

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
2 KING COUNTY DEPARTMENT OF)
PUBLIC WORKS, SOLID WASTE)
3 DIVISION,)
Complainant,) DOCKET NO. TG-940411
4)
vs.)
5) VOLUME V
SEATTLE DISPOSAL COMPANY,)
6 RABANCO LTD., d/b/a EASTSIDE) PAGES 702 - 875
DISPOSAL AND CONTAINER)
7 HAULING,)
Respondent.)
8 -----)

9
10 A hearing in the above matter was held on
11 July 19, 1994 at 9:30 a.m., at Meydenbauer Center,
12 Room 407, 11100 Northeast Sixth, Bellevue, Washington
13 before Chairman SHARON NELSON, Commissioner RICHARD
14 HEMSTAD and Administrative Law Judge ALICE HAENLE.

15
16 The parties were present as follows:

17 THE WASHINGTON UTILITIES AND TRANSPORTATION
18 COMMISSION STAFF, by ANNE EGELER, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
19 Olympia, Washington 98504.

20 KING COUNTY SOLID WASTE DIVISION, by MARY
F. PERRY and KATHRYN A. KILLINGER, Senior Deputy
Prosecuting Attorneys, Civil Division, E550 King
21 County Courthouse, Seattle, Washington 98104-2312.

22 RABANCO COMPANY d/b/a EASTSIDE DISPOSAL, by
ELIZABETH THOMAS, Attorney at Law, 701 Fifth Avenue,
23 Suite 5000, Seattle, Washington 98104.

24 Cheryl Macdonald, CSR

25 Court Reporter

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COMMISSION

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1 I N D E X

2	WITNESS:	DIRECT	CROSS	REDIRECT	RE CROSS	EXAM
3	DEM AS	707	709	749 756		754
4	POPOFF	764	769 839			
5	COREMANS					781
6	DAVIDSON					783
7	PETERS					788
8	BENTON					794
9	JONES					801
10	HORSFALL					804
11	YATES					806
12	JACKSON, MELE					810
13	POTUZAK					818
14	WEISS					820
15	HARDY					825
16	BOETTCHER					828
17	BARNI					831
18	KNEASS					834
19	EXHIBITS:		MARKED		ADMITTED	
20	64A				745	
21	T-95, 96, C-97, 98, 99, 100		706		709	
22	T-101, 102, 103, 104, 105, 106		764		769	
23						
24	107		838		838	
25	108		839		839	

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

2 JUDGE HAENLE: Let's be on the record. The
3 hearing will come to order. This is a fifth day of
4 hearing in docket No. TG-940411. The hearing is
5 taking place at Bellevue, Washington on July 19, 1994
6 before the commissioners. We'll be continuing with
7 the witnesses this morning. We'll be breaking to take
8 the public testimony that's scheduled at 1:30 and
9 we'll fit the rest of the testimony around that. If
10 we need to start again after that testimony, then we
11 will do so. Appearances are the same this morning as
12 they were yesterday.

13 In the way of preliminary matters, you have
14 brought with you what we had premarked as Exhibit 64A
15 which was the revised table of Mr. Davies and you also
16 have some revised testimony pages, do you not?

17 MS. PERRY: Yes, I do, Your Honor.

18 JUDGE HAENLE: Would you explain what those
19 are.

20 MS. PERRY: The revised testimony pages
21 simply reflect a page to direct people's attention
22 first of all to Exhibit 64A and also to insure that
23 the numbers that are cited in those pages of the
24 testimony which are pages 5, 6 and 7 of Mr. Davies'
25 testimony reflect the numbers that are contained in

1 Exhibit 64A as opposed to Exhibit 64.

2 JUDGE HAENLE: Just so that counsel have a
3 chance to look that over, let's deal with the
4 admissibility of those documents or the treatment of
5 those documents after the first break so counsel has a
6 chance to look them over. I also asked you when
7 we began this morning, Ms. Perry, if you could tell me
8 when the response to bench request No. 1 will be
9 provided. Do you want to give your statement.

10 MS. PERRY: Yes, Your Honor. I spoke to
11 Mr. Pealy at the city of Seattle. It's the city's
12 position that the report that was requested from the
13 bench as a draft report has never been adopted
14 formally as a report officially by the city of Seattle
15 and therefore they do not want to provide that.

16 JUDGE HAENLE: And you will be sending a
17 letter to the Commission which we'll put in as Exhibit
18 57 to reflect that.

19 MS. PERRY: I will confirm that by writing.

20 JUDGE HAENLE: Anything else of a
21 preliminary nature we need to deal with? The next
22 staff witness has assumed the stand. Would you raise
23 your right hand.

24 Whereupon,

25 LANE DEMAS,

1 having been first duly sworn, was called as a witness
2 herein and was examined and testified as follows:

3 JUDGE HAENLE: Also during the time we were
4 off the record I marked a number of documents for
5 identification as follows: Marked as Exhibit T-95 for
6 identification, a multi-page document, in the upper
7 right-hand corner LCD-1; 96 for identification, LCD-2
8 in six pages; C-97 for identification, a one-page
9 document. The company cost of service study. This is
10 confidential. Please treat it in that manner. 98 for
11 identification in one page, LCD-4; and 99 in one page
12 LCD-5. Ms. Egeler also distributed before we started
13 on Thursday a packet of documents. The top document
14 begins response to request No. 1. I have marked this
15 as 100 for identification. I believe you indicated at
16 that time that it was a group of responses to data
17 requests; is that correct?

18 (Marked Exhibits T-95, 96, C-97 and 98
19 through 100.)

20 MS. EGELER: That's correct.

21 JUDGE HAENLE: One of the responses to data
22 request is confidential. That is the response to
23 request No. 7. It has been separately bagged and will
24 be put in one of the red ordered envelopes at the
25 Commission. Be sure that that you treat that portion

1 of the document as confidential. The remainder of the
2 document is not confidential. Is that right, Ms.
3 Egeler?

4 MS. EGELER: That is correct.

5 JUDGE HAENLE: Proceed.

6

7

DIRECT EXAMINATION

8 BY MS. EGELER:

9 Q. Please state your name spelling your last
10 name for the record.

11 A. My name is Lane Chandler Demas, D E M A S.

12 Q. Were you responsible for the preparation of
13 what's been marked for identification as Exhibit T-95?

14 A. Yes.

15 Q. Do you have any corrections to make to that
16 at this time?

17 A. Yes, I have one.

18 Q. Please make that.

19 A. On page 2 of Exhibit 95, line 16, the date
20 showing June 30, 1994 should be June 30, 1993.

21 Q. With that correction made, is what's been
22 marked as Exhibit T-95 true and correct to the best of
23 your belief and knowledge?

24 A. Yes, it is.

25 Q. And are you also sponsoring Exhibits 96

1 through 99?

2 A. Yes.

3 Q. Were those prepared by you or under your
4 supervision?

5 A. Yes, they were.

6 Q. And are those true and correct to the best
7 of your belief and knowledge?

8 A. Yes.

9 Q. Finally, are you sponsoring Exhibit 100,
10 the response to data request made by the staff?

11 A. Yes.

12 Q. Are you familiar with the responses to
13 those data requests?

14 A. Yes, I am.

15 Q. And is the copy that you have before you
16 true and correct to the best of your belief and
17 knowledge?

18 A. Yes, it is.

19 MS. EGELER: Your Honor, I move for the
20 admission of Exhibit T-95 and Exhibits 96 through 100.

21 JUDGE HAENLE: Any objection, Ms. Perry?

22 MS. PERRY: No, Your Honor.

23 JUDGE HAENLE: Any objection, Ms. Thomas?

24 MS. THOMAS: No, Your Honor.

25 JUDGE HAENLE: Exhibit T-95 and 96 through

1 100 will be entered into the record.

2 MS. EGELER: Mr. Demas is available for
3 cross-examination.

4 JUDGE HAENLE: Go ahead, Ms. Perry.

5 (Admitted Exhibits T-95, 96, C-97 and 98
6 through 100.)

7

8 CROSS-EXAMINATION

9 BY MS. PERRY:

10 Q. Morning, Mr. Demas. My name is Mary
11 Perry and I'm with the King County Prosecutor's Office
12 and I represent King County Solid Waste Division in
13 this matter and I have a few questions to ask you.

14 On page 1 of your testimony that's been
15 marked as Exhibit 95 you state that you are a revenue
16 requirements specialist and on line 11, starting on
17 line 11, you say that that entails the inspection,
18 verification and auditing of the books and records of
19 regulated companies in connection with rate filings
20 before the Commission, and it also goes on to say
21 generally involves examination of revenues, expenses,
22 investment, cost of service and rate design. So are
23 you the person who's tasked with reviewing submission
24 by a company in connection with a rate filing?

25 A. Yes.

1 Q. And you are the person who verifies the
2 accuracy of the information that's submitted by the
3 company?

4 A. Correct.

5 Q. Does anybody assist you in that task?

6 A. At times there's more than one staff person
7 assigned to a case.

8 Q. In the case of the current Eastside
9 Disposal rates, did you work alone or did somebody
10 assist you?

11 A. There was one person who assisted me.

12 Q. Who was that?

13 A. Curt Bjorkheim.

14 Q. What was his role in this?

15 A. He performed various analytical tasks as
16 assigned.

17 Q. But it was your job to supervise him in
18 that?

19 A. Yes.

20 Q. So it was your role to be the person
21 ultimately responsible for verifying the accuracy of
22 the information that was provided by Rabanco in
23 connection with the Eastside Disposal rates?

24 A. That's correct.

25 Q. We've had some testimony about this, but

1 maybe you could tell me from the Commission's point of
2 view how this process works. What happens when the
3 company makes a rate filing?

4 A. Company will submit a revised tariff to the
5 Commission, and we along with the proper customer
6 notice to customers and a cover letter explaining what
7 they're doing, this filing is then processed through
8 the tariff center who looks for basically the tariff
9 format being correct. If it's a revenue impacted
10 filing then it will come to the transportation or
11 utilities section, transportation section, to be
12 assigned to an auditor to review this filing if it's
13 appropriate. Auditor then visits the company, looks
14 over what they have filed and makes various analytical
15 calculations and such, discusses with the company,
16 requests information from the company and ultimately
17 makes a determination as to whether the rates filed
18 are to be accepted, if there's any revised rates or
19 ultimately no rates will be approved or recommended
20 for approval.

21 Q. Where did you fit into this process?

22 A. I was assigned the case when it came up to
23 the utilities section for analysis.

24 Q. Is that before or after it was audited?

25 A. That's before.

1 Q. Did you perform the audit?

2 A. Yes.

3 Q. You described the generic process. Was
4 that the process that took place in connection with
5 the Eastside current rates?

6 A. Correct.

7 Q. On page 5 of your testimony, starting on
8 line 20, you state that the Commission order in cause
9 No. TG-2616, et al., requires all class A solid waste
10 companies to prepare a cost of service study in order
11 to determine the specific costs associated with each
12 level of service provided. Is Eastside Disposal a
13 class A company?

14 A. Yes, they are.

15 Q. And did Eastside Disposal perform a cost of
16 service study in connection with its current rates?

17 A. Yes, they did.

18 Q. And on page 7 of your testimony on line 12
19 you say that cost of service -- the cost of service
20 study assigns costs to various service levels by
21 weight and time factors. Your testimony then goes on
22 and talks about the Meeks weights at times, but those
23 weren't -- the Meeks weights were not the weights that
24 were used in this case?

25 A. That's correct.

1 Q. Why weren't the Meeks weight used in this
2 particular case?

3 A. When we visited the company we were -- in
4 going through the filing, basically the materials
5 prepared and submitted by the company for filing, one
6 of the issues that came up was in the cost of service
7 study was the weights and we went through the
8 methodology used by Eastside and comparing that with
9 Meeks weights -- I will clarify one thing. Our cost
10 of service study is slightly different than the one
11 prepared by Rabanco. He follows the same format
12 except he assigns his weights specifically from a
13 previous analysis. We use our cost of service study
14 and choose to use Meeks weights as the preliminary
15 weights. The cost of service study will assign --
16 will adjust these weights to match actual disposal
17 tons. So the Meeks weights themselves are a guideline
18 with which actual tons is the main driver to what they
19 will ultimately be. Meeks weights were established
20 before recycling programs. It has been our experience
21 without having a lot of specific data in front of me
22 that the Meeks weights after the inception of
23 recycling programs have shown to be higher than most
24 of the company's. Most of our cost of service study
25 have been adjusting the Meeks weights down to meet

1 actual tons.

2 So, in looking at Eastside's analysis, I
3 was looking for two issues. One is the reasonableness
4 of the level of weights, do they fit in a range of
5 reasonableness, and primarily, the spread between the
6 rates -- weights, minican, one-can, two-can, which
7 really carries more importance than the ultimate
8 weight level itself.

9 I was convinced that Eastside performed a
10 diligent attempt to determine the reasonable level of
11 weights for their residential service and commercial;
12 that a level of confidence was there that I decided
13 that they would be within a range of reasonableness.
14 It would not distort the rate design filing.

15 Q. So if I understand your testimony you
16 didn't adjust the Meeks weights down. You used the
17 weights that Rabanco provided to you?

18 A. We used Rabanco's cost of service study, he
19 performed weight analysis previously, then puts these
20 weights in. Had we used our model and put the Meeks
21 weights in they would have most likely -- I can't say
22 to what level -- have been adjusted downward to meet
23 actual tons. I'm not sure how closely it would have
24 come to Rabanco's weights, but the fact remains we
25 did use their weights.

1 Q. Are the weights that the UTC used in
2 determining Rabanco's cost of service in this case
3 those contained in what was attached to testimony as
4 LCD-3 and has been marked as Exhibit C-97?

5 A. Did you ask me if that's the weights that
6 were used?

7 Q. Correct.

8 A. Correct, that is.

9 Q. Now, Eastside isn't the only Rabanco
10 company operating in Washington state. Do other
11 Rabanco companies submit weights that are based on
12 their own studies as opposed to using Meeks weights?

13 A. Well, I believe. My understanding is that
14 the official Rabanco companies as they stand now would
15 be under the controllership of Paul Glasgo and he
16 would be using the similar methodology for all of
17 these companies.

18 Q. To your knowledge, has Eastside used the
19 weights that were submitted in connection with this
20 cost of service study in previous rate filings?

21 A. I believe in the previous one there was
22 similar but not exactly the same, yes.

23 Q. I recall Glasgo's testimony, he said that
24 they may have differed by perhaps 5 percent?

25 A. Something like that.

1 Q. Do you know when they started using those
2 different weights?

3 A. Mr. Glasgo, I'm not sure if in the first
4 filing he implemented them. I believe it was after he
5 performed an analysis back in 1990 to come up with
6 rate spread and rate level to match their operations.
7 It would be the next filing, I would assume.

8 Q. I have a question about the minican.
9 Something to satisfy my curiosity. I notice the Meeks
10 weights don't use the minican but -- material that we
11 received regarding the Meeks weights. What does the
12 UTC do to calculate the minican when they use the
13 Meeks weights?

14 A. The example, the Exhibit 98 here is part of
15 Meeks' original testimony where he determines weights
16 for cans. That was, as I said, prior to recycling and
17 prior to minican implementation of the companies.
18 Once minicans became an option, Meeks was consulted
19 to help us determine what would be appropriate rate or
20 weight based on this study, and he, best of my
21 knowledge, arrived at 26 pounds. That was after this
22 particular exhibit had been testified to.

23 Q. Do you know when that was?

24 A. The original?

25 Q. No. When you consulted with Meeks to

1 determine for a minican.

2 A. Off the top of my head I can't remember.

3 Q. Do you know whether that was before or
4 after curbside recycling had been initiated?

5 A. I believe it was at the inception, when we
6 were first trying to determine -- the minicans were
7 first being offered and in some cases they were being
8 offered concurrently with recycling programs and so we
9 wanted to establish some rate design before they were
10 put into effect, and in some cases before, shortly
11 before. So I would say the effect of our rates for
12 minicans were before any results of recycling had been
13 obtained.

14 Q. You testified, as I recall, that Mr. Glasgo
15 prepares the cost of service study for other Rabanco
16 companies, so as I understood your assumption that the
17 other Rabanco companies would use nonMeeks weights,
18 for lack of a better term, would use the cost of
19 service study weights that were provided by Rabanco;
20 is that right?

21 A. I would assume so.

22 Q. Do you know how much or do you know if
23 those weights varied between companies?

24 A. I would imagine that they would just
25 because each company is a standalone company with its

1 own different set of events, whether it be -- whatever
2 weights vary between demographics, locale or whatever.
3 It would be very unusual for me to think -- for a set
4 of universal weights to be applied to all companies.

5 Q. You don't recall for a fact, however,
6 whether they varied from company to company?

7 A. I don't recall, no.

8 Q. And you have done cost of service analysis
9 on other Rabanco companies?

10 A. One other one since the inception of his
11 methodology.

12 Q. And what was that?

13 A. That was Kent Meridien year and a half ago,
14 year ago.

15 Q. Do any companies besides Rabanco submit
16 their own weight studies?

17 A. Yes.

18 Q. Who are they?

19 A. I believe Sanitary Service, the Disposal
20 Group out of Vancouver, and those are the two that I
21 have had experience with. There could be others I am
22 not familiar with right now.

23 Q. Do you know how those weights compare with
24 Eastside's weights?

25 A. I think overall those two specific

1 companies have weights that are higher in total volume
2 but similar in differential spread between -- in other
3 words, pounds between service levels.

4 Q. Do you recall whether their weights would
5 be closer to the Meeks weights or closer to Eastside's
6 weights?

7 A. Closer to Eastside's weights.

8 Q. Going back to the minican in this
9 consultation with Mr. Meeks, do you know how he
10 determined the other can weights?

11 A. The original, the original testimony?

12 Q. Right.

13 A. There was an extensive -- I'm not sure how
14 extensive but several companies involved in the
15 Seattle-King County -- could even be Snohomish County
16 -- whereupon there was people in his employ and in a
17 few cases Commission staff people who were involved
18 with the time and motion studies -- times and weights
19 of cans where they actually went out and weighed
20 several hundred or thousand can service over a period
21 of time and ran the intervals between the companies to
22 determine as accurate as possible cross-section of the
23 weights.

24 Q. Do you happen to know whether Mr. Meeks
25 derived the minican weight of 26 pounds in the same

1 manner?

2 A. I'm really not aware of his exact
3 methodology used in that respect.

4 Q. Do you know whether Mr. Meeks or anybody
5 working with them actually ever weighed the minican?

6 A. Like I say, I'm not sure what he might have
7 employed. He is employed by several companies and
8 municipalities throughout the country and I cannot say
9 for sure if he has some experience with the minican
10 service in some other location and used that as a
11 basis for his analysis. I can't say that for sure.

12 Q. So you're not sure whether he actually ever
13 weighed the minican?

14 JUDGE HAENLE: Your answer was?

15 THE WITNESS: Not sure.

16 Q. Do you know of any work by Mr. Meeks
17 weighing cans in the King County area?

18 A. Yes.

19 Q. And what was that?

20 A. That was in our generic hearing TG-2017
21 back in 1988 where several companies were subject to
22 this process of determining, say, time and motion to
23 determine the weights and times for our cost of
24 service modeling he was developing.

25 Q. Do you know whether Mr. Meeks weighed any

1 cans in the Eastside Disposal area?

2 A. Yes. I believe he did.

3 Q. You believe he did. Do you know for a fact
4 whether he did?

5 A. Let me look at my -- have a copy of the
6 original here. I can read the companies off if you
7 like. There was one that was Federal Way, Nick Raffo,
8 Sno-King, Rainier, Rabanco SeaTac, Eastside and
9 Seattle Disposal.

10 Q. But going back to your earlier testimony,
11 you don't know whether he actually weighed the minican
12 in the Eastside area?

13 A. At that time there was no minican.

14 Q. So the answer is no?

15 A. "No."

16 Q. On page 10 of your testimony, you refer to
17 a study that Eastside performed in 1990 and it says
18 customer weight statistics were compiled by actually
19 weighing individual cans at various service levels.
20 The results were compared to weights calculated in the
21 Meeks study and the final allocation percentages were
22 based on the need to match the activity in any one
23 period with the actual disposal tons generated in the
24 same period. The current percentage weight spread has
25 been determined to best represent Eastside's activity.

1 And we heard Mr. Glasgo testify regarding this weight
2 study and the allocation that resulted following that.
3 So when you refer to the 1990 study you're referring
4 to the weight study that Mr. Glasgo testified
5 regarding yesterday that occurred in March of 1990?

6 A. Yes.

7 Q. And the UTC did not participate in that
8 study, did they?

9 A. No.

10 Q. And to your knowledge, has Eastside
11 performed any similar studies since March of 1990?

12 A. Not to my knowledge.

13 Q. To your knowledge, are you aware whether
14 Eastside has actually weighed cans in its service area
15 since then?

16 A. No, I am not aware of that.

17 Q. Your testimony after mentioning this study
18 says that the results were compared with the weights
19 calculated in the Meeks study. What did you mean by
20 that?

21 A. Well, you mean what Mr. Glasgo did in his
22 comparison?

23 Q. Right, you were testifying about that.

24 A. He was looking at the general spread
25 between weights and overall level of weights, and the

1 effect that would be on his rates should he use the
2 Meeks weights versus, let's say, his cost of service
3 study doesn't have the adjustment factor that ours
4 does, puts his weights in a final form. So he was
5 looking at how much, in his opinion, the level of
6 Meeks weights put in in their final form would
7 overstate residential disposal tons or possibly
8 overstate and the spread between rates -- or weights,
9 excuse me.

