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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UE-090704
)	and UG-090705
Complainant,)	(Consolidated)
)	
vs.)	Volume VII
)	Pages 391 to 628
PUGET SOUND ENERGY, INC.,)	
)	
Respondent.)	
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A hearing in the above matter was held on January 20, 2009, from 9:30 a.m to 5:15 p.m., at 1300 South Evergreen Park Drive Southwest, Room 206, Olympia, Washington, before Administrative Law Judge DENNIS MOSS and CHAIRMAN JEFFREY D. GOLTZ and Commissioner PATRICK J. OSHIE and Commissioner PHILIP B. JONES.

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

2 JUDGE MOSS: Good morning, everybody. For
3 anyone here who's new, my name is Dennis Moss, I'm an
4 Administrative Law Judge with the Washington Utilities
5 and Transportation Commission, and I'm facilitating our
6 hearing today presiding with the Commissioners, Chairman
7 Goltz, Commissioner Oshie, and Commissioner Jones. We
8 are in the second day of our evidentiary proceedings in
9 the matter styled WUTC against Puget Sound Energy, Inc.,
10 Dockets UE-090704 and UG-090705, and we have
11 Mr. Henderson I see has taken the stand, he will be our
12 first witness today, and if you will rise and raise your
13 right hand, please, sir.

14 (Witness JOEY M. HENDERSON was sworn.)

15 JUDGE MOSS: Please be seated.

16

17 Whereupon,

18 JOEY M. HENDERSON,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

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

23 BY MS. CARSON:

24 Q. Mr. Henderson, please state your name and
25 title and spell your name for the court reporter.

0401

1 A. Joey Henderson, CT Compliance Program Manager
2 at Puget Sound Energy, J-O-E-Y, H-E-N-D-E-R-S-O-N.

3 Q. Mr. Henderson, do you have before you what
4 have been marked for identification as Exhibit Numbers
5 JMH-1T through JMH-6?

6 A. I do.

7 Q. Do these exhibits constitute your prefiled
8 direct testimony and related exhibits in this
9 proceeding?

10 A. They do.

11 Q. Were these exhibits prepared under your
12 supervision and direction?

13 A. Yes.

14 Q. Do you have any corrections to any of these
15 exhibits at this time?

16 A. No.

17 Q. Are your prefiled direct testimony and
18 accompanying exhibits true and correct to the best of
19 your information and belief?

20 A. Yes.

21 MS. CARSON: Thank you.

22 Your Honor, PSE offers Exhibits JMH-1T
23 through JMH-6 into evidence and offers Mr. Joey M.
24 Henderson for cross-examination.

25 JUDGE MOSS: All right, and there being no

0402

1 objection, those exhibits will be admitted as marked.

2 And while no party has designated
3 cross-examination for you, Mr. Henderson, I believe the
4 Commissioners have some questions for you this morning
5 or one or more of them do, so with that I will turn to
6 the Commissioners and ask who is going to inquire of
7 Mr. Henderson.

8 CHAIRMAN GOLTZ: I can.

9 JUDGE MOSS: All right, Chairman Goltz will
10 inquire.

11

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

13 BY CHAIRMAN GOLTZ:

14 Q. Good morning, Mr. Henderson.

15 A. Good morning.

16 Q. This should be brief. On page 3 of your
17 testimony you state that the Mint Farm was designed and
18 intended to operate as a baseload power plant. Can you
19 -- on what do you base that, is there anything in your
20 testimony or exhibits or in other testimony and exhibits
21 of other Puget -- sorry, my microphone was off.

22 Referring to page 3 of your testimony where
23 you say that Mint Farm was designed and intended to
24 operate as a baseload power plant, can you point me to
25 anywhere in your testimony or exhibits or other

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1 testimony or exhibits of other PSE witnesses that
2 supports that statement or provides a basis for that
3 statement?

4 A. In our request for Ecology to make a
5 determination of us, PSE, meeting the emission
6 performance standard, our discussions with them were
7 centered around the fact that it was a baseload facility
8 that was designed and intended to operate as a baseload
9 60% capacity factor. There wasn't any discussion, any
10 issues Ecology had with that, and the air permit is set
11 up with no -- with the facility to operate as a baseload
12 facility with no operating limitations from the permit
13 standpoint. My testimony doesn't refer to much -- any
14 other discussion outside of that with regards to, you
15 know, being designed and intended to be a baseload
16 facility.

17 Q. So if I were to look for some documentation
18 of that, just your page 3 of your testimony, is that it
19 in this record?

20 A. In this record and the reference to it in our
21 determination request of Ecology.

22 Q. Okay. And is that determination request an
23 exhibit to your testimony?

24 A. It is.

25 Q. Okay. Which exhibit is that?

0404

1 It looks like maybe 4.

2 COMMISSIONER JONES: 4 and 5.

3 A. Yeah, 4 is for Mint Farm, and 5 is the
4 response Ecology had in regards to that determination
5 request.

6 Q. And did you assume any particular operational
7 schedule or capacity factor in your calculation of
8 whether greenhouse gas emissions from Mint Farm, the
9 Mint Farm plant, comply with the 1,100 pound per
10 megawatt hour maximum?

11 A. We just assumed it to. We used operational
12 data from Goldendale generating station as a model for
13 Mint Farm. That's how PSE intends to operate Mint Farm.

14 Q. And so does that assume a certain -- so
15 whatever the operational schedule is for Goldendale is
16 what you would assume here?

17 A. That's what we used for this request.

18 Q. What's the capacity factor, do you recall?

19 A. I don't recall specifically what Goldendale
20 is or what it actually operates to.

21 Q. But is it -- how can you make the assumption
22 that the whatever capacity factor Goldendale has is also
23 what Mint Farm would have?

24 A. Because it was designed and intended to
25 operate as a baseload facility the same as Goldendale,

0405

1 the idea was to use that operational data for Mint Farm
2 since Mint Farm didn't have any operational data at the
3 time.

4 Q. And does the company have a process in place
5 with the Department of Ecology to do regular monitoring
6 and reporting to ensure the company's actual operation
7 of the Mint Farm plant will produce greenhouse gas
8 emissions that do not exceed the standards?

9 A. Yeah, after we submitted the determination
10 request to Ecology and received that response, we
11 proceeded with four quarters of greenhouse gas emissions
12 testing, and that will be using that data we'll report
13 annually to Ecology to show continued compliance with
14 the emission performance standard.

15 Q. And then on page 5 of your testimony you
16 indicate toward the bottom that Ecology has not yet
17 completed its review. Now has the -- has Ecology now
18 completed that, or do you have a report from Ecology?

19 A. I'm sorry, on the --

20 Q. Page 5.

21 A. Page 5.

22 Q. Your discussion starting on line 9 and
23 continuing through the end of the page.

24 A. Yes, we did receive a determination regarding
25 Sumas compliance with the emission performance standard,

0406

1 and it was that they agreed that it did based on the
2 information we provided.

3 Q. Okay.

4 A. And that's -- I think that is in the --

5 Q. Your testimony says that you will provide the
6 Commission any results as soon as they are available, so
7 I assume it's not in your testimony.

8 A. I think those were provided, let me --

9 MR. CEDARBAUM: Chairman Goltz, if I could
10 just interject, I'm sorry, David Nightingale's Exhibit
11 Number 2 includes the Ecology determination with respect
12 to Sumas.

13 CHAIRMAN GOLTZ: Okay, so that report then
14 referenced -- the one that's forthcoming that's
15 referenced in Mr. Henderson's testimony on page 5 is in
16 fact an attachment to Mr. Nightingale's testimony?

17 MR. CEDARBAUM: Exhibit DN-2.

18 CHAIRMAN GOLTZ: Okay, then I have no further
19 questions.

20 JUDGE MOSS: All right, nothing further from
21 the Bench?

22 Any questions from you, Ms. Carson?

23 MS. CARSON: I do have a point of
24 clarification. There is some additional testimony in
25 the record about the design and intended for baseload

0407

1 operations, and that's in Mr. Odom's testimony and
2 Mr. Elsea's testimony and a bit also in Mr. Mills'
3 testimony, so they are available.

4 CHAIRMAN GOLTZ: So maybe in your brief you
5 can just footnote those exhibit references.

6 MS. CARSON: We will do that.

7 MR. CEDARBAUM: And if I could just add to
8 that, Mr. Nightingale also addresses the issue as well
9 specifically from an engineering and permitting
10 perspective.

11 JUDGE MOSS: All right, thank you all for
12 that information.

13 And with that, Mr. Henderson, we appreciate
14 you being here this morning, and I will release you from
15 the witness stand subject to recall if needed, thank
16 you.

17 And that I believe brings us to Mr. Hunt, is
18 that correct, Ms. Carson?

19 MS. CARSON: That's correct.

20 JUDGE MOSS: Is Mr. Lane here this morning?

21 MS. CARSON: He is not, I believe he was
22 released.

23 JUDGE MOSS: Right, we said he was released.

24 Good morning, Mr. Hunt, could you please rise
25 and raise your right hand.

0408

1 (Witness THOMAS M. HUNT was sworn.)

2 JUDGE MOSS: Thank you, please be seated.

3

4 Whereupon,

5 THOMAS M. HUNT,

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

7 herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MS. CARSON:

11 Q. Mr. Hunt, please state your name and title

12 and spell your name for the court reporter.

13 A. I'm Thomas Hunt, Director of Compensation and

14 Benefits for Puget Sound Energy, and it's spelled

15 Thomas, T-H-O-M-A-S, Hunt, H-U-N-T.

16 Q. Do you have before you what have been marked

17 for identification as Exhibit Numbers TMH-1T through

18 TMH-19?

19 A. Yes.

20 Q. Do these exhibits constitute your prefiled

21 direct and rebuttal testimony and related exhibits in

22 this proceeding?

23 A. They do.

24 Q. Were these exhibits prepared under your

25 supervision and direction?

0409

1 A. Yes.

2 Q. Do you have any corrections to any of your
3 exhibits at this time?

4 A. I do have a correction to my rebuttal
5 testimony, which is TMH-9 on page 18. On line 9 there's
6 a date, November 3rd, 2009, it should actually be 2008.
7 That was a data request that the dates were corrected in
8 the data request, but it was inadvertently shown as the
9 wrong date here.

10 JUDGE MOSS: I'm just going to confirm that
11 I've got that right. This is Exhibit TMH-9CT, page 18,
12 line 9, the date should be November 3rd, 2008?

13 THE WITNESS: Correct.

14 JUDGE MOSS: All right, thank you.

15 BY MS. CARSON:

16 Q. With that correction, are your prefiled
17 direct and rebuttal testimony and accompanying exhibits
18 true and correct to the best of your information and
19 belief?

20 A. Yes.

21 MS. CARSON: Thank you.

22 Your Honor, PSE offers Exhibits TMH-1T
23 through TMH-19 into evidence and offers Mr. Thomas M.
24 Hunt for cross-examination.

25 JUDGE MOSS: All right, and hearing no

0410

1 objection, those will be admitted as marked.

2 I note that there are also Exhibits TMH-20
3 through TMH-25 designated as possible cross-examination
4 exhibits, Staff, Public Counsel, and the Federal
5 Executive Agencies, is there any objection from the
6 company?

7 MS. CARSON: Yes, there are objections to a
8 couple of these.

9 JUDGE MOSS: Should we take those up now or
10 take those up when we're having the cross?

11 MS. CARSON: It's fine with me to take it up
12 now.

13 JUDGE MOSS: All right, have you discussed
14 with counsel?

15 MS. CARSON: I have not I don't believe.

16 JUDGE MOSS: Okay, well, counsel may prefer
17 to wait until we're having the cross-examination. Is
18 this the Public Counsel?

19 MS. CARSON: It is to two FEA exhibits,
20 TMH-23 and 24.

21 JUDGE MOSS: Is that it?

22 MS. CARSON: That is it.

23 JUDGE MOSS: Okay.

24 MS. CARSON: We do have -- we have
25 supplemented TMH-21, a Public Counsel exhibit, and I did

0411

1 share that with Mr. ffitch, and I believe he has no
2 objection.

3 JUDGE MOSS: All right, well, let's wait
4 until we get to Mr. Furuta's cross-examination, and
5 we'll see what the objection is at that time. It may be
6 better taken in context, so we'll just hold off on
7 admitting the Exhibits TMH, what was it, 23 and 24?

8 MS. CARSON: Correct.

9 JUDGE MOSS: And the others you have no
10 objection?

11 MS. CARSON: With TMH-21 as revised, we have
12 no objection.

13 JUDGE MOSS: All right, 20 through 22 and 25
14 will be admitted, and we'll reserve on 23 and 24.

15 And, Mr. Cedarbaum, you had indicated some
16 cross-examination for this witness, do you want to
17 proceed?

18 MR. CEDARBAUM: With the admission of TMH-20,
19 we have no additional cross with that exhibit.

20 JUDGE MOSS: All right, that saves 5 minutes.

21 MR. CEDARBAUM: Glad I could help.

22 JUDGE MOSS: We do appreciate it.

23 Mr. Furuta, you have not had an opportunity
24 to shine all that much in this hearing so far, so let's
25 turn to you next, and we'll have the excitement of

0412

1 objected to exhibits to contend with.

2 MR. FURUTA: Did you want to address those
3 exhibits before?

4 JUDGE MOSS: Well, when you get to them,
5 we'll take them up.

6 MR. FURUTA: That's fine.

7 JUDGE MOSS: So if you are to them
8 immediately, we'll do it immediately.

9 MR. FURUTA: I will get to that.

10

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

12 BY MR. FURUTA:

13 Q. Good morning, Mr. Hunt, I'm Norm Furuta
14 representing the Federal Executive Agencies.

15 A. Good morning.

16 Q. I understand you're the company's primary
17 witness on pension expenses; is that correct?

18 A. I'm the witness relative to the pension as a
19 part of the compensation programs. The other witness,
20 Mike Stranik, from the accounting standpoint and from
21 the regulatory side is the -- touched on some of the
22 pension issues.

23 Q. Now the company has a defined benefit pension
24 plan; is that correct?

25 A. That's correct.

0413

1 Q. Okay. Can you briefly explain the difference
2 between a defined benefit pension plan and a defined
3 contribution pension plan?

4 A. Sure. PSE actually the retirement program
5 has both the defined benefit and defined pension, and my
6 testimony talks about those as well. The defined
7 benefit is where the company provides a promise to
8 employees that they will receive a certain amount of
9 benefit upon retirement. The most -- the -- and so for
10 Puget Sound Energy we have a defined benefit program
11 with two formulas. One is a final average earnings
12 formula that covers the IBEW employees. And so what
13 that says is based on their years of service and their
14 highest average monthly pay, they will receive a
15 calculated monthly amount upon retirement as a pension
16 until their death or if they choose until their spouse's
17 death.

18 The other formula is also a defined benefit.
19 It's a cash balance, and so it's a different formula,
20 but it's still within the defined benefit plan. So the
21 company makes contributions to the -- the company
22 allocates money based on the individual's base salary
23 and then provides interest credits annually. And so
24 there's an amount that's determined for each employee
25 under the cash balance plan, which is more than half of

0414

1 the PSE employees, and then upon retirement that amount
2 is turned into a monthly amount that would be available
3 as an annuity, or the participant may choose to take a
4 lump sum amount of that balance. And so it's still a
5 defined benefit program, but it's a different formula,
6 and it's sometimes referred to as a hybrid type of plan.

7 The defined contribution plan is where the
8 employee is able to put money into an account, and the
9 company will match that, so the company is specifying
10 what amount they will contribute to the program. And in
11 the case of PSE's plan for the IBEW it's a matching
12 contribution, and for the non-represented and the UA
13 employees it's there's a 1% company contribution each
14 year, but then there's also matching contribution if
15 employees contribute. So it's a 401-K type of program,
16 that's the defined contribution.

17 Q. Now under a defined benefit pension plan, the
18 employer's cost and liability are subject to liens based
19 on variables such as fund performance and interest
20 rates; would you agree?

21 A. There is volatility, yes, in terms of what
22 the company would be required to contribute, yes, I
23 agree.

24 Q. And under a defined contribution plan, the
25 employer's cost for the plan for a given year is a known

0415

1 amount that is not subject to such volatility; would you
2 agree?

3 A. It's less volatile. The employees can
4 contribute their salary, their base salary, but they
5 also can contribute annual incentives that they receive,
6 and so annual incentives would be a variable amount, so
7 to the extent to which there are higher annual
8 incentives or there would be more salary increases
9 during the year, it could be more than what the company
10 might have expected, but less -- it's within a smaller
11 range of volatility.

12 Q. And the variables such as stock market
13 performance and interest rates wouldn't factor into that
14 volatility, right?

15 A. It certainly affects the participants, and as
16 a retirement benefit, as we saw during the market drop
17 of 2008, a lot of people lost a lot of money in their
18 401-K programs, and so it definitely affected the value
19 of the benefit, and the employees were really
20 responsible for their own management of their risk. But
21 it doesn't change the company's cost, but it does affect
22 the benefit.

23 Q. Okay. Now the company's defined benefit
24 pension plans are qualified plans, are they not?

25 A. Both of the programs are qualified plans.

0416

1 Q. And the company also has what's known as a
2 supplemental executive retirement program or SERP
3 expense; is that correct?

4 A. That's correct. It's a retirement program
5 that's -- the participation is for certain executives.

6 Q. And that's a non-qualified plan; isn't that
7 correct?

8 A. Correct, it's -- the IRS also regulates those
9 types of plans, but it's considered a non-qualified plan
10 and has specific regulations related to it.

11 Q. And do you know how many active employees the
12 company currently covers in its SERP?

13 A. I don't know exactly, but it's approximately
14 30.

15 Q. Now the company uses accrual accounting to
16 account for its net periodic pension costs, does it not?

17 A. I'm not sure what you -- for what -- in what
18 regard that you're asking.

19 Q. Can you state what accounting method it uses
20 to account for its pension costs?

21 A. In terms of the accounting or the finance, I
22 don't know. I mean witness Mike Stranik would know in
23 terms of how the accounting is done. I wouldn't know
24 what the different options are that the company might
25 have.

0417

1 Q. And that would also go for the company's
2 accounting for the other post retirement benefit costs
3 other than pensions?

4 A. Yeah, he would -- Mr. Stranik would be the
5 right person to ask about the SERP as well as the post
6 retirement medical.

7 Q. Now for its qualified defined benefit pension
8 plans, the company wants to use an average of cash
9 funding payments; is that correct?

10 A. My understanding, and Mr. Stranik's testimony
11 also refers to this, is that the company based on the
12 Commission's rulings in the past does -- has been using
13 an average of the cash contributions, correct.

14 Q. Okay.

15 Mr. Hunt, were you present during my cross of
16 Mr. Stranik yesterday?

17 A. Yes, I was.

18 Q. Do you happen to have your Exhibit 16C with
19 you?

20 A. Yes.

21 Q. If you could turn to that for a moment.

22 A. Sure.

23 Q. Now this data contains confidential
24 information, so I will endeavor not to go into
25 confidential session and just --

0418

1 A. Okay.

2 Q. -- refer you to it. And if I could -- if we
3 could take a look at column 3, which is one of the
4 columns I drew Mr. Stranik's attention to yesterday.

5 A. Yes.

6 Q. I believe he had said that you would be the
7 appropriate witness to answer this question, which is --
8 and that column, I think I can identify the column?

9 A. Yeah, that's fine.

10 Q. Required minimum contribution. My question
11 to you is, is any contribution that is above the amounts
12 listed in that column at the discretion of company
13 management?

14 A. Yes, it would be unless the next column over,
15 the maximum allowed contribution, if that column is
16 zero, the company has no discretion to make a
17 contribution.

18 Q. Okay. But if the column 4 does contain a
19 positive dollar amount, then the management discretion
20 would be within the range of column 3 and column 4?

21 A. Yes, and we've established a funding
22 guideline to really help with the decisionmaking
23 regarding that.

24 Q. If one were to look at column 3, the amounts
25 there, would you agree that maintaining a qualified

0419

1 defined pension plan appears -- would appear to be
2 economical for the company to maintain during that
3 period?

4 MS. CARSON: Object to the form of the
5 question.

6 JUDGE MOSS: Well, if the witness can answer
7 it, go ahead. If you can't, tell us.

8 A. I'm not sure what you mean by economical to
9 operate. We're not having to contribute any, that's
10 true.

11 BY MR. FURUTA:

12 Q. Okay, that's fine.

13 Now without asking dollar amounts, well, let
14 me see if I can ask this, for years 2008 and 2009 is it
15 true that PSE made significant funding payments into its
16 defined benefit pension plans?

17 A. My testimony I believe talks about the
18 amounts in a non-confidential way, so I can refer to the
19 exact amounts.

20 For 2008 the company contributed \$24.5
21 Million to the pension plan. I have a reference to that
22 if you want it. I'm not sure if you want to have the --

23 Q. That would be helpful actually. I have a
24 reference, but it's to a confidential page.

25 MS. CARSON: I believe it's page 19, line 20.

0420

1 JUDGE MOSS: Are we in the direct or the
2 rebuttal?

3 MS. CARSON: Direct.

4 JUDGE MOSS: Page 19?

5 A. Actually page 20 on line 2 is the 2008 amount
6 of \$24.5 million, it's not confidential.

7 JUDGE MOSS: Okay.

8 A. And then in my rebuttal testimony, page 13,
9 line 16.

10 JUDGE MOSS: And this is your rebuttal
11 testimony?

12 A. Rebuttal testimony, Exhibit 9CT.

13 JUDGE MOSS: Yeah, it's 9CT.

14 A. Page 13, line 16, the contribution for 2009
15 is \$18,400,000.

16 BY MR. FURUTA:

17 Q. Thank you for that.

18 Would you agree, Mr. Hunt, that there's a
19 general trend by companies to move away from defined
20 benefit pension plans and target SERPs?

21 A. No, I would not agree with that, because
22 that's -- a general trend would imply that it's all
23 industries, all companies, and that's not the case.

24 Q. But there are some industries and some --
25 that do represent that trend?

0421

1 A. There certainly are -- have been companies in
2 the general industry moving away from defined
3 contribution plans or making changes to their plans.
4 Some of the changes that have been made are for the
5 changing the formula in the defined benefit from a final
6 average earnings pension to a cash balance such as PSE
7 has done for a significant portion of its employees. I
8 also in my rebuttal testimony mention that there are
9 newer companies such as Microsoft and Starbucks that
10 never implemented defined benefit pensions, and so some
11 companies in those industries with new entrants have
12 felt that they needed to be competitive to change how
13 they operated. On the utility industry though, that's
14 definitely not been what we've seen, and I have an
15 exhibit that actually shows that 97% of the companies in
16 that survey had both a defined benefit and defined
17 contribution plan.

18 JUDGE MOSS: And what exhibit is that,
19 Mr. Hunt?

20 THE WITNESS: That is Exhibit 10C.

21 JUDGE MOSS: Thank you.

22 BY MR. FURUTA:

23 Q. Turn to your Exhibit 17C at this time, page 1
24 of 8. Mr. Hunt, is the preparer of this exhibit
25 confidential, or can we identify that?

0422

1 A. We can identify the preparer.

2 Q. Okay. And I note that this exhibit was
3 prepared by Towers Perrin?

4 A. Correct.

5 Q. And is the title non-confidential as well?

6 A. The title is non-confidential.

7 Q. And the title as I see it is Puget Sound
8 Energy trends in executive retirement programs and
9 change in control arrangements?

10 A. Correct. This was presented by Towers Perrin
11 to the compensation committee of the board of PSE.

12 Q. And can you indicate the date of that report?

13 A. The board meeting was -- the date that's
14 shown on here is the date they prepared it. The board
15 meeting was that November 3rd, 2008, date that we
16 corrected in my rebuttal testimony. They prepared it in
17 October, October 17th, 2008.

18 Q. Okay. Can you identify who Towers Perrin is?

19 A. Towers Perrin is a HR consulting firm. Their
20 interaction with PSE is that they're the independent
21 compensation consultant for the board, for the
22 compensation committee of the board of directors. And
23 so they're -- a Towers Perrin representative attends
24 board -- compensation committee of the board meetings
25 where there are pay issues and advises the board

0423

1 independently of PSE.

2 Q. And would you say that Towers Perrin is a
3 respected source for trends concerning defined benefit
4 pension plans and target SERPs?

5 A. Yes, I would.

6 Q. Okay. If we could turn to page 5 of that
7 report, and I would like to call your attention to the
8 middle of the page. I believe it's the third bullet.
9 Do you see that and have that in mind?

10 A. Okay.

11 Q. And regarding this, I think I can ask, to
12 your knowledge is a target SERP a defined benefit
13 pension plan?

14 A. A target SERP, the defined -- the term
15 defined benefit pension plan is typically, you know,
16 sort of used relative to qualified plans. But there's a
17 chart on page 8 of the same exhibit where there's a
18 heading defined benefit SERP, so I believe that that's
19 what the Towers Perrin is referring to when they talk
20 about a target SERP.

21 Q. Okay. So for purposes of that page that you
22 referenced, the report considers a target SERP as a
23 defined benefit plan in other words?

24 A. Yes.

25 Q. Okay. Now this report makes an observation

0424

1 on page 5 at the last, well, let's see, I think it's the
2 second bullet point below what we were first looking at;
3 do you see that?

4 A. Yeah.

5 Q. Okay.

6 A. I think that that point that they're making
7 is in context of the bullet where it's talking about the
8 -- I don't think that that, the text of that third
9 bullet, I don't think that's confidential. I think the
10 information that's really confidential is the -- I mean
11 it's a work product from Towers Perrin, and that's why
12 they required us to -- in order to share it, it needed
13 to be shared in a confidential manner. But the points
14 below that are within the idea which is making a
15 distinction between broader industry and not necessarily
16 having all of those points apply to the utility
17 industry. Because on page 8 if you look, there's the
18 column about pension plans for the -- on Exhibit 2 so
19 page 8 of the document, all of the companies in the
20 survey except one also have pension plans. So the point
21 that they're making about the broader industry is not
22 also applying into the utility industry.

23 Q. Although the chart on page 8 doesn't
24 necessarily show which of those companies also have
25 defined contribution plans or are moving in that

0425

1 direction?

2 A. That's correct. Typically pension plan is
3 used in the defined benefit plan type of terminology.
4 It might include cash balance plans, so it could be
5 hybrid plans such as we have for part of our employees,
6 but generally understand pension plan to mean defined
7 benefit, not defined contribution.

8 Q. Would you agree that many authoritative
9 publications have documented the trend away from defined
10 benefit plans and towards defined contribution plans?

11 A. For some industries I would agree, yes.

12 MR. FURUTA: And, Your Honor, at this time I
13 would take up the issue of Exhibits 23 and 24.

14 JUDGE MOSS: All right, let's hear what
15 counsel's objection to these is.

16 BY MR. FURUTA:

17 Q. First, Mr. Hunt, do you have those before
18 you?

19 A. I do, yes.

20 MR. FURUTA: Okay.

21 MS. CARSON: Both Exhibit 23 and 24, TMH-23
22 and 24, are responses, FEA responses to PSE data
23 requests. Mr. Hunt did not prepare these exhibits, so
24 we object based on foundation. And also this is
25 information that FEA could have included in their

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1 responsive testimony and didn't, and so it appears to be
2 an effort to supplement testimony through a cross-exam
3 exhibit.

4 JUDGE MOSS: Well, I can certainly see some
5 legitimate lines of questioning that Mr. Furuta could
6 pursue with respect to these even though they're FEA's
7 responses to PSE data requests, and indeed he has simply
8 laid the foundation with his preceding question
9 concerning whether the witness is familiar with the fact
10 that there are, I forget what term he used exactly, but
11 there are industry publications, respected I believe,
12 industry publications that do reflect these trends for
13 certain industries, as Mr. Hunt qualified his answer.
14 So with that, I think I will allow Mr. Furuta to proceed
15 to ask questions with respect to these exhibits, and
16 then we'll see if there are additional specific
17 objections as we go along.

18 MR. FURUTA: And, Your Honor, yesterday
19 counsel for the company did provide a revised TMH-24
20 that included selected pages that weren't included in my
21 original submitted exhibit. We have no objections to
22 using or referring to that exhibit.

23 JUDGE MOSS: All right, that apparently is
24 going to be handed up, thank you.

25 You can go ahead with your questions.

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1 MR. FURUTA: Thank you, Your Honor.

2 BY MR. FURUTA:

3 Q. And as one of the company's witnesses on
4 pensions, Mr. Hunt, you're familiar with these two
5 exhibits, TMH-23 and 24, by now?

6 A. I've reviewed them, yes.

7 Q. Okay. Now the response to the company's Data
8 Request Number 3 to FEA provides documentation of the
9 trend away from defined benefit pension plans, does it
10 not?

11 A. The document that was attached to it talks
12 about freezes within certain pension plans in general,
13 but this exhibit didn't have any utility specific
14 information. It does document a decreasing number of
15 defined benefit plans, but it also -- it also mentions
16 that on page 3 of the exhibit, sort of in the middle of
17 the page, at the time of the survey most sponsors
18 reported no plans to revise plan formulas, freeze, or
19 terminate plans or convert to hybrid plans. So my
20 interpretation of the program is that there have -- of
21 the document from the general accounting office is that
22 there have been companies that moved away from defined
23 benefit pension plans, but it seems more like there's
24 been a sort of stabilization of that process. And so
25 this survey, which was of 44 companies of some of the

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1 largest Fortune 500 companies, was saying that they had
2 changed some plans or formulas in the past, but at the
3 time of the survey they didn't have plans to make -- to
4 freeze or terminate additional plans.

