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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Petition of)	Docket UG-060518
AVISTA CORPORATION, D/B/A AVISTA)	Volume II
UTILITIES,)	Pages 19-131
For an Order Authorizing)	
Implementation of a Natural Gas)	
Decoupling Mechanism and to Record)	
Accounting Entries Associated with)	
the Mechanism.)	

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A hearing in the above-entitled matter

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was held at 9:35 a.m. on Thursday, December 21, 2006,

12

at 1300 South Evergreen Park Drive, S.W., Olympia,

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Washington, before Administrative Law Judge C. ROBERT

14

WALLIS, Chairman MARK SIDRAN, Commissioner PATRICK

15

OSHIE and Commissioner PHILIP JONES.

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The parties present were as follows:

18

AVISTA CORPORATION, D/B/A AVISTA
UTILITIES, by David Meyer, Attorney at Law, E 1411
Mission, Spokane, Washington 99202.

20

PUBLIC COUNSEL, by Simon ffitch,
Assistant Attorney General, 800 Fifth Avenue, Suite
2000, TB-14, Seattle, Washington 98104.

22

23

24

Barbara L. Nelson, CCR

25

Court Reporter

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1 COMMISSION STAFF, by Gregory J.
2 Trautman, Assistant Attorney General, 1400 S.W.
3 Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,
4 Washington 98504-0128.

5 NORTHWEST INDUSTRIAL GAS USERS, by
6 Edward A. Finklea, Attorney at Law, 1001 S.W. Fifth
7 Avenue, Suite 2000, Portland, Oregon 97204.

8 THE ENERGY PROJECT, by Ronald Roseman,
9 Attorney at Law, 2011 14th Avenue East, Seattle,
10 Washington 98112.

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1 Direct Examination by Mr. Roseman

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1 JUDGE WALLIS: Let's be on the record,
2 please. This is a hearing in the matter of Docket
3 UG-060518, which is a request by Avista for approval
4 of a decoupling mechanism.

5 This hearing is being held at Olympia,
6 Washington, on December 21 of the year 2006, before
7 Chairman Mark Sidran and Commissioners Patrick Oshie
8 and Philip Jones and myself, Administrative Law Judge
9 C. Robert Wallis.

10 We are gathered together today for a
11 settlement presentation. The parties have -- some of
12 the parties have reached an agreement, others are not
13 in accord with that, and the procedure this morning
14 will be a modified settlement presentation in which
15 the parties supporting the proposed settlement will
16 present witnesses on its behalf, they will be subject
17 to cross-examination and redirect, and then parties
18 opposing the settlement will present their evidence.

19 The evidence has been pre-filed, it has been
20 pre-marked. I will ask the reporter to enter into
21 the transcript at this point the identification of
22 the exhibits as though read at this time.

23 (The following exhibits were marked in
24 conjunction with the hearing.)

25 E X H I B I T L I S T

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1 BRIAN HIRSCHKORN
2 1 (BJH-1T) Direct Testimony
3 2 (BJH-2) Proposed Natural Gas Decoupling
4 Mechanism Example Application of Earnings Test
5 3-5 (Not Used)
6 JONATHON POWELL
7 6 (JP-1T) Direct Testimony
8 7 (JP-2) Triple-E Report (January 1, 2005 -
9 December 31, 2005)
10 8-9 (Not Used)
11 BRIAN HIRSCHKORN (Avista), JOELLE STEWARD (Staff),
12 NANCY GLASER (NVEC)
13 10 (Joint-1T) Joint Direct Testimony in Support
14 of the Settlement Agreement
15 11 (Joint-2T) Rebuttal Testimony
16 12 (Joint 3) Proposed Decoupling Mechanism
17 Example Calculation for 2005/2006 compared to
18 2004 Test Year (Adjusted for Actual New
19 Customer Usage)
20 13-14 (Not Used)
21 15 Settlement Agreement
22 16-20 (Not Used)
23 21 (Public Counsel - Cross), Avista's Response to
24 Public Counsel Data Request No. 1 (excerpt)
25 22 (Public Counsel - Cross), Avista's Response to

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1 Public Counsel Data Request No. 3
2 23 (Public Counsel - Cross), Avista's Response to
3 Public Counsel Data Request No. 4
4 24 (Public Counsel - Cross), Avista's Response to
5 Public Counsel Data Request No. 5
6 25 (Public Counsel - Cross), Avista's Response to
7 Public Counsel Data Request No. 12
8 26 (Public Counsel - Cross), Avista's Response to
9 Public Counsel Data Request No. 13
10 27 (Public Counsel - Cross), Avista's Response to
11 Public Counsel Data Request No. 14
12 28 (Public Counsel - Cross), Avista's Response to
13 Public Counsel Data Request No. 15
14 29 (Public Counsel - Cross), Avista's Response to
15 Public Counsel Data Request No. 17
16 30 (Public Counsel - Cross), Avista's Response to
17 Public Counsel Data Request No. 27
18 31 (Public Counsel - Cross), Avista's Response to
19 Public Counsel Data Request No. 29
20 32 (Public Counsel - Cross), Avista's Response to
21 Public Counsel Data Request No. 34
22 33 (Public Counsel - Cross), Avista's Response to
23 Public Counsel Data Request No. 36
24 34 (Public Counsel - Cross), Avista's Response to
25 Public Counsel Data Request No. 38

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1 35 (Public Counsel - Cross), Avista's Response to
2 Public Counsel Data Request No. 44
3 36 (Public Counsel - Cross), Avista's Response to
4 Public Counsel Data Request No. 45
5 37 (Public Counsel - Cross), Avista's Response to
6 Public Counsel Data Request No. 47
7 38 (Public Counsel - Cross), Avista's Response to
8 Public Counsel Data Request No. 48
9 39 (Public Counsel - Cross), Avista's Response to
10 Public Counsel Data Request No. 49
11 40 (Public Counsel - Cross), Avista's Response to
12 Energy Project Data Request No. 5
13 41 (Public Counsel - Cross), Avista Utilities
14 2006 Natural Gas Integrated Resource Plan
15 pages 3-19 through 3-21
16 42-44 (Not Used)
17 ENERGY PROJECT - CROSS
18 45 Company Response to Data Request No. EP-2
19 46 Company Response to Data Request No. EP-03
20 47 Company Response to Data Request No. EP-4
21 48-50 (Not Used)
22 STEVEN G. JOHNSON
23 51 (SGJ-1T) Direct Testimony (Public Counsel)
24 52 (SGJ-2) Estimated Company Sponsored Therms
25 Achieved in 2005 by Rate Schedule

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1 53 (SGJ-3) Sch. 101 Lost Margin Company Sponsored
2 DSM versus Total Deferral Amount for '04 to '05
3 Therm Decline (\$)

4 54 (SGJ-4) Sch. 101 Lost Margin from Company
5 Sponsored Conservation versus Total Deferral
6 Amount for July 2005 - June 2006 (\$)

7 55 (SGJ-5) Lost Margin Due to Company Sponsored
8 Conservation versus Total Deferral for January
9 2007 - June 2007 (\$)

10 56 (SGJ-6) Lost Margin Due to Company Sponsored
11 Conservation versus Total Deferral for July
12 2007 - June 2008 (\$)

13 57 (SGJ-7) Gas Efficiency Incentive - Penalty
14 Mechanism

15 58 Errata

16 59 (Not Used)

17 CHARLES EBERDT

18 60 (CE-1T) Direct Testimony (Energy Project)
19 (Conclusion of Exhibit Identification.)

20 JUDGE WALLIS: Let us now have appearances,
21 please, beginning with the Petitioner.

22 MR. MEYER: Thank you, Your Honor.

23 Appearing for Avista, David Meyer.

24 JUDGE WALLIS: For Commission Staff.

25 MR. TRAUTMAN: Gregory J. Trautman,

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1 Assistant Attorney General, for Commission Staff.

2 JUDGE WALLIS: Public Counsel.

3 MR. FFITCH: Simon J. ffitich, for Public
4 Counsel Office.

5 JUDGE WALLIS: And the Intervenor.

6 MR. ROSEMAN: Ronald Roseman, appearing on
7 behalf of The Energy Project.

8 JUDGE WALLIS: Mr. Roseman, could you verify
9 that your microphone is on?

10 MR. ROSEMAN: Now it is.

11 JUDGE WALLIS: Thank you very much. Very
12 well.

13 MR. FINKLEA: Your Honor, Ed Finklea, for
14 the Northwest Industrial Gas Users.

15 JUDGE WALLIS: Oh, Mr. Finklea, you were not
16 seated at the table and --

17 MR. FINKLEA: We seem to have a premium for
18 space. I don't have any questions.

19 JUDGE WALLIS: You have no questions. Very
20 well. Thank you. All right. Let us proceed with
21 the presentation of the witnesses and ask for the
22 identification of exhibits on behalf of parties at
23 the time the witnesses are presented.

24 Let me ask the witnesses if you would stand
25 at this time, please, raise your right hands.

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1 Whereupon,

2 BRIAN HIRSCHKORN, JONATHON POWELL, JOELLE STEWARD

3 and NANCY GLASER,

4 having been first duly sworn by Judge Wallis, were

5 called as witnesses herein and were examined and

6 testified as follows:

7 JUDGE WALLIS: Very well. Mr. Meyer, are

8 you bearing the laboring oar?

9 MR. MEYER: I suppose so. So let me start
10 with just the pre-filed direct of Mr. Hirschhorn and
11 Mr. Powell. Mr. Hirschhorn, for the record, please
12 state your name.

13 MR. HIRSCHKORN: My name is Brian
14 Hirschhorn. I'm the manager of pricing with Avista
15 Utilities.

16 MR. MEYER: And have you pre-filed with the
17 Commission your direct testimony, as well as an
18 exhibit attached to that, which have been identified
19 as Exhibits 1 and 2?

20 MR. HIRSCHKORN: Yes.

21 MR. MEYER: Any changes or corrections to
22 make to those?

23 MR. HIRSCHKORN: No.

24 MR. MEYER: And Mr. Powell, for the record,
25 please state your name and your position.

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1 MR. POWELL: Jonathon Powell, manager of
2 Partnership Solutions, Avista Corporation.

3 MR. MEYER: And have you prepared a direct
4 testimony that has been pre-marked as Exhibit 6?

5 MR. POWELL: I have.

6 MR. MEYER: Any changes to that?

7 MR. POWELL: No.

8 MR. MEYER: Are you also sponsoring what has
9 been marked as Exhibit 7, which is a Triple-E Report?

10 MR. POWELL: Yes.

11 MR. MEYER: Are there any changes to that?

12 MR. POWELL: No.

13 MR. MEYER: So if I were to ask you the
14 questions that appear in your Exhibit 6, your
15 pre-filed direct, would your answers be the same?

16 MR. POWELL: Yes.

17 MR. MEYER: At this point, before I move to
18 the joint testimony, I would move the admission of
19 Exhibits 1, 2, 6 and 7.

20 JUDGE WALLIS: Is there any objection?

21 MR. FFITCH: No.

22 JUDGE WALLIS: Let the record show that
23 there is no objection and those documents are
24 received.

25 MR. MEYER: Okay. I will pose this

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1 question, then, to each of the three members of the
2 panel. Mr. Hirsch Korn, Ms. Steward and Ms. Glaser,
3 have you pre-filed what has been marked as joint
4 direct testimony Exhibit Number 10?

5 MS. GLASER: Yes.

6 MR. HIRSCHKORN: Yes.

7 MS. STEWARD: Yes.

8 MR. MEYER: And are there any corrections to
9 make to that joint direct testimony?

10 MS. STEWARD: No.

11 MR. HIRSCHKORN: No.

12 MS. GLASER: No.

13 MR. MEYER: Similarly, have you filed
14 rebuttal testimony, Exhibit Number 11, and are there
15 any changes to make to that?

16 MS. GLASER: Yes, we filed. No changes.

17 MR. MEYER: No changes?

18 MR. HIRSCHKORN: That's correct.

19 MR. MEYER: So if I were to ask you the
20 questions that appear in that pre-filed direct and
21 rebuttal, would your answers be the same?

22 MR. HIRSCHKORN: Yes.

23 MS. GLASER: Yes.

24 MS. STEWARD: Yes.

25 MR. MEYER: With that, I move the admission

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1 of Exhibits 10, 11, and they've also sponsored
2 Exhibit Number 12; isn't that correct, joint panel?

3 MS. STEWARD: Yes.

4 MR. HIRSCHKORN: Yes.

5 MS. GLASER: Correct.

6 MR. MEYER: I'd move the admission of those
7 three exhibits, 10, 11 and 12.

8 JUDGE WALLIS: Very well. Let me hold that
9 in abeyance for just a moment and ask Mr. Trautman if
10 you would qualify your witness.

11 MR. TRAUTMAN: Yes. Ms. Steward, could you
12 give your name and business position for the record?

13 MS. STEWARD: My name is Joelle Steward.
14 I'm a regulatory analyst with Commission Staff.

15 MR. TRAUTMAN: And I believe, as you
16 indicated, you have helped sponsor what's been marked
17 as Exhibits 10, 11 and 12?

18 MS. STEWARD: Yes.

19 MR. TRAUTMAN: And you have no changes to
20 make to those exhibits?

21 MS. STEWARD: I do not.

22 MR. TRAUTMAN: And if the questions and the
23 testimony were posed to you, your answers would be
24 the same as in the testimony; correct?

25 MS. STEWARD: Correct.

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1 MR. TRAUTMAN: Thank you.

2 JUDGE WALLIS: Ms. Glaser, could you state
3 your name and your business association for the
4 record?

5 MS. GLASER: Yes, my name is Nancy Glaser.
6 I'm a senior policy associate with the Northwest
7 Energy Coalition.

8 JUDGE WALLIS: And I believe Mr. Meyer asked
9 you questions about your testimony, and you have no
10 changes to it; is that correct?

11 MS. GLASER: No changes.

12 JUDGE WALLIS: Very well. Is there
13 objection to the receipt of the joint testimony?

14 MR. FFITCH: No objection.

15 JUDGE WALLIS: Those documents are received,
16 Exhibits 10, 11 and 12.

17 MR. MEYER: We do have, then, the settlement
18 agreement.

19 JUDGE WALLIS: Yes.

20 MR. MEYER: I would move the admission of
21 Exhibit 15, which is the settlement agreement.

22 JUDGE WALLIS: Is there any objection? Let
23 the record show that there's none, and the exhibit is
24 received.

25 MR. MEYER: With that, Your Honor, the panel

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1 is available for cross. Just -- I will indicate on
2 the record, as I did before the start of these
3 proceedings, that we have Mr. Jon Powell here. While
4 he's not part of the panel per se, he's available to
5 respond to any questions at the time the panel is
6 questioned, if there are matters deferred to him.

