

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

2

3 PETITION OF PUGET SOUND POWER) GENERAL RATE FILING
 & LIGHT COMPANY FOR AN ORDER)
 4 REGARDING THE ACCOUNTING) DOCKET NO. UE-920433
 TREATMENT OF RESIDENTIAL)
 5 EXCHANGE BENEFITS)

-----)
 6 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,)
 7)
 Complainant,)

8 vs.) DOCKET NO. UE-920499

9)
 PUGET SOUND POWER & LIGHT)
 10 COMPANY,)
)
 11 Respondent.)

-----)
 12 WASHINGTON UTILITIES AND)
 TRANSPORTATION COMMISSION,)
 13)
 Complainant,)

14 vs.) DOCKET NO. UE-921262

15)
 PUGET SOUND POWER & LIGHT) VOLUME XIII
 16 COMPANY,) PAGES 1911 - 2128
)
 17 Respondent.)
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18

19 A hearing in the above matter was held on
 20 June 1, 1993 at 9:40 a.m., at 1300 South Evergreen
 21 Park Drive Southwest, Olympia, Washington, before
 22 Chairman SHARON L. NELSON, Commissioners RICHARD
 23 CASAD and RICHARD HEMSTAD and Administrative Law
 24 Judge ALICE HAENLE.
 25 Cheryl Macdonald, RPR, CSR, Court Reporter

1 The parties were present as follows:

2 WASHINGTON UTILITIES AND TRANSPORTATION
3 COMMISSION STAFF, by DONALD T. TROTTER and SALLY G.
4 BROWN, Assistant Attorneys General, 1400 South
 Evergreen Park Drive Southwest, Olympia, Washington
 98504.

5 FEDERAL EXECUTIVE AGENCIES, by NORMAN
6 FURUTA, Associate Counselor, Department of Navy,
7 Western Division, 900 Commodore Drive,
 Bldg. 107, (Code 09C), San Bruno, California
 94066-2402.

8 NORTHWEST CONSERVATION ACT COALITION, by
9 LINDA WILLIAMS, Attorney at Law, 1744 NE Clackamas
 Street, Portland, Oregon 97232.

10 PUGET SOUND POWER & LIGHT, by JAMES VAN
11 NOSTRAND and STEVEN C. MARSHALL, Attorneys at Law,
 411 - 108th Avenue NE, Bellevue, Washington 98004.

12 WASHINGTON INDUSTRIAL COMMITTEE FOR FAIR
13 UTILITY RATES, by MARK P. TRINCHERO and PETER
14 RICHARDSON, Attorneys at Law, 2300 First Interstate
 Tower, 1300 Southwest Fifth Avenue, Portland, Oregon
 97201.

15 BONNEVILLE POWER ADMINISTRATION, by BARRY
16 BENNETT, P.O. Box 3621, 905 Northeast 11th, Portland,
 Oregon 97208-3621.

17 PUBLIC INTEREST, by CHARLES F. ADAMS,
18 Attorney at Law, Suite 2000, 900 Fourth Avenue,
 Seattle, Washington 98164.

19 PACIFIC CORP., by JAMES C. PAINE, Attorney
20 at Law, 900 SW Fifth Avenue, Portland, Oregon
 97204-1268.

21 MARCH POINT COGENERATION COMPANY, by PAUL
22 KAUFMAN, Attorney at Law, 222 SW Columbia, Suite 1800,
 Portland, Oregon 97201.

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I N D E X

2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	EXAM
	K. ELGIN	1924	1930			

3

4	J. LEGLER	2002	2004/2013			
			2016			2021/
			2026/2027			2023

5

6	K. BELL	2029	2032/2034			
			2039/2043			
			2045			2065

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			2067/2069			
			2072/2072			

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9	K. ELGIN	----	2076			
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	EXHIBIT	MARKED	ADMITTED
10	T-670	1924	1930
	671	1924	1930
11	672	1924	1930
	673	1924	1930
12	674	1924	1930
	675	1924	1930
13	676	1997	2091
	T-677	2001	2004
14	678	2001	2004
	T-679	2028	2032
15	T-680	2028	2032
	681	2091	2116
16	682	2111	2116

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

2 JUDGE HAENLE: The hearing will come to
3 order. This is a 13th day of hearing in the
4 consolidated Puget cases. It's taking place on
5 June 1, 1993 before the Commissioners at Olympia,
6 Washington. The purpose of the hearing today is to
7 take cross of staff, intervenor and public counsel
8 witnesses in the general case. And there were also
9 some noncompany rebuttal materials filed, we'll take
10 those as well. I would like to take appearances. If
11 you have given your appearance already, just give your
12 name and your client's name. If you have a new
13 appearance to give, please give the full appearance
14 including your client's name and your business
15 address. Begin with the company.

