0480

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BEFORE THE WASHINGTON STATE

2 UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND )

3 TRANSPORTATION COMMISSION, ) DOCKETS UE-090134

) and UG-090135

4 Complainant, ) (consolidated)

)

5 vs. ) VOLUME IX

) Pages 480 to 749

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 IX

11 AVISTA UTILITIES, ) Pages 480 to 749

)

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 7, 2009, from 9:30 a.m to 5:22 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 Joan E. Kinn, CCR, RPR

25 Court Reporter

0481

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0482

1 --------------------------------------------------------

2 INDEX OF EXAMINATION

3 --------------------------------------------------------

4 WITNESS: PAGE:

5 KELLY O. NORWOOD

6 Direct Examination by Mr. Meyer 489

7 Cross-Examination by Mr. Trautman 491

8 Cross-Examination by Mr. ffitch 495

9 Examination by Commissioner Jones 504

10 Examination by Chairman Goltz 508

11 Examination by Commissioner Jones 512

12 Redirect Examination by Mr. Meyer 515

13 Recross-Examination by Mr. ffitch 516

14 ELIZABETH M. ANDREWS

15 Direct Examination by Mr. Meyer 519

16 Cross-Examination by Mr. Trautman 521

17 Examination by Judge Torem 525

18 Cross-Examination by Mr. Trautman 526

19 Cross-Examination by Mr. ffitch 543

20 Cross-Examination by Ms. Shifley 558

21 Examination by Commissioner Oshie 578

22 Examination by Commissioner Jones 590

23 Examination by Chairman Goltz 602

24 Redirect Examination by Mr. Meyer 619

25 Examination by Chairman Goltz 625

0483

1 DAVE B. DEFELICE

2 Cross-Examination by Mr. Trautman 629

3 Cross-Examination by Mr. ffitch 633

4 Redirect Examination by Mr. Meyer 638

5 SCOTT J. KINNEY

6 Cross-Examination by Mr. Trautman 640

7 Cross-Examination by Mr. ffitch 642

8 Examination by Commissioner Jones 650

9 Examination by Judge Torem 654

10 Examination by Chairman Goltz 655

11 Redirect Examination by Mr. Meyer 658

12 Examination by Chairman Goltz 663

13 DAVID R. HOWELL

14 Cross-Examination by Mr. Trautman 665

15 Cross-Examination by Mr. ffitch 668

16 HEATHER L. CUMMINS

17 Cross-Examination by Mr. ffitch 675

18 Redirect Examination by Mr. Meyer 677

19 Recross-Examination by Mr. ffitch 678

20 ANN M.C. LARUE

21 Direct Examination by Mr. Trautman 680

22 Examination by Commissioner Oshie 681

23 Examination by Commissioner Jones 683

24 JAMES M. KENSOCK

25 Cross-Examination by Mr. ffitch 687

0484

1 TARA L. KNOX

2 Cross-Examination by Mr. Trautman 692

3 HUGH LARKIN

4 Direct Examination by Mr. ffitch 697

5 Cross-Examination by Mr. Meyer 698

6 Redirect Examination by Mr. ffitch 710

7 DANNY P. KERMODE

8 Cross-Examination by Mr. Meyer 720

9 Examination by Commissioner Oshie 729

10 Examination by Commissioner Jones 739

11 Examination by Chairman Goltz 742

12 Redirect Examination by Mr. Trautman 745

13

14

15

16

17

18

19

20

21

22

23

24

25

0485

1 --------------------------------------------------------

2 INDEX OF EXHIBITS

3 --------------------------------------------------------

4

5 EXHIBIT: MARKED: ADMITTED:

6 SCOTT J. KINNEY

7 SJK-6 661 696

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10 BENCH REQUESTS

11 5 601

12 6 614

13 7 626

14 8 657

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0486

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

2 JUDGE TOREM: Good morning, this Judge Torem,

3 we're back on the record in the Avista rate case. It's

4 now Wednesday morning, the 7th of October, it's a little

5 after 9:30, and we've taken care of a little bit of

6 housekeeping. David Johnson from the Northwest Energy

7 Coalition is here today, but he may not be sitting at

8 the table with the other attorneys simply because he

9 doesn't have any cross planned for Company witnesses on

10 revenue requirements. I've discussed with him the issue

11 we mentioned yesterday about Steve Johnson and his prior

12 work with Public Counsel on decoupling. I understand

13 from Mr. Johnson, you're going to check with your client

14 later today and get back to me maybe over the lunch

15 hour, maybe later today, as to any position if any

16 objection.

17 MR. JOHNSON: That's correct, Your Honor.

18 JUDGE TOREM: Thank you, sir.

19 Were there any other housekeeping issues that

20 came up overnight?

21 MR. TRAUTMAN: I don't know if this is

22 housekeeping, but in terms of, I guess it is, in terms

23 of the witness cross, Staff will not have any cross for

24 Mr. Larkin. I think we had 10 minutes allotted, and

25 that was on revenue requirements, or for Mr. Brosch or

0487

1 for Ms. Kimball, and those were on decoupling, I believe

2 we had 10 minutes also for those.

3 JUDGE TOREM: All right, I will make a note

4 of that.

5 Any other housekeeping?

6 MR. TRAUTMAN: I just wanted to make one

7 statement to expand upon an answer I had given

8 yesterday, and the question involved Public Counsel's

9 adjustment to the Lancaster contracts or the proposed

10 adjustment. And as I indicated, the Staff has been

11 neutral to that adjustment, but I would add that Staff

12 did review and analyze the Lancaster contracts and did

13 not -- and has determined not to contest an adjustment

14 in its own case. And if you would like further

15 explanation of Staff's analysis and examination of those

16 contracts, Mr. Buckley would be available.

17 JUDGE TOREM: All right, thank you,

18 Mr. Trautman, that's one of the reasons we wanted to

19 have Mr. Buckley around so that when we get to

20 discussing the Lancaster adjustments if there's a

21 question as to Staff's view on Public Counsel's case as

22 put forward, we can then have a witness to ask, so thank

23 you.

24 Mr. Meyer, your witnesses are all here as

25 planned for today?

0488

1 MR. MEYER: They are, Your Honor.

2 JUDGE TOREM: All right, so I'm going to ask

3 Mr. Norwood to come up, and we've arranged the room so

4 the witness will be off to the Bench's left, so that way

5 the rest of you that are here to observe the hearing

6 don't have to just observe the back of the witness's

7 head, you can actually see a little bit of what's going

8 on as well. And while we have the setup we do where

9 it's not a crowded counsel table unless this fills up,

10 we'll keep this physical arrangement.

11 Mr. Norwood, I know you were part of the

12 panel yesterday and I swore you in then, but just to be

13 sure let's do the oath one more time.

14 (Witness KELLY O. NORWOOD was sworn.)

15 JUDGE TOREM: My schedule indicates that

16 Public Counsel and Commission Staff each have planned 30

17 minutes of cross-examination, so it's now a little after

18 9:35.

19 MR. TRAUTMAN: I believe we will have less

20 than that.

21 JUDGE TOREM: All right, we'll hold you to

22 these.

23 MR. TRAUTMAN: Based on our overnight work on

24 this.

25 JUDGE TOREM: So which of you wishes to open

0489

1 this questioning?

2 MR. TRAUTMAN: I think Staff will go first.

3 JUDGE TOREM: Mr. Trautman, the floor is

4 yours.

5 MR. MEYER: Excuse me, Your Honor, before we

6 go there, may I just have a minute with the witness. We

7 have a couple of clarifications to make to his

8 testimony, corrections.

9 JUDGE TOREM: Let me direct folks to page 11

10 and page 32 of Mr. Norwood's testimony, this is Exhibit

11 KON-1T, and if folks will go to page 11 and page 32,

12 Mr. Meyer will walk you through with the witness the

13 minor changes that need to be made.

14

15 Whereupon,

16 KELLY O. NORWOOD,

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

18 herein and was examined and testified as follows:

19

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

21 BY MR. MEYER:

22 Q. Mr. Norwood, on page 11 would you speak to

23 the changes you have?

24 A. Yes, page 11, line 23, I'll wait just a

25 moment to make sure everyone is there. This is

0490

1 rebuttal.

2 JUDGE TOREM: That's correct, Mr. Norwood's

3 testimony came in only in rebuttal. There was nothing

4 in the opening case back from January.

5 A. Page 11, line 23, just before where it says

6 2009, insert 2008. And so it would read, during the

7 2008 and 2009 capital budgeting process.

8 And then on page 32, line 23, item number 3

9 listed there which begins, the evaluation of the

10 decoupling mechanism, strike lines 23 and 24.

11 MR. FFITCH: Could you repeat that, please.

12 A. Page 32, lines 23 and 24, strike those lines

13 completely. I do not cover that issue in my testimony.

14 And then on the next page there are some

15 items that continue with the numbering, those would need

16 to be renumbered 3 through 7 instead of 4 through 8.

17 Those are all the corrections I have.

18 MR. MEYER: Very well, with that, the witness

19 is available for cross.

20 MR. FFITCH: I apologize, Your Honor, I just

21 want to make sure I've got this, bringing up the rear,

22 page 32, lines 23 and 24; is that correct?

23 THE WITNESS: Yes.

24 MR. FFITCH: Items 2 and 3?

25 THE WITNESS: No.

0491

1 MR. FFITCH: Just item 3?

2 THE WITNESS: Just item 3, and then renumber

3 the items on the following page.

4 MR. FFITCH: Thank you.

5

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

7 BY MR. TRAUTMAN:

8 Q. Good morning, Mr. Norwood.

9 A. Good morning, Mr. Trautman.

10 Q. I would like to start by referring you to

11 page 9 of your rebuttal testimony.

12 A. Okay.

13 Q. And looking at lines 10 through 12, you point

14 out that a six year rolling average was used to

15 calculate the injuries and damages included in the test

16 year; is that right?

17 A. Yes.

18 Q. And is it correct that the six year average

19 is all historical, none of that is projected?

20 A. That's correct.

21 Q. And is it also correct that all of the

22 averages that would be used in determining cost included

23 in the test year are historical averages, none of those

24 are projected averages or projected amounts; is that

25 correct?

0492

1 A. That's correct.

2 Q. Okay. Turning to page 10, and on this page

3 you talk about Noxon; is that generally correct?

4 A. Yes.

5 Q. And regarding Noxon you've emphasized that

6 all parties have included Noxon as a pro forma

7 adjustment, correct?

8 A. Would you point me to a line?

9 Q. That would be lines 7 and 8 where you say the

10 upgrade has been pro formed into this case.

11 A. Yes.

12 Q. And it is not opposed by any party.

13 A. Thank you, I see that, yes.

14 Q. All right. And you mentioned among the other

15 parties is Staff included the Noxon 3 upgrade as a pro

16 forma rate base adjustment; is that correct?

17 A. Yes, that's correct.

18 Q. Will the benefits of Noxon be included in the

19 ERM monthly deferral calculation as a power supply

20 component?

21 A. Actually the benefits of the upgrade will be

22 reflected in base rates in this case because they were

23 reflected in the Aurora model which was included in the

24 partial stipulation, so the benefits are already built

25 into the partial stipulation.

0493

1 Q. Would they have gone through the deferral

2 calculation if the parties had not included the benefits

3 in the pro forma rate base?

4 A. They would have, but, you know, for rate

5 making in general rates it's appropriate to reflect the

6 known investment and the known benefits or changes in

7 costs, and that's what's been reflected in this filing.

8 We shouldn't rely on a tracking mechanism to pick up

9 dollar amounts that are known in the general rate case.

10 Q. Now the Company has an annual operating

11 budget; is that correct?

12 A. Yes.

13 Q. And that budget contains capital expenditures

14 as well as operating maintenance and administrative

15 costs; is that correct?

16 A. Yes.

17 Q. If you could turn to page 21 of your rebuttal

18 testimony, and at the bottom of that page in the bottom

19 paragraph you indicate that the Company applied a factor

20 to production plant in order to match loads and rates

21 that are set, correct?

22 A. Yes. And that's for purposes of the

23 illustration that I used here.

24 Q. Right.

25 A. Just to be clear.

0494

1 Q. And that's applied to as you say to both

2 production and transmission rate base?

3 A. That's correct.

4 Q. That factor has not been applied to the pro

5 forma level of distribution or general plant, right?

6 A. That's right, because we have excluded any

7 incremental distribution plant in this case, because

8 there are revenues associated with that incremental

9 investment.

10 Q. You mentioned yesterday that one of the cost

11 cutting measures that the Company has undertaken was to

12 reduce employees by 52 in 2009; is that correct?

13 A. Yes.

14 Q. And did the Company propose an adjustment to

15 reflect the reduced employees in this case?

16 A. No, we did not. But I believe it's important

17 to look at the total labor in context and not just look

18 at one piece.

19 Q. Right.

20 A. In isolation.

21 Q. But you did not propose an adjustment?

22 A. Not for that item, no.

23 Q. As part of the Company's recommendation,

24 you've proposed somewhat adjusting the ERM in

25 conjunction with the rate case, I say that generally; is

0495

1 that correct?

2 A. Yes, reduce the surcharge at the time your

3 rates go into place from this case.

4 Q. Is it generally -- is it true that as part of

5 the Company's existing ERM that once the deferred

6 balance amortizes to zero, then the rate will go to zero

7 until the deferred balance accumulates to at least 10%

8 of the general revenues?

9 A. That's correct.

10 Q. At which time the Company could file for

11 recovery; is that correct?

12 A. That's correct.

13 MR. TRAUTMAN: That's all the questions I

14 have, thank you.

15 JUDGE TOREM: Public Counsel.

16 MR. FFITCH: Thank you, Your Honor.

17

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

19 BY MR. FFITCH:

20 Q. Good morning, Mr. Norwood.

21 A. Good morning, Mr. ffitch.

22 Q. I just have a few brief questions. Avista

23 received a 9% increase in electric rates effective

24 January 1st, 2009, did it not?

25 A. Yes.

0496

1 Q. And that was a result of a settlement of the

2 2008 general rate case?

3 A. Yes, that's correct.

4 Q. And only three weeks later, Avista filed this

5 rate case asking for a 17.8% increase in electric rates;

6 is that correct?

7 A. In base rates, that's correct.

8 Q. Which adds up to 27.8% over two years if my

9 math is correct; is that right?

10 A. Over the course of two years, yes.

11 Q. And isn't it true that in the filing

12 documents and in Avista press statements, Avista

13 discussed both the rate increase, the base rate

14 increase, and the end of the ERM surcharge together?

15 A. Yes, and the purpose for that was to address

16 the rate impact to customers.

17 Q. And both the filing with the Commission and

18 Avista's press materials describe the net effect of the

19 filing as only an 8%, excuse me, 8.6% bill increase,

20 correct?

21 A. I think it's important, Mr. ffitch, to

22 recognize that in our documents, both the filing and the

23 news release, we were specific that there was a base

24 rate increase, and there was also an adjustment that we

25 were proposing related to the surcharge, two separate

0497

1 adjustments, but on a net basis we did reflect the net

2 in addition to the other numbers.

3 Q. All right, so that's a yes, the materials

4 including the press materials describe the net effect of

5 the filing as an 8.6% bill increase, correct?

6 A. As part of the materials, that is correct.

7 Q. And are you aware and would you agree that

8 some of the press coverage regarding this initial filing

9 described Avista's filing as creating an 8.6% increase

10 in rates?

11 A. The press has covered all the numbers,

12 whether it's 16%, 17.8%, or 8.6%, they've covered all

13 the numbers. It is accurate to say, Mr. ffitch, that

14 the proposed change in bills to the customer is the net

15 number.

16 Q. And are you aware that some of the press

17 coverage of the initial filing described this as an 8.6%

18 rate increase?

19 A. Mr. ffitch, although we would like to be able

20 to control the press and what they choose to say, we can

21 not do that. We've provided all the numbers to them,

22 and they have discussed all of those numbers that I

23 previously mentioned.

24 Q. Can you see how the confusion would arise on

25 the part of the media?

0498

1 MR. MEYER: Your Honor, object, that's

2 argumentative, and it's really a question that's been

3 asked and answered.

4 MR. FFITCH: I'll move on, Your Honor.

5 BY MR. FFITCH:

6 Q. The 8.6% bill increase that is referred to in

7 Avista's filings is based on a projection that Schedule

8 93 would be at zero in December of 2009, correct, that

9 was the projection at the time of the initial filing?

10 A. I don't think so. I think the expectation

11 was the balance would be very small at the end of 2009,

12 and that whatever the balance would be would be carried

13 forward to a future time to recover. Since that time,

14 we have modified our proposal through our rebuttal

15 testimony to ensure that we can accomplish two things,

16 one, reduce the impact, the bill impact to customers,

17 but also recover the balance over a 12 month period.

18 Q. All right, well, if you can just stick to

19 answering my questions, Mr. Norwood, I would appreciate

20 that.

21 The initial filing speaks for itself, but to

22 the extent it projected a zero balance in Schedule 93 by

23 the end of 2009, that projection is no longer accurate,

24 correct?

25 A. That's correct. I believe it's toward the

0499

1 end of January or early February 2010 is when the

2 balance is projected to go to zero.

3 Q. All right. And as you just stated and I

4 think you've stated in other statements and filings, the

5 Company's desire is to have the ERM change and the rate

6 change from this case occur at the same time, correct?

7 A. That is correct.

8 Q. But you are not proposing to delay the

9 effective date of any rates in this case until February

10 or January of 2010; is that correct?

11 A. That's correct.

12 Q. Instead you're proposing to alter the normal

13 operation of the ERM in order to make the balance be

14 zero at the time the rate change goes into effect; is

15 that right?

16 A. I'm not sure I understood your question, I'm

17 sorry. Could you repeat the question.

18 Q. Instead of delaying the effective date of any

19 rates approved in this case until the ERM moves to zero,

20 Avista is proposing to alter the normal operation of the

21 ERM to artificially make the balance zero for surcharge

22 purposes at the time the rates from this case would go

23 into effect?

24 A. No. The proposal is to reduce the surcharge

25 to a lower level at the time rates go into effect from

0500

1 this case. Whatever the balance is in the ERM at the

2 time rates go into effect from this case, we would

3 spread that balance over a 12 month period and reduce it

4 to zero. So it's not our expectation that the balance

5 would be exactly zero at the time rates go into effect

6 for this case.

7 Q. Well, that's a new proposal that just

8 appeared in rebuttal, correct?

9 A. Yes, it is, in response to the testimony that

10 was filed by other parties.

11 Q. All right. And that proposal that you have

12 for some type of amortization or overlay deferral is not

13 currently a part of the ERM mechanism, is it?

14 A. No, but the Commission has the discretion to

15 do what makes sense and is in the best interests of the

16 customers and the Company.

17 Q. Am I correct that Schedule 93 began as a

18 means to essentially ask rate payers to help Avista with

19 a very large -- very large explosion in its power costs

20 resulting from the decisions Avista made in the 2000 and

21 2001 Western energy crisis?

22 A. No, I would not characterize it that way at

23 all. The mechanism was designed to track changes in

24 costs, power supply costs, from those built into base

25 rates, whether they be positive or negative. But during

0501

1 the early period we had costs that exceeded those in

2 base rates, and there's a dead band and sharing

3 mechanism, and so all those factors were considered in

4 designing the mechanism, but it does go both directions,

5 and we have had deferrals in both directions.

6 Q. Well, you're not testifying, are you, that

7 the creation of Schedule 93 and the ERM has nothing to

8 do with the Western energy crisis of 2000, 2001 and

9 Avista's experience in that crisis?

10 A. No.

11 Q. You're not testifying to that?

12 A. No.

13 Q. And a very large portion of the deferrals

14 contained in or recovered through Schedule 93 are a

15 result of that, those initial excessive power costs, are

16 they not?

17 A. No, I would not consider them excessive.

18 They were costs the Commission reviewed as part of an

19 earlier filing. We had requested a deferred accounting

20 petition in the period prior to June of 2002, which is

21 when the ERM came into place. The deferrals subsequent

22 to June 2002, my recollection is they're not near as big

23 as the deferrals that the Commission reviewed and

24 approved for recovery prior to June of 2002. So the

25 balance that we carried forward from the energy crisis

0502

1 occurred prior to adoption and approval of the ERM which

2 began in June of 2002.

3 Q. All right. And I'm willing to change my term

4 excessive, which I meant in the sense of very large, and

5 just try to rephrase the question, and perhaps you've

6 answered it, but those very large balances from those

7 early years related to the energy crisis then became

8 part of the deferral that customers have been recovering

9 through Schedule 93, correct, or the Company's been

10 recovering through the Schedule 93 surcharge?

11 A. Those dollars have long been recovered from

12 customers, the initial dollars from the energy crisis.

13 I believe we recovered those in the 2003/2004 time

14 frame. The dollars that are in the balance right now

15 are the result of multiple years of below normal stream

16 flow conditions that we've experienced in the past five

17 to six years.

18 Q. And the reason why the balance in this

19 account is going to zero is a result of the efforts of

20 Avista rate payers, is it not?

21 A. It's a result of recovering those dollars

22 through the ERM surcharge, that's correct.

23 Q. And that's completely independent of this

24 2009 rate case, is it not?

25 A. It is.

0503

1 Q. And that's kind of a milestone for Avista

2 customers, is it not, that they have managed to pay down

3 this account to zero?

4 A. I think it's good for everyone that that

5 balance is approaching zero.

6 MR. FFITCH: Those are all the question I

7 have, Your Honor.

8 JUDGE TOREM: Mr. Trautman, any follow-up

9 before I give it back to Mr. Meyer?

10 MR. TRAUTMAN: No, Your Honor.

11 JUDGE TOREM: Thank you, Mr. ffitch.

12 Mr. Meyer, any short redirect?

13 MR. MEYER: I thought I might defer that if I

14 could until after the Commissioners have had a chance to

15 ask any questions.

16 JUDGE TOREM: All right.

17 Commissioners, start with Commissioner Oshie,

18 any questions for Mr. Norwood?

19 COMMISSIONER OSHIE: No questions, I think

20 your responses to Mr. ffitch's cross-examination cleared

21 up an issue at least I had about your earlier testimony

22 in response to one of his questions, so I have no

23 questions.

24 JUDGE TOREM: Commissioner Jones.

25 COMMISSIONER JONES: Just a couple of

0504

1 questions.

2

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

4 BY COMMISSIONER JONES:

5 Q. Mr. Norwood, good morning.

6 A. Good morning.

7 Q. I think Mr. Meyer said yesterday your CapX

8 budget for 2009 and 2010 has been revised downward; is

9 that correct?

10 A. Yes, it has.

11 Q. So could you just restate for the Bench what

12 the CapX budget finally determined by the board is for

13 after any final adjustments is for 2009 and 2010?

14 A. For 2009 the original capital budget that was

15 proposed by the departments was approximately $270

16 Million. The senior officers did not approve that, they

17 reduced that down to $210 Million for 2009. During the

18 course, early course of 2009, that budget was further

19 reduced down to $202 Million. It's my understanding

20 that that is the current budget for 2009. And I guess I

21 will have to seek some help or circle back with you as

22 to what the capital budget is for 2010, I don't have

23 that information ready.

24 Q. My recollection is that it was on the order

25 for two years of about $420 Million as proposed in your

0505

1 rebuttal testimony.

2 A. Yes.

3 Q. For two years.

4 A. Yes, I think the budget for 2010 is in the

5 neighborhood of $210 Million.

6 Q. Then my follow-up question to that would be

7 those final adjustments, have they been pro formed into

8 your adjustments that you proposed on rebuttal or not,

9 or is the pro forma adjustment based on very

10 specifically the $210 Million or the $202 Million?

11 A. The capital included in this rate case did

12 not include the additional capital for 2009 related to

13 distribution plant. The reduction from $210 Million

14 down to $202 Million was distribution related, so it was

15 not originally included in this filing, so there wasn't

16 a need to adjust that.

17 Q. My next line of questioning, and this could

18 be for Mr. Kinney, so if you want to wait on this, you

19 can, but since you're the big witness, the overall

20 witness, I thought I would ask that because it relates

21 to capital expenditures. And this relates to your asset

22 management plan and specifically vegetation management

23 and NERC reliability issues, but can you show in your

24 testimony or in Mr. Kinney's testimony where Avista has

25 specific contractual obligations to do the work that is

0506

1 planned under the asset management program for the year

2 2010?

3 A. I'm going to have to defer to Mr. Kinney on

4 that, because he can speak to the specific provisions

5 that NERC requires, and it's our obligation to make sure

6 we comply with that, which drives the need for certain

7 investments, and he would be the one to speak to that.

8 Q. Okay.

9 The key distinction there, just to warm up

10 Mr. Kinney, is expected versus contractually obligated.

11 A. Yes.

12 Q. And what sort of contractual obligations you

13 have, so I will wait on that one.

14 The last line of questioning for you is I

15 think Mr. Meyer mentioned in response or in his opening

16 statement yesterday that the Company expected the timing

17 of the rate increases to occur sometime in December.

18 A. Yes.

19 Q. Can you be more specific, because your

20 continual rate filings with us have always asked for

21 January 1st, so this is something that kind of struck me

22 yesterday from the Bench?

23 A. Yes. As we've seen in this filing and other

24 filings, you know, the statutory period is 11 months,

25 and we've seen in this one that it appears that it's

0507

1 going to run that course. Also when we propose rates,

2 we're only allowed really to propose -- include our

3 costs for the next year, which means in order to keep up

4 we have to file every year unless we're able to somehow

5 get rates effective sooner than the 11 month period.

6 So, you know, we filed January 23rd I think, the

7 statutory period I believe is December 23rd, in that

8 neighborhood, and so we are, as we state in our

9 testimony, already behind on cost recovery, and so we

10 need rates effective as soon as possible to try to get

11 -- improve the recovery of the costs that we have.

12 Q. So the specific date you're asking both for

13 the effective date of the base rate increases as well as

14 the ERM balance, and I don't want to get into the

15 dispute between Public Counsel and the Company over the

16 timing of the ERM balance surcharge going to zero, but

17 the timing you're requesting is what, December 15th,

18 December 10th?

19 A. As soon as the Commission is able to get an

20 order out. As I mentioned, we are underrecovering our

21 costs, so the sooner rates are effective, the closer

22 cost recovery is going to be. If it's possible for

23 December 1, then that would be wonderful. So it comes

24 down to the timing of the Commission's opportunity to

25 get the order out.

0508

1 COMMISSIONER JONES: Thank you, Mr. Norwood,

2 that's all I have on this round.

3 JUDGE TOREM: Chairman Goltz.

4

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

6 BY CHAIRMAN GOLTZ:

7 Q. Good morning.

8 A. Good morning.

9 Q. Just following up a little bit on the

10 questions asked by Mr. Trautman and by Commissioner

11 Jones, first regarding the capital budgets and the

12 changes in those that you mentioned yesterday and then

13 reaffirmed today. You mentioned that the 2009 budget

14 went from 210 to 202, but that doesn't impact the

15 adjustments in this case?

16 A. That's correct.

17 Q. Is the 2010 budget similar to that and the

18 reductions in the 2010 budget also related to just the

19 distribution?

20 A. I think we're in the process right now of

21 revisiting the 2010 capital budget. My understanding is

22 it's still in the neighborhood of $210 Million. For

23 this case, the filing that's before you, we have no

24 capital additions in this case for 2010 with the

25 exception of the one Noxon unit 3 upgrade. So although

0509

1 it would have been appropriate to include it in this

2 case because that's when rates are going to be

3 effective, we chose for this case to limit the request

4 to just the year end 2009 addition. So in that sense,

5 as we roll through 2010, we're actually going to

6 underrecover our costs because we have not asked for

7 that capital in 2010.

8 Q. And then so I understand then your response

9 to the question asked by Mr. Trautman, there are some

10 expense operating expenses that are being reduced in a

11 sense that you're reducing, for example, reducing staff

12 by 52, so that would reflect a decrease in the test year

13 expenses going forward?

14 A. I couldn't say that the -- for 2010 what the

15 staffing level will be. What's built into the test year

16 would include most of that 52 that we talked about. We

17 have made both short-term and long-term adjustments. At

18 some point we can't continue to operate without new

19 people, and we are setting rates for 2010, not 2009,

20 we're through 2009.

21 Q. Understand.

22 A. So I would not expect that we would realize

23 that full 52 reduction in 2010.

24 Q. Also following up a bit on the question asked

25 by Mr. Trautman an page 9 of your rebuttal testimony,

0510

1 and I may not fully understand this, but you stated that

2 your pro forma expense for injuries and damages is based

3 on a six year rolling average, and is the reason for

4 this adjustment because the actual expense during the

5 test year was below the six year rolling average?

6 A. No, actually Ms. Andrews would know whether

7 the test year was above or below. This six year rolling

8 average is not something that's just unilaterally

9 proposed by the Company. It's something that's been

10 used in the past, and it's used not because the number

11 for the test year is higher or lower for some reason,

12 it's just that over the course of time you don't know

13 what that number is going to be, so for purposes of

14 setting rates we choose to use an average so that over

15 time you may be a little high in some cases, you may be

16 a little lower in other cases, but over time it's going

17 to be pretty close to what customers are going to --

18 what we're going to see and what customers experience

19 over the course of time. And we do that for a number of

20 other expense categories or revenue categories. Since

21 we really don't know what the exact number is going to

22 be, we have proposed and the parties have supported

23 using an average. And it's not that it's -- the

24 question was, well, is it based on historicals, yes, it

25 is, but we're using it as an estimate of what we expect

0511

1 to see in the future. And that's what we have to look

2 at in setting rates is, what do we expect our costs and

3 our revenues to be during the period that rates are in

4 effect. So we use the historical because that's the

5 best information for that particular account.

6 Q. So in the event that in a given year you have

7 an unusually high amount of payouts for injuries and

8 damages, if that's in the test year you would still use

9 the six years rolling averages to pro form it into the

10 rates?

11 A. Absolutely.

12 Q. Just one final question just occurred to me

13 that, you know, you chose to file this case in a manner

14 so the rates would become effective January 1, correct?

15 A. Not January 1 but sometime in December. We

16 filed on January 23rd, and so we would hope that rates

17 would be effective sometime in December. As I mentioned

18 earlier, we are underearning, and so the sooner we get

19 rates effective, the more improvement we're going to

20 see, and so we need rates effective right now. Our

21 earnings in '08 were 7.2% ROE. For this year our

22 earnings are going to be well below where they should

23 be. And if we continue to have rate cases that go on,

24 then we're not going to be able to get to the point

25 where we have earnings that are anywhere close to what's

0512

1 left.

2 Q. No, I was just asking a calendar question, I

3 thought the rates were to be effective January 1; was I

4 wrong on that?

5 A. No, the end of the statutory period is

6 December 23rd, so our proposal is for rates to be

7 effective on or before December 23rd.

8 Q. Okay. So but our order is due December 23rd?

9 A. I will defer to counsel.

10 MR. MEYER: That's correct.

11 Q. And I just want to point out that that makes

12 the announcement of it in the press December 24th, which

13 could be considered unfortunate.

14 A. We understand.

15 JUDGE TOREM: Commissioner Jones, you had a

16 follow-up?

17 COMMISSIONER JONES: Judge, just since

18 Chairman Goltz had this question, just to clarify for

19 the record.

20

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

22 BY COMMISSIONER JONES:

23 Q. You are not asking for any capital

24 expenditures to be pro formed from 2010 into rates

25 except Noxon, but you are asking for a pro form on end

0513

1 expenses, correct?

2 A. We have proposed labor expenses for 2010 to

3 be included in this case. There are some expense

4 categories like thermal O&M where we pro formed out

5 through 2010, but through the partial stipulation we've

6 excluded those. So there are some components in 2010,

7 and that's -- what we've done in the past is we are to

8 reflect in our case pro form adjustments that are known

9 and measurable so that when rates are set then they

10 reflect those costs that we're going to experience to

11 serve customers.

12 Q. Well, maybe, Mr. Norwood, this is a question

13 for Mr. Kinney, but I think his testimony talks about

14 compared to the test year an increase in O&M expenses of

15 $4.7 Million?

16 A. Yes, I'm sorry, yes, for some of those cost

17 categories which would be like tree trimming, asset

18 management.

19 Q. Right.

20 A. We do have -- that's right. And there's also

21 some costs for information services that Mr. Kensock can

22 talk to where we are trying to reflect in our pro forma

23 the costs that we expect to experience during the period

24 that rates are in effect.

25 Q. Mr. Norwood, stop there. So that's expect,

0514

1 so are those truly known and measurable costs?

2 A. Absolutely.

3 Q. Or are they expected costs?

4 A. So let's dissect known and measurable.

5 Number one, do we know the change is going to occur, are

6 you going to commit the dollars. And you can speak to

7 those witnesses, but we do know that we are going to

8 commit the dollars to spend those, so in that sense we

9 know we're going to spend those dollars. The question

10 then is, are the dollars measurable. And as we set

11 rates to the future, if we look at the Washington

12 Administrative Code, if we look at prior orders that

13 have been issued with the Commission, it's been clear

14 that we have used estimates in some cases to reflect the

15 costs that we're going to experience. I noted the

16 Rainier View Water Company where it says, for known and

17 measurable events that will occur prospectively pro

18 forma adjustments to best estimate the relationship

19 between the company's costs and revenues. So if you

20 look at the rest of this case, if you look at power

21 supply especially, we don't use actual specific certain

22 numbers to set rates. For decades we have used

23 estimates for thermal availability, estimates for loads,

24 estimates for fuel costs, even in the past in the last

25 case where we had labor for the rate year you'll note in

0515

1 Public Counsel's testimony in the last case that they

2 didn't oppose that adjustment, because it's one of those

3 things that is going to occur for the Company.

