

00785

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)

4)
Complainant,)

5)

vs.)

6)

PACIFICORP, d/b/a)

7 PACIFIC LIGHT AND POWER,)

)

8 Respondent.)

9

10 A hearing in the above matter was held on
11 June 7, 2000, at 9:07 a.m., at 1300 South
12 Evergreen Park Drive Southwest, Olympia, Washington,
13 before Administrative Law Judge DENNIS J. MOSS

14

15 The parties were present as follows:

16 PACIFICORP by JAMES M. VAN NOSTRAND, Attorney
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17 Seattle, Washington 98101-3197.

18 PACIFICORP, by STEPHEN C. HALL, Attorney at
Law, Stoel Rives, 900 Southwest Fifth Avenue, Suite
19 2300, Portland, Oregon 97204-1268

20 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
by MELINDA J. DAVISON (via bridge), Attorney at Law,
21 Duncan, Weinberg, Genzer and Pembroke, 1300 Southwest
Fifth Avenue, Suite 2915, Portland, Oregon 97201.

22

PUBLIC COUNSEL, by ROBERT W. CROMWELL, JR.,
23 Assistant Attorney General, 900 Fourth Avenue, Suite
2000, Seattle, Washington 98164-1012.

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WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION, by ROBERT W. CEDARBAUM, Assistant Attorneys

3 General, 1400 South Evergreen Park Drive Southwest,

4 Post Office Box 40128, Olympia, Washington 98504-0128.

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Kathryn T. Wilson, CCR

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Court Reporter

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

2 JUDGE MOSS: Good morning, everyone. We are
3 reconvened in our hearing proceedings in Docket
4 UE-991832, the matter of Washington Utilities and
5 Transportation Commission against PacifiCorp general
6 rate case, and we are concluding this morning our
7 cross-examination on the Company's direct case, and I
8 believe we have Mr. Peterson first and then
9 Mr. Griffith and perhaps an hour or so of
10 cross-examination to be conducted.

11 Unless there is some preliminary particulars,
12 we can launch directly into that. Is there any
13 preliminary matter we need to take up?

14 MR. CEDARBAUM: Two points, and this may have
15 been covered yesterday. The commissioners are not
16 present today, and my understanding is the parties have
17 waived their presence. If that's not already on the
18 record, I thought we ought to put it on the record.

19 JUDGE MOSS: The commissioners have been
20 sitting in this case. We did have an unanticipated
21 overrun, and they were not available this morning to
22 sit in. The parties did agree in discussions with the
23 Bench yesterday that it would be acceptable to continue
24 with simply me on the Bench, and then the commissioners
25 will have the transcripts available. Anything else?

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1 MR. CEDARBAUM: Just a housekeeping matter.
2 I handed out this morning a replacement Exhibit No. 60
3 in an attempt not to mess up our numbering system, what
4 has been previously marked as Exhibit 60, which, I
5 think, is Staff Data Request 386. That can be thrown
6 out and replaced with a document. The cover page
7 indicates it's a Staff Data Request Attachment Response
8 7-B, and that will be for Mr. Peterson.

9 JUDGE MOSS: Staff Data Request Attachment
10 Response 7-B. With that then, I guess we need to swear
11 the witness.

12 (Witness sworn.)

13 JUDGE MOSS: Let me pause here and ask who
14 has joined us on the conference bridge line.

15 MS. DAVISON: This is Melinda Davison.

16 JUDGE MOSS: I'm glad you were able to join
17 us. We've just sworn Mr. Peterson, and I was seeing if
18 there were any preliminary matters, and so since you've
19 just joined us, I will ask if you had any preliminary
20 matters you need to take up before we launch into the
21 cross-examination.

22 MS. DAVISON: No, I don't, Your Honor. Thank
23 you.

24 JUDGE MOSS: Let's go ahead with the direct
25 examination then. We will proceed.

00792

1 DIRECT EXAMINATION

2 BY MR. VAN NOSTRAND:

3 Q. Good morning, Mr. Peterson. Would you state
4 your name and spell it for the record, please?

5 A. My name is Daniel C. Peterson. That's
6 D-a-n-i-e-l, C, P-e-t-e-r-s-o-n.

7 Q. You're employed by PacifiCorp?

8 A. Yes, I am.

9 Q. What is your position with PacifiCorp?

10 A. I'm a manager in the regulation department.

11 Q. Do you have before you what's been marked for
12 identification as Exhibit 57-T?

13 A. Yes, I do.

14 Q. Do you recognize that as your prefiled
15 supplemental direct testimony in this proceeding?

16 A. Yes.

17 Q. Do you have any additions or corrections to
18 make to that document?

19 A. No, I don't.

20 Q. If I asked you the questions set forth
21 therein, would you give the answers as set forth
22 therein?

23 A. Yes.

24 Q. Do you also have before you what's been
25 marked for identification as Exhibits 58 and 59?

00793

1 A. Yes.

2 Q. Do you recognize those documents as the
3 exhibits accompanying your prefiled supplemental direct
4 testimony?

5 A. Yes.

6 Q. Are they true and correct to the best of your
7 knowledge?

8 A. Yes, they are.

9 Q. You have no revisions or corrections to make
10 to those documents?

11 A. No.

12 MR. VAN NOSTRAND: Your Honor, I would move
13 the admission of Exhibit 57-T and 58 and 59.

14 JUDGE MOSS: There being no objection, those
15 will be admitted as mark. I want to make sure I've
16 got the right paper here because there is a stray mark
17 here that suggests that I may have some confusion. 58
18 I have as a depreciation adjustment, and it was dated
19 May 2000. That's the correct 58?

20 MR. VAN NOSTRAND: Yes.

21 JUDGE MOSS: And then for 59, I have
22 something that calls itself a Book Depreciation Study
23 of Electric Property, also dated May 2000.

24 MR. VAN NOSTRAND: Yes. Mr. Peterson is
25 available for cross-examination.

00794

1 JUDGE MOSS: Mr. Cedarbaum?

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3

CROSS-EXAMINATION

4 BY MR. CEDARBAUM:

5 Q. Good morning, Mr. Peterson. My name is
6 Robert Cedarbaum. I'm an assistant attorney general
7 representing Staff. I have two lines of questions for
8 you this morning. The first one involves questions
9 deferred to you by Mr. Larsen yesterday, perhaps the
10 day before, so in that regard, you may want to have in
11 front of you his Exhibit 72, Tab 6, and the second line
12 of questions has to do with the prefiled testimony that
13 you submitted that is an Exhibit T-57.

14 Let's start off with the first line that
15 Mr. Larsen deferred to you, and in that regard, I'd
16 like to discuss for awhile Exhibit 72, Tab 6. If you
17 could look at Page 6.0, and under the Column 6.1 on
18 that page, is it correct that this is an adjustment to
19 annualize the depreciation expense based on currently
20 authorized depreciation rates?

21 A. Yes.

22 Q. Can you describe how the Company calculates
23 depreciation for booking purposes?

24 A. Yes. We actually provided that information
25 in our response to Staff Data Request No. 477. It's a

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1 fairly short response and I'm happy to read it. It
2 says: "PacifiCorp records depreciation monthly by
3 account and subaccount at the location level that is
4 for each generating plant, each transmission line and
5 substation, each distribution substation, each
6 communication facility, et cetera. During 1998, the
7 monthly depreciation calculation was performed based on
8 the plant balances at the end of the previous month.
9 Beginning in 1999, the monthly calculation is based on
10 the plant balances at the end of the previous month
11 plus one half of the current month plant additions."

12 Q. So you take a depreciation rate and multiply
13 it by a monthly balance as you just defined?

14 A. That's correct.

15 Q. Adjustment 6.1 in Exhibit 72 is calculated on
16 year-end balances as of December 31st, 1998; is that
17 right?

18 A. Yes.

19 Q. Is it correct that in the calculation of that
20 adjustment, Centralia plant is removed?

21 A. That's correct.

22 Q. But the adjustment includes plant related to
23 Colstrip 3 and common plant related to Colstrip 3 and
24 4; is that correct?