7 JUDGE WALLIS: Thank you, Mr. Meyer. Very
8 well. For cross-examination, Mr. ffitch, are you
9 going to begin?

10 MR. FFITCH: Thank you, Your Honor. As we
11 had discussed previously, Public Counsel does not
12 have any cross-examination for the panel as such on
13 the joint testimony, the rebuttal testimony, or the
14 rebuttal exhibit.

15 We do have questions specifically for Mr.
16 Hirschhorn with respect to the Avista-produced DRs
17 that we've offered as cross exhibits, and we would
18 also reserve the right to do any follow-up to the
19 panelists if things come up during examination from
20 the Bench.

21 JUDGE WALLIS: Yes. For the record, may we
22 take it you're moving for admission Exhibit Numbers
23 21 through 41?

24 MR. FFITCH: Yes, Your Honor. Thank you.

25 JUDGE WALLIS: And my understanding is that

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1 those would be received by stipulation; is that
2 correct?

3 MR. MEYER: That is correct.

4 JUDGE WALLIS: Thank you. Mr. ffitch,
5 please proceed.

6 MR. FFITCH: Your Honor, I guess I'm a
7 little bit confused as to whether you want me to go
8 ahead now or whether there are questions for the
9 panel from the Bench or other parties.

10 JUDGE WALLIS: I am expecting that this is
11 your opportunity to examine, you would like to go
12 first, and I certainly believe it would be
13 appropriate for you to begin your questions now.

14 MR. FFITCH: All right. Thank you.

15 Good morning, Mr. Hirschhorn.

16 MR. HIRSCHKORN: Good morning, Mr. ffitch.

17 MR. FFITCH: Welcome to this festive
18 occasion. We have just a few questions for you
19 regarding some of the responses to data requests that
20 were produced to us during the course of the case.

21 First of all, you've stated that the primary
22 goal of a decoupling mechanism is to remove the
23 disincentive associated with an increased focus on
24 conservation by the utility; correct?

25 MR. HIRSCHKORN: That's correct.

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1 MR. FFITCH: And that's actually a quote
2 from the Company's response to Exhibit 25, if you
3 want to confirm that, first sentence of that
4 response; is that correct?

5 MR. HIRSCHKORN: Yes.

6 MR. FFITCH: In its petition or testimony or
7 exhibits in this case, did Avista present any
8 calculation of the lost margin resulting from
9 Avista's own company-sponsored energy efficiency
10 programs?

11 MR. HIRSCHKORN: We -- no, no, we did not
12 provide that information. I believe Mr. Johnson, in
13 his testimony, quantified that information.

14 MR. FFITCH: Okay. Could you please turn to
15 Exhibit 26, which is your response to Public Counsel
16 13?

17 MR. HIRSCHKORN: Yes, I have that.

18 MR. FFITCH: And you agree, do you not, that
19 Avista is currently pursuing all cost-effective
20 conservation that it's aware of?

21 MR. HIRSCHKORN: Yes.

22 MR. FFITCH: And in this answer to Public
23 Counsel 13, you say, yes, you are pursuing that
24 cost-effective conservation to the extent necessary
25 resources are available.

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1 And do I understand correctly that by the
2 term necessary resources, you're referring to demand
3 side management funds, or DSM funds, that are derived
4 from Schedule 191, the tariff rider?

5 MR. HIRSCHKORN: Yes, primarily that's what
6 we are referring to in that response.

7 MR. FFITCH: All right. And those are
8 ratepayer funds; correct?

9 MR. HIRSCHKORN: Yes.

10 MR. FFITCH: And there are no shareholder
11 funds or other resources that go to support gas,
12 demand side management; is that correct?

13 MR. HIRSCHKORN: That's correct.

14 MR. FFITCH: And that's confirmed in the
15 response to Exhibit 30, which was Public Counsel 27;
16 is that a fair statement? That's one of the DRs that
17 was actually prepared by Mr. Powell.

18 MR. HIRSCHKORN: Yes.

19 MR. FFITCH: Could you please turn to the
20 excerpt from the Company's 2006 IRP, and that's been
21 marked as Exhibit 41, and IRP is an acronym for
22 Integrated Resource Plan, for the benefit of the
23 record.

24 JUDGE WALLIS: Was that a question, Mr.
25 ffitch?

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1 MR. FFITCH: Is that a correct statement,
2 Mr. Hirschhorn?

3 MR. HIRSCHKORN: I'm sorry, could you repeat
4 that, please?

5 MR. FFITCH: IRP is an acronym for
6 Integrated Resource Plan?

7 MR. HIRSCHKORN: Yes, that's correct.

8 MR. FFITCH: Do you have that exhibit?

9 MR. HIRSCHKORN: I do.

10 MR. FFITCH: And that plan was filed in
11 March of 2006; correct?

12 MR. HIRSCHKORN: I believe that's correct.

13 MR. FFITCH: Could you please turn to page
14 two of the exhibit? And if you look under the
15 heading of Avista DSM commitment, could you read the
16 first sentence, please?

17 MR. HIRSCHKORN: Avista recognizes its
18 obligation to meet the resource needs of customers in
19 the most cost-effective manner.

20 MR. FFITCH: Thank you. Now, if we turn to
21 the next page, in the first column, and that's page
22 three of the exhibit, the final paragraph in the
23 first column, could you please read that sentence?

24 MR. HIRSCHKORN: The Company has explicitly
25 recognized within this IRP the obligation to achieve

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1 all natural gas efficiency resources available
2 through the intervention of cost-effective utility
3 programs.

4 MR. FFITCH: Thank you. Now, if you flip
5 back, won't be too much more of this flipping, but if
6 you can flip back to the previous page, again, under
7 the heading -- right after the sentence you read, the
8 report goes on to say that the gas energy efficiency
9 programs are expected to be an increasing portion of
10 the gas resource portfolio; is that right?

11 MR. HIRSCHKORN: Yes.

12 MR. FFITCH: And final page turn here. If
13 you could go back to page three of the exhibit,
14 that's the next page, at the top of the first column,
15 am I reading this correctly to say that the Company
16 recognizes this commitment to acquire all
17 cost-effective natural gas energy efficiency is not
18 limited by the goals that are set in this IRP, and
19 actually, the report goes on to say that if the
20 Company discovers additional resources that are
21 available, human and financial resources will be made
22 available to the extent necessary to achieve those
23 goals, or those new resources. Is that a fair
24 paraphrase of that?

25 MR. HIRSCHKORN: I believe it is.

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1 MR. FFITCH: If the Commission does not
2 approve the settlement in this case, will Avista
3 withdraw from the commitments that are stated in the
4 2006 IRP?

5 MR. HIRSCHKORN: Absolutely not.

6 MR. FFITCH: And Avista is currently on
7 target to meet the 2006 IRP goals; isn't that
8 correct?

9 MR. HIRSCHKORN: It appears that we are. We
10 were on target as of the end of both October and
11 November, but not without considerable effort
12 throughout 2006.

13 MR. FFITCH: All right. And just on that
14 topic, can I ask you to turn, please, to Exhibit 36,
15 and that's response to Public Counsel 45.

16 MR. HIRSCHKORN: I have that.

17 MR. FFITCH: All right. And this -- in this
18 DR, you actually indicate that the Company's on
19 target, as you've stated, to meet the 2006 IRP goal;
20 correct?

21 MR. HIRSCHKORN: Yes.

22 MR. FFITCH: And that's some data provided
23 there. This is as of the end of October, am I right?

24 MR. HIRSCHKORN: That's correct.

25 MR. FFITCH: And you've just, I think in

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1 your testimony, just indicated that this is also true
2 as of the end of November?

3 MR. HIRSCHKORN: Yes.

4 MR. FFITCH: All right. Now, if I look at
5 these numbers at the bottom of the exhibit, bottom
6 right-hand corner, there's a number of minus 12
7 percent. Do I understand that to mean that the
8 achieved gas savings to date are -- as of the date of
9 this information, end of October, you're still 12
10 percent short of the 2006 IRP goal?

11 MR. HIRSCHKORN: That's correct. As of the
12 end of October, we were 12 percent short of the
13 annual goal.

14 MR. FFITCH: All right. So you've achieved
15 88 percent, in other words, of the annual goal by
16 that date, the end of the October?

17 MR. HIRSCHKORN: Yes, that's correct.

18 MR. FFITCH: If my lawyer math is correct.
19 Now, do you have the number in mind for what the
20 level of achievement is as of the end of November?

21 MR. HIRSCHKORN: I do not, but Mr. Powell
22 may have that information.

23 MR. FFITCH: Your Honor, may I find out if
24 Mr. Powell can answer that?

25 JUDGE WALLIS: Yes, Mr. Powell.

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1 MR. POWELL: Yes, I have it right here.

2 MR. MEYER: Jon, your mike needs to be on.

3 Just push the button on. There you go.

4 MR. POWELL: I have it right here.

5 MR. FFITCH: Thank you. I guess I could

6 just propound the question again, for the record.

7 Mr. Powell, could you state the level of achievement

8 of the Company as of the end of -- of its 2006 IRP

9 goal as of the end of November 2006?

10 MR. POWELL: As of the end of November, the

11 unaudited results are 1,040,907 therms, which is two

12 percent short of the goal.

13 MR. FFITCH: All right. Thank you. Let's

14 go on to another topic. Could you please turn to

15 Exhibit 31, Mr. Hirschorn? If I can find that

16 myself.

17 MR. HIRSCHKORN: I have that.

18 MR. FFITCH: Now, it's true, is it not, Mr.

19 Hirschorn, that very large proportions of Avista's

20 total therm savings come from commercial and

21 industrial customers?

22 MR. HIRSCHKORN: Yes, that's true. A

23 substantial portion of it comes from commercial

24 industrial.

25 MR. FFITCH: All right. Now, if we look at

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1 the numbers at the bottom of the DR response, PC 29,
2 we'd need to -- if we look at the 772,000 therms, we
3 need to subtract two percent from that number. I'm
4 making a correction that you folks make on the next
5 page of your answer in the top of the page.

6 If you take two percent out of that 772,000,
7 what's left is the total therm savings for Schedules
8 101 and 111 for commercial industrial customers; is
9 that right?

10 MR. HIRSCHKORN: Yes.

11 MR. FFITCH: Now, in the original decoupling
12 proposal that Avista filed in this docket, both
13 Schedules 101 and 111 were included; correct?

14 MR. HIRSCHKORN: Yes, that's correct.

15 MR. FFITCH: And just to be clear, Schedule
16 101 is residential and small commercial customers who
17 use 200 therms or less, and Schedule 111 is larger
18 commercial and some industrial customers using above
19 200 therms; is that right?

20 MR. HIRSCHKORN: That is correct.

21 MR. FFITCH: Do you know what the cutoff is
22 for the very large industrial customers?

23 MR. HIRSCHKORN: Yes, we also have a
24 Schedule 121 that is a high load factor schedule.
25 Customers have to use at least 60,000 therms per year

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1 and have a high annual load factor, relatively high
2 annual load factor.

3 MR. FFITCH: So you can still be a pretty
4 big customer and be on 111?

5 MR. HIRSCHKORN: Yes, that's correct.

6 MR. FFITCH: Do you know whether any members
7 of Northwest Industrial Gas Users are members of
8 schedule -- or qualify under Schedule 111?

9 MR. HIRSCHKORN: I don't know for sure. I
10 know that a couple of their customers or clients have
11 more than one account and they may have an account on
12 111. So I'm not completely sure.

13 MR. FFITCH: All right. But in any event,
14 Schedule 111 has now been removed from the
15 decoupling?

16 MR. HIRSCHKORN: Yes, that's correct.

17 MR. FFITCH: If the settlement proposal in
18 this case is approved, will Avista still offer DSM
19 programs to Schedule 111 customers?

20 MR. HIRSCHKORN: Yes.

21 MR. FFITCH: So to the extent that those
22 customers participate, they would expect to see some
23 benefits from company-sponsored DSM?

24 MR. HIRSCHKORN: Yes.

25 MR. FFITCH: In order to meet the DSM goal

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1 of the decoupling proposal, Avista will be counting
2 both the savings from Schedule 101 and from Schedule
3 111. Do I understand that correctly?

4 MR. HIRSCHKORN: That's correct.

5 MR. FFITCH: But, again, under the
6 settlement, Schedule 111 customers would not pay any
7 part of any decoupling surcharge that would be
8 imposed as a result of the mechanism; is that right?

9 MR. HIRSCHKORN: That's correct, but they
10 still pay into the DSM rider.

11 MR. FFITCH: I have one other area. Mr.
12 Hirschhorn, would you agree with me that, in the
13 utility context, the term attrition generally refers
14 to the situation where increased costs are not offset
15 by increased rates or sales, such that there is an
16 erosion of earnings?

17 MR. HIRSCHKORN: Yes.

18 MR. FFITCH: Could you please turn to
19 Exhibit 32, please? And that's the response of
20 Public Counsel 34. Do you have that?

21 MR. HIRSCHKORN: Yes, I do.

22 MR. FFITCH: And there you were asked if
23 Avista has performed any attrition studies for its
24 Washington service territory since 2001; correct?

25 MR. HIRSCHKORN: That's correct.

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1 MR. FFITCH: And you answered yes, and
2 provided the attached spreadsheet, which is page two
3 of the exhibit; right?

4 MR. HIRSCHKORN: That's correct.

5 MR. FFITCH: Well, let's turn to the
6 spreadsheet, it's page two of Exhibit 32. Do you
7 have that?

8 MR. HIRSCHKORN: Yes, I do.

9 MR. FFITCH: And the title of this, first of
10 all, is the 12-year History of Weather-normalized
11 Schedule 101 and 111 Usage for Washington Customers;
12 right?

13 MR. HIRSCHKORN: Yes, that's correct.

14 MR. FFITCH: Let's look at what the page
15 shows. If we look at the far right-hand -- well, the
16 right-hand column of numbers, there's a column there
17 headed average monthly use/customer and -- do you see
18 that?

19 MR. HIRSCHKORN: Yes.

20 MR. FFITCH: And that column -- and let's
21 sort of -- let's focus on the upper part of the page,
22 which refers to Schedule 101 customers. Are you with
23 me?

24 MR. HIRSCHKORN: Yes.

25 MR. FFITCH: Now, that first column that

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1 refers to average monthly use shows declining use per
2 month on average for customers on 101; correct?

3 MR. HIRSCHKORN: That's correct.

4 MR. FFITCH: Now, could you move over to the
5 total usage column? And that shows, does it not,
6 that the total usage increased from a level of a
7 little over a hundred million therms in 1994 to 118
8 million therms or over 118 million therms in 2005;
9 correct?

10 MR. HIRSCHKORN: Yes, it does.

11 MR. FFITCH: And then, if you go to the
12 column immediately to the right, that shows the
13 number of customers, correct, Avista's -- the total
14 number of Avista customers?