16 MR. VAN NOSTRAND: For the company James M.
17 Van Nostrand and Steven Marshall.

18 MR. TROTTER: For the Commission, Don
19 Trotter, assistant attorney general.

20 MR. ADAMS: Public counsel, Charles F.
21 Adams.

22 JUDGE HAENLE: Go around the table.

23 MR. FURUTA: Norman Furuta for the

24 Department of Defense and the other Federal Executive
25 Agencies.

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1 MR. PAINE: For Pacific Corp, James C.
2 Paine.

3 MS. WILLIAMS: For Northwest Conservation
4 Act Coalition, Linda Williams.

5 MR. TRINCHERO: On behalf of WICFUR, Mark
6 P. Trincherro and also like to make an appearance
7 for Peter J. Richardson on behalf of WICFUR.

8 MR. KAUFMAN: My name is Paul Kaufman. New
9 appearance on behalf of March Point Cogeneration
10 Company. Along with me is Roberto Berry. Our address
11 is law firm Ater Wyne Heeditt Dodson and Skerritt, 222
12 Southwest Columbia, Suite 1800, Portland Oregon.
13 Phone number is area code 503-226-1191.

14 MR. BENNETT: Barry Bennett for the
15 Bonneville Power Administration.

16 JUDGE HAENLE: Anyone else that needs to
17 give an appearance? I did get memos from several
18 people that they on the assumption that the Commission
19 staff witnesses would be going first they will be
20 coming later in the week. In the way of preliminary
21 matters there has been a late-filed petition to
22 intervene filed on behalf of March Point. Because of
23 the time it was filed I didn't feel that we had time

24 to take written responses from the parties. Hope that
25 you've all gotten a copy of it but I will take brief

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1 comment on it now and take it up as the first order of
2 business. Mr. Kaufman, did you have anything to add
3 to your petition?

4 MR. KAUFMAN: The petition states the
5 reasons for intervention. I would like to point
6 out a few remarks. I have copies of the intervention
7 petition here with me if anyone doesn't have one.

8 JUDGE HAENLE: I assume everyone has.

9 MR. KAUFMAN: March Point Cogeneration
10 Company is located in Anacortes, Washington at the
11 Texaco Anacortes Refinery. They have a cogeneration
12 facility there, the output of which is sold to Puget
13 Sound Power & Light Company two contracts executed
14 June 29 of 1989 and the second one.

15 JUDGE HAENLE: May I suggest you not repeat
16 what's in the petition? I'm assuming everyone has
17 read it. If there is anything you need to add to it,
18 you can do that.

19 MR. KAUFMAN: I would add nothing to the
20 petition. I think it states well the reason for our
21 intervention.

22 JUDGE HAENLE: Commissioners, do you have
23 comments for the petitioner before we take comments?

24 CHAIRMAN NELSON: No.

25 MR. VAN NOSTRAND: Yes, your Honor. The

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1 company opposes the intervention of March Point in
2 this proceeding. Given the stage of this proceeding
3 we believe a petition to intervene at this time is a
4 rather extraordinary measure and although March Point
5 is an existing supplier of energy to the company, the
6 interest stated in its petition seems to be more as a
7 potential developer of cogeneration resources. And
8 the interests that they claim in the proceeding has to
9 do with whether or not anything in this case will
10 affect the future QF development in Washington and the
11 future negotiation of power sales contracts. The
12 Commission has previously ruled with respect to the
13 petition of SESCO in this proceeding that the interest
14 of a potential developer and a potential supplier of
15 services to Puget is insufficient to confer party
16 status, and we believe consistent with the
17 Commission's ruling on the SESCO petition that the
18 petition of March Point should be denied as well.

