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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	
vs.)	DOCKETS UE-151871
)	and UG-151872
PUGET SOUND ENERGY,)	
)	
Respondent.)	

HEARING, Volume III

Pages 71 to 316

ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

8:56 a.m.

August 1, 2016

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1 OLYMPIA, WASHINGTON, AUGUST 1, 2016

2 8:56 A.M.

3 -oOo-

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

6 JUDGE KOPTA: Let's be on the record in
7 Dockets UE-151871 and UG-151872, captioned Washington
8 Utilities and Transportation Commission versus Puget
9 Sound Energy. Today is Monday, August 1, 2016, and we
10 are here for the evidentiary hearings in this docket.

11 I'm Gregory J. Kopta, the Administrative Law
12 Judge who will be presiding with the Commissioners in
13 this docket. They will be joining us momentarily after
14 we take care of some preliminary matters.

15 One preliminary matter is exhibit lists. I
16 have prepared an exhibit list that I have shared with
17 the parties. We will discuss which exhibits we can
18 admit at this point to make sure that we make the best
19 use of our hearing time, but I note that Prehearing
20 Conference Order in this docket required parties to file
21 exhibit lists that included all of their exhibits that
22 they intend to have in the Hearing and not all parties
23 complied with that.

24 And that is a problem, not just because it
25 was required in the order, but because it meant that I

1 had to do extra work in terms of looking at each exhibit
2 that had been filed to compile the exhibit list. I'm
3 the one that compiles the exhibit list, so instead of a
4 two-hour project, it took me all afternoon.

5 That's not how I would like to prepare for
6 hearings, so in the future I would appreciate
7 personally, as well as that would be required, that
8 exhibit lists include all exhibits that are intended to
9 be offered by any party in the hearing so that we can
10 make the prehearing process go more smoothly.

11 Speaking of exhibits, as I mentioned, we do
12 have an exhibit list. I asked the parties to consider
13 which of these exhibits we can -- or the parties would
14 be willing to stipulate to their admission into the
15 record so that we can handle that right now.

16 I understand that there is an objection to
17 at least one of these exhibits, but I don't know whether
18 that's the only objection that we have.

19 So, Ms. Carson, I think I'll turn to you as
20 the representative of Puget Sound Energy to let me know
21 what those discussions have been with the parties in
22 terms of being able to stipulate to admission of the
23 exhibits on the exhibit list.

24 MS. CARSON: Certainly. We've had contact
25 with all parties except, I believe, Mr. King I have not

1 spoken with about this. But I do have a list of what
2 PSE is willing to stipulate to. There are some portions
3 of the prefiled testimony of both WSHVACCA and SMACNA
4 that we have objections to, that we think goes beyond
5 the scope of their intervention, and so we're prepared
6 to address that. There are other exhibits, SMACNA's,
7 that we think are beyond the scope of their
8 intervention, so we've talked to Mr. Goltz about that.

9 But I'm prepared to go through and tell you
10 what PSE is willing to stipulate to. There are a few
11 exhibits of Staff's, as well, that we want to see how
12 they're used. They were not exhibits that were prepared
13 by the witness and against the cross-exam exhibits, so
14 we are wanting to wait and see how those exhibits are
15 used before we stipulate to them.

16 JUDGE KOPTA: Okay.

17 MS. CARSON: Would it be helpful to run
18 through the witnesses and find out?

19 JUDGE KOPTA: It sounds like there are a
20 number of exhibits that are going to be at issue, and I
21 think it might be most efficient to deal with those
22 first, and then we can see which ones, to the extent
23 that we can't deal with them, for example, those that
24 you believe you'll have to wait to see how they're being
25 used to determine whether you have an objection that we

1 can set to one side.

2 But if they're ones that the parties are
3 aware right now, they have objections to, but I would
4 like to resolve those and identify as many exhibits as
5 possible that we can admit right now.

6 MS. CARSON: Okay. So just to be clear, do
7 you want me to run through the ones that we can admit
8 right now?

9 JUDGE KOPTA: No, not yet.

10 MS. CARSON: Okay.

11 JUDGE KOPTA: I would rather deal the ones
12 that we have issues with, and then once we have those
13 out of the way, then we can deal with the other ones to
14 which there are no objections.

15 MS. CARSON: Okay. So there are a few of
16 Staff's cross-exhibits, MBM-23, 24 and 25 that we will
17 want to see how they are used. So we're not willing to
18 stipulate to them. They're not prepared by the witness.

19 MR. CASEY: Can you repeat those numbers?

20 MS. CARSON: MBM-23, MBM-24, and MBM-25.

21 MR. CASEY: All right. Any others that you
22 want to wait to decide?

23 MS. CARSON: Yes, there are. MBM-29 is one
24 that we've consulted with Staff, and we are willing for
25 it to come in, if it is supplemented with all the

1 attachments to the Data Request and so we have brought a
2 full supplemented version of that and have copies for
3 everyone. That's MBM-29.

4 JUDGE KOPTA: Does Staff have an objection
5 to including the entire Data Request Response?

6 MR. CASEY: Yes. We want to use it today as
7 an illustrative exhibit.

8 JUDGE KOPTA: PSE had said they have no
9 objection to it, as long as it includes all of the
10 attachments. I'm asking you if you have a problem with
11 that?

12 MR. CASEY: No.

13 JUDGE KOPTA: Okay, then that one is fine.

14 MS. CARSON: Okay. And then the other Staff
15 cross-exhibits that we would like to wait and see how
16 they're used are MBM-36 through 39.

17 MS. BROWN: Your Honor, we're going to need
18 a minute to look at these. We received an email
19 correspondence from Ms. Carson yesterday that neglected
20 to include 23, 24, 25, and 36. So we need a moment to
21 reference those.

22 JUDGE KOPTA: All right. Can --

23 MS. CARSON: Well, just to be clear, PSE
24 provided the list of everything that we would stipulate
25 to, and those were not ones we were stipulating to.

1 JUDGE KOPTA: Okay. I'm not going to worry
2 about that.

3 MS. BROWN: Just to be clear, you identified
4 the exhibits with which you had issues, excluding those.

5 JUDGE KOPTA: All right. Anything else,
6 Ms. Carson, that you've been waiting on?

7 MS. CARSON: So MBM-44 and 45, we also
8 wanted to supplement those. They are Data Request
9 Responses, and did not include the full set of
10 attachments. I discussed this with Ms. Gafken, and she
11 was fine with that. We did bring a full supplemented
12 set of these exhibits, as well.

13 MS. GAFKEN: I have a question about that.
14 So on 45, I believe the entire thing is in the record,
15 and I thought we were okay with the way that it was
16 presented with the renaming. On 44, Public Counsel is
17 going to be using it for limited purpose, but we have no
18 objection to it being supplemented. I do have a
19 question of what's being supplemented on 45.

20 MS. CARSON: My understanding, after we
21 talked, it looked like perhaps that is not the whole
22 exhibit that's in, so I'm happy to share it with you.

23 MS. GAFKEN: I think that's fine.

24 JUDGE KOPTA: You have no objection?

25 MS. GAFKEN: I have no objection. It's just

1 slightly different from my understanding.

2 JUDGE KOPTA: Then that one seems to be all
3 right. Any others?

4 MS. CARSON: So we have a series of SMACNA
5 cross-exhibits that we believe are outside the scope of
6 their limited intervention, and those are 49 through 52,
7 MBM-49 through 52.

8 JUDGE KOPTA: So those are objections at
9 this point or are they waiting to see how they're used?

10 MS. CARSON: No, those are objections. We
11 think they're outside the scope of the limited
12 intervention, and there are others. Do you want me to
13 list them all?

14 JUDGE KOPTA: Well, you might as well.

15 MS. CARSON: MBM-57, 58, and 59. MBM-61
16 through 66, Exhibit EEE-13 and 14, Exhibit AF-6, and
17 Exhibits MRM-6, 7, 8, and 9.

18 JUDGE KOPTA: All right. Any others that
19 you have issue with at this point?

20 MS. CARSON: I believe that's it.

21 JUDGE KOPTA: Okay. So by process of
22 elimination, you're willing to stipulate to the
23 admission of all other exhibits?

24 MS. CARSON: Well, as I said at the
25 beginning, there is some portions of Mr. Fluetsch's

1 testimony and Mr. Kreckler's testimony, a witness with
2 SMACNA, that we have objections to, and we've
3 highlighted those sections and have provided it to
4 Mr. King and Mr. Goltz.

5 JUDGE KOPTA: Okay.

6 MS. CARSON: And, again, because we believe
7 they're outside of the scope of the intervention.

8 JUDGE KOPTA: Okay. Well, how much of our
9 discussion of the exhibits that they've -- SMACNA has
10 designated for cross will resolve the issues that you
11 have with the direct testimony?

12 MS. CARSON: I think it's a little bit
13 different issue. Mr. Steele is prepared to discuss it.
14 I mean, most of the information in the testimony relates
15 to prior WNG contractor experience and how those WNG
16 program had an effect on the contractors back in 1992.
17 That's a little bit different issue than what we have in
18 the cross-exhibits.

19 JUDGE KOPTA: Okay. Well, at this point,
20 let's deal with the exhibits to which you object in
21 their entirety. I think that's the cleanest thing to
22 do, since there's only portions of other exhibits that
23 you have issues with. Again, with respect to those, do
24 we need -- are we going to need to discuss each of those
25 individually or can we talk about them collectively?

1 MR. STEELE: I mean, I think, based on Your
2 Honor's prehearing conference order, it restricted the
3 role of the Intervenors to providing market information.
4 I think that's intrinsic to who they are in contractors
5 in the marketplace.

6 And SMACNA, for example, frankly has more
7 exhibits than any other party in this case, and many of
8 them delve into issues such as PSE's tax structure with
9 the proposed program, accounting, regulatory fees,
10 regulatory structure, topics that I think are better
11 addressed by Commission Staff and Public Counsel and
12 that are beyond the role of the contractors and
13 intervenors who were here to provide market information
14 as to really necessarily who they are as contractors.

15 They had market information that they
16 offered to the Commission, as part of this case that
17 they could provide as to how PSE's program would apply
18 to rate pairs, and we believe that many of the exhibits
19 go far beyond that role. And so that's -- we can go
20 through each one, but that's our general objection.

21 JUDGE KOPTA: All right. Mr. Goltz?

22 MR. GOLTZ: Thank you, Your Honor. And
23 Puget contacted me on Friday about the objections to
24 these various exhibits, and I think we'll have to go
25 through them almost individually; there's clusters of a

1 few that fit together.

2 And Your Honor's Prehearing Order 02 you
3 said, "The Commission will consider the market for HVAC
4 equipment to the extent necessary to determine the
5 effect of the tariffs on PSE's customers, not the impact
6 on other market participants."

7 So SMACNA, in developing its case, focused
8 on the market, the so-called market gap, which we don't
9 think exists. And basically we make the argument that
10 it's not -- this proposal is not filling a market gap,
11 but it's creating, what we would call a "market
12 aberration."

13 The result that PSE would be competing
14 unfairly in the market due to a whole number of statutes
15 that govern regulated companies, and when you take a
16 regulated company and try to fit it or compete with
17 unregulated entities, the statutes simply don't fit well
18 together, and either way as an aside, that also be our
19 argument on brief, essentially to the jurisdictional
20 argument initially raised by Commission Staff.

21 Also, Puget has indicated that it will --
22 one of the advantages of its program is, as Ms. Kimball
23 points out in her testimony, our rates will be given an
24 imprimatur by the Utilities and Transportation
25 Commission that they're fair, just, reasonable, and

1 sufficient.

2 And we're saying that's an inaccurate
3 imprimatur in the sense that the rates are by no means
4 fair, just, reasonable, and sufficient, because they
5 will include all sorts of costs and things that really
6 make the price of a lease product way more expensive
7 than a price of a sales product, but when you add Puget
8 as a "trusted provider" as they say, coupled with a
9 imprimatur by the Utilities and Transportation
10 Commission, the customers will be at a very big
11 disadvantage because they won't have the information and
12 be able to make those sorts of choices in the market.
13 So that's very directly a market type of issue.

14 Also related to market is the complexity of
15 the process. A number of our documents go into talking
16 about how does a customer taking a lease product figure
17 things out. One of those issues is going to be, well,
18 what about all the taxes that are going to be passed
19 through? Those aren't in the price of the product as
20 they are in an unregulated product. Those are passed
21 through by a different tariff. So at some point,
22 customers, that's what we're all about here, are going
23 to be very much surprised by that issue.

24 Another issue -- one of our documents gets
25 into the sales portion of the tariff. It isn't just a

1 lease tariff; it's a sales tariff. And at some point in
2 the process, and we'd like to ask Mr. McCulloch about
3 this some more, at some point in the process, a customer
4 can say, you know, I think I want to buy this. I'm
5 going to sell my house. I had this -- it's a 17-year
6 lease term, I'm going to -- I'm ten years into it, I'm
7 selling my house. I've got to convert this lease over
8 to the new purchaser of my house. How do I do that?

9 Well, there's a provision in the tariff for
10 a sale -- there's legal issues with that we can get to
11 later, but the relevancy of it is, and we have a
12 DR response in the record about this, it's very, very
13 difficult for the customer to figure out, okay, I'm now
14 in this regulated market. How do I figure out how much
15 I have to pay to buy this product ten years into the
16 lease, five years into the lease or whatever. So --

17 JUDGE KOPTA: Let me stop you there,
18 Mr. Goltz. It's become apparent to me that this is
19 intertwined with a lot of the stuff that we're going to
20 talk about with the witnesses and the commissioners. I
21 don't think that ruling on it by me at this point is
22 going to make much sense.

23 So I think we will wait until they're
24 offered during your cross-examination, and then we can
25 take it up with the commissioners to see what they want

1 to hear. At this point it's really their case. When I
2 made my Prehearing Conference Order, that was for me.
3 And while I can make some decisions on my own, I'd
4 prefer to have the commissioners decide what they
5 believe should be part of the record and offered by
6 whom. So I think we'll just put those on hold for now.

7 And with respect to the cross-exhibits from
8 Staff, those are just wait-and-see on those, as well, as
9 I recall.

10 MS. CARSON: That's correct.

11 JUDGE KOPTA: So then Staff, I believe, you
12 had an objection to one or more exhibits?

13 MR. CASEY: Yes, Your Honor. Staff objects
14 to Exhibit Number MBM-4 and wants it to be excluded from
15 the record and is prepared to make a substantive
16 argument as to why that should be.

17 JUDGE KOPTA: Is that the only exhibit to
18 which you object?

19 MR. CASEY: Yes.

20 JUDGE KOPTA: Are there objections on
21 exhibits from any other party or is this the scope?

22 MS. GAFKEN: I believe there was only one
23 cross-exhibit for Ms. Kimball, or directed towards
24 Ms. Kimball, and Public Counsel has no objection to that
25 exhibit.

1 JUDGE KOPTA: Okay.

2 Mr. King, did you have any objections?

3 MR. KING: No, Your Honor.

4 JUDGE KOPTA: Okay. All right, so,
5 Mr. Casey, why don't you go ahead and make your
6 argument.

7 MR. CASEY: Commission Staff asked the
8 Commission to exclude Exhibit MBM-4 from the record in
9 these documents. MBM-4 is the Cocker Fennessy survey
10 relied on by PSE's witnesses to show customer interest
11 in the proposed leasing program.

12 Commission Staff moves to strike this
13 exhibit under WAC 480-07-375(d) which permits parties to
14 move, to add, or subtract from the record, and the
15 motion is based on WAC 480-07-495(1) which permits the
16 presiding officer to exclude evidence that is irrelevant.

17 WAC 480-07-495 provides that Washington
18 Civil Rules for Superior Court inform the Commission's
19 definition of relevance. Those rules provide that
20 relevant evidence is "evidence having any tendency to
21 make the existence of any fact that is of consequence to
22 the determination of the action more probable or less
23 probable than it would be without the evidence." And
24 that's ER 401. The proponent of evidence, which is PSE,
25 bears the burden of establishing its relevance and

1 materiality.

2 Exhibit MBM-4 should be excluded because the
3 evidence is irrelevant for three reasons, and I'll just
4 list those reasons quickly, and I'll go into an argument
5 for each one.

6 The first reason is the study is
7 fundamentally flawed due to the bias presented in its
8 creation.

9 Second, PSE failed to produce any testimony
10 or evidence stating that Cocker Fennessy designed the
11 study using proper methodology or followed that proper
12 methodology when performing this study.

13 And third, the study is fundamentally flawed
14 because it fails to provide critical information to
15 participants, specifically the information necessary to
16 compare the proposed leasing program to equipment
17 purchases.

18 With regard to the first point, which is the
19 study is fundamentally flawed due to the bias presented
20 in creation, Perkins Coie contracted Cocker Fennessy to
21 develop the survey for the purpose of this litigation to
22 substantiate PSE's deficient proposal.

23 The survey was performed more than a month
24 after the Commission suspended the tariff filed in these
25 dockets. It was performed between January 30th and

1 February 4th, 2016. PSE's witnesses provided the survey
2 inputs to Cocker Fennessy and then reviewed the
3 questions Cocker Fennessy drafted to ensure that the
4 survey contained the relevant questions.

5 The Commission should treat PSE's employees'
6 participation in the study no differently than it would
7 treat the participation of lawyers. PSE has every
8 reason to shape this study to reach a desired result.

9 No witness from Cocker Fennessy testifies
10 that this survey is impartial; thus, because Cocker
11 Fennessy does not testify, this survey is hearsay and
12 not the kind that is normally allowed in these kinds of
13 adjudicative proceedings.

14 Federal courts interpreting the Rules of
15 Evidence similar to those governing the Commission's
16 admission of hearsay evidence, meaning rules allowing
17 the admission of trustworthy hearsay, hold that the
18 participation of those involved in the litigation
19 process can render a survey inadmissible.

20 The Commission has also rejected similar
21 hearsay evidence in the past. ALJ Moss has rejected the
22 admission of witness testimony in Docket UE 121697, the
23 Avista Decoupling Docket. In that docket, a party was
24 trying to offer prior testimony of a witness who was not
25 a witness in that proceeding, and ALJ Moss excluded it.

1 The second reason is PSE failed to produce
2 any testimony or evidence stating that Cocker Fennessy
3 designed the study using proper methodology or followed
4 that proper methodology when performing this study. The
5 only evidence Cocker Fennessy provides about its
6 methodology comes from two sources. One is a letter
7 describing the survey using two short bullet points and
8 two short paragraphs devoid of substance that preface
9 the summary's survey results.

10 Nothing documented by Cocker Fennessy
11 describes the controls that would ensure the method laid
12 out was followed, assuming that method is even valid.
13 Without that foundational evidence, the Commission
14 cannot know whether to assign the study any evidentiary
15 weight.

16 As far as the Commission knows, the study
17 was not properly designed or performed. In this case,
18 it should receive no evidentiary weight at all, and
19 without evidentiary weight, it does not make any fact or
20 consequence more or less likely. The study, therefore,
21 is irrelevant and should be excluded.

22 PSE's witnesses suggest that this study
23 should be admitted because no party produced expert
24 testimony or evidence attacking its methodology. That
25 turns the burden of proof on its head. PSE bears the

1 burden of showing the survey is relevant and material,
2 meaning, showing the survey was properly designed and
3 carried out.

4 Third, the study is fundamentally flawed
5 because it fails to provide critical information to the
6 participants, specifically the information necessary to
7 compare the proposed leasing program to equipment
8 purchases.

9 The fact or consequence in these dockets is
10 whether PSE's customers would use the proposed leasing
11 service, determining whether or not to do so requires
12 PSE's customers to compare prices for leased equipment
13 to prices for purchased equipment.

14 The Cocker Fennessy Survey informed
15 participants that the monthly tariff charge would be
16 similar to the combined costs of the upfront equipment
17 purchase, installation and permitting fees, maintenance,
18 repair, and future disposal costs.

19 Commission Staff witness Brad Cebulko
20 testified that the Cocker Fennessy Survey failed to
21 provide material information, including the total
22 lifetime cost of the lease and the interest rate
23 involved.

24 Public Counsel witness Mary Kimball also
25 testified that the Cocker Fennessy Survey failed to

1 disclose the total amount customers would pay for
2 equipment over the life of the lease.

3 SMACNA witness, I'm not exactly sure how to
4 pronounce his name, Fluetsch, testified that Cocker
5 Fennessy's survey did not communicate accurate cost
6 information. He testified that Cocker Fennessy's
7 phrasing of the survey questions made the cost of
8 leasing the equipment similar to the cost of purchasing
9 equipment, despite the fact that purchasing is
10 significantly cheaper.

11 And both Mr. Cebulko and Mr. Fluetsch
12 testified that the survey would yield significantly
13 different results if participant had received the
14 information necessary to make an apple-to-apple
15 comparison between leasing and purchasing.

16 So Mr. Fluetsch, in fact, opined that the
17 economics would dictate that customers refuse to
18 participate in PSE's leasing program and instead
19 purchase equipment if given the relevant information.

20 Given the failure to provide relevant
21 evidence to participants, the Cocker Fennessy Survey has
22 no tendency of showing that PSE's customer would use the
23 leasing program, is irrelevant under ER 401 --

24 JUDGE KOPTA: Mr. Casey, why -- this was
25 filed back in February. Why are you only now making

1 this motion?

2 MR. CASEY: Frankly, Your Honor, it hadn't
3 quite occurred --

4 MS. BROWN: We only recently began preparing
5 for the hearing.

6 JUDGE KOPTA: Well, but you just mentioned
7 that your witness spent part of his testimony talking
8 about this survey, and you must have been aware that you
9 had these concerns, at least when that testimony was
10 filed.

11 MR. CASEY: Staff has always had concerns
12 about the credibility of this survey, that is certainly
13 true, but it didn't quite occur to Staff that there
14 was -- that this was hearsay evidence, the type of
15 hearsay that should not be admitted in proceedings,
16 until PSE attacked the credibility of Staff and Public
17 Counsel's witnesses saying that they had no expertise to
18 critique this study and the methodology of the study.
19 And that argument was made in rebuttal. And that's when
20 it became clear that PSE also offers no witness that has
21 the expertise to speak to the methodology, and it's
22 actually PSE's burden of proof.

23 JUDGE KOPTA: Well, that was on July 1st.
24 Here we are one month later and you're only now raising
25 those issues.

1 MR. CASEY: There's a lot of things that
2 have gone on between July 1st and today.

3 JUDGE KOPTA: Okay.

4 Ms. Carson or Mr. Steele?

5 MS. CARSON: Thank you, Your Honor.

6 PSE respectfully disagree with Staff's
7 motion and Staff's interpretation of WAC 480-07-495.
8 This rule gives the Commission broad discretion in terms
9 of what type of evidence may be admitted. All relevant
10 evidence is admissible if the presiding officer believes
11 it's the best evidence, reasonably attainable,
12 considering its necessity, availability, and
13 trustworthiness.

14 The Commission does not follow the hearsay
15 rule. The Commission allows hearsay in all the time.
16 The Commission is not bound by the Rules of Evidence or
17 the Rules of Civil Procedure. It looks to those for
18 guidance, but has, as a practice, allowed much more
19 latitude in terms of the types of evidence that are
20 admitted.

21 The Commission routinely relies on surveys
22 in litigated cases and otherwise to inform its decisions
23 and opinions and, in fact, in this case, this is not the
24 only survey that's in evidence. There are at least
25 three other surveys that I'm aware of that are in

1 evidence, and in none of them was there authentication
2 in testimony by the party who -- or the individual who
3 prepared the survey. PSE has two prior surveys in 2014
4 and 2015 looking at leasing that are less up to date
5 than this, and there's a NEEA survey, as well.

6 So this is information that the
7 Commission -- it's very relevant to this case; it's
8 directly on point. If a customer is interested in a
9 leasing service, and our customers likely to accelerate
10 replacement of equipment. And the fact that Commission
11 Staff would prefer a different type of survey, one that
12 compares, directly compares a sale to a lease, doesn't
13 mean that this is irrelevant or doesn't inform the
14 Commission.

15 So, you know, we think that it's clear that
16 this is relevant. This survey was, as Mr. Casey said,
17 prepared with input from PSE, so that the surveyor would
18 understand what the program was, the service was, that
19 PSE was prepared to provide, but it was an independent
20 surveyor that undertook the survey. There's discussion
21 and testimony about how a survey was done and the
22 information provided to the surveyor.

23 And I think it's important to recognize
24 Commission Staff seems to draw some sort of line that
25 this was prepared just for litigation. You'll recall,

1 PSE was in the process of updating its tariffed rates,
2 which had to be filed February 15th or 17th, and part of
3 that was the pricing model and part of the pricing model
4 was to determine what kind of interest there would be
5 and what kind of numbers should be included in terms of
6 projections and pricing.

7 So to say that this is just for litigation,
8 which I'm not certain that that is a distinction worth
9 talking about, but it is more than just litigation. It
10 is for PSE's design of its pricing model.

11 So, you know, we think it's clear that the
12 Commission has broad authority and discretion in terms
13 of looking at this type of evidence. I think this is
14 very different than the Avista case where someone
15 attempted to bring in testimony from a different case.
16 This is again a survey that's directly on point.

17 And to the extent other parties have issues
18 with the way that the survey was undertaken or the
19 results of the survey, they're free to bring those
20 issues up as they already have, and the Commission can
21 consider those. But to completely strike a survey
22 that's on point is not consistent with the public
23 interest; it's not consistent with the Commission's past
24 practice. And we ask that you deny Staff's motion.

25 JUDGE KOPTA: All right, thank you. I

1 appreciate the heads-up that you gave me on Friday. It
2 gave me the opportunity to consult with the
3 commissioners as to their views on this in general,
4 obviously without the benefit of your explanation. But
5 I don't think that impacts what my understanding of
6 where they're coming from, which is, as Ms. Carson
7 indicates, the Commission routinely allows in evidence
8 that might ordinarily be excluded under the strict Rules
9 of Evidence used in Superior Court and just determines
10 the weight to be given that evidence.

11 Perhaps as Staff argues, that weight should
12 be zero, or next to zero; perhaps as PSE argues, it
13 should be much higher. But that's something for the
14 Commission to determine.

15 This survey has been the subject of
16 extensive testimony not only PSE's direct but responsive
17 testimony, and then PSE's rebuttal at this stage, I
18 think it permeates the record and striking it now would
19 not give the Commission all of the information that it
20 needs to make a determination in this case. So the
21 motion -- Commissioner denies the motion.

22 Speaking of motions, are we finished with
23 exhibits at this point?

24 MR. GOLTZ: Your Honor, ever to be helpful
25 here, two of our exhibits were also testimony exhibits

1 by Mr. McCulloch. So we can -- and actually, his are
2 broader; we just had excerpts that are broader, so we're
3 fine to withdraw MBM Cross-Examination 54 and MBM
4 Cross-Examination 55. That's assuming that we will
5 be -- they will be introducing those with Mr. McCulloch.

6 JUDGE KOPTA: So that's MBM-54 and MBM-55
7 you are withdrawing?

8 MR. GOLTZ: Right, in the assumption that
9 they are included in MBM-18 and 19. In other words, I'm
10 assuming that Mr. Carson and Mr. Steele will offer
11 MBM-18 and 19.

12 MS. CARSON: Yes.

13 JUDGE KOPTA: Okay. I will make -- I've
14 made that notation.

15 MR. GOLTZ: Thank you.

16 JUDGE KOPTA: All right. My understanding,
17 based on our conversation this morning, is that all of
18 the exhibits that we have not discussed, the parties
19 have stipulated to the admission in the record, am I
20 correct?

21 MR. STEELE: The only other issue, Your
22 Honor, is the testimony provided by Mr. Fluetsch and
23 Mr. Kreckler from SMACNA and WSHVACCA that PSE believes
24 is beyond the scope and moves to strike portions of
25 their testimony as well.

1 JUDGE KOPTA: We have discussed that, but we
2 haven't identified it, the testimony for the record. So
3 let's do that now.

4 MR. STEELE: Your Honor, PSE has provided
5 highlighted copies of the testimony for each witness
6 that we believe is beyond the scope of their role in
7 this case, and if it's beneficial, we'd be happy to
8 provide a copy to you and the parties.

9 JUDGE KOPTA: Well, I think it would be
10 beneficial, but let's for right now, if you would tell
11 me which exhibits it is that you are going to have
12 objections to portions of it.

13 MR. STEELE: Yes, Your Honor. It's BF-1T,
14 the direct testimony of Brian Fluetsch from SMACNA; and
15 SJK-1T, the testimony of Steven Kreckler from WSHVACCA.

16 JUDGE KOPTA: Okay.

17 MR. GOLTZ: To be clear, excerpts of it.

18 MR. STEELE: Excerpts, yes.

19 JUDGE KOPTA: All right. Right, exactly.
20 And as I indicated before, we will take those up when
21 those witnesses are called to testify. I think that
22 would be the best way to handle those. So we will put
23 those on hold for right now.

24 I had one question which is for the PSE-2,
25 which is the professional qualifications for Mr. Teller

1 who as I understand will not be testifying but instead
2 Ms. Norton will be adopting his testimony.

3 Is there a reason that we need to disclose
4 Mr. Teller's qualifications in the record since he's not
5 actually testifying and the testimony is actually given
6 by Ms. Norton?

7 MS. CARSON: Well, that was not clear to us.
8 I mean, we don't want anyone to move to strike his
9 testimony because it lacks professional qualifications,
10 but as long as it's stipulated that that will not occur,
11 then we're fine withdrawing it.

12 JUDGE KOPTA: Well, Ms. Norton has her
13 qualifications. Since she's adopting the testimony, one
14 assumes those cover Mr. Teller's testimony, or that's my
15 assumption.

16 MS. CARSON: That makes sense.

17 MR. GOLTZ: When one adopts testimony, is
18 Ms. Norton saying that Mr. Teller's testimony is now her
19 own, or is she here to defend Mr. Teller's testimony?
20 There's a difference.

21 JUDGE KOPTA: I'm assuming that she is
22 adopting it as her own. That's generally what happens
23 in these circumstances; am I incorrect, Ms. Carson?

24 MS. CARSON: I think that's correct, yes.

25 JUDGE KOPTA: On that basis then, we will

1 not admit that exhibit. I don't see it's useful. But
2 I'm going to go through the exhibits right now that are
3 admitted, and follow along with me, if you will, to make
4 sure that I get this right.

5 JET-1T, which is the direct testimony of
6 Mr. Teller that Ms. Norton is adopting; JET-3; LYN-1T
7 through LYN-9S; exhibit MBM-1T through MBM-22,
8 recognizing that MBM-7 is MBM-7H2, which contains highly
9 confidential information. There's also highly
10 confidential information in MBM-8HC and 13HC and 14HC
11 and 15HC.

12 Then MBM-26 through MBM-35; MBM-40HC through
13 MBM-48, recognizing that MBM-42C contains confidential
14 information; MBM-53 through MBM-56; MBM-60; Exhibit
15 EEE-1T through EEE-12; Exhibit AF-1T through AF-5HC.

16 Exhibit MRM-1T through MRM-5; Exhibit AJW-1T
17 and AJW-2; Exhibit BTC-1HCT through BTC-13, recognizing
18 that BTC-2HC and 9HC both include information that has
19 been designated as highly confidential.

20 Exhibit EOC-1HCT through EOC-26, recognizing
21 that Exhibits EOC-3HC, 4HC, 5HC, 6HC, 8HC, 13HC all
22 contain information that has been designated as highly
23 confidential.