5 Q. And were you referring to TMH-23 in your last
6 response?

7 A. Yes.

8 Q. Okay. How about TMH-24 though?

9 A. TMH-24 is also a study. Includes a lot of
10 material. One of the attachments is the general
11 accounting office, a different general accounting office
12 study, and that starts on page 42, 41 and 42 of the
13 exhibit on the page numbers at the bottom. It's a
14 broader survey in that it has 330 companies, but once
15 again the industries are not specified. And the purpose
16 of the survey I did find important to understand in that
17 it's analyzing this question because the Congress has
18 liability perhaps if the Pension Benefit Guarantee
19 Corporation, which is severely underfunded, continues to
20 have underfunding. So on page 42 in the bar on the
21 left, why the GAO did this study, it talks about how
22 they had placed in the -- it's on the sort of three
23 quarters of the way down on the left-hand column, in
24 2003 we placed on our -- the PBGC on our high risk list
25 of programs. So the context of this study is to

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1 understand if the PBGC is going to continue to have
2 funding losses from plans such -- when a plan terminates
3 if it's underfunded, then the PBGC gets stuck with the
4 liability. This study also has a chart that shows the
5 change in the numbers of pensions. It's not -- it's one
6 of the pages that we added, it's after page 46 which is
7 numbered at the bottom in the handwritten numbers, from
8 the study it's page 42 of the study. And so this shows
9 how -- the report starts in 1990 and there's almost
10 100,000 pension plans, and they drop, the number of
11 pension plans and the rate is the bars, and it drops
12 considerably until about 2000, 2000 -- into 2000 it sort
13 of levels off, and it's more stable at a number of
14 around 40,000 plans.

15 Q. Although if one looks closely at that chart
16 you're referring to, it appears that there still is a
17 declining, although a slower rate of decline, in the
18 number of plans; is that correct?

19 A. It does look like there is a very, yeah, it's
20 not quite flat. It's a little bit declining versus
21 flat.

22 Q. Now would you agree that the poor investment
23 performance of many of the pension plans in the second
24 half of the year 2008 and the first quarter of 2009 has
25 contributed to the increased cost of such plans?

0430

1 A. Yes.

2 Q. Now I would like to at this time refer to
3 TMH-25, our last cross exhibit; do you have that with
4 you?

5 A. I do.

6 Q. And this exhibit is the company's response to
7 our Data Request 03.04, and I believe that's identical
8 to the company's response to Public Counsel Request 082;
9 is that correct?

10 A. That's my understanding, yes.

11 Q. Now in this exhibit it's my understanding
12 that for post retirement benefits the company converted
13 from a defined benefit plan to a defined dollar plan; is
14 that correct?

15 A. The company made that change prior to my
16 being here. The exhibit on page 12 talks about that the
17 company changed the program in 1990. That's page 12
18 sort of in the second half of the second paragraph.

19 Q. And you're referring to the excerpt from --

20 A. The order.

21 Q. -- this Commission's order?

22 A. Yes.

23 Q. Yes.

24 A. So I know that I joined PSE in 2000 and that
25 at that point the program for post retirement medical

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1 for non-union employees and the UA represented employees
2 was to have no contribution by the company. The
3 employees who retire and immediately join the plan are
4 eligible to participate in a group plan, but they have
5 no subsidy from the company. The IBEW at the time I
6 joined the company had a small subsidy based on years of
7 service, \$6 per month. In the union negotiations in
8 2007 the IBEW stopped that program. So any new IBEW
9 employees -- so any PSE employees who are joined since
10 2002 are eligible to participate in the group plan, but
11 they have no company subsidy, and some -- so based on my
12 knowledge of the plan when I joined, it was a defined
13 contribution for certain IBEW employees, \$6 per month
14 per year of service. So a 30 year employee would have
15 \$180 per month contributed to their expenses. But
16 currently new employees have no benefit, they just have
17 the eligibility to the plan.

18 Q. And looking at this excerpt from the order
19 that you're referring to, is it your understanding that
20 the company has also switched from a cash basis to an
21 accrual basis for rate making purposes for these post
22 retirement benefits other than pension?

23 A. I don't know. This is a -- this data
24 response is Mike Stranik and John Story's data response,
25 so I believe that that's a better question for one of

0432

1 them.

2 MR. FURUTA: Okay, great. Thank you,
3 Mr. Hunt, I have no further questions.

4 JUDGE MOSS: All right. And I take it you
5 still wish to move the admission of 23 and 24?

6 MR. FURUTA: And 25 as well.

7 JUDGE MOSS: 25 has already been admitted.

8 MR. FURUTA: Okay.

9 JUDGE MOSS: Any further objection,
10 Ms. Carson?

11 MS. CARSON: No further objection.

12 JUDGE MOSS: All right, they will be admitted
13 as marked then.

14 All right, Mr. ffitch, let's go ahead with
15 your questions at this time, and we may interrupt you if
16 you do your full 60 minutes.

17 MR. FFITCH: Thank you, Your Honor.

18

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

20 BY MR. FFITCH:

21 Q. Good morning, Mr. Hunt.

22 A. Good morning.

23 Q. Can I ask you to turn to your rebuttal
24 testimony, please, which is Exhibit TMH-9CT.

25 A. Okay.

0433

1 Q. And go to page 27.

2 A. Okay.

3 Q. And at line 8 on that page of your testimony,
4 the question is asked:

5 Mr. Dittmer's testimony suggests that
6 increases in productivity should result
7 in decreases in employer's costs for
8 wages; do you agree?

9 And your answer is no, correct?

10 A. That's correct.

11 Q. And then you go on to state that Bureau of
12 Labor statistics data which you've attached shows that
13 worker productivity increases as the Employer Cost Index
14 also increases, or excuse me, as productivity increases,
15 the Employer Cost Index increased; that's your
16 testimony, correct?

17 A. It has increased. I'm not trying to imply
18 causation, but that historically has been the case.

19 Q. All right. So you're not trying to imply by
20 this statement that there's some correlation between
21 those two factors?

22 A. Well, from a common sense standpoint, as
23 workers become more productive, they're more valuable to
24 the firm. So in that regard, the relationship makes
25 sense. But we did not analyze it in a way to try to

0434

1 prove that that was -- that worker productivity was
2 causing the increase in pay, because typically -- why
3 don't we look at that exhibit, which is --

4 Q. Well, first of all, this is not the correct
5 name of the index, is it?

6 A. The Employer Cost Index?

7 Q. Right.

8 A. No, there is an Employer Cost Index that
9 looks at the costs that employers are paying for labor.
10 It's separate from the Consumer Price Index, and it's
11 actually -- it's more representative of what companies
12 need to look at when they're considering their labor
13 costs.

14 Q. Isn't this in fact called the Employment Cost
15 Index, isn't that the label on your own exhibit?

16 A. That may be the truth.

17 Q. All right.

18 Would you agree with me that the Bureau of
19 Labor Statistics in fact actually puts out statistics
20 that measure both productivity and costs?

21 A. Yes.

22 Q. And in fact the BLS issues a unit of measure
23 referred to as the unit labor cost that specifically
24 considers both those factors, productivity and cost;
25 isn't that correct?

0435

1 A. I am not familiar with the unit labor cost.

2 Q. Can you turn, please, to Public Counsel Cross
3 Exhibit TMH-22.

4 A. I'm there.

5 Q. Okay, do you see that? And the heading on
6 that document which comes from the Bureau of Labor
7 Statistics is productivity and costs, correct?

8 A. Correct.

9 Q. And can you read the very last sentence on
10 the page which contains a definition of unit labor
11 costs. Begins with BLS defines.

12 A. (Reading.)

13 BLS defines unit labor cost as a ratio
14 of hourly compensation to labor
15 productivity. Increases in hourly
16 compensation tend to increase unit labor
17 cost, and increases in output per hour
18 tend to reduce them.

19 Q. Okay, thank you. And if we look at the first
20 paragraph on this news release, it states, does it not,
21 that during the period that's being reported on here,
22 non-farm business sector labor productivity increased
23 during the third quarter, the largest gain in
24 productivity since the third quarter of 2003; isn't that
25 correct?

0436

1 A. Yes, it's referring to a quarterly change in
2 an annualized rate.

3 Q. All right.

4 A. It also talks about a decline in hours
5 worked.

6 Q. Right. So during that same period, you had a
7 significant increase in productivity but a decline in
8 hours worked, correct?

9 A. Correct.

10 Q. And then if you come down to the final
11 paragraph on the page, the first sentence then goes on
12 to explain that as a result of that, unit labor cost in
13 non-farm business fell 2 1/2% in the third quarter of
14 2009 as productivity grew at a faster rate, correct?

15 A. Yes. Although if you look at that same first
16 sentence, it says hourly compensation increased by 5.4%.
17 So the reason the unit labor cost went down was hours
18 were reduced, not because of the average cost per worker
19 on an hourly basis. That actually went up.

20 Q. But the unit labor cost during this period
21 for non-farm labor actually declined, isn't that
22 correct, that's what this exhibit shows?

23 A. That is correct.

24 Q. All right.

25 A. My exhibit before did not talk about unit

0437

1 labor costs.

2 Q. All right.

3 On another topic now, Mr. Hunt, it's my
4 understanding that Puget Sound Energy is advocating
5 continued use of using a 4 year historical average of
6 pension contributions for the purpose of developing an
7 allowance for pension expense in the rate making
8 formula; is that correct?

9 A. That is my understanding, but that's a --
10 questions regarding the rate treatment are best
11 addressed to Mr. Stranik. Because as I mentioned
12 earlier, the -- as it relates to pensions, my portion of
13 responsibility is as an element of total compensation
14 and whether the company's employees are competitively
15 paid.

16 Q. Okay. Well, let's see how we do here.

17 A. Okay.

18 Q. And if you need to defer, I'm not going into
19 extraordinary depth here, so if you need to defer, let
20 me know.

21 A. Okay.

22 Q. Would you agree with me that since a
23 contribution amount will always be a positive number or
24 zero, either positive or zero, that the theoretical
25 lowest allowance for pension cost to be used in rate

0438

1 making would be zero?

2 A. Yes, I agree with that.

3 Q. So even if you averaged 4 years of zero
4 contributions, you would still end up with a zero, you
5 can't go any lower than that, correct?

6 A. Right.

7 Q. And would you agree that by contrast the
8 actuarially determined amount of pension costs
9 calculated according to FAS 87 can be either a positive
10 or a negative number?

11 A. I have limited understanding of that. I do
12 know that occasionally it can, that the -- from an
13 accounting standpoint there can be what's called pension
14 earnings, but Mr. Stranik would be the right person to
15 discuss that with you.

16 Q. Okay. And, if you know, in fact the company
17 has recorded negative pension expense or effectively
18 pension income for a number of years, has it not?

19 A. There have been some years, yes.

20 Q. All right.

21 Could you please turn now to your rebuttal
22 testimony at page 7, and that again is Exhibit TMH-9CT.

23 A. Okay.

24 Q. This is confidential or this page contains
25 confidential numbers, so we'll be careful here.

0439

1 A. Okay.

2 Q. And if you look at line 4 of your testimony,
3 you note that the previous estimate of the 2009 return
4 on the qualified pension trust fund balance was the
5 number contained in the shading, correct?

6 A. Yes, it's referring to an estimate from the
7 company's actuaries.

8 Q. All right. Do you now know the actual return
9 rather than an estimate, now the actual return of the
10 pension that the pension trust experienced for 2009?

11 A. I don't. The actuaries' report, their
12 preliminary report is expected by the end of January for
13 the financial -- in time for the financial close. I
14 don't know the exact number. I believes it's higher
15 than the 11.25 -- higher than the number that was shown.

16 Q. All right. And would you agree that if we
17 wanted to calculate the actual market value, excuse me,
18 the actual return the pension trust experienced for the
19 12 months ending January 2009, we could go to your
20 confidential Exhibit 14C? And feel free to turn there
21 and take a look.

22 A. Yeah.

23 Q. Sorry, I should have directed you there
24 first.

25 Let me ask you again now that you have the

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1 exhibit in front of you.

2 A. Okay.

3 Q. On this exhibit, page 1 of the exhibit, you
4 show the actual market value of the trust through the
5 period ending November 2009, correct?

6 A. That's correct.

7 Q. So would you agree with me that you could
8 fairly or one could fairly easily calculate the actual
9 return on the pension trust asset experienced for the 12
10 months ending November 2009 from the data on that page?
11 I don't know about easily calculate, but incompetent
12 calculate.

13 A. It's not calculated on my exhibit, but you
14 could use the two numbers to get that.

15 Q. All right. And would you do that by
16 subtracting all contributions to the trust made during
17 the previous 12 months from the November ending balance
18 and then divide that subtotal by the market value of the
19 trust on November 2008; wouldn't that give you a pretty
20 good --

21 A. Actually I take it back, this information
22 would not allow you to determine the investment return,
23 because one piece that's important is missing here,
24 which is the payments to beneficiaries. Because you're
25 right, the contributions have increased, would increase

0441

1 the market value, and that's not due to investment
2 returns, but the value is also being decreased by the
3 costs of the payments to the investment managers and the
4 benefit payments to retirees, which is I have an exhibit
5 that shows the volume of that, and it's something over
6 \$20 Million a year payments to beneficiaries.

7 Q. If you did include that information, that
8 would simply make the calculation more conservative,
9 wouldn't it?

10 A. No, because if -- you would need to have the
11 -- you would need to have a number of things excluded in
12 terms of the payments to beneficiaries, which is in an
13 exhibit of mine. That's the Exhibit 16C. And the
14 actuaries will calculate the investment return after the
15 year is fully closed, but it needs to -- the fees that
16 are paid. The company has fees it pays, insurance fees
17 to the Pension Benefit Guaranty Corporation. It also
18 has fees for the investment managers that are hired by
19 the trust. And so those fees reduce the -- they're paid
20 out of the trust, and they reduce the balance that's
21 available.

22 MR. FFITCH: Thank you.

23 Your Honor -- I'm sorry, Your Honor, one more
24 question for the witness before I make a request.

25 BY MR. FFITCH:

0442

1 Q. Mr. Hunt, can you just tell us what the date
2 is that the report of that new return number will be
3 made final?

4 A. I believe it's the end of January, the end of
5 this month, but I don't know the exact date when that
6 will be available.

7 MR. FFITCH: Your Honor, Public Counsel would
8 like to make a record requisition of Puget Sound Energy
9 to provide that final actual return number for the
10 record when the report is made to the company.

11 MS. CARSON: I would just like to clarify
12 whether or not that's final or preliminary at the end of
13 January.

14 THE WITNESS: I mean I know that it's a
15 number that's used in the company's accounting, so
16 whether it's final or not I'm not sure. Mr. Stranik or
17 Mr. Story might know.

18 MS. CARSON: Okay.

19 THE WITNESS: Because the actual report such
20 as the previous year's copy that was included as an
21 exhibit isn't published until July of the following
22 year. So the report, my Exhibit 11, which was last
23 year's actual report, came out in July, so that's the
24 final actuarial report. Whether that's the final
25 calculation of investment return, I don't know.

0443

1 MS. CARSON: We don't have an objection to
2 providing what becomes available at the end of January.
3 It's not clear that that's final, but we can provide it
4 if that's the request from the Bench.

5 JUDGE MOSS: All right, well, why don't you
6 provide that to Mr. ffitch. And, Mr. ffitch, is it your
7 intention to supplement an exhibit or something with
8 that figure, or what's your plan?

9 MR. FFITCH: Yes, Your Honor, I believe that
10 what we would intend to do is after reviewing it we
11 would then offer it as an additional cross exhibit for
12 Mr. Hunt. I believe that's under the rules we first
13 receive it akin to a response to a data request, and
14 then we can offer it. The company has an opportunity or
15 other parties an opportunity to rule on whether it can
16 be received.

17 MS. CARSON: I guess I would also like to
18 comment that I'm not sure when the record closes in this
19 case.

20 JUDGE MOSS: I'm intending to close the
21 record at the close of the evidentiary proceedings,
22 which I presume would be today or tomorrow. That
23 doesn't mean we can't reserve the opportunity to do
24 this. I do want to ask you further how important is
25 this, what's the relevance of the December 2009 figure?

0444

1 It's beyond the test year, so.

2 MR. FFITCH: Your Honor, our belief is that
3 the return is much better than suggested in the existing
4 numbers that are in the record so that we would like to
5 be able to have a more accurate picture, a significantly
6 more accurate picture than the current numbers reflect.
7 Mr. Hunt has testified that that number that's in the
8 record right now is lower. His expectation is that this
9 number is now too low. He doesn't know the new number,
10 but we think it makes quite a bit of difference on this
11 particular issue.

12 MS. CARSON: Your Honor, if I might be heard
13 on this. As you said, the record must close at some
14 point in time, and there are additional numbers that the
15 company would be interested in updating in the next few
16 weeks also, but it seems like it makes sense to have
17 some point in time when the record closes, so we would
18 object to providing that.

19 JUDGE MOSS: I think I'm going to sustain
20 that objection, Mr. ffitch. Counsel makes a good point,
21 I'm sure we would all like the opportunity to have the
22 most up-to-date figures all the time, but we have to
23 stop at some point. Typically that is at the close of
24 the evidentiary proceedings, and I think I will let that
25 be the defining point here. Of course you can use the

0445

1 figure that's in testimony and observe that it's higher
2 than that in terms of making out an argument, but I
3 don't know that anybody is actually using that figure or
4 relying on that figure in terms of calculations. But to
5 the extent they are, they'll just have to use that as an
6 approximation to make that argument, and so that's my
7 ruling on that.

8 How much more do you have, Mr. ffitch?

9 MR. FFITCH: Your Honor, I believe I'm
10 finished, may I just confer briefly with the witness,
11 with my witness.

12 JUDGE MOSS: With your witness, I understand.

13 MR. FFITCH: Just one more question for
14 Mr. Hunt.

15 BY MR. FFITCH:

16 Q. Again referring to the confidential number on
17 line 4, page 7 of your rebuttal.

18 A. Okay.

19 Q. And this number reflects the estimate for
20 2009 market returns, correct?

21 A. It's the number that was on the report that
22 Mr. Dittmer was reviewing. It's not -- it's not an
23 estimate that PSE has used for any other purpose besides
24 it was on the actuarial report.

25 Q. All right.

0446

1 A. And there's a version of -- I mean there's a
2 document very similar to that report if you want to see
3 why the estimate was put in there by the actuaries.

4 Q. Well, let me ask my question first.

5 A. Okay.

6 Q. I'm not sure we need to go there.

7 You just testified a few moments ago that you
8 expect that when this number is updated it will be
9 higher, the actual number will be higher, correct,
10 that's your expectation?

11 A. Right. If you look at line 5, the report
12 said, which is not confidential, it took actual market
13 value as of May 31st and then for the rest of the year
14 applied an annualized 8.25% assumption, which is our
15 pension plan's assumed rate of return. So we know that
16 the market's done better than -- that the markets
17 continue to do well through the rest of the year, so
18 that's why the number that was shown there is most
19 likely smaller than the actual return for the plan.

20 Q. All right. And can you or do you have in
21 mind an order of magnitude of how much larger the number
22 is ultimately going to be in your expectation, is it
23 going to be double or one and a half, do you have a
24 number?

25 A. I really don't have a sense. I don't think

0447

1 it's going to be double, but I don't know for sure.

2 MR. FFITCH: All right, those are all the
3 questions I have, thank you, Your Honor.

4 JUDGE MOSS: All right, let's just see
5 quickly if we have questions from the Bench?

6 Apparently not.

7 Are you going to have any redirect?

8 MS. CARSON: A few.

9 JUDGE MOSS: All right, well, I'm sensing a
10 certain restlessness in the room that tells me we should
11 go ahead and take our morning break, so let's do that,
12 and we'll come back at 5 before the hour.

13 (Brief recess.)

14 JUDGE MOSS: I believe, Ms. Carson, we were
15 at the point of your redirect, if any.

16 MS. CARSON: Correct, yes, I do have some
17 redirect, very brief.

18 JUDGE MOSS: I was relying on that break.

19 MS. CARSON: That it would disappear?

20 JUDGE MOSS: You never know.

21

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

23 BY MS. CARSON:

24 Q. Mr. Hunt, Mr. Furuta asked you questions
25 about industries moving away from defined benefit plans.

0448

1 Do you recall those questions?

2 A. Yes.

3 Q. And I believe that you stated that the
4 utility industries aren't necessarily moving away from
5 defined benefit plans; is that right?

6 A. Correct. I drew a distinction between
7 utility industry versus a general industry or all
8 industry sort of view. Because as is in my testimony,
9 PSE's compensation philosophy is to be competitive with
10 the utility industry and also to emphasize pay for
11 performance for the non-union. And there's clear
12 information that the utility industry continues to offer
13 both defined benefit and defined contribution plans.

14 Q. Do you have that information in the record?

15 A. Yeah, my Exhibit TMH-10 was, which I think I
16 referenced in my rebuttal testimony, was a survey that
17 was completed in October of 2009, so a recent survey,
18 just of electric or in some cases combined electric and
19 gas utilities asking specifically about their defined
20 benefit and defined contribution plans. It's
21 confidential, Exhibit TMH-10C. And so there's
22 information about whether companies have defined benefit
23 plan and defined contribution and other information
24 regarding those. But as I mentioned in my testimony,
25 97% of the companies have both, both the defined benefit

0449

1 and the defined contribution plan, of this survey.

2 Q. And you said that it's important to be
3 competitive with other utilities. Why is that
4 important?

5 A. From a compensation standpoint, you look at
6 where your labor market is and what the jobs are, and so
7 the majority of PSE's jobs are utility specific
8 technical jobs, and we generally are hiring from other
9 utilities or are at risk of losing employees to other
10 utilities, so we need to be competitive with other
11 utilities.

12 Q. I also have a question for you regarding
13 TMH-20, which is a cross-exam exhibit from Staff. Staff
14 had no questions on it, and I have a question for you on
15 that.

16 A. Okay.

17 Q. This is a response to a Staff data request,
18 and in the request Staff asked about the recently
19 approved wage increase for non-represented employees at
20 PSE. Is there any update on this?

21 A. Yes, the -- in terms of wages, the wage
22 increase is most appropriate for the union employees,
23 because it's the same for everyone. But relative to the
24 non-union, non-represented employees, there are merit
25 budgets approved, and in this case our data response was

0450

1 saying that they have been approved by the board of
2 directors and we're now in the process of allocating
3 those to -- managers have those and will be determining
4 individual merit based amounts to be paid in March. So
5 the process -- the money's been allocated and is in the
6 process of being determined and paid.

7 Q. Mr. Hunt, I want to turn to your rebuttal
8 testimony, Exhibit TMH-9CT.

9 A. Okay.

10 Q. Do you have that?

11 A. Yeah.

12 Q. And Mr. ffitch was asking questions about the
13 projected 2009 plan returns.

14 A. Which page?

15 Q. Page 7.

16 A. Okay.

17 Q. What impact does the plan return have on the
18 2010 plan contribution?

19 A. The return from one year if it's -- if the
20 return is better, there could be less contribution. But
21 as I mentioned in my rebuttal testimony, even though the
22 return has been better than what was -- on page 10 of my
23 rebuttal testimony. The market value of assets have
24 rebounded considerably during 2009 from year end 2008,
25 but that there still are -- that the actuaries are still

0451

1 calculating that we'll have contributions required
2 because the PPA, the Pension Protection Act, set new
3 requirements for contributions. And so the Exhibit 14C
4 shows what the actuaries -- or the exhibit -- there's an
5 exhibit the actuaries forecast what we'll have to have
6 in terms of contribution in the future, and it was
7 updated from the earlier figure, and it still is showing
8 contributions required.

9 Q. To clarify, what exhibit are you referring
10 to?

11 A. 12C, so Exhibit 12C is the actuaries'
12 projection looking out 10 years. And the first page is
13 a chart format, and the second page or the -- is the
14 same information, just in a numbers format. The return
15 that we were -- that -- the previous questions about the
16 estimated return for 2009, that figure on this report is
17 actually higher than the previous report, and I
18 mentioned that in my rebuttal testimony. Despite that,
19 these were -- there was market data through the end of
20 August in this case. There still are contributions
21 projected, as can be seen from the chart.

22 Q. Mr. Hunt, you were also asked about TMH-16C,
23 which is confidential.

24 A. Uh-huh.

25 Q. And the column maximum allowed contribution;

0452

1 do you see that?

2 A. Yes.

3 Q. And I believe you testified that there are
4 funding guidelines to help with this contribution; is
5 that right?

6 A. That's correct.

7 Q. Can you tell us what --

8 A. Sure.

9 Q. -- what those funding guidelines are based
10 on?

11 A. Yeah. Staying for a second on the exhibit
12 you just mentioned, TMH-6C, it's confidential, but for
13 the years 2006 and 2007 under column 4 you can see that
14 there was the possibility of making contributions, and
15 there was -- but the company did not make contributions.
16 And then in 2008 the company did make a contribution,
17 and that was -- that contribution was determined based
18 on the funding guidelines that the company put into
19 place at the time, and that's -- those guidelines are
20 included as an exhibit, it's Exhibit 13C.

21 MS. CARSON: I have no further questions,
22 thank you.

23 JUDGE MOSS: All right, thank you. It turns
24 out we do have a couple or at least one question from
25 the Bench, so let me ask Chairman Goltz.

0453

1 CHAIRMAN GOLTZ: Yes, Ms. Carson's redirect
2 prompted me to think of a question or two.

3 THE WITNESS: Okay.

4

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

6 BY CHAIRMAN GOLTZ:

7 Q. It relates to your testimony about the need
8 to retain qualified employees. Does the company keep
9 data on, and I may be using the wrong term, but employee
10 turnover rate as say what percentage of the employees
11 leave in any given year and whose positions have be
12 refilled?

13 A. We do track turnover at a company level, and
14 there's some report that is produced by my area, human
15 resources area, for internal review.

16 Q. Is that data gathered on an annual basis?

17 A. It's quarterly at least, perhaps monthly.

18 Q. Do you know the trends in that turnover rate
19 over the past year?

20 A. I don't. My recollection is that the
21 turnover rates decreased, if anything, or stayed steady.

22 Q. That was -- in state government that
23 certainly is the case, no one seems to be leaving their
24 jobs, and my question is basically that.

25 A. Sure.

0454

1 Q. Are you experiencing more people leaving
2 their jobs or fewer people leaving their jobs?

3 A. I would say my expectation would be that we
4 were having experiencing fewer, but I would have to look
5 at the report to know for sure.

6 CHAIRMAN GOLTZ: Okay, thank you.

7 JUDGE MOSS: Commissioner Oshie, do you have
8 something?

9 COMMISSIONER OSHIE: Yes, the redirect also
10 led me to ask a few questions, thank you, Judge.

11 JUDGE MOSS: You see the risk you take.

12

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

14 BY COMMISSIONER OSHIE:

15 Q. You made a comment in your redirect testimony
16 that, you know, the board had approved a certain amount
17 for merit pay, and as a result action was being taken by
18 management to exercise, if you will, the judgment that
19 had been made by the board. And isn't it -- does the
20 board when it acts, does it have the authority to
21 rescind its action made at a prior date at any time in
22 the future?

23 A. It would, yes.

24 Q. And so if there, for example, if there were
25 certain financial indicia that were the board believed

0455

1 troubling, it would make changes to the projected
2 budget, of which perhaps there would be amounts that had
3 been authorized for either new capital investment, new
4 other activities, new O&M activities going forward, and
5 as a result of that they may change their mind based
6 perhaps on management's decision, perhaps based on their
7 own information and judgment that there should be --
8 that perhaps spending should be curtailed in certain
9 ways so that the -- because of the effect of changes in
10 revenue or unexpected expenditures unforeseen going
11 forward?

12 A. The board certainly has that right. What
13 they typically do is leave that level of implementation
14 of their strategy to the management team. And if there
15 was a desire to reduce costs because of some specific
16 need, they would -- I don't believe that they would
17 specify for management how to accomplish that, but
18 rather would leave that to the management discretion.
19 And like I mentioned in the case of this, the merit
20 increases, we've received no sense from management that
21 there's any change expected. In fact, we're in the
22 process, we're mid stream through the process and
23 expecting to complete it. But the board, you're
24 correct, does reserve that right.

25 COMMISSIONER OSHIE: All right, thank you,

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1 Mr. Hunt, those are all my questions.

2 JUDGE MOSS: Commissioner Jones.

3

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

5 BY COMMISSIONER JONES:

6 Q. Mr. Hunt, this will be more of a
7 clarification question.

8 A. Okay.

9 Q. But could you generally, and maybe it's in
10 your direct testimony, just describe the mix of
11 beneficiaries that you have in PSE non-covered and
12 covered by direct benefit, by direct contribution and
13 direct benefit plans or hybrid?

14 A. Okay, so --

15 Q. Just rough percentages is what I'm looking
16 for.

17 A. I think it's the actual numbers are in the
18 actuaries' report.

19 Q. In the Milliman report?

20 A. In Exhibit 11C.

21 Q. Okay.

22 A. I can -- it's roughly less than half are in
23 the final average earnings, but if you look at page 34
24 of 68, it shows the participants who are in the IBEW
25 falling -- in the IBEW plan that are falling under the

0457

1 final average earnings. So of the active employees, 838
2 are in the final average earnings formula.

