

Docket No. UG-170929 - Vol. V

WUTC v. Cascade Natural Gas Corporation

June 20, 2018



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1 BEFORE THE WASHINGTON
2 UTILITIES AND TRANSPORTATION COMMISSION

4 WASHINGTON UTILITIES AND) DOCKET NO. UG-170929
TRANSPORTATION COMMISSION,)
5)
Complainant,)
6 vs.)
7)
CASCADE NATURAL GAS)
8 CORPORATION,)
9)
Respondent.)

11 SETTLEMENT HEARING, VOLUME V
12 Pages 26-144

13 CHAIR DANNER, COMMISSIONERS JAY BALASBAS & ANN RENDAHL
14 ADMINISTRATIVE LAW JUDGES RAYNE PEARSON & LAURA CHARTOFF

16 June 20, 2018
17 9:00 A.M.

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1 McDowell Rackner & Gibson, for Cascade.

2 JUDGE PEARSON: Okay. Thank you.

3 MR. FFITCH: Good morning, Your Honor and

4 Judge Chartoff. Simon ffitich on behalf of The Energy

5 Project.

6 JUDGE PEARSON: Good morning.

7 MR. STOKES: Good morning, Your Honor. Chad

8 Stokes from the Cable Huston law firm representing the

9 Alliance of Western Energy Consumers.

10 MS. SUETAKE: Nina Suetake with Public

11 Counsel.

12 MS. GAFKEN: Lisa Gafken, Assistant Attorney

13 General, Public Counsel.

14 MR. ROBERSON: Jeff Roberson, Assistant

15 Attorney General for Staff.

16 MR. O'CONNELL: Andrew J. O'Connell,

17 Assistant Attorney General representing Commission

18 Staff.

19 JUDGE PEARSON: Okay. Thank you.

20 So before we are joined by the Commissioners

21 this morning, we'll address any housekeeping and

22 preliminary matters. So first, I will ask the parties

23 if they are willing to stipulate to the admission of all

24 the prefiled exhibits and testimony up to and including

25 the settlement testimony, supporting narrative, and the

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1 OLYMPIA, WASHINGTON; JUNE 20, 2018

2 9:00 A.M.

3 --oOo--

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

5

6 JUDGE PEARSON: Let's be on the record.

7 Good morning. Today is Wednesday, June 20th, 2018, at

8 9:00 a.m., and we are here today for an evidentiary and

9 settlement hearing in Docket UG-170929, which is

10 captioned Washington Utilities and Transportation

11 Commission versus Cascade Natural Gas Corporation.

12 My name is Rayne Pearson. I'm an

13 administrative law judge with the Commission, and I am

14 joined today by Judge Laura Chartoff who is observing

15 from the bench.

16 So let's begin just by taking short form

17 appearances from the parties. We'll start with the

18 Company and then we'll just go around the room.

19 MS. RACKNER: I'm Lisa Rackner with the law

20 firm of --

21 JUDGE PEARSON: Is your microphone on?

22 MS. RACKNER: I'm Lisa Rackner with the law

23 firm of McDowell Rackner & Gibson here on behalf of

24 Cascade Natural Gas.

25 MS. PEASE: I'm Jocelyn Pease, also with

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1 two cross-examination exhibits that were filed.

2 MS. RACKNER: Yes, Your Honor.

3 MR. FFITCH: Yes, Your Honor.

4 MR. STOKES: Yes, Your Honor.

5 MS. GAFKEN: Yes, Your Honor.

6 JUDGE PEARSON: Yes from Staff?

7 MR. O'CONNELL: Yes.

8 JUDGE PEARSON: Okay. Well, that was easy.

9 I've provided a copy of the exhibit list to the court

10 reporter so it can be made part of the record.

11 (All prefiled exhibits and testimony

12 admitted.)

13 JUDGE PEARSON: So at this point, unless

14 there's anything else -- is there anything from anyone

15 before I go get the Commissioners?

16 MS. GAFKEN: I do have one thing that I

17 think we can deal with at this point.

18 JUDGE PEARSON: Okay.

19 MS. GAFKEN: The public comment exhibit that

20 we should set the date for, when that could come in. I

21 don't anticipate that this might happen here, but we

22 have run into some problems getting it in within the

23 week. And so I was going to propose that we submit it

24 by the 29th, which is --

25 JUDGE PEARSON: That's fine.

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1 MS. GAFKEN: -- next Friday.
 2 JUDGE PEARSON: That's fine.
 3 MS. GAFKEN: Great. Thank you.
 4 JUDGE PEARSON: Okay. And I will note that
 5 in the exhibit list as well.
 6 MS. GAFKEN: Do you want it marked with a
 7 particular number?
 8 JUDGE PEARSON: Do we usually mark it as a
 9 bench exhibit?
 10 MS. GAFKEN: It's been done a couple of
 11 different ways. We can do it as a BR.
 12 JUDGE PEARSON: Okay.
 13 MS. GAFKEN: I think we've also done it as a
 14 PC.
 15 JUDGE PEARSON: Under its own category of
 16 exhibit?
 17 MS. GAFKEN: Right, but I don't have a
 18 preference on which way to mark it.
 19 JUDGE PEARSON: Okay. Why don't we put it
 20 as a bench exhibit just because we already have so many
 21 categories in this case.
 22 MS. GAFKEN: Okay.
 23 JUDGE PEARSON: And it will be marked BR-2.
 24 MS. GAFKEN: Okay. We will mark it that
 25 way.

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1 JUDGE PEARSON: Okay. Great.
 2 Okay. Anything else? Okay. Then we will
 3 take a brief recess, after which Judge Chartoff and I
 4 will be joined by the three Commissioners. We will
 5 first address the contested issue, as I explained in my
 6 email to the parties, followed by a short recess, and
 7 then we will hear from the settlement panel. And
 8 finally, at the conclusion, we'll hear closing arguments
 9 on the contested issue from all of the parties in lieu
 10 of post-hearing briefs.
 11 And I'm getting an email from someone in the
 12 building, asking us to speak up and more clearly into
 13 the microphone. So please just be conscientious of that
 14 when we come back. And we'll take a brief recess right
 15 now, probably about five minutes, and then we'll come
 16 back and get started with cross-examination. Thanks.
 17 We'll be off the record.
 18 (A break was taken from
 19 9:04 a.m. to 9:09 a.m.)
 20 JUDGE PEARSON: Okay. Let's be back on the
 21 record following a short recess. I am joined now by
 22 Chairman Danner, Commissioner Rendahl, and Commissioner
 23 Balasbas.
 24 And for the record, the parties have
 25 stipulated to the admission of all of the prefiled

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1 exhibits and testimony up to and including the
 2 settlement testimony and supporting narrative and the
 3 two cross-examination exhibits that were filed.
 4 So for the Commissioners' benefit, let's
 5 take short appearances again, beginning with the
 6 Company.
 7 MS. RACKNER: Lisa Rackner on behalf of
 8 Cascade Natural Gas.
 9 MS. PEASE: Jocelyn Pease for Cascade
 10 Natural Gas.
 11 MR. FFITCH: Simon ffitich for The Energy
 12 Project.
 13 MR. STOKES: Chad Stokes for the Alliance of
 14 Western Energy Consumers.
 15 MS. SUETAKE: Nina Suetake, AAG for the
 16 Public Counsel.
 17 MS. GAFKEN: Lisa Gafken, Assistant Attorney
 18 General for Public Counsel.
 19 MR. ROBERSON: Jeff Roberson, AAG for Staff.
 20 MR. O'CONNELL: Andrew O'Connell, Assistant
 21 Attorney General for Commission Staff.
 22 JUDGE PEARSON: Okay. Thank you.
 23 So the parties have prepared an agreed order
 24 of witnesses. So we will follow that order, and we may
 25 or may not need to take a break before we are finished

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EXAMINATION OF PARVINEN / RACKNER

1 with cross-examination, which is estimated to take one
 2 hour and 50 minutes. I invite anyone who needs a break
 3 to please just speak up and let me know.
 4 So let's call our first witness,
 5 Mr. Parvinen. Mr. Parvinen, it might be easier if you
 6 sit there for the court reporter. Then if you could
 7 just stand and raise your right hand.
 8
 9 MICHAEL PARVINEN, witness herein, having been
 10 first duly sworn on oath,
 11 was examined and testified
 12 as follows:
 13
 14 JUDGE PEARSON: You may be seated.
 15
 16 E X A M I N A T I O N
 17 BY MS. RACKNER:
 18 Q. Good morning, Mr. Parvinen.
 19 A. **Good morning.**
 20 Q. How are you employed?
 21 A. **Very well, thank you. I'm employed by Cascade**
 22 **Natural Gas as the director of regulatory affairs.**
 23 Q. And in that capacity, did you file testimony and
 24 exhibits for this case?
 25 A. **Yes, I did.**

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EXAMINATION OF PARVINEN / RACKNER

1 Q. And for the record, were those testimony and
 2 exhibits numbered as MPP-1T through MPP-6, MPP-7T
 3 through MPP-14?
 4 **A. That's correct.**
 5 Q. And did you also participate in joint testimony
 6 CNG-1JT, 1 through 2?
 7 **A. Yes.**
 8 Q. And --
 9 COMMISSIONER RENDAHL: Could you turn on
 10 your mic, Mr. Parvinen, or get it closer to you if it's
 11 on.
 12 MR. PARVINEN: How's that?
 13 COMMISSIONER RENDAHL: That's good. There
 14 are -- if anybody's listening in, we had a hearing
 15 yesterday, and we heard that people had difficulty
 16 hearing if you didn't speak right into the mic. Okay.
 17 Thanks.
 18 BY MS. RACKNER:
 19 Q. Do you have any corrections to your testimony?
 20 **A. No.**
 21 Q. And if I asked you the questions and the
 22 testimony today, would your answers be the same?
 23 **A. Yes.**
 24 MS. RACKNER: Your Honor, Mr. Parvinen is
 25 available for cross-examination.

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EXAMINATION OF PARVINEN / O'CONNELL

1 JUDGE PEARSON: Okay. Thank you.
 2 Staff?
 3 MR. O'CONNELL: Thank you, Your Honor.
 4
 5 **CROSS EXAMINATION**
 6 BY MR. O'CONNELL:
 7 Q. Good morning, Mr. Parvinen.
 8 **A. Morning.**
 9 Q. Cascade has decoupling, correct?
 10 **A. That is correct.**
 11 Q. And that allows the Company to recover a set
 12 revenue per customer, correct?
 13 **A. It does.**
 14 Q. But decoupling does not guarantee that the
 15 Company will earn its authorized rate of return,
 16 correct?
 17 **A. That is correct.**
 18 Q. In fact, in your testimony, you claim that
 19 Cascade is not going to earn its authorized rate of
 20 return, correct?
 21 **A. Correct.**
 22 Q. The way that Cascade's earning sharing mechanism
 23 works, if the Company under-earns, it does not share any
 24 of the under-earning with ratepayers, but if it
 25 over-earns, the Company shares 50/50 with ratepayers; is

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EXAMINATION OF PARVINEN / O'CONNELL

1 that correct?
 2 **A. Yes, that is -- it is that one-sided mechanism,**
 3 **yes.**
 4 Q. You also proposed in testimony to include the
 5 over-collection of taxes in interim periods in the
 6 sharing -- earning sharing mechanism such that if
 7 Cascade under-earns, the amount would be kept by the
 8 Company up until the point where the Company earned its
 9 authorized rate of return, and then 100 percent would be
 10 given to ratepayers beyond that; is that correct?
 11 **A. That is correct. That's a good description.**
 12 Q. That looks a lot like a guarantee that the
 13 Company will earn its authorized rate of return, doesn't
 14 it?
 15 **A. No, no, not at all. It just gives us the**
 16 **opportunity to earn. The tax benefits during that**
 17 **period is just one item of many expenses and revenues**
 18 **that change from the last rate case. So there is no**
 19 **guarantee that we would earn our return. In fact, when**
 20 **we look at our current results, even with that benefit,**
 21 **we anticipate that we'll be under our authorized rate of**
 22 **return.**
 23 Q. I want to follow up on the part of that answer
 24 that you gave.
 25 In your testimony, you say that expenses change

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EXAMINATION OF PARVINEN / O'CONNELL

1 year to year, that the tax change should be treated like
 2 other changes and expenses. Does the corporate tax rate
 3 change every year?
 4 **A. The rate itself does not. The effective rate**
 5 **could change.**
 6 Q. Okay. The tax change from 35 percent to
 7 21 percent was out of Cascade's control, correct?
 8 **A. Yes.**
 9 Q. When Cascade -- oh, I'm sorry. The corporate
 10 tax rate change from 35 percent to 21 percent is a very
 11 big change, yes?
 12 **A. It is a significant amount; however, you know,**
 13 **there are other expenses too. Things like health**
 14 **insurance, contract wages, things that are also -- that**
 15 **happen that are out -- more or less outside the**
 16 **Company's control that go up that aren't recognized.**
 17 **There are things that go down as well like this one. So**
 18 **there are offsets. That's one of the reasons we've**
 19 **proposed to look at the total picture, total operating**
 20 **results.**
 21 Q. Can you recall the last time there was a
 22 comparable change in the corporate tax rate?
 23 **A. Yes, in 1986/'87 era, the rate went from**
 24 **45 percent down to 35 and then up to 36, but...**
 25 Q. Might it have been from 46 percent to 34 percent

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EXAMINATION OF PARVINEN / GAFKEN

1 in 1986?

2 **A. You are correct. Thank you.**

3 Q. Okay.

4 MR. O'CONNELL: I have no more questions for

5 Mr. Parvinen. Thank you.

6 JUDGE PEARSON: Thank you.

7 Okay. Ms. Gafken?

8

9 CROSS EXAMINATION

10 BY MS. GAFKEN:

11 Q. Good morning.

12 **A. Good morning.**

13 Q. I'm trying not to duplicate questions that were

14 just asked by Staff.