4 COMMISSIONER JONES: Well, let's defer the

5 question to Mr. Kinney, my question was not the broad

6 question, I'm quite familiar with your testimony on

7 that, it was narrowly focused on the asset management

8 program and whether or not you have contractual

9 obligations, et cetera, to really distinguish expected

10 from known and measurable, but let's save that question

11 for Mr. Kinney.

12 JUDGE TOREM: Commissioners, any other

13 questions?

14 Seeing none, Mr. Meyer.

15 MR. MEYER: I do have some limited redirect.

16

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

18 BY MR. MEYER:

19 Q. Mr. Norwood, this may be more appropriately

20 deferred to witness Andrews, but there was a reference

21 to a reduction I believe of 54 employees that there was

22 questioning to you from the Bench on. Is it your

23 understanding that that level of reduction was primarily

24 related to reductions in capital projects, more

25 specifically new distribution to hook up new customers?

0516

1 A. I will defer that to Ms. Andrews.

2 Q. Fair enough.

3 A. For those specifics.

4 MR. MEYER: Okay, we'll do so, and if I might

5 pose those questions to Ms. Andrews, thank you.

6 And with that, I have no further cross,

7 thanks.

8 JUDGE TOREM: Mr. ffitch, Mr. Trautman, any

9 reattack?

10 MR. TRAUTMAN: No, Your Honor.

11 MR. FFITCH: I have one follow-up, Your

12 Honor.

13

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

15 BY MR. FFITCH:

16 Q. Mr. Norwood, with regard to your statements

17 about power cost estimates, power costs are run through

18 the ERM, are they not?

19 A. Variations in power costs from those built

20 into rates are, that's correct.

21 Q. And so if there are changes, if the power

22 costs turn out to be different than the estimates,

23 that's picked up and trued up through the ERM process,

24 is it not?

25 A. That is not appropriate though in terms of

0517

1 setting base retail rates. To know that there is a cost

2 that will occur during the pro forma period and to

3 exclude it from base rates and just let a mechanism pick

4 it up, it's appropriate --

5 MR. FFITCH: Excuse me, Your Honor, the

6 witness is not answering my question. I asked if the

7 ERM process trues up changes in power costs that occur

8 which are different from the projections.

9 A. To the extent that they vary from those built

10 into base rates, that would be correct after application

11 of the dead band and the sharing mechanism. But again,

12 it is not appropriate to rely on a tracking mechanism to

13 recover costs that should be built into base rates.

14 MR. FFITCH: No further questions, thank you,

15 Your Honor.

16 JUDGE TOREM: All right, thank you.

17 Is there anything else for Mr. Norwood?

18 All right, seeing none, thank you, we'll see

19 you again later in the week.

20 The next witness on the schedule is Elizabeth

21 Andrews. It's now 10:15, I propose we get started with

22 Ms. Andrews and probably between 10:30 and 10:45 we'll

23 take a little break, so if we can have the witnesses

24 switch places.

25 Ms. Andrews, before you get comfortable, I

0518

1 will have you raise your right hand.

2 (Witness ELIZABETH M. ANDREWS was sworn.)

3 JUDGE TOREM: We're going to start,

4 Mr. Meyer, with your few questions for Ms. Andrews. If

5 we go as scheduled, Mr. ffitch, you had suggested an

6 hour and three quarters. Ms. Shifley is going to cover

7 this. And then, Mr. Trautman, you had 15 minutes,

8 Mr. Trautman, do you have any update on that?

9 MR. TRAUTMAN: It might be a little more than

10 15 minutes, but it shouldn't be much.

11 JUDGE TOREM: Ms. Shifley.

12 MS. SHIFLEY: I believe that Mr. ffitch will

13 be asking a few questions of Ms. Andrews, and I believe

14 that his time estimate was a little bit generous, it

15 might be shorter.

16 JUDGE TOREM: All right, well, I will have

17 him weigh in as soon as we get through Mr. Meyer's

18 questions, Mr. ffitch, I'll ask you about your time

19 estimates again.

20 Mr. Meyer, you had a couple of introductory

21 things you wanted to cover that were deferred from the

22 previous witness.

23 MR. MEYER: I did, thank you, Your Honor.

24

25

0519

1 Whereupon,

2 ELIZABETH M. ANDREWS,

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. There was a reference to a reduction of some

9 52 employees in the prior discussion with Mr. Norwood,

10 were those reductions primarily due to reductions in

11 capital projects such as new distribution to hook up new

12 customers?

13 A. Yes, the Company -- this is a combination of

14 temporary employees, not filling behind vacancies, and

15 not filling new positions that we normally bring on in

16 April to assist in the construction work.

17 Q. And would those dollars therefore have been,

18 associated with those crews or those employees, been

19 characterized as capital labor dollars?

20 A. Yes, they would.

21 Q. And what is the significance of that

22 characterization?

23 A. Well, when we did our pro forma out to 2010,

24 we only included the O&M type labor expenses included in

25 that, and we -- since we did not include 2010 capital

0520

1 projects, those labor dollars would not -- it would not

2 be appropriate to do some sort of reduction to our test

3 period case for those dollars.

4 Q. Would those capital projects otherwise have

5 been excluded in any event as revenue producing

6 projects?

7 A. Yes, to the extent that they're related to

8 distribution capital, new additions for example, new

9 hookups for customers, we excluded all those projects

10 for both for -- even in 2009 because those would have

11 been new revenue projects.

12 Q. Very well, thank you, that's all I have by

13 way of further follow-up.

14 And with that, Ms. Andrews, do you have any

15 other corrections to make to any of your testimony or

16 exhibits?

17 A. No, I do not.

18 MR. MEYER: Okay, thank you.

19 And she's available for cross.

20 JUDGE TOREM: Thank you, sir.

21 Mr. ffitch, maybe you want to update us on if

22 the hour and three quarters would still be accurate.

23 MR. FFITCH: It will be shorter than that,

24 Your Honor, I hope reasonably shorter.

25 JUDGE TOREM: All right.

0521

1 THE WITNESS: Me too.

2 JUDGE TOREM: All right, I think that

3 depending on how long Mr. Trautman's exam takes, we may

4 take a break between you and then come back on and see

5 if we can wrap up with that testimony before lunch.

6 Mr. Trautman, go ahead.

7 MR. TRAUTMAN: All right, thank you.

8

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

10 BY MR. TRAUTMAN:

11 Q. Good morning, Ms. Andrews.

12 A. Good morning.

13 Q. I would like to start by referring you to

14 page 9 of your rebuttal testimony.

15 A. Okay.

16 Q. And at the bottom of that page, and this is

17 referring to 2010 labor increases, you refer on line 21

18 to market studies and union analysis.

19 A. Yes, I do.

20 JUDGE TOREM: Mr. Trautman, so I'm clear,

21 which EMA exhibit is this?

22 MR. TRAUTMAN: EMA-4T.

23 JUDGE TOREM: 4T, thank you.

24 A. I'm sorry, yes.

25 BY MR. TRAUTMAN:

0522

1 Q. And in referring to the market studies, what

2 study are you referring to here?

3 A. If you go to my Exhibit Number 8, page 6, I'm

4 referring to a conference board market study. I will

5 let you get there, sorry. I'm sorry, it's page 6, EMA

6 Exhibit 8, page 6, it's a conference board market study.

7 We use this study on an annual basis to review and

8 analyze what we expect our salary increases to be in the

9 upcoming year.

10 Q. And is this referred to as the Towers Perin

11 Study?

12 A. No, this is different.

13 Q. This is different?

14 A. This is a little bit different, yes. This is

15 a combination of basically peer companies that we

16 compete with in the market to hire and retain employees.

17 Q. And does Avista provide the information for

18 this study?

19 A. We are one that do participate in this study,

20 but as you can see it's got a long list of the industry

21 and others that provide information to this study.

22 Q. And then Avista would use the next study to

23 establish the next round of salary increases?

24 A. Correct, we use this, this particular study

25 is the 2009/2010 salary study, and we have used this

0523

1 typically on an annual basis to reflect or review what

2 our upcoming salary increases might be.

3 Q. Turning to page 30 of your rebuttal, and this

4 page refers to D&O insurance, directors and officers

5 insurance.

6 A. Okay.

7 Q. You propose using a 90/10 split for that; is

8 that correct?

9 A. I said if the Commission felt that it was

10 appropriate to do a sharing that I would not expect it

11 to be more than a 90/10. I don't think anything more

12 than 90/10 would be appropriate.

13 Q. So are you proposing that split because you

14 believe that shareholders benefit 10% from that

15 insurance?

16 A. 90/10, I've used that as an -- I've referred

17 to that 90/10 even with the Commission meeting fees --

18 or director fees, these are costs when we -- let me back

19 up a little bit. I think -- am I on the right page,

20 page 30, D&O insurance.

21 Q. 30 and continues to 31.

22 A. Oh, I'm sorry, I'm -- I was in my direct

23 testimony, sorry, and that was all related to O&M

24 expense, it didn't make any sense, sorry.

25 JUDGE TOREM: Just so we're all on the same

0524

1 page, you started on page 29 of Exhibit EMA-4T.

2 MR. TRAUTMAN: Page 30.

3 JUDGE TOREM: Her original position was to

4 reject the Staff and Public Counsel 50/50 split

5 recommendation, and you now have taken her to if she's

6 going to recommend a split to the 90/10.

7 MR. TRAUTMAN: I'm referring to the bottom of

8 page 30.

9 JUDGE TOREM: That's on the bottom of page

10 30, so he wants you to justify those numbers.

11 THE WITNESS: Yes, thank you, I'm sorry, I

12 was looking at my direct, and the line of questioning

13 didn't make sense for that.

14 A. Yes, for D&O insurance we did propose the

15 90/10 sharing if the Commissioners felt it was

16 appropriate for those types of costs. We have typically

17 for types of activities where there is either, you know,

18 I think what I refer to in my testimony is it's similar

19 to the expenses that we -- for compensation for

20 officers, so we have allocated costs between 90/10

21 because, you know, if --

22 BY MR. TRAUTMAN:

23 Q. So you proposed this because it's the split

24 that's used by the Company for officer compensation?

25 A. Right, for our senior officers we do use a

0525

1 90/10 sharing of costs that -- to reflect where there

2 might be subsidiary or non-utility activities.

3 Q. So it wasn't because you specifically had a

4 belief that shareholders benefit 10% from the insurance?

5 A. Directors and officers -- directors and

6 officers insurance is there not as a benefit to

7 shareholders. Directors and officers insurance is there

8 to protect the directors and officers from liability

9 that might or lawsuits or that sort of thing that might

10 be imposed against them. I don't believe that directors

11 and officers -- the purpose of directors and officers

12 insurance is not there to benefit customers. That's why

13 we haven't typically done any form of sharing other than

14 that related to what might be appropriate for the

15 subsidiary, but it's not there to benefit shareholders.

16 Q. If you could turn back to page --

17 JUDGE TOREM: Mr. Trautman, let me interrupt.

18

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

20 BY JUDGE TOREM:

21 Q. I think you said it's not there to benefit

22 customers and then later said shareholders.

23 A. Oh, I'm sorry.

24 Q. Can you please clarify that?

25 A. Yes. D&O insurance is not there to benefit

0526

1 shareholders. It is there to protect the directors and

2 officers of the utility in their operations, which

3 obviously their responsibility is to run the utility.

4

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

6 BY MR. TRAUTMAN:

7 Q. So you would say shareholders benefit what,

8 0%; is that what you're saying?

9 A. Shareholders benefit from -- I guess from

10 anything that we do in the company from the fact that,

11 you know, if we have a well-run utility. But, you know,

12 we -- we are a large capital intensive company, we have

13 to go into -- we have to go out in the market to access

14 capital markets in order to attain a reasonable

15 financing at reasonable terms, and this obviously is

16 necessary in order to maintain the infrastructure that

17 we use those funds for, and this provides -- obviously

18 this provides safe, reliable service for the utility for

19 customers. I guess I should just say customers are the

20 major benefit of the activities that are done by the

21 board.

22 Q. All right.

23 Now if you could turn back to page 26, also

24 your rebuttal, and this also is related to D&O

25 insurance. On line 21, and you refer to a proposal, the

0527

1 proposal to disallow half of the amount charged to the

2 rate payers, you say that this is not based on any

3 demonstration whatsoever of imprudence. Can you point

4 to anywhere in the Staff testimony where Staff used the

5 word imprudent?

6 A. No, but I think just by the fact that you

7 want to remove or a 50 -- by doing a 50/50 sharing, that

8 means we're basically disallowing 50%, and I'm just

9 saying that typically if we're going to disallow certain

10 costs, maybe those costs have been excessive or

11 imprudent. I'm just saying there was no -- other than

12 an arbitrary calculation of a 50/50 percentage

13 reduction, I don't think that there was enough

14 justification for this 50/50 split.

15 Q. But you're not suggesting that Staff based

16 its determination on imprudence?

17 A. No, I just simply meant that Staff nor Public

18 Counsel has provided any reasonable explanation of why

19 50% of the D&O insurance should be excluded from

20 customer rates.

21 Q. If you could turn to, I guess I'm going

22 backwards now, but page 16 of the rebuttal, and this

23 involves the incentive payouts, correct?

24 A. Yes.

25 Q. And on page 16 in the paragraph that's set

0528

1 forth on lines 15 to 21 you reference Mr. Kermode's

2 testimony, and this was in a prior docket, that stated:

3 The incentive payout from 1999 to 2006

4 varied from zero to $5,862,642 according

5 to the Company's response to Staff Data

6 Request Number 232 Supplemental.

7 Do you see that?

8 A. Yes.

9 Q. All right. And if you look at what's been

10 marked as Exhibit EMA-9-X, it's a cross-exhibit, that is

11 that data request response; is that correct?

12 A. That's correct.

13 Q. All right. Now looking at the figures from

14 1999 to 2006 that are in that, isn't it correct that the

15 figures go up and down and up and down throughout the

16 period?

17 A. That's correct, that's --

18 Q. And they --

19 A. I'm sorry.

20 Q. And they range from zero to $5.8 Million; is

21 that right?

22 A. That's correct, they do in this particular

23 data request. You know, and that's exactly, you know,

24 what -- what the Company proposes is to use a six year

25 average using starting with 2002 through 2008.

0529

1 Q. That wasn't my question.

2 A. Yes, it -- okay.

3 Q. I mean do you agree that that's what is

4 reflected in this exhibit?

5 A. That is what is reflected in here. There is

6 zero starting in 1999, which would make sense because

7 there was actually no plan in place at that time, so

8 they do range anywhere from zero to at this point $5.8

9 Million.

10 Q. So it increased in 2000, and then it

11 decreased in 2001 back to zero, and then it increased in

12 2002 and 2003, but then it decreased down to $2.7

13 Million in 2004, and then it increased in 2005 and went

14 down again.

15 A. That's correct.

16 Q. Is that correct?

17 A. That's correct, but that's exactly why the

18 Company has proposed an average because of that

19 volatility.

20 Q. All right. Now if you would turn to page 14

21 of your rebuttal testimony and look at the table at the

22 top of the page.

23 A. Yes.

24 Q. Isn't it correct there if you look at the six

25 years reflected that there's an increase from 2003 and

0530

1 in fact a spike, $6.1 Million in 2005, and following

2 that there's a steady trend downwards to $2.8 Million;

3 is that correct?

4 A. These numbers do reflect that. However, as I

5 mentioned, the Company used a six year average from 2003

6 through 2008. In 2002 the Company changed its plan to

7 reflect O&M savings that are -- that reflect that these

8 plans only have payouts if there's O&M savings

9 associated with these plans, meaning that there has to

10 be a reduction to the Company's O&M costs in order for

11 there to be any payout. These plans are similar. I did

12 not use any plans prior to 2002 because those plans

13 either were non-existent or they were not relative to

14 the plan that is in place today. They do vary year to

15 year, and I don't know that I would characterize it that

16 they -- I mean that they increase and then they steadily

17 decrease, that's just been based on the plan results and

18 what is paid out.

19 Q. But that is what in fact has happened, is it

20 not, since 2005 they've steadily decreased?

21 A. They have, but that does not mean that in

22 future years they're going to continue to go down.

23 There really is no -- there's really no -- we really

24 don't know what each year the payout is going to be,

25 which is exactly why a six year average for this type of

0531

1 expense is appropriate, because it would help reduce the

2 volatility and remove those peaks and valleys to provide

3 a normal level of expense.

4 Q. It will make the number higher, right?

5 A. In this particular case.

6 Q. Quite apparently?

7 A. In this particular case, however, in the case

8 where Staff actually had proposed an average, it had --

9 because remember that's why I was -- that's my point by

10 that point in the testimony is that in two cases prior

11 Staff had actually proposed an average.

12 Q. I understand.

13 MR. MEYER: Your Honor, I'm sorry, counsel

14 keeps interrupting the witness, and she's trying to

15 clean her answer, and he's sort of stepping over her, so

16 may she have a chance to complete her answer.

17 JUDGE TOREM: I've got it, Mr. Meyer, and I

18 think Mr. Trautman and Ms. Andrews are just sort of

19 going back and forth. It's the court reporter that's

20 suffering the most, so I will just ask both counsel and

21 the witness and for all witnesses forward to do the same

22 thing, we started down this path a little bit early on

23 Wednesday, so let's try to answer the question, and if

24 you need to keep going just signal me, I'm paying

25 attention.

0532

1 THE WITNESS: Okay.

2 JUDGE TOREM: Mr. Trautman, where were we?

3 MR. TRAUTMAN: I don't know, I know generally

4 the question, I don't remember the specific one. I have

5 the answer that I needed.

6 BY MR. TRAUTMAN:

7 Q. All right, if we could go, this is just for

8 clarification, on the pro forma mercury emission O&M

9 there's a slight discrepancy between the number

10 reflected on your Exhibit EMA-6, which is $937,000 I

11 believe, and that would be on page 11 of 12.

12 A. Let me get there.

13 Q. And it would be on line 11, and then on

14 EMA-8, page 10, I believe you reflect $968,850. Could

15 you explain why those two numbers are --

16 A. Yes, I'm -- what I had done in the -- what I

17 had reflected in the -- what's shown on my Exhibit EMA-8

18 is appropriate, the $968,000 rather than the $937,000.

19 I believe the 937, what I did originally when I did the

20 adjustment was I had reduced the -- I had reduced the

21 adjustment in half when I -- when I -- when I recorded

22 this amount, I basically just reduced it in half. What

23 I should have done was taken Washington's share of $1.5

24 Million, which is slightly lower because our original

25 request was not $3 Million, it was actually $2.9

0533

1 Million, so I had taken 50% of $2.9 Million rather than

2 $1.5 Million as shown on here. So this $968,000 is

3 actually the appropriate expense, so I actually did

4 understate this. The 937 is actually an understatement

5 by whatever that is, $30,000.

6 Q. Okay.

7 I just have a few questions related to the

8 asset management and information service programs.

9 Let's see, if you could turn to page 19 of EMA-4T, which

10 is your rebuttal.

11 A. Yes, I'm there.

12 Q. On lines 17 and 18 you say that the asset

13 management costs that are included by the Company in the

14 test year "are not merely budgeted costs", correct?

15 A. That's correct.

16 Q. And then you continue to state on lines 19

17 and 20 that:

18 It is founded on sound historical

19 experience administered by employees in

20 the Company with many years of utility

21 experience.

22 Is that correct?

23 A. That's correct.

24 Q. Okay. Is it correct that you have no

25 invoices or payments that substantiate the amount you're

0534

1 proposing to include for asset management?

2 A. I'm trying to think. Not specific invoices,

3 because these are, you know, this is the level of

4 expense that the Company feels is appropriate for 2010.

5 However, you know, these projects have been -- many of

6 these projects included in asset management may be -- we

7 may be labeling them as asset management, but many of

8 these programs have been continued on for several years,

9 and so we have the knowledge and the experience to know

10 what we expect those level of expenses are going to be

11 or what is needed in order to reach the -- reach the

12 benefits associated with the asset management projects.

13 Q. So is it correct that the amounts that you've

14 adjusted for asset management are the amounts taken from

15 the Company's budget?

16 A. They have been expected -- these are expected

17 costs that we have included in our budget and other

18 forecasting means of what we expect these costs to be,

19 yes.

20 Q. On line 20 of your rebuttal or page 20, line

21 11, at the end of that line you say:

22 There are no specific benefits net

23 reduction to expense in the short term

24 through 2010 that the Company can offset

25 against the proposed expenses included

0535

1 in the Company's case. Rather the

2 benefits will be realized through

3 avoiding even greater increases in costs

4 well into the future.

5 Do you see that?

6 A. I do.

7 Q. Does that mean that there will be benefits at

8 some time, but they just won't occur in 2010?

9 A. Mr. Kinney explains I think fairly well in

10 his direct and again in his rebuttal testimony discusses

11 that there are benefits with certain of the pro -- with

12 certain of the projects. But as he -- for -- in the

13 short term, he's -- he specifically states in his

14 testimony that although there are benefits from the

15 projects, there is also some increases in O&M costs so

16 that the net effect in 2010 is actually an increase to

17 O&M expense. As far as savings, what the expectation is

18 is that this will be -- this will be -- these projects

19 allow us to reduce future capital expenditures that

20 would happen, would occur without these types of

21 programs, and there is expectation that with some mature

22 programs that there may be some O&M savings, but the

23 expectation in the future is that these O&M savings are

24 -- what we are really doing is mitigating increased O&M

25 costs in the future. So I don't know that you're, you

0536

1 know, I mean it's difficult to quantify anything that

2 would be lower than where we are --

3 Q. But that would be --

4 A. -- today or in the 2010 testimony.

5 Q. But that would be a yes answer then, right?

6 A. Yes.

7 Q. There would be benefits at some time, but --

8 A. But as it --

9 Q. -- but not in 2010?

10 A. Yes.

11 Q. Okay.

12 Now is the asset management program a new

13 program, or has the Company been implementing it for a

14 number of years?

15 A. I think I actually just covered that.

16 Q. Oh.

17 A. We have, you know, some of these programs

18 have been -- have been occurring over time. We've kind

19 of packaged them and called them asset management --

20 Q. Well, that's what I want --

21 A. -- so that we can --

22 Q. That's what I wanted to --

23 A. Yes.

24 Q. -- to know.

25 A. Yes.

0537

1 Q. You've had them but --

2 A. Yes, we have.

3 Q. -- now you've repackaged them under a new

4 title or --

5 You said you've had them but you've

6 repackaged them under a new title or --

7 A. Well, we just -- we grouped them as a way for

8 the Company to be able to manage all of our asset

9 management or all of our assets, so that's why we've

10 called it asset management is to be able to manage the

11 Company in what makes sense for the business. But

12 again, Mr. Kinney would probably be the best person to

13 specifically ask questions about the projects.

14 Q. Were there any benefits from any of these

15 types of programs, well, let me say were there any of

16 these types of programs that were in place in the year

17 that ended September 2008?

18 A. Yes, and Mr. Kinney discusses in his direct

19 testimony specific projects and dollar savings that are

20 -- that were actually already included in the test

21 period.

22 Q. Okay. So would it be correct that the

23 benefits of the programs that were paid for by rate

24 payers in 2008 would be in part reflected in the year

25 2010?

0538

1 A. As stated in the savings associated with what

2 was in Mr. Kinney's testimony, yes.

3 Q. And would they not be reflected in tests for

4 2008?

5 A. I'm sorry, what, I didn't understand that?

6 Q. Okay, they would be reflected in the year

7 2010, correct?

8 A. Yes, the level of these particular projects

9 that are mature, we, like you said, we've done many of

10 -- some of these things for a period of time, and so we

11 do have some successful mature projects that are in

12 2008, and the benefits with those projects are -- would

13 be reflected in 2008, and those savings would continue

14 along with the expense in the 2010 time frame.

15 Q. If you could turn to page 23 on lines 23 at

16 the bottom to page 24, line 1 at the top, you state that

17 the cost of the information services were in part --

18 A. I'm sorry, am I on the wrong -- oh, I'm

19 sorry, you said line 1, I'm sorry.

20 Q. Yeah, it's a carryover.

21 A. Page 23, oh, line 1 of 24?

22 Q. Right.

23 A. I'm sorry, okay.

24 Q. You say that the cost of the information

25 services were in part you say "for increased labor to

0539

1 support existing applications"; is that correct?

2 A. That's correct.

3 Q. Does supporting an existing application by

4 maintaining it so that it won't fail, does that increase

5 the productivity of the system?

6 A. You know, the labor dollars associated, like

7 you said, are supporting existing applications. For

8 example, our outage management tool for example, those

9 types of savings occurring in the test period would

10 already be reflected, but reflected in that area versus

11 the IS area here. These labor dollars are just

12 supporting, you know, what I'm referring to here are

13 these labor dollars are supporting applications that

14 already exist, and they're as these -- as these

15 applications continue, there's just more IS work that's

16 involved in order to support those applications. I'm

17 not sure if I've answered your question though.

18 Q. Was there a cost benefit analysis of the

19 information services program that was performed?

20 A. There would have been at the time of the

21 applications, the determination to do those projects.

22 But something like outage management for example, has

23 been in place for a while. But when they did the --

24 when they made the decision to make -- to do that

25 project, they would have done analysis on the benefits

0540

1 of that project.

2 Q. So let me reask the question. So if you

3 support an existing application as you say and if you do

4 that by maintaining it so that it won't fail, so that

5 system doesn't fail, does that increase the productivity

6 of that system?

7 A. No, not necessarily. It may just be

8 supporting it to continue -- to allow it to maintain at

9 the level it -- the way that application should work.

10 But Mr. Kensock would probably be the best person to,

11 you know, may be the best person depending on where

12 you're going with this.

13 Q. To determine how we could determine the

14 benefits, so to speak?

15 A. Right.

16 Q. When the Company originally filed this case,

17 you indicated that the cost of the information system

18 was known and measurable; is that correct?

19 A. Yes, the majority of these costs we felt were

20 known and measurable because -- or would be by the time

21 that the -- most of these costs, they -- most of these

22 projects that is included we have either been incurring

23 or will be incurred before the end of the year.

24 Q. But now on page 24 of your rebuttal in the

25 middle of the page you're indicating that the costs need

0541

1 to be reduced for additional information you found out;

2 is that correct?

3 A. That's right. One of the projects, the work

4 management system, is -- the work management system was

5 a Company or was a project that we've had for a long

6 time. It is at basically its end of its useful life, so

7 they could determine, like even though this was a

8 project that was going to occur in 2010, due to the

9 history with this and the experience of our IS group,

10 they knew what these costs -- they were -- they knew

11 what these costs would be. But we have removed, as it

12 says here, and Mr. Kensock can clarify more, the work

13 management system is a project that we've determined to

14 postpone until 2010, it will now be a capital project in

15 2010, and the expense associated with it would not occur

16 until 2011, so we have removed these costs, this

17 particular project, from the cost identified in my

18 direct testimony. And there are some additional dollars

19 that have been included that as 2009 unfolded

20 Mr. Kensock was able to negotiate a better contract

21 price. We were not aware of that reduction obviously in

22 2008, we were not aware of that reduction, so we've

23 built that savings into this case, or I should say in my

24 rebuttal testimony.

25 MR. TRAUTMAN: I think that's all I have,

0542

1 thank you.

2 JUDGE TOREM: All right, counsel, it's now

3 almost 10 minutes to 11:00, Commissioners, I would

4 propose we just take a break until 11:00 and start up

5 again at 11:00 sharp with Mr. ffitch's testimony. We'll

6 see how much that can be tailored into one hour and get

7 an estimate as we go toward 12:00 when we want to take

8 our lunch break, so we'll be at recess until 11:00.

9 (Recess taken.)

10 JUDGE TOREM: All right, thank you all for

11 promptly reassembling, we're back on the record.

12 Mr. ffitch, apparently you're not going to testify,

13 you're going to cross-examine.

14 MR. FFITCH: I would be happy to testify,

15 Your Honor.

16 THE WITNESS: I'll trade you places.

17 JUDGE TOREM: I realize I left you an opening

18 there.

19 THE WITNESS: I will trade you places.

20 MR. FFITCH: Actually maybe I'm not so happy.

21 CHAIRMAN GOLTZ: Someone would like to

22 cross-examine you probably.

23 MR. FFITCH: Your Honor, I apologize for not

24 being here when you asked about our cross estimates, I

25 think they are shorter, we hope to finish by noon, I

0543

1 will make an effort to do that.

2

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

4 BY MR. FFITCH:

5 Q. I have a couple of follow-ups to Staff

6 questioning, Ms. Andrews. You stated in one of your

7 answers to Mr. Trautman that Public Counsel along with

8 Staff had not made any prudence arguments with respect

9 to I believe it's directors and officers liability?

10 A. Yes.

11 Q. Now I'm not asking you a legal question here,

12 but isn't it the case that the Commission can disallow

13 expenses from recovery for reasons other than

14 imprudence?

15 A. Absolutely.

16 Q. And on this next question, while it's not --

17 I'm not contending that this is precedential, but you're

18 aware, are you not, that Avista agreed to a 50/50 split

19 of directors and officers liability costs in a previous

20 rate case settlement; are you aware of that?

21 A. Yes, we have done that.

22 Q. For settlement purposes?

23 A. For settlement purposes, mm-hm.

24 Q. My next question is also a follow-up to Staff

25 questions and your answers about incentive payments, and

0544

1 you were asked about an apparent declining trend in the

2 payment of incentive compensation, and you stated that

3 the incentive compensation would or might increase

4 because the payments are tied potentially to future

5 decreases in O&M that are caused by employees and

6 thereby entitling them to incentive payments; is that

7 correct?

8 A. Right, it would be tied to that particular

9 year in plan.

10 Q. All right. And if those incentive payments

11 are made in the future and are related to future

12 decreases in O&M, how are the reduced future O&M costs

13 reflected in the test year ended September 30th, 2008?

14 A. My point in making that statement was simply

15 that it was -- I think it's difficult to determine today

16 that just because there has been a trend of decreases

17 that that's necessarily going to continue in future --

18 in future incentive plans. My intent of that was to say

19 that our plan is based on accomplishing O&M savings.

20 That's before any payouts are made. So if a payout --

21 if reduction to O&M occurs, then that's a benefit to

22 customers. So whether that be now or in the future, I

23 guess what I meant is today -- the incentive plan that

24 we had in 2008 for example had reduced O&M savings that

25 occurred, and that continues to benefit customers

0545

1 because our base costs are lower, those O&M base costs

2 are lower in the current year, and therefore that means

3 that lower savings continues in future years.

4 Q. But isn't it the case that Avista is

5 disagreeing with Staff's position and with Public

6 Counsel's position which recognizes the downward trend

7 by arguing that the incentive compensation recognized

8 for rates in this case be somewhat higher based on an

9 assumption or a projection that some time in the future

10 those incentive payments will go up based on future O&M

11 savings; isn't that the case?

12 A. No, what I -- the -- we are simply trying to

13 incorporate an average so that we can normalize what

14 these type of expenses can be. It could very well be

15 that in the next case there could be 100% payout in the

16 plan because we met, we have met the 100% plan targets.

17 In that -- so therefore in the next year's case for

18 example, if we have, you know, it would -- the average

19 would probably cause a reduction to those incentive

20 expenses that will be included in the test period. And

21 so all that we are trying to do is normalize those costs

22 as we go forward because I'm -- my assumption would be

23 that if it was the other direction there would have

24 been, you know, no argument for doing an average if it

25 was reducing the incentive expense that had been

0546

1 included in the test period.

2 Q. You were also asked a number of questions

3 about the asset management program, and I would like to

4 go back to that area now.

5 A. Okay.

6 Q. Could you please turn to page 21 of your

7 rebuttal testimony, which is marked as EMA-4T.

8 A. Page 21?

9 Q. Page 21 starting at line 4.

10 A. Yes.

11 Q. Are you there?

12 A. Yes.

13 Q. And at that place you acknowledge that in

14 Avista's recent rate case in Idaho, cost savings were

15 recognized in connection with the asset management

16 program, correct?

17 A. Yes, I did.

18 Q. And at line 11 on this page, Avista through

19 your testimony offers to make some offsets sort of in

20 recognition of what occurred in Idaho, and you describe

21 that as an alternate approach to this adjustment,

22 correct?

23 A. No, actually that's not correct. I didn't --

24 we didn't project in these offsets because of what

25 happened in Idaho. In Idaho as all party settlement

0547

1 there's a -- as normal give and take during settlement

2 process, we agreed to some reductions for asset

3 management. We still hold that we believe that there

4 are not any specific reductions or offsets that needed

5 to be included in the case, and I think Mr. Kinney was

6 very clear in that. There's actually expected increases

7 in O&M. What we did for an alternate approach was to

8 include because of Staff's and Public Counsel's concerns

9 about offsets that if this Commission decides that

10 offsets are appropriate in order to include these

11 expenses, then I have made an attempt to include some

12 savings so that rather than -- and this particular case

13 is a perfect example of throwing the baby out with the

14 bath water. Rather than throwing out the entire

15 program, you know, if in order to get these expenses

16 improved in rates we need some sorts of offsets, I tried

17 to attempt some costs to do that.

18 Q. All right. And you're describing this as

19 your alternate approach?

20 A. Yes, I did not actually include these

21 reductions in my actual rebuttal revenue requirement.

22 Q. All right. And they're listed below in items

23 A, B, and C at the bottom of page 21, right?

24 A. That's correct.

25 Q. And if we turn to the top of page 22, you'll

0548

1 see that those add up to $231,000?

2 A. Yes, that's correct.

3 Q. Those are generally O&M reductions; is that

4 right?

5 A. Yes.

6 Q. It's the case, however, isn't it, that you

7 would be treating these as reductions to rate base for

8 rate making purposes in this case, not as O&M

9 reductions; is that right?

