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EXHIBITS

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EXHIBIT

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RTA-7 CX through RTA-10 CX.....

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1 OLYMPIA, WASHINGTON, FEBRUARY 17, 2012

2 9:30 A.M.

3 --oOo--

4

5 JUDGE MOSS: I have discussed with the parties
6 off the record that I will be passing the baton to Judge
7 Friedlander this morning and she will be presiding today
8 and to the conclusion of this matter, which hopefully
9 will be today. So thank you all again very much.

10 JUDGE FRIEDLANDER: Good morning. I believe
11 the first order of business is, I've been handed an
12 exhibit from PSE that has been marked as Cross APB-10 CX
13 and that is in lieu of Mr. Buckley's testimony today.

14 So I would ask if there are any objections to
15 the admission of this exhibit? Hearing none, the exhibit
16 is admitted.

17 (Exhibit APB-10 CX was admitted.)

18 JUDGE FRIEDLANDER: The other matter before we
19 proceed is Mr. Aladin's testimony. It has come to my
20 attention that he will not be on the stand today and will
21 not be cross-examined today. So we need to deal with the
22 admission of that exhibit.

23 Are there any objections? Okay, then that
24 exhibit --

25 MR. CEDARBAUM: Yes. I'm sorry. I didn't mean

0885

1 to.

2 JUDGE FRIEDLANDER: Then that exhibit is
3 admitted as well.

4 (SA-3 CX was admitted.)

5 JUDGE FRIEDLANDER: And that brings us to Mr.
6 Mills.

7 MR. CEDARBAUM: Your Honor, can I make one
8 request? You had indicated APB-10 X was admitted?

9 JUDGE FRIEDLANDER: CX.

10 MR. CEDARBAUM: But we hadn't addressed Mr.
11 Buckley's prefiled response. I think we are stipulating
12 that material in as well.

13 JUDGE FRIEDLANDER: If there are no objections,
14 so admitted. Thank you.

15 (Exhibit APB-1CT through APB-9 C was admitted.)

16 JUDGE FRIEDLANDER: Ms. Carson. Or Mr. Kuzma.

17 DIRECT EXAMINATION

18 BY MR. KUZMA:

19 Q. Good morning, Mr. Mills. Could you please
20 state your name and spell your last name for the court
21 reporter?

22 A. My name is David Mills. Last name is spelled
23 M-I-L-L-S. I'm the director of energy supply and
24 planning for Puget Sound Energy.

25 Q. Do you have before you what has been marked for

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1 identification as Exhibit Nos. DEM-1 CT and DEM-14?

2 MR. KUZMA: Your Honor, would you like to swear
3 in the witness first, or?

4 JUDGE FRIEDLANDER: I apologize. If you would
5 just stand? Thank you. Raise your right hand.

6 Do you swear or affirm that the testimony you
7 are about to give is the truth, the whole truth and
8 nothing but the truth?

9 MR. MILLS: I do.

10 JUDGE FRIEDLANDER: Thank you. You can be
11 seated. Mr. Kuzma.

12

13 DAVID E. MILLS, witness herein, having been
14 first duly sworn on oath,
15 was examined and testified
16 as follows:

17

18 BY MR. KUZMA:

19 Q. Do the Exhibits DEM-1 CT through DEM-14
20 constitute your prefiled direct, supplemental and
21 rebuttal testimony and related exhibits in this
22 proceeding?

23 A. Yes, they do.

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

0887

1 A. Yes.

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

4 A. I do not.

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

8 A. Yes, they are.

9 Q. Thank you.

10 MR. KUZMA: Your Honor, PSE offers Exhibits
11 numbered DEM-1 CT through DEM-14 into evidence, and
12 offers Mr. Mills for cross-examination.

13 JUDGE FRIEDLANDER: Thank you. Are there any
14 objections to the admission of these exhibits? Hearing
15 none, so admitted.

16 (Exhibit DEM-1 CT through DEM-14 was admitted.)

17 JUDGE FRIEDLANDER: I believe, Mr. Sanger, you
18 had some cross-examination questions.

19 MR. SANGER: Yes, I do, Your Honor. Thank you.

20 CROSS-EXAMINATION

21 BY MR. SANGER:

22 Q. Good morning, Mr. Mills.

23 A. Good morning.

24 Q. My first question for you is to ask you whether
25 you are responsible for PSE's overall power supply and

0888

1 gas supply operations?

2 A. Yes, I am.

3 Q. So I take it that in your responsibilities that
4 you are generally familiar with changes in trends in gas
5 and electricity markets?

6 A. Yes, I am.

7 Q. I wanted to ask you some questions about PSE's
8 forward gas price updates.

9 Is it correct that PSE plans to perform an
10 additional update, projected rate year power cost in this
11 case?

12 A. I believe at the conclusion of hearings, of
13 every one of these proceedings, the Company offers and
14 will abide by a Commission directive to update those gas
15 prices, but we are always willing to do that before rates
16 are put into place.

17 Q. And just to confirm, it is your plan to do that
18 in this case?

19 A. As we are directed by the Commission, yes.

20 Q. And when exactly would this update occur?

21 A. We would generally pick a -- it's a 90-day gas
22 price average. We usually pick a cutoff date consistent
23 around the time the Commission has directed such an
24 update, or the Commission, of course, could specify a
25 specific date for that cutoff.

0889

1 Q. So at this point you don't have a specific time
2 in mind for that 90-day period, 90-day update to occur?

3 A. I do not.

4 Q. Now, since PSE filed its general rate case in
5 this proceeding, what has been the trend in gas prices?

6 A. The trend has been down, downward.

7 Q. And is it correct that when PSE filed its
8 rebuttal case on January 17th that the approximate
9 average price for gas for the rate year was about a
10 little over \$4.00 at Sumas?

11 A. That is correct. And that used a price cutoff
12 date of December 8, 2011.

13 Q. I would like to have you refer to ICNU
14 Cross-Examination Exhibit 15 CX.

15 Do you have a copy of that?

16 A. I do.

17 Q. Was that previously provided to you and your
18 office?

19 A. Yes, it was, last week.

20 Q. And did you have a chance to review the
21 accuracy of the exhibit?

22 A. We have.

23 Q. I believe there are three columns on this
24 exhibit, and does the first column go over the update
25 that, or the gas prices that PSE included in its rebuttal

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1 case on January 17th?

2 A. That is correct, using a gas price for the
3 period September 9th through December 8th, 2011.

4 Q. On this exhibit there is a second column, which
5 identifies more recent forward gas prices for the rate
6 year; is that correct?

7 A. That's correct.

8 Q. And have you had a chance to review the
9 accuracy of these numbers?

10 A. Yes, I have.

11 Q. And do you agree that they were generally
12 accurate at least as of February 7, 2012?

13 A. For the period, the 90 days from November 7th
14 through -- of 2011 through February 6th, 2012, they are
15 accurate.

16 Q. Do you have a rough estimate in mind of what
17 revenue requirement impact would occur if these more
18 recent gas prices were used to estimate PSE's forward
19 market prices for the rate year?

20 A. I do not have an estimate on the revenue
21 requirement impact for that.

22 Q. Now, if PSE followed its historic practice of
23 updating forward price, forward price -- forward gas
24 prices, as they have in previous proceedings, would data
25 more similar to the data on column 2 be used in any

0891

1 update?

2 A. Again, it will depend on the date that is
3 selected for that cutoff. If the date were selected to
4 be this February 6th cutoff, then these would be the
5 numbers.

6 If I could predict the forward market direction
7 for natural gas prices, I'm probably not sitting here
8 having this conversation.

9 I would say that given the delta -- and we're
10 picking our terms carefully. This is a confidential
11 exhibit, but I would say, given this delta of these
12 90-day prices, I would expect that directionally it would
13 be in the same direction and that would be downward from
14 the rebuttal's filing.

15 Q. Now, would PSE be opposed to including forward
16 price curve, or forward gas prices for a 90-day period
17 that ended sometime in February?

18 A. No, we would not, as long as it's a 90-day
19 average.

20 MR. SANGER: I have no further questions, Your
21 Honor.

22 JUDGE FRIEDLANDER: Thank you. Any questions
23 from the bench? Okay. Any redirect?

24 MR. KUZMA: No, Your Honor.

25 JUDGE FRIEDLANDER: Thank you. And the other

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1 parties have not indicated that they wish to
2 cross-examine this witness, so no one is jumping out of
3 their seats. So, Mr. Mills, you are excused. Thank you.

4 THE WITNESS: Thank you.

5 Mr. Sanger, you didn't indicate whether you
6 wanted the exhibit you referenced admitted or not?

7 MR. SANGER: Yes, Your Honor. I would move for
8 the admission of ICNU Cross-Exhibit 15 CX.

9 JUDGE FRIEDLANDER: Are there any objections?
10 So moved.

11 (Exhibit DEM-15 CX was admitted.)

12 JUDGE FRIEDLANDER: And our next witness is Mr.
13 Gould.

14 MS. CARSON: Your Honor, I believe there is no
15 cross-examination for Mr. Gould.

16 JUDGE FRIEDLANDER: I have ICNU has reserved 15
17 minutes. Has that changed?

18 MR. SANGER: Yes, Your Honor, that has changed.
19 ICNU has agreed to waive our cross-examination of Mr.
20 Gould in agreement for PSE agreeing to stipulate to the
21 admission of ICNU's cross-examination exhibits.

22 JUDGE FRIEDLANDER: Are there any questions
23 from the bench?

24 So then we have a motion for the admission of
25 Mr. Gould's direct and the cross-examination exhibits.

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1 Are there any objections? Hearing none, so admitted.

2 (Exhibit WRG-1T through WRG-11 CX was admitted.)

3 JUDGE FRIEDLANDER: This is going much faster
4 than I anticipated. Then that brings us to Clay Riding.
5 I'm sorry, Michael Jones.

6 MS. CARSON: Your Honor, we do have some
7 objections to the cross-exam exhibits for Mr. Jones that
8 we think are outside the scope of the matters at issue in
9 this case and based on the motion allowing late
10 intervention by the Sierra Club. So I don't know if you
11 want to take that up now. It could limit the questioning
12 of Mr. Jones.

13 JUDGE FRIEDLANDER: Why don't we swear the
14 witness in and get to cross, and then we will take it up.

15 I believe the only party was Sierra Club. Mr.
16 Ritchie; is that correct, you are still wishing to
17 cross-examine the witness?

18 MR. RITCHIE: We still do have questions, yes.

19 JUDGE FRIEDLANDER: Okay, then. Do you swear
20 or affirm that the testimony you are about to give is the
21 truth, the whole truth and nothing but the truth?

22 MR. JONES: I do.

23 JUDGE FRIEDLANDER: Thank you. Please be
24 seated. Ms. Carson.

25 ////

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1 MICHAEL L. JONES, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5

6 DIRECT EXAMINATION

7 BY MS. CARSON:

8 Q. Good morning, Mr. Jones.

9 A. Good morning.

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

12 A. Michael, middle initial L., Jones. My title is
13 asset manager for thermal joint ownership and power
14 contracts for PSE. Last name is J-O-N-S-E. E-S, I'm
15 sorry. J-O-N-E-S.

16 Q. Mr. Jones, do you have before you what has been
17 marked for identification as Exhibit Nos. MLJ-1T through
18 MLJ-3C?

19 A. I do.

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

23 A. They do.

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

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1 A. Yes, they were.

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

4 A. No.

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

8 A. Yes, they are.

9 Q. Thank you.

10 MS. CARSON: Your Honor, PSE offers Exhibits
11 MLJ-1T through MLJ-3C into evidence, and offers Mr.
12 Michael L. Jones for cross-examination.

13 JUDGE FRIEDLANDER: Thank you. Are there any
14 objections to the admission of these exhibits? So
15 admitted.

16 (Exhibit MLJ-1T through MLJ-3C was admitted.)

17 JUDGE FRIEDLANDER: Now let's deal with the
18 objections to the cross-examination exhibits.

19 MS. CARSON: Your Honor, Sierra Club filed a
20 late petition to intervene. As a part of that, the
21 Commission ultimately did grant that petition to
22 intervene, but limited the scope of issues, with Sierra
23 Club's agreement that their intervention would not expand
24 the issues in this case and would be limited to cost and
25 ratemaking issues for this particular case.

1 And the cross-examination exhibits that Sierra
2 Club has designated, as well as I believe the line of
3 questioning on cross-examination, goes to historical
4 examinations of the plant dating back to 2003, as well as
5 rules that are not in effect yet for coal plants and
6 Colstrip, and basically is looking at costs that are not
7 at issue in this case, or potential costs, and for these
8 reasons we think they are not appropriate in this
9 proceeding.

10 JUDGE FRIEDLANDER: And Mr. Ritchie.

11 MR. RITCHIE: If I might first ask a
12 clarification. Is that then an objection to all of the
13 cross-exhibits for Mr. Jones?

14 MS. CARSON: It is.

15 MR. RITCHIE: Your Honor, to the historical
16 information that the Sierra Club intended to use for
17 cross-examination, I believe those are MLJ-4 and MLJ-5,
18 we would -- I'm sorry, only MLJ-4. We would be willing
19 to withdraw that cross-exhibit. It is -- it's
20 information on historical forced outage rates. I don't
21 think it's something we need to discuss, and it is not a
22 primary point of Sierra Club's intervention here.

23 I would, however, still like to rely on MLJ-5
24 through -8. Ms. Carson is correct that those do look at
25 issues related to rules that are -- some of them are in

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1 effect, some of them are pending, but I think this goes
2 to a question that some of the Commissioners raised
3 previously, in that, you know, it's tricky for Sierra
4 Club to come in and start to talk about environmental
5 issues related to a facility such as Colstrip.

6 This commission is not responsible for air
7 quality, you don't regulate air quality, but what you do
8 regulate are the economics of a plant, and the economic
9 decisions of the choices that Puget Sound makes and
10 prudent choices that Puget Sound makes in order to
11 purchase that electricity or build it in their own rate
12 base.

13 What we're looking at, and what we looked at in
14 this rate case, is the nature of the plant, the costs
15 that have gone up for Colstrip. There is quite an
16 increase in O&M production costs for Colstrip. Some of
17 the forced outage rates speak to issues of past
18 performance relating to aging of the plant.

19 And then the future regulations, some of those
20 are fairly well known, and we think those are very
21 pertinent to this commission's review of whether
22 continuing to invest in Colstrip -- there is a lot of
23 money in this rate case for Colstrip -- whether that is a
24 prudent decision.

25 Now, it's correct in our review we didn't

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1 actually go for any disallowance. We didn't recommend
2 any disallowance of costs in this rate case. We're
3 hoping to get to those arguments and get to that issue
4 before recommending a disallowance.

5 That's a rather harsh measure for the Company,
6 we realize, but on the other hand we would be faced with
7 simply ignoring these costs that are right around the
8 corner, and we think that it's important to have a
9 discussion of them to get an idea of what they are, and
10 Sierra Club's recommendation in this proceeding has been
11 to do just that, to do a forward-going cost study that
12 carefully looks at all of these costs and evaluates them
13 and does so in a way that allows this commission to
14 consider Colstrip versus the alternatives.

15 JUDGE FRIEDLANDER: I guess I have a question
16 for you, Mr. Ritchie, then, because it sounds like you
17 are trying to get answers out of the witness on
18 cross-examination that might better have been found out
19 during discovery. Is that -- am I hearing you correctly?

20 MR. RITCHIE: One of the primary exhibits I
21 would like to rely on, which is MLJ-7, was provided to
22 us, I think, about a week ago. It's the -- it's a
23 presentation from an owners meeting on Colstrip that was
24 conducted in January of this year.

25 Now, it's understandable that PSE didn't

1 provide that to us during discovery because it presumably
2 didn't exist before the meeting happened, but part of
3 what we asked during discovery was a quantification of
4 these costs related to these specific EPA rules that are
5 coming down the line, and they hadn't been quantified at
6 that point and they are now.

7 We think that's very relevant. We think the
8 costs are right around the corner, and we think it's
9 something that this commission should look at.

10 JUDGE FRIEDLANDER: Ms. Carson.

11 MS. CARSON: Costs that are right around the
12 corner are not in this rate case.

13 As to this exhibit, our No. 7 I believe it is,
14 these, again, are not yet rules that are in effect, as I
15 understand it, that PSE must incur costs at this point in
16 time to comply with. It is looking into the future.

17 And, again, they're not in this case. It is
18 expanding the scope of this case, which was part of the
19 terms of Sierra Club being allowed to intervene.

20 MR. RITCHIE: If I might respond, Your Honor.
21 It's been suggested that the IRP is a more appropriate
22 forum for this type of review. This document, and my
23 understanding of the IRP process, would not have come to
24 light of Sierra Club in the IRP.

25 Public participation I don't believe allows for

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1 confidential discovery. I don't know that it allows for
2 any discovery. It doesn't allow us to move into testing
3 some of the assumptions and sensitivities that go into an
4 IRP process.

5 If they're estimating that a control cost is
6 going to be a million dollars and we think it's going to
7 be a hundred million dollars, it's very difficult for us
8 to get to those assumptions ahead of time.

9 We're left in an IRP to look at the models that
10 they have run and to criticize the assumptions if we
11 think there are criticisms. What we aren't able to do is
12 get at that information, run our own models and really
13 dig into that information.

14 The GRC allows a more robust discovery process,
15 but if we're not allowed in the GRC, then where can we
16 push on this information that is very relevant to costs
17 for ratepayers. I understand the GRC is an awkward fit,
18 but if not here, where.

19 JUDGE FRIEDLANDER: Ms. Carson, do you have
20 something to add?

21 MS. CARSON: As Mr. Ritchie said, there is no
22 disallowance suggested here at issue in this case.
23 Prudence of Colstrip is not at issue in this case. There
24 are no issues before the Commission that are appropriate
25 in this rate case.

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1 Also, Mr. Ritchie's reference to the need to be
2 in the rate case for discovery is not an adequate reason
3 for a party to intervene in a rate case, simply to go on
4 a fishing expedition to obtain information for use in
5 another forum.

6 JUDGE FRIEDLANDER: Did you have something to
7 add? Because after you are finished, we are going to
8 take a two-minute recess and we will go off the record
9 and I will come back with a decision.

10 MR. RITCHIE: I would only say that we are --
11 we are very aware of the discovery process and that it's
12 a burdensome process. This is not a fishing expedition.

13 We want to be able to intervene in a
14 proceeding, do discovery and use it for that same
15 proceeding. We don't want to use the GRC process to
16 extract data and use it in a different proceeding, but we
17 need a proceeding that will allow us to look at these
18 issues.

19 JUDGE FRIEDLANDER: We will take a brief
20 recess. We are off the record.

21 (A break was taken from
22 9:52 a.m. to. 10:06 a.m.)

23 JUDGE FRIEDLANDER: After an examination of the
24 cross-examination exhibits and discussion, I am going to
25 overrule the objection, and I will do so because Sierra

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1 Club has raised the issue of a forward-looking principle
2 study.

3 So I feel that it is relevant, but I limit the
4 cross-exam to only the final EPA regs that have actually
5 been published. We are not talking about future rules.
6 So with that limitation, we can proceed.

7 Yes, Ms. Carson.

8 MS. CARSON: I wanted to clarify. When you say
9 that have been published, does this mean adopted?

10 JUDGE FRIEDLANDER: Published in the Register.

11 MS. CARSON: My understanding is sometimes they
12 are published in the record but not yet -- they are
13 proposed rules and not yet final rules.

14 JUDGE FRIEDLANDER: That's not my understanding.

15 COMMISSIONER JONES: Ms. Carson, if I could,
16 because I was on a panel on this issue just last week.

17 For example, the utility Mactoral (phonetic),
18 it was published in draft form earlier in the year. It
19 was issued by the EPA with a press release December 16th.
20 That was the final rule, and it was published in the
21 Federal Register two days ago.

22 So that's fair game, but the other rules, CCR,
23 cooling water, GHG, those are not final. They have not
24 been published.

25 MS. CARSON: Thank you.

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1 MR. RITCHIE: If I might ask a clarification,
2 one of the other major rules that has not been -- and the
3 rule is clear, but the requirements have not been
4 finalized, is the regional haze and BART rule.

5 That would, Commissioner, be the second big
6 rule that we would want to address. And we actually have
7 numbers on that. They're estimates because the rule has
8 not been finalized.

9 COMMISSIONER JONES: That's fine. Regional
10 haze is fine.

11 JUDGE FRIEDLANDER: Thank you.

12 MR. RITCHIE: May I proceed?

13 JUDGE FRIEDLANDER: Yes, please, Mr. Ritchie.

14 CROSS-EXAMINATION

15 BY MR. RITCHIE:

16 Q. Good morning, Mr. Jones.

17 A. Good morning.

18 Q. Travis Ritchie with Sierra Club. I have some
19 questions for you this morning, but fewer than I had
20 before.

21 Mr. Jones, are you the primary PSE witness with
22 respect to the operation of Colstrip?

23 A. Yes, I am.

24 Q. And are you therefore the most familiar with
25 upcoming regulations from the Environmental Protection

0904

1 Agency?

2 A. I believe so, yes.

3 Q. Mr. Jones, are you familiar with the Clean Air
4 Act regional haze rule?

5 A. Yes, I am.

6 Q. And can you please explain what BART means in
7 the context of the regional haze rule?

8 A. The regional haze rule, which was adopted in
9 1999, sets forth a series of requirements on states to do
10 analysis, which the overall rule is geared toward
11 eliminating manmade visibility impairment in the national
12 parks of the United States.

13 It requires each state to do an analysis of
14 what are called BART-eligible facilities, BART meaning
15 best available retrofit technologies, technologies that
16 could be added to a plant that already exist, and the
17 BART-eligible plants are in a particular time group prior
18 to the 1977 amendment of the Clean Air Act.

19 Q. And do any of the Colstrip units qualify as
20 BART-eligible?

21 A. Yes. Units 1 and 2 were built in that time
22 frame and are BART-eligible.

23 Q. Now, you mentioned that the states have a
24 process for determining what BART is.

25 Are you aware of Montana's process and what the

0905

1 status of that is?

2 A. Yes. Montana's process is actually a lack of
3 process. They several years ago wrote back to EPA
4 regarding the requirement, indicating they did not have
5 the manpower and staff to deal with all the requirements
6 of the rule, and as a result, EPA Region 8 has taken over
7 the Montana plant and will be writing a federal
8 implementation plan for the state of Montana.

9 Q. So that's a FIP instead of a SIP?

10 A. Correct.

11 Q. Now, Mr. Jones, if I could please direct you to
12 Cross-Exhibit MLJ-7.

13 MR. RITCHIE: Your Honor, I might add Sierra
14 Club distributed this cross-exam exhibit at the deadline
15 for pre-distribution.

16 At that time, the only copy we had was one
17 where the entire exhibit had been designated as
18 confidential. We had requested and PSE quickly responded
19 with a redacted version. So there are now portions of
20 that that are not confidential.

21 I have copies here with me, if anyone would
22 like to see the redacted version. The numbers I am going
23 to refer to now are on a nonconfidential page.

24 JUDGE FRIEDLANDER: I appreciate that, and our
25 rules do require that if you do have a confidential

0906

1 exhibit you need to file a redacted copy if it's
2 available. We would like that to be filed in the
3 redacted form.

4 MR. RITCHIE: Again, that was not available
5 prior to the hearing. I can do it after the hearing.

6 JUDGE FRIEDLANDER: I understand, and I
7 appreciate that.

8 COMMISSIONER OSHIE: Counsel, before you go
9 further, for the information of the bench, and in
10 particular the court reporter, when you use acronyms to
11 describe something, and they're usually -- they're not
12 acronyms that we are unfamiliar with here, but certainly
13 not in the regular use of the Commission, like SIP and
14 FIP and, you know, even BART. A cartoon character, I
15 thought.

16 MR. RITCHIE: It's the transit system.

17 COMMISSIONER OSHIE: So if you could, that
18 would be helpful. It really helps the court reporter to
19 have that background so that the court reporter can then
20 define the term and then be able to use it. I think it
21 helps her, at least at this point, understand where you
22 are going and the language you are using and therefore
23 the transcript will be more complete.

24 MR. RITCHIE: Thank you, Commissioner Oshie. I
25 will attempt to that. And I apologize for the Clean Air

0907

1 Act. That's what it does.

2 COMMISSIONER OSHIE: I understand.

3 BY MR. RITCHIE:

4 Q. Mr. Jones, do you have Exhibit No. 7?

5 A. I do.

6 Q. Could you please identify the attachment to
7 Exhibit No. 7?

8 A. You are talking about the supplemental response
9 to?

10 Q. Yes, and specifically the owners meeting
11 slides.

12 A. Yes. This attachment is copies of an owners
13 meeting presentation given in mid-January regarding both
14 the mercury and air toxics rule, which is now what the
15 utility MACT rule has morphed into because of the change
16 in acronyms.

17 The mercury and air toxics rule was adopted in
18 mid-December, and this was a briefing on that rule,
19 together with a briefing on the presentations that had
20 been made by the Colstrip owners to EPA Region 8
21 regarding the regional haze rule and Colstrip 1 and 2.

22 Q. Thank you. If I could ask you, please, to turn
23 to page 13 of those slides. It's the second to last
24 slide. The title is "A Regional Haze Analysis Summary."

25 A. Yes, I have that.

0908

1 Q. And the middle column, which is labeled as
2 "BART," best available retrofit technology, "Analysis
3 Capital Cost Estimate"?

4 A. Yes.

5 Q. Is it correct that these numbers identify a
6 potential range of costs that might be required for
7 retrofits, depending on the final BART determination?

8 A. These are engineering estimates of this
9 particular column of the capital costs of various
10 different control technologies that could be required at
11 some point to meet the BART requirements and the regional
12 haze rules requirements.

13 Q. So it's a range of possible costs that may be
14 required at Colstrip?

15 A. Well, each individual item has a single number,
16 but they -- between the control technologies, there are a
17 range of numbers, some of which are adding one or more,
18 adding more than one control technology.

19 Q. So if I might focus then on the option which is
20 labeled for units 1 and 2 NOx, which is nitrous oxide,
21 SOFA, slash, SCR.

22 A. Yes. That's the third item down.

23 Q. And the cost for that is 330 -- the estimated
24 cost for that would be \$331 million?

25 A. That's what is shown here, yes.

0909

1 COMMISSIONER JONES: Counsel, could you,
2 picking up on Commissioner Oshie, define SCR, please, for
3 the record?

4 BY MR. RITCHIE:

5 Q. Mr. Jones, could you define SCR?

6 A. Yes. SCR stands for selective catalytic
7 reduction. It is a NOx emission strategy that uses a
8 catalyst and a reagent ammonia to lower emissions of
9 nitrogen oxides from the flue gases.

10 While we're at it, let me do SOFA, also. That
11 is separated overfire air, and it is a technology for
12 introducing additional air into the boiler above the
13 levels of the burners.

14 Q. And, Mr. Jones, those technologies in short
15 make the air cleaner, correct?

16 A. Well, the goal of the regional haze rule is not
17 health-based. It is visibility-based. So the principal
18 determinant will be reducing visibility or visibility
19 impairment in the national parks and other class 1 areas.

20 There may also be attendant health or other
21 environmental benefits, but the basic premise of the
22 regional haze rule is visibility in the class 1 areas.

23 Q. And it's possible that SOFA and SCR might be
24 required to be installed at Colstrip?

25 A. That's one of the possibilities, yes, somewhere

0910

1 during the 60-year period.

2 Q. What would be Puget Sound's share of the -- if
3 this 331 million were accurate and that was required,
4 what would Puget Sound's share be for that?

5 A. We own 50 percent of units 1 and 2. So it
6 would be 51 percent of 331 million, which it looks like
7 about 166 million.

8 Q. And one final question on BART.

9 With respect to timing, I realize that the rule
10 has not been finalized, but once the rule -- let me
11 rephrase it this way: When do you expect that this
12 expenditure would be required?

13 A. I have no --

14 Q. Or any expenditures on BART.

15 A. I have no idea.

16 Q. And is that because you don't know when the
17 rule would be finalized?

18 A. Well, as I said, the rule has been finalized.
19 The EPA federal implementation plan is not even published
20 yet in draft form.

21 So it really depends on what the federal
22 implementation plan requires. That would dictate if
23 anything were required and when that would be required,
24 and I have no idea when the federal implementation plan
25 even in draft form will be issued.

0911

1 Q. Once the final plan is issued, how long does
2 the Clean Air Act allow for to install these control
3 technologies?

4 A. Well, whatever would be required, if anything,
5 in this initial federal implementation plan would need to
6 be installed within five years of the date of the final
7 plan.

8 Q. Thank you. Now, if I could turn to page 2 of
9 that same presentation, sir.

10 A. Yes.

11 Q. This is titled "The Utility Mercury and Air
12 Toxics Rule," or UMAT?

13 A. Correct.

14 Q. Now, this rule is also sometimes known as the
15 MATS, rule, correct, M-A-T-S rule?

16 A. Yes.

17 Q. And I believe you said before that it is kind
18 of a replacement now of the MACT rule, M-A-C-T?

19 A. The draft rule I think used the acronym MACT,
20 maximum available control technology. In the final form,
21 the rule was titled mercury and air toxics rule.

22 Q. And Colstrip is subject to this rule?

23 A. All power plants above a certain size in the
24 nation are subject to this rule.

25 Q. And what are the pollutants that this rule

0912

1 controls?

2 A. It is designed to get obviously mercury, from
3 the title, but other air toxics. There are organic
4 hazardous air pollutants. There are acid gases, mercury,
5 as I mentioned, and other nonmercury metals.

6 Q. And for those nonmercury metals, it says here
7 is a PM surrogate. PM is particulate matter, correct?

8 A. That is correct.

9 Q. So a control would have to be a particulate
10 matter control -- may be a particulate matter control for
11 a plant such as Colstrip, correct?

12 A. Yes. That would be -- if the surrogate were
13 used, that would be the standard for compliance. I
14 believe it's also possible to actually measure the
15 individual metal emissions and comply by showing
16 compliance with the individual metal limits.

17 Q. And if you could turn to the next page, sir.

18 I believe this mostly answers my next question,
19 but what is the timing, the compliance timing for the
20 UMAT rule?

21 A. It says here that the clock starts March of
22 2012. The clock actually starts when the rule was
23 published in the Federal Register, which I believe was
24 two days ago. So that would make it February of 2012,
25 and there would be a three-year compliance deadline with

0913

1 a one-year extension.

2 Q. Do you know, is the Colstrip plant in
3 compliance with the rule, or with the limits published in
4 the rule?

5 A. There is no compliance deadline right now. So
6 yes, it is in full compliance, since there's no
7 compliance requirement.

8 Q. Let me rephrase. Will Colstrip have to install
9 any control technologies in order to be in compliance
10 with the rule, with the limits published in the rule
11 within this timeline?

12 A. Yes, I believe we will.

13 Q. Now, if I could direct you to page 5, please.

14 Now, I would note that --

15 A. Excuse me, is that the one that says "UMAT
16 Compliance Strategy"?

17 Q. Yes. I would note that this document has been
18 designated, or this page has been designated as
19 confidential, with the exception of the title, and then
20 the bullet point, "Burns & McDonnell Control Technology
21 Study." Therefore, I will attempt to phrase my questions
22 accordingly.

23 Mr. Jones, do the owners of Colstrip and PSE
24 have an idea of what it might cost to comply with the
25 UMAT rule?

0914

1 A. Not anything definitive, no.

2 Q. Can you say, without revealing anything,
3 whether or not estimates have been made?

4 A. Yes. The confidential portion of the page
5 identifies some cost estimates for different control
6 technologies that could be employed.

7 Q. And so there are, similar to -- I think it
8 speaks for itself.

9 So this page shows a range of possibilities and
10 estimates associated with those possibilities?

11 A. A large range, yes.

12 MR. RITCHIE: One moment, Your Honor. I'd like
13 to check my notes a little bit so I can keep the cross
14 within the parameters.

15 JUDGE FRIEDLANDER: That's fine.

16 BY MR. RITCHIE:

17 Q. Mr. Jones, based on the timing of the UMAT rule
18 and when these control costs would be required, would you
19 expect these costs to appear in Puget Sound's next
20 general rate case?

