

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 In the Matter of the Proposal by)  
4 PUGET SOUND POWER & LIGHT )  
COMPANY )  
5 ) DOCKET NO. UE-951270  
to Transfer Revenues from PRAM )  
6 Rates to General Rates. )  
-----)

7 In the Matter of the Application)  
of )  
8 )  
9 PUGET SOUND POWER & LIGHT )  
and )  
10 WASHINGTON NATURAL GAS COMPANY ) DOCKET NO. UE-960195  
For an Order Authorizing the ) VOLUME 14  
11 Merger of WASHINGTON ENERGY ) Pages 1912 - 2149  
COMPANY and WASHINGTON NATURAL )  
12 GAS COMPANY with and into PUGET )  
SOUND POWER & LIGHT COMPANY, and)  
13 Authorizing the Issuance of )  
Securities, Assumption of )  
14 Obligations, Adoption of )  
Tariffs, and Authorizations )  
15 in Connection Therewith. )  
-----)

16  
17 A hearing in the above matter was held on  
18 November 8, 1996, at 9:00 a.m. at 1300 South Evergreen  
19 Park Drive Southwest, Olympia, Washington before  
20 Commissioners RICHARD HEMSTAD and WILLIAM R. GILLIS  
21 and Administrative Law Judge MARJORIE R. SCHAER and  
22 JOHN PRUSIA.

23  
24 Cheryl Macdonald, CSR  
25 Court Reporter

1           The parties were present as follows:

2           WASHINGTON UTILITIES AND TRANSPORTATION  
3 COMMISSION STAFF, by ROBERT CEDARBAUM, Assistant  
4 Attorney General, 1400 South Evergreen Park Drive  
5 Southwest, Olympia, Washington 98504.

6           FOR THE PUBLIC, ROBERT F. MANIFOLD,  
7 Assistant Attorney General, 900 Fourth Avenue, Suite  
8 2000, Seattle, Washington 98164.

9           PUGET SOUND POWER & LIGHT COMPANY, by JAMES  
10 M. VAN NOSTRAND, Attorney at Law, 411 - 108th Avenue  
11 NE, Bellevue, Washington 98004.

12           WASHINGTON NATURAL GAS COMPANY, by MATTHEW  
13 R. HARRIS, Attorney at Law, 6100 Columbia Center, 701  
14 Fifth Avenue, Seattle, Washington 98104.

15           NORTHWEST INDUSTRIAL GAS USERS, by PAULA  
16 PYRON, Attorney at Law, 101 SW Main, Suite 1100,  
17 Portland, Oregon 97204.

18           INDUSTRIAL CUSTOMERS OF NORTHWEST  
19 UTILITIES, by CLYDE H. MACIVER, Attorney at Law, 601  
20 Union Street, 4400 Two Union Square, Seattle,  
21 Washington 98101.

22           SEATTLE STEAM COMPANY, by FREDERICK O.  
23 FREDERICKSON, Attorney at Law, 33rd Floor, 1420 Fifth  
24 Avenue, Seattle, Washington 98101.

25           WASHINGTON PUD ASSOCIATION, by JOEL MERKEL,  
Attorney at Law, 1910 One Union Square, 600 University  
Street, Seattle, Washington 98101.

PUD NO. 1 OF SNOHOMISH COUNTY, by ERIC E.  
FREEDMAN, Associate General Counsel, 2320 California  
Street, Everett, Washington 98201.

BONNEVILLE POWER ADMINISTRATION, by JON D.  
WRIGHT, Attorney at Law, Routing LQ, P.O. Box 3621,  
Portland, Oregon 97208.

NATIONAL RESOURCE DEFENSE COUNCIL and  
NORTHWEST CONSERVATION ACT COALITION, by DEBORAH  
SMITH, Attorney at Law, 401 North Last Chance Gulch,  
Helena, Montana 59601.

25

## I N D E X

1					
2					
3	WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
	MAGLIETTI		1916		EXAM
	MARTIN		1961		1949
4	MARCUS	1964	1966	1972	
	STURZINGER	1972	1976	1985	1988
5	POWER	1990	1992	2018	2024
	LAZAR	2029	2036	2113	2125
6	STORY	2133	2147		2092
7					
	EXHIBIT	MARKED		ADMITTED	
8	204			1927	
	T-205	1964		1965	
9	206	1964		1965	
	207	1964		1965	
10	208	1964		1965	
	TS-209	1964		1965	
11	210	1964		1965	
	211	1964		1965	
12	212	1964		1965	
	T-213	1975		1976	
13	214	1975		1976	
	215	1975		1976	
14	T-216	1990		1992	
	217	1990		1993	
15	T-218	2030		2033	
	T-219	2030		2033	
16	220	2030		2033	
	TS-221	2030		2033	
17	222	2030		2037	
	223	2113		2114	
18	TS-224	2113		2115	
	T-225	2130		2130	
19	T-226	2130		2131	
	T-227	2132		2146	
20	TS-228	2132		2146	
	TS-229	2132		2146	
21	TS-230	2132		2146	
	TS-231	2132		2146	
22	TS-232	2132		2146	
	TS-233	2132		2146	
23	234	2132		2146	
	235	2132		2146	
24	236	2132		2146	
	237	2132			
25	238	2132			

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

2 JUDGE SCHAEER: Let's be on the record.

3 This is a hearing in docket Nos. UE-951270 and 960195  
4 continuation of cross-examination of counsel, staff,  
5 intervenors and company rebuttal. We are meeting  
6 today on November 8, 1996 in the Commission's hearing  
7 room in Olympia, Washington. Our first order of  
8 business this morning would be to continue and  
9 complete the cross-examination of Mr. Maglietti, but  
10 before we go on with that task I believe, Mr.  
11 Cedarbaum, that you had something that you wanted to  
12 say on the record about Exhibit 196.

13 MR. CEDARBAUM: That's right, Your Honor.  
14 Exhibit 196, which I understand has been admitted, is  
15 our response to bench request No. 5 which was to  
16 provide supporting documentation for Mr. Miernyk's  
17 table 1 on page 7, and just to be specific about it,  
18 if you look at page 10 of Exhibit 196, line 29, those  
19 are the numbers that Mr. Miernyk used although he  
20 rounded where it was appropriate, so line 29 on page  
21 29, which was the numbers that are boxed off, are the  
22 numbers that are then transferred on to his table 1.

23 JUDGE SCHAEER: So this is the very last  
24 page of the exhibit; is that correct?

25 MR. CEDARBAUM: That's right.

1                   JUDGE SCHAEER: Thank you, Mr. Cedarbaum.  
2 Is there anything else that we need to take up as a  
3 preliminary matter this morning? Then let's continue  
4 with cross-examination of Mr. Maglietti. I will  
5 remind you, sir, that you continue to be under oath,  
6 and I believe, Mr. Manifold, that you were  
7 questioning.

8                   MR. MANIFOLD: Yes.

9

10                                   CROSS-EXAMINATION

11 BY MR. MANIFOLD:

12           Q.       Good morning.

13           A.       Good morning, Mr. Manifold.

14           Q.       Yesterday Mr. Harris asked you some  
15 questions regarding your testimony in the matter of  
16 whether with the combined company the extension of gas  
17 mains and services might be cost justified in  
18 circumstances where it would not currently be the case  
19 with two separate stand alone utilities doing separate  
20 trenching; is that correct?

21           A.       Yes.

22           Q.       And my recollection is that he asked you if  
23 that would lead to more gas -- to gas being available  
24 to customers not otherwise available if other things  
25 stayed the same?

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1 A. Yes, I believe that was asked.

2 Q. And he asked you if that would lead to  
3 greater competition?

4 A. Yes.

5 Q. And I think you said yes. The competition  
6 -- is that correct?

7 A. Yes.

8 Q. And the competition then would be between  
9 the gas and the electric service?

10 A. Yes. It would be for the customers, yes.

11 Q. And if the merger went through that  
12 competition would be between Puget Sound Energy  
13 Company and Puget Sound Energy Company?

14 A. In some areas, yes.

15 Q. So is that going to assist competition  
16 between Puget Sound Energy Company and any other  
17 companies?

18 A. It may. One of staff's requirements if  
19 this merger is accepted is that Puget Sound Energy  
20 work with other utilities with respect to unity  
21 trenching, so in the case that unity trenching would  
22 be used, which was the question he was asking, it may  
23 make it cheaper for both the gas and the electric  
24 services to be provided.

25 Q. Puget Sound -- excuse me -- Puget Power

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1 currently has service overlap with Cascade Natural  
2 Gas?

3 A. Yes, it does.

4 Q. And would unity trenching with Cascade  
5 Natural Gas be the sort of thing you're referring to  
6 there?

7 A. Yes, it would be. Again, we're looking at  
8 the customer choice.

9 Q. Looking at Exhibit 197, which was the  
10 scenario 1 and scenario 2.

11 JUDGE SCHAEER: I believe that's 199.

12 MR. MANIFOLD: Excuse me. Thank you, 199.

13 A. Yes.

14 Q. Does this create an incentive for Puget  
15 Sound Energy to overbuy gas?

16 A. In the scenario one would hope not.  
17 However, if Puget Sound Energy did overbuy must-take  
18 gas to subsidize or to subsidize its electric  
19 operations that would be an issue in the PGA in a  
20 prudence hearing.

21 Q. So it would be necessary in PGA hearings or  
22 proceedings to examine whether or not any pernicious  
23 incentives had been created under this?

24 A. Yes.

25 Q. Were you involved in the recent Cascade

1 rate case?

2 A. Yes, I was.

3 Q. Did Cascade agree to reduce its meter  
4 reading and billing costs by one third by the time of  
5 its next rate case?

6 A. That is my recollection.

7 Q. Would one way for them to be doing that to  
8 be doing joint meter reading and billing with Puget  
9 Sound in its overlapping electric gas where Cascade  
10 overlaps with Puget electric?

11 A. That would be one way to do it, yes.

12 Q. Do you have any recommendations with regard  
13 to what Puget Sound Energy ought to be ordered to do  
14 in this case regarding that?

15 A. Yes. As I have stated on page -- as I  
16 state on page 11 of my testimony, staff requests that  
17 the company work with other utilities in the areas of  
18 joint customer field operation, joint customer service  
19 offices and billing stations and also meter reading  
20 and billing.

21 Q. What sort of -- can you refresh my  
22 recollection? Do you require any particular oversight  
23 or reporting of that commitment?

24 A. We've asked that the company file a report  
25 with the Commission. I believe on line 20 it says PSE



1 should submit a detailed plan describing how it  
2 intends to work with those other utilities.

3 Q. And would you expect that plan to be  
4 subject to review and comment by the Commission staff,  
5 public counsel and the Commission and others?

6 A. Yes, I would.

7 Q. Would you agree that a change in line  
8 extension -- slightly different subject here. Would  
9 you agree that a change in line extension policy which  
10 requires developers to pay a larger share of the cost  
11 of main extensions and service connections, other  
12 things being equal, would increase the profitability  
13 of the company of Puget Sound Energy?

14 A. I cannot answer that question.

15 Q. Would you agree that it might?

16 MR. HARRIS: Objection, he's already said  
17 he can't answer the question.

18 MR. MANIFOLD: Well, I changed the  
19 question.

20 MR. HARRIS: He's asking the witness to  
21 speculate.

22 MR. MANIFOLD: The witness is testifying as  
23 an expert on economic matters in line extension  
24 service policies. I think it's appropriate for him to  
25 answer a question of whether or not something could

1 happen.

2 JUDGE SCHAER: I will allow the answer to  
3 that limited question. Go ahead, sir.

4 A. It may happen. However, it depends on  
5 attrition on the system and it depends on other  
6 factors. These are new services.

7 Q. Is the issue of any change in revenue  
8 enhancement as a result of line extensions something  
9 that you would recommend leaving to consideration at  
10 the time any line extension policies were presented  
11 for change?

12 A. Yes. At the time they -- at the time the  
13 company presents a line extension policy change, which  
14 they have stated they do not have in a data request  
15 No. 48 to you, it would be the appropriate time.

16 Q. If that should result in any enhanced  
17 revenues or profitability to the company, that is not  
18 something, I take it, that staff has taken into  
19 account in its current case presentation?

20 A. No. As my testimony states, it is a  
21 carve-out issue and that argument should be made at  
22 the time the issue comes forward from the  
23 Commissioners.

24 Q. Would you anticipate that rates might be  
25 changed as a result of that or is that unknown?

1 A. That's unknown, sir.

2 Q. On page 13, finally, lines 13 and 15 you  
3 make two recommendations for the Commission to order  
4 Puget Sound Energy to file matters with the  
5 Commission. Is it your intent that those be subject  
6 to examination, comment, and if you will, acceptance  
7 or approval or disapproval by the Commission?

8 A. No. My intent, sir, was to make sure that  
9 the company is doing their operations in a competitive  
10 manner.

11 Q. What would be the effect of them filing a  
12 plan that indicated it was not being done in a  
13 competitive manner? What would you do with it?

14 A. If we found the company was not doing its  
15 activities in a competitive manner then that would be  
16 subject to review and if staff found that that was  
17 occurring we would then ask the Commission to hear  
18 that proceeding.

19 Q. So that would in essence be some sort of a  
20 carve-out?

21 A. Yes. As I state in my testimony, we have  
22 established checks and balances, and if we find that  
23 that balance has not been satisfied we would then come  
24 before the Commission and take action.

25 MR. MANIFOLD: Thank you. That's all the

1 questions I have.

2 JUDGE SCHAEER: Ms. Pyron, did you have any  
3 questions for this witness?

4 MS. PYRON: I have no questions at this  
5 time, Your Honor.

6 JUDGE SCHAEER: Mr. Frederickson.

7 MR. FREDERICKSON: Thank you, Your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. FREDERICKSON:

11 A. Good morning, Mr. Frederickson.

12 Q. Good morning. You beat me to the punch.  
13 I'm counsel for Seattle Steam and I have just a few  
14 questions for you this morning. In your testimony,  
15 which I believe is Exhibit 197, at page 16 you make  
16 reference to the proceeding in which Washington  
17 Natural Gas distribution fields were unbundled docket  
18 -- strike that, UG-940814. Can I assume from that  
19 statement that you're familiar with that proceeding  
20 and the Commission decision in it?

21 A. Would you repeat the reference, sir.

22 Q. I believe it's UG-94 --

23 A. No, I'm sorry, the reference to my  
24 testimony.

25 Q. Yes, sir. It's at page 16 of your prefilled

1 testimony which is Exhibit 197 at line 13.

2 A. Yes, I see that now. I was on page 15.

3 Q. And my question is, are you familiar with  
4 the proceeding and the Commission's decision in it?

5 A. Yes. I was one of the staff members that  
6 worked on that case.

7 Q. And I believe you have before you, sir, a  
8 copy of Exhibit 204 for identification?

9 A. Yes, I do.

10 Q. I will represent to you that that is a true  
11 and correct copy of the current version of schedule  
12 57 as filed with this Commission and my question to  
13 you is whether Exhibit 204 is a true and correct copy  
14 of schedule 57?

15 A. I can accept that subject to check, sir.

16 Q. Thank you. Then I'm moving to page 17 of  
17 your prefiled testimony, lines 6 through 9.

18 A. Give me that reference again.

19 Q. Yes, sir. Page 17 lines 6 through 9.

20 A. Okay.

21 Q. You recommend that Puget Sound Energy be  
22 ordered to decrease all monthly charges and rate block  
23 margins by 2 percent to implement Mr. Martin's  
24 recommended decrease in natural gas rates of 2  
25 percent. Since schedule 57 for transportation

1 services contains no gas commodity costs, only margin  
2 to Washington Natural Gas, then your recommendation  
3 would result in a 2 percent reduction in each charge  
4 and rate block in schedule 57; is that correct?

5 A. That is correct, with one exception.  
6 Schedule 57 does have a JP balance -- a Jackson  
7 Prairie rebalancing part of gas costs, which is  
8 .00048, so the rate is not all margin. It does have a  
9 little gas cost in it.

10 Q. So exclusive of the gas cost at Jackson  
11 Prairie the statement is correct?

12 A. Yes.

13 Q. And then again excluding Jackson Prairie,  
14 would I be correct that should the Commission decide  
15 to order a different percent decrease in gas rates  
16 then your recommendation would be for such a percent  
17 decrease to be applied across the board. In other  
18 words, in each charge and rate block in schedule 57?

19 A. Of course the Commissioners could do  
20 whatever they wanted to do. However, that would be my  
21 recommendation consistent with my testimony.

22 Q. So, for example, if the Commission decided  
23 to order a decrease of 1 percent rather than the  
24 recommended 2 percent it would still be your  
25 recommendation that 1 percent reduction go across the

1 board?

2 A. Yes.

3 Q. And just to make sure, I wonder if you  
4 could look at Exhibit 204. The second page of that  
5 document which at the top is labeled fifth revision  
6 sheet No. 157-A?

7 MR. CEDARBAUM: Your Honor, could he offer  
8 the exhibit first so we're clear as to the purpose of  
9 this?

10 MR. FREDERICKSON: I can ask my next  
11 question and see if Mr. Cedarbaum has an objection.  
12 I'm just trying to get him to the page right now.

13 JUDGE SCHAEER: Would you like to offer the  
14 exhibit before you ask further questions?

15 MR. FREDERICKSON: Oh, certainly.

16 JUDGE SCHAEER: I think that would be a good  
17 idea.

18 MR. CEDARBAUM: And my understanding of the  
19 exhibit is to demonstrate the rates upon which Mr.  
20 Maglietti's recommendation on how to implement a rate  
21 decrease in this case would work. If that's the  
22 purpose of it, I don't have any objection but beyond  
23 that I'm not quite sure what the purpose is.

24 MR. FREDERICKSON: That's the purpose.

25 MR. CEDARBAUM: Then I have no objection.

1                   JUDGE SCHAEER: Then Exhibit 204 is admitted  
2 into the record. And why don't you finish the  
3 question and then wait a moment to see if Mr.  
4 Cedarbaum has any objection to the question before we  
5 go forward.

6                   (Admitted Exhibit 204.)

7           Q.       I'm now trying to refer you to a page which  
8 is the second page of Exhibit 204, and at the top it's  
9 labeled fifth revision sheet No. 157-A. Do you have  
10 that before you, sir?

11           A.       Yes, I do.

12           Q.       And I just wanted to ask you then, do you  
13 see numbered paragraphs 1 through 5 on that page?

14           A.       Yes, I do.

15           Q.       And excluding some possibility that Jackson  
16 Prairie fits into paragraphs 1 through 5, my question  
17 is does your across the board recommended reduction  
18 apply to each of those paragraphs?

19           A.       I do not recall whether the transportation  
20 firm contract demand charge was a gas -- was allocated  
21 -- was allocated as gas costs or whether that was a  
22 margin issue in the case.

23           Q.       And that's paragraph 2?

24           A.       Yes, that is.

25           Q.       And with the exception of your possible



1 caveat to paragraph 2, would the 2 percent across the  
2 board decrease apply to paragraphs 1.5 -- 1 through 5,  
3 I'm sorry?

4 A. I make the same claim for paragraph 5.  
5 However, other than that they would be a 2 percent  
6 decrease, and if staff finds that paragraph 2 and  
7 paragraph 5 were in fact margin it would include those  
8 also.

9 Q. Thank you. I want to switch subjects with  
10 you briefly. On demand side management, is it your  
11 testimony that only demand side management costs  
12 associated with the reduction in demand for natural  
13 gas should be recovered from natural gas customers?

14 A. My testimony, sir, is that that would be a  
15 carve-out issue that is outside this merger  
16 proceeding.

17 MR. FREDERICKSON: I have no further  
18 questions. Thank you.

19 JUDGE SCHAEER: Mr. Wright, any questions?

20 MR. WRIGHT: No.

21 JUDGE SCHAEER: Ms. Smith.

22 MS. SMITH: Yes, Your Honor. Thank you, I  
23 have a couple of questions.

24

25 CROSS-EXAMINATION

1 BY MS. SMITH:

2 Q. Morning, Mr. Maglietti.

3 A. Good morning.

4 Q. Mr. Maglietti, were you present in the  
5 hearing room yesterday when I began discussing the  
6 PRAM with Mr. Martin?

7 A. No, I wasn't.

8 Q. Well, let me represent to you that you were  
9 the witness to whom those questions were deferred.  
10 Mr. Maglietti, are you familiar with the revenue per  
11 customer mechanism that was part of the PRAM?

12 MR. CEDARBAUM: Your Honor, I guess I will  
13 object as being beyond the scope of this witness's  
14 testimony. My recollection of the deferral of issues  
15 was in the context of Dr. Power's recommendation. I  
16 think that's what we were really driving at, not how  
17 the PRAM itself works or doesn't work. I can -- I  
18 think that is beyond the scope of Mr. Maglietti's  
19 testimony. If the questions concern staff's position  
20 on Dr. Power's proposal that would be fine, but I  
21 think the purpose of these questions is not to talk  
22 about PRAM. It's to talk about Dr. Power's issues,  
23 and I think Mr. Maglietti's understanding of PRAM is  
24 beyond the scope of his testimony.

25 JUDGE SCHAEER: Brief response.

1                   MS. SMITH: Thank you, Your Honor. I  
2 believe I made quite clear yesterday, and if not I  
3 will make clear today, my purpose of questioning staff  
4 witness is not in asking their opinion about Dr.  
5 Power's testimony but is directed towards staff's  
6 opinion on whether what the purpose of the revenue per  
7 customer mechanism was, whether there is anything in  
8 staff's proposal that would include a revenue per  
9 customer type mechanism or whether staff believes that  
10 their testimony -- their rate plan, excuse me, would  
11 allow a revenue per customer type mechanism to work  
12 along with it. Those were the questions I wanted to  
13 ask, and Mr. Maglietti was the witness to whom I was  
14 directed to ask these questions.

15                   MR. CEDARBAUM: I guess I don't recall  
16 those questions being deferred to Mr. Maglietti, and  
17 I, quite frankly, don't know if he has an opinion on  
18 those questions.

19                   JUDGE SCHAEER: Do you have a witness, Mr.  
20 Cedarbaum -- to some extent maybe those should have  
21 been questions to Ms. Linnenbrink as far as the policy  
22 of the staff and the staff rate plan. I am a little  
23 bit concerned about a gas economist being asked  
24 details about what was in Puget's PRAM. It may be  
25 that that will be handled because he won't know, I

1 don't know, but I think perhaps with this  
2 understanding of where she's going with the questions  
3 we can explore what this witness knows briefly.

4 MR. CEDARBAUM: Or if you would like we can  
5 after the rest of the questioning is over with take a  
6 break and I can talk this over with staff and find out  
7 who that person would be and recall that person.

8 JUDGE SCHAEER: Let's find out if he knows  
9 and if he doesn't let's do that.

10 MS. SMITH: Thank you. May I proceed?

11 JUDGE SCHAEER: There's one more thing that  
12 I would like to bring up at this point. There's a car  
13 with its lights on in the front lot in the corner near  
14 the street. It's a silver gray Chrysler. You may  
15 proceed now.

16 MS. SMITH: Thank you, Your Honor.

17 Q. Mr. Maglietti, I'm not sure that I received  
18 a response to my first question which was, are you  
19 familiar with the revenue per customer mechanism that  
20 was a part of the PRAM?

21 A. I was not a witness of that case. I am a  
22 gas economist for the Commission staff, and I do not  
23 have -- I have a very small knowledge of PRAM.

24 Q. Do you have any knowledge about the revenue  
25 per customer mechanism part of PRAM?

1           A.       No, I do not.

2                   MS. SMITH:  Your Honor, I believe that this  
3 witness is not the appropriate person to whom I should  
4 ask my questions, and I must say I do believe that  
5 they're relevant and they're not particularly lengthy.  
6 I don't intend to --

7                   JUDGE SCHAER:  I understood from what Mr.  
8 Cedarbaum said that he was willing to caucus with you  
9 and determine who an appropriate person from staff  
10 would be to respond to the brief series of questions  
11 you described, so I will encourage you to get together  
12 off the record and determine who that is, let me know  
13 and we will let you ask some of those questions.

14                  MS. SMITH:  Thank you, Your Honor.  I would  
15 be delighted to do that.  I have no further questions.

16                  JUDGE SCHAER:  Mr. Freedman, did you have  
17 questions for this witness?

18                  MR. FREEDMAN:  I have no questions.

19                  JUDGE SCHAER:  Mr. Merkel.

20                  MR. MERKEL:  Yes.  Thank you, Your Honor.

21

22                                   CROSS-EXAMINATION

23 BY MR. MERKEL:

24           Q.       Good morning, Mr. Maglietti.

25           A.       Good morning, Mr. Merkel.

1 Q. It's my understanding that you are the  
2 staff witness to analyze the competitive impacts of  
3 the merger; is that correct?

4 A. Yes, that was one of my assignments.

5 Q. Would you agree that much of Puget Sound  
6 Energy's case or much of the joint applicants' case  
7 for this merger is built on the argument that having  
8 dual fuel authority will enhance PSE's competitive  
9 position?

10 A. Would you repeat that question.

11 Q. Would you agree that much of the joint  
12 applicants' case for the merger is built on the  
13 argument that having dual fuel authority will enhance  
14 Puget Sound Energy's competitive position?

15 A. I will agree that the company has stated  
16 that they want to be an energy provider.

17 Q. You don't agree that they argued that this  
18 will enhance their competitive position?

19 A. They have said they will be a dual energy  
20 provider, yes, and whether I agree whether they say  
21 that will enhance their position, if you could refer  
22 me to one of their witnesses that said that.

23 Q. Didn't witness Sonstelie say that? Isn't  
24 that what Mr. Vittitoe said?

25 A. As I said, they did say they wanted to be a

1 single unified energy provider, yes.

2 Q. Did you hear Dr. Lurito's testimony the  
3 other day?

4 A. Yes, I did.

5 Q. Didn't he say that he thought it would  
6 enhance their competitive position?

7 A. Yes, he did.

8 Q. Do you disagree with Dr. Lurito?

9 A. No, I do not.

10 Q. Well, then, wouldn't you just -- haven't  
11 you just answered the question yes that you agree that  
12 much of the case has been built on the argument that  
13 having dual fuel authority will enhance the company's  
14 competitive position?

15 MR. HARRIS: Objection, asked and answered.

16 JUDGE SCHAEER: I'm going to sustain the  
17 objection.

18 Q. Has the company argued that having dual  
19 fuel authority will be good for PSE's consumers?

20 A. Yes, I believe the company has.

21 Q. Do you believe if PSE obtains authority to  
22 operate as a dual fuel utility it will substantially  
23 enhance the company's ability to compete with gas only  
24 or electric only utilities?

25 A. Yes. My testimony does state that.

1           Q.     If having dual fuel authority enhances  
2 PSE's ability to compete with gas only and electric  
3 only utilities, doesn't it follow that the lack of  
4 dual fuel authority imposes a disadvantage on electric  
5 only and gas only utilities which compete now with PSE  
6 or may compete in the future?

7           A.     With respect to competing today, staff has  
8 put checks and balances in to make sure that all other  
9 utilities are treated fairly. In the future,  
10 depending on what unbundling looks like, I did not  
11 bring my Merlin hat today and I can't speculate.

12          Q.     Does the fact that PSE would have two  
13 products to sell, gas and electricity, and that  
14 electric only and gas only utilities would only have  
15 one product to sell -- in other words, that the  
16 utilities would not have the same range of products  
17 and services -- have you taken that into account in  
18 designing your checks and balances?

19          A.     Yes. I believe we have.

20          Q.     Do you believe it is a disadvantage if  
21 you're an electric only or a gas only utility not to  
22 have the ability to sell the same range of products  
23 and services as a combined utility?

24          A.     It may be, although I believe we do  
25 have appropriate checks and balances.



1 Q. Could you describe them?

2 A. Yes. One of the checks and balances we  
3 have put into place is that the utility should -- PSE  
4 should operate fairly with the other overlapping  
5 utilities. This could be between -- with unity  
6 trenching and joint billing that will make both  
7 parties cheaper to the consumer.

8 Q. I understand that you have required a plan  
9 for cooperation, but does that plan address the fact  
10 that the electric only and gas only utilities will  
11 only have one product to sell and cannot compete with  
12 PSE as to the other product which they don't sell?

13 A. No, it does not. We only attempt to put  
14 you or put the other utilities so they are not  
15 unfairly treated.

16 Q. Isn't it inconsistent with encouraging  
17 competition to grant some competitors authority to  
18 sell products and services that can't be sold by  
19 others?

20 A. Mr. Merkel, that is a legal question that  
21 has to be presented in that way. We only have -- I  
22 understand you do not have the authority to sell  
23 natural gas.

24 Q. I didn't say -- I think you misinterpreted  
25 the question. I asked you if it was inconsistent with

1 encouraging competition to allow some competitors  
2 authority to sell products and services that cannot be  
3 sold by others. I made no reference to any particular  
4 utilities that are disabled from selling. I'm asking  
5 you a general question, an economic question, I  
6 believe.

7 A. Economically you are correct.

8 Q. If having dual fuel authority is good for  
9 PSE, is there any reason why dual fuel authority would  
10 not be good for competing utilities?

11 A. If they could do it economically, then, no.

12 Q. Isn't it consistent with competition and  
13 with encouraging competition to make sure that all  
14 competitors have access to the marketplace to sell  
15 their goods and services?

16 A. Yes, Mr. Merkel, it is.

17 Q. If PSE becoming a dual fuel utility is good  
18 for PSE customers, is there any reason why it would  
19 not be good for customers of other gas only or  
20 electric only utilities to have the option of being  
21 served by a dual fuel utility?

22 A. If it was more cost-effective to those  
23 consumers I would agree.

24 Q. Is it correct that one of the effects of  
25 the merger is to eliminate competition between Puget

1 and Washington Natural Gas in the areas where the two  
2 companies overlap?

3 A. I will agree to that.

4 Q. Isn't it true that if the Commission  
5 mandated direct access in PSE's overlapping gas and  
6 electric territories, it would reintroduce competition  
7 for PSE's electric customers?

8 A. Could you rephrase the question?

9 Q. Well, I think your answer to the previous  
10 question was that one effect of the merger is to  
11 eliminate competition between gas and electricity in  
12 the overlapping areas, and I am asking you now if the  
13 Commission mandated direct access in those overlapping  
14 areas, would it reintroduce competition as to  
15 electricity in those areas so that other utilities  
16 could compete with PSE to sell electricity in those  
17 areas?

18 A. If you're talking about unbundling that is  
19 correct, sir.

20 Q. What do you mean by unbundling?

21 A. Unbundling the services. I believe that's  
22 what you were talking about when you talked about  
23 direct access, and that is an issue on both in the gas  
24 side of the industry and the electric side of the  
25 industry and there are notices of inquiry out there

1 that the Commission has.

2 Q. Well, then wouldn't mandating direct access  
3 in PSE's overlapping territories mitigate the adverse  
4 effect of losing competition between gas and electric  
5 in those areas?

6 A. Could you repeat the question.

7 Q. If the Commission mandated direct access in  
8 the overlapping areas served by Puget and Washington  
9 Natural, wouldn't that mitigate against the loss of  
10 competition between gas and electric which results  
11 from the merger?

12 A. I believe it would give another competitor  
13 the option to sell electric in their territory, yes.

14 Q. Would that be a mitigation of the loss of  
15 competition between gas and electric which the  
16 customers of Puget and Washington Natural now have?

17 A. You are asking me with respect to electric  
18 only direct retail wheeling, sir?

19 Q. Yes, although it could be extended to gas,  
20 but I'm asking you electric only.

21 A. It would allow the electric only provider  
22 to compete with a competing provider for the energy,  
23 yes, and the customers.