3 Q. All right.

4 A. And the remainder -- so it's actually more
5 than half, the 1,600 or so, page 35, all of the plumbers
6 and pipe fitters, there's 350 there under the cash
7 balance, and page 36, the 1,496 active non-union are
8 under the cash balance.

9 Q. Okay. And your Exhibit TMH-17C, the Towers
10 Perrin report, that, just clarify again, that was
11 prepared for the board's compensation committee?

12 A. Correct.

13 Q. Does the HR department use Towers Perrin for
14 any other HR consulting services?

15 A. The only services we use for Towers Perrin
16 for the HR are market data surveys, which are also used
17 in part for the board, but. So we buy some market
18 surveys from Towers, most of which is used in preparing
19 compensation studies on base pay of executives for the
20 board, but those same surveys contain information for
21 non-executives, and the company uses it for those as
22 well.

23 Q. Because you said on the record that they
24 were, quote, independent, but the company pays, it
25 sounds like the company pays for certain consulting

0458

1 services from this particular company?

2 A. That's correct, it's a small -- the survey
3 fees are small relative to the other fees.

4 COMMISSIONER JONES: Okay, thank you.

5 JUDGE MOSS: All right, Mr. Cedarbaum.

6 MR. CEDARBAUM: Yes, thank you, Your Honor.

7

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

9 BY MR. CEDARBAUM:

10 Q. Mr. Hunt, I had some questions about the
11 redirect and some of the questions from the
12 Commissioners on Exhibit TMH-20, which was the data
13 request response that you provided.

14 A. Okay.

15 Q. And in the request we asked the company to
16 provide documents relating to the wage increase for
17 non-represented employees, and the response says in the
18 second sentence, no documents specific to wage increases
19 were part of the board's approval, and that was provided
20 on January 8th according to the date at the bottom.
21 You're aware of that portion?

22 A. I'm looking at it.

23 Q. So based on your redirect, I guess I'm a
24 little confused. Are there -- since you provided this
25 data request response, have there been documents of the

0459

1 board specific to the wage increases for non-represented
2 employees?

3 A. No. The information that I was referring to
4 was the executive pay increases are based on data from
5 Towers Perrin's survey and provided to the board for
6 only for the officers.

7 Q. Okay, so --

8 A. And we --

9 Q. So this -- the data request response then
10 remains accurate with respect to non-represented
11 employees?

12 A. Right, for the -- correct.

13 MR. CEDARBAUM: Thank you.

14 JUDGE MOSS: All right, I believe then that
15 will complete our examination of Mr. Hunt this morning,
16 and we will release you from the witness stand subject
17 to recall if needed.

18 THE WITNESS: Thank you.

19 JUDGE MOSS: Thank you.

20 This brings us then to Mr. Marcelia I
21 believe.

22 MS. CARSON: Yes.

23 JUDGE MOSS: Mr. Marcelia, please rise and
24 raise your right hand.

25 (Witness MATTHEW R. MARCELIA was sworn.)

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1 JUDGE MOSS: Please be seated.

2

3 Whereupon,

4 MATTHEW R. MARCELIA,

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

6 herein and was examined and testified as follows:

7

8 DIRECT EXAMINATION

9 BY MS. CARSON:

10 Q. Please state your name and title and spell
11 your name for the court reporter.

12 A. Matthew Marcelia, I'm the Tax Director for
13 Puget Sound Energy. My first name is spelled
14 M-A-T-T-H-E-W, last name is Marcelia, and it's spelled
15 M-A-R-C-E-L-I-A.

16 Q. Mr. Marcelia, do you have before you what has
17 been marked for identification as Exhibit Numbers MRM-1T
18 through MRM-7?

19 A. Yes, I do.

20 Q. Do these exhibits constitute your prefiled
21 direct and rebuttal testimony and related exhibits in
22 this proceeding?

23 A. Yes, they do.

24 Q. Were these exhibits prepared under your
25 supervision and direction?

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1 A. Yes.

2 Q. Do you have any corrections to any of your
3 exhibits at this time?

4 A. No.

5 Q. Are your prefiled direct and rebuttal
6 testimony and accompanying exhibits true and correct to
7 the best of your information and belief?

8 A. Yes.

9 MS. CARSON: Thank you.

10 Your Honor, PSE offers Exhibits MRM-1T
11 through MRM-7 into evidence and offers Mr. Matthew R.
12 Marcellia for cross-examination.

13 JUDGE MOSS: All right, thank you, and
14 hearing no objection, those will be admitted as marked.

15 We have cross-examination exhibits designated
16 for Mr. Marcellia numbers 8 through 16C, are there any
17 objections to any of those?

18 MS. CARSON: Your Honor, we have one
19 objection to MRM-14.

20 JUDGE MOSS: Okay.

21 MS. CARSON: It's a foundation objection.

22 JUDGE MOSS: All right, well then let's hold
23 that until we get to that exhibit, and perhaps
24 Mr. Furuta will lay foundation for it and your objection
25 will be relieved. In the meantime, let's go ahead and

0462

1 admit 8 through 13 and 15 and 16, reserving on 14.

2 Your witness is available I believe you said?

3 MS. CARSON: Yes.

4 JUDGE MOSS: All right, and I will just,

5 well, I'll start with Staff if you're ready to go,

6 Mr. Cedarbaum.

7

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

9 BY MR. CEDARBAUM:

10 Q. Good morning, Mr. Marcellia.

11 A. Good morning.

12 Q. My first line of questions refers to your
13 testimony on page -- rebuttal testimony, which is
14 MRM-4T, on page 37 at the bottom and going over to the
15 top of page 38. I'm not sure you have to take a look at
16 it, but would I be correct to summarize that testimony
17 that it's your belief that when PSE recorded the benefit
18 of the deferred tax in September 2002 that that benefit
19 offset other costs so that the benefit dates back to
20 September 2002, not the point in time when new rates
21 were set in the 2004 rate case?

22 A. Yes.

23 Q. Is it correct that the company has costs that
24 are below the line costs that are not recognized for
25 rate making purposes?

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1 A. Yes.

2 Q. Have you presented any evidence in this case
3 that these tax benefits referenced in your testimony did
4 not offset below the line costs?

5 A. You're asking if I provided testimony in
6 this?

7 Q. If you provided any evidence in this
8 proceeding that the tax benefits discussed in your
9 testimony did not offset below the line costs?

10 A. I don't believe that I've offered any
11 evidence that it was above or below the line costs.
12 Taxes such as this are recorded above the line.

13 Q. Switching now to the subject of property
14 taxes, and I don't know if -- I'm not sure you need to
15 refer to this, but I'm going to be asking you some
16 clarification questions on your response to Staff Data
17 Requests 155, 156, 157, and 158. And again, see how it
18 goes, if you need to refer, that's fine.

19 A. Okay.

20 MS. CARSON: Excuse me, are these exhibits?

21 MR. CEDARBAUM: No, they're not. We didn't
22 make them exhibits just to quite frankly save the paper
23 given the extent of our questioning.

24 MS. CARSON: Do you have those before you?

25 THE WITNESS: I don't have them before me,

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1 but I can grab them.

2 JUDGE MOSS: If he needs them, we'll provide
3 them. Let's have the questions.

4 MR. CEDARBAUM: As I said, I'm not getting
5 into a lot of detail here, so let's see how this goes.

6 BY MR. CEDARBAUM:

7 Q. Do you recall or would you agree that in sub
8 part C of Staff Data Request 155 we asked the company to
9 provide the property tax statements to support accrual
10 property tax paid and accrued in 2008 and 2009 for the
11 Hopkins Ridge Infill?

12 A. I recall that.

13 Q. And is it correct that your response to that
14 sub part of the data request states that the company
15 does not accrue property taxes on a project by project
16 basis, but rather property taxes are accrued in the
17 aggregate?

18 A. Yes, that is correct.

19 Q. And as part of your response you include what
20 is now your Exhibit MRM-5?

21 A. Yes.

22 Q. And we also asked you the same question in
23 other data requests with respect to the Wild Horse
24 expansion project, Mint Farm, and Sumas; is that right?

25 A. Correct.

0465

1 Q. And your answer was basically the same as it
2 was for the Hopkins Ridge Infill?

3 A. Correct.

4 Q. And you also referred back in each of those
5 data requests to the same attachment which is now MRM-5?

6 A. Yes.

7 Q. I'm beyond those data requests now.

8 If you could refer to what's been introduced
9 as Exhibit MRM-9.

10 A. I have it.

11 Q. And is this a workpaper of the company with
12 respect to property taxes?

13 A. Yes, it is.

14 Q. You're familiar with this document?

15 A. Yes, I am.

16 Q. At the top it shows -- it's entitled property
17 taxes for 2008 payable in 2009; is that right?

18 A. Correct.

19 Q. So the property taxes were for the test year
20 in this case?

21 A. Yes.

22 Q. And so what this document shows are the
23 actual property taxes paid by the company for electric
24 operations, gas operations, and then some non-Washington
25 locations?

0466

1 A. Yes.

2 Q. So actual property taxes paid for the
3 electric operations for the test year is the \$24.2
4 Million for electric, and for gas it's the \$10.8
5 Million?

6 A. For electric operations you need to add the
7 electric column, which is as you mentioned 24.2. We
8 would also need to add in Montana and Oregon to
9 electric.

10 Q. Okay. What's in the electric column, that
11 has company properties within the state of Washington?

12 A. Correct. Yeah, this exhibit is the actual
13 tax that was paid related to the test year. This is not
14 the tax that was recorded during the test year.

15 Q. I understand that.

16 A. Okay.

17 Q. And then the final question I have for you
18 relates back to your testimony, rebuttal testimony, on
19 page 40, MRM-4T, and this involves your testimony that
20 you believe that Staff witness Ms. Breda still contains
21 an error with respect to the calculation of deferred tax
22 for the Baker relicense, and this is the average of
23 monthly averages versus the IRS calculation issue?

24 A. That's correct.

25 Q. Have you had a chance to review what was

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1 distributed last Friday containing Staff corrections,
2 further Staff corrections?

3 A. I don't recall seeing that.

4 Q. So you're not sure -- and again in fairness
5 to the witness, we haven't -- those documents haven't
6 been admitted into evidence yet, but they were
7 distributed to all parties on Friday.

8 And as you say, you haven't checked that to
9 see if that what you characterize as an error hasn't
10 been corrected in those documents?

11 A. That's correct.

12 Q. Would you accept subject to check that, and I
13 can show -- I have the workpaper for you to be able to
14 check it, but that with respect to the Baker hydro
15 relicense issue that for the period of November 2008 to
16 March 2010 the AMA accumulated deferred tax calculation
17 sums up to \$1,168,000 and the IRS calculation for that
18 same period sums up to \$1,050,000?

19 MS. CARSON: Excuse me, are you -- it's not
20 clear to me whether counsel is referring to the
21 corrected Breda exhibits or the exhibit --

22 MR. CEDARBAUM: I'm referring to a company
23 workpaper.

24 MS. CARSON: Do you have that before you?

25 THE WITNESS: I don't have it before me. Can

0468

1 I see it?

2 BY MR. CEDARBAUM:

3 Q. Sorry, I only have one copy with me. For the
4 record, my understanding is this is a workpaper
5 underlying Mr. Story's testimony. I could ask him, but
6 I thought since Mr. Marcelia covered this topic in his
7 testimony.

8 A. Yes, I'm familiar with this workpaper.

9 Q. So you can accept the numbers I gave you
10 subject to check?

11 A. I don't need to do subject to check. The
12 check is right here.

13 Q. You can confirm the numbers that I've stated
14 on the record?

15 A. Yes, I can confirm, those are the numbers,
16 and the number is the \$1,050,000 is the number we're
17 looking for.

18 MR. CEDARBAUM: Thank you, those are all my
19 questions.

20 JUDGE MOSS: Is that what's now in
21 Ms. Breda's testimony, revised testimony?

22 MR. CEDARBAUM: I'm sorry?

23 JUDGE MOSS: Are those numbers what we now
24 see in the revised testimony of your witness?

25 MR. CEDARBAUM: Well, Ms. Breda will be on

0469

1 the stand when her testimony comes, and she can explain
2 the corrections she made. We were just trying to show
3 what the difference is between the two amounts.

4 JUDGE MOSS: All right, I just wanted to be
5 clear in my mind, thank you.

6 Does that complete your questions?

7 MR. CEDARBAUM: Yes, it does.

8 JUDGE MOSS: Thank you, Mr. Cedarbaum.

9 Let's go ahead with Public Counsel.

10 MR. FFITCH: Your Honor, Public Counsel has
11 no questions for Mr. Marcellia.

12 JUDGE MOSS: All right, well, Mr. Furuta has
13 indicated 90 minutes, we have about 30 minutes before
14 the lunch break, so we'll just go ahead and get started
15 and see how far we get.

16 MR. FURUTA: Thank you, Your Honor. And just
17 a word of warning, I may have a series of questions that
18 may have to get into confidential materials, but I will
19 try to put that toward the end of my cross.

20 JUDGE MOSS: All right.

21

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

23 BY MR. FURUTA:

24 Q. Good morning, Mr. Marcellia, I'm Norm Furuta
25 for FEA.

0470

1 A. Good morning.

2 Q. I would like to first turn to the topic of
3 the Wild Horse expansion project and the bonus
4 depreciation associated with that.

5 A. Yes.

6 Q. Now do you know that the test year in this
7 case is the 12 months ending December 31st, 2008; is
8 that correct?

9 A. December 31st of 2008, yes.

10 Q. Okay. And the test year can be adjusted for
11 known and measurable changes, would you agree?

12 A. Known and measurable changes that are not
13 offset by other items I believe is the wording in the
14 rule.

15 Q. Okay. And the Wild Horse expansion project
16 was placed into service on November 9 of 2009; is that
17 correct?

18 A. Yes.

19 Q. Okay. And I believe that's in your rebuttal
20 at page 26?

21 A. Yes.

22 Q. Okay. And that date was after the end of the
23 test year, was it not?

24 A. Correct.

25 Q. Okay. But because it was placed into service

0471

1 before December 31st of 2009, this project qualified for
2 the 50% bonus tax depreciation in that year; is that
3 correct?

4 A. Yes, that's correct.

5 Q. Okay. If you could refer to the company's
6 response in MRM-13, that's the response to our Data
7 Request 1.44.

8 A. Yes, I have it here.

9 Q. Okay. And you're the witness who prepared
10 this response; is that right?

11 A. Yes, that's correct.

12 Q. Okay. And the response is still true and
13 correct to the best of your knowledge and belief?

14 A. Yes, it is.

15 Q. Okay. And I believe there the company agrees
16 with our witness, Mr. Smith, his adjustment to reduce
17 rate base in order to reflect the 2009 bonus tax
18 depreciation on the Wild Horse expansion project; is
19 that correct?

20 A. That's correct.

21 Q. Okay. And I just want to clarify, do you
22 happen to have Mr. Story's rebuttal Exhibit JHS-16 with
23 you?

24 A. No, I don't.

25 I have it now.

0472

1 Q. Okay. I'm looking specifically at page
2 16.07, which is, well, actually it's page 14 of 46 of
3 the exhibit.

4 A. I see it.

5 Q. Okay. And while you're looking at that, I
6 would also refer you to your rebuttal at page 25.

7 A. Okay.

8 Q. Page 25, lines 11 and 12. Do you see that
9 beginning there?

10 A. Page 25 of my rebuttal testimony, lines 11
11 and 12?

12 Q. And following, yes.

13 A. Okay, yes.

14 Q. And I believe in your testimony that's where
15 the company has reflected the \$10.804 Million reduction
16 to rate base for the impact on the accumulated deferred
17 income taxes related to the 2009 bonus depreciation for
18 Wild Horse?

19 A. Yes, correct.

20 Q. Okay. And if you could refer, sorry I have
21 three documents here in front of you, but the MRM-13.

22 A. Yes.

23 Q. One moment here. Okay, I'm sorry, I lost my
24 reference, I'm ready.

25 Back in Mr. Story's Exhibit 16 at page 14 of

0473

1 46 there's an amount on line 5; do you see that?

2 A. Yes, I do.

3 Q. Deferred income tax liability?

4 A. Yes.

5 Q. Of \$22.426 Million?

6 A. Yes.

7 Q. Is that \$10.804 Million reduction to rate
8 base that I just referred to contained in that amount on
9 line 5, do you know?

10 A. Yes, it is.

11 Q. Okay.

12 JUDGE MOSS: Mr. Furuta, just in the interest
13 of perhaps saving a little time, it appears to me that
14 the company and you are in agreement now on this issue;
15 is that correct?

16 MR. FURUTA: That is correct, Your Honor.

17 JUDGE MOSS: Can't we simply say that on
18 brief and not have to pursue?

19 MR. FURUTA: I was actually exploring a few
20 things that relate to another concern.

21 JUDGE MOSS: That's fine, I'm not
22 complaining, I just wanted to see if we could save a
23 little time.

24 MR. FURUTA: Thank you, Your Honor.

25 BY MR. FURUTA:

0474

1 Q. Mr. Marcelia, do you know when the company
2 files, generally files its federal income tax returns?

3 A. Typically that is in the middle of September
4 of the following year.

5 Q. Okay. So for tax year 2008 did the company
6 file its income tax return around September 15 of 2009?

7 A. That's correct.

8 Q. Okay. And the company's 2008 federal income
9 tax return has not yet been audited by the IRS to your
10 knowledge; is that correct?

11 A. That's correct.

12 Q. Do you know when the company anticipates that
13 its 2008 return will have been audited by the IRS?

14 A. Well, I can't say with any certainty.
15 Typically the company's audited on 3 year cycle, and we
16 have overreturns for 2006, 7, and 8, so it seems that it
17 would likely to occur sometime soon, but I have no idea
18 what the IRS audit schedule is for us.

19 Q. And now the 2009 bonus tax depreciation would
20 be taken on the company's federal income tax return for
21 2009; is that correct?

22 A. Yes, correct.

23 Q. Okay. And does the company expect to file
24 its 2009 return around the middle of September of 2010?

25 A. Yes.

0475

1 Q. And would it be probable that the 2009 return
2 would be audited by the IRS probably a number of years
3 after it filed its return, up to three years?

4 A. I wouldn't use the word probable, depending
5 on if they continue to use a 3 year cycle, it could take
6 a while. If they decided to skip a year, it could be
7 much sooner. I don't know.

8 Q. Okay. So the fact that the company has not
9 yet filed its 2009 return and the fact that the
10 company's 2009 return has not yet been audited, this
11 didn't stop the company from making the adjustment to
12 rate base related to the 2009 bonus tax depreciation for
13 Wild Horse, did it?

14 A. No, it did not. That is a fairly
15 non-controversial adjustment, a normal course of
16 business type adjustment.

17 Q. Okay. And the company would agree that this
18 is a known and measurable adjustment and should be made;
19 is that correct?

20 A. Well, I think that the known and measurable
21 adjustment would be for the Wild Horse expansion. This
22 deferred tax is a component of that calculation.

23 Q. I'm specifically referring to the deferred
24 tax amount though.

25 A. I guess I think when you're talking about

0476

1 taxes, in this case deferred taxes, the tax calculation
2 is a response to some other activity. It doesn't exist
3 by itself. So if you are to allow in an adjustment for
4 the Wild Horse expansion, it would be appropriate to use
5 a deferred tax adjustment for it. I wouldn't -- do you
6 see what I'm saying there?

7 Q. I think so, but if you --

8 A. The pro forma adjustment is for the Wild
9 Horse expansion, and so as a result you need to provide
10 taxes that are relevant to that pro forma adjustment.
11 In doing so, you would need to incorporate this deferred
12 tax.

13 Q. Does that tax come up to the standard of
14 being a known and measurable adjustment?

15 A. I don't know if I would look at it on a
16 stand-alone basis. I would say if the Wild Horse
17 expansion is known and measurable, then the tax should
18 come along with that.

19 Q. Okay. And making this adjustment you would
20 agree is proper and in no way depends upon the fact that
21 the company has not yet filed its 2009 tax return or
22 that that return has not yet been audited; is that
23 correct?

24 A. Well, to get the proper deferred taxes for
25 that adjustment, you would need to capture this.

0477

1 Q. I would like to turn to a different topic on
2 Section 199, deduction for domestic production
3 activities.

4 A. Yes.

5 Q. And I believe that's mentioned in your
6 rebuttal at pages 30 to 31. I think there you claim
7 that the company has availed itself of the production
8 tax credit under Section 45 of the Internal Revenue Code
9 but could not avail itself of the domestic production
10 activities deduction under Section 199 of the Internal
11 Revenue Code. Do you see that?

12 A. Yes, I do.

13 Q. Okay. If we could refer to MRM-12, I believe
14 that's the company's response to our Data Request 1.34.
15 Do you see that?

16 A. Is that a cross exhibit?

17 Q. It is a cross exhibit, MRM-12. It's a data
18 request, but the person knowledgeable was reported to be
19 Roger Garratt, and yesterday company counsel informed me
20 that you would be an appropriate witness to cross on.

21 A. Yes, that's correct.

22 Q. Okay. And looking at response sub paragraph
23 D and E, are you familiar with that now?

24 A. Yes.

25 Q. Okay. And those actually are responding to

0478

1 our request sub paragraphs E and F; is that correct?

2 It's apparently mislabeled.

3 A. Yes.

4 Q. Okay.

5 A. That's correct.

6 Q. And do you happen to have Mr. Story's
7 rebuttal testimony with you, JHS-14T?

8 A. I can grab that.

9 And which page was that?

10 Q. That would be page 61 at about line 7,
11 starting at the bottom of the page, 17.

12 A. Okay, I'm here.

13 Q. Okay. Now when the Section 199 deduction for
14 domestic production activities is available, the company
15 flows the benefit of that deduction through to rate
16 payers using a so called PTC calculation tracker in
17 accordance with the Commission's final order in Docket
18 060266. Do you agree with that representation by
19 Mr. Story in his rebuttal?

20 A. Yes, the regulatory pass through mechanism is
21 what we refer to as the PTC tracker. So if we got the
22 benefit under Section 199, it would flow into that
23 analysis and go back to customers accordingly.

24 Q. And do you know what the PTC stands for in
25 that?

0479

1 A. It is the production tax credit.

2 Q. Okay. And the company's response to our part
3 E, which is actually labeled D in Exhibit RMR-12,
4 indicates there that the Wild Horse expansion pro forma
5 captured the estimated incremental production tax
6 credits or PTC that the project is expected to produce.
7 PTCs are passed through to customers under Schedule 95a
8 and are not included in the general rate case filings.
9 This part of the response here also notes that another
10 tax benefit might be more beneficial. Do you know if
11 that part of the response is still true and correct to
12 your knowledge?

13 A. Well, it is true and correct and the -- that
14 other tax benefit actually is more beneficial, and the
15 company filed for a treasury grant on the Wild Horse
16 expansion on December 22nd, and the Commission issued an
17 order on I believe it was December 10th kind of
18 articulating how that would be passed back to customers
19 again on the Schedule 95a, which is the PTC tracker.

20 Q. Okay. And that's the methodology by which
21 the benefit would be reflected in rates; is that true?

22 A. Yes, the Schedule 95a tracker.

23 Q. All right. Do you happen to have the
24 Commission order number on that with you?

25 A. I believe it is UE-90, I'm sorry, 091570.

0480

1 Q. And that's the docket?

2 A. Correct, that's the docket.

3 Q. Okay, thank you.

4 So I take it that the company has completed
5 the evaluation as to which tax option, whether it's the
6 PTC, the ITC, or this cash grant, I think it's a
7 treasury grant program, is most beneficial to rate
8 payers?

9 A. Correct.

10 Q. Okay.

11 A. There's, if you pull up the petition in the
12 order, there's analysis behind that to support that.

13 Q. Turning to Mr. Story's rebuttal at 31, page
14 31, line 5 and following,

15 A. Yes.

16 Q. I believe he's referring to a \$.6 Million
17 impact mentioned -- lost my reference. Page 31, line 5
18 I believe.

19 A. Okay.

20 Q. Perhaps you can help me out here, I was
21 referring to the \$600,000 impact.

22 A. There's a reference to \$600,000 on line 5 of
23 page 31, is that it?

24 Q. Yes. Has the company provided any supporting
25 calculations for that amount?

0481

1 A. There's supporting calculations in the docket
2 to do the analysis per the Commission order of December
3 10th.

4 Q. Okay. And do you know when the treasury
5 grants will be received?

6 A. No, I don't. Statutorily the treasury has 60
7 days from the date that they accept the application to
8 fund the grant. I'm not sure when exactly we will be
9 getting those funds.

10 Q. Okay. Now turning to the subject of
11 accumulated deferred income taxes relating to a new
12 method of determining overhead deductions, I believe
13 that's in your rebuttal at page 33.

14 A. I'm at page 33.

15 Q. Now the Commission reduced the company's rate
16 base for increases to accumulated deferred income taxes
17 resulting from a tax accounting change in prior cases;
18 is that correct?

19 A. Yes, I believe you're referring to the
20 simplified service cost method, accounting method
21 change?

22 Q. Yes, I was, thank you.

23 And specifically in Docket UG-040640 and
24 others, the Commission reduced the company's rate base
25 for the increase to ADIT that resulted when the company

0482

1 implemented a new method of determining overhead
2 deductions for income tax purposes; is that correct?

3 A. That is correct.

4 Q. Okay. And when the company made that
5 reduction to rate base, the tax year had not been
6 subject to a finalized audit by the IRS, had it?

7 A. I believe that is correct, that it had not
8 yet been audited when the adjustment was made.

9 Q. Okay. And referring to your rebuttal at page
10 36; do you have that?

11 A. Oh, yes, I do.

12 Q. Oh, great. Regarding the simplified service
13 cost method, it's the company's position that rate
14 payers benefited from the reduction to rate base that
15 was used related to the tax accounting change for the
16 capitalization of overheads; is that correct?

17 A. Yes.

18 Q. Okay. And then on the next page of your
19 rebuttal at line 11 I believe, you estimate that the
20 rate base was lowered by \$72 Million?

21 A. Yes.

22 Q. Okay. Was that \$72 Million reduction to rate
23 base the direct result of the tax accounting change
24 relating to determining overhead deductions for income
25 tax purposes that you describe on page 33 of your

0483

1 rebuttal?

2 A. Yes.

3 Q. Okay. And the company supported that
4 adjustment described on page 33, and in other words the
5 result of full benefit of the simplified service cost
6 method of tax accounting; is that true?

7 A. Yes, that the adjustment was actually taken
8 on the 2001 tax return, so when it came time for filing
9 the 2004 rate case that we're referring to here, the
10 number was sitting on the balance sheet as part of the
11 test year number.

12 Q. Okay. And in the prior company rate case,
13 both the company and Staff reflected that \$72 Million
14 ADIT impact as a reduction to Puget's rate base; is that
15 true?

16 A. At what point in time? It was a disputed
17 adjustment if I recall right.

18 Q. In the prior rate case.

19 A. As a result, yeah, I mean as a result of the
20 rate case, it was reduced from the rate base, the full
21 \$72 Million was.

22 Q. Okay. And that's reflected in the Commission
23 order, to your knowledge?

24 A. Yes, correct.

25 Q. Okay.

0484

1 Turning to my last topic, and this would be
2 the accumulated deferred income taxes related to the new
3 method of determining repair allowance. Some of this
4 may touch on confidential matters, and you may or
5 counsel may let me know if we should be going into
6 confidential session. I may also flag that.

7 A. Okay.

8 Q. All right. I would like to turn to MRM-15C
9 if you have that.

10 A. I have it.

11 Q. Okay. That's the company's response to our
12 Request 2.03, and you're the witness that was
13 responsible for that response?

14 A. Yes, correct.

15 Q. And I wonder if the topic of that response is
16 confidential. I believe you may have mentioned that in
17 your rebuttal. Well, perhaps we can turn to your
18 rebuttal.

19 A. Okay, sure.

20 Q. And that would be page 27, line 14.

21 A. I'm there.

22 Q. All right. So I take it that the fact that
23 the IRS approved the accounting method change that the
24 company requested, that's not confidential any more?

25 A. Correct.

0485

1 Q. Okay. And that is -- the request was to
2 change the tax accounting method for treatment of
3 repairs; is that correct?

4 A. Yes.

5 Q. Okay. And that request was made by the
6 company on December 31st, 2008; is that true?

7 A. December 30 of 2008.

8 Q. I was looking at your rebuttal, page 27.

9 A. Yeah, line 2, December 30.

10 Q. Yes, fine, thank you. And December 30, 2008,
11 is within the test year; is that correct?

12 A. Yes.

13 Q. Okay. Is the date that the IRS notified the
14 company that it accepted the new method confidential?

15 A. No.

16 Q. Okay. So that was August 20 of 2009; is that
17 true?

18 A. Yes.

19 Q. Okay. And likewise the date of the signing
20 of the consent letter is not confidential?

21 A. Correct.

22 Q. Okay, that was September 30, 2009?

23 A. Correct.

24 Q. Okay.

25 JUDGE MOSS: It looks to me like it was

0486

1 September 15th from what I'm reading here.

2 MR. FURUTA: I'm sorry, Your Honor.

3 BY MR. FURUTA:

4 Q. I stand corrected, September 15th.

5 A. Yes.

6 Q. Does the effect of the tax accounting change,
7 is that confidential?

8 A. Yes.

9 MR. FURUTA: Okay, perhaps, Your Honor, I
10 don't know if you want to do this before lunch or
11 perhaps right after, but I probably will be getting into
12 areas that unavoidably refer to confidential
13 information.