25 A. Yes.

00796

1 Q. Staying on Page 6.0 of Tab 6, Adjustment 6.4
2 and 6.5 implement the new depreciation rates that
3 you've proposed in your testimony; is that right?

4 A. That's correct.

5 Q. Adjustment 6.1 and 6.2 were based on year-end
6 plant balances; is that right?

7 A. Yes.

8 Q. So is it correct that as a result of your
9 adjustments in 6.1 and 6.4, you've adjusted book
10 depreciation for the depreciation expense based on the
11 year-end plant at the new depreciation rates that you
12 are proposing in this case?

13 A. That's correct.

14 Q. We already discussed how the book
15 depreciation is calculated where you indicated that you
16 take the depreciation rate times the monthly amount as
17 you earlier defined. Is it correct that for part of
18 1998, the depreciation rate was based on a 1997
19 depreciation study?

20 A. That's right for the first six months of
21 1998.

22 Q. Do you know if that 1997 study was ever
23 authorized by this Commission?

24 A. No, it was not.

25 Q. I don't know if you have it in front of you,

00797

1 but we had premarked as Exhibit 139 the Company's
2 response to Staff Data Request 480, and I would just
3 simply like to offer that into evidence. It was
4 something we were going to offer through Mr. Larsen,
5 but it was deferred to Mr. Peterson.

6 MR. CEDARBAUM: I have no questions on the
7 exhibit. I just wanted to get it into evidence. We
8 can do it by stipulation. That's fine too.

9 JUDGE MOSS: Any objection? Do you need a
10 minute?

11 MR. CEDARBAUM: Again, the exhibit is the
12 Company's response to Staff Data Request 480.

13 THE WITNESS: It's just applying the rates to
14 an average plant instead of year-end plant.

15 MR. VAN NOSTRAND: I have no objection, Your
16 Honor.

17 JUDGE MOSS: It will be admitted then.
18 That's 139.

19 Q. (By Mr. Cedarbaum) Let's put aside the
20 questions for Mr. Larsen, and I will discuss for a few
21 minutes your testimony.

22 JUDGE MOSS: Since you are changing subjects,
23 let's go off the record for just a minute.

24 (Discussion off the record.)

25 Q. Mr. Peterson, referring to your Exhibit 57-T,

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1 which is your own prefiled direct testimony, on Page 1,
2 Line 22, you refer to what has been marked and entered
3 as Exhibit 59, a Deloitte and Touche depreciation
4 study; do you see that?

5 A. Yes.

6 Q. Is Exhibit 59 the same study that the Company
7 filed initially in its Utah proceeding?

8 A. Yes, it is.

9 Q. Is it correct that the Company and the other
10 parties in the Utah proceeding reached a settlement
11 with respect to depreciation parameters and rates?

12 A. That's correct.

13 Q. Referring you to what's been marked for
14 identification as Exhibit No. 60, do you recognize this
15 as the Utah settlement that you also reference in your
16 direct testimony at Page 1, Line 19?

17 A. Yes.

18 MR. CEDARBAUM: Your Honor, I'd move the
19 admission of Exhibit 60.

20 MR. VAN NOSTRAND: No objection.

21 JUDGE MOSS: It will be admitted.

22 Q. (By Mr. Cedarbaum) Are the depreciation
23 parameters and rates from the Utah settlement the same
24 that the Company proposes that the commission in this
25 state adopt?

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1 A. For production transmission, general and
2 mining plant, they are the same.

3 Q. We'll talk about distribution in just a
4 couple of minutes. Are the depreciation parameters and
5 rates in Exhibit 59 those that the Company initially
6 proposed to use in Washington, or are they the
7 parameters and rates from the Utah settlement?

8 A. Would you repeat that question?

9 Q. Looking at Exhibit 59, which is the --

10 A. Stipulation.

11 Q. It's the Deloitte and Touche study, and my
12 question is, are the depreciation parameters and rates
13 shown in the Deloitte and Touche study the same that
14 the Company initially proposed in its case in this
15 jurisdiction, or are they in the Utah agreement?

16 A. I think that initially the information that
17 we provided to Staff -- well, we provided both the
18 original study and the Utah stipulation to Staff, but
19 we have proposed from the onset that we use the rates
20 in the Utah stipulation for production and
21 transmission, general and mining. We've never, I
22 believe, proposed in Washington that we use the rates
23 for those functions from the original study.

24 Q. So with respect to all plant accounts other
25 than distribution, what's shown in the Deloitte and

00800

1 Touche study was not proposed in this state.

2 A. That's correct.

3 Q. In your testimony at Page 2, you refer to a
4 Staff memo -- this is at Line 16 and 17 -- with respect
5 to distribution depreciation rates; do you recall that?

6 A. Yes.

7 Q. Looking at Exhibit 61 for identification, is
8 this the Staff memo that you referenced?

9 A. Yes.

10 MR. CEDARBAUM: I'd move the admission of
11 Exhibit 61.

12 MR. VAN NOSTRAND: No objection.

13 JUDGE MOSS: It will be admitted as marked.

14 Q. (By Mr. Cedarbaum) So on Page 2 of your
15 testimony for distribution plant, the Company is
16 proposing to use the depreciation parameters and rates
17 for the Deloitte and Touche study as modified by the
18 Staff memo recommendations.

19 A. Yes, that's correct.

20 Q. Just a couple of final questions for you. On
21 Page 3 of your testimony, Lines 3 to 5, you indicate
22 that the total proposed increase in depreciation
23 expense is three million, and is it correct that that
24 adjustment, the calculation of that adjustment is shown
25 in your Exhibit 58 on Page 1?

00801

1 A. The effect of adopting the Staff's
2 recommendation for distribution plants is reflected in
3 the expense calculation on DCP-1.

4 Q. I guess what I'm asking is if you look at
5 Page 1 of 12 of DCP-1, which is now Exhibit 58, at the
6 total depreciation adjustment line under the Washington
7 allocated portion, there is a number, \$2,981,130. Is
8 that the three-million-dollar figure you were referring
9 to?

10 A. Yes, it is, approximately.

11 Q. Staying on the same page at the top of the
12 page, all the way on the left-hand side, there is a
13 description labeled "adjustment to expense." You
14 understand there was some confusion as to what that
15 meant by Staff. Can you just clarify what is meant in
16 that column?

17 A. The confusion arises on Page 2 of 12,
18 actually, where the same heading appears, "adjustment
19 to expense." Actually, Page 2 of 12 is the adjustment
20 to accumulated depreciation. Account 108 is
21 accumulated depreciation. This page of my exhibit is
22 actually the same as Mr. Larsen's Adjustment 6.5, and
23 if you look at that, they do have the heading correct
24 on that page. It's adjustment to rate base, not
25 adjustment to expense.

00802

1 Q. So for example, if we were to look on Page 1
2 of 12 of Exhibit 58 about the middle of the page on the
3 right-hand side, there is a figure \$1,445,898?

4 A. Yes.

5 Q. That is twice the amount of the figure on
6 Page 2 of 12 in the same location on the page, the
7 \$722,949 figure?

8 A. That's right. The assumption is that the
9 depreciation expense is recorded uniformly throughout
10 the year, so on the average, half of it is in the
11 accumulated depreciation.

12 Q. And next to that \$723,000 figure, there is a
13 reference to Page 3. Can you just explain how that
14 ties in?

15 A. The Page 3 reference shows the calculation of
16 the expense amount, the \$1,445,000 from the previous
17 page. Then the \$723,000 is half of that amount,
18 essentially.

19 MR. CEDARBAUM: Thank you, Mr. Peterson.
20 Those are all my questions.

21 JUDGE MOSS: Mr. Cromwell, did you have a few
22 questions?

23 MR. CROMWELL: I have no questions for
24 Mr. Peterson.

25 JUDGE MOSS: Any redirect?

00803

1 MR. VAN NOSTRAND: No, Your Honor.

2 JUDGE MOSS: Thank you, Mr. Peterson. We
3 will release you from the stand. Thank you for helping
4 us with our record. Our last witness, I believe, will
5 be Mr. Griffith. You remain under oath, and we won't
6 need to do it a second time.

