15 A. 5.41%.

16 Q. And in 2008?

17 A. 5.43%. But I will also note that as our

18 therm savings increase in our overall programs, then

19 there would be also a corresponding increase with the 5%

20 for low income.

21 MR. ROSEMAN: Thank you, and I hope you feel

22 better.

23 THE WITNESS: Thank you.

24 JUDGE TOREM: Mr. Johnson.

25

1013

1 C R O S S - E X A M I N A T I O N

2 BY MR. JOHNSON:

3 Q. Good evening, Mr. Norwood.

4 A. Good evening.

5 Q. I hope I don't catch your cold.

6 A. I hope you don't either.

7 Q. Could you turn to page 40, line 17 through

8 19, of your testimony, please.

9 A. I'm there.

10 Q. You're faster than me. And can you read the

11 first full sentence beginning on line 17.

12 A. Yes.

13 One reason for the decision by senior

14 management to ramp up energy efficiency

15 was the expectation that the commissions

16 would provide some form of recovery of

17 fixed costs related to our DSM efforts.

18 Q. Now earlier in response to a question from

19 Mr. Trautman, you referred to the need for senior

20 management to make a decision regarding potentially

21 ramping down DSM efforts, and you said, if I recall your

22 testimony correctly, that you were not part -- are not

23 part of that senior management group; is that correct?

24 A. My reference was to the senior officers of

25 the Company who would ultimately make that decision, but

1014

1 I would have the opportunity to weigh in on that.

2 Q. Okay. My question though now on page 40

3 referring to the reference to senior management here on

4 line 17, would you consider yourself or were you part of

5 that decision that you reference to ramp up energy

6 efficiency?

7 A. I was consulted by Mr. Morris in relation to

8 our DSM efforts.

9 Q. So it would be fair to say, would it not,

10 that you are familiar with the decision that was made?

11 A. Yes, I am.

12 Q. And this decision I believe you testified was

13 made prior to the adoption of the pilot program; is that

14 correct?

15 A. That's right.

16 Q. Okay. To your knowledge, was this decision

17 one discreet decision reached by management, or were

18 there a number of decisions that you lumped together on

19 line 17?

20 A. I think the DSM programs and what we choose

21 to do as a company is something that will change over

22 time depending on what the opportunities are, what the

23 funding is, a number of factors that I think I mention

24 in another part of my testimony. So there was I

25 remember one point in time where Mr. Morris specifically

1015

1 said we really want to focus on energy efficiency, but

2 he also made it clear that we need some mechanism to

3 deal with the loss of margin issue. But since that

4 time, there is indication, discussion related to what

5 the plans are going forward related to energy

6 efficiency. Mr. Folsom is the one who oversees that

7 group, and he might have more to add in terms of how

8 regularly those conversations occur.

9 Q. To your recollection and referring back to

10 that conversation that you had with Mr. Morris, did he

11 specifically refer to the decoupling pilot in the

12 conversation that you had with him?

13 A. That is one form of addressing the

14 disincentive that was addressed, yes.

15 Q. Okay.

16 Now, Mr. Norwood, we've been talking about

17 the decision that senior management made prior to the

18 mechanism being put in place. To your knowledge, has

19 there been a decision reached by senior management or by

20 Avista generally to further ramp up energy efficiency

21 made after the mechanism first became effective?

22 MR. FFITCH: Your Honor, I'm going to object,

23 I am concerned that the Coalition attorney, Mr. Johnson,

24 is entering into an area of friendly cross-examination.

25 I believe that the position of The Energy Project with

1016

1 respect to the corporate, excuse me, the Energy

2 Coalition with respect to corporate culture and the

3 incentive effects of DSM is virtually identical to that

4 of the Company. So if Mr. Johnson is eliciting on

5 direct testimony the Company's views and actions along

6 those lines, I believe that's friendly

7 cross-examination.

8 JUDGE TOREM: You would be right.

9 Let me ask Mr. Johnson how far down this road

10 he wants to go.

11 MR. JOHNSON: Your Honor, my only intent here

12 was because Mr. Norwood had referred to a prior decision

13 but not to a -- and by that I mean a decision reached

14 prior to the mechanism. He didn't talk at all about

15 anything that's been done since the mechanism was put in

16 place. I'm simply trying to elicit his testimony to

17 fill that hole. And to your point, I'm not intending to

18 take the issue any further than whether such a decision

19 was made.