24 Exhibit AR-1T; Exhibits MMK-1HCT through
25 MMK-9, recognizing that Exhibit MMK-4HC and 7HC contain

1 information that's been designated as highly
2 confidential.

3 Exhibit JMN-1T; Exhibits BF-2 through BF-6;
4 Exhibit JvdH-1T through JvdH-6; Exhibit SJK-2 through
5 SJK-6; and Exhibit WEP-1T through WEP-3.

6 I believe all of those exhibits are
7 stipulated to be admitted into the record.

8 Any corrections to that list?

9 MS. GAFKEN: Not really a correction, but
10 I'm noticing that you identified the exhibits that also
11 had confidential or highly confidential. Noting also
12 Exhibit MBM-40 as highly confidential, information of
13 off Public Counsel cross-exhibit for Mr. McCulloch. And
14 then also Ms. Kimball's testimony, Exhibit MMK-1T, also
15 has highly confidential.

16 JUDGE KOPTA: Okay. Thank you for that.

17 Anything else that needs to be corrected?

18 MS. CARSON: Yes, Your Honor. We wanted to
19 clarify on the Marcellia exhibits, I'm not sure if we got
20 that down right. There were three, MRM-6, 7, and 8,
21 that we had not yet stipulated to. I'm sorry, 6
22 through 9.

23 JUDGE KOPTA: Correct. I believe I omitted
24 them, did I not?

25 MS. CARSON: And then we did have, as I

1 mentioned, a few supplemented versions of exhibits that
2 no one has objected to that we will provide.

3 JUDGE KOPTA: Yes. I believe we discussed
4 those, and so that's my understanding that I'm including
5 those.

6 All right, then. The exhibits that I just
7 listed off are admitted, and the remaining exhibits we
8 will take up when they arise in the hearings.

9 MR. CASEY: Judge Kopta, we just noticed
10 that Elizabeth O'Connell's initials are actually ECO,
11 not EOC. Her middle name starts with a "C," her last
12 name is O'Connell, so it's ECO.

13 JUDGE KOPTA: All right. We can make that
14 designation change.

15 MS. BROWN: Thank you.

16 JUDGE KOPTA: All right, then. Those
17 exhibits are admitted.

18 And finally, with respect to Staff's Motion
19 for Summary Determination, as I indicated off the record
20 before we began, we are here in the hearings, and so,
21 obviously, the Commission is not going to rule on the
22 substance of those motions at this point.

23 Basically the statutes are very broad in
24 their definition of what is and is not included in
25 utility service.

1 Commission has not found to this point
2 anything in the statutes that would require drawing a
3 bright line at the meter or determining whether a
4 service, utility service that's regulated by the
5 Commission or not.

6 And so even as SMACNA had pointed out, there
7 are factors that the Commission will look at and those
8 are factors that require a factual determination, which
9 is why we are here in this hearing. So the Commission
10 certainly will entertain those arguments, but only on
11 the basis of the record that we develop here today.

12 MR. GOLTZ: So do I understand Your Honor
13 saying that the legal issue, jurisdictional issue, is
14 reserved for further briefing in the closing briefs?

15 JUDGE KOPTA: Yes, it is. As I say, the
16 Commission feels like it needs more facts to be able to
17 make that determination and, therefore, it will be an
18 issue that we will expect parties to, perhaps,
19 supplement their briefing on in the post hearing briefs.

20 All right, is there anything further that we
21 need to take up before the Commissioners join us?

22 MS. GAFKEN: Just one minor thing. I
23 believe in your email before the hearing you mentioned
24 the possible public comment exhibit, and to my
25 knowledge, there have been no public comments that have

1 been submitted either by my office with the Commission.

2 JUDGE KOPTA: I believe there's at least one
3 that has been submitted with the Commission, but you
4 might want to check with our Records Center and our
5 Public Comments Staff to see.

6 MS. GAFKEN: We'll double-check and make
7 sure.

8 JUDGE KOPTA: I merely reserved that because
9 it's a matter of course, and I know that there have been
10 some interest expressed by outside folks, so.

11 MS. GAFKEN: We'll double-check and make
12 sure, but there may not be.

13 JUDGE KOPTA: Okay, great. Anything else?
14 All right, then, let's be off the record.

15 (Discussion off the record.)

16 JUDGE KOPTA: All right. I believe we are
17 ready to go back on the record.

18 We are now joined by the Commissioners:
19 Chairman Danner, Commissioners Jones and Rendahl. They
20 will be presiding with me during these evidentiary
21 hearings, so let's take appearances of the parties
22 beginning with PSE.

23 MS. CARSON: Good morning, Commissioners,
24 Judge Kopta. Sheree Strom Carson with Perkins Coie
25 representing Puget Sound Energy.

1 MR. STEELE: David Steele also with Perkins
2 Coie on behalf of PSE.

3 JUDGE KOPTA: Let's go around the table.
4 Mr. Goltz?

5 MR. GOLTZ: Good morning. My name is
6 Jeffrey Goltz with Cascadia Law Group, representing the
7 Sheet Metal and Air Conditioning Contractors
8 Association, National Association of Western Washington
9 Chapter, or SMACNA.

10 MR. KING: James King, lay representative
11 for the Washington State Heating Ventilation and Air
12 Conditioning Contractors Association.

13 MS. GAFKEN: Lisa Gafken, Senior Assistant
14 Attorney General, appearing on behalf of Public Counsel.

15 MS. BROWN: Sally Brown, Assistant Attorney
16 General, appearing on behalf of Commission Staff.

17 MR. CASEY: Christopher Casey, Assistant
18 Attorney General, also on behalf of Commission Staff.

19 JUDGE KOPTA: Thank you. Any other
20 appearances? Hearing none, we are prepared to proceed.

21 Ms. Carson, your first witness.

22 MS. CARSON: Thank you, Your Honor. PSE
23 calls as its first witness Ms. Liz Norton and is
24 available for cross-examination.

25 ///

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1 LIZ NORTON,

2 having been duly sworn, testified as follows:

3 JUDGE KOPTA: We did not establish an order
4 of cross, but the exhibit lists, I took the liberty of
5 having Staff first. If that works for the parties, then
6 that works for me.

7 Do you want to start the cross, Mr. Casey.

8 MR. CASEY: I'm ready; thank you, Your
9 Honor.

10
11 CROSS-EXAMINATION

12 BY MR. CASEY:

13 Q. I want to start by addressing PSE's financial
14 health.

15 Ms. Norton, you testified that (as read),
16 Leasing services will diversify PSE's business providing
17 new revenue and earning opportunities that will provide
18 the utility with greater financial stability. Correct?

19 A. Yes, I did.

20 Q. Now, that was not an argument made by Jason
21 Teller or any other company witness in direct testimony;
22 correct?

23 A. So what I -- let me give you the broader context
24 of that response.

25 Q. Can you start with a "yes" or "no," please?

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1 A. As Mr. Cebulko testified in his proceedings, the
2 industry is going through a transformation in totality,
3 and the Puget Sound Energy is interested in looking for
4 additional ways to provide value and partner with its
5 customers while at the same time looking at ways to
6 transition and evolve its utility business in a way
7 that's financially stable for the customers, as well as
8 in a way that's financially stable for our company.

9 **Q. So you acknowledge that no -- that Mr. Teller
10 nor any other company witness in direct testimony made
11 that argument?**

12 MS. CARSON: Objection; misstates her
13 testimony.

14 MR. CASEY: No, it doesn't. I quoted it
15 verbatim.

16 JUDGE KOPTA: I'll allow the question.

17 THE WITNESS: Can you point me to the part
18 of my testimony you're referring to?

19 BY MR. CASEY:

20 **Q. Yes. It's Exhibit Number LYN-1T, Page 14.**

21 A. On Line 20? Are you referring to Lines 19
22 through 20?

23 **Q. 20 and 21.**

24 A. Yes. What is your question?

25 **Q. So my question was, you acknowledge that you've**

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1 testified that leasing services will diversify PSE's
2 business providing new revenue and earning opportunities
3 that will provide the utilities with greater financial
4 stability.

5 And then I said, this was not an argument made
6 by Jason Teller or any other company witness in direct
7 testimony; correct?

8 A. I made it in my testimony as a benefit of the
9 service, not only creating value for our customers, but
10 creating some financial stability for the Company to
11 evolve to the future.

12 **Q. So are you not familiar with the Company's**
13 **direct testimony in this case, Ms. Norton?**

14 A. I am familiar with the testimony.

15 **Q. And so do you or do you not acknowledge that**
16 **this was not an argument made in direct testimony?**

17 MS. CARSON: Your Honor, I'm objecting to
18 this line of questioning. Ms. Norton was responding in
19 her testimony to the testimony of Mr. Cebulko, as she
20 said, who talked about the utility of the future. So
21 I'm not sure what the point is whether or not Mr. Teller
22 made that direct statement in his testimony.

23 JUDGE KOPTA: I'm having a hard time seeing
24 the point myself, but I think he's entitled to a
25 yes-or-no response to that question.

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1 MS. CARSON: Recognizing that she would have
2 to review his full testimony to see if there was any
3 statement in there.

4 JUDGE KOPTA: Well, a "yes" or "no" or an "I
5 don't know," one of those three.

6 THE WITNESS: I do not recall if Mr. Teller
7 stated anywhere in his testimony what you're asking.

8 MS. BROWN: She adopted his testimony.

9 BY MR. CASEY:

10 **Q. You adopted his testimony as if it was your own**
11 **words; correct?**

12 A. Correct.

13 JUDGE KOPTA: I think you've made your
14 point, Mr. Casey. Move on.

15 MR. CASEY: Thank you. Well, I'll go on.

16 BY MR. CASEY:

17 **Q. So it is not your intention to imply that PSE is**
18 **currently financially unstable; correct?**

19 A. PSE is, as Mr. Cebulko's testimony also
20 suggests, PSE and all utilities are going through a
21 state of transition, and that's -- and we're looking at
22 ways -- we're looking at ways to continue to evolve our
23 business in a way that would provide the Company to
24 continue to be responsive and financially stable.

25 At this point in time, Puget Sound Energy is

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1 stable, but we're looking to the future.

2 MR. CASEY: Objection, Your Honor. Can you
3 please instruct the witness to answer my question? The
4 question was, it's not your intention to imply that PSE
5 is currently financially unstable?

6 JUDGE KOPTA: I believe that she was
7 addressing that in part at least.

8 THE WITNESS: I am not the financial expert
9 in the Company. Based on my understanding, the Company
10 is stable and looking for ways to continue to be so.

11 BY MR. CASEY:

12 Q. Okay. One last question on this point. Outside
13 of that one statement that Mr. Cebulko made in his
14 testimony that you were referring to, isn't it true that
15 no evidence in the record, there's no evidence in the
16 record that directly addresses whether the Company
17 actually needs greater financial stability or not?

18 MS. CARSON: Object to the form of the
19 question, ambiguous.

20 JUDGE KOPTA: It's very broad, as well. I'm
21 really not sure where you're going with this, Mr. Casey.

22 MR. CASEY: I'm trying to make the point
23 that they are bringing up the Company's financial health
24 here, and I just want to make it abundantly clear that
25 there's no evidence in the record that addresses the

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1 Company's financial health.

2 So that is not a basis for making a decision
3 in this case. My understanding is the Company's
4 financial health will be dealt with in the next rate
5 case.

6 JUDGE KOPTA: Well, we're dealing with a
7 very specific tariff here, and I don't have a problem
8 with you asking whether or not this particular tariff
9 filing impacts the Company's financial health, but I
10 think broadly asking what the Company's financial health
11 is beyond the scope of this proceeding.

12 Are you willing to limit your question to
13 that?

14 MR. CASEY: I'll move on, Your Honor.

15 JUDGE KOPTA: Thank you.

16 BY MR. CASEY:

17 Q. Next, I want to discuss the scope and scale of
18 PSE's proposal. Now, there's a -- my questions do not
19 touch on highly confidential information. There is a
20 possibility that Ms. Norton's responses could, so I'm
21 going to leave it up to the Company of how to deal with
22 that. I will turn to some highly confidential material,
23 but just for the people who have that material to look
24 at while I ask the questions.

25 JUDGE KOPTA: All right, thank you. And

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1 that's a good reminder to folks. There are exhibits
2 that have been introduced and admitted into the record
3 that include highly confidential or confidential
4 information. To the extent possible, I would ask
5 counsel and witnesses to avoid discussing that in open
6 hearing.

7 If necessary, we can close the hearing to
8 only those who have signed a Protective Order. We would
9 prefer not to do that, so please make best efforts to
10 keep the testimony and the questions to only that
11 information that is publicly available. Thank you.

12 Mr. Casey, you may proceed.

13 BY MR. CASEY:

14 **Q. Ms. Norton, PSE is seeking to expand its**
15 **business through the leasing of various products;**
16 **correct?**

17 A. Correct.

18 **Q. PSE intentionally designed its leasing platform**
19 **to support the addition of future leasing products over**
20 **time with little to no modification required; is that**
21 **correct?**

22 A. Puget Sound Energy has considered the role of
23 leasing business can play into the future; however, has
24 done specific work on the HVAC and the products that we
25 put forth in this proposal.

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1 **Q. But the Company has openly acknowledged that it**
2 **hopes to add new products and services immediately after**
3 **approval; correct?**

4 A. We see the platform as having some flexibility
5 to offer desired solutions for customers on products
6 where there's large capital investment to make them more
7 affordable, to simplify the complexity of that decision,
8 and the leasing platform will help do that if it's
9 deemed valuable to our customers.

10 **Q. So that's a "yes"?**

11 A. Yes.

12 **Q. Thank you. The equipment PSE proposes to offer**
13 **would form a whole new segment of rate-based eligible**
14 **equipment upon which the Company can earn a rate of**
15 **return; correct?**

16 A. The intention of the service is that we would
17 own and operate, on behalf of our customers, equipment
18 that includes an earning our authorized rate of return,
19 correct.

20 **Q. And it is PSE's intention to quickly expand its**
21 **offering as soon as the Commission grants approval;**
22 **correct?**

23 MS. CARSON: Objection; misstates facts not
24 in evidence, states facts not in evidence.

25 BY MR. CASEY:

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1 Q. Okay, can we turn to LYN-3, please. This is
2 your exhibit; correct?

3 A. Yes.

4 Q. And on Page 2 of that exhibit, just as one
5 example, we have customer generation and energy storage.
6 The bullet point under it says, "Utilize leasing
7 platform to test the viability of leasing customer
8 generation and storage equipment such as batteries, both
9 independently and in combination."

10 MS. CARSON: Objection. Again, Mr. Casey
11 has repeatedly been inserting words like "quickly" and
12 "immediately" which are not here in the provision that
13 he cites.

14 BY MR. CASEY:

15 Q. How about one under; within 60 days of approval.
16 It's two months, relatively quick. They plan to submit
17 compliance filing and provide additional equipment
18 options. That's bullet point two.

19 MS. CARSON: Well, it depends on what
20 equipment options you're talking about. I think the
21 witness can clarify that.

22 JUDGE KOPTA: Proceed with your question
23 based on that reference to the witness's testimony.

24 BY MR. CASEY:

25 Q. Is it PSE's intention to quickly expand its

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1 offerings as soon as the Commission grants approval?

2 A. As a part of its commitments in my exhibit, the
3 Company has offered to provide a compliance filing
4 shortly after approval, if necessary, by the parties in
5 this case and the Commission.

6 The intention of that compliance filing is to do
7 possibly two things. One, if the commissioners feel
8 that it needs to refresh our rates based on what we
9 proposed back in February, and if there is any
10 additional relevant equipment that needs to be added, we
11 will consider that at that point as well, as it relates
12 to heating, water heating, and heat pumps as we've
13 proposed.

14 We are not -- the Company is very willing to --
15 or is very confident in its proposal that it made in
16 February and the compliance filing is only if the
17 commissioners feel as though it is necessary.

18 **Q. PSE expects to gain a large market share for**
19 **HVAC and water heat installation; correct?**

20 A. As our testimony suggests and the research that
21 we've done, about 25 percent of our customers are
22 interested in leasing the relevant equipment.

23 **Q. I'd like to turn to BTC-2HC, Page 4.**

24 MS. CARSON: Could you repeat the cite?

25 MR. CASEY: BTC-2HC.

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1 BY MR. CASEY:

2 Q. It's an exhibit to Mr. Cebulko's testimony on
3 Page 1. This is an exhibit you're familiar with, I
4 assume?

5 A. I am familiar with it.

6 MS. CARSON: Just as a caution, this is
7 highly confidential.

8 MR. CASEY: Yes. I want the commissioners
9 and the witness to turn to Page 4 of that exhibit.

10 MR. GOLTZ: I apologize, which number?

11 JUDGE KOPTA: BTC-4HC.

12 MR. CASEY: Exhibit 2, Page 4.

13 JUDGE KOPTA: Right.

14 BY MR. CASEY:

15 Q. So I'm interested in these assumptions in this
16 exhibit. So Mr. Cebulko addressed these directly on
17 Page 9 of his testimony, and PSE did not refute these
18 numbers, these market-share forecasts, upon rebuttal;
19 correct?

20 A. Could I have --

21 Q. You did not? How about that.

22 A. I did not. I did not refute Mr. Cebulko's.

23 Q. Yes or no, would you consider any of these
24 market-share forecasts a monopolization of the market?

25 MS. CARSON: Objection; calls for a legal

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1 conclusion.

2 JUDGE KOPTA: I will sustain that.

3 BY MR. CASEY:

4 Q. You testified that PSE's rates are not based on
5 these assumptions, correct, the assumptions -- these
6 forecasts?

7 A. Our rates are based on the level of interest
8 that was defined by the surveys that we conducted over
9 time. And a share of that interest is included in our
10 pricing model and included in our rates.

11 Q. Thank you. Would you acknowledge whether the
12 assumptions used in rates are higher or lower than these
13 assumptions here?

14 MS. CARSON: I'm going to object. It's not
15 clear what assumptions -- I believe there's various
16 assumptions on this page.

17 MR. CASEY: All of them.

18 MS. CARSON: All of the assumptions?

19 MR. CASEY: Yes.

20 MS. CARSON: Objection; ambiguous.

21 JUDGE KOPTA: Well, to the extent that she
22 can answer.

23 THE WITNESS: As defined, this is a range,
24 this is a business planning document, and it's my
25 understanding that some of these assumptions are

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1 included in our pricing model.

2 BY MR. CASEY:

3 **Q. That is your understanding?**

4 A. Perhaps the one scenario of them is what we
5 concluded in the --

6 MS. CARSON: Mr. McCulloch is the witness on
7 our pricing model, so I think these questions would be
8 better directed towards him.

9 MR. CASEY: Okay.

10 BY MR. CASEY:

11 **Q. I just have one last question. If you can't**
12 **answer it, I'll ask Mr. McCulloch later.**

13 A. Okay.

14 **Q. So PSE's rate model included an assumption for**
15 **the market share, and if it installs more than the**
16 **assumption that it uses, does it over-earn or**
17 **under-earn?**

18 A. The pricing model was built on an assumption
19 that we expect to occur. We don't expect to
20 under-recover or over-recover over the period of time.

21 **Q. You expect your assumption exactly?**

22 A. If we underachieve, there will be -- we will --
23 there might be over-recovery and under-recovery at
24 various points in time, but the rates are set based on
25 the term of the lease, and we expect us to earn our

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1 authorized rate of return over the term of the lease.

2 Q. Yes, but maybe these are better directed at
3 Mr. McCulloch what the term of the lease. Those rates
4 were based on assumptions of a certain market share, a
5 certain amount of customer participation. And if you
6 don't hit that, like if you get less participation, you
7 under-earn, and if you get more participation you
8 over-earn; correct?

9 A. Correct.

10 Q. Thank you. Next I want to discuss the many new
11 features you proposed on rebuttal, so can we turn back
12 to LYN-3.

13 The Company's direct testimony did not address
14 annual tracking and recording of conservation benefits;
15 correct?

16 A. My testimony did not. Although, as I've
17 provided in an exhibit, if it's common for us to report
18 and track performance on a number of different programs
19 and services, we have to go the Utilities Commission on
20 a regular basis.

21 Q. A little bit vague. I just want to clarify, did
22 or did not the Company's testimony address annual
23 tracking and reporting of conservation?

24 A. It's my understanding as a proposed -- as I
25 proposed in this exhibit, we are suggesting that we are

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1 more than willing to go above and beyond and report the
2 tracking and reporting of some of the key features that
3 we expect the service to deliver. And we intend and
4 plan to do that with the Commission on an annual basis.

5 **Q. Thank you. And just for clarification, that**
6 **proposal came on rebuttal; correct?**

7 MS. CARSON: Objection to the extent he's
8 asking her to testify about all Company witnesses'
9 testimony; I think that's overbroad. And if he wants to
10 establish that with each witness, he can.

11 JUDGE KOPTA: Well, this is a witness who
12 directly addresses this particular point. I think the
13 Company is permissible, to the extent that you are
14 aware.

15 THE WITNESS: Can you repeat your question,
16 please.

17 BY MR. CASEY:

18 **Q. That you first -- the Company first addressed**
19 **annual tracking and conservation reporting in its**
20 **rebuttal case; is that correct?**

21 A. It's my understanding -- I mean, it's something
22 we often do as a regular course of activity, report to
23 the Commission, so we named it specifically in a
24 commitments document personally. It's something we
25 regularly do as a part of our being a regulated utility.

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1 JUDGE KOPTA: Ms. Norton, let me rephrase
2 the question and see if we can get past this.

3 In your testimony on Exhibit LYN-3, the
4 point that counsel is referring to, are you aware that
5 that information is contained in any other part of Puget
6 Sound Energy's testimony in this case?

7 THE WITNESS: I do not recall.

8 BY MR. CASEY:

9 **Q. Outside of these bullet points, the Company's**
10 **testimony, or any other testimony, provides no details**
11 **as to how annual tracking and reporting will be**
12 **accomplished; correct?**

13 A. Based on my recollection, it is not detailed,
14 but it's common practice for us to report to the
15 Utilities Commission, and I'm sure we can figure out a
16 way to do that effectively.

17 **Q. But you acknowledge that interested parties**
18 **might not fully agree on the details of how exactly to**
19 **do annual tracking and reporting; correct?**

20 MS. CARSON: Objection; calls for
21 speculation about what interested parties think or don't
22 think.

23 JUDGE KOPTA: Sustained.

24 BY MR. CASEY:

25 **Q. Would you agree that it might be difficult to --**

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1 that there are numerous different ways of how to, quote,
2 estimate 0 efficiency of replaced equipment, end quote?

3 A. There certainly might be a few ways. I think
4 that we have a lot of experience in understanding
5 efficiency and working with our customers, and would
6 rely on that to use that as a reporting device.

7 **Q. Thank you. The Company's direct testimony also**
8 **did not address transitioning the Legacy Rental Program;**
9 **correct?**

10 MS. CARSON: Objection; misstates the
11 record.

12 JUDGE KOPTA: Can you ask it a different
13 way, Mr. Casey?

14 BY MR. CASEY:

15 **Q. The Company, in its direct case, addressed**
16 **transitioning the Legacy Rental Program.**

17 A. I'm not familiar -- I cannot recall.

18 **Q. Thank you. On rebuttal, the Company provided a**
19 **Transition Plan as a hybrid form of question-and-answer**
20 **testimony in an exhibit; correct? I believe it's**
21 **Exhibit MBM-22.**

22 A. Yes, we did. And I believe Mr. McCulloch is the
23 witness that can speak to that specifically.

24 **Q. And because this plan was provided on rebuttal,**
25 **no party had an opportunity to adequately analyze and**

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1 respond to the proposal; correct?

2 A. Throughout the proceeding we've had
3 conversations about the transition of the Plan, and
4 we --

5 **Q. We're in a litigated case, so the discussion**
6 **needs to be in testimony; correct?**

7 A. So the Transition Plan was submitted by our
8 witness Malcolm McCulloch in rebuttal.

9 **Q. So yes or no. Because it was provided in**
10 **rebuttal, no party had an opportunity to adequately**
11 **analyze and respond to that proposal?**

12 MS. CARSON: Objection; calls for
13 speculation as to whether other parties have an
14 opportunity to analyze.

15 JUDGE KOPTA: Sustained. I was looking for
16 that objection earlier. That's an argument that you can
17 make on brief. I don't think --

18 MS. BROWN: But, Your Honor, we will be here
19 until 2020 if the Company witnesses refuse to answer the
20 questions candidly. This is yes-or-no question; this is
21 cross-examination.

22 JUDGE KOPTA: I understand that, Ms. Brown,
23 but these are arguments in the form of questions, and I
24 think that's not the best use of our hearing time.

25 BY MR. CASEY:

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1 **Q. Do you acknowledge that the transition of over**
2 **33,000 customers from one service to another is a**
3 **challenging task that requires careful coordination to**
4 **ensure participating customers are not harmed?**

5 A. I would agree it is a large undertaking that
6 needs to be balanced with customers' interest, as well
7 as the market's ability to deliver.

8 **Q. Thank you. The Company's direct testimony also**
9 **did not address conservation target setting; correct?**

10 A. My testimony did not.

11 **Q. Did Mr. -- you mean Mr. Teller's testimony?**

12 A. Can you point to where you're referring?

13 **Q. I'm referring to LYN-3, midway down the page, it**
14 **says "Conservation Target Setting."**

15 A. Okay. Your question?

16 **Q. My question is, in direct testimony, the Company**
17 **did not discuss conservation target setting; correct?**

18 A. It did not in its direct testimony discuss the
19 bullet you're referring to in the commitments. But as
20 I've said, the commitments are intended to be above and
21 beyond what was filed and add to the proposal additional
22 opportunities to demonstrate how this platform might
23 have broader benefit.

24 **Q. And here the Company is only committing to**
25 **discuss the possibility of target setting in the**

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1 biennial conservation planning process to discuss how
2 the leasing service may influence rebate target setting,
3 it's not committed to target setting; correct?

4 A. We expect this to provide a channel for energy
5 efficiency savings, and at this point, I think it's
6 premature; we don't even have a finalized service.

7 It's our intention and expectation that there
8 would be some positive benefits and be able to look at
9 how those rebates might be able to be modified. Due to
10 having this channel, we expect to deliver a
11 high-efficient product.

12 JUDGE KOPTA: Ms. Norton, I'm going to
13 interject at this point. When counsel asks you a
14 yes-or-no question, please answer "yes," "no," or "I
15 don't know" before you give an explanation. That way we
16 can clarify the record and perhaps save Mr. Casey some
17 frustration.

18 MR. CASEY: Thank you, Your Honor.

19 BY MR. CASEY:

20 **Q. PSE has made no commitment to deliver a specific**
21 **amount of conservation savings as part of this proposal;**
22 **correct?**

23 A. As a part of our energy efficiency programs, no.

24 **Q. Did the Company's direct testimony address**
25 **offering 100 percent of leasing customers the**

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1 opportunity to participate in a demand response service?

2 A. Yes. We offered the opportunity for these
3 customers to participate in forthcoming demand response,
4 pilots that the Company is intending to be a part of, as
5 well as administer themselves.

6 **Q. And that offer was made on rebuttal; correct?**

7 A. Correct.

8 **Q. Thank you. In PSE's rebuttal testimony, PSE**
9 **provided no details about how it would implement the**
10 **demand response beyond these three bullet points;**
11 **correct?**

12 A. This is not a demand response filing. Our
13 bullets are intended to demonstrate how this filing
14 could complement and add to our future demand activity.

15 JUDGE KOPTA: So that's a "yes" with an
16 explanation?

17 THE WITNESS: Yes, with an explanation.

18 BY MR. CASEY:

19 **Q. As part of its proposal, PSE proposes to offer**
20 **products that are not demand response capable; correct?**

21 A. Correct.

22 **Q. PSE does not currently have a demand response**
23 **tariff on file with the Commission; correct?**

24 A. Not to my knowledge; correct.

25 **Q. Thank you. The Company proposes to submit a**

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1 Compliance Filing to add new products and alter its
2 proposed rates 60 days after approval.

3 Does this render the proposed rates meaningless?

4 MS. CARSON: Objection; argumentative.

5 JUDGE KOPTA: Sustained.

6 BY MR. CASEY:

7 **Q. Given the Company's commitment to submit new**
8 **rates just 60 days after approval, are the rates**
9 **currently proposed in the tariff meaningful?**

10 A. The Company is confident in the rates it has
11 proposed in this filing. If the Commission determines
12 it's in the interest to refresh those rates, we will
13 have a Compliance Filing. If not, we will stand by the
14 rates we filed in February.

15 **Q. Would you agree that the Company, in essence, is**
16 **seeking Commission preapproval for the leasing program?**

17 MS. CARSON: Objection; calls for a legal
18 conclusion.

19 JUDGE KOPTA: Overruled. I'll let her
20 answer to the extent she can provide an opinion.

21 THE WITNESS: I would not agree. I think
22 we've proposed a service with rates, and I'm not sure
23 what you mean by "preapproval."

24 BY MR. CASEY:

25 **Q. Would you agree that a Compliance Filing to**

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1 refresh rates could ultimately lead to another 11-month
2 adjudication to assure the updated rates are just and
3 reasonable?

4 A. As I've said, I don't -- Compliance Filing is
5 not necessary.

6 **Q. You acknowledge that if the Company files to**
7 **change the rates that are established, it could lead to**
8 **an 11-month adjudication; correct?**

9 A. I believe any time we change rates as a utility
10 it leads to whatever is the appropriate procedural
11 process.

12 **Q. And if this was not a regulated service, PSE**
13 **could change the rates any time without Commission**
14 **approval; correct?**

15 MS. CARSON: Objection; calls for
16 speculation.

17 JUDGE KOPTA: Sustained.

18 BY MR. CASEY:

19 **Q. Would the -- if the -- do companies that offer**
20 **products and services not regulated by the Commission**
21 **need Commission approval to change their rates?**

22 A. I don't believe they do need Commission approval
23 to change their rates.

24 **Q. Thank you.**

25 A. We also work with the commission all the time on

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1 changing our rates, and we've seen it occur as short as
2 30 days and longer.

3 **Q. Thank you.**

4 MR. CASEY: I have no further questions for
5 Ms. Norton.

6 JUDGE KOPTA: Thank you.

7 Ms. Gafken, how long do you estimate that
8 you will be?

9 MS. GAFKEN: I probably have 15 to 20
10 minutes. I'm in that same ballpark.

11 JUDGE KOPTA: I'm looking at the time and
12 since we need to have a hard stop at 10:45, can we go
13 for five minutes before we take our break?

14 MS. GAFKEN: We can either do that or take
15 the break now -- whichever works for the commission.

16 JUDGE KOPTA: Go ahead.

17
18 CROSS-EXAMINATION

19 BY MS. GAFKEN:

20 **Q. Good morning, Ms. Norton.**

21 A. Good morning.

22 **Q. Would you please turn to your testimony,**
23 **Exhibit LYN-2T and go to Page 10, Lines 16 to 18.**

24 A. I'm there, thank you.

25 **Q. There you state that (as read), The undisputed**

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1 data from the Northwest Energy Efficiency Alliance, or
2 NEEA, reveals that over 40 percent of the relevant
3 equipment in the market today is beyond its useful life.
4 Correct?

5 A. I must not have the -- you're in JET --

6 Q. LYN, the rebuttal testimony, Page 10.

7 A. Okay. I'm with you, thank you.

8 Q. Okay. So LYN-10, Lines 16 through 18, there you
9 state that (as read), The undisputed data from the
10 Northwest Energy Efficiency Alliance, or NEEA, reveals
11 that over 40 percent of the relevant equipment in the
12 market today is beyond its useful life. Correct?