21 A. I have no idea when that case is going to be
22 filed. So I really can't answer that.

23 Q. But those costs, Puget Sound would not seek
24 rate recovery of those costs until they were expended; is
25 that correct?

0915

1 A. We will follow the rules of -- that we have for
2 setting rates.

3 Q. And in your understanding of those rules, is
4 that generally how it works, that you would -- for costs
5 such as this, a control cost, you would spend the money
6 and then include that in a rate recovery request?

7 A. Not necessarily. Capital costs don't generally
8 come up in a rate process, only operation and maintenance
9 costs.

10 Q. And would these be capital costs?

11 A. Yes, to a large part I think they would.

12 Q. I may be going outside of the bounds of your
13 knowledge on this testimony, and I can reserve a couple
14 of these for Mr. Story, but generally speaking, how would
15 capital costs such as this be included in rates?

16 MS. CARSON: I would ask that these questions
17 be deferred to Mr. Story. He's a better witness to
18 answer on these.

19 MR. RITCHIE: Very well. Bear with me one
20 moment, Your Honor. I'm taking my time mostly because
21 I'm skipping lots of questions.

22 JUDGE FRIEDLANDER: I appreciate that.

23 BY MR. RITCHIE:

24 Q. I guess one final question, Mr. Jones.

25 I believe you just mentioned that there are not

0916

1 any additional capital costs being included for Colstrip
2 in this current rate case?

3 A. No, that's not -- well, there's no capital
4 costs, right. That is not part of, as I understand it,
5 what we present in a rate proceeding.

6 Q. But is it correct that the production O&M costs
7 for Colstrip have gone up in this rate case?

8 A. I can't recall whether they have gone up from
9 what they were in the previous case or not.

10 Q. I believe that information is on the record.
11 So I won't belabor the point.

12 MR. RITCHIE: Your Honor, I have no further
13 questions for this witness.

14 Thank you, Mr. Jones. I appreciate your
15 answers to my questions today.

16 THE WITNESS: You're welcome.

17 JUDGE FRIEDLANDER: Thank you. Are there any
18 questions from the bench?

19 CHAIRMAN GOLTZ: I've got just a couple.

20 So, Mr. Jones, are you familiar with the
21 proposal that Sierra Club's witness, Mr. Hausman, has
22 made in this proceeding that we issue an order in this
23 proceeding to require Puget to conduct a forward-going
24 cost and risk study of the Colstrip plant?

25 THE WITNESS: Yes. I have read his testimony.

0917

1 CHAIRMAN GOLTZ: And you are familiar with what
2 the Commission said in its IRP letter to the Company
3 about a similar sort of study?

4 THE WITNESS: Yes, I am.

5 CHAIRMAN GOLTZ: So would you be involved in
6 this study, such a study, whether it be the IRP or as
7 ordered by the Commission in this proceeding?

8 THE WITNESS: Yes. In fact, I spoke with a
9 gentleman who coordinates our IRP, and we are starting
10 the planning of that right now already.

11 CHAIRMAN GOLTZ: And who is that gentleman?

12 THE WITNESS: Phillip Popoff.

13 CHAIRMAN GOLTZ: So in order to do that, as
14 envisioned by our IRP letter, will that involve
15 substantial information that you would consider
16 confidential?

17 In other words, some of the materials we have
18 before us today is confidential and we danced around some
19 of that in the last exhibit.

20 Could we expect to see such confidential
21 information in your study?

22 THE WITNESS: As I recall your -- the order and
23 the IRP, there were two studies. One was a no-coal
24 study, what the rate impacts. That, I believe, certainly
25 can be done without the need for any confidential

0918

1 information.

2 I think we would also attempt to provide
3 estimates as input to the various IRP analyses that we do
4 that we can probably make generic enough that
5 confidentiality would not be an issue. We will certainly
6 try that.

7 CHAIRMAN GOLTZ: You are talking about the
8 no-coal study?

9 THE WITNESS: The no-coal study or any of the
10 other analyses that we present that relate to future
11 changes involving any of the Colstrip units.

12 CHAIRMAN GOLTZ: I'm looking at Mr. Story's
13 testimony, actually, and I believe he's quoting directly
14 from our letter, and this is on pages 52 to 53 of his
15 testimony where it talks about a continuing Colstrip
16 operations analysis.

17 "PSE should conduct a broad examination of the
18 costs of continuing the operation of Colstrip over the
19 20-year planning horizon, including a range of
20 anticipated costs associated with federal EPA regulations
21 on coal-fired generation."

22 So it looks to me that some of the exhibits,
23 cross-examination exhibits at least, would be relevant to
24 that sort of continuing Colstrip operations analysis and
25 some of that information was designated as confidential?

0919

1 THE WITNESS: Correct.

2 CHAIRMAN GOLTZ: So I guess I'm just looking
3 forward to that, is if we are going to have a -- in the
4 IRP process, reviewing these and have some public
5 involvement, if we're going to be having issues of
6 confidentiality that we're going to have to overcome
7 somehow.

8 THE WITNESS: I think we will make every effort
9 that that doesn't happen.

10 CHAIRMAN GOLTZ: Meaning you won't use
11 confidential information or meaning we will have to
12 figure out a way to share it?

13 THE WITNESS: No, that we will try to get the
14 information definitive, but yet stay outside of the
15 bounds of the need for confidentiality so that it will be
16 a -- to be publicly presented.

17 CHAIRMAN GOLTZ: Okay, that will be a work in
18 progress. We will see how that goes. I have nothing
19 further.

20 JUDGE FRIEDLANDER: Thank you. Commissioner
21 Jones.

22 COMMISSIONER JONES: Just a few follow-up
23 questions.

24 Mr. Jones, who constitutes the owners meeting?
25 Who is on the owner, if you could just briefly describe?

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1 THE WITNESS: Yes. The Colstrip units, units 3
2 and 4, are owned by six different utilities: Puget Sound
3 Energy, PPL Montana, PacifiCorp, Portland General
4 Electric, Avista and Northwestern Energy, and each of
5 those owners has a representative on the owners
6 committee. We meet regularly and discuss plant
7 operations, approve budgets, that type of thing.

8 COMMISSIONER JONES: So seven members, six
9 members on the owners committee?

10 THE WITNESS: Six members, yes.

11 COMMISSIONER JONES: And what is the time frame
12 for you -- just talking about the MATS, the mercury and
13 air toxics rule, what is frame time frame for -- you
14 responded to counsel here, but you have received some
15 estimates of a compliance strategy.

16 So what are the next steps generally? Are you
17 getting competing bids from other vendors? When might
18 you make further progress in determining how to comply
19 with this rule?

20 THE WITNESS: The next step, I believe, is to
21 test one of the strategies to see how well it performs.
22 This would be one of the lower cost strategies in lieu of
23 having to use one of the higher cost strategies. So some
24 of that work is planned for 2012.

25 COMMISSIONER JONES: So you have not made a

0921

1 decision yet, based on those three control technologies
2 that you state on page 5?

3 THE WITNESS: No. That's correct.

4 COMMISSIONER JONES: And you will carry out
5 some pilot projects to try to determine which would be
6 both most effective from a technology standpoint,
7 compliance standpoint and what would be most
8 cost-effective?

9 THE WITNESS: Correct.

10 COMMISSIONER JONES: Last question. Is there
11 any -- from a technology perspective, looking at these
12 various control technologies and with these two rules out
13 there, BART and mercury air toxics, is there any
14 interrelationship between the two in terms of the
15 compliance and the technology you have to build on to the
16 plant? I mean would they interfere with each other,
17 would they synchronize with each other? I just don't
18 have a sense.

19 THE WITNESS: I think there may be -- there is
20 potentially some complementary action. As we talked
21 about, the -- one of the compliance strategies for
22 dealing with the nonmercury metals is a particulate
23 surrogate, and I believe if we were to further reduce
24 particulate emissions, that might also aid in improving
25 visibility.

0922

1 COMMISSIONER JONES: Thank you, Judge. Those
2 are all my questions.

3 JUDGE FRIEDLANDER: Any redirect?

4 MS. CARSON: Yes. Just a few questions.

5 REDIRECT EXAMINATION

6 BY MS. CARSON:

7 Q. Mr. Jones, are there other nonSCR-related
8 technologies that can effectively reduce mercury and
9 other pollutants?

10 A. Yes, there are. I'm sorry, not necessarily
11 mercury. We already have the mercury control technology
12 installed at Colstrip.

13 There would be -- as far as regional haze, we
14 identified a series of control technologies that could be
15 applied, from lower cost to higher cost, and we really
16 await the federal implementation plan to identify what,
17 if anything, might be required.

18 And, as I said, this is a 60-year plan. The
19 goal is to eliminate visibility impacts by 2064. So it's
20 quite conceivable that while something may be required 30
21 years from now, nothing would be required in the
22 immediate federal implementation plan.

23 Q. And is it correct that BART allows for an
24 economic adjustment for compliance? For example, if the
25 equipment would threaten the plant's economic viability,

0923

1 then the environmental requirement could be adjusted?

2 A. There is an economic component in the BART
3 rule. Unlike the MACT rule, which says money is no
4 object, you must control these pollutants to the levels
5 that are set, the BART rule has a combination of criteria
6 that must be satisfied, and cost-effectiveness should be
7 one of those criteria.

8 Q. Is it true that under the regional haze rule
9 Colstrip would only require BART if it would be found to
10 impair visibility?

11 A. Not necessarily. The analysis that EPA will do
12 looks at emissions from a number of sources within the
13 state of Montana and their contribution to visibility at
14 several national parks in wilderness areas.

15 So while Colstrip may be identified to have an
16 impact on those, it may be that the federal implementation
17 plan to remove those impacts could or could not involve
18 Colstrip.

19 Q. Thank you.

20 MS. CARSON: No further questions.

21 JUDGE FRIEDLANDER: Thank you. Mr. Ritchie.

22 MR. RITCHIE: I have one just follow-up

23 question in response to that redirect.

24 JUDGE FRIEDLANDER: We don't usually allow
25 recross.

0924

1 MR. RITCHIE: Fair enough. I would, however,
2 note that I neglected to request to move the exhibits
3 into the record.

4 JUDGE FRIEDLANDER: That's fine. I can accept
5 that motion.

6 Are there -- obviously you had an objection and
7 it was overruled. So they are admitted.

8 MR. RITCHIE: Thank you, Your Honor.

9 JUDGE FRIEDLANDER: And that includes -- I
10 believe you had mentioned, though, that there was one
11 exhibit that you had -- were going to withdraw, and that
12 was the fourth exhibit, I believe.

13 MR. RITCHIE: I was --

14 JUDGE FRIEDLANDER: MLJ-4 CX.

15 MR. RITCHIE: I was willing to withdraw it. If
16 I could still have it in, I would like that, but if you
17 would prefer that I keep it out, I'm fine with that as
18 well.

19 JUDGE FRIEDLANDER: Ms. Carson.

20 MS. CARSON: He agreed to keep it out. We
21 objected to it. It is historical information. We
22 continue to object to it.

23 JUDGE FRIEDLANDER: Okay, that's fine. And I'm
24 going to accept your withdrawal.

25 MR. RITCHIE: Fair enough. Thank you, Your

0925

1 Honor.

2 JUDGE FRIEDLANDER: And the other exhibits are
3 admitted. Thank you.

4 (Exhibit MLJ-5 CX through MLJ-8 CX admitted.)

5 JUDGE FRIEDLANDER: And the witness is excused.

6 THE WITNESS: Thank you.

7 JUDGE FRIEDLANDER: I don't know if the parties
8 or the Commission would like to take a break at this
9 point. Do you want to keep going?

10 CHAIRMAN GOLTZ: Let's do at least one more
11 witness.

12 JUDGE FRIEDLANDER: That's fine. Why don't we
13 call to the stand Mr. Riding.

14 Do you swear or affirm that the testimony you
15 are about to give is the truth, the whole truth and
16 nothing but the truth?

17 MR. RIDING: I do.

18 JUDGE FRIEDLANDER: Thank you. You can be
19 seated. Ms. Carson.

20 MS. CARSON: Thank you.

21

22 R. CLAY RIDING, witness herein, having been
23 first duly sworn on oath,
24 was examined and testified
25 as follows:

1 DIRECT EXAMINATION

2 BY MS. CARSON:

3 Q. Good morning, Mr. Riding. Please state your
4 name and title and spell your last name for the court
5 reporter.

6 A. Clay Riding. Director of natural gas
7 resources, Puget Sound Energy. Last name is spelled
8 R-I-D-I-N-G.

9 Q. Do you have before you what has been marked for
10 identification as Exhibit Nos. RCR-1T through RCR-5?

11 A. I thought I had all mine in here, but I'm not
12 seeing them all marked. I've got 1, 2, and then I've got
13 my rebuttal testimony.

14 Q. To the extent you need them, we have some here
15 for you.

16 A. Okay.

17 Q. Do these exhibits constitute your prefiled
18 direct and rebuttal testimony and related exhibits in
19 these proceedings?

20 A. They do.

21 Q. Were these exhibits prepared under your
22 supervision and direction?

23 A. They were.

24 Q. Do you have any corrections to any of your
25 exhibits?

0927

1 A. I have two on my rebuttal testimony that was
2 discovered two days ago.

3 On page 6 -- oops, sorry. Page 6, line 16,
4 there is a number, 30,735. That should have read 75,977.
5 That represented the reduction in cost related to Cascade
6 contracts. And then that also affected line No. 12 on
7 page 9.

8 Q. And none of these are highly confidential, are
9 they?

10 A. The numbers -- these numbers are not, even
11 though it's inside this document.

12 And that number, it was supposed to be 978,454.
13 And they otherwise should not affect any of the
14 proceedings, because they were in power costs in
15 another -- in other testimony correctly.

16 Q. As I understand it, in Mr. Mills' testimony,
17 Mr. Mills' testimony has the correct numbers?

18 A. That's correct.

19 Q. And those are the numbers that flow through?

20 A. That's correct.

21 Q. With that correction, are your prefiled direct
22 and rebuttal testimony and accompanying exhibits true and
23 correct to the best of your information and belief?

24 A. Yes.

25 Q. Thank you.

0928

1 MS. CARSON: Your Honor, PSE offers RCR-1T
2 through RCR-5 into evidence, and offers Mr. Clay Riding
3 for cross-examination.

4 JUDGE FRIEDLANDER: Thank you. Are there any
5 objections? So moved.

6 (Exhibit RCR-1T through RCR-5 was admitted.)

7 JUDGE FRIEDLANDER: I believe, Mr. Cedarbaum,
8 you had some cross-examination.

9 MR. CEDARBAUM: I do. Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. CEDARBAUM:

12 Q. Good morning, Mr. Riding.

13 A. Good morning.

14 Q. My questions address the Jackson Prairie
15 storage rental cost.

16 A. Okay.

17 Q. And my understanding is that currently under
18 the Company's power cost adjustment mechanism those costs
19 are classified as fixed costs; is that right?

20 A. I thought they were variable costs.

21 Q. My understanding is that the Company's proposal
22 in this case is that those costs be reclassified as
23 variable costs for PCA purposes?

24 A. I'm probably not the best witness on this one
25 to address how they've been classified in prior cases, to

0929

1 be honest.

2 Q. Perhaps Mr. Story maybe is the appropriate one,
3 but I don't think that's necessary for my questions to go
4 into it too much.

5 In your direct testimony at page 4, which is
6 RCR-1T?

7 A. Okay.

8 Q. There's a question on line 13 in which you
9 refer to -- you describe Jackson Prairie storage service
10 assignment from PSE's core gas book to PSE's power book.

11 And I guess preliminarily, if you didn't define
12 what core book, core gas book and power book are in your
13 testimony, perhaps you can give a short definition of
14 what they are.

15 A. The core gas book are -- would refer to the
16 resources we retain for our gas sales customers. I call
17 them formally the Washington Natural Gas side of the
18 book. The power book would be the resources retained for
19 gas-fired generation on the power side of the business.

20 Q. And then in your response on line 17 at the
21 same page, you say, "The power book purchased the
22 capacity for operational reliability and supply
23 management, and retains all rights associated with the
24 service, with no restrictions beyond those governing
25 PSE's storage operations, in parentheses, fill

0930

1 requirements, withdrawal decline curve, etc."

2 Do you see that?

3 A. Yes.

4 Q. Then you continue on by saying, "The power book
5 may use the storage service for any purpose, including
6 balancing load, meeting peak-day requirements, or
7 intra-day dispatching."

8 Do you see that?

9 A. Yes.

10 Q. Is it correct that those purposes of balancing
11 load, meeting peak-day requirements and intra-day
12 dispatching are a function of usage by customers or plant
13 operations?

14 A. Plant operations. In this particular case
15 we're talking specifically about power use. So it would
16 be plant operations.

17 Q. But the level of storage utilization would vary
18 by month and day and year, depending upon the level of
19 load balancing, meeting peak-day, peak requirements and
20 dispatching that was necessary for plant operations?

21 A. Correct, within the parameters of the contract.

22 Q. Is it also correct that the storage rental
23 costs for Jackson Prairie, when you carry out those
24 functions for plant operations, does not vary by month,
25 day or hour?

0931

1 A. That is correct.

2 Q. My next and final questions have to do with --

3 A. Let me clarify. There is a very small
4 component for fuel used. There's compression bringing
5 gas in and out. So there would be a very small
6 component, but not anything material.

7 Q. Other than that exception?

8 A. That is correct.

9 Q. And I think you will need to defer this to Mr.
10 Story, but I had some questions for you about, and
11 they're very upper-level questions, about how the power
12 cost -- how the PCA and the purchased gas adjustment
13 work. Is that better for him?

14 A. Yes.

15 MR. CEDARBAUM: Thank you. Those are all my
16 questions, then.

17 JUDGE FRIEDLANDER: Thank you. Are there any
18 questions from the bench? Any redirect?

19 MS. CARSON: No, Your Honor.

20 JUDGE FRIEDLANDER: Thank you. The witness is
21 excused.

22 THE WITNESS: Thank you.

23 JUDGE FRIEDLANDER: Since that went so quickly,
24 we have Mr. Hunt next.

25 Do you swear or affirm that the testimony you

0932

1 are about to give is the truth, the whole truth and
2 nothing but the truth?

3 THE WITNESS: Yes.

4 MR. CEDARBAUM: Thank you. You can be seated.
5 Ms. Carson.

6 MS. CARSON: Thank you, Your Honor.

7

8 THOMAS HUNT, witness herein, having been
9 first duly sworn on oath,
10 was examined and testified
11 as follows:

12

13 DIRECT EXAMINATION

14 BY MS. CARSON:

15 Q. Good morning, Mr. Hunt.

16 A. Good morning.

17 Q. Please state your name and title and spell your
18 last name for the court reporter.

19 A. My name is Thomas Hunt. I'm director of
20 compensation and benefits at Puget Sound Energy. My last
21 name is spelled H-U-N-T.

22 Q. Mr. Hunt, do you have before you what has been
23 marked for identification as Exhibit Nos. TMH-1T through
24 TMH-12?

25 A. Yes.

0933

1 Q. Do these exhibits constitute your prefiled
2 direct and rebuttal testimony and related exhibits in
3 this proceeding?

4 A. Yes, they do.

5 Q. Were these exhibits prepared under your
6 supervision and direction?

7 A. Yes.

8 Q. Do you have any corrections to any of your
9 exhibits at this time?

10 A. No, I don't.

11 Q. Are your prefiled direct and rebuttal testimony
12 and accompanying exhibits true and correct to the best of
13 your information and belief?

14 A. Yes.

15 Q. Thank you.

16 MS. CARSON: Your Honor, PSE offers Exhibits
17 TMH-1T through TMH-12 into evidence, and offers Mr.
18 Thomas Hunt for cross-examination.

19 JUDGE FRIEDLANDER: Thank you. Are there any
20 objections?

21 MR. CEDARBAUM: No.

22 JUDGE FRIEDLANDER: So admitted.

23 (Exhibit TMH-1T through TMH-12 was admitted.)

24 JUDGE FRIEDLANDER: And I understand from my
25 exhibit list the Staff also has a cross-exam exhibit.

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1 Would you like that admitted?

2 MR. CEDARBAUM: Your Honor, we noticed after
3 prefiling our exhibits that the material was already
4 duplicated for our purposes in Mr. Hunt's prefiled
5 materials. So we can withdraw that exhibit.

6 JUDGE FRIEDLANDER: Thank you. I appreciate
7 that. I believe then that the only questions are
8 clarification questions from the bench.

9 CHAIRMAN GOLTZ: Mr. Hunt, thank you. I just
10 have a couple of questions.

11 THE WITNESS: Sure.

12 CHAIRMAN GOLTZ: Going to your direct testimony
13 on page 7.

14 THE WITNESS: Okay.

15 CHAIRMAN GOLTZ: You state that Puget is not
16 requesting recovery of executive compensation incentive
17 pay; is that correct?

18 THE WITNESS: That's correct.

19 CHAIRMAN GOLTZ: Do you know how much that is
20 in the aggregate?

21 THE WITNESS: I don't know how much it would
22 have been relative to this case.

23 CHAIRMAN GOLTZ: I will just ask you a couple
24 of questions, and maybe what we will do is I will then
25 consider that and I may request a bench request.

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1 But on page 8, again, there is a similar sort
2 of question. Your question starting on line 2 is, What
3 components of executive compensation are paid by the
4 investors, and you state in your answer from lines 3
5 to 9, and I was wondering if you have a number that sums
6 that amount as well?

7 THE WITNESS: I don't.

8 CHAIRMAN GOLTZ: But you could get those
9 numbers?

10 THE WITNESS: I could get those, yes.

11 CHAIRMAN GOLTZ: And my last question is, over
12 on page -- I think it's my last question. Not quite my
13 last question.

14 On page 14, talking about pension plans, and
15 you state that utilities, on line 3, still predominantly
16 use defined benefit pension plans as well as defined
17 contribution plans, and I guess my -- this is a
18 discussion that is also taking place regarding state
19 pension plans and federal pension plans, and it seems to
20 me that in general there is a trend away from defined
21 benefit plans, at least for new employees.

22 So I'm wondering if your statement is that in
23 the utility industry there is no such trend or is there
24 such a trend?

25 THE WITNESS: The utility industry, a few

0936

1 utilities have made changes to what they offer to new
2 employees, but many still are offering defined benefit
3 pension plans to new employees.

4 CHAIRMAN GOLTZ: And Puget as well?

5 THE WITNESS: Yes.

6 CHAIRMAN GOLTZ: But I guess what I'm wondering
7 is, that even though there is still a predominant use,
8 would you agree there is a trend away from that?

9 THE WITNESS: Certainly in the cross-industry,
10 and to a certain extent, to a limited extent in the
11 utility industry.

12 CHAIRMAN GOLTZ: There is a trend?

13 THE WITNESS: Because some have, some companies
14 have done that and before they really hadn't, I guess
15 there would be a small trend.

16 CHAIRMAN GOLTZ: And then on page 17, you're
17 talking about your -- PSE's goals and incentive plan, and
18 that's also attached. There's actually two versions of
19 that attached in your Exhibit 10, one for 2010 and one
20 for 2011?

21 THE WITNESS: Correct.

22 CHAIRMAN GOLTZ: So on page 17, lines 11
23 through 14, you describe the plan and you state that,
24 "The plan focuses work groups and individuals on the key
25 objectives of the Company, including safety, reliability,

0937

1 customer service and operational efficiency."

2 So I looked at Exhibit 10, and I was looking
3 for where I find goals relating to operational
4 efficiency. Are those included there or are they
5 somewhere else?

6 THE WITNESS: I do believe that we can see in
7 Exhibit 10 where they would be. The incentive plan has a
8 funding mechanism, and then individuals have goals that
9 are attached to the corporate goals, which are shown on
10 page 2 of Exhibit 10. That's the 2010 set of goals.

11 CHAIRMAN GOLTZ: I gather the goals from 2010
12 and 2011 are pretty similar?

13 THE WITNESS: They are very similar, yes.

14 Under the Own It goal, at the end of the Own It
15 goal says, "Take personal responsibility for meeting
16 customer needs while using Company resources and
17 facilities wisely."

18 So these large categories of goals were set for
19 the whole company, and then individuals develop specific
20 goals that cascade, cascade down from these, and that Own
21 It category would have the types of goals like manage to
22 budgets and to look for ways to increase the efficiency.

23 CHAIRMAN GOLTZ: So I was looking at page 5 of
24 that 2010 plan. This is page 5 of 16 of Exhibit 10, and
25 the -- and I look down and it says "Operations Services."

0938

1 That is not operational efficiency that you are
2 talking about?

3 THE WITNESS: Those are the service quality
4 indexes, and so they're more related to customer service
5 and reliability.

6 CHAIRMAN GOLTZ: So I guess on operational
7 efficiency goals, those are either individual or group
8 goals that are defined in the process?

9 THE WITNESS: They are in terms of specific
10 goals for individuals. The corporate financial goal also
11 implies, in order to meet that budget level of
12 performance, the operational efficiency is a large
13 contributor to that.

14 CHAIRMAN GOLTZ: So you mentioned -- maybe I'm
15 putting words in your mouth, but did you say that a
16 typical goal would be to operate within your budget?

17 THE WITNESS: Yes, especially for managers.

18 CHAIRMAN GOLTZ: So for you, for example,
19 operating within your budget is important and that would
20 give you a little bonus at the end of the year?

21 THE WITNESS: It certainly would be taken into
22 consideration if I did a poor job doing that relative to
23 performance, and the performance is a factor in which the
24 managers recommend on bonuses to nonunion employees.

25 CHAIRMAN GOLTZ: So is there a performance

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1 incentive for coming in under budget?

2 THE WITNESS: No, not -- you know, the
3 different goals might be drafted for different people,
4 but I'm not -- I don't think that there is typically an
5 incentive for coming in under budget.

6 Really, the approach is to make sure that you
7 are within budget. If situations change and you don't
8 need to spend the money, then there would be an
9 expectation to come in under budget.

10 CHAIRMAN GOLTZ: I have nothing further.

11 Thanks.

12 JUDGE FRIEDLANDER: Thank you. Commissioner
13 Jones.

14 COMMISSIONER JONES: Just a couple relating to
15 pensions. Page 15 of your testimony, Mr. Hunt.

16 First, could you give me an update as to where
17 you are now in terms of your -- what does PPO stand for?
18 Public -- pension benefit obligation? Is that the term?

19 THE WITNESS: PPO stands for pension benefit
20 obligation.

21 COMMISSIONER JONES: So what is your pension,
22 what is your most recent update on the pension benefit
23 obligation funding as of December?

24 THE WITNESS: As of December, because of the
25 low-interest rate environment and the market downturn,

0940

1 the plan was a little bit underfunded in terms of meeting
2 the pension benefit obligation, which is a future
3 obligation.

4 COMMISSIONER JONES: So you are under a hundred
5 percent now?

6 THE WITNESS: That's correct.

7 COMMISSIONER JONES: And you indicate in your
8 testimony on lines 7 through 9 that you contributed 5
9 million to the plan in 2011, which is the total amount
10 the Company expects to contribute.

11 Were there any future contributions in 2011
12 besides that 5 million?

13 THE WITNESS: Not that I -- I don't believe so.

14 COMMISSIONER JONES: And you are accounting for
15 pension benefit obligations per the current accounting
16 rules, which is SFAS 158, correct?

17 THE WITNESS: I believe so. I'm not
18 responsible for the accounting.

19 COMMISSIONER JONES: Are there any changes -- I
20 think Congress enacted a law called the Pension
21 Protection Act in 2006 that changes for some companies
22 the amount of pension -- the amount of contribution that
23 a company has to contribute per year to meet its
24 obligations.

25 Does that law or any potential change in law

0941

1 affect your plan?

2 THE WITNESS: The Pension Protection Act, we
3 certainly are required to comply with that. Our funding
4 level relative to the Pension Protection Act is better
5 than our funding level relative to the projected benefit
6 obligation, and so we finished 2011 higher than the
7 hundred percent under the Pension Protection Act rules.

8 So that if we had finished below a hundred
9 percent funding on that measure, we would have had
10 certain requirements, such as quarterly contributions,
11 but we were -- because we were above a hundred percent
12 funding relative to the Pension Protection Act
13 calculations, we don't have any requirements at this
14 time.

15 COMMISSIONER JONES: Are you required to pay
16 into the PBGC, what is called the Pension Benefit
17 Guaranty Corporation?

18 THE WITNESS: Yes. All companies that operate
19 pensions are required to make contributions or payments
20 to the Pension Benefit Guaranty Corporation.

21 There are some that are just based off of sort
22 of per company and then there's additional amounts that
23 are required by companies that are underfunded.

24 COMMISSIONER JONES: Are you expecting any
25 increases in contribution during the rate year based on

0942

1 other companies' pensions that perhaps have become
2 bankrupt or they cannot meet their obligations during,
3 you know, in the near future?

4 THE WITNESS: To the extent to which the
5 Pension Benefit Corporation changes their fees, we would
6 have to pay more. I'm not aware of what -- you know,
7 what changes might be coming in that direction.

8 COMMISSIONER JONES: Thank you, Judge. That's
9 all I have.

10 JUDGE FRIEDLANDER: Thank you.

11 MR. CEDARBAUM: Your Honor, I know I didn't
12 have cross to begin with, but some of the questions from
13 the Commissioners brought some questions to mind, if I
14 may be permitted.

15 JUDGE FRIEDLANDER: That's fine. Thank you.

16 MR. CEDARBAUM: Thank you.

17 CROSS-EXAMINATION

18 BY MR. CEDARBAUM:

19 Q. Good morning, Mr. Hunt. My questions have to
20 do with the incentive pay issue, and if you could look at
21 what Chairman Goltz asked you about. If you could look
22 at your Exhibit 10, page 4.

23 A. Okay.

24 Q. As I understand it, the chart on this
25 page illustrates, as you indicate in the first sentence

0943

1 at the top, how the incentive pool was funded; is that
2 right?

3 A. That's correct.

4 Q. And just so we can understand how it works, the
5 SQI parameter is on the left-hand side of the page and
6 then earnings across the top?

7 A. EBITDA, yes.

8 COMMISSIONER OSHIE: Can you spell that for the
9 court reporter?

10 THE WITNESS: The acronym is spelled EBITDA,
11 and it's earnings before interest, taxes, depreciation.
12 I'm not sure what the A is.

13 BY MR. CEDARBAUM:

14 Q. Just to see how this works, if we look at the
15 SQI result column at the bottom, second line up from the
16 bottom, it says 6 of 10.

17 So that's meeting 6 of 10 SQI metrics?

18 A. Correct. That's one of the two funding
19 thresholds, that if SQI results were less than 6, there
20 would be no funding.

21 Q. Let's look at the SQI amounts for 6 out of 10
22 under the 90 percent column related to the earnings. I
23 will call it the earnings metric.

24 A. So the earnings metric, 90 percent means
25 that -- the annual budget that was established for the

0944

1 Company that was approved by the board of directors
2 represents 100 percent.

3 So 90 percent would be a 10 percent
4 underperformance relative to that budget, and so in that
5 case, if the performance were exactly 90 percent and the
6 SQIs were 6 out of 10, there would be a 30 percent
7 funding of the incentive pool.

8 Q. If instead of 6 of 10 it went to 7 of 10, then
9 there would be a 35 percent funding?

10 A. That's correct.

11 Q. But if there were 6 of 10 SQIs met and an
12 increase -- so we go from 30 to 35 percent from 6 of 10
13 to 7 of 10.

14 This shows if the earnings metric goes from
15 90 percent to 95 percent and 6 of 10 SQI metrics are met,
16 then the earnings pool increases 15 percent, from 30 to
17 45 percent; is that right?

18 A. That is correct.

19 Q. The last question I have is really a
20 clarification one.

21 The Company has proposed that SQI-9 be
22 eliminated and Staff has agreed to that proposal. So is
23 that going to change this grid?