15 MR. HIRSCHKORN: Yes.

16 MR. FFITCH: And that shows that the
17 customer group has grown from a little over a million
18 in 1994 to nearly 1.6 million in 2005; correct?

19 MR. HIRSCHKORN: Yes, that's correct.

20 MR. FFITCH: Now, is there any cost
21 information on this exhibit?

22 MR. HIRSCHKORN: There is not, and perhaps a
23 more appropriate response would have been that we do
24 have usage history information, but we have not done
25 a cost study associated with the increase in

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1 customers, as well as the change in usage.

2 MR. FFITCH: Right.

3 MR. HIRSCHKORN: We did provide, I believe,
4 a cost of service study in our last general gas case,
5 which was -- included a 2004 test year.

6 MR. FFITCH: But this is all you have to
7 offer in response to a request for an attrition study
8 since 2001; correct?

9 MR. HIRSCHKORN: Yes, that was our -- it
10 was, in essence, a partial response, I guess, to the
11 request.

12 MR. FFITCH: All right. And there's no
13 revenue information on this exhibit; correct?

14 MR. HIRSCHKORN: No, there is not.

15 MR. FFITCH: And there's no earnings
16 information?

17 MR. HIRSCHKORN: No.

18 MR. FFITCH: So this exhibit, as I think
19 you've conceded, is not a true attrition study, is
20 it?

21 MR. HIRSCHKORN: No, it's not a true
22 attrition study.

23 MR. FFITCH: Those are all the questions I
24 have for both Mr. Hirschhorn and Mr. Powell. Thank
25 you, Your Honor.

0050

1 JUDGE WALLIS: As well as all of the panel
2 members?

3 MR. FFITCH: That's correct.

4 JUDGE WALLIS: Very well. Let's move on to
5 Mr. Roseman.

6 MR. ROSEMAN: Good morning, Mr. Hirschhorn.

7 MR. HIRSCHKORN: Good morning.

8 JUDGE WALLIS: Mr. Roseman, can we start off
9 by identifying your exhibits for the record, please?

10 MR. ROSEMAN: Yes.

11 JUDGE WALLIS: You're proposing exhibits on
12 cross, 45, 46 and 47?

13 MR. ROSEMAN: That's correct, Your Honor,
14 and it's my understanding that there's no objection
15 to those.

16 JUDGE WALLIS: And they will be received by
17 stipulation; is that correct?

18 MR. MEYER: That is correct.

19 JUDGE WALLIS: Very well.

20 MR. ROSEMAN: Thank you.

21 JUDGE WALLIS: The three exhibits are
22 received in evidence.

23 MR. ROSEMAN: Good morning, Mr. Hirschhorn.

24 MR. HIRSCHKORN: Good morning.

25 MR. ROSEMAN: Do you know how many low

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1 income persons, those that receive -- I will define
2 low income as those that receive either LIHEAP or
3 LIRAP -- that are in Avista's Washington service
4 territory?

5 MR. HIRSCHKORN: I do not know how many of
6 our customers receive either LIHEAP or LIRAP
7 assistance.

8 JUDGE WALLIS: Mr. Roseman, could we have
9 those terms explained for the record, please?

10 MR. ROSEMAN: LIHEAP is the Low Income Home
11 Energy Assistance Project, and that is one that helps
12 low income customers pay their bills that -- and
13 comes from the Department of Energy. LIRAP, Mr.
14 Hirschhorn is --

15 JUDGE WALLIS: Perhaps we could ask the
16 witness to describe that.

17 MR. HIRSCHKORN: I believe LIRAP stands for
18 low income rate assistance program.

19 JUDGE WALLIS: Fair enough. Thank you.

20 MR. ROSEMAN: And that is funded from
21 Avista; correct?

22 MR. HIRSCHKORN: Yes.

23 MR. ROSEMAN: Okay. Do you have a sense of
24 how many -- does Avista collect data to determine how
25 many low income persons live within their service

0052

1 territory?

2 MR. HIRSCHKORN: We have seen statistics.
3 I've seen statistics that would substantiate that
4 somewhere between 20 and 25 percent of our customers
5 are below the federal poverty guidelines, is my
6 understanding.

7 MR. ROSEMAN: Okay. And could you give me
8 the total customers that Avista serves in
9 Washington's service territory? Let me rephrase
10 that. How about residential customers?

11 MR. HIRSCHKORN: Okay. I know Schedule 101,
12 for example, we have about 130,000 customers, and
13 over 100,000 of those are residential. I don't have
14 the number of electric customers we serve offhand,
15 but I would think somewhere around 200,000 in
16 Washington.

17 MR. ROSEMAN: Okay.

18 MR. HIRSCHKORN: As a rough number.

19 MR. ROSEMAN: Thank you. I think, for ease,
20 I'll direct you to Mr. Powell's direct testimony,
21 which is Exhibit J -- Exhibit 6, page seven.

22 MR. HIRSCHKORN: I have that.

23 MR. ROSEMAN: Okay. And my questions will
24 be concerned with the paragraph that begins on line
25 11, that starts with, Residential customers have a

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1 number of gas efficiency programs available to them,
2 and then you list them. Those are the questions I'm
3 -- I will ask questions regarding these programs and
4 who avails themselves or who are able to avail
5 themselves of them. Would this be an appropriate set
6 of questions for you or for Mr. Powell?

7 MR. HIRSCHKORN: It would probably be better
8 directed toward Mr. Powell, since he is directly
9 involved -- well, that's his responsibility, is in
10 the DSM area, and mine is not, so -- and this is his
11 testimony.

12 MR. ROSEMAN: Okay. Then, Mr. Powell, may I
13 ask you? Is that okay?

14 JUDGE WALLIS: Yes. Does the witness have
15 the question in mind?

16 MR. POWELL: Can you repeat the question?

17 MR. ROSEMAN: Yes. Let me -- I am
18 interested in knowing, either in percentage or
19 absolute numbers, how many low-income customers, gas
20 customers, have been able to avail themselves of the
21 programs listed in this paragraph, and I will start
22 with duct, insulation and energy efficiency windows.

23 MR. POWELL: I don't have the number for the
24 number of customers program by program, but over
25 2,000 residential customers of all incomes access our

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1 programs annually.

2 MR. ROSEMAN: Do you know what percentage of
3 those are low income?

4 MR. POWELL: No, we don't collect income
5 data from customers participating in our regular
6 income programs.

7 MR. ROSEMAN: If one was to buy a
8 high-efficiency furnace under this program that you
9 list here, can you give me an estimate of how much
10 money would be required on behalf of the customer to
11 pay for that furnace?

12 MR. POWELL: Well, the furnaces that qualify
13 under the program would typically be 3,500, \$3,800.
14 The Avista incentive is based on the incremental cost
15 between a standard efficiency and high-efficiency
16 furnace, and that incentive would be about \$200.
17 Now, that's under our regular income programs. Under
18 the limited income programs, a customer could qualify
19 for a full incentive.

20 MR. ROSEMAN: A customer could qualify for
21 the full payment?

22 MR. POWELL: For the entire cost of the
23 furnace.

24 MR. ROSEMAN: But you do not know how many
25 customers have used that program, low income?

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1 MR. POWELL: I don't know how many low
2 income customers have used our regular income
3 program. We do have between 350 and 400 low income
4 customers use our limited income program annually.
5 That does not include customers receiving lighter
6 touches, such as CFLs, weatherization, or educational
7 assistance.

8 MR. ROSEMAN: Okay. So there, about three
9 to 350 availed themselves of the limited income
10 programs?

11 MR. POWELL: About 350 to 400 customers
12 received a significant amount, as in the entire cost
13 of the furnace, a hot water heater, weatherization,
14 in addition to customers -- many customers receiving
15 lighter touches.

16 MR. ROSEMAN: Okay. Thank you. And Mr.
17 Powell, I guess this question's probably for you,
18 also. Do you know the percentage of low income or
19 limited income customers who own their homes versus
20 those that rent?

21 MR. POWELL: No, we don't collect income
22 data as part of our DSM programs. Our limited income
23 programs are implemented through six CAP agencies,
24 community action program agencies. They are not
25 required to divulge income information to the

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1 company.

2 MR. ROSEMAN: Can you tell me the total
3 dollar amount that is available per year for gas,
4 energy, weatherization that is available to these CAP
5 programs that you mentioned for limited income?

6 MR. POWELL: In Washington, we provide
7 \$867,000 worth of contracts annually to the six CAP
8 agencies. That's a \$200,000 increase from the prior
9 year. Now, these funds can be used for gas or
10 electric. We provide the CAP agency with the maximum
11 amount of flexibility possible, so that they can put
12 the funds to the best possible use.

13 MR. ROSEMAN: So that amount is the total
14 amount that is available?

15 MR. POWELL: That's the total amount.
16 Traditionally, they generally use about 25 percent of
17 that on gas, gas measures.

18 MR. ROSEMAN: That concludes my questions.
19 Thank you.

20 JUDGE WALLIS: Very well. Are there
21 questions from the Bench?

22 COMMISSIONER JONES: Good morning. I'm
23 going to focus in a little bit on the earnings test.
24 So my first question deals with the -- I think it's
25 in Exhibit 15, which is the settlement agreement, and

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1 the subsection (6)(E), which relates to deferred
2 revenue recovery subject to earnings and DSM test.

3 My question, I think to the Company first,
4 would be why -- what is the reasoning behind the use
5 of the Commission basis report as the financial
6 report for looking at earnings and if it exceeds the
7 9.11 percent ROR that was approved by the Commission?

8 There seems to be a mismatch in terms of
9 financial reporting, because I understand the -- if
10 there is going to be a filing for the deferral, it
11 will be made in August or September, probably by the
12 end of August, and so we're looking at financial
13 results through the end of the calendar year in the
14 previous year rather than the most recent financial
15 data.

16 So I would ask the Company and the Staff why
17 are we using the Commission basis report in terms of
18 trying to get the most recent data for the Company on
19 earnings?

20 MR. HIRSCHKORN: Commissioner, we file
21 Commission basis reports I believe once a year. If
22 we filed them more often, a six-month or a report
23 ending June 30 might be more appropriate or would be
24 more appropriate. It does take into account certain
25 adjustments that we would make if we filed our

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1 financial results in a rate case, so it's -- it
2 reflects some of those pro forma adjustments,
3 especially on a normalized -- on the electric side, a
4 normalized power supply and as well on the gas side.
5 We re-price sales at current prices.

6 So it's -- I guess the short answer is it's
7 the best information we have to file on a timely
8 basis that somewhat reflects what we would file in a
9 rate case.

10 MS. STEWARD: I would also --

11 JUDGE WALLIS: Ms. Steward.

12 MS. STEWARD: Yeah, I would concur with
13 that, and I would also add that the deferral period
14 ends in June, and so they're not deferring through
15 the fall, but that's -- in the fall is when recovery
16 --

17 COMMISSIONER JONES: Right.

18 MS. STEWARD: So there is a six-month lag
19 there.

20 COMMISSIONER JONES: Isn't that for the
21 first year only? The January through June period is
22 for the '07 year?

23 MS. STEWARD: No.

24 COMMISSIONER JONES: Okay. Well, would the
25 Company be amenable to considering the idea of

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1 looking at -- for example, the Company files
2 quarterly with the SEC a 10(k) report, does it not?

3 MR. HIRSCHKORN: Yes.

4 COMMISSIONER JONES: Would that be a
5 suitable point of reference for the most recent
6 financial data and could the ROR be reasonably
7 determined from that 10(k) report?

8 MR. HIRSCHKORN: I -- yes, you could
9 determine the ROR. I'm not sure it would provide
10 better information than the Commission basis reports
11 that we do file with the Commission. Even though
12 there is a lag, part of that is putting -- part of
13 that lag is to prepare the information. We file it
14 in April of each year. And the other part of that
15 would be to give the Commission Staff and other
16 parties time to look at that report prior to our
17 decoupling filing. So if there were any issues
18 regarding our Commission basis results, there would
19 be time to request additional information of the
20 Company.

21 So I'm not sure. I think that information
22 could be used. I'm not sure it would be better
23 information in this case. Do you have any thoughts
24 on that, Joelle?

25 MS. STEWARD: Well, I'm not an accountant or

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1 one of our revenue requirement experts, so I'm not
2 that familiar with the SEC reports, but the
3 Commission basis reports were the -- were --
4 everything's normalized and adjusted based on the pro
5 forma adjustments authorized in the rate case and
6 it's already a report that's made annually. Our
7 Staff believed that was the most appropriate report.

8 COMMISSIONER JONES: Second question is
9 about the IRP process and the involvement of your
10 external board. Could you clarify an acronym for me?
11 I think your external board used to be called TAC,
12 did it not, Technical Advisory --

13 MR. POWELL: That is the Technical Advisory
14 Committee. That is the group that works during the
15 IRP process with the Company.

16 COMMISSIONER JONES: Right. What is the
17 Triple-E, then, what you refer to in your testimony?

18 MR. POWELL: That the --

19 COMMISSIONER JONES: What's the difference
20 between the TAC and the Triple E? Are the members of
21 the group the same?

22 MR. POWELL: There is an overlap, but it's
23 not a complete overlap. The Triple E is the External
24 Energy Efficiency Board. They're a group of external
25 stakeholders that work with the Company on DSM

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1 issues.

2 COMMISSIONER JONES: Electric and gas?

3 MR. POWELL: Electric and gas.

4 COMMISSIONER JONES: And the Triple E?

5 MR. POWELL: That is EEE, External Energy

6 Efficiency --

7 COMMISSIONER JONES: Right.

8 MR. POWELL: -- which we've cleverly called

9 Triple E.

10 COMMISSIONER JONES: Okay. Which groups in

11 this room today are represented on the Triple E

12 board?

13 MR. POWELL: Joelle sits on our Triple E

14 board and Chuck also sits on our Triple E board.

15 MS. STEWARD: The Energy Project -- or the

16 Energy Coalition.

17 MR. POWELL: Danielle is the current

18 Northwest Energy Coalition representative on board.

19 MS. STEWARD: And Public Counsel.

20 MR. POWELL: Yeah, that's Steve Johnson.

21 COMMISSIONER JONES: Is Public Counsel

22 represented on that board?

23 MR. FFITCH: Yes.

24 JUDGE WALLIS: The answer's yes?

25 MR. FFITCH: Yes.

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1 COMMISSIONER JONES: I have a question both
2 for Mr. Johnson, then, and the Company. In the
3 testimony, and I forget if it's the joint direct or
4 Public Counsel's, there is some discussion about
5 perhaps with the '09 target -- the next IRP is not
6 developed, I think it's in process now, but with the
7 next IRP, there is some concern, I think on the part
8 of Public Counsel, the one-oh-six-five, the
9 one-million-sixty-five therm target could go down or
10 could be lowered or could be adjusted in a way that
11 doesn't meet with the incremental conservation
12 targets in this agreement.