10 A. No, no, that's not true. The asset

11 management programs that are listed here in this asset

12 management expense, these are expense -- the asset

13 management that I've included into assets is 2010 O&M

14 expenses, so there is no reduction here associated with

15 capital.

16 Q. So these are being treated as dollar for

17 dollar O&M reductions?

18 A. Yes, they are.

19 Q. And could you please turn to Table 4 on page

20 23 of your testimony.

21 A. Yes.

22 Q. And there in the middle column we see

23 reference to the heading less available offsets, and we

24 see the $231,000 figure there also, do we not?

25 A. Yes.

0549

1 Q. And then right above the table you state that

2 supporting information for these alternate adjustments

3 are provided at Exhibit Number EMA-8, page 13.

4 A. Yes.

5 Q. Could you please turn to that exhibit.

6 A. Yes, I can.

7 Q. Do you have that?

8 A. I do.

9 Q. And if we look on the left-hand side in the

10 narrative text, we see references to the three areas

11 where you've offered reductions, substation,

12 distribution, and transmission, correct?

13 A. That is correct.

14 Q. And for each of these items, it states that

15 certain percentages or estimates are "built in for

16 settlement purposes", correct?

17 A. Oh, I'm sorry, that should have -- that

18 should have said for alternate purposes, not for

19 settlement purposes. Thank you for the clarification.

20 Q. When was this exhibit prepared?

21 A. We had -- I had prepared something similar to

22 this during our -- when we had some settlement meetings

23 with Public Counsel and Staff, because again for

24 purposes of settlement we had tried -- we had attempted

25 to try to -- we had attempted to address some of the

0550

1 concerns by Staff and Public Counsel during the

2 settlement process.

3 Q. So does this mean that Avista is now

4 negotiating with the Commission --

5 A. No.

6 Q. -- with regard to this adjustment?

7 A. No, it's just an error in the use of this,

8 obviously, the use of this exhibit. But I still stand

9 to, you know, it's an alternate approach. If the

10 Commission feels that it's appropriate to include some

11 reductions in cost savings, this we believe, you know,

12 if there are any savings, there would be no more than

13 what we have proposed in this alternate, alternate page.

14 Q. What relationship does the amount of these

15 estimated savings bear to the amounts agreed to in the

16 Idaho case?

17 A. They actually don't have any relationship to

18 the Idaho case. I didn't use that in making my

19 determination for these costs. That was an amount that

20 was brought forward by the Idaho staff came up with

21 their own percentage and calculations. I did not use

22 that in trying to come up with my own. If they're

23 comparable, it's not out of -- I don't believe that they

24 are, but if they are comparable, it's just out of -- I

25 didn't use the staff's proposal, Idaho staff's proposal.

0551

1 Q. Are these amounts proportionately larger or

2 smaller than the Idaho agreement; do you know?

3 A. I actually think these might be slightly

4 larger than what was agreed to in Idaho. I'm not sure.

5 They used a different -- they used a different method I

6 think of trying to get to their assumptions of what

7 those estimates might or what those benefits might be.

8 I just -- I simply looked at and worked with Mr. Picket,

9 who is our asset management program, he's basically the

10 expert in the model, and I worked with him to -- even

11 though we didn't believe there was any, you know, as we

12 stated in our testimony to build in, we just -- this --

13 we figured we were being very conservative, err on the

14 side of overstating the benefits rather than

15 understating to help concerns of Staff and Public

16 Counsel.

17 Q. All right. So these are essentially just

18 estimates for settlement purposes; is that right?

19 A. No, not for settlement purposes. They are --

20 Q. For alternate purposes?

21 A. -- for the alternate purposes, yes.

22 Q. And there's no other analysis in the record

23 in exhibits or workpapers to support these amounts?

24 A. No, because I think our direct and our

25 rebuttal testimony stands on itself really that we don't

0552

1 believe there are any efficiencies that should be built

2 in or benefits that should be built in for the test

3 period for these costs. We just simply are trying to

4 rather than remove the entire, give the Commission a

5 place to land rather than removing the entire asset

6 management request. It gives them a place to take into

7 consideration maybe of both sides.

8 Q. All right.

9 Now I would like to move on to the injuries

10 and damages issue, and if you could turn back to

11 testimony, your rebuttal testimony, Exhibit EMA-4T, page

12 38, please.

13 A. 38?

14 Q. Page 38 beginning at line 15, question, and

15 in that testimony you assert that or state that Public

16 Counsel witness Mr. Larkin made an error in calculating

17 the injuries and damages reserve, correct?

18 A. Yes.

19 Q. And essentially there you're pointing out

20 that he used an incorrect trial balance and did not

21 include the contra accounts for this issue; is that

22 right, the summary?

23 A. Right, not that he used an incorrect trial

24 balance, just that in that trial balance, we had

25 provided him a trial balance for the months that he had

0553

1 asked, and he picked up one account, but directly below

2 that he missed the payment, injury and damage payment

3 account.

4 Q. All right. Can you please turn to Exhibit

5 19-X, EMA-19-X. This is Avista's response to Public

6 Counsel Data Request 480.

7 A. Yes.

8 Q. And do you have that?

9 A. Yes, I do.

10 Q. And you prepared that response, or actually

11 you're listed as the witness for that response.

12 A. Yes.

13 Q. Correct?

14 A. Yes.

15 Q. And here you were asked to provide the

16 injuries and damages reserve monthly balance for a

17 certain time period, correct?

18 A. That's correct.

19 Q. And if we turn to page 2, we see that

20 information was provided for FERC account 228-200,

21 correct?

22 A. Yes.

23 Q. And this was dated August 10th, one week

24 before the date of the Staff, Public Counsel, and

25 Intervenor testimony, correct?

0554

1 A. Actually I think that's 8/01, I think it

2 actually might be August 1st. I'm not completely sure,

3 but I would -- you may be correct, I'm sorry. It's our

4 fault, we have 8-0-1-0 so I'm not exactly sure if it's

5 the 1st or the 10th, but I'm not sure it matters.

6 Q. In either event, it's in advance of the --

7 A. Yes.

8 Q. -- date of the --

9 A. Yes.

10 Q. -- testimony?

11 A. Yes.

12 Q. And your name is Elizabeth Andrews, not

13 Andress, correct?

14 A. Yes. Did really well with this data request

15 I see. That's what happens after you have about 800 of

16 these come through.

17 Q. Does this response reflect the correct

18 injuries and damages reserve balance for the requested

19 time period, September 2007 through 2008?

20 A. No. We realized when we received the E-mail,

21 which I know you have coming up here, that we -- first

22 we realized that we had missed a month, and then in

23 reviewing this realized that we had misunderstood the

24 question and answered it as a change in the monthly

25 accrual balance rather than the -- rather than the

0555

1 actual net reserve.

2 Q. All right, so let's turn to EMA-20-X, which

3 you just referred to.

4 A. Right.

5 Q. And this is the E-mail where we -- E-mail

6 exchange where we identified a problem with the

7 response, correct?

8 A. Yes, the request here identified that we had

9 provided -- we had missed a month. It was actually in

10 review of after this had been sent we realized, we

11 actually did realize that we had provided the

12 information incorrectly and then provided a supplemental

13 response later correcting that, but obviously it was

14 after Mr. Larkin's testimony.

15 Q. Correct.

16 A. Yes.

17 Q. So if we go to Exhibit EMA-21-X, this is --

18 I'm sorry, I'll let you turn to that.

19 A. Yes, I am there I think.

20 Q. This is now the revision to PC 480 that was

21 promised in the E-mail, and if we compare the two

22 responses, this is provided on August 20th after,

23 because you indicate Public Counsel testimony was filed,

24 Mr. Larkin's testimony was filed, correct?

25 A. That is correct.

0556

1 Q. And this response looks different than PC

2 480, doesn't it? This now includes, if we turn to page

3 2 of the exhibit, this now includes the contra accounts

4 and the additional information that we've been

5 discussing, right?

6 A. That's correct, however -- that is correct,

7 however, what Mr. Larkin says that he used in his

8 testimony is that he used the Company's trial balance,

9 so he did actually have that information available to

10 him through the data request that he used, which was

11 provided on May 26, 2009. And he used the trial balance

12 which lists out on a monthly basis the one account that

13 he used, which was the accumulated provision for injury

14 and damages, and directly below that account that he

15 used in order to determine his balance is the contra

16 account, which is stated -- which is labeled payment

17 refund injury and damages. So he did have the material

18 in order to correct this, and I, you know, it is, you

19 know, we did correct it. But you're right, as far as

20 correcting this adjustment, the injuries and damages we

21 had, it was after the fact.

22 Q. All right.

23 A. But he did have the trial balance to actually

24 create it himself.

25 JUDGE TOREM: Counsel, it appears to me that

0557

1 the issue is now the correct numbers have been supplied,

2 and I imagine that they will be corrected in any briefs

3 that come in at the end. Whatever positions you're

4 finally going to take and the Company's finally going to

5 take on this adjustment will come in in the briefs based

6 on accurate numbers.

7 MR. FFITCH: Yes, Your Honor, and in fact if

8 I could just sort of wrap that point up with the

9 witness.

10 BY MR. FFITCH:

11 Q. If we look at your testimony, and you may

12 have to point me to it, I believe it's on page 39,

13 Ms. Andrews, you actually make that calculation, do you

14 not, while not conceding the --

15 A. Yes, I do.

16 Q. -- adjustment, beginning at line 11 you

17 calculate what the correct adjustment would be if the

18 Commission accepted Public Counsel's position?

19 A. Yes.

20 MR. FFITCH: Thank you.

21 MR. MEYER: May I inquire, Your Honor, Public

22 Counsel submitted a response to Bench Request Number 2,

23 and in that it provided a revised revenue requirement.

24 Can we get some clarification as to whether or not that

25 revised revenue requirement acknowledges essentially the

0558

1 correction that we've just been talking about or not?

2 MR. FFITCH: Your Honor, I can make inquiry

3 and determine whether or not it is included, and I will

4 report that to the Bench.

5 JUDGE TOREM: Thank you.

6 MR. MEYER: Because that will have a bearing

7 on cross that I may or may not have this afternoon,

8 thank you.

9 MR. FFITCH: May I just have a moment, Your

10 Honor.

11 Your Honor, those are all the questions that

12 I have for Ms. Andrews. We have some additional

13 questions on another issue, and those will be asked by

14 Ms. Shifley of Public Counsel.

15

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

17 BY MS. SHIFLEY:

18 Q. Good morning, Ms. Andrews.

19 A. Good morning.

20 Q. In your rebuttal testimony you address board

21 of director fees and meeting expenses; is that correct?

22 A. Yes, I do.

23 Q. Okay. I'm just going to ask you a couple

24 questions about those two items.

25 A. Okay.

0559

1 Q. If you could refer to Exhibit EMA-11-X,

2 Avista's Corporate Governance Guide.

3 A. Yes.

4 Q. And this is Avista's most recent Corporate

5 Governance Guide, correct?

6 A. I believe so.

7 Q. And on page 2 under the heading compensation

8 of directors, does the guide state that directors

9 compensation is set by the board itself?

10 A. Yes, that is true. They do hire an outside

11 firm to help them analyze that data, but that is true.

12 Q. So the directors though ultimately decide how

13 much they're going to be paid?

14 A. Yes, it's brought in front of them, but as I

15 said, they do -- well, I'll leave it at that, I already

16 provided that response.

17 Q. And then turning to Exhibit EMA-10-X, Avista

18 response to a data request.

19 A. Yes.

20 Q. So this data request asked Avista to identify

21 the amount of directors fees included in the test year

22 for Washington as well as some previous years; is that

23 correct?

24 A. Yes.

25 Q. And the chart provided and the response shows

0560

1 how much has been included in the current test year,

2 correct?

3 A. Yes.

4 Q. And those are $544,000 for electric and

5 $150,000 for gas?

6 A. Yes, that's correct.

7 Q. And the chart shows that the director

8 compensation has increased in the last five years; is

9 that correct?

10 A. Well, it's not necessarily increased just

11 because of incentive or, excuse me, director fee

12 increases. Some of this variability occurs because of

13 changes in directors and timing of directors.

14 Q. But it looks like just roughly from looking

15 at it in 2004 to the current period it's increased by

16 over 50% would you say?

17 A. Well, what I'm saying is I can't answer

18 whether it was an increase in fees or just a change in

19 the directors themselves, maybe a timing of one coming

20 in, one coming out. There could be a different number

21 of directors in each year. So I wouldn't characterize

22 it as like a 50% increase in like fees specific maybe to

23 individual directors, but I'm not sure the --

24 JUDGE TOREM: Ms. Andrews --

25 A. So I guess based on the numbers, yes, I mean

0561

1 there's an increase.

2 Q. Would you now please turn to page 32 of your

3 rebuttal testimony, Exhibit EMA-4T.

4 A. I'm sorry, would you repeat that.

5 Q. Page 32.

6 A. I'm there.

7 Q. Have you got it?

8 A. Uh-huh.

9 Q. And on line 22 and 23 you state that Avista's

10 directors provide overall guidance of the utility to the

11 benefit of customers, correct?

12 A. That's true.

13 Q. And you don't mention anywhere in your

14 testimony any service or obligation that the directors

15 may have either to the interests of shareholders or

16 themselves?

17 A. No, I do not.

18 Q. And could you just, you know, if it's

19 necessary to refer back to EMA-11-X, please do so, but

20 who nominates the board of directors?

21 A. The shareholders.

22 Q. It's my understanding that it's actually the

23 current board members that nominate, and then but the

24 shareholders then elect the directors; is that correct?

25 A. Yes, it's actually I think there can be a

0562

1 process for nomination, but then yes, they are -- they

2 go through a process of specific requirements in order

3 to be nominated, and then they are elected by

4 shareholders.

5 Q. And customers or rate payers don't have any

6 vote for the board of directors; is that correct?

7 A. That is correct, unless they happen to be a

8 shareholder.

9 Q. Okay. And just turning back to EMA-11-X

10 again, the Corporate Governance Guide, turning to the

11 compensation of directors paragraph on the second page,

12 it's about two thirds of the way down.

13 A. Yes.

14 Q. States that directors receive a part of their

15 compensation in stock; is that correct?

16 A. Yes.

17 Q. And in that guide, would you please read the

18 guide's explanation for this payment structure beginning

19 at, the board, which I believe is the third sentence.

20 A. (Reading.)

21 The board believes that it is important

22 to align the interests of the board with

23 the company shareholders, and

24 accordingly apportioned directors

25 compensation will be provided and held

0563

1 in company stock.

2 Q. Okay. And now could you please turn to

3 Exhibit EMA-13-X, and this is Avista's most recent proxy

4 statement.

5 A. Yes, that's correct.

6 Q. And turning to page 39.

7 A. I assume you mean 39 at the top or 39 at the

8 bottom?

9 Q. 39 at the bottom as it was numbered

10 originally.

11 A. Yes, I'm there.

12 Q. In the fourth paragraph down this states that

13 directors are required to make a minimum investment in

14 Avista Corporation; is that correct?

15 A. That's correct.

16 Q. What is the amount of the investment?

17 A. $200,000 or 9,500 shares.

18 Q. Was that amount recently increased?

19 A. I believe it was. I believe -- I believe it

20 shows in the 2008 proxy that that was -- that that was

21 increased.

22 Q. Okay.

23 A. I believe that to be true.

24 Q. And you just referred to the 2008 proxy which

25 is EMA-14-X?

0564

1 A. Yes.

2 Q. And this shows that increase that you just

3 mentioned on page 38?

4 A. Yes, at the bottom, yes.

5 Q. Does it show that this ownership requirement

6 went from 5,000 shares in early 2007 to 9,500 currently?

7 A. Yes, that's what it shows.

8 Q. And in the 2009 proxy statement at page 39

9 where we just were, the proxy statement gives an

10 explanation for why the amount was increased beginning

11 at the second to last paragraph?

12 A. Yes.

13 Q. Beginning with the ownership expectation,

14 would you just read that for me?

15 A. (Reading.)

16 The ownership expectation illustrates

17 the board's philosophy of the importance

18 of stock ownership for directors in

19 order to further strengthen the

20 commonalty of interest between the board

21 and shareholders. The governance

22 committee conducts annual review to

23 confirm that director holdings meet the

24 ownership expectations. All directors

25 are currently in compliance based on the

0565

1 years of service completed on the board.

2 Q. Thank you. And is it correct to say that the

3 directors receive the quarterly dividends like any other

4 shareholder?

5 A. I would hope so.

6 Q. And that the directors are responsible for

7 approving the amount of dividend payouts?

8 A. Yes, I think it is at the suggestion of

9 company management.

10 Q. In your testimony you mentioned that the

11 benefit or you mentioned that directors provide a

12 benefit to customers, but you don't mention any specific

13 non-utility director functions or activities?

14 A. No, I do not.

15 Q. And but the board of directors or the

16 directors serve on the board of Avista Corporation, not

17 the Avista utility specifically?

18 A. Well, Avista Corporation is Avista Utilities,

19 it's not a subsidiary of.

20 Q. But does Avista Corporation have non-utility

21 affiliates and subsidiaries?

22 A. Yes, through Avista Capital we do have

23 additional subsidiaries that roll up to the corporation.

24 Q. So do the directors provide guidance not just

25 to the utility but also to affiliates and subsidiaries?

0566

1 A. Yes, they do.

2 Q. And turning now to the 2009 proxy statement

3 which we're already at, but please go back to page 6.

4 Are you there?

5 A. Yes, I am.

6 Q. In the second to last paragraph, does it

7 state that members are or that the board of directors is

8 encouraged to attend all shareholder meetings and that

9 they have in fact done that?

10 A. Yes.

11 Q. And at the bottom of the first paragraph on

12 the next page it states that the chairman of the board

13 presides at shareholder meetings; is that correct?

14 A. Yes.

15 Q. And the following paragraph, last sentence,

16 states that the lead director is available for

17 communications in consultation with major shareholders?

18 A. I can't find that, but yes, I do believe that

19 to be true.

20 Q. And then I don't know if you need to refer to

21 pages 43 through 50 of the proxy statement, but you

22 could just generally answer for us that the board is

23 responsible for considering shareholder proposals; is

24 that correct?

25 A. That is correct.

0567

1 MS. SHIFLEY: Your Honor, I'm now going to

2 ask a couple of questions that refer to a confidential

3 exhibit, but I believe that we've spoken with opposing

4 counsel and worked out a way where we can ask some

5 questions about that exhibit without closing the hearing

6 room.

7 MR. MEYER: That's fine, we've talked about

8 it.

9 JUDGE TOREM: All right, well, let's proceed

10 as agreed, and we won't have to close the hearing room.

11 MS. SHIFLEY: All right.

12 BY MS. SHIFLEY:

13 Q. Turning now to EMA-16-XC, these are minutes

14 from a recent meeting of the board of directors; is that

15 correct?

16 A. That's correct.

17 Q. And these minutes show some items that the

18 board took up during the meeting; is that correct?

19 A. That's correct.

20 Q. And just turning to page 2, it shows that

21 there was a directors scholarship update.

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. And on page 3 it shows that the board

0568

1 considered a dividend declaration?

2 A. That's correct.

3 Q. And on page 4 shows that they received a

4 portfolio strategies presentation?

5 A. Yes.

6 Q. And turning to the last page, it shows that

7 they also received a subsidiary update?

8 A. Correct.

9 JUDGE TOREM: Ms. Shifley, let me clarify

10 that these are the pages you're referring to at the

11 bottom?

12 MS. SHIFLEY: Yes, it's how the exhibit was

13 originally numbered and not the exhibit numbers on the

14 top.

15 BY MS. SHIFLEY:

16 Q. So would it be accurate to say that this

17 reflects that directors perform some duties and address

18 some issues that are related to their own interests as

19 well as those of the shareholders and non-utility

20 subsidiaries and affiliates?

21 A. Yes, that would be true. And although the

22 Company believes that these costs should be recovered in

23 full, we are not opposed, as I explained in my

24 testimony, of a 90/10 sharing perhaps for these types of

25 expenses. And this would be no different than what we

0569

1 do for our senior officers, we do allocate a 90/10

2 sharing for our senior officers between utility and

3 non-utility, and I would not expect that our directors

4 would spend any more time on subsidiary operations than

5 our own senior officers would, and I don't believe the

6 allocation for senior officers between utility and

7 non-utility has been questioned in this case by any

8 party.

9 Q. I now want to ask you a couple of questions

10 related to the board of directors meetings cost.

11 A. Okay.

12 Q. Avista's included 100% of Washington

13 allocable costs in this case; is that correct?

14 A. That's correct.

15 Q. Would you please turn to page 32 of your

16 rebuttal testimony, Exhibit EMA-4T.

17 A. I'm sorry, would you repeat the page.

18 Q. 32.

19 A. I think I'm there, yes, I'm there.

20 Q. And you state here that the meeting costs are

21 a necessary expense of doing business that ultimately in

22 your -- the provision of safe, reliable, and efficient

23 service to Avista's customers?

24 A. Yes, thank you.

25 Q. Would you please refer to Exhibit 17,

0570

1 EMA-17-X.

2 A. Yes, I'm there.

3 Q. This is a response to a Staff data request?

4 A. Yes.

5 Q. And it asks that you provide all costs

6 included in the test year related to board meetings?

7 A. Yes.

8 Q. And the specific costs are itemized in

9 Attachment A of the response; is that correct?

10 A. Yes, they are.

11 Q. Okay. Would you please turn to the first

12 page of Attachment A.

13 A. Yes, I'm there.

14 Q. And here it lists under the first item in

15 this account shows that $12,138 were included for meals

16 at the Hyatt Regency in Washington D.C. during the 2007

17 meeting?

18 A. That's what it says. I'm not sure totally

19 the components of that. I think if I remember, I

20 actually think this is one that we actually reviewed,

21 and this one might be where there were some portions of

22 not only just meals, but there might have been some

23 additional expenses associated with the actual meeting

24 itself and equipment and that sort of thing, but I'm not

25 sure without having the invoice in front of me, but I

0571

1 would agree that's what it says.

2 Q. But there is another item for the Hyatt

3 Regency that is $19,000 also?

4 A. Yes, that's what it says.

5 Q. And then there's also a catered lunch if you

6 go down a few items, it states catering by Avalon for a

7 board of directors lunch at $2,466.

8 A. Mm-hm.

9 Q. Is that correct?

10 A. Yes.

11 Q. And this also shows just going two items down

12 that $398 has been included for tickets for the

13 directors to the D.C. International Spy Museum?

14 A. That's correct.

15 Q. And at the bottom of the first page, it shows

16 that in 2008 Avista charged two amounts for a deposit to

17 a dinner at the Arborcrest Wine Cellars for a total

18 deposit of it looks like $3,000, if we see these two

19 deposits it looks like a total of $2,500; is that

20 correct?

21 A. That's correct. You know, often some of

22 these types of meetings are not just -- we're not

23 talking about just the 10 directors, so it may include

24 officers and other employees of the Company. I don't

25 know that without -- I mean I don't know how many

0572

1 numbers there we're talking about. I know in particular

2 one of the board meetings there was at least 40 people

3 attending some of these meetings, so it's difficult to

4 know exactly the components. You have mentioned a few

5 items like the Spy Museum for example, you know, I did

6 go through this and analyze this, and, you know, of --

7 there are in total here $96,000 worth of costs, and I

8 did go through there, and there's at least -- there are

9 $5,000 that I should have recorded to non-utility that I

10 did miss and even in my rebuttal case. However, for

11 Washington's share of those costs that's $2,400 electric

12 and $600 gas that I would agree should be charged to

13 non-utility. As I also stated in my rebuttal testimony

14 that the Company would -- is not opposed to a 90/10

15 sharing of these costs and would -- by doing that would

16 eliminate these types of costs in the future.

17 Q. But just going back to my last question, it

18 does look like $2,500 was included for a deposit on a

19 dinner at the Arborcrest Wine Cellars?

20 A. Yes, they often hold their meetings in other

21 places, and I know typically they get fairly good deals

22 for the locations when they do them in advance.

23 Q. And just turning to page 2 of Attachment A,

24 first item shows that $1,986 was included for a dinner

25 at the Davenport Hotel?

0573

1 A. Yes.

2 Q. And then it also looks like a few items down

3 under miscellaneous that gifts for the directors were

4 included from Adventures in Advertising?

5 A. Yes, these are the types of dollars I

6 included in the $5,000 that I just stated I should have

7 removed, Washington's share of that being $2,400

8 electric, $600 gas.

9 Q. That's about $1,000 for gifts to the

10 directors?

11 A. That was included in that, yes.

12 Q. And then again we see another charge for

13 reserving the Arborcrest Wine Cellar for a venue for a

14 board dinner?

15 A. Yes. Again, as I mentioned, when they hold

16 these meetings, they have to hold them somewhere on

17 another facility, so typically they have them off site.

18 This isn't one location.

19 Q. I'm just going to walk through a couple more

20 of these costs.

21 A. All right.

22 Q. It shows that there was $8,750 put on the

23 corporate credit card for Valentine's Day candy for the

24 board?

25 A. Yes.

0574

1 Q. And a $75 gift, crystal gift, for a retiring

2 director?

3 A. Yes.

4 Q. And at the bottom of page 2, it shows that

5 $1,000 was included for a special performance by the

6 Lake City Playhouse?

7 A. Yes.

8 Q. And on the last page it shows that there were

9 two deposits made for a cruise on Lake Coeur D'Alene?

10 A. Yes, that's true. Again, there was a meeting

11 held, and that's where it was located.

12 Q. Okay, so it was located on a cruise boat?

13 A. Well, Coeur D'Alene does have a small cruise

14 boat. I know that in particular had like -- I think had

15 about 40 people there.

16 Q. So there were two installments of $800 for

17 the cruise boat?

18 A. I believe that to be correct.

19 Q. And Avista did say in its response, turning

20 to page 1 of the actual response, not the attachment any

21 more, that it did remove one cost; is that correct?

22 A. The $1,900, is that what you're referring to?

23 I'm not sure what you're --

24 Q. Yes.

25 A. Actually that's what I'm clarifying. Several

0575

1 of the items you mentioned, the $1,900 for first class

2 air fare were dollars that is a part of that $5,000 that

3 I mentioned that I did not actually remove from my

4 rebuttal adjustments.

5 Q. So --

6 A. Made for this.

7 Q. When you did remove an item though, it was

8 just 19, it was $1,900?

9 A. In that data request, what we said is that

10 going forward we have already worked with the parties

11 that do the accounting to make sure that any future

12 first class air fare is charged to non-utility.

13 Q. Okay.

14 A. So that was just saying that in the future we

15 would do that, and we were recognizing that $1,900 in

16 the test period was -- it was an estimate on our part

17 after the fact on how much that would be.

18 MS. SHIFLEY: That's all I have, thank you

19 very much, Ms. Andrews.

20 JUDGE TOREM: Mr. ffitch, does that conclude

21 Public Counsel's questions?

22 MR. FFITCH: Yes, it does.

23 JUDGE TOREM: All right, it's now about 12

24 minutes until noon, Commissioners, let's take up our

25 inquiries and depending on how much we have we may go

0576

1 back to redirect before lunch.

2 (Discussion on the Bench.)

3 JUDGE TOREM: Or maybe we'll take lunch now

4 and come back with our questions, we'll see.

5 CHAIRMAN GOLTZ: We're thinking maybe we can

6 take a break and come back right at 1:00, will that

7 work?

8 JUDGE TOREM: That will work for everybody if

9 we say it will work for everybody, won't it. All right,

10 so we'll take a lunch recess now, we'll come back at

11 1:00, we'll have Ms. Andrews ready for cross-examination

12 by the Commissioners, and then we'll have the redirect,

13 see you at 1:00.

14 (Luncheon recess taken at 11:50 a.m.)

15

16 A F T E R N O O N S E S S I O N

17 (1:00 p.m.)

18 JUDGE TOREM: All right, good afternoon, it's

19 now a little after 1:00, we're ready to go back on the

20 record. One housekeeping item, David Johnson of the

21 Northwest Energy Coalition let me know as we were going

22 to the lunch break he's had an opportunity to speak to

23 his client, and Steve Johnson, the issue we brought up,

24 your client apparently has no objection?

25 MR. JOHNSON: That's correct, Your Honor, and

0577

1 no relation either.

2 JUDGE TOREM: We talked about the no relation

3 factor yesterday, so Mr. Steve Johnson, you're still

4 employed.

5 MR. FFITCH: Your Honor, may I just be heard

6 also. I would just like the record to reflect that

7 Stephanie Johnson who is currently employed by Public

8 Counsel is not related to Mr. Steve Johnson or to

9 Mr. David Johnson.

10 JUDGE TOREM: She proudly announced that

11 previously, it's now a matter of record.

12 MR. FFITCH: Nor to the Mr. Johnson who's the

13 witness for the Company.

14 JUDGE TOREM: All right, let's see if we can

15 get five next case.

16 All right, we're now ready for the

17 Commissioners to begin their cross-examination, so,

18 Ms. Andrews, as we discussed, I hope you had a good

19 lunch, keep it in.

20 Commissioners, Commissioner Oshie, we'll let

21 you have the first shot at this witness after lunch.

22 COMMISSIONER OSHIE: Thank you, Your Honor.

23

24

25

0578

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

2 BY COMMISSIONER OSHIE:

3 Q. Ms. Andrews, I hope you had a good lunch.

4 A. It might have been better.

5 Q. I suppose it could have been better, that's

6 right, under different circumstances it probably would

7 have been much better.

8 I want to just focus on maybe one area, maybe

9 two, we'll just see how it goes, but you made some

10 statements in your cross-examination by I think at this

11 time it was by Mr. Trautman, and you were talking about

12 the D&O coverage for the senior officers and management

13 of the corporation, and maybe you can clarify at least

14 what -- how do you define a senior officer, and who are

15 they at least in general terms, who are you describing

16 when you use the term senior officer?

17 A. Actually our senior officers are actually

18 listed as Senior VP I think is in most of their titles.

19 So who I'm referring to for the most part is obviously

20 our CO, Mr. Scott Morris, or CFO, at this time

21 Mr. Thies, our Senior VP Marian Durkin, which escapes me

22 her exact title but she's our attorney, corporate

23 attorney for the Company.

24 MR. MEYER: Don't forget Dennis.

25 A. And Dennis Vermillion of course, our utility

0579

1 President.

2 Q. And the Company's recommendation is a 90/10

3 split of the costs of providing the directors coverage,

4 the D&O coverage; is that right?

5 A. That's correct.

6 Q. And as I understood it, it's really based

7 upon the Company is acknowledging that at least some of

8 the duties of any of the senior officers may not have

9 much to do with the utility; is that my understanding,

10 or did I not really get that right?

11 A. You mean maybe less to do with non-utility?

12 Q. Yes, I think that's what I meant.

13 A. Okay, yes.

14 Q. I meant that the 10% that's not in rates --

15 A. Yes.

16 Q. -- doesn't have anything to do with the

17 utility, at least in the -- at least that's the way the

18 Company is trying to make a cut at it?

19 A. Right.

20 Q. Okay.

21 A. Right.

22 Q. As far as, you know, the D&O coverage, isn't

23 -- I mean that's -- I'm going to -- that's just

24 basically insurance coverage, is it not?

25 A. Yes, it is.

0580

1 Q. And the cost of insurance is usually

2 commensurate with what factor?

3 A. I'm not sure what you mean.

4 Q. Well, I mean what does risk have to play in

5 determining the cost of insurance? Does it have any

6 role in your -- first of all, let me ask one question

7 before we go there. Did you negotiate the agreement on

8 the D&O insurance contract?

9 A. I did not, but obviously our risk manager,

10 Rich Stevens, has to play a part in that.

11 Q. And are you aware of the negotiations that

12 took place when that coverage was purchased by the

13 Company?

14 A. No, I am not.

15 Q. Okay. Do you see risk as playing any factor

16 at all in determining how much the cost of that

17 insurance should be?

18 A. I would assume that there would be some risk

19 obviously, that an insurance company would look at the

20 individual company that is asking for this coverage or

21 working with that insurance company, I would assume that

22 some risk would play into that.

23 Q. All right. And is there -- can you -- are

24 you familiar with the subsidiaries of Avista Utilities?

25 A. Yes, I am.

0581

1 Q. Are you familiar with the subsidiaries of

2 Avista Capital?

3 A. Yes, I am.

4 Q. Are all the subsidiaries of Avista Utilities,

5 are they all but Avista Capital -- excuse me, how to put

6 this. Is Avista Capital the subsidiary that holds the

7 remaining subsidiaries of Avista Utilities?

8 A. Yes, it is, other than like the accounts

9 receivable, some of those are just like a financing

10 tool, but yes.

11 Q. And can you describe the major subsidiaries

12 under Avista Capital and what they do?

13 A. One of the major, well, really the one

14 remaining that seems to have much activity any more is

15 Advantage IQ, and I can't really speak too much for

16 Advantage IQ's operations, but they -- it's my

17 understanding that they -- for the most part they help

18 other utilities or other businesses. For example, they

19 help monitor their bills and help them find areas where

20 they can be more efficient in cost savings and things

21 like that.

22 Q. Do they do actual billing functions for

23 whatever company that they're employed by?

24 A. Yes, they do.

25 Q. And collection functions?

0582

1 A. Yes.

2 Q. And so if there's a mistake made there, then

3 the Company may or may not be subject to liability?