24 A. If you look at -- yes. The grid will be
25 based -- the grid for 2011 is shown on page 12, and at

0945

1 that point the SQI had been removed on an interim basis.
2 So you will note that then we are working with 9 possible
3 SQIs instead of 10.

4 Q. And the way we walked through page 4 is
5 essentially how page 12 would work in terms of the
6 incentive pool funding, when you go from, for example, 6
7 to 7 SQI metrics versus the earnings metrics?

8 A. Correct. Both measures are viewed in terms of
9 figuring out what the funding will be.

10 Q. Thank you.

11 JUDGE FRIEDLANDER: Thank you. Ms. Carson, did
12 you have any redirect?

13 MS. CARSON: Yes.

14 REDIRECT EXAMINATION

15 BY MS. CARSON:

16 Q. Mr. Hunt, you were asked about defined benefit
17 plans, and I just wanted to clarify.

18 Does PSE offer new employees defined pension
19 plans?

20 A. Yes.

21 Q. And does it offer new employees cash balance
22 plans?

23 A. Yes. The Company operates a defined benefit
24 plan, and there are different types of defined benefit
25 plans.

0946

1 The cash balance formula is a type of defined
2 benefit pension plan, which is sometimes called a hybrid
3 plan, and many companies are moving to that because it is
4 more like a defined contribution plan, in that it's --
5 the company is putting in a certain amount and it's
6 not -- whereas the final average formula is a guaranty of
7 a certain amount of payment at the add retirement.

8 So the non, nonunion employees and the gas
9 union employees have been on the cash balance program
10 since the merger between Puget Power and Washington
11 Natural Gas.

12 With the 2010 contract for the IBEW employees,
13 all IBEW employees with five years of service or less, as
14 well as all new IBEW employees move to the cash balance
15 plan. So any new employee coming to PSE is on a cash
16 balance approach now.

17 Q. So just to clarify, when I asked you if PSE
18 offers new employees defined pension plans, that's
19 separate from the cash balance plan, isn't it?

20 A. No. The term "pension plan" generally refers
21 to a defined benefit plan, and the cash balance formula
22 is a formula within the defined benefit plan.

23 It operates like, more like a cash, like a --
24 like a typical pension, but it's a different formula than
25 what -- some of the IBEW employees elected to remain on

0947

1 the final average earnings, which is the typical pension,
2 that at retirement you've accrued a certain number of
3 service years and then you have a certain salary, and
4 then based on that there is a calculation of your benefit
5 that's paid monthly.

6 The cash balance program, there are
7 contributions made during your career as a percentage of
8 your salary and then there are earnings added, but the
9 Company, if your pay changes drastically at the end of
10 your career, it doesn't ratchet up your benefit the same
11 way that a final average earnings would.

12 Q. Thank you.

13 MS. CARSON: No further questions.

14 JUDGE FRIEDLANDER: Thank you. And you are
15 dismissed. Thank you. Just one moment while I check on
16 the next witness.

17 (Discussion off the record.)

18 JUDGE FRIEDLANDER: With regards to the next
19 witness, I have down Ms. Jones. However, it does not
20 appear that there are any cross-examination questions or
21 questions from the bench.

22 So at this time, I don't know if previously
23 there has been a motion for admission of her testimony,
24 but if not, I'm willing to entertain one at this point.

25 MS. CARSON: Yes. She did testify on the

0948

1 metering and billing issues that is now subject -- the
2 subject of a settlement that has been filed.

3 JUDGE FRIEDLANDER: Right.

4 MS. CARSON: But I think --

5 JUDGE FRIEDLANDER: She's not testifying in
6 support of the settlement, is she?

7 MS. CARSON: She's not.

8 JUDGE FRIEDLANDER: Would she be available for
9 questions if we had some?

10 MS. CARSON: Well, Mr. DeBoer was going to be
11 available as part of that panel, along with Mr. Kouchi,
12 to address the settlement.

13 CHAIRMAN GOLTZ: I have questions of them, and
14 my only concern is that in case -- in an unlikely event
15 Mr. DeBoer is unable to answer a question and he wants
16 Ms. Jones to do it, I just want to be able to get her on
17 the phone.

18 MS. CARSON: I'm sure we can do that. And I
19 believe as part of the settlement we agreed to stipulate
20 the testimony into the record; is that right?

21 MR. CEDARBAUM: That's correct. I think we had
22 pre-distributed one cross-exhibit, which we would
23 withdraw.

24 JUDGE FRIEDLANDER: I see. And so the other
25 parties, though, they are not signatories to the

0949

1 settlement agreement, are they?

2 MS. CARSON: They are not.

3 JUDGE FRIEDLANDER: So does anybody have
4 objections to Ms. Jones' testimony being admitted today?
5 Thank you. So admitted.

6 (Exhibit ZDJ-1T through ZDJ-6 was admitted.)

7 JUDGE FRIEDLANDER: And with that we will go
8 ahead and take a break before beginning with Mr.
9 Marcelia. Let's make it ten minutes sharp. Thank you.

10 (A break was taken from
11 11:08 a.m. to 11:23 a.m.)

12 JUDGE FRIEDLANDER: Will you stand and raise
13 your right hand?

14 Do you swear or affirm that the testimony you
15 are about to give is the truth, the whole truth and
16 nothing but the truth?

17 MR. MARCELIA: I do.

18 JUDGE FRIEDLANDER: Thank you. You can be
19 seated. Ms. Carson.

20 MS. CARSON: Thank you, Your Honor.

21

22 MATTHEW R. MARCELIA, witness herein, having been
23 first duly sworn on oath,
24 was examined and testified
25 as follows:

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1 DIRECT EXAMINATION

2 BY MS. CARSON:

3 Q. Good morning, Mr. Marcelia. Please state your
4 name and title and spell your last name for the court
5 reporter.

6 A. Matthew Marcelia. I'm the director of tax at
7 PSE. And my last name is spelled M-A-R-C-E-L-I-A.

8 Q. Mr. Marcelia, do you have before you what has
9 been marked for identification as Exhibit Nos. MRM-1T
10 through MRM-17?

11 A. Yes, I do.

12 Q. Do these exhibits constitute your prefiled
13 direct and rebuttal testimony and related exhibits in
14 this proceeding?

15 A. Yes.

16 Q. Were these exhibits prepared under your
17 supervision and direction?

18 A. Yes.

19 Q. Do you have any corrections to any of your
20 exhibits at this time?

21 A. No.

22 Q. Are your prefiled direct and rebuttal testimony
23 and accompanying exhibits true and correct to the best of
24 your information and belief?

25 A. Yes.

0951

1 Q. Thank you.

2 MS. CARSON: Your Honor, PSE offers Exhibits
3 MRM-1T through MRM-17 into evidence, and offers Mr.
4 Matthew Marcellia for cross-examination.

5 JUDGE FRIEDLANDER: Any objections?

6 MR. CEDARBAUM: No.

7 JUDGE FRIEDLANDER: Hearing nothing, those are
8 admitted.

9 (Exhibit MRM-1T through MRM-17 was admitted.)

10 JUDGE FRIEDLANDER: And I believe Mr.
11 Cedarbaum.

12 MR. CEDARBAUM: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. CEDARBAUM:

15 Q. Good morning, Mr. Marcellia.

16 A. Good morning.

17 Q. Just to start off, there are a number of data
18 requests that Staff asked of you, which we have had
19 marked as cross-exhibits, and is it correct that other
20 than Cross-Exhibits 31 and 32, Cross-Exhibits 18 through
21 35 are your responses to various Staff data requests?

22 A. Please give me those numbers again.

23 Q. Sure. The cross-exhibits that Staff designated
24 for you are Cross-Exhibits 18 through 35, and other than
25 31 and 32, is it correct that those exhibits are your

0952

1 responses to various Staff data requests?

2 A. Yes.

3 Q. And so, again, other than 31 and 32, you are
4 the responsible witness for those data request responses?

5 A. Yes.

6 Q. 31 and 32 are the excerpts from PacifiCorp's
7 10-Ks for 2010 and 2009; is that right?

8 A. That's correct. I did not prepare those.

9 Q. But you were provided copies of them --

10 A. Yes.

11 Q. -- when we distributed exhibits last week?

12 A. Correct.

13 MR. CEDARBAUM: Your Honor, I would, to make it
14 simpler I suppose, offer the Staff Cross-Exhibits 18
15 through 35. I don't know if the Company has any
16 objections.

17 JUDGE FRIEDLANDER: Ms. Carson.

18 MS. CARSON: We do have objections to 31 and
19 32, which are PacifiCorp SEC form 10-K forms. We do
20 object to those. Mr. Marcelia didn't prepare them.
21 They're not for PSE. He's not the appropriate witness,
22 if anyone is, to respond to these in this case.

23 JUDGE FRIEDLANDER: Mr. Cedarbaum.

24 MR. CEDARBAUM: Your Honor, I'm happy to argue
25 it now or later on in my questioning, when there's more

0953

1 context to it.

2 JUDGE FRIEDLANDER: That's fine. Why don't we
3 do that then, but PSE for purposes of Cross-Examination
4 Exhibits 18 through 30 and 33 through 35 has no
5 objection?

6 MS. CARSON: No objection.

7 JUDGE FRIEDLANDER: Any of the other parties?
8 So admitted.

9 (Exhibit MRM-18 CX through MRM-30 CX,
10 MRM-33 CX through MRM-35 CX was admitted.)

11 MR. CEDARBAUM: Thank you.

12 BY MR. CEDARBAUM:

13 Q. Mr. Marcellia, the first line of questions I
14 have for you involves property taxes, and if you could
15 please turn to page 66 of your rebuttal testimony at
16 lines 2 to 3. Tell me when you are there.

17 A. I'm there.

18 Q. You state that Commission Staff claims that
19 Exhibit MRM-13 represents that actual cash paid during
20 the test year, which it does not; is that right?

21 A. That's correct.

22 Q. In Exhibit MRM-18 CX, we asked you to provide
23 citations to the Staff testimony underlying your rebuttal
24 testimony that I just quoted?

25 A. Correct.

0954

1 Q. And the first statement of Mr. Applegate's that
2 you reference refers to values that you provided in your
3 Exhibit MRM-13 that Mr. Applegate then incorporates into
4 his adjustment for property taxes; is that right?

5 A. Yes.

6 Q. Is it correct or would you agree, subject to
7 your check, that in the immediately preceding sentence of
8 Mr. Applegate's testimony that you did not reference he
9 states that the values provided in your Exhibit MRM-13
10 are the property tax values assessed in April of 2011 for
11 property owned by PSE on January 1st, 2010?

12 MS. CARSON: I object to the question and the
13 subject to check. That is not a calculation of
14 mathematical numbers.

15 MR. CEDARBAUM: Your Honor, we ask -- Mr.
16 Marcellia made a statement in his testimony, which I
17 quoted. We asked him for his support, and we believe he
18 did not completely cite Mr. Applegate's testimony, and
19 the sentence I just quoted demonstrates that.

20 JUDGE FRIEDLANDER: I'm going to allow it.

21 MS. CARSON: I would ask that Mr. Marcellia be
22 allowed to look at Mr. Applegate's testimony and confirm
23 that that's what he said rather than --

24 MR. CEDARBAUM: That's fine.

25 MS. CARSON: -- accept it subject to check.

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1 JUDGE FRIEDLANDER: If counsel could provide
2 that.

3 THE WITNESS: I have a copy of Mr. Applegate's
4 testimony, but I don't have the reference.

5 BY MR. CEDARBAUM:

6 Q. It would be page 13, at line 17 and 18. 17
7 through 20 is the line that you cited in your response,
8 and I'm asking you to accept, subject to check, that in
9 the preceding sentence he states, "I recommend that the
10 Commission use the property tax values assessed in April
11 of 2011 for property owned by PSE on January 1st, 2010,
12 the beginning of the test year, as the basis for
13 calculating this adjustment."

14 Then he states, "Mr. Marcellia provides these
15 values for electric and natural gas property in his
16 Exhibit 13."

17 Did I quote that correctly?

18 A. Yes, you did.

19 MS. CARSON: Your Honor, I'm not sure what the
20 question is pending for this witness.

21 MR. CEDARBAUM: I asked him to accept a
22 sentence from Mr. Applegate's testimony subject to check.
23 We don't have to argue about that. There was an
24 objection to the question itself, and now we cited the
25 testimony. I'm ready to move on.

0956

1 JUDGE FRIEDLANDER: Nothing. So please
2 continue.

3 BY MR. CEDARBAUM:

4 Q. Mr. Marcelia, are the assets owned by the
5 Company at the end of 2009 the same assets that are
6 subject to the January 1, 2010, lien date?

7 A. Yes, that's correct. The lien date begins in
8 very first instance of the test year. So the very first
9 second of 2010 that lien is attached to those assets, and
10 so the values on 12/31 are those values.

11 Q. Referring to your rebuttal testimony on
12 page 68, line 11, you state, "The practical result of
13 Commission Staff's adjustment is that 7.5 percent of
14 PSE's property will be free of property taxes for
15 ratemaking purposes."

16 This is the property that PSE acquired during
17 the test year; is that right?

18 A. That's correct.

19 Q. Then if we look at Cross-Exhibit MRM-19 CX,
20 this is your response to Staff Data Request 241?

21 A. Yes.

22 Q. And is it correct that the response states that
23 PSE's first property tax payment for property acquired
24 during the 2010 test year will occur in mid-2012? Is
25 that the gist of this?

0957

1 A. The property that was acquired during the test
2 year, that that tax will be paid mid-2012, which is right
3 in the middle of the rate year.

4 Q. But that's about 28 to 30 months after the
5 start of the test year?

6 A. At the longest it would be 28 months. So, for
7 example, if you buy an asset in January, that will be
8 about 28 months. If you buy an asset in December, that
9 will be about 16 months, because the lien date that is
10 applicable to that will be the lien date that will follow
11 the test year. It would be January 1st of 2011.

12 Q. I guess what I'm triggering off of, in your
13 response to Data Request 241, the second to the last
14 sentence says, "The property tax on the property acquired
15 during the test year will be due in approximately 28
16 months from the first day of the test year."

17 A. Yeah, 28 months will be the longest. So it
18 would be between 16 and 28, to quote a range. It depends
19 on when the asset is purchased.

20 Q. The final couple of questions on property
21 taxes.

22 I think we heard from Mr. Garratt, I believe,
23 that the in-service date for Lower Snake River has been
24 pegged now for the end of February; is that correct?

25 A. I guess if Mr. Garratt said it, then it's

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1 correct.

2 Q. Given an in-service date of the end of
3 February, when would the first property tax payment be
4 due on LSR?

5 A. Well, the first property tax will be due as a
6 completed plant would fall 22-ish months or so. However,
7 when property is in CWIP, it is subject to property tax.
8 So there's been a little bit accruing all long.

9 Q. But as a completed plant, then we're talking
10 about the 2014-ish time frame?

11 A. Something like that. It will be 22 months out.

12 Q. Thank you. Let's switch to income taxes now.
13 Can you tell me when the Company files its
14 federal income tax returns with the IRS, just generally
15 speaking?

16 A. In September of the year following.

17 Q. For example, for 2008, the Company filed its
18 return in September of 2009?

19 A. Yes.

20 Q. And the same would be -- for 2009, it was filed
21 in September 2010, for 2010 it was filed in
22 September 2011?

23 A. That's the correct pattern.

24 Q. Is it correct on the 2008, 2009 and 2010
25 returns the Company took deductions for repairs using a

0959

1 tax accounting method that produced a larger tax
2 deduction than the tax accounting method that had been
3 used for prior tax years?

4 A. Yes.

5 Q. Is it correct that the IRS notified Puget that
6 the IRS had accepted PSE's new tax method for the repairs
7 accounting?

8 A. No. No, I think you might be confused a little
9 bit, because when we filed --

10 Q. I don't -- let me just --

11 A. Sorry.

12 Q. I think we will be okay if I reask the question.

13 I can provide you with a copy of this, if you
14 need to, but in your rebuttal testimony from the last
15 case, the 2009 case, at page 27 you said the following,
16 and you can just tell me if this is currently your
17 understanding:

18 "Did the IRS approve the accounting method
19 change," referring to the repairs accounting change.

20 Your answer was, "Yes. On August 20, 2009, PSE
21 received notice that the IRS had accepted the Company's
22 new method. On September 15, 2009, PSE signed a consent
23 letter and the new method became effective."

24 Is that correct?

25 A. Yeah, that's correct. Yes. I didn't

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1 understand that that's what you were asking about, but
2 yes, that's correct.

3 Q. Is it also correct that on the Company's 2008
4 federal income tax return the Company reflected the
5 cumulative effect of the change in tax accounting method
6 for repairs?

7 A. That's correct.

8 Q. Is it correct that the Company realized federal
9 income tax savings from the repairs deductions it claimed
10 on the 2008, 2009 and 2010 returns?

11 A. Yes.

12 Q. Is it also correct that this change in tax
13 accounting had an equal and offsetting impact on current
14 and deferred income taxes --

15 A. Yes.

16 Q. -- income tax expenses?

17 A. Yes, that's correct.

18 Q. And the tax accounting change also impacts
19 accumulated deferred income taxes, or ADIT?

20 A. Correct.

21 Q. And ADIT is a reduction to rate base; is that
22 right?

23 A. Generally speaking, yes, it is, unless the
24 Commission rules otherwise.

25 Q. Is it correct that the Company issued audited

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1 financial statements for the years 2008, 2009 and 2010?

2 A. Correct.

3 Q. And in the issuance of those financial
4 statements, is it correct that the Company is required to
5 comply with generally accepted accounting principles, or
6 GAAP?

7 A. That's correct.

8 Q. And the purpose of following GAAP is to ensure
9 that the financial statements are fairly presented and
10 that the reporting is sufficiently quantified?

11 A. Yes, in all material respects.

12 Q. So the Company wouldn't present amounts in its
13 financial reports if they were not sufficiently
14 quantified in all material respects?

15 A. Correct.

16 Q. In the current proceeding, the Company's case,
17 the Company hasn't recognized the impact on ADIT and on
18 rate base resulting from the change in tax accounting for
19 repairs deductions; is that right?

20 A. That's correct, pursuant to Commission order in
21 the last rate case.

22 Q. I'm sure we will get to that.

23 And your reason for not reflecting the impact
24 of that change, it is your reading of the Commission
25 order that until the IRS audits the calculation, it's not

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1 appropriate to reflect it for ratemaking purposes?

2 A. Yes.

3 Q. Is it correct that none of the Company's income
4 tax calculations for 2008, 2009 or 2010 have been audited
5 by the IRS?

6 A. Please state those dates again. 2008, -9?

7 Q. Has the IRS audited the Company's tax returns
8 for 2008, 2009 or 2010?

9 A. The Company is under audit for 2008 and 2009.
10 2010 is not presently under audit.

11 Q. Have the audits been completed?

12 A. No.

13 Q. Do you know if -- this tax accounting change
14 for repairs is not something that is unique to the
15 Company, is it?

16 A. We have never done it before.

17 Q. Well, I mean in the sense that there are other
18 electric utilities --

19 A. Oh.

20 Q. -- that have also undergone this change.

21 A. That's correct. Others have done the change,
22 or similar change.

23 Q. And PacifiCorp is one of those utilities that
24 you are aware of?

25 A. Yes.

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1 Q. Now, the ratemaking treatment of the change in
2 tax accounting method for repairs came up in the
3 PacifiCorp general rate case in Docket UE-100749 that
4 both you and Mr. Smith discuss in your testimonies; is
5 that right?

6 A. That's correct.

7 Q. And in that PacifiCorp case, the impact
8 resulting from the change in tax accounting for repairs
9 was considered known and measurable by the Commission and
10 reflected in the Commission's order as a noninvestor --
11 as noninvestor-supplied capital; is that right?

12 A. I don't know about noninvestor-supplied
13 capital, but I know it was discussed and that the
14 Commission determined that it was known and measurable.

15 Q. And it was reflected for ratemaking purposes?

16 A. I believe that's what happened, yes, like a
17 normal deferred tax.

18 Q. In Cross-Exhibit 21 CX, which that's your
19 response to Staff Data Request 208?

20 A. Yes.

21 Q. You state in the response that you didn't know
22 whether PacifiCorp was under audit when the Commission
23 issued its order, its final order in the PacifiCorp
24 docket; is that right?

25 A. That's correct. The order didn't indicate

1 whether PacifiCorp was under IRS audit for that time
2 period or not or if it had already been completed or --
3 it was silent on that point.

4 Q. And in responding to the Staff Data Request,
5 you didn't review any of PacifiCorp's financial
6 statements to investigate whether or not an audit had
7 been started or completed?

8 A. No. It asked for my understanding, which was
9 that I didn't know. It wasn't in the order.

10 MR. CEDARBAUM: Your Honor, at this time it is
11 probably appropriate to take the argument on MRM-31 and
12 32.

13 The Staff's purpose for offering these
14 documents is that the issue involves whether or not the
15 change in tax accounting for repairs deductions should be
16 reflected in the ratemaking by this commission for Puget.

17 The Company's position is, is that it -- as I
18 understand Mr. Marcellia's testimony, that until the IRS
19 completes an audit of those calculations, it should not
20 be reflected for ratemaking purposes.

21 Staff disagrees, and we both rely upon your
22 PacifiCorp decision from that prior docket for our
23 interpretation of decisions. The SEC reports that are in
24 Exhibits MRM-31 and 32 involve PacifiCorp, and they have
25 information on that issue.

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1 I'm not asking -- and the documents were
2 provided to the witness a week ago. So I don't think
3 this is objectionable in the sense just because he did
4 not prepare them. They go to the specific issue raised
5 in his testimony.

6 JUDGE FRIEDLANDER: Ms. Carson.

7 MS. CARSON: Again, these are not PSE
8 documents. These are not documents that the witness
9 prepared. These are selected excerpts from another
10 utility company's SEC filings. I object to them being
11 admitted into evidence.

12 JUDGE FRIEDLANDER: Based on foundation?

13 MS. CARSON: Right.

14 MR. CEDARBAUM: Your Honor, I would just add,
15 if the Company believes these are incomplete and should
16 be supplemented, that's perfectly fine. I would not
17 object to that.

18 JUDGE FRIEDLANDER: I am going to allow them.
19 Based on Mr. Cedarbaum's arguments, I feel that even
20 though the witness did not prepare them, obviously these
21 are still documents that we could take notice of in any
22 event, and if the witness does not have the ability to
23 answer further questions on them, he certainly can let us
24 know that, so.

25 MS. CARSON: May we have the opportunity to

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1 supplement them, if necessary?

2 JUDGE FRIEDLANDER: Certainly.

3 MS. CARSON: Thank you.

4 JUDGE FRIEDLANDER: So they are admitted.

5 MR. CEDARBAUM: Thank you, Your Honor.

6 (Exhibit MRM-31 and MRM-32 was admitted.)

7 BY MR. CEDARBAUM:

8 Q. Mr. Marcelia, if you could look at MRM-31 CX.

9 A. Yes.

10 Q. These are the pages that we have excerpted from
11 the 2010 PacifiCorp 10-K; is that right?

12 A. Yes.

13 Q. If you could turn to page 5, page 5 as noted in
14 the upper right-hand corner.

15 A. I'm there.

16 Q. Under the section Income Taxes down towards the
17 bottom.

18 A. Yes.

19 Q. There's a statement involving, "In determining
20 PacifiCorp's income taxes, management is required to
21 interpret complex tax laws and regulations."

22 Do you see that?

23 A. I do.

24 Q. It also says, "PacifiCorp's income tax returns
25 are subject to continuous examination by various

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1 authorities." Do you see that?

2 A. I do.

3 Q. "And due to the nature of the examination
4 process, it generally takes years before these
5 examinations are completed and these matters are
6 resolved." Is that right?

7 A. That's what it says.

8 Q. And if we were to look at page 9 of the next
9 exhibit, MRM-32, similar statements appear at the bottom
10 of that page as well?

11 A. Yes.

12 Q. And this is the 2009 PacifiCorp 10-K?

13 A. Yes.

14 Q. At page 12 of MRM-31, the 2010 10-K, at the
15 bottom of the page, the second paragraph from the bottom
16 states, "The United States Internal Revenue Service has
17 closed its examination of PacifiCorp's income tax returns
18 through the 2003 tax year. In most cases" -- I don't
19 actually need to read that.

20 Just that first sentence, it looks like
21 PacifiCorp's audits by the IRS have been completed
22 through 2003 tax years; is that -- 2003 year; is that
23 right?

24 A. That's what it says.

25 Q. Let's move on to a different exhibit, MRM-23.

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1 This is your response to Staff Data Request
2 210; is that correct?

3 A. Yes.

4 Q. And there is a confidential Attachment A to
5 this document that shows the quarterly analysis PSE
6 prepared to evaluate all uncertain tax positions of the
7 Company; is that right?

8 And "by all," I guess I should put some
9 parameters on that. At least for the first quarters 2009
10 through the fourth quarter 2011.

11 A. Could you ask the question one more time?

12 Q. Sure. Well, let me ask you, what is in the
13 attachment in this exhibit?

14 A. It is the FIN 48 analysis that was prepared for
15 the 2009, '10 and '11.

16 Q. I'm sorry. I didn't hear the first part of
17 your sentence.

18 A. It is the FIN 48 analysis that was prepared for
19 2009, '10 and '11 by quarter.

20 Q. And what does "FIN" stand for?

21 A. Financial, financial -- you would ask. It
22 is...

23 Q. I've been told to make sure the witness spells
24 out acronyms.

25 A. That's right. It's Financial Interpretation

0969

1 No. 48.

2 Q. We will go with that.

3 A. Okay. And it is an interpretation of FASB 109,
4 which is the normal accounting pronouncement for income
5 taxes. That is the -- this is the old designation.

6 All these designations have been updated to
7 ASC, part of the ASC 740, which is the current standard
8 for accounting for income taxes, but it's easier to refer
9 to it as FIN 48, because that is the particular subset
10 that we are concerned about here.

11 Q. And the idea is to examine the Company's
12 uncertain income tax positions?

13 A. I would not say it that way, because it gives
14 the implication that it only applies to, quote, uncertain
15 tax positions. All tax positions are subject to review
16 under this, not just uncertain tax positions.

17 Q. Let me see -- let me ask it this way and see if
18 I'm right: Is it correct that ASC 740, or FIN 48, is a
19 provision of GAAP that requires the Company to evaluate
20 and disclose its uncertain tax positions?

21 A. Yes.

22 Q. And what you have provided in the supplement to
23 Staff Data Request 210 are those quarterly analyses for
24 the period covering the first quarter of 2009 through the
25 fourth quarter of 2011?

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1 A. Yes.

2 Q. And I'm going under the assumption that if
3 there is confidential information, that would be shaded
4 in this document?

5 MS. CARSON: That's correct.

6 BY MR. CEDARBAUM:

7 Q. And you are responsible, or at least your name
8 is on the memo for each of these analyses; is that
9 correct?

10 A. That's correct.

11 Q. So you were responsible for these?

12 A. Can I clarify? These memos are confidential.

13 Q. In their entirety?

14 A. Yes.

15 Q. So if I were to ask you -- this is a little
16 tedious, but look at page 4 of 28, again looking at the
17 numbers in the upper right-hand corner. There's a dark
18 line toward the top or middle part of the page.

19 A. Yes.

20 Q. And there's a sentence right underneath that
21 that says, that starts with "The Company."

22 A. Yes.

23 Q. Is that sentence confidential?

24 A. No, that's -- yes, that one is not.

25 Q. So for each of the analyses in the exhibit, the

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1 Company concluded that it presently has no uncertain tax
2 positions under FIN 48?

3 A. That's correct.

4 MR. CEDARBAUM: Your Honor, I think I can
5 complete within the noon-ish time frame, but I can't
6 guaranty 12 o'clock.

7 JUDGE FRIEDLANDER: That's fine. Please
8 continue.

9 BY MR. CEDARBAUM:

10 Q. If you could look at Exhibit MRM-33.

11 MR. CEDARBAUM: And I should note for the
12 record, Your Honor, that I will have questions of what is
13 in Exhibit 35, MRM-35, and I believe I can't avoid
14 confidential information. So I will be asking for a
15 confidential session at that time, but it would be at the
16 tail end of my cross.

17 JUDGE FRIEDLANDER: I appreciate the advance
18 warning.

19 BY MR. CEDARBAUM:

20 Q. So back to MRM-33, this is your response to
21 Staff Data Request 268; is that right?

22 A. Yes.

23 Q. And if we look at your answer to part 13, which
24 is on the last page of the exhibit, it indicates that the
25 Company's financial statements were audited by the

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1 independent auditing firm Pricewaterhouse Coopers, LLP;
2 is that right?

3 A. Yes.

4 Q. Is it correct that as part of the audit
5 Pricewaterhouse independently reviewed the Company's
6 identification and evaluation of uncertain tax positions?

7 A. Well, in the course of an audit they do lots of
8 work, and that's part of their fieldwork.

9 Q. So the answer to my question is "yes"?

10 A. Yes.

11 Q. In addition to other things they may have done?

12 A. Exactly. It's not the only thing they do.

13 Q. Okay. And is it correct that Pricewaterhouse
14 concurred with the Company's position that there were no
15 uncertainties with respect to the Company's repairs
16 deductions that were reportable under FIN 48 or ASC 740?

17 A. Well, their conclusion is in their audit
18 opinion letter, which is at the beginning of the
19 financial statements, and it concludes that the Company's
20 financial position is fairly stated in all material
21 respects.

22 They don't opine specifically on any particular
23 subcomponent. For example, they don't opine on the
24 repairs calculation. They simply conclude that the
25 financial statements taken as a whole fairly represent

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1 the Company's position.

2 Q. Would they have -- would they have concluded
3 that the Company's financial statements were accurately
4 portrayed if they did not agree with the Company's
5 conclusion about uncertainties under FIN 48 with respect
6 to the repairs deductions?

7 A. It's a bit of a hypothetical, because I mean
8 they have certain standards that they employ, and if that
9 difference was immaterial, I guess they could conclude
10 that the financial statements are still appropriately
11 stated, but it would go back to whatever their policy
12 would be on that point and the amount of the divergence.

13 It's kind of a question more for them and how
14 their procedures would -- what would they reflect in
15 their opinion, depending on the size of the divergence,
16 if there was any.

17 Q. Is it correct that the accumulative impact of
18 the Company's repairs deductions for 2008 through 2011 is
19 material with respect to FIN review?

20 If you would look at -- you could perhaps
21 reference subpart 3 of this response. It states, "It is
22 unlikely that PSE's deduction for repairs in 2011 would
23 be considered a material item. Nevertheless, PSE made
24 the presumption that it is a material item."

25 A. Yeah, that's right. It depends -- if you are

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1 asking about accumulative -- when you are talking about
2 materiality, it depends on the context, material to what.

3 So, for instance, when you are evaluating
4 materiality on the balance sheet, you have one threshold
5 because the numbers are quite large. If you are talking
6 about the income statement, you could have a different
7 result. If you are talking about the tax footnote, you
8 could have a different result.

9 So materiality is a -- it's a judgment and it
10 is a -- it depends on what you are talking about and
11 where it would fall.

12 Q. If you look at subpart 1 of the response, you
13 provide a discussion of what materiality is. So that's
14 what I'm talking about.

15 A. Okay, yes. And that's where I'm speaking about
16 qualitative factors and quantitative factors and would
17 the number be of importance to an investor who would be
18 looking at those financial statements.

19 So if you are asking just about the 2011
20 increment of the repairs deduction, probably not
21 material. Certainly from a balance sheet perspective.

22 Mmm.

23 Q. Let me -- I'm sorry, did you finish?

24 A. Yes.

25 Q. Let me ask this question, then: Is it correct

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1 that the Company's financial statements for 2010 would be
2 materially misstated if Puget had treated the entire
3 accumulative amount of its repairs deductions for 2008,
4 2009 and 2010 as uncertain?

5 A. I'm hesitant to answer that because you are
6 talking about a timing difference, and so if you say that
7 it were to be uncertain, the issue would be one of the
8 interest that would accumulate on that, is that interest
9 material or not, and I don't know what that calculation
10 would be because I don't know -- the other part would be
11 how much of it is uncertain, would it be a hundred
12 percent uncertainty so you would calculate interest on
13 the entire balance, or is it some subset that you would
14 consider uncertain. So you can have an uncertainty that
15 still would not be material.