7

8 DIRECT EXAMINATION

9 BY MR. VAN NOSTRAND:

10 Q. Good morning, Mr. Griffith. Could you state
11 your name and spell it for the record, please?

12 A. My name is William R. Griffith,
13 W-i-l-l-i-a-m, R, G-r-i-f-f-i-t-h.

14 Q. You're employed by PacifiCorp?

15 A. Yes.

16 Q. What is your position with PacifiCorp?

17 A. I'm manager of pricing for PacifiCorp.

18 Q. Do you have before you what's been marked for
19 identification as Exhibit 230-T?

20 A. Yes, I do.

21 Q. Do you recognize that as your direct
22 testimony in this proceeding?

23 A. Yes, it is.

24 Q. Do you have any additions or corrections to
25 make to Exhibit 230-T?

00804

1 A. No, I don't.

2 Q. If I asked you the questions set forth in
3 that document, would your answers be the same today?

4 A. Yes.

5 Q. Do you have before you what's been marked for
6 identification as Exhibits 231, 232, and 233?

7 A. Yes, I do.

8 Q. Do you recognize those exhibits as the
9 exhibits accompanying your prefile direct testimony in
10 this case?

11 A. Yes, they are.

12 Q. Do you have any additions or corrections to
13 make to those exhibits?

14 A. No, I do not.

15 Q. Are they true and correct to the best of your
16 knowledge?

17 A. Yes, they are.

18 Q. You also have before you what's been marked
19 for identification as Exhibits 234 and 235?

20 A. Yes.

21 Q. These are the rate spread and rate design
22 comparison sheets that accompany the filing of the
23 Company's revised testimony and exhibits on May 9th?

24 A. That's correct.

25 Q. Were those prepared by you or under your

00805

1 supervision?

2 A. Yes, they were.

3 Q. Are they true and correct to the best of your
4 knowledge?

5 A. Yes, they are.

6 Q. Do you have any revisions or corrections to
7 make to those?

8 A. No, I do not.

9 MR. VAN NOSTRAND: Your Honor, I move the
10 admission of Exhibits 230-T and 231 through 235.

11 JUDGE MOSS: Hearing no objection, those will
12 be admitted as marked.

13 MR. VAN NOSTRAND: Mr. Griffith is available
14 for cross-examination.

15 JUDGE MOSS: Mr. Cedarbaum?
16

17

CROSS-EXAMINATION

18 BY MR. CEDARBAUM:

19 Q. Thank you, Your Honor. Mr. Griffith, I just
20 have a couple of questions for you, but they were also
21 deferred to you by Mr. Larsen. What I need you to look
22 at for my questions is Exhibit 80, which was the
23 Company's response to Staff's Data Request 289, and
24 this has to do with Adjustment 3.3, which was the
25 optional schedule normalization adjustment.

00806

1 If you look at Page 3 of the exhibit, which
2 is the last page of the exhibit, it shows that the
3 effect of the adjustment is to move customers from
4 Schedule 24 to Schedule 36, which results in a revenue
5 decrease of approximately \$444,000; is that right?

6 A. Yes, that's correct.

7 Q. Do you know if it's the Company's intention
8 to refund that amount to those customers?

9 A. No, it is not. It's the Company's intention
10 to notify all customers who are on optional rates that
11 they have available to them an option, and that if they
12 believe their usage has changed, they may benefit by
13 service on the alternative schedule.

14 Q. So no intention for refunds for those
15 customers?

16 A. No. Optional schedules are the customer's
17 choice. The customer may choose for purposes of one
18 rate design over the other, one has a higher customer
19 charge than another. Customers have the choice of the
20 rate option. What this adjustment does is it assumes
21 that these customers would be served on the lowest
22 price schedule. It's been a standard adjustment the
23 Company has made on optional schedule analysis.

24 MR. CEDARBAUM: Thank you. Those are all my
25 questions.

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1 JUDGE MOSS: Mr. Cromwell?

2 MR. CROMWELL: Your Honor, as a preliminary
3 matter, I have, per your instructions to wait until
4 this time -- I can pass up to the Bench two additional
5 exhibits which I've already predistributed to counsel,
6 if I may approach.

7 JUDGE MOSS: Sure. While he's distributing
8 these papers, I'm going to ask Ms. Davison, are you
9 still on the line? So we have two additional exhibits?

10 MR. CROMWELL: Yes, Your Honor.

11 JUDGE MOSS: Give me a minute to get those
12 marked. The first of these will be the Public Counsel
13 Data Request 133, and that's going to be No. 241, and
14 then Public Counsel Data Request 134 will be 242 for
15 identification.

16 MR. CROMWELL: Thank you, Your Honor. As I
17 informed you yesterday, we have one other preliminary
18 evidentiary issue to raise. The Company has asserted
19 confidentiality with their response to Public Counsel
20 Data Request 43. The response consists solely of
21 publicly available information. It does not fall
22 within the scope of Chapter 42.17 RCW or RCW 80.04.095.
23 Therefore, Public Counsel challenges the assertion of
24 confidentiality under WAC 480-09-015, Sub 3, and
25 requests the Commission put the Company to its burden

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1 of proof as to the confidentiality of this exhibit.

2 JUDGE MOSS: And I gather counsel have
3 discussed this in advance and have been unable to
4 reconcile their differences?

5 MR. CROMWELL: We discussed it at the time of
6 the last hearings, and that was six weeks or so ago,
7 and the Company was not willing to agree with us. They
8 informally agreed, yes, that the document contains
9 publicly obtainable information but were not willing to
10 waive confidentiality because -- well, I guess it would
11 be improper for me to speculate.

12 JUDGE MOSS: Is that the status today?

13 MR. VAN NOSTRAND: Yes, Your Honor. We've
14 marked this document confidential. We would prefer to
15 maintain the confidentiality of this document. We do
16 believe it falls within the scope of both the statute
17 and the Commission's regulations as to the information
18 which should be protected from disclosure and
19 information which is protected by the protective order
20 so that parties can have access to information in this
21 proceeding, but it doesn't have a legitimate purpose
22 outside of the proceeding.

23 There is no question the document is relevant
24 to this proceeding and it's helpful, but it should be
25 limited to the parties to this proceeding, and it

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1 should be limited to the purposes of this proceeding.
2 While the information technically may be publicly
3 available, the Company goes to considerable expense and
4 efforts to compile this information on a periodic
5 basis, and this is the type of information which could
6 be used against the Company outside of this proceeding,
7 particularly because it is compiled by the Company and
8 it has the Company's name on it, but this is precisely
9 the type of information that could cause the Company
10 harm outside of this case, depending on how the
11 Company's rates compare with other possible providers.

12 Even within the Company, it's my
13 understanding -- and Mr. Griffith may wish to add to
14 this -- that access to this document is severely
15 limited because of its competitively sensitive nature,
16 and we therefore believe it falls within the scope of
17 the statute and regulations as to information which
18 should be accorded confidential treatment, and the
19 protective order provides adequate measures to the
20 Company's satisfaction to using this document in this
21 case, but we don't believe this document has any
22 legitimate purpose and could be used to substantial
23 mischief against the Company outside of this case.

24 JUDGE MOSS: Is the concern because it's all
25 compiled in one place? Let's start with that question.

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1 Is the concern because this is the only place where all
2 this information is pulled together? In other words,
3 it seems to me the only real issue here is that this
4 material is already publicly available, so our imposing
5 confidentiality restraints on it here seems pointless,
6 unless it is not available in this form.

7 MR. VAN NOSTRAND: It's not available in this
8 form right now. It's that the Company goes to
9 considerable effort to compile it.

10 JUDGE MOSS: So if anyone else wanted to
11 compile this information, the suggestion is perhaps
12 they could but it would be onerous.

13 MR. VAN NOSTRAND: Exactly, which is why I
14 believe it's the desire to make it available so that
15 certain others could perhaps use it for other reasons.

16 THE WITNESS: Your Honor, may I add a point
17 to this?

18 JUDGE MOSS: Yes, go ahead.

19 THE WITNESS: The Company has prepared this
20 document since 1984. We maintain confidentiality
21 within the Company. It is available on the Company's
22 intranet Web Site. An employee who accesses it goes
23 through a screen which says that this document is for
24 internal Company use only and is not for public
25 distribution. The employee must then accept or decline

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1 that agreement and then they may go in and view the
2 information.