13 A. Correct.

14 Q. The NEEA data that you refer to is presented in
15 Exhibit JET-3; correct?

16 A. Correct.

17 Q. Would you go ahead and turn to Exhibit JET-3.

18 A. I'm there.

19 Q. The four charts that are shown in the
20 Exhibit JET-3 show data associated with four types of
21 equipment; is that correct?

22 A. Correct.

23 Q. And each chart shown in Exhibit JET-3 shows data
24 regarding the number and percentage of equipment that
25 exists for each vintage; correct?

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1 A. Correct.

2 Q. The shaded area on the charts presented in
3 Exhibit JET-3 represent the 40 percent that you refer to
4 in your testimony as the percentage of equipment in the
5 market today that's outlived its useful life; is that
6 correct?

7 A. Correct.

8 Q. And looking at the chart for gas forced-air
9 furnaces, the first chart over on the left, the shading
10 includes years 1966 through the year 2000; correct?

11 A. Correct.

12 Q. PSE assumed a useful life of 15 years in
13 determining the market gap; correct?

14 A. That was the average useful life we used,
15 correct.

16 Q. Equipment from the year 2000 would have been 16
17 years old and exceeding its useful life under a 15-year
18 useful life assumption as measured from the year 2016;
19 correct?

20 A. Correct.

21 Q. The NEEA data presented in Exhibit JET-3 is from
22 a 2012 assessment of regional building stock; correct?

23 A. Correct. It was a survey that was fielded and
24 available in 2012, correct.

25 Q. The newest appliances in NEEA's 2012 assessment

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1 had a vintage of the year 2011; correct?

2 A. Can you repeat that question?

3 **Q. Sure. The newest appliances in NEEA's 2012**
4 **assessment had a vintage of 2011; correct?**

5 A. Correct.

6 **Q. As measured from 2011, equipment that would have**
7 **been 16 years old and exceeded a 15-year useful life**
8 **would have been measured from the year 1995; correct?**

9 A. Correct. However, what we assumed in this is
10 that the information that you've found -- you've gotten
11 summarized today, that historically is very consistent
12 over time.

13 And while we measured from 1996 to 2000 included
14 in our 40 percent, we believe that that's representative
15 of what we -- nothing has really changed since 2012, and
16 it's the most current data we have available to us.

17 **Q. So Ms. Norton, is it PSE's position that the**
18 **equipment data represented in Exhibit JET-3 would not**
19 **change between the year 2012 when NEEA published its**
20 **Building Stock Assessment and the present year, 2016?**

21 A. We believe that the behavior in the market would
22 be similar and, therefore, the percentages would be
23 similar, as represented in this exhibit.

24 **Q. Let's focus on the chart again showing the gas**
25 **forced-air furnaces. Would you object to checking that**

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1 the percentages included in the shaded area adds up to
2 40 percent?

3 A. Yes.

4 **Q. And that shaded area includes the time period**
5 **from 1996 through 2000; correct?**

6 A. Correct.

7 **Q. The vintage '96 through 2000?**

8 A. Correct.

9 **Q. And the period 1996 through 2000 includes 17**
10 **percent of gas forced-air furnaces; correct?**

11 A. Correct.

12 **Q. Would you accept that removing the period 1996**
13 **through 2000 from the shaded area would result from the**
14 **total percentage being 23 percent?**

15 A. I would accept that.

16 **Q. Subject to check?**

17 A. Subject to check. And I believe that's still a
18 significant share of customers that have old and
19 out-of-date equipment.

20 **Q. Okay. But at the time of the NEEA assessment,**
21 **the total amount of stock with the age of 16 years or**
22 **greater would be 23 percent and not 40 percent; correct?**

23 A. Correct. This is the most current data that is
24 available to us, and we believe still continues to
25 demonstrate a significant gap in the market.

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1 Q. As measured from the year 2000, equipment with a
2 vintage of -- I'm sorry, let me start that over.

3 As measured from the year 2011, equipment with a
4 vintage of 2000 would only be 11 years old; correct?

5 A. Correct.

6 Q. And as measured from the year 2000, equipment
7 with a vintage of 1996 would be 15 years old; correct?

8 A. Correct.

9 MS. GAFKEN: We can break at this point. I
10 have another area of questioning. That concludes that
11 for now.

12 JUDGE KOPTA: Okay, let's -- you can
13 proceed, I think. We're just trying to get logistics.
14 Let's take a break now. Let's be off the record. We'll
15 be back here at 11. Thank you.

16 (A break was taken from
17 10:46 a.m. to 11:00 a.m.)

18 JUDGE KOPTA: Let's be back on the record
19 after our break, and I believe Ms. Gafken is continuing
20 her cross-examination of Ms. Norton.

21 MS. GAFKEN: Thank you.

22 BY MS. GAFKEN:

23 Q. Ms. Norton, you're responsible for PSE's Energy
24 Advisor Team; correct?

25 A. Correct.

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1 Q. And the Energy Advisor Team works directly with
2 customers to assist them with their energy needs; is
3 that correct?

4 A. Correct.

5 Q. Are the Energy Advisors trained to assist
6 customers in navigating the process of making energy
7 decisions?

8 A. They are trained to advise customers on their
9 options.

10 Q. Does this include helping customers get
11 high-quality information regarding equipment purchases?

12 A. It includes all sorts of energy information,
13 whether it's efficiency, equipment, contractors, a
14 variety of energy-related questions.

15 Q. Would you please turn to Cross-Exhibit LYN-8.

16 A. Yes.

17 Q. Do you recognize Cross-Exhibit LYN-8 as PSE's
18 Response to Public Counsel Data Request Number 4?

19 A. Yes, I do.

20 Q. And Page 4 of Cross-Exhibit LYN-8 lists the
21 topics addressed by PSE's Energy Advisors and how many
22 calls dealt with each topic listed since May 2015;
23 correct?

24 A. Correct.

25 Q. I think you rattled off a few of these things,

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1 but I just want to touch on a few of them.

2 Those topics include the Contractor Alliance
3 Network and energy efficiency programs and rebates;
4 correct?

5 A. Correct.

6 **Q. And the Contractor Alliance Network, can you**
7 **describe what that is, quickly?**

8 A. Sure. That's a network of contractors that
9 we've partnered with to help customers install
10 equipment, and we discuss with the customer, and then we
11 provide that handoff to contractors that followthrough
12 and install the equipment for the customer.

13 **Q. So I'll give you a hypothetical, and you can**
14 **tell me if this is a situation that your Energy Advisors**
15 **would address.**

16 **If a customer calls seeking a contractor to**
17 **replace an furnace, would the Energy Advisors provide**
18 **them with a referral to a contractor within that**
19 **Contractor Alliance Network?**

20 A. They offer that as an option to our customers
21 often. They often talk to the customer a lot before
22 they could get to the point of referral to the
23 contractor about what solutions -- energy efficiency
24 solutions we have, what heating source, whether natural
25 gas or electricity.

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1 position.

2 Q. And did Mr. Teller report to you in your
3 organization before he left?

4 A. Did he report to me?

5 Q. Yes.

6 A. No, he did not.

7 Q. Who did he report to?

8 A. He reported to Mr. Phil Bussey.

9 Q. And you report to Mr. Phil Bussey?

10 A. I report to Mr. Phil Bussey.

11 Q. So after he left, you just kind of got drafted
12 to take on this role, is that what happened?

13 A. I've been involved in the case from the
14 beginning, and it was very natural for me to step in on
15 his behalf.

16 Q. So I want to followup a little bit on what
17 Ms. Gafken was saying. As I understand PSE's case, it
18 is based in some part, substantial part perhaps, on a
19 couple of different surveys and results from those. One
20 is that -- I said I was not going to talk about it
21 today, but one is that 25 percent, you say, based on the
22 Cocker Fennessy Survey, 25 percent of folks are
23 interested in taking a lease option.

24 The one that I want to talk about a little more
25 is the statement that you made that if there's a -- 40

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1 percent of the equipment is, quote, beyond its useful
2 life.

3 Is that a fair statement?

4 A. That's a fair statement.

5 **Q. And that's not correct, is it, based on your**
6 **data that you reviewed with Ms. Gafken?**

7 A. The exhibit that we've proposed, that I've
8 filed, summarizes that the gap is 40 percent.

9 **Q. The gap is 40 percent based on a survey that was**
10 **conducted in 2011 and 2012; is that right?**

11 A. Correct. We have no reason to believe that the
12 market has changed in any way to suggest the numbers
13 would be any different.

14 **Q. Right. But Exhibit JET-3 is a snapshot of the**
15 **survey in time at the end of 2011 and 2012?**

16 A. Correct. And it demonstrates there's a
17 significant gap in the market.

18 **Q. And it reflects by vintage categories --**
19 **clusters of vintage years, the ownership of that**
20 **equipment or what equipment if it falls within those**
21 **vintage years?**

22 A. Correct.

23 **Q. From this -- based on the recipients of the**
24 **survey?**

25 A. Correct.

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1 Q. So if this was done in 2012 and you subtract 15
2 from 2012, you get 1997. You subtract 15 from 2011 you
3 get 1996, and that puts you back to the -- so 17 percent
4 that are in the box 1996 to 2000, looking at the first
5 chart on Exhibit JET-3, at that point in time when the
6 survey was made, those are not more than 15 years old,
7 are they?

8 A. I think the important fact --

9 Q. Can you just answer that first and see if I
10 understand that?

11 A. At that point in time, you are correct. I think
12 the important point here is that even if you took off
13 the '96 and 2000 period of time, there's a significant
14 share of customers that have older and inefficient
15 equipment to the tune of about 100,000 customers. And
16 we are relying on the most available current data that
17 we have and that any party has brought forward in this
18 case. It's significant, and whether it's 40 or 25 --

19 Q. So you still think it's 40 percent; it's not 23
20 or so?

21 MS. CARSON: Objection; argumentative, asked
22 and answered.

23 BY MR. GOLTZ:

24 Q. What's the answer?

25 JUDGE KOPTA: She can answer.

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1 THE WITNESS: The data suggests that at that
2 point in time it was 40 percent.

3 BY MR. GOLTZ:

4 Q. Okay. So if this survey --

5 A. And I have no reason to believe that it has
6 changed based on historical performance of the market.

7 Q. So let's say that this hearing took longer than
8 it has taken, and let's say that the year is now 2026,
9 would you then shade the next two blocks of 2001 to 2005
10 and 2006 to 2011 and come to the conclusion that about
11 97 percent of the equipment is beyond its useful life?

12 A. We would not.

13 Q. You wouldn't, okay. So isn't it also true from
14 Mr. McCulloch's testimony that the, quote, useful life,
15 unquote, of the gas forced-air furnace is not 15 years,
16 it's really 18 years, and what he did was get an average
17 of different types of appliances to come to the 15-year
18 figure?

19 A. It was an average of the appliances you see
20 listed in the exhibit.

21 Q. So more accurately to figure out, of the gas
22 forced-air furnaces, how many would be, quote, beyond
23 the useful life or not, you go back 18 years and you
24 wouldn't go back 15 years?

25 A. If we looked at specific each equipment

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1 individually. The point made by this exhibit is, again,
2 there's a significant opportunity to increase the
3 efficiency of the market in totality, and a significant
4 gap.

5 And customers have demonstrated interest in it
6 and we would like -- we believe this service would help
7 fill the gap, while providing great value for customers.

8 **Q. I understand. But a gap of 21 percent and a gap**
9 **of 40 percent, that's a pretty big difference?**

10 A. Even at 25 percent, Mr. Goltz, we're talking
11 about 100,000 furnaces that are beyond their useful
12 life.

13 **Q. But if the 40 percent, that's been in your**
14 **presentations to senior management, been in**
15 **presentations to the board, and all through your**
16 **testimony, has that been corrected in other**
17 **communications to the Company?**

18 A. We are using 40 percent as our statement of the
19 market gap. Our projections to the Company are relative
20 to what we expect from that gap.

21 **Q. I understand, and going to the next one,**
22 **air-source heat pump, if you exclude the shading in 1996**
23 **to 2000 vintage years, then the number of the percentage**
24 **of air-source heat pumps that are, according to your**
25 **standard, beyond their useful life, is 14 percent. Is**

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1 that true?

2 A. Based on the exhibit, that's true.

3 Q. And the same thing, if you were to exclude the
4 1996 to 2000 under Energy Storage Hot Water Heaters,
5 then you would be about 21 percent, not 40 percent?

6 A. Correct.

7 Q. And likewise, over in Gas Storage Hot Water
8 Heaters, if you exclude 1996 to 2000, it would be 18
9 percent, not close to 40 percent?

10 A. Correct.

11 Q. Aren't those more accurate numbers?

12 A. As I've stated, we believe that the market has
13 performed consistently over time, and this is the most
14 current data that's available to us.

15 Q. So let's complete the data a little bit, at
16 least conceptually. Since this survey was done in the
17 end of 2011/2012 -- I'm correct in that, right?

18 A. Correct.

19 Q. So it's been almost five years. Do you suspect
20 that any customers in Puget Sound service territories
21 have purchased forced, new gas forced-air furnaces or
22 air-source heat pumps or hot water heaters?

23 A. I do. And I suspect that an equal number, or a
24 good share, has let theirs age beyond their useful life.

25 Q. But we know about the aging, and we just have to

GOLTZ / NORTON

1 fill in -- you only subtract; you don't add. You might
2 add the ones -- what would you add? Why wouldn't you
3 just subtract?

4 A. We would include -- it would justify that the
5 band between 1996 and 2000.

6 Q. But -- okay. But don't you think that some of
7 the other pieces of equipment -- and that would get you
8 up to 40 percent, right? If you added that band, the
9 1996 to 2000, on the gas forced-air furnace you get up
10 to about 40 percent?

11 A. Correct.

12 Q. But sometime in the last five years people would
13 have bought -- replaced this equipment. I mean, if you
14 have doubts about that, you can ask Mr. Fluetsch when
15 he's on the stand, Have you sold any pieces of equipment
16 in the last five years, and I think he'd say yes.

17 MS. CARSON: Objection; argumentative and
18 asked and answered.

19 BY MR. GOLTZ:

20 Q. Okay. So, also, this JET-3 stands for the
21 proposition that if the survey was done accurately, that
22 the equipment is of various vintages; correct?

23 A. Correct.

24 Q. But you say it means beyond its useful life.
25 But the equipment that's in the shaded area here is

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1 useful, correct, still being used?

2 A. It's still being used.

3 **Q. And it's alive, it's working, so it's not -- I**
4 **mean, which would be beyond useful life. You don't mean**
5 **it's not working?**

6 MS. CARSON: Objection; calls for
7 speculation.

8 MR. GOLTZ: Actually, I'm willing to
9 stipulate that their use of the terminology "beyond
10 useful life" is speculation. I'm going to stipulate to
11 that.

12 JUDGE KOPTA: If you might rephrase your
13 question. Maybe not like that, but.

14 (Court reporter read back as requested.)

15 MR. GOLTZ: That was a horrible question.

16 BY MR. GOLTZ:

17 **Q. When you say "beyond useful life," it's being**
18 **used? It's generating heat? It's heating hot water;**
19 **correct?**

20 MS. CARSON: Objection; calls for facts not
21 in evidence.

22 JUDGE KOPTA: I think he can explore what is
23 meant by "useful life." You can answer the question.

24 THE WITNESS: "Useful life" is a common term
25 used to explain what is the average expected life of a

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1 piece of equipment. It's commonly used in the industry
2 as what is the projected life of a piece of equipment.

3 BY MR. GOLTZ:

4 Q. Okay. Is there a margin of error in this
5 survey?

6 A. I'm not -- I don't understand your question.

7 Q. In many surveys, if you follow the election
8 these days, they'll say this survey showed the
9 candidates get a percentage, and they'll say a margin
10 error of 3 percent, 5 percent, 6 percent is a commonly
11 used term in surveys. And since you're testifying about
12 this survey, I wanted to know if there was a stated
13 margin of error in the survey, or if you know.

14 A. I do not know.

15 Q. So on Page 23 of your testimony, you state that
16 PSE has demonstrated that 40 percent of the relevant
17 equipment in the market is old and inefficient.

18 A. Is that my rebuttal testimony you're referring
19 to?

20 Q. Yes. That's your only testimony.

21 MS. CARSON: What page?

22 MR. GOLTZ: Twenty-three. I hope I got that
23 right. Yeah, Lines 17 and 18 of the --

24 BY MR. GOLTZ:

25 Q. But JET-3 doesn't talk about efficiency, does

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1 it?

2 A. JET-3 does not refer to efficiency.

3 **Q. So, but your statement that it's old and**
4 **inefficient is based on JET-3?**

5 A. The statement that I've made in 17 and 18
6 suggests that as -- from my understanding of equipment,
7 often as it ages the efficiency degrades, the
8 performance and efficiency degrades over time. And
9 that's a statement in reference to that understanding.

10 **Q. Right. So it's based on your understanding that**
11 **things get less efficient in general?**

12 A. And I'm getting more and more familiar with that
13 every day.

14 **Q. That ends the line of questioning that I'm at.**
15 **So as Director of Product Marketing and Growth,**
16 **are you responsible for PSE's thinking about the utility**
17 **of the future?**

18 A. That is a portion of my responsibilities.

19 **Q. And you stated on Page 2 of your rebuttal**
20 **testimony that this proposal provides a pathway for**
21 **further work on developing the utility of the future.**
22 **Is that right?**

23 A. Correct.

24 **Q. So within PSE, is there a group that worries**
25 **about this, and out of this groupthink came this**

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1 proposal, or is it more accurate to say that this
2 proposal came up and then you decided let's describe it
3 as a utility of the future?

4 MS. CARSON: I object to this line of
5 questioning. It goes beyond the scope of intervention
6 to the extent it's concerned about utility business and
7 utility of the future, as opposed to the market for
8 water heaters and HVAC equipment, as was limited in the
9 Prehearing Conference Order.

10 JUDGE KOPTA: I'll allow the question.

11 THE WITNESS: We've been talking about and
12 thinking about as collectively as a company what is the
13 utility of the future for PSE, and we're looking for
14 ways to continue to partner with our customers in ways
15 they value and in ways that make sense for the utility.
16 And as we look to the future, you know, we're looking
17 how to transition the Company. And that's happening
18 throughout the Company --

19 BY MR. GOLTZ:

20 **Q. Throughout the country or company?**

21 A. Company. But I'm also aware that utilities are
22 having this conversation throughout the country.

23 **Q. Right.**

24 A. And this is one opportunity that is available
25 now to partner with our customers in the service that

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1 they're interested in that would provide response to a
2 gap in the market, that PSE is perfectly positioned to
3 offer, and that no one else is offering it today in the
4 market. So it is in line with continuing to offer
5 valued services to our customers. And that's the
6 conversation we have within Puget Sound Energy.

7 **Q. In the course of that company-wide conversation,**
8 **are you looking at other states? I'm thinking of New**
9 **York where they're reforming the energy vision, REV**
10 **process is sort of the focal point nationally of the**
11 **utility of the future discussions?**

12 A. We look at all sorts of examples.

13 **Q. And in all of those, all sorts of examples, have**
14 **you found other leasing -- appliance leasing --**
15 **regulated appliance leasing proposals?**

16 A. So Malcolm can testify to that more specifically
17 in his testimony, but we've certainly seen examples in
18 California that are looking at and doing leasing in the
19 regulated model. We've seen examples in Vermont that
20 are looking at doing leasing.

21 **Q. But there's no ones that are in existence, are**
22 **there?**

23 A. I'm not sure where they are in their regulated
24 proceedings.

25 **Q. So, on Page 11 of your testimony, you make the**

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1 analogy to Amazon?

2 COMMISSIONER DANNER: I'm sorry, Mr. Goltz,
3 what page is that?

4 MR. GOLTZ: Page 11, line 4.

5 BY MR. GOLTZ:

6 **Q. Do you envision PSE being like Amazon in its**
7 **leasing business?**

8 A. I think the point of that line in my testimony
9 was to suggest how the market is really looking to
10 provide simplified solutions for customers, one-stop
11 opportunities for them to carry out and meet their
12 needs. And that's the beauty of these solutions. It
13 brings together very complex decisions that the
14 customers are dealing with; the selection, the
15 evaluation, the financing, the contractor. It brings it
16 all together and makes that decision very simple.

17 And customers don't have a lot of time today,
18 and these are examples of other companies that are
19 looking to simplify purchasing decisions and evaluations
20 to the customer.

21 **Q. And in preparing your testimony, did you check**
22 **on Amazon's website and see how many options they have**
23 **for hot water heaters and furnaces?**

24 A. I did not.

25 **Q. So on Page 16 of your testimony, you were asked**

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1 by your attorney (as read), Commission Staff have
2 testified that they do not believe that this leasing
3 proposal should be a regulated service. Do you agree?
4 And you said no. And I read your answer as saying the
5 reason why is because we've done leasing in the past.

6 Is that the totality of your answer on why this
7 should be done as a regulated service, because you've
8 done it this way in the past?

9 A. No, that is not the totality. We believe that,
10 yes, one, we've done it for over 50 years, and it is a
11 legitimate utility function. We believe that the
12 customers are calling us every day and expressed
13 interest in this valued service. And we believe that
14 PSE is in a perfect position to offer this service being
15 a regulated company with a business model that is
16 structured in a way that allows us to do that, and are
17 the only ones that have proposed and offered this sort
18 of service in the market today.

19 So we believe that customers want us to, there's
20 a gap that we can fill by doing it, and we've done it,
21 and it's been legitimate for over 50 years. We're in a
22 perfect position in our business model to provide it,
23 and it makes sense in looking at how to transition this
24 company into the future.

25 **Q. So you said this was a legitimate utility**

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1 service. Are you saying that it's just interwoven with
2 your existing utility service?

3 A. It is another optional service that we'll
4 provide for our customers.

5 **Q. But as it links to your existing service or is**
6 **it different from your existing service?**

7 MS. CARSON: Objection; ambiguous.

8 JUDGE KOPTA: Please answer to the extent
9 that you can.

10 THE WITNESS: It links to other services
11 that we have in the utility in that we provide customer
12 guidance and, you know, options every day. But it is
13 designed to be a standalone service that only the
14 customers participating in the service --

15 BY MR. GOLTZ:

16 **Q. So in evaluating how to come up with this**
17 **service, you didn't evaluate whether it should be on an**
18 **unregulated basis or not, did you?**

19 A. We did not. We believe it's a legitimate
20 utility, regulated utility service.

21 **Q. So the unregulated option was not on the**
22 **conference table?**

23 A. Correct. We think it's a legitimate utility
24 function that our customers are interested in us
25 providing.

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1 **Q. Okay. But there's some advantages to you as**
2 **running as a regulated service as opposed to unregulated**
3 **service, is that true?**

4 A. There's --

5 MS. CARSON: I'm going to object again to
6 this line of questioning that gets into the details of
7 regulated versus unregulated utility service. It's
8 beyond the scope of the intervention of these entities
9 that Mr. Goltz and Mr. King are representing as set
10 forth in the Prehearing Conference Order.

11 MR. GOLTZ: It's absolutely essential to
12 this issue of the market. One of the issues is -- one
13 of the advantages is of running this as a regulated
14 service is Puget would have an exemption from the
15 Consumer Protection Act. All the SMACNA members, all of
16 Mr. King's clients, all the people out there in the
17 market are not exempt from the Consumer Protection Act,
18 so they have a different set of circumstances.

19 Because PSE is exempt, if there was an
20 anticompetitive action taken by PSE in this market, an
21 unregulated contractor could not bring an action under
22 the Consumer Protection Act against PSE. If there's an
23 anti-competitive action taken by a SMACNA member or
24 contractor, PSE could bring an action under the Consumer
25 Protection Act.

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1 If there is another regulated business,
2 PacifiCorp or Avista or Cascade, competing as a
3 regulated business, there's a Commission statute that
4 allows -- or a public service law that allows for one to
5 sue the other or bring an action before the Commission.

6 This is yet another example of how trying to
7 make this as a regulated service doesn't just fit and it
8 doesn't fit in the market; it's essential to the market.

9 JUDGE KOPTA: Thank you, but to the extent
10 that you're asking for a legal distinction, I don't
11 think that that's something that this witness should be
12 asked about. That's something for a brief.

13 BY MR. GOLTZ:

14 **Q. So you'd also have access to consumer**
15 **information; correct?**

16 A. We work with our customers every day and
17 understand their needs.

18 **Q. And so you would have access to consumer**
19 **information in running a leasing business?**

20 A. We have access to our customers' information.

21 **Q. And that's not something that any competitors**
22 **have?**

23 A. To my knowledge, no.

24 **Q. And you also then have a billing mechanism that**
25 **you hook onto for this as well?**

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1 A. That's part of the benefit of the service.
2 We're able to bring all these distinct, disparate,
3 complex pieces of decisions that customers need to make
4 everyday to make a purchasing decision, and we're able
5 to bring it to one place.

6 **Q. Let me ask you one final question just to follow**
7 **up on Mr. Casey about the rates, and you've offered to**
8 **refresh the rates in some 60-day period. And, but your**
9 **testimony is, and it's the Company's position, that the**
10 **rates as contained in the tariff meet the statutory**
11 **standard of being fair, just, reasonable, and**
12 **sufficient?**

13 A. Yes, they do.

14 MR. GOLTZ: Okay, thank you.

15 JUDGE KOPTA: That concludes your cross,
16 Mr. Goltz?

17 MR. GOLTZ: Yes.

18 JUDGE KOPTA: Mr. King, did you have any
19 questions for Ms. Norton?

20 MR. KING: We do.

CROSS-EXAMINATION

21
22
23 BY MR. KING:

24 **Q. My apologies, but we have to go back to the**
25 **charts in JET-3.**

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1 Can you tell us who authored these charts?

2 A. So the survey was fielded by --

3 **Q. No, no, not who did the survey, who authored**
4 **these particular charts?**

5 A. The charts are a summary of the --

6 **Q. Not what is it. Who authored -- were these**
7 **charts authored by PSE Energy?**

8 MS. CARSON: Objection; argumentative.

9 JUDGE KOPTA: I agree. Mr. King, let her
10 answer the question. If you have a different question
11 that you have in mind, then please don't interrupt her
12 while she's speaking. You can ask after she's finished.
13 But I will caution you, Ms. Norton, to answer the
14 question, and answer the question as asked.

15 THE WITNESS: The charts were summarized by
16 a Puget Sound Energy employee that in working with
17 NEEA's data. Being a member of data, we have access to
18 the results of the NEEA survey conducted in 2011.

19 The charts you see in my exhibit were
20 summarized by a PSE employee that serves on multiple
21 committees within the NEEA organization.

22 BY MR. KING:

23 **Q. So it was a Puget Sound employee that authored**
24 **these charts?**

25 MS. CARSON: Objection; misstates facts in

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1 evidence.

2 JUDGE KOPTA: I believe she's answered your
3 question.

4 BY MR. KING:

5 Q. We'll proceed to the next question.

6 Did the author use the entirety of the
7 Residential Buildings Stock Assessment data, the portion
8 that came from the Puget Sound service territory or some
9 other subset of data selected by the author?

10 A. It's my understanding that the author used the
11 specific region in which Puget Sound Energy serves.

12 Q. So it's the region, but not the Puget Sound
13 Energy service territory itself?

14 A. I'm not completely clear if there was any
15 portion that was outside or inside. I might defer that
16 question to Mr. McCulloch.

17 Q. Was the charts or the data selection vetted,
18 okayed, whatever word you want to choose, by the
19 Northwest Energy Efficiency Alliance, or was this all
20 data chosen, chart produced and used by Puget Sound
21 Energy without vetting or approval from any other
22 authority?

23 A. It's my understanding that Rebecca worked in
24 conjunction with NEEA to summarize these charts, so I
25 would surmise that NEEA is aware of the summary in my

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1 exhibit.

2 Q. Would you say that NEEA would stand behind these
3 charts, then; they do not appear in any other NEEA
4 report or study?

5 A. In that it's my understanding they were involved
6 in helping Rebecca compile them, I would only surmise
7 they would be willing to stand behind them.

8 Q. Did NEEA come to the same conclusions that PSE
9 has come about the market gap of 40 percent?

10 A. I'm not familiar with all of NEEA's studies to
11 suggest that they stated that or not.

12 Q. Looking at the charts, to clarify a little bit,
13 since this was data accumulated in 2011/2012, that's the
14 starting point in looking back at how old equipment is.
15 In your shaded areas on the charts you classified
16 everything ten years or older at the time of the
17 assessment as past useful life; correct?

18 A. Can you repeat your question, please?

19 Q. Given the shaded areas in the charts --

20 A. Yes.

21 Q. And that this is from 2011, we don't have the
22 last five years, it's 2011 data, you classified
23 everything ten years older as past useful life?

24 A. No, I believe, I believe it was through the year
25 1996 to 2000 was the last years.

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1 Q. So anything from 2000 back, which would be 10 or
2 11 roughly years older than when the assessment was
3 included, is beyond useful life?

4 A. Anything from 2000 and younger as shaded in my
5 exhibit was used -- or in an earlier year than 2000 was
6 included in my exhibit, correct.

7 Q. As past useful life. So anything more than 10
8 or 11 years old is considered past useful life in your
9 exhibit?

10 A. Anything older than the year 2000, correct.

11 Q. So if anything, I'll give you the benefit of the
12 doubt saying only 11 years old is past useful life, all
13 these categories of appliances, how does PSE justify
14 offering leased links of up to 18 years for appliances
15 that you classify as being past useful life after ten?

16 A. So useful life -- can you restate your question?

17 Q. I said, if you define anything more than 10 or
18 11 years old as past useful life, how do you justify
19 offering lease links of up 17 to 18 years of so many
20 appliances that only have, by from your definition,
21 useful life of 10 to 11 years?

22 A. As I mentioned, the definition of "useful life"
23 is an average that was applied across all of this
24 equipment. It was an average with 12 to 18 years. And
25 we used 15 years as the defining point of where we've

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1 stated that 40 percent is beyond useful life. In our --

2 Q. I'm sorry, but from this chart, to get to 40
3 percent, it's everything more than 10 or 11 years old,
4 not 15; correct?

5 MS. CARSON: Objection; asked and answered
6 by this witness and several other witnesses.

7 JUDGE KOPTA: I agree. Mr. King, I
8 understand your point, but --

9 MR. KING: Thank you.

10 BY MR. KING:

11 Q. Now we can turn our attention to our exhibit.
12 Retinopathy is not a good thing.

13 JUDGE KOPTA: So your cross-exhibit is
14 LYN-9?

15 MR. KING: 9, yes.

16 BY MR. KING:

17 Q. As part of the development of this case, PSE
18 arranged to hire consultant firm Keystone Strategy to
19 find consultants within the HVAC industry to support
20 your case?