24 Q. To compete with PSE and to offer PSE's  
25 customers two sources of electricity?

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1 A. Yes.

2 Q. Just as now they have two sources for their  
3 energy, Washington Natural for gas, Puget for energy,  
4 for electricity, correct?

5 A. Loosely, yes, sir.

6 Q. In general, isn't it a good thing to have  
7 more competitors?

8 A. Economically speaking, to get more  
9 competition you want many buyers and sellers, yes.

10 Q. Is it your understanding -- and if you  
11 can't answer the question I will certainly understand,  
12 but is it your understanding that a city or town which  
13 operates an electric utility could apply to this  
14 Commission for authority to sell gas?

15 A. That is my belief, sir.

16 Q. Could a nonprofit corporation apply to this  
17 Commission to sell gas?

18 MR. CEDARBAUM: Your Honor, I guess I will  
19 -- if the witness knows I suppose that's fine, but I  
20 think these are asking for legal conclusions.

21 MR. HARRIS: I will join the objection.

22 JUDGE SCHAEER: As you say, Mr. Cedarbaum,  
23 if the witness knows he can give his understanding.  
24 I'm not sure what value it would have in the record  
25 because I agree with you that is more a legal

1 conclusion than an economic conclusion, but we can let  
2 him say what his general understanding is.

3 A. Would you repeat the question, please.

4 Q. Could a nonprofit corporation apply for a  
5 certificate, to your knowledge? And I'm not asking  
6 you for a legal conclusion, just what is your  
7 understanding.

8 A. Would you define nonprofit, please. In  
9 other words are you speaking of a PUD?

10 Q. No. A PUD is not a nonprofit corporation.  
11 I'm speaking of a nonprofit corporation incorporated  
12 under the nonprofit corporation laws in the state of  
13 Washington.

14 A. I do not know that answer, sir.

15 Q. Could a partnership apply?

16 A. Again, I do not know that answer.

17 Q. Could Cascade Natural Gas or Northwest  
18 Natural Gas apply for authority to sell electricity?

19 MR. CEDARBAUM: Your Honor, I guess I will  
20 object. I think these are asking for legal  
21 conclusions that Mr. Merkel can argue in his brief are  
22 true or not, but we're going to go through every  
23 possible hypothetical of who might apply for gas or  
24 electric authority?

25 JUDGE SCHAEER: Sustained. Let's move on.

1 Q. Can you give me any reason why it would be  
2 bad for competition for consumers of PUDs to have the  
3 option -- excuse me -- for PUDs to have the authority  
4 to sell gas?

5 A. Mr. Merkel, we have not done a complete  
6 analysis of the PUDs selling natural gas. That is not  
7 -- it is my understanding that that is not something  
8 that you can do at this time.

9 Q. My question was simply, can you give me a  
10 reason why it would be bad for competition for PUDs to  
11 have authority to sell gas?

12 MR. CEDARBAUM: Your Honor, I will object.  
13 It's been asked and answered. He said --

14 JUDGE SCHAEER: Sustained.

15 Q. Do you believe we're moving toward direct  
16 access for all electric customers in Washington?

17 MR. CEDARBAUM: I will object again. This  
18 Commission has taken whatever actions it's taken in  
19 that regard. Mr. Merkel again can argue that in his  
20 brief.

21 MR. MERKEL: Well, this is not a legal  
22 question and this is the only staff witness to address  
23 the issues of the impact of this merger on  
24 competition. Now, it may be that some of these  
25 questions deal with competitive impacts that he has

1 not considered, and that in fact may be part of the  
2 purpose of the question is to point out that  
3 competitive impacts have not been considered, but it's  
4 my understanding, and I think I asked at the very  
5 outset was that this witness's job to analyze all of  
6 the competitive impacts of this merger.

7 MR. CEDARBAUM: If you want to ask  
8 questions about what is the impact of direct access on  
9 competition, which you have done a lot of already,  
10 that's fine, but those questions have been asked and  
11 answered. Your question was, "Are we moving to direct  
12 access?" That is something that is based on actions  
13 of this Commission that are perfectly briefable in  
14 argument, but to labor the record with it I think is  
15 inappropriate and as to this testimony and that  
16 question irrelevant.

17 JUDGE SCHAEER: Please rephrase the  
18 question, Mr. Merkel, if you want to ask the question  
19 you were describing.

20 MR. MERKEL: I will move on and try to get  
21 to the bottom line of it.

22 Q. Assuming that we do move toward direct  
23 access, in such a market doesn't a dual fuel utility  
24 have a distinct advantage?

25 MR. CEDARBAUM: It's been asked and



1 answered probably 10 minutes ago.

2 JUDGE SCHAEER: I think it would be quicker  
3 just to let him say yes or no and move on. Please  
4 answer.

5 A. As I said before, if you assume that it  
6 would be better for consumers to have one energy  
7 provider your answer is yes.

8 Q. Yesterday, Mr. Miernyk testified that  
9 although it was staff's intent that schedule 48 would  
10 enable PSE to offer market rates to its existing large  
11 power customers in order to retain customers which  
12 might otherwise leave the system, nothing in schedule  
13 48 adopted specifically restricts PSE from using that  
14 schedule to serve new loads or to recruit loads  
15 currently served by a neighboring utility. Do you  
16 recall that testimony?

17 A. Yes. I believe I was here.

18 Q. If PSE has dual fuel authority and can  
19 offer electric service at competitive rates to a large  
20 electric load currently served by an electric only  
21 utility and can also offer gas service to the same  
22 customer, wouldn't PSE have a substantial marketing  
23 advantage over the competing electric only utility?

24 A. That depends on a legal interpretation of  
25 whether you are describing a tying arrangement or not.

1 Q. I'm not describing a tying arrangement.  
2 I'm simply exploring in a practical, concrete example  
3 or a little bit more specific example, please, the  
4 advantages of being a dual fuel provider and being  
5 able to offer two products to the same customer at  
6 competitive rates, and I am asking you if PSE can  
7 offer competitive electric service and gas service to  
8 an existing customer of another utility doesn't it  
9 have a marketing advantage over the existing electric  
10 only or gas only utility?

11 A. It may.

12 Q. You have testified that the Commission  
13 should require PSE to submit an annual market  
14 concentration report so that the Commission can  
15 monitor the possible increase in market concentration;  
16 is that correct?

17 A. Yes.

18 Q. And can you tell me what the Commission or  
19 what you envision would happen to that report at the  
20 Commission?

21 A. As we go forward, unbundling, we're looking  
22 at the future. We do not know what it's going to look  
23 like. The purpose of the report is to be a tracker or  
24 to allow us to track possible market concentration  
25 that may occur. As I said before, we believe we have

1 put in appropriate checks and balances. However, if  
2 we see that the company is getting more market  
3 concentration in unbundling we will then use that as a  
4 check.

5 Q. Do you plan to require any report or have  
6 you recommended any report be required from the  
7 company to describe business practices to assure that  
8 those practices do not involve anticompetitive  
9 activities?

10 A. We have requested that the company file a  
11 marketing report with the Commission to make sure that  
12 the marketing department is acting in a fair way, and  
13 we have also requested that the company file a report  
14 with the Commission on how it intends to work with  
15 other utilities in its service territory to make sure  
16 that they are doing it in a fair manner.

17 Q. Earlier you mentioned that -- you testified  
18 that you recommended that the company work with other  
19 utilities in unity trenching operations; is that  
20 correct?

21 A. Yes, among other things.

22 Q. Could you explain to me what it means to  
23 work with other utilities with regard to unity  
24 trenching?

25 A. We fully expect PSE where unity trenching

1 is available to do that with other utilities at the  
2 time the services are constructed. Again, we are  
3 looking at benefiting consumers.

4 Q. In an area in which both PSE and a  
5 competing utility both offer unity trenching services,  
6 how would that work? Which company would provide the  
7 service? Would they both? What do you envision?

8 A. Staff envisions that PSE would use whatever  
9 was the most cost-effective provider for its  
10 customers. If Seattle City Light, for example, had a  
11 unity trenching division and PSE had a unity trenching  
12 department, we would expect that PSE would use the  
13 provider which was cheaper to benefit consumers.

14 Q. Have you recommended any mechanisms by  
15 which competitors or consumers who feel that the  
16 company is engaging in anticompetitive or unfair  
17 practices, business practices, may bring that issue to  
18 the attention of the Commission?

19 A. Yes, I have. I had envisioned that all  
20 parties could file an informal or a formal complaint  
21 with the Commission in a proper fashion and I have  
22 been told by our consumer affairs department that that  
23 is a procedure that is already in operation so all  
24 parties could file a complaint if it had to do with a  
25 tariff, such as a line extension policy, an order of

1 the Commission or public utility law.

2 Q. Can you point to the place in your  
3 testimony where you recommended that?

4 A. I think I recommended that by saying that  
5 we had those reports and if any party felt that they  
6 were -- were being unjustly treated then it would be  
7 part of a report, so I guess I don't say specifically  
8 in my testimony, Mr. Merkel.

9 Q. Are you saying now, you're recommending it  
10 now?

11 A. Yes. I would say that's an addition to my  
12 recommendation.

13 Q. One final little area. With regard to the  
14 issue of bypass, if PSE should engage in competitive  
15 practices, such as proposing to bypass the  
16 distribution system of an existing utility to serve a  
17 customer, what if any policies does the Commission --  
18 do you recommend to the Commission concerning the  
19 circumstances under which that might occur?

20 A. Would you point to me where that is in my  
21 testimony, sir.

22 Q. Well, I don't believe it is. That's one of  
23 the issues. I'm asking you if you've considered the  
24 competitive impacts of Puget engaging in bypass and  
25 under what circumstances would that be good for PSE

1 customers and under what circumstances should it be  
2 allowed?

3 A. I haven't determined that, sir.

4 MR. MERKEL: Thank you. I have no other  
5 questions.

6 JUDGE SCHAEER: Thank you. Commissioners,  
7 did you have questions?

8 COMMISSIONER HEMSTAD: I will pass.

9

10 EXAMINATION

11 BY COMMISSIONER GILLIS:

12 Q. Beginning on page 6 you discuss a market  
13 concentration study you performed for distribution and  
14 on line 16 and 17 you say, "Although most market  
15 concentration studies are concerned with generation  
16 and transmission, both companies are primarily  
17 distribution providers." Can you describe why you  
18 chose not to perform market concentration studies for  
19 generation transmission or natural gas market?

20 A. Currently we do not have information on  
21 natural gas marketing or marketers. That would be  
22 something the Commission would have to address in its  
23 NO . Secondly, I was more concerned with the  
24 distribution market since both providers are basically  
25 distribution companies, so I just did not perform the

1 generation/transmission.

2 Q. I think I heard you answer yes that you  
3 didn't think it was likely that distribution would be  
4 competitive in the near term but you wouldn't rule it  
5 out either because of distributive technologies and  
6 such?

7 A. Yes. One idea in unbundling would be my  
8 understanding of the telecommunications model of  
9 unbundling.

10 Q. But as far as the distribution side do you  
11 see -- did I hear you correctly yesterday you said you  
12 didn't think it was likely that it would be  
13 competitive in the near term?

14 A. That's correct.

15 Q. In your opinion are electric -- are  
16 electric generation or energy marketing potentially  
17 competitive in the near term?

18 A. They may be, yes, and they may already be.

19 Q. I know that you indicated you left your  
20 Merlin hat at home, but assume with me in the future  
21 that PSE is fully functionally unbundled between the  
22 generation marketing side and the distribution side,  
23 and there's open access. Would you still be concerned  
24 with market concentration of the distribution system?

25 A. If I understand your assumptions correctly,

1 I would be more concerned with the market  
2 concentration.

3 Q. Of distribution?

4 A. Of distribution.

5 Q. Why?

6 A. As I've stated before, and maybe I didn't  
7 understand your question completely, but since I don't  
8 have my Merlin hat on, I do not know what the  
9 distribution market is going to look like, whether we  
10 are going to unbundle a distribution system.

11 Q. I'm just saying assume that for the moment  
12 that unbundled open access and there's full functional  
13 separation for PSE between the -- they aren't  
14 supplying their own customers between the same entity.

15 A. So assume the distribution is --

16 Q. It's an open distribution system.

17 A. -- unbundled? I would be more concerned  
18 because you would have to look at who had control of  
19 that distribution system.

20 Q. Well, it's an independent company under my  
21 assumptions or an independent entity with open access.

22 A. I'm sorry. You're assuming that they're  
23 the only provider?

24 Q. No. They're the only distributor with  
25 multiple retail providers on that distribution.



1           A.     No.  Then, no, I would not be concerned  
2 with the distribution market.  I would be concerned  
3 with the sales market.

4           Q.     On page 3, lines 15 and 17, you recommend  
5 requiring the company to perform two market  
6 concentration studies a year for distribution, one for  
7 Western Washington and one for the state as a whole.  
8 Why is that frequency necessary?  Do you expect that  
9 much change in the distribution concentration in a  
10 year period or half year in the case of Western  
11 Washington?

12          A.     We may not have that big of a change.  
13 However, since we do not know when unbundling will  
14 occur or what it will be like, I decided that it would  
15 be appropriate to perform the study on a yearly basis.  
16 We also have instituted some checks and balances in  
17 the marketing, and make sure that the company works  
18 with other utilities for services, so it would just be  
19 an index that we would have to see whether our checks  
20 and balances were working also.

21          Q.     You mentioned unbundling several times.  If  
22 we're concerned about unbundling, aren't we more  
23 concerned with the market concentration on the  
24 generation and energy marketing side than we are on  
25 the distribution side, I mean, given our previous

1 discussion?

2 A. Given our previous discussion that there  
3 was only one distribution provider, that would be  
4 correct. However, it may be possible to have more  
5 than one distribution provider and the unbundled.

6 Q. I see what you're saying. Right. Thank  
7 you.

8

9 EXAMINATION

10 BY JUDGE SCHAER:

11 Q. Beginning on page 20 and continuing on page  
12 21 of your testimony.

13 A. Yes, I am there.

14 Q. You say staff is concerned about incentives  
15 Puget Sound Energy may have to pass inappropriate  
16 costs through a PGA process for the benefit of  
17 electric operations. Would you please clarify what  
18 you mean by inappropriate costs?

19 A. What I meant was given that PSE bought gas  
20 at a high rate, if we didn't have my transfer pricing  
21 model in play, currently the gas side does have a PGA.  
22 The electric side does not have the equivalent. So it  
23 could be that PSE could move cheaper gas to its  
24 generation and charge a more expensive gas to its gas  
25 customers that would be passed through to the gas

1 consumers through the PGA mechanism.

2 Q. Looking at page 10 of your testimony.

3 A. Yes.

4 Q. Lines 13 to 15 you say there that more than  
5 200,000 gas only and electric only customers will not  
6 gain all the benefits that result from a combined  
7 utility, and my question is, won't all customers  
8 equally share the benefits under staff's plan  
9 including gas only and electric only customers?

10 A. What this piece of testimony is referring  
11 to is the fact that if -- let's take the example of  
12 Seattle City Light and Puget Sound Energy gas in the  
13 city of Seattle. They would see the benefits in  
14 staff's plan with respect to the gas company's rates.  
15 But they would still be paying Seattle City Light  
16 rates which would have a separate bill so they would  
17 have billing charges and other parts.

18 Q. So what you're saying is that your  
19 recommended rate decreases would only go through to  
20 commodities that they purchased from Puget Sound  
21 Energy? Is that what you're speaking to here?

22 A. Yes.

23 Q. But the savings that come to Puget Sound  
24 Energy counting overlap in having reduced costs in  
25 areas where they can do single billing and develop

1 other savings, those savings are not targeted back  
2 only to those customers but are shared equally among  
3 all customers. Is that also correct?

4 A. Yeah, and I did respond in that way in a  
5 data request that the company has to.

6 Q. As I mentioned before, the bench does not  
7 see those so I thank you for your answer.

8 Looking at pages 18 and 19 of your  
9 testimony there, the discussion regarding least cost  
10 planning. Are you aware of when the last integrated  
11 resource plan or least cost plan was filed by Puget  
12 Sound Power and Light?

13 A. No, I am not.

14 Q. Are you aware of when the last plan was  
15 filed by Washington Natural Gas?

16 A. I believe it was 1995.

17 Q. And then looking at page 19 at lines 12 and  
18 13, in your discussion of least cost planning you say  
19 that the amount of disclosure in the public process  
20 may be limited in a manner similar to PGA filings; is  
21 that correct?

22 A. Yes.

23 Q. Could you please expand on that by  
24 describing the current PGA process and in particular  
25 the degree or type of information filed by the

1 companies and how disclosure of that information was  
2 treated?

3 A. Yes. The company -- we currently look at  
4 the company's contracts. That information is not  
5 shared with the general public. It is treated as  
6 confidential.

7 Q. So are those contracts supplied to the  
8 Commission but stamped confidential or are they looked  
9 at at the company's headquarters and not made public  
10 records?

11 A. We look at them at the company's offices.

12 Q. And that's what you're proposing here is  
13 that you would look at these kinds of filings at the  
14 company and not having confidential documents come  
15 into the public pile?

16 A. Yes.

17 Q. And how will parties other than Commission  
18 staff then be involved in that process?

19 A. I believe public counsel also has that  
20 ability, although I can't speak for them, and we are  
21 the two parties that are charged with protecting the  
22 public.

23 Q. So you in the future would limit the  
24 planning process to just Commission staff, public  
25 counsel and company?

1           A.       No, I would not.  Currently the plans --  
2 the company does supply data to the public but it may  
3 not be in the detail that staff and public counsel can  
4 see.

5                   JUDGE SCHAER:  Thank you.  That's all I  
6 had.  Is there any redirect for this witness?

7                   MR. CEDARBAUM:  Yes, I will have some  
8 questions, Your Honor, but I wonder if we took our  
9 break, Your Honor, I could caucus with Ms. Smith about  
10 staff's issues and then right after that I could go to  
11 my redirect and be done with the staff case.

12                   JUDGE SCHAER:  I think what I would like to  
13 do is finish with this witness and he can leave the  
14 stand and we can get Dr. Powers set up even though we  
15 may need to bring up another witness briefly before  
16 Dr. Powers starts.

17                   MR. CEDARBAUM:  That's fine.

18

19                                   REDIRECT EXAMINATION

20 BY MR. CEDARBAUM:

21           Q.       Mr. Maglietti, just a few questions.  
22 Yesterday you discussed with Mr. Harris the agreement  
23 between staff and company on the gas transfer pricing,  
24 and you outlined for us the two scenarios that are in  
25 Exhibit 199.  Can you just give a more generic

1 explanation of the methodology that you and the  
2 companies have agreed to?

3 A. Yes. The methodology that staff has agreed  
4 to with the company basically treats both companies as  
5 separate companies. Therefore, we expect that the  
6 company acts as though they are two separate  
7 companies. If the market price for gas is cheaper  
8 than the contract that is flexible so the company  
9 doesn't have to take it, then we expect not only they  
10 buy for Puget Sound electric the market price gas but  
11 also if they need more than what they do have in must-  
12 take contracts they buy those resources from the spot  
13 market also and do not use that flexible contract. We  
14 have set two floors, one floor being the market price  
15 and the other floor being the incremental cost of the  
16 contract.

17 Q. And your explanation is consistent with the  
18 testimony that you've presented yesterday and today?

19 A. Yes.

20 Q. You also were asked some questions today by  
21 Mr. Merkel with respect to what would happen if Puget  
22 were allowed to apply schedule 48 to new customers  
23 that may also be served by other utilities, and  
24 whether or not Puget Sound Energy would have an  
25 advantage because it would be able to provide both

1 fuels. Do you recall that general line of  
2 questioning?

3 A. Yes, I do.

4 Q. Is it possible that those other potential  
5 customers could be gas transportation customers?

6 A. That would be possible.

7 Q. Would it also be possible that other  
8 electric utilities who might purchase gas for their  
9 own generation could offer to sell that gas to Puget  
10 Sound Energy's gas transportation customers?

11 A. Would you repeat the question?

12 Q. Would it be possible for other electric  
13 utilities who might purchase gas for their own  
14 generation to sell that gas to gas transportation  
15 customers in Puget Sound Energy's territory?

16 A. Yes.

17 MR. CEDARBAUM: Thank you. That's all my  
18 questions.

19 JUDGE SCHAEER: Anything further for this  
20 witness? Thank you for your testimony. You may be  
21 excused.

22 MR. MANIFOLD: Mr. Marcus is the next --

23 JUDGE SCHAEER: Have you changed the order  
24 that we agreed on yesterday?

25 MR. MANIFOLD: That's what we agreed on



1 yesterday is Marcus, Sturzinger, Power.

2 JUDGE SCHAER: Oh, okay. Would you like  
3 Mr. Marcus then to assume the stand during the break.  
4 If you have any exhibits to put in for Mr. Marcus  
5 please distribute them during the break. Going to  
6 take our morning recess now and we will reconvene at  
7 10:30. We're off the record.

8 (Recess.)

9 JUDGE SCHAER: Let's be back on the record  
10 after our morning recess. My understanding that after  
11 caucusing during the recess, Ms. Smith and Mr.  
12 Cedarbaum have agreed that Mr. Martin may be briefly  
13 recalled to respond to Ms. Smith's questions about  
14 PRAM, decoupling mechanisms and how those proposals  
15 fit into rate plans. So, Mr. Martin, I will remind  
16 you that you remain under oath in this proceeding and  
17 Ms. Smith you may go ahead.

18 Whereupon,

19 ROLAND MARTIN,  
20 having been previously duly sworn, was called as a  
21 witness herein and was examined and testified  
22 further as follows:

23 MS. SMITH: Thank you, Your Honor.

24

25

1 CROSS-EXAMINATION

2 BY MR. CEDARBAUM:

3 Q. Morning, Mr. Martin.?

4 A. Good morning.

5 Q. We've come full circle now and I would like  
6 to ask if you're familiar with the revenue per  
7 customer mechanisms that was a portion of PRAM?

8 A. Yes.

9 Q. Isn't it correct that that revenue per  
10 customer mechanism tied a portion of the company's  
11 fixed costs recovery to something other than commodity  
12 sales?

13 A. Yes. In regards to PRAM it was tied to the  
14 growth in customers.

15 Q. In other words, did the revenue per  
16 customer mechanism remove an incentive for the company  
17 to increase commodities sales?

18 A. I think that's expected consequence because  
19 when you sever that tie the incentive to sell KWH  
20 expected to follow.

21 Q. Mr. Martin, to the best of your knowledge,  
22 is there anything in the staff's rate proposal in this  
23 proceeding that includes a mechanism that ties fixed  
24 cost recovery to anything other than commodity sales?

25 A. No.

1 MS. SMITH: Thank you, Mr. Martin. Thank  
2 you, Your Honor. I have no further questions.

3 JUDGE SCHAEER: Thank you. Is there  
4 anything further for Mr. Martin on this line of  
5 questions? Thank you for your testimony. Would you  
6 like to call your next witness.

7 MR. MANIFOLD: Public counsel would call  
8 William B. Marcus whose testimony and exhibits were  
9 previously distributed.  
10 Whereupon,

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

14 MR. MANIFOLD: Your Honor, I ask that the  
15 documents be marked for identification.

16 JUDGE SCHAEER: Prefiled in this proceeding  
17 were testimony of Mr. Marcus, which is marked WBM-1.  
18 I will mark that for identification as Exhibit T-205.  
19 Mr. Marcus's Exhibit number WBM-2 I will mark for  
20 identification as Exhibit 206. His Exhibit No. WBM-3  
21 I will mark for identification as Exhibit 207. His  
22 Exhibit No. WBM-4 I will mark for identification as  
23 Exhibit No. 208. His Exhibit No. WBM-5 is a top  
24 secret exhibit. Is that correct?

25 MR. MANIFOLD: Correct. I should say

1 that's my understanding the company would consider  
2 that top secret.

3 JUDGE SCHAER: I will mark that for  
4 identification as Exhibit TS-209. His Exhibit WBM-6  
5 I will mark for identification as Exhibit 210. And  
6 his exhibit number WBM-7 I will mark for  
7 identification as Exhibit 211. And I believe that's  
8 all of the exhibits that were prefiled by this  
9 witness, Mr. Manifold.

10 MR. MANIFOLD: Yes, it is, Your Honor. I  
11 would note that in the testimony, page 19, there was a  
12 revision dated 10-7-96 distributed because the bottom  
13 line on the page somehow didn't make it on to some  
14 versions of it.

15 JUDGE SCHAER: So that is the change is the  
16 new line 29?

17 MR. MANIFOLD: Yes.

18 JUDGE SCHAER: Usually ask that those  
19 changes be underlined so that they are readily  
20 apparent. That's what the rule provides but since  
21 this is a different print I think it's apparent.

22 And then during the time we were off the  
23 record I've had distributed one exhibit which I will  
24 identify as being a response to public counsel --  
25 response by public counsel to applicant's data request

1 392. And I will mark that for identification as  
2 Exhibit 212.

3 MR. CEDARBAUM: Is that a two-page exhibit?

4 JUDGE SCHAEER: Thank you, Mr. Cedarbaum.

5 It is a two-page exhibit and the second page is the  
6 response by public counsel to applicant's data request

7 393. Your witness is sworn, Mr. Manifold.

8 (Marked Exhibits T-205, 206, 207, 208,  
9 TS-209, 210, 211 and 212.)

10

11 DIRECT EXAMINATION

12 BY MR. MANIFOLD:

13 Q. Mr. Marcus, would you please state your  
14 name and address.

15 A. My name is William B. Marcus. My business  
16 address is JBS Energy Incorporated, 311 D street, West  
17 Sacramento, California, 95605.

18 Q. Is what has been marked as Exhibit T-205  
19 your predistributed direct testimony in this case?

20 A. Yes.

21 Q. Is it true and correct to the best of your  
22 knowledge?

23 A. Yes, it is.

24 Q. Does what has been marked as Exhibit 206,  
25 207, 208, TS-209, 210 and 211 constitute the exhibits

1 appended to your direct testimony?

2 A. Yes.

3 Q. And are those true and correct to the best  
4 of your knowledge?

5 A. Yes, they are.

6 Q. Were they prepared by you or under your  
7 supervision?

8 A. Yes.

9 MR. MANIFOLD: Your Honor, I would move for  
10 the admission of Exhibits T-205 and Exhibits 206, 207,  
11 208, TS-209, 210 and 211.

12 MR. VAN NOSTRAND: No objection.

13 JUDGE SCHAEER: Those documents are  
14 admitted.

15 (Admitted Exhibits T-205, 206, 207, 208,  
16 TS-209, 210 and 211.)

17 MR. MANIFOLD: I would also be willing to  
18 stipulate to the admission of 212.

19 JUDGE SCHAEER: Any objection to 212?  
20 Document is admitted as well.

21 (Admitted Exhibit 212.)

22 MR. MANIFOLD: Witness is available for  
23 cross-examination.

24 JUDGE SCHAEER: Mr. Van Nostrand, did you  
25 have questions?

1                   MR. VAN NOSTRAND:  Yes, Your Honor, thank  
2  you.

3

4                                   CROSS-EXAMINATION

5  BY MR. VAN NOSTRAND:

6           Q.     Good morning, Mr. Marcus.  I'm James Van  
7  Nostrand counsel for joint applicant Puget Power.

8           A.     Good morning.

9           Q.     Is it correct your testimony among other  
10 things discusses the quantification of what you termed  
11 Puget's uneconomic generation costs?

12          A.     Yes.

13          Q.     And is it fair to say in your testimony you  
14 define uneconomic generation costs and stranded costs  
15 interchangeably?

16          A.     I have used those terms relatively  
17 interchangeably.

18          Q.     In particular I'm looking at page 3, lines  
19 14 to 17 where you note that uneconomic costs are  
20 often referred to as stranded costs; is that right?

21          A.     Yes.

22          Q.     Is it your testimony that Puget's current  
23 rates reflect the recovery of any uneconomic  
24 generation costs that Puget may have?

25          A.     I think that their rates before the

1 approval of rate schedule 48 reflected the recovery in  
2 current rates of all of the uneconomic generation  
3 costs on a pay-as-you-go basis. After the approval of  
4 schedule rate 48 I believe that some of the costs are  
5 not being recovered.

6 Q. Is it your understanding will there be any  
7 revenue losses associated with schedule 48 prior to  
8 July 1998?

9 A. I think from the terms of the Commission's  
10 order they made some statement about no revenue losses  
11 or no cost shifting, but I think that we have to look  
12 at the question more globally as identified in Mr.  
13 Lazar's testimony to see whether that is an issue of  
14 form rather than substance.

15 Q. Is there anything about two companies  
16 merging which in and of itself would cause any costs  
17 to be stranded?

18 A. I would say that that would depend on the  
19 facts and circumstances. I can't think of anything  
20 that would automatically cause the stranding of some  
21 costs, although you might theoretically end up with a  
22 duplicate computer system somewhere, but that wouldn't  
23 be a stranded generation cost.

24 Q. Would granting merger approval in this case  
25 in and of itself cause uneconomic generation costs to



1 be stranded?

2 A. Granting merger approval I do not think  
3 would cause a change in the quantum of uneconomic  
4 generation costs except inasmuch as the companies have  
5 identified power stretch savings some of which might  
6 be facilitated by the merger.

7 Q. But it wouldn't really cause the amount of  
8 uneconomic generation costs that are stranded to go  
9 up, would it?

10 A. The amount of uneconomic generation costs  
11 of Puget I believe are not affected by the merger  
12 except inasmuch as the merger may have some impacts  
13 through power stretch. I don't see offhand a way in  
14 which those costs would go up although I could  
15 probably come up with one if I thought about it for a  
16 while.

17 Q. How about whether or not the costs are  
18 stranded? Do the amount of costs that are stranded go  
19 up?

20 A. I don't think that that -- that the amount  
21 of uneconomic generation costs or stranded costs  
22 changes as a result of the merger. I think the merger  
23 can create impacts on how those costs are distributed  
24 and dealt with, but I don't think the costs themselves  
25 change materially.

1           Q.     In terms of the merger conditions you  
2 recommend you discuss what should be done after the  
3 end of 2001 or after the end of the proposed rate  
4 period. Is that fair to say from your testimony on  
5 page 2, lines 22 to 27? I'm sorry, lines 14 to 21.

6           A.     In general I have made some comment on  
7 that. I was actually looking for the details of the  
8 comment rather than the summary on that page.

9           Q.     Does your testimony contemplate that the  
10 company will be able to mitigate some of these power  
11 supply costs during the term of the rate plan?

12          A.     I believe the company has stated that it is  
13 likely that it will be able to mitigate some of those  
14 costs and I have not examined that in detail, but I  
15 have accepted it, if you will, for the purposes of  
16 discussion when I look at some of the issues around  
17 power stretch.

18          Q.     It's possible, isn't it, that much of the  
19 uneconomic power supply costs which you quantify in  
20 your testimony may be mitigated by the end of the rate  
21 plan period?

22          A.     Let me look at a document here. I think  
23 that some portion of them could be mitigated. I'll  
24 try to refer you back to the place in my testimony  
25 where I examined what portion it was. I would say

1 that, as I said on page 9, for every \$100 million of  
2 power stretch savings that mitigates stranded costs by  
3 about 10 to 25 percent in the year when rate  
4 predictability ends and mitigates the total quantum by  
5 between 12 and 41 percent depending on the future cost  
6 of power. I don't know how much further I can go into  
7 quantifying this without getting into top secret  
8 information that I would rather -- that I think we  
9 would rather stay out of.

10 Q. Right. But we can say that we do not know  
11 now what uneconomic generation costs may be remaining  
12 at the end of 2001?