13 And I would just like to ask the Company
14 what sort of discussion process is there in the
15 Triple E for vetting discussing the targets?

16 MR. POWELL: Our current goal is a
17 million-sixty-two-thousand therms.

18 COMMISSIONER JONES: Excuse me.

19 MR. POWELL: The Triple E is significantly
20 involved in the DSM portfolio, but the development of
21 a supply curve in the energy efficiency testing is
22 done predominantly with IRP TAC. After that IRP
23 process is done, the entire process shifts into a
24 business planning process and the Triple E is more
25 involved at that point.

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1 COMMISSIONER JONES: Would Public Counsel
2 like to address that point?

3 MR. FFITCH: Well, Your Honor, we don't have
4 Mr. Johnson on the stand yet. I think, otherwise,
5 we'd be very happy to have him address that, but he's
6 also going to take the stand. So how would you like
7 to proceed with that?

8 JUDGE WALLIS: Would the Commission like to
9 have Mr. Johnson sworn at this time?

10 CHAIRMAN SIDRAN: Yes, please.

11 JUDGE WALLIS: Very well. Mr. Johnson,
12 would you raise your right hand, please?

13 Whereupon,

14 STEVEN G. JOHNSON,
15 having been first duly sworn by Judge Wallis, was
16 called as a witness herein and was examined and
17 testified as follows:

18 JUDGE WALLIS: Very well.

19 COMMISSIONER JONES: Mr. Johnson, could you
20 address my question, then, about the vetting process
21 within the Triple E, if you do indeed participate in
22 those meetings, and how DSM targets are developed and
23 your involvement in that process?

24 MR. JOHNSON: Well, with regard to the
25 development of the DSM targets, Jonathon Powell is

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1 right, that they're done in the IRP process. The
2 Triple E, to the meetings I've been in, discusses
3 more the technologies, more the implementation, they
4 do reports on the progress of actually achieving that
5 goal and bringing in some new ideas and opportunities
6 during the real time.

7 I'm -- the first part of your question was
8 about some concerns raised with regard to the setting
9 of the next IRP goal?

10 COMMISSIONER JONES: Correct, the next IRP
11 goal. That was the first part of my question.

12 MR. JOHNSON: And my concern is that if
13 there's a perception that lost margins due to
14 Company-sponsored conservation are motivating the
15 Company or affecting the Company's behavior
16 negatively, then you can take that same reasoning and
17 look at the proposed settlement and ask if there are
18 going to be some unintended consequences of the
19 decoupling mechanism proposed in the settlement.

20 One of the things you might want to consider
21 is whether there's now an incentive, kind of a
22 perverse incentive, one we don't want to create, in
23 encouraging the Company to set that target lower.
24 The setting the target involves thinking and being
25 inventive, going out and searching for the next good

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1 idea, and if there's a disincentive for setting the
2 target higher, because, of course, the higher you set
3 it, the harder it is to achieve, then the Company can
4 -- could be motivated.

5 So we're creating a disincentive and then
6 we're just going to have to manage that disincentive,
7 and so it's kind of a mixed bag in terms of -- and so
8 it's just the classic regulatory problem where you
9 create a new -- invent a program and then create a
10 disincentive you didn't intend to. And so that's
11 what I was raising in my testimony.

12 COMMISSIONER JONES: So you're primarily
13 concerned about what the law or the theory of
14 unintended consequences --

15 MR. JOHNSON: Yeah, that's correct.

16 COMMISSIONER JONES: -- of the new
17 regulatory tool?

18 MR. JOHNSON: Yeah.

19 COMMISSIONER JONES: Thank you. My last
20 question is more for the Company and the settling
21 parties on the verification method. This is more
22 technical in nature. But in terms of the evaluation
23 by a third party at the end of this pilot program,
24 would the Christiansen study done for Northwest
25 Natural Gas and the Oregon Public Utility Commission

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1 be a reference model that you would envision? Have
2 all of you had a chance to review that? Let me ask
3 the Company witnesses and the Staff first.

4 MR. HIRSCHKORN: I have briefly reviewed
5 that study, yes.

6 COMMISSIONER JONES: Ms. Steward.

7 MS. STEWARD: Yes, I have, and I think it
8 would be a model. We may not go -- I think there are
9 things we could extrapolate from that. I mean, their
10 mechanism had a slightly different design, they had
11 an elasticity adjustment, they had some service
12 quality that they were also measuring. It would be a
13 reference, but we wouldn't try to mimic it per se. I
14 think we'd look at our own issues.

15 COMMISSIONER JONES: In -- I think it's in
16 the settlement agreement when you talk about -- I
17 think it's in (6)(F), independent third party review
18 of DSM savings, the language is very sparse in terms
19 of what it would look at. I think it just talks
20 about a sampling of projects where the work has been
21 completed, the savings recorded, and a review of the
22 engineering estimates.

23 This -- is it fair to assume that this would
24 not be an exclusive list of the questions that the
25 independent third party would look at?

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1 MS. STEWARD: No, and I think these are two
2 different evaluations. The evaluation for the third
3 party review of DSM savings is an audit of their
4 program results to ensure that they did capture the
5 savings that they claimed.

6 The other evaluation is the one that would
7 be more like the Christiansen report.

8 COMMISSIONER JONES: Which part of the
9 settlement agreement is that in? That's J?

10 MS. STEWARD: That is -- yes.

11 COMMISSIONER JONES: That's in Sub J?

12 MS. STEWARD: That's in (J) on page ten.

13 COMMISSIONER JONES: Okay.

14 MS. STEWARD: That would look at the
15 mechanism and the elements we have in that and the
16 overall -- if it's achieving the overall goals of the
17 --

18 COMMISSIONER JONES: And again, the language
19 in the settlement agreement, there's very little
20 language on what the criteria of that study would be;
21 correct?

22 MS. STEWARD: Correct.

23 MR. HIRSCHKORN: Within the settlement, we
24 will come back to you as a collaborative group and
25 present an evaluation plan by the end of 2007. We

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1 thought, rather than -- and obviously the Commission
2 has certain things they'd like to see in the final
3 evaluation plan, as well. We thought, Let's take our
4 time, develop a good evaluation plan, present it to
5 the Commission, get the Commission's feedback. So
6 rather than do that as part of this, let's give
7 ourselves some time and do it right.

8 COMMISSIONER JONES: There's one change in
9 the verification methodology, and that is that the
10 Company will change the -- as I read your testimony,
11 I think you will not count projects that haven't been
12 completed?

13 MR. POWELL: That's right. Our normal
14 methodology --

15 COMMISSIONER JONES: And what was the
16 reasoning? This is more of a technical question, but
17 why are you not counting projects that are in process
18 through their life cycle, from assessment to
19 completion?

20 MR. POWELL: Our typical methodology
21 recognizes the cost of the benefits as a project
22 moves through the cycle, which can be a multi-year
23 cycle, because it better matches costs and benefits
24 and makes for a more meaningful cost-benefit ratio.

25 For purposes of decoupling, that would

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1 present a significant additional effort to look at
2 every single project in our queue. In looking at
3 completed projects only, verification is much easier.

4 COMMISSIONER JONES: So it's primarily for
5 reasons of administrative simplicity for the purpose
6 of calculating this proposed deferral?

7 MR. POWELL: It makes for a more transparent
8 and easily understood approach.

9 COMMISSIONER JONES: Thank you. That's all
10 I have.

11 COMMISSIONER OSHIE: This is Commissioner
12 Oshie. I have a couple questions to follow up with
13 you, Mr. Johnson, and also with you, Mr. Hirschhorn
14 and Ms. Steward.

15 The first question on follow-up deals with
16 the -- the particulars of determining target goals
17 and maybe the administrative issues, if you will, for
18 this Commission that may arise as a result of now
19 setting goals in an IRP that result in real money,
20 perhaps being -- changing hands.

21 And as you know, in our IRP process now,
22 there's an acknowledgement of the goals of the
23 Company. I'm assuming that not all the parties who
24 participate in the IRP could agree necessarily on the
25 goals of the Company and their Integrated Resource

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1 Plan, but here, in this circumstance, when there's
2 real money at stake potentially, you know, are we
3 going to see administrative hearings, if you will, on
4 whether or not the target goals are properly set or
5 whether the programs are not necessarily achievable,
6 but, as Mr. Johnson pointed out, there's an incentive
7 perhaps to set lower, easier goals to meet so that
8 the recovery would be relatively ensured and really
9 takes the risk out of the going forward with more
10 aggressive efficiency programs?

11 So Mr. Johnson, I'd like to know, from your
12 opinion, whether you see this, or your counsel, Mr.
13 ffitch, sees this as placing more administrative
14 burdens on the Commission perhaps because the parties
15 can't agree as to what those target goals should be?

16 MR. JOHNSON: Yes, I believe that's true.
17 The parties can speak on their mechanisms for their
18 -- for setting the target that are set out in its
19 settlement agreement. Whether there will be
20 hearings, you know, some parties may request
21 hearings. Whether they're granted hearings is
22 another question, but I anticipate people may not
23 agree very much, so I'm concerned with the regulatory
24 burden from our office's perspective in the sense
25 that now, where before it was sort of a good faith

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1 effort and a cooperative atmosphere, I'm concerned
2 that, now that there's money on the table, it will be
3 perhaps even less cooperative, more contentious, and
4 that, yes, you will -- the Commission will now be
5 involved in essentially adjudicating. I'm not sure
6 if that's a proper word, I'm not the lawyer here, but
7 you know, in determining whether that goal is proper
8 or not.

9 And because there's money involved, more
10 effort and attention will have to be paid to the
11 unintended consequence of providing a sort of
12 disincentive to setting at the proper and higher
13 level.

14 So I anticipate that to be a problem, and to
15 compare to what we can -- what we've seen achieved
16 through the current regulatory structure, it seems
17 like an additional burden.

18 COMMISSIONER OSHIE: Ms. Steward, do you
19 agree with Mr. Johnson?

20 MS. STEWARD: I do agree it could create a
21 more contentious situation that we'd have to bring to
22 the Commission for ultimate resolution. However, I
23 think it's worth trying. I would point to the PSE
24 example, where we have had a penalty structure in
25 place. There's money on the line there and we have

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1 been able to reach a pretty good consensus.

2 I think we're not out to get the Company,
3 but we want to create a good structure with good,
4 sound policies from the Commission that support
5 conservation, and so I think it's worth trying and I
6 think all parties -- well, no, I'll stop there.

7 COMMISSIONER OSHIE: Okay. I want to go --
8 that's -- does the Company have anything to add to
9 that, Mr. Hirschhorn?

10 MR. HIRSCHKORN: Just one thing. That led
11 to considerable discussion amongst the parties. And
12 one thing we did build into the settlement agreement,
13 when we do develop the 2008 IRP goal that will be
14 used for decoupling, we will file that within the
15 decoupling tariff.

16 So rather than -- and there will be
17 certainly some discussion in the IRP process about
18 that goal, but this gives the parties, I guess, more
19 of a forum to challenge that goal and should this
20 goal -- is it right for decoupling, the 2008 goal.

21 So we did create that additional process,
22 because the parties -- some of the parties felt that
23 there wasn't a formal process, in that the Commission
24 doesn't approve our IRP. So hopefully it won't bog
25 down the IRP process, is our hope.

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1 that the Company's earnings for 2006 would, at least
2 in -- would include -- you know, it doesn't reflect
3 then -- well, let's just say that there's -- the
4 periods don't match up. So what's the -- you know,
5 that's, I think, an issue I'd like to have the
6 parties address.

7 MR. HIRSCHKORN: Actually, both the DSM
8 results and the earnings results are based on the
9 prior calendar year, so they're both based on a
10 calendar year.

11 COMMISSIONER OSHIE: So the DSM results
12 would be based on --

13 MR. HIRSCHKORN: For the first --

14 COMMISSIONER OSHIE: From December -- from
15 January through December?

16 MR. HIRSCHKORN: Yes, that's correct.

17 COMMISSIONER OSHIE: Okay. I guess I did
18 not -- your testimony, Mr. Hirschhorn, I thought
19 defined that period as being June through July 2006,
20 for example, through June 2007, so --

21 MR. HIRSCHKORN: That's the deferral period.
22 The first deferral period would run from January of
23 2007 through June of 2007. Second deferral period
24 would run from July through June. The third year
25 would be July through June.

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1 COMMISSIONER OSHIE: So the deferral lags,
2 then --

3 MR. HIRSCHKORN: Yes.

4 COMMISSIONER OSHIE: -- the actual
5 performance of the Company?

6 MR. HIRSCHKORN: Yes, yes, it does.

7 COMMISSIONER OSHIE: Okay. All right.

8 MS. STEWARD: And I would just note,
9 particularly for the DSM section, that gives us time
10 to -- well, they have to -- they'll file the DSM
11 report in the spring, and then that still gives us a
12 couple months to evaluate their report to determine
13 -- to look at their savings claims, and then the
14 deferral starts in June, after we've had time to look
15 at the Commission basis report and the DSM savings.

16 MR. HIRSCHKORN: That's correct, that's
17 correct. Plus, the DSM results will be audited, so
18 that provides an opportunity for audit, as well.

19 COMMISSIONER OSHIE: So let me make sure I
20 understand that, you know, just to be clear on it.
21 So the performance of the Company, both with regard
22 to its earnings and the demand side management
23 program targets, are evaluated on a calendar year,
24 but the period between January 1 and July 1 is used
25 by the parties and by the Commission to evaluate the

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1 performance of the Company, look at its earnings,
2 look at the demand side management targets and, on
3 July 1, then, for example, any deferral that would
4 have accrued under the program would then be booked
5 by the Company on July 1 going forward through the
6 period of the next PGA, until the PGA filing is made?

7 MR. HIRSCHKORN: The booking actually occurs
8 after each month, so if the mechanism were approved
9 by the Commission effective January 1, following the
10 month of January, we would book some deferred
11 revenue, plus or minus, 90 percent. We would go
12 through the year with the deferred revenue amount,
13 okay. At the end of June, that's the end of the
14 first period.

15 We would then have filed our Commission
16 basis results, our DSM reports. Those would be used
17 for the first filing to implement a surcharge in the
18 fall of 2007 for the revenue that is deferred from
19 January through June of 2007.

20 Now, those results from both the DSM test
21 and the earnings test would be used to determine how
22 much of the deferred revenue you would file for as a
23 surcharge, as laid out in the testimony.