16 Q. Let me ask it this way: Before we established
17 for the FIN analyses that we looked at before in the
18 prior exhibit, we established that the Company did not
19 find any uncertain tax positions in those analyses.

20 Do you recall that?

21 A. Yes, I do.

22 Q. With respect to the repairs deductions, correct?

23 A. Yes.

24 Q. So if the Company had reported in its financial
25 statements that the entire balance of its repairs

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1 deductions was uncertain, wouldn't those financial
2 statements be misstated?

3 A. Yeah, probably it would be. You know, I guess
4 it would be a large interest expense number that you have
5 to accrue. So that would be material to the income
6 statement, I'm guessing.

7 Q. Maybe I'm not doing as well as I thought I was.
8 Turning to your response to Staff Data Request
9 269, which is Exhibit MRM-34, is it correct that -- is it
10 your understanding that the Commission follows FERC
11 accounting pursuant to its own rule in 480.100, WAC
12 480.100?

13 A. Could I have the citation? I think I went to
14 the wrong exhibit.

15 Q. On MRM-34. And just to accelerate this, on
16 page 2, the second sentence of that paragraph at the
17 bottom, you indicated, "By rule the Commission has chosen
18 to follow FERC accounting under WAC 480-100-203 and
19 480-90-203."

20 A. Yes, that's correct.

21 Q. Is it correct that under normal FERC accounting
22 the entire effect of income tax deductions that affect
23 ADIT is deducted from rate base?

24 A. Yes, it is.

25 Q. Is it correct that FERC has no requirement that

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1 an IRS audit be completed for the ADIT balances to be
2 deducted from rate base, if you know?

3 A. You are correct. They do not require an IRS
4 audit, and this is one instance where the Commission has
5 deviated from FERC accounting.

6 Q. I guess my question is, what specific statement
7 in the Commission's -- you are referring to the
8 Commission's 2009?

9 A. Order to the PSE, Order 11, yes, where they
10 tell us to don't include an adjustment to the accumulated
11 deferred income tax until the IRS audit has been
12 completed.

13 Q. And where in the order is there a specific
14 statement that the Commission stated that the Commission
15 is deviating from normal FERC accounting?

16 A. There's not a specific statement, but you can't
17 conclude otherwise. You have to say -- if the Commission
18 says to do something and it doesn't comply with FERC,
19 then that is by default a deviation, but it doesn't
20 explicitly say, This is a deviation.

21 Q. If we look at the last paragraph of your
22 response to Data Request 269, and this gets to, I think,
23 what you are talking about.

24 The second to the last -- excuse me, the third
25 to the last sentence says, "The Commission confirmed

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1 PSE's treatment of its repairs deduction in Order 6 of
2 PacifiCorp's last general rate case," and you cite --

3 A. Correct.

4 Q. -- a paragraph of the order?

5 A. Yes.

6 Q. Is it correct that if the Commission applied to
7 PSE in this current case the same treatment it applied to
8 PacifiCorp with respect to ADIT from the repairs
9 deductions in that Company's last general rate case, the
10 result would be that all recorded ADIT related to repairs
11 deductions would be deducted from PSE's rate base?

12 A. The finding in the PacifiCorp case was that
13 their adjustment was known and measurable, and the
14 finding in PSE's prior rate case was that our deduction
15 was not known and measurable.

16 So if you made a finding that is known and
17 measurable for PSE, your result will look somewhat
18 similar to PacifiCorp.

19 MR. CEDARBAUM: Your Honor, at this time I do
20 need to move into my final line of questions, which
21 involves Exhibit MRM-35, and we do need to have that be
22 confidential, and I'm happy to do that after lunch, if
23 you prefer to do that, or now.

24 JUDGE FRIEDLANDER: How many questions do you
25 have? Is it going to take a long time?

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1 MR. CEDARBAUM: It's actually a little
2 difficult to know, because we're trying to understand
3 some of the information in the document.

4 JUDGE FRIEDLANDER: Okay. Then why don't we go
5 ahead and take our lunch recess now. I don't know what
6 the practice has been, but is an hour sufficient so that
7 we can conclude today?

8 CHAIRMAN GOLTZ: Yes.

9 JUDGE FRIEDLANDER: Why don't we come back at
10 1:05. Thank you. We are off the record.

11 (A lunch break was taken
12 from 12:05 p.m. to 1:10 p.m.)

13
14
15 (Pages 980 through 994 deemed
16 confidential, and bound under
17 separate cover.)

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1 JUDGE FRIEDLANDER: We will go back on the
2 record. This is the recommencement of the public portion
3 of Mr. Marcelia's testimony, and I believe that Mr.
4 Cedarbaum has indicated that he is finished with
5 cross-exam. So we are back with Mr. ffitch.

6 MR. FFITCH: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. FFITCH:

9 Q. Good afternoon, Mr. Marcelia.

10 A. Good afternoon.

11 Q. I will just kind of set the stage here.

12 It is true that Public Counsel is challenging
13 the Company's accounting for the tax net operating
14 losses, correct?

15 A. That the Public Counsel is challenging it?

16 Q. Correct.

17 A. Yes.

18 Q. All right. And Public Counsel's position is
19 that we disagree that the Company's rate base should be
20 increased to reflect the tax effect of the net operating
21 losses; isn't that right?

22 A. I think that's a good summary.

23 Q. Could you please turn to your rebuttal
24 testimony, which is Exhibit MRM-14T?

25 A. I'm there.

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1 Q. And go to line 16.

2 A. Which page?

3 Q. I'm sorry. Page 59.

4 A. Page 59.

5 Q. Page 59, line 16.

6 A. Okay. I'm there.

7 Q. And there you state that Public Counsel is
8 incorrect in its claim that the current tax methodology
9 used for ratemaking purposes does not consider when taxes
10 are actually paid by the Company, correct?

11 A. Could you clarify the page and the line number
12 again?

13 Q. Okay. This may be a victim of the PDF versus
14 Word document. Let's try page 57. I converted when I
15 shouldn't have converted.

16 I had the correct page numbers in the
17 beginning. So this would be page 57 of your rebuttal
18 testimony.

19 A. Okay. And the line number?

20 Q. It would be line 19.

21 A. Okay. I see it now.

22 Q. All right. I apologize.

23 And, again, there you state that Public Counsel
24 is incorrect in its claim that the current tax
25 methodology used for ratemaking purposes does not

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1 consider when taxes are actually paid by the Company,
2 correct?

3 A. Correct.

4 Q. Would you agree with me that the revenues and
5 expenses reflected in the utility's revenue requirement
6 for ratemaking purposes can differ from the revenues and
7 expenses reflected in the utility's tax return?

8 A. Yeah, the tax return would include all the
9 items of the Company, not just the regulated operations.

10 Q. All right. And one of the differences is due
11 to the fact that there are timing differences between the
12 ratemaking methodologies utilized and the tax
13 methodologies utilized, for example, timing differences
14 with respect to depreciation expense, correct?

15 A. Yes.

16 Q. And in setting utility rates, would you agree
17 that a regulatory commission establishes pro forma tax
18 expense, both current and deferred, based on pro forma
19 adjustments to the utility's ratemaking books and records
20 and books of account?

21 A. They sure can.

22 Q. Does the Commission utilize the Company's
23 actual tax returns to determine income tax expense for
24 ratemaking purposes?

25 A. No. They don't use the actual tax return.

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1 Q. How would you define net operating losses?

2 A. Well, under Section 172 of the Internal Revenue
3 Code, it basically says that to the extent you have
4 expenses in excess of your revenue, it creates a net
5 operating loss.

6 Q. Are net operating losses based on amounts
7 calculated for ratemaking purposes or are they based on
8 losses reported on a federal income tax filing?

9 A. Well, they're reported on the federal tax
10 return. I mean you can have a loss from -- under
11 regulatory accounting purposes as well having one from on
12 an actual income tax return.

13 I mean you can have a loss for both
14 calculations or one can have a loss and one cannot have a
15 loss for taxes. And we're talking about taxes, tax net
16 operating loss, correct?

17 Q. Well, here's my question: Are net operating
18 losses based on amounts calculated for ratemaking
19 purposes or are they based on losses reported on a
20 federal income tax file?

21 A. I guess you can have both. I'm not quite sure
22 I'm following you, but I...

23 Q. Does it help if I say, if the question is
24 regarding tax net operating losses?

25 A. Well, we do report -- we did report tax net

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1 operating losses on the tax return.

2 We also reported in this filing a net operating
3 loss in the test year, using all the regulatory
4 adjustments that you see, because if you look at the
5 exhibit, I believe it's -- there's one for John Story and
6 there's one for Mike Stranik -- a 6.04.

7 The current tax in both of those was a negative
8 number, which would indicate a tax net operating loss,
9 using all the revenue and expenses that are appropriate
10 for ratemaking. So you can have net operating losses in
11 both instances, or sometimes those could diverge.

12 Q. Could you please turn to page 58 of your
13 rebuttal testimony? That would be lines 10 to 12.

14 A. I am there.

15 Q. And there you state that if Puget Sound Energy,
16 or PSE, were to account for the net operating losses in a
17 different manner, it would run afoul of the normalization
18 provisions of the tax code, correct?

19 A. Yes.

20 Q. Could I please direct you to your Cross-
21 Examination Exhibit MRM-36 CX?

22 A. Yes, I'm here.

23 Q. And in that data request we asked you to
24 provide any private letter ruling supporting your
25 contention, correct?

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1 A. Yes.

2 Q. And you provided three private letter rulings,
3 correct?

4 A. Yes.

5 Q. And they are attached to the exhibit, but two
6 of those rulings were from 1988, correct?

7 A. '88, '89 and '93, I think.

8 Q. You can take a look if you would like.

9 A. Yeah, I will do that.

10 Q. The first one starts on page 3 of the exhibit.
11 The next one is on page 6 of the exhibit.

12 A. Yes. There was an '88, 1989 and -- oh, I guess
13 I'm focused on the issue date. You can tell the date of
14 PLRs from the first two digits of the numbers.

15 So the first PLR is 88.180.404. That would
16 have been a 1988 PLR. The second one is PLR 89.030.80,
17 which would be a 1989 PLR. And then the final one is the
18 1993 PLR, which is 93.36.101.

19 Q. All right. Looking at the -- at page 6 of the
20 exhibit with regard to the 1989 document that you
21 mentioned, why does it say October 26, 1988?

22 A. That may have been the date that the IRS issued
23 it, but the date it was published would have been the
24 number that I cited.

25 Q. Okay. Now, the third letter ruling in this

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1 exhibit that starts on page 14 of the exhibit relates to
2 excess tax reserves, does it not?

3 A. Let me -- my exhibit doesn't actually have
4 those, that page numbering within the exhibit. I just
5 have the original page numbers.

6 Q. I'm simply referring to the 1993 letter ruling
7 as a whole.

8 A. Okay.

9 Q. So I don't have to ask you what the topic was.
10 I'm asking you if that relates to excess tax reserves.

11 A. Yes, it does, but it also does discuss the NOL
12 issue.

13 Q. Am I correct that excess tax reserves relates
14 to differences that arose when the statutory tax rates
15 were reduced and therefore deferred taxes that had been
16 accrued at a higher rate would actually be paid at a
17 lower rate?

18 A. That's the general definition of excess
19 reserves, yes.

20 Q. The net operating losses that are discussed in
21 your rebuttal testimony do not relate to changes in the
22 statutory tax rates, do they?

23 A. No.

24 Q. Am I correct that they relate to, instead to
25 the bonus depreciation?

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1 A. That's correct.

2 Q. And when was this bonus depreciation actually
3 authorized by Congress?

4 A. Let's see. Our NOLs are from 2009 and 2010. I
5 believe that Congress changed the law in February of
6 2009, and then they changed it again in, I want to say
7 September of 2010, and then again in December of 2010.

8 Q. All right. Thank you.

9 MR. FFITCH: Your Honor. Those are all my
10 questions, and we would offer Public Counsel
11 Cross-Exhibit MRM-36 CX. Thank you, Mr. Marcellia.

12 JUDGE FRIEDLANDER: Thank you. Are there any
13 objections to the admission of this cross-examination
14 exhibit? Hearing none, the motion is accepted.

15 (Exhibit MRM-36 CX was admitted.)

16 JUDGE FRIEDLANDER: And are there any questions
17 from the bench? Commissioner Jones.

18 COMMISSIONER JONES: Good afternoon again.

19 THE WITNESS: Good afternoon.

20 COMMISSIONER JONES: Page 42 of your direct,
21 please. I think I got you there before. So if you could
22 go back there again. It's concerning the property tax
23 calculation used in this filing.

24 THE WITNESS: Yes.

25 COMMISSIONER JONES: So on lines 17 through 19,

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1 you indicate the property tax calculation becomes more
2 accurate as more information or factors become available.
3 So my questions concern that.

4 THE WITNESS: Sure.

5 COMMISSIONER JONES: Systems ratios were not
6 available when you filed at the end of the test year in
7 December, correct, or when you filed -- or they were not
8 available in December 2011?

9 THE WITNESS: They become available in
10 December 2011 for the lien date that would be January 1st
11 of 2011.

12 Are we talking about 2011 or 2010, the test
13 year?

14 COMMISSIONER JONES: 2011.

15 THE WITNESS: Okay.

16 COMMISSIONER JONES: And the levy rates, when
17 were the levy rates released?

18 THE WITNESS: The levy rates are still not
19 known for 2011. They will be -- those will be coming out
20 right around now, actually. Most of them will probably
21 hit around the end of March.

22 COMMISSIONER JONES: End of March?

23 THE WITNESS: Yes.

24 COMMISSIONER JONES: So what is the most
25 current levy rate that you are using in your computation

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1 of property taxes?

2 THE WITNESS: We are using an estimate of the
3 2011 levy rate.

4 COMMISSIONER JONES: An estimate based on what?

5 THE WITNESS: Based on our analysis of the
6 prior year levy rates and the trend in where those are
7 headed.

8 COMMISSIONER JONES: And have you or Mr. Story
9 provided any updates or new information on either the
10 levy rate or the systems ratio for this record?

11 THE WITNESS: No, not for this record. It
12 is -- the system ratio was very, very close to what we
13 had in there. The levy rate, we haven't changed that
14 estimate from what is in here presently.

15 COMMISSIONER JONES: Okay. We will then shift
16 to property taxes for the Lower Snake River project.

17 THE WITNESS: Yes.

18 COMMISSIONER JONES: And I'm going to direct
19 these to you rather than Mr. Garratt, because you are the
20 property tax expert.

21 THE WITNESS: Okay. Yes.

22 COMMISSIONER JONES: Maybe you could get Mr.
23 Garratt's RG-1 HCT in front of him. Do you have that? I
24 can give you mine. It's a pretty simple cite, if you
25 wish.

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1 CHAIRMAN GOLTZ: I don't think I made any
2 secret notes on it.

3 COMMISSIONER JONES: It's a very simple two --
4 a one-sentence cite. I just want to make sure you have
5 it in front of you.

6 THE WITNESS: I think I have it in front of me
7 now.

8 COMMISSIONER JONES: If you could go to Mr.
9 Garratt's testimony, page 85 at the bottom.

10 I don't think this is confidential, Counsel.
11 It is not. It's the -- do you have that in front of you?

12 THE WITNESS: I do.

13 COMMISSIONER JONES: It's the sentence at the
14 bottom referring to Garfield County property taxes.

15 THE WITNESS: Yes, I see it.

16 COMMISSIONER JONES: Do you see that?

17 THE WITNESS: Uh-huh.

18 COMMISSIONER JONES: So this is more of a
19 clarification question.

20 So would you agree that property tax levy rates
21 are a function of counties' budgets and really don't lend
22 themselves to statistical trending?

23 THE WITNESS: No. And can I explain that?

24 COMMISSIONER JONES: Sure.

25 THE WITNESS: When we are estimating our

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1 property taxes on a companywide basis, we're not focused
2 on any particular jurisdiction or any particular property
3 location, because if you look at a specific parcel that
4 is subject to a particular hospital rate, a library
5 district, a county number, there's a whole bunch of
6 particulars to that unit, but as you step back and you
7 look at a more companywide basis, and we do ours on an
8 electric basis and a gas basis, we develop a companywide
9 levy rate that kind of blends it all together. When
10 we're doing something specific --

11 COMMISSIONER JONES: So wait a minute. Just
12 stop there for a minute. When you say blend it all
13 together, it would be blend county rate X with county
14 rate, levy rate, different county rates, and you would
15 blend them somehow all together?

16 THE WITNESS: What we do is, we do on a
17 per-county basis, we factor in -- for example, take a
18 number like 2009. We know all the information for 2009,
19 and we analyze it on a per-county basis and we develop a
20 weighted average levy rate applicable for 2009, all
21 electric property, okay?

22 It factors in all the counties, relative
23 damaged properties in the county. Weighted average gives
24 you a total aggregate you can apply to total property.

25 We do that analysis, and we have that analysis

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1 going back like 20 years. So we have an idea as to what
2 the levy rates are doing. So that's what I mean when I
3 say blend it all together. We have a whole bunch of
4 annual numbers that apply to the entire population.

5 Where that breaks down is in a situation like
6 LSR. That's a specific piece of plant where that normal
7 trending doesn't really make sense to apply it to an LSR,
8 so do you something like this and you focus it more
9 particularly.

10 COMMISSIONER JONES: I think I understand.

11 And the purpose of Mr. Garratt's exercise was
12 to provide an updated budget of the LSR project, correct?

13 THE WITNESS: Yes.

14 COMMISSIONER JONES: And he lowered the overall
15 all-in budget from 848 million to 830 million, right?

16 THE WITNESS: I don't know the particulars.

17 COMMISSIONER JONES: It's there.

18 THE WITNESS: Okay, yes.

19 COMMISSIONER JONES: So in order to do that,
20 and because he included property taxes for Garfield
21 County, doesn't that imply that he had a specific
22 property tax levy rate that he used in this calculation?

23 THE WITNESS: Yes.

24 COMMISSIONER JONES: So what is it? Can you
25 clarify for the record what this, what this property levy

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1 rate is for 2000 -- I mean he did this in 2011, right?

2 What is the date of his testimony? I think it's...

3 THE WITNESS: Yes. That number is available.

4 I don't have it in front of me, but it is knowable, and I

5 have seen the calculation. I don't know what it is,

6 though.

7 COMMISSIONER JONES: Maybe you could just

8 provide that as part of the record.

9 THE WITNESS: Sure.

10 JUDGE FRIEDLANDER: We can go ahead and have

11 you file that as a bench request. I believe we're on

12 No. 14.

13 THE WITNESS: Okay. Yes.

14 COMMISSIONER JONES: And I think that's it.

15 Mr. Cedarbaum asked some of my questions on the topic of

16 repairs deductions. I think he covered that fully. So

17 thank you.

18 THE WITNESS: Thanks.

19 JUDGE FRIEDLANDER: Thank you. Any redirect?

20 MS. CARSON: Yes, Your Honor.

21 REDIRECT-EXAMINATION

22 BY MS. CARSON:

23 Q. Mr. Marcelia, you were asked about the lien

24 dates, and there was some difference of opinion as to

25 what lien date should be used in this case for property

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1 tax?

2 A. Yes.

3 Q. And you had some -- you felt that the
4 January 1, 2010, was not the appropriate lien date for
5 property taxes. Can you explain that?

6 A. Yes. Mr. Applegate in his testimony wants to
7 use the 2001 -- I'm sorry, the January 1, 2010, lien
8 date, and the point which I was trying to make on that is
9 that that's not the appropriate lien date for property
10 tax purposes relative to the test year.

11 That lien date occurs on the very first second
12 of the very first hour of the test year. Nothing that
13 happens during the test year will change the property tax
14 associated with that number. The liability affixes to
15 the assets on that date.

16 Over the course of the test year the number
17 will become more knowable, meaning that it will be --
18 different elements will happen. You'll get the system
19 ratio, you'll get the value, and eventually you will get
20 the levy rate.

21 But the example I like to think of this: If we
22 were to sell half of the assets of the Company during the
23 test year, that property tax situation will not change
24 because it's focused on the January 1st lien date on the
25 first day of the test year. So that's why I say it's not

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1 relevant to the test year, because it doesn't capture any
2 activity in the test year.

3 The same is true if you were to add, you know
4 triple the size of the assets of the Company. That
5 property tax number will not change. You don't know what
6 the number is, but it doesn't apply to any activity that
7 occurs during the test year.

8 The proper lien date to use for the test year
9 is the one that occurs one second after the test year,
10 which in this case would be January 1st of 2011. That
11 will reflect all the activities that occurred during the
12 test year.

13 So that's why I pointed out in my testimony
14 that to use the January 1, 2010, test year, you are
15 missing property tax on 7.5 percent of the Company's
16 assets. You need to use the next lien date. That's the
17 one that is relevant to the test year.

18 Q. That's the January 1, 2011, lien date?

19 A. Correct.

20 Q. Mr. Cedarbaum asked you some questions about
21 the cash accounting versus accrual accounting?

22 A. Yes.

23 Q. Can you explain that in more detail and your
24 concerns with Mr. Applegate's adjustment?

25 A. Yes. And that is -- he alluded to it on

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1 Cross-Exhibit MRM-18, where I explain that Mr. Applegate
2 is going to the cash method of accounting, based on what
3 I have quoted from his testimony there.

4 Now, obviously that's not an appropriate
5 methodology, because the Commission has adopted FERC
6 rules which require accrual accounting, and this falls
7 short.

8 The other problem is that he doesn't calculate
9 the cash taxes that were paid during the test year. That
10 relates to the period of the assets that would have been
11 owned in 2008, actually. So cash is not the correct
12 thing to look at for property taxes.

13 The other element of Mr. Applegate's testimony
14 that is incorrect is that he indicates that he is using
15 the -- he's trying to capture the outlays that PSE must
16 make as a result of owning property during the test year.

17 It doesn't have anything to do with the test
18 year, as I've just indicated. That lien date, you could
19 dispose of all assets of the Company and that property
20 tax liability number will be the same.

21 Q. You also were asked about the property tax for
22 LSR, and you stated that CWIP is subject to property tax,
23 correct?

24 A. Correct, it is.

25 Q. And the CWIP for LSR is subject to property

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1 tax, right?

2 A. Yes, it is.

3 Q. So what approximately is the current amount of
4 LSR CWIP subject to property tax as of December 31, 2011?

5 A. It's approximately \$727 million, which is the
6 majority of the plant, because it's so close to
7 completion.

8 Q. Do you know how much of the total plant value
9 of LSR was included in CWIP as of December 31st, 2011?

10 A. It's about 207 -- I'm sorry, 727 million, which
11 is, I don't know, it's like 90, 95 percent of the total
12 cost of the plant.

13 Q. When is that tax accrued and when is it paid?

14 A. Well, it will go into the January 1st lien date
15 for 2012. So it will be accrued during 2012 and it will
16 be paid in 2013.

17 Q. You were also asked about the repairs methods,
18 and you were -- you made reference to the Commission's
19 2009 order?

20 A. Yes.

21 Q. Or their order in the Company's 2009 rate case.

22 What is your understanding of the Commission's
23 direction to PSE in that case regarding the repairs
24 method?

25 A. The direction, I think, is very clear.

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1 MR. CEDARBAUM: Your Honor, I guess I will
2 object only because we had a lot of rebuttal testimony on
3 this. It's covered.

4 JUDGE FRIEDLANDER: Ms. Carson.

5 MS. CARSON: Mr. Cedarbaum directly referred to
6 Mr. Marcelia's testimony in 2009 and has -- I believe has
7 an exhibit with the order. So I think he's raised the
8 issue on cross-examination, and we will be short, but I
9 think we deserve a chance to rebut.

10 MR. CEDARBAUM: I don't know what exhibit she's
11 referring to. We have an exhibit of Mr. Gaines on the
12 capital structure section from that order, but we
13 don't -- I don't believe we have anything on cross of
14 this company of an exhibit with the Commission's order
15 from that 2009 case.

16 MS. CARSON: Well, there were certainly
17 questions here this morning on cross-examination about
18 the difference between the PacifiCorp order and PSE's
19 understanding that it should follow the 2009 order. So I
20 think it's fair for Mr. Marcelia to be able to respond to
21 that.

22 JUDGE FRIEDLANDER: I'm going to allow it.
23 Objection overruled.

24 THE WITNESS: The Order 11 from our 2009
25 case -- I'm reading the relevant part -- it says that the

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1 Company should implement an ADIT, which is accumulated
2 deferred income tax, in a future case if the IRS approves
3 its methodology for treatment of the repairs following an
4 audit.

5 So the Commission issued that order in response
6 to our prior experience with simplified service cost
7 method, which was a different accounting method change,
8 and in that method change it was a similar dollar amount,
9 similar in size, similar in materiality.

10 And with that method change we did it. We
11 ended up losing the entire amount in an IRS audit. We
12 appealed that. It was reinstated about 85 percent. Then
13 the IRS changed the rules and we had to move off of that
14 method.

15 That experience was what led the Commission to
16 issue this order to us. I mean in fact they even cite
17 that fact when they talk about the risk of the simplified
18 service cost method in our Order 11.

19 And I think that contrasts with the PacifiCorp
20 case, where the Commission decides in the PacifiCorp case
21 that PacifiCorp's method change as known and measurable,
22 based on the record in the PacifiCorp case. So the
23 difference between the two records, and the Commission
24 reached different conclusions because of that.

25 Now, in the PacifiCorp case, I think that it's

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1 important to note that the Commission basically reaffirms
2 the Puget case, because they refer to our case and they
3 cite, Yeah, in Puget we told them not to do it until
4 after the conclusion of an IRS audit because it's not
5 known and measurable, but in the -- but then they go on
6 to say, But here with PacifiCorp it is known and
7 measurable.

8 So we are following our order, Order 11. We
9 are following PacifiCorp's order, which is Order 6 in the
10 last GRC. In both cases the Commission comes to the same
11 conclusion. Ours is not known and measurable until an
12 IRS audit is complete. And so that's -- it seems to be
13 fairly clear.

14 BY MS. CARSON:

15 Q. Could the Company potentially face penalties or
16 interest at a later point in time relating to the repairs
17 method?

18 A. Yes. To the extent the IRS modifies it, we
19 would be subject to interest and penalties, which
20 occurred in the simplified service cost method
21 adjustment.

22 The Company was subject to about a \$6.9 million
23 interest expense charge related to that related to that
24 method change. So we'd be in the same position here,
25 which also informed their order to not include it.

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1 Q. What about the safe harbor?

2 A. Well, the IRS has issued a safe harbor for the
3 repairs deduction. That's Revenue Procedure 2011-43.

4 And that safe harbor only applies to
5 transmission distribution, and it identifies -- the IRS
6 states units of property that are smaller than what Puget
7 has claimed in its method change.

8 I don't know what the impact of that is going
9 to be on our adjustment, because our methodology does not
10 comply with the safe harbor method, so we can't avail
11 ourselves to those protections at this point.

12 So what that tells me is, you know, if we go to
13 a safe harbor method, it is likely to be smaller, but I
14 don't know how much smaller, because you're changing the
15 whole premise of the calculation. We have larger units
16 of property.

17 For example, we say that an electric circuit is
18 a unit of property, whereas the IRS says all of the poles
19 in an electric circuit are a unit of property, all the
20 wires in an electric circuit are a unit of property.

21 So you can see it is a smaller calculation,
22 which means that less of our expenditures will qualify
23 going forward for a deduction.

24 Q. And just to clarify, when was the safe harbor
25 made available?

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1 A. It was -- the IRS issued it in August of 2011.
2 So it was well after the test year.

3 Q. And well after you had started with the repairs
4 method?

5 A. Correct, yes.

6 Q. Mr. Cedarbaum quoted your testimony from the
7 last general rate case regarding the IRS accepting the
8 repairs method.

9 So what exactly does it mean when the IRS
10 accepts a method like that?

11 A. What we had to do to make the repairs method
12 changes, we had to basically ask the IRS and get their
13 permission to make the change.

14 The IRS granted that -- granted us the approval
15 to make the change, and that's the approval that I was
16 referring to with Mr. Cedarbaum, that he quoted from our
17 last exhibit, the last GRC.

18 But that document specifically says that
19 they're not approving of the calculation or the
20 particular methodology. They're only saying, Yes, Puget,
21 you can make the change, but they're reserving until
22 audit whether or not our methodology is appropriate
23 according to their interpretation of the statute.

24 So it's correct to say that we have IRS
25 approval to make the change. That is not the same thing

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1 as saying the IRS has accepted our methodology or our
2 calculation.

3 Q. You were asked about changes to account 190
4 since the test year?

5 A. Yes.

6 Q. Have there been any other deferred tax accounts
7 that have changed during the test year?

8 A. Well, I think just probably about every account
9 has changed since the test year. I mean because it's
10 all -- in that exhibit we were looking at, you can just
11 kind of go through the list and see that the activity
12 that is reported for 2011 will hit almost every, if not
13 every, deferred tax account. So yeah, they're all
14 different in the post-test year.

15 Q. And are some of those relevant to activities in
16 the test year?

17 A. Well, I would say that they're not relevant to
18 the test year. This is based on activity that occurred
19 after the test year.

20 For example, new assets were placed in service
21 and we took a bonus depreciation on them. Well, that's a
22 post-test year calculation.

23 MS. CARSON: I have no further questions.

24 JUDGE FRIEDLANDER: Thank you. With no further
25 questions from the bench, the witness is excused. Thank

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1 you.

2 With regard to Mr. Stranik, I believe that
3 counsel for PSE and Staff have reached a settlement of
4 sorts on the admission of his exhibits.

5 Mr. Cedarbaum, if you want to just kind of
6 state that for the record.

7 MR. CEDARBAUM: Sure. That's correct, Your
8 Honor. The only intention I had for cross-examination of
9 Mr. Stranik was to have him identify the cross-exhibit
10 that we distributed.

11 My understanding is that the Company will
12 stipulate that in, in which case I will agree to
13 stipulate in Mr. Stranik's prefiled materials. So from
14 my perspective, and I think the Company's perspective,
15 Mr. Stranik doesn't need to take the stand, unless the
16 Commissioners or other parties have questions.

17 JUDGE FRIEDLANDER: Thank you. So do any of
18 the other parties object to the admission of these
19 exhibits? Hearing none, so admitted.

20 (Exhibit MJS-1T through MJS-22 CX was admitted.)

21 JUDGE FRIEDLANDER: And Mr. Stranik should take
22 the stand because we do have questions from the bench.
23 So if you will remain standing and raise your right hand.

24 Do you swear or affirm that the testimony you
25 are about to give is the truth, the whole truth and

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1 nothing but the truth?

2 MR. STRANIK: I do.

3 JUDGE FRIEDLANDER: You may be seated.

4 MICHAEL J. STRANIK, witness herein, having been
5 first duly sworn on oath,
6 was examined and testified
7 as follows:

8 CHAIRMAN GOLTZ: So, Mr. Stranik, sorry to keep
9 you here for four days for this very brief question or
10 two. Just turn to page 32 of your prefiled direct
11 testimony.

12 THE WITNESS: Yes.

13 CHAIRMAN GOLTZ: And this is a cost-benefit
14 summary for the Company airplane, correct?

15 THE WITNESS: That's correct.

16 CHAIRMAN GOLTZ: What is in the first line,
17 aircraft usage allocated to company departments? What is
18 that?

19 THE WITNESS: So we have variable costs
20 associated with the plane that we charge out to people
21 who use the plane. So that's what has been charged out
22 to those individual departments using them.

23 CHAIRMAN GOLTZ: So that is a cost?

24 THE WITNESS: That is a cost, and it's part of
25 also the PSE's fixed and variable costs, in that \$633,000

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1 number as well.

2 CHAIRMAN GOLTZ: So, but I wanted to -- so the
3 total costs are \$633,000?

4 THE WITNESS: That's correct.

5 CHAIRMAN GOLTZ: Or plus a little bit. The
6 total benefits are you say 670, but that includes the
7 126. So you are including 126 as both the cost and the
8 benefit?