15 Assuming that Cascade is taxed on a standalone

16 basis, would you agree that Cascade's federal tax bill

17 will be based on an income tax rate of 21 percent for

18 all of 2018?

19 **A. Yes.**

20 Q. In the lower 21 percent, corporate income tax

21 rate will not be reflected in rates charged to customers

22 until rates from this case goes into effect, correct?

23 **A. That is correct.**

24 Q. This might be a duplicate question, but I just

25 want to make sure that -- that it's in the record.

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1 So Cascade states that it anticipates that it

2 will not be able to earn its authorized rate of return

3 in 2018. Is that still a correct statement?

4 **A. It is. We've looked at our current estimates.**

5 **I mean, that statement was in testimony. It was**

6 **prepared a couple of months ago. But our most recent**

7 **look at our results show that we will be under-earning**

8 **in 2018 even with those -- even with those benefits.**

9 **We've actually also done a calculation of what**

10 **we think that tax benefit will be for that seven-month**

11 **period based on our actual earnings in 2018, assuming --**

12 **or using May results and then estimate in the next two**

13 **months, and that number is lower than any of the**

14 **estimates that are being incurred in this case. So it**

15 **was -- yeah, 1.06 million is what we've calculated that**

16 **difference to be.**

17 Q. The projection that Cascade will not earn its

18 rate of return or its rate of -- the projection that

19 Cascade won't earn its rate of return, does that include

20 or take into account the settlement in this case?

21 **A. It does actually. The latest result that we**

22 **have shows that we would earn about 6. -- 6.88 percent.**

23 **Now, that is before the -- the Commission Basis Report**

24 **restating adjustments, which would not totally offset**

25 **that, but it would raise that number a little bit. So**

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1 we would still be significantly under our authorized

2 return. That's actually primarily due to regulatory lag

3 that's associated with our investment.

4 Q. But under Cascade's proposal, if you don't meet

5 your rate of -- or if you don't earn your authorized

6 rate of return, none of the tax benefit from January 1

7 through July 1 would -- or sorry, 31, would be passed to

8 ratepayers; is that correct?

9 **A. Well, directly passed to the ratepayers, no, but**

10 **they would be imbedded in the results which we use to**

11 **evaluate your -- your rate standings. And**

12 **prospectively, all the benefits, the 21 percent, the**

13 **excess deferred taxes, effective August 1 with this rate**

14 **case, everything is going back to the customers.**

15 Q. But we're talking about the amount of

16 over-collection between January 1 and July 31, and if

17 Cascade does not -- under your proposal, if Cascade

18 doesn't earn its ROR, then Cascade keeps all of that

19 benefit, correct?

20 **A. Well, yeah, Cascade is not -- we're not looking**

21 **at it as an over-collection because you have to look at**

22 **the total picture. The rates were established based --**

23 **back in the last rate case based on a 2015 test year and**

24 **based on the relationships of the revenues, expenses,**

25 **and rate base at that time to establish rates.**

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EXAMINATION OF PARVINEN / GAFKEN

1 So rates going forward, all those relationships

2 change. Revenues change, the expenses change, rate

3 bases change, and then you have to look at that period

4 to see whether those revenues are sufficient to cover

5 your results. This tax item is just another expense

6 item that goes -- that happened to go down.

7 Q. And that's not exactly my question.

8 So my question addresses the amount, and you

9 just gave another estimate of what the amount is. The

10 difference between the imbedded tax rate and the new tax

11 rate, that amount of money, if Cascade does not earn its

12 ROR, Cascade is proposing to keep it, correct?

13 **A. Correct.**

14 Q. Would you please turn to Cascade's response to

15 Bench Request 1, which has been marked as Exhibit

16 BR-1CNG. If you would turn to the first supplemental

17 response, which is dated January 29, 2018, and go to

18 subsection C.

19 **A. I'm there.**

20 Q. In subsection C of Bench Request 1, the

21 Commission directed Cascade to provide the amount of

22 excess deferred income tax expense currently collected

23 as of January 1 through the effective date of rates from

24 this case, correct?

25 **A. Correct.**

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EXAMINATION OF PARVINEN / GAFKEN

1 Q. And to calculate an estimate of the difference
 2 in federal tax -- or I'm sorry, federal income tax
 3 expense resulting from the reduction of the tax rate
 4 from 35 percent to 21 percent, Cascade used 2016 test
 5 year data, correct?
 6 **A. Yes.**
 7 Q. At the time you and Ms. Genora prepared the
 8 first supplemental response, Cascade felt that using
 9 historical data as adjusted was a reasonable proxy to
 10 use to estimate the difference in federal income tax
 11 expense to answer subsection C, correct?
 12 **A. Yes, it was the best information we had at the**
 13 **time.**
 14 Q. And in calculating the difference in federal
 15 income tax expense, Cascade applied a factor of
 16 seven-twelfths, which is expressed in decimal form as
 17 0.583333, correct?
 18 **A. Yeah, I would accept that, but I don't recall**
 19 **putting the decimal point in the -- I don't see it in**
 20 **the bench response.**
 21 Q. Okay. Would you accept the decimal expression?
 22 **A. I would accept it, yes.**
 23 Q. Using 2016 data, Cascade estimated the
 24 difference to be \$1,394,552, correct?
 25 **A. Correct.**

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EXAMINATION OF PARVINEN / GAFKEN

1 Q. Would you please refer to the cross-exhibit
 2 which has been marked as MPP-15Xr.
 3 **A. Okay. I'm there.**
 4 Q. Do you recognize Cross-Exhibit MPP-15Xr as
 5 Cascade's Commission Basis Report for 2017?
 6 **A. Yes.**
 7 Q. And the 2017 Commission Basis Report contains
 8 more recent data than the 2016 test year, correct?
 9 **A. It does.**
 10 Q. Would you please turn to page 6 of Cross-Exhibit
 11 MPP-15Xr.
 12 **A. I'm there.**
 13 Q. Okay. Looking at line 16, column B, the per
 14 books federal income tax expense amount is \$6,857,365,
 15 correct?
 16 **A. That's correct.**
 17 Q. The federal income tax expense that's shown in
 18 Cross-Exhibit MPP-15Xr is based on a 35 percent federal
 19 income tax rate effective during 2017, correct?
 20 **A. It is.**
 21 Q. Now, the document that's contained in the
 22 cross-exhibit is the revised Commission Basis Report,
 23 which Cascade filed on June 11th. One major difference
 24 between the original and the updated or the revised
 25 version is weather normalization calculation, correct?

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1 **A. That is correct. We had talked to Staff, and we**
 2 **actually had a difference of how we interpreted the**
 3 **settlement in the last rate case. The settlement**
 4 **included showing the impacts of weather normalization**
 5 **using Staff's method versus what we had accepted in the**
 6 **settlement.**
 7 **And in talking to Staff, we created an**
 8 **adjustment for that, which, quite frankly, it looks a**
 9 **little weird because we had decoupling, so our revenues**
 10 **were already adjusted to a decoupled level. So then if**
 11 **you made the adjustment, it had the impact of we're**
 12 **really doing just the opposite of what decoupling did.**
 13 **But anyway, talking to Staff, they wanted to see**
 14 **the information, not an adjustment. So we corrected the**
 15 **statement to -- to not include a weather normalization**
 16 **adjustment, but only the information that would go into**
 17 **identifying what normal weather would look like versus**
 18 **actual weather. That's probably more than you wanted to**
 19 **know.**
 20 Q. I appreciate the explanation.
 21 But in the original CBR, you included an
 22 adjustment, and so the revised adjustment's taken out --
 23 **A. Correct.**
 24 Q. Is that -- that's a correct understanding?
 25 Was the weather normalization adjustment in the

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EXAMINATION OF PARVINEN / GAFKEN

1 original 2017 CBR calculated correctly or you think that
 2 there's -- that it was incorrect?
 3 **A. Oh, the information that was in there was**
 4 **correct. So while it was a calculation comparing**
 5 **weather normalized results using the Staff's weather**
 6 **normalization methodology compared to decoupled results,**
 7 **the weather normalization that was contemplated was**
 8 **comparing Staff's weather normalization methodology to**
 9 **actual weather results so...**
 10 Q. In the revised CBR, is it your opinion that the
 11 effects of weather are normalized in the numbers that
 12 are presented in that revised CBR?
 13 **A. They're normalized to -- well, they're really**
 14 **not normalized. They're set at -- at decoupled levels.**
 15 **Our revenues are stated at our authorized decoupled**
 16 **values.**
 17 Q. So in the current version of the Commission
 18 Basis Report, it's reflecting weather conditions that
 19 occurred during 2017, correct?
 20 **A. No, it is -- it is based on -- so it's -- it's**
 21 **normal -- it's weather normalized to the extent that the**
 22 **normalized -- weather normalized revenues that were used**
 23 **in the last rate case to establish the decoupling**
 24 **baseline. So it is weather normalized. It's just at a**
 25 **different level than what Staff's methodology would have**

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1 produced.

2 Q. I think you talked a little bit about this, or

3 at least something similar, earlier in your testimony

4 today, but I'm going to ask this question and see what

5 answer we get.

6 Have you calculated an estimate of the 2018 tax

7 expense based on the 2017 CBR results?

8 **A. Well, no, just because they are two different --**

9 **they are two different periods, two different results.**

10 **So the '17 revenues were the revenues, then the 2018**

11 **results are based on actual revenues and expenses, so**

12 **actual net income rate base and depreciation, things**

13 **like those that affect taxes. So the calculation we've**

14 **done for '18 is based on '18 results.**

15 Q. Right, but in the response to Bench Request 1,

16 subsection C, Cascade used a proxy to make a

17 calculation, correct?

18 **A. Correct, all parties use some sort of proxy**

19 **number, yes.**

20 Q. And I guess my question is whether -- whether

21 you've done the analysis in looking at the 2017 data as

22 a proxy?

23 **A. No.**

24 Q. Okay. If the Commission in deciding this case

25 agrees that it's reasonable to use historical data for a

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1 proxy to estimate the amount of excess federal income

2 tax expense collected from ratepayers from that

3 January 1 to July 31 time period, and if the Commission

4 determines that the 2017 CBR is an appropriate proxy,

5 should that number be weather normalized?

6 **A. No, just because that was not an actual**

7 **adjustment to the Commission basis results.**

8 Q. Was the data from the 2016 test year weather

9 normalized?

10 **A. Yes, for what was used in -- in the Company's**

11 **calculation of the million four, yes, it was.**

12 Q. Switching gears a little bit.

13 Would you agree that the reduction in the tax

14 rate from 35 percent to 21 percent was a 40 percent

15 reduction in that tax rate?

16 **A. Without doing the math, I'd agree to that.**

17 Q. So if you had a proxy amount, an annual amount

18 of tax expense, and you multiplied that by the

19 40 percent, that could get you an estimation of the

20 annual amount of the 2018 tax expense, wouldn't it?

21 **A. Well, it wouldn't be for -- it would -- it would**

22 **not be for 2018. The only thing you could use for 2018**

23 **is actually 2018. But if you're looking for a different**

24 **proxy than what's already been presented to the**

25 **Commission, then the question is valid, yes.**

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1 Q. Yeah, and I'm actually asking about how -- how

2 to make a calculation or a way to make that calculation.

3 If you're using a proxy amount and you get the annual

4 amount within that proxy, so the 2016 data or the 2017

5 CBR data, if you multiply the tax expense from that

6 proxy period by 40 percent to estimate what the 2018

7 amount would be, correct?

8 **A. Yes.**

9 Q. And then to determine the January 1 through

10 July 31 amount, you could multiply that by the

11 seven-twelfths ratio?

12 **A. Correct.**

13 Q. All right. Switching gears.

14 The Commission issued a media statement about

15 the Tax Cuts and Jobs Act on utilities on

16 January 8th, 2018. Were you aware of that media

17 statement?

18 **A. Yes.**

19 Q. And in the media statement, the UTC mentioned

20 that it had directed companies to track the federal tax

21 savings that resulted from the federal Tax Cuts and Jobs

22 Act, correct?

23 **A. Yeah. I don't recall the exact language, and I**

24 **don't have it in front of me. So yeah, I don't...**

25 Q. But at the time, you had read the --

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EXAMINATION OF PARVINEN / STOKES

1 **A. I have read the statement and had the general**

2 **gist. As far as specifically ordering the companies to**

3 **track it, my initial response is, that doesn't seem like**

4 **the direct approach to direct the Company to do. But**

5 **yes, the Commission issued its statement, and I have**

6 **read it.**

7 Q. Okay. And the bench request, just for clarity,

8 that came out on January 3rd, correct?

9 **A. Yes.**

10 MS. GAFKEN: Okay. I don't have anything

11 further for Mr. Parvinen. Thank you.

12 JUDGE PEARSON: Okay. Thank you.

13 Mr. Stokes?

14

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

16 **BY MR. STOKES:**

17 Q. Good morning.

18 **A. Good morning.**

19 Q. Following back up on the press release that was

20 issued, you have read that, correct?

21 **A. I have.**

22 Q. And how does Cascade's proposal for the interim

23 tax period benefit customers?