24 COMMISSIONER OSHIE: Now, Mr. Hirschhorn,
25 once the deferred -- this question really has to do

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1 with interest, then. Under the proposal of the
2 Company, once the -- when does interest begin to
3 accrue on the account -- on the deferral account? Is
4 it in the month that it's booked or is it -- does
5 interest accrue at the time it's determined that the
6 Company has met its earnings threshold and its DSM
7 threshold?

8 MR. HIRSCHKORN: Interest is booked on an
9 ongoing basis.

10 COMMISSIONER OSHIE: So even if the Company
11 hasn't met its -- hasn't met its targets for the
12 year, the interest would be booked?

13 MR. HIRSCHKORN: It is booked and it's
14 carried over. To the extent -- to the extent we have
15 a carry-over that we don't meet the earnings test --

16 COMMISSIONER OSHIE: Well, let's -- before
17 we go there, if I can just stop you. Before we get
18 to the carry-over piece, because that's confusing
19 enough, let's just talk about the interest --

20 MR. HIRSCHKORN: Okay.

21 COMMISSIONER OSHIE: -- and how that
22 accrues, so --

23 MR. HIRSCHKORN: Interest would accrue on an
24 ongoing basis, similar to the PGA deferral account.

25 COMMISSIONER OSHIE: So say, hypothetically,

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1 if we start the program, the program begins, you
2 know, January 1, 2007, and whatever -- if there is an
3 amount to be deferred, it would begin -- the
4 deferrals would begin in that month and there would
5 be interest earned, or at least booked against that
6 money on January 1, going forward on a monthly basis?

7 MR. HIRSCHKORN: I believe it would be
8 booked for the following month. You're booking it
9 for January, the next month would accrue interest,
10 because that deferral has sat there a month, so that
11 would accrue interest in the next month. So there
12 would be a one-month lag, essentially.

13 COMMISSIONER OSHIE: Understood. And then,
14 at the end of the year, there would be some
15 determination of whether there would be recovery
16 based on whether the targets had been met?

17 MR. HIRSCHKORN: That's correct.

18 COMMISSIONER OSHIE: Now, let's get into I
19 think a little thornier issue, at least to get our
20 arms around, which is the issue of the carryover.
21 And maybe you can explain that, Mr. Hirschhorn. You
22 know, from your testimony, you know, give us the, you
23 know, the two or three-sentence explanation and use
24 plain talk language.

25 MR. HIRSCHKORN: Okay. I'll do my best. We

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1 defer 90 percent of the margin shortfall each month.
2 That goes throughout the year for the deferral
3 period, and at the end of the year, we would look at
4 the results of the earnings test and the DSM test
5 and, to the extent we did not meet either of those
6 tests based on the tier structure for the DSM
7 accomplishment and the results, the earnings results
8 as I laid out an example, we would -- let's first say
9 we met both the tests. We did not earn anywhere near
10 our authorized and we met the DSM test. We would be
11 -- we would file for recovery of what we deferred.

12 To the extent we didn't meet either test,
13 the one resulting in the lowest surcharge is what we
14 would file for, as laid out in the examples.

15 So we would calculate each test
16 independently. The one that resulted in the lowest
17 surcharge is what we would file for to be effective
18 coincident with our -- with the PGA.

19 COMMISSIONER OSHIE: Now, by low, the one --

20 MR. HIRSCHKORN: That reduces --

21 COMMISSIONER OSHIE: The result is -- that
22 the result is the lowest surcharge?

23 MR. HIRSCHKORN: Yes.

24 COMMISSIONER OSHIE: The lowest surcharge
25 from what's been carried over?

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1 MR. HIRSCHKORN: Oh, I'm sorry.

2 COMMISSIONER OSHIE: Okay.

3 MR. HIRSCHKORN: That would be what's
4 booked. Okay. The amount we cannot collect because
5 of the earnings and the DSM tests, that would remain
6 in the deferral account throughout the next year, but
7 we would not record additional deferrals until that
8 amount was exceeded.

9 So as an example, let's say we had a
10 \$200,000 carryover to the next year. Rather than
11 book additional deferrals, let's say the first month
12 of the next deferral period, July, was \$100,000. We
13 would not book that. August, let's say, was
14 \$100,000. We would not book that till we exceeded
15 that carryover amount of \$200,000.

16 So it would be used -- we would carry it
17 over, it would remain in the deferral account, but it
18 would be used to offset additional deferrals that
19 would otherwise be recorded in the next year. I
20 apologize. That was more than two or three
21 sentences.

22 COMMISSIONER OSHIE: That's fine.

23 CHAIRMAN SIDRAN: Mr. Hirschhorn, Mark
24 Sidran here. I just want to ask you a follow-up,
25 because it was a question I was going to ask, but it

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1 fits precisely with the issue you've just spoken to.

2 I understand what you just described and I
3 think I understand the exhibit that tries to
4 illustrate the application of this mechanism. It's
5 an exhibit to the settlement agreement.

6 So explain to me your response to the
7 following, which is taken from Public Counsel's brief
8 at page 11, where Public Counsel is raising an issue
9 with regard to this carryover mechanism with respect
10 to the earnings test. And I don't know if you have
11 that in front of you. Perhaps Counsel can help you.

12 MR. HIRSCHKORN: I have that.

13 CHAIRMAN SIDRAN: But if you look at
14 paragraph 27 of Public Counsel's brief at page 11,
15 there's a reference to a question and answer about
16 the deferred balance carryover and how it relates to
17 the earnings test. Do you see that?

18 MR. HIRSCHKORN: Yes, I do.

19 CHAIRMAN SIDRAN: And then notice, right
20 below the question and answer, there's a sentence
21 that says, The joint parties apparently missed Public
22 Counsel's point, which is that if excess earnings
23 from one year are deferred into another because of
24 the earnings cap, they can still be recovered to
25 their full amount, even if there would otherwise be

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1 no deferrals from sales declines in the second year
2 or if those declines were less than the excess
3 earnings carryover.

4 So could you just respond to this point?

5 MR. HIRSCHKORN: Yes, yes. Essentially, I
6 think what Public Counsel's saying is that if there
7 is a carryover, but no additional deferrals would
8 occur in the second year, they could still recover
9 that carryover. I view this as a very remote
10 occurrence or possibility that essentially customer
11 usage would all of a sudden jump up, where we would
12 incur no additional deferrals.

13 They are correct in terms of that deferral
14 does -- that amount does remain in the deferral
15 account, but it would be used to offset additional
16 deferrals that would be recorded. For what they
17 posed as a possibility, we would have to see usage
18 suddenly increase by customers fairly substantially
19 over the next -- over the next year, which I don't
20 foresee. It could certainly occur.

21 Whatever is in the deferral account, again,
22 is subject to the earnings and the DSM test at the
23 end of the year as if it were recorded in that year,
24 even though it's a carryover. So it's subject to the
25 same test as a carryover is as a recording of a

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1 deferral is.

2 So I guess what they're saying is true, but
3 I really -- I finally understood what they were
4 trying to get at, after I read it several times, but
5 I think it's a fairly remote possibility, plus it's
6 still subject to the test in the following year.

7 CHAIRMAN SIDRAN: All right. So let me just
8 make sure I understand.

9 MR. HIRSCHKORN: Okay.

10 CHAIRMAN SIDRAN: So if there's a carryover
11 as a result of the excess earning cap and there are
12 no deferrals to offset in that year and the Company
13 were below its earnings, below the earnings cap in
14 that year, those deferred could -- those deferrals
15 could still be taken?

16 MR. HIRSCHKORN: Yes, they could.

17 CHAIRMAN SIDRAN: All right.

18 MS. GLASER: May I clarify? Perhaps I'm not
19 understanding, but I believe, given the DSM targets,
20 if the Company did not achieve at least 70 percent of
21 its demand target, they would actually not be able to
22 recover any of the margin.

23 MR. HIRSCHKORN: That's correct.

24 MS. GLASER: And so this situation that has
25 been posed as a hypothetical would not allow a

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1 surcharge on the rates if the Company had not met at
2 least 70 percent of its annual DSM target. So it
3 really is kind of a very unusual circumstance which
4 is not likely to be able to occur.

5 CHAIRMAN SIDRAN: Well, I guess what I'm --
6 you know, Public Counsel can explain the point, I
7 suppose, to help me understand it. I take that point
8 -- I thought the issue was, in order to avoid excess
9 earnings in year one, there's this cap which rolls
10 the deferrals forward into the next year. There's
11 nothing to offset, let's say, in year two, but the
12 Company is below its earnings cap, that money will be
13 taken.

14 MS. GLASER: Not if they have --

15 CHAIRMAN SIDRAN: Yes, I understand. If
16 they meet the DSM targets, but there's nothing to
17 offset because of, you know -- there's nothing --
18 there's no offset in terms of the deferrals and lost
19 margin in that year, the Company will still take the
20 carryover?

21 MR. HIRSCHKORN: Yes, to the extent we meet
22 the test, that's correct. It would remain in the
23 deferral account. Quite frankly, when we were
24 designing this, we didn't even -- we didn't foresee
25 that. What we wanted to do was not collect deferrals

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1 that we're, to a certain extent, not entitled to. So
2 we would take that carryover and offset deferrals we
3 would otherwise record. What we wanted to avoid was
4 a one-time write-off, because that's a write-off. So
5 we thought, okay, let's design this carryover where
6 we can record additional deferrals, but we don't have
7 to take a write-off. So it's fair -- it's fair to
8 everyone.

9 So we didn't really foresee the situation
10 Public Counsel has posed, and we see it as a fairly
11 remote possibility.

12 CHAIRMAN SIDRAN: All right. Thank you.

13 JUDGE WALLIS: Let's be off the record for
14 just a minute.

15 (Recess taken.)

16 JUDGE WALLIS: Let's be back on the record,
17 please. Commissioner Oshie, further questions?

18 COMMISSIONER OSHIE: I think just one
19 follow-up question, and if -- we'll see if there's
20 more, depending on the questions that Chairman Sidran
21 may ask in follow-up on this discussion perhaps of
22 the carryover and how it's treated. But this is more
23 hypothetical and -- if you will, or perhaps more
24 abstract.

25 You know, if we were to allow this program,

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1 does it -- you know, do you envision it having any
2 effect on the analysis of the programs as to their
3 cost effectiveness test? I mean, this is money that
4 could be received by the Company, paid for by the
5 customers, I mean, cost effectiveness is determined
6 by, you know, by how much money, you know, the
7 customers may contribute to a program or how much the
8 Company will have to spend to achieve its DSM goals.

9 So is there -- is it -- is that just too
10 abstract or is it something that the parties have
11 thought of, as how it's going to affect the analysis
12 of individual programs, because there's certainly,
13 you know, if you will, you know, money that's being,
14 you know, that's changing hands or could change hands
15 as a result of the program?

16 MS. STEWARD: No, I don't think we've
17 envisioned that it would change the cost
18 effectiveness test. They're pretty regimented tests
19 as is. I guess I see where including -- no, I don't
20 think it will change it at all. You know, the
21 programs will still have to be cost effective and the
22 total resource cost -- I'm trying to think through
23 the lost margins and how that flows through the cost
24 effectiveness test, but, I mean, the total resource
25 cost includes all costs, so it's already there.

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1 COMMISSIONER OSHIE: It's already --

2 MS. STEWARD: Well --

3 COMMISSIONER OSHIE: Well, if it's already
4 there, if it's considered -- in other words, lost
5 margin is already considered, if this is recovery of
6 lost margin, doesn't that affect its final analysis?

7 MR. POWELL: The total resource cost test
8 would consider that to be a transfer and it wouldn't
9 be a cost either way, so it wouldn't enter into the
10 total resource cost test.

11 MR. FFITCH: Your Honor, do you want to
12 direct that question to Mr. Johnson, also?

13 COMMISSIONER OSHIE: Certainly, if Mr.
14 Johnson has something he'd like to add to that, that
15 would be fine.

16 MR. JOHNSON: I just want to make sure I
17 understand your question. And if we're concerned
18 about evaluating the cost effectiveness of the
19 programs that the Company engages in, I think that in
20 my testimony I mentioned unintended consequences,
21 that if money's changing hands, there's a lot more
22 pressure on making sure they don't exceed the cost
23 effectiveness of the programs with ratepayer money,
24 because, obviously, if they can exceed it, it just
25 helps them achieve their goals. So there's another

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1 unintended consequence here.

2 I'm not sure that was exactly your question,
3 but I just wanted to point that out if that was, you
4 know, what you asked.

5 COMMISSIONER OSHIE: Well, my question was
6 more open-ended. I thought it's just something the
7 parties may have considered, you know, the effect of
8 the money changing hands from customers and the
9 Company as a result of part of these demand side
10 management programs, whether or not that affected,
11 you know, the different tests that are used to
12 evaluate the cost effectiveness of energy efficiency
13 programs, and I think we've covered it.

14 CHAIRMAN SIDRAN: This question is, I think,
15 addressed to the Company, although I would invite Ms.
16 Steward to respond, as well, if she chooses. We've
17 suggested in our prior orders regarding decoupling
18 that it would be helpful if they were to -- if a
19 decoupling proposal were to arise in the context of a
20 general rate case.

21 And I notice that in the settlement, in
22 Paragraph (C)(6), there's reference to the effect of
23 an intervening general rate case on, in effect,
24 resetting benchmarks in recognition of the benefit of
25 a general rate case in relationship to this

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1 decoupling methodology.

2 So my question is why shouldn't we take this
3 up in the context of a general rate case, as opposed
4 to a separate proceeding?

5 MR. HIRSCHKORN: I'll go ahead and respond
6 to that first, if I may. We -- well, we certainly
7 didn't want to use decoupling as any part of a reason
8 to come in for a general rate case, so that was one
9 reason.

10 We have a -- I'll call it a fairly fresh
11 test year, at least it was when we started this
12 process almost a year ago. So 2004 is not ten years
13 ago, it's a couple years ago, so we feel that we have
14 a reasonable test year to use here. And as I said,
15 we did not want to use it as a reason to file a rate
16 case. We were in for two general rate cases two
17 years in a row, and part of the reason was declining
18 usage. And that was only part of the reason, but it
19 was a contributing factor.

20 And rather than go through a rate case
21 process -- and we felt it was reasonable to request a
22 mechanism outside of the general rate case.

23 MS. STEWARD: I agree with that. I mean,
24 Staff, from Staff's perspective, the Company had just
25 concluded a rate case and had filed this mechanism.

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1 So we have a recent baseline and we included this
2 provision where they could only defer up to 90
3 percent of the difference. This offset was designed
4 specifically because this was not taken outside of a
5 rate case.

6 CHAIRMAN SIDRAN: And how would you respond
7 to the proposition that there ought to be a
8 requirement of a general rate case at the conclusion
9 of the pilot period as a condition of renewal, for
10 example?

