Exhibit T ___ (DPK-1T)
Docket No. UE-032065
Witness: Danny P. Kermode

BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION	)	
Complainant,	)	DOCKET NO. UE-032065
v.	)	
PACIFICORP d/b/a Pacific Power & Light Company,	)	
Respondent	)	

TESTIMONY OF
DANNY P. KERMODE, CPA

STAFF OF THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

July 2, 2004

1 **Q. Please state your name and business address.**

2 A. My name is Danny P. Kermode. My business address is 1300 South Evergreen
3 Park Drive S.W., PO Box 47250, Olympia, Washington 98504-7250. My e-mail
4 address is dkermode@wutc.wa.gov.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by the Washington Utilities and Transportation Commission as a
8 Regulatory Analyst.

9

10 **Q. What are your education and experience qualifications?**

11 A. I graduated in 1982 from Arizona State University in Tempe, Arizona with a
12 Bachelor of Science in Accounting. Later that same year, I attended San Carlos
13 University in the Philippines for postgraduate studies in Economic Analysis and
14 Quantitative Business Analysis. I am a Certified Public Accountant (CPA) and
15 also a Certified Financial Planner (CFP).

16 In 1992 and 1993, I was invited to become a member of the faculty at the
17 National Association of Regulatory Commissioners (NARUC) Annual
18 Regulatory Studies Program held at Michigan State University in East Lansing,
19 Michigan. I taught classes in Financial and Regulatory Accounting Standards
20 and in Deferred Tax Accounting.

1 My Exhibit No.___ (DPK-2) is a resume of my professional and regulatory

2 experience.

3

4 **I. PURPOSE AND SUMMARY OF TESTIMONY**

5

6 **Q. What is the purpose of your testimony in this case?**

7 A. I present Staff's recommendations regarding certain tax-related adjustments

8 proposed by Mr. J. Ted Weston in his testimony (Exhibit __ (JTW-1T), tab 7).

9 These adjustments include *pro forma* interest expense, Malin-Midpoint

10 amortization, and property taxes. I also respond to Mr. Larry O. Martin's

11 proposal to recover Internal Revenue Service (IRS) tax settlement payments

12 related to prior periods. I recommend that the Commission reject Mr. Martin's

13 Tax Settlement adjustment.

14

15 **Q. Do you sponsor any exhibits in support of your testimony?**

16 A. Yes, they are Exhibit __ (DPK-3) through Exhibit __ (DPK-6).

17

1 **II. *PRO FORMA* INTEREST ADJUSTMENT**

2

3 **Q. Please discuss the Company's True-Up Interest adjustment 7.1.**

4 A. The Company's interest true-up adjustment, also referred to as interest

5 synchronization or *pro forma* interest adjustment, adjusts the book interest

6 expense to the amount reflected by the weighted cost of debt and rate base. The

7 *pro forma* interest expense is as a component in the computation of the regulatory

8 income tax. However, the Company's adjustment does not include a

9 Construction Work In Progress (CWIP) deduction, which normally is considered

10 in the *pro forma* interest adjustment.

11

12 **Q. Do you recommend any change in the adjustment proposed by the Company?**

13 A. Yes. The Company's computation included property falling under the 263A

14 Uniform Capitalization Rules. I recommend that only non-263A CWIP be

15 included in the computation. In addition, my final *pro forma* interest amount is

16 different from the Company's due to Staff's changes in rate base and the

17 weighted cost of debt.

18

1 **Q. Could you briefly discuss why CWIP ordinarily is included in the *pro forma***
2 **interest adjustment?**
3 A. Yes. Washington's regulatory accounting practices require the Company to
4 capitalize into the total cost of its long-term construction projects the interest cost
5 of its associated debt. The regulatory capitalization is referred to as Allowance
6 for Funds Used During Construction (AFUDC) - Debt. The capitalized interest is
7 recovered over the life of the related utility plant.
8 Under pre-1987 income tax law, the Company was not required to capitalize
9 its interest costs related to self-constructed or self-produced assets, and therefore
10 was free to flow-through the interest cost in the year incurred for income tax
11 purposes. This resulted in a mismatch between the amounts actually paid in
12 income taxes and the amount of taxes calculated for rate setting purposes. The
13 income tax actually incurred was less than the amount provided by the *pro forma*
14 debt computation because the interest deduction for tax purposes was greater
15 than for regulatory purposes due to the flow-through of interest. In order to
16 correct this mismatch, CWIP was added to the *pro forma* debt computation to
17 account for the effect of the flow-through interest.
18