3 We compile it, as we say, for internal
4 Company use only. We believe it is accurate to the
5 best of our knowledge. We call all those utilities and
6 collect the information from them. If it became
7 public, others could charge perhaps it isn't accurate
8 or up-to-date. There could be a lot of back and forth
9 on its accuracy. It certainly has commercial value to
10 other utilities who would, if their rates are higher
11 than ours, they may not be too excited about it, but if
12 they are lower than ours, they could say, "See, Pacific
13 Power, their own document shows that our rates are
14 lower than theirs," but they could say, "But they are
15 wrong," and we could get into a back and forth on that.

16 We believe it's accurate for internal Company
17 use purposes and that parties are free to use the
18 information in it, but it's the document itself in that
19 form which we believe needs to be retained as
20 confidential for purposes of, as Jamie said, mischief,
21 perhaps, or a number of issues could come up, and
22 again, we have retained it as a confidential document
23 for over 15 years now. This isn't something new for
24 this rate case.

25 JUDGE MOSS: Did I understand you correctly

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1 that the data is compiled by your Company by making
2 individual contacts with the various customers who are
3 listed on here?

4 THE WITNESS: Yes. My group in pricing does
5 these calls and prepares this document.

6 JUDGE MOSS: So to the extent there is a
7 suggestion that it's publicly available information, is
8 that the same process anybody else would have to follow
9 to compile it or is it published somewhere else?

10 THE WITNESS: It isn't published anywhere
11 else we are aware of. Anyone is free to go through the
12 same process we have gone through and contact all the
13 utilities and prepare this type of analysis.

14 JUDGE MOSS: All right. I'm prepared to hear
15 your response, if any. The Company has put forth its
16 effort to substantiate the claim of confidentiality, so
17 as the challenger, you should have the opportunity to
18 respond.

19 MR. CROMWELL: With all due respect, Your
20 Honor, Mr. Van Nostrand's assertions of compliance are
21 not the same as compliance with the requirements, the
22 laws of this state, and the Company's assertions as to
23 its internal treatment of this document are not
24 relevant to the legal question of whether it qualifies
25 for confidentiality treatment under Washington law.

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1 JUDGE MOSS: On its face, it's got customer
2 specific and pricing information, which seems to bring
3 it pretty squarely within our rule, but you seem to be
4 suggesting that because others could compile this
5 information in the same fashion working from raw data,
6 that would somehow waive the confidentiality of a
7 compilation by the Company, and I don't follow that
8 exactly.

9 MR. CROMWELL: If I may, two aspects to that.
10 First, it is publicly available information. Part of
11 that, and one of the reasons why we are challenging the
12 confidentiality of this document is we believe it will
13 be valuable to the education of our clients, which is
14 the public at the public hearings.

15 A second aspect of that issue is that other
16 companies do compile the same type of information, and
17 I'm not aware of their requesting confidentiality
18 treatment for their compilations of similar data. As
19 to the legal question, if I may approach the Bench.

20 JUDGE MOSS: Come ahead.

21 MR. CROMWELL: Your Honor, the Commission's
22 rule cites to the general chapter of 42.17 and
23 specifically to 80.04.095, which is what I have passed
24 up to the Bench and counsel, you will see that
25 80.04.095 only protects viable commercial information

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1 and trade secrets, confidential marketing costs or
2 financial information, customer-specific usage, network
3 configuration, design information.

4 With all due respect to Mr. Griffith and
5 Mr. Van Nostrand, there is no customer-specific data in
6 the information they are seeking to make confidential.
7 It contains Company provider -- I guess I should say
8 energy Company data on rates. From looking at this, I
9 can't tell you how much Weyerhaeuser pays for their
10 energy. I can't tell you how much Boise-Cascade pays
11 for their energy, but we could tell you how much their
12 energy providers charge different customer rates or
13 classes. There is nothing in this document that
14 qualifies under the law for confidential treatment.
15 Their assertion that their internal treatment of it is
16 confidential should carry no weight as to the legal
17 question of whether it meets the standards of
18 Washington law.

19 Their assertion that it requires effort to do
20 this, that it's a form of Company work product, is
21 likewise not recognized under Washington law as a basis
22 for confidential treatment, and I would respectfully
23 assert that the same argument could be made for any
24 document they've produced, because anything they would
25 do presumably would take effort. I've provided you

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1 with a copy of 80.04.095 because it is the specific law
2 cited by the Commission's rule. I believe a cursory
3 view of 42.17 would convince you that the types of
4 information protected by 42.17 are not the types of
5 information contained in this document.

6 JUDGE MOSS: 42.17 is a very lengthy statute,
7 and I don't think cursory review would be a very good
8 idea. I have reviewed it at length on occasion, and
9 it's not very illuminating, frankly, in terms of the
10 types of documents this Commission receives, reviews,
11 and considers; although, it does speak specifically to
12 some of the document handling by this Commission. Of
13 course, I'm familiar with what 80.04.095 says as well.
14 I've had occasion to review it quite recently in
15 connection with another case.

16 My concern is that I think I hear you
17 suggesting that the specific definitions here, because
18 they do not refer expressly to Company compilations of
19 information, that that somehow is never protected if
20 that information could similarly be compiled by
21 somebody else. Is that the assertion?

22 MR. CROMWELL: No, Your Honor, it is not. My
23 assertion is two-fold. One, the type of information
24 the Company is seeking to protect here is not within
25 the express scope of the statute. Second, --

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1 JUDGE MOSS: Why isn't it valuable commercial
2 information?

3 MR. CROMWELL: I cannot believe that the
4 legislature in enacting this law intended that a
5 compilation of publicly available information would be
6 deemed commercially valuable.

7 JUDGE MOSS: I think you would find case
8 authority to the contrary on that. I can't cite you a
9 case off the top of my head, but I'm certain I have
10 read authority that discusses the fact that a company
11 may compile certain information in a fashion that gives
12 it commercial value that independent of that
13 compilation it would not have, so I do believe that
14 such documents can fall within the definition of
15 valuable commercial information. In other words, if no
16 one else has figured out how to compile this
17 information in this way, then the company has produced
18 a product that is in itself commercially valuable.

19 MR. CROMWELL: I would agree with you, Your
20 Honor, with respect to certain types of data and
21 certain types of compilation that that could be true.
22 What I'm asserting is that if you take the rationale
23 you have just articulated, the same would be true of
24 virtually any compilation this company has created. In
25 other words, they could assert that it has independent

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1 commercial value due to its compilation within any
2 category. That would allow them to assert
3 confidentiality to each and every document that
4 reflects such a compilation, and I think it is also
5 equally well founded in the case law of Washington that
6 you do not interpret statutes to absurd results such as
7 their applicability to everything that the company does
8 in compiling information.

9 MR. VAN NOSTRAND: If I may respond briefly,
10 there is a second prong to that, and that is if the
11 information could be used to the harm or disadvantage
12 of the information provider, which is the exact
13 language used on Page 1 of the Commission's protective
14 order: "Absent a protective order, a significant risk
15 exists that confidential information might become
16 available to persons who have no legitimate need for
17 such information and that injury to the information
18 provider could result."

19 The Company is not seeking to protect
20 virtually every compilation that the Company performs.
21 Only those which potentially could cause harm to the
22 Company. This is precisely the sort of a document that
23 could cause information to the provider, is precisely
24 the type of compilation that should be protected from
25 disclosure for purposes other than in this proceeding,

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1 and it is valuable commercial information. We can talk
2 about all the specific items that are listed in this
3 statute, but the question is whether it's valuable
4 commercial information, and I believe the compilation
5 in and of itself creates value.

6 MR. CROMWELL: May I respond, Your Honor?

7 JUDGE MOSS: Yes.

8 MR. CROMWELL: With all due respect to
9 Mr. Van Nostrand, for example, the FERC Form 1 the
10 Company files, presumably occupies a significant effort
11 and reflects that in the time they have to spend
12 producing that document. It's also equally clear that
13 that document is a public document and readily
14 available.