10 Q. If I recall your testimony a little earlier
11 today you said that it was the general spread that was
12 most important to the UTC?

13 A. Correct. That is the more important of the
14 two factors there.

15 Q. If I recall Mr. Glasgow's testimony
16 yesterday, the spreads between the weights that were
17 derived during this March 1990 study do not correlate
18 to the spreads that are actually used by Rabanco in
19 its cost of service studies; is that correct?

20 A. That's correct.

21 Q. So how would that study have anything to do
22 with deriving spreads?

23 A. I personally, in looking at his derivation
24 of weights, was not so swayed by his small sampling
25 that he took because of the obvious distortion you can

1 get with just a small amount of cans. I looked at it
2 in a broader picture of separating residential from
3 commercial activity. We have two givens. We have the
4 number of customers and we have the number of tons.
5 The next step is to try and determine how much of that
6 is residential and how much is commercial. And then
7 once you have determined that aspect the best that you
8 can, you now have, let's say, the residential tons,
9 you have a limit then as to what weights times the
10 number of customers that are going to generate that,
11 and what reasonableness of spread between these
12 weights can you use with the ultimate goal being to
13 get the disposal tons.

14 That was the intent of my analysis was to
15 determine the reasonableness of his final outcome
16 based on if you look at Meeks at the level, the
17 general level, of adjustments that's occurred and the
18 spread between the weights.

19 Q. If the spread between the weights isn't
20 based upon the March 1990 study that you cite, what
21 exactly is it based on?

22 A. It's based on, I would say, combination of
23 the Meeks weights, the derivation of Meeks weights,
24 and other studies, primarily. Without having specific
25 companies in front of me, when we analyze a study or

1 an analysis such as this for reasonableness, we will
2 use, you might say, industry trends or a variety of
3 other company's results as another tool (check
4 variation with derivation way before) in other words
5 as a comparison consistency check, to see if these are
6 falling in line with or way outside a normal range
7 that we would consider of what's going on in the
8 industry.

9 So rather than just accept it, face value,
10 it had to fall within a level of reasonableness for me
11 to accept it.

12 Q. That's not what your direct testimony said.
13 On page 10 of your testimony you refer to this study
14 and you said the customer weight statistics were
15 compared by actually weighing the cans and you said,
16 "The results were compared to the weights calculated
17 in the Meeks study and then the final allocation
18 percentages were based on the need to match the
19 activity in any one period with the actual disposal
20 tons generated in the same period." What's the point
21 of even talking about this 1990 study? The inference
22 that one draws from direct testimony is that that was
23 an important factor in the UTC's analysis of the
24 weights that were submitted by Rabanco.

25 A. It was a factor in Eastside's analysis that

1 we looked at the overall analysis from Eastside, and
2 basically that is a very brief explanation of
3 Eastside's procedure there is what that was.

4 Q. But that's what you -- that's what Eastside
5 provided to you and that's what you relied upon?

6 A. Correct.

7 Q. Did the UTC perform an independent
8 comparison between the Meeks weights and the weights
9 that were provided by Eastside in this case?

10 A. Independent comparison?

11 Q. Right. I'm kind of confused by what
12 Mr. Glasgo -- excuse me, not him, but what you said is
13 the results compared to the weights calculated in the
14 Meeks studies. That's what apparently Eastside did.
15 Did the UTC do an independent comparison between the
16 two?

17 A. Yes.

18 Q. How did they compare the two?

19 A. I basically did that.

20 Q. What did you do?

21 A. I compared the -- I would say that in my
22 analysis I looked at the results of their 1990 study
23 and looked at Meeks weights and placed -- in part of
24 any analysis you can place whatever level of
25 confidence on whatever part of this study that you

1 want and I did not place a lot of confidence on that
2 specific study being that there was such a small
3 sample taken in such a short time. I used basically
4 an overall industry specifications that I could --
5 that I have access to and/or from knowledge and
6 experience, like I say, to determine the
7 reasonableness.

8 Q. Moving on in the process a little bit. On
9 page 10 you say that -- page 10, starting on line 18,
10 "the final allocation percentages were based on the
11 need to match the activity in any one period with the
12 actual disposal tons generated in the same period."
13 Could you explain how the UTC applies the allocations
14 in the -- I guess the allocations or the proxy weights
15 that were provided by Rabanco and comes up with the
16 tonnages or applies it to the tonnages.

17 A. In this case the weights per cans were
18 previously determined in an analysis performed by
19 Eastside. I performed three other -- three analyses,
20 one verifying customer count, verifying the actual
21 disposal tons in the test period to match, and then
22 determining the reasonableness of the cans' weights
23 spreads to achieve the disposal tons.

24 Q. You keep talking about determining
25 reasonableness and you talk about overall industry

1 specification that you look at. What does that mean?

2 A. Well, had these fallen way outside, I guess
3 you call it, range of reasonableness where they were
4 just obviously, based on my knowledge and experience,
5 not appropriate, as an example, I probably would have
6 rejected the weights taken from the 50-can study had
7 he used those weights specifically because they would
8 have been -- varied from Meeks or any other weight and
9 rate/weight spreads by a dramatic amount. So the
10 reasonableness level is how it fits based on his
11 activity and known activity of other companies.

12 Q. What sort of evidence do you ask for from
13 the hauler to support their weights? Do you ask for
14 copies of statistical analyses or weight studies or
15 what specifically do you get from the hauler?

16 A. Any hauler who uses other than Meeks
17 weights?

18 Q. Right, that's what I'm referring to.

19 A. We are very intent on, like I say, having
20 access to whatever they use to determine these for the
21 sole purpose of determining the reasonableness of the
22 levels.

23 Q. What did you get from Eastside in this
24 case?

25 A. I got the basic -- his weight analysis

1 study from him.

2 Q. What do you mean by weight analysis study?
3 Is that the March 1990 study?

4 A. That and his, I believe it is in one of his
5 exhibits, his weight study in a spreadsheet form.
6 From that one of our tools is direct interview with
7 Paul Glasgo himself, to sit down one on one and
8 explain step by step exactly what was performed and
9 why.

10 Q. Do you happen to recall which exhibit of
11 Mr. Glasgo's it was?

12 A. I don't remember. I could probably find it
13 if I had his testimony.

14 Q. So you based it upon the weight study,
15 which we'll recall yesterday from Mr. Glasgo's
16 testimony, was simply the four tonnage tickets.

17 A. That was his weight study of which he
18 performed his I guess --

19 Q. I'm referring to the March 1990 study. So
20 you had those four weight tickets from --

21 A. Not those particular tickets, no. He had
22 it more along the line of a summary sheet that was not
23 -- that is not one of his exhibits in which part of
24 his -- in our discussion in confirming and analyzing
25 his weight study for the filing, that weight study.

1 Q. Which one is that?

2 A. That's the one that we took the specific
3 test period we cited and used his weights, as I say,
4 to determine the spread there. Like I say, it was in
5 spreadsheet format which we have access to a Lotus
6 file and then at his location we can discuss this in
7 depth or as in depth as we would like to go analysis
8 there.

9 Q. So you had the spreadsheet from Mr. Glasgo?

10 A. Correct.

11 Q. And you had the weight tickets from the
12 March 1990 study?

13 A. No.

14 Q. You didn't have that?

15 A. I didn't have those weight tickets, no.

16 Q. You just had -- what did you have?

17 A. I knew based on discussion with Mr. Glasgo,
18 and I don't remember whether documentation was there,
19 that when we discussed how he arrived at this 1990
20 weight study that he performed, he had rather than
21 those weight tickets -- and I don't remember exactly
22 in the form of documentation he had, but some
23 statistical numbers that were used in this final
24 outcome.

25 Q. This is in connection with the spreadsheet?

1 A. It was in connection with his analysis that
2 ultimately determined these weights that were used,
3 and I believe he provided his testimony, a spreadsheet
4 that shows in printout form what weights were used.
5 Behind it are the formulas that were used in the
6 analysis that could be traced further back and further
7 back to previous analysis that he had made that
8 mitigated his judgment there.

9 Q. So you had -- you knew about the March 1990
10 study, you had the spreadsheet and then you talked to
11 him?

12 A. Correct.

13 Q. So UTC didn't do any independent analysis?

14 A. No.

15 Q. Going back to page 6 of your testimony,
16 excuse me, line 10, it starts, it says, "Commercial
17 rates are still a little high and no increase was
18 proposed for them." Proposed residential rates --
19 excuse me. "Proposed residential rates were lowered
20 to reach the target operating ratio. The spread
21 between rates was consistent with the cost of service
22 study." Could you explain those statements?

23 A. The filing, previous filing here, from
24 Eastside was rates were applied to residential only
25 and I believe -- I'm not sure on the one previous to

1 that, but regardless, the cost of service study as it
2 was prepared indicated that the commercial rates were
3 higher than the residential rates, i.e., they were
4 subsidizing residential rates, so this rate effect was
5 filed for residential only. Staff revised these rates
6 downward and the company didn't get all that they
7 filed for. In that effect the company did not recover
8 -- they recovered what they were allowed for in
9 residential, but the commercial rates, like I say, are
10 still subsidizing to a small degree the residential
11 rates. I would anticipate with the Seattle or King
12 County disposal fee increase and the resulting rate
13 increases filed a small differential between the
14 subsidy that it will be eliminated this next filing.

15 Q. Do you know how much that subsidy was?

16 A. Not offhand.

17 Q. A ballpark figure?

18 A. I really couldn't say without revisiting
19 the filing.

20 Q. On page 3 of your testimony you state
21 starting on line 20, "The historical statistics used
22 in the cost of service study more accurately reflect
23 the cause and effect relationship of activity and
24 costs than hypothetical scenarios of what the future
25 may bring." And as I understood Mr. Glasgo's

1 testimony -- you can refer to page 5 of that if you
2 want to -- what I understood from his direct testimony
3 was that except for items for which proforma
4 adjustments are made, that would be as he stated,
5 future known wage and payroll tax changes, known rent
6 expense increases and then current fuel prices, then
7 the way that the cost of service study -- excuse me --
8 the way that the historical analysis is performed,
9 doesn't it assume that future costs and resources will
10 be as cheap or as expensive in the future as they are
11 in the past?

12 A. Referring to historical test period, yes.
13 Basically takes a snapshot of a typical year and as a
14 normal year, normal activity and applies known and
15 measurable, as Mr. Glasgo pointed out, costs. In
16 other words, as he said, fuel. Fuel costs, if
17 there was material change in fuel costs, knew they
18 were going to go real high, we could put a proforma
19 adjustment to reflect that difference in costs. We
20 wouldn't proforma fuel gallons because fuel gallons
21 would be -- to do that, we would have to proforma fuel
22 gallons, higher gallon usages would probably be
23 synonymous with growth, more customers. Our
24 methodology, which is the state's -- there are
25 methodologies that use indexes and future test periods

1 and such. Our methodology would not -- does not
2 proforma for growth. It proformas for specific cost
3 changes.

4 Q. But it's a snapshot that freezes in time
5 conditions essentially at the point when the test
6 period ends?

7 MS. EGELER: I object to the question. It
8 misstates Mr. Demas's testimony. He just went through
9 a long explanation that known changes are accounted
10 for.

11 JUDGE HAENLE: Mr. Demas can correct that
12 if it's not the correct statement. Mr. Demas.

13 A. I just want to clarify one -- I have no
14 problem with the question but I would agree, yes, it
15 does and to one extent that we measure historical time
16 is relatively a very close period from when their
17 filing is. We don't take a five-year average or go
18 back three years. We like to have test periods that
19 are no more than three to four or five months from
20 when the rate year might be or when they file. Only
21 that way we get as accurate a reading as to what
22 their customer level and activity is to apply to these
23 costs.

24 Q. You corrected your testimony on page 2 and
25 you said that the historical test period ended on June

1 30, 1993; is that correct?

2 A. That's correct.

3 Q. When were these rates filed?

4 A. In November.

5 Q. What is that? About five months prior?

6 A. Correct.

7 Q. And as I understood your testimony, you
8 said that there are other methodologies that can be
9 used to determine cost of service; is that correct?

10 A. Well, whether it's cost of service, there's
11 other test period methodology that have been used in
12 other states, which, that's fairly well known.

13 Q. Is there a single definition of cost of
14 service in your mind?

15 A. A fairly simple definition?

16 Q. Single, one and only.

17 A. I could come up with one.

18 Q. No. That's not what I'm asking you. Is
19 cost of service one definite thing? Is there only one
20 single way to determine cost of service?

21 A. One single way to determine it,
22 methodology, no. The goal might be the same but there
23 could be a variety of methodologies to be employed.

24 Q. And I think you testified that some of
25 these other methodologies would include using marginal

1 costs or -- maybe you didn't say that but there are
2 other methodologies for determining cost of service?

3 A. Sure, yes.

4 Q. Do you know what those are perhaps?

5 A. Not offhand.

6 Q. Except for the proforma adjustments that
7 are made, maybe you can answer this. As I understood
8 Mr. Glasgow's testimony those are known wage and
9 payroll tax changes, and that's not really clear to
10 me. It says known wage and payroll tax changes. I
11 assume he meant known wage changes and payroll tax
12 changes?

13 A. Usually if wages go up, payroll taxes
14 increase a percentage of the wage level.

15 Q. So is there a proforma adjustment for
16 anticipated increases in wages?

17 A. Correct.

18 Q. And a proforma adjustment for anticipated
19 payroll tax changes?

20 A. Well, there would be two there and it isn't
21 necessarily anticipated as much as it would be known.
22 Then there could be two. One, the payroll tax could
23 be proforma adjusted based on the wage level increase
24 or there can be a specific tax change in the payroll
25 tax that would also lend itself to the proforma

1 adjustment.

2 Q. And then the other category that he listed
3 was known rent increase expenses?

4 A. Yes.

5 Q. And also he said that there's a proforma
6 adjustment for then current fuel prices so meaning, I
7 assume, at the time of the filing?

8 A. That's an example.

9 Q. Are there any other proforma adjustments?

10 A. There can be a variety of them. Like I
11 say, they have to fall under the criteria.

12 Q. What's the criteria?

13 A. Known and measurable.

14 JUDGE HAENLE: Are you asking whether there
15 are others done in this study or are you asking
16 whether there are others in general?

17 MS. PERRY: I was asking in general.

18 A. Yes, there can be.

19 Q. Do you know what those are?

20 A. We could probably take every expense item
21 and come up with a scenario that would require a
22 proforma adjustment.

23 Q. But in this case there were only known wage
24 and payroll tax changes, known rent expense increases
25 and then current fuel prices?

1 A. Let me revisit my proforma adjustments
2 here. We had wage adjustments and taxes. Had a
3 proforma adjustment for a recycling processing fee and
4 rents.

5 Q. What is it that you're referring to?

6 A. I'm referring to my Exhibit 96, page 3.

7 Q. Could you repeat that, please, what you're
8 referring to?

9 A. We were at page 3. If you go over to
10 proforma adjustment second from right column, there's
11 a list of variety of adjustments there, revenue and
12 expense adjustments that are all -- fell within the
13 proforma criteria.

14 Q. And this is for Eastside Disposal's current
15 rates?

16 A. Yes.

17 Q. But other than the proforma adjustments
18 isn't the methodology, historical methodology,
19 essentially backward looking? I mean, you're looking
20 at what's happened in the past?

21 A. Well, a short time in the past, the
22 activity, correct, as being a normal year.

23 Q. And just to draw an analogy -- this isn't
24 to say -- this isn't solid waste necessarily, but you
25 don't look at costs of resources that aren't built.

1 For example, in the electrical field you might be
2 wanting to look at the cost of building another power
3 plant?

4 A. Possibly.

5 Q. But that's not the way that the historical
6 analysis works. You would not look forward to see
7 what the cost of building a particular resource for
8 example might be?

9 A. No.

10 Q. Or acquiring particular equipment for
11 example?

12 A. Right, we would not.

13 JUDGE HAENLE: Can you estimate how much
14 more you have, Ms. Perry?

15 MS. PERRY: Not too much longer.

16 Q. And the historical analysis does not take
17 into account expected changes in demand for services,
18 does it?

19 A. Not -- no.

20 Q. So the historical analysis would not factor
21 in expected anticipated changes in, for example, in
22 levels of service that people might change?

23 A. In a normal historical test period, no. We
24 have done that, as my testimony points out, when we
25 first implemented or when the counties and the

1 companies first implemented the recycling programs.
2 We were faced with tasks of trying to determine what
3 the customer shift would be knowing that there would
4 be and we were put in a situation where we had to try
5 to predict the best we could what the initial shift
6 would be and make sure that the revenues were not
7 going to be so far off as to harm the hauler, if
8 customer shift were such that they had a revenue
9 shortfall. You know, we couldn't just develop a model
10 and set rates and live by it or we would have had the
11 same problem Seattle had when they had their revenue
12 shortfall when they had the yard waste and all of that
13 stuff back in 1989.

14 Q. As I recall, Dr. Skumatz testified that
15 there wasn't much of a revenue shortfall?

16 A. I was referring to Mr. Pealy's Road to
17 Recovery where he acknowledges that and primarily then
18 comes up with an alternative method for forecasting or
19 augmenting the model when you are forecasting that
20 type of activity. And coincidentally, our methodology
21 we used, short of having an econometric model, was to
22 follow along his recommendations -- like I say, we
23 didn't know the recommendations at the time. What we
24 did take into consideration was the effects of this
25 customer shift in determining recycle rates primarily

1 and rates for the haulers when these recycle programs
2 were implemented. We basically set rates that were
3 higher than our range to protect the hauler from
4 revenue deficiency for two reasons. One, the hauler
5 had the capability of issuing credits and refunds at
6 the end of our analysis period, which would bring the
7 ratepayers back even so they would not be injured and
8 the fact that -- and then the haulers, they would be
9 made whole, and then we would monitor on a monthly
10 basis from the haulers the exact changes that were
11 being made as far as customer shifts, and at the end
12 of our analysis period we basically hung our hat then
13 on a pretty much a level of service trend and then
14 made the rates permanent, whatever rate level was
15 approved. The Commission approved that. And the
16 company's recourse then, obviously, was to have the
17 opportunity to refile should something potentially
18 happen that was unforeseen.

19 Q. When was it that this was done, that the
20 rates were set to account for future anticipated
21 changes in recycling?

22 A. At pretty much every company that had the
23 recycle program which was new to them, which I suppose
24 they started in -- I'm not sure exactly when they
25 started, 1990 maybe, as far as we were concerned,

1 through 1991, and some since then. This was a very
2 specific methodology for short term, like I say, in
3 order to recognize this was going to happen and then
4 once it did happen, we were anticipating that major
5 shift such as that would not occur and once
6 implementation of a program was started running and
7 people had made their initial transition. So it was
8 in the 1990-91 time period.

9 Q. How long did those rates remain in effect
10 for individual haulers?

11 A. You mean temporary rates that I referred
12 to?

13 Q. Right.

14 A. I believe they were in effect approximately
15 five months.

16 Q. What analysis did you use to determine just
17 how to set those rates?

18 A. We basically had not a lot to go on so we
19 had -- what we had basically was pilot programs, some
20 results from those. Not putting a high confidence
21 factor on those, the rates that would be generated
22 from the trends set there, like I say, we set the
23 rates higher knowing that gave us a margin of error
24 that would allow the company to not have, like I said,
25 revenue deficiency, should the change be a little

1 higher than we anticipated and then, like I say, with
2 resultant or credit refund capability to at the end of
3 the test period time there, or analysis time, it also
4 falls within retroactive rate making where, if the
5 company had a revenue shortfall, we don't have the
6 mechanism or are not inclined to approve mechanism to
7 go back and allow a company to recoup losses. So we
8 erred on the side of the company initially and
9 corrected it at the end.

10 Q. So you did come up with a mechanism,
11 however, through these credits and refunds mechanism
12 for balancing things out?

13 A. Correct.

14 Q. Does the historical methodology account for
15 changes in demand resulting from rate changes?

16 A. Not on our normal solid waste, no.

17 Q. And would the historical methodology
18 account for changes in population?

19 A. No. Excuse me. It would in the fact that
20 each subsequent filing somebody files -- let's say
21 somebody files once a year, which seems to be pretty
22 much the norm lately, they're going to have an updated
23 test period which will reflect the latest population
24 from the one time to another, rather than taking a
25 test period and maybe sometime in the past and

1 continually setting rates based on it. Should the
2 population increase from one year to the next and they
3 file next year, that latest growth in population would
4 be reflected in the historical test period.

5 Q. The historical growth in population, it
6 wouldn't take into account changes in population that
7 occurred during the period that the rates were in
8 effect?

9 A. That's correct.

10 JUDGE HAENLE: Can you estimate how much
11 more you have?

12 MS. PERRY: None. I'm finished. Thank
13 you.

14 JUDGE HAENLE: Well, this is a good time,
15 then, for a break. Let's take our morning recess at
16 this time. It's 10:45. Be back at 11.

17 (Recess.)

18 JUDGE HAENLE: Let's be back on the record
19 after our morning recess. I had asked counsel to look
20 over the corrected exhibit from Mr. Davies, Exhibit
21 64A and those three revised pages. Do you have any
22 objection to entering 64A and to substituting those
23 revised pages, Ms. Thomas?