11 MS. STEWARD: We're okay with that. I mean,
12 right now, the mechanism -- when I say we, I just
13 mean Staff. Right now, the mechanism will end, and
14 then -- I'm getting all my decoupling mechanisms
15 mixed up now, but I think this one -- I mean they --
16 it's -- we would like any ongoing -- anything beyond
17 three years to be reset with a new baseline, which
18 would require a new rate case.

19 But we have left that open to -- with the
20 evaluation and with -- the Company can request an
21 extension, but I think it's highly unlikely Staff
22 would support an extension beyond three years without
23 a rate case. I'll let Mr. Hirschorn speak for the
24 Company on that.

25 MR. HIRSCHKORN: That -- I guess we would be

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1 okay with that. I guess, if it were me, I'd leave it
2 -- I guess that's up to the Commission to decide if
3 they want to make that determination now or wait.
4 That could be part of the Commission's determination
5 when we request renewal, for example, and it may be
6 in everyone's best interest for the Company not to
7 file a rate case at that time. We don't know.
8 Things change.

9 CHAIRMAN SIDRAN: Thank you. This is a
10 question for Ms. Steward, but Ms. Glaser is welcome
11 to join in if she wishes.

12 Public Counsel's cross-examination elicited
13 testimony to the effect that the Company is currently
14 pursuing all cost-effective conservation and would
15 continue to do so with or without decoupling. And
16 although it's not in this record, we've heard similar
17 testimony in other cases.

18 So my question to you is do you believe
19 that's true, and if it is true, then what is the
20 purpose to be accomplished on the conservation end of
21 this mechanism?

22 MS. STEWARD: I believe all utilities answer
23 that, yes, they are doing all cost-effective
24 conservation. With Avista right now, because of the
25 resource plan that they've just completed and the

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1 target we have set, we have a well-informed target,
2 and the fact that they're achieving it, which this
3 year it looks like they will, and hopefully they will
4 next year, as well, I would say they're doing a good
5 job in achieving the cost-effective conservation.

6 With decoupling, I think it would be
7 interesting with decoupling to sort of unleash the
8 beast and see, you know, what else that we may not be
9 seeing that --

10 CHAIRMAN SIDRAN: Would the beast be the
11 Company or --

12 MS. STEWARD: It would be, yes.

13 MR. MEYER: Thank you very much.

14 MS. STEWARD: I can't say -- I cannot
15 pinpoint what incremental conservation they can be
16 achieving, and neither did Public Counsel, nor The
17 Energy Project. There's no analytical basis for
18 incremental conservation at this point. We have the
19 best information from their resource plan.

20 This could change what they look at in their
21 resource plan and it could change the timing that
22 they have to pursue it. They may not put things off.
23 You know, they may be more willing to accelerate
24 their programs. And would Ms. Glaser like to --

25 MS. GLASER: Yes, I mean, I would like to

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1 add that in order for, I think, a company to really
2 invest in particularly kind of emergent opportunities
3 and really pull resources in, whether human or
4 getting money together to actually invest in new
5 conservation, you need to kind of show that it's not
6 going to negatively impact the bottom line of the
7 company.

8 And I think that's what the decoupling
9 mechanism, in its pilot form, allows us to test,
10 whether you can really get the commitment of people
11 throughout a company like Avista to say, all right,
12 let's go for it. These are new opportunities,
13 they're emergent, we can throw our resources at it
14 and we can do that in the interest not just of our
15 shareholders, but of our customers

16 CHAIRMAN SIDRAN: Thank you. This is a
17 question for the Company, but Ms. Steward's also
18 welcome to respond.

19 In the Company's initial filing, I think in
20 paragraph ten, the Company basically responds to the
21 issue of whether there ought to be to an adjustment
22 of the return on equity in response to the adoption
23 of decoupling. And if I understand the Company's
24 position, it's that because, in the Company's view,
25 decoupling will not significantly affect the

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1 Company's risk, there -- it says, quote, Therefore,
2 an adjustment to the Company's authorized return on
3 equity would not be warranted. Is that a fair
4 statement?

5 MR. HIRSCHKORN: Yes, it is.

6 CHAIRMAN SIDRAN: Now, to me, saying that
7 there's -- that decoupling will not meaningfully
8 affect the Company's risk is another way of saying
9 it's not going to meaningfully affect the Company's
10 earnings, or am I misconstruing it?

11 MR. HIRSCHKORN: In total, as far as the
12 Company's total earnings, it won't meaningfully
13 affect the Company's earnings. What we're speaking
14 to is the variability in sales in my testimony. Most
15 of the variabilities in sales on the gas side is
16 caused by weather. When you compare this amount --
17 we're weather-normalizing. We're taking -- we're
18 removing the variability of sales dealing with
19 weather. If weather was included, there's no
20 question it would significantly affect the Company's
21 earnings and a rate of return adjustment, I think I
22 can say, would be warranted.

23 But this is pretty small compared to the
24 potential variability, and the variability we see due
25 to abnormal weather. That's more what we were

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1 referring to in my testimony.

2 CHAIRMAN SIDRAN: So if it's relatively
3 small, so small that it doesn't meaningfully affect
4 the Company's risk, it begs the further question of
5 the value of the mechanism in creating the kind of
6 incentive Ms. Glaser is talking about, or removing a
7 disincentive because the actual amount of money at
8 issue here in comparison to the Company's total
9 revenue is small.

10 MR. HIRSCHKORN: When you look at the
11 Company as a whole, when you look at just our gas
12 operations, and Washington gas operations
13 specifically, it is meaningful. And I was speaking
14 in terms of the Company as a whole.

15 It is significant enough that we've invested
16 -- I've invested almost a year of my time and my
17 bosses have told me to do that. It is significant.
18 Obviously, it is important to the Company and it is
19 meaningful earnings -- potential meaningful earnings
20 on our gas side of the operations.

21 The other side of that is, kind of following
22 up with what Ms. Glaser said, we want to be totally
23 committed to conservation, not only from a
24 programmatic standpoint, but the things we do, we
25 have information on our Web site, we have a local TV

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1 program that is designed for seniors, encourage
2 customers to conserve beyond programmatic measures.
3 And for everybody to get on that train, we need this
4 decoupling mechanism.

5 And I hope I speak the truth. If we do get
6 the decoupling mechanism, everyone will be on that
7 train. I've seen everybody on that train this year
8 with the possibility of having the decoupling
9 mechanism in place. So I think it's important, and
10 it is meaningful from a Washington gas earnings
11 standpoint. It's a meaningful amount of money.

12 CHAIRMAN SIDRAN: All right. Thank you.
13 Ms. Steward, I'd like you to respond to that
14 question, and also recognizing that this is not in
15 the record of this case, but Staff has taken the
16 position with respect to other companies that there
17 should be an adjustment with respect to return as
18 part of a decoupling mechanism, so perhaps you can
19 clarify for me Staff's perspective.

20 MS. STEWARD: Correct. We -- again, this
21 goes to why we sought an offset, since this was taken
22 outside the context of a rate case and we couldn't
23 make an adjustment to rate of return. That's why
24 we're -- they're only allowed to defer 90 percent
25 with recovery up to 90 percent. They're not

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1 guaranteed that full 90 percent deferral recovery.

2 We do recognize that risk -- or that weather
3 is the largest risk factor, and I don't know how
4 explicitly we made that clear in the other
5 proceedings that was covered by the testimony of our
6 experts on rate of return, but we are content, I
7 guess, to go forward with this proceeding out of the
8 rate case with the constraints we have on the
9 mechanism, the two percent cap, the earnings test,
10 the DSM test, the 90 percent deferral, three-year
11 sunset to go forward with the pilot as is, and we can
12 always reevaluate the risk in a rate case for the
13 next go around.

14 CHAIRMAN SIDRAN: All right. Thank you.

15 Did you want to add?

16 MS. GLASER: May I add something here? The
17 Northwest Energy Coalition certainly are not
18 financial experts, so I don't want to weigh in on
19 that. But we do see that the cost of capital is a
20 cost that customers ultimately pay. And if the only
21 way we're going to see that a cost of capital is
22 reduced is through a pilot mechanism which
23 demonstrates there is a lower cost of capital, at
24 least ultimately the ratepayer will get that cost
25 savings, and we think it's worth it to pilot the

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1 mechanism without an adjustment so we can see what
2 happens.

3 CHAIRMAN SIDRAN: All right. Thank you. I
4 want to ask a procedural question here, Judge Wallis.
5 Did I understand Counsel, Public Counsel to indicate
6 that Mr. Johnson's going to testify? I'm not quite
7 sure where we are with respect to testimony here.

8 MR. FFITCH: Your Honor, I think we need to
9 hear from opposing counsel on this, as well. My
10 understanding from Mr. Meyer was that he did have
11 cross-examination for Mr. Johnson, so I was expecting
12 that he would take the stand in the normal fashion at
13 some point.

14 MR. MEYER: May have some questions. I
15 think we've covered some ground here that -- I think
16 the record has been clarified. And so if there is a
17 plan to perhaps wrap this up before lunch, perhaps we
18 should discuss that off the record and decide just
19 where we go from here for the next 45 minutes,
20 because I am prepared to waive cross if that fits
21 into the scheme of things.

22 CHAIRMAN SIDRAN: Done.

23 MR. MEYER: I kind of hoped to do that off
24 the record, but okay. I take that as my clearest
25 cue.

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1 JUDGE WALLIS: Let's be off the record for a
2 brief, very brief scheduling discussion.

3 (Discussion off the record.)

4 JUDGE WALLIS: Let's be back on the record,
5 please. During a brief procedural discussion, we
6 have determined that Mr. Johnson would be qualified
7 at this time and his exhibits offered, and then we
8 will throw it open to questions among the panelists
9 and Mr. Johnson. Mr. ffitch.

10 MR. FFITCH: Thank you, Your Honor. Good
11 morning, Mr. Johnson. Could you please state your
12 full name for the record, after you have the
13 microphone in position there?

14 COMMISSIONER OSHIE: Excuse me, Mr. ffitch,
15 if I can interrupt just very briefly. Your Honor, I
16 guess what I meant was I have a couple follow-up
17 questions for the panel, so if we'd like to --

18 JUDGE WALLIS: Yes.

19 COMMISSIONER OSHIE: So if that's
20 understood, then --

21 JUDGE WALLIS: Yes, that's understood. All
22 right.

23 MR. JOHNSON: Steven G. Johnson.

24 MR. FFITCH: And where are you employed?

25 MR. JOHNSON: Public Counsel, Washington

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1 State Attorney General's Office.

2 MR. FFITCH: And what is your position with
3 the Public Counsel Office?

4 MR. JOHNSON: Regulatory analyst.

5 MR. FFITCH: Did you prepare testimony and
6 exhibits for Public Counsel on the decoupling
7 proposal in this case?

8 MR. JOHNSON: Yes, I did.

9 MR. FFITCH: And have those been marked in
10 this case as Exhibits 51 through 58?

11 MR. JOHNSON: That's correct.

12 MR. FFITCH: Do you have any changes or
13 additions to your testimony?

14 MR. JOHNSON: We submitted an errata sheet.

15 MR. FFITCH: And that's been marked as
16 Exhibit 58, Your Honor.

17 JUDGE WALLIS: Yes.

18 MR. FFITCH: With those changes, is your
19 testimony true and correct, to the best of your
20 knowledge?

21 MR. JOHNSON: Yes.

22 MR. FFITCH: And if I asked you these
23 questions today, would your answers be the same?

24 MR. JOHNSON: Yes.

25 MR. FFITCH: Your Honor, Mr. Johnson is

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1 available for cross-examination.

2 JUDGE WALLIS: Is there any objection to the
3 exhibits? Let the record show that there is not, and
4 those documents are received in evidence. Very well.

5 Let's now take up at the point where we left off
6 earlier, and Mr. Johnson would be available to
7 respond to questions, as are the panel members.

8 COMMISSIONER OSHIE: All right. Thank you,
9 Your Honor.

10 I just want to follow up on the question,
11 the dialogue, if you will, that we had between the
12 panel and the Bench with regard to the carryover and
13 maybe to clear up some confusion perhaps that we have
14 over its effect.

15 So let's start with, hypothetically
16 speaking, that there is -- the Company doesn't -- in
17 year one, the Company does not achieve either its
18 target or earnings goals, but does have a deferred
19 amount of approximately \$200,000. I'll use the term
20 in the bank. In year two, it meets its earnings
21 test, meets the DSM target test, but the deferral for
22 that year, for that particular year is \$100,000.

23 So the question is, is the Company able to
24 seek recovery of the full \$200,000, or does the
25 100,000 from year two offset a portion of the 200,000

0102

1 in the bank, so that the Company would only recover
2 \$100,000 in year two?

3 MR. HIRSCHKORN: It would be the latter.

4 The Company would be allowed to -- or could file for
5 100,000, not 200,000.

6 COMMISSIONER OSHIE: And would the answer be
7 the same if the carryover remains at 200,000, but the
8 Company's deferral is 300,000 for the year? In other
9 words, that for year two, it's 300, so that, again,
10 the 200,000 offsets the 300,000?

11 MR. HIRSCHKORN: Yes.

12 COMMISSIONER OSHIE: And there'd be a
13 \$100,000 recovery for year two?

14 MR. HIRSCHKORN: Yes, that's correct.

15 COMMISSIONER OSHIE: All right. Thank you.

16 JUDGE WALLIS: Commissioner Jones.

17 COMMISSIONER JONES: Commissioner Jones. To
18 further confuse matters -- and if you need to use the
19 white board, you can. At the end of the pilot
20 period, if the -- I think in one of your briefs, your
21 reply briefs, you said one of the purposes of this
22 mechanism is to avoid a write-off, a financial
23 write-off of a balance; correct?

24 MR. HIRSCHKORN: That's correct.

25 COMMISSIONER JONES: Is it theoretically

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1 possible, at the end of the pilot period, under
2 Commissioner Oshie's example, where deferral amounts
3 don't meet the carryover, the excess carryover, where
4 you could have a balance at the end of the pilot
5 program and that would have to be written off;
6 correct?

7 MR. HIRSCHKORN: Yes, absolutely.

8 COMMISSIONER JONES: Okay. Thank you.

9 JUDGE WALLIS: Any further questions?

10 CHAIRMAN SIDRAN: Yes, this is a question
11 for Mr. Johnson, or perhaps Mr. Ffitch wants to
12 address it, as well, in his closing.

13 I'm interested in why apparently you believe
14 that the earnings cap -- and there are a number of
15 what I would call protective measures that have been
16 arrived at in the settlement agreement that address a
17 number of issues raised by Public Counsel in this
18 and, for that matter, in other decoupling
19 proceedings.