20 MR. FFITCH: Same objection, Your Honor.

21 JUDGE TOREM: I'll overrule the objection

22 this time and note, Mr. ffitch, that I had anticipated

23 that given the overlapping interests and advocacy

24 positions of the Company and Mr. Johnson's client that

25 this could occur. And I will just caution Mr. Johnson

1017

1 that I don't want to take away your right to

2 cross-examine witnesses from the Company, but when you

3 do so, having them reread testimony into the record

4 that's already there should be minimal and get to other

5 points that you would want to highlight that are not

6 already in the record.

7 MR. JOHNSON: I will keep that in mind, Your

8 Honor.

9 JUDGE TOREM: Thank you. And we'll just try

10 to move it along today. I know there will be perhaps

11 more cross-exam that's not friendly when we get to folks

12 that don't share the same positions.

13 BY MR. JOHNSON:

14 Q. Do you understand the question, Mr. Norwood?

15 A. I do, and we have continued to ramp up our

16 DSM programs over the past couple of years, and I think

17 that's evidenced by the increased funding, increased

18 dollars that we have committed to that as well as the

19 increased emphasis on low cost/no cost through the Every

20 Little Bit and other programs that we've implemented,

21 and again Mr. Folsom could speak to that in more detail.

22 Q. Could you refer to page 31 of your testimony,

23 please.

24 A. I'm there.

25 Q. And you refer on lines 22 to 23 to the

1018

1 limited income test that you are now proposing, correct?

2 A. Yes.

3 Q. And earlier in response to questions I

4 believe from Mr. ffitch you stated that this proposal

5 was in response to other proposals made in this

6 proceeding; is that right?

7 A. Yes.

8 Q. And did those proposals include the

9 Coalition's?

10 A. Yes.

11 Q. Okay. But it's fair to say, is it not, that

12 the Coalition's limited income test is different than

13 yours; is that correct?

14 A. That's correct.

15 Q. Okay.

16 Now going to page 49 of your testimony, and

17 let me know when you're there.

18 A. I'm there.

19 Q. Let me just ask you, Mr. Norwood, and I don't

20 believe you addressed this issue with Mr. Roseman, the

21 specific percentage levels that you are proposing on the

22 left-hand column at the top of page 49, how did you

23 derive those, or I should say how did the Company derive

24 those?

25 A. I believe those numbers came from either

1019

1 Mr. Powell or Mr. Hirschkorn. We discussed those

2 numbers, and I agreed that that was a reasonable

3 approach to include a low income measure here. So

4 either Mr. Hirschkorn or Mr. Powell could probably speak

5 to how those numbers were derived.

6 Q. Okay.

7 A. But I think it suffice to say that it would

8 -- they're designed in a way to provide an incentive to

9 achieve that 5% in that the recovery of the deferred

10 lost margin would be less if we didn't achieve that, so

11 I think it's a form of incentive to get to that 5%.

12 Q. But in response to a question from

13 Mr. Roseman, didn't you acknowledge that in each of the

14 three years that he asked you about the Company more

15 than met that 5% level; is that right?

16 A. Yes, although in the last couple of years it

17 was just barely over 5%. And as other witnesses have

18 testified, the achievement of low income energy

19 efficiency is to some degree out of the Company's

20 control. We work with the community action partnerships

21 to achieve these savings. It's a good relationship, we

22 want to support this sector. And as I mentioned, as we

23 ramp up the overall energy efficiency programs, there

24 will be more therm savings in this low income sector.

25 So the other factor that I consider and we consider is

1020

1 that the energy efficiency for low income is just one

2 part of the overall support that we provide for limited

3 income or low income customers. There's a LIRAP

4 program, and from our perspective I think we have to be

5 sensitive to the total funding that we are charging the

6 rest of our customer base to fund the limited income DSM

7 and LIRAP and other programs that we have, so we try to

8 achieve that balance.

9 Q. Are you generally familiar with the term

10 stretch goal?

11 A. Yes, I am.

12 Q. What does that mean to you?

13 A. To me it means something going I guess well

14 beyond what your normal goal might be.

15 Q. Okay. Would you characterize the 5% figure

16 here as a stretch goal?