9 THE WITNESS: That's true, because that's a
10 cost that would be also -- you think about flying
11 commercial some place as well. So we're allocating that
12 cost instead of flying on a commercial airline.

13 CHAIRMAN GOLTZ: So I thought the second line
14 for benefits was true trip cost savings using company
15 aircraft. That 149 does not recognize the savings for
16 not flying commercial?

17 THE WITNESS: It does include the savings, but
18 not --

19 CHAIRMAN GOLTZ: So what I don't understand is
20 why the 126,945 is included in your benefits calculation.

21 THE WITNESS: The 126 is the base cost. So if
22 there's any -- say the -- say, for instance, that it cost
23 the airplane \$500 to go to Portland, but you had to fly
24 commercial and it would cost you a thousand dollars
25 instead.

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1 The \$500 to Portland that it cost the airplane
2 would be in the \$126,000 number. The savings associated
3 with using the aircraft, which was the cheaper fare by
4 using the aircraft, the other \$500 would be in the 149.

5 CHAIRMAN GOLTZ: So there's a savings, is in
6 the 149, but the 126 is another savings?

7 THE WITNESS: No, it's the actual cost.

8 CHAIRMAN GOLTZ: And that cost then is passed
9 on through -- a cost of the Company passed on to
10 ratepayers?

11 THE WITNESS: That's correct.

12 CHAIRMAN GOLTZ: So I'm still having trouble
13 figuring out why the total benefits is in the sum of
14 149,880 plus 393,509.

15 THE WITNESS: Those are the savings, those are
16 the total savings, but when you are comparing the fixed
17 and variable costs associated with the airplane, you also
18 have to compare the actual cost of that airplane on using
19 the airplane in place of commercial airfare.

20 CHAIRMAN GOLTZ: And that's not captured in the
21 149?

22 THE WITNESS: No, that is not. The costs
23 associated with using the commercial airplane is not in
24 the 149.

25 CHAIRMAN GOLTZ: So you have -- so you have to

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1 have the costs in both the cost -- those costs of the
2 commercial aircraft are costs on both sides of the
3 ledger?

4 THE WITNESS: Yes. You have to have comparable
5 numbers.

6 CHAIRMAN GOLTZ: I have no further questions,
7 but I might after talking to one our accountants have a
8 bench request. So thank you.

9 JUDGE FRIEDLANDER: Thank you. Were there any
10 other questions? Okay, thank you, and the witness is
11 excused. I believe the next witness we have is Mr.
12 Story.

13 THE WITNESS: I'm already sworn in.

14 JUDGE FRIEDLANDER: I see. So I will remind
15 you that you are still under oath. Ms. Carson.

16 MS. CARSON: Thank you, Your Honor. Are you
17 ready, Mr. Story, or do you need a minute to get your
18 many notebooks in order?

19 THE WITNESS: It's falling apart here. Okay.

20

21 JOHN H. STORY, witness herein, having been
22 previously sworn on oath,
23 was examined and testified
24 as follows:

25

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1 DIRECT EXAMINATION

2 BY MS. CARSON:

3 Q. Good afternoon, Mr. Story.

4 A. Good afternoon.

5 Q. Please state your name and title and spell your
6 last name for the court reporter.

7 A. My name is John Story. I'm director of cost
8 and regulation. My last name is spelled S-T-O-R-Y.

9 Q. Mr. Story, do you have before you what has been
10 marked for identification as Exhibit Nos. JHS-1T through
11 JHS-30?

12 A. I do.

13 Q. Do these exhibits constitute your direct,
14 supplemental and rebuttal testimony and related exhibits
15 in this proceeding?

16 A. They do.

17 Q. Were these exhibits prepared under your
18 supervision and direction?

19 A. They were.

20 Q. Do you have any corrections to any of your
21 exhibits at this time?

22 A. Yes, I do. In the direct testimony on page 19,
23 on the first line where it says five-year tax
24 depreciation with an additional half-year bonus
25 depreciation, that should be with a half-year convention

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1 included in the tax year depreciation. The bonus
2 depreciation is addressed a little bit further down on
3 that paragraph.

4 And then my rebuttal testimony, on page 51,
5 lines 15 through 19, and on page 52, lines 1 through 2,
6 should be struck. That testimony is actually related to
7 the Montana energy tax and is included in that place. It
8 was just a copy-and-paste error in putting the testimony
9 together.

10 Q. You also had revisions to some pages of your
11 exhibits; is that correct?

12 A. That's correct.

13 Q. And we provided replacement pages to the
14 Commission. These relate to the change in the in-service
15 date for LSR and the effects on some of Mr. Story's
16 exhibits.

17 A. Yes. And as far as those are concerned,
18 it's -- with the change from the February 11th in-service
19 date to the February 29th in-service date, that meant
20 that LSR had additional AFDC accumulated, plus a few
21 additional costs associated with putting the plant in
22 service.

23 The reason for the delay was the -- partially
24 due to the ice storm. Testing on the transmission lines
25 and testing of the meters was delayed by two weeks, and

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1 then we had a delay with Bonneville also, BPA, where they
2 were about a month late on energizing the substations
3 that would feed the site.

4 So with those, it changes the revenue
5 deficiency from 125,401,598. That includes sales for
6 resale firm to -- I'm sorry. It changes the revenue
7 deficiency to 125,401,598.

8 And that's the reduction of -- I'll have to
9 provide that reduction a little later. I lost where I
10 had it. It's about a \$400,000 reduction, \$409,000
11 deduction from the revenue deficiency.

12 Q. Are there any other corrections?

13 A. That's it.

14 Q. With those corrections, are your prefiled
15 direct, supplemental and rebuttal testimony and
16 accompanying exhibits true and correct to the best of
17 your information and belief?

18 A. That's correct.

19 Q. Thank you.

20 MS. CARSON: Your Honor, PSE offers Exhibits
21 JHS-1T through JHS-30 into evidence, and offers Mr. John
22 H. Story for cross-examination.

23 JUDGE FRIEDLANDER: Any objections? Hearing
24 none, so admitted.

25 (Exhibit JHS-1T through JHS-30 was admitted.)

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1 JUDGE FRIEDLANDER: Mr. Cedarbaum.

2 MR. CEDARBAUM: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. CEDARBAUM:

5 Q. Hello, Mr. Story.

6 A. Good afternoon.

7 MR. CEDARBAUM: Your Honor, this is hopefully a
8 housekeeping matter. Staff had filed Cross-Exhibits 31
9 CX and 32 CX, and if it is helpful to offer those now.

10 JUDGE FRIEDLANDER: That's fine. Are there any
11 objections? So admitted.

12 (Exhibit JHS-31 CX and JHS-32 CX was admitted.)

13 BY MR. CEDARBAUM:

14 Q. Mr. Story, if you could please look at page 12
15 of your rebuttal testimony.

16 A. I'm there.

17 Q. And the context of the testimony at this point
18 of your rebuttal is LSR deferrals; is that right?

19 A. That's correct.

20 Q. At line 18 you state, "One can only speculate
21 the Commission Staff feels that the RCW 80.80.060
22 deferral should be as accurate as possible."

23 Do you see that?

24 A. Yes, that's correct.

25 Q. Understanding you are not an attorney, and I

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1 don't want to -- I'm not going to ask you for any legal
2 interpretation, but you are generally familiar then with
3 the provisions of the statute that you cite?

4 A. Yes, I am.

5 Q. And the deferral provisions are in
6 subparagraph 6 of that statute?

7 A. That's correct.

8 Q. And I have copies of the statute, if you don't
9 have one yourself. If you would like to look at it, I
10 think I can hand you one.

11 A. I do not have one handy, no. Thank you.

12 Q. Is it correct the provision of the statute that
13 you cite states an electrical company may account for and
14 defer for later consideration by the Commission costs
15 incurred in connection with a long-term financial
16 commitment? Do you see that?

17 A. That's correct.

18 Q. And LSR would be a long-term financial
19 commitment?

20 A. Yes.

21 Q. Is it your understanding that when the statute
22 uses the term "incurred" with respect to costs, that
23 would mean costs actually incurred, correct?

24 A. Not necessarily. They use the term
25 "depreciation." You don't incur depreciation. It's an

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1 estimate of the life, economic life, of an asset.

2 Q. Other than that -- you raise a point. The
3 statute does refer to plant costs, O&M and depreciation
4 and the cost of invested capital. It would include those
5 items?

6 A. I would agree with that. I think when you read
7 this in context, it's -- I would believe that the
8 legislature was believing that you would incur the costs
9 that you would recognize for accounting purposes.

10 Q. Are the costs that you recognize for accounting
11 purposes not the costs that you incur?

12 A. Not necessarily at the time that you recognize
13 them. Depreciation, you incur that cost well in advance
14 of the depreciation. Property taxes, you incur -- you
15 accrue them and then you incur the cost the year
16 following.

17 Q. So you would -- the way that you read the
18 statute then, "incur" refers to costs recorded for
19 accounting purposes?

20 A. Yes.

21 Q. Is it also your understanding of the statute
22 that deferral is allowed to begin on the date that a
23 plant begins commercial operation?

24 A. That's correct.

25 Q. So the date of commercial operation would be a

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1 date certain?

2 A. Yes.

3 Q. Now, you indicated, I think, in your testimony
4 that it looks -- the Company is expecting the Lower Snake
5 River to go into commercial operation February 29th?

6 A. That's correct.

7 Q. So any time prior to that date the Company
8 cannot defer costs?

9 MS. CARSON: I'm going to object. I'm going to
10 object. These call for legal conclusions.

11 MR. CEDARBAUM: The witness referred to the
12 statute, characterized Staff's treatment under that
13 statute. I'm perfectly -- I started off my questions
14 saying that I wasn't asking for a legal conclusion. I'm
15 looking for his accounting opinion as to how he would
16 apply the statute.

17 JUDGE FRIEDLANDER: I'm going to allow it,
18 because we're certainly aware of Mr. Story's
19 qualifications, that he's not a lawyer. So objection
20 overruled.

21 BY MR. CEDARBAUM:

22 Q. Just to repeat the question, given the expected
23 February 29th in-service date for LSR, deferrals would
24 not be allowed prior to that time?

25 A. That's correct.

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1 Q. And the statute also says that deferrals and
2 when this Commission issues its final decision; is that
3 right?

4 A. The deferrals will cease when the Commission --
5 I'm not sure where you're looking. Which paragraph are
6 you in now?

7 Q. Again staying with subsection 6, the very
8 middle of that paragraph toward the ends, it says,
9 "Deferral ends on the effective date of the final
10 decision by the Commission in such proceeding."

11 A. That's correct.

12 Q. And that date would be a certain date, the date
13 the Commission issues its order?

14 A. That's correct. I'm not sure it would be the
15 date the Commission issues the order or the date that the
16 order becomes effective.

17 You know, the -- you have a compliance filing
18 following the order, and generally it's within five days,
19 but it would be close. So the rates would become
20 effective generally shortly after the order. I would say
21 that would be the stop of the time frame, or the
22 deferral.

23 Q. But that's a date certain?

24 A. That's a date certain.

25 Q. On page 31 of your rebuttal, switching topics,

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1 at line 16 -- and just to back up, this is -- your
2 testimony here addresses Staff storm damage adjustment,
3 correct?

4 A. Yes, it does.

5 Q. And you state at line, the end of line 15 to
6 16, with respect to Mr. Applegate's testimony on impact
7 on risk allocation, that his testimony seems disingenuous
8 based on Commission Staff's position on the pipeline
9 integrity program, PIP filing, Docket No. UG-110723,
10 where the Commission argues that the Company's return on
11 equity should be adjusted down if it is allowed to
12 collect an amount through the PIP that is less than
13 10 percent of the amount at issue in the storm deferral.

14 Do you see that?

15 A. That's correct.

16 Q. Now, in Exhibit JHS-31, which is one of your
17 cross-exhibits -- I meant JHS-32.

18 A. I have that, yes.

19 Q. This is your response to Staff Data Request
20 273?

21 A. That's correct.

22 Q. We asked you to provide specific citations to
23 the Staff testimony and/or briefing in that the PIP
24 docket supporting your testimony, or characterization of
25 the Staff testimony, the Staff argued for a reduction in

1033

1 the return on equity; is that right?

2 A. That's correct.

3 Q. And is it correct in your answer you didn't
4 provide any citation to the Staff case in which there was
5 a specific downward adjustment for return on equity by
6 Staff; is that right?

7 A. No, we did not.

8 Q. You provided citations upon which you have
9 drawn an interpretation?

10 A. That's correct.

11 Q. At the last paragraph of the response on
12 page 2, the last sentence says, "In addition to the
13 above, PSE was presenting its PIP proposal to UTC Staff.
14 The Staff stated on several occasions that one of its
15 conditions to supporting a pipeline safety tariff would
16 be an adjustment to PSE's return on equity."

17 Do you see that?

18 A. That's correct.

19 Q. Now, you were referring at that point to
20 informal discussions between Staff and the Company prior
21 to the suspension of that tariff, correct?

22 A. That's correct. And shortly after the
23 suspension, too. We were talking about different ways of
24 structuring the PIP.

25 Q. Certainly once we got into litigation Staff

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1 didn't make any recommendation on a specific downward
2 adjustment to ROE?

3 A. Not before the Commission, no.

4 Q. Is it correct that during these informal
5 discussions before suspension that a Company
6 representative initially agreed to a return on equity
7 reduction?

8 MS. CARSON: Objection.

9 JUDGE FRIEDLANDER: What is the basis?

10 MS. CARSON: These are confidential settlement
11 discussions. What Mr. Cedarbaum is referring to are
12 confidential settlement discussions that should not be
13 allowed under the evidence rules.

14 JUDGE FRIEDLANDER: Mr. Cedarbaum.

15 MR. CEDARBAUM: He referred to them in his
16 response to the data request.

17 MS. CARSON: Mr. Story was referring to
18 informal conversations, not settlement discussions.

19 JUDGE FRIEDLANDER: I'm going to have to
20 sustain the objection.

21 BY MR. CEDARBAUM:

22 Q. Finally, Mr. Story, you had a couple questions
23 deferred to you by Mr. Riding with respect to the Jackson
24 Prairie rental cost issue, and I had asked him whether
25 it's the Company's proposal under the power cost

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1 adjustment mechanism as it stands those costs are treated
2 as fixed costs; is that right?

3 A. Currently they're treated as a fixed cost, yes.

4 Q. Did you say "currently"? I missed it.

5 A. They're currently in a fixed cost category,
6 yes.

7 Q. And the Company's proposal is to amend that
8 treatment, to treat them as a variable cost?

9 A. That's correct.

10 Q. Staff's proposal is to maintain the fixed cost
11 treatment, right?

12 A. That's correct.

13 Q. Is it correct that the Company's justification
14 for reclassifying the costs from fixed to variable is, I
15 think in your words, to align the power cost adjustment
16 mechanism with the purchased gas cost adjustment
17 mechanism?

18 A. That's one reason, and another reason is that
19 they are variable. They change year to year.

20 Q. We discussed that with Mr. Riding this morning.

21 Is it correct that the PGA is a dollar-per-
22 dollar pass-through of gas cost expense without any kind
23 of dead band or sharing bands involved?

24 A. That's correct.

25 Q. And the PCA is a recovery mechanism that does

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1 have dead bands?

2 A. That's correct.

3 Q. And the PGA gas side passes through gas costs;
4 is that correct?

5 A. Yes.

6 Q. Does the PCA on the electric side pass through
7 power costs, including capital costs?

8 A. It can.

9 Q. It can?

10 A. It can, yes.

11 MR. CEDARBAUM: Thank you. Those are all my
12 questions.

13 JUDGE FRIEDLANDER: Any redirect? I apologize.
14 Mr. ffitch.

15 MR. FFITCH: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. FFITCH:

18 Q. Good afternoon, Mr. Story.

19 A. Good afternoon.

20 Q. On the issue of the Chelan PUD initiation
21 payments, could you please turn to your Cross-Exhibit
22 JHS-38 CX? It has the response to Public Counsel 266.

23 A. Yes, I have it.

24 Q. And could you please turn to the numbers page,
25 page 2 of the exhibit?

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1 A. Yes.

2 Q. And this is a calculation of the build-up of
3 the deferral for the Chelan initiation payment, correct?

4 A. That's correct.

5 Q. As an example, if we look at line 1 of the
6 information here, we will see for April 2006, if we go to
7 the monthly interest column, we see monthly interest of
8 \$68,371, correct?

9 A. That's correct.

10 Q. And then there is an amount for the gross-up
11 for federal tax of 105,186, correct?

12 A. Yes.

13 Q. Is the difference between these two numbers the
14 amount that was booked to the deferred tax reserve that
15 month?

16 A. To the deferred tax reserve?

17 Q. Correct.

18 A. Thirty-five percent of the federal tax would
19 have been deferred.

20 Q. Based on?

21 A. I don't have the formulas written on my sheet
22 here. Wait just a moment, please.

23 Q. All right.

24 A. Actually, if you turn to JHS-28, it gives you a
25 better indication of the tax calculation.

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1 Q. Okay.

2 A. And this shows you the interest being accrued,
3 the monthly deferred credit and the cumulative balance
4 that is going to the deferred taxes, and it shows you the
5 calculation in the columns in the top.

6 Q. All right.

7 A. So E, which is the cumulative, is the D divided
8 by B is 35 percent accrual on the taxes, and D is the
9 cumulative balance in 283 and B is the cumulative balance
10 in the interest-only account.

11 So you are accruing the interest, or the taxes
12 on the interest. When you net those two, you come down
13 to the net of tax.

14 Q. Okay. And is it your testimony that
15 Ms. Crane's concerns regarding the net of tax issue are
16 addressed by the Company's deferred income tax reserve
17 associated with these payments?

18 A. Yes, they are.

19 Q. So once the Company starts collecting the
20 amortization associated with this deferral, is the
21 deferred income tax reserve reduced by the annual tax
22 gross-up included in rates each year?

23 A. Yes, and it reverses over time.

24 Q. All right. Just a couple more questions on it,
25 on a different topic.

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1 You had testified earlier about the current
2 revenue requirement impact of LSR. That is 125 million,
3 approximately, now with the new in-service date; is that
4 correct?

5 A. That's correct.

6 Q. And can you state the revenue requirement
7 impact of the ROE increase request of Puget Sound Energy
8 in this case?

9 A. It's provided in the -- my direct testimony, I
10 believe. In the direct testimony it gives the different
11 causes of the electric revenue deficiency, starting on
12 page 9, and I know one of them is the change in the
13 return on equity.

14 Q. And how much is that?

15 A. I thought one of them was the change in return
16 on equity. Hang on. Let me see.

17 On little V, little I on page 11, the change in
18 rate base increases the revenue requirement by
19 191.4 million, of which approximately 25.1 million is
20 related to the requested change in rate of return.

21 Q. All right.

22 A. That's the rate of return. So that has
23 interest change in it, too. We could give you the impact
24 on return on equity.

25 Q. Would it be close to that number in general?

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1 A. The -- I don't know offhand. The interest
2 rates dropped quite a bit between these, between this
3 case and the last case. So I'm not really sure of the
4 different components.

5 Q. I guess my question is, but for those two
6 items, the LSR item and the increased ROE, there would
7 have been little or no need for Puget Sound Energy to
8 file this general rate case; isn't that true?

9 A. No, that is not true. The -- one of the
10 exhibits that I provided, and it's probably easiest to
11 look at the rebuttal exhibit, there's a unit cost
12 analysis.

13 Q. I guess my question is, those two numbers that
14 you just provided add up to approximately \$150 million.

15 What is the size of Puget's current combined
16 revenue request in the rate case?

17 A. It's currently about \$125 million, but if you
18 look at Exhibit JHS-24, you will see there are a lot of
19 things that are changing on JHS-24 that are causing
20 revenue deficiency and, also, there are some things that
21 are offsetting the revenue deficiency.

22 One of the items that is really changing the
23 revenue deficiency is power costs, \$149 million,
24 decreased since the last case. With that kind of
25 decrease in power costs, without shoring up the PCA rate,

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1 there's a good chance the Company would be overearning
2 and giving back money to the customer when it actually
3 needs the money to offset some of these other costs that
4 are shown on this calculation.

5 For example, depreciation is increased
6 \$49 million. Now 20 million of that, approximately
7 \$20 million of that depreciation is associated with LSR,
8 but the other depreciation is associated with T&D. So we
9 need to recover that money and not be giving it back to
10 the customers in the power cost adjustment.

11 You can also see the rate base increased almost
12 \$1.1 billion. LSR is 700 million of that. 400 million
13 then is T&D. 400 million is about a \$40 million rate
14 increase associated with T&D. You need the dollars that
15 are being collected to cover the cost of those and not be
16 giving them back in the PCA.

17 So you do have to realign your costs every so
18 often when you get that out of synch. We have not done
19 that calculation as to whether we would have filed a case
20 or not to do that true-up, but it was a possibility.

21 Q. So even if you subtract \$150 million from your
22 current revenue request, which takes it down to zero or
23 below, your position is there would still be a need for
24 increased revenue for other reasons at this time?

25 A. There would have been most probably a need to

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1 do a realignment in some way through a PCORC or whatever,
2 but the -- I would think it would have to be a general
3 rate case with T&D.

4 What really is helpful in this case is that
5 power costs decreased so much between the two rate cases.
6 That is offsetting a lot of costs.

7 Q. And they're continuing to fall, as we heard
8 earlier today?

9 A. That's correct.

10 MR. FFITCH: Those are all my questions, Your
11 Honor. Thank you, Mr. Story.

12 JUDGE FRIEDLANDER: Thank you.

13 MR. FFITCH: Your Honor, we would like to offer
14 Cross-Exhibits 36 through 39.

15 JUDGE FRIEDLANDER: Any objections?

16 MS. CARSON: No.

17 JUDGE FRIEDLANDER: So admitted.

18 (Exhibit JHS-36 CX through JHS-39 CX admitted.)

19 JUDGE FRIEDLANDER: And I believe, Mr. Sanger,
20 you have questions.

21 MR. SANGER: Yes, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. SANGER:

24 Q. Good afternoon, Mr. Story.

25 A. Good afternoon.

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1 Q. I'd like to ask you some questions about your
2 rebuttal testimony. Can you please turn to page 21?

3 A. I have it, yes.

4 Q. Thank you. Is your testimony here responding
5 to ICNU witness Michael Deen?

6 A. Both sections of this testimony are responding
7 to Mr. Deen's. There are two different subjects here.

8 Q. Looking at the first full paragraph, which
9 starts on line 9 and goes on down through the rest of
10 that paragraph, is it a correct characterization of your
11 testimony that you say that Mr. Deen is proposed to set
12 PSE's estimated BPA rate case expense based on a
13 five-year average instead of the actual 2010 expense?

14 A. That's correct.

15 Q. Now, is it correct that PSE opposes Mr. Deen's
16 recommendation?

17 A. That's correct.

18 Q. Now on that same page, starting on lines 12 and
19 13, do you characterize Mr. Deen's stated reason for
20 proposing a five-year average of BPA expense is that
21 there has been an extraordinary high level of ratemaking
22 and legal activity by BPA related to various activities?

23 A. Yes. And I go on to say that's irrelevant.

24 Q. Now, do you disagree with Mr. Deen that there
25 has been an extraordinary high level of BPA ratemaking

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1 and legal activity?

2 A. I don't disagree with him. He doesn't relate
3 that to our legal costs in any manner.

4 Q. Now, is one of the items that Mr. Deen
5 identifies in the extraordinary BPA activities the
6 residential exchange cases and negotiations?

7 A. That's correct. Again, it's irrelevant.
8 There's always legal expenses in any test year. I would
9 very -- I would never expect you to spend the same legal
10 dollars for the exact same thing that happened in the
11 test year.

12 You are not trying to recover the test year
13 legal costs. You are trying to set an amount of expense
14 to capture future years' costs. We don't know what is
15 going to happen in the future. We know there is going to
16 be legal expenses. It doesn't have to be with BPA. It
17 could be with BPA. It could be with somebody else.

18 Q. Now, that is correct, Mr. Story, however, is it
19 also correct that this Commission sometimes normalizes
20 extraordinary costs?

21 A. Yes. And that's what my testimony says, that
22 legal costs in this given year were not abnormal. They
23 were actually the lowest legal costs in three years.

24 Q. Now, let's focus on the BPA-related aspect of
25 Puget's costs, though.

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1 Now, I'd like you to refer to an ICNU
2 cross-examination exhibit, which has been marked as
3 JES-34 CX (sic).

4 Were you previously provided a copy of this
5 document when ICNU pre-distributed its exhibits?

6 A. Yes.

7 MS. CARSON: Just for the record, Your Honor,
8 PSE does object to the admission of these based on
9 foundation.

10 Mr. Story didn't prepare these and he's not the
11 appropriate witness. This really seems like an attempt
12 to supplement Mr. Deen's testimony with additional
13 evidence.

14 JUDGE FRIEDLANDER: Mr. Sanger.

15 MR. SANGER: We would disagree with Ms.
16 Carson's characterization. First of all, I'd like to
17 point out that this is the type of document -- it's a
18 decision by an administrative agency and which can be
19 officially noticed by the Commission under WAC
20 480.07.495.

21 And it's also relevant because ICNU witness
22 Michael Deen has recommended normalization of BPA's cost,
23 BPA's rate case expense, because he states that they were
24 extraordinarily high, and PSE objects to Mr. Deen's
25 normalization proposal and this exhibit gets to the

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1 question of whether or not the rate case expense that is
2 in 2010 that PSE has proposed to use for setting the rate
3 period costs are extraordinary or not.

4 JUDGE FRIEDLANDER: Ms. Carson.

5 MS. CARSON: It is not clear to me that this
6 document is something that the Commission can take
7 official notice of. Annual reports are not necessarily a
8 document -- I would have to look at the WAC, but I don't
9 think it's the type of document the Commission would
10 normally take official notice of.

11 MR. SANGER: I have a copy of the WAC, if you
12 like. It talks about rules, regulations, administrative
13 rulings, orders of other government agencies.

14 JUDGE FRIEDLANDER: Right. Ms. Carson, are you
15 also objecting to the admission of Exhibit 33?

16 MS. CARSON: My understanding is 33 is an
17 order, a record of decision from BPA.

18 CHAIRMAN GOLTZ: That's 34.

19 MS. CARSON: Yes.

20 JUDGE FRIEDLANDER: I think you might have
21 those reversed.

22 MS. CARSON: I apologize. Yes, 33 is what I'm
23 objecting to, the annual report.

24 JUDGE FRIEDLANDER: And, Mr. Sanger, you were
25 cross-examining the witness on Exhibit 34 or 33?

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1 MR. SANGER: At this point I was
2 cross-examining on 34. My intention was to cross-examine
3 on both 33 and 34.

4 JUDGE FRIEDLANDER: Since PSE does not appear
5 to have an objection to Exhibit 34, are there any other
6 objections to the admission of that exhibit? All right,
7 then so admitted.

8 (Exhibit JHS-34 CX was admitted.)

9 JUDGE FRIEDLANDER: And as far as Exhibit 33,
10 I'm going to overrule that objection and allow admission
11 of this exhibit, and that would be 33.

12 (Exhibit JHS-33 CX was admitted.)

13 MR. SANGER: Thank you, Your Honor.

14 BY MR. SANGER:

15 Q. Can you please refer to page 2 of this exhibit?

16 A. Of which?

17 Q. I'm sorry. ICNU Cross-Exhibit 34 CX.

18 A. Yes, I've got it.

19 Q. Now, is this the statement of the BPA
20 administrator regarding BPA's residential exchange
21 program settlement decision?

22 A. I believe it is.

23 Q. Thank you. Could you please turn to page 3 of
24 this exhibit?

25 A. Yes.

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1 Q. Now, Administrator Wright states in the first
2 full sentence there that he commends the negotiating
3 parties for the enormous effort they put into the
4 settlement to achieve this level of support.

5 Do you disagree that there was enormous effort
6 put into the settlement?

7 MS. CARSON: Objection; foundation. This
8 witness doesn't know about the settlement.

9 JUDGE FRIEDLANDER: Mr. Sanger.

10 MR. SANGER: Well, if this witness -- this
11 witness is opposing ICNU's proposal to normalize BPA rate
12 case expense, which is based on extraordinary costs in
13 the 2010 period, and if it isn't this witness, I would be
14 happy to direct my questions to another witness which is
15 familiar with Puget's expense that they put into this
16 case for 2010.

17 Puget has put in rate case expense for 2010.
18 It's our position that those expenses are extraordinary
19 and we would like to cross-examine a Puget witness on
20 whether or not those costs were extraordinary.

21 JUDGE FRIEDLANDER: Ms. Carson.

22 MS. CARSON: ICNU is proposing a change to the
23 methodology for the legal costs recovery. They have the
24 opportunity to assign these exhibits to whatever witness
25 they think is appropriate.

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1 The point is, as Mr. Story said, that these are
2 ongoing legal fees for various reasons, not just BPA
3 legal fees, and that's the purpose of the adjustment, but
4 that doesn't mean Mr. Story knows all about the BPA
5 settlements.

6 JUDGE FRIEDLANDER: I'm going to overrule the
7 objection. Mr. Story can answer whether he knows about
8 the settlement agreement, and if he does not, then I
9 think that sufficiently answers the question.

10 BY MR. SANGER:

11 Q. Do you need me to repeat the question, Mr.
12 Story?

13 A. Yes.

14 Q. Do you agree that the residential exchange
15 parties put enormous effort into reaching the residential
16 exchange settlement?

17 A. I know that we had quite a few people involved,
18 non-attorneys, and there was quite an effort, yes.

19 Q. Thank you. Has the BPA administrator approved
20 the residential exchange settlement?

21 A. I do not know.

22 Q. Do you expect to have a similar level of
23 residential-exchange-related expenses during the rate
24 effective period?

25 A. Most probably not for residential exchange. I

1050

1 would expect our legal costs to be somewhat similar over
2 the last -- that they have been over the last three
3 years.

4 Q. Thank you. I would like to refer you to ICNU
5 Cross-Examination JES-33 CX (sic), which is an excerpt of
6 BPA's 2010 annual report.

7 A. Yes, I have it.

8 Q. Thank you. Were you previously provided a copy
9 of this exhibit when ICNU pre-distributed its
10 cross-examination exhibits?

11 A. Yes.

12 Q. Thank you. Would you please turn to page 6 of
13 this exhibit?

14 A. I have it.

15 Q. Now, this is a copy of BPA's 2010 annual
16 report, and this part of the annual report addresses
17 power services; is that correct?

18 A. Yes.

19 Q. Now, the first sentence of the power services
20 part of this report talks about how BPA devoted an
21 immense amount of resource preparation to implement the
22 regional dialogue power contracts.

23 Did PSE participate in the BPA tiered rates
24 methodology and regional dialogue contract process?

25 A. I was not involved in that. So I can't answer

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1 how much we were involved.

2 Q. Okay. Then I will not ask you any more
3 questions about it, Mr. Story.

4 MR. SANGER: And I would move for the admission
5 of ICNU Cross-Examination Exhibits 33 and 34 CX.

6 JUDGE FRIEDLANDER: And those have already been
7 admitted. So Mr. Ritchie.

8 CROSS-EXAMINATION

9 BY MR. RITCHIE:

10 Q. Good afternoon, Mr. Story.

11 A. Good afternoon.

12 Q. My name is Travis Ritchie. I'm an attorney for
13 Sierra Club.

14 A. Good afternoon.

15 Q. Mr. Story, if I could direct you to page 52 of
16 your rebuttal testimony.

17 A. Yes, I have it.

18 Q. And this portion of your testimony represents
19 the Company's response to Mr. Hausman in his testimony on
20 behalf of the Sierra Club; is that correct?

21 A. Yes.

22 Q. And so did you review the direct testimony of
23 Dr. Hausman?

24 A. I read it yes.

25 Q. And do you recall then that Dr. Hausman

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1 identified several potential compliance costs for
2 environmental regulatory requirements that may be
3 upcoming for Colstrip?