24 **A. It benefits customers by -- by having the**

25 **potential of increasing the return and avoiding**

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EXAMINATION OF PARVINEN / STOKES

1 potential further rate changes. It also allows the
 2 Company the opportunity to come closer to its authorized
 3 rate of return, which is a benefit when, you know,
 4 trying to do things like financing and -- financing and
 5 things like that, which also have a circular effect of
 6 benefiting customers.
 7 Q. So I know you don't have the language in front
 8 of you, but what that press statement said is that
 9 utilities were supposed to track savings from the
 10 passage of the Tax Cuts and Jobs Act to ensure those
 11 savings benefit customers. So have you tracked those
 12 and where is the benefit to the customers for the
 13 interim period?
 14 MS. RACKNER: Objection. Could you --
 15 Mr. Stokes, could you please direct us to a document
 16 that you're quoting?
 17 MR. STOKES: Okay. I'll -- I'll move on.
 18 BY MR. STOKES:
 19 Q. Did Cascade know in early 2017 that the Tax Cuts
 20 and Jobs Act would be passed?
 21 **A. In when?**
 22 Q. In early 2017.
 23 **A. No.**
 24 Q. Okay. So you --
 25 **A. Not that I -- I was not aware, and I'm not**

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EXAMINATION OF PARVINEN / STOKES

1 aware.
 2 Q. So you would agree that it was unforeseeable,
 3 the tax change?
 4 **A. In early 2017, yes.**
 5 Q. Okay. And how often do the large federal tax
 6 changes happen? Didn't we talk about this before? When
 7 was the last time? Was it --
 8 **A. Well, I mean, the last time it actually changed**
 9 **significantly was back in '86. I mean, Congress talks**
 10 **about tax changes all the time, but...**
 11 Q. Okay. How often does Cascade or its parent pay
 12 federal income tax?
 13 **A. Well, we file our tax returns once a year.**
 14 Q. But you pay estimated payments, correct?
 15 **A. I actually don't know when we make payments. I**
 16 **know we do accruals and record tax expenses.**
 17 Q. Okay. Would you agree that the tax expense
 18 collected in rates is fixed based on the federal income
 19 tax and not subject to fluctuation like other expenses?
 20 **A. No, not at all. I mean, it is a component that**
 21 **goes into the establishing of rates based on the**
 22 **relationship in that test -- in that test year.**
 23 Q. So the 35 percent or 21 percent is not -- not a
 24 fixed collection, an [inaudible] component?
 25 **A. No, it was a component -- the 35 percent was**

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EXAMINATION OF PARVINEN / STOKES

1 used in the establishing of rates in the last rate case.
 2 Q. So that's fixed, right?
 3 **A. Based on the relationships at that time, yes.**
 4 Q. Okay. Would you agree that tax expense is
 5 intended to be a pass-through unlike other expenses?
 6 **A. No, no.**
 7 Q. It's not? It's not intended to be a
 8 pass-through?
 9 **A. No, no. In my mind, a pass-through would be**
 10 **included -- would need to be like PGA where you're**
 11 **tracking the different -- differences. Tax expense**
 12 **fluctuates from year to year based your actual results.**
 13 **And so it is not -- it is not a pass-through.**
 14 Q. Have you heard of the term "phantom taxes"?
 15 **A. Yes, but I actually could not put a definition**
 16 **to it.**
 17 Q. Would you agree that it's when -- when a utility
 18 collects a certain level of taxes and rates, and then
 19 the parent company or the actual taxes paid is less than
 20 that amount?
 21 **A. Okay. I accept that.**
 22 Q. Are you aware of how your affiliate,
 23 Intermountain, handled the interim period refunds in
 24 Idaho?
 25 **A. Vaguely. I mean, I remember reading a document,**

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EXAMINATION OF PARVINEN / STOKES

1 but I couldn't tell you exactly the outcome of that.
 2 Q. Do you know if they kept any of the interim
 3 period tax savings for the Company?
 4 **A. I don't know for sure. I'd be speculating by**
 5 **giving you an answer. I have a speculative answer, but**
 6 **I'm not firm on it.**
 7 Q. Okay. Is it Cascade's position that the
 8 Commission can't order the refund of the interim period
 9 money because of retroactive rate -- retroactive
 10 ratemaking?
 11 **A. Well, that's a tricky question. I mean, I think**
 12 **it looks a lot like retroactive ratemaking, but I think**
 13 **this Commission has a lot of latitude in its discretion,**
 14 **and it can -- it has the ability to do that.**
 15 Q. Okay. Does Cascade believe that its rates in
 16 effect from January 1, 2018, through January -- through
 17 July 31st, 2018, are unjust and unreasonable?
 18 **A. They were established as fair, just, and**
 19 **reasonable based on that time period. Are they adequate**
 20 **to provide a full return? No.**
 21 Q. So who controls the timing of Cascade's rate
 22 cases?
 23 **A. Cascade does control when we file rate cases to**
 24 **a certain extent. We filed our last rate case -- our**
 25 **current rate case is not effective until August 1, so at**

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EXAMINATION OF PARVINEN / STOKES

1 a minimum, we can't do anything about, for example, our
 2 2017 earnings until after this rate case is completed.
 3 Q. Why didn't Cascade file a rate case earlier?
 4 **A. Earlier than we did?**
 5 Q. (Nodding head.)
 6 **A. There was not that big of a gap between our last**
 7 **rate case and this case.**
 8 Q. Okay.
 9 **A. And primarily it was to get to a -- one of the**
 10 **things we learned from the last rate case, which had a**
 11 **split test year, it was June of 2015, is that it's**
 12 **cleaner and easier to have a full test year so -- or a**
 13 **calendar year test year. So waited until we had the**
 14 **2016 complete results.**
 15 Q. So excluding the rate impact of the Tax Cuts and
 16 Jobs Act in this case, in the settlement, what's the
 17 revenue requirement increase for Cascade in this case?
 18 **A. Would you repeat that question again? I'm**
 19 **sorry.**
 20 Q. So excluding the benefits from the Tax Cuts and
 21 Jobs Act, the settlement agreement that we're about to
 22 review, what's the revenue requirement increase that the
 23 parties agreed to?
 24 **A. 750,000.**
 25 Q. And you agree that that's -- that's fair, just,

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EXAMINATION OF PARVINEN / STOKES

1 and reasonable, that those rates would be fair, just,
 2 and reasonable?
 3 **A. That was the number that we felt was a fair,**
 4 **reasonable result for the settlement purposes.**
 5 Q. And if Cascade gets to keep the entire interim
 6 period tax refunds here, what -- what number is that in
 7 your calculation?
 8 **A. Well, based on our most recent estimate for that**
 9 **period based on actual results through the end of May,**
 10 **we've identified it as 1.06 million.**
 11 Q. 1.06 million?
 12 **A. Yes.**
 13 Q. Okay. So larger than the increase that is
 14 authorized here is what you're proposing to keep?
 15 **A. Well, it is. But like I -- like I mentioned**
 16 **before, when we look at our earnings for 2018, even with**
 17 **the tax benefits in there and taking into account the**
 18 **750,000 rate increase, we will not achieve our -- our**
 19 **earnings at the end of 2018.**
 20 **This is, again, goes back to being consistent,**
 21 **too, with what the Commission has done back in 1986 when**
 22 **they looked at companies, and then several companies**
 23 **demonstrated that with the tax benefits, it would still**
 24 **not be over-earning. They were not required to change**
 25 **rates.**

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EXAMINATION OF PARVINEN / BALASBAS

1 So what the Company is proposing is consistent
 2 with the past. Provides benefits to customers, the
 3 Company, and is valid -- in our mind, a reasonable and
 4 valid approach. It gives us, the Company, the
 5 opportunity to earn its authorized, not a guarantee.
 6 Q. So one final question.
 7 Does Cascade view the money collected in rates
 8 to pay federal income taxes, until it's paid to the
 9 government, does Cascade consider that customer money or
 10 does Cascade consider that to be its money?
 11 **A. It -- I don't think we look at it either way.**
 12 **It's revenue. It's revenue that's used to pay expenses.**
 13 **I mean, we track -- we track our revenues, expenses, our**
 14 **cash flow. It's all a component that goes into the cash**
 15 **flow management.**
 16 MR. STOKES: I have nothing further.
 17 JUDGE PEARSON: Thank you.
 18 Do we have any questions from the bench for
 19 Mr. Parvinen?
 20
 21 **EXAMINATION**
 22 **BY COMMISSIONER BALASBAS:**
 23 Q. Good morning, Mr. Parvinen.
 24 **A. Good morning.**
 25 Q. When did the Tax Cuts and Jobs Act take effect?

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EXAMINATION OF PARVINEN / BALASBAS

1 **A. January 1, 2018.**
 2 Q. And starting January 1, 2018, what is the
 3 corporate tax rate?
 4 **A. 21 percent.**
 5 Q. And has Cascade collected taxes based on a
 6 35 percent rate from January 1, 2018, through -- and
 7 will be going forward through July 31st, 2018?
 8 **A. Well, Cascade has collected the revenues from**
 9 **rates that were established using a 35 percent rate.**
 10 Q. And what -- and -- okay. Let me back up for a
 11 second.
 12 So your contention that the Company's position
 13 is that the Company should keep all of that interim
 14 period tax revenue collected from customers and will not
 15 return it unless it achieves its Commission-authorized
 16 rate of return?
 17 **A. Yes, that is -- that's pretty -- yes, correct.**
 18 Q. So if the Company's -- if the Company does not
 19 achieve its authorized rate of return, it will keep that
 20 entire estimate that you mentioned earlier of
 21 \$1.06 million?
 22 **A. Correct.**
 23 Q. And is that 1.06 million -- following up on
 24 Mr. Stokes' question from a few minutes ago, was that
 25 money collected from the ratepayers?

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EXAMINATION OF PARVINEN / BALASBAS

1 **A. Well, what that is, is a calculation of --**
 2 **that's a calculation of a -- kind of a with and without**
 3 **tax reform calculation on our earnings in two**
 4 **thousand -- 2018.**

5 Q. So let me rephrase the question. Let me
 6 rephrase the question.

7 Where does Cascade get its revenue from?

8 **A. It gets its revenues from its customers from the**
 9 **rates established back in its last rate case.**

10 Q. So is the Company asking this Commission in
 11 this -- in this contested issue, the Company's asking
 12 the Commission to effectively guarantee the Company's
 13 rate of return before ratepayers are entitled to the
 14 money they have paid?

15 **A. No, no. We're just seeking the opportunity to**
 16 **still earn our rate of return.**

17 Q. Is the Commission -- so is the Commission rate
 18 of return -- authorized rate of return, is that, in your
 19 mind, a guarantee or an opportunity?

20 **A. It's an opportunity.**

21 Q. And if the Company still does not earn its
 22 authorized rate of return even after keeping the
 23 \$1 million-plus from ratepayers, then what will the
 24 Company do to earn -- to try to earn its remainder of
 25 authorized rate of return?

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EXAMINATION OF PARVINEN / BALASBAS

1 **A. Well, we look at the results -- we look at the**
 2 **results of 2018 and see how close did we come, what are**
 3 **our projections going forward, what are our investments.**
 4 **And ultimately we decide if -- if rates were adequately**
 5 **to provide a -- to -- to provide a fair return, we'd be**
 6 **okay. If we look and see, well, wait, there's other --**
 7 **for example, our capital investment that could cause**
 8 **adverse impacts going forward, we'd consider other**
 9 **ratemaking opportunities.**

10 Q. So is it effectively, then, the Company's
 11 position that the Company should earn its profit before
 12 ratepayers get money that it is entitled back, returned
 13 to them?

14 **A. I guess I'm not quite clear on the question.**

15 Q. Well, the authorized rate of return is
 16 effectively the Company's profit?

17 **A. That's true.**

18 Q. So is it the Company's position that the Company
 19 must first earn its profit before ratepayers are
 20 entitled to taxes that they have paid to the Company?

21 **A. Well, our position is, this is an item that**
 22 **helps give us the opportunity to earn our return, but**
 23 **nothing more. So there's a cap in our authorized rate**
 24 **of return.**

25 **If we were to go over our authorized rate of**

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EXAMINATION OF PARVINEN / RACKNER

1 return, it -- we've conceded that it would be because of
 2 this change. This change is significant enough that
 3 that would be the driving factor. That's why we've
 4 proposed not using the current sharing mechanism of
 5 sharing 50/50 for everything beyond our authorized
 6 return, but a hundred percent.

7 COMMISSIONER BALASBAS: All right. I have
 8 nothing further.

9 JUDGE PEARSON: Nothing further, okay.

10 Any redirect?

11 MR. RACKNER: Yes, Your Honor. Thank you.

12

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

14 BY MS. RACKNER:

15 Q. Just shortly, Mr. Parvinen. Ms. Gafken asked
 16 you about alternate approaches to calculating the tax
 17 benefit from the new tax act using 2017 results. And
 18 you said that you agreed that that was an approach that
 19 could achieve an estimate of the actual tax benefit that
 20 the Company would receive.

21 And my question for you is that, do you think
 22 that using that -- using 2017 results would be an
 23 appropriate way to estimate the tax benefit?

24 **A. Well, you know, as -- as we stated in our -- our**
 25 **response to the responses to the bench response, the**

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EXAMINATION OF CHEESMAN / O'CONNELL

1 most appropriate way is to actually to do the -- do the
 2 calculation based on your results in 2018. If you're
 3 trying to identify what that amount is, look at the
 4 actual period and what are the taxes, what are the
 5 impacts of the with and without.

6 MS. RACKNER: Thank you. I have nothing
 7 further.

8 JUDGE PEARSON: Okay. Thank you.

9 Then, Mr. Parvinen, you are excused.

10 We will call the next witness, Melissa
 11 Cheesman. Would you please raise your right hand.

12

13 MELISSA CHEESMAN, witness herein, having been
 14 first duly sworn on oath,
 15 was examined and testified
 16 as follows:

17

18 JUDGE PEARSON: Okay. You may be seated.

19

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

21 BY MR. O'CONNELL:

22 Q. Good morning, Ms. Cheesman.

23 **A. Good morning.**

24 Q. Could you please state your name and spell it
 25 for the record?

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EXAMINATION OF CHEESMAN / O'CONNELL

1 **A. My name is Melissa Cheesman, M-e-l-i-s-s-a,**
 2 **C-h-e-e-s-m-a-n.**

3 Q. Are you the same Ms. Cheesman who filed
 4 testimony in this case?

5 **A. I am.**

6 Q. Do you have any changes to your testimony at
 7 this time?

8 **A. I do not.**

9 Q. And if I asked you the same questions today,
 10 would your responses be the same?

11 **A. Yes.**

12 Q. Are you also familiar with Staff's response to
 13 the Commission's bench request?

14 **A. I am.**

15 MR. O'CONNELL: Thank you. Ms. Cheesman is
 16 ready for cross-examination.

17 JUDGE PEARSON: Ms. Rackner?

18 MS. RACKNER: Your Honor, the Company is
 19 going to waive cross on the remaining witnesses, and
 20 we'll reserve our comments for our closing argument.