21 A. That is correct.

22 Q. And in looking at your witness list, you did not
23 succeed in finding anybody?

24 MS. CARSON: Objection; calls for
25 speculation, facts not in evidence.

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1 MR. KING: I would argue, Your Honor, the
2 facts are in evidence. There's nobody from the industry
3 standing up for them. It appears to have been found
4 by --

5 JUDGE KOPTA: Well, I'm not sure that you
6 need her to confirm that.

7 MR. KING: Okay.

8 MS. CARSON: And we do have an industry
9 expert testifying.

10 MR. KING: They're a member of the --

11 JUDGE KOPTA: Let's save the argument for
12 the briefs.

13 MR. KING: We'll save that one for that one.

14 BY MR. KING:

15 **Q. One final area. You talk about diversity for**
16 **the utility of the future. Are there other areas in**
17 **which Puget Sound Energy is attempting to diversify its**
18 **activities into the HVAC industry in order to increase**
19 **its profits?**

20 A. What we've proposed is a leasing business within
21 the HVAC, including HVAC equipment.

22 **Q. But you're not looking at moving into the HVAC**
23 **industry in other ways at this time?**

24 A. No, we are not.

25 MR. KING: I'm done, Your Honor.

NORTON

1 JUDGE KOPTA: Thank you, Mr. King.

2 Questions from the bench? Mr. Jones?

3 COMMISSIONER JONES: I'll start, Your Honor.
4 Welcome, Ms. Norton.

5 THE WITNESS: Thank you.

6 COMMISSIONER JONES: I have a few questions
7 on your testimony related to this utility of the future
8 assertion. So do you have your testimony in front of
9 you?

10 THE WITNESS: I do.

11 COMMISSIONER JONES: If you turn to Page 5,
12 please.

13 First of all, Mr. Goltz asked you what your
14 responsibilities are in the Company, so before we get to
15 substantive questioning, what sorts of utility of the
16 future new lines of business are you responsible for at
17 PSE?

18 THE WITNESS: I'm responsible for our
19 compressed natural gas business where we're working with
20 customers to use natural gas in transportation, both
21 through facilities that are available today, as well as
22 building refueling facilities for their on their behalf.

23 I'm also responsible for our street and area
24 lighting business where we're working with customers
25 very closely to move those -- install new street lights,

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1 as well as convert the existing street lights over to
2 LEDs.

3 I'm also responsible for our billing and
4 payment solutions where we've been working with the
5 Commission recently on providing broader payment
6 alternatives to our customers, and that's a newer filing
7 that you recently have heard about.

8 COMMISSIONER JONES: What about on the
9 electric side? I think we have seen you at a few
10 workshops on distributed energy resources, I call that
11 DER, and also on batteries and solar distributed
12 generation, right?

13 THE WITNESS: Right. So I have personally
14 participated in workshops at the Commission on the role
15 of solar in the industry going forward, and those
16 responsibilities now have been slightly modified as it
17 relates to me in that our Director Will Einstein is
18 directly responsible for their development. But
19 historically I was working in that area, as well.

20 COMMISSIONER JONES: So if you're on Page 5,
21 can you just read -- and the reason I'm asking these
22 questions is the Commission in 2014 issued an
23 Interpretive and Policy Statement, right, on third-party
24 owners of what are called net metering facilities;
25 right?

NORTON

1 THE WITNESS: Correct.

2 COMMISSIONER JONES: And you cite to that in
3 your testimony on Page 5; right?

4 THE WITNESS: Yes.

5 COMMISSIONER JONES: The Commissioners at
6 the time were Mr. Goltz, Chairman Danner and myself,
7 right, who signed this policy statement?

8 THE WITNESS: Correct.

9 COMMISSIONER JONES: So the Commission has
10 been looking at these issues for quite a bit of time.
11 So if you could just read Lines 7 through 9, the quoted
12 portion, I would appreciate it.

13 THE WITNESS: Quote, (as read), Incumbent
14 utilities to develop a strategy and business plan to
15 compete more fully in the distributed energy resources
16 market on either in a regulated or unregulated basis.

17 COMMISSIONER JONES: And then your testimony
18 includes a footnote where you cite that Interpretive and
19 Policy Statement; right?

20 THE WITNESS: Correct.

21 COMMISSIONER JONES: So first question to
22 you. Have you ever developed and submitted a
23 Comprehensive Strategy and Business Plan to the
24 Commission for our consideration in any docket, to your
25 knowledge?

NORTON

1 THE WITNESS: As it relates to distributed
2 energy resources?

3 COMMISSIONER JONES: Anything; utility of
4 the future, distributed energy resources, compressed
5 natural gas. As Mr. Casey pointed out earlier today,
6 both the earnings opportunity and the revenue stability
7 of the utility is important going forward; right?

8 THE WITNESS: Correct, uh-huh.

9 COMMISSIONER JONES: So anything.

10 THE WITNESS: So in totality?

11 COMMISSIONER JONES: Yeah.

12 THE WITNESS: I would say no. I think we've
13 presented to you pieces of that opportunity both in the
14 CNG filing as well as now in this filing. So while to
15 my knowledge we haven't filed a comprehensive that I'm
16 aware of, however, I think we've presented to you
17 optional services that fit nicely into the transition of
18 the utility to the future.

19 COMMISSIONER JONES: So do you have any
20 pithy or concise answer as to why you haven't submitted
21 such a plan to the Commission? I think we clearly asked
22 for such a plan. Although, when we get to the Policy
23 Statement it was in a footnote on Page 34, it wasn't in
24 the body. But can you say why the Company hasn't
25 responded to the Commission's request here?

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1 THE WITNESS: Well, our approach -- it's my
2 understanding Commission's request was around
3 distributed energy resources, and --

4 COMMISSIONER JONES: So let me focus on
5 that. What's the relevance of DER, distributed energy
6 resources, to equipment leasing?

7 THE WITNESS: So, as we said in our Advice
8 Letter, we believe this leasing business has the
9 opportunity to provide distributed energy resources into
10 the future, as it makes sense, or if it makes sense for
11 customers as a leased alternative.

12 So it's related in that we believe it will
13 have the flexibility to do that if it's deemed valued by
14 the customer, as well as the Company.

15 COMMISSIONER JONES: Have you read the
16 Interpretive and Policy Statement -- well, I hope you've
17 read it at least several times, but have you read it
18 recently?

19 THE WITNESS: Yes, I have.

20 COMMISSIONER JONES: Okay. So is there
21 any --

22 JUDGE KOPTA: Our apologies to anybody else
23 on the bridge line. Unfortunately, somebody did not
24 heed my earlier direction and now on hold and we're
25 hearing music, so we'll need to mute the bridge line.

NORTON

1 To the person who just put us on hold, we
2 heard the music. Please don't do it again. As I said
3 before, please hang up if you need to break from the
4 hearing and then dial back in.

5 Our apologies, Commissioner.

6 COMMISSIONER JONES: I usually don't ask
7 questions with music in the background.

8 So, Ms. Norton, back to this Policy
9 Statement. Is there any mention of HVAC or equipment
10 leasing in this Policy Statement?

11 THE WITNESS: Not to my knowledge.

12 COMMISSIONER JONES: Would you please turn
13 to the pages, the conclusory section of this on Pages 32
14 through 33, and 34.

15 So in Paragraph 74 (as read), One of the
16 primary recommendations of this Policy Statement would
17 be for the legislature to clarify the Commission's
18 authority over a regulation of third-party owners of net
19 energy metering systems and statute. Do you see that?

20 THE WITNESS: Yes, I do.

21 COMMISSIONER JONES: Has the legislature
22 done that?

23 THE WITNESS: I'm not aware that they have.

24 COMMISSIONER JONES: And then in
25 Paragraph 76, just going down, you say (as read), In

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1 considering the impact on businesses, we do not believe
2 that traditional rate-based rate of return regulation is
3 appropriate for third-party owners. Correct? Do you
4 see that?

5 THE WITNESS: Yes, I see that.

6 COMMISSIONER JONES: Okay. And there is
7 nothing in this filing that relates to third-party
8 ownership of a generation resource ;right?

9 THE WITNESS: Correct.

10 COMMISSIONER JONES: Okay. And in
11 Paragraph 77, it also says (as read), We also believe
12 that state policy should promote competition and further
13 the development of small scale renewable energy. Right?
14 Do you see that?

15 THE WITNESS: Yes, I do.

16 COMMISSIONER JONES: And then in the
17 footnote, Footnote 100, it gets to the quote that you're
18 talking about where we say (as read), We believe the
19 burden is on incumbent utilities to develop a strategy
20 and business plan.

21 Do you see that?

22 THE WITNESS: Yes, I see that.

23 COMMISSIONER JONES: So I'm still a little
24 perplexed as to why you made reference to this on Page 5
25 of your testimony, on this strategy and business plan in

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1 utility of the future.

2 Is it because you think leasing fits into a
3 structure of third-party ownership or utility business
4 future models or what?

5 THE WITNESS: Yes. We believe the leasing
6 would provide a future business model that would allow
7 for distributed energy resources and, perhaps, electric
8 vehicle opportunities, all different types of options.

9 COMMISSIONER JONES: Okay. So it is kind of
10 an indirect link, maybe a platform, with, if you have
11 wi-fi-enabled appliances that connect to the Internet
12 and somehow interconnect with other appliances?

13 THE WITNESS: Yes. We see the future as
14 very interconnected, like you're suggesting, and
15 certainly the end-use equipment is a piece of that
16 puzzle. The end-use equipment combined with the grid
17 and the ability to communicate with and through those
18 pieces of equipment we believe is the future of the
19 utility industry.

20 COMMISSIONER JONES: If you could turn back
21 to Page 5 of your testimony, Lines 13 through 15,
22 please.

23 And following on your point just there, you
24 said (as read), This equipment lease solutions could
25 lead to these sorts of equipment and services in the

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1 future; solar, battery storage, electric vehicle
2 charging. Right?

3 THE WITNESS: Correct.

4 COMMISSIONER JONES: Has the Company ever
5 made a filing to the Commission on solar distributed
6 generation on either an unregulated or regulated basis?

7 THE WITNESS: No, we have not.

8 COMMISSIONER JONES: Has the Company ever
9 made a filing for Tesla batteries or some other
10 manufacturer for battery storage beyond the meter?

11 THE WITNESS: No. We're discussing,
12 actively discussing these within the Company today, but
13 we are not ready to propose a program or service at this
14 time.

15 COMMISSIONER JONES: And then on EV
16 charging, I think you're in charge of this pilot program
17 at PSE.

18 Could you briefly describe, there's some
19 small, limited pilot program, correct, on EV charging,
20 but does that have any relationship to equipment
21 leasing?

22 THE WITNESS: So currently we're providing a
23 rebate to customers that install level two chargers
24 within our service territory. It's a pilot to
25 understand the frequency by which they install these, to

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1 understand their charging patterns so that we can
2 respond with an appropriate program in the future. For
3 clarification, I'm no longer responsible for the EV;
4 that is in Will Einstein's organization.

5 But we do see the similarity in a lot of
6 these products is their large, complex capital
7 investments that are in customers' and business' homes,
8 and they don't have a lot of differentiating emotional
9 features that, you know, make them want to be very
10 distinguishable on their selection. And EV charging, we
11 would put in that category, as well.

12 COMMISSIONER JONES: Let's move on to
13 Page 12. Thank you. Page 12 on the customer survey. I
14 just have a few brief questions here.

15 So on Lines 9 through 17, you describe why
16 surveys are a good indicator of customer interest. So,
17 and I just had a chance to look today on your survey
18 that was on my desk when I came in on Cocker Fennessy
19 Survey.

20 So you used Cocker Fennessy and then Cocker
21 Fennessy used Pacific Market Research -- well, they used
22 several subcontractors; right?

23 THE WITNESS: Correct.

24 COMMISSIONER JONES: Specifically, Research
25 Now and SSI to conduct the survey ;right?

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1 THE WITNESS: Correct.

2 COMMISSIONER JONES: So I guess my question
3 to you is, how familiar and how many -- who on your
4 staff is most familiar with customer surveys, and do you
5 do this on a regular basis or do you usually just
6 contract out this work to either Cocker Fennessy or
7 another type of survey firm?

8 THE WITNESS: We do surveying routinely on
9 our own. We have an active consumer panel that we work
10 with where we use that consumer panel to ask them
11 various questions about our service.

12 So we manage that directly. We also rely on
13 outside experts to provide expertise in the area of
14 market research, whether it's Cocker Fennessy,
15 J.D. Power, or other research firms to help us better
16 understand all different aspects of our business,
17 whether it's customer interest, whether it's features,
18 whether it's how to navigate the Web more effectively.
19 So we use surveying routinely and consistently all the
20 time in business.

21 COMMISSIONER JONES: I think you would agree
22 that behavioral economics, such as Opower's programs and
23 others, are kind of transforming and changing the
24 industry these days; right?

25 THE WITNESS: It's definitely impactful.

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1 COMMISSIONER JONES: And those programs rely
2 both on understanding of consumer behavior and
3 statistics; right?

4 THE WITNESS: Correct.

5 COMMISSIONER JONES: So my question is, do
6 you have any people on your staff who are experts in
7 either behavioral economics or statistics that can look
8 at this data in a very professional way and respond to
9 your contractors and subcontractors?

10 THE WITNESS: So we have a whole department
11 called Competitive Intelligence where their role is to
12 research customers from all different aspects of
13 research, understand consumer behavior, and use that to
14 help guide our business decisions.

15 So yes, we do have a whole department called
16 Competitive Intelligence that's looking at different
17 aspects of consumer behavior.

18 COMMISSIONER JONES: Okay, thank you.

19 Judge, that's all I have, thank you.

20 JUDGE KOPTA: Thank you. Mr. Jones.

21 COMMISSIONER DANNER: Thank you. I just
22 wanted to get some clarification on your understanding
23 of the definition of "useful life."

24 If something is past its useful life, it
25 does not necessarily mean that it does not function

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1 anymore. Is that your understanding?

2 THE WITNESS: Correct.

3 COMMISSIONER DANNER: Okay. But you did say
4 something about efficiency, that as it gets older?

5 THE WITNESS: So typically my understanding
6 as -- and I think would be supported by a lot of
7 manufacturers in the industry, that as equipment ages,
8 its performance degrades over time.

9 COMMISSIONER DANNER: Okay. So that's your
10 understanding of the definition of "useful life," and
11 that's really what I'm getting at.

12 THE WITNESS: Yes. I mean, "useful life" is
13 a term used to suggest the average age or life that that
14 equipment is intended to last, and --

15 COMMISSIONER DANNER: But the fact that you
16 reached the end of useful life, as I heard questions
17 before, "useful life" does not equal "useful," and so
18 it's possible that something can function?

19 THE WITNESS: It's possible that something
20 can function beyond the defined term, yes.

21 COMMISSIONER DANNER: Okay. And is it your
22 understanding that even beyond possible, that there
23 would be many pieces of equipment out there that are
24 past their useful life that are still in service,
25 whether they're efficient or not?

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1 THE WITNESS: There's a significant share of
2 pieces of equipment out there that are beyond their
3 useful life, as we've defined in our testimony.

4 COMMISSIONER DANNER: Okay. And then I want
5 to get your understanding of the term that we hear a
6 lot, "utility of the future."

7 So the utilities -- many utilities, most
8 utilities in Washington State are required by
9 Initiative 937 to pursue all cost-effective
10 conservation. Is Puget Sound Energy one of those
11 utilities?

12 THE WITNESS: It's my understanding we are.

13 COMMISSIONER DANNER: And because of that,
14 are your loads leveling off, are they flattening, are
15 they reducing?

16 THE WITNESS: Our loads are very -- are
17 leveling and I believe declining.

18 COMMISSIONER DANNER: And when that happens,
19 does that affect the revenue that you get from the sale
20 of electricity as a commodity?

21 THE WITNESS: So we are a decoupled company.
22 And I'm not the revenue requirements expert, but it's my
23 understanding that because of our decoupling mechanism,
24 that we are neutral to the impact of declining loads.

25 COMMISSIONER DANNER: Okay. But absent

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1 that, the decline in the sale of electricity could lead
2 to a change in the business model?

3 THE WITNESS: It could, yes, yes.

4 COMMISSIONER DANNER: And then with regard
5 to new technologies, Commissioner Jones mentioned your
6 testimony when you talked about solar and energy storage
7 and electric vehicles. In fact, solar, you are involved
8 currently in -- you have customers who are net metering
9 service?

10 THE WITNESS: Yes, we do.

11 COMMISSIONER DANNER: And so are you aware
12 of debates over whether that functions as a cost shift
13 to other customers, the customers who do not net meter?

14 THE WITNESS: I'm very aware of the debates
15 about solar and the impact that's having, and who is
16 bearing the cost of some of that self-generation,
17 correct.

18 COMMISSIONER DANNER: And energy storage;
19 has your company been involved in exploring energy
20 storage in parts of its system?

21 THE WITNESS: So it's my understanding we
22 have been exploring storage, yes, both at the consumer
23 level and at the utility level.

24 COMMISSIONER DANNER: And you have customers
25 participating in electric vehicle?

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1 THE WITNESS: Yes, we do.

2 COMMISSIONER DANNER: So is it your
3 understanding or the Company's understanding that there
4 are changes afoot in the electric utility business in
5 that the traditional expectations of gradual load growth
6 just aren't there anymore, that they're seeing changes?

7 THE WITNESS: Absolutely, and that's what
8 we've been pursuing and looking at is how will these
9 changes and these new technologies change the way we
10 operate, partner with our customers, and remain a viable
11 utility into the future.

12 COMMISSIONER DANNER: Okay. And when you
13 have -- if you have customers who, for example, were to
14 look at solar rooftop, which I'm sure you have customers
15 who are looking at that, large and small customers?

16 THE WITNESS: Yes.

17 COMMISSIONER DANNER: Does that -- you still
18 have the requirement to serve all remaining customers,
19 even though there will be fewer customers within the
20 service territory on the grid who would be paying for
21 those services?

22 THE WITNESS: Correct.

23 COMMISSIONER DANNER: Under traditional
24 rate-making --

25 THE WITNESS: Correct.

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1 COMMISSIONER DANNER: And so regulators like
2 the Company have to be looking at new business models.
3 Is that your understanding?

4 THE WITNESS: Exactly. As we talked about
5 in workshops, the self-generation is having a
6 significant impact, and we're looking at ways to help
7 the transition to the future while making it affordable
8 to the customers that are on the system.

9 And I think that providing businesses that
10 help us diversify with our customers and diversify some
11 of the financial earnings for the Company helps us
12 bridge that tension that's happening, you know,
13 happening and expect it to continue to happen, into the
14 future.

15 COMMISSIONER DANNER: Thank you.

16 JUDGE KOPTA: Commissioner Rendahl?

17 COMMISSIONER RENDAHL: Good morning.

18 THE WITNESS: Good morning.

19 COMMISSIONER RENDAHL: So this may be a
20 question for Mr. McCulloch, but in this program, to what
21 extent will customers be involved in deciding which
22 specific equipment is selected for installation?

23 I understand there's a sort of category that
24 the Company has chosen and programmed, but to what
25 extent do customers get to choose what they actually get

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1 in the home?

2 THE WITNESS: I will defer that to
3 Mr. McCulloch. But the intention is that customers have
4 the amount of choice that they need to move forward and
5 fulfill the need that they have when they call us.
6 Mr. McCulloch can probably address that more
7 specifically.

8 COMMISSIONER RENDAHL: One other question.
9 You mentioned today that in your work that you do in
10 your group, that customers are asking today for this.
11 Are they asking for this leasing program? I mean, do
12 you have responses at the Company, statements that
13 customers have asked the Company to lease equipment to
14 them?

15 THE WITNESS: So I'm sure you're familiar
16 that we currently have 33,000 customers that are renting
17 water heaters and conversion burners from us, and
18 continue to do so. And by nature of them having it,
19 they're asking to move those -- to also do it in,
20 perhaps, their new homes or their new businesses, as
21 well as customers are aware that we are doing it for
22 others and are calling us and asking us if they can also
23 participate in the program.

24 COMMISSIONER RENDAHL: So where is that --
25 is there survey evidence of those leasing customers

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1 that's in the record, or is it just based on the NEEA
2 survey? Or is this just anecdotal?

3 THE WITNESS: This would be anecdotal based
4 on -- I mean, it's based on what we're experiencing
5 every day. I'm not sure that it's anywhere in the
6 record thus far.

7 COMMISSIONER RENDAHL: Okay, thank you.

8 JUDGE KOPTA: Are you going to have
9 redirect, Ms. Carson?

10 MS. CARSON: Yes, I am.

11 JUDGE KOPTA: Well, it's now noon. We will
12 need to take our break at this point.

13 MS. BROWN: Your Honor, I would like to make
14 a formal request that we proceed to finish up with this
15 witness and have Ms. Carson complete her redirect rather
16 than have an hour to work with the witness on preparing
17 redirect, but it's an hour that we will not have with
18 our witnesses.

19 JUDGE KOPTA: How long, do you think,
20 Ms. Carson?

21 MS. CARSON: Probably five to ten minutes.

22 COMMISSIONER DANNER: I think we have to
23 avoid any kind of international faux pas being late to
24 our lunch engagement with the Cambodians.

25 JUDGE KOPTA: All right. If we can keep it

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1 as briefly as reasonable, it will be appreciated.

2 Go ahead, Ms. Carson.

3 MS. CARSON: Thank you, Your Honor.

4
5 REDIRECT EXAMINATION

6 BY MS. CARSON:

7 Q. Ms. Norton, you were asked about some of the
8 commitments that PSE made in LYN-3.

9 Do you recall those questions?

10 A. Yes.

11 Q. And you were asked if PSE has previously prior
12 to your testimony addressed demand response.

13 Do you recall that?

14 A. Yes.

15 Q. Do you have with you the filing letters that PSE
16 made when it initially filed these tariffs?

17 A. I do not.

18 Q. So, I'm looking at the September 18 filing
19 letter, September 18, 2015. Do you have that before
20 you?

21 A. Yes, I do.

22 Q. And I'm looking at Page 6 of this letter. Are
23 there any references to "demand response" on Page 6?

24 A. Yes, there is.

25 Q. And in this letter, do you see any discussion of

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1 reporting to the Commission?

2 A. Yes, I do. We talk about following -- offering
3 the reporting as an optional service. So, yes, I see
4 both. We talk about which times the demand response
5 becomes available to the customers. We will consider
6 the role the leasing business has in that program, and
7 as you might be aware, we currently have a filing before
8 the Commission on RFP for demand response today.

9 **Q. And I think it also -- look at the second filing**
10 **letter that PSE filed on November 6, 2015.**

11 **Do you have that with you?**

12 A. Yes, I do.

13 **Q. And if you could look on Page 8 of that filing.**

14 A. Yes.

15 **Q. Is there any discussion on Page 8 in this filing**
16 **letter of PSE's commitment to reporting to the**
17 **Commission?**

18 A. Yes. In Section 5 we state that PSE will submit
19 a report to the UTC on the details of the type of
20 equipment leased, the number of customers, failure
21 rates, all sorts of items.

22 **Q. Thank you. Now I'd like to turn to the**
23 **Exhibit BTC-2HC. You were asked questions about that.**
24 **Do you have that in front of you?**

25 A. Yes, I do.

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1 **Q. I believe Mr. Casey questioned you about this**
2 **document?**

3 A. Yes, he did.

4 **Q. So this is a highly confidential document, and**
5 **it has highly confidential, so we want to avoid**
6 **referencing that, but there were questions about PSE's**
7 **assumptions on market share.**

8 **Can you elaborate on what PSE means in this**
9 **document when it's talking about market share?**

10 A. Sure. On the left side of the exhibit we talk
11 about some scenarios of market share, and these were
12 based -- basically the high, low, medium scenario is
13 based on the customers that have expressed interest in
14 the service.

15 So, as we've stated on the record, 25 percent of
16 our customers have expressed interest in leasing, and
17 the low, medium, and high scenarios are to articulate if
18 a low percentage of those customers were to participate,
19 this is what the numbers would look like, a medium case
20 and a high case.

21 This is not to suggest all water heaters in the
22 market; this is only the share of customers that had
23 expressed interest in the service.

24 **Q. Thank you. You were also asked by Commissioner**
25 **Jones about the relationship between HVAC and future**

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1 products, and there was reference to a platform.

2 Can you elaborate on this platform and what role
3 the leasing equipment that we've referenced in this
4 filing relates to that platform?

5 A. Yes. As we've stated in our advice letter, and
6 throughout our testimony, we believe that this leasing
7 platform will -- we believe the future is the
8 interconnectedness between end uses in business and
9 homes, as well as the grid.

10 And we believe this platform will provide us the
11 opportunity to make affordable to customers today HVAC
12 and water heater equipment, but possibly tomorrow other
13 emerging technologies and make them more affordable to
14 customers and make the decision that they face in
15 deciding whether or not it meets their needs, to make it
16 simpler to implement those.

17 **Q. So do you see this filing as facilitating some**
18 **of these other future options?**

19 A. Absolutely.

20 **Q. You were asked by Commissioner Rendahl about**
21 **whether customers are asking for this service, and you**
22 **said it was anecdotal.**

23 **Is it all anecdotal or are there other surveys**
24 **or other evidence indicating that PSE customers are**
25 **interested?**

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1 A. Certainly we have the surveys that we've
2 conducted, three different surveys over the course of
3 the last two or three years, that conclude consistently
4 that customers, 25 to 30 percent of customers are
5 interested in this business.

6 So that is not anecdotal, but we have multiple
7 surveys that support customer interest. What I don't
8 have on record are the actual calls that come in every
9 day. But I think we've demonstrated that we've surveyed
10 multiple times and customers are interested in this
11 service.

12 **Q. And are customers calling in and asking for the**
13 **lease service?**

14 A. Absolutely.

15 MS. CARSON: That's all I have. Thank you.

16 JUDGE KOPTA: Thank you, Ms. Carson. And
17 thank you Ms. Norton; we appreciate your testimony and
18 you're excused.

19 And we will be in recess until 1:40, so if
20 we will reconvene at that time. We're off the record.

21 (Lunch break.)

22 JUDGE KOPTA: Let's be back on the record
23 after our lunch break. It's still PSE's call. Would
24 you call your next witness.

25 MS. CARSON: Thank you, Your Honor. PSE

1 calls Malcolm McCulloch as its next witness.

2
3 MALCOLM McCULLOCH,
4 having been duly sworn, testified as follows:
5

6 JUDGE KOPTA: There's prefiled testimony and
7 most of the exhibits have already been admitted, so I
8 believe we can go directly to cross; is that correct?

9 MS. CARSON: That's correct, Your Honor.

10 JUDGE KOPTA: Mr. Casey.
11

12 CROSS-EXAMINATION

13 BY MR. CASEY:

14 Q. All right. Mr. McCulloch, can you please turn
15 to MBM-1T, Page 1.

16 A. Yes.

17 Q. Line 19.

18 A. Yes.

19 Q. So on April 25, 2016, over seven months after
20 the Company initiated these dockets, you revised your
21 direct testimony to remove the word "selling" from the
22 list of leasing activities you were responsible for as
23 Leasing Manager; correct?

24 A. Correct. The "selling" was removed because as a
25 lease service we do not sell equipment, and that was

1 more used to define the process of customer acquisition,
2 education, bringing them into the lease service. And we
3 felt it was appropriate to remove it because there was
4 some misunderstanding of the term.

5 **Q. Okay. So you were mistaken or just the wrong**
6 **use of the term, or you thought it would give off the**
7 **wrong kind of impression; is that correct?**

8 A. Correct. The term was mistakenly used.

9 **Q. And in this list there's also "marketing." And**
10 **so how was that different from how you were using the**
11 **word "selling"?**

12 A. Again, the term of customer acquisition from the
13 perspective of this service is all the way from
14 education through to actually securing a signature on a
15 customer lease.

16 So there are a lot of stuff that happens in
17 between those, and so I think that the changes that were
18 made in my testimony clearly reflect the
19 responsibilities that I have in operating this business.

20 **Q. You agree that there's a difference between a**
21 **sale and a lease; correct?**

22 A. I do agree there's a difference between a sale
23 and a lease.

24 **Q. And that that difference is in the essence of**
25 **the underlying transaction, not the words someone uses**

1 to label the transaction; correct?

2 A. I think that's an appropriate definition.

3 Q. So in other words, just because you used and
4 then struck the word "selling" doesn't mean that the
5 leasing service is necessarily a sales program; correct?

6 MS. CARSON: Objection; argumentative.

7 MR. CASEY: I'll move on.

8 JUDGE KOPTA: Thank you.

9 BY MR. CASEY:

10 Q. So next I want to discuss the tariff changes
11 that the Company made midway through this proceeding.
12 And I passed out some pages from the tariff just in case
13 people didn't have it with them.

14 So the initial tariff the Company filed at the
15 outset of this proceeding did not include rates;
16 correct?

17 A. As we detailed in our Advice Letter and in
18 communications with all parties prior to filing, we did
19 not have rates filed with the tariff upon our
20 September 18th filing.

21 Q. At the prehearing conference, the parties agreed
22 that on February 17, 2016, the Company would file a
23 revised tariff that included rates; correct?

24 A. That's correct.

25 Q. And when the Company filed its revised tariff,

1 **it also updated a significant number of the terms and**
2 **conditions contained within the tariff; correct?**

3 A. There was discussion both at the open meeting
4 and the prehearing conference, as well as conversations
5 we continued to have with parties, that provided us
6 additional input that we assessed and included in that
7 revision where we thought it was appropriate.

8 **Q. I specifically want to discuss the Termination**
9 **provision on Tariff Sheet Number 75-U which addresses**
10 **what would happen at the end of the lease term, and**
11 **that's the top page. To be clear, this is the tariff as**
12 **originally filed, not as corrected.**

13 PSE's initial tariff provided, "Upon expiration
14 of the Lease Term, PSE will transfer ownership of the
15 Equipment to Customer by delivery of a bill of sale for
16 the Equipment." Correct?

17 A. That is what was originally filed, but again, we
18 changed that in our filing that was providing a more
19 detailed explanation of the phases of what would happen
20 at the end of a lease, which is consistent with a normal
21 lease term where an individual or a lessor returns
22 equipment that it has been using during that period of
23 lease.

24 **Q. Do you agree that as originally filed, the**
25 **proposed leasing service had the economic essence of a**

1 **sale?**

2 MS. CARSON: Objection; calls for a legal
3 conclusion.

4 JUDGE KOPTA: Overruled. He can answer the
5 question. I believe it's not a legal question, but is
6 something about a sale.

7 THE WITNESS: That could be an
8 interpretation.

9 BY MR. CASEY:

10 Q. So let's flip to the next page. This is again
11 Sheet 75-U as substituted on February 17, 2016. So the
12 revised tariff now provides customers with two options
13 at the end of the lease term.

14 Option 1 is to enter into a new lease with PSE,
15 at which point PSE will replace the old equipment with
16 identical or similar equipment, or Option 2 which is to
17 have PSE remove the equipment entirely; correct?

18 A. That is what's stated in the tariff.

19 COMMISSIONER DANNER: Excuse me. I just
20 want to make sure I'm looking at -- what I have in front
21 of me now, this is the original or is the revised?

22 MR. CASEY: The top page is the original;
23 the second page is the revised.

24 COMMISSIONER DANNER: Thank you, that's the
25 clarification I wanted.

1 BY MR. CASEY:

2 Q. And now I want to move to the third page.

3 MS. CARSON: Excuse me. My second page is
4 not the revised. Oh, okay. Right, okay.

5 BY MR. CASEY:

6 Q. And now I want to go to the third page. Again
7 this is the revised tariff as currently filed and at
8 issue. And this is Sheet 75-R which contains the option
9 to purchase. The customer can exercise this option to
10 purchase at any time during the lease term; correct?

11 A. That is correct.

12 Q. That includes the first day and the last day of
13 the lease term; correct?

14 A. As long as those fall within the term of the
15 lease, that is correct.

16 Q. Can you explain how the purchase price works?

17 A. The purchase price is based on the Company
18 recovering its capital costs and weighted costs of
19 capital associated to that through the term that the
20 lease is terminated.