15 Second, I would ask you to reflect on the
16 fact that under the Commission's rules, the burden of
17 proving confidentiality is upon the Company, and
18 they've made no demonstration of how the discreet
19 information in this document is commercially sensitive.

20 JUDGE MOSS: They have me fairly convinced,
21 so I don't think I can agree with your last point. I
22 think on balance, I am convinced that this particular
23 compilation of the information does have commercial
24 value to the Company. I'm particularly persuaded by
25 the fact that the Company's own internal handling of

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1 this is undertaken with such sensitivity. It does
2 strike me too that to the extent that others can
3 independently compile this kind of information -- that
4 is, the argument made in support of the fact that it is
5 publicly available -- that if the Public Counsel's
6 office wishes to undertake that task on its own, it may
7 certainly do so.

8 To the extent you believe this is somehow
9 valuable to your clients, then you certainly may do
10 that, but I believe that as a compilation in the
11 particular way the data has been compiled and presented
12 that it does appear to me to have some commercial
13 value, and I'm going to overrule the challenge, so let
14 us proceed, and we have the document in the case and
15 that, of course, is the value of the protective order,
16 and you may refer to it. Do you want to refer to
17 specific numbers and so forth about the document?

18 MR. CROMWELL: No. I was not intending to do
19 that on the record.

20 JUDGE MOSS: So we don't have any question as
21 to needing to seal some portion of the record or
22 anything like that?

23 MR. CROMWELL: I don't believe so. I'll
24 forewarn you if we do stray into that territory.

25 JUDGE MOSS: Fine. Then we will take the

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1 appropriate steps. We do only have a small group
2 today, and it may be that everybody is a signatory to
3 the confidentiality agreement, so we might not have to
4 do anything special other than mark the transcript.

5 MR. CROMWELL: Thank you for your
6 consideration.

7 JUDGE MOSS: I appreciate the careful
8 argument of both counsel. It was well presented by
9 both sides and a close call. Let's go ahead.

10 MR. CROMWELL: On the next procedural matter,
11 Your Honor, I consulted with Mr. Van Nostrand at the
12 end of the day yesterday and identified for him the
13 exhibits that we are proposing to introduce with this
14 witness and see if we could reach stipulation on any of
15 them.

16 MR. VAN NOSTRAND: We have. There is no
17 objection whatsoever.

18 MR. CROMWELL: For the record, I believe that
19 is 236-C, 237, 238, 239, 240, 241 and 242; is that
20 correct, Mr. Van Nostrand?

21 MR. VAN NOSTRAND: Yes.

22 JUDGE MOSS: So those exhibits will be
23 admitted as marked. And I do express, again,
24 appreciation for the efforts of counsel to expedite
25 things in that fashion.

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1 CROSS-EXAMINATION

2 (BY MR. CROMWELL).

3 Q. Mr. Griffith, good morning. Just to give you
4 a preface, I have two areas of questions, one on rate
5 design, one on rate blocks. I guess I should ask, were
6 you here yesterday?

7 A. Yes, I was.

8 Q. You are aware Mr. Larsen deferred some
9 questions to you?

10 A. Yes.

11 Q. I'll be bringing those up at the end. There
12 are two issues in rate design that I would like to
13 address first - residential customer charges and
14 residential rate blocking. Beginning with the customer
15 charge, in Year 1, is it correct that you are proposing
16 an increase of 33 percent in the customer charge from
17 \$3.75 a month to \$5 a month, which would be about twice
18 as large as the overall residential rate increase you
19 are proposing?

20 A. That's correct. We are proposing an increase
21 of \$1.25 to the customer charge.

22 Q. At Page 9 of your testimony, you indicate
23 that Mr. Taylor's cost-of-service study indicated a
24 basic charge in excess of \$9 per month is warranted
25 based on the monthly costs for service drop, metering,

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1 and billing; is that true?

2 A. Yes, that's correct.

3 Q. Is that the Company's position on what costs
4 should be included in the customer charge?

5 A. Yes, it is.

6 Q. Can you direct me to exactly where in
7 Mr. Taylor's cost-of-service study this figure of \$9 is
8 calculated?

9 A. I have a work paper for Mr. Taylor, and I'm
10 not sure where it is in the cost-of-service study. I
11 would be glad to provide you with a copy of that. It
12 is a unit cost breakout of this information for all
13 rate schedules, and it shows an amount of \$9.03.

14 Q. Do you know whether Mr. Taylor included that
15 in his direct testimony or attached exhibits, or is it
16 just in work papers that the Company has internally?

17 A. I believe it's included in his work papers.
18 I don't have the reference exactly where it is.

19 Q. Are his work papers filed with the
20 Commission?

21 A. I'm not sure, but again, I would be glad to
22 provide you with the document.

23 MR. CROMWELL: Why don't we go down that
24 route. Your Honor, are we at 30?

25 JUDGE MOSS: Yes, we would have Records

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1 Requisition No. 30 at this point, and it would be this
2 Taylor work paper.

3 MR. CROMWELL: Regarding the customer charge
4 and documents supporting the \$9 figure in
5 Mr. Griffith's direct testimony. Does that make sense
6 Mr. Griffith?

7 THE WITNESS: Yes.

8 Q. (By Mr. Cromwell) Mr. Taylor's exhibits
9 include the cost of uncollectible expenses in a retail
10 category on Page 7 of his Tab 4.5. Can you tell me
11 whether you include these costs in your customer charge
12 calculation?

13 A. No, I cannot. Again, Mr. Taylor had prepared
14 that, and I understand that parties have waived
15 cross-examination of him. We utilized the output from
16 his results in our development of price design.

17 Q. Just so that I'm clear, you took Mr. Taylor's
18 data and applied it to your efforts.

19 A. What we did on the customer charge is we
20 looked at the current customer charge of \$3.75, which
21 is one of the lowest customer charges on the PacifiCorp
22 system. It is also one of the lowest customer charges
23 in Washington. We then discussed with Mr. Taylor what
24 the cost-of-service results, and that indicated \$9. We
25 certainly didn't believe that was a reasonable level,

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1 but we did believe it was reasonable to increase the
2 customer charge over its current level, so we used
3 Mr. Taylor's results for guidance in determining our
4 proposed customer charge.

5 Q. Thank you. Mr. Taylor's exhibits also
6 include costs of monthly rather than bimonthly meter
7 reading and billing in a retail category. Do you
8 include these costs in your customer calculation?

9 A. Yes, I believe we do. The Company does
10 monthly meter reading throughout its six- to
11 eight-service territory, and those costs would be
12 included in customer charge.

13 Q. Can you tell me why the Company reads meters
14 every month and bills customers every month as opposed
15 to alternative approaches?

16 A. First of all, some states require it. The
17 Company runs its billing system on a system-wide basis,
18 not on a state-specific basis. The Company has
19 historically, as long as I've been with the Company,
20 which is over 16 years, we have done monthly billing in
21 all our states. So I guess the short answer is some
22 states require it, and we also believe that customers
23 prefer monthly bills.

24 Q. Let me ask you, based upon that statement,
25 if, for example, this commission or another commission,

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1 say, Oregon, were to require the Company to go to
2 bimonthly billing and meter reading, would that be
3 technically possible for the Company using its in-place
4 computer infrastructure and billing systems?

5 A. Yes, it would be technically possible. It
6 would also result in an increased billing cost that
7 would be allocated to the state that requires bimonthly
8 meter reading and billing since the Company billing
9 system is designed for monthly billing.

10 Q. So doing something half as often would cost
11 more?

12 A. Well, it would result in a special accounting
13 treatment and compilation of those customer records
14 that is different from the standard monthly billing
15 that's done throughout the system.

16 Q. And it's your testimony that that would
17 accrue additional charges?

18 A. That would require changes to the billing
19 system and would result in additional costs because of
20 those changes to the programming and recordkeeping
21 system.

22 Q. And those changes would cost more than the
23 transactional saving of not doing billing half of the
24 year?

25 A. I think what I'm saying is that it certainly

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1 would cost more on an up-front basis. I'm not sure
2 over what period of time, if it would continue to cost
3 more forever or what, but certainly, the initial change
4 would result in increased costs over, my guess, the
5 savings of a stamp and an envelope.