24 MS. THOMAS: No, I don't, Your Honor.

25 JUDGE HAENLE: Ms. Egeler?

1 MS. EGELER: No.

2 JUDGE HAENLE: Let's do it in that manner
3 then. So add 64A and change those pages straight
4 across.

5 Did you have questions of the witness, Ms.
6 Thomas?

7 (Admitted Exhibit 64A.)

8 MS. THOMAS: Yes, Your Honor.

9 JUDGE HAENLE: Go ahead.

10 MS. THOMAS: Thank you.

11

12 CROSS-EXAMINATION

13 BY MS. THOMAS:

14 Q. Good morning, Mr. Demas. Do you recall
15 testifying in response to a question of Ms. Perry that
16 you used the weights proposed by Eastside Disposal and
17 not the Meeks weights?

18 A. That's correct.

19 Q. Are you familiar with the relationship
20 among the Meeks weights?

21 A. Yes.

22 Q. Are the differentials among the Meeks
23 weights smaller in terms of percentages than the
24 differentials among the Eastside Disposal rates --
25 weights, rather, I'm sorry.

1 A. They're smaller between the mini and one
2 can and a little smaller between the one and two-can.

3 Q. If the Meeks weights were applied as
4 adjusted, which you testified to in an adjustment that
5 your cost of service methodology would automatically
6 make, isn't it a fact that the Meeks weights would
7 result in a flatter rate structure for the mini, one
8 can and two-can service levels than application of the
9 Eastside Disposal weights did?

10 A. They would be a little flatter, correct.

11 Q. Do you recall answering a question from Ms.
12 Perry about whether you looked at the cost of the new
13 resource in connection with establishing cost of
14 service?

15 A. I remember.

16 Q. Are you familiar with rate setting for
17 electric utilities?

18 A. No, I'm not.

19 Q. In the solid waste arena, do the solid
20 waste companies that the Commission regulates have any
21 control over the cost of landfill resources?

22 A. Generally, no. There are some hauling
23 companies who do have their own landfills, and they
24 would have some control.

25 Q. Eastside Disposal does not have control

1 over the Cedar Hills Landfill, does it?

2 A. No.

3 Q. And then finally you answered some
4 questions relating to historical methodology and
5 whether it accounts for change in demand or
6 population. With rates based on a fairly strict
7 interpretation of cost of service, the hauler remains
8 whole, does it not, if there are changes in demand by
9 customers? For example, if customers migrate from a
10 one can level to a minican level under a strict cost
11 of service approach, the hauler remains whole, because
12 the customer at each level of service is covering its
13 own costs. Is that true?

14 A. Partially.

15 Q. Can you explain.

16 A. I would like to explain in two stages here.
17 The cost of -- historical cost of service methodology,
18 which assigns -- like I say, in its ideal form has no
19 subsidies between all rate spreads, all rates for all
20 service levels, as Ms. Perry pointed out about growth
21 of population, if you have a population and therefore
22 service increase, the cost of service methodology will
23 allow you to recover your costs through the rates
24 charged the new customer. That would cover the
25 additional expenses to provide service to that new

1 customer. In the cost of service methodology there's
2 a limited amount of protection, I guess you could say,
3 due to the cost-based aspect of the rates. If a large
4 number of people, abnormally large number of people,
5 let's say when we historically experienced, moved from
6 one can to the minican, granted that rate would cover
7 the cost of providing service to them, but there's a
8 tendency after a certain point to where you could
9 experience revenue shortfall if you didn't -- if you
10 weren't able to recover your fixed costs adequately.
11 But that's generally very, very, very small effect and
12 has to be a significant change. We have the mechanism
13 at the Commission if somebody is experiencing a
14 dramatic change such as that to go ahead and refile
15 and mitigate this before such happens, potential
16 revenue shortfall.

17 MS. THOMAS: Thank you. I have no further
18 questions.

19 JUDGE HAENLE: Commissioners, do you have
20 questions?

21 CHAIRMAN NELSON: No.

22 COMMISSIONER HEMSTAD: No.

23 JUDGE HAENLE: Do you have any redirect?

24 MS. EGELER: Yes.

25

1 REDIRECT EXAMINATION

2 BY MS. EGELER:

3 Q. Mr. Demas, you referred earlier to an
4 article by Mr. Pealy entitled "Road To Recovery."
5 Could you please state or quote the portion of that
6 article that you were referring to in talking about
7 the revenue shortfall?

8 A. Sure. On page 6 of his "Road to Recovery,"
9 which was provided in a data request, it says here I
10 think the entire quote says, implementation of
11 variable can rates can also increase the utility
12 exposure; revenues and costs can become less
13 predictable. Seattle, for example, did not anticipate
14 a dramatic switch from two cans to one can of service
15 when the utility's additional can rate increased from
16 \$5 a month to \$9 a month. This switch played a major
17 role in the utility's 1990 revenue shortfall."

18 Q. Thank you. If you had -- with regard
19 to Eastside's filings, if you had used the Meeks
20 weights, would the rates be higher or lower than the
21 rates the Commission ultimately did approve?

22 A. If we used Eastside's cost of service study
23 and put Meeks weights in, it would overstate the
24 disposal tons and require a higher rate to recover
25 those.

1 Q. And would in effect Eastside then have over
2 recovered its disposal fees?

3 A. Correct.

4 Q. Does the Commission, in your experience,
5 typically allow a balancing account to allow a
6 retroactive refund of an overrecovery?

7 A. No. The hauler does not have the
8 capability of recovering past losses.

9 Q. You spoke earlier with respect to the
10 initial temporary rates that were put into effect when
11 new recycling programs were started. Can you explain
12 what the difference between those temporary rates and
13 a balancing account would be?

14 A. The temporary rates which were subject to
15 refund or credit were -- established, as I mentioned
16 before, on -- were specifically erred on the side of
17 the company so that they could refund back to the
18 customer any overearning they might have experienced
19 during this transition period of implementation of the
20 program. Specifically would be a credit from the
21 company to the customer, not a way to make up a
22 revenue shortfall of the company.

23 Q. Is this sort of credit or refund possible
24 only when the Commission has approved temporary rates
25 subject to refund?

1 A. As far as I know, yes.

2 Q. If you had used the weights that Ms.
3 Skumatz provides from the garbage by the pound study,
4 would the Eastside rates be substantially the same as
5 they currently are with respect to the percentage of
6 difference between the rates for various service
7 levels?

8 A. The weights that were provided by Ms.
9 Skumatz in her garbage by the pound study had very
10 similar percentage differentials between weights that
11 were used in the Rabanco weights. The only difference
12 was in the ultimate weight pounds and they would have
13 provided very similar design.

14 Q. Like the Meeks weights, would the garbage
15 by the pound weights have caused an overrecovery of
16 the disposal fee?

17 A. Yes.

18 Q. In using the historical test year time
19 period, do you only look at what has occurred in that
20 test year or do you make adjustments for known and
21 measurable changes which are not offset by other
22 factors?

23 A. We in the previous comment there take the
24 historical test period and we adjust it for known
25 and measurable changes that we know are going to

1 happen in the rate year. These known and measurable
2 changes are nongrowth changes. They're not affected
3 by growth; a tax rate change, a union wage rate
4 change, such as that, is going to go into effect
5 regardless of the size of the company. The
6 methodology employed, the Commission's goal is, in
7 using the historical test period with the cost of
8 service study, is to establish rates that are
9 nonsubsidized between customer services or classes so
10 that when a company or if a company because of
11 population growths increases their service, customers,
12 that their cost of service-based rates, they would
13 pick up revenue from the new customer and they would
14 incur new costs to service that new customer. The
15 more accurate you are in distributing what costs there
16 is to provide service the less potential there would
17 be for a company to either overearn because the
18 nonsubsidized rate was growing -- or excuse me, the
19 subsidized rate was growing -- or, let's see, overearn
20 because the subsidized rate was growing or underearn
21 because the nonsubsidized rate was growing. And like
22 I say, in its ideal form a company can sustain
23 population growth, all the increased costs associated
24 with providing service to more people, based on the
25 results of historical test period on cost-based rates.

1 Q. Does the Commission take into account
2 speculative changes which may occur in the current
3 year?

4 A. No.

5 Q. Why not?

6 A. Because speculative changes may or may not
7 come to pass, nor the dollar amount estimated in
8 the speculative change may not be the same.

9 Q. Can you audit speculative changes?

10 A. Not with any degree of reliability.

11 Q. Do you know why this Commission does not
12 use a future test period?

13 A. As far as my knowledge goes, Commission
14 follows the policy of historical test period for the
15 reasons that I just provided. It provides a stable,
16 known, level of organization for a company with which
17 to, like I say, apply known nongrowth changes, makes
18 the company whole, that can sustain it in its similar
19 earnings fashion by either growth increase or decrease
20 without, like I say, any radical changes in the
21 company's earnings potential.

22 Q. How long have you been a rate analyst for
23 the Commission?

24 A. A little over seven and a half years.

25 Q. In your experience, do historical rates

1 result in rates which are fair, just, reasonable and
2 sufficient for both the customers and the haulers?

3 A. Yes.

4 Q. And do you think that would be the case if
5 speculative changes were taken into account and future
6 test period used?

7 A. We don't have the ability, ourselves -- I
8 don't believe so, so, no. We don't have the ability
9 to produce fair, just, reasonable and sufficient rates
10 for the future test period.

11 MS. EGELER: I have no further questions.

12 JUDGE HAENLE: Commissioner, you had a
13 question.

14

15

EXAMINATION

16 BY COMMISSIONER HEMSTAD:

17 Q. I believe Ms. Perry asked you at least one
18 question with regard to avoided costs. Does the cost
19 of service study take into account avoided costs in,
20 for example, in dealing with landfill expansion or
21 closure?

22 A. Companies such as Eastside, if I understand
23 the question, has no control over the landfill tipping
24 fee set.

25 Q. Well, let me phrase it this way. Is that

1 issue in any way addressed in the collection fees of a
2 disposal company?

3 A. No.

4 Q. And where is that cost addressed?

5 A. Avoided costs?

6 Q. Yes.

7 A. It generally -- we only use avoided costs
8 initially when recycling programs were implemented to
9 show the difference between what was going to the
10 waste stream versus what was going to be recycled.
11 The avoided cost was obviously less expensive for
12 recycle processing than going in a landfill. Once the
13 company's programs have been implemented and they have
14 been established as standalone entities, then we --
15 the avoided cost is not calculated in a disposal fee.

16 Q. Well, where are the costs for either
17 expansion, replacement or closure of landfills
18 addressed?

19 A. Well, that would be in the -- are we
20 considering Eastside?

21 Q. Yes.

22 A. That would be specifically a King County
23 determination. They would determine in the tipping
24 fee what they would determine maybe any avoided cost
25 would be.

1 Q. So that is not a cost that is taken into
2 account in the cost of service analysis prepared
3 either by the company or reviewed by the staff?

4 A. That's correct.

5 COMMISSIONER HEMSTAD: That's all I have.

6 JUDGE HAENLE: Did that generate anything
7 else on redirect?

8 MS. EGELER: Very briefly.

9

10 REDIRECT EXAMINATION

11 BY MS. EGELER:

12 Q. You stated that the avoided costs would be
13 calculated by King County in their tip fees. Is King
14 County in the best position to identify the costs of
15 developing a new landfill or of closing the current
16 landfill?

17 A. That's correct, yes.

18 Q. And after they so determine and adjust
19 their tip fee, does the Commission flow that through
20 to the ratepayers through the approved rates?

21 A. Yes.

22 MS. EGELER: No further questions.

23 JUDGE HAENLE: Did you have recross?

24 MS. PERRY: Yes, Your Honor, I do.

25 JUDGE HAENLE: Can you estimate how much?

1 MS. PERRY: Five to ten minutes.

2

3

REXCROSS-EXAMINATION

4 BY MS. PERRY:

5 Q. You testified regarding the garbage by the
6 pound weights. Which garbage by the pound weights
7 were you talking about? Before or after?

8 A. Before.

9 Q. Now, if you recall Dr. Skumatz's testimony,
10 she stated that the garbage by the pound study weights
11 were derived during a period with, as I recall, what
12 she called a mature recycling program and mature rate
13 incentives. Do you recall that?

14 A. Yes.

15 Q. Would you characterize Eastside's service
16 territory as having mature recycling program?

17 A. Very much so.

18 Q. Why would you say that?

19 A. They were one of the first companies to
20 implement recycling. They have one of the highest
21 participation rates in recycling. It's probably the
22 most mature recycling program of the Rabanco
23 companies.

24 Q. Would you characterize them as, Eastside
25 rates, as having mature rate incentives?

1 A. Mature rate incentives?

2 Q. Having had rate incentives over a period of
3 time?

4 A. They have their rate -- well, their rate
5 design, I can only comment on their rate design now.
6 I would call that mature in the form as it is
7 conforming very closely with cost of service
8 methodology.

9 Q. You were asked about proforma adjustments
10 and you said that you adjust for known and measurable
11 factors, as I recall, but did you also want to say
12 those were nongrowth changes only?

13 A. I was comparing that to the tendency to
14 look at, as you mentioned, population and adjustments
15 that maybe would be affected by population and saying
16 that the changes that we make are not -- they're not
17 affected by growth or population changes. They're
18 affected by test period statistics or the test period
19 itself.

20 Q. But that still doesn't take into account
21 growth changes that may occur during the period that
22 the rates are in effect?

23 A. Well, the rates -- are we talking about the
24 rate year which went into effect like for Eastside in
25 February?

1 Q. Right.

2 A. That's correct. They do not.

3 Q. Do not?

4 A. Do not.

5 Q. You were asked by Commissioner Hemstad
6 regarding avoided costs and he referred to
7 landfill-related costs, and I believe your testimony
8 was that that was included in the tip fee -- you were
9 going to say something?

10 A. No, go ahead.

11 Q. But there might be other avoided costs
12 beyond just those related to the landfill, could there
13 not?

14 A. I am not aware of that definition of
15 avoided costs.

16 Q. You recall Mr. Pealy's testimony, don't
17 you?

18 A. I recall parts of it.

19 Q. But he discussed avoided costs, did he not?

20 A. I don't actually remember all of the
21 discussion.

22 Q. But the only avoided costs that you were
23 talking about in response to Commissioner Hemstad's
24 questions were those related to the landfill, landfill
25 closure replacement?

1 A. I believe that was his question and under
2 my understanding of avoided costs, if we could clarify
3 that, would be that as I brought out the example of
4 landfilling versus recycling a product such as was
5 once going into the waste stream at a higher rate now
6 is going into recycling, it would maybe cost less
7 for the recycling process and maybe marketability of a
8 product. The difference between the two is the
9 avoided cost.

10 And when it comes to -- I don't believe
11 that was exactly what Commissioner Hemstad was
12 discussing after listening, but any avoided costs that
13 King County might be looking at as far as extending
14 the life of the landfill versus long hauling or some
15 other form of landfilling which could be more
16 expensive -- avoided costs in this case would be
17 keeping the landfill longer -- are totally outside of
18 anything that Eastside -- Eastside is basically
19 subject to whatever disposal fee King County sets and
20 we would make the assumption that they're including
21 all those calculations in setting a rate.

22 Q. Granted, with relation to the landfill, but
23 would you accept the proposition that there might be
24 other avoided costs beyond just the landfill-related
25 ones?

1 A. Not that I have mentioned, no.

2 Q. You testified that you don't have -- as I
3 recall that you don't have the ability to set fair,
4 just and reasonable rates using a future test period;
5 is that correct?

6 A. I don't, no.

7 Q. You don't or the UTC doesn't?

8 A. Well, I don't believe that the UTC -- I
9 don't have the ability to develop a set of rates to
10 recommend to the commissioners to approve.

11 Q. Are you familiar with the long-range or
12 long-run incremental costs or marginal cost approaches
13 to setting rates?

14 A. I am familiar with that concept.

15 Q. Are you aware that those methods or that
16 method is used in connection with other utilities?

17 MS. EGELER: Objection, lack of foundation.

18 Q. You're familiar with those?

19 MS. PERRY: I will rephrase.

20 MS. EGELER: He's already stated that he's
21 not familiar with electric rate setting.

22 MS. PERRY: He's testified that he's heard
23 of long-run incremental or marginal cost approaches.

24 A. I have, yes.

25 Q. In what context are you familiar with

1 those?

2 A. Just in basically text terminology and some
3 conversational and/or open meeting discussions
4 concerning other utilities, not to any hands-on
5 experience.

6 Q. Are you aware of whether any other
7 utilities use a long-run incremental or marginal cost
8 approach to rates?

9 A. Whether it's used or not I don't know.

10 Q. So you couldn't say whether using a long-
11 run marginal cost approach would lead to fair, just
12 and reasonable rates?

13 A. I could not -- I could not say that that
14 would affect solid waste rates, no.

15 Q. One last matter. Referring to page 6 of
16 your testimony, I just want to clarify something. You
17 said that commercial rates are still a little high and
18 no increase was proposed for them and you lowered the
19 residential rates. You talked about balancing the
20 two, the commercial rates and the residential rates,
21 as I recall, trying to insure that there was not
22 cross-subsidization; is that correct?

23 A. Correct.

24 Q. So one of the bases for this rate filing or
25 the recommendation of the staff was to get rid of

1 cross-subsidization between commercial and
2 residential?

3 A. That's true.

4 Q. So why did the minican rates rise so much
5 compared to the other levels?

6 A. That was, to eliminate the subsidization of
7 the minican rate. It had been pointed out in a
8 previous filing that that was going to be a case in
9 this filing here.

10 MS. PERRY: I have nothing further.

11 JUDGE HAENLE: Any recross?

12 MS. THOMAS: No, Your Honor.

13 JUDGE HAENLE: Anything more of the
14 witness?

15 MS. EGELER: No, Your Honor.

16 JUDGE HAENLE: Thank you, you may step
17 down. Let's go off the record to change witnesses,
18 please.

19 (Discussion off the record.)

20 JUDGE HAENLE: Let's be back on the record.
21 During the time we were off the record the next
22 Commission witness has assumed the stand.

23 Whereupon,

24 PHILLIP POPOFF,

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

1 herein and was examined and testified as follows:

2 JUDGE HAENLE: Also during the time we were
3 off the record I marked a number of documents for
4 identification as follows: Marked as T-101 for
5 identification a 32-page document. On the front it
6 says testimony of Phillip J. Popoff. It has PJP-1
7 in the upper right-hand corner. Exhibit 102 for
8 identification also has PJP-1 in the upper right-hand
9 corner but it is only a two-page document so it's very
10 obviously distinguishable and then PJP-2 through PJP-5
11 I have marked 103 through 106 for identification. Go
12 ahead, Ms. Egeler.

13 (Marked Exhibits T-101 and 102 through
14 106.)

15

16 DIRECT EXAMINATION

17 BY MS. EGELER:

18 Q. Will you please state your full name and
19 spell your last for the reporter.

20 A. My name is Phillip Joseph Popoff. My
21 last name is spelled P O P O F F.

22 Q. Did you prepare what has been marked for
23 identification as Exhibit T-101?

24 A. Yes.

25 Q. Do you have any changes to make to that at

1 this time?

2 A. Yes. I have one slight correction I would
3 like to make. On page 29, line 24, I would like to
4 change 35 percent to 38 percent.

5 Q. With that correction, is what has been
6 marked as Exhibit T-101 true and correct to the best
7 of your belief and knowledge?

8 A. Yes.

9 Q. And is it correct that you are also
10 sponsoring Exhibits 102 through 105?

11 A. Yes.

12 Q. And did you prepare those exhibits?

13 A. Yes.

14 Q. To the best of your knowledge, are those
15 true and correct at this time?

16 A. Yes.

17 MS. EGELER: Your Honor, I would move for
18 the admission of Exhibits T-101 through Exhibit 105.

19 JUDGE HAENLE: 106, I assume?

20 MS. EGELER: 106, sorry.

21 JUDGE HAENLE: Any objection?

22 MS. PERRY: Yes, Your Honor.

23 JUDGE HAENLE: To what?

24 MS. PERRY: Your Honor, King County objects
25 to testimony that's beyond the scope of Mr. Popoff's

1 expertise by his own admission. He is testifying
2 regarding shifting tastes and preferences, changing
3 those. On page 3 of his testimony at line 14, he says
4 "economists do not attempt to determine what
5 preferences are or how they are formed. These
6 inquiries are in the realms of marketing and
7 psychology." To the extent that he is testifying
8 about changing tastes and preferences, that seems to
9 be beyond the scope of his testimony. He has provided
10 a summary of his education and professional
11 background. I see nothing in there regarding
12 marketing or psychology. Perhaps voir dire of the
13 expert might be appropriate, but he has testified at
14 length regarding attempting to change tastes and
15 preferences which is, as I said, by his own admission
16 -- or by his own admission beyond his expertise, and I
17 can point to standard texts.

18 JUDGE HAENLE: What you would need to do is
19 specify those portions of the testimony and exhibits
20 that you are requesting not be entered.

21 MS. PERRY: Yes, Your Honor. Starting on
22 page 6 on the top of page 8, all the information
23 regarding changes in preferences. Top of page 15, he
24 is talking about -- well, as a matter of fact,
25 starting on page 15 where he is talking about changing

1 preferences in, it's line 5 through 9, he talks about
2 education changing preferences. His conclusions --
3 none of his conclusions, strike that. But his
4 exhibits, the Exhibit 104, 106. That's all.