1 **Q. For income tax purposes, is the Company still allowed to flow-through interest**
2 **related to long-term projects?**
3 A. No, it is not. The Company is now required under Section 263A of the Internal
4 Revenue Code to capitalize the interest costs related to its long-term construction
5 projects. Though there some exceptions, such as construction related to research
6 and development and other intangibles, in general, the Company must capitalize
7 not only its direct interest costs, but also its indirect interest costs.
8
9 **Q Please describe the effect of Section 263A on the inclusion of CWIP in the *pro***
10 ***forma* interest computation.**
11 A. CWIP was originally included in the *pro forma* interest computation to flow-
12 through the income tax benefit related to the current tax recognition of interest
13 expense for long-term construction projects. However, now that the Company
14 must capitalize its interest costs, there is no tax benefit which can flow-through
15 to the ratepayer and therefore, there is no requirement to include 263A eligible
16 CWIP in the computation.
17

1 **Q. Is the amount of interest capitalized under Section 263A equivalent to the**
2 **interest capitalized under the regulatory AFUDC-Debt method?**
3 A. No, it is not. More interest is required to be capitalized under Section 236A than
4 is capitalized under the regulatory AFUDC – Debt approach. In other words, the
5 Internal Revenue Code requires the Company to expense a larger amount of
6 interest costs than the Company would remove using AFUDC. The result is that
7 the Company actually experiences a higher income tax burden than is indicated
8 in its regulatory books, which is the opposite of the pre-1987 dynamics.
9
10
11 **Q. Mr. Weston states that the intent of not including CWIP in the *pro forma***
12 **interest computation is to "flow-through the benefits of the interest deduction**
13 **to customers." (Exhibit ___, (JTW-1T), at 30, line 8). Do you agree that the**
14 **exclusion of CWIP flows through an interest deduction to the ratepayer?**
15 A. No, I do not. There are no interest deduction benefits to flow-through since the
16 AFUDC – Debt adjustment in Schedule M1, as cited by Mr. Weston, is not the
17 only interest-related Schedule M1 adjustment. Schedule M1 is also adjusted by
18 tax basis Section 263A interest. The situation has actually reversed from the time
19 when the Company was allowed to flow-through interest for tax purposes.
20 Rather than interest expense being greater for actual income taxes than for its

1 regulatory basis books, producing a tax benefit that was flowed-through to the
2 ratepayer, interest expense is now smaller for tax purposes, creating a tax
3 burden. Under standard rules for partial normalization, this tax burden stays
4 with the Company.
5
6 **Q. Do you propose to include all CWIP in the *pro forma* debt computation?**
7 A. No, only non-263A CWIP should continue to be added to the *pro forma* interest
8 computation to recognize the Company's ability to flow-through the interest for
9 those projects to interest expense for income taxes. *See* Exhibit ___ (DPK-3).
10
11 **III. FLOW-THROUGH DEFERRED TAX ADJUSTMENT**
12
13 **Q. Do you have any comments regarding the Company's flow-through deferred**
14 **tax adjustment?**
15 A. Yes, I reviewed it and I have a clarification. Mr. Weston comments that the
16 Commission ordered that all deferred tax differences not related to life and
17 method depreciation be flowed-through. As a general rule, the Commission
18 requires flow-through of other than life and method deferred taxes. However,
19 the Commission allows other deferrals on a case-by-case basis, which is the case

1 in this docket. The deferred tax related to the sale of SO2 emission allowances is
2 not flowed-through and is reflected in Mr. Weston's adjustment 3.5.
3
4 **IV. YEAR-END DEFERRED TAXES**
5
6 **Q. Do you have any comments regarding the Company's adjustment for year-end**
7 **deferred taxes?**
8 A. Yes, I reviewed the Company's adjustment and I do not propose any changes
9 other than the change effected by Staff's rejection of the Company's Washington
10 Protocol for inter-jurisdictional cost allocations and its recommended transitional
11 allocation methodology based on the Hybrid method for this case. The Hybrid
12 method increases the test year deferred tax to $65.4 million or an adjustment of
13 $4.75 million.
14
15 **V. MALIN-MIDPOINT ADJUSTMENT**
16
17 **Q. Would you please provide a brief discussion regarding the regulatory issue**
18 **connected with Malin-Midpoint.**
19 A. In 1982, PacifiCorp used a new provision in the United States tax law to sell to an
20 independent third party the tax benefits of the accelerated depreciation and the
21 Investment Tax Credit (ITC) associated with the transmission line referred to as