14 JUDGE MOSS: Can we just refer to the numbers
15 and so forth?

16 MR. FURUTA: I can attempt that, but it may
17 get a little cumbersome.

18 JUDGE MOSS: All right, tell you what we'll
19 do then, we'll take our noon recess, and perhaps over
20 the recess you can think about that a bit and see if you
21 can frame your questions in such a way as to avoid the
22 necessity of going into confidential session, which is
23 something I try to discourage. If it becomes
24 impossible, then we will accommodate the needs of the
25 case, but in the meantime we'll take our luncheon

0487

1 recess. All right, we'll be in recess until 1:30.

2 (Luncheon recess taken at 12:00 p.m.)

3

4 A F T E R N O O N S E S S I O N

5 (1:30 p.m.)

6 JUDGE MOSS: We are back from our luncheon

7 recess, and Mr. Marcellia is -- is it Marcellia?

8 THE WITNESS: Marcellia.

9 JUDGE MOSS: Marcellia, thank you very much,
10 is still on the stand, and were we to the redirect?

11 MS. CARSON: No.

12 JUDGE MOSS: No, Mr. Furuta was -- I'm
13 rushing you along.

14 MR. FURUTA: I'm almost there.

15 JUDGE MOSS: That's all right, my mistake,
16 you go ahead.

17 MR. FURUTA: Thank you.

18 BY MR. FURUTA:

19 Q. Good afternoon, Mr. Marcellia.

20 A. Good afternoon.

21 Q. I think we were discussing the tax accounting
22 change at your rebuttal at page 27, and I also was
23 referring to our cross MRM-15C.

24 A. Yes.

25 Q. And in that cross exhibit at page number 4,

0488

1 which is the company's response to our data request sub
2 part D in particular, I understand that the numbers, the
3 dollar numbers in this exhibit are still considered
4 confidential; is that correct?

5 A. Yes.

6 Q. Okay, I will try not to refer to those. But
7 the tax accounting change that we've been discussing, I
8 believe I can ask if that change has an equal and
9 offsetting impact on current income tax expense and
10 deferred income tax expense as set forth in this
11 exhibit?

12 A. Yes, it does.

13 Q. And you would agree with that?

14 A. Yes, I do.

15 Q. And can you also state that it also has a
16 major impact on the accumulated deferred income taxes or
17 ADIT?

18 A. It has the impact indicated here. I'm not
19 sure if you would call that major, minor. The impact is
20 here.

21 Q. Okay, that's fine.

22 And this response also indicates that the
23 impact of the change will be posted in the company's
24 September 2009 financials; is that correct?

25 A. Yes.

0489

1 Q. Okay. Have those financials been issued?

2 A. Yes, the quarterly reports for September of
3 2009 would have been issued. In terms of the specifics,
4 I would have to defer to Mr. Stranik who prepares those,
5 but they would have been issued.

6 Q. Okay. Now accumulated deferred income taxes
7 are a reduction to rate base, aren't they?

8 A. Accumulated deferred income taxes associated
9 with plant is used as a decrease to the rate base
10 calculation.

11 Q. Now if I can turn to the confidential
12 response to our Data Request 4.01, that's MRM-16C, are
13 you the witness that prepared that response?

14 A. Yes.

15 Q. And if you look at pages 3 and 4 of that
16 document.

17 A. Yes.

18 Q. That dollar figure from the earlier exhibit
19 appears there as well; is that correct?

20 A. Yes.

21 Q. Okay. And that dollar figure is broken down
22 into electric and gas plant accounts, is that correct,
23 on page 4?

24 A. Yes.

25 Q. And I wonder if you could just take a moment

0490

1 to verify that those figures are correct as well?

2 A. Actually the numbers that are on the top of
3 page 4, they total the correct number. If you look at
4 page 5 of the exhibit.

5 Q. Yes.

6 A. You can see there that the breakdown to
7 electric and gas that I stated on Exhibit D is actually
8 off a little bit. Those numbers should be slightly
9 different.

10 Q. Is that difference due to more than just
11 rounding?

12 A. Yes, I actually footed the columns down as
13 opposed to across. Do you see gas is the top line on
14 page 5 of that exhibit?

15 Q. Oh, I see.

16 A. Whereas the gas numbers are -- go across the
17 top of that exhibit, that top line, whereas the numbers
18 that I used actually come down. It's the same grand
19 total, but the split between electric and gas would be
20 different.

21 Q. Okay. And are the numbers, do you know which
22 numbers are actually the correct numbers to be used?

23 A. The numbers that you see on page 5 are before
24 considering the tax effect, so if you were to add the
25 41a line and the 2008 adjustment line, multiply those by

0491

1 35%, you would get the new number.

2 Q. That number does not appear?

3 A. Correct.

4 Q. So we would have to do that calculation?

5 A. Yes.

6 Q. Okay.

7 A. I have a calculator right here.

8 Q. I'm just wondering if we could take that
9 number in the record though. If we could do that, that
10 would be great, it would make things a lot simpler, but.

11 A. The number is confidential at this point.

12 JUDGE MOSS: Well, the calculation seems
13 straightforward enough, you can make it for purposes of
14 your argument.

15 MR. FURUTA: All right, that's fine, Your
16 Honor.

17 BY MR. FURUTA:

18 Q. Now if we could refer to 16C, page 4 again, I
19 understand the dollar numbers are confidential, but is
20 the remainder of the material in the boxes under sub
21 part B still confidential?

22 A. No.

23 Q. Okay. So if I may read from that. As
24 explained in the company response to our data request,
25 and I quote here:

0492

1 The project to complete the accounting
2 method change has not been completed at
3 this time. The numbers reported are
4 estimates. 2008 tax return will be
5 amended to reflect the final numbers
6 once the project is complete.

7 Is that correct?

8 A. That's correct.

9 Q. Okay.

10 A. And that return was amended on December 30th.

11 Q. Of 2008?

12 A. Of 2009.

13 Q. 2009?

14 A. A couple weeks ago.

15 Q. Okay. Now 2008 is the test year in this
16 current rate case; is that correct?

17 A. Yes, it is.

18 Q. Okay. And the tax return that we were just
19 talking about corresponds to the same time period as
20 covered by the 2008 test year; is that true?

21 A. Yes, it was the 2008 tax return.

22 Q. Okay. Now the company wouldn't present
23 amounts in its financial reporting if such amounts were
24 not sufficiently quantifiable; is that correct?

25 A. Well, under GAAP you are required to make

0493

1 certain estimates, and so I -- you made kind of a
2 general statement, so there are estimates that are
3 needed in order to comply with GAAP.

4 Q. Okay. Now has the company disclosed the
5 impacts from this tax accounting change we've been
6 discussing in its financial presentations to investors?

7 A. I'm not exactly certain which financial
8 presentations to investors you would be referring to.
9 Can you tell me who the investor group you're referring
10 to would be?

11 Q. Actually just any reports made either to the
12 financial community or required forms that the company
13 ordinarily would file.

14 A. When you file a quarterly report for SEC
15 purposes for example, the quarterly reports typically do
16 not have elaborate footnotes requirements. So the year
17 end reporting has more detailed footnote disclosures,
18 and those obviously have not been completed yet.

19 Q. Okay. And I believe you testified that the
20 September 30 financials had been issued by the company;
21 is that correct?

22 A. They would have been issued, yes.

23 Q. Okay.

24 A. But there's not an elaborate set of footnote
25 disclosures associated with that quarterly report.

0494

1 Q. Okay. And that's probably where the tax
2 accounting changes that we've been discussing would be
3 disclosed?

4 A. Yes, all but for the amended return portion.

5 Q. Okay. Now turning to your rebuttal, 4T, page
6 28, if you have that.

7 A. I do.

8 Q. In the answer following line 9.

9 A. Yes.

10 Q. I believe you testified that the company will
11 ignore for rate making purposes in this proceeding the
12 impact on ADIT and on rate base resulting from this
13 major change in tax accounting that we've been
14 discussing; is that correct?

15 A. Yes.

16 Q. Okay. And your reasons for not reflecting
17 the known impact are that, one, it occurred after the
18 test year, and two, that the calculation has not yet
19 been audited by the IRS. Is that a fair summation?

20 A. Yes. I would also include that I think I
21 included that there's a question of being offset by
22 other items on page 29.

23 Q. Now it's true that the company has made other
24 rate making adjustments for events that occurred after
25 the end of the test year, isn't it?

0495

1 A. Yes, I believe there are others in the
2 filing.

3 Q. Okay. And also that none of the company's
4 income tax calculations for tax years 2008 and 2009 have
5 yet been audited. I believe you've testified to that;
6 is that correct?

7 A. Audited by?

8 Q. By the IRS.

9 A. Correct.

10 Q. Okay. And the tax accounting change that the
11 company applied for in December of 2008 and which was
12 approved by the IRS in August of 2009 is not unique to
13 Puget Sound Energy; is that correct?

14 A. Well, the tax laws apply to all tax payers in
15 the country, so I mean there's no tax law that is unique
16 to the company.

17 Q. I was actually -- let's get more specific, in
18 terms of other electric or gas utilities?

19 A. Oh, did other electric and gas utilities make
20 similar adjustments or similar method changes?

21 Q. To your knowledge, yes.

22 A. Well, I don't have comprehensive knowledge,
23 but I would guess that there are others that made the
24 change as well. In fact, I think you gave me a cross
25 exhibit to that effect.

0496

1 Q. Okay, well, why don't we turn to that exhibit
2 at this time.

3 MR. FURUTA: I believe counsel had an
4 objection to that, perhaps we can take that up now. I
5 believe that was MRM-14.

6 MS. CARSON: PSE objects.

7 JUDGE MOSS: All right, what's your
8 objection?

9 MS. CARSON: Foundation, Mr. Marcelia did not
10 prepare --

11 JUDGE MOSS: I don't believe your mike is on.

12 MS. CARSON: Mr. Marcelia did not prepare
13 this exhibit.

14 MR. FURUTA: Yes, Your Honor, I would agree,
15 this exhibit was furnished by FEA, and it's a copy of an
16 order of Public Service Commission of Utah.

17 JUDGE MOSS: Better see if you can lay some
18 foundation for it, Mr. Furuta.

19 MR. FURUTA: Okay.

20 BY MR. FURUTA:

21 Q. Mr. Marcelia, are you aware of any other
22 electric utilities that have made similar changes to
23 their tax accounting methods for repairs?

24 A. Other than the one cited here, I'm not sure
25 with certainty that I do know of others.

0497

1 Q. For example, you're not aware of Potomac
2 Electric Company in its rate case before the District of
3 Columbia Public Service Commission for example?

4 A. No.

5 Q. But you are aware of the Rocky Mountain Power
6 Company's?

7 A. Yes, I read about that one.

8 Q. Okay. And in that proceeding before the Utah
9 Commission, is it your understanding that Rocky Mountain
10 Power with regard to the impact of the change for that
11 company, that increased the ADIT balance and decreased
12 rate base, that was recognized for rate making purposes;
13 is that correct?

14 MS. CARSON: I'm going to object, the
15 document speaks for itself.

16 JUDGE MOSS: Well, let's find out if the
17 witness is familiar with this document.

18 Are you familiar with this order that we're
19 looking at here as part of this exhibit?

20 THE WITNESS: I have read it.

21 JUDGE MOSS: Do you understand it?

22 THE WITNESS: Well, it is from the Utah
23 Commission, and I'm not familiar with rate making
24 practices in the state of Utah.

25 JUDGE MOSS: Right.

0498

1 THE WITNESS: But otherwise I did read it,
2 and it's written in English, and I do understand it.

3 JUDGE MOSS: In terms of the discussion of
4 the treatment of the various matters that are the
5 subject of the order, do you have an understanding of
6 those?

7 THE WITNESS: I have an understanding.

8 JUDGE MOSS: All right, then we'll let the
9 witness answer to the best of his ability based on his
10 understanding of the contents of this order.

11 Go ahead, Mr. Furuta.

12 BY MR. FURUTA:

13 Q. I guess my question was, is it your
14 understanding that Rocky Mountain Power in its
15 proceeding before the Utah Commission regarding the
16 utilities increased ADIT balance and that its rate base
17 was decreased as recognized for rate making purposes by
18 the Commission?

19 A. Yeah, that is my understanding, although I
20 would also point out that it appears they were using a
21 future test period for the year end of June of 2010, and
22 it was also a stipulated agreement, so there's obviously
23 negotiations going back and forth. But they had similar
24 questions in that as we have with the fact that it had
25 not been audited by the IRS, so that is addressed in

0499

1 that order.

2 MR. FURUTA: Okay, great, thank you very
3 much, Mr. Marcellia.

4 I have no further questions, Your Honor.

5 JUDGE MOSS: All right, did you want to offer
6 this for the record?

7 MR. FURUTA: Yes, I would, MRM-14.

8 MS. CARSON: No objection.

9 JUDGE MOSS: All right, thank you,
10 Ms. Carson, all right, we'll admit, what is it, 12?

11 THE WITNESS: 14.

12 JUDGE MOSS: 14, sorry, thank you, lost track
13 of it, all right.

14 And you're finished, Mr. Furuta?

15 MR. FURUTA: Yes, I am.

16 JUDGE MOSS: All right, then I believe that's
17 the last we have from the parties. Do we have any
18 questions from the Bench?

19 Commissioner Oshie.

20 COMMISSIONER OSHIE: Yes, thank you, Judge.

21

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

23 BY COMMISSIONER OSHIE:

24 Q. Mr. Marcellia, I want to just talk a little
25 bit about your testimony with regard to I think Staff's

0500

1 adjustment of an interest payment that relates back to
2 2002 to 2006 tax years.

3 A. Yes.

4 Q. And I believe that's a subject of your
5 testimony?

6 A. Correct.

7 Q. I think I'm reading from page 13 of 60 in
8 your direct just to bring you there, although I don't
9 know if it's necessary, but.

10 A. You said page 16 of the rebuttal or direct?

11 Q. Oh, no, excuse me, 13 of your direct. For
12 the record that would be MRM-1T.

13 All right, thank you. I guess maybe I need
14 to get a better understanding from you of the company's
15 position, and it's really related to one additional
16 consideration, and that is as I understand this issue
17 there were deductions taken by the company as a result
18 of a change in their tax filing. In other words,
19 they're treating certain obligations, if you will, or
20 expenses in a different way, and as a result of that
21 there was I believe roughly a \$72 Million benefit that
22 was incurred?

23 A. Yes.

24 Q. And why don't you fill in a little bit of the
25 details. I know that the -- later the -- there was an

0501

1 audit by the IRS, and why don't you fill in from there
2 what the IRS did?

3 A. Okay. The IRS audited our tax returns from
4 2001 through 2003. We had claimed the method change in
5 2001. The benefit was round numbers \$72 Million. And
6 the IRS exam team disallowed the entire deduction. So
7 the company appealed that decision because we thought it
8 was the wrong decision based on the law as it existed in
9 2001, 2, and 3. Kind of contemporaneously with the IRS
10 doing that disallowance, the national office also issued
11 a revenue ruling which changed, substantially changed
12 the definitions around this area of the law and
13 basically would preclude a utility such as the company
14 from claiming the benefit. They issued that ruling in
15 2005. Obviously that occurred after we claimed the
16 method change back in 2001, so we appealed, and this
17 became somewhat of an industrywide issue. Many
18 utilities throughout the country had done this same
19 change. The IRS in trying to address and make sure that
20 everyone was treated fairly came out with settlement
21 guidelines. And through the appeals process when the
22 settlement guidelines were applied to PSE's tax returns,
23 we basically were able to sustain 85% of the original
24 deductions. However, even though we were able to
25 sustain 85%, we still had to move off of the method in

0502

1 2005 and 2006. They allowed a two year pay back period.
2 So even though we were relative -- we had some success
3 in the audit, we still had to switch off of the method.
4 So that is why when you see in some of the exhibits that
5 the total tax, you can see the benefit going up to \$72
6 Million and then coming down and it's actually zero when
7 you foot the column, it's because we had to repay the
8 benefits. So the issue here is on the IRS interest
9 associated with 2001 through 2006, the first year being
10 we owed interest, and then we got refunds in each of the
11 succeeding years.

12 Q. Now what was the rate making treatment of the
13 \$72 Million?

14 A. The rate making of the \$72 Million was to
15 include it as a rate base reduction in the 2004 general
16 rate case.

17 Q. And what was the subsequent action by the
18 Commission with regard to the actions taken by the IRS?

19 A. There was a follow-up request made by the
20 company to -- originally I believe we filed to change
21 the tariff because we would have to pay back the number.
22 That request was --

23 Q. Excuse me just for a second, Mr. Marcellia, we
24 would have to pay back the number, you mean the rate
25 payers would have to pay, or you would have to pay the

0503

1 IRS back, or the rate payers would have to in a sense
2 make the company whole because of the rate base
3 deduction that was taken of the \$72 Million?

4 A. The thought was because the \$72 Million was
5 subtracted from the rate base and it then had to be
6 repaid that we should restore the \$72 Million as part of
7 the rate base calculation.

8 Q. Meaning the rate payers would have to restore
9 to the company the \$72 Million in rate base?

10 A. Yes.

11 Q. That was credited to the original refund for
12 the tax treatment, excuse me?

13 A. Yes, because rate -- the rate base was being
14 reduced to the benefit of the rate payers, so it would
15 come -- the cost would come from the rate payer.

16 Q. And did the Commission allow that?

17 A. Well, the change to the tariff was revoked.
18 I don't know if that was a Commission order or a company
19 decision. Somehow it was that was not to actually come
20 to fruition. Instead what occurred was as the payments
21 were made to the IRS over approximately 6 quarterly
22 estimated payments, we put those into a deferred account
23 as probably a 182 liability or something along those
24 lines. We captured it on the balance sheet, which
25 similar effect, but it allowed instead of being a tariff

0504

1 change, it was done through the regulatory process that
2 way. And then that was captured in a future general
3 rate case and recovered over a couple of years I
4 believe.

5 Q. So what we're really talking about here was
6 the interest that was owed the IRS I believe?

7 A. That's correct, that's all we're talking
8 about here.

9 Q. The company has been made whole for its
10 initial actions in taking the rate base deduction of the
11 \$72 Million?

12 A. Yes.

13 Q. Okay. Now you say in your testimony that the
14 company, well, let me start with a basic question, and
15 that is does -- is this a change perhaps in the way that
16 the company is going to look at either obligations owed
17 the IRS or refunds due from the IRS for rate making
18 treatment?

19 A. I don't know if I would characterize it as a
20 change. I think that the company's perspective is going
21 back to the 2004 order where it was contemplated that
22 the company could lose the deduction, and that was one
23 of the concerns that the Commission addressed in that
24 order and said that you could request accounting
25 treatment with interest. And so this is the with

0505

1 interest part, because the Commission treated the
2 underlying tax repayment part with the discussion we
3 just had, but the interest component that was -- that
4 needed to be paid to the IRS has not yet been addressed.

5 Q. Well, does the Commission really review the
6 taxes that are paid by the utility in any kind of
7 retrospective way after those, after the end of those
8 tax years? As you say, taxes I believe need to be paid
9 by, oh, looking at your -- somewhere in your testimony
10 it will say by -- well, rather than go back, I will just
11 ask you, which is a lot easier than trying to read my
12 notes. Your taxes are due when, your tax payments, if
13 owing?

14 A. If owing they're due March 15, June 15,
15 September 15, December 15, and then there is an
16 extension payment as well. So yeah, it's -- basically
17 it's quarterly.

18 Q. So I guess back to my question, for rate
19 making purposes, does the Commission go back
20 historically to look at the payments that were made, the
21 tax payments made by the utility, and net that out, if
22 you will, by the taxes that were recovered from rate
23 payers for the purpose of paying federal income taxes?

24 A. I'm not quite following you. When we file a
25 rate proceeding, it does have taxes in it, and so it is

0506

1 part of the rate procedure, but I'm not following --

2 Q. Let's just stop there, because I think maybe
3 we can just tie in an example. When we go back, let's
4 just hypothetically say that you file another rate case
5 immediately following this.

6 A. Hypothetically.

7 Q. Hypothetically, only hypothetically. And for
8 rate making purposes, would -- is there an adjustment
9 made in that test year, whatever that may be, that looks
10 at the amount of rate payer dollars that were collected
11 for the purposes of paying federal income taxes and the
12 amount that was actually paid by the company, in a sense
13 truing it up? If there are more taxes were paid, the
14 rate payers would then be under that scenario obligated
15 to pay more. If there were fewer taxes paid, then the
16 rate payers would -- there would be some kind of a
17 credit to the rate payers for the moneys that were paid.
18 Is that -- that's not what we do, is that right?

19 A. That's correct, I was going to say that's not
20 how we do it in a rate filing, because the taxes in a
21 rate filing include current and deferred taxes, and so
22 you don't have that kind of an almost cash basis is what
23 I would describe what you're looking at method of
24 accounting for that.

25 Q. Right, and I'm sure we could figure out a way

0507

1 if that were our accounting or our tax policy that would
2 take into consideration deferred taxes and all of the
3 other I would say impacts of some kind of tax treatment
4 of that nature?

5 A. I suppose something is conceptually possible
6 to do along those lines.

7 Q. Well, and I'm not asking you to kind of make
8 up that right now on the stand. But I guess so that's
9 not what we do, and yet this adjustment at least has on
10 its face that appearance, that going back now, because
11 we're going back to prior test years, and we're looking
12 at those according to the company and saying, well, we
13 had to make an additional interest payment to the IRS as
14 a result of our tax filing, which we controlled, and we
15 want, because we had to make that payment, we want the
16 rate payers to cover that interest that was -- and
17 already being made whole now for the \$72 Million that
18 was due and owing the IRS as a result of their rejection
19 of the -- of your adjustment that was made?

20 A. We are asking for recovery of the interest
21 paid to the IRS, and I think that was what was
22 contemplated in that 2004 order, because it seemed to --
23 the only way to comply with the 2004 order would be to
24 include an interest analysis which would be looking back
25 to see what that interest number would be.

0508

1 Q. Well, did the Commission say that interest
2 was part of that consideration?

3 A. Yes, it did.

4 Q. I thought the interest was -- in my -- I'm
5 reading from your testimony:

6 PSE should file an accounting petition
7 asking for appropriate treatment of any
8 back taxes and interest assessed.

9 Now does that mean that there would be -- I
10 mean how do we normally treat an accounting petition, do
11 we -- is it a guarantee that there's recovery by the
12 company of what's being deferred?

13 A. Not always.

14 Q. All right. And so that would be left up to
15 any proceeding in which that would be addressed?

16 A. Yes.

17 Q. Okay. And if -- and so that would -- I would
18 -- I mean I'm assuming that's still an open question
19 then rather than -- because you seem to be saying,
20 Mr. Marcelia, that closed the door. That the Commission
21 said file an accounting petition for treatment of any
22 back taxes and interest assessed, and that means the
23 Commission said okay, whatever, you know, whatever
24 interest as an example, and to be specific, whatever
25 interest was assessed is recoverable by the company?

0509

1 A. That I suppose is a good point, because I was
2 simply looking back to the order saying that the order
3 contemplated interest, here's interest, therefore it
4 needs to be addressed. Not necessarily prejudging that
5 you couldn't -- you could choose not to, but just saying
6 the order said it can be addressed, here we are to
7 address it.

8 Q. Okay. And that would -- and that's how I
9 would interpret it. I mean not to say that the
10 Commission would say yes or no to any of the elements in
11 an accounting petition right up front or -- but it was,
12 you know, subject to, you know, some future proceeding
13 in which the issues would be completely and fully
14 addressed.

15 So let's go back to -- I want to now go back
16 to a piece of your testimony on page 13. This is your
17 original testimony, 1T.

18 A. Yes.

19 Q. Okay. And there you talk about refunds being
20 made by the -- on tax refunds paid to the company by the
21 IRS with interest, but the interest received was not
22 sufficient to offset the interest paid. So these are --
23 were all the refunds related to the \$72 Million
24 adjustment?

25 A. Yes, because -- yes, that's correct, they

0510

1 were.

2 Q. Now did the company pay more in income taxes
3 in years 2002 and 2006 than it had received from rate
4 payers for the purpose of paying those taxes?

5 A. Are you asking me a cash basis question?

6 Q. Yes.

7 A. For 2002 through 2006?

8 Q. Those are the years in reference in your
9 testimony.

10 A. Let me think about that for a second. I am
11 not sure what analysis we show on that.

12 Q. All right.

13 A. It could show more or less, but I can't place
14 it in my mind right now.

15 Q. Well, I'm assuming from the company's
16 testimony that what you're really saying here is that
17 the company needs to be made whole?

18 A. For the interest.

19 Q. Right.

20 A. Yes.

21 Q. And the interest is a part of your overall
22 tax payment, it's interest owed to the IRS?

23 A. It is interest owed to the IRS, but it is not
24 recorded as tax expense.

25 Q. Right.

0511

1 A. It's recorded as interest expense.

2 Q. Personally if I paid income tax interest to
3 the, you know, to the IRS and there was an interest
4 payment, I would like to consider that to be in the
5 whole, I mean my obligation to the IRS --

6 A. Yes.

7 Q. -- is to be assessed as --

8 A. I would agree with that assessment, but for
9 accounting purposes they have different lines on the
10 income statement, and only taxes go to the tax line, but
11 I agree with you overall.

12 Q. So I guess the way I look at this is if there
13 was an interest obligation that was just kind of sitting
14 out there, but in fact the company recovered more money
15 from the rate payers than it actually was required to
16 pay as federal taxes, then the company has been made
17 whole. Because the purpose of recovering the net, as
18 Mr. Furuta was talking about in his testimony, the
19 purpose of recovering the net for or the, I don't know,
20 the I guess it's net up, if you will, I'm trying to
21 think, there's another term for it, but the, you know,
22 taking your revenue requirement and essentially every
23 dollar is a 35 cent, you know, add or gross up, yeah,
24 thank you, Chairman, for taxes, so I guess that's -- I
25 would think if the objective is to make the company

0512

1 whole, then we need to look back on those tax years to
2 determine whether or not your tax obligation actually
3 exceeded the moneys recovered from rate payers to pay
4 taxes and not, not to use the term cherry pick, but to
5 kind of rifle shot certain adjustments, because it
6 really is all -- the company pays its taxes in a whole,
7 not as a result of one, you know, form, whatever it may
8 be.

9 A. Yes, you're right, not one off basis. You're
10 right, we do pay taxes on the whole based on the income
11 as a whole. But in a rate proceeding, that's not how
12 taxes are set for rate purposes. You compare -- you
13 include the effects of current and deferred taxes, so it
14 almost sounds like you would be actually -- your
15 analysis to determine whether the company has been made
16 whole or not, which is a cash basis, that's only looking
17 at one slice of the tax calculation. The other side is
18 the deferred tax side to that, so typically that's not
19 how we set rates, or that's not what we've used
20 historically to set rates.

21 Q. Well, isn't this a departure from how we
22 traditionally or regularly set rates? I mean I think
23 your testimony said this is a unique situation.

24 A. It is a unique situation. What I was
25 contemplating with that comment was the fact that we

0513

1 have an order though which kind of gives a foreshadowing
2 of how the Commission would like us to address it.
3 Because you're right, typically you wouldn't cull out a
4 particular item. This was unique, it has an accounting
5 order or accounting language in a rate proceeding
6 associated with it, so in kind of meeting that, it's
7 unique, it's been culled out, but I would think it needs
8 to be addressed in a way that's consistent with how
9 taxes are calculated.

10 Q. Getting back to your point, I mean the
11 objective is to make the company whole, I mean that's
12 really what you want here.

13 A. That's correct.

14 COMMISSIONER OSHIE: I don't really have any
15 other questions, Mr. Marcellia, and I appreciate your --
16 I thought it was a good discussion, thank you.

17 JUDGE MOSS: Anything else from the Bench?

18 No, all right.

19 Then I believe that will bring us to any
20 redirect.

21 MS. CARSON: Yes, thank you.

22 MR. FFITCH: Your Honor, excuse me, may I
23 have a follow up to the Bench questions?

24 JUDGE MOSS: Sure, probably should do that
25 before the redirect. Go ahead.

0514

1 MR. FFITCH: Thank you, Your Honor.

2

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

4 BY MR. FFITCH:

5 Q. A couple of clarification points,
6 Mr. Marcellia. You've had a discussion regarding the
7 taxes paid by the company both -- with Commissioner
8 Oshie, and when you were referring to the company in
9 those answers, were you referring to Puget Sound Energy?

10 A. Yes, Puget Sound Energy.

11 Q. And you were not referring to the parent, the
12 ultimate parent, Puget Holdings?

13 A. Well, it -- the time periods we're talking
14 about, the parent would have been Puget Energy, because
15 it would be -- predated the merger transaction, but in
16 either case I would be talking about Puget Sound Energy.

17 Q. So you were -- all right.

18 Were you here for Mr. Markell's testimony
19 yesterday when I asked him which entity pays the taxes
20 for Puget and he indicated that it was the ultimate
21 parent?

22 A. Yes, I was here for that.

23 Q. And do you agree with that testimony?

24 A. Yes. When you file a consolidated tax
25 return, the tax obligation or the tax return is actually

0515

1 filed by the parent of that consolidated group. During
2 2008 that would have been Puget Energy.