21 Q. So would it be fair to say, and maybe I'm
22 simplifying, but that the closer you are to the end of
23 the lease, the less the purchase price will be?

24 A. Yes, because that cost is predicated on the
25 depreciated value of that asset as we recover on it over

1 time.

2 **Q. So if a customer waited until the last possible**
3 **minute to exercise the purchase option, at that point**
4 **would the purchase price be nominal?**

5 A. Well, I don't know; I can't speak on every
6 customer's position on whether a cost is nominal or not.
7 I do know that we have 32,000 customers that rent from
8 us today that have this option to purchase as was
9 ordered by this Commission. And when equipment fails
10 that option is presented to those customers, and the
11 majority of customers choose to continue this service.

12 So, whether it's a nominal cost, there's still
13 value that customers find in it. So it would be
14 difficult for me to determine from a customer's
15 perspective what is appropriate.

16 **Q. Would it be fair to characterize the purchase**
17 **price on the last day of the lease as being very, very**
18 **small relative to the cost on the first day of the**
19 **lease?**

20 A. That is fair, especially predicated on the fact
21 that these leases are long-term leases, some of them up
22 to 18 years old.

23 **Q. PSE would educate leasing customers so they're**
24 **fully aware of the purchase option; correct?**

25 A. PSE would provide in our tariff, we've provided

1 that option so that they have that information available
2 to them, and if customers choose to contact us with that
3 option, we would provide them the information.

4 **Q. So you would only let -- you would provide**
5 **customers -- just so I'm clear of what you just said,**
6 **you would provide customers with the lease, with the**
7 **tariff at the very beginning of the lease term, and then**
8 **you would not remind them about the option to purchase**
9 **again, unless they asked?**

10 A. So, I haven't designed the program out 15 years,
11 specifically, on all the communication that will happen
12 with customers. Of course, we will own the equipment,
13 and we will continue to communicate with customers about
14 the options that they have available; maintenance,
15 repairs, replacement.

16 However, we think that this is a lease service,
17 and the customers are getting this value because they
18 want a comprehensive approach. They're not looking,
19 from what we've found in our surveys with customers, for
20 an opportunity to come buy a piece of equipment from us.

21 They're looking for a lease, and we're treating
22 it that way. If customers are going to contact us with
23 questions about whether they are selling their home and
24 what options are available to them in that transaction,
25 we would certainly provide them that purchase option

1 information.

2 **Q. If customers are fully aware of the purchase**
3 **option, there's a good chance that many will exercise**
4 **that option, particularly just before the lease term**
5 **ends; correct?**

6 MS. CARSON: Objection; calls for
7 speculation and argumentative.

8 MR. CASEY: Your Honor, I would say this is
9 not speculative. These are necessary questions of fact
10 to determine whether the underlying transaction is, in
11 fact, a lease or a sale as a matter of law.

12 JUDGE KOPTA: I believe you could rephrase
13 the question and ask him if he is aware if that's what
14 customers are likely to do.

15 BY MR. CASEY:

16 **Q. Are you aware as to whether or not customers**
17 **would likely purchase their equipment in a situation at**
18 **the end of the lease where the relative purchase price**
19 **is small, and their equipment is still working fine, and**
20 **their option would be to enter into a long-term lease**
21 **with PSE or to have the equipment removed?**

22 MS. CARSON: Object to the form of the
23 question. Ambiguous.

24 JUDGE KOPTA: Overruled. Answer if you can.

25 THE WITNESS: To what I can speak to is what

1 I know of today in our rental service. And as I have
2 already testified to, customers contact us today when
3 their equipment is failing, and they have the option to
4 purchase at that time which is disclosed to them. And
5 those customers, in large, choose to continue the lease,
6 because it's of value to them.

7 BY MR. CASEY:

8 **Q. Well, why would a customer purchase a failing**
9 **piece of equipment?**

10 A. I'm sorry?

11 **Q. You said customers call you when their equipment**
12 **is failing, and you let them know about the purchase**
13 **option. Why would a customer purchase a failing piece**
14 **of equipment?**

15 A. I don't think that they would. I think the
16 other options that we provide them is the fact that we
17 will come replace that or repair that without any cost.

18 But even in a customer situation where they're
19 doing a transaction in their home, many customers who
20 are taking on that home also acquire the lease in that
21 transaction.

22 So again, you're asking me to speak to the
23 future, and what I can give you is information that I
24 have relative to today's service.

25 **Q. You acknowledge that this filing requires us to**

1 **speak to the future because you are proposing a service**
2 **that would lock customers into a transaction for 18**
3 **years, as you just testified; correct?**

4 A. It is a long-term transaction, yes.

5 **Q. Thank you. Is it PSE's expectation that**
6 **customers will read the Company's tariff to educate**
7 **themselves on the terms of the proposed transaction?**

8 A. As I've stated in my testimony, we will present
9 the customers with the terms and conditions of this
10 lease prior to them signing the agreement.

11 **Q. And it's PSE's expectation that simply providing**
12 **them with a 19-page tariff is sufficient to educate**
13 **customers?**

14 A. I don't think you understood my response.
15 Customers are presented with the terms and conditions
16 prior to their accepting the lease, so they will have
17 within their capability to fully review all the terms in
18 the 19 pages that you stated, and attest to and verify
19 that they've reviewed those and accepted those terms.

20 **Q. Isn't one of the reasons you give for offering**
21 **this service that customers don't want to be bothered**
22 **with all that information?**

23 A. It certainly is an issue that comes up with
24 customers, but any transaction we do today, even if it's
25 buying an app online, you have to agree to terms and

1 conditions that many people will review or not.

2 But the fact of the matter is we're doing our
3 duty of disclosing to the customers through the tariff,
4 as well as in other mechanisms of the terms of this
5 lease.

6 JUDGE KOPTA: So please don't make comments
7 from the gallery.

8 BY MR. CASEY:

9 Q. Let's turn to your rebuttal testimony, MBM-7 --
10 well, I don't have a page yet, so I'll just start with
11 questions.

12 Cocker Fennessy was retained to survey customer
13 interest in leasing services after the start of this
14 proceeding; correct?

15 A. Cocker Fennessy was retained in January which
16 was after we filed our initial tariff; correct.

17 Q. And in fact, Perkins Coie retained Cocker
18 Fennessy for the purpose of this litigation; correct?

19 A. That is probably an overstatement. Perkins
20 Coie, who is our attorneys in this litigative process,
21 as with any litigative process, advises us on
22 consultants that can address issues that we're working
23 with on a litigative case, and yes, we did secure them.

24 MS. CARSON: And I would just caution the
25 witness not to testify on any matters that would trigger

1 the attorney-client privilege.

2 THE WITNESS: Thank you.

3 BY MR. CASEY:

4 Q. In your rebuttal testimony on Page 26, you
5 testified one of the reasons PSE asked Cocker Fennessy
6 to conduct the survey was so the survey process was
7 entirely removed from PSE; correct?

8 A. That is correct. As Ms. Norton stated, we have
9 an internal intelligence team that did previous surveys
10 for us, and we thought it was appropriate to have a
11 third party conduct an additional survey outside of PSE
12 conducting that work.

13 Q. However, in your direct testimony you state (as
14 read), Surveys were completed in partnership with PSE's
15 customer intelligence team leveraging the existing
16 residential customer panel as well as with third-party
17 research consultant Cocker Fennessy. Correct?

18 A. Can you point to me where I noted that?

19 Q. MBM-1T, Page 4, Line 14.

20 A. What I alluded to there is the fact that we had
21 done multiple surveys, including surveys directly with
22 our internal customer intelligence team, that were
23 entered into my exhibit as my rebuttal as 18, as well as
24 the surveys that were completed through Cocker Fennessy.

25 Q. Isn't it true that you, Ms. Norton, and

1 **Mr. Englert or some combination thereof provided the**
2 **survey inputs to Cocker Fennessy and then reviewed**
3 **questions Cocker Fennessy drafted to ensure the survey**
4 **contained relevant questions?**

5 A. We provided Cocker Fennessy with an overview of
6 the service to help inform how they would field the
7 survey, as well as we reviewed the information in draft
8 format.

9 **Q. Is that a "yes"?**

10 A. That is a "yes" with a qualifying yes.

11 **Q. And you reviewed multiple drafts of that survey;**
12 **correct?**

13 A. To my knowledge, yes.

14 **Q. Please turn to MBM-7T, Page 26, Line 15 through**
15 **22.**

16 MS. CARSON: Can you give the cite again,
17 please?

18 MR. CASEY: MBM-7T, Page 26.

19 BY MR. CASEY:

20 **Q. You testify that Ms. Kimball and the other**
21 **parties that criticize the Cocker Fennessy Survey draw**
22 **conclusions that are not based on a firm understanding**
23 **of industry-standard research methods; correct?**

24 A. That statement was made based on reviewing their
25 rebuttal -- or their prefiled testimony and not seeing

1 any evidence of that information.

2 **Q. So is that a "yes" with a qualification?**

3 A. Yes.

4 **Q. You also rebut their criticisms of the survey by**
5 **asserting they failed to provide testimony or evidence**
6 **from an expert in the field of survey design and**
7 **analysis that the Cocker Fennessy Survey methodology was**
8 **flawed; correct?**

9 MS. CARSON: I'm going to object to the
10 reading of this witness's testimony and asking him if
11 it's correct.

12 MR. CASEY: Would you like me to have him
13 read it?

14 MS. CARSON: The testimony is in the record.
15 I don't think that it needs to be reread.

16 JUDGE KOPTA: I agree, unless you're trying
17 to set up a different point. If you could refer him to
18 the testimony point and ask whatever the question is,
19 rather than having him repeat the testimony or you
20 repeating the testimony. I think it would be a more
21 productive use of our time.

22 BY MR. CASEY:

23 **Q. In this proceeding, PSE did not offer a witness**
24 **from Cocker Fennessy to testify about the survey**
25 **methodology; correct?**

1 A. That is correct.

2 Q. Your Bachelor's of Arts in Asian Studies does
3 not make you an expert in the field of survey design
4 analysis; correct?

5 A. No, it does not, and that's why we reached out
6 to Cocker Fennessy and our intelligence team to assist
7 us with this process.

8 Q. Can we please turn to MBM-4.

9 A. Yes.

10 Q. Is this the survey methodology as identified by
11 Cocker Fennessy?

12 A. Are you referring to a specific page?

13 Q. Yes. Page 1, at the top.

14 MS. CARSON: Object to the question as
15 ambiguous in terms of "survey methodology."

16 JUDGE KOPTA: If you point to it, obviously,
17 one of the headings is "Methodology," and I'm not sure
18 whether that's what you were referring to.

19 MR. CASEY: That is what I was referring to.

20 JUDGE KOPTA: Let me interject at this
21 point. It does say "Confidential Draft" at the top of
22 this page. Is this a confidential document?

23 MS. CARSON: It is not a confidential
24 document at this point in time.

25 JUDGE KOPTA: All right. I wanted to make

1 that clear. It wasn't designated according to our
2 protocols. It was designated confidential, and I wanted
3 to make sure.

4 MS. CARSON: Thank you, Your Honor.

5 THE WITNESS: So I will answer this. This
6 is a very broad stroke at explaining an executive
7 summary, might I say, of explaining how this survey was
8 conducted. I don't think it goes to the scientific
9 methodology of the survey. And I'm not in a position to
10 answer any questions regarding that process.

11 BY MR. CASEY:

12 **Q. Okay. Please turn to MBM-37. I want to talk**
13 **about Page 6. Just to situate us, this is Puget**
14 **Energy's Code of Ethics, and it applies to PSE.**

15 **And most of my questions are going to be**
16 **directed in this Section 10 in the middle of the page.**

17 MR. CASEY: I'm being advised to move for
18 admission of Puget Energy's Code of Ethics before I
19 start asking questions about it.

20 JUDGE KOPTA: My understanding was that
21 Ms. Carson wanted to make sure she knew how you were
22 going to use it before she objected and took a position
23 on whether it's being admitted. So, at this point, I
24 suspect she still maintains that position, and so you
25 need to ask your questions first.

1 MR. CASEY: Well, okay.

2 BY MR. CASEY:

3 Q. PSE, as a regulated utility, is afforded certain
4 privileges that many other companies do not realize;
5 correct?

6 MS. CARSON: Object to the form of the
7 question.

8 JUDGE KOPTA: I don't understand -- that's
9 awfully vague. Can you restate that?

10 BY MR. CASEY:

11 Q. PSE is a regulated utility within Washington
12 state, and as such, it is afforded certain privileges,
13 such as service territory where they provide service.
14 Many other companies do not -- unregulated companies do
15 not have service territories, for example.

16 JUDGE KOPTA: Does that make it clear,
17 Mr. McCulloch?

18 THE WITNESS: Thank you. Yes, I would agree
19 that PSE has allowances, but we also have additional
20 oversight that other companies do not have.

21 BY MR. CASEY:

22 Q. And one of the purposes of the Utility and
23 Transportation Commission is to provide that oversight,
24 a system of checks and balances to counter the effect of
25 PSE having some of those privileges, such as a service

1 **territory; correct?**

2 A. I wouldn't be afforded this great opportunity if
3 that wasn't the case.

4 JUDGE KOPTA: We appreciate you thinking
5 that.

6 BY MR. CASEY:

7 **Q. This Code of Ethics provides that PSE should**
8 **avoid certain activities, which are bullet-pointed in**
9 **the middle of the page; correct?**

10 A. Yes.

11 **Q. I want to discuss that first bullet point.**
12 **Would you mind reading it?**

13 A. "Never discuss prices, terms of sale, or other
14 competitive information with competitors or attend
15 meetings with competitors at which such topics are
16 discussed."

17 **Q. In this proceeding, PSE asked for and received a**
18 **Protective Order for confidential and highly**
19 **confidential information; correct?**

20 A. That is correct.

21 **Q. And that Protective Order only protected PSE's**
22 **competitive information from its competitors, it did not**
23 **protect the competitive information of other parties;**
24 **correct?**

25 MS. CARSON: Objection; that misstates the

1 Protective Order and the way that the Protective Order
2 has been used. Other parties have marked their
3 confidential information as highly confidential and
4 confidential under the Protective Order.

5 JUDGE KOPTA: I agree. I don't believe that
6 accurately reflects the Order that I signed.

7 BY MR. CASEY:

8 **Q. PSE objected to several parties signing**
9 **confidentiality agreements which ultimately prevented**
10 **those parties from viewing any information PSE deemed**
11 **confidential; correct?**

12 MS. CARSON: I'm going to object again.
13 That was pursuant to the terms of the Protective Order,
14 and PSE abided by the Protective Order and asked for it
15 to be enforced. It was enforced bilaterally.

16 JUDGE KOPTA: I agree, that misstates. They
17 weren't rejecting parties, they were objecting to
18 individuals.

19 MR. CASEY: Fine. I'm not trying to imply
20 anything other than just recapturing the facts that
21 underlie this administrative proceeding and,
22 essentially, which parties are privy to and not privy to
23 information.

24 JUDGE KOPTA: Well, we have signed
25 protective agreements that are part of the Commission's

1 files that we can take official notice of, if necessary,
2 if that's what you need as a foundation for your
3 question.

4 BY MR. CASEY:

5 **Q. During the course of this proceeding, PSE has**
6 **learned a lot about would-be competitors' prices, terms**
7 **of sale, and other competitive information; correct?**

8 MS. CARSON: Objection; argumentative.

9 JUDGE KOPTA: Are you going someplace with
10 this, Mr. Casey? I'm having a hard time seeing where
11 you're trying to get with this line of questions.

12 MS. BROWN: Yes. First of all, many of the
13 objections raised by PSE's counsel, there's no basis for
14 the objection; there's no stated basis for the
15 objection.

16 The other thing is, we are focusing on,
17 number one, I think we're entitled to emphasize what we
18 think is important to this case for the Commission in
19 its decision-making authority, but the anticompetitive
20 issues and the antitrust issues raised by the filing are
21 significant.

22 They raise the State Action Doctrine, they
23 invoke the obligation on the part of this Commission to
24 exercise active supervision under the law in the event
25 this proposal is actually approved by the agency.

1 These questions have a direct bearing on
2 that, which is why we want to at the end of these
3 questions move to have these exhibits admitted into the
4 record, which is also why counsel for PSE has not
5 stipulated to their admissibility.

6 MS. CARSON: If I might, Your Honor, PSE was
7 concerned about this line of questioning that really
8 goes to legal issues that can be briefed.

9 PSE offered to allow these to be stipulated
10 into the record if there wasn't a line of questioning
11 that got into legal issues for Mr. McCulloch, and Staff
12 declined that.

13 MR. CASEY: I'm not trying to raise legal
14 issues necessarily; I'm trying to highlight the facts
15 and the awkwardness that this file raises.

16 I think Mr. Goltz did a great job earlier
17 summarizing the fact that this case brings up a very odd
18 situation where we will have regulated tariff-based
19 services in competition with free-market services. And,
20 you know, one of the big issues in this case is kind of
21 where the bounds of regulation ends and competition
22 begins and whether they are appropriately overlapped.

23 In addition, this case brings up areas of
24 the law which are unsettled and could potentially
25 subject the Company to scrutiny.

1 JUDGE KOPTA: If you would confine your
2 questioning to the facts. My concern at this point is,
3 as I see your line of questioning, you seem to be
4 suggesting that the Company's access to information in
5 the course of a litigation proceeding is somehow a
6 violation of a antitrust law. And that's where I'm
7 seeing you go.

8 So what I'm giving you a hint as to the
9 direction that I think that you should go is, let's
10 focus on the facts, and we can hear the law as part of
11 your briefing.

12 MR. CASEY: And I do not want to imply that
13 this is a violation. I do think there is -- the Company
14 has a Code of Ethics, which actually Mr. McCulloch
15 invokes the corporate values in his testimony, MBM-7T,
16 Page 15, Lines 7 to 8, he invokes the corporate values.

17 I do think there is an aspect of how do we
18 reconcile what's going on in this case with the
19 corporate values. And again, I'm not trying to imply,
20 you know, bad faith, but just acknowledge the reality of
21 the situation that their proposed leasing services,
22 especially as they would be expanded, you know,
23 potentially in both.

24 The Commission should be very impressed with
25 the weight of responsibility that it would have in

1 supervising these activities.

2 JUDGE KOPTA: I think we're aware of our
3 responsibilities, Mr. Casey, and so if you would like to
4 ask questions about the facts, then you may do so.

5 MR. CASEY: Just trying to find myself on
6 this page, give me one second.

7 JUDGE KOPTA: Sure.

8 BY MR. CASEY:

9 **Q. PSE developed its proposed rates -- the proposed**
10 **rates in the tariff based on a Requests For**
11 **Qualification; correct?**

12 A. Correct. We received bids from providers in two
13 separate qualification requests that were used in
14 informing the rates that are filed today.

15 **Q. And those providers who responded to the RFQ are**
16 **hoping to partner with PSE in this endeavor; correct?**

17 A. Well, I can't speak for them, but their bid is
18 indicative of the fact that they're interested in doing
19 business with PSE in this manner.

20 **Q. Those partners are also in another sense**
21 **would-be competitors; correct?**

22 A. I'm not aware of any leasing service available
23 in the market today nor have I seen anything in the
24 docket that says that we would be up against a different
25 leasing service.

1 **Q. Do you agree that the biggest competition to**
2 **PSE's proposed lease offering is the outright purchase**
3 **of equipment?**

4 A. What we've detailed in testimony and as
5 Ms. Norton talked to this morning --

6 JUDGE KOPTA: Mr. McCulloch, I'm going to
7 interrupt you and remind you, as I did Ms. Norton,
8 please answer "yes" or "no" or "I don't know" before you
9 provide a response.

10 THE WITNESS: Thank you.

11 Can you repeat your question?

12 JUDGE KOPTA: You can have the court
13 reporter read it back if you'd like.

14 BY MR. CASEY:

15 **Q. I do -- I do agree that in trying to engage**
16 **customers to participate in the leasing service, one of**
17 **the alternatives that they would have to the leasing**
18 **service would be the outright purchase of equipment?**

19 A. Yes. There are many options the customers have,
20 as we've stated. This is another option that is not
21 available in the market today, and we think would
22 benefit the market, provide measurable benefits to all
23 of our ratepayers, and it would be an option customers
24 could choose if they felt it was appropriate for their
25 needs.

1 **Q. So you agree that this leasing service would be**
2 **in competition with other services that are offering for**
3 **the purchase of the equipment; correct?**

4 MS. CARSON: Objection; misstates the
5 witness's testimony.

6 JUDGE KOPTA: He's asking if he would agree.
7 I'll allow that question.

8 THE WITNESS: I do not agree from the
9 perspective that there's not a comprehensive service as
10 we presented today that a customer would be able to
11 choose.

12 So, you term it as "competition." I'm
13 looking at it from the perspective of commensurate
14 options, and I don't see a commensurate option out there
15 today.

16 BY MR. CASEY:

17 **Q. Through the RFQ, you learned about those service**
18 **providers' terms and conditions for providing these HVAC**
19 **services; correct?**

20 A. No. We provided a detailed list of equipment
21 with specifications, as well as a detail of the work
22 scope associated to this service for those providers to
23 bid on.

24 **Q. Can we turn to MBM-38.**

25 A. Yes.

1 **Q. I want to focus on Bidder Request Number 3.**

2 A. What was the date of the request?

3 **Q. Number 3 on Page 5.**

4 A. Thank you.

5 **Q. I'll give you a moment to review.**

6 **Would a response to this Data Request enable the**
7 **Company to learn about the terms, sales, and prices of**
8 **its competitors?**

9 MS. CARSON: I'm going to object, based on
10 speculation, because I don't believe we got any
11 responses to any of these Data Requests.

12 MR. GOLTZ: That's not true.

13 MS. CARSON: Or very limited.

14 MR. GOLTZ: You got responses; you got
15 objections.

16 JUDGE KOPTA: We've had this battle.

17 MS. CARSON: And there's also provisions for
18 material to be marked as highly confidential or
19 confidential by the Intervenor groups which would
20 prohibit anyone from PSE from seeing the information
21 under the terms of the Protective Order.

22 MR. CASEY: I'm sorry, I missed that last
23 part.

24 MS. CARSON: Under the terms of the
25 Protective Order, any of this information that is

1 confidential or highly confidential, no person from PSE
2 may see.

3 JUDGE KOPTA: Did you want to continue with
4 a question, Mr. Casey, on this?

5 BY MR. CASEY:

6 Q. How does PSE reconcile -- well, I'll move on.
7 Let's go back to the Code of Ethics.

8 JUDGE KOPTA: MBM-37?

9 MR. CASEY: Yes.

10 BY MR. CASEY:

11 Q. Page 6. And this time, I want to discuss Bullet
12 Point 4 which has to do with never tying the purchase of
13 one product as a condition to selling another.

14 Is PSE's proposal to offer an all-inclusive
15 bundled product that includes the equipment,
16 installation, maintenance, and repair services tying one
17 product to another product?

18 MS. CARSON: Objection; calls for a legal
19 conclusion.

20 JUDGE KOPTA: I'm going to overrule it. I
21 think it's a factual question.

22 THE WITNESS: Well, if we're specifically
23 talking about a product, I think you got the equipment,
24 which is, in my judgment, termed a "product."

25 There's services that are certainly

1 incorporated in the lease solutions. So I don't think
2 that there's tying of one product to another product. I
3 think there's services that are incorporated or
4 comprehensive in that equipment lease.

5 BY MR. CASEY:

6 Q. Someone cannot just lease the equipment without
7 getting the maintenance and repair service; correct?

8 A. That is not what we've presented. We've
9 presented a comprehensive service.

10 Q. So correct?

11 A. That is correct.

12 Q. Yes, okay, thank you. Last, I want to talk
13 about the proposed leasing rates. This is another area
14 which the components of that rate have all been marked
15 as highly confidential.

16 I've done my best to structure my questions to
17 not reveal any of that, but if you want to go into a
18 closed session, I'll respect that, as well. I will be
19 turning to a couple of highly confidential exhibits.

20 JUDGE KOPTA: I'd prefer to try and do this
21 on the public record, if possible. And if we run into
22 problems, I'm sure Ms. Carson will let us know if we
23 need to have a closed session.

24 MR. CASEY: Thank you.

25 BY MR. CASEY:

1 **Q. PSE has not already purchased the products it**
2 **would offer under the proposed service; correct?**

3 A. Correct; no product would be purchased until it
4 was installed.

5 **Q. So PSE does not know the actual cost of the**
6 **equipment it would offer under this program; correct?**

7 A. PSE has actual costs from the market for the
8 equipment that we specified, so I believe we have actual
9 costs, known costs for the equipment that will be
10 leased.

11 **Q. But PSE has not identified the exact products**
12 **that it would offer; correct?**

13 A. That's not correct. We've stated in our tariff,
14 you see equipment specified based on size, efficiency,
15 and various other performance capabilities, based on
16 certifications, so to speak. And so we have selected
17 the equipment that will be offered in the tariff that we
18 are presenting.

19 **Q. To me your statement is saying two different**
20 **things. You say you have identified categories of**
21 **products with specific technical specifications, but**
22 **that doesn't mean you have identified a particular**
23 **product that you are going to offer; correct?**

24 MS. CARSON: Objection; asked and answered.

25 JUDGE KOPTA: No, I think I will overrule

1 that.

2 Is there a distinction, Mr. McCulloch,
3 between a category of products and an individual like a
4 Trane 2000X, for example?

5 THE WITNESS: There are distinctions between
6 brands, certainly, and models. Again, the information
7 that we put forward in the RFQ stipulated a type of
8 information that will allow us to firmly understand the
9 equipment that will be installed in a home; brand and
10 model at this juncture do not affect that cost.

11 BY MR. CASEY:

12 **Q. So you're saying that every brand and model that**
13 **offers similar specification, technical specifications,**
14 **offers that product at the exact same cost?**

15 A. No, based on my review of the RFQ responses, I
16 think the costs are commensurate with each other based
17 on the products that are presented.

18 **Q. Okay. Let's turn to ECO-8HC. Are you there?**
19 **You're familiar with this exhibit; correct?**

20 A. I am.

21 **Q. This table includes the 18 different unit costs**
22 **that were averaged together to develop the unit cost of**
23 **a residential heat pump; correct?**

24 A. That is correct.

25 **Q. These 18 different unit costs came from the bids**

1 submitted from the RFQ; correct?

2 A. They are from the RFQ.

3 Q. And these 18 different unit costs come from six
4 different service providers; correct?

5 A. I believe that's correct.

6 Q. And of these 18 different units costs, six are
7 for heat pumps with a 2-ton capacity, six are for heat
8 pumps with a 2.5-ton capacity, and six are for heat
9 pumps with a 3-ton capacity; correct?

10 A. That is correct.

11 Q. Looking at the first three columns, the smaller
12 heat pump is cheaper than the bigger heat pump; correct?

13 A. That's correct.

14 Q. This is true for the second group of three, the
15 third group of three, and the fourth group of three;
16 correct?

17 A. There appears to be cost differences between the
18 sizes of equipment, yes.

19 Q. Now, the very bottom, the last figure in the
20 unit cost RFQ column, the very bottom --

21 A. Yes.

22 Q. That's the number you used as the input for heat
23 pumps; correct?

24 A. That is correct.

25 Q. And you used that number regardless of whether

1 it was a 2-ton -- that heat pump had a 2-ton capacity,
2 2.5-ton capacity, or a 3-ton capacity; correct?

3 A. We did. We bundled those based on how we handle
4 our services today. With our existing rental business,
5 we have rates established for 55-gallon or smaller water
6 heaters. We also, in other services, for example our
7 line extension, provide an allowance for an extension --

8 Q. I want to focus on just the heat pumps.

9 A. I understand, let me finish my sentence -- that
10 allows for that cost based on size. So we think that
11 bundling these costs together is appropriate. And as I
12 stated in my testimony, it has very small impact on the
13 total costs of the rate.

14 Q. If you look at that cost at the bottom, the one
15 you used in your rate model, it does not match any of
16 the costs, any of the unit costs you received from the
17 RFQ; correct?

18 A. As I stated, we averaged those costs.

19 Q. That's a yes?

20 A. That's a yes.

21 Q. And the column next to it, the Unit Cost Pricing
22 Sheet Percentage Variation, this is the percentage that
23 each cost you received from the RFQ varies from the one
24 that you used in the rate; correct?

25 A. I didn't produce this exhibit, so I will have to

1 say that I take it on good faith that that's correct.

2 **Q. And if you go to Page 2, that's a graphic**
3 **depiction of that variation; correct?**

4 A. I'm going to take your word for it, as I did not
5 produce this document.

6 MS. CARSON: I object to the witness
7 explaining an exhibit that he didn't prepare.

8 MR. CASEY: I'll move on.

9 BY MR. CASEY:

10 **Q. In the tariff, there's just one lease price for**
11 **heat pumps; correct?**

12 A. That is correct; there's one cost for a 2-ton to
13 3-ton heat pump.

14 **Q. And PSE, not the customer, would decide the**
15 **appropriate capacity heat pump to install; correct?**

16 A. As I stated in my testimony, we intend to
17 install equipment that meets the customers' needs, which
18 will include our service providers doing a manual J and
19 sizing calculation to ensure that it meets those
20 specifications. We think this is appropriate within
21 this range to provide that option to our customers.

22 **Q. That was a yes?**

23 A. Yes.

24 **Q. Thank you. So far, we've only talked about**
25 **upfront capital costs of a specific unit, but that's**

1 **just one of many key assumptions that were used to**
2 **develop the rate for each product; correct?**

3 A. I would say yes, but I would correct the word
4 "assumptions" because these are known costs.

5 **Q. Known costs?**

6 A. That's what I've attested to.

7 **Q. Known costs for a 15- to 18-year lease term?**

8 A. Correct. We feel that the rates that we've
9 presented, based on the timeframe that those leases will
10 exist, are appropriate and will allow the Company to
11 recover its capital, as well as its weighted average of
12 capital within that.

13 **Q. And you believe you know these costs to the**
14 **cent?**

15 A. Building any business, certainly, you have to
16 put in assumptions which will be proved over time, but I
17 think we've done our best in presenting costs and inputs
18 that are appropriate to inform the rates that have been
19 proposed.

20 **Q. Similar to the capital cost of the piece of**
21 **equipment, PSE undertook a similar averaging exercise to**
22 **estimate installation costs; correct?**

23 A. Correct. We averaged the costs that we received
24 from the RFQ inputs.

25 **Q. You also did a similar averaging exercise to**

1 **estimate maintenance costs; correct?**

2 A. Correct.

3 **Q. And to estimate repair costs; correct?**

4 A. Correct.

5 **Q. And to estimate the average cost of bad debt per**
6 **unit; correct?**

7 A. I believe the average bad debt was predicated on
8 our known existing rental business, and we applied those
9 factors to our pricing model.

10 **Q. Did you use the same credit test for the Legacy**
11 **Rental Program as you're going to use for the proposed**
12 **service?**

13 A. Despite the gray in my beard, I wasn't here in
14 1960, so I don't know what credit tests were used at
15 that point, but we have been operating the service for a
16 significant amount of time. We've detailed in my
17 testimony what our credit criteria will be for this new
18 service.

19 **Q. Okay. You undertook a similar averaging**
20 **exercise to estimate the average failure rate per unit;**
21 **correct?**

22 A. Again, we utilized data that we know as of today
23 from our existing rental business to establish the
24 failure rate that has been utilized.