13 A. I don't think we do because I think that we  
14 will get a better sense of the appropriate price  
15 forecasts to use over that period of time as well. I  
16 think we may be able to narrow down -- we both will be  
17 able to probably narrow down the range of what price  
18 forecasts we're using, and if power stretch succeeds  
19 it will mitigate some of them so it could go in  
20 various directions, but I would expect that by the end  
21 of 2001 we will know more than we do today.

22 Q. In section 4 of your testimony talks about  
23 some of the merger savings and how they are allocated.  
24 Would you agree that as of now, none of the merger  
25 savings, best practices savings or power stretch

1 contract reforms that you discuss in your testimony  
2 have been achieved?

3 A. As of today, no, they haven't.

4 Q. In other words, they are just estimates?

5 A. Yes.

6 Q. And we don't know now how much of those  
7 savings will be achieved by the end of the rate plan  
8 period in 2001?

9 A. I think we have the company's best  
10 estimates as to these savings and we have adjustments  
11 proposed by staff and public counsel, but I would  
12 agree with you that all of these numbers are  
13 estimates.

14 MR. VAN NOSTRAND: Thank you. I have no  
15 further questions.

16 JUDGE SCHAER: Mr. Cedarbaum, did you have  
17 any questions?

18 MR. CEDARBAUM: No, I don't.

19 JUDGE SCHAER: Ms. Pyron?

20 MS. PYRON: No questions, Your Honor.

21 JUDGE SCHAER: Mr. Frederickson?

22 MR. FREDERICKSON: No questions, Your  
23 Honor.

24 JUDGE SCHAER: Mr. Wright?

25 MR. WRIGHT: No, Your Honor.

1 JUDGE SCHAER: Ms. Smith?

2 MS. SMITH: No, Your Honor.

3 JUDGE SCHAER: Mr. Freedman?

4 MR. FREEDMAN: I have no questions.

5 JUDGE SCHAER: Mr. Merkel?

6 MR. MERKEL: I have none.

7 JUDGE SCHAER: Commissioners, do you have  
8 any questions?

9 COMMISSIONER HEMSTAD: No.

10 COMMISSIONER GILLIS: No.

11 JUDGE SCHAER: Any redirect?

12 MR. MANIFOLD: One little set.

13

14 REDIRECT EXAMINATION

15 BY MR. MANIFOLD:

16 Q. Mr. Marcus, Mr. Van Nostrand asked you  
17 whether the merger itself had any effect upon stranded  
18 costs, and I think your answer was generally with some  
19 qualifications, no. Does the rate plan proposed by  
20 the company have -- or staff or public counsel have  
21 any effect on how stranded costs are recovered from  
22 various customers?

23 A. Yes, it does. I think the various rate  
24 plans and in particular the rate plan proposed by the  
25 company essentially uses savings in power delivery

1 costs, merger savings and potentially other savings,  
2 to offset increases in power supply costs from these  
3 rising burden of stranded costs, and that creates a  
4 misallocation among customer classes.

5 MR. MANIFOLD: Thank you. No other  
6 questions.

7 JUDGE SCHAEER: Is there anything further  
8 for this witness?

9 THE WITNESS: Excuse me. I noticed a  
10 typographical error on Exhibit 212. There's a word  
11 missing that I think if we put it in it will make it a  
12 little clearer.

13 MR. MANIFOLD: Yes. What is that?

14 THE WITNESS: It should read, The market  
15 prices used in the exhibit are costs for short-term  
16 firm energy hourly or daily, firm energy averaged over  
17 a year, so the word "over" needs to be in there.

18 MR. MANIFOLD: So in that sentence the  
19 third from the last word should be "over" in between  
20 "averaged" and "a."

21 THE WITNESS: Yes.

22 MR. MANIFOLD: So the sentence would read,  
23 "The market prices used in Exhibit blank are costs for  
24 short-term (hourly or daily) firm energy averaged over  
25 a year."

1 THE WITNESS: Yes.

2 JUDGE SCHAEER: Thank you for your  
3 testimony?

4 THE WITNESS: Thank you, Your Honor.

5 JUDGE SCHAEER: Let's go off the record for  
6 a very brief moment to allow the next witness to take  
7 the stand.

8 (Recess.)

9 JUDGE SCHAEER: Let's be back on the record.  
10 While we were off the record the witness assumed the  
11 stand.

12 Whereupon,

13 GEORGE STURZINGER,  
14 having been first duly sworn, was called as a witness  
15 herein and was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. MANIFOLD:

19 Q. Will you please state your name and address  
20 for the record.

21 A. My name is George J. Sturzinger, and my  
22 address is 1616 P Street Northwest, Suite 410,  
23 Washington D. C.

24 MR. MANIFOLD: Your Honor, like to have  
25 marked the documents that were predistributed.

1                   JUDGE SCHAEER: All right. Going to mark as  
2 Exhibit T-213 the prefiled direct testimony of Mr.  
3 Sturzinger as T-213. Going to mark as Exhibit 214 his  
4 exhibit GS-2. That's 214. And I am going to mark at  
5 this time a two-page document which states on the  
6 first page Public Counsel Response to Puget WNG Data  
7 Request 416, and on the second page Public Counsel  
8 Response to Puget WNG Data Request 420 as Exhibit 215  
9 for identification.

10                   (Marked Exhibits T-213, 214 and 215.)

11           Q.       Mr. Sturzinger, do you have before you  
12 what's been marked as Exhibit T-213?

13           A.       Yes, I do.

14           Q.       Would you turn, please, to page 22.

15           A.       I've got that.

16           Q.       Is there a change to be made on line 8?

17           A.       Yes, there is. The word "reliability"  
18 should be changed to "coordinating."

19           Q.       Coordinating?

20           A.       Coordinating.

21           Q.       With that change is this your direct  
22 testimony and is it true and correct to the best of  
23 your knowledge?

24           A.       Yes.

25           Q.       Is what's been marked as 214 your exhibit



1 and is it true and correct to the best of your  
2 knowledge?

3 A. Yes.

4 MR. MANIFOLD: Your Honor, I would move for  
5 the admission of Exhibit T-213 and Exhibit 214 and  
6 stipulate to the entry of Exhibit 215.

7 MR. VAN NOSTRAND: No objection.

8 JUDGE SCHAEER: Is there any objection to  
9 any of those documents? They are admitted.

10 (Admitted Exhibits T-213, 214 and 215.)

11 MR. MANIFOLD: The witness is available for  
12 cross-examination.

13 JUDGE SCHAEER: Mr. Van Nostrand, do you  
14 have questions?

15 MR. VAN NOSTRAND: Thank you, Your Honor.

16

17 CROSS-EXAMINATION

18 Q. Good morning, Mr. Sturzinger.

19 A. Good morning.

20 Q. I'm James Van Nostrand counsel for Puget  
21 Power. Your testimony recommends that a pilot program  
22 be offered to non-scheduled 48 customers; is that  
23 right?

24 A. Yes.

25 Q. And as I'm sure you're aware since your

1 testimony was filed in late September, the Commission  
2 issued its order on the schedule 48 proceeding under  
3 which the company has committed to file an open access  
4 pilot program by June 1, 1997?

5 A. Yes.

6 Q. And IF the company's commitment in the  
7 schedule 48 proceeding is to involve all customer  
8 classes, would you agree that this is consistent with  
9 the recommendation in your testimony that a pilot be  
10 offered to a vertical slice of the company's  
11 customers?

12 A. Yes.

13 Q. And would you agree that the Commission's  
14 direction in the schedule 48 order that the pilot  
15 program be developed in a collaborative process is  
16 consistent with your testimony?

17 A. Yes.

18 Q. And would you agree that the fact that the  
19 collaborative process is to be convened by the  
20 Commission is also consistent with another  
21 recommendation in your testimony?

22 A. Exactly, yes.

23 Q. And rather than the October 1, 1997  
24 implementation date proposed in your testimony, are  
25 you aware that the company's commitment in the

1 schedule 48 proceeding is for a September 1 effective  
2 date for the pilot program?

3 A. I am not aware of that specific, no.

4 Q. Would you accept that subject to check?

5 A. Yes, I would.

6 Q. And that earlier effective date is not  
7 inconsistent with the recommendations in your  
8 testimony, is it?

9 A. No, it's not.

10 MR. VAN NOSTRAND: Thank you. I have no  
11 further questions, Your Honor.

12 JUDGE SCHAER: Thank you. Mr. Cedarbaum,  
13 do you have questions of this witness?

14 MR. CEDARBAUM: No, I don't, Your Honor.

15 JUDGE SCHAER: Ms. Pyron?

16 MS. PYRON: No questions, Your Honor.

17 JUDGE SCHAER: Mr. Frederickson?

18 MR. FREDERICKSON: No questions.

19 JUDGE SCHAER: Mr. Wright?

20 MR. WRIGHT: No, Your Honor, we won't have  
21 any questions.

22 JUDGE SCHAER: Ms. Smith?

23 MS. SMITH: No questions Your Honor.

24 JUDGE SCHAER: Mr. Freedman?

25 MR. FREEDMAN: I have no questions, Your

1 Honor.

2 JUDGE SCHAEER: Mr. Merkel?

3 MR. MERKEL: Just a couple.

4

5 CROSS-EXAMINATION

6 BY MR. MERKEL:

7 Q. Mr. Sturzinger, Mr. Van Nostrand asked you  
8 questions concerning the schedule 48 order. I had  
9 just a couple of follow-ups on that. Are you  
10 satisfied with the terms of the schedule 48 with  
11 respect to defining the size of the pilot project?

12 A. I would really have to see that order and  
13 refresh my memory on that to --

14 Q. What size pilot project did you recommend  
15 in your testimony?

16 A. 250 megawatts.

17 Q. If the schedule 48 order does not specify a  
18 pilot project of that size, would it be something that  
19 you will disagree with -- of at least that size?

20 A. If it did not specify -- if it specified a  
21 smaller?

22 Q. If it specified a smaller or an undefined  
23 pilot project, would you disagree with that?

24 A. Well, those are two different questions.  
25 It would depend on how much smaller it was. If it

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1 left it unspecified that would be a point of  
2 difference from my testimony.

3 Q. And if it was unspecified would you  
4 consider that adequate?

5 A. No. I think the Commission should -- in  
6 order to make sure that the design process can work  
7 and that the program can be specified I think it's  
8 very important that the Commission specify the size  
9 rather than leave that to be determined in some  
10 undirected fashion.

11 Q. You have a minimum size in mind?

12 A. 250 megawatts was my recommendation. I  
13 don't see any reason not to make that recommendation  
14 at this point.

15 Q. Are you aware of whether or not the  
16 Commission adopted a date for a mandatory direct  
17 access filing for all of Puget's customers in the  
18 schedule 48 order?

19 A. I would have to see the order. I am not  
20 aware of that.

21 Q. If it did not specify such a date for a  
22 filing, would you disagree with that?

23 A. You mean not for a pilot but for direct  
24 access completely?

25 Q. Yes.

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1 A. I would not disagree with that, no.

2 Q. You believe the Commission should require  
3 PSE to conduct a direct access pilot for gas  
4 customers?

5 A. That's not my testimony.

6 MR. MERKEL: Thank you. No further  
7 questions.

8 JUDGE SCHAEER: Commissioners, did you have  
9 questions for this witness?

10 COMMISSIONER HEMSTAD: No.

11

12 EXAMINATION

13 BY COMMISSIONER GILLIS:

14 Q. I have one. Under schedule 48 is not an  
15 open access proposal, correct?

16 A. Correct.

17 Q. On page 4, lines approximately 12 through  
18 14 you suggest the terms and conditions with respect  
19 to the unbundled cost with distribution/transmission,  
20 the cost of generation, recovery of transition costs  
21 are intended to parallel those offered under schedule  
22 48. My question for you is why should a tariff that  
23 was designed with no consideration for open access be  
24 a model for a tariff that would be designed for a  
25 program for open access as a pilot?

1           A.     Well, there are two reasons.  One, I mean,  
2 the distribution and transmission unbundled tariffs  
3 should be the same.  Assuming that the schedule 48  
4 unbundled tariff is compensatory or is judged  
5 reasonable to go forward that's reason enough to offer  
6 it to the other pilot as well.  The only possible  
7 difference may be that you need to develop it for  
8 distribution voltage levels for the pilot program that  
9 I proposed that you don't have it for schedule 48.  
10 The other thing that is important at this point,  
11 virtually to specify enough variables to let the pilot  
12 go forward rather than to answer all the questions so  
13 that you have the experience of what you're looking at  
14 so that some of it is simply based on practicality and  
15 getting something started.

16           Q.     Are you suggesting there may be a long-term  
17 and short-term element in implementing the pilot?

18           A.     I would suggest that these answers not be  
19 taken as long-term definitive answers, yes.

20           Q.     The concern I'm probing you about is don't  
21 you think that there are a lot of considerations in  
22 pricing schedule 48 that might not be applicable and  
23 there may be others that are applicable that would be  
24 important to pricing an appropriate open access tariff  
25 for a broad class of customers?

1           A.     With respect to the generation portion in  
2 this case --

3           Q.     The distribution portion, the tariff --  
4 distribution tariff itself.

5           A.     The distribution tariff should be the same.  
6 The distribution tariff should be a tariff that's  
7 based on the usage.  Whether the usage that comes from  
8 a usage that is mixed access that the company proposed  
9 in schedule 48 or actual purchases doesn't make any  
10 difference.  The tariff term should be established  
11 independent of the usage.

12          Q.     You're suggesting, then, that the exact  
13 tariff as far as distribution with schedule 48 should  
14 be used is opened access -- as the tariff for open  
15 access for other customers regardless of their size  
16 for the course of the pilot?

17          A.     In terms of the pilot, yes.  The tariff  
18 that's developed should be based on the parameters of  
19 usage and be applicable to any usage that would fall  
20 within that pilot or schedule 48.

21          Q.     And I think you were going to say something  
22 about thoughts on difference in the generation side  
23 before I interrupted you a minute ago on that.

24          A.     Well, to me the biggest difference, I  
25 think, would be on the generation side because I think



1 the company by virtue of the way they've offered a  
2 price under schedule 48 anticipates the way people  
3 would arrange to buy power under a pilot or under a  
4 retail access. I don't think that's necessarily the  
5 case. So I think you could get differences in  
6 generation, but even more importantly I think you get  
7 in the pilot that I've proposed experience for the  
8 company with handling different generation resources  
9 both in terms of operational impact and in terms of  
10 their regulatory policy impact that you don't get  
11 under the schedule 48 proposal.

12 Q. Do you have suggestions on advice to the  
13 collaborative that is going to put this together on --  
14 maybe this is a very broad open question -- advice to  
15 the collaborative on models that they should be  
16 following and pitfalls to avoid based on your  
17 knowledge of experience in other states?

18 A. Well, I don't think anybody solved the  
19 problem, let me put it that way, so I don't think that  
20 there's a -- my one piece of advice is that there is  
21 not a model that you can go to. You know, I could  
22 talk for a long time about the different pitfalls but  
23 I do think that -- I guess to go back to my testimony  
24 I think rather than look at the negative side I think  
25 that the single directing principle of the pilot would

1 be to make sure that it aggressively approached  
2 offering this type of choice to every customer.

3 My experience shows that that can be done.  
4 I think there are nevertheless a lot of examples in  
5 different states where the access has been offered on  
6 a very structured basis where the largest customers go  
7 first and then three years the next largest group and  
8 five years after that the following people, and I  
9 think if there's one single piece of advice to the  
10 collaborative I would offer is that that's not  
11 necessary and it's not desirable for sure.

12 COMMISSIONER GILLIS: Thank you. That's  
13 all.

14 JUDGE SCHAEER: Any redirect for this  
15 witness?

16 MR. MANIFOLD: Yes.

17

18 REDIRECT EXAMINATION

19 BY MR. MANIFOLD:

20 Q. In your response to Commissioner Gillis in  
21 having the same distribution portions of the pilot, I  
22 think you had said adjusted for voltage level  
23 differences?

24 A. Sure.

25 Q. And the effect of that would make the

1 delivery price for residential or small commercial  
2 customers higher than it is for schedule 48 customers  
3 just as their current rates are?

4       A.     Right. The schedule 48 customer that is,  
5 for example, only charged with the primary  
6 distribution voltage level wouldn't have a charge for  
7 secondary distribution equipment, so in developing a  
8 tariff for residential or small commercial you have to  
9 add the cost of the secondary distribution system to  
10 that but that's something that's -- that the  
11 Commission or the company should have a lot of  
12 experience with in developing that. I don't think  
13 there's any problem with developing that, let me put  
14 it that way.

15       Q.     You were asked some questions about both  
16 the similarities and differences between what you've  
17 proposed and what the Commission has already indicated  
18 or authorized under schedule 48. Are there other  
19 differences between what you have proposed and what  
20 has already been resolved in the schedule 48?

21       A.     Well, I believe that the largest part of my  
22 testimony specifies a number of other aspects of the  
23 pilot that I think should be relatively  
24 noncontroversial but nevertheless important to make a  
25 decision on in order to have the pilot designed in a

1 timely fashion, and basically, as I see it, the  
2 similarities are that the pilot was ordered, it's  
3 designed by a collaborative and the collaborative is  
4 run by the -- run by the Commission designated  
5 personally.

6           Beyond that you've specified the load at  
7 250 megawatts. I've specified that the generation  
8 service that's offered be provided by an alternative  
9 provider of generation service rather than the  
10 company. In other words, a power marketer or whoever.  
11 I specified that it be a vertical slice of the  
12 customers, of all remaining but schedule 48 customers.  
13 I've specified that the load be allowed to be  
14 aggregated, in other words, that it not be individual  
15 customers that participate in a one-on-one fashion  
16 with an aggregator but that particularly for smaller  
17 customers there be put in place the principle that the  
18 load allowed to be aggregated. That the 250 megawatts  
19 be allocated among participants so that a particular  
20 subgroup of the vertical slice doesn't end up  
21 monopolizing all of the available load.

22           And that finally for the residential and  
23 smallest business customers that they go forward with  
24 the existing meters and the existing load data that  
25 the company have in terms of estimating the scheduling

1 requirements for their alternative providers of  
2 service. And that the recovery of transition costs be  
3 based in some ways on the same principle set up by the  
4 company in schedule 48.

5           So I think that, other than finding it  
6 gratifying that the company or that the Commission,  
7 rather, has started off in the schedule 48 proceeding  
8 to move in the broad direction that I've suggested, I  
9 would urge the Commission to take those other steps in  
10 specifying the shape of the pilot in order to make  
11 sure that it gets done in a timely fashion.

12           MR. MANIFOLD: Thank you.

13           JUDGE SCHAEER: Anything else for this  
14 witness?

15           MR. MERKEL: Just one follow-up on the  
16 question Mr. Manifold just asked.

17

18                           RE CROSS-EXAMINATION

19 BY MR. MERKEL:

20           Q. I think you said the transition charges  
21 should be similar to under schedule 48. Is it your  
22 understanding that those transition charges would go  
23 on for two years before there is any protection in  
24 rate under schedule 48?

25           A. No. I propose that they be amortized or

1 collected on a levelized basis so that the programs  
2 immediately attractive to customers.

3 Q. I see. So the purpose of that -- is the  
4 purpose of that so that the customer will see an  
5 immediate price reduction and therefore the program  
6 will be immediately attractive?

7 A. Yes, or certainly more attractive than  
8 under the alternative collection, yes.

9 MR. MERKEL: Thank you.

10 JUDGE SCHAEER: Anything further for Mr.  
11 Sturzinger? Mr. Sturzinger, thank you for your  
12 testimony. Let's go off the record for just a moment  
13 to allow Dr. Power to take the stand.

14 (Recess.)

15 JUDGE SCHAEER: Let's be back on the record.  
16 While we were off the record Dr. Power has taken the  
17 stand.

18 Whereupon,

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

22 JUDGE SCHAEER: Dr. Power prefiled one  
23 exhibit which includes his direct testimony and some  
24 appendices. I have marked that exhibit which is  
25 TMP-1 as T-216 for identification. And then one

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1 document has been distributed as an exhibit for Dr.  
2 Power, and it is a three-page document which appears  
3 is the NCAC/NRDC responses to joint applicants' data  
4 requests 612, 644 and 646, and I have marked that as  
5 Exhibit 217 for identification.

6 (Marked Exhibits T-216 and 217.)

7 JUDGE SCHAEER: Your witness is sworn, Ms.  
8 Smith.

9 MS. SMITH: Thank you, Your Honor.

10

11 DIRECT EXAMINATION

12 BY MS. SMITH:

13 Q. Dr. Power, would you please state your name  
14 and address for the record, please.

15 A. Yes. My name is Thomas Michael Power. My  
16 business address is Economics Department, University  
17 of Montana, Missoula, Montana, 59812.

18 Q. And for whom are you appearing in this  
19 proceeding?

20 A. I'm appearing on behalf of the Northwest  
21 Conservation Act Coalition and Natural Resources  
22 Defense Council.

23 Q. Dr. Power, I would like to direct your  
24 attention to the document that's been marked as  
25 Exhibit T-216. Is this the testimony that you

1 prepared in this docket?

2 A. Yes.

3 Q. And was it prepared by you or under your  
4 supervision or direction?

5 A. Yes.

6 Q. Do you have any corrections that you would  
7 like to make to this testimony?

8 A. Yes. Besides some typographical errors  
9 that do not affect the meaning of the testimony  
10 there's two corrections I would like to make. On page  
11 38 the magic of word processors led a paragraph to be  
12 largely repeated, so on page 38, line 17, the next two  
13 sentences should be struck, so the sentence beginning  
14 at line 17 and the sentence ending on line 21  
15 should be struck.

16 Q. So in other words, Dr. Power, you're  
17 striking the sentence on line 17 that begins "in order  
18 to" and ending the srieked language with the sentence  
19 on line 21 that has the last words "market barriers."

20 A. Yes.

21 Q. Do you have any other corrections?

22 A. Yes. One other. On page 39, line 18 I was  
23 more familiar with the public counsel's witness than I  
24 ought to have been and dropped his last name so it  
25 should refer to Michael Karp rather than just Michael.



1 Q. With these corrections, Dr. Power, is your  
2 testimony true and correct to the best of your  
3 knowledge and belief?

4 A. Yes, it is.

5 MS. SMITH: Thank you, Dr. Power. At this  
6 time I would like to offer Exhibit T-216.

7 JUDGE SCHAER: Any objection?

8 MR. VAN NOSTRAND: No objection.

9 JUDGE SCHAER: That document is admitted.  
10 (Admitted Exhibit T-216.)

11 MS. SMITH: Dr. Power is available for  
12 cross-examination.

13 JUDGE SCHAER: Mr. Van Nostrand, did you  
14 have any questions of Dr. Power?

15 MR. VAN NOSTRAND: I do, Your Honor, thank  
16 you.

17

18 CROSS-EXAMINATION

19 BY MR. VAN NOSTRAND:

20 Q. Good morning, Dr. Power.

21 A. Good morning.

22 Q. I'm James Van Nostrand counsel for  
23 applicant Puget Power. Do you have before you what's  
24 been marked for identification as Exhibit 217?

25 A. Yes.

1 Q. And do you recognize that document as  
2 setting forth your responses to data requests  
3 submitted by joint applicants, requests No. 612, 644  
4 and 646?

5 A. Yes.

6 Q. Is this a true and correct copy of your  
7 response?

8 A. Yes.

9 MR. VAN NOSTRAND: Your Honor, I would move  
10 the admission of Exhibit 217.

11 MS. SMITH: No objection.

12 JUDGE SCHAEER: That document is admitted.

13 (Admitted Exhibit 217.)

14 Q. I believe in response to a data request you  
15 had not previously testified in any merger proceeding;  
16 is that right?

17 A. That's true.

18 Q. And your testimony, I think, also points  
19 out that NCAC/NRDC is not taking any position as to  
20 the level of electric or gas rates which should be set  
21 in this proceeding?

22 A. That's my understanding.

23 Q. Your testimony on page 41 refers to Puget  
24 filing a tariff consistent with the comprehensive  
25 review recommendations, and on page 40 you mention a

1 date of November 13 as the end of the regional review  
2 comment period. Could you give us an update on the  
3 status of this regional review process?

4       A.     Yes. Back in September the regional review  
5 released its draft or proposed recommendations and  
6 opened a public comment period and public comments  
7 have been being lifted both in writing from concerned  
8 parties and through public hearings across the Pacific  
9 Northwest. The date of November 13 is the day after  
10 the public comment period, and is mentioned on that  
11 page because the draft or the proposed -- the proposal  
12 -- the draft proposals encouraged electric utilities  
13 within the region to submit evidence of their  
14 willingness to voluntarily implement the proposed  
15 funding mechanism for the public purposes, namely, the  
16 3 percent of electric utility revenues. The proposal  
17 asked that by the end of the comment period the  
18 electric utilities and commissions within the region  
19 submit some indication of their willingness to  
20 voluntarily fund at that level conservation and low  
21 income services, renewables, et cetera.

22               The reason for the request was that the  
23 review indicated that if such a showing wasn't  
24 forthcoming in the final recommendations they would  
25 consider recommending mandatory funding mechanism of

1 some sort. In any case that's the reason for  
2 recommending here that this Commission look to see if  
3 Puget had responded to that request in the hearings  
4 that are taking place on the merger.

5 Q. In terms of the document that's being  
6 prepared as part of the regional review process,  
7 what's the status of that?

8 A. It's now just a draft. The working  
9 committee will make its recommendations to the  
10 governor -- the four governors of the state, at the  
11 end of the valuation period here so that there's one  
12 more step. That's to evaluate the public comment,  
13 then recommendations will be made to the four  
14 governors and then it will be up to the governors to  
15 respond to those recommendations.

16 Q. And that could take the form of legislation  
17 either in state legislatures or Congress?

18 A. Yes. It could take the form of changes in  
19 regulation, proposals for new legislation to go  
20 through the various state legislatures and possibly  
21 changes in federal statutes -- proposals for changes  
22 in federal statutes.

23 Q. Is there an expectation that all utility  
24 service providers in the region will be required to  
25 make the same spending commitments, this 3 percent for

1 public purposes that you mentioned?

2       A.     The intent is to see that all potential  
3 electric competitors or systems are making the  
4 equivalent contribution so that those that do attempt  
5 to fund the public purposes aren't competitively  
6 disadvantaged by some of the competitors choosing not  
7 to fund.

8       Q.     Do you believe a utility could be placed at  
9 a competitive disadvantage if it proposes to make this  
10 3 percent commitment when its competitors don't?

11       A.     I think that that is a possibility. I  
12 think one has to not let the pursuit of perfection  
13 undermine the attempt to do something good here. I  
14 think one wants to see what part of the significant  
15 players are willing to take on this obligation and  
16 fund it in an equitable way and then evaluate whether  
17 the failure of some parties to do so has serious  
18 competitive implications.

19               It's possible that some players won't  
20 participate and that the 3 percent differential would  
21 not represent a serious competitive barrier. On the  
22 other hand, it's also possible in certain settings  
23 that one or two players accepting that burden, while  
24 no one else did, could be put at a significant  
25 competitive disadvantage. I think that's a

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1 quantitative question that has to be evaluated  
2 periodically as public policy in the region develops.

3 Q. Does the funding commitment being  
4 considered in the regional review process recognize  
5 that Puget may have fewer remaining opportunities for  
6 cost-effective conservation investment compared to  
7 other utilities that may have done less conservation  
8 than Puget in the past?

9 A. As the recommendations have developed, I  
10 don't think that sort of detailed or micro sort of  
11 possibilities is being consciously built in.  
12 Considerable flexibility is being built in. The 3  
13 percent is tied to aiming at funding at 65 percent of  
14 what the actual 1995 levels of expenditure by regional  
15 utilities was, so it represents a significant scaling  
16 back. It also leaves to the local level the way in  
17 which two thirds of those funds would actually be  
18 expended allowing considerable flexibility in what  
19 programs would be adopted.

20 In addition, it allows and encourages  
21 significant expenditures on market  
22 transformation efforts that aim at changing what is  
23 competitively viable with respect to energy efficiency  
24 in the entire region, so I think there's considerable  
25 flexibility so that even a utility that has had a

1 fairly significant energy efficiency program over the  
2 past several years would be able to productively use  
3 the funds that they commit to.

4 Q. If I could direct your attention to the  
5 third page of Exhibit 217 where you were asked to  
6 define some of the terms in connection with your  
7 recommendation on a nonbypassable system's benefit  
8 charge. Do you have that before you?

9 A. Yes.

10 Q. Could you please explain how you see a  
11 nonbypassable systems benefit charge work as it  
12 relates to being competitively neutral?

13 A. The concept is fairly straightforward  
14 implementation is probably anything but. The general  
15 idea is that when this systems benefit charge is  
16 imposed it be imposed in a way that does not change  
17 customers' evaluations of the competitive choices that  
18 confronted them. If, for instance, the charge is only  
19 associated -- is primarily associated with electric  
20 volumes consumed it will raise the price of electric  
21 energy as seen by customers and that could shift their  
22 view of energy consumption versus peak demand. It may  
23 well change their view of the attractiveness of  
24 electricity compared to alternative fuel sources.  
25 The general idea, if one were seeking perfection,

1 would be to collect this in a way that didn't affect  
2 those choices at all.

3           I think as a practical matter that's  
4 probably impossible to do. The only thing economists  
5 have ever come up with in terms of economically  
6 neutral type of charge is sort of a head tax, except  
7 to the extent that it might discourage people from  
8 having children or encouraging them to commit suicide,  
9 the general idea is that if you collect revenues just  
10 on a per person basis there's not much people can do  
11 once they exist to avoid it. The problem with that of  
12 course is that at least to most people it would appear  
13 to be a somewhat inequitable way of collecting  
14 revenues because it wouldn't be related to use, it  
15 wouldn't be related to ability to pay. It wouldn't be  
16 related to anything.

17           In between those extremes of what's  
18 perfectly neutral but unattractive from an equitable  
19 point of view, moving away from that to something  
20 that clearly discriminates against certain types of  
21 energy use, we have to find something in between  
22 that's not -- doesn't grossly bias the market or  
23 significantly bias the market but is perceived to be  
24 equitable by customers and regulators.

25           Q.     Your testimony on page 45 proposes that



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1 Puget be required to acquire 11 average megawatts of  
2 renewables, and in response to request No. 644, which  
3 is page 2 of 217, you indicate, don't you, that to the  
4 extent the costs associated with these renewable  
5 resources, to the extent those are greater than market  
6 they would be recovered through on a nonbypassable  
7 systems benefit charge?

8 A. Yes.

9 Q. And until such a charge is in application  
10 and all utilities service providers in the region have  
11 made equal commitments to renewables, wouldn't a  
12 utility be at a competitive disadvantage if it  
13 proceeded to acquire renewable resources?

14 A. Well, in some very narrow sense the answer  
15 to that may be yes, if one assumes that we're already  
16 amidst general competition among a large number of  
17 alternative providers, which we certainly aren't there  
18 yet, and if it ignores the fact that somebody has to  
19 act first. You know, if Montana wouldn't consider  
20 legislation, or the Montana Commission won't consider  
21 legislation until the Washington Commission acts and  
22 if Puget won't act until everybody else has acted  
23 things that we all agree would be appropriate for us  
24 to do collectively will never get done. So somebody  
25 has to take the leadership understanding that the

1 commitment they make as they take up that leadership  
2 role isn't a permanent commitment. If other utilities  
3 don't go along, if other commissions don't go along,  
4 if other state legislatures don't go along, and if  
5 that seriously biases competition or certain  
6 competitors, then we go back to the drawing boards,  
7 make that case and abandon that policy. But I just  
8 urge that leadership, when it comes to public policy  
9 is important and that if everybody waits until we have  
10 a uniform solution nothing is going to happen.