1 Malin-Midpoint. Using the 1982 tax code, the Company recognized a Section
2 168(f)(8), "Sale and Leaseback" transaction for the Malin-Midpoint transmission
3 line. It is important to note that the Internal Revenue Code Section 168(f)(8) "safe
4 harbor" Sale and Leaseback transaction was actually a fiction of tax law and that
5 no lease actually exists, nor was there an actual sale of the assets. The assets
6 remained the property of the Company, which used a complex series of imputed
7 tax-basis "lease" and "loan" payments to transfer the tax benefits to the third
8 party, none of which actually occurred. As part of the Section 168(f)(8) Sale and
9 Leaseback, the Company received a "down payment" of $43 million. The
10 regulatory issue in 1982 was, and still is, how the Commission should treat the
11 $43 million the Company received in the safe harbor transaction.
12
13 **Q. Would you please explain your Malin-Midpoint adjustment?**
14 A. My adjustment simply applies the same treatment of the leaseback revenues
15 received by the Company that the Commission previously ordered in both the
16 1982 case (Cause Nos. U-82-12/U-82-35) and the 1983 case (Cause No. U-83-33),
17 and which it reaffirmed in the 1986 case (Cause No. U-86-02). In its final order in
18 Cause No. U-83-33, the Commission stated at page 17:

19 > The Commission staff proposed the same treatment proposed by it
20 > in Cause Nos. U-82-12/U-82-35. Commission staff witness Willard Kessel
21 > treated the cash received in the sale as a rate base reduction and proposed

> to amortize the net amount received of $43,574,000 over the life of the related asset, which he calculated to be 30 years to be consistent with the book life of the Malin/Midpoint line. . . .
> . . . .
> As it did in Cause Nos. U-82-12/U-82-35, the Commission accepts the Commission staff's proposal. . . .

In the 1986 case, Staff's adjustments were uncontested, except for a slight modification to the amortized amount. I will address the reason for the modified amortization amount later in my testimony.

Q. How did you derive your recommendation for the Malin-Midpoint amortization adjustment?

A. As shown in Exhibit___(DPK-4), I took the net proceeds of the sale and divided by 30 years to derive the annual amortization amount of $1,452,000. I then applied the *general divisional-Pacific* allocation factor to the total amount. That resulted in a Washington amortization amount of $244,000 or an increase in Company operating revenue of $158,600 after taxes.

Q. How did you derive your recommendation for the Malin-Midpoint Rate base adjustment?

A. I computed the average balance for the deferred balance as shown on lines 31 through 33 in Exhibit___(DPK-4). I then applied the *general divisional-pacific*

1 allocation factor to the average balance amount, which resulted in a deduction of
2 $2,262,000 from the Company's Washington rate base.
3
4 **Q. The amortized amount for Malin-Midpoint in the 1986 case was $174,000. You**
5 **recommend $244,000. Why is there a difference?**
6 A. The $70,000 difference is related to that portion of the sale associated with the
7 investment tax credit (ITC). At the time of the 1986 rate case, Cause No. 86-02,
8 there was a newly released Internal Revenue Service Private Letter Ruling (PLR
9 8537063) that discussed the regulatory treatment of "net proceeds" from the sale
10 of tax benefits under a similar safe harbor Sale and Leaseback. In Cause No. 86-
11 02, the Commission reduced the Company's rate base on the theory that the "net
12 proceeds" of the sale of the benefits were zero cost capital and that the
13 depreciable basis of the related property should be reduced for rate making
14 purposes. More specifically, the PLR addressed the deduction of the "net
15 proceeds," which represent ITC's deducted from rate base. Since the Company
16 had elected to defer ITC amortized into the cost of service (an option 2 company),
17 any reduction of rate base for any deferred ITC balances would have violated
18 normalization requirements. The PLR stated in part that: "The Commission's
19 temporary order reduces the Company's rate base by sales proceeds representing