3 Q. All right. And for 2009 that would continue
4 with the current parent; isn't that correct?

5 A. Yeah, for 2009 because that's the year with
6 the transaction in it, there will actually be two
7 returns filed, a stub period return which shows Puget
8 Energy as the parent to cover the 37 days prior to the
9 transaction, and then the Puget Holdings will be the
10 parent company for the balance of the year.

11 Q. All right. And these issues are discussed in
12 Puget Sound Energy's response to Public Counsel Data
13 Request 583, which has been marked as JHS-31, John
14 Story's 31. If you can just take a look at that, I just
15 have --

16 A. I'm looking at 583; is that correct?

17 Q. 583.

18 A. Okay.

19 Q. The exhibit has both a supplemental and the
20 original response. First of all in supplemental
21 response B, that essentially summarizes what you've been
22 saying and what Mr. Markell was saying about the filing
23 of tax returns for the Puget entities with the IRS,
24 correct?

25 A. Yes, that's correct, yeah.

0516

1 Q. All right. And if you go to the third page
2 of the exhibit, you'll see a question there, question B,
3 I believe that the word on the second line at the end of
4 the line in block capitals may be confidential. That's
5 a word from the PSE tax return. That's on page 3 of
6 exhibit, John Story's Exhibit 31. This is a request
7 to --

8 A. I have the exhibit, but I'm not following you
9 as to which word is confidential.

10 Q. Okay. I will just read it, it says:

11 Explain in detail why the total tax,

12 line 31 of each federal income tax

13 return 2006, 2005, 2004, for Puget Sound

14 Energy, Inc. shows the word --

15 And I don't want to say it because I believe
16 it may be confidential. If it's not confidential --

17 A. I don't believe it's confidential.

18 Q. Okay, the word is?

19 A. None.

20 Q. All right. And isn't it also the case that
21 the total tax for Puget Sound Energy for the year 2008
22 is also none?

23 A. Yes.

24 MR. FFITCH: Those are all the follow up I
25 have, thank you, Mr. Marcelia.

0517

1 JUDGE MOSS: All right, redirect.

2

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

4 BY MS. CARSON:

5 Q. Mr. Marcellia, how does the deferred tax
6 associated with Wild Horse bonus depreciation compare to
7 the deferred tax calculation associated with the
8 accounting change for repairs?

9 A. Well, as I was -- as I was mentioning, I
10 would classify them as being substantially different.
11 Bullish depreciation is a fairly straightforward
12 calculation. In this case Wild Horse expansion was
13 eligible for -- the adjustment for Wild Horse, the bonus
14 depreciation, is eligible for a 50% bonus depreciation.
15 That is a fairly straightforward calculation. That
16 contrasts greatly with the change of accounting method
17 calculation for repairs. That is a very complicated
18 calculation. The bonus depreciation has also been
19 subject to audit, not the -- not as it relates to Wild
20 Horse, but bonus depreciation has now been around for a
21 number of years off and on, and some of those years have
22 been subject to IRS audit, so we're fairly confident in
23 how the IRS views that adjustment. And the accounting
24 method change is much more complex and has the
25 uncertainty of not being reviewed by the IRS at this

0518

1 point in time.

2 Q. You mentioned that the Utah Commission was
3 using a future test year for including repair
4 allowances. What's the significance of mentioning the
5 future test year?

6 A. Well, I mean their test year has -- the test
7 year end was June of 2010, and I suppose if we had a
8 test year ended June 2010 it might be an appropriate
9 adjustment to pull into our rate case. Our adjustment
10 occurred after the close of the test year, so for it to
11 be an adjustment in our rate proceeding, it would have
12 to be qualified for a pro forma adjustment and be known,
13 measurable, and not offset by other items. So that's a
14 fairly significant distinction between the Utah case
15 where they're using a future test year and so there's a
16 whole different regulatory framework in play there.

17 Q. Is there a change in analysis in terms of the
18 costs and benefits being matched when you have a future
19 test year?

20 A. Yes, exactly, there would be. And it kind of
21 goes back to the question of is it offset by other items
22 and how certain is the actual calculation.

23 Q. Did the Utah Commission take other actions to
24 address this?

25 A. Well, the discussion in the Utah case, you

0519

1 can tell it was a settlement discussion. There were --
2 as part of the settlement, the Commission also changed
3 their flow through treatment, they moved to a full
4 normalization treatment as part of the conversation.
5 They pulled in the repair allowance, and they provided
6 explicitly for the recovery mechanism in the event that
7 the repairs deduction is challenged by the IRS. So it
8 was kind of a comprehensive modification that was part
9 of that Utah record.

10 Q. I want to turn your attention again to MRM-9,
11 you were questioned about that by Mr. Cedarbaum.

12 A. Yes.

13 Q. And I just want to clarify, I believe you
14 addressed the line that says total 1108 property taxes,
15 and did I understand that this is the taxes the company
16 expects to pay in 2009 for 2008; is that what you said?

17 A. Yeah, what I was trying to say there was the
18 tax that you see here are the actual taxes associated
19 with 2008. This is not the tax that would have been
20 recorded in 2008. And the reason I think that was
21 important is because when Staff in disallowing the
22 company's pro forma property tax adjustment did not use
23 these numbers. They went back to the numbers that were
24 recorded in our records, which would have been an
25 estimate of the numbers you see here. And as of

0520

1 December of 2008, the levy rates would have been an
2 estimated levy rate. So I wanted to make that
3 distinction that this was not what was recorded in 2008.

4 I suppose the other distinction I should make
5 is that the 2008 property tax calculation is the
6 property tax on all property that was owned by the
7 company as of January 1st of 2008. It does not include
8 property tax on capital expenditures that occurred
9 during 2008. So there is property that isn't reflected
10 here that is part of the rate, or I'm sorry, the test
11 year, and it's not on the schedule.

12 Q. We do have Mint Farm and Sumas listed here,
13 is that a full year for Mint Farm and Sumas?

14 A. No, those are pulled in because those were
15 plants that were acquired part way through the year, so
16 those are added to the schedule. The normal company
17 capital expenditures, T&D, gas distribution, those types
18 of expenditures would not be captured in this, because
19 this only would capture property that existed that the
20 company owned as of the lien date, which was January 1st
21 of 2008.

22 Q. Mr. ffitich asked you whether the taxes
23 associated with PSE on the consolidated tax return was
24 recorded as none?

25 A. That -- when you file a consolidated tax

0521

1 return, the only entity that shows a liability is the
2 parent company. All of the subsidiaries -- I think of
3 it like an Excel spreadsheet, you have a column for
4 every subsidiary. There is no tax actually calculated
5 on the return filing for each independent subsidiary.
6 Instead the items of income and expense are added
7 together, and a tax is calculated at the consolidated
8 level. So every subsidiary in a consolidated return
9 would show no tax liability. Not that they didn't incur
10 tax liability, it's just the mechanics of how the
11 consolidated return is assembled. When the IRS does an
12 audit for example, they will audit the individual
13 stand-alone calculations in determining their -- any
14 audit adjustments they might have, but it's not -- I
15 mean that's how you prepare a return. It doesn't mean
16 that there is no liability, it just means that that's
17 the presentation of it in a consolidated filing.

18 Q. And by saying none, does that indicate taxes
19 for PSE alone would be none?

20 A. No, it doesn't mean that they would be none.
21 It means that PSE's contribution to the consolidated
22 total would be picked up in the consolidated
23 calculation, so no.

24 MS. CARSON: Thank you, I have no further
25 questions.

0522

1 JUDGE MOSS: Okay.

2

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

4 BY MR. CEDARBAUM:

5 Q. I just have a few follow ups on the redirect
6 that just occurred on MRM-9; do you have that?

7 A. Yes, I do.

8 Q. This is a workpaper that was provided as part
9 of the company's rebuttal case; is that right?

10 A. Yes.

11 Q. So just by way of the calendar, this was
12 provided to Staff after Staff filed its direct testimony
13 in November?

14 A. I'm not sure if a version of this was
15 provided any sooner or not, but if not, then the
16 calendar that you're indicating is probably correct.

17 Q. Again you indicated this was a workpaper
18 provided as part of the company's rebuttal case, which
19 came in in mid December, which obviously postdates mid
20 November?

21 A. Yes, I'm certain that it was provided there,
22 but I don't know if it was provided in an earlier
23 workpaper or not.

24 Q. And am I correct that from your testimony
25 that what Staff -- what you say Staff used were the

0523

1 actual accrued property taxes for 2008 in its case?

2 A. Yes, Staff removed the company's pro forma
3 adjustment, which then put the adjustment back to the
4 amounts that were accrued during the test year, which
5 would not have been the numbers you see on this.

6 Q. Because these became available after that,
7 after Staff's case was prepared?

8 A. Um --

9 Q. Well, let me rephrase it. The actual taxes
10 paid by the company, property taxes paid by the company
11 for 2008, when was that figure known?

12 A. It would have been known in either March or
13 April of 2009. That's what I'm saying, I'm not sure if
14 it was included in one of our earlier workpaper sets
15 that we provided. I know it was included in the one you
16 mentioned, it may have been included earlier, but I
17 don't know.

18 MR. CEDARBAUM: Thank you.

19 JUDGE MOSS: All right, I believe that will
20 complete our examination, and so we will as we have done
21 with the other witnesses release you subject to recall
22 if needed, thank you.

23 THE WITNESS: Thank you.

24 JUDGE MOSS: Mr. Piliaris is next I believe.
25 Please raise your right hand.

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1 (Witness JON A. PILIARIS was sworn.)

2 JUDGE MOSS: Please be seated.

3

4 Whereupon,

5 JON A. PILIARIS,

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

7 herein and was examined and testified as follows:

8

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

10 BY MS. CARSON:

11 Q. Mr. Piliaris, please state your name and
12 title and spell your name for the Court.

13 A. My name is Jon Piliaris, J-O-N,
14 P-I-L-I-A-R-I-S, I'm a Regulatory Consultant with the
15 Pricing and Cost Service Group.

16 Q. Do you have before you what have been marked
17 for identification as Exhibit Numbers JAP-1T through
18 JAP-10?

19 A. I do.

20 Q. Do these exhibits constitute your prefiled
21 direct and rebuttal testimony and related exhibits in
22 this proceeding?

23 A. They do.

24 Q. Were these exhibits prepared under your
25 supervision and direction?

0525

1 A. They were.

2 Q. Do you have any corrections to any of these
3 exhibits at this time?

4 A. I don't.

5 Q. Are your prefiled direct and rebuttal
6 testimony and accompanying exhibits true and correct to
7 the best of your information and belief?

8 A. They are.

9 MS. CARSON: Thank you.

10 Your Honor, PSE offers Exhibit JAP-1T through
11 JAP-10 into evidence and offers Mr. Jon A. Piliaris for
12 cross-examination.

13 JUDGE MOSS: All right, hearing no objection,
14 those will be admitted as marked.

15 We have one cross-examination exhibit
16 designated for this witness which is JAP-11, Staff
17 response to PSE Data Request 9, is there any objection?

18 MS. CARSON: There is an objection based on
19 foundation.

20 JUDGE MOSS: All right. When we get to your
21 cross, Mr. Cedarbaum, apparently we will want to hear
22 that objection.

23 MR. CEDARBAUM: Thank you.

24 JUDGE MOSS: We'll just reserve on that.

25 MR. CEDARBAUM: I'm sorry, I thought you

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1 wanted me to start my cross.

2 JUDGE MOSS: Well, actually we may as well
3 begin with you. Let's see, Staff and Public Counsel and
4 Northwest Energy Coalition I believe have indicated
5 cross. All right, go ahead, Mr. Cedarbaum, you were
6 ahead of me, sorry.

7

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

9 BY MR. CEDARBAUM:

10 Q. Mr. Piliaris, good afternoon.

11 A. Good afternoon.

12 Q. Let's start off with exhibit JAP-11 and
13 provide some foundation. At pages 9 and 10 of your
14 rebuttal testimony, JAP-5T, you dispute Staff witness
15 Parvinen's conclusion that conservation savings must be
16 independently verified and evaluated in a post
17 installation analysis in order to meet the known and
18 measurable standard for a pro forma adjustment; is that
19 correct?

20 A. Correct.

21 MS. CARSON: Excuse me, what page are we on?

22 MR. CEDARBAUM: Beginning of page 9. What I
23 read I think was from page 9, about line 7 to 9.

24 BY MR. CEDARBAUM:

25 Q. Then on the following page, on page 10, you

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1 criticize Staff's position because it's your testimony
2 that Staff was able to evaluate the company's
3 conservation performance incentive mechanisms from 2003
4 to 2006 without a post installation analysis; is that
5 right?

6 A. That's part of the response there, yes.

7 Q. So you believe that Staff is being
8 inconsistent here between its position on the current
9 proposed conservation phase-in adjustments and its
10 ability to evaluate conservation savings in prior
11 situations?

12 A. Insofar as the validity of the conservation
13 savings are concerned, yes.

14 Q. And is it correct that in a Staff Data
15 Request Number 9, excuse me, a company Data Request
16 Number 9 to Staff, the company asked with respect to
17 this notion of independent verification and evaluation
18 to provide a description of how the Commission Staff has
19 evaluated and verified the company's conservation energy
20 savings through the years 2003 through 2008; is that a
21 data request that was provided to Staff by the company?

22 A. Correct.

23 Q. Is it correct that response was provided to
24 the company on November 30th, 2009?

25 A. That's what the prepared date says.

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1 Q. So you had that response in your possession
2 at the time you filed your rebuttal testimony in which
3 you characterized Staff's ability to evaluate
4 conservation savings without an independent post
5 analysis, post installation analysis from 2003 to 2006;
6 is that right?

7 A. Yes, this was in our possession.

8 Q. And is it correct that Data Request Number 9,
9 the response, describes Staff's evaluation of
10 conservation savings during those time periods that you
11 reference in your testimony?

12 A. It is a response.

13 Q. Subject matter is an evaluation of
14 conservation savings; is that correct?

15 A. Yes.

16 Q. And again for the periods of time that you
17 reference in your testimony, 2003 through 2006 and then
18 again in 2007?

19 A. Correct.

20 MR. CEDARBAUM: Your Honor, I would offer
21 Exhibit JAP-11.

22 JUDGE MOSS: If the only objection is
23 foundation, I'm going to overrule it. All right, the
24 exhibit will be admitted as marked.

25 BY MR. CEDARBAUM:

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1 Q. Turning to page 10 of, well, staying on page
2 10 of your testimony but now switching gears a bit to
3 the Blue Ridge evaluation that you talk about in your
4 testimony, and that was a report that involved an
5 evaluation of the company's energy conservation
6 incentive mechanism that was established through the
7 Commission's order in the 2006 rate case; is that right?

8 A. I believe that's correct.

9 Q. Is it correct that Blue Ridge was hired by
10 Puget Sound Energy through an RFP process?

11 A. Jointly with UTC Staff.

12 Q. Now if we look at your Exhibit JAP-6, page
13 11. I'm referring by pages I mean the page 11 as
14 referenced in the upper right-hand corner, that's the
15 actual pagination that the company provided.

16 A. You said page 11?

17 Q. Yes.

18 A. Okay, I'm there.

19 Q. Footnote 2 shows that that RFP was issued on
20 June 5th, 2009; is that right?

21 A. That's what it states.

22 Q. Do you know when Blue Ridge was actually
23 selected to do the work as a result of the RFP?

24 A. I do not.

25 Q. What we received I think last week, the

0530

1 company's response to Staff Data Request 257, Attachment
2 A, page 9, has some of this information, but I don't
3 know if the company has a copy of it that you could be
4 provided with.

5 MS. CARSON: Staff 257 is it?

6 Q. 257, Attachment A, page 9. This is not an
7 exhibit in the case.

8 Do you have that?

9 A. And at the top of the page begins 3.2?

10 Q. Yes.

11 A. Okay, I'm there.

12 Q. And what I'm referring to is the timeline
13 that's shown here, and just to confirm it shows the same
14 June 5th, 2009, RFP release date; is that correct?

15 A. Correct.

16 Q. And then it indicates July 31st, 2009, as the
17 date entitled complete PSE contractual agreement
18 process, so is that around or about the date that Blue
19 Ridge would have been selected and contracted to do the
20 work?

21 A. That was the scheduled timeline, I don't know
22 exactly when they were hired.

23 Q. It would have been sometime after June 5th
24 though?

25 A. Presumably.

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1 Q. This also shows that the Blue Ridge
2 evaluation is to be done in two phases. The first phase
3 is a -- occurs through a draft and a final two year
4 evaluation, and a second phase is a draft and a final
5 three year evaluation; is that right?

6 A. That's what's listed on the timeline,
7 correct.

8 Q. Are you unfamiliar with this information?

9 A. Generally I'm familiar, but I haven't been
10 involved deeply with the Blue Ridge folks.

11 Q. Would it be correct to say, and if you don't
12 know just say so, that the first phase report, or excuse
13 me, the second phase report would be a more detailed
14 evaluation of the energy incentive mechanism?

15 A. I'm not familiar with what the distinctions
16 are between the two different phases of the reports, if
17 they're different information that will be provided or
18 if it's just expanding on the same information for an
19 additional year.

20 Q. So you don't know if the report that's in
21 your exhibit is the ultimate final report to be issued
22 by Blue Ridge?

23 A. I'm aware that they're going to issue another
24 report following the one that --

25 Q. And you're not aware of any differences in

0532

1 the evaluation that they may undertake between the first
2 report and the second report?

3 A. No, I am not.

4 Q. And you're not aware then of any kind of data
5 collection or analysis that Blue Ridge did to prepare
6 the first report that's in your exhibit?

7 A. I am familiar with parts of the analysis
8 within the Blue Ridge report.

9 Q. Do you know when that analysis began by Blue
10 Ridge?

11 A. Generally speaking I believe it was sometime
12 in the summer, but I couldn't give you a precise date.

13 MR. CEDARBAUM: Thank you, those are all my
14 questions.

15 JUDGE MOSS: Thank you, Mr. Cedarbaum.

16 And it looks like Public Counsel has
17 indicated some cross for this witness.

18 MR. FFITCH: Thank you, Your Honor.

19

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

21 BY MR. FFITCH:

22 Q. Good afternoon, Mr. Piliaris.

23 A. Good afternoon.

24 Q. Simon ffitch for the Public Counsel Office,
25 and could you please turn to your rebuttal testimony,

0533

1 JAP-5T, and go to page 15.

2 A. I'm there.

3 Q. Are you there? And starting with the
4 question at line 5, you provide estimates of lost
5 revenue and lost margin from the Blue Ridge report that
6 we've just been looking at that's an exhibit to your
7 testimony, correct?

8 A. Correct.

9 Q. And then at line 13 in the immediately
10 following question, you're asked, did Staff or any other
11 party in this proceeding object to these Blue Ridge
12 findings, and you answered no, they did not. That's
13 your testimony, correct?

14 A. That is my testimony.

15 Q. And it's true, is it not, that Puget Sound
16 Energy provided a draft of this Blue Ridge two year
17 report to the CRAG, the advisory committee, Conservation
18 Advisory Committee, and requested that CRAG members
19 review and provide feedback?

20 A. That is my understanding.

21 Q. And isn't it in fact the case that the Public
22 Counsel objected to the preliminary two year report as
23 unnecessary?

24 A. I don't recall that.

25 Q. And isn't it true that Public Counsel

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1 informed Puget Sound Energy in writing that we would not
2 be providing any comments on the preliminary two year
3 report due to the short timelines provided to the CRAG
4 and due to our view that the report was unnecessary; do
5 you deny that?

6 A. I recall seeing a response from Public
7 Counsel. I don't recall all the details of it. I do
8 recall that the -- what I took away from the letter was
9 that they weren't -- they were going to hold judgment I
10 guess until the -- until the next draft. They didn't
11 have any comments on the current draft.

12 MR. FFITCH: Your Honor, may I approach the
13 witness?

14 JUDGE MOSS: Yes.

15 BY MR. FFITCH:

16 Q. Mr. Piliaris, I've handed you a copy of an
17 E-mail; do you have that in front of you?

18 A. I do.

19 Q. And that E-mail is dated Friday, October 9th,
20 2009, correct, at the top?

21 A. Yes.

22 Q. Second line. And if you look at the cc
23 group, this E-mail, which is from Stephanie Johnson of
24 the Public Counsel Office, your name is shown at the
25 bottom line of the cc group, correct?

0535

1 A. Correct.

2 Q. And would you just like to refresh your
3 memory about the contents of the E-mail?

4 A. Okay.

5 Q. Give you a moment to do that.

6 A. (Reading.)

7 I'm missing one of the words in the second
8 paragraph, that got hole punched out.

9 Q. Okay.

10 A. Unnecessary complications, not, do you
11 have --

12 Q. That's only, not only.

13 A. All right, thank you.

14 Q. Have you completed reviewing the E-mail?

15 A. I have.

16 Q. And I will ask you again, isn't it true that
17 via this E-mail Public Counsel informed Puget Sound
18 Energy in writing that we would not be providing any
19 comments on the preliminary two year report due to the
20 short timelines associated with the report, due to other
21 conflicting workload matters including other Puget Sound
22 Energy matters, and due to our view that we believed the
23 report was unnecessary and that we reserved our right to
24 comment on later drafts; isn't that accurate?

25 A. I believe that captures the essence of this

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1 E-mail.

2 MR. FFITCH: Thank you.

3 Your Honor, I would like to offer a copy of
4 this document as an exhibit, a cross exhibit for
5 Mr. Piliaris. I have copies available if the Bench is
6 amenable to receiving this as an exhibit.

7 JUDGE MOSS: I will mark it for
8 identification as JAP-12, any objection?

9 MS. CARSON: PSE agrees that it should be an
10 exhibit.

11 JUDGE MOSS: All right, received as marked.
12 You don't have any more questions on it, do
13 you?

14 MR. FFITCH: No.

15 JUDGE MOSS: All right, let's do that at the
16 end of the day.

17 MR. FFITCH: Thank you, Your Honor.

18 BY MR. FFITCH:

19 Q. Just one other area, Mr. Piliaris, a matter
20 of clarification, can you clarify whether the electric
21 conservation figures that are the basis for the
22 conservation phase-in adjustment include reduced
23 electric usage or savings that are due to electric to
24 natural gas fuel switching?

25 An example would be switching from an

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1 electric hot water heater to a natural gas hot water
2 heater.

3 A. Rather than waste the Commission's time, I
4 could confirm that subject to check. It sounds correct,
5 but I would prefer checking to make sure that that's
6 accurate.

7 Q. All right. This is an honest clarification
8 question. Frankly we were not able to determine with
9 certainty from our review, and so we were asking you now
10 whether or not those savings are incorporated.

11 A. Again, in this wrath of numbers, it would be
12 -- it would take me a little while to find that.

13 Q. All right, let me ask one related question.
14 Your answer may be the same, but at least we'll get the
15 question on the record, then we can figure out how to
16 get an answer. But the follow up is with respect to the
17 natural gas conservation savings estimates that are the
18 basis for the conservation phase-in adjustment, do those
19 savings estimates reflect increased usage from the fuel
20 switching customers who discontinued use of an electric
21 appliance and moved over to the use of a natural gas
22 appliance, the flip side of my first question?

23 A. So could you repeat the first part of your
24 question?

25 Q. On the natural gas numbers?

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1 A. Yeah.

2 Q. With respect to the natural gas conservation
3 savings --

4 A. Yes.

5 Q. -- that are the basis for the conservation
6 phase-in adjustment, do those estimates reflect
7 increased usage from the fuel switching customers, a
8 natural gas customer who switched from electric to
9 natural gas?

10 A. I do not know.

11 MR. FFITCH: Your Honor, I would -- it
12 appears that the company's willing to find out the
13 answer to that, and perhaps we could make that a record
14 requisition or a Bench request if the Bench is
15 interested.

16 JUDGE MOSS: Yes, I think we would like to
17 know the answer to that question. It does seem
18 important, so do you have it in mind, Ms. Carson?

19 MS. CARSON: I do.

20 JUDGE MOSS: All right, well, we'll treat it
21 as -- actually I don't think I have done a, in terms of
22 an exhibit at least, I have not identified a Bench
23 request response, so I have reserved B-1 for the Public
24 Comment exhibit that Public Counsel will submit later in
25 the proceeding, so we'll just reserve B-2 for this

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1 response, and I think we're probably up to about Bench
2 Request 4 or 5 in this proceeding, I'll call it 5 for
3 safety, so that will be Bench Request 5.

4 MR. FFITCH: Excuse me, Your Honor, with
5 respect, the Public Counsel Bench Request Response is
6 already identified as B-2 on the list.

7 JUDGE MOSS: Right, but I'm going to strike
8 that pursuant to our earlier conversation.

9 MR. FFITCH: Oh, I'm sorry, you're ahead of
10 me, Your Honor.

11 JUDGE MOSS: No, I just haven't disclosed my
12 plan. I'm going to give you another number for that.

13 MS. CARSON: So this will be Bench Request 5?

14 JUDGE MOSS: I'm just going to call it Bench
15 Request 5. I've issued some in writing prior to now,
16 but I don't remember how many. I know it was no more
17 than 4, so I will call it 5 for identification. And
18 then for purposes of exhibit, we'll make it B-2 when it
19 comes in.

20 When can we have that, in the next day or
21 two?

22 THE WITNESS: That shouldn't take very long
23 to --

24 JUDGE MOSS: Maybe by the end of the day
25 we'll have that. We'll see, we'll have it probably by

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1 the end of the proceeding.

2 MS. CARSON: We'll try for tomorrow.

3 JUDGE MOSS: All right, very good, thank you.

4 MR. FFITCH: Thank you, Your Honor, no
5 further questions for Mr. Piliaris.

6 JUDGE MOSS: Okay.

7 Let's see, Mr. Johnson I guess, Northwest
8 Energy Coalition had some questions?

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

10

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

12 BY MR. JOHNSON:

13 Q. Good afternoon, Mr. Piliaris.

14 A. Good afternoon.

15 Q. I have just a few areas of questions all
16 focusing on your rebuttal testimony, JAP-5T. I would
17 first like to refer you to page 10, please.

18 A. I'm there.

19 Q. And at the bottom of page 10, you make the
20 statement that the measurement and evaluation of the
21 company's conservation savings is consistent with
22 industry standards as defined by the International
23 Performance Measurement and Verification Protocol. My
24 first question is, that protocol to which you refer, is
25 that discussed elsewhere in your rebuttal or direct

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1 testimony or in your exhibits?

2 A. It is not.

3 Q. Okay. Can you briefly explain for the
4 Bench's edification what that protocol is?

5 A. I probably would have to defer that level of
6 detail to probably -- I don't know if there's another
7 witness on the panel that could answer that.

8 Q. Do you have any understanding at all since it
9 is referred to in your testimony what that protocol is?

10 MR. CEDARBAUM: Your Honor, I will object,
11 it's been asked and answered. In addition, it's
12 difficult I guess to proceed with questioning from a
13 party who hasn't staked out a position on this issue or
14 any issue in the case. Northwest Energy Coalition has
15 not filed testimony, so we really don't know what their
16 position is. That's not to say they can't take one in
17 brief, but at this stage we don't know whether this is
18 friendly cross, unfriendly cross, so I would object on
19 those grounds, but also because that question was asked
20 and answered.

21 JUDGE MOSS: Well, let's take that question
22 up. Mr. Johnson, is the Northwest Energy Coalition's
23 position in this case regarding the conservation
24 phase-in adjustment consistent or inconsistent with that
25 position taken by the company?

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1 MR. JOHNSON: We don't know yet, Your Honor.
2 It will depend in part on the questions that are raised
3 at this hearing.

4 JUDGE MOSS: I see, okay, well, then I will
5 let you proceed. Insofar as the International
6 Performance Measurement and Verification Protocol as
7 concerned, it appears this witness doesn't know what it
8 is, so there's really no point in pursuing any questions
9 on that.

10 MR. JOHNSON: That's fine, thank you.

11 BY MR. JOHNSON:

12 Q. The next area, Mr. Piliaris, on page 14, if
13 you could refer to that, please. And again I'm
14 referring to rebuttal testimony.

15 A. I'm there.

16 Q. You refer to the conservation incentive
17 mechanism that was adopted in early 2007, correct?

18 A. Correct.

19 Q. And that mechanism was a three year pilot,
20 approximately three year pilot, correct?

21 A. Correct.

22 Q. And am I correct that that pilot expired at
23 the end of 2009?

24 A. Correct.

25 Q. Is PSE proposing in this proceeding to

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1 resurrect the conservation incentive mechanism on either
2 a permanent basis or as a continuation of the pilot?

3 A. Not in the same form as it was implemented
4 during the pilot phase. Essentially the company has
5 reviewed the impacts of trying to achieve as much
6 conservation savings under the incentive mechanism as
7 possible, and what it found was it was losing probably
8 four times more money due to lost margins than the
9 incentive mechanism was providing. So in that regard,
10 the company has elected not to renew the incentive
11 mechanism.

12 Q. The last statement I want to ask about,
13 Mr. Piliaris, is at the bottom of page 20 carrying over
14 to the top of page 21, and you state:

15 This case presents an opportunity for
16 the Commission to formulate clear
17 written policy and approve permanent
18 mechanisms that promote conservation
19 investment, et cetera.