25 We did not receive, in the Data Requests that we

1 put out, any information to refute that, so we think
2 it's appropriate to use in this case.

3 Q. So given all of these averages and the number of
4 assumptions that need to be estimated over the life of
5 the lease, is it a gross misrepresentation to say that
6 the proposed rates are based on cost estimates predicted
7 to occur over the life of a 10- to 18-year lease term?

8 MS. CARSON: Objection; argumentative.

9 JUDGE KOPTA: Sustained.

10 BY MR. CASEY:

11 Q. PSE proposes that each customer's lease rate
12 will be fixed for the life of the lease; correct?

13 A. That's one of the benefits, yes.

14 Q. And so if these rates end up being inaccurate,
15 participating customers are stuck with them; correct?

16 A. I believe that the rates that we filed are just,
17 fair, and reasonable. I don't believe that the Company
18 has inappropriately positioned customers over the
19 long-term of the lease, as we've stated, that they will
20 overpay or underpay for the service that we presented.

21 JUDGE KOPTA: I'm going to interject in a
22 moment. First --

23 THE WITNESS: Yes or no, thank you.

24 JUDGE KOPTA: Second, please avoid the
25 loaded terms like "stuck" and just say "they are

1 obligated" so that we can minimize any kind of -- more
2 objections from counsel, which I will sustain.

3 BY MR. CASEY:

4 Q. Given fixed rates for the life of the lease, if
5 the Company refreshed its rates, there's no way to apply
6 that to -- it would only apply to future customers;
7 correct?

8 A. Yes. That's what we stated in our testimony.

9 Q. Your rates were also -- we touched on this
10 earlier with Ms. Norton.

11 The rates were also predicated on a certain
12 level of customer participation; correct?

13 A. Correct. We did a market assessment, and the
14 rates are built up based on that market assessment.

15 Q. That market assessment is the Cocker Fennessy
16 Survey we were talking about earlier?

17 A. In part.

18 Q. In part. Thank you.

19 If PSE overshoots its estimated participation
20 level, would it over-earn or under-earn?

21 A. I believe the rates that are stipulated have the
22 capability of serving a wide variety of customers. I'm
23 not a rate-making expert, so I don't know whether that
24 over-participation would result in over-earning.

25 My estimation, if we had more customers

1 participate, that would actually result in a very small
2 incremental change because that really impacts the
3 operational costs, where the majority of the rate is
4 fixed on the capital side.

5 **Q. Is the Request For Qualification the same as a**
6 **Purchase Order?**

7 MS. CARSON: Objection; ambiguous.

8 JUDGE KOPTA: Overruled. To the extent you
9 know.

10 THE WITNESS: We have not entered any
11 purchase agreements.

12 BY MR. CASEY:

13 **Q. Is it possible the vendors will have a different**
14 **price when a purchase is offered?**

15 A. When a purchase to whom?

16 **Q. To PSE. When PSE goes out to -- if this program**
17 **was approved and you went out to actually acquire the**
18 **equipment you would offer in this program, is it**
19 **possible that the rates will be different from those --**
20 **the costs to PSE will be different from those than you**
21 **received in our Request for Qualifications?**

22 A. Thinking in the realm of possibility, yes, I
23 think I stated in my testimony that that could be the
24 case. Ms. Norton this morning spoke about some
25 commitments that PSE has made and that really would be

1 up to the judgment of the Commission whether there would
2 be an appropriate need to refresh rates.

3 But I again will stipulate that I believe the
4 rates that we presented are appropriate for the service
5 that we're going to provide and that are based on known
6 costs that we have today.

7 **Q. The rates that you developed used the Company's**
8 **weighted cost of capital; correct?**

9 A. That's correct.

10 **Q. If that cost of capital were to change, say,**
11 **five years into a 15-year lease, customers would still**
12 **pay the old cost of capital for the entire lease;**
13 **correct?**

14 A. Because those rates are levelized over that
15 period, that is correct.

16 MR. CASEY: I have no further questions.

17 JUDGE KOPTA: Thank you.

18 Ms. Gafken?

19 MR. CASEY: I'd like to move for the
20 admission of the exhibits that were -- we discussed
21 earlier.

22 JUDGE KOPTA: All right. The four that I
23 did not admit earlier are MBM-36, MBM-37, MBM-38, and
24 MBM-39. In your cross, you only discussed two of those
25 exhibits. Are you asking for admission of all four?

1 MR. CASEY: Yes. I do point out using the
2 one I didn't use later, I think it's MBM- -- it's the
3 one that immediately precedes the Code of Ethics.

4 JUDGE KOPTA: The website home page?

5 MR. CASEY: Yes.

6 JUDGE KOPTA: MBM-36?

7 MR. CASEY: Yes.

8 JUDGE KOPTA: So you want to reserve that
9 for another witness?

10 MR. CASEY: Yes.

11 JUDGE KOPTA: All right. We won't look at
12 that one yet. Are you moving for Exhibit 37, 38 and 39?

13 MR. CASEY: Yes, Your Honor.

14 JUDGE KOPTA: Exhibit 39 wasn't discussed,
15 but it was a Data Request to another intervenor.

16 Ms. Carson?

17 MS. CARSON: Your Honor, I question whether
18 Data Requests are appropriate as Data Requests
19 themselves, without responses, are appropriate as
20 evidence.

21 I guess there was a motion, and they were
22 attached to the motion, but it seems to me it's not
23 evidence, it's a procedural device that's used. So I
24 would argue that there's no reason for those to be
25 admitted into evidence.

1 The Code of Ethics, Mr. McCulloch certainly
2 didn't prepare that document. I think it's not
3 appropriate to be admitted into evidence, and I'll
4 continue to object.

5 MR. CASEY: Your Honor, I would say the Code
6 of Ethics is certainly relevant to the proposed service
7 they plan to offer, and I would be taken aback if PSE
8 were to argue that the Code of Ethics was not relevant
9 to the service they propose to offer, especially after
10 Mr. McCulloch invoked the corporate values in his
11 testimony.

12 JUDGE KOPTA: What about the Data Requests?

13 MR. CASEY: The Data Requests go to the fact
14 of kind of -- any trust implications and the power
15 that -- you know, the power and privileges that
16 regulated companies have.

17 MS. CARSON: But again, I would point out
18 that this was in the course of litigation and
19 information that was not available. First of all, was
20 not produced in the substantive information. And
21 second, PSE would not have had access to it to the
22 extent it was confidential or highly confidential?

23 JUDGE KOPTA: I agree. I will admit MBM-37.
24 I think there's at least some tangential value to having
25 the Code of Ethics. I don't see any value in the Data

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1 Requests, and so I will deny admission of 38 and 39.
2 And we will leave 36 open for introduction by another
3 witness.

4 Now, Ms. Gafken.

5
6 CROSS-EXAMINATION

7 BY MS. GAFKEN:

8 Q. Good afternoon. Mr. McCulloch, would you please
9 turn to Cross-Exhibit MBM-40HC. And Mr. McCulloch, this
10 document does contain highly confidential information,
11 but I'm not anticipating alluding to anything
12 confidential, or at least appears in other places that
13 are not confidential.

14 COMMISSIONER DANNER: I didn't catch the
15 exhibit.

16 MS. GAFKEN: MBM-40.

17 COMMISSIONER DANNER: Thank you.

18 BY MS. GAFKEN:

19 Q. Mr. McCulloch, do you recognize Cross-Exhibit
20 MBM-40HC as PSE's response to Public Counsel Data
21 Request Number 40?

22 A. I do.

23 Q. Public Counsel Data Number 40 asks PSE to
24 provide its Excel workbook entitled PSE Lease Solutions
25 Market Potential, February 9, 2016; correct?

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1 A. Correct.

2 Q. And the workbook requested was part of PSE's
3 pricing model for the proposed leasing program; correct?

4 A. It informs, inputs into the pricing model.

5 Q. The workbook was used to estimate the potential
6 market size for the proposed leasing program; correct?

7 A. Yes. It provides an assessment of the technical
8 potential of the market.

9 Q. Would you please turn to Page 7 of Cross-Exhibit
10 MBM-40.

11 A. Yes.

12 Q. That page lists the inputs and assumptions used
13 in PSE's pricing model; correct?

14 A. Again, it provides some of the inputs that were
15 used in developing the technical potential, which
16 informed the pricing model.

17 Q. One of the assumptions that was used is
18 residential lease likelihood; correct?

19 A. Yes. Those are the inputs that we received from
20 our Cocker Fennessy Survey.

21 Q. Okay. So the reference to "PSE customer
22 survey," that's a reference to the Cocker Fennessy
23 Survey?

24 A. That's correct. We updated that in developing
25 and submitting our rates in February of this year.

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1 Q. And when looking at the residential lease
2 likelihood, that information was analyzed based on
3 product type; is that correct?

4 A. That is correct. There were options presented
5 to customers based on those equipment types.

6 Q. Would you please turn to your rebuttal testimony
7 which is Exhibit MBM-7T.

8 A. Yes.

9 Q. If you would turn to Page 27 and look at Lines 7
10 through 9.

11 Exhibit MBM-7T, Page 27, Lines 7 through 9.

12 A. Yes.

13 Q. There you state (as read), The survey provided
14 to respondents the average monthly payment and term of
15 the lease. PSE's customer base is fully capable of
16 performing basic calculations. Correct?

17 A. I believe that's true.

18 Q. Are you aware that under state law, leases are
19 required to disclose the total cost of the lease?

20 A. Is this in reference to the survey questions?

21 Q. No, I'm asking what you know, whether you're
22 aware of the state law that requires leases of personal
23 property to disclose the total cost of the lease.

24 A. Well, I'm not an attorney.

25 Q. Understood.

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1 A. However, we have detailed in our tariff that we
2 will provide the total costs of the lease over the lease
3 term within the lease agreement. So I believe we are in
4 our tariff, if that is true, comporting with that law.

5 Q. Let me make sure I understand the testimony, and
6 maybe you can tell me if this is correct or not,
7 Mr. McCulloch.

8 Do you understand that the total cost of the
9 lease is required to be disclosed to customers?

10 MS. CARSON: Objection; asked and answered.

11 JUDGE KOPTA: Sustained.

12 BY MS. GAFKEN:

13 Q. Mr. McCulloch, would you agree that focusing
14 only on the monthly payment of a lease could result in a
15 customer making a decision with incomplete information?

16 A. I can't speculate to how a customer would
17 answer.

18 Q. So you don't agree, then, that focusing only on
19 a monthly payment would result in a customer making a
20 decision based on incomplete information?

21 A. I don't agree. I believe that by providing the
22 customer the term of the lease, as well as the cost of
23 the lease, gives them information to get to that detail
24 if they so choose.

25 Q. If they so choose. Are you implying, then, that

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1 the total cost of the lease is not an important piece of
2 information for a customer to consider?

3 A. No, I believe it is. That's why we included it
4 in our tariff.

5 **Q. Would you please turn to Cross-Exhibit MBM-44.**

6 A. I'm there.

7 **Q. Do you recognize Cross-Exhibit MBM-44 as PSE's**
8 **Response to Public Counsel Data Request Number 43?**

9 A. I do.

10 **Q. The last paragraph on Page 1 of Cross-Exhibit**
11 **MBM-44 states that (as read), The Cocker Fennessy Survey**
12 **participants are respondents who are identified as being**
13 **within the PSE service area, being PSE electric or**
14 **natural gas customers, or being homeowners; is that**
15 **correct?**

16 A. It actually states that they are both PSE
17 customers and homeowners, not one or the other.

18 **Q. Right. I used the term "and" in including all**
19 **those things.**

20 A. That's correct.

21 **Q. The survey did not include responses from**
22 **customers who were not homeowners; is that correct?**

23 A. That's correct. The lease is not available to
24 customers who do not own their property.

25 **Q. PSE's service territory includes residential**

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1 customers who are not homeowners; is that correct?

2 A. Yes, it does.

3 **Q. Would you please turn to Cross-Exhibit MBM-42C.**
4 **And this is an exhibit with confidential data, but I'm**
5 **not referring to the confidential nature of the exhibit.**
6 **Are you there?**

7 A. Yes, I'm here.

8 COMMISSIONER RENDAHL: Ms. Gafken, I don't
9 have a copy of 42. I have 44 and 45, and the last
10 number I have is 40. I don't think any of us have them
11 on the bench.

12 JUDGE KOPTA: I do. So it may be a problem.

13 COMMISSIONER RENDAHL: So it's just the two
14 of us.

15 MS. GAFKEN: Will the one copy suffice?

16 COMMISSIONER DANNER: Yes. I'll share.

17 BY MS. GAFKEN:

18 **Q. Okay. Mr. McCulloch, are you at**
19 **Exhibit MBM-42C?**

20 A. Yes.

21 **Q. Okay. Do you recognize Cross-Exhibit MBM-42C as**
22 **PSE's Supplemental Response to Staff Data Request**
23 **Number 31?**

24 A. I do.

25 **Q. Would you please turn to Page 22 of**

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1 Exhibit MBM-42C?

2 A. Yes.

3 **Q. Now, that page contains county demographic**
4 **information; is that correct?**

5 A. It appears from the footnote the data source is
6 2010 census data.

7 **Q. And there's a title called Housing Units by**
8 **Tenure. Do you see that?**

9 A. I do.

10 **Q. And under that title, there is data regarding**
11 **renters by county; correct?**

12 A. There is detail in here regarding
13 renter-occupied housing.

14 **Q. In PSE's assessment of potential interest in the**
15 **proposed leasing program, PSE applied the Cocker**
16 **Fennessy Survey results to all residential customers,**
17 **both residential -- I'm sorry, both homeowners and**
18 **non-homeowners; is that correct?**

19 A. That's correct. Despite the fact that somebody
20 might be renting their home to another individual
21 doesn't mean that that owner can't enter into a lease
22 agreement. So we think it's appropriate to include all
23 those in there.

24 **Q. Did the Cocker Fennessy Survey ask landlords if**
25 **they were interested in utilizing the proposed leasing**

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1 service for their rental properties?

2 A. By asking whether they owned the home I'm making
3 the assumption that landlords would have answered that
4 question or could have answered that question. But we
5 did not differentiate between a homeowner who rents his
6 property or a homeowner who is domicile in that
7 property.

8 Q. Is that an assumption that you are making or an
9 assumption that Cocker Fennessy was making? Who is
10 making the assumption?

11 A. I'm making that assumption.

12 Q. I want to return to your rebuttal testimony
13 which is Exhibit MBM-7T, and please turn to Page 28.

14 A. I'm there.

15 Q. At Lines 4 through 7 you state that (as read),
16 It is commonly understood that a lease is an agreement
17 to use property owned by another in exchange for payment
18 for a time period and at the end of the lease term the
19 property is returned to the owner. Is that correct?

20 A. That's correct. That's my understanding of the
21 lease.

22 Q. Okay. And it's been established earlier, but
23 just for foundation I want to ask this quick question.
24 The Cocker Fennessy Survey was conducted in late January
25 and early February of 2016; correct?

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1 A. That's correct.

2 Q. At the time the Cocker Fennessy Survey was
3 developed and conducted, the proposed lease tariff on
4 file with the Commission were structured as lease-to-own
5 for the customer would own the appliance at the end of
6 the lease; correct? And we looked at that language
7 earlier.

8 A. We did look at that information. I do not
9 believe that it informed any of the surveys we did prior
10 to the Cocker Fennessy Survey.

11 Q. And I'm not asking about the surveys before.
12 Let me back up.

13 So the testimony in your rebuttal that I pointed
14 you to, that was in response to Public Counsel's
15 testimony with respect to failure to disclose that PSE
16 owned the lease equipment at the end of the lease, and
17 you testified as you did.

18 So my question to you is, that at the time of
19 the Cocker Fennessy Survey when it was conducted, isn't
20 it true that the lease, the proposed lease tariff that
21 was on file, was a lease-to-own tariff? And we looked
22 at this tariff --

23 A. I think that the information regarding what was
24 proposed at that time did not inform the survey, but I
25 guess I will answer your question saying yes, at that

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1 time, that's how the tariff was written. It's no longer
2 on file as that.

3 Q. Would you please turn to Page 45 of
4 Cross-Exhibit MBM-42. Again, this is a confidential
5 document, but I won't be asking you about confidential
6 information.

7 A. Page 45?

8 Q. Correct.

9 A. Okay.

10 Q. This page presents data regarding PSE's
11 Contractor Alliance Network; correct?

12 A. Yes, that's what the heading says.

13 Q. Do you see the term "leads" on the page? It's
14 really small print.

15 A. I do see those.

16 Q. Okay, great. The term "leads" refers to
17 referrals from PSE's Contractor Alliance Network; is
18 that correct?

19 A. I believe that's what we responded to in the
20 Data Request.

21 Q. The term "installs" refers to the number of
22 installations reported by the participating contractors;
23 correct?

24 A. That is correct.

25 Q. And in the middle of the page is the term

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1 "closed rate." That term is the percentage of leads
2 that resulted in installs; is that correct?

3 A. That appears to be the percent of referrals that
4 resulted in a self-reported installation.

5 **Q. Is self-reporting the only way that PSE confirms**
6 **whether there's an installation that occurs?**

7 A. Are you asking regarding the Contractor Alliance
8 Network?

9 **Q. Correct.**

10 A. It also has the capability, I believe, of
11 understanding through rebate applications whether
12 installation has occurred.

13 **Q. Okay. Would you please turn to your**
14 **Exhibit MBM-22?**

15 A. Yes.

16 **Q. Actually, let me go back quickly to the closed**
17 **rate and our discussion about self-reporting versus**
18 **installs.**

19 **The information on Page 45 of Exhibit MBM-42C,**
20 **does that number that's in the box there, does that only**
21 **report self-reportings or does that also include**
22 **information that PSE would have with respect to installs**
23 **via the rebate information?**

24 A. I don't have that information. I didn't create
25 this report, so it would be speculative for me to answer

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1 that question.

2 Q. Okay. Now if you would please turn to your
3 Exhibit MBM-22.

4 A. Yes.

5 Q. In this exhibit you explain the proposed
6 Transition Plan for PSE's existing rental customers;
7 correct?

8 A. Yes. This exhibit presents a proposition on how
9 to transition customers in our existing rental service.

10 Q. And under the rental service, there isn't a set
11 term, it's a month-to-month program; is that correct?

12 A. That's correct. That's one of the items that
13 customers pointed out was of issue in the existing
14 rental service that we've tried to correct in modifying
15 this new service, provide an existing term of the lease.

16 Q. And for the rental customers, the prices can
17 fluctuate; is that a correct understanding?

18 A. The rates for our existing rental business are
19 predicated on our general rate, so they can fluctuate as
20 it is impacted by that process.

21 Q. Would you please turn to Cross-Exhibit MBM-46?

22 A. Okay.

23 Q. Do you recognize Cross-Exhibit MBM-46 as PSE's
24 Response to Public Counsel Data Request Number 8?

25 A. I do.

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1 Q. The response in Cross-Exhibit MBM-46 is undated,
2 but would you expect, subject to check, that PSE
3 provided its response to Public Counsel Data Request
4 Number 8 via email on April 11, 2016?

5 A. I'll accept that.

6 Q. In Public Counsel Data Request Number 8, PSE was
7 asked to provide an explanation of PSE's plan to
8 transition existing rental customers to the new lease
9 program; is that correct?

10 A. Yes.

11 Q. In its response, PSE stated that it (as read),
12 Expected to develop and file a Transition Plan for
13 customers of the existing rental program after the
14 leasing service tariffs had been approved by the
15 Commission. Correct?

16 A. That is correct. Part of the proposal that we
17 just discussed provides for a landing spot for those
18 customers, so I believe it's appropriate that a
19 transition be thought through where we have an approved
20 service where those customers could matriculate to, as
21 presented in the proposal.

22 Q. In its response to Public Counsel Data Request
23 Number 8, PSE did not offer a detailed plan to
24 transition existing rental customers to the proposed
25 leasing program in its discovery response; correct?

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1 A. We had not thought through that detailed plan at
2 that point, correct.

3 Q. Mr. McCulloch, would you please turn to
4 **Cross-Exhibit MBM-48?**

5 A. Yes.

6 Q. Do you recognize Cross-Exhibit MBM-48 as PSE's
7 **Response to Public Counsel Data Request Number 27?**

8 A. I do.

9 Q. With respect to equipment that is removed from
10 customer premises before the useful life is exhausted,
11 has PSE undertaken any analysis to evaluate what
12 percentage of equipment might fall into this category?

13 A. We've not undertaken analysis specifically of
14 the equipment that would be removed at its end of useful
15 life, other than all the leases that we have put in our
16 market assessment will at some point have an end of
17 life, unlike today's service.

18 Q. Let me back up just a little bit, because my
19 question was, so for equipment that might be removed
20 prior to the end of life --

21 A. Sure.

22 Q. -- either there's a default or there's a lot of
23 different reasons why this might happen, my question is
24 whether PSE has done any analysis to evaluate what
25 percentage of the lease equipment might fall into that

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1 circumstance.

2 A. Well, I think your example of a default is
3 really the only case where a piece of equipment would be
4 actively removed by PSE during the term of the lease,
5 and we've included a factor for default within our
6 pricing.

7 Q. But there could be other circumstances as well,
8 couldn't there? I mean, if somebody was selling their
9 home, for example, and the new homeowner either didn't
10 continue the lease, or whatever the terms are, that
11 would apply when somebody sells their home. Isn't that
12 another situation where --

13 A. At that point, there is the option to
14 purchase --

15 Q. Wait a minute. Answer the question, just for
16 the record.

17 Isn't that another circumstance where equipment
18 could be removed before the end of its useful life?

19 A. That is a potential. My assessment, again based
20 on what I know today in our existing lease business, is
21 in a sales transaction, when the escrow company requires
22 that the lease option be closed, that that equipment
23 transfers ownership to the new owner; it's not removed
24 in a majority of cases.

25 Q. Okay. But going back to my question,

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1 Mr. McCulloch, has PSE analyzed what percentage of
2 leased equipment may be removed from a customer's
3 premises before the end of its useful life?

4 MS. CARSON: Objection; asked and answered.

5 MS. GAFKEN: I don't believe it has been
6 answered.

7 JUDGE KOPTA: I don't believe it has been
8 answered either.

9 THE WITNESS: I believe we've accounted for
10 the default, case of default, and that to my knowledge
11 is a situation where we would see this exercise being
12 put forward.

13 BY MS. GAFKEN:

14 **Q. Has PSE estimated a dollar amount associated**
15 **with defaults?**

16 A. There is a cost associated to default in the
17 pricing, correct.

18 **Q. At this time, is PSE assuming that equipment**
19 **that is removed from a customer's premises before the**
20 **useful life is exhausted will be disposed of or**
21 **recycled?**

22 A. It will be disposed of and recycled, correct.

23 **Q. And PSE's response in Cross-Exhibit MBM-48**
24 **indicates that (as read), The cost-to-revenue of**
25 **disposal or recycling are not known so they have not**

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1 been included in PSE's highly confidential pricing
2 model. Is that still the case?

3 A. The cost of disposal has not been included other
4 than in the cost associated to default.

5 MS. GAFKEN: Thank you; that concludes my
6 questions.

7 JUDGE KOPTA: All right, thank you. It is
8 now close to 3:15, our usual afternoon break time, so
9 this is an opportune time to take our break.

10 MS. CARSON: Your Honor, we do have a
11 witness with some time constraints, Dr. Faruqui, who is
12 scheduled to be up next. He has a flight to catch and
13 needs to leave shortly after 4:00. There's very little
14 cross-examination for him, as I recall.

15 MR. GOLTZ: There's even less than you
16 recall. I don't need to ask him any questions.

17 (A break was taken from
18 3:15 p.m. to 3:30 p.m.)

19 JUDGE KOPTA: All right. Let's be back on
20 the record. We're returning from our afternoon break,
21 and to accommodate witness schedules, we're going to
22 take up Dr. Faruqui at this point. We'll ask him to
23 stand and raise your right hand.

24 AHMAD FARUQUI,
25 having been duly sworn, testified as follows:

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1 JUDGE KOPTA: As I understand it, none of
2 the parties have cross for Dr. Faruqui, but SMACNA has a
3 cross-exhibit that they would like entered into the
4 record to which PSE objects.

5 And at this point, I will let Mr. Steele, if
6 you want to make that objection, we will hear that and
7 SMACNA's response.

8 MR. STEELE: PSE believes that this exhibit
9 is beyond the scope of SMACNA's role in this case. As
10 PSE understands, the Commission's prehearing conference,
11 the role of the Intervenor was to provide market
12 information as to relates to market participants,
13 contractors in the marketplace.

14 We believe that this exhibit and others goes
15 beyond their role in this case, which was to provide --
16 which they offered market information to the Commission
17 to aid in the Commission's decision regarding the
18 leasing service. And we believe that this goes beyond
19 that.

20 JUDGE KOPTA: Mr. Goltz?

21 MR. GOLTZ: First of all, minor point. They
22 charged various Data Requests that we had lots of
23 objections about outside of scope, as Mr. Steele
24 mentioned. There wasn't an objection raised on this, I
25 don't think.

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1 But more to the point, it's interesting;
2 Puget Sound Energy and SMACNA are trying to prove the
3 same point but for different reasons. We're both trying
4 to say there's no lease market out there. And they make
5 the point to say there's no lease market and, therefore,
6 there's a gap and we can fill it, and, therefore, we
7 ought to get a regulatory approval to fill that gap.

8 We're saying that there's no lease market
9 out there to show that there's no demand for a lease
10 program in Washington or around the country.

11 Dr. Faruqui testified that he did, in
12 preparation for his testimony, a literature survey of
13 all of these issues of consumer issues, and then he
14 analyzed that.

15 And our question was a very simple one. So
16 in all your literature survey, did you find anything
17 about a lease program for this that helped you educate
18 your testimony? Answer is no. I think that's relevant
19 to that issue of whether there's a market gap and
20 whether there's really a demand for the service in the
21 marketplace.

22 JUDGE KOPTA: Mr. Steele?

23 MR. STEELE: I mean, Dr. Faruqui's role in
24 this case was not to analyze that specific issue. He
25 was brought in to analyze the public benefits of PSE's

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1 leasing program. And so asking Dr. Faruqui about
2 whether he analyzed other lease programs, that wasn't
3 his role in this case, it was to analyze the public
4 benefits of PSE's proposed service.

5 And so again, I mean, as it relates to
6 SMACNA, they were brought into this case because they
7 represented that they had specific market information as
8 contractors. And as we've seen throughout this case,
9 SMACNA has delved into all kinds of areas that PSE
10 believes are beyond their role and their expertise as
11 contractors in the marketplace. That's why they were
12 brought in.

13 Other issues I think Public Counsel and
14 Staff are more equipped to address and adequately have
15 done so. SMACNA I don't think needs to delve into areas
16 that are beyond their role as contractors and
17 participants in the marketplace.

18 JUDGE KOPTA: Well, in this area, there's a
19 specific reference to Dr. Faruqui's testimony, and I
20 think that there's an appropriate question. I don't see
21 it as being beyond the scope, as Mr. Goltz explained.

22 They are here as a participant in the market
23 to give the Commission their perspective on the market
24 and to explore whether or not there are gaps in the
25 market, and I think that's squarely within the

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1 intervention that I granted to them back at the
2 prehearing conference. So I will overrule the objection
3 and admit this exhibit.

4 So Dr. Faruqui's Exhibits AF-1T through
5 AF-5HC have already been admitted; AF-6 has just been
6 admitted. None of the parties have cross-examination
7 for him, but Commissioner Jones has a few questions, so
8 I will turn to him at this point.

9 COMMISSIONER JONES: Good afternoon,
10 Dr. Faruqui.

11 THE WITNESS: Good afternoon.

12 COMMISSIONER JONES: It's good to see you in
13 another context. I'm used to seeing you at meetings
14 talking about time-of-use pricing, dynamic pricing.

15 THE WITNESS: Indeed, indeed.

16 COMMISSIONER JONES: Following up on
17 Mr. Goltz's point, have you been involved in other state
18 commissions on Lease Solutions-type rate-making or is it
19 mainly on dynamic pricing, rate design issues?

20 THE WITNESS: So I've been involved in a lot
21 of rate issues -- sorry. Can you hear me now?

22 I've been involved in a variety of
23 tariff-related issues, including tariffs for, for
24 example, net energy metering issues and distributed
25 generation issues, so in that broad variety of tariffs.

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1 And some of them are end-use-specific like tariffs for
2 electric cars. That's sort of been the focus of my work
3 within the last few years.

4 COMMISSIONER JONES: Okay. Well, I'm not
5 going to take up too much time because I know you have
6 to catch your plane back to San Francisco.

7 So if you could turn to your testimony. I'm
8 going to be focusing on Section 3, Pages 16 through 19.
9 If you could turn to Page 16.

10 THE WITNESS: Direct testimony, Page 16.

11 COMMISSIONER JONES: Correct. That is
12 AF-4T.

13 JUDGE KOPTA: That will be your rebuttal
14 testimony.

15 COMMISSIONER JONES: Excuse me, your
16 rebuttal.

17 THE WITNESS: My rebuttal, thank you.

18 COMMISSIONER JONES: Tell me when you're
19 there.

20 THE WITNESS: I am on Page 16 through 31.

21 COMMISSIONER JONES: I'm going to be
22 focusing on Lines 16 through 19. And this describes,
23 does it not, the using of Benefits Model to the value
24 proposition of Lease Solutions; correct?

25 THE WITNESS: Yes.

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1 COMMISSIONER JONES: And you have developed
2 a Proprietary Model, I think which is in AF-5HC, called
3 the Societal Benefits -- the Public Benefits Model that
4 describes in great detail some of the benefits, the
5 public benefits of this specific tariff, right?

6 THE WITNESS: That's right. The model is
7 designed to look at the benefits of the specific tariff
8 as opposed to looking at the alternatives that the
9 customer would have, like doing their own purchase or
10 getting it financed with a third party.

11 Those are the options that people can avail
12 themselves of even today. Then comes the Lease
13 Solutions. So the model says, okay, if the world was to
14 change from the way it is today and the Lease Solutions
15 was to be introduced, then what would be the incremental
16 benefits to society of having some customers buy into
17 the Lease Solutions concept.

18 COMMISSIONER JONES: So on Lines 14 and 15
19 you say, "Any deviations from PSE's pricing assumptions,
20 leading to under-recovery of revenue, will be borne by
21 PSE's shareholders, not their customers."

22 THE WITNESS: I must apologize. I can't
23 seem to detect that language. Was that Page 16?

24 COMMISSIONER JONES: You should be on your
25 rebuttal; at least on mine, it's Lines 14 and 15 on

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1 Page 16.

2 THE WITNESS: I think there was variance in
3 the versions.

4 COMMISSION JONES: Yes, that's fine.

5 THE WITNESS: Yes, "Any deviations from
6 PSE's pricing..."

7 COMMISSIONER JONES: So explain that to me.
8 I have a difficult -- this service is going to be
9 offered as a regulated service, not an unregulated
10 service; right?

11 THE WITNESS: Correct.

12 COMMISSIONER JONES: Under an unregulated
13 service, in general, the shareholders would bear the
14 risk of pricing deviations in market acceptance and
15 things like that. Under regulated service, I don't
16 understand how PSE shareholders bear much risk from
17 pricing deviations.

18 THE WITNESS: So this is a design feature
19 that, my understanding, has been built into the tariff
20 design, the design to recover the revenues based on the
21 cost projections. And the customers who are
22 participants in the lease service are paying for that
23 based on that assumption.