4 A. He addressed several potential, yes.

5 Q. And if I could direct you to an exhibit that
6 was actually a cross-exhibit for your colleague Mr.
7 Jones, MLJ-6.

8 A. Yes, I have it.

9 Q. And if you could turn to the last page, please,
10 sir. It's a chart titled "Possible Impacts for PSE for
11 Environmental Regulatory Requirements."

12 A. This one you can't read. Yes, I have it.

13 Q. We got it from PSE.

14 Going back to your testimony, sir, I believe
15 you testified that you disagreed with Dr. Hausman's
16 recommendation to conduct a Colstrip study because it was
17 not appropriate for this rate proceeding; is that
18 correct?

19 A. This rate proceeding and others that it doesn't
20 have an economic impact on, yes.

21 Q. So this type of discussion is not appropriate,
22 you believe, for any rate proceeding?

23 A. There are times that it may be appropriate,
24 when you're looking at whether that plant is going to go
25 forward or not, as to whether you are going to incur the

1053

1 cost to upgrade it, whatever. We don't have any of those
2 type of costs in this proceeding.

3 Q. So I'd like to get back to that statement in
4 just a minute, but first -- so is it your testimony then
5 that that type of study looking at the future of Colstrip
6 would be better suited for an IRP?

7 A. I believe that would be the place to start. It
8 looks forward as to some of the conditions that you may
9 be facing out into the -- you know, further out into the
10 future than what a general rate case does.

11 Q. So if that would be a start, then what would be
12 the next step?

13 A. I don't know until it happened.

14 Q. So going back to the Exhibit MLJ-6 and that
15 table of potential environmental costs.

16 A. Yes.

17 Q. If you look at the second column labeled "The
18 Future of Colstrip." I'm sorry, it's the second column
19 after several other columns.

20 A. The large column? Okay. It's the sixth second
21 column after the fourth column.

22 Q. It is titled, however, "The Future of
23 Colstrip"?

24 A. Okay. I've got that.

25 Q. And I apologize, the text is quite small here,

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1 but the first cell under that discusses potentially
2 running Colstrip for another 25 to 35 years, retrofitting
3 it to keep it operating, and then discusses shutdown
4 constraints due to tightened air standards, a proposed
5 CCR rule, which I believe is carbon capture? Is that
6 carbon capture or would that be coal residuals?

7 MS. CARSON: Objection; foundation.

8 BY MR. RITCHIE:

9 Q. Sorry, I was trying to define the acronym. We
10 will just call it the CCR rule. And then traditional
11 owners and the -- traditional issues in ownership.

12 So essentially this document, Mr. Story, is the
13 type of forward-looking issues that would impact
14 Colstrip, correct?

15 A. It appears to be, yes.

16 Q. So when you -- when you state in your testimony
17 that an IRP is a more appropriate forum for this type of
18 discussion about Colstrip, are these the type of
19 issues -- and if you look on the first column on the left
20 there are several proposed rules and regulations. Are
21 these the type of things that you would look at in an IRP
22 evaluation of Colstrip?

23 MS. CARSON: Objection; foundation. Mr. Story
24 is not involved in the IRP process. He did comment in
25 his testimony that that is a more suitable forum as

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1 opposed to a rate case, when there are no costs in this
2 case to be considered, but he's not an expert on the IRP
3 process.

4 JUDGE FRIEDLANDER: Mr. Ritchie.

5 MR. RITCHIE: I guess my response, Your Honor,
6 is that Mr. Story has testified that these costs are not
7 appropriate here in this rate case.

8 Several of these issues have costs attached to
9 them, or potential costs attached to them. As we
10 discussed previously with Mr. Jones, the Sierra Club is
11 trying to find out what the right proceeding is to look
12 at these things.

13 Saying not here is potentially helpful, but it
14 only gets us halfway there. We don't know where these
15 discussions would come up. They do have economic
16 consequences. I believe Mr. Jones identified pretty
17 large economic consequences.

18 We can wait until there's a request in a rate
19 case for this type of thing, but, frankly, Sierra Club
20 sees that as too late. Mr. Story just said these things
21 are appropriate for a rate case when there is a decision
22 of whether or not to go forward. We think that that
23 decision point should be before incurring those costs,
24 which would be now.

25 THE WITNESS: If I might give you an example of

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1 something that was similar that wasn't coal-related. We
2 had a facility, White River, where we got a license from
3 the FERC on White River that made the project
4 uneconomical, and it was brought before the Commission,
5 saying we were going to retire that plant and capture the
6 salvage, and once we had done all that we would bring the
7 remaining plant costs before the Commission to resolve
8 how those would be recovered.

9 Once that plant becomes uneconomical is when it
10 would come before this Commission to say what we were
11 going to do with it and get their approval. Until that
12 time arrives, it's not really in this venue.

13 JUDGE FRIEDLANDER: Does that answer your
14 question, Mr. Ritchie?

15 MR. RITCHIE: It does, if I can follow up with
16 it a little bit.

17 JUDGE FRIEDLANDER: We'll see.

18 BY MR. RITCHIE:

19 Q. So I don't want to get too far afield here, but
20 this question does directly respond to what you just
21 asked, or what you just responded to, Mr. Story.

22 Were you present in the room during Mr. Jones's
23 testimony this morning?

24 A. I was.

25 Q. And let's take for example, I believe he

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1 identified one particular rule, the mercury air toxics
2 rule, which has been finalized and the Company is getting
3 a better idea of what that cost would be.

4 Do you recall that?

5 A. I do.

6 Q. At what point does the Company incur those
7 costs -- let me withdraw that. Let me rephrase.

8 Does that specific piece of cost go into a
9 determination of the Company of whether or not it makes
10 sense to continue operating the plant?

11 A. If I recall Mr. Jones's testimony correctly, I
12 believe he said it was right now in the preliminary
13 stages as to what those costs would be. I think that
14 will be part of the analytics as to whether Colstrip is
15 economical to go forward or not.

16 Q. And when you make that decision whether to go
17 forward or not, would you also consider the other set of
18 costs that he identified related to the regional haze
19 rule and those potential costs?

20 A. The costs that you would consider are the ones
21 that are going to be hard costs to the project. If
22 there's still something that is sort of speculative out
23 into the future, you would want to be aware of those, but
24 I don't know if they would come into the analysis as to
25 whether that plant is economical at this point in time or

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1 not.

2 Q. And I guess that is -- gets to the point, the
3 crux of my point, sir. These costs are coming in
4 increments, but it's kind of like the analogy of putting
5 the toad in a pot of water. If you slowly raise the
6 temperature, the toad doesn't jump out, but if you look
7 at them all together, you realize that the costs when
8 looked at all together are quite substantial.

9 A. Under the assumption that the heat is going to
10 be -- keep going up.

11 Q. Fair enough, but at least -- I will get off the
12 toad analogy.

13 My point, sir, and Sierra Club's concern with
14 this is that these costs, PSE and in fact utilities
15 across the country are looking at these regulatory costs
16 on an incremental basis. They're looking at one. Maybe
17 dealing with it in a rate case if they incur costs.

18 Then they're looking at another maybe two or
19 three years down the line, but there's never a point
20 where the utility stops and says, We're about to start
21 incurring very large amounts of cost, we should look at
22 them all together, we should evaluate that against
23 alternatives, and we should make a decision about whether
24 or not this plant is economic.

25 Is my concern misplaced there?

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1 A. I believe it is somewhat. I think you do look
2 at some of those costs and you have to weigh the risks as
3 to whether that cost is actually going to be incurred or
4 not.

5 That's why you run models out into the future
6 saying, okay, under these different assumptions what are
7 these costs, and then it's going to take quite a bit of
8 analysis as to how you -- where you think you are going
9 to fall within that broad range of costs.

10 There's been quite a bit of testimony in this
11 case already as to predicting the future. You know,
12 forecasting the future, it's not an exact science. You
13 do have to try all of these different assumptions, and if
14 you get a lot of model runs that are saying well, gee
15 this really looks highly risky, then you would have to
16 analyze it under that circumstance.

17 If it doesn't look highly risky, then no, you
18 would not analyze it, but it's all dependent on what is
19 going on at the particular time you are doing the
20 forecast.

21 Q. I will try to wrap this up right now, Mr.
22 Story.

23 Referring back to your testimony, I believe you
24 quoted the acknowledgment letter from the Commission
25 about conducting a broad examination of the costs for

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1 continuing the operation of Colstrip over the 20-year
2 planning horizon; is that correct?

3 A. That's correct.

4 Q. And you just mentioned that that type of broad
5 examination, that would be something, I believe, that
6 would include the type of modeling that you just
7 mentioned; is that correct?

8 A. It could, yes.

9 Q. And would PSE then have the capability or would
10 you -- would PSE commit to testing sensitivities on
11 potential regulatory costs that we have discussed here
12 today?

13 MS. CARSON: Objection. I don't think it's up
14 to Mr. Story to make that decision in this case.

15 JUDGE FRIEDLANDER: Mr. Ritchie.

16 MR. RITCHIE: Mr. Story has represented in his
17 testimony that the Company -- that based on the
18 acknowledgment letter in the IRP that this topic is
19 essentially moot because it will be covered in the IRP.

20 We think it is relevant to understand what
21 exactly the type of examination will include and in order
22 to better understand whether in fact this issue can be
23 appropriately dealt with in an IRP.

24 MS. CARSON: This just isn't the forum to
25 determine that. The Sierra Club can work with PSE in

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1 terms of carrying out the Commission's directive as to
2 how this is worked into the IRP, but it's just not
3 appropriate in this forum.

4 JUDGE FRIEDLANDER: I think with regard to the
5 individual question, Mr. Story can certainly answer if he
6 does not have the authority to make such a commitment
7 today.

8 THE WITNESS: I do not have the authority.

9 JUDGE FRIEDLANDER: There you go.

10 THE WITNESS: I will reiterate what Mr. Jones
11 said, is the planning process is already -- is being
12 planned, I mean started right now, and letters have gone
13 out to all parties to get involved in that process.

14 I also have talked to the head of the IRP
15 group, and they are taking this seriously, and they will
16 be discussing it with all participants starting
17 March 6th. That's the place to bring it up.

18 MR. RITCHIE: Just one moment, if I could
19 take --

20 JUDGE FRIEDLANDER: Certainly.

21 MR. RITCHIE: Your Honor, I have no further
22 questions. Mr. Story, thank you for your testimony
23 today.

24 JUDGE FRIEDLANDER: Thank you. Did you wish
25 to --

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1 MR. RITCHIE: I did.

2 JUDGE FRIEDLANDER: -- move for the admission
3 of Exhibit Number?

4 MR. RITCHIE: JHS-35, which is the
5 acknowledgment letter.

6 JUDGE FRIEDLANDER: Are there any objections?

7 MS. CARSON: No.

8 JUDGE FRIEDLANDER: Hearing none, so admitted.

9 (Exhibit JHS-35 CX was admitted.)

10 MR. CEDARBAUM: Your Honor, I'm sorry to
11 interrupt. I omitted two or three questions that I had
12 of Mr. Story, which may I have permission to ask? I
13 think I took less than my 20 minutes.

14 CHAIRMAN GOLTZ: Are they about Colstrip?

15 JUDGE FRIEDLANDER: Are they brief?

16 MR. CEDARBAUM: The questions are.

17 JUDGE FRIEDLANDER: Yes, I will allow it.

18 MR. CEDARBAUM: Again, I apologize.

19 FURTHER CROSS-EXAMINATION

20 BY MR. CEDARBAUM:

21 Q. Mr. Story, could you please look at page 54 of
22 your rebuttal testimony?

23 A. Yes, I have that.

24 Q. Beginning at line 16, where you are speaking of
25 the fixed cost portion of the PCA, at line 16 you say,

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1 "As these costs are fixed, any growth in revenues due to
2 load associated with these costs, as with all fixed costs
3 in the PCA, is used to offset cost increases or added to
4 cost decreases in variable power costs and treated under
5 the PCA bands."

6 Do you see that?

7 A. That's correct.

8 Q. I'm just trying to make sure I understand.

9 Are you saying that if load is greater than
10 what is assumed in setting baseline rate in the PCA, the
11 baseline rate in the PCA, then a reduction to power costs
12 is recorded which reduces an increase in the variable
13 costs?

14 A. Effectively that's what happens. Under
15 Schedule B of the PCA, you take the fixed cost times the
16 load. Or your fixed costs are recovered under the load.

17 So when you are calculating Schedule B, you
18 drop in the fixed costs that are allowed, and whatever
19 has been recovered under the load, that difference is
20 applied against the PCA deferral.

21 Q. So the last question I have for you is that,
22 let's say the scenario is reversed, where actual loads
23 are less than the baseline load.

24 Is just the opposite true, so that there would
25 be an upwards adjustment to fixed costs recovery?

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1 A. That's correct, but that hasn't happened.

2 Q. But that's how the mechanism would work?

3 A. That's true.

4 Q. And that would mean that there's an increase
5 recorded to the PCA balance, which brings the actual
6 fixed costs to the baseline level?

7 A. Yes. But, again, that's not what has been
8 happening.

9 Q. Thank you. That's all.

10 JUDGE FRIEDLANDER: Thank you. Are there
11 questions from the Commissioners?

12 CHAIRMAN GOLTZ: Yes. Thank you.

13 Mr. Story, I just have a few questions because
14 I believe that several of your colleagues with PSE
15 deferred some questions or some topics to you, which is a
16 reminder that you should always testify last in future
17 rate cases.

18 Were you in the room when Mr. Elgin testified
19 yesterday?

20 THE WITNESS: Yes, I was.

21 CHAIRMAN GOLTZ: He proposed an expedited rate
22 case true-up mechanism. Do you recall that?

23 THE WITNESS: Yes, I do.

24 CHAIRMAN GOLTZ: And I had asked Mr. DeBoer
25 about that, thinking that perhaps he would give it some

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1 positive reinforcement, but he was hesitant because he
2 didn't know enough about it, and I tried to ask Mr. Elgin
3 more.

4 So I was wondering if in light of that
5 testimony the Company has a better idea of what might be
6 involved with that and the relative merits of that
7 proposal?

8 THE WITNESS: Like it says in my testimony,
9 that, you know, it's something of interest to the
10 Company, I mean just to discuss the attrition
11 capabilities, you know what type of calculation would
12 help do an attrition adjustment.

13 CHAIRMAN GOLTZ: I'm talking about the rate
14 case, accelerated rate case. We will get to the
15 attrition adjustment in a second.

16 THE WITNESS: Right, but is this sort of an
17 option against the attrition. The only concern I would
18 have on this type of proposal is there's already a rule
19 in the Commission's rules that allow a company to request
20 a rate increase, similar to what happened with the gas
21 tariff that we filed just recently.

22 If that tariff is below 3 percent, and it
23 doesn't have the restrictions that Mr. Elgin put on this
24 particular filing, it would allow both pro forma and
25 restating adjustments.

1 The other concern I have with this proposal is
2 that if you take the rate year, or the test year and then
3 say rates became effective the 1st of September, you are
4 still 20 months from the beginning of the test year.
5 That's only six months less than a general rate case.

6 So some of the issues that we would like to see
7 addressed in this, and maybe it is something that can
8 work, and we're more than willing to talk to Staff about
9 it, is maybe using end of period instead of the
10 Commission basis report, or some other type of adjustment
11 like that.

12 Mr. Schooley has already put a couple of
13 restrictions that he would like to see on this Commission
14 basis report, like no growth in A&G, no growth in wages
15 and stuff like that, or items like that.

16 You are not restricted under the current rules
17 of the Commission of doing that, if you file a rate case
18 for less than 3 percent. So I think it has a lot of
19 possibilities. We would like to explore it further.

20 CHAIRMAN GOLTZ: So you're saying that the
21 current rules, if your attrition is less than 3 percent,
22 you already have an option for an expedited proceeding
23 under our rules, but Mr. Elgin's proposal might be
24 beneficial if attrition is greater than 3 percent?

25 THE WITNESS: It could be. And depending how

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1 it's restricted as to the filing, but, again, you are
2 still delayed by quite a bit of time. It's still 20
3 months.

4 CHAIRMAN GOLTZ: Right. So I can just
5 summarize, you're saying you still want the whole loaf,
6 but part of a loaf would be better?

7 THE WITNESS: Part of a loaf is better than
8 nothing.

9 CHAIRMAN GOLTZ: On the attrition adjustment,
10 Mr. Elgin included some historical documents of past
11 discussion of the attrition and Commission orders well
12 before my time, and I asked what would be involved in his
13 attrition adjustment.

14 Do you have any further comments on attrition,
15 on the mechanism for attrition adjustment?

16 THE WITNESS: Yes. There's one thing that is
17 kind of confusing in the state record as to what is an
18 attrition adjustment.

19 You know, the -- the companies I know back in
20 the '80s filed them, I was involved in a couple myself,
21 and there was a formula that you could follow that used
22 trending. You could use indexes like -- I know at a
23 certain point in time you were using Wharton Utility
24 indexes to grow costs.

25 Sometimes those would be accepted and sometimes

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1 they wouldn't, and there was no real difference between
2 the calculations. It was just, you know, what the
3 environment was at the time.

4 So, you know, it would be nice to, if there was
5 going to be an attrition adjustment, is to have a
6 formulistic way of doing that attrition adjustment. It
7 could always be argued as to still the methodology within
8 that formula, but at least have an accepted methodology.

9 I know in the '92 case, one of the cases that
10 Mr. Elgin cited, and he was actually involved in for the
11 gas company, had what the industry thought was a very
12 good attrition study and it was dismissed because there
13 was no inflation at the time.

14 That's not what is happening with attrition.
15 Attrition on a utility actually builds up over time. And
16 in my testimony I have an example on how you add plant
17 and the next marginal piece of plant isn't covered by
18 your rate. That's what's -- you know, our inflation is
19 really looking at a 30-year time frame or greater,
20 because we're replacing plant that is that much older.

21 So when you look at a pole that may have cost
22 one or two hundred dollars when I started with the
23 Company that now costs six thousand dollars, you are
24 replacing that hundred, two hundred dollar pole with that
25 much larger cost pole. That is what is causing our

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1 attrition, not the current inflation rates.

2 CHAIRMAN GOLTZ: Right. So I gather that there
3 was some concern that the Commission use of attrition
4 adjustments historically was limited to inflationary
5 times? Is that a cause of some concern?

6 THE WITNESS: It is, because we're not in
7 inflation right now but we have attrition.

8 CHAIRMAN GOLTZ: But if we were to clarify that
9 it wasn't limited to inflation, that would be -- open a
10 door?

11 THE WITNESS: That would be very helpful. Plus
12 the type of attrition, what kind of study would be
13 appropriate.

14 I know there is a real reluctance to use
15 budgets, but budgets are much better controlled and
16 understood, I think, by all parties than just some
17 trending analysis.

18 A trending analysis tells you what happens in
19 the past and you are projecting that to happen into the
20 future. It's a big argument as to whether or not that is
21 going to happen into the future, are you going to keep
22 replacing your infrastructure at the same rate that you
23 have in the past.

24 I look at our trends, and we have been and we
25 will be for quite some time, but it's a big argument as

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1 to whether that is going to happen.

2 Under a budget you have the understanding, and
3 that's why FERC uses it, unlike Dr. Olson said yesterday,
4 you have a relationship of all your costs and revenues
5 together and what is underlying those numbers. There's
6 some support for it, not just using historical and
7 trending that out into the future.

8 CHAIRMAN GOLTZ: So you are kind of suggesting
9 that in attrition, a possibility would be to file in fact
10 two cases, one based on a historic test year and one
11 based on a future test year and compare the difference?

12 THE WITNESS: That might be a possibility of
13 where you use a budget to do the trending instead of just
14 forecasting trend lines. There's all sorts of different
15 ways you can combine that without actually going to a
16 future test year.

17 CHAIRMAN GOLTZ: Or sometimes budgets are what
18 an entity wants as opposed to what it needs, too?

19 THE WITNESS: That's true.

20 CHAIRMAN GOLTZ: That's been my experience in
21 state government, or the experiences I have been told to
22 have anyway.

23 THE WITNESS: That's true. And that sort of
24 goes to the old realm that you have to control a utility
25 through its wallet in some manner.

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1 I have not found, at least the utility I work
2 for, where we're really looking to increase our costs. I
3 mean it's -- you know costs, putting a cost into a
4 utility's income statement is no benefit to the utility
5 because it's just a cost. There's no profit in that.
6 It's just recovery of your cost.

7 For us, it's -- we have a very low earning base
8 in relationship to the load we're carrying and everything
9 else. If we don't recover that cost, it eats into our
10 earnings pretty quickly. So we have a major incentive to
11 keep our costs down.

12 CHAIRMAN GOLTZ: I have no further questions.

13 JUDGE FRIEDLANDER: Commissioner Oshie, did you
14 have any questions? Commissioner Jones.

15 COMMISSIONER JONES: This won't take long,
16 unless we want to take a break now.

17 JUDGE FRIEDLANDER: No.

18 COMMISSIONER JONES: These are mainly
19 clarifying.

20 Mr. Story, this relates to the treasury grant
21 and working capital. I think on page 8 of your direct
22 you talk about the Wild Horse expansion project and the
23 treasury grant associated with that.

24 THE WITNESS: I'm sorry, page 8?

25 COMMISSIONER JONES: Page 8, yes, lines 15

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1 through 20.

2 THE WITNESS: Yes, I have it.

3 COMMISSIONER JONES: And I think in one of your
4 exhibits, JHS-3, you chose an addition of 25 million to
5 invested, average invested capital associated with the
6 grant, does it not? We could refer to that if --

7 THE WITNESS: I'm sorry, on JHS-3?

8 COMMISSIONER JONES: Yes, JHS-3. It's page 8.
9 Do you see down there on line 11 treasury grant, there's
10 an addition of 25 million? Page 8 on the upper right.
11 What is that? Maybe my question is not relevant.

12 My question is, since normalization of the
13 treasury grant is no longer required, have you changed
14 your computation of working capital to remove this
15 treasury grant that is listed here?

16 THE WITNESS: Treasury grant is not included in
17 working capital because it's not related to general rate,
18 but as far as the treasury grant is concerned, when we
19 originally filed last year, the normalization was
20 required, and that 25 million is the -- I believe it's
21 about 27 or 29 million that we received originally on the
22 Hopkins Ridge.

23 With normalization, we will now be able to
24 calculate that going back to the customer sort of as a
25 negative rate base like we talked with the RECs the other

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1 day.

2 We will be refiling the 95A as soon as we get
3 some people freed up to. First we're going to look and
4 see what the impact is, what we have collected, and we
5 will most probably refile that to reflect that going back
6 to the customer as an offset against rate base.

7 COMMISSIONER JONES: You anticipated my next
8 question very well. So it is your intention to file a
9 revision to 95A to reflect the 28.7 million grant,
10 treasury grant that you have --

11 THE WITNESS: Right.

12 COMMISSIONER JONES: -- that you've received,
13 because you received that in December of 2010, correct,
14 about a year and a half ago?

15 THE WITNESS: I don't recall the date, but it
16 was about 60 days after the plant went into service.

17 COMMISSIONER JONES: So you've been busy with
18 this case, obviously?

19 THE WITNESS: Yes.

20 COMMISSIONER JONES: So it's just a matter of
21 time and resources, that you just haven't had the time to
22 develop that tariff revision filing to 95A and get it
23 done?

24 THE WITNESS: I asked somebody to take a look
25 at it last week. I've not had a chance to review it.

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1 COMMISSIONER JONES: Thank you.

2 JUDGE FRIEDLANDER: Thank you. Why don't we go
3 ahead and take a short five-minute break. I'm sorry, Mr.
4 Sanger.

5 MR. SANGER: I wanted to ask to move the
6 admission of ICNU's witnesses that have not yet been
7 admitted into the record, the testimony and exhibits
8 before we go on break.

9 JUDGE FRIEDLANDER: Very good. And your
10 witnesses are Mr. Deen and Ms. Blumenthal?

11 MR. SANGER: That's correct, Your Honor.

12 JUDGE FRIEDLANDER: Are there any objections?

13 MS. CARSON: No.

14 JUDGE FRIEDLANDER: So moved.

15 (Exhibit MCD-1CT through MCD-6,
16 EB-1CT through EB-5 was admitted.)

17 JUDGE FRIEDLANDER: Ms. Carson, do you --

18 MS. CARSON: I have no redirect. Thank you.

19 JUDGE FRIEDLANDER: I was planning on coming
20 back and having you do redirect, but if you have no
21 redirect, the witness is excused. Thank you.

22 Does the Company still have cross-examination
23 for Mr. Applegate?

24 MS. CARSON: Very brief.

25 JUDGE FRIEDLANDER: Then why don't we take a

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1 five-minute break, and we'll come back.

2 (A break was taken from

3 3:17 p.m. to 3:20 p.m.)

4 JUDGE FRIEDLANDER: If everybody is ready, we
5 will go back on the record.

6 So I have the next up being Mr. Schooley.
7 However, I understand that Mr. Schooley, Mr. Smith, Mr.
8 Martin and Mr. Applegate, none of the parties have
9 cross-examination for these witnesses; is that correct?

10 MS. CARSON: That's correct.

11 JUDGE FRIEDLANDER: Thank you. So I will
12 entertain a motion.

13 MR. CEDARBAUM: Yes. Thank you, Your Honor.
14 Staff would move the admission of the prefiled response
15 testimony, and for Mr. Schooley his cross-answering
16 testimony, of Staff witnesses Schooley, Smith, Martin and
17 Applegate.

18 I would note just for the record that with
19 respect to Mr. Martin his Exhibits 2 through 5 contain
20 two versions. One is a January 30th version that
21 reflects the REC settlement that was discussed earlier
22 this week, and the second is a December 7th version which
23 does not reflect that settlement. So I just wanted to
24 make sure that both were entered into evidence.

25 Mr. Martin is also adopting the testimony of

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1 Mr. Mickelson that was provided in Exhibits CTM-1T and 2.
2 So those would be included in my offer.

3 JUDGE FRIEDLANDER: Are there any objections?
4 Hearing none, then so admitted.

5 (Exhibit TES-1T through TES-3T, RCS-1T
6 through RCS-4, RCM-1T through RCM-6, RTA-1T
7 through RTA-6, CTM-1T and CTM-2 was admitted.)

8 JUDGE FRIEDLANDER: I do have a question about
9 Mr. Buckley's testimony. Did that get admitted
10 previously? It was offered for admission. I don't
11 have --

12 MR. CEDARBAUM: We have a cross-exhibit that
13 was stipulated in, Exhibit 10, and I thought at the same
14 time his 1 through 9 went in, but if they weren't, I
15 would move those well.

16 JUDGE FRIEDLANDER: Are there any objections?
17 Hearing none, so admitted.

18 JUDGE FRIEDLANDER: That brings us to Mr.
19 Kouchi. Sorry, Mr. Applegate.

20 MR. APPLGATE: That's quite all right.

21 JUDGE FRIEDLANDER: At this time we also had a
22 settlement that was filed that Mr. Kouchi is testifying
23 on behalf, or in support of, I should say.

24 Would it be prudent to address that at the same
25 time as we have Mr. Kouchi up here?

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1 proceeding?

2 A. Yes, it is.

3 Q. And are the Exhibits RK-2 through 6 -- excuse,
4 me RK-2 through 9 the associated exhibits that you
5 reference in your testimony?

6 A. Yes, they are.

7 Q. And were all of these documents prepared by you
8 or under your supervision?

9 A. That's correct.

10 Q. Are they true and correct to the best of your
11 knowledge and belief?

12 A. Yes.

13 MR. CEDARBAUM: Your Honor, at this time I
14 would offer Exhibits RK-1T through 9.

15 JUDGE FRIEDLANDER: Any objections? So
16 admitted.

17 (Exhibit RK-1T through RK-9 was admitted.)

18 JUDGE FRIEDLANDER: And I believe -- are you
19 tendering the witness at this time?

20 MR. CEDARBAUM: I'm sorry. Yes, I am. Mr.
21 Kouchi is available for questioning.

22 JUDGE FRIEDLANDER: Thank you. Mr. ffitich.

23 MR. FFITCH: Thank you, Your Honor. I have
24 spoken with Mr. Roseman, and I would defer to him to lead
25 off with his cross. It may cover my points.

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1 JUDGE FRIEDLANDER: That's fine. Mr. Roseman.

2 CROSS-EXAMINATION

3 BY MR. ROSEMAN:

4 Q. Good afternoon, Mr. Kouchi.

5 A. Good afternoon, sir.

6 Q. And we are all, I think I can speak for
7 everyone, very pleased to see you up on the stand as the
8 last witness, hopefully. So thank you, and my cross will
9 be short.

10 I want to refer you to your testimony on page 6
11 of RK-1T, your direct testimony, and in that testimony
12 you said the elimination of SQI-9 will not harm customers
13 because the Commission rules already offer consumer
14 protections?

15 A. Yes, that's correct.

16 Q. Do any of the consumer protections mentioned or
17 that you had in mind in your testimony provide the same
18 type of assistance as SQI-9, which is limit the number of
19 disconnections?

20 MR. CEDARBAUM: I will object to the form of
21 the question, unless you can clarify assistance by whom.

22 MR. ROSEMAN: Excuse me?

23 MR. CEDARBAUM: I believe you said the same
24 type of assistance. Assistance to whom?

25 BY MR. ROSEMAN:

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1 Q. Maybe we should start back then. SQI-9, what
2 is your understanding of how SQI-9 works, the benchmark
3 in the SQI-9?

4 A. SQI-9 is the disconnect ratio, and it was -- it
5 limits the Company's ability to disconnect at a certain
6 level. It's currently set at -- well, it is currently
7 suspended, the cap is suspended, but previous to that it
8 was at 0.038. So that means the Company was limited to
9 disconnecting no more than 38 customers per thousand.

10 Q. My understanding, you correct me if I'm wrong,
11 but my understanding is we were referring to this as a
12 hard cap.

13 This is -- the Company can go over the 0.38 per
14 thousand disconnections, but they could then incur a
15 penalty if they do that?

16 A. That's correct.

17 Q. Okay, thank you. So getting back to my
18 question about the consumer protections mentioned in your
19 testimony, are there any consumer protections that limit
20 or seek to curtail the number of disconnects to
21 customers?

22 A. No.

23 Q. Thank you. If SQI-9 is reinstated and becomes
24 a benchmark for the Company, would all of the rules
25 listed in your testimony be unavailable to customers or

1081

1 would they still be available to customers if we had
2 SQI-9 operational again?

3 A. They would still be there.

4 Q. Does SQI-9 provide an incentive to the Company
5 to keep disconnects below a certain benchmark?

6 A. Yes. The Company definitely paid attention to
7 that SQI when it was in force. They stopped
8 disconnecting.

9 Q. Did they stop disconnecting or they just didn't
10 want to exceed the benchmark?

11 A. Yeah, they didn't want to exceed the benchmark,
12 so they stopped when they got close to it.

13 Q. So I guess my next question may be obvious, the
14 answer, or maybe not.

15 Do you believe that this is a helpful policy
16 for some of the customers who are having difficulty
17 keeping their bill current and may be facing
18 disconnection?

19 A. What policy are you speaking of?

20 Q. The SQI. Is the SQI helpful to those customers
21 who are in financial trouble in these times in preventing
22 a disconnection?

23 A. I don't believe the SQI-9 was designed or
24 established to do that, to accomplish that mission.

25 Q. But in fact -- let's go back. Why do you think

1082

1 the SQI-9 was established as a benchmark that curtailed
2 disconnects?

3 A. Well, it came up, the question came up before,
4 so I was interested. So I went back to Barbara
5 Alexander's testimony back in 1986 -- I mean in 1996,
6 Public Counsel's expert witness, and basically what I
7 concluded from her testimony was, is that she was
8 advocating for that disconnect ratio to make sure the
9 Company didn't use disconnects as a primary tool for
10 credit and collections. She wanted to make sure the
11 Company considered other factors.

12 Q. And if my memory serves me well, so my client
13 gets fair play on this, this was -- was Ms. Alexander
14 appearing also on behalf of the Energy Project in that
15 docket?