20 You use the word mechanisms plural. Is there
21 a mechanism in this case other than the conservation
22 phase-in adjustment that, or in your testimony, that you
23 are proposing that the Commission approve?

24 A. Not in this case.

25 Q. So should that be singular mechanism, not

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1 plural?

2 A. That was meant to be general, more broadly
3 approving mechanisms for all utilities who requested
4 them.

5 MR. JOHNSON: Okay, that's all I have, Your
6 Honor.

7 JUDGE MOSS: Thank you, Mr. Johnson.

8 MR. FFITCH: Your Honor, may I be heard, I'm
9 sorry?

10 JUDGE MOSS: May you be heard? What are you
11 proposing to do, Mr. ffitch?

12 MR. FFITCH: I think I may have jumped the
13 gun, but I wanted to be heard regarding the Northwest
14 Energy Coalition's ultimate position in the case, and I
15 can wait until the questioning of the witness is
16 finished. I realized we haven't gotten to the Bench or
17 any matters yet, so.

18 JUDGE MOSS: Well, I'm not sure what you're
19 going to have to say about it since Mr. Johnson says he
20 doesn't know yet what the Coalition's position is.

21 CHAIRMAN GOLTZ: He might know by the end of
22 the questioning.

23 JUDGE MOSS: Okay, well, we can have some
24 discussion if needed.

25 MR. JOHNSON: Your Honor, I reserve the right

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1 then to respond to whatever comments Mr. ffitch raises.
2 I think this is unnecessary.

3 JUDGE MOSS: Well, this is a little unusual.
4 Did you want to wait until after we finish our
5 questions, Mr. ffitch?

6 MR. FFITCH: I'm happy to do that. I wanted
7 to really raise a procedural issue about the propriety
8 of the Northwest Energy Coalition's approach, and that
9 can wait until after the questioning is done.

10 JUDGE MOSS: All right, well, let's complete
11 our questioning, then we'll get to that.

12 And so I believe we have come to the point
13 where we can have questions from the Bench if there are
14 any.

15

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

17 BY CHAIRMAN GOLTZ:

18 Q. Good afternoon, I have just questions about
19 the conservation phase-in adjustment, and first a fairly
20 more generic question. Are you aware of any other,
21 sometimes in testimony in these cases they say as the
22 Missouri Commission did or as the South Dakota
23 Commission did, are you aware of any other state
24 commission that has approved a comparable conservation
25 phase-in adjustment?

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1 A. Certainly many commissions around the country
2 have approved decoupling and lost margin recovery
3 mechanisms, they're all different. I believe they all
4 mean to address the same thing, which is to address the
5 disincentives to conservation. So specifically to your
6 question, I don't -- I'm unaware of any mechanism like
7 this that has been proposed around the country, but
8 that's not to say that just about every mechanism
9 currently in place is different.

10 Q. Sure. And so while this is not decoupling,
11 this is designed to address the same lost margin issues
12 that decoupling is meant to address?

13 A. Much more narrowly.

14 Q. So let me ask this. The basis for the
15 adjustment would be that over the course of the test
16 year, the amount of conservation accumulates, and so the
17 amount of conservation at the end of the test year is
18 greater than at the middle or the start of the test
19 year, and so therefore that would lead to negative
20 earnings consequences to the company. So what -- let's
21 just hypothetically look ahead a decade or two, and
22 let's say that we're still concerned about conservation,
23 but we're also, as some policy makers in this state and
24 elsewhere are saying, we ought to be electrifying our
25 vehicles to get off of petroleum. So in actuality,

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1 there's going to be a load increase for utilities
2 including Puget Sound Energy, and the load at the end of
3 the test year because of that will be greater than the
4 load at the start of the test year because people are
5 buying more electric vehicles during the test year. So
6 would this adjustment, theoretically this adjustment
7 would work in reverse for a reverse adjustment compared
8 to this?

9 A. That would presume that load growth is an
10 offset to the conservation that's achieved, and I
11 believe it's my testimony that it is not.

12 Q. No, I'm not saying it's necessarily an
13 offset, what I'm saying is it's a separate type of
14 adjustment. If you're saying that over the course of
15 the test year you're harmed by reduced load, then also
16 all conservation equal so there's no conservation during
17 the year, but during the year there's increased load due
18 to more plug-in electric vehicles, wouldn't the
19 theoretical basis be the same for an adjustment in the
20 other direction?

21 A. I don't believe there would need to be any
22 adjustment for that case. Whatever electric load was
23 plugged in during the test year, that load would be
24 apparent and would be reflected in test year loads.

25 Q. But the test year load would be -- but your

0548

1 revenues would -- well, so you're just disagreeing with
2 me, that one's not the flip side of the other?

3 A. Yes, I believe I am.

4 Q. Let me ask you this, if you turn to page 15
5 of your prefiled rebuttal. So there you talk about the
6 Blue Ridge study, and I'm starting on line 8, you say:

7 Blue Ridge confirmed that the
8 conservation implemented in these two
9 calendar years were projected to result
10 in over \$46 Million in lost revenues and
11 \$34 Million in lost margin to the
12 company. As a result Blue Ridge
13 concluded that the ECIM does not provide
14 full recovery of lost margin.

15 Could you explain to me what is included in
16 the term conservation implemented. Is that all
17 conservation implemented by all customers in PSE's
18 service area?

19 A. I should be more clear with what I'm saying
20 there. It's specifically customer, or I'm sorry,
21 company sponsored electric conservation programs or the
22 savings associated with those programs.

23 Q. And those would include the type of program
24 that I think in other proceedings we've called
25 programmatic whereby Puget offers a rebate to customers

0549

1 or some sort of incentive payment, so if you buy --
2 insulate your attic, you might get \$200 from the
3 company?

4 A. Correct.

5 Q. Does it also include education programs, or
6 do you know?

7 A. If there are any reported electric energy
8 savings reported to the Commission that are associated
9 with those programs, then the answer would be yes. But
10 I'm not exactly sure to what extent education for -- if
11 there are any savings assigned to those education
12 programs. When we report that we achieved 274 million
13 kilowatt hour savings in 2008, I don't believe there is
14 much, if any, savings associated with education in that.

15 Q. So as far as what -- you're saying that this,
16 the entire amount of this lost revenues and lost margin
17 is attributable to the company sponsored direct
18 programs?

19 A. Correct.

20 Q. And where do I find the background for that
21 elsewhere in your testimony or elsewhere in the
22 exhibits?

23 A. In the exhibits it would be in the Blue Ridge
24 report itself, and I believe I make note of a -- start
25 at page 9. That would be page 9 of the report, not

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1 necessarily of the exhibit.

2 Q. So it doesn't say where they got the -- and
3 when you say page 9 of the report, you're referring to
4 the number at the bottom of the page?

5 A. Correct.

6 Q. So that's Exhibit JAP-6, page 19.

7 A. I would also direct you to, actually probably
8 more appropriate to direct you to the page numbered 44
9 at the bottom.

10 Q. And the bottom meaning Table 7? Let's get
11 straight on pagination, why don't we use the numbers in
12 the upper right-hand corner, okay?

13 A. Okay. One moment, please. All right, so
14 let's turn to 65 in the top right corner.

15 Q. Okay. And that's Table 12?

16 A. Table 13.

17 Q. Okay, Table 13.

18 A. So on Table 13, what you see there in the
19 second row is the row titled lost margin annual
20 beginning in 2007 with 2.367 million.

21 Q. Right.

22 A. And going on all the way to 2011.

23 Q. And then Footnote 92 is the reference for
24 that information?

25 A. Correct.

0551

1 Q. And that says a response to a data request.

2 A. Correct.

3 Q. And that was a data request from whom to
4 whom?

5 A. From Blue Ridge to the company.

6 Q. And so these are company numbers?

7 A. Correct.

8 Q. So then when you say back on your testimony,
9 well, first let me go to Exhibit JAP-6, page 3, and the
10 preface there where it says in the second line, starting
11 at the middle of the second line, Blue Ridge Consulting
12 Services has not made an analysis, verified or rendered
13 an independent judgment of the validity of the
14 information provided by others. I assume that others
15 would include Puget Sound Energy?

16 A. I wouldn't know how to interpret that, the
17 others.

18 Q. Okay. So but I guess my question is back on
19 your rebuttal testimony.

20 A. So it would be page 10?

21 Q. I think it's page wherever we were before,
22 page 15.

23 A. 15.

24 Q. When it says starting on line 8, Blue Ridge
25 confirmed about the conservation implement, that the

0552

1 conservation implemented in these two calendar years
2 were projected to result in \$46 Million in lost revenues
3 and \$34 Million in lost margin, I guess they didn't
4 confirm those numbers, they just confirmed PSE's
5 projection?

6 A. I guess the way I would respond to that is
7 that they used those numbers without objection in
8 drawing their conclusions in the report, so --

9 Q. What I'm asking though is, I don't see in the
10 report that Blue Ridge confirmed the validity of those
11 numbers. It looks to me like they accepted Puget's
12 numbers.

13 A. That's a fair assessment.

14 Q. Okay, so -- and you don't know how they --
15 how Puget really got to those numbers?

16 A. I calculated those numbers.

17 Q. You calculated those numbers?

18 A. Yes.

19 Q. And it's based only on -- but we don't see
20 the calculations how you got to the number of lost
21 margin in any workpaper here?

22 A. No, because that wasn't necessarily the point
23 of -- we were -- in the case we're proposing the
24 conservation phase-in adjustment. These numbers
25 calculate the full effect of the lost margin, which

0553

1 we're not at least in this case requesting recovery of
2 through the phase-in adjustment, so we didn't believe it
3 was necessary at this time to provide all of that
4 detail. However, I would note that in one of the data
5 responses to Staff, I believe it was data request from
6 Staff to the company Number 138, they requested a
7 presentation that I made along these lines to the CRAG
8 as well as I believe at the very least a spreadsheet
9 that calculates how the company comes up with its lost
10 margin figures. So there is -- you can see on my table
11 there's a fairly thick response, and I would say about
12 half of that thickness is the spreadsheets that provide
13 that detail that you're talking about.

14 Q. So this lost margin calculation then would --
15 assuming would not include, as you mentioned, someone
16 who puts in insulation in their electrically heated home
17 because they saw a PSE flier saying it's a good idea, it
18 would not include that?

19 A. I don't believe we would have any way of
20 knowing whether -- however, I would caution that if it
21 did, it would be reflected -- it may be reflected -- if
22 it was installed within the test year, it would be
23 reflected in a reduction in test year load.

24 Q. Right, but your total lost margin calculation
25 therefore is only, according to your calculations, only

0554

1 reflects a portion of the lost loads due to
2 conservation?

3 A. Yes, that's correct.

4 Q. Okay.

5 A. The effects of conservation go beyond just
6 the company sponsored conservation.

7 Q. Right.

8 A. The company feels the effects of all forms of
9 conservation regardless of who funds them.

10 Q. And lost -- and the lost load and therefore
11 lost margin would also be attributable to economic
12 downturn for example, or could be?

13 A. No, we confined our analysis to just
14 conservation.

15 Q. No, I know, but I'm saying your analysis is
16 confined to your programmatic conservation, but overall
17 the issue of loss of load or loss of revenues or lost
18 margin also relates to losses because businesses reduced
19 their operations because of the economy?

20 A. Not in the context that we have been
21 proposing. The company has attempted to more narrowly
22 focus --

23 Q. I understand.

24 A. -- its phase-in adjustment.

25 Q. I'm just making a -- I'm throwing you a

0555

1 softball here.

2 A. I apologize. Clearly load varies for a
3 variety of reasons, it goes down for a variety of
4 reasons. The company doesn't necessarily propose to be
5 made whole for all of these various reasons. The focus
6 right now is being made whole for the effects of
7 conservation.

8 Q. And here's -- and more narrowly than that,
9 the programmatic conservation because the
10 non-programmatic is hard to measure?

11 A. Correct.

12 Q. And so tell me how you measure the
13 conservation of the programmatic nature where let's say
14 you have a -- someone does insulate their attic with
15 some assistance from Puget. How do you -- you don't
16 measure that by a before and after analysis of that
17 customer's energy usage?

18 A. Not for a residential customer. The company
19 does a fair amount of post installation evaluations of
20 more customized and more expensive conservation
21 measures, particularly for the commercial and industrial
22 sector. But by and large the savings reported for the
23 residential sector are a function of what are called
24 deemed savings more often than not coming from the
25 regional technical forum multiplied by some unit, number

0556

1 of units, widgets if you will. Multiply the two, and
2 the product is the savings that are reported.

3 Q. And the same would be true with new energy
4 efficient appliances, you make some assumption on how
5 much each of those appliances will save the average
6 customer?

7 A. And oftentimes we rely on the regional
8 technical forum for that information.

9 CHAIRMAN GOLTZ: Thank you, I have no further
10 questions.

11 JUDGE MOSS: Commissioner Oshie.

12 COMMISSIONER OSHIE: Thank you, Judge.

13

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

15 BY COMMISSIONER OSHIE:

16 Q. Mr. Piliaris, just a couple follow-up
17 questions. You testified in response to Mr. Johnson
18 that the company was not going to pursue the incentive
19 program that it was authorized to use in past years; is
20 that true?

21 A. Correct.

22 Q. Okay. And so the only recovery that they're
23 seeking then or, yeah, the only recovery for the impacts
24 of their conservation programs would be through this
25 mechanism?

0557

1 A. At this time within this case, yes.

2 Q. And can you explain the company's decision,
3 and I suppose the simple answer to me is that the
4 company, to use kind of a colloquial term, you know, has
5 it all riding on this having abandoned, if you will, any
6 interest in its incentive program. Is that an -- is
7 that how I should characterize this?

8 A. I would characterize this as the company has
9 shifted its focus away from incentives per se and more
10 towards cost recovery, and specifically the lost margin
11 recovery, and the phase-in adjustment is a small piece
12 of the overall lost margin recovery in the company's
13 opinion, so the focus now is more on cost recovery.

14 Q. Doesn't the incentive -- any recovery under
15 the incentive mechanism make at least from your
16 testimony, not in whole but certainly makes the company
17 in part whole for its conservation program investments?

18 A. Again --

19 Q. The impacts of their conservation program.

20 A. Again the company when looking at the
21 incentive mechanism, it seemed to confuse -- it seems
22 more confusing or to confuse the issue more than it
23 seems to help it. We believe that the mechanism should
24 be more reflective of what we're trying to address,
25 which is disincentives, not incentives. As I mentioned

0558

1 earlier, we calculated that we're losing probably four
2 times more money in lost margin than incentive for doing
3 more conservation. So from a rational standpoint, it
4 doesn't make any sense to go beyond the target per se,
5 because doing so, every unit of savings you'll lose \$4
6 for every \$1 you gain.

7 Q. The company is willing to give up whatever
8 revenues it made under the program, the incentive
9 program as it existed, in lieu of its hope that we
10 provide some kind of an opportunity for recovery in this
11 case?

12 A. This case and probably some to follow.

13 Q. Some to follow?

14 A. As I mentioned earlier, right now this
15 phase-in adjustment only addresses a small piece of the
16 lost margin recovery, and we fully intend to seek
17 recovery of the entire lost margin due to conservation,
18 company sponsored conservation.

19 Q. Okay. I think in response to the Chairman's
20 testimony, you -- excuse me, question, although I was
21 confused there for a moment myself. I don't know if I
22 can pull it all together now. Well, we'll just have to
23 try.

24 I want to get back to this notion of what --
25 the lost margins being recovered through your program.

0559

1 I think in response to the Chairman's questions you
2 stated that certainly any increase in load would not be
3 reflected; is that right?

4 A. Those increases in load will happen
5 regardless. What we're trying to address is our
6 disincentives to conservation.

7 Q. Let me give you my personal situation, tell
8 me what your suggested or the company's suggested
9 program would result in. Let's say I replaced a furnace
10 and -- with -- and there's no -- there's no conservation
11 program incentive or payment made by the utility to do
12 that because it was a water -- it was a boiler, hot
13 water type radiant heat system as opposed to a natural
14 gas forced air system, and that resulted in about 50%
15 savings in natural gas, in therms. Now how would your
16 -- what would your program do, in concept how would it
17 treat those roughly during the heating season 100 therms
18 that are not sold?

19 A. To the extent that those therms not sold are
20 reflected in the test year load, then that conservation
21 would be reflected. To the extent that they happened
22 outside of the test year, after the test year, then they
23 would not be reflected. Our issue really is getting the
24 conservation that's implemented by the company reflected
25 in the rates that are charged. So any conservation, for

0560

1 this case for example, any conservation whether it was
2 implemented or funded by the company or self funded
3 prior to January 1, 2008, it's reflected in test year
4 load. It's after that that only perhaps part of it,
5 perhaps none of it, is reflected in load.

6 Q. Let me go to another example. I think I
7 understand that part, what you just testified to. Let's
8 say hypothetically that I changed out my hot water
9 heater, made an improvement using an incentive payment
10 from the company to do so. At the same time since I was
11 replumbing, if you will, my natural gas system, I decide
12 to add a natural gas dryer, oven, and cooktop. So my
13 load actually to the company didn't decrease, but in
14 that situation let's say hypothetically but for the
15 company then it would get credit, if you will, for the
16 lost margin under your program for the hot water heater
17 changeout because I accepted an incentive payment from
18 the company, and how would the increase in load from my
19 new gas appliances be reflected in your program?

20 A. It would not be reflected in the program.

21 Q. And in that situation of course, the
22 hypothetical is that the person making that decision
23 wouldn't have added the new appliances had they not had
24 to replumb the gas system to add the gas hot water
25 heater, so does that seem fair to you? The company did

0561

1 nothing to -- other -- there was an incentive payment
2 for the gas hot water heater, and so under your program
3 there would be credit for that, but at the same time --
4 and certainly there's -- and if there -- and I know it's
5 difficult to kind of hypothetically assume a causation
6 issue but you have to for this, but load actually
7 flattens out, therms will increase, so that would not be
8 -- that's -- the company's not harmed by my load as an
9 example if I were the customer, but the company would
10 get credit for its lost margin.

11 A. Generally speaking I think that's probably
12 true.

13 Q. Now you're aware in Washington -- let me --
14 I'll just preface that with another question. How
15 familiar are you with how we treat the company's
16 expenditures for energy efficiency programs that they
17 administer?

18 A. When you say treatment, what do you mean
19 by --

20 Q. Rate treatment.

21 A. Through the riders and the trackers, just
22 generally familiar.

23 Q. Are you familiar that the -- enough with it
24 to know that the moneys used by the company to implement
25 all of its energy efficiency program costs are recovered

0562

1 from rate payers in an annual true up mechanism, and
2 it's been that way in Washington for quite some time?

3 A. I am aware of that.

4 Q. And so where does the company -- if they have
5 to make an incentive payment to a customer to add
6 insulation, put in a new furnace, put in a new ductless
7 heat pump, where does the company get the money to make
8 that incentive payment to the rate payer?

9 A. From other rate payers.

10 Q. From other rate payers, including the rate
11 payer that might be getting the benefit?

12 A. Sure.

13 Q. So let's say that there's insulation as an
14 example, and so do you know what the company's incentive
15 payment for a customer to improve the insulation, attic
16 insulation, of any given home?

17 A. I'm not familiar with those details.

18 Q. Let's assume that it's about let's assume
19 maybe 10% of the actual cost. Does that seem
20 reasonable, \$1,500 job, \$150 payment?

21 A. I would see it even being higher than that,
22 but we'll go with 10%.

23 Q. Well, we can go 20 for the purposes of
24 hypothetical, yeah. Where's the other, you know, that's
25 a \$300 payment, and so where's the other \$1,200 come

0563

1 from?

2 A. From the other rate payers initially.

3 Q. No, this is the \$300 would come from the
4 other rate payers or the rate payer class, the \$1,200
5 would come from --

6 A. Whoever's installing the --

7 Q. The rate payer?

8 A. Yes.

9 Q. So the rate payers, on both ends of that
10 equation, the rate payers are -- they pay, you know, the
11 company for its incentive, for its conservation
12 programs, if they want to use the conservation program,
13 then they have to pay again?

14 A. A very small amount relative to the benefits
15 received through the program, the incentives themselves.
16 If you would like, I can give you an example of a --

17 Q. Well, I'm just -- it's not that I want to
18 stop you from testifying about the benefits that the
19 rate payers receive, I'm really focused on where the
20 money comes from to implement the conservation programs.
21 So in fact doesn't every dime that's used by rate payers
22 through the company or not come from -- for the
23 implementation of conservation, at least for our
24 investor owned utilities, come from the rate payers?

25 A. Yes, the company does not dispute that. It's

0564

1 the unrecovered costs that we're really after at the
2 phase-in adjustment, other non-conservation costs.

3 Q. And so if -- but you're not recovering that
4 lost margin from all rate payers, you're only recovering
5 the lost margin from those rate payers that happen to
6 want a little bit of assistance to get that particular
7 measure done?

8 A. No, we would be collecting -- the phase-in
9 adjustment would apply to all rate schedules.

10 Q. Under this program?

11 A. Yes.

12 Q. Yeah.

13 A. So it would be recovered broadly.

14 Q. So what happens in that -- well, okay, so
15 that would be -- so the recovery comes from rate payers
16 again. I mean they have to -- they have to reimburse
17 the company for the lost margin?

18 A. Well, the company has costs of providing
19 service, and the expectation is that there would be some
20 load there to generate revenues to recover those costs,
21 and the conservation is eating into the company's
22 ability to recover those costs. So if we, for example,
23 if there was a decoupling mechanism and recovery of a
24 fixed cost was effectively guaranteed, then this really
25 wouldn't be an issue.

0565

1 Q. Well, are you familiar with our recent order
2 in the Avista case?

3 A. At a high level.

4 Q. Okay. What's stopping the company from
5 filing for approval for a decoupling mechanism?

6 A. I guess the first order, first hurdle would
7 be the merger order that precludes us from doing so.

8 Q. Well, isn't this just another form of a
9 decoupling mechanism?

10 A. No, it is not.

11 Q. Do you think it's consistent with the merger
12 order?

13 A. It is completely.

14 Q. Doesn't this recover from -- what's the
15 purpose of a decoupling mechanism, isn't it to recover
16 lost margin from rate payers from company sponsored
17 conservation?

18 A. Decoupling is meant to break the link between
19 revenues and loads and revenues or profits.

20 Q. So this mechanism wouldn't break the link
21 between the company's disincentive to continue to invest
22 rate payer money in conservation programs and measures,
23 that's what you're saying, this doesn't break the link?

24 A. No, it does not, unless there is some other
25 significant change in the way the company's rates are

0566

1 designed.

2 COMMISSIONER OSHIE: All right, I don't have
3 any other questions.

4 JUDGE MOSS: Anything from you, Commissioner
5 Jones?

6 COMMISSIONER JONES: I'm enjoying this.

7 COMMISSIONER OSHIE: Should I continue?

8 COMMISSIONER JONES: Testimony from the
9 Chairman and testimony, okay, this is testimony from
10 Commissioner Jones.

11

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

13 BY COMMISSIONER JONES:

14 Q. Turn to page 17 and 18 of your rebuttal,
15 please, and I was intrigued by your comment I think in
16 response to Commissioner Oshie's question, maybe
17 Chairman Goltz, you said this is just the first shot.
18 So on page 17 beginning with line 15 and going into page
19 18, you describe I guess an alternative for the
20 Commission to consider.

21 A. Not necessarily. It was more meant to be an
22 illustration of the larger problem, the larger lost
23 margin number, which is significantly higher than the
24 amount recovered through the phase-in adjustment.

25 Q. But just so I understand it, so you are

0567

1 saying that the conservation phase-in adjustment could
2 be modified to reflect any company sponsored
3 conservation through the end of the rate year?

4 A. Assuming there are no objections to the how
5 known or measurable the conservation numbers or savings
6 were, yes, it could be modified.

7 Q. And I think on page 18 you suggest that
8 perhaps the Commission could include conservation
9 savings from the NEEA programs?

10 A. The company currently spends quite a bit on
11 the NEEA programs, and there are reported savings
12 associated with those, particularly the reported savings
13 in the February reports, the annual reports. So
14 although we didn't do it particularly in this case for
15 this phase-in adjustment, I think there is -- there
16 would be grounds for including it in a broader
17 adjustment.

18 Q. So I just want to clarify in the what I call
19 Proposal A in what you've submitted to the Commission in
20 this conservation phase-in adjustment, you do not
21 include any savings attributed to NEEA because they're
22 difficult to measure and attribute to NEEA, correct?

23 A. We believe that they would be a little bit
24 more controversial and we --

25 Q. Right.

0568

1 A. -- we didn't want to muddy the waters.

2 Q. But so why are you throwing this out on page
3 18 to the Commission, is there any purpose, is this kind
4 of a forewarning of what could come in the next round?

5 A. Perhaps. I don't think that was necessarily
6 the intent. The intent was to show that there are some
7 other savings out there that the utility is funding or
8 is being funded, and there are savings associated with
9 those programs, there are cost recovery consequences
10 associated with the programs, so in the company's
11 opinion those are fair play.

12 Q. Yeah. No, I'm just trying to understand the
13 intent of your testimony. Just for the record, I
14 haven't made up my mind on whether or not the NEEA
15 programs can be measured effectively. I think they're
16 doing a lot of good things, but I'm just trying to
17 understand the company's intent here.

18 A. Well, so if the intent is to remove barriers
19 to company sponsored conservation and whatnot, let's
20 envision a case where NEEA isn't included. If the
21 company were made whole for all the other conservation,
22 company sponsored conservation, but not the NEEA, there
23 would be a disincentive for the company to participate
24 perhaps financially in the -- because it wouldn't get
25 credit for the conservation savings.

0569

1 COMMISSIONER JONES: Okay, well, this is I
2 think the subject of an ongoing investigation by the
3 Commission through open meeting item, so I will leave it
4 at that for now, thank you.

5

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

7 BY CHAIRMAN GOLTZ:

8 Q. I promise this will be a question, but as
9 long as we're talking about the bigger picture, again
10 referring to page 15 of your testimony, there's a
11 preface to that, are you familiar with sort of the --
12 does Puget or any -- make representations to customers
13 about potential savings if they engage in one of your
14 programs? I'm thinking of, you know, if you insulate
15 your -- if you buy this appliance, your usage will go
16 down by a certain number of kilowatt hours or by a
17 certain number of therms, and then you can figure out
18 your savings by multiplying your current rate by that?

19 A. There is some information along those lines
20 available on PSE's web site that gives customers some --

21 Q. My concern is that looking at the data in
22 line 10 here, let's assume that it's all correct, that
23 the -- if everybody did this, everybody, Puget's program
24 was so successful everybody engaged in all of this, then
25 people's -- the economics changes a little bit, doesn't

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1 it, because people might -- the \$46 Million in lost
2 revenues would equal the amount of savings that the
3 customer thinks they're going to get in the aggregate.

4 A. Oh, I don't believe it would get anywhere
5 near that amount. I believe they would save quite a bit
6 more than what would be the rate impact, so to speak, of
7 such an adjustment.

8 Q. No, what I mean is that if the revenues
9 decreased to the company by \$46 Million, then that's \$46
10 Million less that the customers are paying.

11 A. Correct.

12 Q. Right. And I'm saying but then so the
13 customers who are doing their economics are thinking
14 that, but it's not \$46 Million because in your proposal
15 you would have to add \$34 Million back to that to make
16 up the lost margin.

17 A. I think you might be confusing the 46 and the
18 34 and the meanings of those numbers. Let me give you a
19 general example. So you might be familiar with the Rock
20 the Bulb campaign that we had ongoing this year, so you
21 swap out --

22 Q. We heard about it yesterday actually in the
23 public testimony, but you can talk to Mr. DeBoer about
24 that.

25 A. Okay. So a customer brings in 10

0571

1 incandescent bulbs, swaps them out for the CFLs, they
2 pay nothing, they just show up, they get 10 bulbs. So
3 the customer goes home, installs these bulbs. Let's say
4 they swapped out incandescent bulbs that were roughly
5 100 watts. I can provide you math, but generally
6 speaking they probably saved roughly \$100 a year from
7 just showing up at the Rock the Bulb, putting in these
8 light bulbs. On the flip side, what we're proposing
9 here in the phase-in adjustment is something less than
10 1/10 of 1% of the overall revenue requirement for the
11 combined utility. So, you know, if the customer is
12 paying right now roughly \$100 a month and their electric
13 bill is, you know, we're talking about maybe \$1 or \$2 a
14 year in addition that they're going to pay to compensate
15 for the lost margin recovery. But on the other side,
16 they just saved \$100 a year through direct --

17 Q. This program?

18 A. Correct.

19 CHAIRMAN GOLTZ: I was talking about the big
20 picture, but Commissioner Jones is probably correct, the
21 bigger picture deferred to another time I suppose, so
22 thank you.

23

24

25

0572

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

2 BY JUDGE MOSS:

3 Q. I want to make sure we have our numbers clear
4 here. We focused quite a bit on page 15 of your
5 rebuttal testimony, and I'm looking there too at those
6 same lines we've been discussing, and I believe I heard
7 you say that the numbers there at line 10, the \$46
8 Million in lost revenues and the \$34 Million in lost
9 margin to the company were actually numbers that you
10 calculated.