11 Q. One final point in your testimony on page  
12 39 refers to emphasis being placed on low income  
13 efficiency programs. Are you aware as part of the  
14 company's direct filing in this case it committed to  
15 provide up to one million dollars funded by  
16 shareholders for low income programs?

17 A. Yes.

18 MR. VAN NOSTRAND: Thank you. I have no  
19 further questions.

20 JUDGE SCHAER: Thank you. Mr. Cedarbaum,  
21 did you have questions.

22 MR. CEDARBAUM: No, I don't.

23 JUDGE SCHAER: Mr. Pyron?

24 MS. PYRON: No questions, Your Honor.

25 MR. MANIFOLD: Excuse me, I did.

1 JUDGE SCHAEER: I'm sorry. Mr. Manifold.

2 MR. MANIFOLD: Thank you.

3

4 CROSS-EXAMINATION

5 BY MR. MANIFOLD:

6 Q. Dr. Power, turning to your testimony on  
7 page 13.

8 A. Yes.

9 Q. In that table in the middle of the page you  
10 compute electric and gas margins and conclude that the  
11 conversion of residential space and water heating load  
12 from electricity to gas would cost to the company  
13 about \$600 a year in lost margins; is that correct?

14 A. I'm looking for the \$600. Are you adding  
15 those two together?

16 Q. Yes. Adding together the hot water and  
17 space.

18 A. Yes.

19 Q. That's the 118 on the right-hand side plus  
20 the 475?

21 A. Yes.

22 Q. And rounding for purposes of discussion  
23 here. In making that calculation what level of  
24 investment in gas distribution facilities, that is,  
25 service, meters, et cetera, and what level of gas O

1 and M expense did you assume the company would incur?

2 A. I was assuming that in both cases the  
3 existing hookup was in place so that what the margins  
4 are trying to recover is the average of those costs,  
5 the commitment of property to extend service to the  
6 customers.

7 Q. If the company did want to make an  
8 investment to serve additional gas customers, would  
9 that change the calculation?

10 A. Yes. The number would be higher,  
11 especially assuming that the cost of extending service  
12 would exceed the average cost embedded in the current  
13 rates and margins.

14 Q. Does this potential loss of margin to the  
15 electric side of the business from converting  
16 customers from electric to gas service give you  
17 concern about the competitive aspects of this merger?

18 A. Yes. As my testimony indicates, this  
19 merger does represent a combining of two very real  
20 competitors and ordinarily that's not considered good  
21 public policy. I think one needs a showing, and  
22 that's what this case is all about, that some public  
23 policy gains, some gains to customers will outweigh  
24 the cost or the loss to them associated with the  
25 reduction in the level of competition.

1           The typical justification for the combining  
2 of potential customers is that there's, in economist  
3 jargon terms, is that there's economies of scope that  
4 will allow the costs of serving customers from a  
5 unified company to be lower and therefore customers  
6 will get a direct benefit, and the question then in  
7 this case is whether the direct benefit that can be  
8 foreseen from this combining of competitors is  
9 sufficiently large to justify the very real loss to  
10 those customers associated with reduced levels of  
11 competition.

12       Q.     In making that determination, does one need  
13 to look at both the reduction in costs from economies  
14 of scope to the company and the extent to which those  
15 are passed on to customers who might suffer the  
16 negative consequences you've mentioned?

17       A.     Absolutely.

18       Q.     Different subject. Page 18. This concerns  
19 your revenue cap proposal which is basically a revenue  
20 cap proposal on a class specific transmission and  
21 distribution margin trued up as sales volumes change?

22       A.     Yes, trued up annually allowing those marks  
23 of revenues to be collected on the basis of growth in  
24 customers rather than growth in kilowatt hours.

25       Q.     Are you generally familiar with the

1 Bonneville Power residential exchange program?

2 A. Very generally.

3 Q. Is it your understanding that the average  
4 system cost includes certain -- well, do you know  
5 there is such a thing called average system cost?

6 A. Yes.

7 Q. Is it your understanding that as Bonneville  
8 has developed that concept that includes certain costs  
9 of the utility and excludes certain other costs of the  
10 utility?

11 A. Yes.

12 Q. And is it your understanding that bulk  
13 transmission is part of the average system cost?

14 A. Yes.

15 Q. And bulk transmission is included in the  
16 revenue cap mechanism that you have proposed?

17 A. Well, it wasn't intended and I was looking  
18 for the page cite. As I made clear when I first  
19 presented the revenue cap the intention was not for  
20 bulk power transmission to be included in the revenue  
21 cap. I think what happened was when I used the cost  
22 of service data what was easy to remove was the  
23 generation-related transmission and that was all I  
24 removed. What should have been removed was all of the  
25 bulk power transmission.

1 Q. So you would remove all of that, and a  
2 result of that would be that changes in this revenue  
3 cap would not, to your understanding, trigger an  
4 average system cost filing changing -- change -- let  
5 me finish -- with BPA?

6 A. Right. I think what one needs to do to  
7 avoid -- I don't know if it's an endless cycle of  
8 adjustments or what would be triggered at least  
9 simultaneously or sequential adjustments is that one  
10 should accept BPA's distinction between bulk power  
11 transmission and local transmission, and then revenue  
12 adjustment here would not affect the average system  
13 cost calculation.

14 Q. Turning to a different subject concerning  
15 DSM. Just two questions. I will just ask them both  
16 and then you can answer if you can or I will break  
17 them down. In general I have heard it said that the  
18 purpose of regulation is to mirror a premarket or a  
19 market. If that is the case and if demand side  
20 management mechanisms are cost-effective why wouldn't  
21 appropriate level of DSM be achieved in a, quote, free  
22 market or a competitive electric market?

23 A. Well, the answer is, of course, that  
24 there's market failure when it comes to the pursuit of  
25 energy efficiency. There's been a lot written on that

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1 topic and we, you know, of course, can exaggerate the  
2 degree of market failure, but I think it would be very  
3 difficult to dispute the fact that there is fairly  
4 significant market failure. That's fairly obvious  
5 when it comes to, for instance, low income residential  
6 housing stock where the low income customers often  
7 don't own the stock, where landlords have little or no  
8 incentive and customers, residents, have little or no  
9 incentive to install the DSM measures. It's unclear  
10 -- well, it's clear that one is not going to get any  
11 significant pursuit of energy efficiency in that  
12 setting, but that extends on to businesses that  
13 operate with shorter investment horizons than the  
14 utility or the public has to problems associated with  
15 the cost of capital as faced by small businesses.

16           And some of that extends even up into the  
17 larger customers. It's fairly easy to look at the  
18 investment people are willing to make in energy  
19 efficiency and then look at the savings associated  
20 with those and ask, is the market working. Are people  
21 pursuing the level of energy efficiency investments  
22 that the market clearly indicates are cost-effective,  
23 and when one finds major divergence I think one can  
24 take that as fairly significant evidence that there's  
25 market failure and that some intervention on the part



1 of the utility, on the part of public policy makers is  
2 required.

3 MR. MANIFOLD: No further questions.

4 JUDGE SCHAER: Ms. Pyron?

5 MS. PYRON: No questions, Your Honor.

6 JUDGE SCHAER: Mr. Frederickson?

7 MR. FREDERICKSON: No questions.

8 JUDGE SCHAER: Mr. Wright?

9 MR. WRIGHT: No questions, Your Honor.

10 JUDGE SCHAER: Mr. Freedman?

11 MR. FREEDMAN: I have no questions, Your  
12 Honor.

13 JUDGE SCHAER: Mr. Merkel?

14 MR. MERKEL: Just one or two.

15

16 CROSS-EXAMINATION

17 BY MR. MERKEL:

18 Q. At the beginning Mr. Van Nostrand asked you  
19 some questions about the regional review, and the  
20 proposal that's being considered to require some sort  
21 of a -- is it a 3 percent charge?

22 A. Yes.

23 Q. Could you describe that?

24 A. Yes. It probably shouldn't be called a  
25 charge because once it's turned into a charge the

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1 percentages here may vary. It's a revenue target. 3  
2 percent of total electric revenues being earned now in  
3 the Pacific Northwest and if that were to get  
4 converted to, say, a distribution charge or a meters  
5 charge one would go from characterizing it as 3  
6 percent to maybe a significant and larger percentage  
7 of distribution costs or it might get characterized as  
8 per kilowatt hour per meter, but that's the target  
9 that has been presented thus far.

10 Q. And that charge is not just -- that  
11 proposal is not just aimed at DSM measures, is it?  
12 Doesn't it also include low income assistance and  
13 other types of public purposes?

14 A. It includes -- actually the regional review  
15 invited additional comment on what that should cover,  
16 but as outlined by the regional review it covered low  
17 income services but only low income weatherization.  
18 It did recover renewable resources and it recovered  
19 some research and development on both energy  
20 efficiency and renewables. The recommendation with  
21 respect to low income support is separate from the 3  
22 percent. That's my understanding anyway.

23 Q. Is one of the problems in coming to  
24 consensus in the review on this issue that there's not  
25 good data on how much utilities currently spend on

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1 these matters?

2 A. I think that's true. I don't think that's  
3 true for the larger investor-owned utilities, but it  
4 is true for rural electric co-ops, smaller municipal  
5 utilities, because they often will treat -- from an  
6 accounting point of view their efforts may be treated  
7 as customer service rather than a separate energy  
8 efficiency program so that there is some uncertainty,  
9 but I am not sure that uncertainty is a central issue  
10 in the discussion.

11 Q. Is it your understanding that any  
12 particular kind of utility investor-owned or public  
13 agency is or is not -- there's data establishing that  
14 any particular type is or is not meeting that target  
15 currently?

16 A. I think that's fairly diverse. There's  
17 some public utilities that have very substantial  
18 programs that exceed that target. There's rural  
19 electric co-ops that at least when you just look at  
20 the books have no programs at all. I think there's  
21 considerable divergence. Puget certainly in earlier  
22 periods was one of the leaders of the region compared  
23 to some other utilities, other investor-owned  
24 utilities but investor-owned utilities have overhauled  
25 in a significant way their current programs. So I am

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1 not sure -- I don't see a pattern. In my involvement  
2 in this process I don't see a pattern that would allow  
3 one to label one type of ownership uniformly  
4 superior/inferior compared to another.

5 Q. Would you agree that better data is  
6 required on the level of expenditures before one could  
7 draw any conclusions about competitive impacts?

8 A. Absolutely. I must say I am somewhat  
9 agnostic about whether in what actually develops over  
10 the next, say, five years, this 3 percent difference  
11 could have significant competitive implications. But  
12 that's an empirical straightforward quantitative  
13 question that we can evaluate as we go along, as new  
14 institutions develop. As competition does or does not  
15 develop in certain markets we will be able to evaluate  
16 that.

17 Q. But as of today, I understand your  
18 statement to be that we don't have the data that would  
19 allow us to conclude that there's any competitive  
20 impact one way or another at present?

21 A. Right. Given that most electric markets  
22 are still dominated by incumbents, vertically  
23 integrated monopolies, a 3 percent public benefits  
24 charge, most of which is already built into their  
25 rates currently, is to me very unlikely to have a

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1 significant competitive impact.

2 MR. MERKEL: No further questions.

3 JUDGE SCHAEER: Commissioners, did you have  
4 any questions?

5

6 EXAMINATION

7 BY COMMISSIONER HEMSTAD:

8 Q. Dr. Power, your proposal, I think you would  
9 probably agree, has some complexity to it. Maybe you  
10 don't.

11 A. Well, compared to the sorts of compliance  
12 filings utilities already have to make and will have  
13 to make under the variety of rate proposals that were  
14 before the Commission now, I don't perceive that it's  
15 -- adds a significant amount of complexity.

16 Q. Well, what you propose seems to have a lot  
17 of the structure and complexity -- perhaps that's not  
18 just the right term to use -- of the PRAM experiment  
19 that has now been terminated. One of the problems  
20 with that was its complexity and the difficulty of  
21 ratepayers being able to, let alone regulators, being  
22 able to understand what was happening and the  
23 consequences of that set of arrangements. But you  
24 don't think this would have those kind of burdens?

25 A. I have tried to emphasize the fact that

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1 what I am proposing has almost no relationship to the  
2 PRAM. My testimony in '93-94 dealing with the PRAM  
3 made clear that I did not support all of the various  
4 automatic adjustment mechanisms that had been filed on  
5 later upon layer and the complex structure of cost  
6 division and calculation that made that arrangement  
7 almost unworkable. It's in many ways not quite as  
8 complex as the ERAM process used in California but it  
9 approached that. This has only -- has a relationship  
10 with only a tiny slice of that PRAM, the adjustment  
11 for fuel, adjustment for water conditions, the  
12 adjustment for weather. All those things are not  
13 here. The things that I objected to back then, the  
14 shifting of risk from the utility to the customer, the  
15 attempt to stabilize the utility's revenues and  
16 returns at the expense of customer's rates, those  
17 things I opposed then I oppose now would not be making  
18 this recommendation if it bore any close relationship  
19 to the PRAM.

20 Q. Is there any other utility that is using  
21 something like these set of arrangements that you are  
22 proposing here?

23 A. Yes. Montana Power Company has been  
24 operating under an arrangement, revenue cap  
25 arrangement, for the last three going on four years

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1 and will continue for another two years and then the  
2 -- there was a sunset provision built into that to  
3 review the experience. My understanding is that  
4 Pacific Corp, along with the Oregon Department of  
5 Energy, Oregon Citizens Utilities Board, and NRDC/NCAC  
6 have proposed to the Commission a revenue cap for  
7 itself in the Oregon jurisdiction so that I expect  
8 that we'll see a revenue cap in place for Pacific Corp  
9 in Oregon in the near future.

10 Q. Would you see -- were this Commission to  
11 pursue your proposal, would the result of that be as  
12 a condition of the merger and the merger were then  
13 approved, would that significantly delay the  
14 implementation of the merger? Will this have to be  
15 refined prior to the merger commencing?

16 A. No, not at all. One could of course  
17 structure the implementation so that there was a  
18 delay, but I am not -- I don't think even that would  
19 be necessary that the elements -- it's simple enough  
20 that the elements can be laid out in a paragraph or  
21 two in order and the utilities simply ask -- make  
22 appropriate compliance filings at the same time  
23 they're making filings for adjustment of rates under  
24 whatever rate cap plan is approved by this Commission.

25 Q. You've been asked some questions about the

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1 relationship of this to the review recommendations.  
2 At the present time, of course, they're not finalized  
3 and I think to some extent it is problematic as to  
4 whether that is in fact going to come together, but in  
5 any event their only recommendations is in a certain  
6 sense speculative, I suppose, as to assuming there are  
7 hard recommendations what will ever happen to them,  
8 but you would recommend that this Commission as a  
9 condition require the company to implement those  
10 recommendations unilaterally then?

11 A. And I don't think that's dangerous or  
12 outrageous. Montana Power Company has proposed that  
13 for itself, and including a systems benefit charge  
14 being implemented with the proviso that if other  
15 jurisdictions and other utilities ultimately don't go  
16 along they don't think it would be viable and they  
17 will be back before the Commission to ask that be  
18 abandoned, but they felt that as a corporation  
19 committed to energy efficiency and low income services  
20 and as the state of Montana that some leadership was  
21 needed to see that what people seem to be agreeing on  
22 was good and appropriate for the region, as this  
23 Commission's principles made clear that that  
24 commitment to energy efficiency and the environment  
25 not be weakened and abandoned as a result of



1 competition. That's what we want to hang on to.

2 People have to begin acting to try and put the  
3 institutions in place so that we can try to do it.

4           Now, if in the end we can't get enough of  
5 our fellow citizens or fellow commissions or  
6 fellow companies to go along we'll have to reconsider  
7 our position. But I don't think there's any immediate  
8 threat for taking the lead or taking the leadership  
9 position. One, on a matter of month's notice if  
10 catastrophe is striking, is one could abandon and  
11 there's just no reason to believe that the markets are  
12 going to change that quickly, that dramatically, that  
13 this sort of equipment would cripple an important  
14 company in this region, a major company in this  
15 region.

16           So I think it's a situation where the  
17 principle is clear and there's fairly broad consensus  
18 and support of the principle. It's -- a phrase I've  
19 often heard is sort of mutual coercion, mutually  
20 agreed upon. I mean, to get good things done in a  
21 public good setting people have to initially act as  
22 good citizens to encourage everyone else to act, do  
23 the right thing if you want. Then if that fails  
24 you've got a -- you can fall back to a defensive  
25 position, but to take a defensive position initially

1 almost assures that the public good cannot be pursued.

2 COMMISSIONER HEMSTAD: Thank you.

3 COMMISSIONER GILLIS: No questions.

4 JUDGE SCHAEER: I have just one question,  
5 Dr. Power. On page 13 of your testimony you have a  
6 table showing annual utility loss from fuel switching;  
7 is that correct?

8 THE WITNESS: Yes.

9 JUDGE SCHAEER: Do you know if the losses  
10 shown in this table were included in the cost pressure  
11 amounts testified to by the joint applicants?

12 THE WITNESS: Yes. My understanding from  
13 -- now I'm trying to remember whether it was a data  
14 request or rebuttal testimony there was some assertion  
15 that existing fuel switching -- the existing level and  
16 rate at which customers are switching from electric  
17 heat to gas heat that that was built in to their  
18 painting of the market and the situation they're going  
19 to face. What wasn't built in was any accelerated  
20 switching which the company testified they expected  
21 and as a matter of policy was going to encourage. But  
22 I am -- this is based on a quick reading of the  
23 rebuttal testimony and that question may be better put  
24 to the company.

25 JUDGE SCHAEER: Is there any redirect for

1 this question?

2 MS. SMITH: I have just a few questions,

3 Your Honor.

4 JUDGE SCHAEER: Go ahead, please.

5

6 REDIRECT EXAMINATION

7 BY MS. SMITH:

8 Q. Dr. Power, in response to a series of  
9 questions from Mr. Van Nostrand concerning your  
10 understanding of the comprehensive review process, do  
11 you have any basis to believe that there is little or  
12 no DSM opportunities remaining in what would be PSE's  
13 future service territory?

14 A. I think both. Northwest Power Planning  
15 Council's fourth plan or draft plans analysis of the  
16 potential, even given the reduced avoided costs,  
17 indicate that there's substantial energy efficiency  
18 potential remaining in the Puget system and service  
19 territory.

20 Q. And in the combined service territory?

21 A. Yes.

22 Q. Are you troubled at all that your  
23 recommendation for PSE to pursue the recommended  
24 public purposes investment is based on a draft  
25 proposal from the comprehensive review steering

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1 committee?

2           A.     No. I think the whole point of this  
3 comprehensive review was the governors of the four  
4 states saying we have to get together. The world is  
5 changing rapidly enough that certain public policies  
6 that we were able to pursue with certain institutions  
7 in the past we aren't going to be able to pursue with  
8 those institutions. Either we have to give up trying  
9 to pursue them or we have to try and craft new  
10 institutions to assure that those public purposes that  
11 were assumed to be important to the people of the  
12 region could be pursued, so that the whole point of  
13 this exercise is to try and develop a region-wide  
14 consensus.

15                   I think we're getting that. I mean, we're  
16 hearing -- we're finding that sort of support for  
17 continued pursue of the public purposes, and I  
18 certainly am certain that whatever comes from the  
19 process will contain that commitment. The proposals  
20 made will contain that commitment. Unless there's  
21 been changes in more recent years all of the  
22 commissions in this region have made a commitment to  
23 those public purposes in the sense of indicating that  
24 in whatever transition we're going through here, here  
25 are the public purposes we insist get protected. All

1 that's happening on the larger regional level is an  
2 attempt to spell out what institutions might allow us  
3 to meet those objectives.

4 Q. And in response to a question or series of  
5 questions from Mr. Manifold you talked about market  
6 failure. Do you have any reason to believe that  
7 without -- strike that. Do you have any reason to  
8 believe that market failures would not occur in PSE's  
9 territory without implementation of your revenue cap  
10 proposal?

11 A. Well, the revenue cap proposal simply tries  
12 to remove what I try to document as a fairly serious  
13 financial disincentive to pursuing least cost energy  
14 services for customers, so it attempts to move the  
15 regulatory process to neutral. Absent that effort,  
16 the degree of market failure will be even greater.  
17 What a price cap does, what a price cap structure with  
18 a long period of regulatory lag does is set up,  
19 unintentionally but it does it anyway, sets up strong  
20 disincentives to the pursuit of energy efficiency  
21 because energy efficiency reduces the margins that  
22 would otherwise flow directly to the bottom line of  
23 the company during that extended period of regulatory  
24 lag, so that I think we know that if we don't act that  
25 irrational social -- irrational from a social point of

1 view -- that irrational incentive, that the degree of  
2 market failure will be greater than if we act to try  
3 and at least bring the regulatory institution to  
4 neutral on the question of investments in improving  
5 energy efficiency.

6 Q. These disincentives then are something that  
7 can be quantified?

8 A. Yes.

9 Q. Is it true that in response to questions  
10 from the bench in your testimony at pages 10 and 11 do  
11 you talk about the differences between your revenue  
12 cap proposal and PRAM?

13 A. Yes.

14 Q. And is it also true in your testimony at  
15 pages 11 and 12 you talk about the removal of  
16 disincentives under the revenue cap?

17 A. Yes.

18 Q. Do you have any reason -- again in response  
19 to questions from the bench do you have any reason to  
20 believe that the distribution system in PSE's service  
21 territory won't remain regulated by this Commission  
22 throughout the term of the rate stability period  
23 proposed or any of the rate cap proposals made by the  
24 parties?

25 A. Yes. I can't imagine any technological

1 change that would change the reality and desirability  
2 of monopoly control of the distribution network. And  
3 if it's going to be a monopoly then we need the public  
4 regulation.

5 Q. And finally, in response to a question from  
6 Mr. Merkel, you discuss the 3 percent target of total  
7 electric revenues that you propose?

8 A. Yes.

9 Q. And I believe you stated that if you talked  
10 about a target of distribution charges that that may  
11 be a larger percentage. Could you please explain what  
12 you meant by that?

13 A. Well, as we move towards unbundling the  
14 general idea is that this public purposes charge will  
15 be collected on the distribution end of things. Often  
16 it's called the meter charge to make clear that that's  
17 at the very end of the distribution network that the  
18 charge will be collected. As a percentage of total  
19 distribution revenues if distribution revenues are  
20 only a third of total -- of the total costs then the 3  
21 percent is likely to be 9 percent of distribution  
22 revenues even though they still represent only 3  
23 percent of the bill on average that the customer is  
24 paying, the total bill for electric energy, other  
25 services, transmission as well as distribution and

1 customer costs.

2 Q. In other words, you're not proposing that  
3 that there would be any greater collection of  
4 revenues, simply the percentage would be different?

5 A. Absolutely not. Compared to -- for most  
6 utilities compared to current rates the component  
7 embedded in those rates for public purposes would  
8 actually decline, because this represents 65 percent  
9 of the previous year's commitment to these purposes so  
10 that for the average person the actual impact on their  
11 bill would be smaller than what they've seen in recent  
12 years.

13 MS. SMITH: Thank you, Dr. Powers. Your  
14 Honor, I have no further questions.

15 JUDGE SCHAEER: Is there anything further  
16 for this witness?

17 MR. VAN NOSTRAND: I had one question on  
18 recross.

19 MR. CEDARBAUM: And I have a couple of  
20 questions as well.

21 MR. VAN NOSTRAND: Dr. Power, if I could  
22 direct your attention to your testimony at page 17,  
23 lines 16 to 18, you were asked a question how you  
24 would compare your revenue cap proposal to per  
25 customer or use per customer decoupling and your



1 answer was, "Although it may sound different it is the  
2 same." Is that your testimony?

3 THE WITNESS: Yes.

4 MR. VAN NOSTRAND: No further questions,  
5 thank you, Your Honor.

6 JUDGE SCHAEER: Mr. Cedarbaum.

7

8 RE-CROSS-EXAMINATION

9 BY MR. CEDARBAUM:

10 Q. Yes, Dr. Power. You were asked some  
11 questions about the table you show on page 13 of your  
12 testimony?

13 A. Yes.

14 Q. Are you aware or would you accept subject  
15 to check that under Washington Natural's current line  
16 extension policies it uses a water heating annual load  
17 of 300 therms per year?

18 A. I certainly would accept that subject to  
19 check.

20 Q. And would you also accept subject to check  
21 that that number was based upon end use studies  
22 performed by Washington Natural?

23 A. Yeah. I don't know what I am accepting  
24 subject to check. There's the question of whether  
25 what it represents is just space heat, just water heat

1 use or whether it includes potential cooking. I would  
2 have to look at the study, but as I said in response  
3 to a data request, this was -- given the data I had  
4 available was the best estimate that I could put  
5 together.

6 Q. Sticking, though, with the 300 therms per  
7 year that you've accepted subject to check in the  
8 current line extension policy, if we were to  
9 substitute that number in for the 144 therms per year  
10 you show for natural gas use hot water heating, would  
11 the impact of that be to move the negative 118 figure  
12 closer to zero?

13 A. It would certainly reduce it if that was  
14 the appropriate number to use.

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

17 THE WITNESS: If that's the number to use,  
18 though.

19 JUDGE SCHAEER: Dr. Power, I think that  
20 you've answered the question. Thank you.

21 THE WITNESS: Well, well, then, I'm not  
22 sure my answer was accurate.

23 JUDGE SCHAEER: You're saying it may not  
24 move it closer to zero?

25 THE WITNESS: If that number is the basis

1 of subtracting, making two calculations and  
2 subtracting them, if you change the one number, how  
3 much natural gas is used for hot water heating, it may  
4 be appropriate to change the other number which is  
5 mechanically linked to how much electricity is  
6 required for hot water heating and so if both of those  
7 are changed it might not change that number at all.

8 MR. CEDARBAUM: Everything else remaining  
9 not changing the number would be?

10 THE WITNESS: Right, arithmetically. Even  
11 though that might not be appropriate for the  
12 calculation, arithmetically that would be the result.

13 JUDGE SCHAEER: Is there anything further  
14 for this witness? Thank you for your testimony.  
15 You're excused. Before we break for lunch I would  
16 like to take just a moment and see -- make sure we're  
17 all on the same menu for this afternoon. We've done  
18 the three witnesses that had to be done on Friday. It  
19 looks to me like the next witness will be Mr. Lazar.

20 MR. MANIFOLD: Yes.

21 JUDGE SCHAEER: And then after Mr. Lazar  
22 it's my understanding that Mr. Schoenbeck's testimony  
23 is going to be put in by stipulation; is that correct?

24 MS. PYRON: That's my understanding, Your  
25 Honor. I have received no indication of questions

1 from anybody.

2 JUDGE SCHAER: And Mr. MacIver, I have  
3 checked with the bench and we do not have questions of  
4 Mr. Wolverton. Would you like to try and put his  
5 testimony in by stipulation this afternoon also?

6 MR. MACIVER: Beg your pardon?

7 JUDGE SCHAER: Have you checked with the  
8 other parties to see if you will be able to put his  
9 testimony in by stipulation?

10 MR. MACIVER: I think we will.

11 JUDGE SCHAER: I believe the letter from  
12 the city of Seattle indicated Mr. Oakes was available  
13 next week which brings us to the company's witnesses.  
14 Do you have witnesses lined up to be here after Mr.  
15 Lazar?

16 MR. VAN NOSTRAND: Mr. Story.

17 JUDGE SCHAER: So you're not going to start  
18 with Mr. Steinmeier?

19 MR. VAN NOSTRAND: Mr. Steinmeier is not  
20 available until Tuesday and Mr. Story is here and can  
21 be available.

22 JUDGE SCHAER: If we are moving out  
23 smartly, is Mr. Amen going to be available if we get  
24 done with Mr. Story?

25 MR. VAN NOSTRAND: Yes, Your Honor.

1                   JUDGE SCHAER:  So everyone knows who to be  
2 ready for this afternoon let's take our lunch recess  
3 at this time and please be back with Mr. Lazar on the  
4 stand and everyone's exhibits for him distributed and  
5 ready to go at 1:30.  Thank you.

6                   (Lunch recess taken at 12:20 p.m.)

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1 Exhibit T-219. Document identified as Exhibit JL-1 as  
2 Exhibit 220 and exhibit which is identified as top  
3 secret, identified as JL-2, as Exhibit TS-221 and a  
4 two-page document which was distributed by the joint  
5 applicants Public Counsel Response to Joint Applicants  
6 Data Requests 307 and 324 as Exhibit 222. Please  
7 proceed, Mr. Manifold.

8 (Marked Exhibits T-218, T-219, 220, TS-221  
9 and 222.)

10 Q. Mr. Lazar, do you have in front of you  
11 what's been marked as Exhibit T-218?

12 A. Yes, I do.

13 Q. Does that constitute your prefiled direct  
14 testimony in this case?

15 A. Yes, it is.

16 Q. Do you have any changes to make in that?

17 A. Yes. I have distributed an errata sheet  
18 which is somewhat extensive and there's a small glitch  
19 in the very last entry on the errata sheet. I don't  
20 know how people want to handle the errata sheet.

21 JUDGE SCHAEER: My first question on the  
22 errata sheet is that it states at the top that  
23 it belongs to Exhibit JL-1 which I believe is Exhibit  
24 220. Should that instead refer to your Exhibit  
25 JL-T-1, which is your testimony?

1 THE WITNESS: No.

2 MR. MANIFOLD: I believe, Your Honor, those  
3 two pages are replacement pages for what has been  
4 marked or that go in what has been marked as Exhibit  
5 220.

6 JUDGE SCHAER: I'm looking at the first two  
7 pages of what you handed out, changes to testimony of  
8 Jim Lazar most accompanying revised exhibit JL-1.

9 THE WITNESS: Let me explain, Your Honor.

10 JUDGE SCHAER: Please.

11 MR. MANIFOLD: There are two replacement  
12 pages for my Exhibit JL-1 which are noted as revised  
13 11-7-96. The changes to the testimony in the two  
14 pages that you are referring to are required basically  
15 because of the changes to my Exhibit JL-1 now Exhibit  
16 220, and the one thing that I'm sure of is that you  
17 don't want me to read all these changes into the  
18 record.

19 JUDGE SCHAER: And there's something on  
20 here that you wanted to correct or clarify?

21 THE WITNESS: Yes. The very last entry on  
22 the errata sheet, the first at page 24, line 11 and  
23 there are actually two changes listed there. The  
24 first of those changes appears on page -- actually is  
25 on line 8 of page 24 and the second change is on line



1 11 of page 24.

2 JUDGE SCHAER: I will mark the first two  
3 pages here as part of Exhibit 218. So attach the  
4 first two pages of errata to Exhibit T-218 and then I  
5 will attach the remainder to Exhibit -- did you say  
6 220?

7 MR. MANIFOLD: Yes.

8 Q. Mr. Lazar, with the changes that you have  
9 just made, could you direct your attention to page 17  
10 of your testimony?

11 A. Yes.

12 Q. The change you make on line 28. Would you  
13 also on line 27 eliminate the word "worse"?

14 A. Yes. Word "worse" there should be  
15 "adverse." Like World War III would be the worst  
16 case scenario.

17 Q. With the corrections that you've made, is  
18 your testimony which has been marked as Exhibit T-218  
19 true and correct to the best of your knowledge?

20 A. Yes, it is.

21 Q. Is your testimony which has been marked as  
22 Exhibit T-219 true and correct to the best of your  
23 knowledge?

24 A. Yes, it has.

25 Q. Was the exhibit that has been marked as No.

1 220 prepared by you or under your supervision?