6 Q. Let me ask you, is it correct that the
7 average Pacific residential customer uses more than a
8 thousand kilowatt hours per month?

9 A. I believe in Washington, the average Pacific
10 Power and Light customer uses more than a thousand
11 kilowatt hours, yes.

12 Q. Let's say if every residential customer used
13 only 10 or 20 kilowatt hours per month instead of more
14 than a thousand, do you think it would make sense to
15 read meters and bill every month?

16 A. I think if any conditions changed that
17 perhaps a different system implementation would make
18 sense, but the fact is that our customers are, on
19 average, large users.

20 Q. Does the Company have any unmetered
21 customers, such as streetlights, traffic lights,
22 outdoor advertising, where you know what the usage is
23 every month?

24 A. Yes, I believe we do.

25 Q. Let's hypothesize for a minute that if every

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1 residential customer used exactly 500 kilowatt hours
2 per month each and every month, would you agree that it
3 would not be necessary to read meters every month?

4 A. Yes. What we do for our customers who have
5 constant, unvarying loads, they are not metered, so if
6 any type of customer, residential, commercial or
7 industrial customer, had constant unvarying load, it
8 wouldn't make sense to meter them. You could certainly
9 result in some cost savings.

10 Q. So then if I understand it, the justification
11 for metering is a customer that uses a significant
12 amount of energy that might vary from month to month?

13 A. I think I'd say that a customer whose usage
14 varies from month to month.

15 Q. Moving now to rate blocks, PacifiCorp
16 currently uses a two-block inverted residential rate
17 design, and you are proposing to change that to a flat
18 rate, are you not?

19 A. Yes, we are. We are proposing in Year 2 that
20 we would implement a flat, single-block rate for
21 residential customers as a way to simplify the rate for
22 them and at the same time to have a rate that is in
23 excess of long-run marginal costs.

24 Q. Have you reviewed the Commission's decision
25 in Cause No. U-7805 in which the Commission adopted the

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1 baseline rate concept for Pacific?

2 A. I have given a cursory review to that
3 decision from 22 years ago, yes.

4 Q. To your knowledge, has the Company ever asked
5 the Commission to reopen that proceeding and review
6 that decision?

7 A. I don't believe we've asked them to reopen
8 that proceeding. I'm not aware of that. I think we
9 are asking the Commission in this case to reconsider a
10 decision of inverted block rates. Where the Company
11 has eliminated those in Oregon, we now have a single
12 block rate, and we eliminated the inverted rate there,
13 as did Portland General Electric, and this is the only
14 remaining state -- well, I can't say that. California
15 also has inverted rates, but we are expecting to sell
16 that shortly. Washington is the only other state that
17 has inverted rates currently.

18 Q. Suffice it to say that U-7805 does discuss
19 baseline rates. As you indicated, you had a cursory
20 review of it. Let me define a baseline rate for you
21 and see if we understand the term the same way. I
22 would define a baseline rate as an allocation of lower
23 cost power available from the Company's lowest cost
24 generating resource to meet the basic needs of
25 residential customers. Do we have the same

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1 understanding of the meaning of that term?

2 A. That's a way to define it, yes.

3 Q. Would you define it some other way?

4 A. I would agree generally with that.

5 Q. Is it your understanding that Pacific has a
6 number of different generating resources ranging from
7 one extreme of a 100-year-old hydrodam to newer thermal
8 plant?

9 A. Yes, we have a range of resources.

10 Q. Would you expect these resources would have
11 different costs?

12 A. Yes.

13 Q. Did you consider the different costs of
14 different resources in your recommendation to eliminate
15 the baseline rate design?

16 A. We considered marginal costs in our proposal
17 to eliminate the residential inverted rate, and as
18 indicated in my testimony that the proposed rate, the
19 flat rate is in excess of marginal cost.

20 Q. I believe that marginal cost you estimated
21 was five cents?

22 A. Yes, in over that range.

23 Q. At Page 10 of your testimony, you state that
24 the Company's -- I'll just quote it for the record:
25 "The marginal demand in energy costs for residential

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1 customers on our system is under five cents per
2 kilowatt hour"; is that correct?

3 A. That's correct, and what I said a moment ago
4 is incorrect.

5 Q. Can you tell me the exhibit attached to your
6 testimony supports that figure?

7 A. I believe we've provided this on a data
8 response, but as you know, the Company does not file a
9 marginal cost-of-service study in the State of
10 Washington. We asked Mr. Taylor to prepare a marginal
11 cost-of-service study for Washington, and he prepared
12 that for us, again, as giving us guidance in looking at
13 this.

14 The marginal cost-of-service results
15 indicated a number of 4.27-cents kilowatt per hour, and
16 these were draft results, but they were clearly well
17 below five cents, and we felt that was reasonable that
18 that's a correct statement based on his analysis.

19 Q. Can you tell me of that amount how much is
20 demand cost per kilowatt hour?

21 A. His analysis breaks our energy and then also
22 includes a second column for demand and energy. Since
23 there are no demand charges for residential customers,
24 the energy-only marginal cost was 2.08 cents. The
25 demand and energy marginal cost was 4.27 cents.

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1 Q. So demand alone would be the differential?

2 A. One could make that calculation, yes.

3 Q. Do you know whether or not he included
4 uncollectibles in that calculation? I should say
5 uncollectible expenses in that calculation of marginal
6 cost?

7 A. Again, I would prefer Mr. Taylor to answer
8 those questions, but I believe a marginal
9 cost-of-service study as opposed to an imbedded one
10 does not include uncollectibles.

11 Q. Can you tell me in that marginal
12 cost-of-service study whether the Company used the same
13 12-monthly peak method to assign demand related costs,
14 or did you use some other measure of peak?

15 A. I believe he used the 12 CP, but that would
16 be subject to check. Again, I would have preferred
17 Mr. Taylor to answer those questions.

18 Q. Would you agree that residential customers
19 use electricity for a variety of uses, such as lights,
20 appliance, water heat, space heat, cooling?

21 A. Yes.

22 Q. In general, would you agree that usage below
23 600 kilowatt hours a month is fairly steady year around
24 and would not reflect much space heating or cooling
25 usage?

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1 A. No.

2 Q. Is there a figure that you have in mind that
3 would?

4 A. No. It varies by customer. While one
5 residential customer living alone in a small apartment
6 might have monthly usage of steady usage or baseline
7 usage of perhaps 200-kilowatt hours a month, another
8 residential customer with a large family could have
9 steady, or what we call, I guess, minimum usage per
10 month, of well over 600-kilowatt hours per month. It
11 would vary by customer, just as the appliance mix in
12 any home varies by customer.

13 Q. Would you agree that -- I think you used the
14 term minimum usage or baseline -- a significant factor
15 in that would be heating or cooling needs, depending
16 upon the customer's location?

17 A. Significant factor in what?

18 Q. In their energy usage.

19 A. In their electric energy usage?

20 Q. Correct.

21 A. Could you restate the question, please?

22 Q. I was teeing off of your use of the terms --
23 it seemed like your analysis that different customers
24 might have different baseline usages, and therefore,
25 you weren't comfortable saying a benchmark below what

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1 you might say is baseline. Is that a fair resummation
2 of what you said?

3 A. Yes. I think I would say that customers vary
4 in size and location and in appliance mix and how many
5 lights they have on or how many refrigerators they
6 might have or whatever you might view as the constant,
7 steady baseline usage, and I don't believe that there
8 is necessarily one size fits all.

9 Q. With that in mind, does the Company have any
10 internal estimates for projections that it uses in
11 analyzing residential customer usage where it might
12 ascribe a baseline kilowatt-hour-per-month figure,
13 whether it's an average of any type?

14 A. No, not that I'm aware of, no.

15 Q. In making usage estimates, does the Company
16 in examining residential customer usage analyze heating
17 and cooling needs of its customers as a separate
18 element or as part of a baseline estimate or average
19 calculation?