17 A. I think it probably falls into the same ball

18 park in that as I mentioned before we have limited

19 control over the therm savings that actually come out of

20 the limited income group, so it's more difficult for us

21 to achieve that, and so I'm concerned about setting that

22 target too high because of that. The other factor is

23 with that limited income group we fund 100% of the

24 energy efficiency measure, whereas for the non-limited

25 income I believe the percentage is more in the 40% to

1021

1 50% or less. So those are other considerations I think

2 that are important that go into the determination of the

3 5% number versus something else.

4 Q. Now you referred to the Company's limited

5 control over the acquisition of DSM savings, but I want

6 to refer you to lines 3 and 4 of your testimony, also on

7 page 49, where you say that the control over the

8 acquisition of savings from the limited income sector

9 falls on the CAP agencies and not the Company; do you

10 see that?

11 A. Yes, and that's consistent with what I just

12 stated.

13 Q. But didn't you say --

14 A. We have --

15 Q. Excuse me, I'm asking the question here.

16 But didn't you say before that the Company

17 did have limited control, some degree of control, but

18 this testimony here seems to say that it's all in the

19 hands of the CAP agencies; which is right?

20 A. It is primarily under the CAP agencies,

21 although it's my understanding, and Mr. Powell can speak

22 to this also, is that we work with the CAP agencies, and

23 as I mentioned before we have a good relationship with

24 them, work with them on the contracts we have with them

25 to provide some level of flexibility in the way they

1022

1 apply the energy efficiency dollars, whether it be for

2 electric or natural gas. So I wouldn't say that we have

3 no control, because I think we have some ability through

4 the contracts we have with them to influence where the

5 dollars go.

6 Q. So if I understand your testimony correctly,

7 you're not saying that the Company is a completely

8 passive actor in this process, are you?

9 A. Absolutely not.

10 MR. JOHNSON: That's all I have, Your Honor.

11 JUDGE TOREM: Commissioners, Commissioner

12 Jones.

13

14 E X A M I N A T I O N

15 BY COMMISSIONER JONES:

16 Q. Getting close to the witching hour,

17 Mr. Norwood.

18 A. Yes, we are.

19 Q. I'm going to step back from the details and

20 maybe this will just be one question before we adjourn

21 perhaps, and it's kind of a global question, big

22 picture, that relates to decoupling versus other

23 possible energy efficiency or conservation programs.

24 Are you aware that the Commission's authority to adopt

25 policies and approve mechanisms to encourage

1023

1 conservation is not limited to decoupling?

2 A. Yes.

3 Q. And are you specifically familiar with a

4 Statute 80.28.260 that provides an incentive rate of

5 return for conservation?

6 A. I'm aware that it's there, yes.

7 Q. Okay. So I'm curious about the Company's

8 views about approaches to conservation that provide

9 incentives or offset disincentives other than

10 decoupling. For example, we have approved conservation

11 performance incentive programs.

12 A. Yes.

13 Q. For other utilities.

14 A. Yes, I'm aware of that.

15 Q. Have you considered such programs?

16 A. We have, and as I mentioned in my testimony,

17 we are willing to discuss that going forward.

18 Q. So a little more specific, from your point of

19 view, how do they compare, just give me a few specifics

20 to decoupling?

21 A. I think it's totally dependent on the design

22 of the incentive or the mechanism. There's a number of

23 ways to do this, so I'm not here saying that it has to

24 be decoupling and nothing else. But whatever mechanism

25 that we choose, I believe it's important to address the

1024

1 issue related to the disincentive to try to get our

2 customers to use less energy and the result that that

3 has in non-recovery of fixed cost just because the way

4 rate making is done. So our interest is in having the

5 opportunity to go out and do both programmatic and

6 non-programmatic, the communication and the education,

7 in a way that's effective and yet still have the

8 opportunity to recover our fixed costs. And if there's

9 an incentive mechanism that allows us to do that, then

10 we're certainly open to that.

11 Q. Mr. Norwood, isn't it -- wouldn't you agree

12 that it's difficult to measure qualitatively things like

13 disincentives or corporate changes, changes in corporate

14 culture? And we'll get into a lot of this in the next

15 day I think.

16 A. Yes, it can. I think that that issue has

17 changed in the last two or three years in that with

18 commodity prices being as high as they are, and I think

19 they're going to go up, not down, from here, I think it

20 makes energy efficiency a lot more important today than

21 what it has been in the past. And because of that, I

22 think we need -- the issue is different today than what

23 it was before.

24 Q. Right. But based on the line of Public

25 Counsel's question today and what the Company will

1025

1 endure over the next 8 to 10 hours, I think my personal

2 view is that it is difficult to measure.