24 To the extent that those prices are not
25 valid, PSE has designed a program, it's my

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1 understanding, to not shift the unrecovered revenue onto
2 the other customers, and they're going to socialize it
3 and spread it out like it's traditionally done.

4 My understanding is the current rental
5 program has -- the one that's close to new customers --
6 have that feature in it as well. But the new lease
7 program is designed to be self-contained. Any delta
8 would not be spread over to the other customers.

9 COMMISSIONER JONES: Okay. I don't know if
10 I totally understand, but I'll accept that clarification
11 by you.

12 Let's move on to the traditional
13 cost-effectiveness tests on Line 20 and going into the
14 next page on -- so you state here that both the TRC, the
15 Total Resource Cost test, or any cost-effectiveness
16 tests, are not relevant in this case at all.

17 THE WITNESS: Correct.

18 COMMISSIONER JONES: And our Staff and I
19 think Public Counsel witnesses say entirely the
20 opposite: That we should be applying these
21 cost-effectiveness tests because, A, we have a mandatory
22 EERS, an Energy Efficiency Resource Standard, and all
23 the utilities are obligated by law to pursue technical
24 feasible conservation. That's one of their arguments,
25 right?

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1 But you appear to be differing or you appear
2 to be taking that on. So I want to understand your
3 rationale here a little bit more.

4 THE WITNESS: Sure, absolutely. So the
5 Company already has a regulated conservation program
6 that it pursues, that passed those tests, and the
7 Company has done the best it can to enroll customers
8 under those conservation programs that pass the test.
9 It was our programs that are ratepayer-funded programs.

10 This is a new optional service that is being
11 offered to bridge the gap in the market, which the
12 surveys have indicated, that there are many customers
13 who are not replacing their equipment at the end of the
14 useful life. And so there's an opportunity to tap into
15 that market segment and get more conservation benefits,
16 more social or society benefits from that untapped
17 market.

18 This program is offered on the premise that
19 those people that like the program and the features,
20 because it's all in one, because maintenance is part of
21 it, because they don't have any upfront capital
22 investment to make, all of those reasons, that they sign
23 on to it; they do in their own mind a participant test.
24 It's based on value. It's not just the cost, but it's
25 also the convenience and all of those features.

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1 So what we are doing, what I did was I said,
2 okay, conditional on those people signing up for this
3 program, based on its features and their preferences and
4 their constraints and, you know, myopic decision-making
5 and all those challenges, they bought into it.

6 So the world that I'm looking at, it assumes
7 they are already on the program. And I'm saying their
8 being on the program, does that create additional
9 societal benefits for everyone else by using less
10 energy, reducing pollution, and all of that.

11 COMMISSIONER JONES: So as I understand your
12 argument, it's more on the additionality. Because you
13 describe it as a voluntary program, not a mandatory
14 program, but because it's voluntary, even though it's in
15 a tariff now and even though it's something the
16 Commission will have more diligent oversight over, under
17 tariff service, you stress these things based on the
18 additionality.

19 You are not saying all the other measures
20 that the Company takes under its natural gas
21 conservation program, that we should not be applying the
22 TRC test to --

23 THE WITNESS: Exactly.

24 COMMISSIONER JONES: -- you aren't saying
25 that, are you?

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1 THE WITNESS: I am not. I'm saying this is
2 all additional to what otherwise would have occurred.
3 So there's two world views. There's the world with the
4 conservation programs. They have gone out so far but
5 some people have been overlooked. And so this new
6 program comes in, it reaches out to them, enrolls them.
7 And then what I'm doing is saying, okay, the fact that
8 they enrolled has the opportunity to create additional
9 benefits. I'm trying to measure those and quantify
10 those.

11 COMMISSIONER JONES: Did you hear anything
12 this morning -- well, strike that.

13 Your data inputs are primarily based on the
14 survey data from the Cocker Fennessy study; right?

15 THE WITNESS: Correct.

16 COMMISSIONER JONES: You heard extensive
17 cross-examination this morning both from Mr. Casey and
18 Mr. Goltz on some of the inputs, on some of the
19 accuracy, perhaps, or the lack of accuracy on the NEEA
20 study, some of the market data.

21 Did you hear anything this morning that
22 would -- as an economist, data inputs are essential to
23 the outputs. Was there anything you heard this morning
24 that would cause you to change your opinion that the
25 survey data is accurate?

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1 THE WITNESS: I did not hear anything new.
2 I was familiar with -- I became familiar with the survey
3 data when I was brought in to do this project.

4 The first thing I asked was where is the
5 data coming from, how were the surveys done, what
6 approach was used, what did the results look like; and
7 also who did the study, what are their credentials, what
8 are their capabilities. And I did my due diligence on
9 the survey. I clearly did not do the survey, I did not
10 design the survey, so therefore I came in after it had
11 already been done. But it was going to be a crucial
12 input to my analysis, so I put it through due diligence.

13 COMMISSIONER JONES: Okay. Enough on that.

14 Turn to page, if you would, please, turn to
15 Page 19. This relates to Mr. Cebulko, Lines 11 through
16 15. Are you there?

17 THE WITNESS: I'm on Page 19. What line?

18 COMMISSIONER JONES: Lines 12 through 15.
19 So in there you state that Mr. Cebulko had the Public
20 Benefits Model in his possession and is welcome to
21 adjust the data as he sees fit.

22 When did Mr. Cebulko have access to your
23 Public Benefits Model, this very extensive spreadsheet,
24 do you know?

25 THE WITNESS: I actually can't remember

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1 exactly when, but I remember having a webinar where he
2 was a participant, I believe, in which we went through
3 the model and explained its various features, how it
4 worked, what the results looked like, what were the key
5 assumptions. But I can't remember exactly when.

6 COMMISSIONER JONES: Would you accept,
7 subject to check, that it was provided as an exhibit in
8 testimony AF-5HC when your rebuttal testimony was
9 submitted on July 1st?

10 MR. STEELE: No, I don't believe that's
11 correct.

12 MS. CARSON: That is correct, but the
13 parties had it long before that as work papers. And we
14 can verify the date. I believe it was in February, but
15 we can verify that for you.

16 COMMISSIONER JONES: We'll ask Mr. Cebulko
17 when he's up here, as well, later on.

18 Dr. Faruqui, would you turn back to Page 17.
19 And this is my last line of questioning.

20 THE WITNESS: Sure.

21 COMMISSIONER JONES: Page 17, Lines 15
22 through 18, especially when you start talking about
23 societal benefits.

24 At a high level, and I haven't had a chance
25 to look through all of your spreadsheets and all of this

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1 modeling yet, but I think many of the benefits relate to
2 avoided carbon emissions and avoided capacity and issues
3 like that; right?

4 So at a high level, could you please
5 summarize what the, quote, societal benefits of this
6 Lease Solutions program are?

7 THE WITNESS: So at a high level, what we
8 did was we looked at each of the individual appliances
9 and estimated the amount of electricity and natural gas
10 that would be saved as a result of replacing an
11 efficient appliance with a more efficient appliance.

12 That was the first step was to estimate the
13 physical units, therms, and kilowatt hours; and
14 secondly, to derive from that the savings in CO2
15 emissions based on certain assumed conversion factors
16 between producing a kilowatt hour and saving a ton of
17 CO2, and the same thing with therms.

18 So basically, it was quantify the physical
19 kilowatt hour in therms savings and then translate those
20 into CO2 savings. We also looked at the capacity savings
21 on the electric side in terms of generation capacity.
22 And those are some of the major categories of benefits
23 that we quantify.

24 COMMISSIONER JONES: So at a high level,
25 those are the major, quote, societal benefits, end

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1 quote, that you see coming from this program?

2 THE WITNESS: That's correct.

3 COMMISSIONER JONES: One more question.
4 Page 19, please.

5 THE WITNESS: Sure.

6 COMMISSIONER JONES: So this is on Lines 3
7 through 6, where you are saying that the Public Benefits
8 Model that you use assumes customers will choose an
9 energy-efficient model when it's, quote, technically
10 feasible to do so. "This is based on PSE survey data
11 that showed obtaining efficient equipment was central to
12 the customer's decision to lease."

13 I had a chance to review the highlights of
14 the NEEA survey of 2012. Did you have a chance to
15 review that as well?

16 THE WITNESS: Yes.

17 COMMISSIONER JONES: I think one of the
18 high-level conclusions of the NEEA survey was while
19 energy efficiency is important, cost, rebates, and
20 incentives, especially rebates incentives, are even more
21 important. So do you agree with that or not? Because
22 what you seem to be saying here is that energy
23 efficiency in and of itself is perhaps the major factor
24 for a customer to make a decision.

25 THE WITNESS: Actually, I'm saying something

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1 slightly different. If I could clarify as to this
2 specific question, and I'll address the broader issue
3 that you have raised as well.

4 So what I was responding to here was that
5 PSE's Lease Solutions is offering equipment, some of
6 which is efficient at the code level and some of it is
7 efficient in the sense of exceeding the code.

8 So in the Public Benefits Model, I'm only
9 looking at the second category, which is I am not
10 counting any benefits from customers who are just
11 putting in equipment at the code because they would have
12 done that anyway. And they're being encouraged to do it
13 but they're not going beyond the threshold set by the
14 code.

15 So all I was trying to do is say that we are
16 not adding benefits here unless the equipment exceeds
17 the efficiency level. Now, there's obviously some
18 convenience for the customer who bought the equipment in
19 code, but I haven't quantified the convenience factor
20 since there's no easy way to quantify the intangible
21 benefits. I'm just looking at the tangible benefits
22 which arise when equipment that exceeds the code is
23 being installed by the customer.

24 COMMISSIONER JONES: And by "code," did you
25 take into your analysis that the federal code on gas

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1 forced-air furnaces and some of the major appliances
2 changed in 2015?

3 THE WITNESS: I've worked with the subject
4 matter experts at PSE on that to look at what are the
5 code levels based on the collective collaborative
6 activity that happens here.

7 And so it was the same code level that I
8 recognize in the conservation programs as meeting the
9 code level.

10 COMMISSIONER JONES: So I think Staff and
11 Public Counsel witnesses are saying that some of the
12 equipment that PSE used in its analysis, based on the
13 Cocker Fennessy Survey, assumed that certain equipment
14 not up to federal code in 2015 would be leased and
15 provided. So you disagree with that?

16 THE WITNESS: No, I don't disagree with
17 that. All I'm saying is I don't count that as an
18 additional benefit; I only count the benefit when it
19 exceeds the code. So it's a conservative estimate.

20 COMMISSIONER JONES: And by the "code" you
21 mean the 2015 new National Energy Appliance Efficiency
22 codes; right?

23 THE WITNESS: I believe it's the most
24 applicable and recent code that we were looking at. We
25 got the numbers from the subject matter experts at PSE.

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1 COMMISSIONER JONES: And the subject matter
2 experts are whom, Mr. McCulloch and his team?

3 THE WITNESS: Yes, that's correct.

4 COMMISSIONER JONES: Because the energy
5 efficiency of Puget is run in another division by
6 another manager.

7 THE WITNESS: My understanding is that is
8 the case, but my understanding was that they have
9 coordination on what defines the code levels and what
10 the deltas are in terms of efficiency.

11 If I could answer your other question, there
12 was another part that I heard to your question, which is
13 how much weight --

14 COMMISSIONER JONES: You have a plane to
15 catch, too, so --

16 THE WITNESS: It just got delayed by a half
17 hour --

18 COMMISSIONER JONES: -- you can be brief.

19 JUDGE KOPTA: One at a time.

20 THE WITNESS: Sorry. All I can give you is
21 a quick response, which is that I agree entirely that
22 energy efficiency is only one factor among many when
23 customers make their buying decisions.

24 And I believe that survey that was done, the
25 Cocker Fennessy Survey, accounted for all of those

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1 factors. And it said if a Lease Solutions was to be
2 made available, would you participate in it under these
3 terms and conditions. So it was talking to real people
4 who had in their mind what their normal behavior would
5 be.

6 COMMISSIONER JONES: But you do understand
7 that we do have an EERS, a mandatory energy efficiency
8 standard in this state; right?

9 THE WITNESS: I do, yes. And so they cannot
10 buy equipment that is less than that.

11 COMMISSIONER JONES: Okay. Those are all my
12 questions.

13 JUDGE KOPTA: Thank you. Anything further
14 from the bench?

15 Redirect?

16 MR. STEELE: Your Honor, Mr. McCulloch can
17 address the 2015 federal standard.

18 JUDGE KOPTA: Any redirect?

19 MS. CARSON: One moment.

20 MR. STEELE: No, Your Honor.

21 JUDGE KOPTA: All right. Thank you.

22 Dr. Faruqui, you are excused. Thank you for coming to
23 testimony today.

24 THE WITNESS: Thank you very much.

25 MS. GAFKEN: Your Honor, we just have one

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1 point of clarification. There was some discussion about
2 when the model was provided to the parties, and I think
3 they were work papers, but they were provided in
4 response to a Data Request on March 25. So that's the
5 data that we have.

6 JUDGE KOPTA: Okay. Well, then we'll go
7 with that.

8 Before we take up with Mr. Goltz's cross, I
9 was looking at the exhibit list and noticed there were
10 three other exhibits that were identified under Staff's
11 cross. MBM-23, 24, and 25 that are not admitted, and I
12 don't believe that they were raised during the cross.

13 MR. CASEY: I talked with counsel and she
14 gave me the impression that -- I told her I hadn't
15 planned on crossing. I told Ms. Carson I wasn't
16 planning on crossing, I just wanted to use those
17 exhibits to rebut some of Mr. McCulloch's statements on
18 brief, and she gave me the impression that that would be
19 okay.

20 MS. CARSON: We did stipulate to them late
21 today.

22 JUDGE KOPTA: All right. Then
23 Exhibits MBM-23, 24, and 25 are admitted.

24 MR. CASEY: Thank you, Your Honor.

25 JUDGE KOPTA: Mr. Goltz, I believe it's your

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1 turn.

2 MALCOLM McCULLOCH,

3 having been previously sworn, testified as follows:

4
5 CROSS-EXAMINATION

6 BY MR. GOLTZ:

7 Q. Good afternoon, Mr. McCulloch.

8 A. Good afternoon.

9 Q. So touching briefly on JET-3, which was
10 discussed this morning with Ms. Norton, a number of us
11 were questioning whether it was -- the 40 percent number
12 was right or whether it should be more like 21 or 22
13 percent of equipment that is, quote, past its useful
14 life.

15 Are you sticking with 40 percent or do you agree
16 with me that it's less than that?

17 A. As Ms. Norton stated, we believe that the 40
18 percent accurately represents what is the potential
19 unmet need in the market today.

20 Q. You listened to the cross-examination of
21 Ms. Norton this morning?

22 A. It was riveting. I listened to it intently,
23 yes.

24 Q. And you agree that I was wrong and Ms. Norton
25 was right that that data shown on JET-3, that 40

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1 percent, you agree with that?

2 A. I'm not here to place speculation of wrong or
3 right on each individual, but I believe that as
4 Ms. Norton testified, we feel that these data points are
5 appropriate. We have not seen any other data presented
6 that reflects otherwise.

7 **Q. So is that a yes, you agree that 40 percent --**

8 A. I believe that 40 percent is representative of
9 unmet need in the market today.

10 **Q. So could you turn to MBM-50 and 51. And these**
11 **essentially are the same Data Requests from SMACNA to**
12 **Puget Sound Energy. One relates to investor-owned**
13 **utilities and one relates to non-investor-owned**
14 **utilities; is that correct?**

15 A. That is correct.

16 **Q. And Attachment A to MBM-50, PSE listed that as a**
17 **response in effect to both MBM-50 and 51; correct?**

18 A. Correct. We provided an excerpt of optional
19 services that are provided in the market by utilities.

20 **Q. So you submitted a spreadsheet, and for the**
21 **benefit of anybody, I've got a blown-up version, so it's**
22 **in four-point type instead of two-point type if anybody**
23 **would like.**

24 MS. BROWN: I'd like one.

25 MS. CARSON: I'll take one also.

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1 BY MR. GOLTZ:

2 Q. So in looking at MBM-50, or the Attachment A to
3 MBM-50, these are your listing of potential analogous
4 programs from around North America?

5 A. This is a listing that we received through
6 E Source of optional services that are offered within
7 the U.S.

8 Q. The question was, is PSE aware of any other
9 investor-owned utility with a current or past program to
10 lease appliances similar to the program PSE is
11 proposing, and you provided this list?

12 A. That is correct.

13 Q. And so in looking at this list, you have a
14 column, whether it's regulated or unregulated; and some
15 are regulated, some are unknown, and some are
16 unregulated. And then you have, I see, a solar program,
17 a tree service program, an outdoor lighting gallery,
18 surge protection program.

19 The only two that I saw on this, and maybe you
20 can confirm this, was a water heater rental program for
21 Green Mountain Power and one for Kitchener,
22 K-i-t-c-h-e-n-e-r, Utilities.

23 Are those the only appliance leasing programs on
24 this exhibit, subject to check?

25 A. I would suspect that those might be the only

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1 appliance, but there are other end-use options that are
2 on this list.

3 Q. Right.

4 A. Yes.

5 Q. They're the only appliance leasing programs on
6 the list?

7 A. I think that's correct.

8 Q. And then under Green Mountain, if you go to the
9 right-hand column where it has a website, and then it
10 says program Web page leads to empty page.

11 Have you checked that Web page for whether it's
12 still empty or not?

13 A. I've not recently checked the status. I know
14 Green Mountain does have lease offers available today.

15 Q. But that Web page, subject to check, is not
16 working --

17 A. I have not checked that recently, no.

18 Q. And then Kitchener, would you accept, subject to
19 check, that Kitchener is a consumer-owned utility
20 outside of Toronto, Canada?

21 MS. CARSON: I object to this use of
22 "subject to check." These are not calculations for the
23 witness to do on the stand, which is the point of
24 "subject to check," and I don't think the witness should
25 be accepting these proposed facts subject to check.

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1 MR. GOLTZ: I'm fine with that on this
2 exhibit.

3 BY MR. GOLTZ:

4 Q. Are you aware of where Kitchener utilities is?

5 A. I am not. I'm not aware of where they are
6 located.

7 Q. So do I deduce from this, then, that in
8 developing its lease program, PSE did not look to other
9 models for lease programs?

10 A. I think as we stated in response to this Data
11 Request, PSE, and in my testimony, used our existing
12 rental service as a baseline for developing this service
13 as well as surveys from our customers that talked about
14 the interest they have in the comprehensive service. We
15 did not look and parity our service based on any other
16 offer in the market today.

17 Q. I'm sorry, parity?

18 A. We did not use it in the development of our
19 service that we propose today.

20 Q. Okay. So turning to a different topic here, to
21 MBM-52. Preliminary question.

22 So you have on your tariff a finite number of
23 appliances that would be offered; correct?

24 A. I believe there are 12 prices listed in our
25 tariff.

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1 **Q. And how did you pick those, the prices of**
2 **products?**

3 A. The products? As detailed in my testimony, we
4 looked at the existing market today and the penetration
5 of those types of products and what would serve the mean
6 of the customers in the residential sector.

7 **Q. So in MBM-52, I was asking whether or not in**
8 **your RFQ process you, in effect, asked your contractors**
9 **to whom you sent the RFQs for other ideas of products,**
10 **and you did not?**

11 A. We did not have any products outside of those
12 listed in the tariff today in the RFQ process.

13 **Q. So this can be shortened somewhat because you've**
14 **already responded to a number of these questions. But**
15 **so I understand, to confirm, were evaluating the prices**
16 **that are in your tariff right now, whether they're fair,**
17 **just, and reasonable; correct?**

18 A. Correct. That's the purpose of this process.

19 **Q. Okay. And these are cost-based rates?**

20 A. These are rates based on actual costs received
21 in bids we received from the market.

22 **Q. There's more than that. There's a whole bunch**
23 **of costs that go into this --**

24 A. There are other costs associated to that other
25 than what we received in the RFQ, yes.

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1 **Q. They're cost-based rates, not market-based**
2 **rates?**

3 A. I would say that that's correct, yes.

4 **Q. And if I can have you turn to ECO-8HC.**

5 A. It's a pretty long document. Is there a
6 specific page?

7 **Q. It's ECO-8HC. It was the one that we looked at**
8 **earlier.**

9 A. Yes.

10 **Q. And I believe you answered questions on this**
11 **exhibit?**

12 A. Correct.

13 **Q. So on Page 1, again, this is highly confidential**
14 **so we'll try to avoid that highly confidential**
15 **information. But this is the results from your RFQs to**
16 **a number of contractors; correct?**

17 A. Yes. These are resultant from the RFQs we
18 received --

19 **Q. And I think you said how many contractors**
20 **responded to this piece of equipment?**

21 A. I don't have that information in front of me. I
22 believe that we received -- I know that we received 15
23 responses in total on our RFQ to inform this
24 information.

25 **Q. And some of the respondents responded for all**

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1 the types of equipment, perhaps, but they didn't all
2 respond for every piece of equipment?

3 A. I would say that's accurate. They responded
4 based on the services that they can provide and the
5 interest they have in working with PSE on those profits.

6 Q. Right. And so looking at the bottom of the next
7 to the last column is a number that's labeled highly
8 confidential, and that's an average of the RFQ responses
9 for this piece of equipment; correct?

10 A. I believe I've confirmed that already.

11 Q. Right. And then you've also said that there's a
12 variation among the respondents, and you took the
13 average.

14 Why wouldn't you have taken the lowest one as
15 the number for your product -- for your prices? Or the
16 25th percentile?

17 A. Well, I think it was important for us to
18 capture, because we had different paths for involvement
19 in the service, and we capture an average cost
20 throughout those paths.

21 Q. So maybe I don't understand. So the costs for
22 Puget, assuming this gets approved, that your costs of
23 the equipment will vary depending on who your partner
24 contractor is?

25 A. I don't believe our costs will vary based on the

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1 contract partner we have.

2 Q. So they're ultimately going into -- assuming
3 your rates are refreshed in 60 days after approval, if
4 that happens, there will be a number that may or may not
5 be a number on this document, the average number, there
6 will be a number that will be going to the cost and will
7 go ultimately into the tariff price?

8 A. As I stated, the costs that we presented, we
9 feel confident in. If we're asked by the Commission, we
10 would be happy to comply with a Compliance Filing.

11 Q. I understand that.

12 A. But ultimately, yes, there is a cost, and I
13 think what we've presented within the RFQ is indicative
14 of what those costs are going to be.

15 Q. Can we just go up to the fifth one up from,
16 fifth heat pump row up. Do you see that?

17 A. Fifth from the bottom?

18 Q. Fifth from the bottom. I'm excluding the line
19 that has the average on it.

20 A. I see that.

21 Q. Just checking with your counsel.

22 MS. CARSON: We would object to that because
23 that would allow everyone to back into the confidential
24 number.

25 MR. GOLTZ: I was trying to get the --

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1 BY MR. GOLTZ:

2 Q. If you look at the fifth one up from the bottom
3 and you compare it with the average, okay?

4 A. Yes.

5 Q. What I was trying not to get at, what that ratio
6 is, but I won't.

7 A. I understand.

8 Q. But obviously that lineup is different from the
9 average, and that was a bid that was made by one of your
10 contractors. And why wouldn't you pick that number as
11 the price because it is different than the average?

12 A. I'm not sure I'm following your question. Why
13 would we not contract to that specific rate? Is that
14 what you're asking?

15 Q. Yes. The contractor basically said, this is
16 what it costs me, and it's less than the average, and
17 yet you put in your tariff rates the average as opposed
18 to the lower.

19 Why wouldn't you say, wow, that's a bargain,
20 let's put that in our rates because that will help our
21 customers more, and the lease rates will go down because
22 we can get equipment for that lower rate?

23 A. Well, I think that there are quite a few things,
24 as you alluded to earlier, that go into selecting
25 partners aside from just price. And we've stated in my

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1 testimony that service territory, quality, capabilities,
2 are also something we need to consider.

3 So it would be speculative of me to make an
4 assessment specifically on price. And I think that the
5 weighting that we've done and the average is
6 appropriate. And, again, the Company has said that we
7 believe that the rates that are filed are appropriate
8 and that we will stand behind them.

9 If the Commission feels that it's appropriate to
10 do a Compliance Filing, we certainly will go down that
11 path. We don't think it's necessary.

12 **Q. So let's say you go down that -- if you were to**
13 **refresh -- well, let's say you aren't going to refresh**
14 **your rates, okay, that these rates are just approved as**
15 **they are.**

16 **You still don't know what products you're**
17 **getting, right, at this point? You would take some time**
18 **after the approval to enter into contracts with the**
19 **partners?**

20 **A. So I want to answer that we will enter into**
21 **contracts. As I answered to Mr. Casey earlier, we do**
22 **have an understanding of the equipment that will be**
23 **provided under the service. You referred to them as**
24 **products. I believe that we have the products**
25 **stipulated in our tariff that we will be offering.**

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1 Q. Right. But what I'm saying is that you'll enter
2 into contracts, and the price, the cost to you of the
3 appliances, will be set in the contracts with the
4 partners?

5 A. Yes. For us to offer the service, we have to
6 have contracted rates or providers.

7 Q. This number at the bottom here is not the price
8 that you're offering to pay for the equipment to all of
9 the contractors that offered to be partners?

10 A. As I stated, we have not contracted. So I
11 cannot answer that question.

12 Q. It's a simple question. This is not the price.
13 When you ultimately enter into contracts with the
14 various providers, if this gets approved as filed, you
15 are not offering that to purchase equipment at that
16 price per unit, or are you? Or is this some other
17 number?

18 A. Again, I believe that the contracting process
19 will help us understand that more clearly --

20 Q. But as you know now --

21 A. As I know now --

22 Q. Just the number.

23 A. This is the number that we have filed and that
24 we stand behind as far as what we will offer from our
25 providers.

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1 Q. Do you understand my question?

2 A. I do.

3 Q. When you enter into a contract with -- and we'll
4 use a hypothetical.

5 A. Sure.

6 Q. XYZ Appliance Company, okay, and they're going
7 to do this piece of equipment.

8 A. They're going to provide --

9 Q. Will the contract say, we will buy equipment
10 from you at that price? It's the bottom of the next to
11 the right column. And if you don't -- I don't
12 understand why --

13 A. I have not contracted -- this is the paradigm
14 that we've been involved in this entire case. You know,
15 the process, and even your association responded that
16 the process of contracting prior to approval from the
17 Commission is premature to consider.

18 And so just as you've stated, do I know what
19 that cost will be on the contract to date? I feel it
20 will be representative of the costs that we have
21 presented in our tariff and in the information to back
22 up that rate, but I don't have that definitive answer.

23 Q. So let me just assume that it's this number.

24 JUDGE KOPTA: Mr. Goltz, I'm going to
25 caution you, just as the court reporter did, please let

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1 him finish his answer before you start.

2 BY MR. GOLTZ:

3 Q. Let's assume it's that number that you see in
4 the bottom next to the right column.

5 A. Yes.

6 Q. Would you offer that number, that price, to
7 every one of your partners who supplies this piece of
8 equipment?

9 A. I think for the --

10 MS. CARSON: Objection; asked and answered.
11 It seems like this is the same question over and over
12 being asked in different ways.

13 JUDGE KOPTA: I don't think you're going to
14 get anything more, Mr. Goltz, than what you've gotten.

15 BY MR. GOLTZ:

16 Q. So let's assume it is that number, okay? And
17 then the one -- the contractor who made -- in the RFQ
18 responded, five up from the bottom, you would pay that
19 contractor more than what it cost him or what they
20 earlier said?

21 A. You just asked whether if I assumed the cost is
22 what is there that is contracted. And that would be the
23 cost that is contracted. You gave me a hypothetical
24 that doesn't make sense, I'm sorry.

25 Q. Yeah. That's what you would pay, even though

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1 according to this RFQ some of the responders, on average
2 about half of them probably, said it would cost them
3 less. And so if you do provide each of them with an
4 average number, then you're paying way more than you
5 need to, wouldn't you?

6 A. I think that's a mathematical equation that
7 makes sense. If you pay more and they give you less,
8 than yes, there is more. I don't think that that will
9 be the case here.

10 **Q. And if that happens, you would be paying more**
11 **than you need to?**

12 A. PSE is working to operate this service on behalf
13 of our customers at the interests of our customers. We
14 don't believe that we would be putting forward prices
15 that will overcharge the customers. The Commission is
16 here to help make sure that that is appropriate. So I
17 don't like the accusation that we will be overcharging
18 customers.

19 **Q. Okay. So let's -- in the RFQ process, did you**
20 **ask the respondents to quote equipment costs based on**
21 **what number of pieces of equipment?**

22 A. Are you talking about the amount of customers
23 that would participate?

24 **Q. Well, perhaps. I guess if I were -- I think if**
25 **I ran a contracting business and someone came to me and**

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1 said, how much does it cost for one of these furnaces,
2 my answer might be one thing, but if they came to me and
3 said, I want to get a thousand of them, it might be a
4 different number.

5 So my question is, did you ask them for the
6 price of one, price for a hundred, or price for a
7 thousand, or what?

8 A. The costs are based on a per unit. However, in
9 the information that we presented in the RFQ, we
10 detailed what the potential projections of the market
11 would be in the first five years.

12 **Q. So in other words, it was a -- it was more than**
13 **simply one? It's per unit for a number --**

14 A. We asked for per unit cost, but there were
15 parameters that were provided to help inform that
16 pricing.

17 **Q. So in the next step of the process, assuming**
18 **this gets approved, will there be a competitive**
19 **procurement or will you simply ask for the same**
20 **information as you did in the RFQ?**

21 A. We will be working with our Purchasing
22 Department who is responsible for contracting within our
23 organization to do the appropriate selection and
24 contracting process, which should include competitive
25 bid process.

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1 **Q. And it will include picking a specific brand of**
2 **product and model of product?**

3 A. That would be a result of a contracting process.

4 **Q. So could you turn to MBM-64.**

5 A. Yes.

6 MS. CARSON: This is one of the cross-exam
7 exhibits that we objected to as outside the scope of
8 SMACNA's intervention in this case.

9 JUDGE KOPTA: Yes, I have that noted, as
10 well as the other two exhibits that you have referred
11 to.

12 MR. GOLTZ: So I can argue why I think it's
13 relevant or I can ask a question.

14 JUDGE KOPTA: I would prefer that you just
15 ask the questions, and then when you offer it, then
16 we'll deal with the objections.

17 BY MR. GOLTZ:

18 **Q. Do you recognize this document as one periodic**
19 **Lease Solutions project updates?**

20 A. Yes. I created this document.

21 **Q. And this is dated October 21, 2015?**

22 A. Correct.

23 **Q. And at this point in the process, you were**
24 **hoping for approval of the Lease Solutions proposal at**
25 **the Commission's open meeting on November 13th?**

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1 A. Correct.

2 **Q. And you stated under Key Milestones that you**
3 **were then hoping that service partner contracts will be**
4 **signed November 30th.**

5 A. That was an estimate of the time that we
6 believed.

7 **Q. So you thought after approval of this tariff,**
8 **which at that time contained no rates, that all of the**
9 **rates and the equipment and brands, if possible, would**
10 **all be worked out in the next two-and-a-half weeks and**
11 **all the contracts would be signed with the service**
12 **partners?**

13 A. Yes. We had already conducted an RFQ at that
14 point, so we had a lot of information to inform that we
15 could do an expedited contracting process --

16 **Q. And there was time within that for a competitive**
17 **procurement in that time period?**

18 A. From what my Purchasing Department advised me,
19 that they felt that that was appropriate. Again, this
20 was a projection used to inform a large audience
21 internally working on the project about what the current
22 status is. It's not a fixed timeline.