1 credits allowable by section 38. Consequently, if the Commission's rate order is
2 made final, [the company will be in violation of normalization requirements.]"
3 However, I believe that the accounting required in the prior orders of this
4 Commission is different than the accounting reflected in the PLR. This
5 Commission recognizes the proceeds as a gain on a sale rather than reducing the
6 basis of the assets associated with the sale of the benefits or recognizing the
7 proceeds as zero cost capital. The Commission recognizes the gain on the sale as
8 it has other gains, with no recognition of the source of the gain.
9
10 **Q. For clarification, for ITC purposes what option is PacifiCorp?**
11 A. PacifiCorp is an option 1 company. This means that deferred ITC may be
12 deducted from its rate base, but may not be amortized into the cost of service for
13 normalization purposes. Section 46(f) of the Internal Revenue Code provides for
14 the normalization of the Company's ITC. Companies were required to select
15 either to have its rate base reduced by the unamortized ITC balance with no
16 flow-through to the cost of service (option 1) or to have the ITC benefits ratably
17 flowed-through over the life of the asset that it financed (option 2) without a rate
18 base reduction. The purpose is to prevent the immediate flow-through of ITC
19 benefits to ratepayers.
20

1 **Q. Please summarize your recommendation.**

2 A. I recommend that the Company's Washington rate base be reduced by the

3 average unamortized gain of $2,262,000 and that the Commission recognize an

4 amortization amount of $244,000, or an increase in operating revenue of $158,600

5 after taxes.

6

7 **Q. Did you review the Company's adjustment 7.4 for Malin-Midpoint?**

8 A. Yes I did.

9

10 **Q. Please discuss your observations regarding the Company's adjustment.**

11 A. Mr. Weston correctly discusses the Commission's prior decisions as to the rate-

12 making treatment of the $43 million. (Exhibit No.__ (JTW-1T), at 21, lines 12-14).

13 However, his proposed adjustment is not consistent with the Commission's prior

14 orders. The prior cases discuss a rate base deduction of the unamortized

15 amount, whereas the Company proposes a $311,868 *increase* in rate base. The

16 Company proposes a net *increase* in operating expenses notwithstanding that an

17 amortization of the gain should logically *decrease* operating expenses even after

18 income taxes.

19 In addition, in support of the adjustment, (Exhibit___ (JTW-1TK), at 7.4),

20 Mr. Weston details numerous deferred tax accounts and an adjustment for rent

1 interest timing difference. Again, these adjustments are not consistent with prior
2 orders of the Commission and should be rejected.
3
4 **VI. PROPERTY TAX ADJUSTMENT**
5
6 **Q. Did you review PacifiCorp's property tax adjustment, adjustment 7.6?**
7 A. Yes I did.
8
9 **Q. Please summarize the Company's adjustment to property tax expense.**
10 A. The adjustment achieves two things. The first adjusts historical property tax to
11 reflect the Company's forecasted property tax rate and its forecasted capital
12 additions. The Company then allocates a portion of the forecasted property tax
13 to Washington, resulting in an increase in test year property tax of $136,227.
14
15 **Q. Please discuss Staff's position on the Company's use of a forecasted property**
16 **tax expense.**
17 A. The Company uses a forecast of its capital additions, (Exhibit No.___ (JTW-1T),
18 Tab 7, at 7.6, line 2 of "Description of Adjustment"), to derive its adjustment to
19 the test year property tax expense. This Commission's rules do not allow for the
20 use of forecasted estimates to adjust historical data for ratemaking proposes.
21 WAC 480-07-510 specifies that only *pro forma* adjustments may be used to "give

1 effect for the test period to all known and measurable changes that are not offset

2 by other factors." *Pro forma* adjustments are rooted in historical data and are not

3 forecasted estimates of future expenses.

4

5 **Q. Did you prepare a Staff *pro forma* property tax adjustment for the total**

6 **Company?**

7 A. Yes.

8

9 **Q. Please describe the methodology you used to compute the *pro forma* property**

10 **tax expense.**

11 A. I based my computations on historical data provided by the Company. As

12 shown in Exhibit___(DPK-6), I divided the March 2002 fiscal year-end Company

13 total, by State in column (b), with the 2003 assessed property tax amounts in

14 column (c). The resulting ratio of the year-end plant by the 2003 assessed

15 property tax produces a *pro forma* tax rate.

16 I then applied the *pro forma* tax rate, column (c), to the March 2003 Utility

17 Plant balances shown in column (b) to compute the Staff *pro forma* property tax

18 amount for the entire Company.