21 JUDGE PEARSON: Oh, okay.

22 Are there any questions for Ms. Cheesman
 23 from the bench? No, okay.

24 Well, then, you are excused. Thank you.

25 MS. CHEESMAN: Thank you for the opportunity

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EXAMINATION OF MULLINS / STOKES

1 to appear.

2 JUDGE PEARSON: So does that mean that the
 3 Company doesn't have questions for Ms. Ramas either?

4 MS. RACKNER: Or for Mr. Mullins, that's
 5 correct.

6 JUDGE PEARSON: Okay. All right. Well,
 7 then, Mr. Mullins is next. Do the other parties want to
 8 proceed with their cross of Mr. Mullins before I swear
 9 him in?

10 MR. O'CONNELL: Yes.

11 JUDGE PEARSON: Okay. Please raise your
 12 right hand.

13

14 BRADLEY MULLINS, witness herein, having been
 15 first duly sworn on oath,
 16 was examined and testified
 17 as follows:

18

19 JUDGE PEARSON: Okay. You may be seated.

20

21 EXAMINATION

22 BY MR. STOKES:

23 Q. Good morning.

24 **A. Good morning.**

25 Q. Please state your name and your employer.

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EXAMINATION OF MULLINS / O'CONNELL

1 **A. My name is Brad Mullins, and it's spelled**
 2 **M-u-l-l-i-n-s. I'm an independent consultant that**
 3 **represents large customers around the West.**

4 Q. Okay. And are you the same Brad Mullins that
 5 filed testimony and exhibits marked BMG-1T through
 6 BMG-6?

7 **A. Yes, I am.**

8 Q. Do you have any corrections to those exhibits or
 9 testimony?

10 **A. I do not.**

11 Q. Okay. If I asked you the same questions today,
 12 would they be the same?

13 **A. Yes, they would.**

14 MR. STOKES: I open this witness for
 15 cross-examination.

16 JUDGE PEARSON: Thank you.

17 Mr. O'Connell?

18 MR. O'CONNELL: Thank you, Your Honor.

19

20 CROSS EXAMINATION

21 BY MR. O'CONNELL:

22 Q. Good morning, Mr. Mullins.

23 **A. Good morning.**

24 Q. The total amount collected by Cascade in the
 25 interim period as you calculated is approximately

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EXAMINATION OF MULLINS / O'CONNELL

1 \$2.7 million, correct?

2 **A. Let's see, so I'm looking at my Exhibit BGM-6,**
 3 **and it's on -- I have 11, I actually calculate**
 4 **\$3.5 million, and that is broken out into two pieces.**
 5 **So the first piece is the tax expense savings for the**
 6 **interim period and the second piece is the return of**
 7 **excess deferred taxes during the interim period.**

8 **And I would observe that based on the way that**
 9 **the stipulation was resolved, the -- it's no longer**
 10 **necessary to consider excess deferred taxes in the**
 11 **interim period because those amounts are being handled**
 12 **as -- actively as a balancing account. And so those**
 13 **funds will be returned to customers in the future**
 14 **period, and so it's not necessary to consider them in**
 15 **the interim period.**

16 Q. So if I asked you to remove that amount from
 17 your \$3.5 million, what is your total amount?

18 **A. So if I remove that amount, my total amount is**
 19 **two point -- or \$2,093,421.**

20 **COMMISSIONER RENDAHL: Can I ask what page**
 21 **you're on, on your BGM-6?**

22 MR. MULLINS: Let me -- I'm working out of
 23 the Excel, so I'll -- I'll pull up the --

24 MS. RACKNER: Page 17.

25 **COMMISSIONER RENDAHL: Page 17, thank you.**

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EXAMINATION OF MULLINS / O'CONNELL

1 **A. So what I have done is zeroed out line 13 on**
 2 **that exhibit, and if I do that, the ending balance**
 3 **including a very small amount of interest is the**
 4 **\$2.1 million amount that I referenced.**
 5 BY MR. O'CONNELL:
 6 Q. If it's all right, I'll refer to that number as
 7 the approximately \$2.1 million amount.
 8 **A. Correct.**
 9 Q. And can you please explain the difference
 10 between that approximate \$2.1 million amount and Staff's
 11 \$1.6 million amount?
 12 **A. Yes. So there are a couple of different ways to**
 13 **estimate the tax savings that the Company has recognized**
 14 **during the interim period. One way is kind of from the**
 15 **ground up and working off of the utility's results and**
 16 **recalculating the tax expense from -- from their results**
 17 **directly.**
 18 **And so, you know, if that approach is used, you**
 19 **have to determine what -- you know, what results to use**
 20 **to perform that calculation. So one might use, for**
 21 **example, the 2017 results or one might refer to the last**
 22 **rate case and use the results that were developed in**
 23 **that rate case, which is what I believe Staff has done.**
 24 **And my approach is different, in that it starts**
 25 **from the top down, and it looks at the overall rate base**

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EXAMINATION OF MULLINS / O'CONNELL

1 level of the utility and figures out the tax expense
 2 that is embedded in the net income -- net operating
 3 income requirement based off of the rate base level that
 4 I've identified here. And so it's just two different
 5 ways to get to a similar -- similar result.
 6 Q. So I want to ask a clarifying question.
 7 You relied only on rate base to make your
 8 calculation and did not consider that operating income,
 9 correct?
 10 **A. Well, so -- so by relying on rate base and the**
 11 **utility's return on equity, you can back into the -- the**
 12 **net operating income requirement associated with this**
 13 **particular rate base level. And within that net income**
 14 **operating requirement, there's -- there's taxes built**
 15 **into that. And so -- so that's -- that's how I've gone**
 16 **about the calculation, and, you know, it comes up with a**
 17 **fairly -- fairly close, at least in my opinion, result**
 18 **to what Staff has calculated.**
 19 Q. Okay. And you're aware that Staff used net
 20 operating income to determine the over-collection
 21 amount, correct?
 22 **A. Correct, and I believe it was based off of**
 23 **the -- Cascade's last general case.**
 24 Q. Okay. I'd like to switch gears just a little
 25 bit.

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EXAMINATION OF MULLINS / O'CONNELL

1 You proposed that Cascade should pay back to
 2 customers accrued interest on the over-collection
 3 amount, correct?
 4 **A. Correct.**
 5 Q. Why?
 6 **A. Based off of the fact that Cascade will receive**
 7 **the benefit currently, but the amounts won't be refunded**
 8 **to customers for some period of time. So, you know,**
 9 **Cascade is continually accruing taxes over the year, and**
 10 **they're making estimated tax payments.**
 11 **So they are recognizing the cash benefits of the**
 12 **reduced tax rate now, but the refund to customers won't**
 13 **occur until, I guess, August 1, and that will be spread**
 14 **over some time as well. And so to account for the time**
 15 **value of money, I've included interest. Given that it's**
 16 **a relatively short amount of time, the impact of**
 17 **interest is relatively small.**
 18 Q. Okay. But you're -- I just want to confirm.
 19 You're aware that Staff disagrees that the Company
 20 should have to repay accrued interest, correct?
 21 **A. I -- yes.**
 22 Q. Okay. Do you believe that the Company had any
 23 control over the change in the corporate tax rate?
 24 **A. Probably not a great deal of control, no.**
 25 Q. Okay. Do you think that Cascade should have

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EXAMINATION OF MULLINS / O'CONNELL

1 foreseen this tax rate change coming?
 2 **A. Well, I mean, there were -- there were**
 3 **indications that tax reform might come down the pipes**
 4 **late in 2017. So, you know, there -- there were talks.**
 5 **There were -- you know, certainly nobody knew what it**
 6 **was going to look like. But, you know, I don't think**
 7 **that they could have -- could have foreseen what else**
 8 **would have happened with the tax rating.**
 9 Q. Well, as of the time that they filed their
 10 general rate case, do you think that they knew or could
 11 see that some sort of tax change was going to happen?
 12 **A. Yes, yes.**
 13 Q. You do think that they could have foreseen the
 14 tax rate coming by the time they filed their general
 15 rate case back in August of 2017?
 16 **A. They -- I mean, there were -- there were**
 17 **indications that at that time, that tax reform was a**
 18 **possibility at the end of the year, so, you know...**
 19 Q. So by "the end of the year," do you mean
 20 December or do you mean back in August?
 21 **A. So -- so I -- I can't speak to what Cascade**
 22 **could have or could have not foreseen. Back in that**
 23 **time frame, you know, there was talk about tax reform.**
 24 **Nobody knew what it might look like, but, you know, it**
 25 **was -- it was a possibility so...**

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EXAMINATION OF MULLINS / SUETAKE

1 Q. So do you think they should have included some
 2 sort of adjustment in their general rate case filing for
 3 a possible change to the tax rate?
 4 **A. No, no. I mean, at that time, it wasn't at the**
 5 **sort of known and measurable level. Just, you know,**
 6 **kind of rough, just general talks about tax reform at**
 7 **that time.**
 8 Q. Okay. Do you think the actual tax change, the
 9 change to the corporate tax rate of 35 percent to
 10 21 percent is extraordinary?
 11 **A. Yes.**
 12 Q. Okay.
 13 **A. Absolutely.**
 14 MR. O'CONNELL: I have no more questions for
 15 Mr. Mullins. Thank you.
 16 JUDGE PEARSON: Okay. Thank you.
 17 Ms. Gafken?
 18 MS. SUETAKE: Actually, I'll be taking over
 19 this part.
 20 JUDGE PEARSON: Okay.
 21
 22 **CROSS EXAMINATION**
 23 BY MS. SUETAKE:
 24 Q. Good morning, Mr. Mullins.
 25 **A. Good morning.**

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EXAMINATION OF MULLINS / SUETAKE

1 Q. My name is Nina Suetake, and I'm here on behalf
 2 of Public Counsel.
 3 For the purposes of this cross, I just wanted
 4 to -- I wanted to clarify right now that I'm not going
 5 to be asking about the flowback of the excess deferred
 6 income tax balances. I'm only going to be talking --
 7 asking you about the quantification of the
 8 over-collection between January 1st and July 31st.
 9 **A. Okay.**
 10 Q. Okay. Could you please turn your Exhibit BGM-3
 11 at page 17?
 12 **A. Okay.**
 13 Q. And looking at lines 1 through 10, would you
 14 agree that these are the same numbers that you also used
 15 in your BG -- Exhibit BGM-6 for your cross-answering
 16 testimony?
 17 **A. Sorry, lines 1 through 10?**
 18 Q. 1 through 10.
 19 **A. Yes.**
 20 Q. Is it correct that this page presents your
 21 calculation of the deferral related to the excess taxes
 22 collection rates from January 1st, 2018, through
 23 July 31st? Lines 1 through 10?
 24 **A. Yes.**
 25 Q. And this -- that this is your estimate of the

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1 impacts of lowering the federal income tax from
 2 35 percent to 21 percent, correct?
 3 **A. Correct.**
 4 Q. And is it correct that the calculations on
 5 lines 1 through 10 do not include the impacts of the
 6 flowback of the edit balances?
 7 **A. That is correct. And as I mentioned earlier,**
 8 **because it was set up as a balancing account, it's not**
 9 **necessary to consider those in the interim period.**
 10 Q. Okay. And then on line 3, is it correct that
 11 you use an equity ratio of 50 percent?
 12 **A. Correct.**
 13 Q. Is it your understanding that the settlement
 14 agreement in this case included an equity ratio of
 15 49 percent?
 16 **A. Yes.**
 17 Q. And then on line 5, is it correct that you
 18 reflect a return on equity of 9.4 percent?
 19 **A. Correct.**
 20 Q. And is it your understanding the settlement
 21 agreement also provides for return on equity of
 22 9.4 percent?
 23 **A. That is my understanding.**
 24 Q. Okay. Then in your calculation on line 2, is it
 25 correct that you used the rate base -- for the rate base

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1 the per books balance as of December 31st, 2016?
 2 **A. That is correct.**
 3 Q. And is it your understanding that the settlement
 4 agreement specifies an agreed-to rate base of
 5 280,726,628?
 6 **A. Subject to check, yes.**
 7 Q. Okay. For the purposes of estimating the excess
 8 federal income tax collected from January 1st to the
 9 rate effective date in this case, in your opinion, would
 10 it be reasonable to replace the rate base amount shown
 11 on line 2 of your calculation with agreed-upon rate base
 12 specified in the settlement agreement?
 13 **A. I think that would be a reasonable approach. I**
 14 **guess I'd observe that the rate base amount in the**
 15 **settlement agreement is not all that different from the**
 16 **280,062,000 that I have there, but that certainly would**
 17 **be a reasonable approach. It would seem like to me**
 18 **probably the -- if you're -- if this sort of top-down**
 19 **approach were used, then probably the best value would**
 20 **be the -- the December 31st, 2017, rate base value.**
 21 Q. Then let me ask you, would it be reasonable to
 22 replace the 50 percent equity ratio on line 3 with the
 23 49 percent from the settlement agreement?
 24 **A. Yeah, that would be reasonable.**
 25 Q. Okay.

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1 **A. And so if I use 49 percent, it's a pretty minor**
 2 **change to the calculation. So it looks like it's about**
 3 **forty -- \$40,000 so...**

4 Q. Just to clarify, since you -- it seemed to --
 5 your answer seemed to suggest that you should use the
 6 settlement for one thing and not the other, should the
 7 settlement agreement impact your calculations of
 8 lines -- that are shown on lines 1 through 10?