3 A. Yes, it is.

4 Q. Incentive. So my question is, isn't it true

5 that an incentive rate of return like a 2% ROE adder

6 would be easier to measure?

7 A. Yes, it would. And in that event, I'm

8 assuming you're talking about capitalizing DSM and --

9 Q. Yes.

10 A. -- having a return on it.

11 Q. So would that be easier to measure?

12 A. I think it would be.

13 Q. Easier to track?

14 A. Yes, it would.

15 Q. So my question to you as a Company, have you

16 proposed, have you discussed this internally? Because

17 the Commission has approved these sorts of performance

18 based incentives in the past, so have you discussed that

19 internally, and how would you compare that specific

20 approach of an ROE adder to a very it seems to be

21 complicated decoupling mechanism?

22 A. We actually have discussed this route of

23 capitalizing all or part of DSM and having this return

24 on that, so that is something that I think might be

25 workable to the future.

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1 Q. And then just to end up, what would be the

2 advantages of that approach versus a decoupling

3 mechanism?

4 A. Well, one is, as you point out, it would be

5 more simple. The other thing that it would do is it

6 would actually place DSM on a more equal footing to

7 other investments made by the Company in that there

8 would be a return related to it as opposed to just a

9 pass through where there's no return to the shareholder.

10 COMMISSIONER JONES: Okay, well, have a good

11 dinner tonight.

12 THE WITNESS: Thank you.

13 JUDGE TOREM: Standing between you and that

14 dinner, Commissioner Oshie.

15 COMMISSIONER OSHIE: I have no questions.

16 JUDGE TOREM: Chairman Goltz.

17 CHAIRMAN GOLTZ: And I will try to be brief,

18 I recommend the chicken curry.

19 THE WITNESS: Thank you.

20

21 E X A M I N A T I O N

22 BY CHAIRMAN GOLTZ:

23 Q. So I wasn't on the Commission when this pilot

24 was commenced, so forgive me if I'm again sort of at the

25 10,000 foot level or higher.

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1 A. I prefer that level.

2 Q. Okay. So I gather that the basis for this

3 is, the justification for a decoupling mechanism is that

4 without one the utility may have an incentive to sell

5 more energy rather than to encourage conservation?

6 A. I think it's two issues here. One is there

7 is an incentive to sell more, but I think that's less of

8 an issue than if you're successful at getting customers

9 to use less, you simply don't recover the fixed costs

10 that were set in the last case. That's the bigger

11 issue.

12 Q. All right, but they're related?

13 A. They are.

14 Q. So a failure to recover fixed costs, that's

15 an issue that's been around for probably decades?

16 A. It has.

17 Q. And it can be caused by a number of factors,

18 one of which is customers using less?

19 A. Yes.

20 Q. Another is weather?

21 A. Yes.

22 Q. Another might be an economic downturn?

23 A. Yes.

24 Q. And another one perhaps more recent would be

25 as opposed to people using less energy, kind of similar,

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1 but converting, so people might say perhaps solar hot

2 water and therefore I don't need natural gas hot water?

3 A. Yes, that's correct.

4 Q. Now am I correct that what you're really

5 trying to get at here with this recovery mechanism is

6 the lost margin caused by conservation?

7 A. Yes, and that would include programmatic and

8 non-programmatic.

9 Q. Right. And I might even -- so you would say

10 programmatic would be the DSM measures that the Company

11 undertakes itself?

12 A. Directly funds.

13 Q. Directly funds.

14 A. To pay for part of the measure.

15 Q. And then is it also true that there's, when

16 you say non-programmatic would be is that everything

17 else?

18 A. That is, yes, Every Little Bit, educating

19 customers, materials on the web site to inform them of

20 low cost/no cost ideas to conserve energy.

21 Q. Okay. So I understand that these are

22 measures that you would encourage people to undertake?

23 A. Yes.

24 Q. But is there yet kind of a third type where

25 if someone just, you know, goes out and insulates their

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1 house, you know, in other words it's not something

2 that's either caused by the Company or about which the

3 Company provides an incentive, it might be something as

4 simple as a new building code, it might be something as

5 simple as I'm remodeling our house and as part of that

6 we put in more insulation in the roof?

7 A. Yes, that's true.

8 Q. Okay. So but what you're trying to -- the

9 issue that you're getting at in this mechanism is all

10 those conservation, I guess I categorized it in kind of

11 three parts, or is just the part of the Company's, your

12 programmatic, and then those about which you're

13 advertising?