4 A. Yeah, I would expect not, and I wouldn't

5 expect that the D&O insurance coverage would be really

6 subjected too much because of our activities with

7 Advantage IQ.

8 Q. Okay. What other companies under Avista

9 Capital other than IQ?

10 A. There are several other subsidiaries, and I

11 do have a listing of them if you want me to go there. I

12 think actually --

13 Q. Well, I don't think we need to have a list.

14 A. Okay.

15 Q. If you could describe the major.

16 A. You know, Advantage IQ is really the one

17 major that's left. Avista Energy was there in the past,

18 and obviously they've been sold. And because of that,

19 our D&O insurance coverage has actually declined since

20 in past years where Avista Energy was there. The other

21 ones mainly have ceased activities or have no employees

22 and are passive income. There's Relyon, but there's --

23 we only have like 6 1/2% ownership in that, a little bit

24 more, you know, under 7% I should say. So really

25 Advantage IQ is the remaining subsidiary that has much.

0583

1 Q. And the reason perhaps that the D&O coverage

2 for Avista Utilities declined after the sale of Avista

3 Energy was the reduction in risk that Avista Energy

4 posed to the Company?

5 A. Absolutely.

6 Q. Okay. So risk is a factor?

7 A. Yes.

8 Q. And it would seem that one of the -- as that

9 being, as risk is a factor, it would seem like some, you

10 know, it would support either the Company's case and I

11 suppose more so the Company's because Company bears the

12 burden of demonstrating the reasonableness of cost to

13 show that the risk that's covered by the D&O insurance

14 is reasonably split between the entities which are

15 covered. In other words, it was Avista Energy at one

16 time, cost declined when that company -- when that

17 subsidiary was sold, you have Avista IQ, you have a few

18 others, and you have Avista Corporation. There may be

19 some testimony in the record that -- where the Company

20 has brought forth that kind of support for its D&O

21 insurance, I don't recall that there's any. It seems to

22 me that we have a, I don't know if you would agree with

23 me or not, but somewhat of I will just term it as a

24 swearing contest between you apparently and others that

25 -- over the amount of D&O insurance that should be

0584

1 included in rates?

2 A. That's correct.

3 Q. All right.

4 A. And one thing I should clarify is that we

5 actually do -- we've incorporated 97 1/2% of the D&O

6 insurance coverage, the other 2 1/2 or the other 1 1/2,

7 I don't know, whatever that is, is for subsidiary

8 activities or non-utility, so there's a portion right

9 now that we have allocated to non-utility subsidiaries.

10 Q. I would like to move on to the salaries of

11 your senior officers and probably focusing more on your

12 CEO and Chairman, Mr. Morris. But as I understood the

13 testimony is that the salaries and benefits of the

14 senior officers are also split 90/10 between the utility

15 rate payers and the shareholders; is that correct?

16 A. That's not completely correct.

17 Q. Okay.

18 A. For some of them they are just like you said,

19 most of the ones I listed, the senior officers are like,

20 you know, the CEO and the CFO for example. Others such

21 as Mr. Norwood for example I think we might have a 99%

22 utility, 1% -- so it does vary depending on the

23 responsibilities of the officers themselves.

24 Q. All right, and that would make sense since

25 Mr. Norwood is frequently before us and his job really

0585

1 is about the utility. And is your job 99% as well on

2 the shareholder side, or I mean excuse me, on the rate

3 payer side?

4 A. Actually no, I charge my time at 100%,

5 because other than these kind of types of activities, I

6 really don't talk about shareholders or have any --

7 Q. Only when forced to.

8 A. And I don't go to those board meetings, so I

9 can't attest to that.

10 Q. Okay, only when forced to under oath?

11 A. Right.

12 Q. The CEO salary and Mr. Morris's salary is

13 split 90/10?

14 A. It is, his specific salary, yes.

15 Q. Okay. And just reading the press and of

16 course hearing at the public hearings, and his salary is

17 approximately, his compensation package is $2.2 Million?

18 A. Yes, that's correct.

19 Q. Okay. Is the -- if I recall, and I'm sure

20 that you remember a former CEO, Gary Ely, and if that's

21 not -- if I'm not mistaken, he retired at the end of

22 2007?

23 A. Yes, he did, December 2007, and Scott Morris

24 became CEO January 2008.

25 Q. And it seems if I recall as well that when

0586

1 his final salary package was announced that it created

2 quite a stir in the press in Spokane?

3 A. Yes.

4 Q. And do you recall his total compensation

5 package that was being trumpeted in the press, so to

6 speak?

7 A. I don't specifically Gary Ely's, I do Scott's

8 obviously over the last year or two, and, you know, I do

9 want to clarify when we say 90/10, that 90/10 is just

10 associated with his wages. Obviously the $2.2 Million

11 for example that's been in the paper for Scott Morris

12 has included wages, short-term incentives, long-term

13 incentives, I mean it's basically what is shown in the

14 proxy and how we have to report compensation for SEC

15 requirements. The amount that's actually included for

16 example in the Washington case, electric and gas, is

17 less than $500,000 of that $2.2 Million.

18 Q. And what would be the total in Washington,

19 Idaho, Oregon, not that -- it's not particularly

20 relevant, but just the $500,000, just the split?

21 A. For Washington and Idaho for salaries and

22 incentives you're talking less than $800,000 in total

23 for Washington, Idaho, and Oregon electric and gas,

24 that's total.

25 Q. It seemed to me that when the information

0587

1 about Mr. Ely's compensation package was being

2 highlighted in the news that I remember a delegation

3 from Avista Utilities coming over, and they may not have

4 been for that reason but that was part of the

5 conversation, and it seemed to me that there was a --

6 that we were assured that there was a very small

7 percentage of Mr. Ely's salary that was actually

8 allocated to rate payers in the state of Washington, and

9 that was of his total 3.3, I believe the total package

10 was about $3.3 Million. I don't recall the exact

11 number. Do you recall in his final year what his amount

12 of salary that was allocated to rate payers?

13 A. I think his salary, obviously the 3.3 that

14 you're mentioning also includes incentives, and the

15 majority of incentives that are paid to the CEO's go to

16 shareholders, I believe his salary was around $700,000.

17 I know it's higher than what Mr. Morris's actual salary,

18 not the incentives, but salary is today, I want to say

19 it was somewhere between $700,000 and $800,000. And

20 what would have been included in rates would have been

21 Washington's share of less of that I believe because of

22 the timing, the timing of what rates were in effect

23 during those years. Because I know in this particular

24 case obviously some of his salary is included in our

25 test period, but we removed those dollars.

0588

1 Q. It seems to me that -- and it wasn't -- I

2 certainly don't have a clear memory of it, but you

3 testified that his salary was higher, but you don't know

4 exactly the number that was reflected in rates?

5 A. I actually could find it. I think I have

6 probably -- I might have the information actually in my

7 adjustments.

8 Q. Well, that would be fine, you don't have

9 to --

10 A. Okay.

11 Q. -- do that now.

12 A. Okay.

13 Q. Perhaps the Bench could make a note of that

14 and we could get that information.

15 A. Absolutely.

16 Q. It seemed to me, and I don't know why, but it

17 seemed like the number was much smaller than $500,000

18 that was at least being reflected in the conversations

19 that we had over the amount of responsibility that the

20 rate payers would bear of the total compensation

21 package.

22 A. Well, even at $800,000, the $500,000 or

23 whatever number that you might have heard obviously

24 would have been Washington's share of that, so I think

25 Mr. Morris's salary is at according to this $626,000,

0589

1 so, you know, Washington's share of that right now is

2 like $368,000, so it's -- and my guess during the

3 conversations that you had with the 3.3, my guess would

4 be they were talking obviously also salary and

5 incentives, but we can verify the exact amount and the

6 amount that's included in rates.

7 Q. That sounds about right.

8 A. Okay.

9 Q. And so my final question then along this line

10 is whether or not the split, the 90/10 split at least

11 for salary is different for Mr. Ely than it is for

12 Mr. Morris?

13 A. I don't believe it is, and in fact it might

14 be, I'm trying to think, I think it was -- I think it

15 was -- I think it was 90/10 for Mr. Ely as well. I was

16 thinking we had an increase in percentage, but now I

17 don't think that's true, I think it was 90/10 at that

18 time.

19 COMMISSIONER OSHIE: I don't believe I have

20 any other questions. At least maybe I will think of a

21 couple more as we move along, but I am satisfied with

22 where it stands right now, thank you.

23 THE WITNESS: Thank you.

24 JUDGE TOREM: Commissioner Jones.

25 COMMISSIONER JONES: Thank you, Judge.

0590

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

2 BY COMMISSIONER JONES:

3 Q. Ms. Andrews, would you turn to page 6 of your

4 rebuttal testimony.

5 A. Yes, I'm there.

6 Q. At the bottom of there I think on lines 16

7 through 20 you refer to at least in the direct case, and

8 this may have changed during some tweaking you've done

9 since then, but you described the way in which you pro

10 formed this covers non-executive and executive labor

11 into rates; is that correct?

12 A. That's correct.

13 Q. Now let's look at page 4 there where you say

14 pro formed in the salary increases expected for March 1,

15 2010, of 3.8% for administrative, union, and executive

16 employees; is that still a correct statement?

17 A. No, actually I thought what it -- it

18 continues here to say that for 2010 we have lowered our

19 estimate from 3.8% for administrative, union, and

20 executives, we've actually reduced that. For

21 non-officers and officers we have reduced it to the

22 2.8%.

23 Q. Okay.

24 A. And for union we've reduced it from the 3.8%

25 to another number.

0591

1 MR. MEYER: Careful.

2 A. Another number, lower, for confidential

3 purposes.

4 Q. We won't go to the specific number, but you

5 have there is a number, the 3.8% number, for executive

6 and admin and another number for union?

7 A. Yes, and I have reflected that reduction in

8 my rebuttal case.

9 Q. In those lines of your testimony, however,

10 you describe the salary increases for this March 1,

11 2010, date as expected?

12 A. Yes.

13 Q. So do you still stand by that statement, it's

14 expected?

15 A. Yes, based on the survey information that we

16 -- and I don't know if you want to look at that now, but

17 I have the tables that -- we continued, like I said, to

18 monitor those on an annual basis, and the 2.8, what

19 we're seeing from the survey results from those peer

20 companies that we compete with, not only for hiring but

21 also retaining existing employees, we compete with these

22 other companies in the industry and across the nation,

23 and they're showing the range being from we expect

24 between 2.8% and 3.2%.

25 Q. Has Avista's board approved these salary

0592

1 increases?

2 A. No, they will not be reviewing these I think

3 until I think it's November.

4 Q. November of 2009?

5 A. 9 yes.

6 Q. So these have not been reviewed by the board.

7 Has the Company made any representation to

8 its employees that it has agreed to make these salary

9 increases?

10 A. No, other than I have requested what

11 information has been included in the forecast, and I

12 think the forecast reflects at least a 2.8% increase and

13 the expected union increase.

14 Q. And, Ms. Andrews, when you talk about the

15 2.8% increase, I think in discussion with one of the

16 cross-examiners this morning you referred to a

17 conference board survey, was that pretty much the source

18 of that data on the 2.8%?

19 A. Yes, that is.

20 Q. Okay.

21 A. That is typically what we use on an annual

22 basis to determine our salary increases.

23 Q. Other than the union collective bargaining

24 agreement, is Avista obligated under any contractual

25 basis to pay these wage increases in 2010?

0593

1 A. No, we're not.

2 Q. Okay, can we turn to the proxy statement

3 again. I think it's Exhibit --

4 A. 13-X.

5 Q. -- 13-X, I think you have this memorized,

6 don't you. Okay, and this is going to be a line of

7 questioning following up on Commissioner Oshie's line of

8 questioning just to clarify the record on the executive

9 compensation tables. And please refer to page 24.

10 A. Thank you, at the bottom of the page?

11 Q. Pardon?

12 A. The bottom of the page 24 or 24 at the top?

13 Q. Oh, excuse me, yeah, page 24 at the bottom.

14 A. Okay, thank you.

15 Q. So in response to Commissioner Oshie, I think

16 you clarified things a bit, but I think it's still a

17 little bit muddled, and I will try to at least get my

18 understanding here of what the 90% and the 10% apply to.

19 Let's start with Mr. Morris, the Chairman of the Board

20 and CEO, but we may need further clarification in

21 writing through a Bench request, but let's see how far

22 we get here.

23 A. Okay.

24 Q. Mr. Morris according to this table in 2006 if

25 you included all compensation has a total of $1,115,000,

0594

1 correct?

2 A. Um --

3 Q. And I think this is pursuant to SEC

4 classification guidelines, correct?

5 A. Right, I think what you mean is the $2.2

6 Million?

7 Q. No, no, no, I'm going back to 2006.

8 A. Oh, I'm sorry, oh, okay, now I see, sorry.

9 Q. Do you see where I am?

10 A. Yes, I do, sorry, yes.

11 Q. And that's broken into base salary, and the

12 base salary you said was most relevant to what is put

13 into rates at $352,000 roughly?

14 A. Yes.

15 Q. And then we get up to 2008, that's the top

16 line, and his total compensation is $2.221 Million,

17 correct?

18 A. Yes, it is.

19 Q. Is that an increase of 99% roughly, about

20 doubling?

21 A. I guess it does appear that way.

22 Q. Okay. And the base salary, so could you just

23 clarify two questions on this. So what does the 90%

24 apply to, because there are one, two, three, four, five,

25 six columns here that make up total compensation, so

0595

1 what does the 90% apply to?

2 A. The 90% applies to the salary column itself.

3 The other areas like the non-equity extended plan,

4 that's related to incentives, and the only portion of

5 that $404,000 for example that was included would have

6 been those -- only those incentive portions that were

7 related to O&M type savings. Anything that was related

8 to earnings per share or other type of financial

9 measures are excluded for rates, so in that particular

10 example Washington's share of that $404,000 is $68,000

11 for electric and gas.

12 Q. Okay.

13 A. Long-term incentive column, the --

14 Q. Ms. Andrews.

15 A. I'm sorry?

16 Q. I'm sorry, could you stop there just for a

17 minute.

18 A. Okay.

19 Q. I think this will help all of us. Go back to

20 page 15, lower of the page in the proxy statement. Tell

21 me when you're there.

22 A. I'm there.

23 Q. And under the header executive compensation

24 components there are four bullets listed.

25 A. Yes.

0596

1 Q. Base salary, short-term performance base,

2 cash incentive compensation, which I think is column 3,

3 long-term equity incentive compensation, and then

4 retirement and other benefits?

5 A. Correct.

6 Q. So does the incentive plan compensation that

7 you just referred to, is that basically included under

8 the second bullet, short-term, excuse me?

9 A. Yes, it is.

10 Q. Okay.

11 A. And it is not at a 90/10 sharing.

12 Q. Is not?

13 A. It is not.

14 Q. 100% of this is allocated to shareholders?

15 A. No, it depends on how much of the incentive

16 payment that is made was related to O&M cost savings.

17 If there are O&M cost savings -- so for example I think

18 in this particular case it was very small, because most

19 of the -- I think whatever the O&M targets were were not

20 met in their entirety, so more was paid out associated

21 with earnings per share.

22 Q. I see.

23 A. So those are excluded from the case.

24 Q. Okay, let's go back to page 24 then, back on

25 page 24 at the bottom.

0597

1 A. Okay.

2 Q. And let's go to the next column. For 2008

3 Mr. Morris received $559,753; what is that?

4 A. That is associated with the change in their

5 pension amounts for a difference between -- the change

6 in their pension between December 2007 and December

7 2008, and it's very difficult to know exactly how much

8 of that is included, because it is a change in the

9 pension. But my understanding the majority of that is

10 associated with the Company's supplemental executive

11 retirement plan, which is all below the line. So it's

12 my assumption is it's a very small amount of that --

13 Q. Okay.

14 A. -- that column is included.

15 Q. And then there's a small amount over here,

16 $10,350 under the catchall category called all others,

17 so we don't need to spend time on that.

18 A. Okay.

19 Q. So all of the executive officers, these are

20 your six key executive officers or senior officers for

21 the corporation, correct?

22 A. Yes.

23 Can I clarify one thing?

24 Q. Sure.

25 A. I think the one column that was missed was

0598

1 the performance shares, and that is 100% to

2 shareholders.

3 Q. Okay.

4 So if I go down this and look at Mr. Morris,

5 Mr. Thies, Mr. Malquist, Ms. Durkin, Ms. Feltz,

6 Mr. Meyer, they are considered to be your senior

7 officers, correct?

8 A. No, these are just the top five at this

9 particular point in time.

10 Q. Okay.

11 A. This is the top five, so for -- I think for

12 the most part most of them are except for Mr. Meyer, and

13 so he is not listed as 90/10 because the majority of his

14 work, I think he might be 99% or something utility,

15 because most of his work is utility related.

16 Q. Okay. And if you go back and look for each

17 of these officers, the change from 2006 to 2008, of

18 course Mr. Thies is different because Mr. Malquist

19 retired and now Mr. Thies is your CFO, but there's quite

20 a difference in terms of how the total compensation

21 fluctuates from 2006 to 2008.

22 A. Yes.

23 Q. And I'm not going to pick on any particular

24 individual in this room, but some go down, some go up,

25 but what stands out to me is a 100% increase or 99%

0599

1 increase for Mr. Morris.

2 A. That is because prior to January 2008 he was

3 -- played a different role. He was the utility

4 President rather than the CEO of the Company as he is

5 today, so his salary did make a substantial increase in

6 2008 because of his change of duties.

7 Q. So it is the Company's view that all of that

8 increase, not all of it, but a certain percentage of

9 that increase should be allocated to rates because we

10 are pro forming as I understand it the 2008 salary and

11 total compensation, correct?

12 A. Yes, we are.

13 Q. Okay. So what is the -- as I understand it

14 then, what you're basically saying is you have pro

15 formed into rates in 2008 for Mr. Morris roughly 90% of

16 that salary column, the 626, maybe with a little

17 something in column 3 for O&M savings and maybe

18 something somewhere else, roughly that?

19 A. Yes, that's true.

20 Q. So the number has basically gone up from the

21 $300,000 level to the $500,000 level?

22 A. Right.

23 Q. To be put in rates?

24 A. Yes, but keep in mind that Mr. Ely's salary

25 had been in there previously, so we've removed his

0600

1 salary and replaced it with Mr. Morris's salary. So the

2 net increase that we're asking for today is not that

3 significantly different than what's currently in rates

4 today. The level of total compensation is not

5 significantly different between all the officers.

6 Q. So that was in response to Commissioner

7 Oshie's question where he was talking about Mr. Ely's

8 salary?

9 A. Yes.

10 Q. Which is in rates currently?

11 A. Right.

12 Q. For 2008?

13 A. Yeah, because obviously when he was -- when

14 we were in here a year ago, our test period was 2006,

15 and we were pro forming up 2008, and at that time we had

16 Mr. Ely as the CEO, and it was his salary that had been

17 pro formed into the rates we have today.

18 Q. Well, maybe this could be a Bench request

19 then, I think it would be appropriate, just to account

20 for that difference between Mr. Ely and Mr. Morris and

21 what is currently in rates and then what is proposed to

22 be in rates pro formed in this rate case as presented

23 here. Could the Company provide that?

24 A. Absolutely.

25 COMMISSIONER JONES: That's all I have,

0601

1 Judge.

2 THE WITNESS: Thank you.

3 JUDGE TOREM: Am I understanding correctly

4 then Avista is going to provide more information on both

5 Mr. Ely and Mr. Morris's salaries on the 90/10 split and

6 highlight that last question from Commissioner Jones,

7 the actual difference between what's in rates from the

8 present rates to what's being proposed in this case, and

9 that will be Bench Request 5, and it won't be put in

10 writing, it will just be taken in understanding from

11 today.

12 THE WITNESS: That's fine.

13 JUDGE TOREM: Are you the one that's going to

14 be providing the information, Ms. Andrews?

15 THE WITNESS: Yes, probably.

16 JUDGE TOREM: Timeline as to when we can

17 expect it?

18 THE WITNESS: I'm not sure if I have all the

19 information with me to do that. I think I might. But

20 if -- I don't know if next week is appropriate or

21 possible or not or if you want it sooner than that.

22 JUDGE TOREM: Commissioners, did you want it

23 before testimony ends this week?

24 COMMISSIONER JONES: Commissioner Oshie was

25 involved in this as well, but not from me, no.

0602

1 JUDGE TOREM: All right.

2 THE WITNESS: If we could say by Friday of

3 next week, that would be wonderful.

4 JUDGE TOREM: All right, so that's October

5 the 16th Bench Request 5 will be due.

6 Mr. Meyer, you got that too?

7 MR. MEYER: Yes.

8 JUDGE TOREM: All right, thank you.

9 All right, Chairman Goltz, your questions.

10

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

12 BY CHAIRMAN GOLTZ:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. One question about the asset management

16 program that you discussed on page 19 of your rebuttal

17 testimony. So are there specific contractual

18 obligations in place to do the work that you have

19 planned for 2010?

20 A. You know, with some of this we don't

21 necessarily have specific contractual obligations, but

22 these costs are, you know, we've based our expenses for

23 the asset management program on, you know -- sorry, let

24 me back up.

25 The asset management program is a

0603

1 continuation of O&M cost that we're -- much of which

2 we're already current today. So we have history

3 associated with these projects. So even though we may

4 not have specific contracts in place, for example one of

5 the programs in here is vegetation management, we do

6 contract out a lot of that work with Asplundh, so we

7 have a contract in place, but we don't have a specific

8 amount that we say has to be done. It's really based on

9 the Company's expectation of what we think is

10 appropriate and needs to be done during that time frame

11 to meet the requirements the Company needs to do.

12 Q. So going forward into 2010 you still have

13 discretion to expand or contract the various projects

14 that you've described?

15 A. Well, we do, but these -- these are planned

16 expenditures that we feel -- and Mr. Kinney I hope will

17 have the opportunity to cover this more, this is really

18 -- he's really the expert here.

19 Q. That's fine.

20 A. But what the Company with our asset

21 management programs is, we have put in the least cost --

22 the level of expenditures are there that we have asked

23 for in the 2010 case is cost at the least cost that we

24 expect or the least cost for -- the least planned cost

25 for these types of programs. Yes, it's an increase of

0604

1 cost in 2010, but for vegetation management for example

2 the least cost plan is to do a five year plan or a five

3 year vegetation management plan for our system. If we

4 extend across the five years, then it increases, it will

5 just increase those costs over time. So it's really the

6 least plan -- least cost option, sorry, I'm not getting

7 that out very well. What we have included are least

8 cost options for these types of programs.

9 Q. Let me just ask one question then following

10 up on what Commissioner Jones asked about the salary

11 adjustments described on page 6 and subsequently to

12 that, and you gave various percentages. Are those --

13 and I see sort of salary increases that employees

14 generally get in kind of two categories. I don't know

15 if this applies to Avista or not. One is sort of the

16 general cost of living increase that's basically across

17 the board. Frequently you see this percentage increase

18 associated with that. And others are pursuant to their

19 contract of employment there's a sort of step increase

20 system as a person goes through his or her career for a

21 number of years, they get some automatic adjustments.

22 Do you have that similar dichotomy in Avista?

23 A. Yes, we do, and what we typically do when

24 we're talking about like the 2.8% increase, that's the

25 average increase that is -- that basically the Company

0605

1 has said the O&M increase or the labor increase will be

2 2.8%, and it's up to the management to determine how to

3 allocate that 2.8%. It may be one individual gets more

4 than that, but that usually means there's employees that

5 get less than that.

6 Q. So I guess my question is when you use the

7 term 2.8%, would that then encompass both what I would

8 call cost of living adjustments and sort of merit or

9 promotional increases?

10 A. Yes, it does. On average it does, yes.

11 Q. Okay. And I would like to turn to the

12 incentive program. Could you describe in more detail

13 for me how one gets an incentive, do you call it bonuses

14 or what do you call it?

15 A. Right, incentive plan, yes.

16 Q. So can you just describe -- and first of all,

17 is this applicable to all Avista officers and employees?

18 A. Yes, the officers actually have a similar

19 short-term incentive plan that's similar to ours, but it

20 is -- theirs is somewhat different because there is a

21 30% I think of their incentive plan is associated with

22 O&M, cost per customer savings, and reliability and

23 customer service measures. The other 70% is focused on

24 financial measures, and those are excluded from our

25 cases, anything associated with financial management are

0606

1 excluded.

2 Q. So let me ask this then on the Exhibit 13-X

3 on page 24, and I'll be consistent with everyone else,

4 24 at the bottom of the page, the non-equity incentive

5 plan compensation, that is not part of this case?

6 A. That is the short-term plan, and so a portion

7 -- I think I've determined that maybe $68,000 of that

8 $404,000 for the short-term plan has been included in

9 Washington's case, so a very small amount of that. It's

10 the stock awards, performance shares, that's the piece

11 that we're saying is not, because that is the long-term

12 incentive plan that is different than the short-term

13 that I'm about to describe to you.

14 Q. So the O&M incentive expense issue that you

15 discuss starting on page 12 of your testimony includes

16 what is in column 3 of Exhibit 13-X, page 24?

17 A. I'm sorry, 13-X?

18 Q. The non-equity incentive plan compensation.

19 A. The $404,000, is that correct?

20 Q. It should be --

21 A. Column 3, $404,000, yes, there are $68,000 of

22 that included in our case. The rest is charged to

23 shareholders.

24 Q. Okay. And that's about 1/6 approximately?

25 A. Yeah.

0607

1 Q. If you were to go down the list for 2008,

2 again on page 24 of 13-X, wouldn't there be a similar

3 allocation for the other officers mentioned there?

4 A. Yes, whatever payout they received that was

5 not O&M was excluded, and I think it is very similar by

6 each officer, the payout.

7 Q. Okay. So can you give me an example, maybe

8 two examples, one for a sort of a line employee and one

9 for an officer as to what sort of O&M benefit has to be

10 demonstrated before that person, officer or employee, is

11 entitled to an incentive payment?

12 A. Okay. I'm going to go to our actual

13 Company's non-executive incentive plan that basically

14 the rest of -- the majority of the rest of the company

15 is a part of that plan. And the first target that's

16 associated with that plan is their -- is what we call

17 our O&M cost per customer. We set a target during the

18 year of what we expect our O&M cost per customer to be,

19 and in order to have an incentive payout, the first

20 thing we have to do is we have to beat that expected

21 cost. So there's a target or a threshold that we have

22 to get below in order for any payout to occur. So

23 therefore there is that -- what has happened then is we

24 obviously have reduced or O&M costs in order to meet

25 that or beat that expected cost per customer that we had

0608

1 assumed was going to occur during the year. So we have

2 to meet that target. If we do, then there is basically

3 there is savings that have occurred that they then can

4 use as part of the payout.

5 Q. Okay.

6 A. That's step 1, that's only step 1 of the

7 plan.

8 Q. Okay, so let me ask you this then. I gather

9 from that that an individual doesn't show an O&M savings

10 attributable to that individual, it's sort of an all for

11 one, one for all, sort of Three Musketeers attitude for

12 this?

13 A. Right, but it's set up this way so that all

14 employees focus on how can we save costs during the

15 year. And, you know, everybody's work is different, so

16 it's very difficult to know how you can, you know, how

17 you may personally be a part of that, but the goal is to

18 get employees thinking about how can I reduce costs to

19 this company to impact that total cost per customer

20 line. And then there are other pieces of the plan,

21 which I haven't mentioned, which is around service,

22 customer service targets and reliability targets. We

23 also have to meet those in order to have certain payouts

24 as well. But the starting point obviously is O&M costs

25 per customer, because without meeting those targets so

0609

1 that there is actually savings that have incurred,

2 there's no money in the plan to actually fund anything

3 out regardless if we made customer service or

4 reliability targets.

5 Q. Okay. So is it too simple to say that the

6 O&M cost per customer is your O&M cost divided by the

7 number of customers?

8 A. For the most part I think that's true.

9 Q. And so for 2010 you would first determine the

10 O&M cost per customer, O&M costs, and then divide by the

11 number of customers?

12 A. That's right. We actually have a 2009 -- we

13 have a 2009 plan obviously that we're accruing for today

14 that we will not know until the end of the year whether

15 or not we have met those incentive targets, and then

16 those payouts would actually occur in 2010. In 2010,

17 they will look at the plan again on what the expected

18 costs are. So yes, that's true, they look at the what

19 they expect the costs to be for the year.

20 Q. So is the idea then that, let's go back to

21 2008.

22 A. Okay.

23 Q. Which is roughly the test year, the idea

24 being that if you hadn't had this incentive program in

25 place, your O&M costs would be higher?

0610

1 A. Well, I think that, you know, we're obviously

2 always looking for efficiencies and savings that the

3 Company can do, but it is just a way to incent employees

4 to look for ways and be, you know, extra cautious and

5 careful or, you know, I mean I think most of us we try

6 to do that anyway, but it's -- it just gives -- it's

7 just a way of -- I lost my train of thought, I'm sorry,

8 can you repeat your question?

9 Q. I don't know.

10 A. Sorry.

11 JUDGE TOREM: The Chairman was asking if the

12 existence of the program is implying that there wouldn't

13 have been as good cost savings without it, something

14 along those lines.

15 Q. Yeah.

16 A. Well, it's -- I hate to characterize it that

17 way because we, you know, it just tries to incentivize

18 the employees. And then another thing to keep in mind

19 is that this is a part of the Company's total

20 compensation package, so when we look at our total

21 compensation package for all employees and we compare

22 ourselves to other utilities, this is a part of that

23 package. Whether the incentives are paid out or not,

24 the opportunity for that incentive is there.

25 Q. So I gather that the difference between you

0611

1 and, between the Company's position on this issue and

2 that of Public Counsel and Commission Staff is the

3 difference between the 2008, the test year amount which

4 is $2.8 Million, and the six year average which is

5 slightly over $4 Million. So if we were to adopt the

6 Company's position and there would be placed into rates

7 $4.068 Million, and the actual results, the actual

8 payouts at the end of I guess it would be 2010 or

9 whenever you pay them out --

10 A. Right.

11 Q. -- were instead this $2 Million, that $2

12 Million would go to the benefit of the shareholders,

13 correct? That savings would go to the benefit of the

14 shareholders?

15 A. It would. It obviously would go against

16 covering any expenses that the company has, yeah.

17 Q. One big pot?

18 A. Yeah.

19 Q. So tell me if the flip side happens, what

20 happens, who benefits if you get -- if you pay out

21 $4.068 Million?

22 A. If we -- I hope that that's the case, because

23 that means that obviously we've had a large -- we would

24 have really been able to reduce our costs as we planned.

25 We hope to meet those thresholds and those targets, but,

0612

1 you know, we have built in -- what we've asked for is

2 the average because this next year we could meet maybe

3 100% of our target and then obviously the payout that

4 could have occurred, we would have had to reduce O&M

5 cost that incurred would be -- will be higher than the

6 average that we built into this case.

7 Q. But if your savings, if you do -- if that

8 does work --

9 A. Right.

10 Q. -- your savings would be realized in 2010?

11 A. The savings will be realized in 2009, and so

12 therefore in our next case for example, if we actually

13 are able to make the -- let's say we make 100% of our

14 target and I'm just going to say it's $6 Million, but

15 the average we built into this case is $4 Million, then

16 customers actually receive the full -- the additional $2

17 Million benefit because we have an average built in

18 rather than the high and the low, so it goes both ways.

19 Q. Maybe I'm not either making myself clear or

20 understanding it or both, but we're setting rates that

21 would take effect roughly the start of 2010.

22 A. That's correct.

23 Q. And you want to place in rates the six year

24 average for 2010 slightly over $4 Million?

25 A. Yes.

0613

1 Q. As I understand the program, they get awarded

2 -- oh, but what you're saying is that they will be

3 awarded in 2010 for cost savings incurred in 2009?

4 A. Yes. And so but again in 2010 you're placing

5 in because that is what is the expense level that we

6 will be -- you know, what is the -- what is the expense

7 level in 2010 that we are -- that we expect to incur

8 during that time period. In 2010 we'll have additional

9 savings that occur in 2010 that will be paid out in 2011

10 for that incentive plan.

11 Q. But in any event, the savings in operating

12 expenses then gives -- frees up more money for the

13 Company for other purposes?

14 A. That's correct.

15 Q. Okay. And is the -- could one -- well, tell

16 me if is there some attempt to match the -- it's a verb,

17 I've got to be careful, it's a term of art -- but to

18 match the amount of incentive payments with the amount

19 of operational savings?

20 A. Yes, or in some cases the amount of payments

21 may be lower than the actual savings that are occurred,

22 yes.

23 Q. And do you have a -- you mentioned a plan

24 that you have for this, is that in the record, do we

25 know that?

0614

1 A. Yes, it is. It actually was provided in, I'm

2 trying to think, it was provided in Staff Data Request

3 7C confidential, we do have this all employee incentive

4 plan for 2008, and there's also the officers executive

5 plan associated with that as well.

6 Q. I don't know if that's in the record.

7 A. Oh, I'm sorry, it's a data response, yeah,

8 it's not actually in the record.

9 CHAIRMAN GOLTZ: So maybe we could have that

10 placed into the record.

11 JUDGE TOREM: Which was the data request

12 number?

13 THE WITNESS: Staff DR 7C.

14 JUDGE TOREM: C is because of the

15 confidential information?

16 THE WITNESS: Yeah, we do mark those

17 confidential even though there isn't anything I've said

18 today that needs to be a concern.

19 BY CHAIRMAN GOLTZ:

20 Q. And every employee has one?

21 A. Right.

22 JUDGE TOREM: So let me ask then, we'll note

23 that as Bench Request 6 to bring the DR the data request

24 and the response, the DR 7C from Staff and Avista's

25 response, and we'll just -- it sounds like that material

0615

1 is readily available, so the sooner that can come in,

2 the better. I'm seeing nods.

3 MR. MEYER: Yes.

4 JUDGE TOREM: By the end of the week.

5 BY CHAIRMAN GOLTZ:

6 Q. So just a couple more questions, do I recall

7 you saying, this is the downside of having a break for

8 lunch, memories fade, but do I recall you saying that in

9 past rate cases you used the six year average?