2 A. Yes, it was.

3 Q. With the changes that you have made is that  
4 true and correct to the best of your knowledge?

5 A. Yes, with the two substitute pages that  
6 were distributed this morning that is true and correct  
7 to the best of my knowledge.

8 Q. And is Exhibit TS-221 prepared by you or  
9 under your supervision?

10 A. Yes, it was.

11 Q. Is it true and correct to the best of your  
12 knowledge?

13 A. Yes, it is.

14 MR. MANIFOLD: Your Honor, I would move for  
15 the admission of these exhibits. Do I need to specify  
16 them?

17 JUDGE SCHAER: No.

18 MR. VAN NOSTRAND: No objection.

19 JUDGE SCHAER: Exhibit T -- Exhibits T-218,  
20 T-219, Exhibit 220, Exhibit TS-221 will be admitted.

21 (Admitted Exhibits T-218, T-219, 220 and  
22 TS-221.)

23 Q. Mr. Lazar, could you refer to Exhibit 220  
24 and explain what the changes you made are generally  
25 and why you made them?

1           A.       Yes.  There are basically two changes on  
2 Exhibit 220.  I will go through them in page order  
3 which is not exactly how they flow.  The first is in  
4 the center column on the bottom of page 1.  The column  
5 that now reads "loss of exchange 50 percent of BPA,"  
6 in the original exhibit I had assumed that the  
7 residential exchange credit was reduced by the amount,  
8 entire amount, that Bonneville proposed in its June 3  
9 letter to customers, and in the revised exhibit I have  
10 made it consistent with the analysis and assumption  
11 made by Mr. Talbot that the exchange would eventually  
12 settle out halfway between the current level of credit  
13 and what was proposed by Bonneville.

14                       Since the purpose of this exhibit is to use  
15 public information to show the effect of public  
16 counsel's case and the company's potential merger,  
17 while Mr. Talbot uses top secret information to do the  
18 same thing, it's important that our assumptions be the  
19 same and so that change was necessary to bring my  
20 exhibit into consistency with Mr. Talbot's.

21                       The second change is on page 2 in the  
22 columns that read subtract DSM per Lynch and add DSM  
23 actual.  During the cross-examination of Mr. Martin I  
24 became convinced that my use of the data that was in  
25 Exhibit 56 that the company supplied to us was the

1 wrong data to be using in these columns, and I have  
2 revised the starting amount to 64, \$65 million to be  
3 consistent with Exhibit 183, and the actual column for  
4 the period '97 through 2001 is now consistent with  
5 183. So basically I've adopted the DSM costs that  
6 were put on the record through Mr. Martin and no  
7 longer using the ones that were included in Exhibit 56  
8 which was a company data response that public counsel  
9 placed in the record during the direct phase of the  
10 proceeding.

11           That change cascades through my entire  
12 testimony to substantially change a lot of the numbers  
13 which is the reason for the extensive errata sheet.

14       Q.     Do these changes change the conclusion you  
15 reach in your testimony?

16       A.     Well, somewhat. Taken together the  
17 original testimony projected that if the company could  
18 achieve no power stretch savings and could achieve no  
19 best practices savings it would have to absorb 34  
20 percent of its above market power costs under public  
21 counsel's rate proposal. The revisions show the  
22 company would need to absorb only 20 percent of its  
23 above market power costs, and that's the effect of the  
24 change in the residential exchange assumption and the  
25 change in DSM, which do interact.

1 Q. Is there anything else you need to say  
2 about this change?

3 A. I don't think so.

4 MR. MANIFOLD: Your Honor, the witness is  
5 available for cross-examination.

6 JUDGE SCHAEER: Mr. Van Nostrand, did you  
7 have questions?

8 MR. VAN NOSTRAND: Yes, I do, Your Honor.  
9 Did you mark for identification the exhibit  
10 distributed for Mr. Lazar's cross-examination.

11 JUDGE SCHAEER: Yes, I marked it as Exhibit  
12 222 for identification.

13

14 CROSS-EXAMINATION

15 BY MR. VAN NOSTRAND:

16 Q. Mr. Lazar, do you have before you what's  
17 been marked for identification as Exhibit 222?

18 A. Yes, I do.

19 Q. Do you recognize that as your responses to  
20 joint applicants' data request 307 and 324?

21 A. Yes.

22 Q. Is it true and correct?

23 A. Yes.

24 MR. VAN NOSTRAND: Your Honor, move the  
25 admission of Exhibit 222.

1 MR. MANIFOLD: No objection.

2 JUDGE SCHAEER: Document is admitted.

3 (Admitted Exhibit 222.)

4 Q. Mr. Lazar, in response to data request 301  
5 you indicated the one piece of work you've done in the  
6 last five years you've assisted this Commission in BPA  
7 rate exchange. Do you recall that from your response  
8 to DR 301?

9 A. Yes.

10 Q. And has your assistance to the Commission  
11 involved the benefits under the residential exchange  
12 program?

13 A. Indirectly, yes.

14 Q. And has the Commission been involved in BPA  
15 proceedings with respect to that issue?

16 A. Somewhat, yes.

17 Q. And has the Commission's interest in that  
18 issue in BPA rate proceedings been to ensure the  
19 residential and small farm customers within Washington  
20 receive benefits to which they are entitled under the  
21 regional act?

22 A. I think that's been their interest. I'm  
23 not sure they've been completely successful.

24 Q. Has Puget also been involved in that  
25 effort?

1 A. Not very much.

2 Q. Your testimony refers to Puget's ability to  
3 influence this credit at page 4, line 21. Do you take  
4 the position anywhere in your testimony that Puget has  
5 not acted to preserve the credits under the  
6 residential exchange program?

7 A. I don't believe the company has acted  
8 adequately.

9 Q. Is that stated anywhere in your testimony?

10 A. Give me a moment, please. No, I don't  
11 specifically address that.

12 Q. It's your proposal, isn't it, that Puget  
13 absorb any loss in the residential exchange benefits  
14 which may occur over the five-year rate plan period?

15 A. Yes.

16 Q. And is this recommended treatment based on  
17 whether Puget has acted reasonably to protect the  
18 exchange credit for its residential customers?

19 A. No, it is not. It is based upon the  
20 description of the company's merger proposal as rate  
21 stability and the desire to make rate stability a real  
22 part of a merger if in fact a merger is approved. The  
23 residential exchange could be volatile, and if it is  
24 not taken into account as part of the merger the  
25 professed rate stability might not in fact occur, and

1 my interest is in making sure that stability is a part  
2 of the merger if it's approved.

3 Q. Does your testimony identify any steps  
4 which you believe Puget has taken but has not taken to  
5 protect these residential exchange benefits?

6 A. No. I would be happy to do that but I  
7 didn't think that was necessary in the context of this  
8 testimony to simply provide more risk and, if you  
9 will, more opportunity to the company than, for  
10 example, the staff proposal.

11 Q. Your testimony on page 17 indicates that  
12 Puget's exchange benefits would drop by more than 50  
13 percent. That number hasn't changed. In your  
14 testimony on page 24 you indicate that BPA has  
15 proposed a 75 percent reduction in residential  
16 exchange credits. Are these numbers consistent?

17 A. One of those numbers is from the  
18 administrator's record of decision. The other is from  
19 the June 3, 1996 customer letter. They are from the  
20 different sources and they're not entirely consistent  
21 with one another, but they both came, if you will,  
22 from Bonneville.

23 Q. You've been performing your analysis of the  
24 impact of the residential exchange credit. What was  
25 your assumption regarding the level of the PF rate?



1           A.     In my analysis I made no assumption of the  
2 level of the PF rate. The analysis is set forth on  
3 page 8 of Exhibit 220 and it was all calculated  
4 relative to the current schedule 94 credit. That is,  
5 comparing the BPA proposed credit from the wholesale  
6 power rate development study to the product of the  
7 current residential exchange credit and the company's  
8 forecast residential outlook.

9           Q.     It's your testimony, isn't it, that if the  
10 benefits increase they must be flowed through to  
11 customers in accordance with the regional power act;  
12 is that correct?

13          A.     Yes. My understanding of section 5C, I  
14 believe, 3 of the act is that the Commission must flow  
15 through all of the benefits, so if the benefits went  
16 up I've assumed that the Commission would follow that  
17 directive, but if the benefits went down there does  
18 not seem to be a corresponding requirement in the act  
19 that the Commission allow a change in schedule 94 if  
20 the amount of net -- of the purchase and sale with  
21 Bonneville goes down.

22          Q.     So is it accurate to state that your  
23 testimony recommends that if the benefit flows up  
24 Puget flows it to residential customers and if the  
25 benefit goes down Puget shareholders bear the impact?

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1 A. Yes.

2 Q. Would you agree that under Puget's  
3 treatment of residential exchange benefits these  
4 benefits have been flowed through directly to  
5 residential and small farm customers as credits to  
6 their rates?

7 A. In recent -- there was a problem early on  
8 with the treatment of working capital that could lead  
9 to a small difference in that, but in recent years,  
10 yes.

11 Q. Has Puget itself been able to retain any  
12 benefits rather than flowing them through to  
13 customers?

14 A. Absolutely.

15 Q. These are residential exchange benefits  
16 paid to Puget by BPA under the residential exchange  
17 program?

18 A. No. The benefit that Puget has been able  
19 to retain is the ability to offer competitive or close  
20 to competitive rates to its residential consumers and  
21 to potentially or probably forestall efforts to  
22 municipalize parts of the system. That's been the  
23 benefit to Puget.

24 Q. Would you agree that the act would prohibit  
25 Puget from keeping any of the residential exchange

1 benefits paid by BPA to Puget?

2 A. That is my understanding, and that is the  
3 reason that my testimony was careful to recommend that  
4 if the benefit level increases that those would be  
5 flowed through.

6 Q. Is it consistent with the regional act that  
7 a utility be disadvantaged by virtue of its  
8 participation in the residential exchange program?

9 MR. MANIFOLD: Your Honor, I'm going to  
10 object at least until there's a foundation laid that  
11 this witness is in a position to answer what the  
12 intent of the act was within the context of the  
13 question.

14 JUDGE SCHAEER: Would you like to ask some  
15 foundational questions?

16 MR. VAN NOSTRAND: That would be fine, Your  
17 Honor.

18 Q. Would you agree that a utility is  
19 disadvantaged by its participation in the program when  
20 its rates are set at a level which flows through the  
21 current level of exchange benefits and any reduction  
22 in that level of benefits is borne by the utility's  
23 shareholders?

24 A. No. One would have to look at all of the  
25 other changes that are occurring in the company's

1 expenses to determine if the company is disadvantaged,  
2 and that's exactly what I have done or attempted to do  
3 in my exhibit.

4 Q. Regional power act is fairly specific that  
5 exchange benefits can only be flowed through to  
6 residential and small farm customers; isn't that  
7 correct?

8 A. That's correct.

9 Q. In other words, industrial and commercial  
10 customers are not entitled to any of the benefits  
11 under the residential exchange?

12 A. They're not -- residential -- let me start  
13 over. Commercial and industrial customers are not  
14 entitled to any flow-through of the difference between  
15 the amount Puget pays Bonneville for power and the  
16 amount Bonneville pays Puget for power. There are  
17 other benefits to the exchange that accrue to all  
18 customers in Puget's service territory as it lowers  
19 the cost of electric service and strengthens those  
20 communities.

21 Q. Would you agree that industrial and  
22 commercial customers are not currently receiving any  
23 residential exchange credits under the residential  
24 exchange program as is administered by Puget with  
25 schedule 94 credits being applied only to residential

1 and small farm rates?

2 A. Yes, that's the way it's intended to work.

3 Q. If your proposal is adopted and residential  
4 rates remain constant even though the level of  
5 residential exchange credits declines, doesn't this  
6 shift the impact of the residential exchange program  
7 to other classes of customers?

8 A. No.

9 Q. Exhibit 222 before you was the response to  
10 data request 307?

11 A. Yes.

12 Q. And it concerns the recommendation in the  
13 testimony to initiate an open access pilot program?

14 A. Yes, it does.

15 Q. And your response indicates that that  
16 condition seems to be irrelevant in light of the  
17 developments in the schedule 48 proceeding?

18 A. The request that I cite some authority as a  
19 condition for granting merger benefits seems to be  
20 irrelevant, yes.

21 Q. And wouldn't you agree the development of a  
22 an open access pilot in this proceeding has now become  
23 irrelevant in light of the action of schedule 48?

24 A. No. Only the requirement that there be  
25 some legal or regulatory precedent for requiring it.

1 We now know that a pilot is going to go forward, but  
2 public counsel's recommendation in this proceeding is  
3 that the merger only go forward if there are real and  
4 substantial benefits to the public, and one of those  
5 real and substantial benefits is the development of an  
6 open access pilot program that can reasonably be  
7 expected to provide meaningful economic benefits for  
8 participants.

9 Q. Turning to section 4 of your testimony, one  
10 of the items in our joint applicants' Exhibit 28 that  
11 you adjust for is a reduction in DSM cost.

12 JUDGE SCHAEER: What page, please, Counsel?

13 MR. VAN NOSTRAND: First page of Exhibit  
14 220.

15 Q. And according to your exhibit you show a  
16 reduction in DSM cost of what was \$130 million is now  
17 \$80 million; is that correct?

18 A. Yes, that's correct.

19 Q. And is this the same analysis which staff  
20 performed in coming up with this \$75 million or \$103  
21 million figure?

22 A. The figures for 1997 through 2001 were  
23 derived from Exhibit 183, which is the exhibit that  
24 was put in the record through Mr. Martin, so I think  
25 the answer is yes.

1 Q. And another item that you adjust for in  
2 your analysis concerns the effect of depreciating  
3 production rate base?

4 A. Yes.

5 Q. And looking at page 4 of your Exhibit 220  
6 shows how you derived a figure of \$89 million which  
7 you carry forward into page 1 of Exhibit 220?

8 A. Yes. The \$89 million is the sum of the  
9 reductions for the five years of the rate plan 1997  
10 through 2001. The total that shows on page 4 of  
11 Exhibit 220 of \$93.8 million includes the 1996  
12 savings, and I did not carry -- I ultimately performed  
13 the analysis only on the five years of the rate plan.

14 Q. First line under page 4 shows your  
15 assumption of production rate base will decline from  
16 about \$516 million in 1996 to \$330 million in the year  
17 2001?

18 A. Yes.

19 Q. Would you accept subject to check that that  
20 reduction in production rate base is about 35 percent?

21 A. Yes.

22 Q. Have you compared this forecast of  
23 reduction in production rate base with what actually  
24 happened over the most recent five-year period?

25 A. No. What I did is I used the most recent

1 year production depreciation expense and assumed that  
2 remained constant for five years. The big number that  
3 drives what appears to be a rapid cut is the  
4 amortization expense of the WPPSS 3 investment which  
5 the staff has put in as a separate line item in Mr.  
6 Martin's exhibit, and that would not continue  
7 indefinitely, so one wouldn't expect this to be, if  
8 you will, a normal period.

9 Q. Would you agree that during the last five  
10 years, just as you forecast it for the next five  
11 years, Puget did not add any company-owned generating  
12 facilities?

13 A. No, that's not correct. The company did a  
14 major rebuild of one of its hydroelectric projects  
15 that added more than \$20 million of investment. I  
16 believe that was the White River plant.

17 Q. That would be \$20 million as compared to a  
18 \$516 million starting point for 1996?

19 A. Just for that one item alone, yes.

20 Q. Would you accept subject to check that  
21 during the most recent five-year period, '91 through  
22 '95, production rate base has actually declined only  
23 15.1 percent from 647.8 million to 549.8 million?

24 A. I would have to be directed to where I  
25 would have the opportunity to check that before I



1 could accept that.

2 Q. That would be in Mr. Story's work papers,  
3 page zero is what it shows.

4 A. I'm not prepared to rely on Mr. Story's  
5 work papers. I would want something that is filed  
6 with the Commission on a regular basis such as a  
7 semi-annual Commission basis report or filed with the  
8 FERC such as a FERC form one.

9 Q. Mr. Story's work papers indicates that  
10 those are the figures contained from the Commission  
11 basis reports. If you check Mr. Story's work papers  
12 and determine that those aren't what they purport to  
13 be then I guess you can indicate that in your response  
14 to subject to check.

15 A. I think I've indicated that I am not  
16 willing to accept Mr. Story's work papers. Mr. Story  
17 will be a witness and you're welcome to ask him these  
18 questions.

19 Q. Very well. Exhibit 222 also contains your  
20 response to data request 324. Regarding the timing of  
21 the rating agency presentation, is it your  
22 understanding that that presentation was made in  
23 January 1996?

24 A. Yes, it is.

25 Q. And the merger application in this

1 proceeding was filed on February 20, 1996?

2 A. Yes, but it had been planned for some time  
3 before that.

4 Q. And the merger application filed in  
5 February included a rate plan which provides for 1  
6 percent annual increases for electric rates; isn't  
7 that correct?

8 A. Yes.

9 Q. And the special contract with Georgia  
10 Pacific and Bellingham Cold Storage was filed with the  
11 Commission on May 6, 1996?

12 A. That's the date that Puget's contract with  
13 those companies was filed, I believe. Their  
14 negotiations with Whatcom PUD were certainly known  
15 longer before that.

16 Q. In particular are you referring to the  
17 contracts between Bellingham Cold Storage and Whatcom  
18 PUD dated April 22?

19 A. If that's the date on the contract, that's  
20 fine. As I say, the negotiations were known long  
21 before that.

22 Q. Two weeks, April 22 to May 6?

23 A. No. The negotiations with Georgia Pacific,  
24 Bellingham Cold Storage -- ARCO is where we were  
25 really tipped off to what was going on -- and Whatcom

1 PUD were known long in advance and I understand the  
2 manager of Whatcom will be a witness and we can probe  
3 with him exactly when those negotiations began.

4 Q. And the company's filing of schedule 48  
5 occurred on May 24, 1996?

6 A. Yes, but again, it was known long before  
7 the filing date that something was being developed.

8 Q. And did you review -- it sounds like you  
9 reviewed in particular the contracts with Bellingham  
10 Cold Storage and Georgia Pacific and Whatcom PUD in  
11 that Commission special contract proceeding?

12 A. Yes. I reviewed those contracts as well as  
13 -- I reviewed both their contracts with Whatcom and  
14 their contracts with Puget in the special contract  
15 proceedings.

16 Q. And is it your understanding that the rates  
17 developed in the Puget special contract proceeding  
18 were in response to that specific bypass alternative?

19 A. I guess I would characterize it as a  
20 potential or a perceived bypass alternative rather  
21 than just accepting that it was a bypass alternative.

22 Q. And is it your testimony that the company  
23 was aware of the economics of this bypass alternative  
24 and incorporated the consequences of that in its rate  
25 plan filed in February 1 even though that bypass

1 alternative was not negotiated until April 1996?

2           A.     I guess I can't know exactly what was in  
3 the company's mind when it filed its original rate  
4 plan. One hypothesis is that they knew or should have  
5 known that there would be concessions offered to large  
6 customers. Another is that they did what one normally  
7 does in a rate case which is ask for more than you  
8 expect to get so there's something to negotiate away  
9 or someplace for the Commission to compromise in  
10 reaching an order, and I can't know which of those was  
11 in the company's mind or if neither of them was in the  
12 company's mind.

13           Q.     Your testimony this afternoon indicated  
14 that the changes you made to Exhibit 220 were to bring  
15 that exhibit in line with what Mr. Talbot's financial  
16 analysis was; is that correct?

17           A.     Yes.

18           Q.     And you first became aware of this  
19 discrepancy between your analysis and Mr. Talbot's  
20 analysis just yesterday?

21           A.     No. I became aware of it earlier. My  
22 exhibit had been previously characterized as a worst  
23 case, and after discussion with Mr. Talbot when he was  
24 here this week we agreed that it made sense for me to  
25 change my exhibit to be consistent with his, and then

1 when Exhibit 183 went into the record and I made the  
2 decision to change my exhibit to be consistent with  
3 that, the exhibit was revised.

4 Q. And reducing the estimate of the impact of  
5 the credits under the residential exchange program  
6 from \$331 million to \$165 million, does that reflect  
7 your evaluation of a more probable outcome?

8 A. I guess I would rather describe it as a  
9 probable achievable outcome if the Commission issues  
10 an order which puts Puget at risk for the loss of  
11 exchange benefits. I think that Puget's efforts to  
12 retain --

13 Q. Excuse me, I think you might have  
14 misunderstood the question. The question was the loss  
15 of BPA exchange credits went from \$331 million to 165.  
16 Is that a probable outcome of the residential exchange  
17 program?

18 A. I don't think any of us can say what a  
19 probable outcome is. I think it's an achievable,  
20 reasonably achievable, outcome.

21 MR. VAN NOSTRAND: I have no further  
22 questions, Your Honor.

23 JUDGE SCHAEER: Mr. Cedarbaum, did you have  
24 questions for this witness?

25 MR. CEDARBAUM: Yes, I just have five

1 minutes or less.

2

3

CROSS-EXAMINATION

4 BY MR. CEDARBAUM:

5 Q. Mr. Lazar, you were asked questions by Mr.  
6 Van Nostrand about your Exhibit 220 page 1, that 80.7  
7 million figure in the column labeled reduction in DSM  
8 cost versus Lynch. Do you recall that?

9 A. Yes.

10 Q. And you indicated that those figures came  
11 from Exhibit 183; is that right?

12 A. Yes, that's correct.

13 Q. And that's a staff exhibit that was  
14 prepared by Mr. Martin, faxed to Mr. Story, explaining  
15 the staff proposed electric rate reduction of \$75 and  
16 a half million; is that right?

17 A. Yes, that's correct.

18 Q. Is it your understanding that the staff  
19 proposed electric rate reduction is \$75 and a half  
20 million?

21 A. Yes, that's my understanding of the staff  
22 adjustment, and I might go a step further and say that  
23 if in fact the staff proposal is for \$103 million  
24 reduction then my results would get better. They  
25 would move back towards where I had them previously.

1 So I think that now -- my exhibit now shows the worst  
2 possible characterization of DSM costs that one could  
3 conclude from the record in this case.

4 Q. But your understanding is that the staff  
5 proposed rate reduction is \$75 and a half million?

6 A. Yes, that's my understanding of what it is,  
7 and I understand how they arrived at that conclusion.

8 Q. Was your understanding reached with respect  
9 to that proposal also based upon your reading of the  
10 staff testimony and work papers?

11 A. Staff testimony and work papers and the  
12 company's rebuttal testimony and work papers.

13 Q. Is there anything in the staff testimony  
14 and work papers or the company's testimony and work  
15 papers which would lead you to believe that the staff  
16 proposed rate reduction on the electric side is \$103.4  
17 million?

18 A. No.

19 Q. Staying with Exhibit 220. Now on page 4.

20 A. Yes.

21 Q. You show a note that reads, "Production  
22 depreciation expense is already included in production  
23 O and M in CEL-3."

24 A. Yes.

25 Q. I have been advised that actually there is

1 no production depreciation shown in Exhibit 28 CEL-3.

2 Am I wrong or would you accept subject to check that

3 --

4 A. Mr. Martin and I have a difference in our  
5 understanding of what underlies that exhibit.

6 Q. What is the basis for your understanding  
7 that Exhibit 28 does include production depreciation  
8 expense?

9 A. The basis of my understanding is the  
10 questions in data requests that were posed to Ms.  
11 Lynch and the work papers that she provided that  
12 divided up the cost of service results between her two  
13 categories.

14 Q. Probably regret this next question but what  
15 is your understanding of Mr. Martin's understanding?

16 A. My understanding of Mr. Martin's  
17 understanding is that Ms. Lynch's two categories of  
18 production cost and nonproduction cost don't add up to  
19 the revenue requirement, and that there is some things  
20 missing that fall through the cracks, and I prepared  
21 my exhibit and this note is based on an assumption  
22 that all costs fell into those two categories.

23 Q. Finally on page 3 of your testimony, at  
24 line 17 you have a subsection title that says, "A  
25 five-year rate freeze with zero percent nominal



1 increase in rates for all classes would allow the  
2 company reasonable opportunity to earn a fair rate of  
3 return." Do you see that?

4 A. Yes, I do.

5 JUDGE SCHAEER: Excuse me, Counsel, I don't.  
6 What exhibit are you on?

7 MR. CEDARBAUM: I'm sorry, Your Honor. I'm  
8 in his direct testimony Exhibit T-218.

9 JUDGE SCHAEER: At page 3?

10 MR. CEDARBAUM: At page 3, line 17.

11 JUDGE SCHAEER: I'm still in Exhibit 220.  
12 Thank you.

13 MR. CEDARBAUM: I think that was my fault.

14 Q. With respect to the testimony that I just  
15 read, can you give me some parameters of what you mean  
16 by a fair rate of return?

17 A. Well, the company's allowed rate of return  
18 is 10 and a half percent for electric and 11 to 11 and  
19 a quarter for the gas utility. Those are a little bit  
20 stale. The Commission very recently issued an order  
21 for U S WEST allowing them, I believe, a 10 percent  
22 return on equity but that included a 50 basis point  
23 penalty, but also said that they were riskier than the  
24 gas company which suggests that 10 and a half is still  
25 a pretty good number for a gas company.

1           I've reviewed the testimony of the Federal  
2 Energy Regulatory Commission staff in the wholesale  
3 wheeling proceeding that's now going on between Puget  
4 and the Port of Seattle and the FERC staff is using a  
5 10.7 percent return on equity for Puget, so I guess I  
6 conclude from that that Dr. Lurito is reasonable in  
7 using the current authorized rate of return. I would  
8 use something in the same range.

9           I would say that less than 9 percent would  
10 be too low, although current yield plus growth  
11 produces about 9 percent. More than 12 would be too  
12 much. And that 10 and a half is halfway between  
13 those, but in any event I would always want to make  
14 sure that we calculate those with the special contract  
15 and special 48 discounts restated to tariff rates  
16 because otherwise we wind up with a low rate of return  
17 possibly justifying a rate increase which then becomes  
18 a very clear cost shifting, so always have to  
19 calculate that rate of return with a restatement of  
20 revenues.

21           And I guess that's a difference between me  
22 and Mr. Talbot. He insisted on presenting it both  
23 ways. His regulatory case he presented return on  
24 equity including a restatement of the revenue, but he  
25 also in his market cases showed what the company would

1 really earn. I would always make sure we restated  
2 that to avoid any cost shifting.

3 MR. CEDARBAUM: Thank you. That's all I  
4 have.

5 JUDGE SCHAEER: Ms. Pyron, did you have  
6 questions?

7 MS. PYRON: No questions, Your Honor.

8 JUDGE SCHAEER: Mr. MacIver, did you have  
9 questions?

10 MR. MACIVER: No questions.

11 MR. FREDERICKSON: No questions.

12 JUDGE SCHAEER: Mr. Wright?

13 MR. WRIGHT: Yes.

14

15 CROSS-EXAMINATION

16 BY MR. WRIGHT:

17 Q. Good afternoon, Mr. Lazar.

18 A. Good afternoon.

19 Q. I'm Jon Wright. I'm counsel for Bonneville  
20 Power Administration. And I would like to ask you a  
21 few questions about your testimony regarding the  
22 residential exchange. I would like to start off just  
23 by asking how familiar you are with the way a  
24 participating utility's average system cost is  
25 calculated by BPA?

1           A.     I'm generally familiar with it.  I've  
2 reviewed the average system cost filings from Puget to  
3 Bonneville in several instances.

4           Q.     Then you're aware that generally -- well,  
5 not generally but you're probably aware that the  
6 Northwest Power Act requires that Bonneville calculate  
7 ASC according to a methodology.

8           A.     Actually I believe the act only requires  
9 that Bonneville purchase power from Puget at a rate  
10 that is calculated according to the methodology.  I  
11 don't think that Bonneville is actually required to do  
12 the calculation.

13          Q.     Would you agree that calculating a  
14 participating utility's ASC is formula driven rather  
15 than a negotiation between Bonneville and the utility?

16          A.     The calculation of ASC I would agree is  
17 formula driven, although there are elements of  
18 judgment that enter into the allowance or disallowance  
19 of certain costs from those formulae.

20          Q.     Would you agree that that also occurs in a  
21 traditional rate case before a state commission that  
22 there are elements of judgment there as well?

23          A.     Yes.  I'm just saying it's not a mechanical  
24 process of taking what's in the FERC form one and  
25 dropping it into a spreadsheet.

1 Q. So when you refer in your testimony to  
2 negotiations what negotiations -- that's at page 17,  
3 line 11 -- what negotiations are you referring to  
4 there?

5 A. Well, I think we're all aware, Mr. Wright,  
6 that the negotiations may have little to do with the  
7 calculation of Puget's average system cost and a great  
8 deal to do with how Bonneville calculates any of the  
9 surcharges that it applies to the otherwise applicable  
10 priority firm rate in setting a priority firm exchange  
11 rate, and that methodology is unambiguously not  
12 formula driven. It is entirely, in my opinion,  
13 politically driven.

14 If I can refer you to the company's  
15 response to public counsel data request No. 85 where  
16 we ask the company --

17 Q. Excuse me, but have you answered the  
18 question regarding what -- I don't mind your  
19 explanation at all, I hope you will continue it, but  
20 have you answered the question regarding what  
21 negotiations you're referring to? I'm trying to make  
22 a distinction between application of the methodology,  
23 calculation of ASC and what you're talking about here.

24 A. The negotiations that I'm referring to are  
25 the negotiations between the investor-owned utilities,

1 the other parties to Bonneville rate proceedings and  
2 Bonneville staff over both the level of total exchange  
3 benefits and the allocation of those exchange benefits  
4 among the different investor-owned utilities, and I am  
5 referring to the negotiations that at least in the  
6 past year occurred in the halls of Congress over the  
7 amount of residential exchange benefits, a process  
8 that I think we all would agree that was not formula  
9 driven.

10                   And the negotiations are referred to by  
11 Puget in their response to public counsel data request  
12 No. 85 in which they say no forecast of the exchange  
13 in the credit has been made. "Inasmuch as the  
14 residential exchange is currently being negotiated  
15 with BPA and other affected IOUs the results of these  
16 negotiations have not be forecast."

17           Q.       What were the last words again? Have not  
18 --

19           A.       "Have not be forecast." Probably should  
20 say, "have not been forecast," but that's not what it  
21 says.

22           Q.       But to your knowledge they can't be  
23 forecast now either, I guess?

24           A.       No. To my knowledge Puget has not shared  
25 with us a forecast. I think the company is in a

1 better position than most people to do such a forecast  
2 but they have chosen not to provide such a forecast,  
3 which I find a little bit deceptive but certainly they  
4 could reasonably say that until there's a decision  
5 they can't be forecast with precision.

6 Q. And you personally can't tell us anything  
7 about what the current status of those negotiations  
8 are?

9 A. No. I can only say that if the Commission  
10 puts a portion of this risk or all of this risk on  
11 Bonneville that they will do a very good job in those  
12 negotiations, and if they put none of the risk on  
13 Puget, as has been the case, they may do a -- they may  
14 not have the same incentive to do as aggressive a job  
15 on behalf of their residential consumers.

16 MR. MANIFOLD: Excuse me. I think in the  
17 first part of your answer you said Bonneville. Did  
18 you mean putting the risk on Puget?

19 THE WITNESS: Put the risk on Puget. I'm  
20 sorry. Thank you, Mr. Manifold.

21 Q. At line 11 you also refer to potential  
22 litigation. Are you referring to potential litigation  
23 as an outgrowth of these negotiations or are you  
24 referring to something different than that?

25 A. I'm referring both to litigation as a

1 result of the negotiations and the routine appeals of  
2 both Bonneville's rate case decisions and Bonneville's  
3 average system cost determinations, and I suspect  
4 every one of them has been appealed but certainly many  
5 of them.