20 Why is it that the earnings cap is not a
21 significant protective measure for ratepayers? And
22 taking aside for the moment this is not arising in a
23 general rate case, but let's say that if we knew that
24 this was hypothetically arising in a general rate
25 case and we had current information and we reached a

0104

1 decision about what the appropriate earnings should
2 be for the Company, and this decoupling mechanism
3 simply provided the Company the opportunity to earn
4 those authorized returns and no more than that, why
5 doesn't that meet one of the principal issues that
6 Public Counsel identifies with respect to decoupling?

7 MR. FFITCH: Your Honor, I'm going to, since
8 really I shouldn't be testifying, I'm going to defer
9 to our witness and allow him to take a crack at that.

10 MR. JOHNSON: Well, I guess our concern is
11 whether the -- and it goes a little bit back to the
12 Pacific order -- whether the amount of money deferred
13 and then eventually put into rates is commensurate
14 with the actual identified problem. And in my
15 testimony in table one, as a benchmark, I show what
16 lost margins are for Company-sponsored conservation
17 programs.

18 So if the question is a different question,
19 will the Company over-earn with respect to the
20 authorized, I think the cap probably is working to
21 the extent that the Commission basis reports are as
22 fully fleshed and examined as a general rate case,
23 but the question we're raising is is the money that
24 is being deferred and then eventually placed in rates
25 via the tests commensurate with the disincentive, and

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1 we don't believe it is, and that's where the origin
2 of the problem is.

3 Also a mechanism which has a potential to
4 collect a very large amount of money with respect to
5 the problem and a fairly substantial amount of money
6 that sort of -- that gets them their earnings is not
7 the same as what the Commission authorizes in a rate
8 case, which is the opportunity to earn, a reasonable
9 opportunity to earn.

10 So we're -- with single-issue rate-making,
11 as this is, you take the risk of sort of guaranteeing
12 them by just taking out the pieces where you have
13 some kind of decline and addressing that issue only,
14 single issue, you run the risk of guaranteeing a
15 return, rather than just providing an opportunity and
16 then asking for some performance, so that's where our
17 concern is.

18 Maybe it's slightly different than your
19 question, and catch me if I'm not answering your
20 question.

21 CHAIRMAN SIDRAN: No, I think you've
22 answered the question. Your concern is not, in this
23 context, over-earning, but you view the opportunity
24 to earn as, from a policy perspective, sufficiently
25 important, a principal that justifies turning down

0106

1 this particular proposal?

2 MR. JOHNSON: Well, yeah. I think,
3 actually, it's not just sort of my general policy. I
4 think that language is buried in case history, as I
5 understand it. And so, yeah, there is this weird
6 rollover part. That aside, it isn't that they
7 over-earn above that authorized, but that, through
8 single-issue rate-making, you're removing a balance
9 in the rate-making process between the shareholder
10 and the ratepayer, and that's our concern.

11 CHAIRMAN SIDRAN: Thank you. That's all I
12 have.

13 JUDGE WALLIS: Are there any further
14 questions of the witnesses?

15 COMMISSIONER JONES: Judge, I have one.

16 JUDGE WALLIS: Commissioner Jones.

17 COMMISSIONER JONES: I have one for Mr.
18 Johnson. Just, since we're talking about beasts and
19 different terminology today, in your testimony, you
20 talk about ballooning on page nine of your direct
21 testimony. This gets into the question are the
22 deferral amounts expected to grow. Can you find that
23 part in your testimony?

24 MR. JOHNSON: Was it nine or ten, the page?

25 COMMISSIONER JONES: Nine, page nine. And

0107

1 I'd like the Company to respond on this difference
2 between Mr. Johnson's estimates of the deferral in
3 the out years and your estimates, because it's fairly
4 substantial.

5 But I'm curious as to how you calculated
6 these numbers. I think you used certain assumptions
7 and based it on historical data going back to the
8 late '90s for Avista, but then you state very
9 clearly, In percentage terms, these are very large
10 increases that will continue to, quote, balloon in
11 the future.

12 What's the basis of that assertion and what
13 statistical evidence do you have for that and what do
14 you mean by balloon?

15 MR. JOHNSON: Well, the data I used to make
16 my projection on the deferral calculation was based
17 on data provided by the Company. They have -- I
18 think it's in PC 17, it's also -- which, excuse me,
19 is an exhibit. I'll have to find it. I think it's
20 also --

21 MR. FFITCH: Exhibit 29.

22 MR. JOHNSON: Thank You. It's also attached
23 to the joint testimony and joint rebuttal. It's data
24 that takes the cohort of 2004 customers and tracks
25 their actual decline in use to the mid-point of '06,

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1 and I took that data, which is pertinent and known,
2 and simply continued that trend. The data going back
3 to 1999 was data the Company provided in their direct
4 testimony of Brian Hirschhorn, which I can look up
5 the exhibit number for, also, and he characterized
6 that as recent data on the decline in customers, so I
7 went ahead and used that as a comparator.

8 I didn't use it in the calculation of that
9 projection, but used it as just, you know, a check
10 and see how it looks in comparison to other possible
11 data presented by the Company.

12 So I feel that that is known data. Again,
13 it's only a year and a half, but it is known data,
14 and so I just projected it out on that basis.

15 COMMISSIONER JONES: What do you mean by
16 future years? Do you mean beyond 2009, because
17 you're -- I think you're making the assertion that if
18 the pilot program were to be -- that's the way I read
19 it, if the pilot program were to be renewed and using
20 the same extrapolations, it would continue -- the
21 deferral amounts would continue to grow
22 substantially.

23 MR. JOHNSON: I didn't do an extrapolation
24 for the last deferral period in the pilot, so I'm
25 referring to that.

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1 COMMISSIONER JONES: Okay.

2 MR. JOHNSON: And of course, the reason
3 we're doing this is for a pilot, to see if it would
4 be something we'd want to continue doing, and so
5 future years would be what we'd learn about future
6 years in continuing the pilot.

7 I do want to point out that I don't actually
8 agree with the use of the '04 base period, going back
9 that far to start the collection and --

10 COMMISSIONER JONES: I'm aware of that.

11 MR. JOHNSON: Okay. Thank you.

12 COMMISSIONER JONES: Yeah, I read your
13 testimony on that. Could the Company respond to Mr.
14 Johnson's calculation and its use of historical data?

15 MR. HIRSCHKORN: Yes.

16 MR. FFITCH: Your Honor, may I interject
17 before the witness answers? I just wanted to let you
18 know that Mr. Johnson's available to -- I think he's
19 prepared to, if you want to go into a little bit more
20 depth about the projections, you know, use the white
21 board and kind of walk through some of the numbers in
22 the exhibits, if that's helpful in, you know,
23 shedding some light on the complex numbers here, so
24 --

25 COMMISSIONER JONES: Not at this point, for

0110

1 me, at least.

2 MR. HIRSCHKORN: We think Mr. Johnson's
3 estimates are too high. We did a simulation -- well,
4 actually, we looked at mid-2005 to mid-2006, using
5 the actual data, and the deferral amount would have
6 been about 600,000. We also looked at 2007 on a
7 projected basis. Very close. It was within
8 \$100,000.

9 So at least during the pilot period, we
10 don't see the numbers getting anywhere near this
11 dollar amount.

12 Another question is, you know, how much
13 further can customers reduce their consumption absent
14 some magic technology, I guess. We've seen gas
15 prices triple in the last six, six years. Hopefully,
16 we're going to see some stability, at least going
17 through time in terms of gas prices. No one knows.
18 Certainly, we're going to continue to see volatility.

19 Getting back to the short answer, we think
20 his numbers are too high, especially during the pilot
21 period.

22 COMMISSIONER JONES: My last question to the
23 Company is Mr. Johnson proposes an incentive program
24 in the last part of his testimony, and I think I read
25 a brief response, a two-page response, or a very

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1 brief response on the part of the Company.

2 Is that your official response for the
3 record on Mr. Johnson's proposal on an incentive
4 mechanism?

5 MR. HIRSCHKORN: Mr. Johnson's incentive
6 mechanism deals with programmatic DSM.

7 COMMISSIONER JONES: Correct.

8 MR. HIRSCHKORN: We've seen customers reduce
9 their usage by four times that amount. That means
10 they're doing conservation on their own, whether it's
11 in response to prices, the energy crisis, new
12 building codes, all the above, it's conservation.

13 So Mr. Johnson's proposal does address the
14 programmatic piece, but it doesn't address this huge
15 piece that customers are doing on their own, outside
16 of programmatic. And it doesn't recover -- allow us
17 to recover our fixed costs for those reduced volumes.
18 That's the problem we see with Mr. Johnson's
19 proposal.

20 COMMISSIONER JONES: But in terms of the
21 record, the answer is -- what is your answer? I
22 think it's in the joint direct. I forget. In
23 exhibit -- or in your rebuttal testimony?

24 MR. HIRSCHKORN: I think it's in rebuttal.

25 COMMISSIONER JONES: I think it's in your

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1 rebuttal, on pages 13 and 14. Is that -- is that
2 your official -- I think you quote two reasons why
3 you would reject or disfavor his proposal.

4 MR. HIRSCHKORN: Right.

5 COMMISSIONER JONES: Is that it?

6 MR. HIRSCHKORN: That's one reason. The
7 other reason is the incentive isn't really
8 meaningful.

9 COMMISSIONER JONES: Okay. That's all I
10 have, Judge.

11 JUDGE WALLIS: Very well. Are there further
12 questions? Mr. Meyer, do you have any cross for Mr.
13 Johnson?

14 MR. MEYER: I do not. I'll waive the cross,
15 but I do have just one redirect for Mr. Hirschhorn,
16 just to clarify a question that was posed by the
17 Commission.

18 And the question had -- the hypothetical, I
19 believe, was, well, when we get around to discussing
20 whether this pilot program should be continued,
21 should or shouldn't that be in the context of a
22 general rate case, and fair question, good question.

23 Could you envision a situation, Mr.
24 Hirschhorn, where the company, between now and the
25 three-year expiration date of this pilot, had just

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1 filed another gas case and had just completed that
2 just prior to any request to continue the program,
3 what would your reaction be then to such a proposal?

4 MR. HIRSCHKORN: I think the situation would
5 be similar to what's proposed in this case. We have
6 a fairly recent test year that we can rely on. So I
7 think our proposal would be to use that test year,
8 rather than go through the rate case process to
9 establish a new test year.

10 MR. MEYER: Okay. Thank you. That's all I
11 have.

12 JUDGE WALLIS: Very well. This concludes
13 the interrogation of the panel and Mr. Johnson. We
14 do have Mr. Eberdt remaining. I am going to ask the
15 prior witnesses to remain pending the conclusion of
16 Mr. Eberdt's examination. Mr. Eberdt, would you come
17 forward and take the stand, please, raise your right
18 hand.

19 Whereupon,

20 CHARLES EBERDT,
21 having been first duly sworn by Judge Wallis, was
22 called as a witness herein and was examined and
23 testified as follows:

24 JUDGE WALLIS: Mr. Roseman.

25 MR. ROSEMAN: Will you state your name,

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1 please, and where you're employed?

2 MR. EBERDT: My name is Charles Eberdt. I'm
3 the director of The Energy Project in Bellingham,
4 Washington.

5 MR. ROSEMAN: Have you previously filed what
6 has been marked Exhibit 60, direct testimony?

7 MR. EBERDT: Yes.

8 MR. ROSEMAN: And do you have any
9 corrections to that testimony?

10 MR. EBERDT: Yes, we do. I don't recall the
11 page number. I think it's page three. Footnotes
12 improperly identify some DR numbers. Instead of Data
13 Requests Three and Four, it should be Data Requests
14 Three and Two. I believe that was Footnote Number
15 Two.

16 JUDGE WALLIS: Footnote number two on page
17 three.

18 MR. ROSEMAN: And Mr. Eberdt, if I were to
19 ask you the questions that were asked and answered in
20 your pre-filed direct testimony, would your answers
21 be the same today as -- or in the testimony?

22 MR. EBERDT: Yes, they would.

23 MR. ROSEMAN: I would offer Exhibit Number
24 60, Mr. Eberdt's direct testimony, into evidence,
25 Your Honor.

0115

1 JUDGE WALLIS: Is there objection? Let the
2 record show that there is none and the document is
3 received.

4 MR. ROSEMAN: Mr. Eberdt is available for
5 cross-examination.

6 JUDGE WALLIS: Are there questions for Mr.
7 Eberdt?

8 MR. MEYER: No questions. Thank you.

9 JUDGE WALLIS: From the Commission? It
10 appears that there are none. Thank you very much for
11 appearing.

12 MR. EBERDT: Thank you.

13 JUDGE WALLIS: You're excused from the
14 stand. And the other witnesses are free to take a
15 chair in which they can be more relaxed than they may
16 have been this morning.

17 At this point, we have offered the
18 opportunity for concluding argument to supplement the
19 briefs that the parties have presented. And there
20 was indication earlier off the record that the
21 parties did wish to present brief comments. Is there
22 a preference as to the order of proceeding? Mr.
23 ffitch.

24 MR. FFITCH: Well, Your Honor, presumably
25 the Company and the proponents have the burden of

0116

1 proof, so they would ordinarily go first.

2 JUDGE WALLIS: Let's get an update on the
3 estimates on cross, please -- or on closing.

4 MR. FFITCH: Your Honor, I still think it's
5 maybe five minutes, maybe a little bit longer. I
6 haven't timed it. It could be between five and ten,
7 but I don't know. I've got three or four pages of
8 notes here, and I'm intending to be pretty -- I'm
9 intending to be concise, actually.

10 MR. MEYER: Three minutes for Avista.

11 MR. ROSEMAN: I just have a couple of
12 comments, so it should take less than a couple of
13 minutes.

14 MR. TRAUTMAN: Perhaps one or two minutes,
15 and it may depend on Mr. Meyer's argument.

16 JUDGE WALLIS: The estimates are a little
17 bit -- what's the word -- spongy in the sense that
18 it's possible that the time could be more than the
19 parties are estimating. The Commission is willing to
20 remain until a quarter after 12:00, and the parties
21 must realize that, in order to avoid the need to come
22 back after lunch, you need to confine your remarks to
23 the outside estimates that you've given, and we may
24 cut you off if you begin to exceed those estimates.

25 With that understood, is it -- Mr. Meyer, is

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1 it your preference that Public Counsel go first or
2 did you wish to go first?

3 MR. MEYER: Why don't I just go ahead and
4 we'll just get on with this.

5 JUDGE WALLIS: Very well. Please proceed.

6 MR. MEYER: Thank you, Your Honor. The
7 parties in this room have been at this for a long
8 time. There have been a series of workshops, there
9 has been very good participation by all parties,
10 right on through the year, right on through the
11 summer, it brings us to where we're at today. Now,
12 as long as we've been at it, this Commission and the
13 Staff have been at it two or three times as long with
14 other proposals on decoupling before it. So the
15 policy decisions that have to be made are, by now,
16 pretty well-defined.