9 **A. Oh, I -- I guess probably not. So, you know,**
 10 **you probably should set it on kind of what was known or,**
 11 **you know, what the results and rate base values were on**
 12 **when the tax form -- tax reform went into effect on**
 13 **December 31st or January 1st, 2018.**

14 **So probably the best approach would be to use --**
 15 **just look at the 2017 results of operations and perform**
 16 **this calculation based off of those values. I'm not**
 17 **sure if I had that at the time I performed this**
 18 **calculation, but that would probably be the ideal**
 19 **approach and to not necessarily tie it to the values**
 20 **that were approved in the stipulation because the**
 21 **stipulation would be for, you know, rates effective**
 22 **after August 1st.**

23 Q. So for the percent of equity ratio, what would
 24 you -- what is your recommendation, 50 percent or the
 25 settlement's 49 percent?

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1 **A. Well, I'll stick with 50 -- 50 percent**
 2 **because -- and I'd have to look back with the -- the**
 3 **past rate case was, but I -- I thought it was**
 4 **50 percent, but I -- you know, I can't remember off the**
 5 **top of my head.**

6 Q. Okay. Then one final question.
 7 Is it still in your opinion that it would be
 8 reasonable to apply a factor of seven-twelfths to the
 9 annual impacts to determine that interim period
 10 collection?

11 **A. Yes. So effectively what I've done here is I've**
 12 **taken one-twelfth of the annual amount and I've applied**
 13 **it for seven months, so yes.**

14 MS. SUETAKE: Okay. Thank you. Those are
 15 all my questions.

16 JUDGE PEARSON: Thank you.
 17 Are there any questions from the bench for
 18 Mr. Mullins? No, okay.

19 Any redirect?

20 MR. STOKES: No, your Honor.

21 JUDGE PEARSON: Okay. Then, Mr. Mullins,
 22 you are excused.

23 MR. MULLINS: Thank you.

24 JUDGE PEARSON: So that brings us to the
 25 close of the cross-examination on the contested issue.

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1 MS. GAFKEN: Judge Pearson?
 2 JUDGE PEARSON: Yes?
 3 MS. GAFKEN: If I may, I understand that the
 4 Company has waived cross of Ms. Ramas, but she is here
 5 in the hearing room for the settlement panel as well.
 6 So I just wanted to offer the opportunity to the bench
 7 if they have any questions for Ms. Ramas.

8 JUDGE PEARSON: No, we do not. Thank you.
 9 Okay. So at this point, we'll take a
 10 recess, a brief recess. We need to reconfigure the room
 11 a little bit to put the settlement panel together. And
 12 when we come back, we'll hear from the settlement panel,
 13 and we will hear closing arguments from the parties on
 14 the contested issues.

15 Okay. So we will take a ten-minute recess
 16 and be back at 10:20. We're off the record. Thank you.

17 (A break was taken from
 18 10:10 a.m. to 10:23 a.m.)

19 JUDGE PEARSON: Okay. We are back on the
 20 record following a short recess to address the all-party
 21 partial settlement. Mr. O'Connell let me know during
 22 the break that he will be providing an opening statement
 23 on behalf of all the parties, so we will begin with that
 24 before we turn to the settlement witnesses.

25 So, Mr. O'Connell, whenever you're ready.

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1 MR. O'CONNELL: Thank you, Your Honor.
 2 Before talking about a single point in this
 3 settlement, I want to describe to you the good work and
 4 collaboration of all the parties in reaching this
 5 settlement.

6 The parties undertook multiple settlement
 7 discussions and not only those that appeared in the
 8 schedule prehearing conference order. The parties met
 9 in person, we had discussions through email, we met on
 10 the telephone to discuss many technical points. We had
 11 re-meetings after taking breaks from exhaustive and
 12 exhausting settlement conferences.

13 All parties were involved and played
 14 important roles in the discussions. There was good
 15 faith throughout by the parties, even in those
 16 discussions that didn't look like they would ultimately
 17 lead to a settlement.

18 A lot of work, collaboration, and
 19 compromise, painful at times, went into finding this
 20 balanced agreement. Frankly, there were times when it
 21 didn't appear that settlement was likely or even
 22 possible. But to the credit of the parties, no doors
 23 were shut, no bridges broken, the parties remained open
 24 to talking with each other and sharing ideas. And the
 25 parties were able to realistically evaluate this case

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<p>1 and even-mindedly consider the benefits to all parties 2 of reaching an agreement that all parties could get 3 behind. 4 The settlement that the parties propose is 5 supported by all stakeholders in the case as a fair, 6 just, reasonable outcome of the issues. The settlement 7 provides for, briefly, a \$750,000 increase to the 8 Company's revenue requirement prior to incorporating the 9 impacts of the tax change. Said another way, it's a 10 \$750,000 increase to the revenue requirement as filed in 11 the Company's case from August. 12 After taxes, the parties have agreed that 13 the Company's revenue requirement should be decreased by 14 \$2.9 million, approximately \$2.9 million, and this 15 doesn't include all of the benefits that customers will 16 see from the return of the excess deferred income tax. 17 Table 1 of the settlement shows the decreases that the 18 ratepayers will see immediately. 19 I think that there is great specificity in 20 this settlement. For example, all cost of capital 21 elements are detailed. The ROE is 9.4 percent, the cost 22 of debt is 5.295 percent, capital structure is defined 23 at 49 percent equity, 51 percent debt, and an overall 24 rate of return is defined as 7.31 percent. 25 But I want to emphasize and highlight one</p>	<p>1 creating these new tariff schedules, the parties 2 recognize that this settlement as a whole is a good and 3 balanced outcome for all stakeholders, representing a 4 fair, just, reasonable resolution of the issues 5 represented. 6 Now I would like to turn the discussion over 7 to the panel so they can answer any questions that you 8 might have about the settlement details. Thank you. 9 JUDGE PEARSON: Thank you. 10 Are there any questions for Mr. O'Connell? 11 Okay. If you wouldn't mind taking your 12 microphone over to Ms. Colamonici. 13 Okay. So if the witnesses could all stand 14 up and raise their right hands, I will swear you all in 15 simultaneously. 16 (Betty Erdahl, Bradley Mullins, Michael 17 Parvinen, Donna Ramas, Shawn Collins, and Carla 18 Colamonici sworn.) 19 JUDGE PEARSON: Okay. You may all be 20 seated. Okay. So if you could just introduce 21 yourselves for the record and identify who you are 22 representing, and we will begin with Ms. Erdahl. 23 MS. ERDAHL: Betty Erdahl from Commission 24 Staff. 25 MR. MULLINS: Brad Mullins for the Alliance</p>
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<p>1 aspect of this settlement in particular that is 2 particularly important, the parties' incorporation of 3 the impacts of the change in the corporate tax rate. 4 While the parties were obviously unable to find 5 agreement on one issue related to the tax change, I 6 don't think that this should detract from the success of 7 the parties in finding a resolution of the tax impacts 8 that all parties could support. 9 The tax issues resolved by the parties 10 include incorporating the tax rate change from 11 35 percent to 21 percent going forward, and agreeing to 12 a specific dollar amount of excess deferred income tax, 13 \$48,325,853, that will be returned to customers. The 14 parties have, with great specificity, tackled the issue 15 related to how this amount should be appropriately 16 returned to ratepayers. 17 The settlement creates two new separate 18 tariff schedules, a method that benefits both ratepayers 19 and the Company, that adds transparency and 20 accountability for the return of the amount to the 21 ratepayers while simultaneously avoids any risk 22 associated with the returning these amounts too quickly, 23 which would result in violation of the normalization 24 rules. 25 Just like there are benefits of all sides by</p>	<p>1 of Western Energy Consumers. 2 MR. PARVINEN: Mike Parvinen with Cascade 3 Natural Gas. 4 MS. RAMAS: Donna Ramas, representing Public 5 Counsel. 6 MR. COLLINS: Shawn Collins, The Energy 7 Project. 8 MS. COLAMONICI: Carla Colamonici, Public 9 Counsel. 10 JUDGE PEARSON: Okay. Thank you. So we 11 have the parties' joint testimony, so at this point, we 12 will open it up to questions from the Commissioners. 13 And, Chairman Danner, would you like to 14 begin? 15 CHAIRMAN DANNER: Sure. 16 All right. Thank you all. So I just want 17 to ask some questions about the MAOP, the maximum 18 allowable operating pressure. Just this distinction 19 that the settlement made between post-code and 20 pre-code. 21 I guess first, Mr. Parvinen, for you, for 22 the Company, I know that a settlement is a compromise. 23 I just really want to understand your position with 24 regard to the assertion that only -- the Staff makes 25 that only pre-code pipe is eligible for recovery. Do</p>

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1 you have a view that post-code pipe should also be
 2 eligible or does this dichotomy work for you?
 3 MR. PARVINEN: Well, obviously in our -- in
 4 our -- in our case, in our direct case, we've put on a
 5 case that demonstrated the customers were receiving
 6 benefits from the post-code work that was being done.
 7 But as a compromise and as part of the total package, we
 8 felt that this was a fair result.
 9 CHAIRMAN DANNER: Okay. So the follow-up
 10 for that is this compromise -- I want to make sure that,
 11 in your view, there's nothing here that is going to
 12 compromise our efforts at safety, that the lack of
 13 recovery on the post-code is not going to either slow
 14 down or interrupt efforts to make headway.
 15 MR. PARVINEN: No, absolutely not. In fact,
 16 you know, we just recent -- well, Commission just
 17 recently approved a new stipulation in the MAOP docket,
 18 which further lays out the schedule for doing all the
 19 MAOP work. And so we will meet our commitments to that.
 20 CHAIRMAN DANNER: Okay. Thank you.
 21 And I'd ask the same thing of Staff. You
 22 know, is it -- the disallow of cost recovery, is this
 23 consistent with our efforts in the pipeline replacement
 24 policy, the Company's DIP plan, so on and so forth? Are
 25 we doing anything here that you feel is going to

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1 compromise safety in any way?
 2 MS. ERDAHL: No. Staff believes that this
 3 is the appropriate approach per prior Commission order.
 4 These are the expenses that are bringing the Company
 5 into compliance with regard to MAOP documentation for
 6 the post-code pipe. So once that pipe's used and useful
 7 and in service, that is being recovered, but these are
 8 expenses to come into compliance.
 9 CHAIRMAN DANNER: Okay. And so these
 10 high-risk pipeline segments that are post-code, where
 11 you feel the Company is going to have the means and the
 12 wherewithal to address the safety concerns in a way
 13 that's satisfactory to the Commission?
 14 MS. ERDAHL: We do.
 15 CHAIRMAN DANNER: And the public interest?
 16 MS. ERDAHL: We do.
 17 CHAIRMAN DANNER: All right. Thank you.
 18 That's all I have.
 19 COMMISSIONER RENDAHL: Good morning. I have
 20 some questions for the panel about the load study issue.
 21 So the settlement doesn't define load study or detailed
 22 load analysis and just merely states at paragraph 27,
 23 (as read) that the Company will either perform a load
 24 study to determine actual core class usage or a detailed
 25 load analysis of actual core class usage tied to the

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1 completion of the Company's advance leadering
 2 infrastructure, AMI Program, and associated fixed
 3 network.
 4 So I'd appreciate from each of you
 5 understanding if you -- if you could just explain what
 6 you believe constitutes a load study or a detailed load
 7 analysis. I guess I'll start with Staff and all the way
 8 down.
 9 MS. ERDAHL: Okay. So from Staff's
 10 perspective, a load study would be data that's collected
 11 from meters that are placed out in service areas. The
 12 load analysis is similar. The Company's talking about
 13 rolling out AMI and the load analysis would be actual
 14 data that's obtained from those meters throughout a
 15 large part of their territory.
 16 So Staff would like to have actual daily
 17 therm data so that we can understand the core customer
 18 or core class usage. What's been presented in this case
 19 and the prior case are estimates and forecasts, and we
 20 look at actuals with other companies when we're looking
 21 at their cost studies and rate define. And so Staff's
 22 goal is to achieve actual data to use in looking at
 23 their cost of service analysis.
 24 COMMISSIONER RENDAHL: And so when do you
 25 think that would actually be available?

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1 MS. ERDAHL: Well, we were hoping to have it
 2 for this case, and that wasn't -- it's not a fast
 3 process even if one had been started. So we don't know
 4 when it would be done, but until such time, Staff's
 5 comfortable because the Company is committed to not
 6 increasing basic charges in the future and applying any
 7 rate increases or decreases on equal margin across the
 8 classes.
 9 So we feel like the settlement taken as a
 10 whole and with those specifics with regard to the load
 11 study, we're comfortable with what we get out of this
 12 until the load study's available.
 13 COMMISSIONER RENDAHL: So can the Company do
 14 this -- get the data that you want until -- before they
 15 put in AMI?
 16 MS. ERDAHL: I -- I'm not sure I can answer
 17 that question. I think other companies are providing
 18 load studies, and I think they're just putting meters
 19 out there. They're not necessarily AMI.
 20 COMMISSIONER RENDAHL: I can ask the
 21 Company.
 22 MS. ERDAHL: Yeah, at this point, they're
 23 not sure that they can do that.
 24 COMMISSIONER RENDAHL: Okay. So,
 25 Mr. Mullins, again, for you, if you could explain what

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1 you think constitutes the load study and the detailed
 2 load analysis, and then the same questions about when
 3 you think this might be available, and if you can
 4 answer, can the Company get this now.
 5 MR. MULLINS: Right. So I guess from our
 6 perspective, the -- you know, the study that Cascade
 7 originally presented in this docket was like a city-gate
 8 level study, and so we'd expect the load study to be
 9 done at a customer level rather than at the -- at the
 10 city-gate level.
 11 And whether they have the data absent the
 12 AMI, absent AMI meters, you know, I was trying to think
 13 through that, and I think they should -- they have the
 14 meter data for their customers. But I'm not sure
 15 whether that has the granularity that they would need to
 16 do the studies. So I would defer to Mr. Parvinen on
 17 that.
 18 COMMISSIONER RENDAHL: So Ms. Erdahl
 19 mentioned daily data. So I'd imagine that without an
 20 AMI meter, you can't get daily data.
 21 MR. MULLINS: For some customer classes,
 22 that would be correct. So for -- for large customers,
 23 then we have a meter that tracks daily, but I think
 24 that's correct.
 25 COMMISSIONER RENDAHL: Okay. So for