6 Q. Each individual ASC determination --

7 A. I believe all of Bonneville's rate cases  
8 have been taken up and I believe that many -- and I  
9 don't know if it's most or all of Bonneville's ASC  
10 determinations relating to Puget have been appealed.  
11 I don't know what's happened with respect to  
12 Bonneville's ASC determinations with regard to the  
13 cooperatives or the other utilities that have  
14 historically participated.

15 Q. At line 14 on the same page you state that  
16 at one extreme is the apparent intent of the law which  
17 is to provide Puget a source of low cost power for its  
18 residential consumers. When you say the intent of the  
19 law, are you talking about the Northwest Power Act  
20 section 5C?

21 A. Well, it's actually -- I believe it's the  
22 Pacific Northwest Electric Conservation and Power  
23 Planning Act which we call the Northwest Conservation  
24 Act.

25 Q. I will accept that. And what sources did



1 you use to derive that interpretation of Congressional  
2 intent?

3 A. Well, I'm a fact witness, if you will, on  
4 that one. I testified before all three committees of  
5 Congress when the act was before Congress being  
6 considered, and my testimony is a matter of record. I  
7 have the hearing transcripts from all of the hearings  
8 before the 1979 and 1980 Congress, and unambiguously  
9 the intent of the act was to provide residential  
10 customers with access to low cost federal power.

11 And I guess I would refer you to this  
12 Commission's letters more recent to Bonneville of  
13 November 10, '94, January 30, '95 and this  
14 Commission's testimony before the House committee on  
15 natural resources subcommittee on oversight and  
16 investigations of August 9, 1994 as examples of the  
17 material I relied on, but in the aggregate it's  
18 probably tens of thousands of pages of material.

19 Q. A wide range of material then?

20 A. Yes.

21 Q. You suggest that the intent of the law is  
22 unambiguous. Are you saying that there's no room for  
23 other interpretations of those provisions regarding  
24 both the language of the act and the intent of  
25 Congress?

1           A.     I guess I would think that Senator Jackson,  
2 the prime sponsor of the bill on the floor of the  
3 Senate --

4                   MR. WRIGHT:   Move to strike as  
5 nonresponsive.

6                   JUDGE SCHAER:  I will allow you to say yes  
7 or no and then explain your answer, Mr. Lazar.

8           A.     I suppose there's always room for other  
9 interpretations, but I would rely primarily on the  
10 statements made by the sponsors of the bill on the  
11 floor of the House and Senate in trying to determine  
12 what legislative intent is.

13          Q.     It's true, though, that the entire body of  
14 the House and Senate voted on the bill; isn't that  
15 true?

16          A.     Yes.

17          Q.     It wasn't just Senator Jackson?

18          A.     No, but in determining legislative intent  
19 one normally looks at the colloquies that occur on the  
20 floor and when the sponsor says this is what my bill  
21 does and then people vote for it that's usually given  
22 some greater attention than when someone -- and I will  
23 use Congressman Weaver as an example, said this is  
24 what the bill does and therefore you should vote  
25 against it and people didn't take his advice.  Maybe

1 they were trusting what the senator said when they  
2 voted for it so I tend to look at the sponsor's  
3 statements.

4 Q. Would you also think it fair to look at the  
5 plain language of the act?

6 A. Yes.

7 Q. Would you also think it fair to look at the  
8 reports issued by the House and by the Senate and  
9 conference reports in interpreting the act?

10 A. Yes, I would. And in fact I would refer  
11 you to the Senate committee report from Senate energy  
12 and natural resources committee that was issued after  
13 I believe it was May 1979 hearings in which a  
14 numerical table forecasting the level of exchange  
15 benefits was prepared by Bonneville and included in  
16 the record of that hearing by the Senate and for 1995  
17 that forecast the residential exchange benefits would  
18 be \$658 million.

19 Q. Do you know how much the benefits have been  
20 in the life of the program?

21 A. Well, for '95 they were \$208 million so  
22 about one third of what people thought they were  
23 voting for.

24 Q. Over the life of the program do you know if  
25 the total benefits --

1 A. No. I have data for six years.

2 Q. Thank you.

3 A. So roughly half of --

4 Q. Do you have any objection to interpreting  
5 statutes by means of judicial interpretations, for  
6 example, by the Ninth Circuit Court of Appeals?

7 A. I guess I have respect for what the  
8 Ninth Circuit says but I don't necessarily consider it  
9 dispositive of legislative intent, which is what my  
10 testimony refers to is the intent, which may be  
11 different from what was achieved.

12 Q. Wouldn't you agree that it's the role of  
13 the courts to interpret -- to say what the law is?

14 A. Yes, but not necessarily to say what the  
15 writers of the law intended by it. If those two --

16 Q. Would you explain the difference in actual  
17 practice?

18 A. Well, sure. The Congress, I believe,  
19 thought that they were voting for something that would  
20 give --

21 Q. Excuse me. Maybe I should reframe the  
22 question. I wanted to know the difference between the  
23 intent of Congress as a generic matter and the  
24 interpretation offered by a court of binding  
25 jurisdiction when it comes to, let's say, an agency's

1 implementation of a law.

2           A.     I think the legislative intent is expressed  
3 by the makers of the law at the time it's adopted and  
4 they don't always always consider everything that  
5 would affect that law, and the job of the court is to  
6 consider what they did pass in the context of what  
7 other laws have been passed and constraints have been  
8 imposed that would affect that law, and so the court  
9 is looking at the operation of a specific law in the  
10 realm of an entire body of law whereas the intent may  
11 not even match the letter of the law.

12           Q.     So if an agency charged with the  
13 responsibility of implementing the law believed that  
14 the intent of Congress was one thing but had an order  
15 from a court of binding jurisdiction saying that it  
16 meant just the opposite, which should the agency  
17 follow? Its perceived intent of Congress or the order  
18 from the court of binding jurisdiction?

19                   MR. MANIFOLD:   Your Honor, I don't  
20 particularly mind having the witness answer this  
21 question but only if it's paraphrased as from a point  
22 of view of an economist.

23                   MR. WRIGHT:   I understand that and I would  
24 only say that I don't want to argue with Mr. Lazar  
25 about the meaning of the law and what the intent of

1 Congress is, but it seems to me that he is the one who  
2 has raised it to the level of an argument. I'm merely  
3 trying to establish what weight the Commission should  
4 give his testimony given that on line 11 it begins  
5 with the statement regarding what the intent of the  
6 legislation establishing the exchange program is.

7 JUDGE SCHAER: Line 11 of what page,  
8 Counsel?

9 MR. WRIGHT: Beg your pardon?

10 JUDGE SCHAER: Line 11 of what page?

11 MR. WRIGHT: Page 17.

12 JUDGE SCHAER: You mean line 14?

13 MR. WRIGHT: "At one extreme is the  
14 aberrant intent of the law," and then at line 18 it  
15 refers to the expectation of Congress at the time the  
16 act was approved. It seems to me that the witness is  
17 the one who has raised the subject and I am growing  
18 tired of pursuing it myself, frankly.

19 JUDGE SCHAER: Well, then why don't we move  
20 on. I think you have made your point.

21 Q. Now, your figures regarding your worst case  
22 scenario, which is now the adverse case scenario?

23 A. Yes.

24 Q. You relied upon Bonneville's wholesale rate  
25 development study or on a document that relied upon

1 those figures?

2 A. Yes.

3 Q. And in your calculation did you ever  
4 include the \$140 million allocation for fiscal year  
5 1997 that was mandated in the act, I believe, that you  
6 referred to?

7 A. No. That's an example of the outcome of  
8 negotiations that I referred to in my testimony.

9 Q. Well, weren't those allocations decided in  
10 a Bonneville rulemaking?

11 A. Yes, but the \$145 million was not decided  
12 by Bonneville in its ratemaking process. It was  
13 decided by the Congress in its legislative process.

14 Q. But shouldn't those monies be included  
15 somehow in the determination of what risk you would  
16 place on the company?

17 A. Yes. I suppose I agree with you that we  
18 now have a pretty good idea of what will occur in  
19 fiscal year '97, which is not exactly the same as the  
20 calendar year basis of my analysis, and that it would  
21 be reasonable to look at the \$145 million and that  
22 provides Bonneville with -- pardon me -- provides  
23 Puget with a little more money than is assumed in my  
24 exhibit.

25 Q. Now, it is true, isn't it, without getting

1 into any more discussion of intent, that the way the  
2 program has been implemented there is no actual  
3 exchange of power?

4 A. The electrons always follow the laws of  
5 physics. They don't really care what economists and  
6 accountants and lawyers do. There's a great deal of  
7 exchange of power but none of it directly follows this  
8 or any other particular contract for purchase or sale  
9 of power.

10 Q. So then it's your testimony that the  
11 exchange is based on actual transfer of power?

12 A. No. It's my testimony that no power sales  
13 contracts or virtually sales contracts are based on  
14 actual transfer of power, that the laws of physics  
15 govern the transfer of power and the laws of men  
16 govern the transfer of the money associated with  
17 measured power flows.

18 Q. And so a public utility customer of BPA  
19 takes power from BPA in exactly the same sense that an  
20 IOU under the exchange program takes power from BPA?

21 A. Yes. Let me give you a simple example of  
22 that. Whatcom PUD has historically been a Bonneville  
23 preference customer and it buys electricity from  
24 Bonneville for sale to the Tosco oil refinery. Next  
25 door to the Tosco oil refinery is this little 245



1 megawatt cogen project that Puget has contracted to  
2 take the power from. As a practical matter, the power  
3 never leaves Cherry Point. It comes out of Tonaska,  
4 finds the nearest load it can in accordance with the  
5 laws of physics, and I suspect that little or none of  
6 the power that Tosco uses ever came from any resource  
7 like Grand Coulee dam or WPPSS 2 that is a Bonneville  
8 contracted resource.

9           Similarly, the Colstrip Montana power that  
10 Puget receives a lot -- that Puget is entitled to a  
11 lot of, I doubt that any of it makes it to Bellevue.  
12 Now, that's the laws of physics governing the flow of  
13 power. The laws of men govern the flow of money  
14 associated with the power.

15         Q.     Now, would it be fair to say that one of  
16 the basic differences in your -- in public counsel's  
17 rate stability plan versus the one proposed by the  
18 joint applicants is that the joint applicants  
19 envisions 1 percent increase in rates over a five year  
20 -- yearly over a five-year period and yours envisions  
21 no rate increases over that period, or am I  
22 misinterpreting?

23         A.     That's one of the differences.

24         Q.     And that's the only one I want to focus on.  
25 Would you agree that calculating ASC under the

1 applicant's plan might be more difficult because the  
2 filing would not emanate from any kind of rate  
3 hearing. There would be no cost data to work with?

4 A. You're asking more difficult than under  
5 public counsel's rate plan or more difficult than  
6 under the tradition of rate base operating expense  
7 rate base decisions from the Commission?

8 Q. I guess I want you to compare it to public  
9 counsel's plan.

10 A. It would be a great deal more difficult  
11 than under public counsel's plan because our plan is  
12 designed expressly to assure that there are no rate  
13 case decisions, no rate decisions, no rate changes,  
14 and nothing that would trigger an average system cost  
15 filing at Bonneville.

16 Q. And now, could you do the other comparison?

17 A. The comparison with traditional rate order  
18 would be a little closer because in either case you're  
19 going to be doing a fair amount of -- Puget will be  
20 doing a fair amount of work to prepare an average  
21 system cost filing and Bonneville will be doing a fair  
22 amount of work to review that filing. The Puget rate  
23 plan makes it a little tougher. Because of that 1  
24 percent what we know from this case is that more than  
25 100 percent of it is power cost and less than zero

1 percent of it -- that is a negative number -- is an  
2 offset to power costs. Merger benefits, best  
3 practices savings and so forth.

4           And so what one would expect is that  
5 average system cost would go up at more than 1 percent  
6 a year but because it's just 1 percent and that 1  
7 percent isn't separated into plus 2 percent for power  
8 cost and minus 1 percent for delivery cost, Bonneville  
9 wouldn't have -- company wouldn't have the kind of  
10 detailed results of operation that are normally used  
11 in preparing average system cost filings.

12           We negotiated this at length with  
13 Bonneville and Puget when the PRAM was created so the  
14 Commission was careful that it would generate the kind  
15 of data that was needed for an ASC filing, and the  
16 company's rate plan doesn't provide for any mechanism  
17 to produce that type of data.

18       Q.     So while the 1 percent increase might in  
19 fact be less than what would emanate from a  
20 traditional hearing there would be no way of knowing  
21 that with the automatic 1 percent rate increases,  
22 would there?

23       A.     There would be no way of knowing what part  
24 of that is exchangeable and what part of that is  
25 nonexchangeable delivery costs and the other

1 nonchangeable rate elements.

2 Q. And I am nearing the end, believe me. I  
3 think the point that the applicants make is that since  
4 the residential exchange benefits are required by law  
5 to be passed through to residential and small farm  
6 customers that it is unfair to burden the shareholders  
7 with costs if the benefits aren't there, and I would  
8 like to ask you to summarize for me, if you can, why  
9 you think it would be fair to place that risk on the  
10 shareholders.

11 A. Public counsel's rate plan gives the  
12 shareholders 100 percent of the merger benefits. 100  
13 percent of any power cost savings that it might  
14 achieve. 100 percent of the benefit of the reduction  
15 in DSM costs and the effect of the depreciating  
16 production rate base. Some of those are very  
17 uncertain. Particularly power stretch and best  
18 practices I think are very modest goals that the  
19 company has set, but they're uncertain. They could be  
20 more -- they could achieve more, they could achieve  
21 less.

22 So we've given the company a great deal of  
23 upside potential, a great deal of opportunity and,  
24 correspondingly, we've given the company some certain  
25 risks, and residential exchange is one of them,

1 because we believe first that Puget is in a better  
2 position to influence the level of the exchange if its  
3 shareholders are at risk than under the traditional  
4 pass-through model.

5           We also don't necessarily suggest that the  
6 risks and opportunities should be equal because the  
7 company's merger proposal does a number of things to  
8 ratepayers that aren't particularly desirable and we  
9 believe that ratepayers are entitled to some  
10 substantial benefits, and we consider five years of  
11 real rate predictability to be a substantial benefit,  
12 but if the exchange remains a pass-through then  
13 residential ratepayers are not assured of five years  
14 of real rate predictability -- rate stability, so we  
15 look at it as a merging of opportunity for them to  
16 make more money and risks that they might make less,  
17 and it puts it all squarely on management. What  
18 ratepayers get out of it is a dramatic loss of  
19 competition and five years of rate stability, and we  
20 thought that was a fair package.

21       Q.     Given that there is -- well, would you  
22 agree that there is some uncertainty about the level  
23 of benefit loss that might be experienced?

24       A.     I think there's a great deal of  
25 uncertainty.

1 Q. Given that uncertainty, do you think it  
2 would be fairer if your proposed plan more or less  
3 kept the potential liability of the company at a  
4 certain point?

5 A. We considered that. For example, we  
6 considered putting the company at risk for half of the  
7 loss of exchange benefits, and we considered having  
8 some particular share of power stretch and best  
9 practices savings flow flowed to ratepayers, and in my  
10 Exhibit 220 what I show is that the -- that putting it  
11 all on Puget, all the opportunity and all the risk  
12 results in what I consider to be a reasonably fair  
13 package and certainly results in a much simpler  
14 package.

15 Under public counsel's proposal there's no  
16 rate changes. There's no rate cases. There's no  
17 average system cost filings. There's no PRAM.  
18 There's no ECAC. Ratemaking is very simple and  
19 management is given a full five years to achieve all  
20 of the types of savings that will benefit shareholders  
21 and ratepayers alike. We just decided it was easier  
22 to freeze rates in their entirety for five years  
23 rather than to pick bits and pieces that would flow  
24 through in whole or in part.

25 Q. But would you agree that that does

1 introduce a certain amount of uncertainty in the  
2 applicant's assessment of the risk they would be  
3 taking on in the merger?

4       A.     Let me refer you to page 1 of my Exhibit  
5 220 for a moment. The DSM cost, which is pretty  
6 certain, is \$80 million. The depreciating production  
7 rate base, which is less certain because you don't  
8 know what renewables and replacements you will do in  
9 the interim, is \$89 million. Meter reading is a small  
10 item. But the 1 percent increase and my estimate of  
11 half of a level of exchange benefits are on the same  
12 order of magnitude as the merger savings. Those of  
13 you who have the data can compare those to power  
14 stretch and best practices goals and see how that  
15 level of risk compares to the opportunities that the  
16 company has identified as goals there, and my  
17 conclusion is that this is neither bigger nor smaller  
18 than a bunch of the other uncertainties that are out  
19 there.

20       Q.     And just to make sure I have it right. On  
21 the change to the 50 percent you made that change to  
22 make it consistent with Mr. Talbot's calculation?

23       A.     This is a little bit circular. Mr. Talbot  
24 and I discussed -- he said should we assume that the  
25 numbers that Bonneville published are what's going to

1 happen and I said, no, the company said they're in  
2 negotiations for FY '97, the Congress ordered \$145  
3 million, there's no reason to assume that what  
4 Bonneville published is what's going to happen.

5           And so I view the numbers in the wholesale  
6 power rate development study as a worst case and the  
7 status quo as a favorable case, and picked a number  
8 halfway between. He picked a number halfway between  
9 as what was a reasonable assumption, not a forecast,  
10 a reasonable assumption about what might ultimately  
11 result and he and I discussed that. We agreed that  
12 that was a reasonable assumption. Even though it was  
13 wrong -- we knew it was either high or low -- it was a  
14 reasonable assumption and then I incorporated that  
15 into my exhibit here.

16       Q.     And even the 50 percent does not include  
17 whatever Puget's share of the \$145 million will be?

18       A.     For 1997 the number that appears on my  
19 exhibit is halfway between the '97 number in the  
20 wholesale power rate development study and the current  
21 10.8 mills per kilowatt hour schedule 94 credit, and  
22 if I were to put the \$194 million in there it would be  
23 somewhere between what's in the wholesale power rate  
24 development study and the current credit, but I am not  
25 sure whether the assumption that's in my exhibit is



1 high or low relative to what was resolved on the 145.

2 They're close.

3 MR. WRIGHT: Thank you, Mr. Lazar.

4 JUDGE SCHAEER: Thank you. Ms. Smith, did  
5 you have questions?

6 MS. SMITH: Yes, Your Honor. I believe I  
7 have a few.

8

9 CROSS-EXAMINATION

10 BY MS. SMITH:

11 Q. Good afternoon, Mr. Lazar. My first  
12 question to you is are you the appropriate witness for  
13 public counsel to whom I should direct policy  
14 questions concerning the public counsel rate proposal?

15 A. Well, I would rather you put them to the  
16 witness following me but I think I'm your guy.

17 Q. Well, then I will ask. I'm sure Mr.  
18 Manifold will let me know if you're not. In  
19 particular, I would like to discuss with you how the  
20 public counsel rate proposal would work concerning  
21 PSE's future fixed cost recovery. In particular,  
22 would, under public counsel's proposal, PSE's fixed  
23 cost recovery be tied to sales of commodity?

24 A. Yes, it would, because the current tariffs  
25 would remain in place and PRAM has expired so the

1 company's revenues are sales driven.

2 Q. And under PRAM there was a mechanism under  
3 which at least a portion of the company's fixed costs  
4 were not tied to commodity sales; is that correct?

5 A. Yes, that's correct.

6 Q. First, have you reviewed Dr. Power's  
7 testimony in this case?

8 A. Yes, I have.

9 Q. Would you agree with me that under Dr.  
10 Power's proposal that PSE's fixed cost recovery would  
11 be tied to something other than sales of commodities?

12 A. The company under Dr. Power's proposal the  
13 fixed cost recovery for transmission and distribution  
14 facilities would become independent of sales volumes.

15 Q. Would you agree that tying fixed cost  
16 recovery to an index other than commodity sales  
17 removes or at least reduces an incentive for the  
18 company to increase its energy sales?

19 A. Either increase its energy sales or to  
20 attempt to retain loads that might otherwise decline  
21 through fuel switching or conservation or any other  
22 cause of decline.

23 Q. And it's not public counsel's proposal in  
24 this docket, is it, to endorse increased energy sales  
25 by PSE in order to recover greater fixed cost margins?

1           A.     No.  Our -- my analysis in Exhibit 220  
2 shows that at the company's projected sales level,  
3 there is a comfortable margin for the company and it  
4 should be able to earn a reasonable rate of return  
5 without any additional sales growth.

6           Q.     In your opinion, could Dr. Power's proposal  
7 work along with public counsel's rate proposal?

8           A.     I believe it could.  It would involve  
9 giving up one important element of our proposal, which  
10 is that our proposal is that rates don't change, and  
11 to implement Dr. Power's proposal if his 1 percent  
12 limits were triggered rates would change.  There was  
13 some cross-examination of Dr. Power earlier in which  
14 he agreed that bulk power transmission costs should  
15 not be a part of his adjustment mechanism, and that is  
16 very important to us, because with the removal of both  
17 power transmission from his methodology then just the  
18 transmission/distribution true-up mechanism or  
19 sub-transmission and distribution true-up mechanism  
20 would presumably not trigger an average system cost  
21 filing because only nonexchangeable costs would be  
22 trued up.

23          Q.     Would you have any objection to Dr. Power's  
24 proposal if the bulk power transmission costs were  
25 removed from the revenue cap?

1           A.       The only objection is that it gives up the  
2 simplicity of our proposal that rates not change, and  
3 I think that simplicity is worth something. On the  
4 other hand, Dr. Power's proposal addresses what I  
5 think is a very serious problem with this filing,  
6 which he discussed on page 13 of his testimony, which  
7 is the incentive that the company's mechanism gives  
8 for the company to retain load, and public counsel's  
9 mechanism provides a company pretty much the same  
10 incentive to retain load to keep people from switching  
11 to electricity to natural gas.

12                   Of course Mr. Marcus addressed the line  
13 extension issue that the merger would give Puget Sound  
14 Energy control of gas and electric line extensions.  
15 Our experience with Washington Water Power is that  
16 they don't chase gas load very aggressively and if  
17 Puget Sound Energy were to chase gas load less  
18 aggressively than Washington Natural Gas there would  
19 be substantial net earnings benefits to the company  
20 compared with the current situation where the gas  
21 company aggressively competes for that load.  
22 Customers now have the incentive to switch to save  
23 money and a willing gas company -- while the company  
24 has said, company witnesses have said, that they  
25 intend to continue and get more aggressive with that

1 kind of load shifting, clearly the financial  
2 self-interest of the company is to prevent customers  
3 from switching from gas to electricity.

4           Dr. Power's mechanism addresses part or all  
5 of that problem and public counsel's proposal as part  
6 of being simple does not address that problem, so I  
7 don't like it because it costs us some simplicity but  
8 I do like it because it addresses what I consider to  
9 be a serious anticompetitive aspect of the merger.

10       Q.     How much simplicity do you believe it would  
11 cost us? What's your understanding of what Dr. Power  
12 would propose?

13       A.     Well, his proposal is that there be an  
14 annual calculation and if that calculation produces  
15 more than a 1 percent variation in what the rates need  
16 to be in order to recover the level of fixed costs  
17 that one started with you would have a rate  
18 adjustment, so it adds a layer of complication of  
19 calculation, and potentially a layer of complication  
20 of implementation. I think it's a pretty simple  
21 mechanism, certainly simpler than PRAM was. I don't  
22 think too many of the PRAM hearings went more than a  
23 couple of days; in terms of regulatory burden it's not  
24 onerous, but it's not as simple as we'll see in five  
25 years.

1           Q.     Is public counsel suggesting in this docket  
2 that this Commission not undertake any sort of  
3 regulatory proceedings with regard to PSE after a rate  
4 stability plan would be adopted if it were -- one were  
5 adopted?

6           A.     Pretty close. Not quite. First of all,  
7 Mr. Sturzinger has some very specific recommendations  
8 on pilot, and that's going to require some Commission  
9 involvement. Secondly, Mr. Marcus's testimony  
10 addresses line extension issues and interdivisional  
11 fuel transfers and those will require some Commission  
12 oversight. Mr. Karp makes specific recommendations as  
13 to the implementation of the recommendations of the  
14 comprehensive review steering committee how that will  
15 require some oversight. But as far as anything that  
16 would be of the magnitude of a general rate case we  
17 think we've avoided that.

18          Q.     But even under your simple proposal public  
19 counsel is envisioning some sort of Commission  
20 oversight and some sort of Commission proceedings?

21          A.     We'll still need three Commissioners and a  
22 Commission staff, a hearing room, court reporter,  
23 administrative law judge and a bunch of lawyers.

24                   MS. SMITH: Thank you, Mr. Lazar. I have  
25 no further questions.

1                   MR. MANIFOLD: Could you repeat that last  
2 part again, please. It's spelled L I --

3                   JUDGE SCHAEER: Mr. Freedman, did you have  
4 questions?

5                   MR. FREEDMAN: I have no questions, Your  
6 Honor.

7                   JUDGE SCHAEER: Mr. Merkel.

8                   MR. MERKEL: Just a few.

9

10   CROSS-EXAMINATION

11 BY MR. MERKEL:

12           Q.       Just to pick up on a point you mentioned a  
13 moment ago. I think you said one of the impacts of  
14 the merger is to give the combined company incentive  
15 not to market gas where it also serves electrically;  
16 is that correct?

17           A.       Yes.

18           Q.       And do you have any recommendations for  
19 mitigating that impact?

20           A.       There's a couple of aspects to it. One is  
21 the simple not being very aggressive about extending  
22 gas lines is something that I think takes an awful lot  
23 of oversight. It took us years to get Washington  
24 Natural to change their line extension policy and then  
25 follow it. There we had the opposite problem, I

1 think, that they were being too aggressive but we've  
2 never had -- in 15, 16 years I've been doing these  
3 cases we've never really hauled Water Power in to see  
4 if they're being aggressive enough, so it's a type of  
5 oversight that is seldom seen.

6           The suggestion made by Dr. Power as to  
7 totally and completely decouple the companies would  
8 presumably remove the incentive from a bottom line  
9 perspective and that bottom line is pretty  
10 substantial. Dr. Powers says it's \$600 a customer. I  
11 think he's conservative. If the company prevents  
12 5,000 conversions a year or 5,000 customers choosing  
13 gas over electricity a year, shareholders retain about  
14 \$45 million over the five-year rate plan period. This  
15 is big money. Clearly, the simplest way to do it is  
16 to not let the merger go forward, let the companies  
17 compete. I haven't given thought to a way to do a  
18 good job of this oversight with the merger in place.  
19 It's I think very difficult.

20       Q.     Would authorizing electric only utilities  
21 which compete in nearby or adjacent areas to become  
22 dual fuel utilities have some mitigating effect on  
23 that? Would competition -- would that reintroduce  
24 competition eliminated by the -- or address the  
25 problem of incentive that you've identified?



1           A.     In theory it would if it worked.  But to  
2 the extent that gas distribution is a natural  
3 monopoly, if that means laying a duplicative set of  
4 pipes that's not going to save anybody a lot of money.

5           Q.     I thought you were talking about extensions  
6 into new areas where there were no pipes.

7           A.     Or conversions in areas where there are  
8 pipes.  Washington Natural has converted tens of  
9 thousands of customers in areas where their pipes were  
10 already laid in the past, so for extensions into new  
11 areas allowing multiple franchises would solve that,  
12 and I don't think there's a prohibition right now on  
13 multiple franchises.  I am not sure of that, but I  
14 know in the telecom area we thought that there was  
15 only one franchisee and Electric Lightwave proved that  
16 wasn't the case, so I am not aware, and we asked staff  
17 a data request on this and I am not sure that there is  
18 any prohibition now on the Jim and Joel Gas Company  
19 asking this Commission for a certificate to serve an  
20 area that's already certificated to Washington  
21 Natural, so we may have the ability to do that now.

22                     But that only address new areas.  It  
23 doesn't address the enthusiasm that Washington Natural  
24 has shown for conversions compared to the reticence  
25 that its economic self-interests would cause it to

1 have under the merger proposal. Not saying they won't  
2 do it but clearly it wouldn't be in their economic  
3 self-interest it is aggressive in conversions as  
4 Washington Natural has been in the past.

5 Q. One of your other comments was that the  
6 impact of the merger I think the words you used were  
7 dramatic loss of competition. Could you expand on  
8 that or explain what you mean?

9 A. Well, I think we see it from both the  
10 shareholder's perspective, what it does for the  
11 shareholders and from the ratepayer's perspective.  
12 From a shareholder's perspective it gives them a  
13 chance to recover substantially all of its above  
14 market power costs for a while. It eliminates any  
15 chance of a competing utility to Puget acquiring the  
16 gas system in order to gain access to half a million  
17 electric customers.

18 Example, Water Power might want to buy the  
19 gas company in order to market electricity in an open  
20 access environment and I being the gas company it  
21 would have a customer relationship and a community  
22 relationship, would enhance its ability to market  
23 electricity to Puget's electric customers. It  
24 provides new marketing opportunities to the company.  
25 There's a development of business relationships that

1 Puget Power now doesn't have with consumers in the  
2 city of Seattle or Snohomish County that Puget Sound  
3 Energy would have, and the ability to market  
4 electricity or electric services to electric consumers  
5 in those areas. Those are some examples of  
6 anticompetitive things that are pluses for the  
7 shareholders.

8           From the ratepayer's perspective the merger  
9 proposal shifts basically 100 percent of the costs or  
10 85 percent of the costs under the staff proposal of  
11 the schedule 48 and special contract discounts to  
12 other customers. Consistent with your previous  
13 question it kind of prevents head-on competition  
14 between electricity and gas. Prevents full open  
15 access for a period of time that regulatory pressure  
16 might otherwise cause to come about. Those are some  
17 examples of what shareholders gain and what ratepayers  
18 lose.

19           There's also anticompetitive effects on  
20 potential competitors. Obviously compare in an open  
21 access environment in Snohomish County where Puget is  
22 not the electric company but Washington Natural is the  
23 gas company. Company builds a customer relationship  
24 at sending a bill, it's in the house, it's in the  
25 mailbox for all those customers. It doesn't have a

1 competitive advantage in selling electricity over  
2 Snohomish PUD, because they're both in the house  
3 reading a meter, sending a bill, but it does have a  
4 competitive advantage over Enron which Puget has, by  
5 buying the gas company, buys a business relationship  
6 with that customer. Unless Enron buys the phone  
7 company they don't get that customer relationship.

8           So Enron is arguably disadvantaged by this  
9 type of merger as compared to a merger in which both  
10 companies were required to completely spin off their  
11 gas and power resources and were going to be just  
12 regulated pipe and wires companies. Then Enron would  
13 have the same shot at selling electricity as anybody  
14 else, but this gives the company a big advantage over  
15 potential third party new entrants competitors.

16       Q.     Would you generally agree that if you have  
17 an area in which all the competitors are single fuel  
18 utilities and all of a sudden one utility becomes a  
19 dual fuel utility, it enhances their ability to  
20 compete and, conversely, that imposes a significant  
21 disadvantage on the single fuel utilities that it  
22 competes with?

23       A.     I'm having trouble thinking. The real  
24 competitors are Seattle, Tacoma and Snohomish and they  
25 all have multiple fuels. They sell both electricity

1 and energy efficiency. If I ignore energy efficiency  
2 as a way of meeting customer's needs I would agree  
3 with you. After a break I might agree with you even  
4 without that. I would have to think about it for a  
5 few minutes.

6 Q. Hasn't there been considerable --

7 JUDGE SCHAEER: Mr. Merkel, you did not have  
8 an estimate for this witness. Can you tell me how  
9 much longer you expect to be?