16 A. I don't know. I don't believe she was. I
17 believe she was just representing Public Counsel.

18 Q. She was our witness that we shared with Public
19 Counsel, but I just couldn't recall if that...

20 But in fact -- okay, I think I have made the
21 point on how it works and how it protects people now, but
22 you also say in your testimony that SQI-9 may result in
23 inequitable treatment because it limits the number of
24 customers that can be disconnected and PSE must choose?

25 MR. CEDARBAUM: Do you have a citation, please?

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1 MR. ROSEMAN: Sure. Page 7 of his direct
2 testimony.

3 BY MR. ROSEMAN:

4 Q. It's on line 17, Mr. Kouchi. 17.

5 A. I'm there. What I was getting at was in
6 particular the Commission's prior obligation rule, as
7 part of the refusal of service rules, and if the Company
8 stops disconnecting, then typically that will happen
9 probably later on in the year because, you know, they
10 don't reach the cap until later on in the year, toward
11 the fall or winter months. So the bills start climbing
12 at that point in time, and so it doesn't take much time
13 before the bills can get fairly large.

14 In the meantime these customers are trying to
15 seek energy assistance, and so if they get energy
16 assistance and they haven't been disconnected when they
17 should have, that pledge money goes to pay the balance on
18 their account. It doesn't help them get through the
19 winter as the pledge money was supposed to be designed.

20 So if they did get disconnected, that pledge
21 money could have sat on the account and it would have got
22 them through the winter.

23 Q. The reason I'm smiling is I actually thought
24 the complaint that the UTC has regarding Puget on the
25 prior obligation rule, basically one of the allegations

1084

1 in the complaint -- and I don't think it's resolved. I
2 think it's still going on. You would know more than me
3 because it's from your shop.

4 A. It's a different section.

5 Q. Excuse me?

6 A. It's compliance and enforcement.

7 Q. But my understanding is one of the allegations
8 that was made in the complaint is exactly your point
9 here, which is LIHEAP would be paid to customers to help
10 with their bill and those moneys would be spent to
11 address the arrearage, the prior obligation, rather than
12 keep their bills current. That was my understanding.

13 A. Well, I haven't been involved in that, but I
14 think -- and I have been involved with the Department of
15 Commerce and the CAP agencies.

16 When I -- when I heard that companies were
17 trying to apply pledge money to prior obligations, I
18 didn't think it was right. Pledge money should be kept
19 to keep the heat on.

20 So I think what Staff is finding is that
21 sometimes companies get overzealous and try to apply it
22 to a prior obligation when they shouldn't be.

23 Q. And we're on the same page with that. So I
24 guess I was just trying to respond to your prior
25 question, your prior answer, which is if the rule -- if

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1 the moneys are applied appropriately, they are applied to
2 the current bill, not to the prior bill, and you said --
3 and I believe what you said also is that the prior
4 obligation rule does not, is not available to customers
5 until they are disconnected, so they are not availing,
6 being able to avail themselves of the prior obligation
7 rule, but under SQI-9 there's no need -- they are still
8 connected to the system, they aren't disconnected; is
9 that correct?

10 A. Well --

11 Q. So the prior -- I will let you answer. I don't
12 mean to cut you off.

13 The prior obligation rule comes into play once
14 the customer is disconnected; if you are still connected,
15 then there is no availing one's self to the prior
16 obligation rule?

17 A. That's correct, sir. The issue is timing.
18 Eventually the customer is going to get disconnected if
19 they're not paying.

20 And so what I'm saying is, is in the interim
21 they might have gotten their pledge money in and they
22 haven't been disconnected. That pledge money would be
23 assigned to the current account because they haven't been
24 disconnected and so it wouldn't be available to them.

25 And then so there would still be an amount left

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1 on their account, and so they don't have any pledge money
2 left. The company is going to take credit action and
3 disconnect them and then there's no help for them. The
4 pledge is already gone.

5 Q. Then let's talk about the no help stuff.

6 So now the customer has been disconnected and
7 calls the Commission and says, What can I do, and the
8 people in your shop who have been doing it for years say,
9 Well, one thing you can do is avail yourselves of the
10 prior obligation rule.

11 So you're disconnected. So if they avail
12 themselves of the prior obligation rule, what are the
13 requirements? What is the deposit requirement that they
14 have to have and what other requirements do they have to
15 have to avail themselves of the prior obligation rule so
16 they then can get their service reconnected?

17 A. The disconnect rules require them to restore
18 the service once disconnected for one-half of deposit,
19 plus reconnect fees. So that basically keeps, without
20 having to pay any prior obligation, those amounts that
21 have been billed prior to the disconnection. Am I...

22 Q. I understand. I think I have one correction
23 then. It's not one-half, I don't believe. It's
24 two-twelfths of the annual bill for a company that bills
25 on a monthly basis.

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1 And we don't have to get into that, but I
2 will -- just for the record, it's WAC 480.100.113,
3 Section 3, little A.

4 A. What that is talking about is how the deposit
5 is calculated. So the deposit basically is calculated in
6 that manner, and then customers would have to pay
7 one-half that amount to get reconnected.

8 Q. One-half of the two-twelfths, is my
9 understanding?

10 A. That's correct.

11 Q. Thank you. Then we are on the same page. I
12 appreciate that.

13 So in your testimony on RK-1T, page 8, lines 12
14 through 20, you say that the annual PSE SQI and electric
15 service reliability report filed with the Commission
16 shows that disconnections during this period of
17 suspension, disconnections have gone up 32 percent for
18 nonpayment in 2009 and 2010, and I won't finish reading
19 the rest of the sentence, but the number of complaints to
20 the Commission only rose 4.8 percent during this period;
21 is that correct?

22 A. That's correct.

23 Q. So if SQI is not reinstated, is permanently
24 eliminated during these difficult economic times, do you
25 expect disconnections will continue to increase, the

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1 number of disconnections?

2 A. Based on PSE's response to Staff's, I believe
3 it is DR No. 65, they say -- they stated that they have a
4 limitation, a resource limitation on disconnections. I
5 think they say 80,000.

6 Q. 80,000?

7 A. 80,000 a year. Actually, it's going to be less
8 than that, because when they go out to disconnect, if
9 they get payment at the door, then they don't disconnect.
10 So that's one less disconnection for each time they get
11 payment at the door.

12 Q. But right now I think they're at around --
13 well, in your testimony on page 8, line 15, you say the
14 disconnections have gone up from 53,500 to 70,500 in
15 2010. So they are -- and by this number, I believe they
16 might still be below the 0.38 percent that the SQI, if it
17 was in effect, was the benchmark.

18 I guess what my question is to you, is your
19 answer no, you do not believe that in this economy that
20 these disconnects will go up if we keep the -- if we
21 eliminate the SQI, or do you believe if we had the SQI,
22 that maybe it would be a cap on the number of
23 disconnects, a limitation on the number of disconnects?

24 A. With the Company's resources, as they stated
25 right now, they stated that they have a resource capacity

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1 to disconnect 80,000 customers a year.

2 So they're at 70,000. It could go up slightly.
3 The 2011 figures did not show that, though. I think that
4 was -- I can't remember. It was in response to -- PSE's
5 response to PC, Public Counsel, DR 509, that totalled --
6 the total of it came down to be 70,102, which is like 400
7 less disconnects than they did in 2010. So disconnects
8 go up and down.

9 Q. The only reason I ask this question is, the
10 economy has to have an impact, and if you sit at public
11 hearings and you listen to customers talking about that
12 they can't get assistance because -- the Chairman
13 mentioned one; I can't remember who mentioned one who was
14 at the recent public hearing -- they were on the cusp
15 between being eligible for the HELP program and being a
16 little over income and they couldn't receive any, really
17 any assistance.

18 And I was thinking about those customers.
19 Would the SQI -- the limitation on SQI, could that
20 provide some assistance to those customers? This SQI
21 isn't means tested, is it? You don't have to be at a
22 certain level of income for SQI-9 to take effect?

23 A. The -- go ahead.

24 MR. CEDARBAUM: Your Honor, it seems like we
25 have compound questions here.

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1 MR. ROSEMAN: I will break them down then, if
2 you want.

3 MR. CEDARBAUM: You make a statement, and then
4 it's followed by a question, but I'm not quite sure what
5 the question is by the time you're done.

6 JUDGE FRIEDLANDER: So, Mr. Roseman, did you
7 want to rephrase?

8 MR. ROSEMAN: I would be glad to. I appreciate
9 the advice.

10 BY MR. ROSEMAN:

11 Q. Mr. Kouchi, in order to -- assume the SQI-9 is
12 in effect. In order to qualify for the benefit of that
13 cap on disconnections, I know it's not a qualification,
14 but in order to have SQI-9 provide some assistance, does
15 one have to meet a means test? Does one have to be at a
16 certain income level?

17 A. No.

18 Q. Thank you.

19 MR. ROSEMAN: I have nothing further.

20 JUDGE FRIEDLANDER: Thank you. Mr. ffitch?

21 MR. FFITCH: Thank you, Your Honor. Just a
22 couple. I think Mr. Roseman covered almost all my
23 points.

24 CROSS-EXAMINATION

25 BY MR. FFITCH:

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1 Q. Mr. Kouchi, good afternoon.

2 A. Good afternoon.

3 Q. It's the case, isn't it, that during the life
4 of the SQI-9 that the disconnection ratio has been
5 recalibrated, I believe recently in 2009, correct?

6 A. Correct.

7 Q. And that was in general in response to similar
8 concerns that you have raised in your testimony; isn't
9 that right?

10 A. I believe so.

11 Q. So it would be an alternative to eliminating
12 the disconnection ratio to adjust or recalibrate the
13 disconnection ratio, would it not?

14 A. That could be one of the considerations.

15 Q. And so it could -- and that would be an
16 alternative that would go some way towards addressing the
17 concerns that you have raised, at the same time
18 preserving the incentive characteristics of the SQI-9,
19 would it not, if you recalibrated it up to allow a little
20 bit more space for the Company to disconnect?

21 MR. CEDARBAUM: I guess I'll -- I'm sorry to
22 interject. Object to the form, unless you can define
23 "incentive." I'm not sure whether you are using it in
24 the same way Mr. Kouchi used it, if he used it at all.

25 BY MR. FFITCH:

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1 Q. I believe, Mr. Kouchi, I heard you respond to
2 questions from Mr. Roseman to the effect that the SQI-9
3 index provided an incentive to the Company to limit its
4 disconnections. Wasn't that your testimony?

5 A. I don't recall the exact words, if I used the
6 term "incentive," but yes, it does cause the Company to
7 take notice at a certain point and stop disconnecting,
8 because they do not want to pay the penalties associated
9 with it. It is something that the Company has control
10 over. They can stop disconnecting.

11 Q. And it provides the Company with an incentive
12 to use other tools with its customers, as I think you
13 testified was the intent contained in Public Counsel's
14 original testimony, to use other tools with customers to
15 help them work out credit problems, correct?

16 A. We encourage all the companies do that, yes,
17 because the disconnect ratio, that is potentially one of
18 the things you can do, but the companies, all the
19 companies, are incented to address creative ways to --
20 for the credit and collections, because it is
21 cost-effective to do that.

22 Q. So back to my original question, if the
23 Commission were to reinstate the SQI-9, then that
24 incentive would come back into play, correct; the
25 incentive feature of the SQI-9 would come back into play?

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1 A. Whatever incentive SQI-9 offered would come
2 into play. As I mentioned, there are other incentives
3 that the companies have to address creative alternatives
4 for credit and collections.

5 Q. And then in that event, if the Company felt
6 that the index needed to be recalibrated, some of these
7 concerns could be addressed through recalibration and the
8 incentive feature of the index would remain, correct?

9 A. Correct.

10 Q. The testimony that I gave just a moment ago
11 indicated that, and I don't have the data response in
12 mind, but that the Company has itself an internal cap of
13 80,000 disconnects, and their -- it most recently
14 appeared that the annual figures were around 70,000,
15 correct?

16 A. That's correct.

17 Q. And that itself is an increase of about 15,000
18 over prior levels under the SQI-9? Isn't that about
19 right?

20 A. That's about right.

21 Q. So if SQI-9 is, you know, continued -- is
22 permanently eliminated, there's the potential even with
23 the Company's own cap of an additional 25 to 30,000
24 disconnects over the status quo prior to the status quo
25 under the SQI-9?

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1 A. Can you restate the question?

2 Q. Well, you know what? I'm just doing lawyer's
3 math in my head here. I think we can all do the math and
4 I will just move on.

5 My final question is, wouldn't you agree, Mr.
6 Kouchi, that as a general proposition it's in the public
7 interest to have fewer customers disconnected from
8 electric and natural gas service rather than more, if
9 that can be achieved?

10 A. It's a difficult question, because you -- on
11 the one side, yeah, it is beneficial to the consumers to
12 not be disconnected, but on the other side, if you don't
13 disconnect, the amount owing that is not paid also goes
14 up. So there's a potential for uncollectibles to
15 increase.

16 That's one of -- Energy Staff has a revenue
17 concern, but we in consumer protection have a different
18 concern about the uncollectibles as pertaining to the
19 prior obligation.

20 We've been -- in 2003 we initiated a Staff
21 investigation. Let me look at my notes. It's in Docket
22 011352 and 011353. The title of the Staff investigation
23 was "Prior Obligations Study Uncollectibles."

24 And the reason why Staff, why we initiated
25 that, was because of not just Puget's concern but other

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1 companies, industry companies as well about the prior
2 obligation rule and their uncollectibles.

3 And so the conclusion of that study was, is
4 that the uncollectibles were low and prior obligation did
5 not adversely affect the uncollectibles. However, it's
6 like a balloon. If you push on one side, it bulges on
7 another side.

8 And our concern is, is that if we have this
9 other standard, performance standard, that causes
10 uncollectibles to rise, it could potentially weaken our
11 position on prior obligation, which we feel very strongly
12 about as a consumer protection measure. It's one of our
13 strongest consumer protection measures, I believe.

14 Q. Have you updated that study?

15 A. Yes. It's not completed yet. The companies
16 again came back to the Commission Staff and again raised
17 the issue in, I believe it was 2010.

18 So the study went on through 2011. Staff is in
19 the process of, and I haven't seen it because I wasn't
20 involved in that, but Staff is involved in finalizing the
21 results, and it should be out by the end of this month or
22 early March.

23 Q. But none of that information was presented in
24 the record in this case --

25 A. No.

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1 Q. -- and so we're here?

2 A. (No audible response.)

3 Q. And you haven't presented anything for the
4 record about the uncollectibles, have you?

5 A. No, I have not.

6 Q. And do you know what the revenue impact is to
7 the Company of the -- would be if the SQI-9 were
8 reinstated?

9 A. I do not know.

10 MR. FFITCH: Those are all the questions I
11 have. Thank you. Thank you, Mr. Kouchi.

12 JUDGE FRIEDLANDER: Thank you. Any questions
13 from the bench? Any redirect?

14 MR. CEDARBAUM: No.

15 JUDGE FRIEDLANDER: Thank you. The witness is
16 excused. Thank you.

17 CHAIRMAN GOLTZ: Except for the panel.

18 JUDGE FRIEDLANDER: So stay seated. And, Mr.
19 DeBoer, if you will please come forward, and I will
20 remind you that you are still under oath. Please remain
21 seated.

22 Maybe we could start -- since this was a
23 settlement that was filed midweek, or at the beginning of
24 the hearing, maybe we could start with a very brief
25 explanation from the witnesses supporting the settlement

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1 about the details and just a brief statement.

2 MR. DeBOER: The settlement on metering and
3 billing replaces a partial settlement from the 2007 rate
4 case that sets performance standards for metering and
5 billing performance for PSE.

6 It was based on meeting different standards for
7 gas and electric, 75 percent, identifying incorrect meter
8 and billing problems on the gas and electric side.

9 The new performance standard is similar,
10 although it encompasses -- it takes out the
11 identification piece and the interim standards and just
12 has one final resolution for both gas and electric.

13 98 percent of all metering and billing problems
14 will be identified and corrected within one year and all
15 corrected within two years.

16 JUDGE FRIEDLANDER: Thank you. And I should
17 also note that I don't believe these have been marked for
18 identification purposes.

19 So let's mark the settlement itself as SP, not
20 to be confused with all the other SP's, but SP-1 and then
21 the testimony in support of the settlement will be SP-2T.

22 (Exhibit SP-1 and SP-2T marked.)

23 JUDGE FRIEDLANDER: Are there any questions
24 from the bench?

25 CHAIRMAN GOLTZ: Yes. And you will have to

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1 forgive me, because the last settlement was the 2007 rate
2 case; is that correct?

3 MR. DeBOER: Yes.

4 CHAIRMAN GOLTZ: So that was before my time
5 here. So I may have to ask some basic questions, and
6 maybe there's some simple answers, but why does it take
7 so long to correct a stopped meter?

8 I understand from the testimony of Ms. Jones
9 that sometimes someone is a snowbird or something or out
10 of their house for three months, so you might not realize
11 it for four, or she says four or five months, but still,
12 why is it -- utility bills can be a couple hundred
13 dollars a month, and so that's a thousand dollars in past
14 payments that could accrue. Why does it take the Company
15 so long to figure that out?

16 MR. DeBOER: The question is not correcting --
17 fixing the meter and correcting the bill. That can be
18 done fairly quickly. The issue is identification of the
19 bad meter, and that's where the length comes in.

20 For example, you could have a customer that is
21 an electric customer in Seattle City Light's territory
22 and has gas service from the Company and their only gas
23 usage is a backup generator. They want service, but they
24 never use it. So it's a zero, shows zero every month for
25 years.

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1 We check with the customer periodically. Yes
2 they still have gas service, they still want gas service,
3 but unbeknownst to anybody the meter has stopped working
4 somewhere in that time period, and then we get a storm
5 and they crank up their backup generator and we realize
6 the meter is broken and we discover it three years after
7 the meter was broken. So they could end up with a back
8 bill that way.

9 Another example would be a customer that only
10 has a gas range and otherwise -- and never uses it, just
11 uses her microwave to cook. They want to have that
12 service available, but they rarely use it, and we don't
13 notice that the meter isn't working because the customer
14 isn't using it until -- but rarely and you end up with a
15 back bill. It may not be a lot of dollars, but it could
16 be for a long period of time.

17 CHAIRMAN GOLTZ: Is really all the stopped
18 meter issues kind of those quirky situations or are you
19 just identifying the really extreme cases?

20 Because I notice that on top of page 5 of the
21 settlement, it says QC will identify and correct 98
22 percent of all stopped meters and unassigned energy usage
23 meter problems within 12 months, and it sounds like some
24 of these quirky things are in that other 2 percent that
25 you can't get done within 12 months, but it just seems to

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1 me that that's still --

2 I mean is that what we're talking about, is the
3 people that just use their microwave oven and they never
4 use their gas range and they have electric, or gas
5 generators and they never use it except once when there's
6 a huge storm, is that the problem, or is it really
7 sometimes meters just stop going, like at my house it
8 will just stop, and you just don't know and the customer
9 doesn't tell you about it? It didn't happen at my house,
10 by the way, but I'm just saying a residential customer.

11 MR. DeBOER: There's really two categories.
12 There's the stopped meter, which is a broken or slowing
13 meter, and then there's also the UEU, which is the
14 unassigned energy usage meters, and actually UEU is the
15 more difficult one to catch.

16 So there's two separate categories. UEU is
17 actually not a meter problem at all. It's a usage
18 problem, where particularly in apartments is where it
19 usually comes up. A customer or a tenant moves out. We
20 don't physically disconnect the meter. There is no
21 usage. The new tenant moves in that's electric only.
22 It's in the summer.

23 We actually have usage targets that will
24 trigger us to go back and look at that account. Sometime
25 later the customer or the tenant has been in the

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1 apartment for a year. So when their usage hits our
2 threshold and we try to contact the customer, they say,
3 Oh, yes, I moved in six months ago. Never started
4 service.

5 So that's a big category. The UEU's sometimes
6 can result, if they're not using a lot of gas or
7 electricity, can result in a back bill for an extended
8 period of time. That's the biggest category.

9 The other one is these weird ones, and
10 sometimes it's a slowing meter that someone is a gas and
11 electric customer. They don't look at their -- the
12 details of their bill, they just pay it, because they
13 have some electric usage, didn't realize their gas meter
14 usage was down to nothing, and we discover it months and
15 months later.

16 CHAIRMAN GOLTZ: What would be sort of
17 numerically the number of stopped meter problems you have
18 in a given year? Or stopped meters you have in a given
19 year. I think that was in someone's testimony. Maybe
20 Mr. Kouchi knows that answer.

21 MR. KOUCHI: Let me look.

22 COMMISSIONER OSHIE: I believe it's on page 13
23 of your testimony, Mr. Kouchi.

24 MR. KOUCHI: You know, my testimony spoke to
25 the ones that were exceeding six months and twelve

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1 months, not the totals. And that's what Staff's concern
2 is, is the -- not the ones that are corrected within six
3 months, identified, investigated and corrected within six
4 months, which the bulk of them are at this point in time.

5 It's about 70 to 75 percent. I think the
6 retroactive bills that are six months or less in duration
7 are about 75 percent of the total.

8 PSE indicated that they could increase that to
9 80 percent and -- but where Staff was having difficulty
10 with the Company's proposal is there was no upper limit
11 for the remaining 20 percent, in other words, when are
12 you going to fix the final 20 percent, and of course
13 there's a bunch of technical problems.

14 If I can step back for a second here. I want
15 to -- PSE started -- and I'm not defending the Company.
16 I just want to recognize, I guess, the problems as we
17 were involved in this that have come up.

18 They began exploring the potential for
19 automated meter readings in 1995 and they started pilot
20 projects in 1996. This is real early in the game. No
21 other companies were involved in this.

22 They started fielding -- they signed a contract
23 in October of 1997 with Cellnet, and they installed their
24 700,000 electric and gas meters. So they started rolling
25 these meters out in the late 1990s, and by 2001, end of

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1 2001, they had like 1.4 million meters out there.

2 I think they completed -- I don't know exactly
3 when they completed their full installation. I believe
4 it was around 2004, maybe shortly thereafter.

5 But the problem that began surfacing in 2004
6 was we were getting a number of complaints. The
7 complaint volume started increasing significantly for
8 retroactive bills and we were concerned, and so hence we
9 brought it up, along with Public Counsel, in the 2007
10 rate case to establish some standards to get to.

11 There's problems with the meter that was early
12 on in the game, I mean when -- so research and
13 development, they're working out the bugs, and there's
14 still, in my opinion -- I'm not, you know, an expert on
15 that particular area of their meters, but they're still
16 working on resolving some of the engineering issues with
17 that meter.

18 So in the past, when they started fielding out
19 the AMR's, they -- it was a cost-savings effort, along
20 with other efficiencies and better information. So it
21 was -- you know, we thought that, Yeah, that sounds like
22 a good idea. The Staff did too, I think.

23 We didn't envision the problems with the
24 interface. It's not one unit. It's -- they retrofitted
25 the existing meters, and you put a module in front of

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1 that existing meter, and so whenever you do that, since
2 it's not one unit, you have more failure points.

3 And they have to be connected. They have a
4 drive shaft that connects the AMR meter, and then you
5 have the Cellnet readings, you have the batteries.
6 There's just a whole host of situations where the meter
7 can fail and read zero.

8 CHAIRMAN GOLTZ: And then there's the
9 problem that -- I'm sorry to interrupt, but the issue
10 comes up because all of a sudden someone has been, not
11 been billed for any usage or has been underbilled for a
12 number of months and the Commission Staff has said they
13 have to pay the tariff rate, so therefore within some
14 limitations period they have to pay out to the utility?

15 MR. KOUCHI: Well, they are getting bills.
16 They are getting bills with just the basic charge, and
17 so, you know, and zero usage showing on their bill every
18 month, and in some cases people are enjoying that and
19 saying, Wow, I've got a low bill here.

20 CHAIRMAN GOLTZ: But are there some instances
21 where it is not no usage but just underusage, so it might
22 not be apparent to the --

23 MR. KOUCHI: That happens up until the failure.
24 What you get is a slowing of the meter or intermittent
25 usage, and then finally the meter will quit and start

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1 reading zero.

2 CHAIRMAN GOLTZ: So I have just a couple other
3 questions about how this settlement would work.

4 It says, "So" -- on page 4, paragraph 12, "So
5 during the period June 1, 2012, through May 31, 2013, the
6 Company will investigate all accounts where there has
7 been zero consumption for 12 months or longer and repair
8 and bill."

9 I gather, though, that that means that if there
10 has been someone who has been at zero consumption since
11 January 1st of 2012, that they will -- this commits the
12 Company to fixing that and billing by May 31st of 2013?

13 MR. KOUCHI: No, sir. If you go down to the
14 next page, 5 of 9, paragraph 15, and there's a couple of
15 bullet points there. Wait a minute. Yeah, that's it.

16 For the period June 1 of 2012 through May 31 of
17 2013, basically the current existing standards will
18 remain in effect.

19 CHAIRMAN GOLTZ: Okay.

20 MR. KOUCHI: With the exception of the interim
21 threshold of the 75 percent fixed within two months and
22 50 percent fixed -- of gas meters, and 50 percent of
23 electric meters fixed within one month.

24 We're finding that the interim -- you know,
25 it's kind of nice to know that the Company -- we want the

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1 Company to fix them fast, but it causes extra accounting,
2 because every month you have to really look at if the
3 meter is aging and so every month you've got looking at
4 this group and then you've got this. It's a continuing
5 group and it's an accounting nightmare.

6 CHAIRMAN GOLTZ: So I don't understand. What
7 is the purpose of paragraph 12?

8 MR. KOUCHI: That's the initial -- there's some
9 meters out there that are already aged, 12 months or
10 longer. We want them to get out there and fix them, you
11 know. We want those fixed. We don't want them -- we
12 want them to put that as top priority.

13 I think the old, the old standards didn't focus
14 the Company enough on the aging meters. They did a good
15 job of focusing them on getting the meters fixed early
16 on, but then yet allowed meters to age 12 months or
17 longer.

18 CHAIRMAN GOLTZ: Let's say that there's a meter
19 that shows zero consumption from June 1 -- from July 1,
20 2011, through June 1, 2012, okay? No, let's say July 1,
21 2011, through July 1, 2012.

22 MR. KOUCHI: Okay.

23 CHAIRMAN GOLTZ: How long does the Company have
24 to resolve that, four months under paragraph 15, or they
25 have till May 31, 2013, under paragraph 12?

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1 MR. KOUCHI: So it's from July of 2011 to
2 sometime prior to June 1st of 2012. It's less than 12
3 months.

4 CHAIRMAN GOLTZ: Let's make it May 1, 2011, to
5 May 1, 2012. So there's 12 months.

6 Do they have to resolve that within four months
7 under paragraph 15 or do they have until May 31, 2013,
8 which would be over 12 months under paragraph 12?

9 MR. DeBOER: I believe we'd have four months
10 from the time we identify it's a bad meter, and that
11 initial tranche of meters that we're looking at of those
12 12 months or longer, many of those are going to be valid
13 stopped zero reads. There will be some bad meters in
14 there that we will fix once identified within four
15 months.

16 CHAIRMAN GOLTZ: So that explains the longer
17 time, because it gives you time to figure that out, but
18 once you identify it, then you've got to fix it in four
19 months?

20 MR. DeBOER: Correct. That's the current
21 standard that will apply during that first year-time
22 period.

23 MR. KOUCHI: And that was the problem with the
24 old standard, is the clock didn't start until it was
25 identified and so there was -- it was -- there was no

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1 attention to the period of identification, if you're
2 understanding me.

3 COMMISSIONER OSHIE: Mr. Chairman, may I?

4 CHAIRMAN GOLTZ: Sure.

5 COMMISSIONER OSHIE: Maybe we can both ask
6 questions here as well.

7 So does that mean, Mr. Kouchi and DeBoer, that
8 if there is a person with a stopped meter now, that the
9 Company has no -- it would be under no obligation to fix
10 that stopped meter that is in existence now until, or to
11 identify it before May 31, 2013? Is that what that
12 means?

13 You've got a period of time here, June 1
14 through -- 2012 through 2013, but then I'm just trying to
15 compare that with Mr. Kouchi's statement earlier that
16 this paragraph 12 is intended to get to meters that are
17 in existence now.

18 This seems to have a prospective look to it as
19 well. Is that what the parties intended?

20 MR. KOUCHI: Well, let's go back -- I'm sorry,
21 were you --

22 MR. DeBOER: Go ahead.

23 MR. KOUCHI: Go back to the beginning of
24 paragraph 15. Basically it says the Company will
25 continue to meet the current meter and billing

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1 performance standard until June 1, 2013.

2 So from now -- I mean from the time of the
3 order to June 1, 2013, we are expecting the Company to
4 meet the current standard minus the interim standard.

5 COMMISSIONER OSHIE: Let's go back then to, Mr.
6 Kouchi, what the Chairman asked. I really don't
7 understand what paragraph 12 is trying to drive at.

8 I thought 12 is you had to -- you were imposing
9 a deadline in which the Company had to identify or
10 investigate all accounts, and I assume by your prior
11 statement that was existing accounts where there were 12
12 months of, 12 consecutive months or longer where there
13 has been zero consumption.

14 In other words, I thought you were saying there
15 are customers on the system now, and there will be in the
16 future, that have 12 months of consecutive -- of zero
17 consumption for 12 consecutive months or longer and they
18 have to identify those customers. Not fix it, but
19 identify them.

20 MR. KOUCHI: No. My understanding is it's
21 identify, investigate and fix. The whole purpose of that
22 is, the intent was --

23 COMMISSIONER OSHIE: I understand there is an
24 identification component and there's a fix component. So
25 they have to investigate in this 2012 to 2013 period.

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1 What is -- I thought investigation, I guess
2 there's three levels here then, is what you're saying.
3 You have to identify, you have to investigate and you
4 have to cure, and this is just -- are you saying here
5 then that they have identified the meters with 12
6 consecutive months or longer of zero consumption, that
7 they don't have to investigate it? They have to --
8 I'm...

9 MR. DeBOER: Maybe I could try, Mr. Oshie.

10 COMMISSIONER OSHIE: We could call Mr. Story
11 back up here.

12 MR. DeBOER: These are two separate
13 obligations. We will pull a list of meters on whatever
14 that date is, June 1, 2012, of all meters that have valid
15 zero reads for 12 or more consecutive months and start
16 working through that list.

17 That's a separate obligation than continuing to
18 monitor other meters that are not on the list. We will
19 continue to meet the existing standard, minus the
20 interim, for that first year until the new performance
21 standard becomes effective.

22 COMMISSIONER OSHIE: That's what I -- thank you
23 for explaining that. That's how I was reading it.

24 My question really went, is what about the
25 customers that are already, say, 10 months without --

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1 consecutive months without the zero read? What is the
2 obligation to do anything until they hit 12, as an
3 example?

4 MR. DeBOER: We continue to run our current
5 processes to identify those, and if they do hit 12, they
6 will get rolled onto this list and be investigated on the
7 other list, but until that time they will continue to go
8 through our process that we have now and be identified,
9 corrected and billed correctly.

10 COMMISSIONER OSHIE: Let me ask just a
11 follow-up question, Mr. DeBoer. That helps.

12 Why is 12 months a magic number? You know, why
13 not six months or -- I know you brought up a couple of
14 examples where they seem -- you know, I mean they're
15 plausible and I understand that they occur, but when you
16 have a bill, from Mr. Kouchi's testimony, that you are
17 retroactively billing 3.2 million for gas, 800,000 for
18 electric, one gas customer -- of course there is no
19 identification of size, whether it's commercial or some
20 other operation -- with \$65,000, why is 12 months a
21 critical component of this settlement and not an earlier
22 period?

23 MR. DeBOER: Are you referring to the 12 months
24 of zero reads or the 12 months to get to the 98 percent?

25 COMMISSIONER OSHIE: 12 months of zero reads.

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1 It seems to trigger action by the Company. I was just
2 trying to get to what is it that makes 12 months in
3 particular an important number to trigger an
4 investigation?