14 A. Yes, primarily those two.

15 Q. And obviously in one of the in Mr. ffitch

16 referred to as your 12 steps here, one of them is

17 weather normalization?

18 A. Yes.

19 Q. So that's taken out of the program?

20 A. It is.

21 Q. What about just lost margin due to economic

22 downturn?

23 A. That would be picked up.

24 Q. That would be picked up.

25 A. Through this mechanism. Although that is

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1 part of why we are willing to entertain a 70% deferral

2 instead of 100% or 90%, to recognize there's some other

3 factors that would cause that.

4 Q. So that's the way that you're in some kind of

5 a rough approximation you're trying to focus the program

6 just on those what you call your programmatic and

7 non-programmatic conservation or lost margin due to your

8 programmatic and non-programmatic conservation efforts?

9 A. Right. And let me give you one more

10 comparison that addresses that very thing. There is

11 Public Counsel I believe recommended that there be a 25

12 basis point reduction in ROE related to the program. If

13 you look at the deferrals that have occurred over the

14 last 2 1/2 years of the pilot, they're roughly $750,000

15 per year. 30% of that is in the neighborhood of

16 $230,000. A 25 basis point adjustment on the gas side

17 is roughly $300,000. So this reduction to 70% then is

18 roughly equivalent to a 25 basis point reduction on ROE.

19 Q. What you're saying is those are kind of two

20 -- those would be two different ways of kind of getting

21 at the same thing?

22 A. Yes.

23 Q. Although wouldn't it also be true that less

24 volatility, or perhaps put a different way, a assured

25 way of recovering your fixed costs on the conservation

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1 side is also reduces risk in the same way that

2 Mr. ffitch would argue that there should be a reduction

3 of 25 basis points overall?

4 A. You would have to look at what is designed

5 there, but it really comes down to, you know, clearly

6 it's a conflict right now between the way rates are set

7 and energy efficiency.

8 Q. Right.

9 A. And so we're trying to find that right way to

10 address that so that the Company can feel free to go out

11 and aggressively pursue that.

12 Q. I wasn't going to ask you about the ROR issue

13 because Mr. Hirschkorn testified briefly at least to

14 that so is than an issue I can discuss with him?

15 A. The return on equity?

16 Q. Yes.

17 A. Actually that's probably better addressed to

18 me.

19 Q. Okay, I wasn't ready to do that.

20 A. I'm sorry.

21 Q. But I guess focusing on that for a second, I

22 mean isn't it true that without a decoupling or other

23 similar mechanism that there is more volatility and

24 therefore more risk?

25 A. Yeah, I would agree that these types of

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1 mechanisms can have an effect on the amount of risk that

2 the utility bears in its business. But what you have to

3 look at is how is the mechanism designed, how much risk

4 does it address. And as you already mentioned, weather

5 is out, it's only Schedule 101, it's only 70%, it does

6 not pick up the inflation that occurs in the fixed cost.

7 So this is really a slim or light version of decoupling,

8 and therefore I think the amount of risk that changes is

9 pretty minimal because you don't have weather and these

10 other factors.

11 Q. So maybe you can just -- you've been with the

12 company for 25 years?

13 A. 28 years.

14 Q. So you can speak with some institutional

15 memory I gather. So one of the potential solutions I

16 believe proposed by Staff, I don't know if it's a

17 solution or an option at least, is to increase the fixed

18 charge.

19 A. Yes.

20 Q. And I gather from it's either your testimony

21 or Mr. Hirschkorn's that in a -- that's one way to do

22 that would be to raise the fixed charge to cover all of

23 the fixed or the base charge to cover all of the fixed

24 costs, but -- and that would accomplish your goal from

25 the Company's perspective, but that would have downside

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1 impacts for the rate payers?

2 A. Potentially it could for rate payers, yes.

3 Q. And I gather that's because the incentive to

4 conserve on the part of the customer would be less

5 because the incremental cost of the next unit of power

6 is lower?

7 A. Less expensive, that's right.

8 Q. Historically over the last 25 years if you

9 know or recall, has the fixed charge in the gas retail,

10 for retail customers in the gas industry, always been

11 inadequate to cover the fixed costs?