5 JUDGE HAENLE: Did you have any objection
6 to the documents, Ms. Thomas, before I take Ms.
7 Egeler's response?

8 MS. THOMAS: No, I don't, Your Honor.

9 JUDGE HAENLE: Ms. Egeler.

10 MS. EGELER: Your Honor, Mr. Popoff has a
11 master's degree in economics. His qualification sheet
12 expresses that his specialty was microeconomics. It
13 is a part of that study to consider how preferences
14 affect the outcome and the ultimate demand curve. Mr.
15 Popoff is not a psychiatrist or a psychologist, and he
16 does not attempt to psychoanalyze or make market-based
17 predesignations concerning people's in-depth decisions
18 as far as what recycling or solid waste preferences
19 they will make. He is not taking that tactic in
20 analyzing preferences. Rather, he is examining their
21 ultimate effect on demand.

22 JUDGE HAENLE: Brief response.

23 MS. PERRY: Yes, Your Honor. He is trying
24 to tell us that we should change tastes and
25 preferences. He is telling us how we're supposed to

1 change those by way of educational programs. That is
2 beyond his expertise. I can quote from standard text
3 regarding the fact and he attests to it himself in his
4 own testimony that inquiries regarding how preferences
5 are -- what preferences are and how they are formed
6 are inquiries in the realm of marketing and psychology
7 and he even goes on to state, "it is important to
8 understand that economists take preferences as given."
9 The whole point of his testimony is telling us we're
10 supposed to change those preferences.

11 MS. EGELER: Your Honor, may I respond.
12 If we were to accept the argument made by Ms. Perry,
13 none of the testimony of Mr. Popoff should be admitted
14 and none of that of Ms. Skumatz should be admitted
15 either; the reasons are that elements of price and its
16 effect on people's behavior is also a factor
17 considered in economics and microeconomics. In so
18 doing, the economists are not trying to analyze
19 people's in-depth psychological decision about whether
20 or not to react to a price difference, but rather they
21 are noting the ultimate results about how those
22 factors impact people's behavior.

23 MS. PERRY: Your Honor, there is a
24 difference between an economist postulating the effect
25 of price. That is the whole point of microeconomics;

1 another name for microeconomics is price theory.
2 However, for an Commission to postulate regarding
3 changes in tastes and preferences is beyond the realm
4 of that study.

5 MS. THOMAS: Your Honor --

6 JUDGE HAENLE: I'm going to overrule the
7 objection. As an economist, he can certainly testify
8 how preferences are addressed in economic analysis
9 terms. I took the quoted language from page 3 as a
10 setting out of the parameters of how economists view
11 these things and I feel that it is appropriate for him
12 to address those issues so I will enter Exhibit T-102
13 and 102 through 106.

14 (Admitted Exhibits T-101 and 102 through
15 106.)

16 JUDGE HAENLE: Did you have anything else?

17 MS. EGELER: Nothing further. Mr. Popoff
18 is available for cross-examination.

19

20 CROSS-EXAMINATION

21 BY MS. PERRY:

22 Q. Morning, Mr. Popoff.

23 A. Morning.

24 Q. My name is Marie Perry. I'm with the King
25 County Prosecutor's Office and I represent King County

1 Solid Waste Division. I would like to go through your
2 background a bit. As I understand Exhibit 102, which
3 was attached as PJP-1, you have a bachelor's and
4 master's degree in economics; is that correct?

5 A. Yes, ma'am.

6 Q. Do you have educational background in
7 marketing research?

8 A. No.

9 Q. Do you have educational background in
10 psychology?

11 A. No.

12 Q. Do you have expertise in marketing
13 research?

14 A. No.

15 Q. You've never worked in the field?

16 A. No, I haven't.

17 Q. Do you have any professional expertise in
18 psychology?

19 A. No.

20 Q. Have you taken graduate level courses in
21 mathematical economics?

22 A. Yes.

23 Q. What have you taken?

24 A. I took one course in graduate level
25 econometrics course and then all the micro theory and

1 all the rest of the courses I would consider
2 mathematical economics courses.

3 Q. Have you ever performed any demand
4 analysis?

5 A. No.

6 Q. You did a master's thesis that you cite,
7 it's, "Recycling and Consumer Theory"?

8 A. Yes.

9 Q. This dealt with solid waste?

10 A. Yes.

11 Q. Could you briefly describe what that was
12 about beyond what you've said here?

13 A. Yes. It was actually a garbage by the
14 pound sort of system that the city of Fort Collins was
15 looking at implementing and in some brief discussions
16 with people in Fort Collins they had considered what
17 the impacts of increasing the average price per pound
18 would be.

19 Q. What was the focus of your thesis?

20 A. The focus was to see how that would affect
21 customer behavior.

22 Q. What were your conclusions?

23 A. My conclusions were that -- of course this
24 was a very theoretical paper all done in math without
25 any empirical evidence, but as basic microeconomics

1 theory would tell you that if you increase price then
2 one would expect some decrease in the quantity of the
3 good that you're discussing. In that case it happened
4 to be solid waste and with increases similar to what
5 Dr. Albert showed in her model of how increases in
6 recycling might occur as well as increases in illegal
7 dumping.

8 Q. Did you quantify the increases that you
9 foresaw in illegal dumping?

10 A. No. In any of them. Not in any of them.

11 Q. What other work have you done in the area
12 of solid waste?

13 A. That's it other than this.

14 Q. From what I could gather from your summary
15 of education and professional background you worked in
16 gas and electric fields?

17 A. Yes.

18 Q. And your present position with the UTC is
19 related to gas; is that correct?

20 A. Gas, and then as I mentioned to provide the
21 rest of the division with whatever economic support
22 they need.

23 Q. You said you never performed any demand
24 analysis so have you performed any demand analysis for
25 gas or electric utilities?

1 A. I have not constructed and performed
2 studies myself, no.

3 Q. What have you done with regard to demand
4 analysis with regard to gas or electric utilities?

5 A. I reviewed demand forecasting especially
6 with regard to dispatching models.

7 Q. Could you tell me specifically what you've
8 done?

9 A. I looked at dispatching models for the
10 seven gas companies that serve the state of Virginia,
11 looked at some of their long-term forecasting models.
12 Since I've been here I've been pretty consumed with
13 this case so I've briefly looked over some things here
14 in Washington.

15 Q. Have you ever done -- are you familiar with
16 demand analysis for electrical utilities?

17 A. Somewhat, yes.

18 Q. And how are you familiar with those?

19 A. I reviewed the -- some of the long-run
20 forecasting models that are used by Virginia Power as
21 well as some of their dispatch models also.

22 Q. Are you familiar with the contingent value
23 methodology or survey-based approaches which are used
24 to estimate consumer willingness to pay for public
25 goods and new products?

1 A. I am more familiar with it being used in
2 the environmental externality area.

3 Q. Have you ever seen it used in the
4 willingness to pay for public goods and new products?

5 A. Yes.

6 Q. Essentially doesn't contingent value
7 studies ask consumers whether they would be willing
8 to purchase a good at a price provided by the
9 interviewer?

10 A. That is what that method does do and it
11 also, in that setting up the contingent valuation
12 survey, there's plenty of literature to say how you
13 have to construct those surveys to be careful not to
14 bias people's preferences and attitudes.

15 Q. Certainly, but as long as one constructs it
16 carefully, as you say, that you can determine the
17 willingness to pay that a customer has for new goods?

18 A. That's one technique that may be employed,
19 yes.

20 Q. And the contingent value approach
21 essentially constructs a hypothetical market and asks
22 consumers to reveal what the purchases are?

23 A. Yes.

24 Q. Or would be?

25 A. Or would be.

1 Q. Is this a technique that's widely used by
2 economists?

3 A. I would say it's a technique that has been
4 used. To the extent of what percent of economists use
5 it or not --

6 Q. But it's a standard technique. It's not
7 something that's not considered standard; is that
8 correct?

9 A. As I mentioned, several economists do use
10 it. There's a lot of arguments back and forth over
11 whether it's appropriate or not. If that's the best
12 information that you can have that's better than no
13 information.

14 Q. But there are respected economists who use
15 it?

16 A. Certainly.

17 Q. Does the garbage by the pound study that
18 Dr. Skumatz performed in your estimation resemble a
19 contingent value approach as it provided estimated
20 bills to consumers?

21 A. One thing that I would be concerned about
22 is that there were people given their real bill, then
23 their bill had it been under the garbage by the pound
24 study, so as far as I haven't thought that through as
25 to how that would affect their behavior or how that

1 would affect anything, I'm not sure how it would
2 affect anything.

3 Q. That's not what I asked, but isn't it
4 similar to a contingent value approach?

5 A. It's similar in that you're asking people
6 to purchase something that they don't purchase.

7 Q. So that there are analogies between between
8 the two?

9 A. That analogy.

10 Q. Plus the fact it goes a bit further than
11 the contingent value approach, doesn't it, in that the
12 garbage by the pound experiment she looked at actual
13 rather than hypothetical purchase decisions, didn't
14 she? It was not a study involving an as yet
15 unmarketed product. It was product that people
16 purchased, their garbage services, and they were given
17 information regarding actual choices that they made;
18 isn't that correct?

19 A. Yes.

20 Q. Page 5 of your testimony. You listed --
21 actually it starts on page 4 but you talked about four
22 variables relevant to demand, and you list four of
23 them there. Did you list those by priority?

24 A. Pardon me?

25 Q. Did you list those by priority? In other

1 words, is number one you listed first, is that the
2 most relevant? Would that have the most relevant
3 effect on demand?

4 A. That's not -- that's not the way they're
5 listed, no.

6 Q. So those don't represent your estimation of
7 what's most important?

8 JUDGE HAENLE: What you're asking is
9 whether they were arranged in the order of --

10 Q. Are those arranged in the order that you
11 feel most important?

12 A. No. But they are listed in the order of
13 importance for this case.

14 Q. But not theoretically in order of the
15 greatest importance with regard to affect on demand?

16 A. There's no way to tell that because with
17 the consumer preferences that's a basic assumption
18 that economists assume away.

19 Q. Why do they assume that away?

20 A. Because in fact whenever you do any of the
21 demand forecasting situation you assume everything is
22 going to be held constant, such as when you look at
23 the demand curves that I present, everything is held
24 constant on those demand curves except price.

25 Q. Now, obviously that's a significant -- I

1 mean that's of significant importance and why is that?

2 A. Pardon?

3 Q. Why do you say hold everything else
4 constant?

5 A. So that you can track the changes in one
6 day. That's what we're addressing the analyses for.

7 Q. So it's difficult to -- strike that. On
8 page 6 of your testimony I just need some
9 clarification on a statement you made. It's starting
10 on line 4. It says, "While the demand curve in
11 Exhibit 103, PJP-2, does not represent an empirical
12 assumption on Eastside Disposal's demand function,
13 King County's witnesses present evidence that support
14 such shape," and you follow that with a parenthetical,
15 "not a particular function, however."

16 A. Yes.

17 Q. What did you mean by "not a particular
18 function, however"?

19 A. I didn't mean to imply that -- I put that
20 in there because I didn't want to imply that King
21 County's witnesses had given those -- the shape of
22 those lines were derived off an equation that were
23 given by King County's witnesses.

24 Q. You didn't have the numbers so you didn't
25 want to necessarily or you didn't use any numbers in

1 deriving this so you didn't want to make it look like
2 this was --

3 A. I didn't want to make it look like I was
4 using a function that was presented by one of King
5 County's witnesses.

6 Q. But as I understood the rest of that
7 statement, that exhibit represents or is
8 representative of the demand curve based on King
9 County's evidence in your estimation?

10 A. I think that they support such a shape.

11 MS. PERRY: This is probably a good place
12 to stop.

13 JUDGE HAENLE: Excellent. We'll break at
14 this time. Those of you at the front table, I think
15 you can just leave your things there and we'll just
16 move the charts over, have people testify from the
17 podium. Be back at -- the public hearing is supposed
18 to start at 1:30. Why don't you try to be back at
19 1:15, 1:20.

20 (Lunch recess at 11:50 a.m.)

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AFTERNOON SESSION

1:30 p.m.

JUDGE HAENLE: The hearing will come to order. This is an afternoon session in docket No. TG-940411. The purpose of the hearing today is to take public testimony about the complaint filing. The hearing is being held in front of the commissioners, Chairman Sharon Nelson.

CHAIRMAN NELSON: Good afternoon, ladies and gentlemen.

JUDGE HAENLE: And Commissioner Richard Hemstad.

COMMISSIONER HEMSTAD: Afternoon.

JUDGE HAENLE: I introduced to you earlier counsel who had been participating in this matter, Ms. Perry, on behalf of the complainant county, Ms. Thomas on behalf the responding company and Ms. Egeler on behalf of the Commission staff. There are information sheets at the place you came in that kind of tell you what the complaint and response is about and the purpose of the hearing today is to take testimony today about that. You will give your testimony from the podium here, and I explained in detail before we went on the record how you will do that.

The fact sheet tells you that this is a

1 complaint by the county asking that the Commission
2 look at the rates that were filed by Eastside that are
3 now in effect, and asking that the Commission revise
4 the design of those rates not to give the company any
5 additional money in a chunk but to change the levels
6 at which the different levels of services are billed.
7 That's the issue we will be addressing this afternoon
8 with your testimony.

9 I will call the names from the sheet, the
10 sign-up sheet, and when your name is called, if you
11 will come up to the podium. We will go ahead and
12 begin. Clifford Coremans.

13 Whereupon,

14 CLIFFORD COREMANS,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17

18 EXAMINATION

19 BY JUDGE HAENLE:

20 Q. Would you state your full name and spell
21 your last name.

22 A. Clifford John Coremans, C O R E M A N S.

23 Q. And your address, sir?

24 A. 18001 - 73rd Northeast, Bothell,
25 Washington.

1 Q. Are you a customer of Eastside Disposal?

2 A. Yes, I am.

3 Q. Are you representing yourself today, sir?

4 A. Ratepayers, period.

5 Q. Go ahead, sir.

6 A. Mr. Commissioners, I have just read an
7 article here published in this paper about the
8 rural Eastside becoming a garbage dump. Well, right
9 here (indicating), King County hazardous waste fee,
10 King County administration fee, state revenue tax, I
11 wonder how much of these taxes that has been passed on
12 to Eastside that they have turned around and passed on
13 to the ratepayers is partly the cause of this
14 rebellion and more and more people getting into the
15 game of taking their garbage out any place and dumping
16 it. Maybe these people should be talked to about
17 reducing down their waste, their fees alone with
18 Eastside. Thank you.

19 JUDGE HAENLE: Questions, commissioners?

20 CHAIRMAN NELSON: No.

21 JUDGE HAENLE: Counsel, questions?

22 Thank you, sir, for your testimony.

23 JUDGE HAENLE: Charles Davidson.

24 Whereupon,

25 CHARLES DAVIDSON,

1 having been first duly sworn, was called as a witness
2 herein and was examined and testified as follows:

3 JUDGE HAENLE: Please remember to speak
4 directly into the microphone.

5

6

EXAMINATION

7 BY JUDGE HAENLE:

8 Q. Would you state your full name and spell
9 your last name, please.

10 A. Charles P. Davidson, D A V I D S O N.

11 Q. Your address, sir?

12 A. 7757 Overlake Drive West.

13 Q. I'm sorry, the name of the street?

14 A. Overlake, O V E R L A K E, Overlake, and
15 it's Medina.

16 Q. Thank you. Are you a customer of Eastside?

17 A. Yes, I am.

18 Q. And are you a residential or commercial
19 customer?

20 A. Residential.

21 Q. Are you representing yourself today or a
22 group?

23 A. Myself.

24 Q. Go ahead, sir.

25 A. I have two problems today. One is with the

1 garbage waste, the other is with yard waste. And to
2 start off with the residential waste, I use a
3 mini container, and a year ago I was paying \$5.64.
4 Today I am paying \$9.65. This is a 71 percent
5 increase in one year, and if you work it out on a per
6 gallon basis, the minican is being charged 51 cents a
7 gallon and the 32-gallon can is being charged 34 cents
8 a gallon. And this seems to me to be unreasonable.
9 So I phoned up Eastside Disposal and asked them why
10 the minican had gone up to such a degree, and their
11 response was they had done a survey and they found
12 that a number of people who were being charged for
13 minicans were actually using the 32-gallon can and
14 this is one way they were trying to recoup their loss.
15 Me, this loss is due to their own incompetency and
16 inefficiency and they should not be rewarded for this.
17 I don't see why I should pay for their mistakes.

18 Secondly, Bellevue, our next-door neighbor,
19 is charging for a minican \$6.30 up from \$6.20. It is
20 of interest that the cost per gallon for the Bellevue
21 can is 33 cents and the -- for the minican -- it's 35
22 cents for the 32-gallon can and the Eastside Disposal
23 in Bellevue -- Medina, beg your pardon -- is 34 cents,
24 all within 5 percent, and yet the minican in Medina is
25 51 cents, which is about 50 percent more. It is of

1 interest to me that two years ago my minican rate was
2 \$5. Today as I've mentioned before, \$9.65. That is
3 up 93 percent in 23 months. I will repeat that. 93
4 percent in 23 months. The 32-gallon can in Medina
5 over that period of time went up 39 percent. And it
6 should be remembered that the federal government in
7 talking about inflation rates of 4 percent, someone is
8 getting screwed and I have an idea who it is.

9 So, I think that I will go on to the yard
10 waste. Yard waste material are charging \$5.45 for
11 ten 32-gallon cans which is 320 gallons. Everybody
12 has to pay this if they are on the garbage yard waste
13 collection. Well, I have a pea patch and I never
14 produce ten gallons but I still have to pay the \$5.45.
15 My normal average is between one and two cans a week
16 during the summer. I feel that there's somewhat of a
17 dichotomy here going on whereby the cost for kitchen
18 waste is referred to as being relative to the cost of
19 collecting and then they go ahead and yard waste is a
20 flat rate and no question of cost or anything else.
21 It's just two different approaches here and I think
22 they should be considered -- they should be made into
23 one.

24 The RCW 17.95 I understand is the solid
25 waste law which makes provisions to foster waste

1 reduction based on volume. At the present moment we
2 have high volume is rewarded with a low cost. I feel
3 this is not the intention of the lawmakers. I feel a
4 high volume should be related to high cost as the King
5 County pointed out, but mind you I don't agree with
6 King County either. Any time you have formulas and
7 gizmos you always get someone who feels they are
8 getting a bad deal. I favor a flat rate of some cents
9 per gallon on a can basis and then you -- simple to
10 operate and simple to -- and it's fair. You can't
11 have anyone saying I'm paying more, I'm paying less,
12 it's flat. I feel that yard waste should be as a
13 percentage of the amount of costs for the household
14 waste. This would -- obviously, if you only have a
15 minican you're not going to have ten cans of yard
16 waste.

17 JUDGE HAENLE: Could you summarize the
18 remainder of your remarks so that we can get the
19 others, too, sir?

20 THE WITNESS: I have taken five minutes?

21 JUDGE HAENLE: A bit more than that.

22 THE WITNESS: I'm sorry. I would like to
23 just suggest the WUTC should be based on a reduction
24 of waste for environmental reasons and not to penalize
25 the recycler.

1 Q. You said a flat rate for solid waste of 70
2 cents per gallon, and I didn't understand your
3 recommendation about what the charge should be for
4 yard waste.

5 A. 70 cents per gallon?

6 Q. Is that what you said?

7 A. On a cent per gallon. I felt that the
8 yard waste should be a percentage of that figure.

9 Q. Thank you.

10 A. If you're going to have three cans of
11 kitchen waste would probably have a lot of yard waste,
12 too, and it's proportional. I feel like I'm getting
13 taken on both points. I'm paying the highest price
14 per gallon than anybody and I use the least and I feel
15 this is not the intention of the state law.

16 JUDGE HAENLE: Thank you. Commissioners,
17 questions?

18 CHAIRMAN NELSON: No. Thank you for your
19 testimony.

20 JUDGE HAENLE: Questions, Counsel?

21 Thank you, sir. You may step down. Did
22 you bring a written statement?

23 THE WITNESS: No, I didn't.

24 JUDGE HAENLE: William David Peters.

25 Whereupon,

1 WILLIAM PETERS,
2 having been first duly sworn, was called as a witness
3 herein and was examined and testified as follows:

4

5

EXAMINATION

6

BY JUDGE HAENLE:

7

Q. Would you state your name and spell your
8 last name.

9

A. My name is William David Peters, P E T E R
10 S.

10

11

Q. And your address?

12

A. I am here representing Kitsap County so I
13 will use their address, 614 Division Street, MS-27
14 Port Orchard, Washington.

15

Q. What is your position with Kitsap County?

16

A. Recycling coordinator.

17

Q. Go ahead, sir.

18

MS. EGELER: Your Honor, before we begin,
19 I'm sorry to have to do this but I would object to the
20 testimony being given on behalf of Kitsap County.
21 Earlier at the very outset of this hearing the
22 Commission denied a petition for intervention from
23 Northwest Waste Industries because they were operating
24 outside of King County. Since that is the scope of
25 this hearing, just the rates within King County, I

1 don't believe that testimony from Kitsap County would
2 be relevant to this proceeding.

3 JUDGE HAENLE: What will you be addressing
4 specifically, sir?

5 THE WITNESS: What I will be addressing is
6 this case has major implications for every other
7 county and we can rule it out there easily by
8 dismissing something or we can listen and hopefully
9 move forward with the process.