19

1 **Q. What is the amount of *pro forma* property tax that you derived and how does**

2 **that amount compare to the amount proposed by the Company?**

3 A. As shown on Exhibit___ (DPK-6), the Staff's *pro forma* total-company property

4 tax is $69,778,129, which is $1,778,129 greater than the Company's forecasted

5 property tax expense of $68,800,000 (Exhibit No.___ (JTW-1T), at 7.6).

6 PacifiCorp's test year property tax was $66,367,602, which results in a pre-

7 allocated $3,410,527 increase in test year expense.

8

9 **Q. Did you experience any difficulty in finding a methodology that would fairly**

10 **allocate the *pro forma* property tax to Washington ratepayers?**

11 A. Yes, I did. The Company uses the System Gross Plant (GPS) allocation factor to

12 spread total-Company property tax to the different states. The GPS allocator

13 simply uses, as the name implies, gross plant located in each state as a proxy to

14 determine the property tax burden each state should carry. It does not recognize

15 how much energy related to the gross plant is actually exported nor does it

16 recognize the importation of energy from other states. The ideal allocator would

17 recognize the Western and Eastern control areas along with a systematic

18 allocation of the property tax related to the generation and transmission facilities

19 that are located in one state, but are used to provide and export energy to

20 another state.

1

2 **Q. Did Staff request property taxes allocated by function (production,**

3 **transmission, etc) for each of PacifiCorp's jurisdictions?**

4 A. Yes. The Company responded that it did not have a method to separate property

5 taxes by function and reiterated that it had used the GPS factor to allocate

6 property taxes. (WUTC Staff Data Request No. 121 (c)).

7

8 **Q. What method did Staff use to allocate property taxes?**

9 A. Staff used the GPS allocation factor, but only because of the lack of any other

10 method. Staff wants to make it clear that this is another area in which the

11 allocation protocol used by the Company fails to fairly allocate costs among the

12 various jurisdictions that it serves.

13

14 **Q. Recognizing Staff's reservations regarding the GPS allocation factor, please**

15 **describe the allocation of the total-company property tax to Washington.**

16 A. I used the modified hybrid GPS allocator for Washington of 7.1465%. I

17 multiplied that percentage by the total-Company *pro forma* property tax,

18 resulting in a $243,733 *pro forma* property tax increase, as shown in Exhibit ___

19 (DPK-6) on line 27.

20

1 **VII. WYOMING WIND TAX CREDIT**

2

3 **Q. Do you have any comments regarding the Company's Wyoming Wind Tax**

4 **Credit?**

5 A. Yes. I reviewed the adjustment and removed the proposed allocation of the

6 Wyoming Wind Credit consistent with Staff's Control Area based allocation. The

7 wind generation is related to the Eastern Control Area. Therefore, as with a

8 similar expense, the credit should not be allocated to Washington. The credit

9 should be allocated to the states that are actually benefiting from the use of wind

10 power.

11

12 **V. IRS SETTLEMENT**

13

14 **Q. Please discuss the Company's adjustment to recover its IRS Settlement,**

15 **adjustment 7.1.**

16 A. The Company has made an adjustment to recover $5.8 million in additional taxes

17 assessed by the IRS for tax years 1991 to 1998. The additional taxes from prior

18 periods would increase test year income tax expense for Washington ratepayers

19 by $1.16 million annually, with a $4.6 million increase in rate base. The Company

20 has requested that the additional taxes associated with the eight years be

21 recovered over a five-year period.

1

2 **Q. Do you agree with the Company's proposal?**

3 A. No. The Commission should reject the IRS settlement adjustment because: (a)
4 the tax settlement adjustment is based on a myriad of different costs, each with
5 different characteristics, grouped under a general term of "tax settlement;" (b)
6 the Company is, in essence, requesting that its income tax expense be "trued-up"
7 for the audited years despite the fact that ratemaking procedures do not
8 generally allow expense true-ups for prior periods; and (c) the assessments are
9 related to expenses outside the current test year. These costs are from prior
10 periods and therefore do not reflect an ongoing cost for which current ratepayers
11 should pay.

12

13 **Q. Are there situations where it would be proper for the Company to recover**
14 **costs from prior periods in current rates?**

15 A. Yes. When an expense is extraordinary and material in nature, such as costs
16 associated with a natural disaster, ratemaking theory allows recovery of costs
17 found appropriate by the Commission.