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1 Mr. Parvinen, you've heard this, so the first level is
 2 how do you define these two things, load study versus
 3 the analysis, and then what do you think is the timing
 4 and can the Company do this without the AMI in place?
 5 MR. PARVINEN: We have committed to do so,
 6 so let me answer that part first. So the definition of
 7 a load study is, as I would interpret it is, where we go
 8 out to our customers and install some sort of meter
 9 reading capability on random -- random sample of
 10 customers by customer class, by location to do daily
 11 read capabilities and then use that -- that data to
 12 represent the classes on more of a daily basis.
 13 Currently -- currently what our -- our load
 14 analysis does is, it does, as Mr. Mullins had mentioned,
 15 at the city-gate level, and then we do have actual data
 16 for our transporters, so we can pull that out. Then we
 17 know what our core class is. But we do, then, have to
 18 allocate that daily data to the rest of the -- rest of
 19 the schedules. I believe that is consistent with what
 20 the other companies are doing. I don't believe any
 21 natural gas is doing this type of a detailed analysis,
 22 but we've committed to do that.
 23 If our AMI meters that we will be
 24 installing, one, we can -- when we install the AMI
 25 meters, again, they're just a meter, but you need to

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1 install also the fixed network component to be able to
 2 draw that data out on an hourly basis. So that's a key
 3 component, but quite frankly, we haven't started that
 4 analysis on how do we actually implement the fixed
 5 network, does it make sense, what are the economics.
 6 If we don't go that route, we will then be
 7 looking at, well, can we still use those same meters and
 8 pull daily information, you know, it will be at a cost,
 9 or do we have to implement some other logger, I think is
 10 the term we're using for -- for temporary meters at
 11 individual locations to do an analysis.
 12 COMMISSIONER RENDAHL: So when you mean
 13 "logger," you mean l-o-g-g-e-r, not l-a-g-e-r?
 14 MR. PARVINEN: L-a-u-g-e-r? Whatever works.
 15 But, again, the results, it's going to -- to get good,
 16 valid results is going to take actually a lot of time.
 17 I mean, just getting a year's worth of data is nice, but
 18 what does that mean from a peak period? Did you have a
 19 peak period? Were you close? Does it provide usable
 20 data? Provides a lot of data, but, you know, that's
 21 something that we'll be looking forward to. But once
 22 we -- once you start gathering the data, I mean, you got
 23 to start someplace, right?
 24 CHAIRMAN DANNER: So that was going to be my
 25 question. Commissioner Rendahl asked it, and I think

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1 you didn't really look at how -- how long is this going
 2 to take? I mean, you're right. One year, you get one
 3 year's worth of data and there might be variations that
 4 require -- you know, you've got to somehow standardize
 5 this over time, but how much time do we have? I mean,
 6 so what are we looking at here? When are we going to
 7 see it?
 8 MR. PARVINEN: So let's -- let's assume we
 9 install the AMI meters and we go with the fixed network.
 10 We're estimating that's going to take a couple of years.
 11 We're starting in 2018 to start installing our meters
 12 through 2019 to complete that process.
 13 Then we've got to look at the fixed network,
 14 and we're not sure actually how long that's going to
 15 take. You know, what it takes to get that installed and
 16 does it make sense.
 17 I would say you're looking at two to three
 18 years, if we go that approach, to start gathering the
 19 data. And then probably need a year's worth of data to
 20 have your first batch and then determine does it make
 21 sense, what do we do with the data.
 22 But this settlement does have a -- it has
 23 the guidelines laid out in it for -- for ratemaking
 24 purposes, we know we're going to be dealing with -- with
 25 rate cases or other alternative ratemaking processes

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1 well before that.

2 So how do we deal with the fact we don't

3 have this load study. So we've dealt with that in the

4 settlement, and all the parties are comfortable with,

5 yeah, this could take a few years, but we will be

6 getting there, and we'll be getting it a day at a time.

7 COMMISSIONER RENDAHL: Okay. So I'll ask

8 you another question, then get back to the remaining

9 panelists on the initial question if they have anything

10 on that topic.

11 But so there is a parallel process going on

12 that the parties mentioned in their testimony about the

13 generic cost of service proceeding. And so is the load

14 study necessary to effectively contribute to the generic

15 cost of service proceeding?

16 MR. PARVINEN: You know, I don't know how

17 detailed the generic proceeding is going into -- I mean,

18 it -- it's a cost of service study, which the load study

19 is a detail used to provide inputs to the cost of

20 service study. So I'm not sure how far, you know, down

21 into the -- the generic proceeding you're going to go.

22 COMMISSIONER RENDAHL: Well, I guess one of

23 the questions is, you know, for the proceeding, which is

24 not subject to this, it's not within this proceeding,

25 but obviously that's a focus on methods.

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1 MR. PARVINEN: Correct.

2 COMMISSIONER RENDAHL: But would the inputs

3 from a load study impede your ability to figure out

4 which is the right method for the Company in the cost of

5 service study or does it not have an impact on that?

6 MR. PARVINEN: It's -- my guess is it's

7 probably not going to have an impact on the method.

8 COMMISSIONER RENDAHL: Okay. Thanks.

9 All right. So, Ms. Ramas, I don't know if

10 you have a perspective on the load study issue. If you

11 don't, just say, I don't have an input on that.

12 MS. RAMAS: Yeah, that was beyond the scope

13 I addressed on behalf of Public Counsel, but I believe

14 Ms. Colamonici might have comments.

15 COMMISSIONER RENDAHL: Okay. Mr. Collins,

16 do you have a perspective on what we've been talking

17 about?

18 MR. COLLINS: I do. The important matter

19 for Energy Project focuses on the impact basic charges

20 and just ensuring that they're stabilized until more

21 information is gathered about the necessary adjustments

22 to those. It's important for us to ensure that those

23 charges are reasonable and based on actuals and what is

24 needed, and I don't have any -- any specifics on how

25 to -- the methodology for a load study or an AMI

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1 deployment.

2 COMMISSIONER RENDAHL: Okay. Thank you.

3 Ms. Colamonici, so do you want me to repeat

4 the key questions or do you think you have it?

5 MS. COLAMONICI: I think I have it.

6 COMMISSIONER RENDAHL: Great.

7 MS. COLAMONICI: Our perspective is very

8 similar to what's already been stated by other parties.

9 Our understanding for the load study is to provide

10 actual daily data for customers, whereas the load

11 analysis would provide a bit more of a granular use than

12 just the high level daily usage information.

13 COMMISSIONER RENDAHL: Okay. So would you,

14 then, prefer the detailed load analysis or the load

15 study?

16 MS. COLAMONICI: At this time, based on

17 what's just been stated by the Company, I'm not sure

18 whether a load analysis and that granular data based on

19 the longer time frame would be more useful than having

20 at least the daily actual usage. I'm not sure for gas

21 AMI infrastructure how granular the data will be. I'd

22 defer to the Company. I'm not quite sure as to what it

23 is they're planning on implementing and how -- how

24 granular and how useful that extra information would be.

25 COMMISSIONER RENDAHL: Okay.

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1 MR. PARVINEN: Can I interject just a little

2 bit, then, further when you were talking about the

3 generic cost of service? I mean, I think it's important

4 to recognize that the cost of service is a tool that is

5 used, and typically rates are -- are -- are -- rate

6 design and rate spread is -- is -- is set, but taking

7 into account the cost of service as a guideline as a

8 tool, not as a direct foundation. So it's how granular

9 do you really need to get when it's used, again, as a

10 tool.

11 So for a gas company, this is something I

12 think we had in our rebuttal testimony, too, is, you

13 know, we buy gas on a day ahead market to make sure

14 we've got the gas to meet our customers' needs that next

15 day.

16 So that -- it's totally different than the

17 electric side of the operation, which is about a

18 15-minute market, five-minute market now. You know,

19 it's changing and getting more -- very narrow. So it is

20 a lot different and a lot more expansive.

21 So we are putting a lot of time and effort

22 into -- I'm not sure if the end result is produces --

23 produces a lot. When it comes down to it, you have your

24 revenue requirement. How are you going to spread that

25 amongst rates. How perfect do you need to be, or is it

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1 fair, just, and reasonable.
 2 COMMISSIONER RENDAHL: Okay. Thanks.
 3 And I guess I just go back to Ms. Erdahl and
 4 Mr. Mullins, do you have anything to follow up on the
 5 conversation that we've been having?
 6 MR. MULLINS: I guess I would just note that
 7 in the cost of service collaborative, we certainly will
 8 be, you know, thinking about the studies and how they
 9 will impact cost of service. And we agree that, you
 10 know, those are an input to the cost of service, which
 11 could be handled the same.
 12 MS. ERDAHL: Staff agrees. I think the cost
 13 of service docket's a good place to handle that. It
 14 reminds me of the good old days with the
 15 telecommunications companies.
 16 COMMISSIONER RENDAHL: Let's hope we won't
 17 be having hearings until midnight.
 18 MS. ERDAHL: Exactly.
 19 COMMISSIONER RENDAHL: So obviously I've
 20 asked these questions because there's not a whole lot of
 21 detail on the settlement about the issue about the load
 22 study. I'm assuming that you all are planning on having
 23 further conversations about the load study before the
 24 Company goes forth and does anything.
 25 Is that part of the plan, to have further

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1 conversations outside of this docket, once this is done,
 2 to talk further about the load study?
 3 MS. ERDAHL: Staff is always more than
 4 willing to do that. I think it being part of the cost
 5 docket is actually probably going to help facilitate a
 6 lot of what's desired. You know, looking at all the
 7 companies, not just Cascade. So but Staff is willing to
 8 field questions and give our perspective on this. And,
 9 again, with the global settlement and the points around
 10 rate -- rates going forward until this is done, that's
 11 part of what helps Staff feel comfortable with what
 12 we've decided here.
 13 CHAIRMAN DANNER: So -- excuse me. Do you
 14 think you can do a meaningful cost of service study,
 15 generic cost of service study without having the results
 16 of the load study?
 17 MS. ERDAHL: Staff would really like to see
 18 actual data, and so we have testified no in the last
 19 case and this case. So that's why we are advocating for
 20 equal percent of margin. The last time the Company
 21 filed a cost of service study was -- I believe was 25
 22 years ago or something like that. So we do not want
 23 estimates on forecast. We would like actual data.
 24 CHAIRMAN DANNER: Thank you.
 25 COMMISSIONER RENDAHL: Okay. Any follow-up

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1 from that last exchange with Ms. Erdahl, anything else
 2 from any other party?
 3 MR. PARVINEN: Well, I've got a comment that
 4 we were not using estimates. It is -- our analysis is
 5 based on actual -- actual data.
 6 COMMISSIONER RENDAHL: From the city gate?
 7 MR. PARVINEN: Yes.
 8 COMMISSIONER RENDAHL: All right. Thank
 9 you. I appreciate your answers.
 10 COMMISSIONER BALASBAS: All right. Good
 11 morning, again, everyone. So I have a clarifying
 12 question about the decreases of customers from the
 13 settlement. So on page 3 of the settlement, there is
 14 table 1, which shows the change to the revenue
 15 requirement as well as the decreases from the 2018 ARAM,
 16 both protected and unprotected portions.
 17 So my question is, are those three numbers
 18 additive, meaning that the total amount going back to
 19 customers under the settlement would be about five and a
 20 half million dollars total? And whoever wants to take
 21 that question can answer.
 22 MS. ERDAHL: Yes, this is Staff. So yes,
 23 you're correct. The total would be about 5.4 million,
 24 and the first -- the change to revenue requirement is
 25 basically bringing the per books tax from 35 percent

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1 down to 21 percent and changing the conversion factor
 2 for any adjustments, depending on how each party gets to
 3 the agreed settlement amount. And then in addition to
 4 that, the ARAM amount is showing the protected-plus
 5 portion of the excess deferred taxes. That's going to
 6 be a separate schedule, as well as the unprotected.
 7 COMMISSIONER BALASBAS: And so when you look
 8 at the \$750,000 increase to the revenue requirement
 9 before incorporating the tax cut changes, so really,
 10 then, that change, Ms. Erdahl, you just alluded to of
 11 the per books from 35 percent to 21 percent, by my math,
 12 that's roughly 3.6, \$3.7 million of the impacts of that
 13 corporate tax rate change.
 14 MS. ERDAHL: Correct.
 15 COMMISSIONER BALASBAS: Okay. And do the
 16 ARAM and the unprotected excess deferred income tax
 17 returns, do those cover all of the calendar year of 2018
 18 or starting on August 1st?
 19 MS. ERDAHL: Oh, yes. It starts on
 20 August 1st, and it's actually going to -- those rate
 21 tariff sheets will be in effect until the following
 22 October, and then the filings will be made every
 23 October 31st, approximately, with a November 1st date.
 24 So they're in alignment with a handful of other filings
 25 that are made every year.