10 JUDGE HAENLE: Ms. Perry.

11 MS. PERRY: Yes, Your Honor, I see a
12 distinct difference between somebody who wishes to
13 intervene and somebody who wishes to speak at an open
14 public meeting. As he points out, this is something
15 that has broad implications to other counties in the
16 state and it seems appropriate for those concerns to
17 be placed on the record.

18 JUDGE HAENLE: Anyone else?

19 MS. EGELER: Same argument was made by
20 Northwest Waste Industries and the Commission found
21 that it would not be appropriate to allow them to
22 intervene.

23 JUDGE HAENLE: I am going to overrule the
24 objection. The gentleman needs to understand that we
25 will not be ruling on anything about Kitsap County as

1 a result of this case, but the Commission would like
2 to have his comment. Go ahead, sir.

3 THE WITNESS: I realize that. Thank you.

4 Q. Go ahead.

5 A. I have a large packet here. What I am
6 going to be presenting is the first two pages of it.
7 I would like to read it into the record.

8 Q. As I indicated --

9 A. It won't be more than five minutes.

10 Q. Don't read quickly. That's a problem.
11 Maybe you would just take the highlights instead.

12 A. Okay. The highlights would be that the
13 UTC set minican rates for North Sound Sanitation and
14 Brem-Air and the history behind this might reveal how
15 some of the problems between UTC and counties get
16 started in the first place. I had discussions with
17 one of your policy specialists. I won't be naming any
18 names here but probably obvious who they're talking
19 about. I learned the UTC staff was going to recommend
20 that minican rates be set even though the hauler did
21 not request them in their tariff filing. I was told I
22 could get more details by talking to the staff who was
23 reviewing the filing. Each time I contacted the
24 accountant for further information he told me that he
25 could not discuss with me at this time, and it went on

1 this way, and then finally, I was left with the
2 impression that the county's input on an extremely
3 important part of our recycling program was not very
4 useful. The ideal situation would have been for the
5 accountant and the hauler and the county to sit down
6 and discuss the proposed minican rate since no one had
7 asked for it; the UTC had told us this was going to
8 happen. We would have been able to see by this rate
9 that the proposed minican rate would not meet our
10 waste reduction loads and at that point we would have
11 just said we don't want this minican rate. We would
12 rather look at an another alternative such as every
13 other week or once a month and eliminate the minican
14 because basically the minican rate was set at 1.60, a
15 lot less than garbage, and no one was interested in
16 that. We don't have any takers in Kitsap County on
17 our minican rate for that and our haulers will be
18 coming in for curbside recycling rates.

19 And what I would like to point out is we
20 have a service level ordinance and I have met with the
21 UTC staff about this ordinance, and I won't go into
22 the two clauses that this staff has found offensive.
23 Well, let me go into one of them. One of them is
24 having -- instead of a lower rate for low income
25 elderly or low income handicapped, we're proposing a

1 mandatory program that these people are not part of,
2 no service, you don't need to set a rate. I was told
3 by your legal staff that basically we won't let you do
4 this was the attitude I got.

5 I included a letter on this matter and it
6 was interesting, the wording was -- after a lot of
7 details, the wording came out that staff did not
8 believe -- and I stress the word believe -- that they
9 could implement our ordinance as written. They did
10 not say it could not be. They said they did not
11 believe so. So I believe what we're talking about is
12 not a matter of law but a matter of someone's belief
13 system, and I think when talking about low income
14 people we need to look at our belief systems.

15 Our prosecuting attorney has looked us
16 over, looked the matter over, has discussed it with
17 Ms. Egeler, and they passed materials back and forth
18 regarding the long case history and our prosecuting
19 attorney's office says we are supported by the law,
20 case history and we should press forward. Shortly our
21 haulers will be coming in with a rate filing, and
22 again I stand ready to sit with the staff and say, how
23 can we make this work instead of coming in and being
24 told why it won't work. I would like to sit down with
25 the staff and say, Can we keep this? What we're left

1 with is whether the UTC has the authority to refuse to
2 implement our ordinance as written. There is legal --
3 RCWs state that the UTC -- directs the UTC to require
4 compliance with our Comp plan. The plan requires us
5 to write service level ordinances, have the UTC
6 implement it. Our prosecuting attorney says we're not
7 asking for anything illegal. What we're left with is
8 are we going to have another battle on our hands like
9 the one with King County? I would really prefer to
10 avoid that sort of thing. I would rather sit down
11 before we have a public hearing on these rate
12 hearings.

13 JUDGE HAENLE: Can you summarize?

14 THE WITNESS: The end.

15 JUDGE HAENLE: Neatly done. Questions,
16 Commissioners?

17 CHAIRMAN NELSON: No.

18 COMMISSIONER HEMSTAD: No.

19 JUDGE HAENLE: Counsel?

20 Thank you, sir.

21 THE WITNESS: Can I make one more point? I
22 really can't let this one go. The fact sheet. I
23 don't see anywhere on there -- one of the things
24 that's extremely important for the law where it
25 directs the UTC to set rates which encourage waste

1 reduction and recycling. It struck me as kind of an
2 odd piece to leave out considering that's what King
3 County's case is all about.

4 JUDGE HAENLE: Did you see the other fact
5 sheet that goes with it, sir?

6 THE WITNESS: I have, yes.

7 JUDGE HAENLE: I was assuming you would
8 pick up the the two together.

9 THE WITNESS: I got all three.

10 JUDGE HAENLE: Is it mentioned in the fact
11 sheet?

12 THE WITNESS: I did not see it.

13 JUDGE HAENLE: Questions anyone? Do you
14 want to give me those materials?

15 Craig Benton.

16 Whereupon,

17 CRAIG BENTON,
18 having been first duly sworn, was called as a witness
19 herein and was examined and testified as follows:

20

21 EXAMINATION

22 BY JUDGE HAENLE:

23 Q. Would you state your full name and spell
24 your last name.

25 A. My name is Craig Benton, B E N T O N.

1 Q. Address?

2 A. I'll give the address of the Washington
3 State Recycling Association since I'm here to
4 represent that group. 203 East Fourth Avenue, Suite
5 422, Olympia, Washington 98501.

6 Q. And you brought with you a letter, did you
7 not?

8 A. Yes, I did.

9 Q. And you've given me already a copy of that?

10 A. Correct.

11 Q. Go ahead, sir.

12 A. First of all, I would like to say that I'm
13 here today to represent the association because our
14 president is out of town so I've been designated as
15 the representative of our association. Second of all,
16 I've been a board member for three years. I was the
17 past president last year and in the three years that
18 I've been involved with the association, the
19 association has not come out with any policy
20 statements so this is important. We've got some
21 agreement here from our membership. I would just like
22 to read the letter real quickly. The Washington State
23 Recycling Association --

24 JUDGE HAENLE: You are going to have to not
25 read it quickly or she won't be able to get it down.

1 So read it slowly.

2 A. The Washington State Recycling Association
3 is the trade association for Washington recycling
4 industry. Our 290 members include paper, plastic, and
5 metal brokers, recycling centers, haulers and
6 transporters of recyclables, local, state and federal
7 agencies and services to the recycling industry. Our
8 membership is very diverse and represents all sectors
9 of the recycling here in Washington. Our goal as an
10 association is to facilitate the expansion, stability
11 and diversity of recycling in Washington state.
12 Recognizing that your ruling on the King County versus
13 Seattle Disposal case may affect recycling programs
14 throughout the state, WSRA would like to place in the
15 docket the following policy statement adopted by the
16 WSRA board of directors. And here it is.

17 WSRA recognizes that solid waste collection
18 rate structures can provide an incentive for residents
19 to reduce garbage disposal and increase recycling.
20 Similar incentives have been effectively employed to
21 encourage conservation of electricity and water. WSRA
22 further recognizes that local governments have
23 included incentive rate structures for solid waste
24 support services as components of their local solid
25 waste management plans to help meet local and

1 statewide recycling goals. We support the authority
2 of local government to establish incentive rates
3 guidelines consistent with their solid waste
4 management plans. That is the official policy
5 statement adopted by our board of directors. We thank
6 you for the opportunity for inviting our comments in
7 this case. We hope that you will consider our
8 position in making your decision regarding this
9 important matter. Thank you very much.

10 JUDGE HAENLE: Questions, Commissioners?

11

12

EXAMINATION

13

BY COMMISSIONER HEMSTAD:

14

Q. You're aware that the Eastside rate
15 structure has a mandatory flat rate for recycling?

16

A. Explain that to me again, please.

17

Q. Well, all ratepayers pay a flat fee for
18 recycling with unlimited amounts of capacity for
19 recycling.

20

A. It was my understanding that the recycling
21 rate is included in the garbage fee, is that what
22 we're trying to say?

23

Q. Yes.

24

A. Yes, I do understand that.

25

Q. You consider the structure to be a

1 disincentive to recycle?

2 A. The rates that are proposed, I believe, and
3 we have looked at it as an organization, I think do
4 not provide an adequate incentive for recycling.

5 Q. Why?

6 A. I am going to have to draw on my personal
7 experience as a consultant in this field for ten
8 years, and I've worked with probably six or eight
9 cities in the county to help them develop recycling
10 rate structure. Currently working with the city of
11 Enumclaw, for example, and we have created a curbside
12 recycling and yard debris service and the rate, the
13 recycling is included in the garbage rate, and
14 basically what we did is when you added the recycling
15 services we added a minican and the minican plus
16 recycling was the same rate was the one-can rate that
17 people were on before. The yard debris rate was
18 charged \$2 a month for yard debris service just to
19 cover the costs of the toter because now the city is
20 collecting less garbage, it's actually -- although it
21 added the three services they are not spending any
22 more money, so the saving in disposal is paying for
23 the extra service, but here's the catcher. At \$2 a
24 month for yard debris service they have 65 percent
25 participation in their program.

1 Now, I understand here on the east side the
2 rate of \$5.50 a month, they're only getting at best
3 maybe 30 percent participation, so I see that the rate
4 structures or these rate incentives do play a very
5 important role in getting people to participate in
6 these services, and here's the thing that where the
7 recycling industry comes in, very important for us is
8 that if you have proper incentives at the consumer
9 level then you get higher participation, then you get
10 more materials and that's what our industry is in is
11 garnering more materials from the garbage to expand
12 and facilitate the diversity of recycling in our
13 state, and so we feel very strongly that proper
14 incentives do work and that the dollar between minican
15 and one can really doesn't provide adequate incentive.
16 And I've seen in cases in Seattle, in Auburn, in
17 Federal Way, in Tukwila that when you do provide the
18 incentive people will participate. We do, then, start
19 to help meet that statewide recycling goal which we
20 all want to get to.

21 Q. Well, the prior rate which was in effect in
22 February had a very decided difference between the
23 minican rate and the full can rate with the
24 straight rate for recycling and are you suggesting
25 that that was not a sufficient incentive?

1 A. What I am saying is that in the cities that
2 I've worked with when we incorporate the recycling
3 rate in with garbage and you provide that incentive
4 when people are paying for it whether they use it or
5 not, they use it. In these types of cases when you
6 incorporate the recycling rate into the garbage
7 rate you're going to get a good participation rate
8 because people are paying for it anyway.

9 Q. And that's the structure on the Eastside,
10 isn't it?

11 A. That's the structure on Eastside but what I
12 would suggest to you is that yard debris has an equal
13 potential to garner as much diversion as your
14 recycling program does in terms of total volume, so if
15 you're going to have a difference in cans -- if you
16 have the yard waste rate of five or six dollars and a
17 difference between one can and minican is one buck,
18 people are not going to sign up for yard debris
19 service. And yard debris is a very important
20 component of the recycling services that are being
21 provided. When I worked with cities we can get
22 sometimes as much with yard debris program as we can
23 collecting bottles, cans, newspapers, plastic, whole
24 nine yards. So --

25 JUDGE HAENLE: Commissioners, anything

1 else?

2

3

EXAMINATION

4 BY JUDGE HAENLE:

5 Q. When you said the proposed rates don't
6 provide enough incentives, you mean the rates that are
7 in place now that are being challenged?

8 FROM THE AUDIENCE: They are in place.
9 They are not proposed.

10 A. So the ones that have been -- I guess
11 there was some rates before and they've been changed.

12 Q. So you're talking about the ones that were
13 changed to?

14 A. Yes.

15 JUDGE HAENLE: Counsel, questions?

16 Thank you, sir, you may step down.

17 Lula Jones.

18 Whereupon,

19

LULA JONES,

20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

22

23

EXAMINATION

24 BY JUDGE HAENLE:

25 Q. Would you state your full name and spell

1 your first name.

2 A. My full name is Lula, L U L A, Jones, J O N
3 E S.

4 Q. Address, please?

5 A. Is 2456 - 78th Avenue Northeast in
6 Bellevue. I am in the Medina area of Bellevue.

7 Q. Are you a customer of Eastside?

8 A. Yes, I am.

9 Q. Residential or commercial?

10 A. Residential.

11 Q. And are you speaking on your own behalf or
12 that of a group?

13 A. My own behalf.

14 Q. Go ahead, please.

15 A. Basically what I would like to know is, for
16 instance, in my own particular case I am a single
17 person that lives in a home and I have a garbage
18 pickup that's based on the weight of once a month so I
19 have my own 32-gallon can. Eastside does not furnish
20 that. They furnish a toter for the recyclable
21 material, but I furnish my own can so they don't have
22 any cost on my can, and say, for instance, in March of
23 1993 to April of 1993, my garbage rate went from \$3.80
24 to \$4.80 per month. And that's a 26 percent increase.
25 And in March of 1994 and April of 1994 my garbage

1 service went from \$4.80 up to \$8.79 which is a total
2 -- which is an increase on just the garbage service
3 itself of 80 percent. So the last year when you
4 combined those two increases, the total overall
5 increase is 117.5 percent, and I think that's
6 absolutely ridiculous. I don't know anything that --
7 and I do. I watch the newspapers. I was unaware of
8 the fact that King County had filed an objection to
9 this. I've just been kind of working on my own.

10 This is the letter that I sent to the
11 Commission wherein you responded with a notice of this
12 meeting, and basically what I am saying is your little
13 handbook that discusses hearing times, what have
14 you, you say that you're supposed to fix rates that
15 are reasonable and fair. I don't think this increase
16 is anywheres near reasonable and fair. You also
17 talked about in your handbook the rates will be
18 nondiscriminatory. Say, for instance, on my rate
19 you've increased it 117 percent in the last year. Yet
20 the people that are using four cans only allowed a 9
21 percent increase in their garbage rate in the last
22 year, and I think that's discriminatory. That's all I
23 have to say.

24 JUDGE HAENLE: Commissioners, questions?

25 COMMISSIONER HEMSTAD: No.

1 JUDGE HAENLE: Counsel, questions?
2 Did you want to leave a copy of that letter
3 with me?

4 THE WITNESS: Well, I don't have an extra
5 copy.

6 JUDGE HAENLE: If you sent it in it will be
7 a part of the group of letters that you sent to the
8 Commission. So it will get in that way.

9 THE WITNESS: All right. Thank you.

10 JUDGE HAENLE: John Horsfall.
11 Whereupon,

12 JOHN HORSFALL,
13 having been first duly sworn, was called as a witness
14 herein and was examined and testified as follows:

15

16 EXAMINATION

17 BY JUDGE HAENLE:

18 Q. Would you state your full name and spell
19 your last name, please.

20 A. John C. Horsfall, H O R S F A L L.

21 Q. And your address?

22 A. 9441 Northeast 26th Street in Clyde Hill.
23 Residential, individual.

24 Q. Excellent. You anticipated all my
25 questions. Go ahead, sir.

1 A. Under date of January 11, I wrote a letter
2 to the Commission with the suggestion that as far as I
3 know had not been approached before and that was to
4 get away from or at least get the mindset away from a
5 seven-day cycle, a weekly cycle. As I put it in the
6 letter, this different approach might lower Eastside
7 Disposal Company's operating costs, might increase
8 their profits, might lower their rates and therefore
9 would be quite acceptable to customers who would then
10 have to obviously refer to calendars. I believe today
11 most of us, I can assume most of us, refer to the
12 calendar we have for the various pickup dates anyway,
13 which one is yard waste and which one is recycle. So
14 referring to a calendar isn't such a bad deal. My
15 information only as I mentioned in the letter that up
16 in Vancouver the collection -- this is in British
17 Columbia -- the collection process, or the collection
18 company rather, pardon me, skips a beat, if you will,
19 every holiday so that although they seem to be on a
20 seven-day cycle they can be Wednesday until there's a
21 holiday and then they will be on Thursday for a while.
22 Our friends up there inform us that it's not a
23 problem.

24 So my only suggestion here is that this or
25 something similar at least be considered. Try to get

1 away from the weekly cycle mindset. It is a
2 possibility that we could lengthen the cycles and
3 refer to calendars. Certainly if there was a lowering
4 of rates I don't think you would find the public too
5 disturbed.

6 JUDGE HAENLE: Questions, commissioners?
7 Counsel?

8 Thank you for your testimony, sir.

9 Diane Yates.

10 Whereupon,

11 DIANE YATES,
12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 EXAMINATION

16 BY JUDGE HAENLE:

17 Q. Would you state your full name and spell
18 your last name, please.

19 A. Diane M. Yates, Y A T E S.

20 Q. And your address?

21 A. I will give you the address for the city of
22 Lake Forest Park. I'm representing them today and the
23 address is 17711 Ballinger Way Northeast, Lake Forest
24 Park, 98155.

25 Q. What is your position with the city of Lake

1 Forest Park?

2 A. I'm the city recycling coordinator.

3 Q. Someone from your organization did send in
4 a letter dated July 1, 1994, did you not?

5 A. Right. That's from the mayor.

6 JUDGE HAENLE: I suggest maybe rather than
7 making this a part of the group exhibit of people who
8 didn't come to the hearing, we make this part of this
9 one if that's all right since you can examine about it
10 if you wish.

11 Q. Go ahead, please.

12 A. I'm here representing the city as a city
13 that contracts for services with Eastside Disposal.
14 The city would like to offer its support of King
15 County in the complaint that's filed with the UTC and
16 also to express its concern for the rate structure
17 that has been allowed by the UTC which we feel is a
18 disincentive for recycling and to that end I want to
19 go over with you what our experience has been since we
20 started contracting for services as of January 1 of
21 1992. At that time the city went out with an RFP
22 for services. Eastside had been a franchise hauler of
23 the city. We recieved three proposals. Eastside was
24 the selected proposal. What we did is set out a
25 criteria for rate structure that included these

1 differential costs between the different levels of
2 service and also indicated that we wanted to wrap into
3 the cost of garbage service not only the recycling
4 service but the yard waste collection service as well.
5 And the rates of Eastside Disposal are increased
6 annually January 1st of each year based on 80 percent
7 of the CPI, so we've had roughly a 2.6 percent
8 increase in 1993 to 1994.

9 And I would just like to go over what our
10 experience has been. Since we have gone on a contract
11 with Eastside Disposal we have experienced a 31
12 percent shift from a 90-gallon container size level of
13 service down, 3 percent downshift from a 60-gallon
14 container, a 36 percent increase in the one-can
15 container, a 57 percent increase in the numbers of
16 subscribers on the minican level of service and a 64
17 percent increase in the number of subscribers on the
18 one-can once a month level of service. We have now
19 realized a 50 percent diversion rate in waste
20 reduction to recycling from the single family
21 residential sector. In order not to ding, if you
22 will, residents who choose to compost instead of have
23 yard waste service, since that rate is rolled in with
24 the garbage rate, we give citizens who choose to
25 compost a one dollar credit on their bill because

1 they're not setting yard waste out at the curb. We
2 feel our rates are consistent with the rates
3 established under the Waste Not Washington Act and
4 hope the UTC will use our experience as a guide in
5 setting rates.

6 And another one of our concerns is since
7 February of 1994 the city has doubled in size. And we
8 we have doubled in size since February of 1994. We
9 have annexed areas of surrounding unincorporated King
10 County. Our population has gone from 3400 to 7100.
11 The residents in the old Lake Forest Park have rates
12 under the contract. The residents in the new Lake
13 Forest Park are still served under Eastside Disposal
14 under the franchise and have rates that have been
15 established by the UTC which we feel are totally a
16 disincentive to the recycling goals that we are
17 supposed to realize in 1995 in the year 2000.

18 JUDGE HAENLE: Questions, Commissioners?

19 COMMISSIONER HEMSTAD: No.

20 JUDGE HAENLE: Questions, Counsel.

21 Thank you for your testimony.

22 Sego Jackson.

23 MR. JACKSON: My supervisor is with me.

24 Is there a way we can go together? We can go together
25 or she can go first.

1 JUDGE HAENLE: You can split the five
2 minutes if you like but we will need to have her spell
3 her name and the like.

4 Whereupon,

5 SEGO JACKSON and SUELLEN MELE,
6 having been first duly sworn, were called as witnesses
7 herein and were examined and testified as follows:

8

9

EXAMINATION

10 BY JUDGE HAENLE:

11 Q. Would you state your full name and your
12 business address.

13 A. Suellen Mele. Last name is spelled M E L
14 E.

15 Q. Spell your first name.

16 A. One word, S U E L L E N.

17 Q. Address?

18 A. 2930 Wetmore, Suite 101, Everett, 98201.

19 Q. Are you representing a group today?

20 A. Yes. Snohomish County Solid Waste
21 Management Division.

22 Q. What is your position with them?

23 A. I am the recycling manager.

24 Q. Go ahead.

25 A. I'm here representing Snohomish County in

1 support of rates which set incentives for recycling,
2 in support of the UTC making certain that the rates
3 that it sets support both recycling, the waste
4 management priorities and also local comprehensive
5 solid waste plans that are set out by jurisdictions
6 and therefore I'm here in support of King County's
7 position on this case.