10 MR. MERKEL: Well, for the sake of moving  
11 along I will end it right now.

12 JUDGE SCHAEER: Thank you. Commissioners,  
13 did you have questions for this witness?

14

15 EXAMINATION

16 BY COMMISSIONER HEMSTAD:

17 Q. Mr. Lazar, have you reviewed and do you  
18 have an opinion on Mr. Martin's testimony regarding  
19 treatment of regulatory assets such as land sales,  
20 environmental remediation costs, rate case costs and  
21 DSM costs?

22 A. I have two completely unrelated reactions  
23 to that testimony. The first deals with the DSM and  
24 other regulatory assets such as the \$21 million in DSM  
25 that's not yet on the books. I think that the staff

1 recommendation to get those amortized during a rate  
2 freeze period is a good idea. I had hoped that the  
3 staff in that recommendation was going to get all of  
4 the DSM that's on the books squared away during that  
5 period so that on a going forward basis there would  
6 only be operating expenses and we get all roughly \$200  
7 million worth of rate base amortized and they didn't  
8 go quite that far.

9           I think that there's plenty of room  
10 financially in their proposal to do that because we  
11 have a fundamental difference over who gets \$100  
12 million worth of benefits. They've basically  
13 transferred them to shareholders in compensation for  
14 the large customer rate discounts and we think those  
15 should go to consumers. If staff proposal were  
16 approved I think you could require that all of the DSM  
17 be amortized during the five-year rate period without  
18 exceeding financial and responsible limits.

19           The other is the property transfers. What  
20 the company has done I have to say makes me curious  
21 after we went through in the '92 rate case that they  
22 transferred property to Puget Western at one price and  
23 then Puget Western can turn around and resell the  
24 property. The company's most recent quarterly report  
25 says that our earnings were enhanced by property sales

1 by Puget Western. I think that the examples that Mr.  
2 Schooley used of the general office parking lot and  
3 the land under One Bellevue Center where company's  
4 offices are are outrageous. I think Mr. Schooley's  
5 recommendation that those transfers be voided is too  
6 mild.

7 I think all of the transfers to Puget  
8 Western ought to be voided. It's a wholly-owned  
9 subsidiary and the experience we had in the previous  
10 rate case was that it was a vehicle for turning  
11 appreciated property that had been paid for by  
12 ratepayers into below the line profits to  
13 shareholders. But at a minimum Mr. Schooley's  
14 recommendation that those two transfers, the property  
15 that's still being used, that's still useful, ought to  
16 be voided. Is that responsive to your question?

17 Q. Yes. In your testimony on page 18, lines 9  
18 and 10 what have you reviewed that persuades you that  
19 PSE will be able to achieve its goals for power  
20 stretch savings and for best practices?

21 A. Well, the rating agency report clearly made  
22 it sound as though these were estimates that could be  
23 exceeded or the company could fall short. What I've  
24 done is to look at the magnitude of the power stretch  
25 savings as a percentage of total power costs, and if

1 you refer to my Exhibit 220 at page 2 where I show  
2 those power costs, those power costs are about \$3  
3 billion over the five-year rate plan period.

4 MR. MANIFOLD: Let's remember what's top  
5 secret here.

6 THE WITNESS: This isn't top secret here at  
7 all. This is taken straight out of Exhibit 228 and  
8 this is not top secret.

9 A. The denominator is \$3 billion. The  
10 numerator is top secret and I would encourage those of  
11 you with decoder rings to put the power stretch  
12 savings over that \$3 billion and see what percentage  
13 of power costs Puget is actually saying it can  
14 mitigate and judge for yourself whether that's an  
15 aggressive goal. I would compare it to Bonneville's  
16 efforts to cut its cost by 10 to 20 percent. Compare  
17 it to Washington Natural's reducing its employment by  
18 11 percent.

19 On the best practices savings, I started  
20 making a list of things that they haven't counted. I  
21 mean, they haven't counted the joint meter reading  
22 with themselves, joint billing with themselves. They  
23 said, oh, that's part of best practices. They haven't  
24 counted joint meter reading with Cascade. That's  
25 something else. Cascade, I know I talked to John



1 Stoltz this week. They want to work with Puget to  
2 save some money for both companies.

3           If one looks at the nonpower costs, which  
4 are on page 1 -- pardon me, on page 3 of my Exhibit  
5 220, the nonpower costs for the electric company are 2  
6 and a half billion dollars. The margin for the gas  
7 company is another couple hundred million dollars a  
8 year. So you got 3 and a half billion dollars of  
9 margin, if you will, nonpower costs on the electric  
10 system, distribution margin on the gas system. That's  
11 your denominator, 3 and a half billion dollars. What  
12 are the best practices savings as a weather of that?  
13 Well, if they were 10 percent for each of those that  
14 would be \$600 million, and I think anyone can look at  
15 any of the exhibits here and say if we can find \$600  
16 million we wouldn't need a 1 percent a year rate  
17 increase. I don't think that 10 percent is an  
18 unreasonable goal for cost reductions. So I don't  
19 think the \$600 million is an unreasonable goal.

20           And public counsel's proposal gives the  
21 company five years to achieve those. When I look at  
22 what the companies called power stretch and best  
23 practices it's not much. I think there's a data  
24 response we received this week or last week on the  
25 status of the company's negotiations and litigation

1 with the power producers that are providing the high  
2 cost power, and the company has asked Montana Power  
3 for -- I don't think this is a confidential number at  
4 all -- for \$39 million in settlement of that contract.  
5 Well, that's a pretty healthy amount. That's one  
6 contract. That's one that, frankly, wasn't even one  
7 of the worst of them or one of the most expensive of  
8 them.

9           If the company could achieve -- bring you  
10 back to Exhibit 220. If the company could achieve  
11 zero power stretch, could have achieved zero best  
12 practices, and lost half as much exchange benefit as  
13 Bonneville would like to take away, then they would  
14 have to absorb 20 percent of the above market power  
15 costs, but if they could achieve some kind of  
16 mitigation of that, neither by hanging on to more  
17 exchange benefits or achieving some power cost stretch  
18 goals, some best practices goals, they can come up  
19 with \$158 million in savings then they're made good.  
20 \$158 million, which is on the bottom of page 1 of  
21 Exhibit 220, their exposure to costs, divided by the  
22 sum of \$3 billion of power costs and \$3 and a half  
23 billion of margin, \$158 million out of \$6 and a half  
24 billion is 2 percent.

25           Q.     Thank you. Perhaps we could focus the

1 answer a bit more precisely. I appreciate your  
2 elaboration.

3 A. Thanks.

4 Q. Does your analysis generally include the  
5 effect of the recently granted motion of staff to  
6 transfer \$165 million of current schedule 100 PRAM  
7 surcharges into permanent rates?

8 A. I believe that assumption was embedded in  
9 the company's Exhibit 28 and that was my starting  
10 point, so I believe the answer is yes. And I believe  
11 it also assumes the expiration of the PRAM surcharge.

12 Q. At page 5, line 22 you appear to suggest  
13 that the traditional standard of prudence in judging  
14 power costs may be irrelevant under market  
15 competition. Do you believe the prudence standard  
16 should be adjusted to reflect market conditions or do  
17 you have any specific suggestions as to how -- whether  
18 prudence in that environment is relevant?

19 A. I think we need to look at the prudence  
20 standard and see whether it has any relevance in the  
21 modern age. In the real competitive market nobody  
22 really cares whether your investment in square hula  
23 hoops was prudent or not. If nobody buys them you go  
24 broke. If you sign a long-term contract for computers  
25 with Apple Computer for \$5,000 a computer, six months

1 later the market price drops to \$2,000 you look pretty  
2 stupid and nobody makes you whole for it.

3           If we're going to have a competitive market  
4 we have to look at that again and one way to do that  
5 would, in this case, would be to tell Puget to spin  
6 off its power resources, that it can merge but it  
7 becomes a wires company only and it can sell off its  
8 power resources to somebody else and if it makes money  
9 that's great and if it loses money that's tough. That  
10 wouldn't require any review of the prudence standard  
11 by you, just an authorization to merge conditioned on  
12 a spin-off and then the market would make that  
13 determination not the Commission.

14       Q.     This had come up earlier but on page 8,  
15 line 17 you argue that the public interest standard  
16 should be -- that the general public must benefit.  
17 What is your basis for that contention and do you  
18 think a no harm standard is sufficient to protect the  
19 public interest?

20       A.     We can't accomplish no harm because we are  
21 clearly harmed. That is, we lose the chance of a  
22 competing utility coming in. We lose the heads-up  
23 competition. There's a lot of harm so there's got to  
24 be some quid pro quo.

25       Q.     I am really asking the question of the

1 contrasting, if there is a contrast between the  
2 standard under which the general public will benefit  
3 and the standard which is a no harm standard.

4 A. I think that there is a difference, but I  
5 believe that even if a no harm standard is the  
6 relevant standard that there are enough costs to the  
7 public from the anticompetitive aspects of the merger  
8 that there's got to be some pretty tangible benefits  
9 to the public that I think show up in the form of  
10 lower rates and better service, assured service  
11 quality to even get to the no harm level, and if you  
12 go further then there needs to be even more benefit.

13 Q. But the no harm standard is insufficient by  
14 itself? There has to be something more than no harm?

15 A. Well, we're starting with both feet in the  
16 hole so to get to no harm we've got to come up. I  
17 don't think the no harm standard is good enough  
18 personally. I think that there ought to be  
19 demonstrable benefits, but even to get to no harm we  
20 need to have either a rate reduction or an extended  
21 period of no rate increases and I mean really and  
22 truly no rate increases.

23 Q. With regard to the BPA residential  
24 exchange, in your testimony on page 17, can you  
25 estimate a probability concerning the so-called

1 adverse case scenario you describe on line 22 to 25?

2       A.     I think that depends a lot on what the  
3 Commission does.  If you put the risk on Puget I think  
4 that Puget will do a yeoman's job of preserving those  
5 benefits because it would be some of their money on  
6 the table.  The fact that we preserved \$145 million  
7 without an incentive I think is a hint of what can be  
8 accomplished with an incentive.  Of course I bring  
9 people back to the expectation was of substantially  
10 more than the historic benefits that we've been  
11 receiving, and I think that the Congress needs to be  
12 reminded of what was expected.

13               We've got a situation where Bonneville is  
14 reducing rates to some of its priority firm customers  
15 and raising rates to others, to us.  We ought to be  
16 able to get the same 9 percent rate cut that Snohomish  
17 PUD is getting.

18       Q.     Is it a fair characterization of your  
19 testimony where you say that the principle reason you  
20 would impose upon Puget, on shareholders, the burden  
21 if the residential exchange is reduced or eliminated  
22 the intent to provide Puget or the PSE, I should say,  
23 the incentive to work hard in the political process to  
24 see that it doesn't go away?

25       A.     That's a big part of it, but part of it is

1 that we believe we provided them with so many other  
2 upside potential benefits to shareholders in our  
3 proposal of letting them keep all the power cost  
4 savings, letting them keep all of the best practices  
5 savings, in exchange for absorbing all of the cost  
6 pressures, that if they do really well in one of those  
7 areas and really poorly in another they still do fine  
8 under our proposal. Only if they do poorly in all of  
9 the areas do they have to absorb their above market  
10 power costs, so I clearly think they would do better  
11 in the political arena if they're at risk, but even if  
12 they do poorly there and they do well in other areas,  
13 they make excellent returns, I guess I look at the  
14 bottom line of this case is who pays for the above  
15 market power costs. That's really where it shakes  
16 out. If they don't get other savings they have to  
17 absorb some of this.

18

19 EXAMINATION

20 BY COMMISSIONER GILLIS:

21 Q. I have just two. Following up on your  
22 discussion with Commissioner Hemstad, the public  
23 interest standard, is the perspective addition of  
24 public purpose that are both economic and desired by  
25 customers something that we should consider as part of

1 that public interest evaluation?

2 A. Yes, I believe so.

3 Q. Then would you please explain to me how  
4 your rate plan or your proposal in a broader sense  
5 addresses that particular public interest issue?

6 A. I believe that the only way that the public  
7 purposes funding called for by the comprehensive  
8 review will successfully be implemented is  
9 legislatively as it effects a tax and that is a method  
10 that is entirely consistent with our plan here that we  
11 have accounted for all of the existing up to now DSM  
12 expenditures and the prospective expenditures would  
13 come out of a, if you will, 3 percent public purposes  
14 tax that would be over and above these rates, but it  
15 would be -- part of the idea of doing it as a tax is  
16 you will get the public utilities, you would get the  
17 private utilities, you would get the transporters, you  
18 would get the direct service customers.

19 You would get everybody with a public  
20 purposes tax. I see almost no probability that a  
21 voluntary or mandatory via Bonneville mechanism will  
22 be adopted and will work. It might be adopted but  
23 even if adopted which I think is unlikely I don't have  
24 confidence that it will work.

25 Q. Then does that mean then your proposal



1 doesn't really address that?

2       A.     Well, we considered it, and clearly since  
3 our proposal only includes DSM costs up to now, if the  
4 Commission has Puget Sound Energy spend additional  
5 money on DSM, beyond 1997 there ought to be a cost  
6 recovery mechanism for that that is not included in  
7 our proposal, but I personally believe that the best  
8 cost recovery mechanism is a tax not a utility-by-  
9 utility levy. But it will have to be another -- I  
10 guess we've been using the term -- carve-out for  
11 expenditures post '97.

12       Q.     That wasn't among the activities that you  
13 had listed in conversation with Ms. Smith, I believe,  
14 about future interactions of the Commission is another  
15 example?

16       A.     No, and it's because I think that that's  
17 the less desirable way to approach it.

18       Q.     On page 6, line 27, on the public counsel  
19 rate plan, "Actual valuation of stranded costs and  
20 implementation of a recovery mechanism for all classes  
21 can be pursued on a timely but reasoned basis." Could  
22 you elaborate on how you would propose this evaluation  
23 and implementation?

24       A.     I'm sorry, I didn't follow where you were.

25       Q.     Well, on page 6, line 27 you're essentially

1 saying that in your rate plan the actual valuation  
2 of stranded costs will be conducted on a timely and  
3 reasoned basis.

4 A. What I mean by that is we wouldn't  
5 implement full system open access with stranded cost  
6 recovery mechanism until 2001. We've got five years  
7 for the company to get its costs in order and for all  
8 of the parties to figure out what the right way to  
9 change this industry is, but for the five-year period  
10 all we would be looking at is schedule 48 for the big  
11 guys, pilot program for everybody else, and we would  
12 have -- we might be able to implement it sooner, but  
13 we would have up to five years to complete it. In  
14 that sense our recommendation is similar to the  
15 company's where they get basically five years of  
16 prevention of real open access.

17 Q. By timely you mean 2001?

18 A. Yeah. Got plenty of time. Should be  
19 plenty of time.

20 Q. But you aren't proposing any particular  
21 proposal that would involve service unbundling and  
22 rate design changes to be accommodated under your rate  
23 freeze proposal?

24 A. No. As I say, those could be implemented  
25 sooner but there's no expectation in our proposal that

1 they would be implemented sooner.

2 Q. On page 7 you note -- at the top of the  
3 page there you note that the proposed -- under the  
4 proposed pilot participants in the pilot program would  
5 pay the same average level of transition charges as  
6 the schedule 48 charges. Do you envision the  
7 participants in the pilot program as being noncore  
8 customers in the same sense that we define the  
9 customers participating in schedule 48 as noncore?

10 A. My own opinion? I don't think you have any  
11 way to distinguish between core and noncore customers.  
12 The court decision in the appeal of cause U-79-70 said  
13 power companies have to run electricity out the wires  
14 until it runs out, and prohibited you from treating  
15 one class of customers differently from another. My  
16 -- as a witness in that case I'm someone who followed  
17 that case on appeal to the trial court, I think we're  
18 all in this thing together, and that's been my  
19 expectation that just calling someone noncore doesn't  
20 change their statutory entitlement to service. One  
21 would have to get some kind of legal change in order  
22 to really treat them differently.

23 Q. Well, I guess just the pragmatic concern,  
24 to the extent that they are noncore and which would  
25 mean that the company is going to have to plan -- and

1 we may come to the end in 2001 and decide that this  
2 doesn't make sense, there's no way we can provide  
3 direct access to small customers, not going to work  
4 and there are costs associated with that. Where do  
5 those costs become resolved?

6 A. Well, first of all, if we don't plan for  
7 their capacity we run out of electricity, there's a  
8 share-the-shortage result. That is, everybody bears  
9 the burden of failing to plan for their capacity.  
10 Pragmatically that's where I see it going. I don't  
11 think that either Puget or the legislature is going to  
12 shut Boeing down because they've agreed to be a  
13 noncore customer.

14 Other than that I think it's a legislative  
15 issue. If you want to change the rules of the game  
16 you can't change that rule here. They are not noncore  
17 in my opinion. They are customers just like any other  
18 customers.

19 Q. Well, anyway, you've offered, I guess,  
20 opinion as an economist on that and schedule 48 we did  
21 try to define it noncore class and try to deal with  
22 that for schedule 48 customers. Pilot is a different  
23 concept because we are dealing with an experiment. We  
24 don't know what is going to work and there will be  
25 costs associated with it. I guess my basic concern is

1 not going to present potential barriers down the road  
2 to implementing the pilot that the company is  
3 resisting doing it because they are -- know how to  
4 define where to collect the revenues. That's what I'm  
5 wondering is part of your recommendation. Is it part  
6 of your distribution charge or is it somewhere within  
7 your rate plan or your rate plan is flexible enough to  
8 allow it to happen?

9 A. The details of the pilot were in Mr.  
10 Sturzinger's testimony and one area that we talked  
11 about but didn't appear in his testimony is who was  
12 the provider of last resort. That's the sort of thing  
13 that one discusses when looking at restructuring, and  
14 something that the collaborative I'm sure the task  
15 force or whatever the group is called will discuss.

16 COMMISSIONER GILLIS: That's it for now.  
17 Thanks.

18

19 EXAMINATION

20 BY JUDGE SCHAEER:

21 Q. Mr. Lazar, looking at your exhibit TS  
22 JL-2, Exhibit TS-221.

23 A. Yes.

24 Q. Are there supposed to be two items labeled  
25 2A in this exhibit?

1 A. Pardon?

2 Q. Are there supposed to be two items labeled  
3 2A in this exhibit?

4 A. No. The second one labeled 2A I believe  
5 should be labeled 2B.

6 Q. Looking at item 2D, should that item have  
7 both a dollar and a percent sign?

8 A. No, it should not.

9 Q. What should it have?

10 A. Should have the percent sign. Same is true  
11 -- no, that's it.

12 JUDGE SCHAER: That's all I had. Was there  
13 any redirect for this witness?

14 MR. MANIFOLD: Yes, there is. I note we  
15 haven't taken an afternoon break yet. I wonder if we  
16 might do that and hack some of that down.

17 JUDGE SCHAER: I would like to get through  
18 this witness and take a break before our next witness.

19 THE WITNESS: I would like a break.

20 MR. MANIFOLD: Your Honor, the witness has  
21 asked for a break and he has been on the stand for  
22 over two hours.

23 JUDGE SCHAER: Let's take our  
24 afternoon recess at this time and be back at five  
25 after four.

1 (Recess.)

2 JUDGE SCHAEER: Let's be back on the record  
3 after our afternoon recess. I would like to raise the  
4 question with parties as to who we'll be prepared to  
5 deal with as the next witness. I had indicated  
6 earlier that the next witness will be Mr. Story and I  
7 believe Mr. Manifold had some problem with that.

8 MR. MANIFOLD: Your Honor, I personally am  
9 not prepared to cross-examine Mr. Story today. I had  
10 thought that when we finished Mr. Lazar we might go  
11 home a little early, but given that this has taken as  
12 long as it has I'm not sure that that's an issue. I'm  
13 not sure that we would get to me, so if we went ahead  
14 and did what you suggested and take the witnesses who  
15 had been stipulated and maybe start on Mr. Story or go  
16 home early, whatever you want.

17 JUDGE SCHAEER: I don't think we have a  
18 luxury to go home early. I was going to suggest that  
19 if we can't do Mr. Story that we do Mr. Amen. Does  
20 anyone have problems doing with him?

21 MR. CEDARBAUM: That may be fine with me.  
22 He may not be ready to go.

23 JUDGE SCHAEER: Is he going to be ready to  
24 go?

25 MR. HARRIS: (Inaudible) know right now --

1 JUDGE SCHAER: I couldn't hear you at all.  
2 Could you use the microphone.

3 MR. HARRIS: We don't know where Mr. Amen  
4 is right now. He's in the building somewhere.

5 JUDGE SCHAER: And I believe you had  
6 indicated, Mr. Cedarbaum, that your estimate for Mr.  
7 Story is considerably shorter than your 30 minutes.

8 MR. CEDARBAUM: My guess would be 20 to 30  
9 minutes.

10 JUDGE SCHAER: Still 20 to 30.

11 MR. CEDARBAUM: I think 20 minutes is  
12 probably safe.

13 MR. FREDERICKSON: Your Honor, may I  
14 comment?

15 JUDGE SCHAER: Yes.

16 MR. FREDERICKSON: We have about five or  
17 six questions for Mr. Story, and I believe that's  
18 about all the questions we have left, so if there's  
19 some way we can avoid coming down here for that  
20 limited purpose, Seattle Steam would certainly  
21 appreciate it.

22 JUDGE SCHAER: I think what we'll do then  
23 is we'll conclude with Mr. Lazar and we'll start with  
24 Mr. Story and we will just leave you to be the last  
25 questioner, Mr. Manifold.



1 MR. MANIFOLD: Thank you.

2 MS. PYRON: Your Honor, if we could also do  
3 the stipulations this afternoon.

4 JUDGE SCHAEER: Certainly we had agreed to  
5 do those this afternoon so we will do that at the same  
6 time that we switch witnesses.

7 MR. CEDARBAUM: Your Honor, I have just a  
8 comment for Mr. Frederickson. If he wants to go first  
9 with Mr. Story, that's fine with me.

10 MR. FREDERICKSON: I appreciate that.

11 JUDGE SCHAEER: Thank you, Mr. Cedarbaum.  
12 Did you have any redirect, Mr. Manifold?

13 MR. MANIFOLD: I do, Your Honor, and as  
14 part of that I have a top secret -- a document to be  
15 marked as an exhibit that is top secret which I would  
16 propose to distribute now.

17 MR. CEDARBAUM: Your Honor, I indicated to  
18 you off the record that I had a few questions for Mr.  
19 Lazar. I don't know if it's better for me to do that  
20 before or after Mr. Manifold's redirect.

21 JUDGE SCHAEER: I believe that usually we  
22 take redirect at this point and then if anyone has  
23 additional questions we allow those, but either way is  
24 fine with me. If you would prefer to go first I think  
25 that that would be fine.

1 MR. CEDARBAUM: I thought that that way Mr.  
2 Manifold might have more redirect. Maybe he should go  
3 first then.

4 JUDGE SCHAEER: That's a good thought, Mr.  
5 Cedarbaum.

6 MR. CEDARBAUM: I will retract the offer.

7 JUDGE SCHAEER: Mr. Manifold has distributed  
8 two documents which I will mark as follows. Marked as  
9 Exhibit 223 for identification is the supplemental  
10 response to record requisition 15 and marked as  
11 Exhibit TS-224 for identification is a document which  
12 states at the top power stretch and best practices as  
13 percentage of associated costs.

14 (Marked Exhibits 223 and TS-224.)

15 REDIRECT EXAMINATION

16 BY MR. MANIFOLD:

17 Q. Mr. Lazar --

18 MR. MANIFOLD: Ready?

19 JUDGE SCHAEER: Yes.

20 Q. -- do you have before you what's been  
21 marked as Exhibit 223?

22 A. Yes, I do.

23 Q. Is that the full response that was received  
24 last Friday or this Monday from the company and has a  
25 supplemental response to that data request?

1 A. Yes, it was.

2 Q. Was it information from that that you were  
3 using in your early response to one of the questions?

4 A. Yes. On the second page of that, the end  
5 of the first paragraph states that the company has  
6 asked Montana Power to reimburse the company for \$39  
7 million associated with the Montana Power contract.  
8 The document also discusses the status of negotiations  
9 with the independent power producers.

10 MR. MANIFOLD: Your Honor, I would move for  
11 the admission of Exhibit 223.

12 MR. VAN NOSTRAND: No objection.

13 JUDGE SCHAEER: Document is admitted.

14 (Admitted Exhibit 223.)

15 Q. Mr. Lazar, do you have in front of you  
16 what's been marked as Exhibit TS-224?

17 A. Yes, I do.

18 Q. And can you generically describe what that  
19 is?

20 A. Yes. The top part of the exhibit computes  
21 cumulative power costs for five years off of my  
22 Exhibit 220 of about \$3 million and then puts in the  
23 power stretch goals from the company's response to  
24 staff request 38, which is now in the record as a  
25 bench request and then computes what the power stretch

1 goals are as a percentage of the total power cost.

2           The second half of this looks at the  
3 cumulative nonpower costs also from my Exhibit 220 and  
4 then takes gas margin from one of Mr. Torgerson's top  
5 secret exhibits, and his exhibit didn't go five years,  
6 so I took the midyear and multiplied it by five --  
7 it's in the right ballpark -- and computed a total  
8 margin for both systems by adding those two together,  
9 insert the best practices savings and then compute  
10 what the best practices savings are as a percentage of  
11 total margin.

12       Q.     Is that the calculation or type of  
13 calculation that you're referring to in response to  
14 one of the questions from the Commissioners?

15       A.     Yes, it is.

16           MR. MANIFOLD: Your Honor, I would move for  
17 the admission of Exhibit -- what's marked as Exhibit  
18 TS-224.

19           MR. VAN NOSTRAND: No objection.

20           JUDGE SCHAEER: Document is admitted.

21           (Admitted Exhibit TS-224.)

22       Q.     Mr. Lazar, you were asked a number of  
23 questions about the Bonneville power exchange and why  
24 or what actions you think the company has or hasn't  
25 taken in the past. Could you please describe what you

1 believe the company could do or could have been doing  
2 to protect the exchange for the benefits of its  
3 residential and small farm customers?

4       A.     Well, first the fact that my representative  
5 in Congress has referred to the exchange as a subsidy  
6 to me suggests that Puget hasn't done a very good job  
7 educating her that the exchange consists of Puget  
8 buying power at Bonneville's full price and Bonneville  
9 exercising its option to buy power back from Puget at  
10 something less than the actual cost of that power.  If  
11 anything, in my opinion, the exchange is a subsidy of  
12 Bonneville by Puget's residential customers.

13             The material that the company has  
14 distributed to public officials, King County Council,  
15 the Congress, doesn't take on either the history of  
16 the exchange or that the exchange was planned and  
17 perceived at the time it was passed as a more  
18 favorable alternative to Bonneville and its public  
19 utility and direct service industry customers than the  
20 alternative, which was direct access to that low cost  
21 power by the domestic and rural power authority and  
22 the cities for their residential and rural loads  
23 leaving Bonneville with a need to go out and buy WPPSS  
24 6 and 7 and 8 and 9 to serve its public utility and  
25 aluminum industry loads.

1           The company, I think, has made a very weak  
2 effort in general educating people on the exchange.  
3 The Congressional decision for '97 budget year, I  
4 think, was more of an accomplishment and an indication  
5 of what they can do, but so far the materials that the  
6 company has supplied me, and I have asked them to get  
7 me quite a bit, I thought, were quite feasible.

8           Q.     Would it be your opinion that the actions  
9 of the company during the time of what's known as the  
10 prudence review case show that it has the capability  
11 of working with some of its stakeholder groups and  
12 organizing public opinion to achieve goals where it  
13 believes its financial interests are at stake?

14          A.     Yes, absolutely.

15          Q.     In response to a question from Mr. Van  
16 Nostrand, you said that a shift -- that having the  
17 company bear responsibility for any decrease in the  
18 residential exchange does not amount to a shift of  
19 those costs to other customers. Do you recall that?

20          A.     Yes, I do.

21          Q.     Do I have that right?

22          A.     Yes, you do.

23          Q.     Could you explain why that is the case?

24          A.     The residential exchange benefits are not  
25 available to any other class by law and therefore

1 there's not a benefit shift, and under our proposal  
2 regardless of the outcome of the residential exchange  
3 process -- that is regardless of what level of credits  
4 Puget receives, nonresidential class rates won't  
5 change. Their rates don't go up if the benefits go  
6 down so there's not a cost shift. They couldn't have  
7 the benefits if the benefits went up so there's not a  
8 benefit shift, so regardless of which of Ms.  
9 Linnenbrink's definitions you choose there's no impact  
10 on nonresidential customers.

11 Q. In response to a question from I think it  
12 was Mr. Merkel you said that in your opinion the staff  
13 case shifts 85 percent of the lost revenues from  
14 schedule 48 and other special contracts to other  
15 customers. Is that accurate?

16 A. Yes, I did.

17 Q. Can you indicate why you believe that to be  
18 the case?

19 A. Yes. It will take me -- well, all the  
20 notebooks I have appears not to be one of them. We  
21 went through an example with Ms. Linnenbrink of how  
22 the staff proposal was a cost shift by basically  
23 allowing Puget to stream the low cost power that it  
24 can inquire incrementally to one class of customers,  
25 and allow another class of customers to grow into the

1 high cost resources.

2 Under conventional ratemaking all customers  
3 would share in the additional low cost resources and  
4 since other customers are -- wind up worse off under  
5 her proposal than under a scenario where power stretch  
6 goals are achieved and all customers share in the  
7 power cost savings I considered it a cost shift. And  
8 Mr. Martin and Ms. Linnenbrink and Mr. Miernyk's  
9 testimony all take \$121 million worth of lost revenues  
10 and allocate the savings basically first to make the  
11 shareholders whole for that and then only a little bit  
12 of money is left over to offset other cost pressures.  
13 I made a guess of that at about 85 percent. It's the  
14 \$17.8 million that they reserve to offset other cost  
15 pressures and the balance the company is made whole  
16 on.

17 MR. CEDARBAUM: Your Honor, I should have  
18 jumped in, I guess, sooner but I would like to move to  
19 strike the answer. That was a long-winded explanation  
20 of what was a fairly focused question, and, quite  
21 frankly, making assumptions with respect to Ms.  
22 Linnenbrink's testimony. That was not her testimony  
23 about the exhibit that was introduced to her that  
24 public counsel tried to characterize as cost shifting.

25 JUDGE SCHAEER: Brief response, Mr.



1 Manifold.

2 MR. MANIFOLD: Very brief. I would urge  
3 letting the answer stand as this witness's  
4 understanding and what it is or is not will speak for  
5 itself.

6 JUDGE SCHAEER: I'm going to grant the  
7 motion to strike. I think we were getting far afield  
8 from redirect on any of the cross of this witness into  
9 other areas and the answer was not responsive to what  
10 the witness was asked.

11 MR. MANIFOLD: Are you striking the entire  
12 response then?

13 JUDGE SCHAEER: If you would like to re-ask  
14 the question and get a limited response that answers  
15 the question you asked I will allow you to do that  
16 now.

17 MR. CEDARBAUM: Your Honor, I guess I have  
18 a continuing objection to -- with respect to questions  
19 of the staff rate plan. That is beyond the scope of  
20 redirect.

21 MR. MANIFOLD: Well, it was brought up  
22 during cross-examination of this witness, and so I  
23 think I'm entitled to inquire into matters which were  
24 dealt with during cross-examination. If it was an  
25 improper question for this witness it should have been

1 objected when the first question was asked of it. I  
2 think a question to corroborate or figure out what was  
3 meant or said should be allowable and it's just one  
4 question.