20 A. The Company, to my knowledge, does not do
21 baseline usage analyses of residential customers. I
22 think what I was indicating was that it is clear that
23 different customers have different minimum levels of
24 usage just based on number of customers and size of the
25 dwelling and number of installed appliances.

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1 Q. In response to Public Counsel Data Request
2 No. 133, which we have had admitted as Exhibit 241, the
3 Company was asked to provide an estimate of load factor
4 for various residential end usage, was it not?

5 A. Yes. Request 132 said to provide any studies
6 performed by the Company on the load factor or load
7 shape of residential lights and appliances usage, space
8 heat usage, and water heat.

9 Q. Can you tell me whether the Company in
10 response to that data request provided any detail
11 regarding those?

12 A. First, there were two studies. One was the
13 Hood River study, which was done nearly 20 years ago,
14 and we indicated that data from that was no longer
15 available, and the Hood River study was done in Hood
16 River, Oregon. The second study, the Utah Power and
17 Light Pilot Program, had hard-copy documents available,
18 and those were available for review in the Salt Lake
19 City offices.

20 Q. So it's correct, is it not, that the Company
21 did not provide any detail in response to this data
22 request?

23 A. The Company made available those documents
24 for review in Salt Lake City.

25 Q. Let's just be clear which documents we are

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1 discussing. The PP and L Hood River project study, the
2 response from the Company says, does it not, "Data from
3 these studies is no longer recoverable due to computer
4 system changes in the 1990's."

5 A. Yes. I indicated that those data were no
6 longer available.

7 Q. You don't have a copy in a file cabinet
8 somewhere?

9 A. I don't.

10 Q. Do you know whether anyone else in the
11 Company does?

12 A. When we prepared this response, we discussed
13 with people who were around then and who might have had
14 that available, and what we had indicated is that those
15 documents were no longer available.

16 Q. Regarding the UP and L load control pilot
17 project, you said they were available but too
18 voluminous. Is there an executive summary of that
19 study available?

20 A. Not that I'm aware of, no. This response was
21 prepared by our load research group, and I would take
22 on face value what we have indicated here. We were
23 conducting a search of our archive material and would
24 provide those if it could be found, which they didn't,
25 so I guess there was not an executive summary.

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1 Q. But you don't know personally because someone
2 else did the work?

3 A. That's correct.

4 Q. Do you know who specifically did the work in
5 your load research group?

6 A. The load research manager is Rich Anderson.

7 Q. He would be the person who prepared this
8 response?

9 A. That's my understanding, yes.

10 Q. Let me ask you a hypothetical. If it could
11 be shown that usage above 600 kilowatt hours had a
12 different load factor than usage under 600 kilowatt
13 hours and calculated the marginal costs using the same
14 dollar per kilowatt hour and cents per kilowatt hour
15 that you used to develop the figure of five cents per
16 kilowatt hour that's reflected in Page 10 of your
17 testimony, would you agree that the calculation could
18 be performed separately for usage above and below 600
19 kilowatt hours, that a calculation using different load
20 factors would produce a different marginal cost for
21 usage above and below 600 kilowatt hours?

22 A. I would agree with that analysis if the usage
23 profiles being studied were those of our Washington
24 customers for setting our Washington rates. I wouldn't
25 agree that necessarily studies done in other parts of

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1 the state with different climate conditions than
2 Eastern Washington would necessarily make sense.

3 Q. Can you tell me whether or not the Company
4 has attempted to measure load factor above or below 600
5 kilowatt hours or to calculate separate marginal costs
6 above or below 600 kilowatt hours?

7 A. There has been some analysis that
8 Mr. Anderson has been preparing -- that was Rich
9 Anderson from the load research group -- looking at
10 load factors at different levels, but that has only
11 been done recently and as a result of some discussions
12 with Mr. Lazar.

13 Q. Can you tell me when he began that process?

14 A. I cannot tell you the date he began that
15 process.

16 Q. Do you know whether it's complete?

17 A. No, I don't.

18 Q. Do you know whether he would be able to share
19 his work papers as they exist?

20 A. The Company can certainly provide in response
21 to data requests work papers of this sort if those
22 exist, yes.

23 Q. Thank you.

24 MR. CROMWELL: Your Honor, are we on 31? As
25 Records Requisition Request No. 31, I would ask that

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1 the Company produce all work papers, memoranda,
2 including memoranda or draft memoranda, or any other
3 form of analysis, documentation relating to the topic
4 we've just been discussing, which is load factor usage
5 by residential customers.

6 THE WITNESS: So just to clarify, the request
7 is for a load factor analysis of residential customers
8 at different usage levels?

9 MR. CROMWELL: Yes. Isn't that what you said
10 Mr. Anderson had been looking at?

11 THE WITNESS: You said, load factor usage.

12 MR. CROMWELL: I wasn't trying to indicate
13 anything other than what we had just discussed.

14 JUDGE MOSS: Do you have more than about five
15 minutes more?

16 MR. CROMWELL: I have just the follow-up of
17 the one question Mr. Larsen deferred to Mr. Griffith
18 that I would like to take up with Mr. Griffith. The
19 rest I'm going to waive.

20 JUDGE MOSS: Go ahead.

21 Q. (By Mr. Cromwell) Mr. Griffith, you were
22 here when Mr. Larsen deferred a few questions to you,
23 and I'd like to get into one of those now. Do you
24 recall my discussing with him your Exhibit 232, Table
25 A, Line 20, Column 7, total sales to ultimate

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1 consumers, as well as his Tab 2, Page 23, total sales
2 to ultimate customers?

3 A. Yes.

4 Q. Do you recall the discussion I had with him
5 regarding that topic?

6 A. Yes, I do.

7 Q. I'd like to ask you some of the same
8 questions I asked him. Can you tell us whether the
9 Company means something different when it uses the
10 terms "total sales to ultimate consumers" versus "total
11 sales to ultimate customers"?

12 A. I can tell you that the two numbers are
13 different and that we have a reason we can explain
14 those differences. The purpose in my Table A is to
15 show the --

16 Q. Mr. Griffith, I apologize for cutting you
17 off, but my question focused more specifically on that
18 title of that line, your Line 20, Mr. Larsen's Line
19 105. Is the Company referring to the same thing when
20 it uses those different titles, in other words, the
21 "customers" versus "consumers"?

22 A. No, it's not referring to the same thing.

23 Q. Thank you. It is correct that the figure in
24 your Table A is \$181,024,000; correct?

25 A. That is the figure for present revenues as

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1 customers billed out on present prices. That is the
2 figure.

3 Q. And that figure in your previously originally
4 filed testimony had been \$180,681,000; correct?

5 A. Yes.

6 Q. Can you tell us what the reason is for the
7 discrepancies between those two figures that you have
8 and Mr. Larsen has?

9 A. Yes, I can.

10 Q. Please do so.

11 A. On Table A, we are showing customers
12 including the one special contract customer in the
13 state of Washington billed out under present rates
14 under historic usage for 1998, and the total is
15 \$181,024,000. If one subtracts the special contract
16 customer in the state of Washington, that number for
17 customers on standard tariff service would be
18 \$170,736,000.

19 Q. I'm sorry; could you give me that figure
20 again?

21 A. \$170,736,000. Mr. Larsen's exhibit Page 2.3
22 of Tab 2 of JKL-2 shows a number total sales of
23 \$185,003,000. Included in that are system allocated
24 special contracts which total \$14,269,000. That is the
25 amount allocated to Washington.

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1 Q. I'm sorry, 14 million....

2 A. \$14,269,000, and that comes from Page 2.3,
3 also of Mr. Larsen's exhibit, and is the sum of two
4 values, \$13,598,000 plus \$671,000, equaling, again,
5 \$14,269,000. If you subtract the system-wide allocated
6 special contract from the total sales to ultimate
7 customers in Mr. Larsen's testimony, the net value from
8 tariff revenue customers is \$170,734,000, or within two
9 thousand dollars of the net sales to tariff revenue
10 customers on my exhibit.