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1 COMMISSIONER BALASBAS: Okay. All right.
 2 MR. PARVINEN: The amounts are the estimated
 3 2018 excess deferred for 2018. We're just not starting
 4 the amortization until August.
 5 I also did want to do a follow-up. You had
 6 mentioned is this the amount given back to ratepayers.
 7 Yes, it is, but that's not the annual impact because the
 8 amortization is set up at 15 months. It'll be slightly
 9 less for the first 15 months, but that -- at that point,
 10 I think you'll see a refund or decreased rate become a
 11 bigger decrease to put on to an annual basis.
 12 COMMISSIONER BALASBAS: Okay. Thank you.
 13 That's helpful.
 14 So my other question has to do with the
 15 ten-year amortization period of the unprotected excess
 16 deferred income tax. And Staff had proposed one year
 17 amortization to return that to ratepayers, and I believe
 18 the Company has proposed ten years in their original
 19 case; is that correct?
 20 MR. PARVINEN: Yes, that is correct. We had
 21 some testimony on that where we looked at -- the reason
 22 the Company had -- had requested ten years was a
 23 combination of things. One, that was something we
 24 were -- as a global company, we're requesting in all of
 25 our jurisdictions to try to maintain consistency; and

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1 two, was when we looked at all the various balances that
 2 go into that unprotected, what are the lives of those
 3 items, and on average it was somewhere in the ten-year
 4 range. Some items being a short turnaround period,
 5 others being a very long turnaround period.
 6 COMMISSIONER BALASBAS: And is there any --
 7 is there any concern about, by going to the ten years, a
 8 concern about impacts to company cash flow or other
 9 considerations in addition to, you know, what you might
 10 estimate the asset life would be?
 11 MR. PARVINEN: It does. It does have a cash
 12 impact. I mean, obviously it helps mitigate that when
 13 it's spread out over a longer period of time. That's
 14 why using the existing average helps. It was a shorter
 15 period of time, one year, we talked about other shorter
 16 periods, too. But yeah, if you did it, for example, one
 17 year, we'd have to come up with the cash to do that. So
 18 what does that do with our financing and our debt
 19 acquisitions and so forth.
 20 MS. ERDAHL: And I just wanted to point out,
 21 Staff was willing to concede on the time frame that this
 22 was amortized over as part of the global settlement.
 23 That was a compromise on our part.
 24 COMMISSIONER BALASBAS: Okay. Anyone else
 25 have anything to add to that?

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1 MS. RAMAS: Yes, just briefly. In my
 2 testimony, I'd indicated that I wouldn't be opposed to
 3 the ten years recommended by the Company, but that the
 4 Commission could consider a shorter period. One of the
 5 reasons I didn't outright recommend a short period is
 6 taking into account the size of the Company and the cash
 7 flow impacts, whereas if you had a larger company, they
 8 may be able to handle the larger cash, short-term
 9 impacts.
 10 MR. MULLINS: And maybe I can just respond
 11 to an earlier comment. So the question, the initial
 12 question, was whether the amounts on table 1 were
 13 additive. They're kind of additive, but not because the
 14 ARAM is being reversed over or is being refunded or the
 15 EDFIT amounts are being refunded over 15 months.
 16 And so basically, I think it's just
 17 important to recognize that there's kind of a lag being
 18 built into that balancing account mechanism where you
 19 have the 2018 accrual, but those are not being amortized
 20 until, you know, through October of 2019. And so, you
 21 know, I think it's just something to recognize going
 22 forward, you know, as we kind of work on the balancing
 23 accounts to know that that's out there.
 24 COMMISSIONER BALASBAS: And I believe going
 25 forward, after we do this first return of the excess

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1 deferred income tax, any future returns will be done on
 2 a 12-month period, correct?
 3 MR. PARVINEN: Correct.
 4 MR. MULLINS: Right.
 5 MR. PARVINEN: I guess one final comment on
 6 the ten-year amortization, that during this period when
 7 it's being amortized, the customers will also get the
 8 benefit through working capital of carrying that
 9 balance, so will be a reduction, essentially a reduction
 10 of working capitals.
 11 COMMISSIONER BALASBAS: Okay. Thank you.
 12 That's all I have.
 13 JUDGE PEARSON: Nothing further?
 14 Okay. Thank you all very much. At this
 15 point, we can move on to the closing arguments, the
 16 parties' closing arguments on the contested issue. So
 17 if counsel wants to come forward again.
 18 All right. Thank you. So Cascade will
 19 present its closing argument first. And just as a
 20 reminder, you have ten minutes, and you may reserve a
 21 portion of that time for rebuttal if you wish.
 22 And you can go ahead whenever you're ready.
 23 MS. RACKNER: Thank you, Judge Pearson and
 24 Commissioners.
 25 COMMISSIONER RENDAHL: I'm sorry, can you

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<p>1 make sure the mic is close and that it's on. 2 MS. RACKNER: Looks like it's on. Is that 3 working? Okay. Sorry about that. 4 The parties have entered into a settlement 5 in this case that ensure that the new rates that will be 6 effective will return to customers the full benefit of 7 the new corporate tax decrease in the new tax act. So 8 the only contested issue today is for you to determine 9 the appropriate treatment of the interim tax benefit 10 that's accrued between January 1, 2018, through 11 July 31st. 12 Cascade's approach is quite simple. Cascade 13 proposes that to the extent that tax decrease causes the 14 Company to earn above its authorized rate of return, the 15 Company will flow those earnings back to customers 16 through the decoupling mechanism. 17 In addition, to ensure that customers get 18 the full benefit of any over-earnings, the Company is 19 also proposing to alter the mechanism for this year only 20 so that it's flowing back 100 percent of any 21 over-earnings. This approach is simple, it's 22 straightforward, it's also consistent with the only 23 Commission precedent on point, and it's consistent with 24 sound public policy considerations. 25 The last time this Commission addressed what</p>	<p>1 the Company's proposal mitigates what could be an 2 extremely harsh impact if this Commission orders that 3 regardless of the Company's earnings that the Company 4 must return that benefit. 5 The Company's proposal is also particularly 6 appropriate, given that the other mechanism that we 7 have, the decoupling mechanism, is a one-sided 8 mechanism, and, again, we talked about that today. So 9 under the mechanism, customers are held harmless when 10 the Company is under-earning, whereas the Company shares 11 when the Company -- when it is in an over-earning 12 position. 13 So as you've heard today, Staff, Public 14 Counsel, and AWEC all recommend that the Company pass 15 back the benefit regardless of earnings, and this 16 approach has several flaws. The first is the ones that 17 I've just been discussing, which is that it could have a 18 really harsh impact on the Company. Moreover, it 19 requires the Commission to estimate the impact of the 20 tax change based on what are extremely uncertain 21 calculations that are in the record to date. 22 As you've heard, all the Company's proposed 23 various approaches and no one came to the same number 24 when it came to estimating that tax benefit. You have a 25 wide range, and while it appears that AWEC's calculation</p>
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<p>1 to do about a major federal corporate tax decrease was 2 in 1986 as you've heard today. And that's when the 3 corporate tax rate was reduced from 46 to 34 percent. 4 In response, the Commission opened a full 5 investigation to look at what the financial impact was 6 of that tax decrease on every one of the utilities under 7 its jurisdiction. And the Commission found it 8 appropriate to address that tax decrease on a 9 case-by-case basis. 10 And importantly, for our case here today, 11 where the Commission found that two of the utilities 12 would not earn their rate of return -- authorized rate 13 of return, even taking into account the corporate tax 14 decrease, the Commission declined to order the 15 Commission -- the companies, those companies, to reduce 16 their rates. 17 This approach recognizes the way ratemaking 18 happens. Between rate cases, a company's expenses will 19 vary. Some will go up, some will go down, but they will 20 all have an aggregate impact on the Company's result of 21 operations. 22 And taking the Company's approach also 23 recognizes that this company has been under-earning for 24 the last four years. This is a company that is 25 struggling to earn its authorized rate of return, and so</p>	<p>1 is the outlier, the fact is that all of the estimates 2 are based on various assumptions and judgment calls that 3 leave very significant room for error. 4 As you've also heard today, that those 5 benefits -- those tax benefits, which were estimated a 6 lot earlier in this case, now when the Company looks at 7 their actual results for the first part of the year, 8 they're now estimating a tax benefit that's 9 significantly lower even than the benefit that -- that 10 is estimated at the beginning of the year. And, again, 11 the -- Mr. Parvinen's new tax benefit estimate of 12 1.06 million is based on actual results for the first 13 five months of the year. 14 In contrast, Cascade's proposal allows time 15 for the Company to calculate its actual earnings, which 16 will ensure the customers receive the benefit of a 17 hundred percent of over-earnings, no more and no less. 18 This approach is fair to customers and the Company and 19 is consistent with the Commission precedent exactly on 20 point. 21 And finally, if the Commission decides 22 against the Company's proposal and wishes to return the 23 interim tax benefits to Cascade's customers regardless 24 of the Company's earnings for 2018, the Company urges 25 the Commission to do so based on the exact estimate --</p>

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<p>1 excuse me, of the exact results of their -- for 2018 of 2 that benefit. That number can be provided to the 3 Commission after the Company files its 2018 tax return. 4 At that point, the Company can flow those 5 exact benefits back to customers through the filing 6 November 1st, 2019, when the Company will also be truing 7 up the excess deferred tax estimate as well. 8 That would be an approach that would ensure 9 that the customer -- that the Company already 10 under-earning isn't then over-returning a tax benefit to 11 customers. This approach is far preferable to the risk 12 of this Commission ordering a refund that bears little 13 relationship to the actual benefit that the Company 14 receives. 15 You know, in the end, we urge you to follow 16 the Commission's precedent and look at that benefit in 17 the context of 2018 earnings, but if you decline to do 18 so, we ask you to wait, find out what the benefit was 19 for 2018. Thank you. And I'll reserve the rest of my 20 time. 21 JUDGE PEARSON: Okay. You have three 22 minutes left. 23 MS. RACKNER: Thank you. 24 JUDGE PEARSON: So, Ms. Gafken, did you want 25 to go next?</p>	<p>1 retroactive ratemaking does not require that the benefit 2 be used to bolster Cascade's earnings, but rather, as 3 recognized by Mr. Parvinen during cross today, the 4 Commission does have the latitude to determine what to 5 do with the benefit. 6 Retroactive ratemaking does prohibit 7 regulators from setting rates to make up for past errors 8 and projections to allow a utility to recoup past losses 9 or refund customers excess profits. I have a citation 10 to a law review article that has a discussion about 11 retroactive ratemaking, and that's "Krieger, The Ghost 12 of Regulation Past: Current Applications of the Rule 13 Against Retroactive Ratemaking in Public Utility 14 Proceedings." I'll provide the point cite to the court 15 reporter if that's okay. 16 Adjusting Cascade's rate for changes in the 17 tax law does not correct for past error or adjust the 18 rate in relation to Cascade's earnings or the utility's 19 ability to manage soundly or otherwise. The Supreme 20 Court of Utah in the MCI Telecom Corp versus Public 21 Service Commissions of Utah recognized that changes in 22 the federal tax law could create a windfall substantial 23 enough that justice and equity require adjustments to be 24 made. The pincite there is 840 P.2d 765, 771-773(1992). 25 Likewise, the Oklahoma Supreme Court</p>
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<p>1 MS. GAFKEN: Absolutely. We're still in 2 morning, so good morning again. The tax rate 3 significantly decreased during the pendency of this rate 4 case, and that is significant because it's an 5 unforeseeable event, and it was substantial. Under 6 Cascade's proposal, Cascade would retain the full 7 benefit of the reduction of the tax burden for the 8 period of January 1 through July 31, and I'm going to 9 call that period the interim period for the rest of the 10 comments. 11 JUDGE PEARSON: Could you pull your 12 microphone closer? Thank you. 13 MS. GAFKEN: I could hear myself, but... 14 Cascade proposes that it would retain that 15 full benefit of the reduction of the tax burden during 16 the interim period unless it exceeds its authorized rate 17 of return. Cascade claims that it will not exceed its 18 authorized rate of return, leaving it unlikely that the 19 customers will receive the benefit if the Commission 20 accepts Cascade's proposal. 21 The controversy here revolves around who 22 should receive the benefit of the reduction of the tax 23 expense for the interim period. Cascade points to the 24 principle of retroactive ratemaking to support retaining 25 the benefit during the interim period; however,</p>	<p>1 recognized that windfall revenues have nothing to do 2 with past mistakes in -- mistakes in past ratemaking, 3 but in such cases, the regulator considers who should 4 receive the windfall, the utility shareholders or 5 customers. And considering the proper treatment of the 6 windfall does not constitute prohibited retroactive 7 ratemaking. The case there is Turpen versus Oklahoma 8 Corporate corporation -- or I'm sorry, Corporate 9 Commission, 769 P.2d 1309. Indeed the -- 10 COMMISSIONER RENDAHL: Can you repeat that a 11 little more slowly? 12 MS. GAFKEN: Oh, sure. I'll also provide 13 the pincites to the court reporter, and I have a 14 printout of those that I can provide the bench as well. 15 COMMISSIONER RENDAHL: Okay. That would be 16 helpful. Thanks. 17 MS. GAFKEN: Indeed, the Turpen court noted 18 that the Commission would engage in retroactive 19 ratemaking if the Commission allowed the utility to 20 retain windfall revenue based on a failure to use its 21 authorized ROR. That's Turpen at 1333. 22 This Commission had addressed a request to 23 bolster rate of return through retaining revenues that 24 should be returned to customers in Docket UE-100749. In 25 that docket, Pacific Power wanted to retain rec</p>

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1 proceeds, but the Commission ruled that Pacific Power
 2 could not enhance its earnings with the rec proceeds.
 3 That's at Order 10 at paragraph 33. The same treatment
 4 should be true for income tax expense.
 5 Cascade relies on the absence of a petition
 6 for deferred accounting as a basis for retaining the
 7 amounts collected from customers in excess of its tax
 8 burden, but the Commission has rejected a similar
 9 argument, again, in Docket UE-100749, pinpoint citation
 10 Order 10 at paragraph 29. Cascade may not rely on the
 11 absence of deferred accounting petition as a legal basis
 12 to give Cascade free access to funds that it is not
 13 entitled to.
 14 The funds in question here were not intended
 15 to be used by Cascade to apply to its earnings, rather
 16 Cascade was holding those funds collected from customers
 17 to pay taxes to Federal Taxing Authority. Cascade's
 18 decision to not proactively seek a Commission
 19 determination on the treatment of the excess federal
 20 income tax collected from customers does not shield the
 21 Company from obligations to customers or preclude the
 22 Commission from determining the proper disposition of
 23 those amounts. And you can see the PacifiCorp rec
 24 order, Order 10 at paragraph 30.
 25 Moreover, Cascade had adequate notice that