12 A. My understanding is yes, but Mr.

13 Hirschkorn --

14 Q. There you go.

15 A. -- has been here, I'm trying to remember, I

16 think he's been with the Company 31 years, so he has

17 lots of institutional knowledge on that issue.

18 Q. Okay.

19 Let me just -- a couple other 10,000 foot,

20 one other 10,000 foot question, and that is, is the

21 system that you are proposing similar to other state

22 systems, or is there a wide variety of systems around?

23 A. There is a variety, but if you look at for

24 example Northwest Natural in Oregon or Cascade, there's

25 a lot of similarities in the way the mechanism is

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1 designed, although for Northwest Natural they have a

2 weather component where they pick that up, but in

3 general terms. It's the mechanics may be slightly

4 different, but the outcome is similar once you choose

5 the components that you're going after.

6 Q. And historically again, when would you say if

7 you could verbally articulate sort of a graph of how the

8 conservation effort by the Company and the public has

9 been over the past 25 years, I mean is it -- when did it

10 really start to pick up? Let me rephrase that, let me

11 add this. When would you say this problem of lost

12 margin due to programmatic and non-programmatic

13 conservation efforts become more noticeable, is there

14 some sort of break point in that?

15 A. Right. You know, I think I probably want to

16 look back at some data to pinpoint the time, but I think

17 it's certainly in probably the last three to five years

18 where I believe it's become much more of a problem given

19 the fact that prices are fairly high, and so it really

20 justifies spending more dollars on energy efficiency,

21 which creates the bigger conflict that we have.

22 Q. One final question, not at 10,000 feet, this

23 is probably in the record or I should know it, but how

24 is this decoupling charge placed on the bill, how is the

25 customer aware of it?

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1 A. I'm probably going to defer this to

2 Mr. Hirschkorn. I know that we file it, we make it

3 known, we send a notice to customers. Whether it shows

4 up as a line item, I'm not sure.

5 CHAIRMAN GOLTZ: I will just mark that note

6 for Mr. Hirschkorn tomorrow. That's all I have.

7 THE WITNESS: Thank you.

8 JUDGE TOREM: Commissioners?

9 Additional questions?

10 MR. FFITCH: Yes, Your Honor, I do have a

11 couple of follow-ups if I may.

12 JUDGE TOREM: All right, if they're quick,

13 we'll take them tonight, more for the court reporter's

14 sake than anyone else.

15

16 C R O S S - E X A M I N A T I O N

17 BY MR. FFITCH:

18 Q. Mr. Norwood, you were asked by Commissioner

19 Jones if the Company was willing to consider incentive

20 programs. You said that the Company was willing to

21 consider incentive programs. Isn't it the case that in

22 your testimony you state that you're willing to consider

23 an incentive program on top of decoupling, in addition

24 to decoupling?

25 A. As I mentioned, there's a number of ways to

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1 address the lost margin issue, and it could be through

2 decoupling, incentives plus something, the ROE adder

3 that Commissioner Jones mentioned, or other factors.

4 Q. All right. But in your testimony you say

5 that you would like to have an incentive program and

6 decoupling, do you not?

7 A. If there's an incentive mechanism that

8 addresses the lost margin issue along with it, then

9 that's certainly something we would be willing to look

10 at.

11 Q. All right. So that if that were to occur,

12 customers would be paying for the DSM programs in full

13 through the DSM tariff rider, they would be paying for

14 the DSM, for the decoupling program, and then they would

15 also be paying an additional incentive to the Company;

16 isn't that correct?

17 A. You would want to balance all of those to

18 ensure that the incentive recovery of fixed costs would

19 be appropriate under the circumstances.

20 Q. Isn't it the case that this Commission can

21 simply direct regulated utilities to engage in DSM

22 programs at certain levels by direct instruction or

23 through rule making?

24 A. I don't know the answer to that, but my guess

25 is probably yes.

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1 Q. Isn't it the case that on the electric side

2 that the State legislature and potentially through

3 federal legislation, utility companies are being

4 required by law to pursue energy efficiency at certain

5 prescribed levels?

6 A. On the electric side, yes.

7 Q. All right.

8 When Avista raises its rates, when a rate

9 increase is about to go into effect, it's true, isn't

10 it, that Avista notifies its customers as part of that

11 process about the energy efficiency and savings programs

12 that the Company offers so that the customers can have

13 opportunities to mitigate the impact of the rate

14 increase?

15 A. I'm sorry, I missed the first part of your

16 statement or your question.