18

1 **Q. In your opinion, is a "Tax Settlement" extraordinary and material in nature?**

2 A. No. This question hits on a key point to the entire adjustment. The $5 million
3 "Tax Settlement" presented to this Commission is made up of large groups of
4 different expenses that span over the eight-year period. The Company requests
5 recovery of costs that include adjustments to inventory, adjustments to asset
6 basis, and even adjustments for vacation pay. The term "Tax Settlement" is
7 actually just a non-descript general category in which the Company has
8 assembled a myriad of separate tax adjustments.

9 The "Tax Settlement" is not extraordinary and material because it is not an
10 expense within itself. If the Company believes all or some of the expenses that
11 make up the tax settlement are extraordinary and material, it should itemize (???)
12 <u>those</u> specific expenses so the Commission has the opportunity to properly
13 review them.

14

15 **Q. Why can't Staff simply review all the transactions that make up the "Tax**
16 **Settlement?"**

17 A. Not withstanding that it is the Company's burden to support its proposals, it is
18 just not practical for Staff to review eight years of IRS audit adjustments to
19 determine their recoverability. For example, there are 117 separate tax
20 adjustments in 1998 alone.

1

2 **Q. Are there other reasons to review each adjustment individually rather than as a**

3 **group as proposed by the Company?**

4 A. Yes. Some tax adjustments relate only to tax basis concepts that have no effect on

5 the regulatory books, such as Section 263A interest or adjustments to tax basis

6 depreciation expense related to method and life.

7

8 **Q. Mr. Martin states that tax payments are not included in the test years in which**

9 **they are paid. (Exhibit ___ (LOM-1T, at 2, lines 19-23). Do you believe tax**

10 ***payments* are relevant in setting rates?**

11 A. No, I do not. PacifiCorp is a large corporation using the accrual method of

12 accounting. Making a tax payment does not create a recoverable expense by the

13 mere fact that a check is written. As an accrual basis taxpayer, the Company

14 recognizes an expense when it is incurred, not when it is paid.

15

16 **Q. When asked how PacifiCorp included costs in its cost of service, Mr. Martin**

17 **stated that, "the company currently includes only the estimated tax accrual for**

18

1 **the current test period." (Exhibit No. ___ (LOM-1T), at 2, line 14). Do you**
2 **agree with this statement?**
3 A. No. The Company includes a *pro forma* income tax expense in its cost of service.
4 The amount accrued as an expense at year-end may be the starting point, but it is
5 by no means the income tax amount that is eventually embedded in rates. The
6 ratemaking process recognizes income taxes related to operations on a *pro forma*
7 basis, that is, after restating adjustments and adjustments to the test year for
8 known and measurable expenses or revenues.
9
10 **Q. If the test year income tax does not provide full recovery of experienced tax**
11 **expense in following years, does the Commission provide a true-up for any**
12 **shortcomings in recovery in later years.**
13 A. No. Income tax expense is the same as any other expense. If there is a shortfall in
14 later periods after rates are set, the Commission does not provide for a true-up.
15 Therefore, even if the "ultimate" tax liability was known in the later years, (i.e.
16 1991-1998), the final income tax amount would still be precluded from recovery.
17

1 **Q. On page 8 of his testimony, Mr. Martin testifies that test-period payments for**
2 **tax settlements are not out-of-period costs. How do you respond?**
3 A. Mr. Martin postulates that the event that creates the additional payments is the
4 agreement with the "appropriate taxing authority" during the test period. There
5 is no support for this position. It is obvious that, contrary to Mr. Martin's
6 testimony, it is the economic events that took place in the tax year that created
7 the ultimate tax liability, not the tax authority that is applying the tax laws.
8
9 **Q. Once again could you please summarize your recommendation with regard to**
10 **the Company's requested Tax Settlement adjustment?**
11 A. I recommend that the Commission reject the IRS settlement adjustment. The
12 Company proposes to recovery a myriad of different costs with different
13 dynamics and accounting implications, grouped under the heading "Tax
14 Settlement." Furthermore, the tax assessments are related to expenses that are
15 outside the current test year and do not reflect ongoing costs. Ratepayers should
16 not bear the burden of these costs. Finally, ratemaking does not provide for a
17 true-up of an expense in a rate case for past, unrecovered costs.
18
19 **Q. Does this conclude your direct testimony?**
20 A. Yes it does.