11 A. Correct.

12 Q. And did you furnish those to Blue Ridge, and
13 did they rely upon those numbers in their analysis?

14 A. They did.

15 Q. All right. You cite there in Footnote 9 that
16 cites us back to the Blue Ridge report at page 8, which
17 is actually page 18 of the Exhibit JAP-6, let me ask you
18 to turn there. Or actually you cite page 9, which was
19 page 19 of JAP-6.

20 A. Mm-hm.

21 Q. I looked back on page 8, which precedes the
22 conclusion that you quote in your rebuttal testimony. I
23 don't find these \$34 Million in lost margins or \$46
24 Million in lost revenue numbers on these two pages. Am
25 I just overlooking them?

0573

1 A. The numbers that they represented,
2 particularly on page 19, that number, the \$29 Million
3 referenced there, is a net present value number, so that
4 would be the net present value of the \$34 Million in my
5 testimony. So the \$34 Million was in I think it was on
6 page 65 of JAP-6. It was in that Table 13.

7 Q. Where is it? No, it's not. That's my point,
8 these numbers don't line up. The net present value
9 figure is \$29,500,000, and that's a net present value
10 determined on the basis of savings out through 2011 if
11 I'm reading this right.

12 A. Correct.

13 Q. So when we talk about the -- when we're
14 comparing the \$8 Million incentive payments during
15 calendar years 2007 and 2008, I guess my first question
16 to you is why would we compare that to a net present
17 value of savings projected out through 2011, how is that
18 meaningful?

19 A. So we actually had these kind of discussions
20 with Blue Ridge, and when they originally asked us to
21 calculate the lost margins, we calculated it looking
22 backwards, so reflecting all the conservation that's
23 accrued, similar to the way I've explained it so far,
24 that you have this test period load, only part of the
25 conservation in the test year is reflected, so you make

0574

1 these adjustments, and there continues to be
2 conservation, and you calculate it that way. Blue Ridge
3 came back and said, well, no, we really need to focus on
4 the conservation within the years when this incentive
5 mechanism is in effect.

6 Q. Right.

7 A. So instead of looking backwards, they wanted
8 us to look forward. They wanted to say, okay, you're
9 going to invest in this conservation in 2007 and 2008,
10 calculate the lost margins associated with all those
11 savings achieved in those two years until those savings
12 are fully reflected in the rates that the utility
13 charges. So as it turns out based on the assumption
14 about the timing of the next rate case, it wasn't until
15 2011 that all of the conservation that had been put into
16 service so to speak in 2007 and 2008 were actually fully
17 reflected in the rates that the utility was charging.
18 So you have to calculate -- so this is basically the
19 effect, the lingering effect of that conservation until
20 those conservation savings are reflected in the
21 company's rates.

22 Q. Okay. Well, this is no doubt the product of
23 minds that are greater than mine, but if we're looking
24 at the -- if we want to look at current data, as I'm
25 reading Table 12 on page 55, it's actually JAP-6 at page

0575

1 65 in the upper right-hand corner, what I'm reading
2 there, tell me if I'm wrong about this, what I'm reading
3 there is that PSE received incentives in 2007 of
4 \$3,452,657 and lost a margin during that year of
5 \$2,367,602. Am I reading those figures right?

6 A. That lost margin is only associated with the
7 conservation that was put into service in that year. It
8 doesn't reflect conservation for example that was put
9 into service in 2006 --

10 Q. Right.

11 A. -- but still isn't reflected in the rates
12 that were charged in 2007.

13 Q. Right, got you. But that means that for that
14 one year period, the approved incentive actually
15 compensated relative to the lost margin for the same
16 period over -- it compensated the company at 146% of the
17 lost margin for that same period. I'm not caring about
18 conservation in earlier periods or projected later
19 periods but just one year.

20 A. No, this is a -- the analysis that we
21 performed, we assumed there was zero conservation that
22 happened after 2008. There is no more conservation
23 after 2008. But we still haven't been made whole or the
24 savings that were achieved in 2007 still have yet to be
25 reflected in the rates, so we continue to lose margin

0576

1 due to that conservation investment.

2 Q. I guess I'm looking at it on a rate year to
3 rate year basis, if you lost \$2.3 Million in 2007 due to
4 conservation, which is what that table says, isn't it?

5 A. It's the lost margin associated with
6 conservation --

7 Q. It says lost margin first year annual, so
8 it's the yearly lost margin for the 2007 period during
9 which the ECIM was in effect.

10 A. That's effectively the lost margin associated
11 with -- yes, okay, yes.

12 Q. All right. So in that year at least the ECIM
13 more than compensated the company for the lost margin
14 during that year?

15 A. No, it did not.

16 JUDGE MOSS: Okay, well, I guess I just don't
17 understand these numbers and how they're working then.
18 I'm reminded -- well, no, I won't say that.

19 COMMISSIONER JONES: Judge Moss.

20

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

22 BY COMMISSIONER JONES:

23 Q. I just have one final clarifying question on
24 Table 13. Are you there?

25 A. Yes, I'm there.

0577

1 Q. Did you assume any rate changes when you made
2 those calculations in the second category, lost margin
3 annual, or did you keep static?

4 A. Well, so in the present case the rate year
5 begins in April of 2010, so what was assumed there was
6 the company's filing, that basically the company got the
7 full request essentially.

8 Q. You've assumed the full request?

9 A. Yes. Honestly it wouldn't make much of a
10 difference. Even if the rates were held at current
11 levels, the amount of the lost margin would not change
12 materially.

13 COMMISSIONER JONES: Okay, thank you.

14 JUDGE MOSS: All right, I believe that
15 probably completes the examination from the Bench.

16 Any redirect?

17 MS. CARSON: No, Your Honor.

18 JUDGE MOSS: A wise choice I think.

19 All right, with that then, Mr. Piliaris, we
20 appreciate your testimony today, and we'll release you
21 subject to recall if needed as I have done with the
22 other witnesses, thank you very much.

23 THE WITNESS: Thank you.

24 JUDGE MOSS: I've gone way too long and I
25 apologize to everyone in the room for that, we need to

0578

1 take our recess for the afternoon. I know I'm ready.
2 Probably we should take 15 minutes at this stage of the
3 game, that will bring us back at about 5 minutes before
4 4:00.

5 (Brief recess.)

6 JUDGE MOSS: All right, Mr. Story, if you
7 would please rise and raise your right hand.

8 (Witness JOHN H. STORY was sworn.)

9 JUDGE MOSS: Thank you, please be seated.

10

11 Whereupon,

12 JOHN H. STORY,
13 having been first duly sworn, was called as a witness
14 herein and was examined and testified as follows:

15

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

17 BY MS. CARSON:

18 Q. Mr. Story, please state your name and title
19 and spell your name for the court reporter.

20 A. My name is John Story, I'm director of Cost
21 and Regulation, it's John, J-O-H-N, Story, S-T-O-R-Y.

22 Q. Do you have before you what have been marked
23 for identification as Exhibit Numbers JHS-1T through
24 JHS-26?

25 A. Yes, I do.

0579

1 Q. Do these exhibits constitute your prefiled
2 direct, supplemental, and rebuttal testimony and related
3 exhibits in this proceeding?

4 A. They do.

5 Q. Were these exhibits prepared under your
6 supervision and direction?

7 A. They were.

8 Q. Do you have any corrections to any of your
9 exhibits at this time?

10 A. Yes, I've got two corrections on the Exhibit
11 16. The first one is on Mint Farm, the deferred tax in
12 the pro forma column, and the page number is 16.08.

13 JUDGE MOSS: I'm sorry, which exhibit are we
14 on?

15 THE WITNESS: 16.

16 JUDGE MOSS: This is your rebuttal testimony?

17 THE WITNESS: Yes, it is.

18 JUDGE MOSS: And we're on what page?

19 THE WITNESS: 16.08.

20 JUDGE MOSS: All right.

21 BY MS. CARSON:

22 Q. It's not your rebuttal testimony, is it?

23 A. Oh, no, it's not my rebuttal testimony, it's
24 my rebuttal exhibits, I'm sorry.

25 JUDGE MOSS: It's your exhibits, it's your

0580

1 revenue requirements exhibit.

2 THE WITNESS: Yes.

3 JUDGE MOSS: 16.08?

4 THE WITNESS: Yes.

5 JUDGE MOSS: Which is actually page 15 of 46
6 in terms of our exhibit numbers. Okay, I'm with you
7 now.

8 A. Yes, and the number that's changing is the
9 deferred FIT.

10 JUDGE MOSS: Line 7?

11 A. Yes. And in the pro forma column, the number
12 should be a negative \$6,358,612. That would make the
13 total of that column \$229,760,309 for the total rate
14 base. And I'll give the revenue requirement impact of
15 that in just a moment.

16 JUDGE MOSS: All right.

17 A. There's one other, the next page is the Sumas
18 adjustment, and the proposal in this one is that we
19 would just accept Staff's numbers for the plant
20 balances, the pro forma, and the depreciation. We would
21 still disagree with their treatment of property taxes.
22 So it would change the first 5 lines on the plant
23 balances, net Sumas plant rate base. And on line 8, the
24 depreciation number would be the equivalent of the
25 Staff's number, because it would be based off their rate

0581

1 base.

2 JUDGE MOSS: All right, can we get a revised
3 page on that for our records?

4 MS. CARSON: Yes, we can.

5 JUDGE MOSS: I don't want to put all these
6 numbers in unless we need to.

7 MS. CARSON: Yes, and it was my understanding
8 that there would be a Bench request and we would provide
9 all this information.

10 JUDGE MOSS: That's true, this will be part
11 of -- I should just inform everyone since not everyone
12 knows, but all the parties know, I am going to issue a
13 Bench request requiring all of the parties who are
14 putting on a revenue requirements case to refile these
15 types of exhibits that their witnesses have previously
16 put into the record based on the status quo as of the
17 end of the hearing, so we will have substitute exhibits
18 for all of these, and so the parties have been informed,
19 but others in the room have not, including the
20 Commissioners. So anyway, with that.

21 A. And then that changes the revenue
22 requirement. These adjustments are offsetting, so the
23 revenue requirement only changes by about \$4,000. The
24 new revenue requirement would be \$113,304,055 and the
25 old revenue requirement was \$113,299,963.

0582

1 JUDGE MOSS: Okay, thank you. All right,
2 anything else?

3 THE WITNESS: No.

4 JUDGE MOSS: Okay.

5 BY MS. CARSON:

6 Q. With that correction, are your prefiled
7 direct, supplemental, and rebuttal testimony and
8 accompanying exhibits true and correct to the best of
9 your information and belief?

10 A. Yes.

11 MS. CARSON: Thank you.

12 Your Honor, PSE offers Exhibits JSH-1T
13 through JHS-26 into evidence and offers Mr. John H.
14 Story for cross-examination.

15 JUDGE MOSS: Hearing no objection, those will
16 be admitted as marked.

17 I have previously admitted into the record
18 JHS-28C as to which we had some questions with another
19 witness, but we also have the subjects or the question
20 of JHS-27C and JHS-29 through 32, is there going to be
21 any objection to any of that?

22 MS. CARSON: There's no objection. I
23 understand that Mr. Van Cleve is supplementing JHS-32
24 with another workpaper, excerpt from the workpaper, and
25 with that supplementation we have no objection.

0583

1 JUDGE MOSS: All right, fine. With that then
2 I'll admit those exhibits that I've just identified so
3 that we now have JHS-27C through 32 admitted in addition
4 to the others.

5 And with that, our witness is available for
6 cross I believe you said, and we may as well start with
7 you, Mr. Cedarbaum.

8 MR. CEDARBAUM: Your Honor, Mr. Furuta asked
9 me if he could go first.

10 JUDGE MOSS: Thank you for reminding me, I
11 told Mr. Furuta I would probably forget during the
12 break, but yes, Mr. Furuta has indicated about 5
13 minutes, and I offered to let him go first.

14 MR. FURUTA: Thank you, Your Honor.

15

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

17 BY MR. FURUTA:

18 Q. Good afternoon, Mr. Story.

19 A. Good afternoon.

20 Q. Were you present during my cross of Mr. Hunt
21 earlier today?

22 A. Yes, I was.

23 Q. Okay. And you may recall that he had
24 referred a few of my questions to Mr. Stranik, but I
25 thought I would try my luck with you if that's all

0584

1 right. And the question was regarding the company's net
2 periodic pension costs, and I had asked him and I ask
3 you does Puget use accrual accounting to account for net
4 periodic pension costs?

5 A. On the financial statements, that's correct.
6 For rate making we use the cash payments.

7 Q. How about for the company's post retirement
8 benefit costs other than pensions?

9 A. Are you talking about the SERP?

10 Q. Not yet. This would be the OPEDs.

11 A. I don't know.

12 Q. Okay. How about then for its SERP?

13 A. The SERP we use the SFAS 87.

14 Q. So is that a form of accrual accounting for
15 rate making purposes, what does the company use for rate
16 making purposes for its SERP?

17 A. The same thing for both financial and the
18 rate making.

19 Q. Okay. How about its qualified defined
20 benefit pension plan?

21 A. That's the one I was talking about the -- are
22 you talking about the -- that's the one that we use cash
23 payments for the pension plan for 4 years of what the
24 cash payments were during the 4 years.

25 Q. Okay.

0585

1 A. Versus the SFAS 87.

2 Q. For rate making purposes?

3 A. Right.

4 Q. Okay, great.

5 And one last question, I had also asked
6 Mr. Hunt whether the company switched from a cash basis
7 to an accrual basis for rate making purposes for its
8 post benefit, post retirement benefits other than
9 pensions with regard to a reference in Docket 9204033;
10 do you recall that? And I believe he had deferred
11 answer on that question. Are you familiar with that
12 order in that docket?

13 A. What was the docket number again?

14 Q. 920433.

15 A. Was this the same docket that is in

16 Mr. Stranik's testimony or --

17 Q. Actually I don't know if you have the
18 company's response to Staff's -- to Public Counsel Data
19 Request 082, but it's excerpted there.

20 A. I do not.

21 MR. FURUTA: That's fine, no further
22 questions right now.

23 JUDGE MOSS: Thank you, Mr. Furuta.

24 Mr. Van Cleve, you're back with us, I'm going
25 to go backwards now, a little novelty here, you go next.

0586

1 MR. VAN CLEVE: Thank you, Your Honor, and if
2 I may approach the Bench, I have a one-page supplement
3 to JHS-32.

4 JUDGE MOSS: All right.

5

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

7 BY MR. VAN CLEVE:

8 Q. Mr. Story, if you could refer to page 16 of
9 your rebuttal testimony, Exhibit JHS-14T.

10 A. Yes, I've got it.

11 Q. Mr. Schoenbeck and Mr. Buckley have proposed
12 in this case that the costs of the Tenaska regulatory
13 asset be removed from base rates and placed in the
14 tracker; is that correct?

15 A. That's correct.

16 Q. And it's your testimony that that proposed
17 tracker is acceptable if there are certain corrections
18 made?

19 A. That's correct.

20 Q. And the Tenaska regulatory asset relates to
21 the buyout of Tenaska gas contracts in 1997?

22 A. That's correct.

23 Q. And the buyout price was \$215 Million?

24 A. Yes.

25 Q. And in 1999 were there also gas contracts

0587

1 bought out related to the Encogen plant?

2 A. That's correct.

3 Q. And the price for that was \$12 Million?

4 A. I don't recall, but I'll accept that subject
5 to check.

6 Q. If you could refer to your Exhibit JHS-19 at
7 page 8 of 11.

8 A. 8 of 11?

9 Q. Yes.

10 A. I have it, yes.

11 Q. The column labeled asset amortization next to
12 the rows for Tenaska.

13 A. Yes.

14 Q. That shows the amortization of the Tenaska
15 regulatory asset?

16 A. That's correct.

17 Q. And that's the return of the regulatory
18 asset?

19 A. Yes.

20 Q. And following over in the column AMA rate
21 base, what does that refer to?

22 A. AMA is average of monthly averages, so that
23 would be, you know, the standard calculation you use for
24 doing a rate base calculation. You take the beginning
25 period balance, you take the end of the period balance,

0588

1 you take the 11 periods between there, end of period
2 balances, multiply them by 2, add all that together, and
3 divide by 24.

4 Q. And those numbers are multiplied by the rate
5 of return to determine the return on the regulatory
6 asset; is that correct?

7 A. The net of, yeah, these are -- that would
8 give you your net operating income, right.

9 Q. Okay. If we could refer to the cross exhibit
10 now which is Exhibit JHS-32, which now consists of two
11 pages, and the first page is a sheet from your
12 electronic workpapers that support your rebuttal
13 testimony; is that correct?

14 A. That's correct.

15 Q. And if you look at line 16 on the first page
16 of JHS-32, does that show the shape over time of the
17 amortization of the Tenaska regulatory asset?

18 A. Yes.

19 Q. And --

20 A. You're in the top box, right?

21 Q. Right.

22 Now if you look at page 2 of JHS-32, can you
23 explain what this document is?

24 A. This was the original exhibit behind the
25 accounting petition, and what it's doing is calculating

0589

1 the savings associated with the gas buyout of the gas
2 contracts. And when you look at line 26, you have the
3 net savings shown, and below that there's percentages.
4 Those percentages were used to allocate the
5 amortization. So if I -- unless mine is a little
6 different than yours.

7 Q. Okay.

8 A. The version I have has percentages. The way
9 the percentages on my version were calculated is if you
10 look at the net savings, and just take 2011 for example,
11 it's \$102,190, \$102,190,000, this is in thousands. You
12 divide that by the \$618 Million, you get a 16% factor,
13 16.5% factor. That factor was applied to the cost so
14 that the costs were allocated over the different time
15 periods by the savings, and the savings and the costs
16 would match up. This is the backup that was provided in
17 the accounting petition.

18 Q. Can you explain based on these numbers what
19 elements need to be taken out of base rates and put into
20 the tracker to implement a tracker for the Tenaska
21 regulatory asset?

22 A. Actually it's most probably easier to do it
23 out of the revenue requirement. But in power costs
24 there's two disallowances. One is the 3% disallowance
25 that's shown on the power cost page. You have the

0590

1 disallowance of the equity, 50% equity ticker. On the
2 regulatory asset and liability page there's two sets of
3 amortization. One is associated with the normalized
4 piece of Tenaska.

5 Q. Is that -- can you tell me where you're
6 referring to?

7 A. The regulatory asset and liabilities is 16.31
8 I believe.

9 JUDGE MOSS: This is in your revenue
10 requirements exhibit?

11 THE WITNESS: Yes.

12 JUDGE MOSS: Which is?

13 A. 16.31 gives you the regulatory assets. So
14 Tenaska is shown on line 3. Tenaska is shown on line
15 20. Tenaska is also shown on line 33. The difference
16 between these numbers is the Tenaska rate year balance
17 is the amount in rate base on line 3. The Tenaska on
18 line 20 is the normalized piece of Tenaska. Tenaska was
19 split into two pieces. The \$215 Million of the original
20 buyout was actually flowed through in taxes at the time
21 that it occurred, and then there was another piece
22 associated with interest and some other costs with
23 Tenaska that was normalized. So this is the
24 normalization piece of Tenaska, and the flow through
25 piece is on line 33. And then it's in the production

0591

1 adjustment, which is on page 16.38, line 34, and that's
2 -- this is where the rate base gets trued up for the
3 production adjustment, so basically you would have to
4 move all of those elements into the tracker.

5 Q. So there's basically 4 elements, there's on
6 16.31 there's line 3, 20, and 33, and then on 16.38
7 there's line 34?

8 A. Right. And then you've got to go to the
9 power cost page, which is 16.02 I believe. No, got that
10 one wrong, 16.03. And on page 16.03a, which is page 10
11 of 46, you see Tenaska disallowances on the multiple
12 labeled 6a's, we've got 3 6a's there.

13 Q. Yes.

14 A. You would have to remove it there also.

15 Q. And is that everything that needs to be
16 removed from base rates to implement the tracker?

17 A. I think so. And then the other piece with
18 the tracker, like I say in my testimony, this first
19 exhibit that you passed out, the 16.31, really what
20 that's doing is calculating the average monthly averages
21 in say we were going out into a test period or a rate
22 year that is -- begins in April, you have January,
23 February, March, 3 months of 2011 in there on the
24 amortization and 9 months of the 2010. So once you get
25 to the end of the rate period, you would have to true

0592

1 all of this up again for the remaining costs of Tenaska
2 to adjust for the flow through, taxes, the new
3 amortization rate because your amortization changes each
4 year, and then the expenses associated with the rate
5 base for the remaining period.

6 Q. Thank you.

7 The only other question I had is on the
8 exhibit identified for Mr. Mills, DEM-33, which is the
9 company's response to ICNU Data Request 7.01, I just
10 wanted to make sure there was no objection to the
11 admission of that because Mr. Story is listed as the
12 witness with knowledge.

13 MS. CARSON: Do you intend to ask Mr. Story
14 questions on this?

15 MR. VAN CLEVE: No.

16 MS. CARSON: No objection.

17 MR. VAN CLEVE: That's all we have, Your
18 Honor.

19 JUDGE MOSS: All righty, let's move on then
20 to, let's see, Mr. ffitich, it looks like you have some
21 cross indicated for this witness.

22 MR. FFITCH: Thank you, Your Honor, just a
23 couple of questions.

24

25

0593

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

2 BY MR. FFITCH:

3 Q. Good afternoon, Mr. Story, I almost said good
4 evening.

5 A. Afternoon.

6 Q. As the light wanes.

7 Both in your direct and your rebuttal
8 testimony, Mr. Story, you discuss the \$10.7 Million
9 settlement payment for litigation surrounding the
10 Colstrip generating station?

11 A. That's correct.

12 Q. And I believe in your rebuttal you
13 acknowledge that the original settlement payment amount,
14 the \$10.7 Million, should be reduced by insurance
15 proceeds; is that correct?

16 A. That's correct.

17 Q. And am I correct that the cost of settling
18 this litigation occurred primarily in the 2008 test
19 year, and then the costs were expensed within the
20 historic test year; is that correct?

21 A. That's correct.

22 Q. So is it true then that thus far the company
23 has not deferred any of these costs or recorded any of
24 the costs on the balance sheet as a regulatory asset?

25 A. No, we don't have an order to do that.

0594

1 Q. And in addition to not having an order, is
2 the reason that the costs were not deferred as a
3 regulatory asset at the time they were first incurred
4 because they don't meet the accounting guideline tests
5 that recovery was probable?

6 A. I wouldn't say that. I would say that the
7 Commission has made it very clear we don't settle any
8 regulatory assets unless we have an order, so we --

9 Q. Well, but you didn't seek an order?

10 A. I believe there was an accounting petition on
11 this.

12 Q. There was an accounting petition?

13 A. Yes.

14 Q. So it was the company's position that
15 recovery was probable?

16 A. We don't really know. I would say that our
17 position is it's probable but not likely. That's a --
18 I'm not saying it's not likely that the Commission
19 wouldn't approve it, but under accounting definitions
20 you have to be, you know, 90%, 95% sure, and that's a
21 definition of likely. I might have those backwards.
22 Probable is a less rigid standard, and I would say it's
23 a fair cost of the providing service should be
24 recoverable.

25 Q. Is the accounting petition pending at this

0595

1 time, or was it denied? Why is it that you don't have
2 an order?

3 A. I don't think it was ever brought before the
4 Commission. If I might just check testimony?

5 Q. All right.

6 MS. CARSON: Point of clarification if I
7 might, there is an accounting petition pending since
8 2008, it's UE-080900.

9 A. Yes, I just found it, we don't have control
10 over that.

11 Q. All right. And as far as you know, no action
12 has been taken on that petition?

13 A. No. That's why we put it into the general
14 rate case.

15 Q. All right. And if at this date the
16 Commission grants Puget's request to defer and amortize
17 these costs, how would the company record the
18 transaction?

19 A. We would reverse the expense and set up a
20 regulatory asset and amortize it over the 5 years.

21 Q. If the Commission grants the request at this
22 date, at this late date, would you agree that 2010
23 reported earnings before tax would be increased by
24 approximately \$8 Million?

25 A. Just like 2008 was decreased, yes.

0596

1 Q. All right.

2 Could you, Mr. Story, please state Puget
3 Sound Energy's current total resource, excuse me,
4 revenue requirement request for gas revenue in this
5 case?

6 A. For gas revenue?

7 Q. I realize it's hard to keep track of the
8 revenue requirement numbers in this case.

9 A. That's why we have two witnesses, we most
10 probably should have more.

11 For the gas it's \$28,464,116.

12 Q. Is that amount higher than the amount stated
13 in the proposed tariffs on file with the Commission?

14 A. I believe it is. There was a correction
15 made, supplemental testimony, where \$3 Million hadn't
16 been removed from revenues, so we adjusted that after
17 the filing.

18 Q. It's true, is it not, that the amount of the
19 tariff request is \$27.1 Million for gas?

20 A. The original request?

21 Q. The tariffed request, the tariffs on file
22 with this Commission today are \$27.1 Million, correct?

23 A. Yes, when we put them on file, we put them on
24 notice that it could be higher or lower than the amount
25 tariffed or requested in the case.

0597

1 Q. And is Puget Sound Energy requesting in this
2 case that should the Commission find in the company's
3 favor on all points in its gas case that the Commission
4 order recovery of the full \$28.4 Million in rates?

5 A. Yes, we are.

6 Q. Puget Sound Energy has not filed proposed
7 revised tariffs to reflect \$28.4 Million, correct?

8 A. No. We did the original filing, and normally
9 we don't file new tariffs until you have an order,
10 because things go up and down just like you've seen the
11 numbers going up and down recently.

12 Q. Okay.

13 A. Over the course of the hearings.

14 Q. Do you know, Mr. Story, whether Puget Sound
15 Energy gas customers have been provided with notice by
16 the company of the increased revenue request above the
17 tariff level in any of the rate case notices provided?

18 A. I do not.

19 Q. Is there a witness here in the hearing room
20 who would know the answer to that question?

21 A. I can find out the answer fairly quickly.

22 MR. FFITCH: I'm not sure how best to
23 proceed, Your Honor, perhaps we could --

24 JUDGE MOSS: Well, Mr. ffitch, I don't know
25 why we need to proceed down this line. What's your

0598

1 point? The company has not filed any supplemental
2 tariff sheets, you know, if we have this legal argument,
3 we have this legal argument. This comes up in every
4 rate case. And if we ever get to it, which in my 12
5 years here we never have yet had to get to it, then we
6 will have that argument. But it's a legal point,
7 Mr. ffitch, you're going to argue that they can't seek
8 the recovery of these additional costs beyond what they
9 filed, we've seen this argument many, many times. So we
10 don't really need to do anything with this witness on
11 this point, do we?

12 MR. FFITCH: Well, with respect, Your Honor,
13 I concur that it's a legal point. I'm trying to
14 establish basic facts here regarding the actual notice
15 that the company has provided in this case.

16 JUDGE MOSS: All right, Ms. Carson, has the
17 company given any notice of this \$28 Million request as
18 it currently stands in this rate case, has it given
19 notice to customers in that regard?

20 MS. CARSON: The company has given notice to
21 customers. I believe that it was the revised rate
22 request, but I would have to double check for sure on
23 that, and we can do that.

24 JUDGE MOSS: All right, and you can furnish
25 that for the record if it exists.

0599

1 MS. CARSON: We can.

2 JUDGE MOSS: All right, that will be done.

3 Mr. ffitch.

4 MR. FFITCH: Those are all the questions,
5 thank you, Your Honor.

6 JUDGE MOSS: All right, let's move on,
7 Mr. Cedarbaum.

8 MR. CEDARBAUM: Thank you, Your Honor, just a
9 procedural matter, both Mr. Fassio and I have questions
10 for Mr. Story. My questions will be limited to one
11 subject matter that the company knows about, it's come
12 to Staff's attention just recently. Then Mr. Fassio
13 will take care of the issues on the prefiled testimony
14 if that's -- if we can have permission to do it that
15 way.

16 JUDGE MOSS: I think we can allow that,
17 Mr. Cedarbaum.

18 MR. CEDARBAUM: Thank you.

19

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

21 BY MR. CEDARBAUM:

22 Q. Mr. Story, can you just explain, my
23 understanding is that on the Wild Horse wind farm
24 property there is a visitor center that is operated by
25 Puget Sound Energy; is that correct?

0600

1 A. That's correct.

2 Q. Okay. And can you explain, I mean visitor
3 center sounds self explanatory, but can you just tell us
4 what is that building and what is its purpose?

5 A. It's to explain what wind is, how the project
6 fits into the area. It gives people education on the
7 whole new type of generation basically that they're
8 seeing as they drive by.

9 Q. And is it correct that or can you tell me
10 what is the source of energy to serve that facility?

11 A. It's various. It's a -- there's solar plant
12 there which is new. We have service from the local
13 county and also wind available if it's running.

14 Q. And with respect to the solar facility, is it
15 my -- is my understanding correct that the investment
16 and the associated expenses of that facility have been
17 included by the company in its revenue requirement
18 determination in this case?

19 A. Yes, we brought this to Staff's attention
20 last week. It's mentioned in Mr. Garratt's testimony
21 that we have a solar plant there, but when we got
22 checking this for some other questions that were coming
23 up, we found that we had not asked for the prudence
24 determination on the solar. It's a half megawatt
25 generator. It cost approximately \$4.3 Million. It's

0601

1 been in service during October, November of 2007.

2 Q. Okay. So if I understand correctly then,
3 your JHS-16 includes the investment and associated costs
4 but does not have a restating adjustment to pull them
5 out?