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1 it would be required to track the excess tax expense
 2 collected from customers during the interim period.
 3 Utilities in Washington began -- regulated utilities in
 4 Washington began filing petitions for accounting orders
 5 on December 27th and 28th of 2017.
 6 Okay. I'll wrap it up.
 7 Cascade also had conversations with Staff,
 8 and they were told to hold off until the Commission
 9 entered -- or issued a bench request in this docket.
 10 That bench request was issued on January 3rd of 2018,
 11 and that bench request specifically asked for the amount
 12 collected from ratepayers during the interim period.
 13 There are a number of different calculations
 14 and methodologies that have been presented and detailed
 15 in the record. I'm not going to go over those here, but
 16 Public Counsel would request that the Commission pass
 17 100 percent of the benefit during the interim period to
 18 ratepayers. Thank you.
 19 JUDGE PEARSON: Thank you.
 20 Mr. O'Connell?
 21 MR. O'CONNELL: Thank you, Your Honor.
 22 Returning the over-collection of taxes in
 23 the interim period to customers isn't harsh on the
 24 Company. It can't be. It's money they collected for
 25 something that they don't have to pay. They're

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1 collecting at 35 percent. They have to pay 21 percent.
 2 Returning to customers can't be harsh on the Company.
 3 The Commission should reject the Company's
 4 proposal for sharing with ratepayers because this is --
 5 the Commission doesn't offer guarantees, and that's what
 6 the Company's requesting, a guarantee that they will
 7 earn their authorized rate of return, that they will get
 8 to keep the over-collection of taxes, money that they
 9 collected, if they fail to earn their authorized rate of
 10 return, and then only after meeting their authorized
 11 rate of return, share with the customers.
 12 Given the testimony that you've heard today,
 13 it appears in doubt that there would be anything left
 14 over that would be returned to customers. So I would
 15 caution against the danger of accepting the Company's
 16 proposal.
 17 While I haven't heard from the Company an
 18 argument about retroactive ratemaking, Staff wants to
 19 assure the Commission that this is not retroactive
 20 ratemaking.
 21 First, the Commission's bench request
 22 invited the Company to indicate when it would file an
 23 accounting petition, but the Company stated in
 24 supplemental response that such a deferral was
 25 unnecessary. The Company cannot rely on Staff's

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1 suggestion that it wait until -- wait to file an
 2 accounting petition until after seeing the Commission's
 3 bench request.
 4 Simply put, Staff can't order the Company to
 5 do anything. The Commission orders the Company to do
 6 things. By saying a separate accounting petition was
 7 unnecessary, Cascade gave up any claim to that
 8 retroactive ratemaking argument.
 9 Second, the tax change falls into a
 10 well-established exception to the rule against
 11 retroactive ratemaking. The tax change was
 12 unforeseeable and extraordinary, causing a surprising
 13 decrease to Cascade's tax expense. The Commission's
 14 familiar with this exception. As another example is the
 15 allowed recovery of expenses incurred due to severe
 16 storm damages.
 17 I want to point the Commission to two cases
 18 that discuss how returning the over-collection to
 19 customers is not retroactive ratemaking. The first of
 20 these is a case from the Supreme Court of Utah, which
 21 addressed this issue in the 1980s after the large
 22 corporate tax cut in 1986. That case is MCI
 23 Telecommunications Corporation versus the Public Service
 24 Commission. Pin cite is 840 P.2d 765 from 1992.
 25 CHAIRMAN DANNER: Okay. And that's the same

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1 case that Ms. Gafken cited so...

2 MR. O'CONNELL: It is.

3 CHAIRMAN DANNER: All right.

4 MR. O'CONNELL: The tax cut issue in that

5 case was the 1986 tax cut that changed the corporate tax

6 rate from 46 percent to 34 percent, a change that was

7 not as drastic as the 35 percent to 21 percent tax rate

8 change experienced in this case.

9 The Utah Supreme Court determined that the

10 1986 tax cut was unforeseeable and extraordinary. Staff

11 believes the Commission should consider the same

12 reasoning in its decision and order in this case, and it

13 should find that the tax rate change from 35 percent to

14 21 percent was unforeseeable and extraordinary.

15 Staff would also point the Commission to a

16 recent decision from another utility commission

17 regarding the recent tax cut. In May of this year, the

18 Pennsylvania Public Utility Commission decided that the

19 rule against retroactive ratemaking is not an impediment

20 to its consideration of returning the tax savings to

21 ratepayers. That case is the Tax Cuts and Jobs Act of

22 2017, Docket M-2018-2641242, 2018 Pennsylvania, PUC

23 Nexus 172, Temporary Rates Order of May 17, 2018. The

24 Commission can and should look to 26 USC Section 11 and

25 the amendments to the corporate tax rate over time,

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1 1986, 1993, 2017.

2 The argument that the Company makes in this

3 case that the tax change is just one of many expenses

4 that change year to year is just wrong. The last

5 comparable change to the corporate tax rate was in 1986

6 when it changed from 46 percent to 34 percent. The

7 change in 1993 was from 34 to 35 percent. The change --

8 the tax cut in 2017 was from 35 down to 21.

9 If I can make the last reason you should

10 support Staff's calculation of the overcollected amount

11 is that Staff is the only party that uses the rates that

12 the Commission approved in the 2015 general case in

13 order to determine what is being collected currently

14 from January to July. So Staff would encourage the

15 Commission to look at that calculation and accept

16 Staff's number. Thank you.

17 JUDGE PEARSON: Thank you.

18 Mr. ffitch?

19 MR. FFITCH: Thank you, Your Honor, and good

20 morning, Commissioners. Simon ffitch on behalf of The

21 Energy Project.

22 The Energy Project did not have resources in

23 this case to present the testimony of a tax or revenue

24 requirement expert on this issue, but The Energy Project

25 did want to state a position for the record on this

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1 important issue due to the impact on the affordability

2 of electricity -- excuse me, natural gas service for

3 Cascade's lowest income customers.

4 Simply put, it's not appropriate in our view

5 for Cascade to retain the proceeds of the federal tax

6 reduction for its own shareholders. This would result,

7 as other parties have said, in a windfall for Cascade

8 shareholders. We're not aware that any other Washington

9 company has made a proposal of this type, to retain the

10 benefits of the tax program. Again, as been mentioned

11 both at the hearing and in earlier oral argument,

12 Cascade was on notice from this Commission that these

13 funds should be tracked for the benefit of customers.

14 For six months, they collected the tax

15 amounts in the customers' rates that they will not be

16 paying to the federal government. Again, echoing

17 comments of previous -- previous counsel here, that just

18 leads to, I think, fundamental unfairness and inequity

19 in the Company's argument. And more significantly, the

20 Company argument violates a fundamental ratemaking

21 principle, that rate setting establishes the opportunity

22 but not the guarantee of earning the authorized rate of

23 return.

24 Washington regulation is not designed to

25 establish a risk-free economic environment for regulated

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1 utilities. In fact, Cascade Natural Gas customers in

2 their rates pay a return on equity in excess of

3 9 percent to the Company in specific recognition of the

4 amount of risk that the Company is experiencing in its

5 business environment.

6 So for those reasons, TEP agrees with the

7 arguments presented by the Commission Staff and Public

8 Counsel and the Industrial Customers, and we

9 respectfully request that Cascade's proposal to retain

10 the tax benefits be denied.

11 JUDGE PEARSON: Thank you.

12 Mr. Stokes?

13 MR. STOKES: Good morning. Chad Stokes for

14 the Alliance of Western Energy Consumers.

15 Going last has a benefit. I will cut down

16 on the case laws cited because we've cited many of the

17 same cases. Instead of tracking the savings from the

18 passage of the Tax Cuts and Jobs Act for the benefit of

19 customers, Cascade instead proposes to keep the -- keep

20 the money to ensure they earn their authorized rate of

21 return.

22 Cascade has alluded in the bench request

23 response that this result is appropriate because the

24 rule of -- the rule against retroactive ratemaking.

25 Cascade's proposal, in our view, is unjust and

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1 unreasonable and should be rejected. Even if there is a
 2 retroactive ratemaking issue here, this Commission has
 3 stated that it may engage in retroactive ratemaking
 4 where doing so is consistent with the public interest
 5 and sound regulatory policy. Public interest and sound
 6 regulatory policy require Cascade to refund the interim
 7 period tax savings to customers.
 8 This Commission has recognized that
 9 extraordinary and unforeseeable losses or gains could
 10 justify an exception to retroactive ratemaking and a tax
 11 change is just such an event. To be clear, this is
 12 customer money that Cascade or its parent holds and
 13 trusts until the tax payments are made. These payments
 14 are being made at the 21 percent level, not the
 15 35 percent level collected from customers.
 16 Cascade is asking to retain the tax savings
 17 to ensure that it earns its rate of return regardless of
 18 how Cascade manages or mismanages its company. So even
 19 if they operate imprudently, they still get to earn
 20 their authorized rate of return, that that cannot be
 21 sound policy.
 22 And as I alluded to in cross-examination, to
 23 put the magnitude of this tax change in perspective, the
 24 revenue increase authorized in this docket is \$750,000
 25 and Cascade's asking to retain one to two million

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1 dollars more. That's not a reasonable request. And if
 2 Cascade is under-earning, which it continually states it
 3 is, it has control of over when it files a rate case.
 4 It can file a rate case. They can do it repeatedly.
 5 They can do pancake rate cases. But they filed a rate
 6 case and they asked for \$6 million and they settled for
 7 \$750,000.
 8 I would also ask the Commission to take
 9 official notice of the order that was recently issued in
 10 Idaho for Intermountain Gas Company related to the Tax
 11 Cuts and Jobs Act. Intermountain has the same parent
 12 company as Cascade. In Case No. GNR-U-18-01, Order
 13 34073, the Commission approves the settlement agreement
 14 with the Alliance of Western Energy Consumers and Staff
 15 that order the benefits of the tax flow change to flow
 16 to customers including the interim period from January 1
 17 to May 31st, 2018. Cascade should be ordered to do the
 18 same. Thank you.
 19 JUDGE PEARSON: Thank you.
 20 Okay. Ms. Rackner, you have three minutes.
 21 MS. RACKNER: Thank you. I will try to
 22 speak quickly. The Company certainly understands this
 23 Commission's desire to ensure that customers receive the
 24 benefit of the tax cut. We've agreed to do so
 25 prospectively as is appropriate. Rates are set

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1 prospectively, but when you look at rates
 2 retrospectively, things become more difficult.
 3 Now, the parties have spent a fair amount of
 4 time arguing that this Commission has discretion to
 5 either engage in retroactive ratemaking or that this
 6 isn't retroactive ratemaking.
 7 The Company is not arguing that this
 8 Commission doesn't have the discretion to make the
 9 appropriate policy call in this case. We absolutely
 10 believe that you do. But we also ask you to think about
 11 what it means to isolate one component of revenue in
 12 between -- in between rate cases.
 13 That becomes a lot more complicated, and in
 14 view of that complication, the last time this
 15 Commission, not the Utah Commission, not some other
 16 Commission, the last time this Commission was presented
 17 with a major rate change, the Commission decided to look
 18 at the impact of that rate change on each individual
 19 company, and make the appropriate decision in that case.
 20 And I do think it's telling that there's a lot of
 21 lawyers sitting here and not one has spoken to the only
 22 Commission order on point.
 23 Just briefly, I also want to point out that
 24 I have the Montana order allowed the company to retain
 25 the interim. So I guess while we're talking about what

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1 has happened in other dockets, in Montana allowed the
 2 company to retain the interim benefit, and I will give
 3 the pinpoint -- the pinpoint cite to the court reporter
 4 as well.
 5 I guess, again, I think that this Commission
 6 has an opportunity to look at what that interim benefit
 7 means to this company in the context of its total
 8 earnings for 2018. It certainly is what the Commission
 9 has thought was appropriate to do so in the past. We
 10 urge you to do so again.
 11 And in the event that the Commission decides
 12 to return the benefit regardless of the Company's
 13 earnings, again, we urge you to do so based on the -- on
 14 an actual number. Again, we've seen a wide range of
 15 estimates. We know for sure that they are all wrong,
 16 and some of them are probably wrong by quite a bit.
 17 And so if you decide that you want to return
 18 that benefit to customers, we urge you to make sure that
 19 it's not either a vastly overstated or understated
 20 benefit, that that customer get the exact benefit, which
 21 will require you to wait until the Company files its
 22 2018 tax return.
 23 I think that that -- well, I know that you
 24 may be interested in a quicker return to customers, but
 25 if you want the right return to customers, if you decide

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1 to go down that route, you will wait until we know what
 2 that number is. I think that approach would protect
 3 both customers and the Company. Thank you.
 4 JUDGE PEARSON: Thank you.
 5 Okay. Anything else from the bench?
 6 CHAIRMAN DANNER: No, other than just
 7 clarity. Of course we have the Montana orders and the
 8 Idaho order that we can take notice of. As well, I
 9 think we can take notice of our January 8th, 2018, news
 10 release.
 11 JUDGE PEARSON: Yes.
 12 Okay. Anything else before we adjourn
 13 today? Okay. Hearing nothing, thank you all.
 14 MS. GAFKEN: Oh, I'm sorry. There is one
 15 additional thing, and I'm going back to the public
 16 comment exhibit. So there is already a BR-2 in the
 17 record.
 18 JUDGE PEARSON: Oh, there is?
 19 MS. GAFKEN: There's a witness with those
 20 initials, and he has more than one exhibit. So --
 21 JUDGE PEARSON: Okay.
 22 MS. GAFKEN: -- I would just make the
 23 recommendation that we call it BR-2PC.
 24 JUDGE PEARSON: Sure.
 25 MS. GAFKEN: And then that way, I think it

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1 should be clear.
 2 JUDGE PEARSON: That works.
 3 MS. GAFKEN: Bench requests only go up to 1,
 4 so I think --
 5 JUDGE PEARSON: Yeah.
 6 MS. GAFKEN: -- if we do it that way.
 7 JUDGE PEARSON: Sounds good.
 8 All right. Well, thank you all very much
 9 for coming here today, and if there's nothing else, then
 10 we will adjourn. Thank you.
 11 (Adjourned at 11:27 a.m.)
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1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.
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 12 Tayler Garlinghouse, CCR 3358
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