5 MR. DeBOER: I would defer that to -- that was
6 a Staff concern. The 12 months' zero read was a Staff
7 request. So I would defer that to Mr. Kouchi.

8 MR. KOUCHI: Well, the Company was -- it was
9 really, I believe, a concession that we had. We wanted
10 certainly it to be done quicker.

11 In my testimony, we wanted everything completed
12 within six months. You know, we believe six months was a
13 reasonable time frame, but in Zana Jones's rebuttal
14 testimony, they brought out it wasn't reasonable to PSE
15 because it's difficult to find these meters because of
16 the cyclical usage, people go on vacations and so forth.

17 So 12 months takes them through a typical
18 cycle, and it was just totally allowing the Company to
19 have the time to do that.

20 COMMISSIONER OSHIE: Okay.

21 CHAIRMAN GOLTZ: So I have a question then on
22 the penalty provision in paragraph 19, but let's go back
23 for a second to paragraph 15, where the current
24 performance standard is to resolve identified gas meter
25 and billing problems within four months and electric

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1 meter and billing problems within two months.

2 So let's say that on June 1, 2012, there is a
3 whole bunch of gas meter and electric meter problems that
4 have been identified and they aren't resolved for eleven
5 months. So in one case there are a bunch of them that
6 are nine months overdue and others seven months overdue.

7 Does the provision of paragraph 19 say that
8 there will be no enforcement action for those?

9 MR. KOUCHI: Basically, yes. We agreed not to
10 take enforcement action during this transition period
11 based on the Company's performance from the time that the
12 standards went into effect in 2007.

13 CHAIRMAN GOLTZ: So you are saying that so far
14 so good?

15 MR. KOUCHI: Well, yeah. They made a great
16 improvement. Since 2009 the number of retroactive bills
17 decreased 49 percent and the average duration of the
18 retroactive bill decreased by 30 percent.

19 And it's just that we don't expect the Company
20 to falter or to -- you know, we expect them to continue
21 doing, continue to strive to do their best to meet those
22 goals.

23 CHAIRMAN GOLTZ: So here's my concern, and I
24 will admit that it's a remote one, because I do think the
25 Company would act in good faith, but let's say one falls

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1 through the cracks, and it's an egregious one in some way
2 and it just falls through the cracks, and someone gets
3 angry and so some unspecified local television station
4 does a report on this and the question is why didn't the
5 Commission take enforcement action, and we say, Well, we
6 agreed not to.

7 I mean if the Company -- if we have faith that
8 the Company is going to do fine, then what is the need to
9 limit the hands-on enforcement, and if the Company is not
10 going to do fine, then we shouldn't limit our hand?

11 You know, in either case I don't understand the
12 rationale for limiting that. That's my concern. I'm not
13 trying to suggest that you're going to mess up or, but
14 stuff happens.

15 MR. DeBOER: Yes, and I don't think it's
16 uncommon in the cases of settlements with enforcement
17 agencies that you have during a transitional period an
18 agreement to stand down and allow the transition to
19 happen.

20 We had some concerns about upping the standard,
21 identification of stopped meters. Since we're required
22 to back bill, we are going to have some longer back
23 bills. I mean we would love to get to zero. Staff and
24 Company are aligned in trying to get these reduced in
25 both number and duration.

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1 CHAIRMAN GOLTZ: So you are required to back
2 bill, but would you rather not have that requirement?

3 MR. DeBOER: Yes, we would. So there's going
4 to be -- some are going to slip through the cracks. So
5 we had some concerns about agreeing to the metrics, the
6 performance standard, in this revised performance
7 standard, but we agreed to it with the understanding that
8 we would have time to, one, work through this backlog of
9 the greater than 12 months and then transition to this
10 new performance standard.

11 And that's basically the rationale for the
12 agreement by Staff, that they will not pursue, you know,
13 investigations and enforcement actions during that
14 period.

15 CHAIRMAN GOLTZ: And then after that, it was, I
16 believe, that enforcement action would be sort of a
17 substantial compliance standard, sort of like we have on
18 I-5 with the state patrol?

19 MR. DeBOER: Yes, except in the Olympia area.
20 No personal experience there.

21 And I would just point out there was, and I
22 think it was your, Chairman Goltz, question about the
23 number. There is in an exhibit to Zana Jones's
24 testimony, Exhibit 3, there is a summary of the number
25 and duration of back bills for 2009, '10 and '11.

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1 I would just point out these are six-month
2 periods, January to June. The comparison is not full
3 annual years, but it does show the trend over the last
4 three years of the numbers.

5 MR. KOUCHI: One of the other requirements was
6 the new requirement of customer notification, and so we
7 do want the companies to formally notify the customers of
8 a potential problem and allow the customers to call --
9 and urge the customers to call the Company to discuss the
10 problem and resolve it.

11 CHAIRMAN GOLTZ: So, Mr. Kouchi, would you
12 rather not have a back billing obligation, or have you
13 thought about that?

14 MR. KOUCHI: I don't understand.

15 CHAIRMAN GOLTZ: I asked Mr. DeBoer if he would
16 rather not have the requirement to back bill, and he said
17 yes, that PSE would rather not have the requirement to
18 back bill. Do you have a preference on that?

19 MR. KOUCHI: Well, I don't have a preference,
20 but Energy Staff may. I mean it's an issue of who pays
21 for the usage. So if they have used it, who is going
22 to -- is it going to go in the rate base.

23 CHAIRMAN GOLTZ: Mr. DeBoer, when you said
24 that, did you mean that the Company just eats it, or do
25 you mean it just kind of gets reallocated as bad debts?

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1 MR. DeBOER: We're not talking a lot of dollars
2 here. I guess I was referring to the longer duration
3 back bills, which aren't very many, and those are the
4 ones that are the most problematic.

5 CHAIRMAN GOLTZ: Those are the ones that make
6 it on the news?

7 MR. DeBOER: Yes. We would prefer having
8 flexibility to deal with those. It would result in fewer
9 complaints to us, as well as to the Commission.

10 CHAIRMAN GOLTZ: But if someone -- I mean I
11 understand if someone opens their bill and says, Great,
12 you know, I just have my fixed charge, and by the way
13 that's such a low fixed charge, I'm happy with it, so
14 then, you know, I'm getting away with this, and there you
15 can see that the customer has got some culpability in
16 that?

17 MR. DeBOER: Correct. We would be looking more
18 at the ones where it was actually the Company's fault and
19 those kinds of situations.

20 COMMISSIONER OSHIE: The Company would have
21 discretion?

22 MR. DeBOER: Yes.

23 CHAIRMAN GOLTZ: I have nothing further.

24 JUDGE FRIEDLANDER: Commissioner Oshie.

25 COMMISSIONER OSHIE: No, I have nothing

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1 further.

2 JUDGE FRIEDLANDER: Commissioner Jones.

3 COMMISSIONER JONES: No.

4 JUDGE FRIEDLANDER: With that, unless one of
5 the attorneys, either Ms. Carson or Mr. Cedarbaum, wishes
6 to provide any further elucidation, then I believe the
7 witnesses --

8 MR. CEDARBAUM: I just wanted to report that in
9 Footnote 3 of the settlement we provided indication of
10 other parties' positions, and I have since that filing
11 heard from Mr. Furuta of FEA, who has indicated that his
12 client does not take a position on the settlement.

13 I have asked him to email the Commission to
14 that effect, and hopefully he will do that, but so the
15 only party we have not heard from is CMS.

16 JUDGE FRIEDLANDER: Thank you. I appreciate
17 that. With that, the witnesses are dismissed. Thank
18 you.

19 So by my calculation that's the entirety of the
20 witnesses. Mr. Roseman.

21 MR. ROSEMAN: No, I interrupted you.

22 JUDGE FRIEDLANDER: I would say that we're now
23 ready to discuss any procedural matters that the parties
24 wish to raise. With regard to, I believe, exhibit
25 numbering, Mr. Roseman had a question.

1119

1 CHAIRMAN GOLTZ: I want to thank everybody,
2 both the attorneys and the witnesses. I thought this was
3 very well presented, very civilly presented, and everyone
4 was very helpful in both written testimony, I thought,
5 oral testimony, and it was a pleasure to watch the
6 interplay in a lot of it. It was great.

7 MR. CEDARBAUM: Your Honor, if I could ask one
8 question while the Commissioners are here.

9 There have been settlements presented by the
10 parties, both on Tuesday and today, and we have briefs
11 due on March 16th with limited pages.

12 And so my question is whether or not the
13 Commissioners require any additional briefing on the
14 settlements, or can we just assume that we don't need to
15 devote any briefing time to that?

16 JUDGE FRIEDLANDER: You mentioned that there
17 was a settlement filed on Tuesday and then one filed
18 today?

19 MR. CEDARBAUM: No, there was a settlement
20 presented. I meant to say presented on Tuesday.

21 JUDGE FRIEDLANDER: Thank you. You scared me
22 for a minute.

23 CHAIRMAN GOLTZ: We're going to meet on
24 Tuesday. Why don't we talk about it then. If we got
25 notice out to everybody like on Wednesday, if we wanted

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1 to hear on the settlements, would that be enough?

2 JUDGE FRIEDLANDER: Additional briefing.

3 MR. CEDARBAUM: That would be fine.

4 JUDGE FRIEDLANDER: Thank you. Are there any
5 other procedural matters? Mr. Roseman.

6 MR. ROSEMAN: Yes. This is somewhat to the
7 Chairman. You asked our witness, John Howat, and he was
8 willing to provide you some census data for the state of
9 Washington. Do you recall this?

10 CHAIRMAN GOLTZ: Now I do remember this, yes.
11 You asked me about it and I just drew a blank a little
12 while ago.

13 MR. ROSEMAN: You know, because we had stuff
14 from Puget, and you said, Well, do you have it for the
15 whole state, and you had some questions back and forth
16 about, I guess whether how easy it is to get service
17 territory and stuff like that, but if you want that, we
18 are happy to try to provide it. And it sounded like Mr.
19 Howat had some statewide poverty information from the
20 American --

21 CHAIRMAN GOLTZ: Right. I think I was just --
22 what we have is, and I guess what I think would be
23 minimal effort, but I recall that as being something --
24 and we could probably Google it and find it, but if you
25 can provide it, that would be fine, better, actually.

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1 We have in the record, I believe it was the
2 number 255,000 Puget customers are at 100 meter, 125
3 percent or 150 percent of federal poverty level. So what
4 I was wondering is if we have data for the state of
5 Washington population as a whole.

6 MR. ROSEMAN: And that I think we can get.

7 CHAIRMAN GOLTZ: And that's plenty.

8 MR. ROSEMAN: So I guess my question is, once I
9 get it, do I just -- I mean do we want this part of the
10 record? If so, do we need to have a bench request for
11 this thing, or how do you want to handle it?

12 CHAIRMAN GOLTZ: Yes. Can we just make that a
13 bench request?

14 JUDGE FRIEDLANDER: I think that would be a
15 good idea, and I am unable to find out if that has
16 already been given a number. So why don't I email you.

17 MR. ROSEMAN: That's perfectly okay. I just
18 wanted to try to -- we promised that, we offered to do
19 it, and I just wanted to follow through that we did, but
20 then I didn't know how.

21 CHAIRMAN GOLTZ: If you have it county by
22 county, that's a little better, too.

23 MR. ROSEMAN: Okay.

24 CHAIRMAN GOLTZ: But don't go beyond the census
25 block.

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1 MR. ROSEMAN: I will do the best we can. We
2 will try to get it county by county.

3 JUDGE FRIEDLANDER: So with that, Ms. Carson,
4 did you have something to add?

5 MS. CARSON: Yes, a few procedural issues.

6 First, PSE did object back in October to the
7 Bench Request No. 3, which was the response to the
8 decoupling statement that the Commissioners has asked
9 for. Commission Staff asked the Commission to reject
10 that objection.

11 I don't think it was ever ruled on, and for the
12 record we would like to have it ruled on. And I'm
13 assuming, since there were responses to the bench
14 request, that you are going to deny our motion or reject
15 our motion, but you're welcome to do whatever you want,
16 but we would like to have it on the record.

17 JUDGE FRIEDLANDER: Why don't I get back to you
18 on that, because I was not involved in the case at that
19 point in time, and I feel, I would feel remiss in ruling
20 on something that I was not involved in. So I will get
21 back to you on that with as much quickness as I possibly
22 can. I'm hoping next week.

23 MS. CARSON: That's fine. We just want it
24 clean for the record.

25 JUDGE FRIEDLANDER: Sure, definitely. Thank

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1 you.

2 MS. CARSON: And then a second issue, similar
3 to Mr. Roseman, there was a request for a PSE bill. The
4 Commissioners asked for that to see the different line
5 items on the bill, or a mock-up of a bill. So we're
6 planning to provide that as a bench, response to a bench
7 request.

8 JUDGE FRIEDLANDER: Right. And I think I do
9 have a number for that. I think one has already been
10 assigned as BR 10.

11 MS. CARSON: Okay. And one last issue. We
12 feel -- every other general rate case that I have been
13 involved in we've had reply briefs, and we think it's
14 very important to have even a short 15-page reply brief.

15 Whether it's 10 days after the original brief
16 or whatever, it could be a very short time period, but
17 this case has a lot of complicated issues, and I think it
18 makes sense to have a limited page number reply brief.

19 JUDGE FRIEDLANDER: I'm looking at the schedule
20 right now. Correct me if I'm wrong, but initial briefs,
21 or if they become initial briefs and not just the
22 simultaneous briefs, would be March 9th? They're due on
23 March 9th; is that correct?

24 MS. CARSON: I thought it was a week later.

25 MR. CEDARBAUM: March 16th. Your Honor, I

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1 would just note, the issue of reply briefs was
2 specifically addressed at the prehearing conference back
3 in the summer.

4 We had an argument about that, and the
5 Commission in its prehearing conference order did not --
6 rejected the idea of reply briefs, did not set them. So
7 it seems like we're just trodding over the same ground.

8 JUDGE FRIEDLANDER: I appreciate that
9 clarification. And I'm looking at the calendar, thinking
10 that that is not a lot of time for us to adequately
11 review reply briefs, even if we were to give you 10 days
12 and get them on around the 26th, to review them and draft
13 up the order.

14 So I'm going to deny the request, given that it
15 has already been addressed in a prehearing conference
16 order.

17 MS. CARSON: And I wasn't at the prehearing
18 conference. I thought I read the transcript and that we
19 had the opportunity to raise this issue again and to
20 consider it, given the breadth of the proceedings.

21 And I think with the complicated issues on LSR
22 and the conservation savings adjustments, and especially
23 with the Commission opening it up to additional
24 decoupling proposals that the Company didn't propose, and
25 the possibility of imposing such a procedural, such a

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1 mechanism on PSE that it didn't ask for, that we should
2 have what we have had in every other case, which is the
3 opportunity for a reply.

4 MR. CEDARBAUM: Your Honor, I think the
5 transcript from that prehearing conference will speak for
6 itself. My recollection is similar, although a little
7 bit different, that the ALJ at that time indicated that
8 if the Company found that it wanted -- that reply briefs
9 would be necessary after the initial briefs were filed,
10 they could file a motion to request them, but I didn't
11 think, just going from memory, that we were going to
12 revisit that at this time.

13 MS. CARSON: And I would just say in terms of
14 the time frame, PSE, I think, is willing to have a little
15 less time on the initial brief to be able to have a week
16 on a reply brief. I mean there's some flexibility there
17 from the Company's perspective.

18 JUDGE FRIEDLANDER: I'm getting a lot of
19 shaking of heads on that one.

20 MR. CEDARBAUM: I think it's just -- you know,
21 we're pressed for time as it is and, quite frankly, for
22 all the parties except for the Company there's one lawyer
23 writing and I think more than one lawyer for the Company
24 writing. So I just think it's a real resource problem.

25 On the other hand, I have thought about asking

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1 for a 10-page extension of the initial brief, from 60 to
2 70 pages, and that seems like a reasonable idea to me and
3 maybe a reasonable compromise, because there are a lot of
4 issues. So I would not be opposed to that.

5 MS. CARSON: My experience is the reply briefs
6 are much more focused on the real issues than the opening
7 brief. I mean if we're not going to have a reply brief,
8 we probably need extra pages in the opening brief, but I
9 would think that the Commissioners would get much more
10 useful information in the reply brief when the issues
11 are -- when you're responding to the issues others have
12 raised in their briefs.

13 JUDGE FRIEDLANDER: And what do the other
14 parties have to say about this? Do you have an opinion?

15 MR. FFITCH: Yes, Your Honor. We agree with
16 Staff, that there's no need for a reply brief. We also
17 agree with the suggestion that additional length is
18 needed for the opening brief because of the number of
19 issues, and so that's our perspective, Your Honor.

20 JUDGE FRIEDLANDER: Mr. Roseman.

21 MR. ROSEMAN: Thank goodness our issues are not
22 as extensive as the other people. So from our
23 perspective one brief would be fine, but we have a
24 narrower scope. I agree with Staff and Public Counsel on
25 that.

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1 JUDGE FRIEDLANDER: I will --

2 MS. BOYLES: Judge Friedlander?

3 JUDGE FRIEDLANDER: Yes? Who is that?

4 MS. BOYLES: I'm sorry. My name is Kristen
5 Boyles. I'm the attorney for Northwest Energy Coalition.

6 JUDGE FRIEDLANDER: Yes.

7 MS. BOYLES: I was excused from being there in
8 person today, but I've been on the bridge line all day.

9 We would support the motion of a reply brief,
10 and I agree with whoever it was that said that often
11 reply briefs are a good way to focus argument.

12 JUDGE FRIEDLANDER: Thank you. And did you
13 wish to weigh in on the extension of the 60-page brief
14 cap?

15 MS. BOYLES: I don't have a position on that.
16 Thank you.

17 JUDGE FRIEDLANDER: Okay, thank you. Well, I
18 still think that reply briefs, it would be difficult.
19 However, if we were to limit reply briefs to -- I'm just
20 not sure how much use you are going to get out of them if
21 I limit them to 10 pages, anyway.

22 MS. CARSON: We would take 10 pages. It allows
23 you to address a key issue that you feel another party is
24 just getting wrong in their brief.

25 JUDGE FRIEDLANDER: And we are clear here that

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1 these are legal briefs and not an opportunity to
2 reestablish facts that should have already been
3 established on the stand?

4 MS. CARSON: Yes.

5 JUDGE FRIEDLANDER: And when were you proposing
6 that reply briefs would be due?

7 MS. CARSON: Ten days from the 16th.

8 JUDGE FRIEDLANDER: So that would be
9 March 26th, on a Monday?

10 MS. CARSON: Yes.

11 JUDGE FRIEDLANDER: I will allow that, with the
12 limitation that these -- with the caveat that these will
13 be limited to 10 pages only and they will be due at nine
14 a.m. on the 26th.

15 MS. CARSON: Nine a.m. on Monday?

16 JUDGE FRIEDLANDER: Yes.

17 MR. FFITCH: Your Honor, that's -- as a
18 practical matter, that's quite difficult to comply with
19 from a logistical perspective.

20 It means as a practical matter that the briefs
21 would have to be completely finished on the preceding
22 Friday, so that we would actually have less than 10 days.
23 I don't know that we've ever had to deal with a nine a.m.
24 deadline on a Monday in terms of an actual filing.

25 MR. ROSEMAN: How about accepting them

1 computer --

2 MR. FFITCH: Electronic by noon?

3 MR. ROSEMAN: Electronic filing, and then the
4 next day send you a hard copy, or whatever the rule is.

5 JUDGE FRIEDLANDER: I would accept that,
6 electronic filing by nine, and then having the delivery
7 of the physical copies, the hard copies, by the next day
8 at noon.

9 MR. FFITCH: I think, Your Honor, I would
10 request they we have the electronic by noon, otherwise
11 even the finalization of the actual physical document by
12 our support staff and their ability to have it ready to
13 file by nine a.m., that would have to happen on the
14 preceding Friday.

15 MR. ROSEMAN: I agree with Mr. ffitch. I think
16 at least give us to noon, especially.

17 JUDGE FRIEDLANDER: I'm not willing to press on
18 three hours. So noon is fine.

19 MS. CARSON: Thank you.

20 JUDGE FRIEDLANDER: With that, I don't think at
21 this point really there's a need for an extension of 10
22 pages for the initial briefs. Unless somebody has a
23 strong feeling about this, I'm giving you 10 for reply.
24 So I'm going to hold you firm to the 60 in our rules.

25 MR. FFITCH: We would request you reconsider

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1 that, Your Honor. I think that there are very broad
2 issues and very important issues in the case, and the
3 reply -- the opening brief is the time for parties to
4 make their full argument and the reply is simply a reply.

5 It's not that we can reserve any arguments for
6 that additional 10 pages in the reply. We have to
7 address everything up front and then be extremely
8 efficient in the response.

9 So I would, I guess, continue to request, very
10 respectfully, that we have an additional 10 days, or 10
11 pages on the first brief.

12 JUDGE FRIEDLANDER: Mr. Cedarbaum, this was
13 your suggestion, so.

14 MR. CEDARBAUM: This was my good or bad idea.
15 And I agree, especially for Staff who is in every issue
16 in the case.

17 I mean Public Counsel has many issues, but not
18 every issue, and I think the Company and Staff are the
19 only issues that are addressing -- only parties
20 addressing every issue in the case. So if we can't -- if
21 we don't end up using the extra 10 pages, it's fine, but
22 it's there in case we need it.

23 MS. CARSON: I have no objection to that.

24 JUDGE FRIEDLANDER: All right. Then I will
25 allow the extra 10 pages, given the request by Staff.

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1 So I have the initial briefs due on March 16th,
2 and that is at five p.m., and I have reply briefs due
3 March 26th, electronic copy by noon.

4 Is there any other procedural matter that we
5 need to deal with?

6 MR. FFITCH: Yes, Your Honor. We have a number
7 of housekeeping matters to cover.

8 JUDGE FRIEDLANDER: Okay.

9 MR. FFITCH: First, the Company has asked us to
10 correct one of our cross-exhibits for Ms. Seelig, and
11 unfortunately I have -- after several opportunities still
12 didn't write down the number that Mr. Kuzma drew to my
13 attention. We do have it in an email.

14 We would simply offer to make that substitution
15 and refile the corrected exhibit with the Commission by
16 the, I believe it's the March 9th deadline to provide all
17 exhibits in final form. So we would do it at that time.
18 Mr. Kuzma may remember the number. That would help.

19 MR. KUZMA: It's either 74 or 78, one of the
20 two.

21 UNIDENTIFIED SPEAKER: It's not 78. 78 is the
22 work papers.

23 JUDGE FRIEDLANDER: If none of the parties
24 object, we have no problems with that.

25 MR. FFITCH: We will make that correction.

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1 Then we had some confusion about cross-exhibit
2 numbers that we had offered, and that was stemming from
3 an incorrect exhibit list that we were using.

4 So for Mr. Piliaris -- I apologize, Your Honor,
5 because this was in front of Judge Moss. For Mr.
6 Piliaris we had incorrectly shown -- let me just use the
7 correct numbers.

8 We are offering Public Counsel Exhibits 52
9 through 65, and they were previously offered. The only
10 remaining question was the numbers, and the correct
11 numbers are 52 through 60 -- I'm sorry, 52 through...

12 JUDGE FRIEDLANDER: On my list it's 52 through
13 65, with an added 66, being Mr. Piliaris's work papers.

14 MR. FFITCH: Your Honor, I would -- I'm sorry,
15 Your Honor. I got off on the wrong track. I think that
16 is correct, Your Honor.

17 And then the additional exhibit that you
18 mentioned has been reserved for a Public Counsel record
19 requisition. That's Exhibit 66, and that is a Piliaris
20 work paper, the last page of his work paper, which we're
21 going to subsequently provide.

22 So you do not have that yet, but it would be
23 coming in. We are either going to get it from our own
24 version or we will work with the Company on that.

25 JUDGE FRIEDLANDER: Okay.

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1 MR. FFITCH: Then we also needed to correct Mr.
2 Stolarski's cross-exhibits that were offered, and the
3 correct numbering for his cross-exhibits is as shown on
4 your list, would be RWS-15 through 19.

5 JUDGE FRIEDLANDER: And that's what I have, and
6 they've already been admitted.

7 MR. FFITCH: Thank you. And then with regard
8 to the public comment exhibit, Your Honor, that has been
9 given the number B-1?

10 JUDGE FRIEDLANDER: Yes, that's correct.

11 MR. FFITCH: And we would ask, with leave of
12 the bench, for some additional time to prepare that.

13 We have, I believe, again from memory, a
14 March 9th date for final submission of all exhibits, and
15 we would just propose that we would work with commission
16 public involvement staff, put that public comment
17 together and provide it no later than that date. If we
18 can get it done sooner, we will do that.

19 JUDGE FRIEDLANDER: And that's fine.

20 MR. FFITCH: Thank you, Your Honor.

21 MS. CARSON: I do have a couple other
22 procedural matters. Were you finished, Mr. ffitich?

23 MR. FFITCH: One moment. I did have -- I just
24 wanted to check on the timing of the transcript, on when
25 the transcript will be available. Is that going to be

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1 expedited?

2 JUDGE FRIEDLANDER: I believe the Company might
3 know that.

4 MS. CARSON: We did ask for it to be expedited.

5 JUDGE FRIEDLANDER: So the answer is yes.

6 MR. FFITCH: Thank you. I believe that's all
7 the items that I had. Thank you.

8 JUDGE FRIEDLANDER: Thank you. And Ms. Carson.

9 MS. CARSON: Yes. It appears that there were
10 for Rick Applegate cross-exam exhibits that did not get
11 into the record.

12 Do you have any objection to that? So that's
13 RTA-7 through 10, his four cross-exam exhibits.

14 JUDGE FRIEDLANDER: Just one minute. So there
15 are no objections to those?

16 MR. CEDARBAUM: No objections.

17 MS. CARSON: Thank you.

18 JUDGE FRIEDLANDER: So admitted.

19 (Exhibit RTA-7 CX through RTA-10 CX admitted.)

20 JUDGE FRIEDLANDER: Go ahead.

21 MS. CARSON: And then I believe on Aliza
22 Seelig's Cross-Exhibit 28 there was to be, or should be
23 another attachment -- Simon, I think this is one of
24 yours -- and only Attachment B was provided, and
25 Attachment A, I think it was available electronically

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1 only, electronic form only.

2 UNIDENTIFIED SPEAKER: I would imagine.

3 MR. FFITCH: It was only redacted.

4 MS. CARSON: So it was provided only redacted,
5 I guess, is the issue, and it needs to be --

6 MR. KUZMA: It appears to be a CD, and we
7 didn't receive the CD, and we just want to make sure that
8 it's in the record as well. We received the paper copies
9 and there was a -- the redacted version was provided.

10 MR. FFITCH: This is 28 CX?

11 MS. CARSON: Right.

12 MR. FFITCH: What is your request specifically?
13 You want all the attachments in?

14 MR. KUZMA: Yes.

15 MR. FFITCH: I don't think we have any
16 objection to that. I would have to go back and look at
17 the exhibit. We can do that here before we leave, but
18 right now I can't --

19 JUDGE FRIEDLANDER: Was this fairly voluminous,
20 or was there a reason why it was on a CD and not in paper
21 form to begin with?

22 MR. KUZMA: There are at least seven DVDs that
23 have been placed in the record of various models, and
24 there were at least four CDs provided in the cross-exam
25 exhibits of Ms. Seelig, and this is just an additional

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1 CD.

2 MR. FFITCH: Yes, Your Honor, right. There is
3 some record information that has only ever existed on
4 disk electronically.

5 JUDGE FRIEDLANDER: So when would you be able
6 to provide that to the Commission?

7 MR. FFITCH: We can certainly do it by the
8 March 9th deadline. I will just make a note that we need
9 to do that.

10 JUDGE FRIEDLANDER: I guess I have a question,
11 and this is a bit odd, because none of you have seen it
12 yet. Does anybody have an objection to the inclusion of
13 the expanded exhibit?

14 MR. FFITCH: I don't think so, Your Honor.

15 MR. CEDARBAUM: It's not my cross-exhibit, and
16 I guess I have a concern about an exhibit in a case that
17 is an electronic document that could be manipulated.

18 I'm not quite sure exactly how you -- I mean
19 I'm assuming that's what we're talking about, that
20 somebody could take that DVD and play with it.

21 MS. CARSON: We already have several of those
22 in the record, that Public Counsel has put in the record.

23 MR. CEDARBAUM: I guess one more doesn't make
24 it any worse. It's just...

25 JUDGE FRIEDLANDER: So these are not locked, I

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1 take it? The information in them is not locked; they are
2 freely manipulatable?

3 MS. CARSON: Yes. That's true.

4 JUDGE FRIEDLANDER: Well, it's PSE's
5 information. I suppose if you don't have an objection.

6 MS. CARSON: Yeah, I think in the interest of
7 having the full record, there's already several of these
8 in, and this apparently is an important one as well, and
9 it's not included as part of this exhibit, so PSE would
10 like this in.

11 MR. FFITCH: We can do it. It will be a disk.
12 We've just looked at it. We can do it. We will have to
13 do it in due course, when we get back to the office.

14 JUDGE FRIEDLANDER: So the projection for
15 getting that to us is still around March 9th, or would it
16 be sooner than that?

17 MR. FFITCH: We could do it sooner. I'm not
18 sure if there is a strong need for that with -- there's
19 just, I guess, sort of an efficiency in getting
20 everything put together for that March 9th deadline so
21 that it all comes in at once for the bench and other
22 parties, but if someone has a special need before that,
23 we could, you know, hear about that, but.

24 JUDGE FRIEDLANDER: That's fine. Mr. Roseman,
25 did you have something additional to add?

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1 MR. ROSEMAN: I need to leave, and I just
2 didn't want to do it without letting you know.

3 JUDGE FRIEDLANDER: Thank you.

4 MR. ROSEMAN: Thank you, Your Honor.

5 JUDGE FRIEDLANDER: Mr. Ritchie.

6 MR. RITCHIE: I just have one question, Your
7 Honor. You had asked Sierra Club to provide a redacted
8 copy of a confidential exhibit that we had introduced.

9 JUDGE FRIEDLANDER: Yes.

10 MR. RITCHIE: Should we file that?

11 JUDGE FRIEDLANDER: Yes. According to our
12 normal processes, you would file the redacted copy, and
13 this will all be done with the other cross-exam exhibits
14 on the March 9th deadline.

15 MR. RITCHIE: So we should still officially
16 file all those pre-distributed exhibits as well?

17 JUDGE FRIEDLANDER: Right. Any ones that you
18 have used or referenced, yes.

19 MR. RITCHIE: Thank you.

20 JUDGE FRIEDLANDER: Thank you. Ms. Carson, did
21 you have anything additional?

22 MS. CARSON: I think that's it.

23 JUDGE FRIEDLANDER: Not hearing anything over
24 the conference bridge, I believe we are -- go ahead.

25 MR. BROOKS: This is Tommy Brooks, counsel for

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1 NIGU. I identified, I think, two cross-exhibits that
2 referred to the same document, only one of which was used
3 during cross-examination.

4 I don't know if you want me to identify that
5 or, if you do, we should do that now or in writing?

6 JUDGE FRIEDLANDER: So if I'm understanding
7 you, you filed two different cross-exam exhibits that are
8 basically identical?

9 MR. BROOKS: No. One came from us and one came
10 from Public Counsel, but they were the same document. So
11 it is listed -- the same document is listed under each
12 party.

13 JUDGE FRIEDLANDER: And have both of them been
14 admitted, or one of them been admitted?

15 MR. BROOKS: I believe they were both admitted.

16 JUDGE FRIEDLANDER: Then no harm, no foul, I
17 guess.

18 MR. BROOKS: Okay.

19 JUDGE FRIEDLANDER: We will just have it twice.

20 MR. BROOKS: I wanted to be sure the redundancy
21 didn't need to be cleared up.

22 JUDGE FRIEDLANDER: No. Thank you for alerting
23 me to that. And so with that we are adjourned. Thank
24 you.

25 (Proceedings concluded at 5:08 p.m.)