6 A. That's correct. It would have been picked up
7 just in our standard rate base calculation for
8 historical plant and was not highlighted as a new plant,
9 new generation coming on line.

10 Q. And the company believes now that the
11 facility -- that restating adjustment should be made?

12 A. We believe so. It's, you know, under the PCA
13 settlement, we said that we would bring in each
14 generation resource that came in that was greater than
15 two years. There was no size limit. And in this case
16 we have another digest where it's actually the same size
17 and had gone through the whole prudency review.

18 Q. Do you know what the revenue requirement is
19 associated just with that facility, the solar facility
20 you were talking about?

21 A. It would be approximately \$660,000 based on
22 the plant value and the depreciation expense, and there
23 is no maintenance, so it's property insurance and
24 property taxes.

25 Q. So the updated revenue requirement number you

0602

1 gave when you first took the stand should be lowered by
2 that \$600,000 amount?

3 A. That would be correct if we pull it out.

4 Q. What is the company's procedural proposal for
5 bringing this to the Commission?

6 A. We knew this Bench request would be coming
7 up, so we would propose pulling it out there. We would
8 bring it before the Commission in the next general rate
9 case. We will provide support for the numbers that are
10 being pulled out. They're pretty standard, they're
11 plant accounts, the depreciation and everything is all
12 identified, the property insurance and property taxes
13 associated with this are just a pro rate of the
14 facility, so it's pretty straightforward.

15 Q. So the company will, when it responds to the
16 Bench request, it will present your JHS, revised JHS-16
17 with the appropriate adjustment to pull the solar
18 facility out. It will also then provide Staff and I
19 assume Public Counsel the necessary documents for them
20 to do the same if they choose.

21 A. That's correct.

22 Q. Is that correct?

23 A. That's correct. We can have the workpapers
24 to everybody probably tomorrow.

25 MR. CEDARBAUM: Your Honor, those are all my

0603

1 questions on this. I would just state for the record
2 this did come up, this was -- the issue was brought to
3 Staff's attention recently, and we have quite frankly
4 struggled with the process for how to get it before the
5 Commission, so we thought of this one, of including it
6 in the Bench request. Public Counsel has not been
7 involved in this idea, and he may have his own thoughts
8 on it. I would also state that the company has
9 committed to provide Staff with the underlying
10 workpapers, but we'll have to see how complicated it is.
11 I don't know whether -- it may be very straightforward
12 as Mr. Story says, and we can -- Staff will just be able
13 to use the numbers easily, but I don't know of the
14 complexity at this point.

15 JUDGE MOSS: All right, well, thank you for
16 bringing it before the Commission, and we will let the
17 papers be exchanged, and the parties can bring to us any
18 concerns once there's been an opportunity to review that
19 material and see just how complicated it is. We will
20 have the revised exhibits, and so that will be the
21 opportunity for the final numbers to be final. Thank
22 you.

23 Mr. Fassio, go ahead.

24 MR. FASSIO: Thank you, Your Honor.

25

0604

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

2 BY MR. FASSIO:

3 Q. Good afternoon, Mr. Story.

4 A. Good afternoon.

5 Q. If you could first turn to your direct
6 testimony, JHS-1T, particularly page 56, you discuss
7 there amortization of the Mint Farm deferred costs.

8 A. Yes, I have it.

9 Q. You stated there on page 56 starting at line
10 12 that in your proposed adjustment relating to the Mint
11 Farm deferral you assumed that there would be no
12 variable costs in the deferral as they will be offset by
13 the credit for market power or the credit for
14 overrecovery of power costs in the PCA true up, correct?

15 A. Yes, that's at lines 12 through 14.

16 Q. Then you went on to say on lines 14 to 16
17 that the variable component of the deferral will be
18 trued up in a subsequent rate proceeding based on the
19 actual deferrals associated with variable costs. Is the
20 subsequent rate proceeding that you're referring to
21 there a general rate case or a power cost only rate
22 case, PCORC?

23 A. It could be either one, this is a power cost
24 item.

25 Q. Okay.

0605

1 If I could have you turn to your rebuttal
2 testimony next, page 58 particularly, this is JHS-14T.

3 A. Yes.

4 JUDGE MOSS: Could you give us a page number?

5 MR. FASSIO: Yes, I'm sorry, Your Honor, page
6 58.

7 JUDGE MOSS: Thank you.

8 A. I have it, yes.

9 BY MR. FASSIO:

10 Q. If I could focus your attention on lines 16
11 to 17, you stated in expectation there that variable
12 cost deferrals will be more than offset by the purchased
13 power offset, correct?

14 A. That's the expectation based on what we have
15 so far. Variable costs have been more than offset by
16 the credit for the purchased power.

17 Q. The excess of the purchased power offset over
18 the deferred variable costs will result in a credit
19 balance in the deferral account; is that correct?

20 A. No, you have fixed costs there also. So
21 fixed costs, variable costs, and then you have the
22 credit coming back for the purchased power. Currently
23 the balance is a positive and not to be recovered, and
24 it's expected it will be positive. What I'm saying here
25 is, as Mr. Martin has indicated, it's now expected that

0606

1 the variable cost deferral will be more than offset by
2 the purchased power offset, not the fixed cost.

3 Q. Okay, so just the variable cost alone?

4 A. Yes.

5 Q. Okay.

6 If I could refer now to what's been marked as
7 Exhibit Number JHS-27C for cross-examination.

8 A. I have it, yes.

9 Q. Do you recognize this exhibit?

10 A. Yes.

11 Q. Okay. This exhibit is marked confidential, I
12 will try to avoid any reference to confidential specific
13 numbers in my next questions. If you look on page 3 of
14 the exhibit, this lists the Mint Farm actual
15 expenditures classified into cost categories by month
16 from December 2008 through November 2009 that PSE
17 proposes to defer; is that correct?

18 A. That's correct.

19 Q. Looking at this chart, there are 4 months of
20 data that are missing from the list, which are the
21 remaining months in the deferral period; is that
22 correct?

23 A. That's correct.

24 Q. And just to clarify, those are the remaining
25 months until rates go into effect starting with December

0607

1 of 2009?

2 A. That's correct.

3 Q. If I could have you turn, please, to page 4
4 of the exhibit, about the middle of the page, you see
5 there various deferral accounts under the lines fixed
6 cost deferral, variable cost deferral, deferral of
7 return on rate base, deferral of carrying costs on fixed
8 deferrals, deferral of carrying costs on variable
9 deferral, and related DFIT accounts; is that correct?

10 A. That's correct.

11 Q. Okay. Focusing specifically on the line
12 that's labeled 18600361 variable costs deferral, without
13 reading any specific confidential numbers, the last
14 column there shows a credit balance; is that correct?

15 A. That's correct.

16 Q. Now this number here, does this represent the
17 actual amount of excess as of November of 2009 of the
18 purchased power offset over the variable cost deferrals
19 that we talked about?

20 A. I believe so, I accept that.

21 Q. Okay. If you assume that a credit balance
22 will hold until the end of the deferral period and that
23 credit balance is included in your calculation of
24 adjustment 16.34, would you agree that rate base and
25 amortization expense would be lower?

0608

1 A. By this amount?

2 Q. Yeah.

3 A. Yes. And it is. I mean these are the
4 amounts that we're building into current rates. We
5 picked up actuals through I believe it was through
6 November, and then we've used the assumption again that
7 variable costs are just going to be offset because we
8 don't know really what's going to happen going forward
9 with the running of the machine. So this would be
10 reflected in the current amortization. If there was
11 further credits coming through, say we more than offset
12 variables in the future, that would be trued up in the
13 next case for whatever that balance is.

14 Q. Okay. And if you could turn back to page 58
15 of your rebuttal testimony now, you state there on line
16 12 that it is not the intent of the company to apply
17 overcollection of power costs under the PCA to plant
18 deferrals other than Mint Farm, right?

19 A. That's correct.

20 Q. Isn't it true that overrecoveries under the
21 PCA already offset underrecovered power costs or
22 increase overrecoveries that potentially reduce the
23 customer share of the deferred PCA cost?

24 A. I'm sorry, you're going to have to reword
25 that.

0609

1 Q. Sure. Would you agree that overrecoveries
2 under the PCA that you discuss in your testimony there,
3 they already offset either underrecovered power costs or
4 they would increase other overrecoveries in the
5 alternative?

6 A. No. The PCA is designed as a mechanism to
7 sort of track power costs. I mean it doesn't track to
8 the dollar. And what happens with the PCA is there is
9 times that you may overrecover power costs and you may
10 underrecover power costs, so I agree with that part of
11 your question. The company does expect to underrecover
12 power costs at certain times, and you can see that if
13 you look at my Exhibit JHS-24. This is the power costs
14 since -- I just want to make sure I have the right one
15 here. This is the tracking of the PCA since the Mint's
16 been implemented, and sometimes the company's going to
17 overrecover power costs and sometimes it's going to
18 underrecover power costs. Those two are supposed to be
19 matched. What the company made as a presentation on the
20 Mint Farm was that at the time we were looking at this,
21 it did look like we were going to be overrecovering
22 power costs when we originally filed this. And the
23 company made the offer of offsetting some of these costs
24 on Mint Farm with that overrecovery. As it turned out,
25 we actually underrecovered power costs during this time

0610

1 period of about \$25 Million. So in the future, we would
2 expect to overrecover power costs, everything being
3 equal. If the PCA is set properly so that you have a
4 median line just based on normal weather and variation
5 from that normal weather, you're going to end up on both
6 sides. So really the overrecovery and underrecovery
7 should stay within the PCA. It was a one time offer, if
8 you will.

9 Q. So -- and I was referring -- at the reference
10 in your testimony that about the good faith offer, the
11 overrecoveries under the PCA that -- referring to I
12 guess back to line 12 and 13 where you discuss that
13 offer.

14 A. Could you give me the page number again.

15 Q. On page 58 of your prefiled rebuttal
16 testimony.

17 A. Okay, I have it, yes.

18 Q. Okay. The portion of your testimony that you
19 discuss as a good faith offer to help mitigate variable
20 costs, that refers to overrecoveries under the PCA. My
21 question related to whether those already offset other
22 costs. And if they don't, what -- I mean is that what
23 you're referring to, that they do not offset those
24 costs?

25 A. I'm sorry, I just really don't understand

0611

1 your question. Any overrecovery of a cost in theory
2 will offset an increase in another cost. In rate
3 theory, in a historical test year you try to set your
4 costs. I mean that's part of the whole argument on pro
5 forma restating adjustments. You try to match up your
6 costs and revenues in such a way that you're going to
7 recover your expected costs and revenues in the future.
8 You don't expect to actually recover the specific cost
9 you used to set that rate, you expect to recover a cost
10 similar to that cost. So yes, you may overrecover on
11 something and underrecover on something else.

12 MR. FASSIO: Just a moment, Your Honor, I
13 want to confer with my client.

14 BY MR. FASSIO:

15 Q. Just one more clarifying question, does the
16 overrecovery, does the -- your good faith offer only
17 apply if there is overrecoveries under the PCA?

18 A. That's what it was intended for, yes. And,
19 you know, just narrowing it in on the PCA, the
20 overrecovery on PCA power costs is really meant to
21 offset the underrecovery that you expect at times just
22 because of the way power costs will operate in a normal
23 versus a non-normal year.

24 MR. FASSIO: Thank you.

25 We have no other questions at this time,

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1 however, Your Honor, we do have -- Staff does have a
2 couple of pending data requests of the company that are
3 due today, and so we would like to request to reserve
4 the right or the opportunity to recall Mr. Story after
5 Staff has had an opportunity to review those responses.

6 JUDGE MOSS: We'll release Mr. Story subject
7 to recall as we have with all the other witnesses, if
8 needed, so we'll cross that bridge if and when we come
9 to it, Mr. Fassio.

10 MR. FASSIO: Okay, thank you.

11 JUDGE MOSS: With that, for now at least,
12 well, we need to do the Bench and we need to offer any
13 redirect, but what is Mr. Dittmer's schedule,
14 Mr. Ffitch, does he need to catch a plane?

15 MR. FFITCH: Mr. Dittmer is still in the area
16 tomorrow and could be present if there are questions for
17 him.

18 JUDGE MOSS: I think we can probably get him
19 today, we only have just a few minutes, but I didn't
20 want to cause him to miss a previously scheduled flight
21 or something.

22 MR. FFITCH: Thank you, Your Honor.

23 JUDGE MOSS: All right, fine.

24 With that, let's turn -- I think that, yeah,
25 that completes our cross-examination for Mr. Story, so

0613

1 are there questions from the Bench?

2 Apparently not.

3 Any redirect, Ms. Carson?

4 MS. CARSON: No redirect.

5 JUDGE MOSS: All right, fine.

6 Well, then, Mr. Story, I was not getting
7 ahead of myself after all when I started to say that
8 we're going to release you from the witness stand
9 subject to recall. Thank you for your testimony today.

10 And with that, we can have Mr. Dittmer at
11 this time. Mr. Ffitch, now if you wish, we can simply
12 stipulate his material into the record and have the few
13 questions from the Bench since there's no cross
14 indicated for him. We don't need to go through the
15 extra time of putting him on the stand and so forth if
16 that's agreeable to you.

17 MR. FFITCH: I'm assuming you want him on the
18 stand and sworn for the Bench questions.

19 JUDGE MOSS: We will certainly have to wear
20 him.

21 MR. FFITCH: And we're happy to --

22 JUDGE MOSS: Okay, is there any objection to
23 Mr. Dittmer's exhibits and testimony?

24 MS. CARSON: No objection. I just wanted to
25 make sure you did have JRD-14, the one cross-exam

0614

1 exhibit that corrects his previous JRD-8, supplements
2 it.

3 JUDGE MOSS: We have JRD-14, PSE response to
4 Public Counsel Data Request 434.

5 MS. CARSON: Great.

6 JUDGE MOSS: All right, then by stipulation
7 we will admit the exhibits previously marked as JRD-1TC
8 through JRD-14.

9 MR. FFITCH: And, Your Honor, we have also
10 submitted an errata for Mr. Dittmer along with those
11 exhibits.

12 JUDGE MOSS: Yes, thank you for noting that
13 for the record, Mr. ffitch, we have the errata, there's
14 no reason to go through that since you did kindly have
15 that prepared.

16 Are you ready? Please raise your right hand.

17 (Witness JAMES R. DITTMER was sworn.)

18 JUDGE MOSS: Thank you, please be seated.

19 As we just discussed, we're not going to go
20 through the formalities, Mr. Dittmer. I believe we have
21 your name and so on and so forth for the record
22 correctly spelled, so I'm just going to ask Chairman
23 Goltz if he could pose his questions and we'll --

24 CHAIRMAN GOLTZ: Thank you, since I feel some
25 pressure to get this done here.

0615

1 Whereupon,

2 JAMES R. DITTMER,

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

4 herein and was examined and testified as follows:

5

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

7 BY CHAIRMAN GOLTZ:

8 Q. I really just have one short series of
9 questions that relates to really a statement you made on
10 page 29 of your testimony. In about the 10 or 12 pages
11 prior to that, you're talking about the application of
12 the known and measurable test and discussion of
13 offsetting factors. But then as you approach page 29
14 and on page 29 you comment that, at least the question
15 is if you have reason to:

16 Expect PSE to work harder within this
17 particular economic environment to trim
18 costs and possibly defer programs or
19 activities, et cetera.

20 And my question is, are you suggesting that
21 the historic and basic standard that the Commission
22 applies on its regulations on what is known and
23 measurable and other factors, is there some principle
24 that we should apply that would tweak that in some way
25 because of the economic situation we're in?

0616

1 A. Yes, I mean I think that some of the
2 arguments that I raise for reversing some of the known
3 and -- the known and measurables by the company's
4 definition have reached pretty far beyond the test year.
5 Those are applicable in any rate case. But I'm adding
6 you might say a third argument in this case in that we
7 are in, you know, pretty severe economic times, and just
8 as unregulated companies are expected to trim costs,
9 they have to trim costs, I think it's reasonable for the
10 Commission to expect the utilities to work harder to
11 trim costs also. Now the practical application of what
12 I'm doing is I'm using it as an argument to reverse or
13 curb the far reaching price change only adjustment that
14 the company had offered in its case.

15 Q. So are you basically suggesting that there
16 are some adjustments, I'm speaking in the abstract here,
17 some adjustments that while may be permissible in normal
18 economic times should be rejected now?

19 A. As a third reason. I have offered at least
20 two other reasons that I think are applicable in more
21 normal times, and the third reason --

22 Q. No, I understand, but I'm saying not limiting
23 it to what's here, you're saying as sort of a matter of
24 principle that some adjustments that would be perfectly
25 acceptable in normal economic times are not acceptable

0617

1 or should not be allowed now?

2 A. Yes.

3 Q. And you testify around the country, I gather,
4 so do you know of any other commission in recent months
5 or the last year that has adopted and accepted that sort
6 of principle?

7 A. Yes, and I'm sure you'll read about it in the
8 Public Counsel's brief, but the New York Public Service
9 Commission actually ordered an austerity adjustment
10 after they -- and I was not a participant in the case,
11 I'm reading the order, but my read of the order is, you
12 know, they -- they went through the whole process, did
13 the normal adjustments, normalizing, and I think they
14 actually have some budgets in that jurisdiction if I
15 recall, but in any event they got the pot right
16 considering the normal way of doing things, but then
17 went back and said, we expect in these economic times
18 for the company to work harder, you'll read it in the
19 brief, but they said we expect more of you at this time,
20 we expect that costs will be cut. And I have not read
21 it recently, but there's actually two parts to the
22 thing. They expected them to cut costs, but they did
23 allow them if they just could not, if the company could
24 not cut costs far enough, they could come back and ask
25 for more as a deferred, you know, reg asset in the

0618

1 future. So that's one example.

2 And the other one was a Hawaii Electric
3 Company interim rate decision wherein the Commission
4 rolled back, it was a 2009 and they rolled all the way
5 back to the 2007 level was one adjustment that they
6 posed. And another they basically strongly urged the
7 company to come in with a deflation adjustment saying,
8 you know, you've noted deflation in the record, let's
9 see it now in your rate case, so pony up some deflation
10 expense adjustments.

11 Q. Okay. But I gather that those adjustments
12 are different than what you're suggesting. I gather
13 what you're suggesting is we use the economic situation
14 as a lens through which to look at these other
15 adjustments. And sounds like the New York one was just
16 a separate stand-alone adjustment somewhere else.

17 A. I would grant you the mechanics are a little
18 different, but the concept I believe is exactly the same
19 as what I'm saying with this testimony.

20 CHAIRMAN GOLTZ: Okay, I don't have anything
21 further.

22 JUDGE MOSS: Anything else?

23 COMMISSIONER OSHIE: I have no questions.

24

25

0619

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

2 BY COMMISSIONER JONES:

3 Q. Just a follow on to the New York Public
4 Service Commission's order, I think that was on
5 Consolidated Edison, wasn't it?

6 A. Yes, it was.

7 Q. And no other regulated utility in that state,
8 it was just on ConEd?

9 A. That's the only one I'm aware of.

10 Q. Okay.

11 A. I haven't actually researched it, I became
12 aware of it, but I -- yes, that was the order.

13 Q. Just a couple of questions, do you know if
14 the New York PSC, the Public Service Commission,
15 traditionally uses a future test year or an historic
16 test year?

17 A. If it's not a future test year, it's a
18 historic test year with a lot of forward looking
19 adjustments.

20 Q. And I think I read something in the trade
21 press on this, but I can't recall, maybe you can for the
22 record, how did ConEd respond to that, did they seek --
23 did they actually come back to the Commission with a
24 package of cost cuts, or did they seek that third path
25 of the waiver, if you will, or the regulatory asset?

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1 A. I don't know. My read of the order, which
2 was some time ago, was that the reg asset was something
3 that they would ask for after the fact if they couldn't
4 make the cost cuts. But again, I have not read that
5 order for some time, and it was a fairly quick review at
6 that time.

7 COMMISSIONER JONES: Okay, thank you,
8 Mr. Dittmer.

9 JUDGE MOSS: Okay, anything from counsel?

10 MR. FFITCH: No, Your Honor.

11 JUDGE MOSS: All right, Mr. Dittmer, thank
12 you for being here this afternoon giving your testimony,
13 and we'll release you subject to recall if needed just
14 as the other witnesses.

15 THE WITNESS: Thank you.

16 JUDGE MOSS: All right, well, that does bring
17 us to the conclusion of our hearing day, and we have
18 arranged that we'll have Dr. Morin first tomorrow, and
19 then we're going to proceed with the other witnesses,
20 Parcell, Hill, and Gaines, who have testimony on the
21 cost of capital issues, and after that I believe we'll
22 be moving on to Mr. Parvinen, Mr. Nightingale, and it
23 appears to me that we will get to Mills, Odom, and is it
24 Riding?

25 MS. CARSON: Riding.

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1 JUDGE MOSS: So we will be able to finish
2 tomorrow, so that's my basic game plan.

3 Anything before we go off the record?

4 MS. CARSON: One change in the order for
5 tomorrow, we would like to have Mr. Riding go before
6 Mr. Mills, we would like to move him up in the schedule.

7 JUDGE MOSS: All right, no problem, remind
8 me.

9 MS. CARSON: Okay.

10 JUDGE MOSS: But I have made a note.

11 MR. CEDARBAUM: Your Honor, with respect to
12 Mr. Parvinen, I think Mr. Johnson told me a couple days
13 ago that he would not cross-examine Mr. Parvinen, so I
14 didn't know if --

15 JUDGE MOSS: You're right, Mr. Cedarbaum, in
16 fact I do have a note on that, and he's the only one who
17 has indicated any cross, so while we may have some
18 questions for Mr. Parvinen, we'll let you know that in
19 the morning, okay?

20 MR. CEDARBAUM: He'll be here, I just didn't
21 know whether or not --

22 JUDGE MOSS: Okay.

23 MR. VAN CLEVE: Your Honor, I also wanted to
24 note that we no longer have any cross for Mr. Riding.

25 JUDGE MOSS: Oh.

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1 MR. VAN CLEVE: We told PSE's counsel that
2 earlier.

3 JUDGE MOSS: Okay.

4 MR. FFITCH: Pardon me, that is the same case
5 for Public Counsel, Your Honor, no cross for Mr. Riding.

6 JUDGE MOSS: All right, well, I believe that
7 eliminates his cross then, so we don't need to worry
8 about taking him out of sequence it appears.

9 All right, anything else anybody wants to
10 tell us?

11 MR. JOHNSON: Your Honor, we have no further
12 cross on behalf of the Coalition, so if I may be
13 excused, I don't know whether the issue Mr. ffitich
14 raised earlier is still outstanding, but I obviously
15 don't want that tomorrow when I'm not here.

16 JUDGE MOSS: Mr. ffitich.

17 MR. FFITCH: Your Honor, I need to mull them
18 over, so I'm not prepared to make any presentations at
19 this point.

20 JUDGE MOSS: Keep in mind that Mr. Johnson is
21 asking to be excused from the remainder of the hearing
22 because he has no further intent to participate as a
23 representative here, so I'm not quite sure how to handle
24 this rather unusual request in that situation.

25 MR. FFITCH: Your Honor, if I might inquire

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1 whether Mr. Johnson is available by telephone if I, you
2 know, want to bring something forward for oral argument
3 or discussion, perhaps he could call in.

4 JUDGE MOSS: All right, well, what I'm going
5 to do is just say that I'm going to count on the good
6 faith efforts of counsel to resolve this without me
7 having to do anything further about it, so do your best.

8 Mr. Furuta.

9 MR. FURUTA: Your Honor, I would also ask to
10 be excused from tomorrow. There was the one matter of
11 the exhibit for my witness, I don't know if anyone
12 has --

13 JUDGE MOSS: Refresh my recollection.

14 MR. FURUTA: Ralph Smith.

15 JUDGE MOSS: Yes? Oh, we haven't admitted
16 his --

17 MR. FURUTA: I don't believe so.

18 JUDGE MOSS: Can we admit his materials by
19 stipulation?

20 MS. CARSON: Yes.

21 JUDGE MOSS: All right, fine, then
22 Mr. Smith's evidence will be admitted by stipulation.

23 MR. FURUTA: Thank you, Your Honor.

24 MS. CARSON: Your Honor, one last issue on
25 Mr. Riding, we wonder if he may be excused or if the

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1 Commissioners will have questions for him.

2 JUDGE MOSS: All right, he can be excused,
3 and we'll stipulate his -- and again, my intention is to
4 stipulate everything in, but where we have counsel who
5 are leaving such as Mr. Furuta, and of course you do
6 have permission to not be here tomorrow, we'll go ahead
7 and stipulate his material in.

8 And as far as you're concerned, Mr. Johnson,
9 also you may be excused from the hearing. I'm counting
10 on you and Mr. ffitch working things out so that we
11 probably won't have to have anything further in the
12 hearing room about this. But if something should arise,
13 then I'm sure it will be brought to my attention, and
14 I'll deal with it at the time, and we'll deal with it in
15 such a way as to not compromise your interests.

16 MR. JOHNSON: Thank you, Your Honor.

17 JUDGE MOSS: You're welcome.

18 MR. CEDARBAUM: Your Honor, I would like,
19 just for the record, I would like to be involved in
20 those discussions, because I do have some concerns as
21 well about the Coalition's briefing rights in the case.

22 JUDGE MOSS: Well, you know, if the parties
23 are going to challenge Mr. Johnson's ability to brief in
24 this case, they'd better bring forward a motion, because
25 he's a party, and he's got full rights as a party in

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1 this case, and this is the first I've heard about any
2 problems such as this, so if you all want to bring a
3 motion to the Bench, we'll consider it.

4 MR. CEDARBAUM: I think Staff does not object
5 to the Coalition's right to submit a brief, but I do
6 think there's some fairness involved with page
7 limitations. Parties who have to address all issues
8 have to do that with 60 pages. Mr. Johnson has one
9 issue in the case, and I think it's fair that he should
10 not be able to have 60 pages to do that, that there
11 should be some limitation to his briefing.

12 MR. JOHNSON: Your Honor, we're getting into
13 micro issues that I thought Your Honor had disposed of
14 by your earlier comment. If we're going to argue the
15 merits of our participation going forward, then let's do
16 that. But I thought that we were expected to take this
17 outside the courtroom and not have this kind of
18 piecemeal approach to addressing our interests.

19 JUDGE MOSS: Thank you, Mr. Johnson.
20 Counsel, I want to encourage you again, I want you to
21 work among yourselves and talk all this through and see
22 if there's really a dispute here or not. I rather
23 suspect there is not really an issue here. If we need
24 to discuss briefing guidelines at the end of the
25 proceeding as we typically do, then we will have that

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1 discussion on the last day. And to the extent it
2 involves Mr. Johnson, we will arrange to get you in the
3 loop on any such discussion, Mr. Johnson. I'm sure
4 you'll be available by phone if that comes up.
5 Personally I prefer briefing limitations that keep you
6 all to 20 pages, but I don't know if the Commissioners
7 would agree with me on that, so.

8 All right, anything else?

9 Mr. ffitch.

10 MR. FFITCH: Your Honor, I --

11 JUDGE MOSS: Can we let the Commissioners go?

12 MR. FFITCH: Yes, Your Honor.

13 JUDGE MOSS: Let's let the Commissioners go,
14 I'll deal with this stuff.

15 All right, go ahead, Mr. ffitch.

16 MR. FFITCH: Just running down the issue
17 list, we do have Mr. Norwood available tomorrow. I
18 understand there's no cross identified for him. At this
19 point I would just offer that he is available, and as we
20 may progress within the power cost witnesses, if there
21 are questions from the Bench for him, we will tell him
22 to be available per phone call.

23 JUDGE MOSS: All right, well, thank you very
24 much. At this time, I don't have such an indication,
25 but we will certainly give you as much advance notice as

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1 I have, so I will give that to you.

2 Okay, anything else? All these niggling
3 housekeeping details. Anything else, Ms. Carson?

4 MS. CARSON: Did we ever get a ruling on
5 Mr. Jones?

6 JUDGE MOSS: Oh, a determination as to
7 whether we need him here?

8 MS. CARSON: Yes. There's no cross.

9 JUDGE MOSS: I'm waiting for a nod either
10 affirmatively or negatively from the -- okay, apparently
11 we do not need him.

12 MS. CARSON: Thank you.

13 JUDGE MOSS: All right.

14 MR. VAN CLEVE: I just want to confirm that
15 you don't need Mr. Schoenbeck either.

16 JUDGE MOSS: To the best of my knowledge, we
17 do not.

18 MR. CEDARBAUM: That's also true for
19 Mr. Buckley?

20 JUDGE MOSS: Yes. As to the remaining
21 witnesses for whom cross has not been identified, to my
22 knowledge there are not questions from the Bench, so if
23 that changes I will let you know at the earliest
24 possible opportunity.

25 MR. FFITCH: May we have Mr. Dittmer

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1 available by phone tomorrow, he has not been released
2 yet?

3 JUDGE MOSS: That would be fine.

4 MR. FFITCH: He'll be in the area, we could
5 have him appear on the telephone if there are --

6 JUDGE MOSS: If there's any follow up or
7 anything that we don't anticipate at this time, that
8 would be just fine, yes. I'm tired, I'm easy.

9 All right, with that, I believe we can be in
10 recess until tomorrow morning at 9:30.

11 (Hearing adjourned at 5:20 p.m.)

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