17 Q. Whenever Avista is -- whenever a rate

18 increase is going into effect for Avista, isn't it the

19 case that Avista simultaneously notifies its customers

20 at that time of the availability of Company DSM programs

21 as a way for customers to deal with the impact of the

22 rate increase?

23 A. Yes, I believe we do that on a consistent

24 basis.

25 Q. Is it Avista's position, Mr. Norwood, that

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1 the Company has a right to guaranteed recovery of its

2 fixed costs?

3 A. Not guaranteed, no.

4 Q. All right.

5 And Chairman Goltz asked you about different

6 kinds of customer usage reduction behaviors resulting

7 from different causes, and you put them into three

8 different categories, direct program related,

9 non-programmatic related, and essentially everything

10 else such as economic factors. Isn't it the case that

11 Avista's current decoupling mechanism and the mechanism

12 that you're recommending to be continued recovers for

13 all of those activities?

14 A. A portion of it, yes.

15 Q. And when you say a portion, you're talking

16 about the 90% or the 70%?

17 A. The proposed 70%, that's correct.

18 Q. That all of those usage changes for all of

19 the reasons that Chairman Goltz mentioned are captured

20 in the current and proposed mechanism, correct?

21 A. That's correct.

22 Q. Are you aware or would you agree,

23 Mr. Norwood, that the decoupling concept has actually

24 been around for 25 or at least 25 or 30 years?

25 A. I would agree, for a long time.

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1 Q. And isn't it the case that Puget Sound Energy

2 had a decoupling mechanism in place in Washington state

3 known as the PRAM in the I believe 1970's or '80's, I

4 don't know for sure, quite a long time ago?

5 A. I don't know.

6 Q. And you're not aware that that program was

7 discontinued as having been found to be unsuccessful and

8 problematic?

9 A. I guess I'm drawing a blank on that specific

10 program.

11 MR. FFITCH: All right, those are all my

12 questions, thank you, Your Honor.

13 JUDGE TOREM: Mr. Roseman.

14

15 C R O S S - E X A M I N A T I O N

16 BY MR. ROSEMAN:

17 Q. I will try not to belabor this, but you said

18 something in a question from Mr. Johnson, I think you

19 said that the Company had a limited control but you

20 supported low income through I thought you said low

21 income DSM, between your DSM program and LIRAP; is that

22 what you said?

23 A. Yes.

24 Q. Will you give me what the acronym for LIRAP

25 is?

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1 A. Low Income Rate Assistance Program.

2 Q. So this is the point of my confusion,

3 Mr. Norwood, if it is a rate assistance program, it's

4 not a DSM program?

5 A. That's correct. My comments really were

6 directed to recognizing some of the comments that we

7 hear at the public hearings for example where customers

8 are concerned about some of these programs. In fact,

9 there was a comment at the hearing regarding the level

10 of DSM programs and the funding for that. At some point

11 we have to recognize the total dollars that go into many

12 of these programs and ensure that there's a reasonable

13 balance there. So my point related to LIRAP and low

14 income DSM is that we have to take into consideration

15 the funding related to those and the impact it has on

16 our customer base.

17 Q. But you were commenting I believe that the

18 Company had limited control because the CAP agencies

19 controlled the DSM program. I guess my question to you

20 is, isn't in large part low income or limited income DSM

21 savings primarily directed by how much funding at 100%

22 per measure is available for these low income homes or

23 customers?

24 A. That is a major factor, but as I mentioned

25 earlier, there's some flexibility there as to whether

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1 that funding that we provide goes, or customers provide,

2 whether it goes to the electric side or the gas side.

3 So in that sense as we're looking at measuring therm

4 savings, there's some other variables in there that

5 could impact that.

6 MR. ROSEMAN: Thank you.

7 MR. JOHNSON: No further questions, Your

8 Honor.

9 JUDGE TOREM: I don't see any further

10 cross-exam questions.

11 Mr. Meyer?

12 MR. MEYER: No, no thanks.

13 JUDGE TOREM: All right, it's now 6:20, we

14 are going to resume at 8:30 tomorrow morning with

15 Mr. Buckley either in person or by phone, followed by

16 Mr. Woodruff, and we'll find out from there when the

17 next witness on decoupling will be. I anticipate that's

18 going to be Mr. Hirschkorn for about an hour and a half

19 after that. So we are adjourned until tomorrow, thank

20 you.

21 (Hearing adjourned at 6:20 p.m.)

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