11 Q. I think that gives us a better understanding.
12 So Mr. Larsen's figure -- if we take your figure and we
13 pull out Washington single special contract, we get
14 down to the 170 million --

15 A. Right, for tariff customers.

16 Q. -- and if we take Mr. Larsen's number, and we
17 take out that special customer as well as the system
18 allocation to Washington of special contract customers,
19 they match up --

20 A. Mr. Larsen's is built up from the tariff
21 customers and added system allocation of special
22 contracts, so we both started with 170 million.

23 Q. Again, just to be clear, that system
24 allocation of special contracts, is it a reflection of
25 the Company's implementation of its PITA accord

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1 methodology?

2 A. Of the agreement that was reached on
3 treatment of special contracts, yes.

4 Q. The agreement that was reached with three of
5 the commissions, not including this one; correct?

6 A. From the discussion yesterday, that is my
7 understanding.

8 MR. CROMWELL: Thank you. I have nothing
9 further.

10 JUDGE MOSS: Ms. Davison, are you still with
11 us? Apparently not. Are you going to have any
12 redirect?

13 MR. VAN NOSTRAND: No, Your Honor.

14 JUDGE MOSS: Then I believe that will
15 complete your examination, Mr. Griffith, and we
16 appreciate you being with us this morning. I'm going
17 to have a brief recess now and then we will come back
18 and wrap things up. We need to get the Taylor matter,
19 whether we are going to have those exhibits. We'll
20 take that up and any other housekeeping matters, but
21 for now, let's do take a five- to ten-minute break.

22 (Recess.)

23 JUDGE MOSS: We are back on the record after
24 a brief recess, and I just want to go over a couple of
25 housekeeping matters and then we can go into recess

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1 until the next hearing phase.

2 As far as the exhibits are concerned, I will
3 be providing the parties with an updated exhibit list
4 in the next day or two as I get to it. I'll just note
5 quickly that in terms of the presubmitted exhibits,
6 according to my notes, 97 and 98 were not offered, and
7 there is a correction on Page 6. 103 and 104, we
8 reversed those numbers so that 104 concerns WUTC Data
9 Request 130, and 103 is 130-B, and I'll just make that
10 change. 119 was not offered. 135 was not offered, and
11 there were some additional exhibits. I'm not going to
12 go through those.

13 There is the matter of Mr. Taylor. I
14 understand that the parties waived cross-examination of
15 Mr. Taylor in light of the stipulation on rate spread
16 that the Commission approved yesterday, but I wonder if
17 it is the parties' desire that the preidentified direct
18 and cross-examination exhibits for Mr. Taylor be made
19 part of the record, and we can do that by stipulation
20 if that is what the parties want to do.

21 MR. CEDARBAUM: That was part of our
22 stipulation, so I think we can have them admitted by
23 stipulation. By my count, that was Exhibits 210
24 through 219.

25 JUDGE MOSS: Those will be admitted then.

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1 I'll date those as admitted today, and there were a
2 couple of Bench requests of which we've had responses.
3 According to my notes, we have three Bench exhibits, I
4 guess you might say, Bench Request No. 1, Bench Request
5 No. 2 are 266 and 267 respectively, and I don't think
6 we've done anything formal about those. I'll just
7 admit them, assuming there is no objection, and then we
8 marked 268 as the stipulation that I previously
9 referred to. So that's the status of the exhibit list.
10 As I said, I will get you out a revised copy in the
11 next day or two as I get to that.

12 Are there any other housekeeping matters we
13 need to take up at this phase? I understand the
14 parties will be contacting me tomorrow at 1:30?

15 MR. CEDARBAUM: That's correct, Your Honor.
16 My understanding is that Staff will be e-mailing both
17 you and the parties who will participate in the status
18 conference a telephone number to call in, so if anyone
19 else -- my intention would be if there is anyone else
20 that we need to advise that of, I'll put on the e-mail
21 list. The parties can let me know so we can make sure
22 they have the number or they can pass it along to
23 whoever they think should be attending.

24 JUDGE MOSS: It's an informal status
25 conference. It won't be on the record. I won't tape

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1 record it either. We'll do it informally, but if you
2 could get an e-mail out to all the parties, that should
3 be adequate.

4 MR. CEDARBAUM: The other thing that might be
5 helpful is that assuming that we are in a position of
6 asking the Commission to delay the proceedings, if you
7 could find out ahead of time what the commissioners'
8 availability is in the mid August time frame, that
9 would quicken things along tomorrow.

10 JUDGE MOSS: If we needed dates in mid
11 August, what would we be looking at in that time frame?
12 Would we be looking at the failure of settlement
13 discussions, and therefore, we basically would be just
14 shifting our existing procedural schedule by a couple
15 of weeks?

16 MR. CEDARBAUM: That's right. If we are
17 having hearings in August, it's because we haven't
18 settled, and so we would be using a full week for full
19 cross of Staff, Public Counsel, Intervenor, Direct,
20 Company rebuttal. If we do settle, then we would be
21 asking the Commission for a hearing date for
22 presentation of stipulation at an earlier time.

23 JUDGE MOSS: That probably would be just a
24 half a day or a single day that we would need to do
25 that as opposed to -- I think we scheduled a week, July

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1 31st through August 4th?

2 MR. CEDARBAUM: That's right, so I guess my
3 request to you is that if you could look for a week in
4 that mid August time frame, that's the information I
5 think that would be helpful for tomorrow.

6 JUDGE MOSS: Everybody no doubt is being at
7 least facially agreeable at this stage of the game, so
8 I guess I would turn to the Company and say, well,
9 let's assume for half a moment that things don't work
10 out and we have to slip the schedule a little bit to
11 accommodate the discussions, and we can't get dates in
12 August. Does the Company have in mind being agreeable
13 to waiving the 10-month rule by a matter of a couple of
14 weeks or whatever may be needed to accommodate that
15 problem? When we get to the end of this process, I
16 have to work with the commissioners and they have to
17 develop an order, and this all takes time.

18 MR. VAN NOSTRAND: That's part of the
19 discussions that we have is that there would be an
20 extension of a suspension period for this two-week lag
21 in the procedural schedule, and then whatever the
22 hearing dates are, we may need to revisit that.

23 JUDGE MOSS: I'll shoot initially for this
24 period. I'm going to look at the two-week, three-week
25 frame after what's currently scheduled and see if there

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1 is anything available there or not. I don't have any
2 idea at this point, but it's conceivable to me that it
3 might end up being four weeks instead of two weeks, but
4 we will do what we can.

5 MR. CEDARBAUM: I would just say that I think
6 the current schedule has about a three-week lag in
7 between rebuttal filing and the hearings. I could be
8 off on that. That's from Staff's perspective a minimum
9 amount of time if we are going to litigate the full
10 case to be able to prepare for a cross of the Company's
11 rebuttal. My request would be that in looking at
12 dates, you don't shorten that time frame.

13 JUDGE MOSS: To the extent we can avoid
14 compressing anybody's time, we will do that, but I have
15 to say that applies with equal force to the
16 Commission's time for deliberation and preparation of
17 an order. I have been known to cut into that time to
18 accommodate the parties, and I'm willing to do that in
19 this case as well, but only up to the point that I feel
20 my comfort level disappearing entirely, and beyond
21 that, I just can't go. We normally like to have 60
22 days after the close for the full process to play
23 itself out.

24 MR. CEDARBAUM: I could add that if we do
25 come in litigating the case in August, we aren't

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1 litigating cost of service and we aren't litigating
2 rate spread, given the stipulation we had yesterday, so
3 how that plays into all of this, I don't know.

4 JUDGE MOSS: I don't think it will
5 appreciably shorten the time the commissioners and I
6 require for that to play out, but I do think it's good
7 and encouraging that the parties have engaged in
8 discussions early, and of course I want to encourage
9 you all to continue that process, and perhaps we will
10 have an optimistic report on Thursday afternoon, and we
11 will see where it goes from there.

12 MR. CEDARBAUM: We are negotiating topics for
13 negotiation, so we'll see how that goes.

14 JUDGE MOSS: Any other business we need to
15 conduct today? I'll look forward to speaking with you
16 all on Thursday and seeing where things stand. Thank
17 you very much for your usual highly professional work
18 here in the room in the last couple of days. We are
19 off the record.

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21 (Hearing concluded at 10:50 a.m.)

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