5 MR. CEDARBAUM: Well, the questions that I  
6 recall -- maybe I missed some of them -- the questions  
7 I recall about the staff rate plan came from the  
8 Commissioners, and I am not going to object to a  
9 Commissioner's question.

10 JUDGE SCHAEER: You're a wise man, Mr.  
11 Cedarbaum.

12 MR. CEDARBAUM: I don't think that that  
13 opens up redirect to Mr. Lazar's general statements or  
14 specific statements about the effect of the staff rate  
15 plan and what staff is doing or not doing.

16 MR. MANIFOLD: The specific question I had  
17 in mind was asked by Mr. Merkel.

18 JUDGE SCHAEER: Would you state what  
19 question it is that you want to ask again.

20 MR. MANIFOLD: Yes.

21 Q. Why did you state in response to a question  
22 from Mr. Merkel that you believe that the staff rate  
23 plan shifts 85 percent of the lost revenues from  
24 schedule 48 and other special contracts on to other  
25 customers?

1 MR. CEDARBAUM: Maybe it's late in the day.  
2 I don't recall that question from Mr. Merkel.

3 JUDGE SCHAEER: I don't recall it.

4 MR. CEDARBAUM: I recall all questions from  
5 Mr. Merkel were about competition which has been the  
6 focus of all of his questions. Even if he had stated  
7 that, to use that as jumping off point to attack the  
8 staff case on cost shifting or benefit sharing is well  
9 beyond the scope of redirect.

10 JUDGE SCHAEER: I'm going to sustain the  
11 objection.

12 Q. When you responded to Commissioner Hemstad  
13 and said that an alternative would be to have a spin-  
14 off of the generating resources as a condition of the  
15 merger, was it your intent that under that situation  
16 Puget would spin off both its above market and its  
17 below market generating resources?

18 A. Yes, it is, and Mr. Marcus's calculations  
19 looked at both the below market and the above market  
20 resources in calculating the amount of potentially  
21 stranded benefits, and Puget would make a profit  
22 selling off its low cost resources in that scenario.

23 Q. Commissioner Gillis asked you some  
24 questions about why -- about the core/noncore  
25 designation in schedule 48, and why any, as I

1 understood it, why principles from schedule -- why  
2 matters from schedule 48 should be used as a model of  
3 any kind for a pilot program. Do you recall that?

4 A. Yes, I do.

5 Q. Could you respond more directly to his  
6 question about the core/noncore distinction and why  
7 public counsel's proposed those models?

8 A. The customers who participate in the pilot  
9 will be getting their power from somewhere different.  
10 They will have a very different character of service  
11 and if one calls them noncore, semantically I suppose  
12 I shouldn't disagree with the characterization. The  
13 key thing that public counsel's proposal, as presented  
14 by Mr. Sturzinger, takes from schedule 48 is that the  
15 transition charges have to be attractive enough that  
16 customers will want to participate and the schedule 48  
17 transition charges meet that test. The program needs  
18 to be big enough that vendors will want to participate  
19 and the size of the schedule 48 experiment -- size of  
20 schedule 48, around 250 megawatts, meets that  
21 standard. There's not a necessary connection to what  
22 was done with schedule 48. It happens to have some of  
23 the characteristics that we think are important for a  
24 successful pilot.

25 Q. Does the availability of firming in

1 schedule 48 affect your judgment of whether it is a,  
2 quote, real noncore or not?

3 A. Yes, it does. The schedule 48 rate  
4 provides after the transition period of about a two  
5 cent per kilowatt hour rate reduction and customers  
6 under schedule 48 can firm up that power for 50 cents  
7 a KVA, which is between one mill and one and a half  
8 mills depending upon load factor and power factor. So  
9 it eats up very little of the savings to turn that  
10 offering into a firm resource offering, which is  
11 functionally indistinguishable from the quality of  
12 service one would receive as on the tariff rate.

13 Q. Finally, did Mr. Talbot include in his  
14 financial analysis an assumption of lost revenue to  
15 Puget from a pilot program of the size and type  
16 described by Mr. Sturzinger?

17 JUDGE SCHAER: Mr. Manifold, can you tie  
18 that question into whose cross you are seeking to  
19 provide redirect upon?

20 MR. MANIFOLD: Well, Commissioner Gillis  
21 was asking about the pilot program and the use of it  
22 for use of schedule for 48 for a model. That was my  
23 tie.

24 JUDGE SCHAER: Go ahead.

25 A. Yes. Mr. Talbot has five different

1 exhibits. There's his regulatory case, which is his  
2 Exhibit NHT-3, which is pretty much what public  
3 counsel is proposing here, and in that the annual  
4 revenue lost from the pilot program in the years 1999,  
5 2000 and 2001 is exactly the same as the revenue lost  
6 from schedule 48 one year earlier effectively showing  
7 the pilot as one year behind the schedule 48, but of  
8 identical magnitude in revenue lost to the company.

9           The regulatory case is the key one to look  
10 at and that's because that's the one in which the lost  
11 revenues are written up and that one does not have the  
12 lost revenue. All of the others show exactly the  
13 amount of the pilot. NHT-4, 5 and 6 and 7 all have  
14 the losses from the pilot on page 5 of each of those  
15 exhibits. It's the same magnitude as schedule 48.

16           MR. MANIFOLD: I have no other questions.

17           JUDGE SCHAEER: Is there anything further  
18 for this witness? Mr. Cedarbaum.

19           MR. CEDARBAUM: Just a few.

20

21                           REXCROSS-EXAMINATION

22 BY MR. CEDARBAUM:

23           Q.    Mr. Lazar, during your questioning -- I  
24 think it was from Mr. Merkel -- you referenced a staff  
25 response to a public counsel data concerning more than

1 one gas provider operating in the same certificated  
2 area?

3 A. Yes, I recall that.

4 Q. Would you accept subject to check that the  
5 question that was asked in that data response was with  
6 reference to Mr. Maglietti's testimony as follows:  
7 "In light of the Electric Lightwave decision is it the  
8 position of the WUTC staff that the Commission could  
9 refuse to consider issuing more than one certificate  
10 of public convenience and necessity to provide natural  
11 gas service in a specified area?" Do you recall that  
12 as the question?

13 A. Yes.

14 Q. And the answer after an objection to  
15 calling for a legal conclusion, after an objection to  
16 the question calling for a legal conclusion, which I  
17 appear to be waiving at this point, the answer says as  
18 follows, "Electric Lightwave was divided under RCW  
19 80.36.230 and would not bear directly upon the  
20 provision of natural gas service. However, under RCW  
21 80.28.190 the Commission cannot refuse to consider  
22 issuing more than one gas certificate in a  
23 specified area."

24 A. Yes, that's my recollection of that  
25 response.

1 Q. So how the Commission should consider that  
2 question would be determined under the statute that I  
3 was referencing?

4 A. That statute and I presume other applicable  
5 statutes.

6 Q. Okay. Then the final area I had for you  
7 you referred to a 1979 court case that grew out of  
8 U-79 --

9 A. I believe it was U-79-70. It was the  
10 electric heat ban case in which the Commission ordered  
11 a ban on new electric space and water heating  
12 connections for Puget Power.

13 Q. And this was -- this is a Seattle Master  
14 Builders case?

15 A. Yes.

16 Q. Is it correct that that was a Thurston  
17 County Superior Court decision?

18 A. I believe it was King County Superior Court  
19 and it was mooted on appeal.

20 Q. You're right, it was King County. Is it  
21 correct that in that decision the court issued no  
22 finding of fact that there was a shortage of  
23 electricity to serve customer needs or would you  
24 accept that subject to check?

25 A. I will accept that subject to check. It's



1 been a few years.

2 Q. Is it also correct that that decision by  
3 the King County Superior Court was issued both under  
4 the obligation to serve statute and the prohibition  
5 against undue preferences statute?

6 A. That's my recollection, yes.

7 Q. And in 1979, when this -- in 1980 when this  
8 case was being considered we didn't have the type of  
9 customer choice issues that we have today as a result  
10 of open access type issues and schedule 48 issues and  
11 all the rest of it?

12 A. I'm not sure that I would agree. I think  
13 we had a lot of the same issues then. The Commission  
14 was going through the generic proceeding and  
15 industrial customers were in that proceeding asking  
16 for special rate options and special rate treatment in  
17 U-78-05 which was going on pretty much the same time.  
18 It wasn't -- the bulk power market wasn't developed at  
19 the point that it is today with power marketers out  
20 chasing loads, but I think clearly industrial  
21 customers were as in tune with their power costs then  
22 as they are today.

23 Q. We didn't have back in that time period the  
24 type of open -- an open access initiative like we have  
25 today?

1 A. No.

2 Q. And we didn't have back then a tariff like  
3 schedule 48?

4 A. Well, a tariff something like schedule 48  
5 was proposed in that docket. That is, there was a  
6 proposal for a short-run marginal cost-based tariff  
7 made for otherwise prohibited loads in U-79-70, so the  
8 issue that people who want incremental power should  
9 pay incremental costs was on the table. I'm not sure  
10 it's as different as people assume it is.

11 MR. CEDARBAUM: Thank you.

12 JUDGE SCHAEER: Is there anything further  
13 for this witness? Thank you for your testimony.  
14 Let's go off the record for just a moment to change  
15 witness.

16 (Recess.)

17 JUDGE SCHAEER: Let's be back on the record  
18 after a brief recess to change witnesses. During the  
19 recess I marked two exhibits for identification as  
20 follows: Marked for identification first is the  
21 testimony of Donald W. Schoenbeck on behalf of  
22 Northwest Industrial Gas Users and I've marked that  
23 exhibit as T-225. Secondly, there's the direct  
24 testimony of Lincoln Wolverton for the Industrial  
25 Customers of Northwest Utilities and I've marked that

1 exhibit as T-226.

2 And Ms. Pyron, did you want to address the  
3 testimony of Ms. Schoenbeck first?

4 (Marked Exhibits T-225 and T-226.)

5 MS. PYRON: Yes, Your Honor.

6 JUDGE SCHAER: Would you please grab a  
7 microphone there, turn on the portable.

8 MS. PYRON: Your Honor, given that all  
9 parties have waived cross-examination of Mr.  
10 Schoenbeck and that the Commissioners do not have any  
11 questions, nor do you, we would request that we admit  
12 Exhibit T-225, the testimony of Donald Schoenbeck, by  
13 stipulation.

14 JUDGE SCHAER: It's correct that the bench  
15 does not have any questions for Mr. Schoenbeck. Is  
16 there any objection by any party? That document is  
17 admitted.

18 MS. PYRON: Thank you, Your Honor.

19 (Admitted Exhibit T-225.)

20 JUDGE SCHAER: Mr. MacIver.

21 MR. MACIVER: Yes, Your Honor. Similarly,  
22 we had been advised that neither the bench, the  
23 Commissioners nor the parties have any questions for  
24 witness -- ICNU witness Lincoln Wolverton which has  
25 been marked for identification as T-226 and therefore

1 we would move that it be admitted into evidence by  
2 stipulation.

3 JUDGE SCHAER: Is there any objection?  
4 That document is admitted.

5 (Admitted Exhibit T-226.)

6 Whereupon,

7 JOHN STORY,

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

10 JUDGE SCHAER: I have just been handed an  
11 exhibit that says Revised Exhibit of John H. Story and  
12 it indicates that it's JH-3. Is this meant to  
13 substitute for one of your exhibits from an earlier  
14 stage of this proceeding?

15 THE WITNESS: Yes, it is. I believe  
16 Exhibit 23.

17 JUDGE SCHAER: Mr. Story has prefiled  
18 several exhibits which I will identify as follows. As  
19 Exhibit T-227 for identification, we have the rebuttal  
20 testimony of John H. Story, and is everything top  
21 secret up to 14?

22 THE WITNESS: Yes. 13 is not, that's  
23 correct.

24 JUDGE SHCAER: Exhibit JHS-7 has been  
25 marked for identification as Exhibit TS-228, JHS-8 has

1 been marked for identification as Exhibit TS-229.  
2 JHS-9 as TS-230. JHS-10 as TS-231. JHS-11 as TS-232.  
3 JHS-12 as TS-233. JHS-13 as Exhibit 234. JHS-14 is  
4 Exhibit 235 and JHS-16 is Exhibit 236.

5 And then it's my understanding that the  
6 document that you handed out you would like to have as  
7 a replacement exhibit for Exhibit 23 or did you want  
8 to have a new number, Mr. Van Nostrand?

9 MR. VAN NOSTRAND: It will be replacement  
10 exhibit for Exhibit 23 will be fine. We can have Mr.  
11 Story explain the only thing that's been added but  
12 it's just an update of Exhibit 23.

13 JUDGE SCHAEER: I've been handed the  
14 following documents. First is response to staff  
15 record requisition No. 20. Mark that as Exhibit 237  
16 for identification. The next is response to staff  
17 data request No. 98 and I will mark that as 238 for  
18 identification. Your witness is sworn Mr. Van  
19 Nostrand.

20 MR. VAN NOSTRAND: Thank you, Your Honor.

21 (Marked Exhibits T-227, TS-228, TS-229,  
22 TS-230, TS-231, TS-232, TS-233 and 234 - 238.)

23

24

25

DIRECT EXAMINATION

1 BY MR. VAN NOSTRAND:

2 Q. Mr. Story, do you have before you what's  
3 been marked for identification as Exhibit T-227?

4 A. Yes, I do.

5 Q. Do you recognize that as your prefiled  
6 rebuttal testimony in this case?

7 A. Yes.

8 Q. Do you have any additions or corrections to  
9 make to that document?

10 A. No.

11 Q. And do you understand that in accordance  
12 with the twelfth supplemental order in this case on  
13 page 14 of Exhibit T-277 --

14 JUDGE SCHAEER: 227, Counsel.

15 Q. 227.

16 -- lines 8 through 18 are excluded but for  
17 the word yes on line 8 and a half?

18 A. Yes.

19 Q. If I asked you the answers as set forth in  
20 Exhibit T-227 today, would you give the answers as  
21 sever therein?

22 A. Yes.

23 Q. And do you also have before you what's been  
24 marked for identification as Exhibits TS-228 through  
25 236?

1 A. Yes, I did.

2 Q. Do you recognize those as the exhibits  
3 accompanying your prefiled rebuttal testimony?

4 A. Yes.

5 Q. Do you have any additions or corrections to  
6 make to those exhibits?

7 A. No.

8 Q. Were they prepared under your direction and  
9 supervision?

10 A. Yes.

11 Q. Are they true and correct to the best of  
12 your knowledge?

13 A. Yes.

14 MR. VAN NOSTRAND: Your Honor, I would move  
15 the admission of Exhibit T-227, TS-228, TS-229,  
16 TS-230, TS-231, TS-232, TS-233 and 234 through 236.

17 JUDGE SCHAEER: Is there any objection?

18 MR. CEDARBAUM: I would like to ask a few  
19 questions in aid of an objection.

20 JUDGE SCHAEER: Go ahead, Mr. Cedarbaum.

21 MR. MACIVER: Before you begin could I have  
22 a question just on witness marking? I have JHS-16  
23 attached to the testimony. Did that get marked with  
24 an exhibit number?

25 JUDGE SCHAEER: JHS-16?

1 MR. VAN NOSTRAND: Is 236. It's confusing  
2 because JHS-15 is not being offered.

3 JUDGE SCHAEER: JHS-15 was excluded so throw  
4 it on the floor and you will be okay.

5 MR. MACIVER: Thank you.

6

7 VOIR DIRE EXAMINATION

8 BY MR. CEDARBAUM:

9 Q. Mr. Story, are you ready for some  
10 questions?

11 A. Yes.

12 Q. In preparing your rebuttal testimony in  
13 this proceeding I assumed you read the staff case?

14 A. Yes, I did.

15 Q. And so you reviewed Mr. Martin's testimony  
16 and exhibits?

17 A. Yes, I did.

18 Q. You also reviewed his work papers?

19 A. Yes, I did.

20 Q. Did you attend his deposition?

21 A. Yes, I did.

22 Q. And you reviewed that deposition along with  
23 the exhibits to it?

24 A. I'm sorry?

25 Q. You reviewed his transcript of that



1 deposition and the work papers?

2 A. Yes, I did.

3 Q. Did you also receive from him a fax that's  
4 included in Exhibit 183?

5 A. After I filed my testimony, yes.

6 Q. And you talked to Mr. Martin about that  
7 fax?

8 A. Yes, I did -- no, I did not. I did not  
9 talk to him about the fax.

10 Q. Did you have a conversation about the staff  
11 electric rate reduction with him?

12 A. Yes, but that was prior to the fax.

13 Q. And were you in the room when Mr. Martin  
14 was cross-examined earlier this week?

15 A. Yes, I was.

16 Q. Is it your understanding -- irrespective of  
17 what it may have been up until this point, is it your  
18 understanding now that the staff proposed electric  
19 rate reduction is a cumulative total of 75.5 million?

20 A. With that qualification, yes, I do.

21 Q. But you're not intending to revise your  
22 testimony in any respect?

23 A. I think prior to this week before that  
24 testimony and exhibits were put in I think the record  
25 would have been 103.

1 Q. Are any of your exhibits that accompany a  
2 rebuttal testimony based upon \$103.4 million?

3 A. Yes, they are.

4 Q. Which are they?

5 A. JHS-12 and JHS-8 and 9, I believe. Hold on  
6 just a moment, please. That's correct.

7 Q. So we're talking about Exhibit 229 --  
8 TS-229, 230 and 233, again, JHS-8, 9 and 12?

9 A. That's correct.

10 MR. CEDARBAUM: Your Honor, those are all  
11 my questions in aid of the objection. At this time I  
12 would move to strike Mr. Story's testimony at pages 2  
13 and 3 in their entirety and at page 6, lines 5 through  
14 6. The specific line on page 6 would be, "As  
15 discussed above staff's proposal is actually rate  
16 reduction of \$103.4 million."

17 I would also move to strike exhibit JHS-8,  
18 9 and 12 since they are based upon -- let me back off  
19 that. First the testimony itself, Mr. Story just  
20 agreed that the staff revenue reduction on the  
21 electric side is \$75 and a half million not the 103  
22 that he claims in his testimony so that testimony  
23 becomes irrelevant and his exhibit JHS-8, 9 and 12 are  
24 based upon an incorrect assumption of the staff rate  
25 reduction of \$103.4 million so those exhibits are also

1 irrelevant to this proceeding.

2                   JUDGE SCHAEER: Any brief response, Mr. Van  
3 Nostrand?

4                   MR. VAN NOSTRAND: Yes, Your Honor. I  
5 think as Mr. Story testified, been somewhat clarified,  
6 I believe the model runs stand as they are. The  
7 proper response would probably allow Mr. Story to  
8 indicate the extent to which substituting \$75.5  
9 million for \$103 million would modify the conclusions  
10 or his exhibits, but I think the fact that staff has  
11 clarified this week in a manner -- in a manner by way  
12 of additional information, which was not included in  
13 the staff case nor was it provided to us by the time  
14 that we prepared our rebuttal testimony, shouldn't be  
15 used as a means of excluding from this record the  
16 company's response to the staff case as it understood  
17 it.

18                   MR. CEDARBAUM: Can I briefly respond to  
19 that because, I'm sorry, but the implication that  
20 Mr. Story could now have only become clear on what the  
21 staff recommendation was -- is -- I think really a  
22 gross mischaracterization of what has happened. We  
23 established through Mr. Martin that his testimony was  
24 clear, his deposition was clear, the fax he sent to  
25 Mr. Story was clear. Mr. Lazar also testified he had

1 no difficulty understanding the staff case.

2           There have been plenty of opportunity for  
3 Mr. Story to not file his rebuttal testimony as it was  
4 or to certainly revise it prior to today, and now I'm  
5 being told that instead of striking the testimony and  
6 the exhibits I'm going to have to try to figure out  
7 his testimony today about what the implications would  
8 be if you insert the correct assumption of 75 and a  
9 half million for the 103.4 that he used. So I object  
10 to the characterization of how we got to this point  
11 and the notion that I am not going to get live  
12 testimony to correcting his mistake.

13           MR. VAN NOSTRAND: If I may briefly  
14 respond.

15           JUDGE SCHAEER: I have a question first.  
16 What was the date of Mr. Martin's deposition?

17           MR. CEDARBAUM: October 4.

18           JUDGE SCHAEER: October 4 of this year?

19           MR. CEDARBAUM: Yes, a week before the  
20 filing of the rebuttal, and the fax to Mr. Story was  
21 on October 16, so there was still plenty of time to  
22 revise the testimony prior to today.

23           JUDGE SCHAEER: Mr. Van Nostrand.

24           MR. VAN NOSTRAND: Your Honor, we explored  
25 in great detail on the record in Mr. Martin's

1 deposition this very issue. Those work papers were  
2 included as exhibits at that deposition and frankly  
3 based -- even after that extensive discussion it was  
4 not clear, and it became clear if at all only after  
5 Exhibit 183 was provided, which was on October 16,  
6 five days after our testimony was filed.

7           The information included on that exhibit  
8 was not discussed, was not made available during the  
9 deposition of Mr. Martin nor was it included as a work  
10 paper with staff's filing so I don't agree that we are  
11 mischaracterizing the record. We are stating it as it  
12 actually happened.

13           MR. CEDARBAUM: Even if that's true --

14           JUDGE SCHAEER: Let me ask you Mr. Van  
15 Nostrand, looking at pages 2 and 3 of your testimony  
16 -- first of all, is everyone now in agreement that  
17 staff's case proposes a \$75.5 million reduction?

18           MR. VAN NOSTRAND: We understand that that  
19 is what staff intends. I guess the question was there  
20 was concern about even though that may have been what  
21 staff intended what would have actually resulted is  
22 another thing, we think it's been clarified that we  
23 now understand what staff intends, yes.

24           JUDGE SCHAEER: So Mr. Story agrees, you  
25 agree, Mr. Martin agrees, Mr. Cedarbaum agrees staff's

1 proposal is a cumulative \$75.5 million; is that  
2 correct?

3 MR. VAN NOSTRAND: Yes.

4 JUDGE SCHAEER: Then what benefit is there  
5 to having pages 2 and 3 of Mr. Story's rebuttal  
6 testimony in the record?

7 MR. VAN NOSTRAND: I think it's our  
8 analysis, Your Honor, that it doesn't make a whole lot  
9 of difference in terms of the difference between 75  
10 and 103 versus whether or not it achieves acceptable  
11 financial results from the company.

12 JUDGE SCHAEER: Well, I read the first  
13 question and I see that you're saying 75.5 is wrong,  
14 103.4 is right. You've just said that's not what you  
15 believe now, correct?

16 MR. VAN NOSTRAND: It has been clarified  
17 since this testimony was filed that the staff --

18 JUDGE SCHAEER: So this is not going to aid  
19 the record to leave this in, is it?

20 MR. VAN NOSTRAND: I believe it does, Your  
21 Honor.

22 MR. CEDARBAUM: I disagree.

23 JUDGE SCHAEER: Well, Mr. Van Nostrand, I'm  
24 sorry, but I just cannot understand why if you agree  
25 that the one number is the correct number you would

1 want to have a question and answer in here arguing  
2 that it's the wrong number.

3 MR. VAN NOSTRAND: Well, perhaps that's  
4 okay on pages 2 and 3 but I think --

5 JUDGE SCHAEER: Then let's eliminate pages 2  
6 and 3. Now let's go to page 6, lines 5 and 6. Those  
7 pages, it appears to me to make sense to eliminate  
8 this sentence. Is there something I'm missing?

9 MR. VAN NOSTRAND: This is the sentence on  
10 pages 6 lines 5 to 6?

11 JUDGE SCHAEER: It says, "As discussed above  
12 staff's proposal is actually a rate reduction of 103.4  
13 million." That's the sentence you propose to strike.  
14 Is that correct, Mr. Cedarbaum?

15 MR. CEDARBAUM: Yes.

16 JUDGE SCHAEER: It makes sense to me to  
17 strike it, Mr. Van Nostrand, but I'm willing to listen  
18 to why it doesn't make sense to you.

19 MR. VAN NOSTRAND: If you're going to  
20 take pages 2 and 3 then that 5 and 6 should go as  
21 well.

22 JUDGE SCHAEER: And you agreed that 2 and 3  
23 should go as well?

24 MR. VAN NOSTRAND: Yes.

25 JUDGE SCHAEER: So that line is gone, too.

1 Now we get to top secret exhibits 229, 230 and 233.  
2 And it's my understanding that all of those exhibits  
3 are based on an assumption regarding staff's case of  
4 103.4 million as a reduction.

5 MR. VAN NOSTRAND: Yes.

6 JUDGE SCHAEER: And you've known since the  
7 16th that all of you agree that that number is wrong.  
8 Is there a reason why you didn't revise and update  
9 these exhibits?

10 MR. VAN NOSTRAND: I don't know that we've  
11 known since the 16th. I think we've established this  
12 last week with the testimony of Ms. Linnenbrink and  
13 Mr. Martin when Exhibit 183 was in the record and Mr.  
14 Martin was asked to clarify what exactly that said.

15 JUDGE SCHAEER: What I expect would make  
16 sense, and tell me either one of you why it wouldn't,  
17 is for you to take three days between now and Tuesday  
18 morning at 9:00 to plug in the correct number and  
19 update those three exhibits.

20 MR. VAN NOSTRAND: That would be fine, Your  
21 Honor.

22 JUDGE SCHAEER: Does that work for you, Mr.  
23 Cedarbaum? I know that doesn't give you much time.

24 MR. CEDARBAUM: I guess I'm trying to  
25 recall whether -- I can't recall if these three



1 exhibits are subject to our further discovery from the  
2 Commission's rule.

3 JUDGE SCHAER: Yes, they are, Mr.  
4 Cedarbaum, or at least I know that No. 12 is. I don't  
5 know that 8 or 9 are. I believe 10 through 12 are.

6 MR. CEDARBAUM: Well, if that's your  
7 inclination I'm certainly willing to work with that.  
8 Mr. Story has a comment about it, though.

9 THE WITNESS: I was just going to mention  
10 JHS-8 has already been done. It's a data request 236  
11 and it was put in as an exhibit already.

12 JUDGE SCHAER: So if that's true would it  
13 make sense just to strike JHS-8?

14 THE WITNESS: Mr. Van Nostrand.

15 MR. VAN NOSTRAND: That's true that  
16 basically represents a rerun of JHS-8 at 75 million.

17 JUDGE SCHAER: So we should strike this  
18 JHS-8 and just have you revise 9 and 12 by Tuesday  
19 morning?

20 THE WITNESS: I can provide 12 right now.  
21 It was handed to me before the meeting if they would  
22 take it with the understanding that I have not  
23 reviewed it other than to glance through it and see  
24 that it looks reasonable. I will provide them a copy  
25 now but we may want to correct it over the weekend.

1                   MR. CEDARBAUM: That would be fine. Maybe  
2 you can give it to us and you can tell us on Tuesday,  
3 and you can give us another revision if you need to on  
4 Tuesday and the other exhibit.

5                   THE WITNESS: That's fine.

6                   JUDGE SCHAEER: I know it's Friday night at  
7 5:00, but what I am inclined to do is let Mr.  
8 Frederickson ask his ten minutes of questions before  
9 we go home. Is there any problem with that by anyone?

10                  THE WITNESS: Make one comment. I need to  
11 have somebody call somebody to do this because I'm not  
12 going to be able to get ahold of the individual that  
13 runs these models runs over the weekend.

14                  JUDGE SCHAEER: Why don't we go off the  
15 record for about two minutes to allow you to get that  
16 arranged and then we will take Mr. Frederickson's  
17 questions and then we will take a three-day weekend.

18                                 (Recess.)

19                  JUDGE SCHAEER: Does anyone else have any  
20 objection to any of the exhibits that Mr. Van Nostrand  
21 has offered at this point? Hearing none Exhibits  
22 T-227, TS-228 are admitted. Exhibit TS-229 is  
23 refused. Exhibit TS-230 will be admitted on Monday  
24 in revised form. Should I go ahead and admit it now  
25 and we'll just put in the revised one or do you want

1 to look at it first?

2 MR. CEDARBAUM: Can we wait? I hate to be  
3 this overly cautious but I would like to be able to  
4 see it first.

5 JUDGE SCHAER: We're going to withhold  
6 ruling on TS-230. TS-231 is admitted. TS-232 is  
7 admitted. TS-233 is withdrawn because what exhibit  
8 number is the response to Exhibit 236?

9 THE WITNESS: It was the one Dr. Lurito was  
10 calling me the kindly Mr. Story.

11 JUDGE SCHAER: So was it put in through Dr.  
12 Lurito.

13 THE WITNESS: Right.

14 MR. CEDARBAUM: It's Exhibit TS-96.

15 JUDGE SCHAER: Because Exhibit TS-296 can  
16 take its place. Excuse me, Exhibit TS-96. Exhibit  
17 234, 235 and 236 are admitted.

18 (Admitted Exhibits T-227, TS-228, TS-231,  
19 TS-232 and 234 - 236.)

20 JUDGE SCHAER: Mr. Frederickson, you may  
21 cross-examine Mr. Story.

22 MR. FREDERICKSON: Thank you, Your Honor  
23 and I thank everyone for their courtesy late this  
24 Friday afternoon.

25

## CROSS-EXAMINATION

1

2 BY MR. FREDERICKSON:

3 Q. Mr. Story, I believe you were in the  
4 hearing room a few days ago and heard me ask staff  
5 witness Schooley several questions in connection with  
6 the allocation formula to be used where a direct  
7 assignment of costs is not possible; is that correct?

8 A. Yes.

9 Q. And you agree that direct assignment of  
10 costs is preferable -- that direct assignment of costs  
11 is preferable where possible?

12 A. Yes.

13 Q. And where direct assignment of costs is not  
14 possible then the allocation formula adopted should  
15 produce results that closely approximate the results  
16 which would have been realized by direct assignment  
17 had that been possible; is that correct?

18 A. I would like to -- I remember the  
19 conversation you were having with Tom Schooley and I  
20 would just like to clarify the direct cost allocation.  
21 If you were talking the costs, as you look at two  
22 utilities as a separate entities, gas and electric,  
23 those costs as being either gas or electric and  
24 under that definition of direct costs the answer is  
25 yes.

1 Q. If I could refer you to Exhibit 227, page  
2 13, lines 18 through 24.

3 A. I'm sorry, which page?

4 Q. Page 13.

5 A. I have it, yes.

6 Q. Am I to understand that the allocation  
7 formula you proposed and Mr. Schooley wants to modify  
8 for technical reason gives results closer to the  
9 actual recorded historical costs; is that correct?

10 A. That's correct.

11 Q. Then it is on the basis of the results it  
12 produces rather than the technical point that you  
13 prefer and support the four-factor formula you  
14 originally proposed; is that correct?

15 A. At this time, yes.

16 MR. FREDERICKSON: I have no further  
17 questions.

18 JUDGE SCHAEER: Thank you. Before we go off  
19 the record I am just glancing at Exhibit TS-96 and it  
20 states that it is a rerun of Exhibit JHS-8. Is that  
21 --

22 THE WITNESS: That was one of the ones that  
23 we identified, yes. That was Exhibit 229.

24 JUDGE SCHAEER: So this is the one that we  
25 would use in place of 229. All right. Is there

1 anything further that we need to take up before ending  
2 today? Mr. Manifold.

3 MR. MANIFOLD: I was just curious if off  
4 the record we could discuss what the witness order is  
5 going to be on Tuesday.

6 JUDGE SCHAEER: Let's be off the record and  
7 we will reconvene in this room at Tuesday morning at  
8 9:00.

9 (Hearing adjourned at 5:00 p.m.)

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