10 A. Well, what happened in the 2007 case was

11 Staff actually proposed a form of an average because the

12 amount of the average was lower than the -- using an

13 average was actually lower than what our actual

14 incentive payouts were during that test year, and so

15 they had actually proposed a form of an average in order

16 to, you know, normalize those costs because it appeared

17 to be high in that year.

18 Q. Do you think that there's anything, and if

19 you need to defer this to another witness that's fine,

20 but do you think that there's something unique about

21 these economic times that reduces the justification for

22 rate payers bearing the cost of an employee incentive

23 program? And let me just comment briefly. It seems to

24 me that in general reading the Wall Street Journal and

25 others that this sort of program is being cut back in

0616

1 enterprises that are in competitive marketplaces because

2 of the economic situations. And if that's true,

3 wouldn't that also -- shouldn't that also apply to

4 Avista?

5 A. Well, I think, you know, I can't speak to

6 what those other plans are that the other performances

7 were being paid to, but I think the important thing here

8 is the way our plan is -- the way our plan is set up,

9 there is no payment paid out unless there is savings

10 associated or savings to the Company. So we -- there is

11 -- if we meet the targets and there is O&M savings,

12 customers do benefit from that. Because going forward

13 instead of our O&M costs otherwise are lower than they

14 would have otherwise been if we hadn't somehow been able

15 to meet -- to meet these -- to meet these cost savings.

16 And because we focus on -- we focus on savings, as I

17 mentioned customer service and reliability, they're all

18 targets that we're trying to -- that we're trying very

19 heavily to meet and we think are important because

20 customers benefit from all three of those targets.

21 Q. Do you know off hand, it's hard to say, but

22 in last year or the test year 2008 where slightly over

23 $2.8 Million was paid out, do you know off hand what the

24 average payout incentive payment would be to an

25 employee?

0617

1 A. I actually don't, and what I -- and also what

2 I can't remember is if -- in some of these cases we may

3 have met the O&M savings, so there was maybe a $6

4 Million O&M savings, yet the other targets that also

5 have to be met like customer service and reliability, I

6 think in one case we didn't make the reliability target,

7 so 25%, you know, or 50% was, you know, was not allowed,

8 but yet we met the O&M savings, and those savings were

9 passed on to customers. So customers benefited from

10 those savings at shareholders cost, or I'm sorry,

11 customers benefited from that savings even though there

12 was no payout to customers, to employees, that's what I

13 meant to say.

14 Q. It was all rate payer costs?

15 A. Right. But what I'm saying, we may have made

16 $2 Million of incentive payments because we only made

17 half of the targets, but there may have been a $4

18 Million savings in O&M, so customers benefited the net.

19 Q. Maybe this will be clear in reading the

20 documents, but would the -- is the program fine tuned

21 such that if one particular work unit, I will speak the

22 mail room, comes up with an efficiency for the mail

23 room, they benefit, or does it all just go into one big

24 pot of O&M savings that's shared alike by everybody?

25 A. I think due to the size of the company, it's

0618

1 kind of -- it's very difficult to do that, and so what

2 you're -- what we're talking about is a total company

3 electric and gas systemwide O&M cost per customer, so

4 it's very difficult to say that one particular area

5 maybe lowered their costs, but we want this to be a

6 company plan so that the whole company focuses on it.

7 Q. So there is not part of the plan that you see

8 in some systems where there's an individual, in effect

9 performance plan for each employee, and if they meet

10 certain targets for that employee, they get the bonus?

11 A. No, there's not. It's just the incentive is

12 paid out as based on the employee's salary level and

13 their level within the company, but that's the only

14 individual portion of it.

15 CHAIRMAN GOLTZ: Okay, I have no further

16 questions, thank you.

17 JUDGE TOREM: Other Commissioner follow-up?

18 All right, Mr. Meyer, I think we have time

19 for the brief redirect you described earlier.

20 MR. MEYER: It's going to be a little longer

21 than 3 to 4 minutes, but I'll try and keep it to --

22 because the Commissioners have opened up some

23 interesting lines of inquiry, and I just wanted to

24 follow up on a few of them if I might.

25

0619

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. So let's, because the Chairman did talk about

4 a very real concern in the economy, not only in the

5 Spokane area but statewide and of course it's I'm sure

6 nationwide, there are concerns everywhere. With that as

7 context, when the Company decides on the design of its

8 incentive plan and anticipated payouts, does it do that

9 in isolation, or does it rely on the work of an

10 independent consultant such as Towers Perin?

11 A. I believe that they do have a portion that

12 they review in our plan to make sure that it is

13 following within our, you know, maybe a total

14 compensation package, but also what is the, you know,

15 what those plan components are.

16 Q. So when Towers Perin looks at total

17 compensation including incentives, do they examine what

18 the competitive compensation scales including not only

19 base pay but incentive pay are regionally as well as

20 nationally?

21 A. Yes, they do.

22 MR. FFITCH: Your Honor, this is a late

23 objection, but I'm beginning to feel that counsel is

24 leading the witness, so I will interpose the objection

25 again if it continues.

0620

1 JUDGE TOREM: All right, acknowledged.

2 BY MR. MEYER:

3 Q. Is it -- do you have any comments then with

4 respect to how competitive the total compensation

5 packages as designed are with respect to let's call it

6 competing opportunities for employment elsewhere?

7 A. Yes, they do -- they do this determination on

8 an annual basis, and our compensation is in line with

9 the average of other peer companies in the industry and

10 national.

11 Q. Still with respect to incentive payments, I

12 think you made the point earlier that payments aren't

13 made until savings are first realized in O&M for the

14 benefit of customers. Was that your testimony?

15 A. Yes, I did state that.

16 Q. And then would you comment on the whether to

17 the extent O&M savings are realized how, if at all, will

18 they be reflected in the next rate case?

19 A. That would mean for example the savings that

20 occur during 2009 which we may make incentive payments

21 out, our O&M expense will be lower than otherwise it

22 might have been in the test period in our next case if

23 we use 2009 as the test period.

24 Q. So to that extent, would the customers

25 benefit?

0621

1 A. Absolutely.

2 Q. Chairman Goltz also asked some questions on

3 the asset management program. Do you have any views as

4 to why any planned expenditures with respect to the

5 asset management program are reasonable for purposes of

6 arriving at a pro forma adjustment?

7 A. Yes. As I've mentioned, these programs are

8 -- our asset management is a continuation of O&M costs

9 that we have been -- plans that we've had in place for a

10 period of time. We're just kind of repackaged them in a

11 way so that we can monitor those assets better. So we

12 have history that says what those costs are, we have

13 expertise of which Mr. Kinney can attest to, we have

14 expertise in our company that says what they know --

15 what our planned expenditures are during 2010.

16 Q. In other contexts, does this Commission use

17 reasonable estimates of planned expenditures in order to

18 arrive at pro forma adjustments?

19 A. Absolutely. This isn't anything new. We

20 have -- we have examples in the past where we have used

21 estimates to include -- to determine what the costs are

22 going to be for the test period, and we have in fact

23 costs that have already been accepted by the parties of

24 estimated or planned expenditures. A perfect example is

25 the power supply cost that we've already -- the parties

0622

1 have agreed to such as, you know, the fuel and the cost

2 for the fuel or the volume of power supply -- of power

3 supply. Those are -- those are estimates that are

4 already included in the test period. That's -- those

5 are example of power supply, for example, we -- that's

6 nothing new. Another example is for --

7 MR. FFITCH: Your Honor, I'm going to object

8 at this point, perhaps I should have done so earlier,

9 but I don't believe that the witness -- I don't recall

10 this witness testifying about other examples of

11 estimates that were used, and I think this question is

12 beyond the scope of earlier examination.

13 MR. MEYER: Your Honor, the line of questions

14 were prompted by Chairman Goltz's inquiry into asset

15 management and were -- I think they began with a

16 reference to are there specific contract terms or are

17 you dealing with estimates. At least that was my

18 recollection of the context of the question. And so my

19 follow-on question to this witness was, well, are there

20 other examples where this Commission has used reasonable

21 estimates of planned expenditures, and she should be

22 entitled to answer that question.

23 CHAIRMAN GOLTZ: I think Mr. Norwood also

24 testified to that in his testimony, so if it's not

25 duplicative of that.

0623

1 JUDGE TOREM: Absolutely correct, Chairman

2 Goltz, and so I'm going to sustain the objection. Keep

3 the answer as it's already been given, but let's cut it

4 off there, that's a sufficient example, and it already

5 echoes what Mr. Norwood said earlier this morning. I

6 don't know that we need to go any further into it, the

7 Commission's aware of the argued analogy.

8 MR. MEYER: Very well.

9 BY MR. MEYER:

10 Q. Let's turn now to just a couple of other, not

11 smaller items but unrelated items. There was reference

12 to the use or the allocation of compensation by the

13 senior executive team at Avista on a 90/10 basis between

14 the utility and the non-utility subs; do you recall

15 that?

16 A. Yes.

17 Q. And was it your testimony that no party at

18 least in this proceeding has registered an objection as

19 to that particular allocation?

20 A. No, they have not.

21 Q. And in your estimation, would it make sense

22 then -- strike that.

23 Would you agree that the senior executive

24 team interacts more than any other group within the

25 Company with the board of directors?

0624

1 A. I'm sorry?

2 MR. FFITCH: Objection, that's leading, Your

3 Honor.

4 JUDGE TOREM: Sustained.

5 Go ahead and restate the question.

6 MR. MEYER: Surely.

7 BY MR. MEYER:

8 Q. How would you characterize the level of

9 interaction between the senior executive team and the

10 board of directors?

11 A. I would expect that the senior board of

12 directors or the senior management, you know, would not

13 be any more -- would not -- would -- sorry. I would

14 expect the senior -- the senior officers to not have any

15 more opportunity or have any more time with shareholders

16 or that sort of thing than the 90/10 that we've

17 incorporated in the case, and I wouldn't expect the

18 directors to have any more opportunity than that, than

19 what the senior officers have had.

20 Q. All right, let's move on.

21 Just lastly then on the level of D&O

22 insurance, I think through Commissioner Oshie's

23 questions is it your understanding that no party has

24 challenged the level or the terms of coverage for D&O?

25 A. That's correct.

0625

1 Q. Has any party to your recollection challenged

2 the need for D&O coverage?

3 A. No.

4 Q. So is it just a question of who pays?

5 A. Yes.

6 Q. Did I understand you earlier to testify that

7 given the sale of Avista Energy that in fact there is

8 less risk associated with the enterprise overall now

9 than before in terms of the kind of things D&O coverage

10 covers?

11 A. Yes, yes, that's true.

12 MR. MEYER: All right, I believe that's all I

13 have, thank you.

14 JUDGE TOREM: Chairman Goltz.

15 CHAIRMAN GOLTZ: Yeah, I just had one

16 follow-up question and maybe two.

17

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

19 BY CHAIRMAN GOLTZ:

20 Q. On page 14 of your testimony on the operation

21 and maintenance incentive expense, that little table at

22 the top.

23 A. Yes.

24 Q. Can I deduce from that, pardon me, those

25 payments reflect O&M savings from the previous year?

0626

1 A. Yes.

2 Q. So can I deduce from this that in each year

3 from 2002 through 2007 there was a reduction in the per

4 customer O&M cost?

5 A. Yes.

6 Q. Could you provide -- do you have an, and if

7 you do, can you provide the year by year to this most

8 current year the per customer O&M cost?

9 A. We can. We may have answered that in data

10 requests, I can't remember. We'll look for that. If we

11 have, then we'll provide it. If not, we can certainly

12 provide it at a later time.

13 JUDGE TOREM: All right, so we'll label as

14 Bench Request 7 the per customer O&M costs. And

15 Chairman Goltz, how far back?

16 CHAIRMAN GOLTZ: Oh, I think just back to

17 2002 to the most current date.

18 JUDGE TOREM: Okay, so 2002 to 2008.

19 THE WITNESS: Absolutely, thank you.

20 JUDGE TOREM: How long would you need for

21 that, Ms. Andrews?

22 THE WITNESS: I don't think that would take

23 very long. That's not something I will prepare. But if

24 either we have it we can provide it today or tomorrow,

25 and if not, we can certainly get that to you I would say

0627

1 tomorrow or the next day.

2 JUDGE TOREM: We'll make it due Friday the

3 9th.

4 Mr. Trautman and Mr. ffitch, I hope if

5 there's any need for recross it will be brief, we do

6 have an ambitious schedule the rest of the afternoon.

7 MR. TRAUTMAN: No, Your Honor.

8 JUDGE TOREM: It falls to you, Mr. ffitch.

9 MR. FFITCH: As I think about it, Your Honor,

10 we have no further questions.

11 JUDGE TOREM: All right.

12 Ms. Andrews, thank you.

13 THE WITNESS: Thank you.

14 JUDGE TOREM: I hope your lunch feels better

15 now.

16 CHAIRMAN GOLTZ: Thank you.

17 JUDGE TOREM: What I would like to do is take

18 a brief 5 minute break, have counsel put their heads

19 together on the order of the witnesses coming up, and

20 ensure that Staff witness Ann LaRue is put on no later

21 than 4:00 so we can ensure -- this is the only date that

22 she's available. It's now about 7 minutes after,

23 hopefully by about 12 minutes after we'll be back in

24 here and be ready to go on the record. Okay, we're at

25 recess for 5 minutes.

0628

1 (Recess taken.)

2 JUDGE TOREM: All right, counsel, it's now

3 2:17, we'll go back on the record. My understanding is

4 that Mr. David B. Defelice is on the witness stand and

5 ready to accept the oath of witness, that we are going

6 to get to definitely depending on what the Commissioners

7 needs are Ms. LaRue because the Company it turns out

8 does not have any intention to cross-examine the 15

9 minutes they had projected, so at the next break or

10 thereafter we'll see what the Commissioners might or

11 might not have for Staff witness Ann LaRue.

12 Also brought to my attention, Commissioners,

13 is that Hugh Larkin, who is Public Counsel's witness on

14 these issues for revenue requirements, we knew that he

15 had to leave tomorrow morning sometime, so if we don't

16 get to him today, he may be the very first witness we

17 take up tomorrow even if that means taking him out of

18 order. So those are our housekeeping items.

19 All right, Mr. Defelice, if you will stand

20 and raise your right hand.

21 (Witness DAVE B. DEFELICE was sworn.)

22 JUDGE TOREM: Mr. Meyer, any need to inquire

23 as to corrections or amendments to testimony?

24 MR. MEYER: None, thank you, Your Honor.

25 JUDGE TOREM: All right, then we'll go

0629

1 directly to Staff and Public Counsel have estimated 15

2 minutes for Staff and 30 minutes for Public Counsel on

3 this witness. Who's going to begin?

4 Mr. Trautman.

5

6 Whereupon,

7 DAVE B. DEFELICE,

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

9 herein and was examined and testified as follows:

10

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

12 BY MR. TRAUTMAN:

13 Q. Good afternoon, Mr. Defelice.

14 A. Good afternoon.

15 Q. I would like to start by turning your

16 attention to the cross-exhibit that's been marked as

17 DBD-11-X.

18 A. Yes.

19 Q. And do you recognize these pages as being

20 excerpts from the Company's results of operations?

21 A. Yes, I do.

22 Q. That they have submitted to the Commission?

23 A. Yes.

24 Q. And would you refer to the first page of the

25 exhibit, and this is -- this page as reflected on the

0630

1 top is for the 12 months ended September 30th, 2008,

2 correct?

3 A. Correct.

4 Q. And September 30th, 2008, is the end of the

5 test year in this case; is that correct?

6 A. That's correct.

7 Q. Do you --

8 COMMISSIONER OSHIE: Excuse me, counsel.

9 Mr. Defelice, is your microphone on, or maybe

10 you could pull it closer to you. The red light should

11 be on.

12 THE WITNESS: Thank you.

13 BY MR. TRAUTMAN:

14 Q. And on the line that says electric net rate

15 base, do you see the Washington rate base figure of $934

16 Million approximately for Washington and the rate of

17 return figure of 7.308%?

18 A. Yes.

19 Q. Could you now turn to page 10 of this

20 exhibit, which is the last page, and this page is for

21 the 12 months ended June 30th, 2009; is that correct?

22 A. That is correct.

23 Q. And there do you see the Washington rate base

24 figure of $981,512,456 and a rate of return figure of

25 7.397%?

0631

1 A. Yes, I do.

2 Q. So would you accept subject to check

3 comparing the two pages that the increase in the

4 Washington rate base from September 30th, 2008, to June

5 30th, 2009, is $47,164,013?

6 A. Yes.

7 Q. Now I would like to refer to your testimony,

8 your rebuttal testimony on page 17, and near the top of

9 the page there's a bold faced heading that says capital

10 project descriptions; are you on that page?

11 A. I'm on that page, yes.

12 Q. Roman numeral VI, capital project

13 descriptions, on page 17.

14 JUDGE TOREM: For the record this is DBD-4?

15 MR. TRAUTMAN: DBD-4T.

16 BY MR. TRAUTMAN:

17 Q. And I'm looking now at line 23, which is in

18 the middle of a large indented paragraph referring to a

19 particular project, and on line 23 you state:

20 Completion of this project will provide

21 a slight reduction to O&M costs in the

22 near term.

23 Do you see that?

24 A. Yes.

25 Q. And then on line 25 you state that you

0632

1 factored in a 10% efficiency factor; is that correct?

2 A. That's correct.

3 Q. Now is it correct that the efficiency factor

4 is reflected as a rate base reduction rather than an O&M

5 expense reduction?

6 A. Yes, for the purposes of the mechanics, we

7 reduced rate base for the pro forma period.

8 Q. And is it correct generally that the other

9 Company witnesses have proposed similar rate based

10 reductions to reflect the proposed offsets?

11 A. Yes, for the first year of those assets'

12 inception into service, that's correct.

13 Q. Were you in the room earlier when Mr. Norwood

14 was testifying this morning?

15 A. Yes, I was.

16 Q. And you may recall there was a question asked

17 of whether the production factor was applied to

18 distribution in general plant; do you recall that?

19 A. Yes.

20 Q. And in his response he stated that the

21 Company is not proposing a distribution pro forma rate

22 base adjustment; do you recall that?

23 A. Generally, yes.

24 Q. If you would now turn to your rebuttal on

25 DBD-4T, page 15, and there is a large chart toward the

0633

1 bottom of the page in a box, and there in that chart

2 near the bottom there you show an increase in revenue

3 requirement related to distribution and general plant of

4 about $2.264 Million, and that's reflected in Footnote 2

5 in the small print at the bottom of the box; do you see

6 that?

7 A. Yes, I do.

8 Q. And so you agree that you're showing an

9 increase in revenue requirement related to distribution

10 and general plant of that amount, correct?

11 A. Yes, that's correct.

12 MR. TRAUTMAN: All right, thank you, that's

13 all I have.

14 JUDGE TOREM: Mr. ffitch.

15 MR. FFITCH: Thank you, Your Honor.

16

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

18 BY MR. FFITCH:

19 Q. Good afternoon, Mr. Defelice.

20 A. Good afternoon.

21 Q. Avista's long-term growth projections are

22 that the Company would on average experience

23 approximately 2% increase in growth each year; is that

24 correct?

25 A. That sounds familiar, yes.

0634

1 Q. Okay. And the Company's planning and

2 budgeting process is designed to meet the Company's

3 long-term growth prospects, isn't it?

4 A. Yes.

5 Q. During the test year ended September 2008,

6 the Company's system that consists of its generation,

7 transmission, and distribution system was sufficient to

8 meet the demands for capacity and energy of its

9 customers, was it not?

10 A. Yes, it was.

11 Q. And the Company did not experience any

12 catastrophic failures of its transmission or

13 distribution system, did it?

14 A. Not to my knowledge, but Mr. Kinney might be

15 better to address that specifically.

16 Q. To your knowledge, were there any significant

17 brownouts or blackouts in the Avista system?

18 A. Not to my knowledge, no.

19 Q. And I'm asking particularly about the period

20 ending September 30th, 2008?

21 A. No, I'm not aware of any.

22 Q. And similarly with respect to the purchased

23 power and internally owned generation, were those two

24 items adequate to meet the energy demands of the

25 customers on the system for that 12 month period ending

0635

1 September 30th, 2008?

2 A. I will have to defer that question to witness

3 Storro, who's in charge of the generation operation.

4 Q. All right.

5 When the Company bills or purchases

6 additional generation capacity, the cost of that

7 purchase or construction costs the Company several times

8 more than the embedded cost of plant, does it not?

9 A. Yes.

10 Q. The same is true for transmission capacity

11 and for additional distribution capacity?

12 A. It can, yes.

13 MR. FFITCH: May I have a moment, Your Honor,

14 Staff may have covered part of this area.

15 BY MR. FFITCH:

16 Q. Can I ask you to turn to page 17 of your

17 testimony, DBD-4T, please.

18 A. Okay.

19 Q. And starting at line 15 if you have that, you

20 discuss the replacement of batteries older than ten

21 years, correct?

22 A. Correct.

23 Q. In the year ended September 30th, 2008, did

24 Avista replace any batteries that might be ten years or

25 older?

0636

1 A. I would have to check the detail to make

2 sure.

3 Q. We can move on to another topic if you're

4 having trouble finding that.

5 A. Yeah, okay.

6 Q. Is it correct that Avista did replace other

7 components which had reached the end of their service

8 life, and that's reflected in the cost of the Company's

9 rate base?

10 A. Yes.

11 Q. And those will result in reductions in the

12 O&M expense as a result of this project; is that right?

13 A. It will result in reducing the upward

14 pressure on O&M costs going forward.

15 Q. And just to confirm I think a question that

16 you got from Staff, on the rest of the projects listed

17 on page 18 in the bold headings, well, just the next two

18 but not the building, those reductions are also being

19 treated as reductions to rate base?

20 A. Reductions to, yes, to the pro forma rate

21 base, yes.

22 Q. All right.

23 And then if we look at the last item, the

24 Spokane Valley facility purchase.

25 A. Mm-hm.

0637

1 Q. This is where you state that the Company is

2 purchasing additional office space, correct?

3 A. Correct.

4 Q. And you state there that the additional

5 office space at line 26 will provide no cost savings to

6 the Company, correct?

7 A. That's correct.

8 Q. Were you in the hearing room yesterday when

9 Mr. Norwood was testifying on the panel?

10 A. I wasn't here yesterday, no.

11 Q. Were you aware that in response to Chairman

12 Goltz's question yesterday, Mr. Norwood listed as one of

13 Avista's cost cutting measures the purchase of this

14 particular office building?

15 A. I wasn't aware of that, no.

16 MR. FFITCH: Those are all the questions that

17 I have, Your Honor. Let me just check with my

18 consultant one moment, please.

19 JUDGE TOREM: Okay.

20 MR. FFITCH: I don't have any further

21 questions, Your Honor.

22 JUDGE TOREM: All right, Commissioners,

23 Commissioner Oshie.

24 COMMISSIONER OSHIE: No questions.

25 JUDGE TOREM: Commissioner Jones.

0638

1 COMMISSIONER JONES: No questions.

2 JUDGE TOREM: And Chairman Goltz.

3 CHAIRMAN GOLTZ: No questions.

4 JUDGE TOREM: Any need for redirect?

5 MR. MEYER: Just a quick couple.

6

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

8 BY MR. MEYER:

9 Q. Do you recall the line of questions related

10 to the distribution plant that was pro formed in this

11 case?

12 A. Yes.

13 Q. Is it true that the Company has excluded new

14 revenue producing distribution plant investment?

15 A. That is correct.

16 Q. Is there some new distribution investment

17 included in the case but for which there are no

18 offsetting revenues or expenses?

19 A. Yes, there is, both in the direct case and

20 the rebuttal.

21 MR. MEYER: Okay, that's all, thanks.

22 JUDGE TOREM: I take it that doesn't arise

23 the need for recross?

24 MR. FFITCH: (Shaking head.)

25 JUDGE TOREM: All right, thank you,

0639

1 Mr. Defelice.

2 THE WITNESS: Thank you.

3 JUDGE TOREM: Next in the order of witnesses

4 was Mr. Storro, there was no planned cross-exam, but

5 there was an option held open earlier on. Mr. ffitch, I

6 think you had told me by E-mail that you had no

7 questions for Mr. Storro, but there was just one that

8 was deferred. He is here and available, I did make him

9 catch that 3:00 flight yesterday. Did you want to pose

10 a question now that he's here? I know the Commissioners

11 as of yesterday afternoon weren't sure they would have

12 questions, so this is one you need not be bashful, he's

13 hear, he's available.

14 MR. FFITCH: Well, Your Honor, when I heard

15 that deferral, I thought I could just ask that when we

16 get to Lancaster.

17 JUDGE TOREM: All right, so we can hold that

18 for tomorrow.

19 MR. FFITCH: (Nodding head.)

20 JUDGE TOREM: Commissioners, is there any

21 need to call Mr. Storro to the stand today for any of

22 the pro forma items, or are main lines of inquiry

23 regarding the Lancaster agreements?

24 So, Mr. Storro, thank you for being available

25 today, we'll get you on the stand for sure tomorrow,

0640

1 don't you worry.

2 All right, then I think Mr. Kinney is next on

3 the list, so if you will stay standing, don't get

4 comfortable yet, raise your right hand.

5 (Witness SCOTT J. KINNEY was sworn.)

6 JUDGE TOREM: All right, Mr. Meyer, any need

7 for clarification of any of Mr. Kinney's prefiled

8 testimony or exhibits?

9 MR. MEYER: No, Your Honor.

10 JUDGE TOREM: All right, then, Mr. Trautman,

11 you had estimated 10 minutes or so, and, Mr. ffitch,

12 another 15, we'll begin with Mr. Trautman.

13 MR. TRAUTMAN: Thank you.

14

15 Whereupon,

16 SCOTT J. KINNEY,

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

18 herein and was examined and testified as follows:

19

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

21 BY MR. TRAUTMAN:

22 Q. Good afternoon, Mr. Kinney.

23 A. Good afternoon.

24 Q. I would just like you to refer to SJK-4T,

25 which is your rebuttal testimony, and on page 10 near

0641

1 the bottom of the page.

2 A. Okay.

3 Q. And I'm referring to the T&D line relocation

4 paragraph that carries over to page 11, and at that

5 point you state that the Company is required to relocate

6 certain transmission and distribution lines as required

7 by state, county, or city for new road construction or

8 expansion.

9 A. That's correct.

10 Q. Now is moving a distribution line from one

11 location to another a capital expenditure, that is not,

12 is it?

13 A. Yes, it is.

14 Q. It is?

15 A. I believe it is, yes.

16 Q. If you capitalize -- when the Company

17 capitalizes costs for relocating lines, isn't it correct

18 that they are capitalizing new lines?

19 A. Yes, but when we relocate, we also are

20 adding, I mean it's a new facility we've added, it's new

21 poles. We don't replace what we've moved.

22 Q. Would it be correct that the new lines would

23 require less maintenance than the old lines, brand new

24 lines?

25 A. Yes, in the near term.

0642

1 Q. And would it be correct that the new lines

2 could be used to serve future customers?

3 A. Well, typically we don't increase capacity

4 when we move a line, so.

5 Q. But would you be saying they could never be

6 used to serve future customers?

7 A. No, they're available. Any of our lines are

8 available to serve load.

9 MR. TRAUTMAN: That's all I have, thank you.

10 JUDGE TOREM: Mr. ffitch.

11 MR. FFITCH: Thank you, Your Honor.

12

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

14 BY MR. FFITCH:

15 Q. Good afternoon, Mr. Kinney.

16 A. Good afternoon.

17 Q. I'm also going to be talking about SJK-4T and

18 asking you to start at page 2 of your testimony. At

19 line 8 of page 2 you state you're a member of the

20 capital budgeting committee and are actively involved in

21 the prioritization and approval of all transmission and

22 distribution capital projects; is that correct?

23 A. That's correct.

24 Q. Then you state that the Company prioritizes

25 or by using the term prioritization you certainly imply

0643

1 that the Company prioritizes different capital projects;

2 is that a correct assumption?

3 A. Yes.

4 Q. Doesn't the Company prioritize those projects

5 based on the benefit to the Company?

6 A. That's one of the factors.

7 Q. All right. Does the Company do cost benefit

8 analyses when approving major projects for the

9 transmission and distribution system?

10 A. We do a thorough planning process. Most of

11 our larger projects are a result of compliance needs

12 that are now mandatory under the NERC reliability

13 compliance program. So what we do is a system analysis

14 and based on an analysis in order to stay within

15 compliance a lot of our projects now are directly a

16 result of that.

17 Q. So you don't do a cost benefit analysis if

18 you're doing a NERC project?

19 A. Well, it's a factor we consider, but we are

20 required to meet the standards. So when we do an

21 analysis, we look at different options.

22 Q. And when you're doing a project that's not

23 required by the NERC requirements, do you do a cost

24 benefit analysis to my understanding?

25 A. We try to, yes.

0644

1 Q. And doesn't the cost benefit analysis

2 indicate that the benefit to the Company is at least

3 equal to the cost before a project is approved?

4 A. Can you just -- can you restate that.

5 Q. Does not the cost benefit analysis indicate

6 that the benefit to the Company is at least equal to the

7 cost before a project is approved?

8 A. Yes.

9 Q. And just returning to some of your comments

10 about NERC projects, is it your testimony that NERC

11 actually directs or can direct Avista to build specific

12 projects?

13 A. They can't actually direct, however, we have

14 -- we are obligated to perform analysis and if through

15 our analysis we show that we don't meet the criteria,

16 then we're obligated to put a project in place to come

17 under compliance.

18 Q. Mr. Kinney, have you or any other witness in

19 this case provided cost benefit analyses for any of the

20 projects which you claim meet the statutory requirements

21 in this case for pro forma adjustments?

22 A. Several of the projects are related to --

23 they're enhancements to projects that we've completed

24 previously in our large 230kb upgrade that was finished

25 in 2007, and with that analysis there was substantial

0645

1 cost benefit, and I believe some of that documentation

2 has been submitted in the prior rate case.

3 Q. In the prior rate case?

4 A. Yes.

5 Q. Do you know if there's any of the analyses

6 available in the record of this case?

7 A. That I do not know.

8 Q. Please turn to page 3 of your testimony, and

9 there I'll ask you to look at the sentence that starts

10 on line 6, and there you state that the project costs

11 have been updated with actual or known charges, and

12 you're referring -- what are you referring to there when

13 you say the project costs, your overall transmission and

14 distribution projects for Avista?

15 A. Yes.

16 Q. It's not just a single project?

17 A. No, it's all of them.

18 Q. All right. And you're stating here that the

19 costs as originally filed in this case had gone up

20 approximately 32%?

21 A. That is correct.

22 Q. Mr. Kinney, how is it that a cost that you

23 filed in this case and stated at the outset of the case

24 was a known and measurable cost is now being stated to

25 be 32% inaccurate?

0646

1 A. Well, the original were budgeted estimates

2 that we take at our best estimate to try to put a

3 project cost in place. And then when we get into a

4 project, either we run into a situation where we didn't

5 anticipate or that we run into construction delays,

6 things like that, there's a lot of different things that

7 can impact the actual project cost.

8 Q. All right.

9 Please turn to page 5 of your testimony, and

10 if you look at line 10, beginning at line 10 you discuss

11 the Lolo substation, and there you state that the Lolo

12 substation resulted in increased capacity at line 11,

13 correct?

14 A. Yes.

15 Q. The rebuild, to phrase it more properly, the

16 rebuild of the existing Lolo substation resulted in

17 increased capacity?

18 A. Yeah, capacity there is referenced as

19 equipment capacity, the rating of the equipment.

20 Q. Okay. That capacity was not available in the

21 test year ended September 30th, 2008; is that correct?

22 A. That's correct.

23 Q. And any revenues that would have been

24 generated by the increased capacity are not reflected in

25 the test period ending September 30th, 2008, are they?

0647

1 A. We don't anticipate any revenues from this

2 specific project. This is one of these projects that is

3 associated with compliance.

4 Q. Please turn to page 6, the next page, where

5 you discuss the Benewah Shawnee 2,000kb line at line 12.

6 A. Yes.

7 Q. And that project was necessary you state in

8 order to increase the reliability of the system,

9 correct?

10 A. That's correct.

11 Q. And the increased reliability of the system

12 did not occur in the test year ended September 30th,

13 2008, did it?

14 A. Yes, this is one of the projects that was

15 part of the large 230kb system upgrade, and this was an

16 enhancement to that project, because we did experience

17 some slapping of conductors based on wind speed, so what

18 this project did was went back in and tightened up the

19 conductor to eliminate some of the outages we had

20 experienced.

21 Q. Is it your testimony that that work actually

22 increased reliability during the period of the test year

23 leading up to September 30th, 2008?

24 A. Oh, during the test year?

25 Q. Yes.

0648

1 A. No.

2 Q. Right.

3 Then if you turn to page 7, on page 7 you

4 discuss the Grangeville 115kb capacitor bank starting at

5 line 7, correct?

6 A. Correct.

7 Q. And again that was you're stating necessary

8 to ensure reliability?

9 A. That is correct.

10 Q. And the same question with respect to that,

11 Mr. Kinney, that reliability increase did not actually

12 take place during the test year, did it?

13 A. Not during the test year, but it will be

14 available during the rate period.

15 Q. Just one other area, Mr. Kinney, you were

16 also brought into this case on rebuttal as a witness on

17 asset management, the asset management plan or program;

18 is that correct?

19 A. That's correct.

20 Q. And if you turn to page 14 of your Exhibit

21 SJK-4T, you discuss offsetting factors for the asset

22 management plan beginning at that point, do you not?

23 A. Which line, or were you just talking about

24 general?