8 All of you know 1989 when Waste Not
9 Washington Act was passed it set up a very complex
10 system of insuring that recycling happens. During
11 that passage all of the groups that were interested in
12 recycling were involved and there were many of them
13 representing everything from retailers, haulers,
14 recyclers, to state government agencies and local
15 agencies as well as environmentalists. Each of those
16 groups were set out for a certain task in order to
17 get to recycling. For instance, the cities and towns
18 and counties have plans that they've to put together
19 to do good solid waste planning and to implement
20 recycling programs. The UTC as part of this whole
21 structure was required by law to set out a system that
22 would go along with the priorities. It was critical
23 that they do that and therefore we need to see that
24 happen.

25 I'm standing here not in a theoretical way

1 but also because this case will set a precedent that
2 we fear that if the rates stay as they've now been put
3 that this will set a precedent and we'll eventually
4 dismantle the rates in Snohomish County which
5 currently encourage recycling. We are feeling right
6 now that the UTC if this precedent is set is not going
7 to be playing the part and living up to the
8 expectation that the legislature had and that we all
9 have had. The counties and the cities have a very
10 difficult thing to do in getting to 50 percent
11 recycling, and if you take away incentive rates from
12 us, you will be taking away a critical tool for
13 getting to where the state is saying that we must be.

14 The UTC's action in this case is
15 disrupting. Also we feel the legislative process that
16 happened before us, parties in the future are not
17 going to be willing to compromise and to sit down at
18 the table together to come up with legislation if the
19 existing agreements aren't held up to, and we feel
20 that if the rate incentives are not wide enough that's
21 exactly what's going to be happening here.

22 If the UTC wants to change state policy,
23 then they should do it in the legislature, not here.
24 I did read the fact sheet. It did mention the fact
25 that certain scenarios have changed in the state since

1 this act was passed. If that's the case let the
2 legislature respond and do something different. Don't
3 put words in their mouth.

4 The final point that I want to make before
5 turning this over to Sego is that again we very
6 strongly -- let me quote -- the legislature stated in
7 the RCWs that the Commission, UTC, shall supervise and
8 regulate every solid waste collection company in the
9 state in a number of ways and one of them was that
10 they would require certificate holders to use rate
11 structures and billing systems consistent with solid
12 waste management priorities and the minimum levels of
13 service of solid waste collection and recycling
14 services pursuant to local comprehensive solid waste
15 management plans and related ordinances. This is an
16 important part. We as a county believe that has been
17 very clear in the law that we have this ability to set
18 service levels and that they should -- shall be
19 followed by the UTC.

20 I would like at this point to turn this
21 over to Sego Jackson who has some specific numbers
22 that indicate that incentives rates really do make a
23 big difference in terms of how much recycling happens.

24 JUDGE HAENLE: Well, you've got only about
25 a minute left so --

1 THE WITNESS: I will be fast.

2 JUDGE HAENLE: Don't speak fast.

3 THE WITNESS: Sego Jackson, S E G O,
4 Jackson.

5

6

EXAMINATION

7 BY JUDGE HAENLE:

8 Q. Your position?

9 A. I am a project specialist for Snohomish
10 County and I manage the curbside programs for the
11 county.

12 Q. Go ahead.

13 A. I was at the hearing yesterday in Olympia
14 as an observer, and you had two different exhibits.
15 One showed the Eastside Disposal rates and the rate
16 spread, percentage rate spread, and the other was what
17 King County had requested through its ordinance, and
18 we had actually looked at some of our rates in
19 Snohomish County the same way, so I went in this
20 morning and did some work and there's a flaw in this
21 but I would like to pass this out.

22 Q. You're kind of running out of time here.

23 A. The gist of what I found in looking at the
24 rate spreads in Snohomish County is that we have one
25 rate with Lynnwood Disposal. You will see that's like

1 the third column there. And that rate spread is
2 actually slightly greater than what the UTC has
3 recently approved with the Eastside Disposal rate
4 case. We also have a company that has a rate spread,
5 Waste Management, and it's in the far right hand
6 column that has a rate spread that's very similar to
7 King County's ordinance. I looked at how many pounds
8 per eligible household per month of recyclables were
9 being collected by those companies and what their
10 participation rates were and I want to point out the
11 flaw in this right here is I used 1993 rates but I had
12 to use 1992 tonnage because the 1993 tonnages are not
13 compiled. So we're not doing perfect apples to
14 apples.

15 JUDGE HAENLE: Can you summarize, and as I
16 say you've run over the five minutes.

17 A. The main point is that the rate structure
18 that's similar to Eastside Disposal resulted in 37
19 pounds per month per eligible household and the rate
20 structure that's similar to King County's request
21 results in 50 pounds per month per eligible household.
22 In the case of Waste Management that would have
23 amounted to -- if they had a rate structure similar to
24 Eastside Disposal or Lynnwood Disposal's and if we
25 were to assume they would have similar participation

1 and setout as a result of that rate -- and I
2 understand I'm making some assumptions there, that
3 then means that 4500 tons less of recyclables would
4 have been collected during that period and that would
5 have resulted in 16 percent of the materials that were
6 collected curbside we couldn't have collected.

7 JUDGE HAENLE: Questions, Commissioners?

8 CHAIRMAN NELSON: No.

9 JUDGE HAENLE: Questions, Counsel?

10 Thank you, sir.

11

12

EXAMINATION

13 BY COMMISSIONER HEMSTAD:

14 Q. This question is addressed to Ms. Mele, I
15 suppose. Does Snohomish County have an ordinance that
16 sets out rate structure?

17 A. We have a comprehensive plan that states
18 that the rate structure should encourage recycling.
19 We currently have an ordinance that sets service
20 levels but does not specifically set a rate structure.

21 Q. My second question, does the Snohomish
22 County wish to take over rate setting?

23 A. Probably not. We don't have an official
24 position on that.

25 Q. Why not?

1 MR. JACKSON: The one position I've heard,
2 if I may, is that right now the UTC has rate setting
3 authority. The county has never challenged that but
4 what we are challenging is that the legislature has
5 given guidance to the UTC in how to set those rates
6 and we don't believe that's being followed.

7 Q. That's not my question. My question, do
8 you think it's appropriate?

9 A. We think it would be a duplication of
10 effort to have every local jurisdiction develop, bring
11 on board the staffing and the knowledge to set rates.
12 It would be a great duplication to have every
13 jurisdiction in the state do that as opposed to one
14 central organization.

15 CHAIRMAN NELSON: Well, I would ask you to
16 reconsider that because it seems to me once one has
17 percentages and ordinances all one needs is a computer
18 to do the rate design. You don't need a lot of staff.
19 You just apply the differentials in ordinance to the
20 company's revenue requirements and you won't even need
21 particularly a staff or expert in auditing to do that.
22 So why don't you ask your principals if maybe this
23 legislation session they will step up to taking over
24 the rate setting.

25 MS. MELE: We will certainly bring that

1 comment back.

2 FROM THE AUDIENCE: Why do you want to get
3 rid of it? Don't you have a computer?

4 JUDGE HAENLE: Chester Potuzak.

5

6

EXAMINATION

7 BY JUDGE HAENLE:

8 Q. Would you state your name and spell your
9 last name, please.

10 A. My name is Chester Potuzak. That's P O T U
11 Z A K.

12 Q. Address?

13 A. 1270 80th Place Northeast, Bellevue 98004.
14 I am in the city of Medina.

15 Q. I'm sorry, the city of Medina?

16 A. Yes.

17 Q. Are you an Eastside customer?

18 A. Yes.

19 Q. Residential or commercial?

20 A. Residential.

21 Q. And are you speaking on your own behalf or
22 that of a group?

23 A. Myself.

24 Q. Go ahead, sir.

25 A. The Commission made one little statement in

1 their fact sheet and said that the rates that are set
2 are not an undue burden. They are. And I think there
3 are many people in my position. I am a retired
4 teacher. The state has seen fit not to give me a cost
5 of living -- I have not received an increase for 13
6 years. And probably won't see any at all. One can a
7 month, like somebody else had, and I am charged a
8 considerable amount for that. Comment was made to use
9 a computer. I wish the Commission would use a
10 computer and set those rates and give us a break for
11 people that do recycle. I have recycled all my life.

12 Q. What did you have in mind specifically,
13 sir?

14 A. Recycle.

15 Q. Well, I mean in terms of rates.

16 A. Well, the one can rate is \$8.79 once a
17 month. And you go to the other rates -- I don't have
18 the figure here -- of \$9.65 a month every week. That
19 doesn't compute. Not at all. And I recycle very
20 much, and I think that if you had rates set that
21 encouraged people to create less garbage with one can
22 a month or maybe two cans a month, you would be able
23 to recycle. Most of the garbage that goes into mine
24 is packaging that can't be recycled, and I really
25 think it's a simple thing to set the rates properly so

1 that people will recycle.

2 JUDGE HAENLE: Questions, Commissioners?

3 COMMISSIONER HEMSTAD: No.

4 JUDGE HAENLE: Counsel?

5 JUDGE HAENLE: Thank you, sir. You may
6 step down. I have five more people on the sheet. I
7 suggest that we take those and then take a brief
8 recess so that if there's anyone else in the audience
9 who has not signed up but wishes to do so can sign up.

10 Jack Weiss.

11 Whereupon,

12 JACK WEISS,
13 having been first duly sworn, was called as a witness
14 herein and was examined and testified as follows:

15

16 EXAMINATION

17 BY JUDGE HAENLE:

18 Q. State your name and spell your last name,
19 please.

20 A. My name is Jack Weiss, W E I S S.

21 Q. Are you representing a group today?

22 A. I am representing Whatcom County Solid
23 Waste Division. Their address is 5256 Northwest
24 Drive, Bellingham, 98226.

25 Q. What is your position with them, please?

1 A. I'm the waste prevention and recycling
2 coordinator.

3 Q. Waste?

4 A. Waste prevention and recycling coordinator.

5 Q. Go ahead, sir.

6 A. I have about ten minutes of testimony. I
7 am going to have to really cut it here and I am going
8 to be doing this in somewhat of a disjointed manner,
9 but one of the things I found real interesting was
10 Snohomish County coming up with some numbers. I had
11 not talked with them, I hadn't talked with anybody
12 about this particular case before coming down here. I
13 did my own research and ironically the numbers are
14 very similar. We do have six cities of our seven
15 cities in our county that do have incentive rates.
16 These rates are fairly linear in structure. That
17 means that the cost for the first can is equal to the
18 cost of the second can for the most part and the only
19 city that doesn't is a regulated company that's taken
20 over that particular city. The amount of recycling
21 diversion that has occurred in the incentive cities,
22 incentive rate cities was approximately 51 pounds per
23 household, recycling household, per month. In the
24 WUTC regulated areas it was a little bit more than 34
25 pounds per household per month. That's a 50 percent

1 difference. And we have had substantial diversions of
2 waste because of those incented rates.

3 These rates are not new either. They have
4 been involved -- in place since about 1988, 1989 when
5 most of them were in there. We have tried on a number
6 of occasions for the last five years to do the same
7 within one county, the unincorporated area. We have
8 had a comprehensive plan that specifically stated rate
9 structures. We enabled that with a service level
10 ordinance that specifically said how we wanted to have
11 the rates done and we've requested that the Commission
12 go and do that. We have not received any movement on
13 that on the residential side. We have in fact had a
14 little bit on the commercial side and I will speak to
15 that in a moment.

16 What I wanted to talk about right now is
17 about the minicans and what our examples have been or
18 our experience has been with minicans. We've had a
19 very difficult process, which I have a transmittal
20 letter that I would like to give to you and appreciate
21 if you have a chance to read, because what it states
22 is a pattern of UTC staff working with counties that I
23 think is very important at least for the commissioners
24 and for the administrative law judge to understand how
25 this all impacts because it's more of a pattern of how

1 these cases are dealt with.

2 In essence there was minican service on a
3 weekly and every other week level that was forced upon
4 the county outside of the dictates of a service level
5 ordinance that was negotiated with our citizens and
6 the haulers. Three of the four companies that
7 represent Whatcom County ignored those service levels
8 and have not ever offered them. Sanitary Service is
9 the only one that has. They have 24 customers on
10 those service levels that have been directed by the
11 UTC. That's one fifth of one percent of their
12 customer base. If you add the monthly minican, which
13 is something we suggested that we wanted, it was still
14 less than one percent impact on the overall rate.
15 That's not an incentive because it's not being used.

16 There are other ways of being able to
17 provide incentives, and what I would like to spend a
18 little bit of time with you on is to suggest to you in
19 a positive way things that other people have asked the
20 Commission to consider that I would like to go and ask
21 one more time, and that is set a rate structure that
22 is looking at customer classes not specific service
23 levels. What I mean by that is that instead of
24 looking at minican on a weekly basis and trying to set
25 the cost of service for that, look at residential

1 garbage collection or garbage residential recycling
2 collection and consider what the system-wide costs are
3 for that entire program. Take the recommendations
4 that come out of the comprehensive -- local
5 comprehensive plans and apply that to this customer
6 class and develop -- develop the rates that way. What
7 you get in return is a system where the staff is not
8 working on trying to develop how many pounds per
9 customer per setout or trying to figure out what the
10 stop time is and how many seconds they've done this or
11 that. That is all not -- not prudent at that point.
12 What you get is that is the overall system costs and
13 you work on trying to develop what's the most
14 appropriate program for that system.

15 JUDGE HAENLE: Can you summarize the
16 remainder of your remarks? You're right at five
17 minutes now.

18 A. Okay. What I would like to ask is that
19 you consider as a way of addressing the Eastside
20 Disposal case that a system-wide approach to cost can
21 -- this cost of service technique that you use as your
22 rate structure guideline, you use as a tool to not
23 only allow the garbage company their proper rate of
24 return and the safety that is involved in setting
25 the rates but at the same time be able to allow the

1 county the opportunity to address the rate structure
2 design as they have been asked to in your local
3 comprehensive plans.

4 JUDGE HAENLE: Questions, commissioners?
5 Counsel?

6 Thank you. Did you want to leave a copy of
7 that.

8 JUDGE HAENLE: Edgar Hardy.

9 Whereupon,

10 EDGAR HARDY,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 EXAMINATION

15 BY JUDGE HAENLE:

16 Q. Would you state your name and spell your
17 last name, please.

18 A. Edgar T. Hardy, H A R D Y. 7060 Northeast
19 161st Street, Bothell, Washington.

20 Q. Are you an Eastside customer?

21 A. Yes, I am.

22 Q. Residential or commercial?

23 A. Residential.

24 Q. Are you speaking for yourself or on behalf
25 of a group?

1 A. For myself, but all ratepayers.

2 Q. Okay. Go ahead, sir.

3 A. In 1992 we were paying \$3.80 for single can
4 which has been submitted here before. Prior to that
5 we had been encouraged to recycle, which many of us
6 have done. And then in early 1993 the rate was
7 increased to \$4.80 for a single can per month which
8 was over a 26 percent increase. Then in 1994,
9 Eastside asked for \$9 and some cents a month but was
10 granted \$8.79 per month increase in that single can.
11 At the same time, a single can per week went up to
12 \$10.90, so for \$2.11 I can have four cans or possibly
13 five cans a month on a weekly basis and I don't need
14 to recycle because I don't have that much garbage.
15 The reason I got it down to one 32-gallon a can per
16 month is because I've recycled --

17 JUDGE HAENLE: Be sure you speak slowly
18 enough that she can write it down or it won't exist.

19 A. So I think it's a decision then if I have
20 to recycle because why should I bother? For a little
21 bit more I can have four to five cans of garbage
22 and throw it all in the garbage can and not worry
23 about recycling. So if recycling is our goal, I think
24 you have to keep the rates so that there's an
25 incentive for recycling, and in the notice that went

1 out from company, the card that they sent out stating
2 that they had requested an increase, it says, our
3 general operating costs -- well, if their general
4 operating costs have gone up 26 percent in one year,
5 as these rates did, and then almost 100 percent the
6 next year, as these rates did, so you have a total of
7 about 120 percent in two years, I would like to work
8 for them. They must be raising their wages really
9 fast or I don't know what they're doing but their
10 operation costs have gone off in a rocket. If this
11 isn't reflecting of their operating costs --

12 JUDGE HAENLE: Do you understand, sir, that
13 this is not a rate increase request but a challenge to
14 existing rates?

15 THE WITNESS: That's what I'm challenging.
16 The \$8.79 rate for a single can per month when you can
17 get four or five cans for \$10.90 is just unreasonable
18 and it's certainly discriminatory to those of us who
19 have worked hard to recycle and got our garbage down
20 to only one can a month, and I think it's very
21 discriminatory. I think the rate is out of line and
22 should be reduced back to a reasonable sum, and I like
23 the idea of tying it to what the idea of what the
24 actual cost of living is going up, somewhere in the
25 3 or 4 percent a year. That would be a whole lot

1 different than the 26 percent and the nearly 100
2 percent that we had this year.

3 JUDGE HAENLE: Thank you. Questions,
4 Commissioners?

5 Counsel, questions?

6 I guess not. Thank you very much. Glen
7 Boettcher, B O E T T C H E R.
8 Whereupon,

9 GLENN BOETTCHER,
10 having been first duly sworn, was called as a witness
11 herein and was examined and testified as follows:

12

13 EXAMINATION

14 BY JUDGE HAENLE:

15 Q. Would you state and spell your name,
16 please.

17 A. My name is name is Glenn Boettcher, B O E T
18 T C H E R.

19 Q. Address?

20 A. I'm here representing the city of Mercer
21 Island. Address is 9611 Southeast 36th Street, Mercer
22 Island, Washington 98040.

23 Q. What is your position with the city of
24 Mercer Island, please?

25 A. Solid waste coordinator.

1 Q. Go ahead, sir.

2 A. Much of what I wanted to say today has been
3 said by people from other governments so I will keep
4 it real short. Mercer Island has had very strong
5 incentive rates for the past two years and I wanted to
6 pass along some of the things that have happened under
7 those rates. I think the numbers speak for
8 themselves. The amount of residential garbage that is
9 produced on Mercer Island has decreased 22 percent
10 during those two years. Our residential recycling
11 rate in 1993 was 61 percent; more than 80 percent of
12 the households on Mercer Island are recycling today.
13 And I think this next one really gets out what
14 incentives can accomplish. Since 1989 the number of
15 customers with minicans has increased 65 percent. The
16 number of customers with 32-gallon containers has
17 grown 21 percent and at the same time households with
18 90-gallon containers has decreased 23 percent and the
19 number of customers with more than one can, if they
20 provide their own cans, has decreased 30 percent.
21 While we refer to this in my city as downsizing, and
22 that certainly has had an impact on our rates for the
23 last two years, we have approved rate increases that
24 are in part due to this downsizing.

25 However, just earlier this month city

1 council for Mercer Island reaffirmed its commitment to
2 incentive rates and approved an increase in the rates
3 that was partly due to the downsizing so we found
4 them to be very effective for the city of Mercer
5 Island and the elected officials there feel that they
6 will continue to be effective in the coming years and
7 want to stick with them. Thank you.

8 JUDGE HAENLE: Questions, commissioners?

9

10 EXAMINATION

11 BY CHAIRMAN NELSON:

12 Q. Mr. Boettcher, just to make sure you
13 understand. The quarrel in this case is not variable
14 can rates or not, it's not incentive rates or not,
15 it's the degree of the incentive?

16 A. Right.

17 Q. And the cities still will be completely
18 free to set rates however they wish within their
19 jurisdiction?

20 A. We wanted the Commission to understand what
21 our experience has been with strong incentive rates.

22 CHAIRMAN NELSON: Thank you. We had a lot
23 of testimony from Seattle on the same subject.

24 JUDGE HAENLE: Counsel, did you have a
25 chance to ask questions?

1 Thank you.

2 Sandra Barni.

3 Whereupon,

4 SANDRA BARNI,
5 having been first duly sworn, was called as a witness
6 herein and was examined and testified as follows:

7

8 EXAMINATION

9 BY JUDGE HAENLE:

10 Q. Would you state for the record your full
11 name and spell your last name, please.

12 A. My name is Sandra Barni, B A R N I. I
13 represent my family. We're Eastside residential
14 customers.

15 Q. Address, please?

16 A. 8625 Northeast 126th Place, Kirkland,
17 98034.

18 Q. Go ahead.

19 A. At the time of the original request for the
20 current rate increase, my husband and I looked at the
21 rate increase and wrote a letter to the Commission. I
22 will just review it again or portions of it. We've
23 been reviewing the rate increase proposed by Eastside
24 Disposal, our garbage hauler. The proposed rate
25 increase almost doubles the cost of disposing of a

1 20-gallon minican from \$5.64 per month for weekly
2 service to \$10.15 per month. That's an increase of 80
3 percent or \$54.12 a year for our family. This is a
4 much greater impact on our rates than other increases.
5 As a family of four, we have attempted to recycle as
6 much as possible.