17 We think that we have brought to you what I
18 think Mr. Eberdt fairly characterizes as the, quote,
19 clearest, cleanest proposal to be put forth, and that
20 reflects all of the effort that's gone into this.
21 We've constructed something that has a number of
22 checks and balances, call them safeguards, call them
23 what you will, but there's that litany that we've
24 already talked about. You know, it's the two percent
25 cap, it's the earnings test, it's the DSM test, it's

0118

1 the requirement to file reports, quarterly reports,
2 it's the requirement to have a performance plan, and
3 in the final analysis, this is just a pilot program.

4 But it's time to put this -- it's time to
5 put this debate, if you will, to rest and get on with
6 testing whether the concerns are misplaced or not.
7 Now, everything in life has an unintended
8 consequence, every decision I make, every decision
9 you make could have an unintended consequence, but
10 the time, we believe, is right to get on with it.

11 It's a well-crafted proposal. The downside,
12 given all of these fences, given all of these checks
13 and balances, is very manageable to the extent that
14 you're concerned about where this may take us by way
15 of unintended consequences.

16 Our simulations show about a \$600,000 plus
17 recovery, at most, so we're not talking about
18 substantial dollars and spread over the rate class.
19 We have numbers in the record to show that it would
20 be an increase, but we think a manageable one, so
21 what better opportunity to put this debate into
22 practice and see where it takes us for three years
23 and then step back and reevaluate it. So that's my
24 close. Thank you.

25 JUDGE WALLIS: Mr. Trautman, do you wish to

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1 go?

2 MR. TRAUTMAN: Yes, thank you, Your Honor.
3 Staff would concur with the comments of the Company.
4 We would reiterate, as we have in other proceedings,
5 that what decoupling does, it removes the
6 disincentive to conservation that's inherent in
7 volumetric pricing, and Public Counsel has not, we
8 feel, addressed that point, certainly not in its
9 alternative incentive approach, which we don't
10 believe would offer a sufficient incentive to
11 accomplish the purported goal.

12 We agree that this proposal has been well
13 thought out. It does have several safeguards that
14 we've enumerated in the settlement agreement and in
15 the brief, and it also -- it does remove weather as a
16 component, which is the major risk component, which
17 would, in turn, reduce the return on equity impact.

18 We would agree that it does not exactly
19 replicate all of the other decoupling mechanisms that
20 have been proposed in other dockets, or perhaps it
21 was present in the PacifiCorp order, but it does very
22 closely tailor those -- follow those guidelines and
23 it is tailored for Avista's unique circumstances.
24 And it is a three-year pilot program, it can be
25 revisited. And it is also accompanied by a very

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1 well-informed, aggressive DSM target that we feel is
2 meaningful and makes this decoupling mechanism
3 something that the Commission should approve. Thank
4 you.

5 MR. ROSEMAN: Maybe I should start and you
6 should --

7 JUDGE WALLIS: Mr. Roseman.

8 MR. ROSEMAN: Thank you. Thank you, Your
9 Honor. While Mr. Eberdt thinks this is the clearest
10 proposal to date, he also comments and The Energy
11 Project believes that this proposal does not get it
12 right.

13 We believe that what will happen is that
14 residential customers will pay for this program and
15 receive no incremental conservation as a result of
16 it. There hasn't been -- the goal of
17 one-thousand-sixty therm savings came through the
18 integrated resource plan that was developed well
19 before this decoupling proposal that's before the
20 Commission. We think that's a serious downfall.

21 We believe this was spelled out in the
22 PacifiCorp case. We believe a clear reading of that
23 case would make that a criteria that one should
24 comply with. We also believe that the residential
25 customers will pay for the bulk of this decoupling

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1 program, but the benefit in conservation will not go
2 to that class of customers. It will go to commercial
3 and industrial.

4 While we do believe that this proposal has
5 promise, we also believe that it has many major
6 shortfalls.

7 JUDGE WALLIS: Mr. ffitich.

8 MR. FFITCH: Thank you, Your Honor.
9 Appreciate the opportunity to summarize our thoughts
10 and comment on the evidence. Public Counsel believes
11 that energy efficiency and conservation are extremely
12 important goals for utilities and energy efficiency
13 is good for consumers and good for society at large.
14 I think probably everybody in the room agrees with
15 those concepts.

16 But new mechanisms should not impose
17 disproportionate, unfair risks and financial burdens
18 on customers in the interests of desirable goals.
19 And the proposals have to make fundamental sense and
20 they have to be -- to offer really effective
21 solutions to real problems, and they have to be
22 calibrated to those problems, and we simply do not
23 believe that this decoupling proposal meets that
24 test.

25 After very careful analysis and

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1 consideration, we've essentially concluded that
2 decoupling as a mechanism simply is not the right way
3 to address the concern about incenting energy
4 efficiency for utility companies.

5 I'm not going to repeat those general
6 arguments that we've made in a number of proceedings,
7 but there are some specific issues with regard to the
8 Avista proposal that I wanted to focus on here in my
9 final comments. And in doing that, I also want to
10 draw the Commissioners' attention to some evidence in
11 the record that we think is key evidence that is
12 uncontested by either the Company or the joint
13 parties who are supporting this proposal.

14 First I want to take a look at the issue of
15 disproportionality. As we've argued here and
16 elsewhere, we believe this proposal's using a
17 sledgehammer to kill a flea, collecting much more
18 money than is necessary to address any possible
19 disincentive created by the Company's own efforts to
20 do energy efficiency.

21 The joint parties admit that the mechanism
22 recovers for declines in use that result from many
23 other causes other than their own energy conservation
24 activities. That is not disputed in this record.

25 Avista or the joint parties have not

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1 disputed that for the simulation period of July 5th
2 to June 6th, Avista lost margins from their own
3 programs are only \$140,000 while the decoupling
4 mechanism would have deferred, if it had been in
5 effect in the simulation period, \$617,000. Those
6 numbers are not disputed by the Company. That is an
7 over four-to-one ratio.

8 Neither the joint parties nor the Company
9 have disputed that, for calendar year 2005, lost
10 margins from the Company's own sponsored activities
11 were only \$56,000.

12 Decoupling, had it been in effect in the
13 form proposed here, would have recovered nearly
14 \$210,000 from customers in the deferral mechanism.
15 That's over a three-to-one ratio. Those figures are
16 shown in table one of Mr. Johnson's exhibit. They
17 are not projections. We stand by Mr. Johnson's
18 projections. We think that if you examine the record
19 carefully, the projections that were given by the
20 Company, essentially the projection curve drops off
21 to almost flat in the second year and a half of the
22 projection period, whereas Mr. Johnson's essentially
23 just continue the same trajectory.

24 But you don't even have to go there to see
25 the evidence of this point. You can look at the

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1 simulation period, the data provided by the Company,
2 you can look at the calendar year 2005 data. Again,
3 none of it's disputed in this record and it
4 establishes disproportionality.

5 The second issue I want to talk about is the
6 removal of Schedule 111. We just think this is a
7 very critical problem in the design of this program.
8 Even if you were going to do decoupling, which we
9 still think is a bad idea, what has happened in this
10 case is that the largest commercial and industrial
11 customers, except for the very super large folks, the
12 two percent, have been pulled out of this.

13 There is no dispute by the Company or the
14 joint parties that that removes 40 percent of the
15 energy efficiency savings from the -- that are
16 produced by 101 and 111 in combination. There's no
17 dispute that those 111 customers, the large
18 commercial and industrial customers, will still be
19 offered DSM programs by the Company, will still take
20 advantage of them, presumably, and will benefit from
21 them, and there's no dispute that they will not have
22 to pay a penny of any surcharge that is imposed,
23 while the savings that they provide to the Company,
24 the Company will be allowed to count those in the
25 calculation of the deferral.

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1 We think that's an unfair cross-subsidy and
2 may even raise undue preference issues under RCW
3 80.28, the statute I've cited in my brief.

4 In the area of retroactivity, we also have
5 undisputed facts. We heard today that the 2006 IRP
6 goals are 98 percent met already. So by the time
7 this program goes into effect, the Company will have
8 already met the targets that are supposedly providing
9 an incentive for it to do more DSM activity.

10 That's just clearly retroactive. There's no
11 logical way that you could describe something that's
12 already happened as providing an incentive for future
13 behavior by the Company.

14 There's another aspect to this, which Mr.
15 Johnson addressed today, and that is that the Company
16 is reaching back to the 2004 test year, and all of
17 the recoveries that would be run through the deferral
18 mechanism are built upon 2004 data. All of the
19 declines in sales that have happened between 2004 and
20 today have already happened. We already know what
21 they are. The fact -- to compensate the company, in
22 effect, for those declines has nothing whatever to
23 do, logically, with incentives or disincentives.
24 Those facts are not disputed.

25 In the area of cost recovery, we also have a

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1 concern. As we heard again today, and as verified by
2 the exhibits, cross exhibits, Avista has not
3 performed a single attrition study since 2001 to show
4 that cost increases have outpaced sales growth and
5 caused earnings erosion.

6 We do continue to hear the unsupported
7 assertions that they're not recovering fixed costs,
8 but there is zero evidence in the record before you
9 that they are not recovering fixed costs. And I was
10 interested to hear Mr. Hirschhorn say that they
11 didn't even really want to bring in a rate case based
12 only on decoupling, I guess conceding that there's
13 not enough justification there in, you know, the
14 decoupling issue to bring in a rate case, which seems
15 to run counter to the assertion that we need
16 decoupling to help us recover our fixed costs.

17 So the sheet of paper that was presented as
18 an attrition study has been agreed by Mr. Hirschhorn
19 to not actually constitute an attrition study,
20 contains no evidence whatever of earnings erosion to
21 support that justification for decoupling. The sheet
22 of paper in that exhibit also, as we saw today, shows
23 that, while average use per customer has declined,
24 the Company has seen an increase in customer,
25 dramatic increase in the number of customers, and

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1 also a clear increase of approximately 18 percent in
2 the total sales of gas over a 10, 11-year period
3 shown on the exhibit for Schedule 101.

4 We've also heard today about I think
5 essentially an agreement that there will be
6 additional burdens from this. The process that
7 heretofore has been consensual, constructive,
8 productive of setting targets, of doing IRP planning,
9 is going to be -- I think the jury's out, but we need
10 to be concerned about the impact of putting this kind
11 of money at stake on this process, creating perverse
12 incentives, creating a more litigious atmosphere,
13 creating a possibility that things are going to have
14 to be brought to the Commission for resolution. We
15 don't agree. That's not a good outcome.

16 We've also heard today about how complex
17 this is. The questions from the Bench, the answers
18 from the witnesses on the panel explaining the DSM
19 test, explaining the carryover issue, explaining the
20 earnings test, explaining the different time periods
21 at issue. You really start to have to ask, Now, why
22 are we doing this again. It really is a Rube
23 Goldbergian sort of an effort, and I would urge the
24 Commissioners to, again, you know, look at what the
25 ultimate goal here is of incenting energy

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1 conservation and see if there maybe isn't a better
2 way, a less expensive way, a less complicated and
3 burdensome way.

4 JUDGE WALLIS: Another minute, Mr. ffitch.

5 MR. FFITCH: As far as financial issues are
6 concerned, Mr. Johnson did a good job of explaining
7 our issues, but this is single-issue rate-making. It
8 does tend to create a process of almost guaranteeing
9 a certain earnings level, a certain rate of return
10 level, and we don't know if that's the correct
11 earnings level.

12 We go forward with an assumption that the
13 ROR from the last case was correct, but we don't know
14 that. Just because we have a number from the last
15 case doesn't mean that's any longer the correct
16 number. So that's another problem with the earnings
17 test. It becomes a more and more arbitrary figure as
18 you go forward in time.

19 So I would just finish by saying we support
20 energy conservation, energy efficiency. We think
21 there's a better way to go, which is to model an
22 incentive program after the sort of approach in Puget
23 or after the proposal that we've put forward in this
24 case, and we think customers are already experiencing
25 the beast. Folks are struggling to pay energy bills.

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1 We're getting into the heart of the winter. Gas
2 costs and gas rates have skyrocketed. Again, if you
3 look at that spreadsheet, the attrition study
4 spreadsheet and look at the percentage increases in
5 gas costs that are shown on that, that's the beast.
6 And we think that any mechanism that exposes
7 customers to additional rate increases just on an
8 experimental basis to see if it will work is
9 unjustified in this environment, so we would ask the
10 Commission to turn down this request and to look at
11 other alternatives. Thank you.

12 JUDGE WALLIS: Thank you, Mr. Fitch. Mr.
13 Finklea, did you have anything to say?

14 MR. FINKLEA: Thank you, Your Honor. I
15 would have chosen to take a complete pass, but I will
16 comment on one aspect. It's been noted by Public
17 Counsel that Schedule 111 is not part of this. I
18 think Public Counsel recognized in its arguments that
19 because we're focused on usage per customer, we're
20 trying not to design something that over-designs.
21 The 111 customer class we don't believe fits for
22 decoupling, because while conservation might be one
23 of the reasons for a decline in usage per customer,
24 there are many more economic factors with commercial
25 and industrial customers that would impact usage per

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1 customer that go well beyond conservation.

2 The simple business cycle, did I install a
3 better pizza oven or am I just selling fewer pizzas;
4 did I install a better glass furnace or am I just
5 making less product. That was the reason that our
6 group felt that 111 was not a schedule that this
7 should apply to, and that would be our only comment.

8 JUDGE WALLIS: Thank you. Mr. Meyer, do you
9 have no more than three minutes of response?

10 MR. MEYER: It was obvious today that this
11 Bench is well-informed on the issues and the
12 particulars of this filing, and that was evident to
13 the type of questions, which I thought were very
14 insightful. I think we've covered -- covered the
15 ground.

16 I guess my concern is that, given the
17 interests of the parties, we were able to come
18 together with a settlement that brought Staff aboard
19 and brought the industrial group aboard and brought
20 the Northwest Energy Coalition aboard, and has
21 support across the spectrum of interests. It did not
22 bring everyone on board, but it does represent a
23 spectrum of support, and that group came together
24 through a lot of hard work and compromise. Every
25 settlement is a compromise, and did, I thought, just

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1 an excellent job of teeing the issue up for your
2 decision, up or down, but I think the time is right
3 for an up or down decision, not only on decoupling
4 per se, but our proposal. So those are my thoughts.
5 Thank you.

6 JUDGE WALLIS: Thank you very much. Is
7 there anything further to come before the Commission?
8 There appears to be none. I want to thank all of you
9 for your participation, for the quality of your
10 presentations, and the Commission is taking this
11 matter under advisement. Thank you.

12 (Proceedings adjourned at 12:13 p.m.)

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