25 Q. Just generally starting at line 8 you discuss

0649

1 and on the next couple pages, this is where you start to

2 discuss the offsetting factors for the asset management

3 plan?

4 A. Yes.

5 Q. And my question is you essentially conclude

6 that there are no offsetting factors, correct?

7 A. Not during the rate period.

8 Q. All right.

9 A. As a net, there's no net I mean.

10 Q. No net offsetting factors?

11 A. Correct.

12 Q. I believe you use that term on page 15, line

13 11, no net offset, correct?

14 A. That's correct.

15 Q. And your testimony does not address or

16 calculate any of the offset amounts for asset management

17 referred to in Ms. Andrews' testimony, does it?

18 A. No.

19 Q. And you did not file any supporting exhibits

20 or workpapers with your rebuttal that address the

21 offsets discussed in Ms. Andrews' testimony, correct?

22 A. No, I did not.

23 MR. FFITCH: Those are all my questions,

24 thank you, Mr. Kinney.

25 THE WITNESS: Thank you.

0650

1 JUDGE TOREM: Commissioners, Commissioner

2 Oshie, Commissioner Jones.

3 COMMISSIONER OSHIE: No questions.

4 COMMISSIONER JONES: I have a few questions,

5 Mr. Kinney.

6

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

8 BY COMMISSIONER JONES:

9 Q. Good afternoon, I'm going to focus on the

10 asset management program and specifically the vegetation

11 management, so could you turn to page 24 of your direct

12 testimony, which is SJK-1T.

13 A. Okay.

14 Q. Are you there?

15 A. Yes, I am.

16 Q. So I just want to go through this so I

17 understand the reasons why you're pro forming or you

18 post pro form some of this vegetation management plan

19 into rates, 2010 specifically.

20 A. Okay.

21 Q. First of all, is this an existing program? I

22 think you cite that the underground cable replacement

23 and wood pole management are existing programs that are

24 being implemented.

25 A. That's correct.

0651

1 Q. Isn't this also an existing program that is

2 being implemented?

3 A. Yes, it is.

4 Q. Okay. Now could you talk a little bit about

5 there's some reference made to the NERC reliability

6 standard, but on page 24 you refer to FERC reliability

7 standard FA, what is it, FAC 003-1, so can you tell us,

8 can you tell me what that is and why this is increasing

9 your expenses and your activity in the vegetation

10 management program?

11 A. That should have actually stated NERC, that

12 needs to be a correction there.

13 Q. All right.

14 A. Based on the large blackout in 2003, NERC has

15 definitely increased the requirements around vegetation

16 management with regards to your transmission system.

17 And because of that, there are now mandatory standards

18 in place that have increased the requirements with

19 regard to our transmission vegetation management plan

20 that now we are obligated to follow, and those increased

21 requirements have added to our costs, and our cost

22 increases are associated with line patrols as well as

23 actually clearing the vegetation.

24 Q. Now on some of this work, is this all done

25 internally, or as I think Ms. Andrews stated that you

0652

1 contract out some of the tree cutting and the vegetation

2 management to Asplundh?

3 A. Yes, the actual cutting is contracted out.

4 The line patrols, those types of things, are actually

5 done in house.

6 Q. So there is a record of either a contractor

7 or paid invoices in previous years of at least with that

8 contract?

9 A. Yes.

10 Q. What you're doing here?

11 A. Yes.

12 Q. Now could you give an example where you say

13 -- you talk about clearcutting through timber through

14 draws and trees that have been left to grow for the past

15 20 or 30 years, could you give me an example of that?

16 A. Yeah.

17 Q. In Washington, excuse me, in Washington

18 state, not Idaho.

19 A. Well, I believe this is in Washington as well

20 as Idaho, but basically it's in our mountainous areas

21 where we have the lines coming down off a mountain, and

22 so those areas are very difficult to clear, so what

23 we've done now because of the requirements is we've gone

24 in and done a better job of analyzing those hard to get

25 to areas and decided that we need to get in there and

0653

1 clear them, so that's what we've done.

2 Q. And you say the work is very costly. On what

3 basis do you estimate the cost for this work compared to

4 previous work in vegetation management?

5 A. Just with our contract with Asplundh.

6 Q. With Asplundh?

7 A. Yeah.

8 Q. The second factor you cite on page 25 is

9 special use permits with the Forest Service. Is this

10 something new that you haven't incurred in the past, or

11 is this just an increased expense over previous work?

12 A. It's a little bit of both. The requirements

13 have changed with regards to access roads, so with those

14 changes we have incurred additional costs.

15 Q. And then the third factor you cite is an

16 inflation factor of 6%. Other inflation factors that

17 the Chairman and we all have referred to from the Bench

18 today for labor and different things is 2.8% or 2%. 6%

19 seems a bit high, but what is this based on?

20 A. It's based on our contract with Asplundh.

21 I'm not involved in those contract discussions.

22 Q. So are those three factors the primary

23 factors why you are asserting that the -- the primary

24 reason that the Commission should pro form these

25 expenses into 2010 rates?

0654

1 A. On the transmission, yes.

2 Q. Okay.

3 And in response to Public Counsel's question,

4 you basically said there are no offsetting factors here?

5 A. Not in the near term.

6 Q. So in your alternative proposal which you

7 have proposed if the Commission were to do something on

8 here, the only line item that you propose an adjustment

9 on as I recall is substations?

10 A. That's Ms. Andrews' testimony.

11 Q. Yeah, that's Ms. Andrews' testimony, in

12 Ms. Andrews' testimony which you I assume have reviewed?

13 A. Yes.

14 Q. And consulted with her prior to. But there's

15 no offset for vegetation management?

16 A. Not in the rate period.

17 COMMISSIONER JONES: Okay, I think that those

18 are all the questions, Judge, I have.

19

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

21 BY JUDGE TOREM:

22 Q. Before I turn it over to Chairman Goltz,

23 Mr. Kinney, you acknowledge that where it says FERC on

24 page 24 of your prefiled direct, SJK-1T, that's line 33,

25 should be corrected to NERC?

0655

1 A. That's correct.

2 Q. On the following page on line 13 and line 16,

3 is that also the case?

4 A. Yes, it is.

5 JUDGE TOREM: So we'll make those corrections

6 to the record as well.

7 Chairman Goltz.

8 CHAIRMAN GOLTZ: Thank you.

9

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

11 BY CHAIRMAN GOLTZ:

12 Q. Just following up briefly on what

13 Mr. Trautman raised on page 10 of your rebuttal

14 testimony on the T&D line relocation, I gather this is

15 relocating a number of transmission and distribution

16 lines?

17 A. That's correct.

18 Q. And it refers to relocations requested by

19 state, county, and city, so is this really just a whole

20 bunch of little projects?

21 A. Yes, it is.

22 Q. Okay. So I believe it sounded like

23 Mr. Trautman was surprised that this was a capital

24 expense as opposed to an operating expense, maybe he

25 wasn't, but I would have perhaps guessed it was an

0656

1 operating expense as well. So when one relocates a

2 line, does one -- I assume these are both above ground

3 and below ground?

4 A. I believe all these are associated with above

5 ground.

6 Q. Okay. So for an above ground project, do

7 they physically I mean just take down the poles, take

8 down the lines, and move them to another place and put

9 up the same poles and the same lines?

10 A. They do move them, but typically depending on

11 the age of the equipment, we will replace. In fact, I

12 think we almost always replace because a lot of the

13 poles we're replacing are wood structures and we're

14 going to a steel structure.

15 Q. And you might replace the lines as well?

16 A. Yes.

17 Q. So assume it's a line that has a -- that is

18 totally replaced, so moving isn't quite an accurate

19 verb, it's really replace, you're moving the location,

20 you're changing the location and putting in a new

21 facility?

22 A. Correct.

23 Q. So then if this goes into rate base, $1.98

24 Million, is there also some facility that's going out of

25 rate base, the original cost of the lines that they're

0657

1 replacing?

2 A. I would assume so. I'm not an expert when it

3 comes to the capitalization of our projects.

4 Q. Okay, so maybe we can make that a request to

5 how the rate base treatment is of the lines that these

6 are replacing.

7 A. Okay.

8 Q. And then if they are in fact not replaced, I

9 mean if the lines being replaced are not going out of

10 rate base, how the depreciation expense and depreciation

11 lives are handled.

12 A. Okay.

13 CHAIRMAN GOLTZ: Thank you.

14 JUDGE TOREM: So we'll mark that as Bench

15 Request 8. Mr. Kinney, you and what other witnesses

16 might be making a response?

17 THE WITNESS: It will probably be my

18 responsibility, I will have to discuss it with others.

19 JUDGE TOREM: Okay. How soon do you estimate

20 you can get that information on the trade outs of these

21 I guess it's replaced and relocated lines?

22 THE WITNESS: I would say probably by the end

23 of the week.

24 JUDGE TOREM: All right, so we'll make Bench

25 Request 8 also due on Friday, October 9th, and we'll

0658

1 address Chairman Goltz's question about the impact on

2 the removal of one line from rate base and the

3 replacement with an upgraded new line and new poles,

4 that will be due Friday the 9th.

5 THE WITNESS: Okay.

6 CHAIRMAN GOLTZ: Nothing more.

7 JUDGE TOREM: Commissioners, any other

8 follow-up?

9 Any additional cross?

10 MR. TRAUTMAN: No, Your Honor.

11 MR. FFITCH: No.

12 JUDGE TOREM: All right, seeing none, any

13 redirect?

14 MR. MEYER: I do, Your Honor, yes.

15

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

17 BY MR. MEYER:

18 Q. Mr. Kinney, Mr. Trautman asked you about any

19 change in O&M related to road moves; do you recall that?

20 A. Yes, I do.

21 Q. Can you describe the nature, if any, of any

22 O&M savings related to moving those facilities as well

23 as the order of magnitude of such O&M savings? Are

24 there any is the question?

25 A. Yeah, it's hard to say. I would say there's

0659

1 not a lot, because a lot of these road moves are just

2 moving a structure or two, it's not a substantial

3 project. And then from there it just depends on the age

4 of the existing equipment.

5 Q. So as a general proposition, what is your

6 testimony in that regard, are there material O&M savings

7 resulting from those investments?

8 A. I would say no.

9 Q. Okay. Now you also recall, do you not, the

10 line of questions relating to cost benefit analysis

11 around the various projects that you've described?

12 A. Yes.

13 Q. And Mr. ffitch I believe made reference to

14 projects and perhaps at least inferring in his line of

15 questioning the need to have benefits greater than costs

16 in order to undertake such projects; do you recall that?

17 A. I do.

18 Q. For those projects covered by your testimony,

19 would you comment on whether there are specific revenue

20 increases or expense reductions in 2010 that would serve

21 to offset the capital costs?

22 A. I would say in the rate period 2010 there are

23 none. Most or in fact all the projects I believe in my

24 -- I shouldn't say all, most of the projects are a

25 result of compliance requirements, so we're required to

0660

1 do them to meet the standards.

2 Q. So is it your testimony that there are

3 instances where capital projects are done even though

4 there's no immediate increase in revenues or reduction

5 in expenses?

6 A. Yes, and I would say a good example is the

7 Lolo substation.

8 MR. MEYER: Thank you.

9 Now one other housekeeping matter I believe

10 that Mr. ffitch had asked about whether there were any

11 cost benefit analyses in the record relating to the

12 projects that were described, and while there is not a

13 series of such studies yet in the record, there was a

14 very lengthy response to a data request from the WUTC

15 Staff, Staff 046. I will just read the request so you

16 get a sense for where I'm going with this. The request

17 was, and it's related to Mr. Kinney's testimony:

18 For each of the transmission and

19 distribution capital projects described

20 beginning at page 12 of your testimony,

21 please provide all cost benefit analyses

22 prepared by the Company or its agents.

23 Please specifically identify any

24 increases in revenues or decreases in

25 costs as a result of each project

0661

1 described in the testimony and included

2 in pro forma period costs.

3 And we responded with a substantial response,

4 many pages. I think in light of the question it would

5 benefit the record if we could have this particular

6 response marked as an exhibit and introduced, and that

7 would be our response to Staff Request 46.

8 MR. FFITCH: Your Honor, I would like a

9 chance to review the response before we state whether or

10 not we have an objection. We may not, but we would need

11 to take a look at that.

12 JUDGE TOREM: All right, Mr. Meyer, how would

13 you propose this, is this going to be sponsored by a

14 particular witness, who?

15 MR. MEYER: Mr. Kinney can sponsor it. He's

16 identified as the witness on this response which neither

17 Staff nor Public Counsel elected to introduce as a

18 cross-examination exhibit.

19 JUDGE TOREM: All right, so we have a

20 proposed new exhibit that's not yet admitted, we'll mark

21 it as SJK-6. If you will ensure that at an appropriate

22 time today or tomorrow morning you bring that to Public

23 Counsel.

24 MR. TRAUTMAN: And Staff.

25 JUDGE TOREM: And Mr. Trautman both have an

0662

1 opportunity to review that document or at least see what

2 the response was with their client, then we'll rule on

3 that either later today or tomorrow.

4 MR. MEYER: We will be happy to recall

5 Mr. Kinney to the stand to respond to any questions.

6 JUDGE TOREM: And for Mr. Kinney, does he

7 have travel plans today or tomorrow that we need to

8 accommodate in that request if possible?

9 MR. MEYER: Well, it seems to me you do, but

10 we'll work around those maybe off the record for just a

11 minute.

12 JUDGE TOREM: What I would suggest is just

13 that we will work on that today if possible, counsel.

14 If we can't accommodate that and it has to come in

15 tomorrow, fine, but let's take that courtesy for

16 Mr. Kinney. If he has to stand by on a later flight, so

17 be it, but if we cross over to tomorrow, Chairman Goltz

18 and I are aware there are further expenses involved.

19 CHAIRMAN GOLTZ: It will show up in the 2009

20 test period.

21 We're still off the record, right?

22 JUDGE TOREM: All right, so we'll take a look

23 at that proposed exhibit at the next opportunity. And,

24 counsel, don't rush it, but if we can start that review

25 sooner rather than later, I think you have the response

0663

1 to hand out between witnesses.

2 MR. MEYER: Sure.

3 So the witness would be available if we

4 needed to recall him first thing tomorrow.

5 JUDGE TOREM: Let me ask counsel if it makes

6 a difference to have Mr. Kinney here in person, or as

7 the Chairman points out, if he's on the bridge line

8 tomorrow for this limited item, does that prejudice

9 anybody?

10 MR. TRAUTMAN: That's fine.

11 JUDGE TOREM: My Meyer, I'll leave it up to

12 you and your client to decide whether it's more

13 effective for this issue if needed to have Mr. Kinney in

14 person or by phone.

15 MR. MEYER: Very well, thanks for your

16 flexibility.

17 CHAIRMAN GOLTZ: Can I ask just one more

18 question.

19

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

21 BY CHAIRMAN GOLTZ:

22 Q. Again regarding the line relocation that are

23 -- you stated in your testimony that they were requested

24 by the county, city, state, does that mean that they

25 were not required by, you said they were requested?

0664

1 A. Well, it's a request and a requirement from

2 our view.

3 Q. And second, there's no governmental

4 willingness to share the cost with you in this?

5 A. These costs reflect anything that we bear as

6 a company. There may be, I think in some of in the past

7 we may have had a cost sharing depending on what the

8 project is, but this would be our costs. And I would

9 have to go back and look to see if -- how many we do

10 have a sharing with.

11 CHAIRMAN GOLTZ: Okay.

12 JUDGE TOREM: Anything further for this

13 witness?

14 All right, seeing none, thank you,

15 Mr. Kinney.

16 Next is David Howell.

17 If you would just stay standing, Mr. Howell.

18 (Witness DAVID R. HOWELL was sworn.)

19 JUDGE TOREM: Mr. Meyer, any clarifications

20 that you're aware of?

21 MR. MEYER: No, Your Honor.

22 JUDGE TOREM: All right, Mr. Trautman.

23

24

25

0665

1 Whereupon,

2 DAVID R. HOWELL,

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. TRAUTMAN:

8 Q. Good afternoon, Mr. Howell.

9 A. Good afternoon.

10 Q. I would like you to refer to, let's see,

11 DRH-1T, which is your rebuttal testimony, and turn to

12 page 4.

13 A. Okay.

14 Q. And I'm looking now at Table 1 in the center

15 of the page. It has project descriptions and then

16 original cost, and there's a column then that says

17 offset percentage; do you see that?

18 A. I do.

19 Q. So for example on the first project, gas

20 distribution, minor blanket, here you're proposing to

21 reduce the capital investment by 10%; is that correct?

22 A. Yes.

23 Q. Looking at these projects, is it correct that

24 these projects will either produce a reduction in

25 operating expense or an increase in revenue?

0666

1 A. There will not be an increase in revenues.

2 Regarding O&M, we gain an efficiency, but there's not a

3 direct reduction in the O&M, so we can do additional O&M

4 with the same resources.

5 Q. So did you say then there's not a reduction

6 in O&M?

7 A. It's an efficiency gain in our O&M.

8 Q. All right. And so the supposed offset that

9 you show of 10%, this is simply an estimate by taking

10 10% of the value of the projects; is that right?

11 A. That is correct.

12 Q. Have you provided any other workpapers that

13 would show how this estimate was calculated beyond what

14 you've just told me?

15 A. I have not. I could provide an example if

16 that helps.

17 Q. All right, but it's simply 10% of the cost?

18 A. Yes. It's my estimation that that exceeds

19 any benefit that we're going to see though.

20 Q. Turning to page 5 and looking at lines 9

21 through 11, you say:

22 The projects include some incremental

23 system efficiencies by the reduction in

24 future operation and maintenance costs.

25 However, the Company does not believe

0667

1 the savings will be material in the rate

2 year.

3 A. Correct.

4 Q. Is that correct?

5 A. Yes.

6 Q. So does that mean that any future savings

7 might occur in years subsequent to the rate year?

8 A. Again we have increased operating

9 efficiencies when we complete these projects, so we

10 should see those efficiencies as we move forward, but

11 there's no direct reduction in our O&M expense because

12 we've completed any of these projects.

13 Q. So are you -- is that a yes or a no?

14 A. Restate the question and I'll -- I want to

15 make sure I understand your question.

16 Q. All right. The statement that you have in

17 the paragraph, does this statement mean that any future

18 savings related to the projects would not occur in the

19 rate year but might occur in years subsequent to the

20 rate year?

21 A. That is true.

22 Q. The benefits of the projects that were

23 completed in the test year would also have effects in

24 the years 2009 and 2010; isn't that correct?

25 A. Yes.

0668

1 Q. Now I just want to turn to page 7 and your

2 last paragraph, I just want to be sure I'm correct here

3 that you stated now that your method now is that the

4 Company has analyzed each capital project listed above,

5 and as you say you've employed your best judgment to

6 identify any possible increase in revenues and/or

7 reduction in expenses; is that correct?

8 A. Yes.

9 Q. And that you say you were liberal in your

10 estimates of the benefits.

11 A. Correct.

12 Q. Is that correct?

13 A. Yes.

14 MR. TRAUTMAN: Thank you, that's all I have.

15 JUDGE TOREM: Mr. ffitch.

16 MR. FFITCH: Thank you, Your Honor.

17 Good afternoon, Mr. Howell.

18 Staff covered some of the areas, Your Honor,

19 that we were interested in, and I will just edit on the

20 fly here.

21

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

23 BY MR. FFITCH:

24 Q. Let's go back to page 4 of your rebuttal

25 testimony, Mr. Howell, to Table 1.

0669

1 A. Okay.

2 Q. In there you are talking about the types of

3 projects to be completed under the Company's gas

4 distribution minor blanket projects, correct?

5 A. Yes.

6 Q. And isn't it correct that the Company budgets

7 each year a specific amount to minor blanket projects?

8 A. Yes, we do.

9 Q. And is it correct that the test year ended

10 September 30, 2008, had a number of the same types of

11 projects completed and capitalized?

12 A. It would have had similar projects.

13 Q. Let's turn to pages 5 and 6. Starting on

14 page 5 at line 15, you're discussing the Kettle Falls

15 relocation project, correct?

16 A. Okay.

17 Q. And you state, last, the relocated

18 facilities, and this is on page 6, I apologize, at line

19 17:

20 Last, the relocated facilities have been

21 designed to accommodate receipt of

22 increased gas volumes to serve future

23 reinforcements of Kettle Falls HP main.

24 Correct?

25 A. That's correct.

0670

1 Q. Won't increased gas volumes allow the Company

2 to serve additional customers?

3 A. In the future it will. There's not an

4 immediate requirement to serve additional load on the

5 Kettle Falls line.

6 Q. Company has done projects like the 9 Mile

7 Gate Station on prior occasions, has it not?

8 A. Not for the same reason that we did this

9 project. We rebuild gate stations or add additional

10 gate stations, but this one was done out of a safety

11 concern because of the location of our existing gate

12 station.

13 Q. Okay. And you indicate that a new gate

14 station and pipe will produce a number of customer

15 benefits, but the Company will not realize any

16 additional revenue or reduction of costs. However, on

17 page 6 you also state that the new gate station will

18 eliminate potential expenditures related to mitigation

19 of high consequence areas. Isn't this a reduction,

20 isn't this reduction of costs a benefit to consumers?

21 A. It would be a benefit in the future. A high

22 consequence area is a requirement of the transmission

23 integrity management program, which is a DOT regulation,

24 and we are anticipating to have a high consequence area

25 on that line in the near future. And so when that

0671

1 happens, we have up to 10 years to respond to that, so

2 the benefit will be out in the distant future when that

3 high consequence area is identified.

4 Q. All right.

5 Please turn to page 7, from there you discuss

6 the Qualchan reinforcement project, and I'm guessing at

7 the pronunciation; is that correct?

8 A. Yes, Qualchan, that's correct.

9 Q. And there you state, I'll look for a line

10 reference for you, growth in the Southeast Spokane area

11 has been significant. I apologize, here it is, I

12 believe it starts on line 7.

13 A. Line 7.

14 Q. Growth in the Southeast Spokane area had been

15 significant and had reduced Avista's ability to reliably

16 serve gas to its existing customers, correct?

17 A. Correct.

18 Q. Isn't it correct that the improved system

19 delivery pressure and capacity will require less

20 maintenance?

21 A. No, I don't agree with that. We're going to

22 install additional facilities which will require us to

23 do increased leak inspections. We'll also have an

24 increased number of locates along that line. So in

25 reality it's going to increase our O&M costs.

0672

1 Q. You also state then an additional benefit was

2 the potential for additional customers within the

3 boundary of the reinforcement, however the Company does

4 not believe the additional revenues will be material,

5 correct?

6 A. That's correct.

7 Q. Did the Company conduct any analysis or

8 quantification of the potential increased revenues?

9 A. I was part of the process of planning the

10 installation of that line, and the reason that I'll

11 state that there's not additional revenues associated

12 with the main extension or the reinforcement that we did

13 is that any revenues that we receive will be associated

14 with the cost of service to actually run the gas to the

15 homes that are along the route. The challenge with the

16 route is that it's adjacent to a highway where there's

17 not the potential to hook up customers. And in the

18 areas where there is a potential to have customers,

19 there are large acre parcels, the customers are a great

20 distance from the main, so their allowances in most

21 cases don't cover the cost of installing the pipe. So

22 I'll just restate that the revenues would be tied up in

23 the cost of service when we install that plant.

24 Q. All right. So I guess what I'm still asking

25 is whether there was an actual cost benefit analysis

0673

1 performed for the project?

2 A. The cost benefit analysis was on to find the

3 least cost alternative to complete the reinforcement.

4 The reinforcement was required to be done to serve

5 existing load, so our criteria here is it fails the gas

6 planning model on a design day, and it also failed on

7 pressure charts. So we'll put pressure charts in the

8 area, and it registered low pressures. So that's what

9 required us to do the project to serve existing load.

10 And then once we determined that we have to do the

11 project, the cost benefit analysis is let's find the

12 least cost alternative to resolve the problem, and that

13 benefit analysis was done.

14 MR. FFITCH: Thank you, Mr. Howell, no

15 further questions.

16 Thank you, Your Honor.

17 JUDGE TOREM: Commissioner Oshie.

18 COMMISSIONER OSHIE: No questions.

19 COMMISSIONER JONES: No questions.

20 JUDGE TOREM: Chairman Goltz.

21 CHAIRMAN GOLTZ: No questions.

22 THE WITNESS: Thank you.

23 JUDGE TOREM: Any redirect?

24 MR. MEYER: No redirect.

25 JUDGE TOREM: Thank you.

0674

1 All right, I think we'll press on for at

2 least one more witness and then see how we're doing for

3 comfort breaks. Heather Cummins is next on the list.

4 MR. TRAUTMAN: Your Honor, just for your

5 scheduling, we will have no questions for either

6 Ms. Cummins or Mr. Kensock.

7 JUDGE TOREM: Mr. ffitch.

8 MR. FFITCH: Your Honor, I'm just reviewing

9 whether I have questions for Ms. Cummins at this point,

10 I had already trimmed them back.

11 JUDGE TOREM: All right, Ms. Cummins, why

12 don't you have a seat, and we'll see whether we need to

13 swear you in or not.

14 THE WITNESS: A seat?

15 JUDGE TOREM: Right here.

16 MR. MEYER: Nice try.

17 JUDGE TOREM: You've come all this way.

18 MR. FFITCH: May I just have one quick

19 moment, Your Honor, I might have one question.

20 Your Honor, I am going to have just one or

21 two questions.

22 JUDGE TOREM: Ms. Cummins, if I can swear you

23 in.

24 (Witness HEATHER L. CUMMINS was sworn.)

25 JUDGE TOREM: All right, thank you.

0675

1 Let me be sure, Mr. Meyer, were there any

2 clarifications to her testimony?

3 MR. MEYER: No, Your Honor.

4 JUDGE TOREM: All right then, Mr. ffitch,

5 your question.

6

7 Whereupon,

8 HEATHER L. CUMMINS,

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

10 herein and was examined and testified as follows:

11

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

13 BY MR. FFITCH:

14 Q. Good afternoon, Ms. Cummins.

15 A. Good afternoon.

16 Q. Thank you for making the trip even if it's

17 just for one or two questions.

18 Please turn to your testimony, which is

19 marked HLC-1T, and do you have that with you?

20 A. I do.

21 Q. All right. And you were just brought in on

22 rebuttal in this case, correct, you did not file

23 testimony earlier?

24 A. Correct.

25 Q. Could you please turn to page 3 to Table 1.

0676

1 A. Yes, I'm there.

2 Q. All right. And if you could look at the

3 table, you see a column headed offset amount, and the

4 amount shown at the bottom, the total amount, is $1.3

5 Million, correct?

6 A. Correct.

7 Q. And would you agree that the -- excuse me,

8 one more setup question here.

9 The original cost column to the left shows

10 the original cost of $12.5 Million, correct?

11 A. Correct.

12 Q. Would you agree that through this offset

13 process that's proposed here that the Company actually

14 earns a return on these expenditures?

15 A. Earns a return on the 11.2 I think?

16 Q. (Nodding head.)

17 A. Yes, that's my understanding.

18 MR. FFITCH: All right. Those are all the

19 questions, Your Honor.

20 JUDGE TOREM: Commissioners, does that raise

21 any questions?

22 COMMISSIONER OSHIE: No questions.

23 COMMISSIONER JONES: No questions.

24 CHAIRMAN GOLTZ: No questions.

25 JUDGE TOREM: Mr. Trautman, anything to come

0677

1 back to you?

2 MR. TRAUTMAN: No.

3 JUDGE TOREM: Mr. Meyer.

4 MR. MEYER: No.

5 Oh, just a second, I may have something.

6 I do have a follow-on redirect.

7

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

9 BY MR. MEYER:

10 Q. The same table at page 3.

11 A. Mm-hm.

12 Q. You show the offset amount column, and at the

13 bottom you show $1.338 Million.

14 A. Yes.

15 Q. Is that in your estimation a one year savings

16 level, or is that every year?

17 MR. FFITCH: I'm going to object as a leading

18 question, Your Honor.

19 MR. MEYER: Your Honor, this is a simple

20 clarification of a question on what it means to have a

21 return on investment, and it's pretty straightforward.

22 She can answer it either is a one year savings estimate

23 or not.

24 JUDGE TOREM: All right, I'm going to

25 overrule the objection just so we can get to the answer.

0678

1 I appreciate the objection, but I'm going to overrule it

2 so we can get there.

3 MR. FFITCH: Thank you, Your Honor.

4 A. When we looked at the offsets, we looked at

5 them just for the one year, so that was our

6 understanding is that it was -- and that it was a very

7 conservative amount for I was just looking for the next

8 year, so that's --

9 BY MR. MEYER:

10 Q. Is that a reduction in expense?

11 A. Reduction in expense?

12 JUDGE TOREM: Do you understand the question

13 that he's asking?

14 THE WITNESS: I think so.

15 A. That's how the offset was calculated to my

16 understanding was -- or that -- not that it was a

17 reduction in expense, that they just offset the capital

18 expenditure by the offset percentage.

19 MR. MEYER: Okay, that's fine, thank you.

20 JUDGE TOREM: Mr. ffitch, does that require

21 any follow-up?

22

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

24 BY MR. FFITCH:

25 Q. These will recur, the numbers shown in offset

0679

1 amount column will recur each year and every year, will

2 they not?

3 A. No, that's not how this was calculated. This

4 was just for -- the way that -- I guess I'll have to

5 refer to possibly --

6 MR. MEYER: I think Ms. Andrews --

7 A. -- yeah, Liz.

8 MR. MEYER: -- would be the witness who would

9 take the handoff at this point on that type of question.

10 MR. FFITCH: All right, thank you, Your

11 Honor, no further questions.

12 Thank you, Ms. Cummins.

13 JUDGE TOREM: Thank you, Ms. Cummins, you can

14 step down.

15 And let me inject here and see, we're coming

16 up on 3:30, Mr. Trautman, I understand you have a

17 witness, Ann LaRue, who has to testify today if at all,

18 and earlier we confirmed that, Mr. Meyer, you were not

19 going to have any cross-exam; is that correct?

20 MR. MEYER: Correct.

21 JUDGE TOREM: Let me inquire now if the

22 Commissioners know they have questions for Ms. LaRue or

23 not, and that way as we get close to the end of the day

24 if she needs to depart she can do that at her leisure.

25 COMMISSIONER OSHIE: I do have a question or

0680

1 two for Ms. LaRue.

2 JUDGE TOREM: All right, so does anyone have

3 a concern if we take Ms. LaRue out of order now and then

4 perhaps take our break so we can look at that SJK-6

5 proposed exhibit and get on with that? Mr. Trautman,

6 any problem with that?

7 MR. TRAUTMAN: No, Your Honor.

8 JUDGE TOREM: Ms. LaRue, if you will come up

9 and take the stand.

10 (Witness ANN M.C. LARUE was sworn.)

11 JUDGE TOREM: Mr. Trautman, are you aware if

12 this witness has any clarifications or corrections to

13 her testimony?

14 MR. TRAUTMAN: I was going to ask.

15

16 Whereupon,

17 ANN M.C. LARUE,

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

19 herein and was examined and testified as follows:

20

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

22 BY MR. TRAUTMAN:

23 Q. Do you have any such corrections?

24 A. Not that I know of.

25 MR. TRAUTMAN: Ms. LaRue is available for

0681

1 questioning.

2 JUDGE TOREM: All right, the Company has

3 already waived its cross, so let me go directly to

4 Commissioner Oshie.

5 COMMISSIONER OSHIE: Thank you, Judge.

6

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

8 BY COMMISSIONER OSHIE:

9 Q. Ms. LaRue, welcome to the witness stand.

10 A. Thank you.

11 Q. Is this your first time testifying in a rate

12 case?

13 A. Second time, but the first time I've had to

14 say anything.

15 Q. I don't know if I have a comeback for that

16 one.

17 JUDGE TOREM: We don't have an incentive

18 program for verbal testimony.

19 Q. Although some witnesses I wish that had been

20 closer to their answer, not necessarily in this case.

21 Well, again welcome, and my questions will be

22 fairly straightforward, and I'm certainly not going to

23 play any game of got you up here.

24 Would you please turn to page 16 in your

25 testimony, because really what I would like to talk to

0682

1 you about is directors and officers insurance.

2 A. Okay, I'm there.

3 Q. All right, thank you. You were in the

4 hearing room when we were discussing the same issue with

5 Ms. Andrews; is that correct?

6 A. Yes.

7 Q. And I believe Ms. Andrews testified that

8 Staff has taken or I mean that the Company has taken its

9 cut at what the split should be, and I note that Staff

10 has taken its cut, if you will, at what the split should

11 be as far as the split of the cost, excuse me. And

12 Staff cites a number of cases, and you cite a number of

13 cases in your testimony, and Staff comes down, you

14 representing Staff, at a 50/50 split. Can you perhaps

15 go into a bit more detail as to how Staff reached that

16 number of 50% of the costs of directors and officers

17 insurance?

18 A. Yes, sir. I believe that the director and

19 officer insurance protects the directors, just like I

20 said in my testimony, but unlike other insurance, I

21 think the directors have an obligation to the

22 shareholders as well as the rate payers, and I think

23 that the insurance equally protects both rate payers and

24 shareholders, not just rate payers alone.

25 Q. Did Staff have an opinion as to what types of

0683

1 lawsuits are more frequently filed against directors and

2 officers and whether those lawsuits originate from

3 sources other than shareholders?

4 A. My research suggested that a majority of

5 lawsuits come from the shareholders.

6 Q. And in your research is that perhaps why

7 certain other commissions have found that even more of

8 the cost of D&O insurance should be allocated to

9 shareholders?

10 A. Yes, sir.

11 Q. All right. And so Staff believed that it's

12 equitable here then for a 50/50 split?