7 Q. You need to read more slowly.

8 A. Okay. Sorry. I'm nervous.

9 Q. You're doing just fine.

10 A. As a family of four, we have attempted to
11 recycle as much as possible and we currently dispose
12 of less than 20 gallons of trash per week. With this
13 increase we would pay over 50 cents per gallon to
14 dispose of this 20 gallons per week. With a 90-gallon
15 toter our neighbors throw out four and a half times as
16 much trash for less than 20 cents per gallon. The
17 proposed new rates, which is an increase from \$16.10 a
18 month to \$17.70, or less than 10 percent, to send out
19 90 gallons of trash per week or impact to our
20 neighbors who don't recycle is \$19.20 a year. If the
21 cost per gallon remained consistent with my rate of
22 trash hauling, a 32-gallon toter would have cost
23 \$16.24 per month as opposed to the proposed \$12 rate,
24 a 60-gallon toter would cost \$30.45 as compared to the
25 proposed rate of \$14.55 and a 90-gallon toter would be

1 \$45.67 a month as proposed in the \$17.70 rate. And I
2 just don't feel that that's really an incentive --
3 that the current rates are an incentive to recycling.

4 At the top end if you throw out 90 gallons
5 of trash every week, you barely notice the impact of
6 the rate increase. I notice it and my family notices
7 it directly because it was an 80 percent increase on
8 our garbage rates. I think at least in the interest
9 of fairness it should be -- the rate increase should
10 be equally distributed among all customers and not
11 only on the low end. Whether it's once a month for a
12 single person, trash disposal, as I say, we're a
13 family of four and we try to recycle as much as
14 possible and went down to minican rate when that
15 became available because we didn't fill up a 32-gallon
16 can rate, so I don't see how current rates are
17 equitable, an equitable distribution, and I guess -- I
18 have a question of the commissioners is how they can
19 justify an 80 percent increase on the low end and only
20 a 10 percent increase on the top end.

21 JUDGE HAENLE: So you're asking the
22 commissioners to consider that?

23 THE WITNESS: Yes.

24 JUDGE HAENLE: Questions, commissioners?

25 Counsel, questions?

1 Thank you for your testimony. Did you want
2 to leave that letter?

3 THE WITNESS: Sure.

4 JUDGE HAENLE: Last name on the list. Once
5 we've done this we will take maybe a 10-minute recess
6 and if you haven't signed up you will have the
7 opportunity to sign up then. Don Kneass.
8 Whereupon,

9 DONALD KNEASS,
10 having been first duly sworn, was called as a witness
11 herein and was examined and testified as follows:

12

13 EXAMINATION

14 BY JUDGE HAENLE:

15 Q. Would you state your full name and spell
16 your last name, please.

17 A. Full name is Don Kneass. Last named is
18 spelled K N E A S S.

19 Q. You're representing a group today?

20 A. Yes, I am, National Recycling Coalition,
21 Incorporated.

22 Q. Address?

23 A. 1101 38th Street Northwest, Suite 305,
24 Washington, DC 20007.

25 Q. Could you tell us about your group?

1 A. National Recycling Coalition is a 400
2 member nonprofit coalition. It's made up of public
3 and private sector organizations whose interests is in
4 maximizing recycling.

5 Q. Thank you. Go ahead with your statement.

6 A. Well, first of all, I would like to make an
7 offer separate from my statement is that I would love
8 to have a chance with whoever wrote this fact sheet on
9 recycling to sort of clarify some of the
10 misinterpretations of recycling markets. This is
11 horribly inaccurate.

12 The National Recycling Coalition publishes
13 a policy position guideline for its members and for
14 organizations and institutions that are addressing
15 issues such as the ones that are being addressed
16 today, and I would just like to read the two policy
17 positions that the National Recycling Coalition has
18 that I believe are pertinent to this particular rate
19 case. The first one pertains to local rate setting
20 and structures to support recycling. They state that
21 the methods used to establish the rates or fees for
22 source reduction, recycling and composting services
23 can affect participation rates, overall cost
24 effectiveness, public support, and efficiency in
25 project administration. They must, therefore, be

1 established with an eye to the impact on these
2 concerns. The portion of this particular policy, I
3 think, that addresses this issue states that
4 incentives should be included in the rate structure to
5 encourage source reduction, recycling and composting
6 in both residential and commercial rate structures.

7 The next policy statement is volume-based
8 refuse collection fees. The policy in particular
9 states that limited or variable can rates should be
10 considered a critical first step towards a rate
11 structure that discourages waste. Certainly can rate
12 structures should ideally rise steeply so that the
13 rate for pickup of second and third cans is more than
14 two to three times the rate for the first can.

15 I would like to conclude just by pointing
16 out the process by which these policy statements are
17 developed. There is an 80-member policy committee
18 within the National Recycling Coalition and made up
19 of diverse interests that run the gamut from the
20 McDonald's Corporation to Oswego County new Public
21 Works Department to the nonprofit Institute for
22 Local Self-Reliance. They in turn do an investigation
23 of that policy based on the available information,
24 pass along to the full board. It's a 35-member board,
25 again, made up of diverse interests. That board then

1 passes the or declines to pass that particular policy,
2 and also I want to mention the fact that I am a member
3 of the board. In fact I am secretary of the National
4 Recycling Coalition, member of their executive board.

5 JUDGE HAENLE: Thank you, sir. Questions,
6 Commissioners?

7 CHAIRMAN NELSON: No.

8 COMMISSIONER HEMSTAD: No.

9 JUDGE HAENLE: Counsel?

10 Thank you for your testimony. Let's -- I
11 have quarter to now. Let's take ten minutes and be
12 back at five minutes to. See if there's anyone else
13 that wants to sign up and after that we'll take
14 additional testimony in the case which you're welcome
15 to stay for but there will not be public input. It
16 will be testimony from the witnesses.

17 (Recess.)

18 JUDGE HAENLE: Let's be back on the record.
19 Now, was there anyone else? There was no one else's
20 name on the sign-up sheet. Was there anyone else that
21 wanted to give testimony that didn't have an
22 opportunity, would you indicate by raising your right
23 hand.

24 It appears, then, that that was everyone.
25 I have made a group exhibit of the documents that

1 people that came gave me including the one letter from
2 Lake Forest Park dated July 1st. I included on it the
3 sign-in sheets that people did when they came in the
4 front door. I also included again for illustrative
5 purposes the copy of the fact sheet because a number
6 of people mentioned it. That's just to show what
7 people were responding to when they gave their
8 testimony. Is it all right with you, Counsel, if we
9 include that in the record for illustrative purposes
10 as Exhibit 107? Ms. Perry.

11 MS. PERRY: I have no objection, Your
12 Honor.

13 JUDGE HAENLE: Ms. Thomas?

14 MS. THOMAS: No objection.

15 JUDGE HAENLE: Ms. Egeler?

16 MS. EGELER: No objection.

17 JUDGE HAENLE: I will enter 107 for
18 illustrative purposes. We will take it, copy it and
19 try to get it to you, Counsel, within the week.

20 (Marked and Admitted Exhibit 107.)

21 JUDGE HAENLE: We also need to make an
22 exhibit of the documents that have come into the
23 Commission from people who were not present at the
24 public hearing. Those will also have to be copied and
25 I understand will be available for distribution this

1 week also. Maybe make those, then, Exhibit 108 for
2 illustrative purposes. Ms. Perry?

3 MS. PERRY: No objection, Your Honor.

4 JUDGE HAENLE: Ms. Thomas?

5 MS. THOMAS: No objection, Your Honor.

6 JUDGE HAENLE: Ms. Egeler?

7 MS. EGELER: No objection.

8 JUDGE HAENLE: I will enter that as 108 for
9 illustrative purposes and those documents will be
10 distributed, I hope, this week to all of you.

11 (Marked and Admitted Exhibit 108.)

12 JUDGE HAENLE: I believe we were going with
13 you, Ms. Perry. How much more do you have? Can you
14 estimate?

15 MS. PERRY: It depends upon the answers but
16 I may be able to finish this up within the hour.

17 JUDGE HAENLE: That would be marvelous.

18 MS. PERRY: I will try. Can't guarantee.

19 THE WITNESS: I will try also.

20 JUDGE HAENLE: Remember, all of you, that
21 we're not going to do that by talking quickly. That's
22 the tough part. Go ahead, please.

23

24 CROSS-EXAMINATION

25 BY MS. PERRY:

1 Q. Mr. Popoff, before lunch, seems like a long
2 time ago, we were talking about PJP-2 which has been
3 marked as Exhibit 103, and if I recall your testimony
4 from then you had stated that you had drawn PJP-2,
5 Exhibit 103, as representative of the demand curve
6 based on King County's evidence; is that correct?

7 A. But not the particular function.

8 Q. Right. We covered that part of it. I just
9 have a question out of curiosity. As you've drawn
10 it, this curb appears to be isoelastic?

11 A. How would you like to define that?

12 Q. Well, how would you define that?

13 A. That's not a term that I would most likely
14 use so --

15 Q. You've never heard the term isoelastic?

16 A. Perhaps I have but your definition would
17 probably be a lot better.

18 Q. Well, you're the economist. Why don't you
19 tell us how you would define isoelastic?

20 A. I wouldn't define isoelastic.

21 Q. Well, you've heard the term before?

22 A. Perhaps I have.

23 Q. Is that a yes or no?

24 A. Perhaps I have. I'm not sure if I have
25 or not.

1 JUDGE HAENLE: Why don't we -- this back
2 and forth isn't getting us anywhere in particular.
3 Will you define the term and ask the witness if he
4 believes it should be applied to the situation.

5 Q. Doesn't it mean that the elasticity doesn't
6 depend upon the price level?

7 A. Well, you're asking me for the definition
8 of --

9 Q. Isoelastic. Why don't you give us your
10 definition of isoelastic if you can.

11 JUDGE HAENLE: I think we've done that part
12 already. Your question to him was would he apply
13 that definition to this situation and your answer was
14 what, sir?

15 A. Could you clarify that?

16 Q. Doesn't isoelastic mean that there's
17 constant demand elasticity along the demand curve?

18 A. If that's what isoelastic means then that's
19 not at all what I intended to imply with this.

20 Q. Let's not use that term then. Let's say
21 constant demand elasticity along the demand curve.
22 I'm just saying that doesn't it appear the way that
23 this is drawn that you've drawn it in such a manner
24 that it appears to be so?

25 A. Not at all. I think that I drew the demand

1 curve to show that the further you went up the less
2 elastic the demand becomes.

3 Q. Okay, thank you. Let's turn to PJP-3 which
4 has been marked as Exhibit 104. You predict that that
5 will be the effect of education -- before we go into
6 that, I want to renew the fact that I have objected
7 to this testimony but since it's been allowed I will
8 ask you some questions and explore your theories about
9 this. You predict that that will be the effect of
10 education programs; is that correct? This is supposed
11 to be illustrative of how, for example, an education
12 program would affect the demand curve?

13 A. That is I think what I've stated.

14 Q. Is that the only way that the demand curve
15 might shift as a result of an education program?

16 A. Assuming that you were trying to educate
17 people that recycling should be preferred to just
18 throwing your waste into the landfill, unless you're
19 trying to tell people that it's better to throw
20 your waste into a landfill, then that is certainly the
21 sort of shift I would expect.

22 Q. Can you say with certainty that an
23 education program will change a demand curve in that
24 direction?

25 A. As I said, if you look at my testimony,

1 perhaps I can refer you to the page.

2 JUDGE HAENLE: Perhaps we could start with
3 a yes or no and then an explanation.

4 A. I would say yes.

5 JUDGE HAENLE: And looking at your
6 testimony what now?

7 A. Looking at page 6, lines 24 through the
8 line 2 on page 7, I stated that the reason they would
9 opt for less waste collection service at a given price
10 is that less waste collection service -- that the
11 consumer will perceive a different value from the same
12 level of service. And that's lower than the value
13 that they perceived before.

14 Q. Are you aware of education programs that
15 may be in existence that haven't resulted in demand
16 shifts -- haven't resulted in an inward shift of
17 demand?

18 A. In this context of --

19 Q. No, just generally.

20 A. Well, you would think that education
21 programs could go either way depending on what the
22 goal of the education program was. If I would like to
23 educate you to buy my good or service, then I would
24 hope that I would shift your demand function out. But
25 you're trying to demarket in this case so you're

1 hoping that -- you wouldn't expect many environmental
2 education programs to try and say throw more away.

3 Q. But isn't advertising an education program
4 in the sense of what you're talking about here?

5 A. Certainly could be.

6 Q. And does advertising always result in an
7 outward shift of the demand curve?

8 A. It depends on the particular market that
9 you're talking about.

10 Q. That's true, but doesn't advertising
11 sometimes fail?

12 A. It may.

13 Q. May or it does?

14 A. I'm not in the advertising area so --

15 Q. How about in the -- more in the public
16 welfare area? For example, aren't there a number of
17 education programs out there that are intended to
18 shift demand inward but have the opposite result? Can
19 I maybe offer you some examples?

20 A. You are welcome to offer them.

21 Q. What about the fact that there's been a lot
22 of education efforts made to make people knowledgeable
23 about healthy diets and exercise yet it appears that
24 that hasn't had a lot of effect, that obesity levels
25 seem to be rising?

1 MS. EGELER: Objection, Your Honor. That
2 is speculative and if she's offering it as a
3 hypothetical, that's fine, but if she's offering it --

4 MS. PERRY: Okay. As a hypothetical.

5 Q. Hypothetically, couldn't an education
6 program have the opposite result of what you intend?

7 A. I don't know that that would be saying that
8 the education program had an opposite effect.

9 Q. Or may not have the degree of effect that
10 you intend?

11 A. That could be, but I don't think that's the
12 case here, not according to Mr. Gaisford's testimony,
13 I don't believe.

14 Q. Well, can you cite me any empirical studies
15 to show that an education program is going to cause an
16 inward shift of the demand curve?

17 A. I was hoping that King County would be
18 conducting such analysis.

19 Q. Oh.

20 A. Since the whole waste reduction program is
21 the county's responsibility.

22 Q. Can you point me to any studies that show
23 that educational programs will change people's tastes
24 and preferences?

25 A. Once again, I would -- the only thing that

1 I would be able to refer you to is Mr. Gaisford. In
2 his testimony he mentioned that King County has
3 measurable results from that education campaign.

4 Q. We have measurable results but that's not
5 what we're talking about. We're talking about here
6 whether or not you can point me to any studies, not
7 that you KING County should be performing, but any
8 studies in standard economic literature that show that
9 educational programs will change tastes and
10 preferences?

11 A. You may have to go a little beyond standard
12 economic literature for that. I don't think that my
13 intend was to focus on what happens once you make an
14 assumption that tastes and preferences are fixed and
15 that's what you want to find in a general economic
16 report is that you assume that tastes and preferences
17 are fixed.

18 Q. That's right, you do.

19 A. So if you were to go beyond economic
20 literature into other areas, I'm sure you would find
21 such things.

22 Q. But you would have to go beyond economic
23 literature; isn't that correct?

24 A. Certainly.

25 Q. Where would you go?

1 A. I've read advertising journal articles that
2 discuss such things using the econometric analysis
3 to look at the impact of advertising campaigns.

4 Q. But you're not an advertising specialist,
5 are you?

6 A. No.

7 Q. Can you point me to any particular study,
8 empirical study, that will show that there's a
9 quantifiable measure -- strike that. Can you point me
10 to any empirical studies that will specifically show
11 that education is going to cause an inward shift in
12 the demand curve?

13 A. No.

14 Q. Can you point me to any empirical study
15 that will show that educational programs will change
16 tastes and preferences?

17 A. I can't point you the other direction
18 either.

19 Q. True. Is that because you can't quantify
20 the result of such a study?

21 A. That's something that I just can't possibly
22 understand why there's an argument that says you can't
23 quantify that.

24 Q. You're an economist, aren't you? Isn't
25 quantification one of the goals of economics and isn't

1 that the paradigm of economics that you can quantify
2 the effects of opportunities, changes in
3 opportunities?

4 A. Well, not agreeing with any of the
5 definition that you just gave, I would say that you
6 could quantify that. And that's what I have -- we
7 have I think Dr. Albert in her cross testimony she
8 -- we discussed that the amount of money that King
9 County spent on education, since 1990, has almost
10 tripled to a million dollars a year. Now, I don't
11 understand why -- what's hard to quantify about a
12 million dollars. You can put that into your --

13 Q. Oh --

14 JUDGE HAENLE: This is sounding more like
15 the two of you trying to convince each other than a
16 question and answer format. I think we've gone over
17 the areas a couple of times. I suggest we move on.
18 You're not going to convince each other. I'm
19 convinced of that.

20 MS. PERRY: Well, the point, Your Honor, is
21 not to convince Mr. Popoff. The point is to elicit
22 some testimony regarding standard economic analysis.

23 JUDGE HAENLE: Well, I've heard it and I've
24 heard the same question and the same answer a couple
25 of times. When you get beyond a couple of times then

1 you get to the point where it feels like you're trying
2 to convince each other. It doesn't add anything to
3 the record.

4 MS. PERRY: Well, we've spoken generally.
5 May I ask him specific questions?

6 JUDGE HAENLE: Sure. As long as they're
7 not repetitive. That's what I was objecting to.

8 Q. You said you can quantify a million
9 dollars. I don't dispute that. Can you quantify
10 using standard economic analysis the inward shift in
11 the demand curve caused by changing tastes and
12 preferences based on a million dollar educational
13 program?

14 A. I would think that you could do that just
15 as you quantify a change in income levels across
16 society, as you let other variables change also.

17 Q. Can you point me to any standard textbooks
18 in economics or any standard or any articles in any
19 economic journals that would indicate that?

20 A. As I said, I think -- no. As I said --

21 Q. Thank you. That's all I asked.

22 MS. EGELER: Your Honor, I believe the
23 rules are that the witness can state a yes or no
24 answer and then explain their answer.

25 JUDGE HAENLE: Well, if the answer goes

1 beyond the question, we've had some -- I'm having some
2 trouble balancing here in terms of yes and no answers
3 being explained because the witnesses are adding so
4 much to the yeses and noes. I thought I had heard the
5 question and answer before. I think I have probably
6 heard the explanation that your witness gave before,
7 and this all sounds very, very familiar. I would
8 prefer that he not expand on that and we go on to
9 something else because I think we've covered it
10 already.

11 MS. PERRY: Your Honor, I am prepared to
12 move on.

13 Q. Refer to page 8 of your testimony. Line 11
14 you suggest the introduction of viable substitutes.
15 Are you speaking here, I believe, theoretically,
16 you're saying that the introduction of viable
17 substitutes would cause an inward shift in the demand
18 curve; is that correct?

19 A. Yeah.

20 Q. And then I believe you go on later to make
21 the suggestion that King County should explore the
22 introduction of viable substitutes; is that correct?

23 A. Can you refer me to what page did I say
24 that?

25 Q. Well, let me ask you a specific question

1 about your testimony. Do you suggest that King County
2 provide or make available viable substitutes for
3 current solid waste collection services?

4 A. I think that the testimony you're referring
5 to is on page 27, line 23, where I said that
6 discovering new demand shift and proving existing
7 demand shift should be the focus of King County's
8 effort.

9 JUDGE HAENLE: So was that a yes or no?

10 THE WITNESS: I lost track of the question.

11 JUDGE HAENLE: The question was are you
12 suggesting that King County provide viable
13 alternatives by substitutes?

14 THE WITNESS: I am suggesting that King
15 County may want to explore those options.

16 Q. Do you have any thoughts on what these new
17 demand shifters might be?

18 A. No, because, as I think we've gone through
19 extensively, for me to tell you exactly how to shift
20 those demand functions is not going to be my area of
21 expertise.

22 Q. But you're suggesting that we shift those
23 demands, right --

24 A. Yes.

25 Q. -- we explore viable substitutes to do so.

1 Are you aware of any testimony in any -- made by any
2 of the other UTC witnesses that might suggest these
3 viable substitutes?

4 A. I am not sure.

5 Q. Without even knowing what these substitutes
6 are, can you say with certainty that it's going to
7 cause a shift in the demand curve?

8 A. When you're talking about introduction of
9 viable substitutes, what I mean by that is the
10 introduction of curbside recycling program or from
11 before curbside recycling program we had drop box to a
12 curbside recycling system.

13 Q. But you don't have any idea what those
14 viable substitutes might be?

15 A. Those were two examples. I think home
16 composting is another example.

17 Q. But everything you mentioned so far are
18 existing programs, aren't they?

19 A. Yes.

20 Q. You don't have any thoughts on what might
21 be new viable substitutes?

22 A. No, I don't.

23 Q. Referring you back to page 11 of your
24 testimony. You discuss elasticities here. Maybe it
25 would be easier -- I think there's some confusion

1 among the different people's testimony -- if we just
2 talk about absolute values rather than assigning a
3 value to that?

4 A. I would prefer that.

5 Q. Is that okay?

6 A. Uh-huh.

7 Q. So according to your testimony, elasticity
8 is between one -- is one or greater -- shall we say
9 that it's elastic you're saying?

10 A. Yes.

11 Q. And you make the statement on line 23,
12 "this means the quantity demanded is sensitive to
13 price.

14 A. Yes.

15 Q. Now, you're talking about something that's
16 elastic there. Does this -- should I imply or should
17 I infer from your testimony that if it's inelastic --
18 in other words, if it's between zero and one -- it's
19 insensitive to price?