23 **Q. So, also, the ultimate rate -- switching topics**
24 **somewhat -- the ultimate rate includes a return**
25 **component; correct?**

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1 A. Correct.

2 Q. And the return on equity, the investment, is the
3 investment in the equipment?

4 A. In the capital, correct.

5 Q. So that would be the furnace system --

6 A. -- equipment and the installation, is what I've
7 detailed in my testimony.

8 Q. The equipment and the standard installation?

9 A. The equipment and the standard installation are
10 the services that will be contracted with providers to
11 fulfill this service.

12 Q. So on Page 18 of your direct testimony at
13 Lines 22 and 23, you said that the weight of cost to
14 capital is assessed to the capital costs.

15 Is that the extent of analysis of the
16 appropriate cost of capital for this project??

17 MS. CARSON: Object to the form of the
18 question.

19 JUDGE KOPTA: I confess I was trying to find
20 the citation, so I've lost the question.

21 COMMISSIONER JONES: Mr. Goltz, is it direct
22 MBM-1T? That's his direct testimony? Page 18?

23 MR. GOLTZ: I believe so. That's what I put
24 in my notes.

25 THE WITNESS: Could you repeat your question

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1 for me, please?

2 BY MR. GOLTZ:

3 Q. My question is, referring to Lines 22 and 23 on
4 Page 18 of MBM-1T, is that the extent of the analysis of
5 what is the appropriate cost of capital to be determined
6 to be used in the development of the prices?

7 A. To the extent the way the cost of capital was
8 applied to both the capital cost as well as the
9 treatment of the net present value, yes, that was the
10 extent of the treatment.

11 Q. And so you're basically picking what is
12 Company's most recently approved cost of capital?

13 A. That's the only cost of capital we're allowed to
14 provide.

15 Q. And that overall rate of return that you're
16 referencing is a blending of the cost of debt and the
17 cost of equity; is that your understanding?

18 A. Yes, that's my understanding.

19 Q. Can you turn to Cross-Exhibit 62HC.

20 A. Yes.

21 Q. And this contains highly confidential
22 information, but I'm only referring to Page 2 which has
23 nonconfidential.

24 MS. CARSON: Your Honor, if I could again
25 object. I think the issue is not just whether or not

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1 these exhibits should be admitted, it's whether this
2 line of questioning should be allowed by an intervenor
3 whose role in the case is limited.

4 MR. GOLTZ: As we said earlier, we're
5 talking about a company that's entering into competition
6 in a market that's competitive, and they're seeking to
7 obtain a governmental imprimatur on its rates as fair,
8 just, and reasonable.

9 And doing a calculation to come out with a
10 leased rate that they're going to be selling as a fair,
11 just, and reasonable rate, that is -- I think that opens
12 up some questions about how those rates are calculated
13 and if, in fact, they are fair, just, and reasonable.

14 There is an investment component of that
15 rate that includes purchasing of some price that's a
16 little bit unclear to me, but purchasing of equipment
17 from a number of providers, and that will be rate-based.

18 The question becomes -- they also earn a
19 return on that number. And the question is whether the
20 return that they earn on that number should be the same
21 return as they would get on every other investment in
22 their capital, their investments.

23 The reason I ask this is because I think the
24 answer, but this exhibit seems to show, is that they're
25 going to do this through credit, not through investment.

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1 That makes a difference. I think there's also -- my
2 next line of questioning is going to be, well, they
3 aren't going to get the equipment until after it is
4 already ordered, so the risk of investment is low.

5 So that's why I asked the witness, is this
6 the analysis, the extent of your analysis of your cost
7 of capital issues, which is, basically, we're going to
8 take what we have now.

9 And what I'm trying to show now is that what
10 this program is is highly different from the same sort
11 of risk profile in all their other investments and,
12 therefore, the return component of these rates is very
13 high and, therefore, the rates that fall out of those
14 are extremely high.

15 That, I think, when they're asking the
16 Commission to bless those as fair, just, and reasonable,
17 that is a market aberration, because they're coming into
18 this market in a poorly competitive basis, and they're
19 getting this imprimatur on something that's not fair,
20 just, and reasonable.

21 JUDGE KOPTA: The Commission finds this as a
22 useful inquiry and believes that it is related to the
23 market concerns that the Intervenors have and were
24 allowed to intervene in this proceeding to pursue and,
25 therefore, we will allow it.

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1 MR. STEELE: Your Honor, should we continue
2 to raise this objection each time, then, when an exhibit
3 like this is raised? Because I feel like this issue
4 will probably keep coming up each time.

5 JUDGE KOPTA: I think you're going to get
6 the same ruling. If you do, you're welcome to make the
7 objection and to therefore preserve it. But I think
8 that's where the Commission is coming from, from what
9 we've seen so far.

10 MR. STEELE: Thank you.

11 BY MR. GOLTZ:

12 **Q. So returning to MBM-62, on Page 2.**

13 A. Yes.

14 **Q. Under Recommendation, and subheading Cap X**
15 **should be additional or current capital plan, and the**
16 **last bullet point says, expected cap X can be funded**
17 **with existing --**

18 MS. CARSON: Isn't this highly confidential?

19 MR. STEELE: It's not. What page are you
20 on?

21 MR. GOLTZ: Page 2.

22 BY MR. GOLTZ:

23 **Q. Expected cap X can be funded with existing**
24 **credit facilities.**

25 A. Was there a question?

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1 Q. Is that your understanding of how this proposal
2 will work?

3 A. I think this was a summary detail that was
4 provided in the early phase of design. I'm not a rate-
5 making expert or financial expert within the Company to
6 determine exactly how the cap X will be funded.

7 Would you like me to repeat that? My apologies.

8 Q. So can you turn to your rebuttal testimony,
9 Page 22.

10 JUDGE KOPTA: Exhibit MBM-7HCT? That's
11 Page 22, Mr. Goltz?

12 MR. GOLTZ: Right.

13 BY MR. GOLTZ:

14 Q. I'm just confirming on Line 17, there isn't a
15 comparable market option? And I think you testified to
16 that as well?

17 A. That is accurate.

18 Q. So to MBM-62, this time it's the confidential
19 part of the document.

20 A. Sure.

21 Q. This is 62 -- MBM-62, and it's a PSE Leasing
22 Design Phase Executive Update.

23 COMMISSIONER JONES: Well, there's a number
24 in the bottom left-hand, 27, and one in the upper, 3 of
25 10. I have two numbers on this page.

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1 JUDGE KOPTA: Yeah, the exhibit number is on
2 the upper right.

3 COMMISSIONER JONES: But there's another
4 number down in the lower left.

5 JUDGE KOPTA: Yes, the lower left is a
6 number.

7 COMMISSIONER JONES: Is that the same
8 exhibit as Mr. Goltz's or another one?

9 MR. GOLTZ: I'm sorry, I apologize. When we
10 filed these with the parties, we neglected to put them
11 on blue paper, but I have copies on blue paper here.

12 We did file with the Commission blue paper.
13 Mine says June 10, 2014 PSE Leasing Design Phase
14 Executive Update. Right?

15 COMMISSIONER JONES: Mine does too.

16 MR. GOLTZ: And, again, what I'm asking
17 about is back on Page 7 of 10, as an example.

18 COMMISSIONER JONES: I have that.

19 BY MR. GOLTZ:

20 **Q. And my question is, Mr. McCulloch, did you**
21 **attempt to make comparisons of your lease program with**
22 **hypothetical lease programs of other providers?**

23 A. Yes, hypothetical options were presented as a
24 proof of concept in the design process.

25 **Q. So you hypothesized a lease program of a**

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1 provider, and then compared your lease program to the
2 hypothetical one, and determined that yours was in the
3 ballpark?

4 A. That's correct, as a proof of concept we did
5 that exercise.

6 **Q. So let me ask you this about -- you mentioned or**
7 **Ms. Norton mentioned that over time new products will --**
8 **might come into the program?**

9 A. Yes. The benefit of this proposal is that it
10 provides a platform where as technology or customer
11 interests change, this will provide an opportunity for
12 the Company to bring new products to bear.

13 **Q. Is it also true that if the existing products in**
14 **your tariff is proposed, there will be, from time to**
15 **time, they need to change the prices?**

16 A. Yes. I think we've stated that there would be
17 an opportunity to update rates. However, in operating
18 the business, I don't anticipate that will happen for
19 six months to a year at least to understand how this is
20 operating.

21 **Q. I understand, but if you're in this business for**
22 **the long haul --**

23 A. Yes.

24 **Q. -- periodically, I mean, just like the SMACNA**
25 **members who are contractors, their rates, their prices**

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1 change periodically. Labor costs change, costs of
2 equipment changes, so there will be a need to change
3 your prices? That's all I'm saying.

4 A. Correct, we believe that there will be an
5 opportunity to do that.

6 **Q. And then so you might update the prices once**
7 **every six months, once a year?**

8 A. I don't know. The business performance will
9 tell me when we need to update those rates.

10 **Q. Or if the rates seem too high, Public Counsel**
11 **could bring a complaint and address the rates?**

12 A. The Commission could bring a complaint, the
13 Public Counsel, absolutely. That's the benefit of this
14 being a regulated service.

15 **Q. That's the benefit. That's my question. So**
16 **when you update the rates, you'll file a new tariff and**
17 **this Commission Staff will review it. I assume you'll**
18 **check with the stakeholders, won't you?**

19 A. We will take on the normal filing process of
20 establishing those updated rates.

21 **Q. And that would include Commission Staff?**

22 A. That would include Commission, Commission Staff,
23 and any stakeholders who wish to engage within that
24 filing.

25 **Q. And if you decide you want to get a ductless**

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1 heat pump, for example, as one of your options, or maybe
2 more specifically ten ductless heat pumps of different
3 sizes, you would then file a tariff with these ten
4 models of ductless heat pumps and ask the Commission
5 Staff to review the rates for those, the fairness,
6 justness, and reasonableness for the price of those
7 ductless heat pumps?

8 A. I have not done any analysis on future products,
9 and the way those rates would be established, so it
10 would be speculative for me to answer how we would do
11 that. However, I do believe, as we've stated in my
12 testimony, that if a new product or technology is deemed
13 appropriate, we would file the appropriate rates with
14 the Commission for review.

15 **Q. Okay. And the -- but before you do that, you've**
16 **got to figure out what the rates would be?**

17 A. Correct. We would utilize the methodology we
18 have today.

19 **Q. The same methodology we've been talking -- the**
20 **same methodology that we talked about today for setting**
21 **the prices that are at issue in this tariff?**

22 A. I believe we will have an approved service which
23 will allow us to be more fluid in the contracting
24 process. So will the methodology change? Potentially,
25 but it should reflect the same pricing worksheet

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1 methodology that we have presented today and all parties
2 have reviewed.

3 **Q. But you still do go through an RFQ process?**

4 A. Absolutely, we would do the normal competitive
5 bid process.

6 **Q. The RFQ process was not a competitive bid
7 process. You would do an RFQ process and then you would
8 do a competitive bid process?**

9 MS. CARSON: Objection; calls for
10 speculation. This is in the future with potentially new
11 products, and I think this witness has answered to the
12 best of his abilities. But I think we're kind of
13 retreading on the same territory.

14 MR. GOLTZ: The witness testified that's one
15 of the advantages of this, it's a regulated service.
16 I'm positing this is one of the disadvantages of this;
17 that every year, every six months, every product is
18 going to be brought before the Commission and the
19 Commission Staff to review this for fairness, justness,
20 reasonableness.

21 Every year, I assume -- they've talked about
22 more products, because they've said, well, we only have
23 a few products now, sure, we'll bring in ductless heat
24 pumps, sure, we'll bring in tankless hot water heaters,
25 we'll bring all these back to the Commission, all those

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1 will go through this process that we've been going
2 through. Granted, we hope we don't have a long,
3 drawn-out hearing on everything. Add to that EV
4 charging systems, solar panels, everything else.

5 I'm suggesting that this is a workload that
6 is substantial for a proposal that could be done as an
7 unregulated service, and Mr. McCulloch wouldn't have to
8 go through all these hoops to set his prices.

9 MS. CARSON: Again, I must object to the
10 Intervenor being concerned about the Commission's
11 workload. I think that's outside the scope of this
12 intervention. And when SMACNA and WSHVACCA were allowed
13 to intervene, it was that they would not burden the
14 proceeding, and this has been dominated by Mr. Goltz and
15 his questioning.

16 So I think they've had ample time, and that
17 if we are going to finish today, we need to move on.

18 JUDGE KOPTA: Well, I would agree, and I'm
19 not -- I understand Mr. Goltz's position at this point.
20 I see benefit in exploring exactly what the process is.
21 And Mr. McCulloch did acknowledge that there would be
22 changes in costs and potentially additional types of
23 equipment. And to establish what process the Company
24 intends to have in place I think is valuable for the
25 Commission to know. But --

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1 MR. GOLTZ: I'm done with that.

2 JUDGE KOPTA: If you're done with that, then
3 let's move on.

4 BY MR. GOLTZ:

5 Q. So let me ask you this then. If this gets
6 approved, can you say with 100 percent certainty that
7 the service will be available in Olympia?

8 A. I believe that based on the responses we've
9 received from the RFQ that covered our entire service
10 territory, that we will be able to offer service
11 throughout our territory.

12 Q. So is that -- but you believe that, but you
13 don't know for sure because you have to wait for the
14 service partners?

15 A. Correct. We have not entered into contracts,
16 but that does not take away from my belief that we will
17 be able to offer the service to our customers throughout
18 our territory.

19 Q. If it's available, let's pick a small, let's say
20 Yelm, Washington, a smaller town, and you have a partner
21 out there that's doing work, and in ten years someone
22 enters into a lease for 18 years. Ten years from now
23 that contractor goes out of business, and then in year
24 11, your lease customer needs a service arrangement.
25 How does that work?

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1 A. I detailed that in my testimony in the fact that
2 we would utilize another service provider within the
3 Lease Solutions service to provide that continuity to
4 the customer.

5 **Q. So it depends on another Lease Solutions**
6 **contractor being at the ready?**

7 A. Again, you're asking me to look 18 years ahead.

8 **Q. No, ten.**

9 A. Ten, okay. I'll probably be done paying for
10 college by then. So yes, I believe we'll be able to
11 provide that service for the customer. That's what
12 we've intended for the tariff and that's what we
13 obligated our company to do for the customer should they
14 sign up for the service.

15 **Q. I'd like you to turn to MBM-49, which has not**
16 **been stipulated for admission.**

17 A. Yes.

18 **Q. And in that --**

19 MS. CARSON: And we'll renew our objection
20 to this line of questioning.

21 BY MR. GOLTZ:

22 **Q. In that we simply asked -- we have options for**
23 **a -- if someone wants to purchase the equipment after a**
24 **period of time, and then Part B of that Data Request, we**
25 **set forth a hypothetical as to how much -- what would be**

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1 the result, what would be the purchase price or the
2 sales price. And you objected because it was
3 speculative and unduly burdensome.

4 I guess my question is -- I tried to make it
5 simple, tried to -- these customers might want to know
6 when they sign up for this service, well, what happens
7 if I want to buy it in ten years or five years? What
8 would be the price? And my question is, why can't there
9 be a simple answer to that customer about what the sales
10 price would be?

11 A. I don't believe we are keeping that information
12 from a customer. We have in our tariff the option for a
13 customer to contact us to acquire the option to purchase
14 price at any time through the lease.

15 **Q. But with a -- I tried to make a simple**
16 **hypothetical that would allow you to exercise that, and**
17 **you refuse as being too burdensome. That's my question.**
18 **Why is it so burdensome?**

19 A. I believe the result of that was, that you, as
20 representative of SMACNA, had access to our highly
21 confidential model, and I couldn't provide you with that
22 type of hypothetical analysis. So that's why we
23 objected to your question.

24 **Q. And MBM-60 -- let me just ask you this. I might**
25 **be able to short-circuit it.**

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1 Did you testify earlier today that you will not
2 be providing the customers with information on brands
3 before they make a decision to participate?

4 A. I don't believe I said that in my testimony.

5 **Q. Turn to MBM-60, then.**

6 A. Yes, I'm looking at that.

7 **Q. That's a Data Request from Staff.**

8 A. Yes.

9 **Q. And the first paragraph said that PSE, the**
10 **response, it said that it's not at this time determined**
11 **whether it would provide the information regarding all**
12 **the brands and specific models that PSE offers in each**
13 **of the categories.**

14 **Is that still uncertain, you don't know if**
15 **you're going to provide the brands? And there's a lot**
16 **of different brands out there.**

17 A. Today in our existing lease rental business, we
18 do not publish in our rates the brand and model of the
19 product that's established. We do not provide that to
20 the customer prior to arriving at the home. We answer
21 that question in consistency with that practice today,
22 which is based on our approved service that we provide.

23 **Q. Turning to MBM-63.**

24 MR. STEELE: We do object to this as well,
25 Your Honor.

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1 MR. GOLTZ: I'm sorry?

2 MR. STEELE: Just renewing our objection.

3 MR. GOLTZ: This is highly confidential, so
4 I'll try not to.

5 BY MR. GOLTZ:

6 Q. We touched on this before. Under existing
7 Commission regulations, you are prohibited from
8 disclosing certain customer information to third parties
9 or subsidiaries. Do you understand that?

10 A. I do.

11 Q. However, if you run this as a regulated service,
12 one of the advantages of this would be for your
13 participation in this market, you could use that
14 information; is that true?

15 A. Are you asking whether we could engage with our
16 customers based on the information they provided us?

17 Q. Yes.

18 A. Yes. We are allowed by law to communicate to
19 our customers about tariffs and services available, so
20 we would avail ourselves and comport with those
21 requirements.

22 Q. On Page 5 of 17 of this Exhibit 62, highly
23 confidential, HC, Page 5 of the exhibit, Page 4 of the
24 document, do you see that?

25 A. I'm there.

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1 Q. Under the heading of Activities, the second
2 paragraph down indicates just that, that this is
3 something that you would be using such information.

4 I'm trying not to read it because it has
5 specific types in there, but that's an accurate
6 statement of the intent at the time this document was
7 prepared?

8 A. Again, we would comport with any regulations in
9 place today in engaging with our customers regarding the
10 service.

11 Q. Right, but this expresses an intent of the types
12 of information that PSE may use?

13 A. That is some of the information that we have
14 available to us.

15 Q. That's not quite -- I'll let it go.
16 You've included in a number of your offerings
17 wi-fi-capable equipment?

18 A. Correct. Some of the equipment does have wi-fi
19 capability.

20 Q. And looking at MBM-58 --

21 MR. STEELE: We renew our objection, Your
22 Honor.

23 BY MR. GOLTZ:

24 Q. That basically describes the current progress of
25 PSE toward DR-capable equipment; is that correct?

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1 A. No. This responds to a hypothetical question
2 that was presented by WUTC Staff regarding PSE's use of
3 wi-fi capabilities.

4 Q. And but in the second paragraph of the response,
5 it says you've not evaluated remote monitoring
6 capabilities of the equipment.

7 A. That is correct. Remote monitoring, to my
8 understanding in responding to this, was monitoring the
9 equipment for operation and/or other equipment-related
10 issues.

11 Q. In MBM-65 --

12 MR. STEELE: Same objection.

13 BY MR. GOLTZ:

14 Q. This was a document dated November 10, 2015,
15 another Lease Solutions Project Update. Is that your
16 document and prepared by you?

17 A. Yes.

18 Q. The second paragraph in this document basically
19 gives a report on the fact that at the open meeting on
20 November 13th, you expected the tariff to be suspended?

21 A. Correct. That's what it states.

22 Q. Right. And then the second paragraph, without
23 reading it, talks about a strategic pivot, as it says,
24 as a result of that?

25 A. Yes.

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1 **Q. One last question on surveys. The Cocker**
2 **Fennessy Survey was an online survey, was it not?**

3 A. To my understanding, they were conducted online,
4 yes.

5 **Q. Are you familiar with the shortcomings of online**
6 **surveys as opposed to other types of surveys?**

7 A. I'm not an expert in survey taking, so I can't
8 respond to that answer.

9 MR. GOLTZ: Thank you, Your Honor. I would
10 like to offer MBM-49 through 52; 54 and 55 we've
11 withdrawn because they're duplicates; 57 through 59 and
12 61 through 66.

13 JUDGE KOPTA: And I take it that PSE objects
14 to admission of all of those exhibits based on your
15 prior -- our prior discussion on objections?

16 MR. STEELE: Yes, Your Honor.

17 JUDGE KOPTA: I'm going to overrule the
18 objection and admit those exhibits. These are all
19 related to topics that I think are part of this
20 proceeding.

21 Certainly they were addressed, some of the
22 questions that I personally had, and I think the concern
23 with limiting SMACNA's and WSHVACCA's intervention was
24 to keep them from straying from what the Commission
25 needs to focus on in this proceeding, and I don't

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1 believe that any of these exhibits do that. In fact, I
2 think they're squarely within the types of issues that
3 the Commission needs to consider in determining the
4 issues before us.

5 So those exhibits that Mr. Goltz just
6 identified are all admitted.

7 JUDGE KOPTA: Mr. King, do you have
8 questions?

9 MR. KING: Yes, I do, Your Honor. I'll try
10 to be as quick as possible.

11
12 CROSS-EXAMINATION

13 BY MR. KING:

14 **Q. Mr. McCulloch, I'd like to clarify, you had two**
15 **RFQs, one in 2015 and one in 2016. If this is approved,**
16 **though, there will be a competitive process to avoid the**
17 **actual work?**

18 A. We have done an RFQ in 2015 and 2016, I affirm
19 to that. And I will be working with our Purchasing
20 Department to determine the course of contracting which
21 may include a competitive process.

22 **Q. Second question would be, is there any work to**
23 **be awarded attached to those first two RFQs?**

24 A. I'm sorry, I don't understand your question.

25 **Q. The contractors invested time, money, and**

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1 resources to respond to your RFQs. Are they going to be
2 awarded any work based upon those RFQs?

3 A. They certainly have expressed interest in
4 participating in the service and provided bids. I have
5 not done a competitive analysis to determine who will be
6 offered that contracting service, so it would be unfair
7 for me to answer that question at this time.

8 Q. If we could turn to your rebuttal testimony, 7T,
9 on Page 8, Lines 7 and 8. You assert that your response
10 rates would have been higher if not for repeated
11 communication from my association regarding your RFQs.

12 Your exhibit referenced -- lists one -- includes
13 one intercepted email, which was also on the front page
14 of our website since January. But repeated? Do you
15 have any evidence that we made any other communication
16 to our members regarding your RFQs?

17 A. My understanding, based on review of the website
18 of your association, was that there was a communication
19 that went out as well as what was posted on the website
20 that is entered in the record in my testimony. So to me
21 that is multiple --

22 Q. So having reviewed --

23 JUDGE KOPTA: One at a time, please.

24 BY MR. KING:

25 Q. So having reviewed the alert that went by email

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1 and what was on the website, you didn't notice it was
2 the same thing?

3 A. They're two different forms of communication, so
4 it's appropriate for me to detail that it's multiple
5 communications.

6 **Q. Was there anything in the alert of the email**
7 **that was inaccurate?**

8 A. Could you point me to that reference in my
9 testimony?

10 **Q. The exhibit is your -- your rebuttal exhibit --**

11 **JUDGE KOPTA: MBM-7HCT.**

12 MR. KING: It's Exhibit 11.

13 MS. CARSON: Are we referring to the
14 rebuttal testimony or another exhibit?

15 MR. KING: I asked if there was anything in
16 the exhibit or in our alerts, which the content of was
17 in the exhibit, was inaccurate.

18 MS. CARSON: What exhibit is that, Your
19 Honor?

20 JUDGE KOPTA: It's MBM-11.

21 THE WITNESS: Thank you. I'm sifting
22 through here, bear with me.

23 I believe this statement (as read), PSE is
24 not offering any work to any contractors in response to
25 this RFQ, could be considered inaccurate.

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1 The purpose of providing a venue for
2 providers to bid into work is to have options to do that
3 work. We wouldn't go through that exercise without an
4 end mean.

5 BY MR. KING:

6 **Q. So you are offering work to those who respond to**
7 **the RFQ?**

8 A. Upon approval of this service, I believe that we
9 will be contracting potentially with some of those that
10 responded to the RFQ.

11 **Q. Based upon their RFQ, or were you simply**
12 **gathering information to determine pricing for the**
13 **purposes of developing your rates for this tariff**
14 **filing?**

15 A. Those RFQs inform the prices, and so we will be
16 able to utilize those providers to offer the service.

17 **Q. On Page 13 of your rebuttal testimony --**

18 A. Yes.

19 **Q. -- excuse me, Page 10, Lines 18 and 19, you**
20 **state you have been fully transparent regarding the**
21 **inputs and methodology used to develop the proposed**
22 **rates, and yet neither the public nor the members of the**
23 **industry have been able to review, the people that would**
24 **know most about whether or not the inputs are accurate,**
25 **have been allowed to review any of that material;**

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1 correct?

2 A. That's based on a Protective Order.

3 **Q. To allow the access --**

4 MS. CARSON: Objection; argumentative.

5 JUDGE KOPTA: Sustained.

6 BY MR. KING:

7 **Q. Based on the Protective Order and PSE's**
8 **unwillingness to allow -- the word has escaped me for a**
9 **moment, Your Honor -- to permit access by parties from**
10 **the industry and others, we have not been allowed to**
11 **review the details of your methodology; correct?**

12 A. My understanding is your association was not
13 granted access to protective information.

14 **Q. And you would consider that being fully**
15 **transparent?**

16 MS. CARSON: Your Honor, I object to this
17 argumentative line of questioning. There's a Protective
18 Order in place, and we were allowed to use the
19 Protective Order.

20 It's competitive information that could have
21 an effect on customer rates, and this is not the type of
22 information that is generally made public. So I don't
23 think the witness should be badgered over this.

24 JUDGE KOPTA: Sustained. You've made your
25 point, Mr. King.

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1 BY MR. KING:

2 Q. You testified here a few minutes ago lease
3 options is not in competition with sales; correct?

4 A. A lease is inherently a long-term service where
5 one party is acquiring use of a service or product.
6 That individual is not purchasing the equipment
7 outright, so I don't believe that they are
8 apple-to-apple comparative services or products.

9 Q. As you say, you were not in competition with --
10 you would be the only lease provider out there, you
11 would not be in competition with those doing sales;
12 correct?

13 MS. CARSON: Objection; asked and answered.

14 JUDGE KOPTA: I will allow it. I think I
15 know where Mr. King is going with this.

16 THE WITNESS: PSE believes that there is an
17 unmet need in the market of customers who are not
18 entering the market today because of barriers that they
19 possess. If the lease option is an opportunity for
20 those customers to acquire high-efficient equipment, we
21 think it's appropriate. It doesn't mean that customers
22 aren't availed of the option to look at other services
23 in the market.

24 Whether you compare that as competitive or
25 optional capabilities, I think that that's a term or a

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1 phraseology that needs to be defined.

2 BY MR. KING:

3 Q. We'll accept that and your previous testimony
4 that you were not in competition with us, thus we can't
5 be your competitors. So why do we need to be excluded
6 under confidentiality? Because there's no competitive
7 advantage to be given to the HVAC industry if we're not
8 competition. You seem to want it both ways.

9 MS. CARSON: Objection; argumentative.
10 We're arguing a Protective Order that's in place.

11 MR. KING: We're arguing a claim that
12 they've been fully open and transparent when they could
13 have waived confidentiality and allowed those who
14 understand the data and the inputs, evaluate for the
15 Commission whether they made sense or not.

16 JUDGE KOPTA: Mr. King, I think you've
17 raised the point, and we understand it. Thank you.

18 BY MR. KING:

19 Q. Now, turn to Page 13 of your rebuttal testimony.
20 Page 15, Line 17, in your response to the issue of
21 standards, you answered that (as read), No, Mr. Pinkey
22 admitted that he had not examined the details of the PSE
23 proposal.

24 Is it not more proper, going to Mr. Pinkey's
25 testimony, to reflect that he responded that he had not

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1 examined the details of the proposal because he was not
2 allowed to for whatever reason? I just want to be
3 clear. Not that he didn't read it; it's true that he
4 couldn't read it?

5 MS. CARSON: Object to the form of the
6 question.

7 JUDGE KOPTA: I think the witness
8 understands what he's saying. It's the terminology.
9 Are you willing to accept Mr. King's modification to
10 your statement?

11 THE WITNESS: I will accept that
12 Mr. Pinkey -- the response that I made in my testimony
13 was predicated on Mr. Pinkey making assumptions
14 regarding the proposal that reflected on the items he
15 was not able to access given the Protective Order.

16 BY MR. KING:

17 Q. And finally, on the same page, if you jump up to
18 Lines 9 to 13 and the reference to your Exhibit MBM-13,
19 highly confidential.

20 A. Yes.

21 Q. And you have an email chain stating that what
22 you're doing on standards, which is non-standards, is
23 correct. But, again, the source of this information,
24 the credibility, the validity, the qualifications of the
25 person attesting to this, is not available to those in

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1 the industry who may have known who this person is and
2 what their level of qualifications are.

3 Are you certain that somebody upon the
4 Commission, among Public Counsel, Staff, or Mr. Goltz,
5 those who have access to highly confidential, know who
6 this person is and whether or not he is qualified to
7 give this kind of a response and this kind of
8 information?

9 A. I would be remiss to speak for the Commission,
10 but I do believe that the individual that provided this
11 service has represented they've been in the business for
12 a significant amount of time and have been a strong
13 partner of PSE in a lot of activities, and I think that
14 the veracity of their qualifications speak for
15 themselves.

16 **Q. But, again, by not allowing access, that PSE**
17 **could have waived confidentiality, the word comes to**
18 **mind. Those who best know the industry, again, were not**
19 **allowed to provide input to the Commission, and yet you**
20 **claim completely open and transparency; correct?**

21 **JUDGE KOPTA: Mr. King, we've got your**
22 **point.**

23 MR. KING: Okay. With that, Your Honor,
24 it's late; I'm tired.

25 JUDGE KOPTA: Thank you, Mr. King.

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1 It's after 5. I'm sure that the
2 commissioners have questions. Shall we reserve those
3 for Wednesday? All right. We will pause at this point.

4 And thank you, Mr. McCulloch, for being
5 here, and we will see you again Wednesday morning when
6 we resume hearings at 9:00. I would like to make sure
7 that we get through it on the second day. I'm beginning
8 to wonder.

9 Ms. Brown, were you going to say something?

10 MS. BROWN: Well, I was just wondering if it
11 would be possible to finish up with this particular
12 witness rather than wait another two days.

13 JUDGE KOPTA: Well, my concern is that if we
14 have 15 to 20 to 30 minutes of cross, there's going to
15 be redirect that's going to be at least that long, and
16 we're going to be here for another hour. And I'm not
17 sure that that's the best use of our time at this point.

18 MS. BROWN: Perhaps Ms. Carson can conduct
19 her redirect now in advance.

20 JUDGE KOPTA: I'm not going to ask her to do
21 that. I understand your concerns, but I think for the
22 benefit of all, we are better off waiting until
23 Wednesday morning. So that's what we'll do. We're off
24 the record.

25 (Hearing adjourned at 5:10 p.m.)