13 A. Absolutely.

14 COMMISSIONER OSHIE: All right, I don't have

15 any other further questions, thank you.

16 JUDGE TOREM: Commissioner Jones.

17

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

19 BY COMMISSIONER JONES:

20 Q. Ms. LaRue, welcome, I'm extending

21 Commissioner Oshie's welcome as well.

22 A. Thank you.

23 Q. Could you turn to page 7 of your testimony

24 and where we're dealing with non-executive wage wages.

25 Were you here this morning when Ms. Andrews was

0684

1 answering some questions from the Bench as well as from

2 others, and did you hear her responses on the pro

3 forming and the percentages used and the reference

4 materials that she cited?

5 A. Yes, sir.

6 Q. Did you review all of those materials as well

7 with the Company and with Ms. Andrews during your review

8 of this case?

9 A. Yes, sir.

10 Q. So you cite there on lines 6 and 7 that you

11 say:

12 This pro forma non-executive adjustment

13 is based solely on management's

14 judgment. It is not known and

15 measurable, and it should be rejected by

16 the Commission.

17 So could you just briefly summarize that

18 point again for me, is it because that it's not

19 historical data, it's not invoiced already, just go

20 through that one more time for me, please, so I

21 understand better?

22 A. There are no contracts in place to

23 substantiate any increases. There's -- it is completely

24 up to the Company whether or not there will be increases

25 next year in March. March is normally when the

0685

1 increases are incurred. And therefore if the Company

2 decides for whatever reason not to give increases, then

3 it's completely up to them to do that whether or not

4 they get an increase at this time for them.

5 Q. So the only non-executive wage expense that

6 you've recognized as being an obligation, if you will,

7 of the Company is the union, the increases approved in

8 the union collective bargaining agreement which has been

9 approved by the board as well?

10 A. Correct, and the non-union increases that

11 were approved by the board.

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

13 Your Honor, thank you.

14 JUDGE TOREM: Chairman Goltz, anything?

15 CHAIRMAN GOLTZ: I have no questions, thank

16 you.

17 JUDGE TOREM: Mr. Meyer.

18 MR. MEYER: No questions, thank you.

19 JUDGE TOREM: All right, any other questions

20 for this witness?

21 MR. TRAUTMAN: No, Your Honor, no redirect.

22 JUDGE TOREM: Thank you, Ms. LaRue.

23 It's now 3:35, why don't we take, counsel,

24 unless you think this will throw us off, a 10 minute

25 break, we'll come back at 3:45. It looks like

0686

1 planningwise we have Mr. Kensock and Ms. Knox, and we

2 can probably then get to additional Staff witnesses or

3 start on Mr. Larkin if that's the case depending on how

4 much time we have. Right now it looks like Commission

5 Staff, you've waived the 10 minutes you've projected, we

6 would be down to 45 minutes that we would need depending

7 on Mr. Meyer's estimate for Mr. Larkin. So, counsel,

8 take the 10 minute break and decide if we can get

9 Mr. Larkin on and off today or start with him tomorrow.

10 We will be back at 3:45.

11 (Recess taken.)

12 JUDGE TOREM: Okay, it's now 3:50, I'm going

13 to swear in Mr. Kensock, go through his testimony, and,

14 counsel, do you know who is going to be next, are we

15 going to put on Ms. Knox next or try to put Mr. Larkin

16 on?

17 MR. TRAUTMAN: I spoke to Mr. Meyer, I think

18 we have very few questions for Ms. Knox, so at least

19 from our perspective we could do that quickly.

20 MR. FFITCH: I think we can continue in

21 order, Your Honor. And then if we get to Mr. Larkin at

22 the end of the day, that's fine, or first thing tomorrow

23 is fine.

24 JUDGE TOREM: Okay.

25 Mr. Kensock, raise your right hand.

0687

1 (Witness JAMES M. KENSOCK was sworn.)

2 JUDGE TOREM: Thank you.

3 Mr. Meyer, are you aware of with this witness

4 any corrections or clarifications?

5 MR. MEYER: There are none.

6 JUDGE TOREM: All right then, Mr. ffitch.

7 MR. FFITCH: Oh, I'm sorry, Your Honor, I was

8 expecting Mr. Trautman, but Staff has no questions?

9 MR. TRAUTMAN: No.

10 MR. FFITCH: We will proceed.

11

12 Whereupon,

13 JAMES M. KENSOCK,

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

15 herein and was examined and testified as follows:

16

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

18 BY MR. FFITCH:

19 Q. Good morning. I'm going to change my notes

20 because they say good morning.

21 JUDGE TOREM: You're still not testifying,

22 so.

23 A. Good afternoon.

24 Q. Good afternoon.

25 You're the Vice President and Chief

0688

1 Information Officer for Avista?

2 A. Yes.

3 Q. And the rebuttal testimony you filed is

4 JMK-1T is your first testimony in the case; is that

5 correct?

6 A. Correct.

7 Q. And there are no exhibits or workpapers that

8 you filed with your testimony JMK-1T, that's the

9 entirety of your testimony in the case?

10 A. Correct.

11 Q. And could I ask you, please, to turn to Table

12 1 on page 4 of JMK-1T.

13 A. Okay, I'm there.

14 Q. And this summarizes the costs of the

15 information services system Avista is asking to recover

16 in this rate case, correct?

17 A. Yes.

18 Q. On a system basis?

19 A. Yes.

20 Q. Correct?

21 A. Correct.

22 Q. And this includes a column headed offset

23 amount; am I right?

24 A. That's correct.

25 Q. And there are two 20% offsets shown in the

0689

1 column, correct?

2 A. Yes.

3 Q. And these are new items, they were not shown

4 in the original filing?

5 A. That's correct.

6 Q. You state in your testimony that these were

7 difficult to quantify; am I correct?

8 A. Yes.

9 Q. Did you personally decide on these percentage

10 amounts?

11 A. Yes.

12 Q. And these are estimates, correct?

13 A. That's correct.

14 Q. And these were developed after Staff and

15 Public Counsel testimony was filed in August?

16 A. That's correct.

17 Q. Other than your testimony, are there any

18 other -- is there any other support in the record for

19 these offsets?

20 A. There's data requests that came in, I'm not

21 sure how they get into here, but from Public Counsel,

22 but not in my testimony, no.

23 Q. Okay. And there's also two offsets that are

24 listed as 100% offsets, correct?

25 A. That's correct.

0690

1 Q. And the first of those is labeled as 2009

2 efficiency reduction in technology, correct?

3 A. That's correct.

4 Q. And that, as you testify on page 8 of your

5 testimony, is a cost for vendors that are no longer --

6 that's no longer being incurred, correct?

7 A. That's correct.

8 Q. And the other 100% item is actually delayed

9 implementation of the work force management system,

10 right?

11 A. That's correct, yes.

12 Q. Now with respect to these two items, the

13 Company represented in its original case that these two

14 projects were known and measurable, did it not?

15 A. That's correct.

16 MR. FFITCH: No further questions, Your

17 Honor.

18 Thank you, Mr. Kensock.

19 JUDGE TOREM: Mr. Trautman, do you want to

20 take any chances on this one?

21 MR. TRAUTMAN: No, Your Honor.

22 JUDGE TOREM: All right, Commissioners.

23 Commissioner Jones?

24 COMMISSIONER JONES: No questions.

25 COMMISSIONER OSHIE: No questions.

0691

1 CHAIRMAN GOLTZ: No questions.

2 JUDGE TOREM: Any follow-up redirect?

3 MR. MEYER: No, thank you.

4 JUDGE TOREM: All right, thank you,

5 Mr. Kensock.

6 If we can get Ms. Knox to come forward. On

7 this one I understand, Mr. Trautman, you do have an

8 estimate of 20 minutes?

9 MR. TRAUTMAN: No. Well, no, it's been pared

10 down considerably.

11 JUDGE TOREM: All right, but you will have

12 some questions for Ms. Knox?

13 MR. TRAUTMAN: Just a few.

14 JUDGE TOREM: And Mr. ffitch then will have

15 some as well.

16 (Witness TARA L. KNOX was sworn.)

17 JUDGE TOREM: All right, the witness has been

18 sworn, so, Mr. Meyer, any corrections to the exhibits?

19 MR. MEYER: No, Your Honor.

20 JUDGE TOREM: Mr. Trautman.

21 MR. TRAUTMAN: Thank you.

22

23

24

25 Whereupon,

0692

1 TARA L. KNOX,

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

3 herein and was examined and testified as follows:

4

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

6 BY MR. TRAUTMAN:

7 Q. Good afternoon.

8 A. Hi.

9 Q. Ms. Knox, would you agree that in addition to

10 this case, Avista has filed a production property

11 adjustment in its prior two general rate cases?

12 A. That is true.

13 Q. And in those two prior filings, did the

14 Company use the methodology it's currently proposing in

15 this case?

16 A. It's essentially the same methodology. We've

17 kind of modified the calculation to accommodate a

18 weakness that we identified in the way we had presented

19 it in the past.

20 Q. So it's somewhat different?

21 A. Right, it's a slight modification to how it's

22 presented.

23 Q. Would it be correct to say that in the two

24 prior cases that the Company used the methodology that's

25 currently proposed by Staff?

0693

1 A. Yes.

2 MR. TRAUTMAN: That's all I have, thank you.

3 JUDGE TOREM: Mr. ffitch.

4 MR. FFITCH: No questions, Your Honor.

5 JUDGE TOREM: Commissioners.

6 COMMISSIONER OSHIE: No questions.

7 COMMISSIONER JONES: No questions.

8 CHAIRMAN GOLTZ: No questions.

9 JUDGE TOREM: All right, that was very quick,

10 Ms. Knox, unless there's any redirect on that.

11 MR. MEYER: No redirect.

12 JUDGE TOREM: All right, thank you very much.

13 Counsel, then that brings us to the three

14 remaining Staff witnesses, some of whom are in the room,

15 and Mr. Larkin, it appears that it might be best to

16 ensure that we get to Mr. Larkin's testimony when we

17 have at least an hour left today. Mr. ffitch,

18 Mr. Trautman, is that okay to do that?

19 MR. TRAUTMAN: Yes, Your Honor.

20 JUDGE TOREM: And let me check, Mr. Meyer,

21 are you prepared to enter into that cross-exam today?

22 MR. MEYER: Yes.

23 JUDGE TOREM: Okay, so then Mr. Larkin, if

24 you will come up.

25 MR. FFITCH: If we can just have a moment,

0694

1 Your Honor, for Mr. Larkin to get situated.

2 JUDGE TOREM: No problem.

3 MR. MEYER: And while he is situating

4 himself, it would be helpful, Mr. ffitch if he had

5 Exhibit B-5 in front of him.

6 MR. FFITCH: B-5, will you enlighten me a bit

7 further?

8 MR. MEYER: Yes, that's your exhibit, it's

9 your response to Bench Request Number 2 I believe.

10 JUDGE TOREM: All right, are we ready to go

11 forward?

12 MR. FFITCH: Yes, Your Honor.

13 (Witness HUGH LARKIN was sworn.)

14 JUDGE TOREM: Thank you.

15 MR. FFITCH: Your Honor, before we proceed

16 with the examination, I just wanted to make a statement

17 for the record. Earlier today there was an inquiry

18 regarding our position with regard to injuries and

19 damages as reflected in our Bench Request Number 2

20 response, and at this time I will state for the record

21 that the statement of our injuries and damages

22 adjustment in the response to Bench Request Number 2

23 does not currently include any correction or

24 modification based upon Ms. Andrews' testimony.

25 However, Public Counsel does not dispute the correction

0695

1 that Ms. Andrews testified to with regard to the

2 so-called contra account, and Ms. Andrews has in her

3 testimony as we discussed prepared a corrected number

4 that would reflect that change, and we don't dispute

5 that corrected number, and we are prepared at the

6 Bench's request to submit a revised response to Bench

7 Request Number 2 that would incorporate the change to

8 the injuries and damages adjustment.

9 JUDGE TOREM: All right, we'll accept, my

10 policy advisor staff is nodding in the correct way to

11 say please submit that, and that is still what's labeled

12 as Bench Request 5, is that correct, Exhibit B-5?

13 MR. FFITCH: That is Exhibit B-5, and, yes,

14 the current answer is labeled as Exhibit B-5, and the

15 specific schedules within the response to Bench Request

16 Number 2 are HL-5 and HL-6, those are the two schedules

17 for gas and electric that were submitted in response to

18 Bench Request Number 2, so we would be revising HL-5 I

19 believe is the electric schedule.

20 JUDGE TOREM: So let me ask that, unless you

21 see a reason why not --

22 MR. FFITCH: To track both of them, I'm

23 sorry, Your Honor, but we will revise the exhibits.

24 JUDGE TOREM: So we're not going to

25 substitute a new exhibit, we'll just replace what's now

0696

1 in the record with a revised updated number, so we won't

2 assign a new exhibit number, I just want to be clear

3 about that, it will still be B-5, but it will be updated

4 as you file it now.

5 MR. FFITCH: All right, thank you, Your

6 Honor.

7 JUDGE TOREM: Do you see a point to keep the

8 old outdated number in the record or as an exhibit?

9 MR. FFITCH: No, Your Honor, I'm just trying

10 to think about the least confusing way to do it, but I

11 think we would refer to it as Revised B-5 if that's your

12 preference.

13 JUDGE TOREM: That is, and that's what we've

14 established in the exhibit list going forward is just to

15 substitute the date of the exhibit as it was submitted

16 and then indicate revised.

17 All right, Mr. Larkin has been sworn in,

18 thank you for bringing that to our attention. We still

19 have outstanding the matter about SJK-6, was there any

20 resolution on that during the break?

21 MR. TRAUTMAN: Staff has no objection.

22 MR. FFITCH: No objection, Your Honor.

23 JUDGE TOREM: Okay, so SJK-6, Mr. Meyer, will

24 be provided and admitted to the record.

25 MR. MEYER: Very well, and no need to recall

0697

1 Mr. Kinney, correct?

2 JUDGE TOREM: Counsel are nodding accordingly

3 and Commissioners are as well, so Mr. Kinney is free to

4 travel and not be available by phone tomorrow.

5 MR. MEYER: He's just fine with that.

6 JUDGE TOREM: All right, Mr. Larkin has been

7 sworn in, and I don't know, Mr. ffitch, if there's any

8 clarifications beyond what we've already gone over.

9 MR. FFITCH: No, Your Honor.

10

11 Whereupon,

12 HUGH LARKIN,

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

14 herein and was examined and testified as follows:

15

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

17 BY MR. FFITCH:

18 Q. Good afternoon, Mr. Larkin.

19 A. Good afternoon.

20 Q. And could you state your name and spell your

21 last name for the record, please.

22 A. My name is Hugh Larkin, Junior, my last name

23 is spelled L-A-R-K-I-N.

24 Q. And you were retained by Public Counsel to

25 address revenue requirement issues in this case; is that

0698

1 correct?

2 A. That's correct.

3 Q. And your prefiled testimony and exhibits have

4 already been stipulated into the record in this case,

5 correct?

6 A. Well, I assume so.

7 Q. And do you have any corrections or changes to

8 your prefiled testimony or exhibits other than the one

9 we just discussed for injuries and damages?

10 A. Not at this time.

11 MR. FFITCH: Thank you.

12 Your Honor, Mr. Larkin is available for

13 cross-examination.

14 JUDGE TOREM: Mr. Meyer.

15 MR. MEYER: Thank you.

16

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

18 BY MR. MEYER:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. Just one question, a follow-up on what Public

22 Counsel has agreed to do by way of the change, and I

23 know these numbers do appear in Ms. Andrews' testimony,

24 but would you agree that your adjustment to correct for

25 the contra account issue on injuries and damages, if

0699

1 that's corrected that would have reduced your electric

2 adjustment by $7.4 Million to no more than $165,000?

3 A. I haven't checked the numbers, but that

4 sounds about right.

5 Q. All right. And likewise would have reduced

6 your natural gas adjustment by $1.1 Million to no more

7 than $87,000?

8 A. That sounds correct.

9 Q. Okay, thank you.

10 Let's turn now to the production property

11 adjustment, and for purposes of this line of

12 cross-examination, I would like you to have in front of

13 you Exhibit B-5, which was a Public Counsel response to

14 Bench Request Number 2; do you have that before you?

15 A. Yes.

16 Q. Okay, and in due course I will refer to that.

17 A. Okay.

18 Q. But to begin with, turning to page 10 of your

19 testimony, which is HL-1T, this is as relates to the

20 production property adjustment, there you discuss the

21 relationship of expected future loads to test year loads

22 that essentially creates a production factor; is that

23 correct?

24 A. That's correct.

25 Q. And at lines -- are you there yet?

0700

1 A. Yes.

2 Q. Okay. And at lines 17 through 20 you state

3 that it:

4 Was calculated by dividing the test year

5 normalized load by the projected load

6 for the years ended December 31, 2009,

7 and 2010, and the results were then

8 subtracted from 100%.

9 Is that correct?

10 A. That's correct.

11 Q. Would you agree that the Company's original

12 filing in this case included an increase in retail load

13 of approximately 5% from the test year to the rate year?

14 A. You mean adding the 2009 and 2010?

15 Q. Yes.

16 A. Yes.

17 Q. All right. And would you agree that the

18 partial settlement stipulation agreed to by all parties

19 including Public Counsel includes an increase in retail

20 load of approximately 2% from the test year out to the

21 rate year; is that correct?

22 A. I didn't check it, but I will accept that as

23 correct.

24 Q. Instead of the 5% that we previously referred

25 to, correct?

0701

1 A. I will accept that as correct, I didn't check

2 it.

3 Q. All right. Now since the partial settlement

4 agreement reduced 2010 loads by 3%, which is the

5 difference between 5 and 2, wouldn't you agree that in

6 order to have a proper matching with the settlement

7 agreement, the production factor must be recalculated

8 with the lower 2010 load assumptions?

9 A. Yes.

10 Q. All right. So in your schedule C-1.1 of your

11 Exhibit HL-5, okay, and that's where we go to your

12 Exhibit B-5, okay?

13 A. Okay.

14 Q. Are you there?

15 A. I'm here.

16 Q. All right. There's a column D, is there not,

17 and is that entitled production factor?

18 A. Yes.

19 Q. And does that column reflect in your exhibit

20 a retail load growth calculation of approximately 5%?

21 A. It reflects the calculations that were used

22 by the Company originally.

23 Q. Originally but before the settlement?

24 A. Yes.

25 Q. Okay. And so it does not reflect the 2% that

0702

1 was included in the partial settlement?

2 A. That's correct, if that was in the partial

3 settlement.

4 Q. I see. Would you accept subject to check

5 that if you had used the 2% load growth in this Exhibit

6 B-5 for the production property adjustment instead of

7 the 5% that it would increase Public Counsel's revenue

8 requirement by approximately $6.4 Million?

9 A. I would think that that's probably close. I

10 don't know if it's correct exactly.

11 Q. All right, thank you.

12 A. Without calculating it.

13 JUDGE TOREM: Mr. Meyer.

14 MR. MEYER: Yes.

15 JUDGE TOREM: I just want to make one

16 clarification for the record. Within Exhibit B-5 there

17 are two updated exhibits with Mr. Larkin's initials,

18 HL-5 and HL-6, so you are referring to those submissions

19 from Public Counsel; is that correct?

20 MR. MEYER: Correct.

21 JUDGE TOREM: We also have, just to make it

22 difficult, the cross-exam exhibits which were marked for

23 him which have the similar numbers HL-5-X. So when you

24 refer to your cross-exam exhibits, please make sure to

25 identify them as the cross-exam exhibits, not the

0703

1 submissions by Mr. Larkin that are contained within the

2 Bench exhibit.

3 MR. MEYER: That's right, and so far I

4 haven't referred to any cross-examination exhibits.

5 JUDGE TOREM: All right.

6 MR. MEYER: But I will do so if I go there.

7 JUDGE TOREM: All right.

8 BY MR. MEYER:

9 Q. Let's turn to yet another feature of your

10 production property adjustment. First I would like you

11 to turn now to your Exhibit HL-3, Schedule C-1.2.

12 MR. FFITCH: Your Honor, can I inquire

13 whether counsel is referring to revised --

14 A. Are you talking about the original or --

15 MR. FFITCH: -- revised HL-3?

16 Q. To your original, attached to your testimony.

17 A. Okay.

18 JUDGE TOREM: So this would be the one

19 submitted August 17th.

20 MR. MEYER: Correct.

21 JUDGE TOREM: And there was a revision

22 submitted not only to the testimony but also to the

23 supporting HL-3 on September 3rd.

24 MR. MEYER: In fact we can use either one, we

25 can use the revised September 3rd, '09. Let's go with

0704

1 that just so we're --

2 JUDGE TOREM: I think that's the one that's

3 available on the Bench today.

4 MR. MEYER: Let's do that, that will work

5 just fine.

6 JUDGE TOREM: Thank you, Mr. ffitch for the

7 clarification.

8 BY MR. MEYER:

9 Q. Do you have that, I will wait until you have

10 that in front of you.

11 A. What's the number now you want?

12 Q. It's HL-3 Schedule C-1.2.

13 A. That's the original?

14 Q. As revised.

15 A. Okay, HL-3.

16 Q. Schedule C-1.2.

17 MR. FFITCH: Your Honor, I can assist the

18 witness if necessary.

19 A. I'm there.

20 Q. And let's go to page 11 of 31.

21 A. Well, I think the revised that I have doesn't

22 have --

23 JUDGE TOREM: Mr. ffitch, if you have that

24 and you could walk that over to the witness, that would

25 speed things along.

0705

1 MR. FFITCH: I do, Your Honor, thank you.

2 A. Oh, I've got that, okay, yes.

3 BY MR. MEYER:

4 Q. Okay, thank you.

5 Now as we look at this particular page, isn't

6 it true that the upper portion of this page reflects a

7 number of FERC accounts related to power supply?

8 A. Yes.

9 Q. Everything from other expenses to thermal

10 fuel and water for power, they're all as described,

11 correct?

12 A. Right.

13 Q. Now the upper heading of this page indicates

14 that these are the Company amounts that are reflected

15 for each of those FERC accounts, correct?

16 A. Right.

17 Q. Now was this particular exhibit prepared

18 prior to the partial settlement being filed?

19 A. Yes.

20 Q. And as such, it reflects the Company's

21 original numbers with respect to those power supply

22 adjustments, correct?

23 A. Yes.

24 Q. Now if you'll turn to Exhibit B-5, let's go

25 back to B-5, which is again your response to Bench

0706

1 Request Number 2, and let's go now -- and then I want

2 you to keep both of these pages in front of you, the one

3 that we've just referred to --

4 A. Okay.

5 Q. -- and the one I'm referring to now, and put

6 them side by side. So go to Exhibit B-5.

7 A. B-5?

8 Q. Yes. And in that there is an Exhibit Number

9 HL-5, Schedule C-1.2.

10 A. Are you talking about the originals or the

11 revised?

12 Q. I'm talking about the revised, well, it

13 reflects 9/30/09 and then a reference to the partial

14 settlement position.

15 MR. FFITCH: Your Honor, I think there may be

16 some confusion with reference to B-5 here, which is just

17 an exhibit number in this case. Mr. Larkin has

18 schedules that I think are original exhibit numbers.

19 MR. MEYER: I want to make sure we have the

20 same pages, may I --

21 JUDGE TOREM: You can approach the witness.

22 MR. MEYER: -- approach the witness just to

23 make sure that we're side by side on this.

24 So for the record, what we're referring to

25 now is page 10 of his Schedule C-1.2 of his Exhibit

0707

1 HL-5.

2 JUDGE TOREM: Okay, I think we're all with

3 you now.

4 MR. MEYER: All right. Sorry for this, but

5 it's important that we put these two documents side by

6 side.

7 BY MR. MEYER:

8 Q. Now the second document that we've just

9 referred to on the upper right-hand corner reflects the

10 notation partial settlement position; is that correct?

11 A. Yes.

12 Q. All right. Now the settlement itself did

13 make several adjustments to various elements of power

14 supply, didn't it?

15 A. Settlement settled the power supply issue.

16 Q. Including several components that went into

17 that power supply adjustment, correct?

18 A. Yes, I assume so.

19 Q. And yet the inputs for power supply that you

20 show in the upper portion of both of these pages remain

21 the same; am I correct?

22 In other words, other expenses column, $27

23 Million, thermal fuel?

24 A. Yes, they remain the same because we factored

25 in the total settlement into the total number, not into

0708

1 individual columns.

2 Q. So for purposes of -- strike that.

3 Would you accept subject to check that if you

4 in fact had incorporated the power supply numbers that

5 were agreed to in the settlement stipulation for

6 purposes of arriving at a production property adjustment

7 that the adjustment to net expense would have been

8 smaller by $506,000 resulting in a $529,000 additional

9 revenue requirement?

10 A. I don't know, I would have to check it. But

11 it seems to me that we spent time on the phone with

12 Ms. Andrews and trying to understand what accounts these

13 factored into, so if there's a mistake, it's a mistake

14 that we got from you from our understanding of where

15 they should go.

16 Q. But regardless of how a mistake might have

17 occurred, would you agree that for purposes of the power

18 or the production adjustment, production property

19 adjustment, that you had utilized the same power supply

20 inputs both before and after the settlement, correct?

21 A. Oh, are you saying that we didn't carry this

22 forward to --

23 Q. You didn't carry the revised power supply

24 numbers --

25 A. Yes.

0709

1 Q. -- forward to the production property

2 adjustment.

3 A. Yes.

4 Q. Would you agree with that?

5 A. I don't know, I didn't check it.

6 Q. Would you accept that subject to check?

7 A. I'll accept it subject to check.

8 MR. MEYER: Thank you, that's all I have

9 then.

10 JUDGE TOREM: That's all for this witness?

11 MR. MEYER: Yes.

12 JUDGE TOREM: Mr. ffitch, do you want a

13 moment, or do you want to go right into any redirect?

14 MR. FFITCH: I don't think I need a moment,

15 Your Honor. I guess I just wanted to -- I just have I

16 think one question on redirect.

17 JUDGE TOREM: All right, I'm taking you

18 purposely out of order before I turn it over to the

19 Commissioners so I can make sure any of these numbers

20 can be clarified then see what Bench questions come from

21 there, so go ahead, please.

22

23

24

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

0710

1 BY MR. FFITCH:

2 Q. Mr. Larkin, you mentioned that your office

3 contacted Avista in the preparation of the response to

4 Bench Request Number 2.

5 A. Yes.

6 Q. Is that correct? And the purpose of that

7 call was to endeavor to make sure that the effects of

8 the partial settlement stipulation were properly

9 reflected in Bench Request Number 2 as Public Counsel's

10 litigation position, correct?

11 A. At least the fuel component.

12 Q. Right. And is it your recollection, who do

13 you recall was involved in the conversation between your

14 office and Avista?

15 A. Christine Miller, Stephanie Johnson, and

16 Ms. Andrews.

17 Q. And you've been asked to accept a number of

18 calculations and representations subject to check, do

19 you need some additional time to review those answers

20 and confirm your subject to check answers?

21 A. Yes.

22 MR. FFITCH: Those are all the questions I

23 have at this time, Your Honor.

24 JUDGE TOREM: Mr. ffitch, I take it that

25 Mr. Larkin's travel plans are for tomorrow one way or

0711

1 the other?

2 MR. FFITCH: (Nodding head.)

3 JUDGE TOREM: So remind me tomorrow morning

4 when we start to see if Mr. Larkin wants to take the

5 stand again and confirm his subject to check and/or make

6 any revisions at that time.

7 MR. FFITCH: Thank you, Your Honor, we'll do

8 that.

9 JUDGE TOREM: Commissioners, any questions

10 for Mr. Larkin, Commissioner Oshie?

11 COMMISSIONER OSHIE: No questions, Your

12 Honor.

13 JUDGE TOREM: Commissioner Jones?

14 COMMISSIONER JONES: No questions.

15 JUDGE TOREM: And the Chairman?

16 CHAIRMAN GOLTZ: No Questions.

17 JUDGE TOREM: Mr. Meyer, was there any other

18 follow-up?

19 MR. MEYER: No, thank you.

20 JUDGE TOREM: So I think then it's now 4:25,

21 Mr. Larkin, we'll have you step down for the afternoon

22 to get the new calculations --

23 THE WITNESS: Well, I mean I have to go home

24 for those calculations. I mean they're computer models

25 that we ran this through.

0712

1 JUDGE TOREM: All right, do you think you'll

2 have those --

3 THE WITNESS: I can't do that overnight.

4 JUDGE TOREM: You can't do them overnight?

5 THE WITNESS: No.

6 JUDGE TOREM: All right, so we'll find out

7 when those checks will be done, and Mr. ffitch can let

8 us know in the morning how long that might take.

9 My understanding also is that, Mr. ffitch,

10 the revised submission of B-5 and its contained exhibits

11 of HL-5 and 6 may yet reflect confirmation of the

12 numbers that were inquired of today; is that correct?

13 I know there was a purpose for submitting the

14 revision, but I can't recall right now if it encompassed

15 everything that was discussed on cross-exam.

16 MR. FFITCH: No, it did not, Your Honor.

17 CHAIRMAN GOLTZ: It was just the damages.

18 MR. MEYER: That's right.

19 MR. FFITCH: Just injuries and damages.

20 MR. MEYER: And so my request would be if

21 it's going to be revised, it should not only correct for

22 injuries and damages, but the two adjustments we just

23 referenced with regard to the production property

24 adjustment.

25 JUDGE TOREM: That would seem to make the

0713

1 most sense to me, and for once my policy advisor is

2 nodding as it's that, so let's have that revised B-5,

3 Mr. ffitch, essentially be the confirmation of the

4 subject to check and be, well, Mr. Larkin, that will be

5 your final answer subject to briefs.

6 MR. FFITCH: Your Honor, I know a number of

7 the Bench requests have been made due on Friday next

8 week, perhaps we can ask for the same deadline for our

9 revised response to Bench Request Number 2.

10 THE WITNESS: A week from this Friday?

11 MR. FFITCH: (Nodding head.)

12 THE WITNESS: That's fine.

13 JUDGE TOREM: Mr. Meyer, will that be

14 sufficient time that it won't inhibit preparation of

15 briefs when we close the record otherwise?

16 MR. MEYER: That will be just fine.

17 And again, if you would like to contact any

18 of our people as you work through the subject to check

19 questions, please do so. Thank you.

20 JUDGE TOREM: All right, thank you,

21 Mr. Larkin.

22 Mr. ffitch, that was your one witness in this

23 area, I'm going to turn back to Mr. Trautman. We have

24 three additional witnesses on the revenue requirements,

25 Mr. Buckley, Mr. Kermode, and Mr. Parvinen, how would

0714

1 you like to proceed?

2 MR. TRAUTMAN: Well, Mr. Buckley would be

3 more appropriate for tomorrow when Lancaster is going

4 forward.

5 JUDGE TOREM: Understood.

6 MR. TRAUTMAN: I guess we would prefer to

7 have Mr. Kermode.

8 JUDGE TOREM: All right, Mr. Kermode, if you

9 will come forward.

10 MR. FFITCH: Your Honor, while Mr. Kermode is

11 coming forward, since the issue of Lancaster has come

12 up, I would like an opportunity to consider our position

13 with regard to live direct testimony by Mr. Buckley with

14 regard to Lancaster when there's been no previous

15 involvement by Mr. Buckley on this issue, and I would

16 like to consider whether or not we have an objection to

17 that or some kind of procedural alternative suggestion.

18 JUDGE TOREM: My suggestion it that if the

19 Bench calls Mr. Buckley for cross-exam, you weigh

20 heavily your thoughts about any cross-examination

21 objection.

22 MR. FFITCH: Well, Your Honor, our concern

23 would be our ability to respond and react to a witness

24 who's not previously taken a position or filed testimony

25 in this case, and we would like an opportunity to try to

0715

1 address our procedural options.

2 JUDGE TOREM: You can weigh whatever

3 procedural options you like. The Bench is going to

4 cross-examine whatever witnesses on whatever topics they

5 would like. So if you need additional time or you want

6 to move for additional examination later, let me know,

7 but I accommodate you second after the gentlemen to my

8 right.

9 MR. FFITCH: I understand, Your Honor.

10 JUDGE TOREM: All right, just so we're clear,

11 if the Bench wants to cross-examine, it will occur.

12 All right, Mr. Kermode, if I can swear you

13 in.

14 (Witness DANNY P. KERMODE was sworn.)

15 JUDGE TOREM: All right, Mr. Kermode, you've

16 been sworn in, Mr. Meyer, you had estimated about 45

17 minutes, is that still a good estimate?

18 MR. MEYER: In fact, I think a half an hour.

19 May I just say a couple of words to help in scheduling

20 here? I think we'll have no questions of Mr. Parvinen,

21 and I know I had a substantial time estimate there, for

22 the reason that I think the theoretical discussion, the

23 debate, if you will, engaged in in the prefiled

24 testimony between Mr. Norwood and Mr. Parvinen is

25 straightforward enough, it's set forth, and we're not

0716

1 going to belabor that point. All right, so at this

2 point I have nothing for Mr. Parvinen, but I thought it

3 might be helpful to spend perhaps half an hour with

4 Mr. Kermode on the capital additions issue to just

5 provide some clarification around the differences in the

6 Staff position and the Company position. And what I

7 don't want to do is certainly try your patience or waste

8 valuable time, but I think it's something I can probably

9 do in 20 or 25 minutes, and knowing that I have nothing

10 for Parvinen, I think that should at least tell you that

11 we're moving through this process quickly.

12 JUDGE TOREM: All right, and still I don't

13 think you need to worry about trying patience, I commend

14 all the attorneys for their attention to asking relevant

15 concise questions today and moving the topics along.