20 A. Less sensitive.

21 Q. Inelastic doesn't mean that it will have
22 no effect on price, does it?

23 A. No. On demand.

24 Q. Excuse me, on demand. So in other words,
25 there is some sensitivity to price?

1 A. Yes.

2 Q. On page 15 of your testimony, you talk
3 about the -- starting on line 10 you talk about the
4 availability of recycling opportunities?

5 A. Yes.

6 Q. Are these the substitutes you were talking
7 about now that you couldn't name earlier?

8 A. They could be some of the substitutes, yes.

9 Q. But again, you don't have any suggestions
10 specifically as to what those might be?

11 A. As I said, I think that's King County's
12 responsibility.

13 Q. Then you talk about the ease of recycling,
14 No. 3 on that page?

15 A. Yes.

16 Q. Does this stuff differ from the cost of
17 substitutes you mentioned earlier? What are you
18 talking about here? What did you mean by ease of
19 recycling? Because you listed four factors earlier in
20 your testimony, if you will recall. Then I thought
21 there was some relationship between this list of three
22 and that list of four earlier. Did I misinterpret
23 your testimony? If you recall back on page 5 --

24 A. I think that this is a few examples that
25 were given in part 1, so I can check to see.

1 Q. Okay back on page 5 you listed the
2 variables relevant to demand and then you listed
3 these. It seemed to me I was drawing a relationship
4 between these two pieces of testimony.

5 A. I think that the differences is that these
6 are -- these are showing the demand shifting variables
7 so the one that wasn't included as a demand shifting
8 variable was the price of waste collection.

9 Q. You've listed three things here: education,
10 availability of recycling opportunity and ease of
11 recycling. And you're suggesting that these are
12 demand shifters, but you can't quantify the shift in
13 the demand curve that would be caused by any one of
14 these, can you?

15 A. I have not quantified them, no.

16 Q. Could you quantify those?

17 A. Sure.

18 Q. Based on what?

19 A. I think that if you worked with Dr.
20 Albert's study and then you could include some better
21 variables in that to capture some of these things.

22 Q. What variables would you include?

23 A. I think I've already indicated that you can
24 include the amount of money that King County has spent
25 on recycling or, I'm sorry, on education programs as

1 one.

2 Q. What else would you include?

3 A. There's several, I imagine. You can look
4 at the number of articles that have appeared in
5 different types of media. These are all the kinds of
6 things that I would expect that King County looked at
7 when it decided how to spend its money -- the million
8 dollars on education.

9 Q. I'm confused. Do most economists include
10 education -- would the standard economists include an
11 education program as a variable in doing an analysis
12 like you're suggesting?

13 A. I think that in the situation it's
14 certainly appropriate. King County has tripled its
15 efforts, its education efforts, in the past four
16 years. I don't know if that's had an effect or not,
17 but I would hope that somewhere in the decision-making
18 process where King County decided to spend that much
19 money that it decided how to and why -- and I don't
20 understand why you would therefore disconnect those
21 two.

22 Q. Well, certainly it sounds to me like you're
23 talking about a benefit cost analysis, aren't you?
24 You're talking about we're going to spend a million
25 dollars and so we have to determine what benefits

1 we're going to derive from that cost. Isn't that
2 somewhat different from an economic analysis similar
3 to the model that Dr. Albert provided?

4 A. Well, certainly the two can be linked to
5 avoid the misspecification bias.

6 Q. Well, the problem, though, isn't it, that
7 there's difficulty determining whether or not there's
8 a quantifiable demonstrable effect upon demand of a
9 shift in the taste and preferences?

10 A. I think that is the exact problem that I
11 was trying to illustrate is that in these demand
12 elasticity estimates that was not accounted for, and
13 according to Dr. Skumatz's nice explanation of mis-
14 specifications -- much micer than my pages and graphs
15 -- I think that that is a very legitimate concern. As
16 people -- you've tripled the amount of education that
17 King County has spent which doesn't include what other
18 people have spent. I've just noticed a new recycling
19 campaign on television from one of the paper companies
20 in the state. So there's certainly things that could
21 be going on that are beyond King County's control, but
22 when you've seen that -- you know that King County is
23 doing something that they think is affecting the
24 demand and you've chosen to ignore that in your
25 economic analysis and I don't understand why you do

1 that. Excuse me. I can understand based on --

2 JUDGE HAENLE: You're getting way beyond
3 what the question was and what is necessary to explain
4 your answer.

5 THE WITNESS: I'm sorry.

6 Q. Has King County ever suggested, to your
7 knowledge, that it not include education as part of
8 overall program with regard to meeting its waste
9 reduction and recycling goals?

10 A. To my knowledge, no.

11 Q. Come back to this. Let's talk about
12 elasticities. Have you conducted any empirical
13 studies regarding the impact of education?

14 A. No.

15 Q. Have you conducted any empirical studies
16 regarding the availability of recycling opportunities?

17 A. No.

18 Q. Have you conducted any empirical studies
19 regarding the ease of recycling?

20 A. No.

21 Q. And Dr. Skumatz, Dr. Albert and Mr. Pealy
22 all provided testimony regarding elasticities of
23 different analyses that they had performed. As I
24 recall that the lowest in absolute terms of those was
25 Seattle's, which is .07. Can you tell me whether or

1 not education, an education program, will have a
2 demonstrable quantifiable effect as great or greater
3 than that elasticity on demand?

4 A. Well, first of all, if you notice, I didn't
5 consider that as a demand elasticity. That was an
6 average price elasticity in my testimony.

7 Q. Okay. Well, let me rephrase the question.
8 Can you tell me for a fact whether an education
9 program will have a demonstrable quantifiable effect
10 as great or greater than the impact of that .07
11 elasticity on demand?

12 A. I would say that --

13 JUDGE HAENLE: Yes or no first.

14 A. I would say that no and I would say that
15 that .07 elasticity estimate is upwardly biased
16 because you've ignored that, so it couldn't be bigger.

17 Q. Can you tell me whether or not making a
18 different recycling opportunity available will have a
19 demonstrable quantifiable effect as great or greater
20 upon the demand for waste collection services than
21 the .07 elasticity that Mr. Pealy presented?

22 A. I believe that was in -- something roughly
23 of that sort was in Dr. Albert's study. We can refer
24 to that if you like.

25 Q. Let's talk about making new recycling

1 opportunities available, because you're talking about
2 introduction of substitutes which I take to mean new
3 opportunities; is that correct?

4 A. Uh-huh.

5 Q. Can you tell me whether making -- tell me
6 for a fact whether making a new recycling opportunity
7 available, what you're calling introduction of
8 substitute, whether that will have a demonstrable
9 quantifiable effect as great or greater than the .07
10 elasticity that Mr. Pealy testified about?

11 A. As I mentioned, I haven't done any
12 empirical study.

13 Q. So is your answer no?

14 A. No.

15 Q. Then you talk about ease of recycling. Can
16 you tell me whether or not making recycling easier
17 will have a demonstrable quantifiable effect upon
18 demand for waste collection services as great or
19 greater than the elasticity of .07 that Mr. Pealy
20 testified about?

21 MS. EGELER: Objection, Your Honor. This
22 is completely repetitive.

23 MS. PERRY: No, it's not. I'm asking about
24 different subjects.

25 JUDGE HAENLE: Let her finish your

1 objection and then we'll take your comment, please.

2 MS. EGELER: He has already stated that he
3 has not run studies on each of those factors and
4 therefore he could not state whether or not it would
5 have a greater or lesser effect than Mr. Pealy's
6 elasticity estimate.

7 JUDGE HAENLE: Ms. Perry.

8 MS. PERRY: Your Honor, I'm asking about
9 three different examples that he has provided. I'm
10 asking him to answer for each of those three different
11 examples whether or not he can provide me with
12 demonstrable quantifiable results regarding each of
13 those.

14 JUDGE HAENLE: To be sure that those are
15 not repetitive, is your answer no with regard to each
16 one of those?

17 A. I would say that that one was certainly
18 covered in Dr. Albert's study.

19 JUDGE HAENLE: Is your answer yes or no,
20 sir?

21 THE WITNESS: No.

22 JUDGE HAENLE: Go ahead, Ms. Perry.

23 Q. On page 27 of your testimony you state --
24 on line 19 you talk about costs involved grossly
25 distorting price signals?

1 A. Yes.

2 Q. Is what you're saying that there are
3 economic efficiency losses because the marginal cost
4 of waste collection service would not be equal to the
5 price charge?

6 A. I don't think that was quite close to what
7 I was saying.

8 Q. What were you trying to say then?

9 A. I was trying to say that there's a number
10 of political costs and social costs to distorting
11 prices. One of the situations in this case, if you
12 want to have two-can service that's way above the cost
13 of service and minican way below the cost of service,
14 there's certainly a cost to that. You're subsidizing
15 different customers and that sort of thing. Those
16 were the sorts of costs I was referring to.

17 Q. So you weren't -- strike that.

18 On page 29 and 30 of your testimony you
19 cited some -- you cite some awards that were won by
20 Tacoma, Pierce County, Walla Walla and Columbia
21 counties?

22 A. Yes.

23 Q. And as I understood your testimony, you
24 felt that these were -- well, as a matter of fact you
25 said specifically on line 4, page 29, line 5 that

1 these --

2 JUDGE HAENLE: I'm sorry, could you --

3 Q. Excuse me. Page 29, lines 4-5 you refer to
4 successful waste reduction and recycling programs?

5 A. Yes.

6 Q. And you cited these programs as successful
7 waste reduction and recycling programs?

8 A. Yes.

9 Q. Do you call yesterday in Mr. Demas's
10 testimony -- excuse me, it was Mr. Colbo's testimony,
11 Exhibit 91, RGC-4, which listed a number of different
12 programs and the attributes of those programs? And on
13 page 6 of that exhibit --

14 JUDGE HAENLE: Do you have that in front of
15 you, sir?

16 THE WITNESS: Yes, I do.

17 Q. In it he listed Dahl-Smyth, Incorporated,
18 d/b/a Disposal Services?

19 A. Yes.

20 Q. And he testified that he placed an X in the
21 block for when there were services offered in that
22 category?

23 A. Yes.

24 Q. And he testified that there's no
25 residential recycling in Walla Walla and Columbia

1 counties?

2 A. That's what he testified. I'm not sure.

3 Q. Did they have the drop box sort of system?

4 A. Not curbside system.

5 Q. So they don't even have a curbside system?

6 A. Correct.

7 Q. And are you aware that King County has also
8 wouldn't awards for its recycling programs and its
9 waste reduction programs?

10 A. I believe that Mr. Gaisford mentioned in
11 his testimony.

12 Q. As a matter of fact, on page --

13 A. Or his rebuttal testimony.

14 Q. Rebuttal testimony, page 28 and 29?

15 A. Yes.

16 Q. -- that King County indeed has wouldn't the
17 same award as Pierce County?

18 A. Yes, it did.

19 Q. In the prior year.

20 JUDGE HAENLE: Please wait until she's
21 finished her question before you answer it so we get
22 both the question and answer down on the record.

23 Q. So by your standard that winning one of
24 these awards is evidence of being a successful program
25 it appears that King County also has a successful

1 program?

2 A. I think the point was to say that the
3 department of ecology didn't give those awards based
4 on whether the area had incentive-based rates as King
5 County has proposed or not.

6 Q. Exactly. But they gave those awards to
7 recognize accomplishment in the area of waste
8 reduction and recycle; isn't that correct?

9 A. Yes.

10 Q. And are you aware that in 1993 King County
11 won the best public information/education program on
12 waste reduction and recycling award from the
13 Department of Ecology?

14 A. Once again, that's one of the things that
15 concerned me about the potential misspecification
16 bias in those elasticity estimates, yes.

17 Q. Are you generally familiar with the
18 discrete choice models such as LOGIT or PROBIT which
19 model customer choices between alternatives?

20 A. I'm not sure. You would have to provide me
21 a little more information.

22 Q. You've never heard of a discrete choice
23 model?

24 A. I've heard of that term.

25 Q. Have you heard of LOGIT?

1 A. Yes.

2 Q. Have you heard of PROBIT?

3 A. Yes.

4 Q. Are you aware of whether or not the
5 discrete choice methodology breaks down the factors
6 that affect choice into those that they call
7 systematic or predictable components?

8 A. No.

9 Q. So you're also not aware that the discrete
10 choice methodology also has a category of factors that
11 are nonsystematic or unpredictable components?

12 A. Unless you're using terminology that I am
13 just not familiar enough with, I'm not sure where
14 you're going in relation to this case.

15 Q. Well, we've had some discussion here about
16 demand analysis and modeling and it seems to me that
17 you -- and I am not an economist and I will try to
18 convey this so that you understand. It seems to me
19 that you're saying that King County in its modeling
20 should include amongst its variables education
21 programs; is that right?

22 A. I'm saying that if you would like to use
23 those models to predict consumer behavior as specific
24 as you're proposing to in this case, yes.

25 Q. Isn't that the sort of, for want of a

1 better term, a random variable that is difficult to
2 predict the effect of?

3 A. I don't think so.

4 Q. Isn't that the sort of variable that's
5 generally incorporated in the error term in a model?

6 A. I don't think so.

7 Q. How do economists generally treat tastes
8 and preferences? Do they treat them as being
9 predictable, changes in taste preferences as being
10 predictable?

11 A. They treat them as fixed.

12 Q. But you're, though, suggesting that we not
13 treat them as fixed. You're suggesting that we treat
14 them as predictable, aren't you?

15 A. Yes.

16 Q. Why don't most economists treat tastes and
17 preferences as being predictable?

18 A. Because in any economics analysis that
19 you're going to do at any level you have to assume
20 certain portions of reality out of your thinking
21 process to make it trackable.

22 Q. So what's the problem with taste and
23 preferences?

24 A. The problem with taste and preferences is
25 in this case King County has been making a significant

1 effort over the past four years to change preferences.

2 Q. I'm talking about generally. I'm talking
3 about economic theory, since you submitted about half
4 your testimony on economic theory. Why is it that
5 economists treat tastes and preferences as being
6 unpredictable or changes in taste and preferences as
7 being unpredictable?

8 A. As I said, I think it's in order to
9 simplify the analysis.

10 Q. Why would they -- why would treating them
11 as unpredictable simplify the analysis?

12 A. So it's one less decision variable that you
13 have to worry about.

14 Q. Doesn't the fact that we say they're
15 unpredictable --

16 A. You said they were unpredictable?

17 Q. -- that it's hard to predict what's going
18 to happen because you don't know which way people are
19 going to change their taste and preferences, do you?

20 A. Once again, if you think that education
21 programs that tell people that it's not good a thing
22 to put waste in landfill, if you think that's going
23 to increase the demand for landfill space, I don't
24 think that that's a reasonable assumption at all.

25 Q. Can you tell me it's going to -- how much

1 it's going to increase their demand for the landfill
2 -- or it's going to reduce their demand for the
3 landfill?

4 A. And I think we've gone through that
5 already.

6 JUDGE HAENLE: And your answer is that you
7 can't?

8 THE WITNESS: No.

9 Q. Are you familiar with Eugene Silberberg's
10 text Structure of Economics and Mathematical Analysis?

11 A. Yes. I think I probably have a newer
12 version.

13 Q. But at least perhaps a more recent edition
14 of this book that is used as a text in graduate levels
15 at the University of Wyoming where you went to school?

16 A. Yes.

17 Q. Are you familiar with Hal Varian's
18 Microeconomic Analysis?

19 A. Yes.

20 Q. Isn't this a standard economic graduate
21 level text that was used at the University of Wyoming?

22 A. Yes.

23 Q. Are you familiar with Alpha C. Chiang's
24 Fundamental Methods of Mathematical Economics?

25 A. Yes.

1 Q. And that's C H I A N G, and again, isn't
2 that a text that's used at the graduate
3 level at the University of Wyoming where you went to
4 school?

5 A. Yes.

6 Q. Can you point me to a reference in any of
7 these texts that shows under what conditions a change
8 in tastes in preferences will result in an inward
9 shift in the demand curve?

10 A. I think that those texts are way beyond
11 that level. Those texts are based on that foundation
12 that you've taken preferences as given. That's the
13 kind of analysis that you go through in an entry level
14 microeconomics course or that we typically go through
15 at the University of Wyoming.

16 Q. Right. In your elementary economics class,
17 you say -- I would imagine that you get up there and
18 you draw your demand curves and you show your students
19 that theoretically you can change tastes and
20 preferences and when you change those that
21 theoretically the demand curve will shift. When you
22 get to graduate level courses I would assume that
23 you're more interested in trying to do more
24 mathematical analysis and really quantify the impacts
25 of things, aren't you?

1 A. No. You're using math to prove the logic.
2 You're not using math to come up with a number.
3 That's very difficult. That's econometrics.

4 Q. But you're still -- when you get to
5 graduate level courses you're more interested in more
6 definite results, aren't you, rather than just the
7 broad theory?

8 A. No. You're proving the broad theory with
9 the math.

10 Q. But you're telling me that you can't point
11 to anywhere in these texts where they don't discuss
12 tastes and preferences as being given? Is that what
13 you're telling me?

14 A. I could if you like. Certainly in
15 Silberberg. On my page 301 he points out that -- how
16 two goods, one good is preferred to another.

17 Q. What chapter?

18 A. Chapter 10 the derivation of consumer
19 demand functions.

20 Q. What does Dr. Silberberg say?

21 A. He's talking about the transitivity of
22 preferences, just that when one good is preferred to
23 another and then the second good is preferred to a
24 third the third good will be preferred to a first, and
25 he talks about if one good is preferred to another or

1 another good has to be preferred to another or you're
2 indifferent, and then he says that only one category
3 can apply. So you must prefer A to B or B to A or
4 you're indifferent. And then he says that if that
5 category should change we would say the consumer
6 tastes or preferences have changed.

7 Q. Isn't one of the main reasons that
8 economists treat tastes and preferences as given or
9 assume tastes and preferences are given is that you
10 get into problems where you're going to violate
11 transitivity?

12 A. No, I don't think so.

13 Q. You don't think so?

14 A. No. You're changing the preferences.
15 If you assume that preferences are the same, that's
16 fine. If you assume that preferences change and they
17 reorder their preferences and I think that that was
18 discussed in my testimony.

19 Q. But isn't the problem that if you don't
20 take tastes and preferences as given that it's like a
21 wild card, you're going to -- you're reordering the
22 priorities and isn't that going to possibly affect all
23 of your other assumption?

24 A. You're assuming that it's a random effect,
25 which I've already stated that I don't believe it's a

1 random effect. An education program designed to
2 educate people that recycling should be preferred for
3 several reasons is not a random effect. That has a
4 trend.

5 Q. But you yourself are aware of no
6 quantifiable demonstrable -- you've done no analysis
7 to determine demonstrable quantifiable impact from
8 changing people's tastes and preference from an
9 education program?

10 A. Correct.

11 JUDGE HAENLE: How are you doing?

12 MS. PERRY: I'm almost finished.

13 Q. Isn't one of the greatest concerns that the
14 UTC has about its analysis is that -- in its cost of
15 service studies is that they have a great degree of
16 predictability?

17 A. That they're known and measurable.

18 Q. Yes.

19 MS. PERRY: I think that's all I have.

20 JUDGE HAENLE: Thank you. Have you
21 questions, Ms. Thomas?

22 MS. THOMAS: No, Your Honor.

23 JUDGE HAENLE: Commissioners, have you
24 questions?

25 CHAIRMAN NELSON: No.

1 COMMISSIONER HEMSTAD: No, I don't.

2 JUDGE HAENLE: Redirect, Ms. Egeler?

3 MS. EGELER: No, Your Honor.

4 JUDGE HAENLE: Anything more of the witness
5 then?

6 All right. Thank you, sir. You may step
7 down. We have -- does that complete the Commission
8 staff witnesses then, Ms. Egeler?

9 MS. EGELER: Yes, it does.

10 JUDGE ANDERL: We have a couple of
11 outstanding elements including the copies of the
12 public letters, and the letters that came into the
13 Commission need to be distributed. We have your
14 letter about bench request No. 1 that needs to come in
15 and we'd appreciate that just as soon as possible.

16 MS. PERRY: I will try to send that
17 tomorrow.

18 JUDGE HAENLE: That would be terrific. Any
19 other loose ends? Anything else we're missing?

20 Okay. I will remind you that the
21 simultaneous briefs are due the 15th of August, I
22 think. Remember that is a receipt date. That needs
23 to be in the Commission's office before 5:00 on that
24 date. Copies to all of counsel. Was there anything
25 else we need to talk about? Anything else we left

1 out?

2 MS. PERRY: According to the regulations
3 there's a 60-page limit on the briefs.

4 JUDGE HAENLE: Yes.

5 MS. PERRY: Are you placing any limit on
6 the briefs other than that?

7 JUDGE HAENLE: We can go off the record to
8 talk about it in just a second.

9 (Discussion off the record.)

10 JUDGE HAENLE: Let's be back on the record.
11 After a brief discussion counsel indicated she did not
12 -- was not requesting more than 60 pages. I want the
13 briefs to be double-spaced, please, but beyond that I
14 think everything else is in the rule.

15 Anything else we need to discuss? We'll
16 leave the record open, then, for the receipt of those
17 documents and the receipt of briefs and a Commission
18 order will issue. Thank you.

19 (Hearing adjourned at 3:50 p.m.)

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As Court Reporter, I hereby certify that
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Cheryl Macdonald

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