16 While on the topic of Mr. Parvinen,

17 Mr. ffitch, you had 10 minutes allotted to that witness

18 for cross-exam, did you want to take that up tomorrow

19 morning then, or if you know you don't have questions we

20 can dispense with that witness now.

21 MR. FFITCH: Your Honor, in the event we will

22 not have any questions for Mr. Parvinen.

23 JUDGE TOREM: No questions, so, Mr. Trautman,

24 we will not be calling Mr. Parvinen today or tomorrow it

25 appears.

0717

1 Okay, let's move on, Mr. Kermode has been

2 sworn, Mr. Trautman, are you aware of any --

3 MR. TRAUTMAN: Well, let me just ask would

4 the Commissioners have any questions for Mr. Parvinen?

5 JUDGE TOREM: None that I was made aware of,

6 thank you for --

7 CHAIRMAN GOLTZ: If we change our mind, we

8 know where to find him.

9 JUDGE TOREM: That's true, he's easily

10 subject to recall, but thank you for checking on that.

11 MR. TRAUTMAN: Before we start, Your Honor,

12 and I spoke with Mr. Meyer about this briefly, if you

13 recall we filed a revised, in response to Bench Request

14 2, we filed updated exhibits for Mr. Kermode, DPK-2

15 through 6, that had revenue requirement numbers, and so

16 accordingly we've had to refile the testimony, the only

17 changes being to match the numbers to the numbers that

18 are now in DPK-2, and I discussed it with Mr. Meyer, and

19 he had no objection, so I was going to distribute that.

20 CHAIRMAN GOLTZ: I think we have revised --

21 MR. TRAUTMAN: Just revised, no, of his

22 testimony 1T revised today because we just submitted the

23 Bench Request 2 response about two or three days ago.

24 JUDGE TOREM: All right, so instead of the

25 current DPK-1T, which was revised as of 2 September,

0718

1 we're now going to have a substitute, and I will mark

2 that that new date will be 7 October.

3 MR. TRAUTMAN: This is dated October 5th on

4 it.

5 JUDGE TOREM: All right, well, 5 October,

6 that's fine, so there's the revised to mirror what's now

7 in Exhibit B-4 --

8 MR. TRAUTMAN: Correct.

9 JUDGE TOREM: Which was your response to

10 Bench Request 2.

11 MR. TRAUTMAN: That's correct, our response

12 to Bench Request 2.

13 JUDGE TOREM: Okay.

14 MR. TRAUTMAN: And among other things, it

15 would include the settlement updated revenue

16 requirement.

17 JUDGE TOREM: All right, thank you. And

18 again, this is a bit cumbersome to discuss, but I think

19 the intention is well received by the Bench and all the

20 other parties to continue to get the best numbers

21 possible in front of us given some of the moving parts

22 with the settlement and the rebuttal position.

23 So, Mr. Meyer, you've seen a copy of what's

24 coming across?

25 MR. MEYER: Yes, I have.

0719

1 JUDGE TOREM: And, Mr. Kermode, I take it

2 you've seen have a copy of that and have it in front of

3 you?

4 THE WITNESS: Yes, Your Honor.

5 JUDGE TOREM: All right, Mr. Meyer, let's

6 move on to the capital additions.

7 MR. MEYER: Very well. I would like to

8 distribute for the record three sheets, and these simply

9 are blown up illustrations that already appear in the

10 testimony, the rebuttal testimony of Company witness

11 Defelice, and they're noted in the lower right-hand

12 corner the source document, there's nothing new, they're

13 already in the record.

14 JUDGE TOREM: Mr. Meyer, you're going to

15 distribute those excerpts from Mr. Defelice's

16 testimony --

17 MR. MEYER: Yes.

18 JUDGE TOREM: -- to all concerned so we don't

19 have to --

20 MR. MEYER: Yes, I am. There should be four

21 of each of the three items. There are extras here for

22 those in attendance who would like to see those.

23 JUDGE TOREM: All right, so I have

24 distributed these illustrations and table from the

25 Defelice rebuttal testimony, that's DBD-4T, pages 14,

0720

1 15, and 16, Commissioners have all three of those, and

2 they also have the updated DPK-1T.

3 All right, I think we've got all the

4 paperwork in line.

5 MR. MEYER: Thank you.

6

7 Whereupon,

8 DANNY P. KERMODE,

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

10 herein and was examined and testified as follows:

11

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

13 BY MR. MEYER:

14 Q. Mr. Kermode, the purpose of this line of

15 questioning is not so much to argue the point but to

16 understand the differences. And I would like to begin

17 first with illustration number 1, and you have of course

18 the source reference there from Mr. Defelice's

19 testimony. Do you understand that the Company's

20 proposal in this case, and it still remains their

21 recommended approach, is to include by way of pro forma

22 capital additions generation and transmission of

23 distribution through the end of 2009?

24 A. Yes.

25 Q. All right. Now turning to illustration 1,

0721

1 this purports to reflect the Staff's capital investment

2 proposal, correct?

3 A. That's correct.

4 Q. Let's take it a segment at a time. You begin

5 with the test period rate base AMA or average of monthly

6 averages, correct?

7 A. That's correct.

8 Q. And what did the Company use by way of its

9 test period rate base, was it end of period or average

10 of monthly averages?

11 A. After I believe it was pro forma adjustment

12 6, it was actually end of period December 2009 I believe

13 was what you ended up with after all your pro forma

14 adjustments.

15 Q. All right. Now the second step in this

16 illustration of the Staff's own proposal is to reflect a

17 level of generation and transmission assets as well as

18 two distribution assets through June 30th of 2009; is

19 that correct?

20 A. Correct.

21 Q. And we translated that into a revenue

22 requirement of $3.2 Million roughly, correct?

23 A. That's correct, yes.

24 Q. You also did something else though, to be

25 fair about it, you did include some Noxon in 2010,

0722

1 correct?

2 A. Or the Noxon 3, yes.

3 Q. Yes. And that's referenced at least in the

4 footnote there.

5 A. Okay.

6 Q. Now your pro forming of generation and

7 transmission out through June 30th of 2009 did not take

8 it to the end of 2009 as compared to what the Company

9 proposed, correct?

10 A. That's correct.

11 Q. All right. So now let's turn to illustration

12 number 2. Now this is entitled Avista's alternate

13 capital investment proposal; do you see that?

14 A. Yes, I do.

15 Q. Now you understand this is not the Company's

16 original proposal which would have pro formed everything

17 to the end of 2009, correct?

18 A. That's correct.

19 Q. So what the Company did through this

20 illustration is to begin by accepting your average of

21 monthly average rate base for the test period, correct?

22 A. Yes.

23 Q. And then it accepted, and again it's useful

24 to have both of these illustrations side by sigh, your

25 generation transmission adjustment through 6/30 or June

0723

1 30th of 2009 that we've already talked about, correct?

2 A. That's what the schedule is showing, yes.

3 Q. Yes. Now there are only -- there are two

4 changes that go to the heart of what distinguishes our

5 alternative proposal from your proposal. Is one of them

6 the fact that we have taken your generation and

7 transmission and moved that from June 30 to the end of

8 2009, is that reflected by the $3.38 Million revenue

9 requirement figure shown under the dashed line in

10 illustration 2?

11 A. I see that.

12 Q. Okay. Now do you understand that with

13 reference to generation and transmission that as you've

14 read the testimony of Mr. Storro and Mr. Kinney that

15 given construction cycles, the bulk of the transmission

16 or our generation investment occurs in the second half

17 of the year?

18 A. Yes.

19 Q. In the normal course?

20 A. Yes, I read that.

21 Q. And do you have any reason to dispute that?

22 A. No, I don't.

23 Q. And do you understand why that may be the

24 case?

25 A. Building seasons, yes.

0724

1 Q. So as a matter of course year after year,

2 would you expect to see the bulk of the investment and

3 the completion of the work in the second half of any

4 given year?

5 A. Yes.

6 Q. But by cutting it off at 6/30 of '09 or June

7 30th of '09, have you captured the bulk of the work in

8 the generation and transmission areas?

9 A. Within the constraints of a regulatory audit,

10 I believe I've captured what I can capture.

11 Q. Now you've had the chance though to examine

12 through the Company's original filing all of its

13 generation and transmission for the entire year, and

14 that was the Company's original proposal, correct?

15 A. For 2009.

16 Q. Yes.

17 A. Yes.

18 Q. So what we are doing in the second half of

19 2009 by way of generation and transmission in order to

20 essentially layer that on your proposal really takes us

21 to the same place that we were with respect to our

22 original proposal that was filed some seven or eight

23 months ago, correct?

24 A. I hesitate to say yes. I think that's a

25 broad generality. There's a lot of subtleties there,

0725

1 so.

2 Q. But the point being, Mr. Kermode, that you

3 had a chance when you looked at the Company's original

4 filing to examine generation and transmission asset

5 information --

6 A. The different projects and --

7 Q. Yes.

8 A. Yes.

9 Q. Through the end of '09?

10 A. What I examined obviously initially after the

11 filing was budgeted information, and as the case

12 progressed, I saw data provided by Mr. Defelice on

13 completed projects, so I was able to follow that

14 through. And that's why the 6/30, basically I used

15 6/30/09 as a cutoff period because there's a certain

16 point where as an auditor I guess you could use the

17 analogy I have to quit cutting bait and I have to fish.

18 At that point I was able to determine no new measurable

19 additions to generation transmission. I was able to

20 look at the records that supported that, and although

21 there was budgeted information once again going forward,

22 I'm constrained by the known and measurable standard.

23 Q. Could you have when you received the rebuttal

24 testimony containing this alternative proposal made

25 further inquiries for updates around generation and

0726

1 transmission for the balance of this year to essentially

2 update your understanding?

3 A. Once again, I think there's a certain period

4 of time or a certain point in time where the audit

5 process has to stop and the rate making process has to

6 begin. I believe that at any time during the process,

7 not just when the rebuttal was received, but at any time

8 I guess Staff could initiate a rereview and rereview the

9 different data. But I think just as a practical point

10 of view, like I said, there has to be a cutoff. We have

11 a test year that ends 9/30/08 when I have basically a

12 cutoff for the generation distribution non-revenue

13 producing expense reduction type at 6/30, like I said,

14 as an auditor I have to start coming -- setting rates

15 and supporting that.

16 Q. All right. Now you understand that neither

17 in the Company's original proposal nor in the Company's

18 alternative proposal, with the exception of Noxon, does

19 the Company seek to recover any 2010 capital additions.

20 A. Yes.

21 Q. Correct?

22 A. That's correct.

23 Q. So to the extent that there is no recovery of

24 2010 capital additions, have we appropriately matched

25 revenues, expenses, and capital additions for the 2010

0727

1 rate year?

2 A. We've appropriately matched expenses and

3 revenues for the test year. I think that's what we're

4 focused on. That's what I'm focused on is I want to

5 make sure that when I build a test year that I do not

6 insert data information that actually mismatches the

7 test year. The assumption is the test year will be used

8 for the rate year.

9 Q. So your reference is to matching for the test

10 year, not the rate year, correct?

11 A. I'm saying my focus is to -- when I consider

12 adjustments, I must be assured that that adjustment does

13 not cause a mismatch within the test year, because the

14 test year is the very vehicle that we're using to set

15 rates.

16 Q. Let's turn now to the last element in this

17 alternative proposal that distinguishes it from yours,

18 and that has to do with the bottom portion here,

19 miscellaneous distribution and general plant. And there

20 is a reference there to an additional revenue

21 requirement of roughly $2.2 Million associated with

22 items that are footnoted in Footnote 2 carried through

23 to 7/31 or July 31 of '09, correct?

24 A. That's correct.

25 Q. And those are identified as the six electric

0728

1 distribution projects, the four natural gas projects,

2 and three general plant projects?

3 A. Correct.

4 Q. And are those the projects that we've already

5 heard testimony about from various Avista witnesses this

6 afternoon?

7 A. Yes.

8 Q. And those because they reflect investment

9 only through 7/31/2009, those are completed, invoiced,

10 billed, paid for, correct?

11 A. In that they're completed and based on my

12 prior review of the records, I believe that would be a

13 correct statement.

14 Q. Thank you.

15 Now lastly let's turn to Table 1, which is

16 the third document, and again that's out of

17 Mr. Defelice's testimony, and this closes the loop, and

18 this should just take a few minutes. This tries to

19 bring it all together by way of comparing our original

20 request and our alternative approach. I'm not going to

21 take you through each of these numbers, but if you'll

22 focus on the revenue requirement for electric under

23 Avista's original request, which again carried it out,

24 capital out through the end of '09, that it had about an

25 $11.3 Million revenue requirement impact, correct?

0729

1 A. That's correct.

2 Q. And if we use the so-called alternative

3 approach, which as we've discussed simply builds on what

4 you've done in the two areas that we've just talked

5 about, we get to essentially the same point, correct,

6 $11.4 Million with the revenue requirement?

7 A. Yes, slightly higher, but yes.

8 MR. MEYER: Thank you, that's all I have.

9 Thank you, Mr. Kermode.

10 THE WITNESS: You're welcome.

11 JUDGE TOREM: Commissioners?

12 Mr. ffitch, you didn't have anything on this,

13 did you?

14 MR. FFITCH: No, Your Honor.

15

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

17 BY COMMISSIONER OSHIE:

18 Q. Mr. Kermode, this is for any of those folks

19 listening on the bridge line, this is Commissioner

20 Oshie, in your testimony you make reference to, and on

21 page 29, you don't have to go there because I think

22 you'll know what I'm talking about, you use the term

23 attrition, and that is although perhaps not in rebuttal

24 but it certainly explains Staff's view of how there's an

25 alternative way for the Company to demonstrate that

0730

1 there's an erosion of earnings or rather than just

2 trying to what I assume would be to include capital

3 costs occurring outside of rate year, or for the test

4 year even, the rate year in rates. So I would like a

5 little more of an explanation of maybe we can just start

6 with your short definition of attrition, and we'll go

7 from there.

8 A. Attrition is the tendency of the earnings of

9 a utility to erode over time between rate cases, and

10 it's normally attributable to either the aggressive

11 infrastructure program or to inflationary factors.

12 That's the short definition.

13 Q. And is -- have you -- and there is I

14 understand, and although I don't believe that we've had

15 any filed at the Commission since my time, attrition

16 studies that are performed which will analyze the

17 factors that are or the inputs that go into an attrition

18 study and come out with a number which reflects this

19 erosion of earnings over a given period. And so perhaps

20 you can explain a bit how an attrition study is, not

21 necessarily how it's performed, but you can explain a

22 bit about what the inputs that are used in the analysis.

23 A. First of all, I've never done one, I've heard

24 of them basically. An attrition study would basically

25 look at obviously the return of the Company as a time

0731

1 series. It would be looking at as input normal

2 inflation trying to see what the actual erosion of the

3 real return loss is of the Company. Also I would put in

4 a time series of plant increase or rate base increase

5 relative to the overall return. All those items you

6 would be able to see the degree that attrition was

7 actually affecting a company and also of course the

8 impact of intervening rate cases.

9 Q. All right. And do you think it would be --

10 does an attrition study have a real value if there are

11 rate cases filed on an annual basis by a company?

12 A. You know, I remember the attrition studies

13 were I would say about the 1980, in that era, inflation

14 rates were literally 12%, 13%, and I remember they were

15 pretty common. But the question was the time series. I

16 believe when any utility files annually, obviously

17 attrition is not going to have the effect as it would on

18 a company that files once every three or four years.

19 Q. And my next question, and I guess it should

20 be, you said you've never performed an attrition study,

21 have you had an opportunity to review an attrition

22 study, either as work for a commission or your other

23 employment?

24 A. In Arizona I had an opportunity, and that's

25 why, to tell you the truth, that's why I thought about

0732

1 the '80's, that's when I actually saw it, so.

2 Q. I'm familiar with that period as well, I wish

3 it weren't quite as long ago for me, but. And so

4 there's been no attrition study filed here in this case?

5 A. That's correct.

6 Q. And that would have been an option that the

7 Company could have exercised if it believed that its

8 earnings were eroding in an unusual or an unreasonable

9 manner between rate cases?

10 A. I believe that's true, yes.

11 Q. All right.

12 I've got a couple questions that have to do

13 with Staff's employment of its principles for allowing

14 certain capital projects that fall either in the rate

15 year or outside the rate year into rates in this case.

16 And how does Staff distinguish between, first of all,

17 how does it define a project that's necessary to meet a

18 legal requirement?

19 A. Very good question, I had the very same

20 thought when I started. NERC has a series of rules, and

21 they have regulatory authority. They can actually

22 penalize the Company for not maintaining certain levels

23 of reliability. I looked at that and considered that.

24 For pipeline, obviously pipeline safety doesn't

25 necessarily -- isn't necessarily done for marketing

0733

1 purposes, it's done for safety purposes. Normally it's

2 just the regulatory oversight from FERC, NERC,

3 ourselves, the State.

4 Q. We hear as Commissioners, we hear that I

5 would say almost 100% of the time from company

6 representatives, whether they be from Avista or any

7 other company that we regulate, that their system is

8 safe and that it's operating in a manner that it's

9 supposed to, and so how would we really try -- how do we

10 ascertain, we can rely of course on Staff's judgment and

11 do in many, many occasions and as well as the judgment

12 of the company, but how do we ascertain whether or not

13 something is absolutely needed unless there is some

14 finding from a regulatory body that this has to be done

15 because it is -- because there is -- they believe it is

16 a correction that must be made?

17 A. You know, I had thought through that, and I

18 believe in truth one of the ways that the Commission

19 could be assured that at least with a reasonable

20 assurance that things are being done truly to comply

21 with something and truly needed is to take samples. You

22 can tell as an auditor I'm talking, but I would take

23 samples, and from those samples I would have experts,

24 either pipeline safety experts, NERC experts, look at

25 it, evaluate it, and be able to give an opinion as to if

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1 that truly is needed. I know NERC also produces, I

2 don't know the term, but warnings I guess. They give

3 utilities notice that there's certain things that

4 they're not too happy about and give them time to

5 correct it. Obviously we could look at it that way and

6 have assurance that something is going on. But I think

7 from auditing's point of view, maybe just a random

8 selection of some of the projects that are being held

9 out as being required, and I think it would have two

10 effects. One is that obviously we would be doing the

11 actual testing, and we would be gaining a conclusion,

12 but it would also put all companies on notice that we

13 would be taking little samples. And it wouldn't have to

14 be I assume not too large of a sample, just to make them

15 know that we're there.

16 Q. Well, are there any -- are any of the

17 projects that are being recommended for approval or

18 adoption I guess in rates by Staff, were they preceded

19 by a warning from any of the regulatory agencies that

20 that particular project required upgrading or

21 replacement?

22 A. I have a data request with some

23 communications between the Company and NERC. I don't

24 know if I want to classify them as warnings, but there's

25 obvious communications going on.

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1 Q. And you wouldn't classify them as a call for

2 a corrective action? There's a difference in my mind

3 between a warning and a call for a corrective action.

4 A. I think probably Mr. Kinney to tell you the

5 truth would probably give you a better feel of the

6 degree of what weight those letters or the

7 communications carry.

8 Q. Well, they could, but I'm really trying to

9 get at why Staff reached its conclusions, Mr. Kermode.

10 In other words, you felt -- you didn't really feel that

11 that was necessary for you at least and Staff to

12 recommend that the projects be included in rates?

13 A. Well, I believe that I've included the

14 projects that are related to transmission that are

15 required, that the Company has communicated to me are

16 required. I believe I have included those up to the

17 point that they were known and measurable as of 6/30.

18 The danger to me as an auditor is going beyond that 6/30

19 at that time and saying, okay, what else do you think

20 that you're going to do that you believe is also

21 required. The hard rock evidence to me is they put the

22 money in the ground to tighten the sway of lines. That

23 was money put in the ground. So I believe I did provide

24 it to them, and I have no reason to believe that the

25 Company would mislead me when I explicitly asked them

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1 only the projects that are required, that you are

2 required to do that do not have a revenue increasing or

3 a expense decreasing attribute.

4 Q. And thank you, Mr. Kermode, appreciate that,

5 your insight on that point. It does help explain I

6 believe Staff's position.

7 If there were a notice of a corrective action

8 that required corrective action or a warning as to

9 safety reliability of any component of the system, would

10 that substitute in Staff's mind for some kind of

11 testimony required on whether or not the project is used

12 and useful?

13 A. A project that is complete and with that type

14 of documentation, yes.

15 Q. I'm a little confused and perhaps I should

16 have asked Mr. Kinney, but I believe there was some

17 testimony about this, and perhaps I let that slip by in

18 a way that I shouldn't have. I'm trying to get my arms

19 around how the Company is accounting for projects for

20 example of road widening when a county or city

21 government requires them to move a line, because there

22 it seems that although there's a new pole in place, I

23 believe there is a Bench request about, you know, how to

24 account for if the pole is changed how it's -- so is

25 that -- and I understand that and I'm -- I don't know if

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1 all of our companies treat those projects the same way,

2 whether they're expensed or whether -- in any given

3 period or whether they're capitalized. Because I

4 believe that there are, you know we have companies that

5 we regulate I believe that expense those costs, and so

6 perhaps you can enlighten us a bit.

7 A. The understanding I have is that if it was

8 merely -- my understanding of the FERC chart of accounts

9 in accounting is if they have wooden poles, they go in

10 there and they move those wooden poles 25 feet, that's

11 an expense. My understanding is they are not replacing

12 the wooden pole, instead they're putting up metal poles.

13 I think that's the subtlety. I think that they are

14 retiring the major unit basically, and so that major

15 unit is then capitalized. And the accounting I believe,

16 FERC accounting, is that the retirement is the -- you

17 retire against accumulated depreciation the full

18 original cost of that plant, and so the net change to

19 rate base is zero. But what it does is it extends the

20 recovery period effectively because you have mass asset

21 accounts. So you have usually a vintage mass asset

22 account, so the total recovery has basically been

23 deferred. Let's say, to clarify, let's say a pole is

24 50% depreciated, so you have $500, $1,000 left to

25 recover. That $1,000 effectively reduces accumulated

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1 depreciation by $1,000. So the Company now has an

2 opportunity to recover that unrecovered amount over the

3 life of the remaining plant is the dynamics involved.

4 Q. Okay.

5 Do you know if Avista has a tariff in place

6 wherein there's a sharing requirement between the

7 jurisdiction and the Company for the kind of project

8 where it's the city or the county requires them to do

9 it?

10 A. My experience with relocations, and I've

11 never seen it otherwise, the Company might have bumped

12 into some, is as part of the right of way there's a

13 provision that says you get the right of way, but if we

14 want you to move, you pay it. So I have not seen any

15 provision of a city or county where they share the

16 price. The only ones I've seen is a requirement that

17 the company bear the full cost of relocation.

18 Q. I wonder if maybe I'm confusing one issue

19 with another, but I thought that Puget Sound Energy had

20 a sharing tariff in place?

21 A. I'm not aware of that.

22 Q. Okay. And my recall was that we heard a case

23 in which we had to interpret that tariff to determine

24 the sharing between the city and the county, I believe

25 Auburn and Kent and Puget Sound Energy and the

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1 relocation of facilities for the purpose of -- for that

2 particular purpose.

3 COMMISSIONER OSHIE: All right, I have no

4 further questions, thank you, Mr. Kermode.

5 JUDGE TOREM: Thank you, Commissioner Oshie.

6 Commissioner Jones.

7 COMMISSIONER JONES: I think this will be

8 brief and it is late in the day.

9

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

11 BY COMMISSIONER JONES:

12 Q. Mr. Kermode, are you familiar with

13 Mr. Defelice's rebuttal testimony?

14 A. Yes.

15 Q. He contends that Staff's proposed adjustment

16 for the 2010 Noxon upgrade, that's Noxon 3 upgrade.

17 A. That's correct.

18 Q. Contains an error by Staff, so do you agree

19 or disagree with Mr. Defelice?

20 A. Thank you for asking. No, I do not agree.

21 The Aurora model that the Company uses, it's my

22 understanding, I'm not an expert with Aurora, but it's

23 my understanding that (a) they could have modeled in the

24 three quarter year. And even given that maybe the

25 attributes of the model does not allow them to put in

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1 the full or in three quarter period, my focus is on cost

2 recovery and what should the rate payer pay. The plant

3 is going to be on line for nine months. The rate payer

4 should only pay for nine months worth of that plant.

5 For me to put in a full year's worth of depreciation and

6 return to me is a bit like the tail wagging the dog.

7 Because the model itself has it in for a year and that

8 gives me the support to include it in the test year, it

9 doesn't require me to make the rate payer pay more than

10 they should.

11 Q. Mr. Kermode, I went back and looked at his

12 testimony, and it says something to the effect that

13 Staff incorrectly transferred data into the model for

14 revenue requirements.

15 A. And in my revised Bench Request 2 I've

16 corrected that.

17 Q. Yeah, just came to us, I apologize, we have a

18 lot of -- excuse me.

19 A. A lot of paper.

20 Q. Yeah, a lot of paper flowing around.

21 Second question, this relates to Mr. Norwood

22 and his rebuttal testimony, he contends that the

23 application of the production property adjustment to pro

24 forma adjustments made for future periods, not meaning

25 the rate year, serves to satisfy "the matching

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1 principle". Do you agree with him on this point,

2 because he says something to the effect that Staff and

3 other parties have "apparently overlooked" that the

4 production property adjustment is used to match?

5 A. I would say consistent with a response I gave

6 earlier, we are matching the test year, we are not

7 matching the rate year. The test year, the dynamic of

8 the production adjustment is to match test year costs

9 with rate period loads, that the matching takes place at

10 the test year level.

11 Q. Okay, we're getting through these.

12 Next question, back to Defelice and his

13 rebuttal, he describes how the Company included

14 accumulated depreciation and deferred federal income

15 taxes, FIT, in its proposed pro forma rate base

16 adjustments. Can you help me understand how accumulated

17 depreciation and deferred FIT are treated in the

18 Staff's, in your proposed pro forma rate base

19 adjustment?

20 A. For the transmission generation adjustments,

21 consistent with prior Commission treatment I took the

22 pro forma amounts up to the rate year, average monthly

23 average rate year, then the production adjustment is

24 what takes it and matches it back to the test year. The

25 other items, obviously the -- I believe I took the

0742

1 distribution also to the rate year, because that's when

2 it would be in service.

3 COMMISSIONER JONES: Thank you, that's all I

4 have.

5 JUDGE TOREM: Chairman Goltz.

6 CHAIRMAN GOLTZ: Yes, brief.

7

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

9 BY CHAIRMAN GOLTZ:

10 Q. In looking at your testimony, I believe it's

11 the same page and line in various versions, on page 38,

12 line 12, it says:

13 Staff selected transmission projects

14 that were either required by rule or

15 regulatory requirements or transmission

16 projects that were completed for system

17 reliability for inclusion in rate base.

18 Let me preface this by saying that I'm

19 finding these issues very difficult to get my head

20 around, and I think that looking for the principle that

21 we would apply in this case and presumably subsequent

22 cases as to when you would determine which non-test year

23 capital additions to include, you know, in a pro forma

24 adjustment, I'm trying to find a principle to do that.

25 So looking at those two criteria, one is that it's

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1 required, and one is for system reliability, I've got a

2 couple questions.

3 On system reliability, how did you determine

4 or -- I mean it seems to me that some projects add a

5 little bit to reliability, some projects add a lot to

6 reliability, how do you know which ones to include? Is

7 it a little deminimus amount of reliability or if it's

8 total? I mean how do you make that -- what principle do

9 we look to to make that judgment call?

10 A. On transmission projects I request -- trying

11 to be consistent with prior Commission orders or

12 positions, I frankly relied on the Company engineers,

13 and I tried to be explicit as to this is purely for

14 reliability, and that was my test.

15 Q. On the other set of criteria or criterion for

16 selecting transmission projects, that are required by

17 rule or regulatory requirements, and maybe if I went

18 back and kind of focused on all the individual projects

19 this would be clear, but I'm hypothesizing two

20 scenarios, one scenario in which the Company gets ahead

21 of the game and says, I'm going to install this project

22 because it's the right thing to do and I'm not going to

23 be required to do it, and the second scenario is the

24 same project but they hold back and wait until they're

25 told to do it.

0744

1 A. Mm-hm.

2 Q. Now if we allow inclusion in the test year

3 pro forma adjustment for the latter, for the required,

4 but not for the former where they may be farsighted, is

5 that the right kind of -- is that the right policy? And

6 maybe none of those --

7 A. In that you I don't want to say punish the

8 person as being proactive, but no, I understand your

9 point, yes.

10 Q. All right. And maybe none of the projects

11 here, you know, would be --

12 A. Fall within.

13 Q. -- impacted by that, but I'm worried about

14 the principle that just says if it's required, you're

15 in, if it's not required, you're out, and there's got to

16 be some tweaking of that it seems to me. At least

17 that's what I'm thinking at 5:15 today.

18 CHAIRMAN GOLTZ: Okay, I have no further

19 questions.

20 JUDGE TOREM: Thank you.

21 Commissioners, did that raise anything else?

22 Mr. Trautman, any redirect?

23 MR. TRAUTMAN: I have one or two quick

24 questions.

25 JUDGE TOREM: Press on.

0745

1

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

3 BY MR. TRAUTMAN:

4 Q. Mr. Meyer characterized Staff's proposal in

5 allowing certain 2009 capital additions and contrasted

6 it with the Company's proposal as simply a build on to

7 what it has proposed. Now you've indicated that you put

8 significant importance to the June 30th date.

9 A. That's correct.

10 Q. And the Company is proposing to include

11 projects that would extend all the way out to the end of

12 2009; is that correct?

13 A. To the end of this year, yes.

14 Q. At the end of this year. And as we sit now

15 it's October 7th, and when the rebuttal testimony was

16 filed it was September 11th, correct?

17 A. Correct.

18 Q. Do you see a significant difference between

19 June 30th and December 31st, and if so, what is it?

20 A. Again I think by going now to the end of the

21 year -- or to June 31st?

22 Q. Out to December 31st, yeah.

23 A. Yeah, to December 31st, once again we're

24 looking at budgeted expected expenses, and historical

25 test year regulation provides certain constraints in my

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1 opinion that simulate basically a company in a

2 competitive environment. Once you start adding budgeted

3 amounts, projected amounts, basically diluting that

4 historical test year, I believe the constraints that a

5 utilities management normally has because the rates are

6 set to a historical test year start to dissolve. And

7 instead of focusing on the costs or the revenues are

8 embedded in rates, they start focusing on I want to say

9 maybe a wish list or a budget, and that's the danger as

10 far as going out to the end of the year before we even

11 know truly what has happened.

12 Q. And you also mentioned in your testimony the

13 need to have known and measurable items and also the

14 offsetting benefit, no offsetting benefits. In the case

15 of projects in December 31st, would the offsetting

16 benefit factor be satisfied in your view?

17 A. No.

18 Q. And why not?

19 A. They would never really have the chance to --

20 it's a little more involved -- when you put an asset

21 into the ground and it starts working, I call it a

22 maturing of that expense. In takes a while for that

23 capital project to basically work through that business

24 system. And that's again one of those great things

25 about the test year, we have things in place, it's a

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1 year things are working, the change is already in place.

2 By going forward like that, we're merely taking one

3 item, the capital items, and we're, I don't want to say

4 blinding ourself, we're not recognizing those other

5 offset factors.

6 MR. TRAUTMAN: Thank you, that's all I have.

7 JUDGE TOREM: Mr. Meyer, was there any

8 recross?

9 MR. MEYER: No, thank you.

10 JUDGE TOREM: All right, mercifully no, so I

11 don't think there's anything else for Mr. Kermode.

12 All right, seeing none, thank you.

13 THE WITNESS: Thank you.

14 JUDGE TOREM: All right, it is now almost

15 5:20. Let me again commend counsel on the way they

16 conducted the revenue requirements case. By estimates

17 it should have taken ten hours of cross, and it may feel

18 like it took ten hours, but it didn't. Nevertheless, I

19 have consulted with the Chairman, I just need a nod from

20 the court reporter whether a 9:00 a.m. start tomorrow

21 will work. All right, if it works for her, it will work

22 for the rest of you, so we will start tomorrow with the

23 power supply cost issues at Lancaster at 9:00.

24 Are there any housekeeping issues other than

25 I'm going to review for the record the Bench requests

0748

1 that were made today and are outstanding?

2 Okay, the Commissioners need not stay for

3 that, but for the parties keeping score at home, the new

4 Bench requests that were verbally made today are Bench

5 Request 5, which is due a week from Friday, October the

6 16th. This regarded the CEO compensation for Ely and

7 Morris to look at their salaries and to see what

8 fraction of that is in Washington rates. Of course

9 there's more detail earlier in the record, but that's

10 Bench Request 5.

11 Bench Request 6, due this Friday, October

12 9th, is Avista's response, which is confidential, to

13 Staff Data Request 7.

14 Bench Request 7, also due this Friday, is the

15 per customer O&M costs that I believe Chairman Goltz

16 asked about.

17 And Bench Request 8, also due this Friday,

18 were the items on removing and replacing those

19 transmission lines dating from 2002 to 2008.

20 Those are the Bench requests for today.

21 Also we're noting that the updated revised

22 Exhibit B-5 that Public Counsel is going to submit which

23 will contain Mr. Larkin's updates all the way through

24 the settlement I believe, HL-5 and HL-6, that will be

25 due a week from Friday, October the 16th.

0749

1 Those are the outstanding items that were

2 presented verbally today. Were there any that I missed?

3 Were there any other housekeeping items we

4 needed to address today before we close the record?

5 Seeing none, then we're adjourned at 5:22,

6 we'll be back at 9:00 tomorrow morning, thank you.

7 (Hearing adjourned at 5:22 p.m.)

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