19 JUDGE HAENLE: Thank you. Commission
20 staff.

21 MR. TROTTER: I think the points that
22 Mr. Van Nostrand raised are pertinent. Also,
23 certainly the issue of prudence of any resource was at

24 issue when the tariffs were filed last fall. I don't
25 see any reason why this particular intervenor could

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1 not have intervened at that time. Just because some
2 party raises an issue late in the proceeding that was
3 certainly covered by prior notices of hearing and the
4 scope of this entire proceeding should not justify the
5 extraordinary measure of allowing an intervenor in to
6 contest that adjustment. The staff creates or
7 proposes numerous adjustments not proposed by the
8 company, yet are well within the scope of the issues
9 of this proceeding. It would be unprecedented for an
10 intervenor to express surprise that some rate making
11 issue or another that wasn't perhaps presented by the
12 company in express terms could not give rise to an
13 intervention at that time and would justify
14 intervention. So we think it would be improper to
15 grant the intervention at this time.

16 JUDGE HAENLE: Mr. Adams.

17 MR. ADAMS: I will confer with prior
18 counsel's remarks. In addition I don't believe that
19 the existing contract has any kind of a regulatory
20 opt-out clause so there's no way how I can see that
21 the company with the existing contract can be affected
22 by this case. Secondly, I'm a little concerned, I
23 believe that Mr. Kaufman is from the same firm as the

24 firm representing BOMA, and just to raise the question
25 of whether there's any kind of question of conflict of

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1 interest of two different parties in the same
2 proceeding.

3 JUDGE HAENLE: Comment from any other
4 intervenor?

5 Did you wish a brief response?

6 MR. KAUFMAN: Thank you. Like to address
7 first the concern expressed by Mr. Adams with respect
8 to potential conflict. We've evaluated this issue
9 very carefully in consultation with the BOMA party,
10 with the BOMA entity. They have indicated that they
11 have no problems with this intervention and that as
12 has been expressed in the letter that we have in the
13 files and we are satisfied that there is no conflict
14 and the clients are satisfied in this case that there
15 is no conflict.

16 The interests of March Point in this case
17 are stated in the petition for intervening. They
18 certainly are stated in the future interests of March
19 Point and its parent Texaco for negotiations to
20 contract in the future, but also are stated or at
21 least it's implied that there's a concern about the
22 existing business relationship between Puget and March
23 Point. March Point is very comforted by Mr. Adams'

24 remarks and certainly believes that that's the case
25 that there is no regulatory out in the contract but it

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1 is in the standard that this Commission reaches in
2 their decision and the scope of their review that we
3 are concerned and are concerned that there will be an
4 impact on that contract from the standard and scope of
5 review.

6 JUDGE HAENLE: On a practical level,
7 Mr. Kaufman, exactly what did you intend your
8 participation to be in the way of examination of
9 witnesses or whatever?

10 MR. KAUFMAN: Did not intend to put on any
11 direct witnesses or rebuttal witnesses. We may brief
12 the issues if they come up if they appear to be
13 adverse to March Point's interests. In terms of
14 cross-examination, I already indicated to your Honor
15 it will be very limited in scope and at this point we
16 don't perceive any cross-examination of the witnesses
17 except in response possibly to other parties' cross or
18 in response to witness' testimony on cross.

19 JUDGE HAENLE: Commissioners, did you have
20 questions of the petitioner regarding the petition?

21 CHAIRMAN NELSON: No.

22 COMMISSIONER CASAD: No questions.

23 COMMISSIONER HEMSTAD: No questions.

24 CHAIRMAN NELSON: Do you want to go out of
25 the room to discuss it?

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1 Yes. I guess we better.

2 JUDGE HAENLE: Let's go off the record. We
3 will make a determination and be back in just a few
4 minutes.

5 (Recess.)

6 JUDGE HAENLE: Let's be back on the record.
7 During the time we were off the record, the
8 Commissioners were considering the petition of March
9 Point. The Commissioners have determined that they
10 will deny the petition to intervene of March Point for
11 a couple of reasons, not the least of which is that
12 it's so late in the proceeding I don't see that there
13 can be a very good participation at this point. The
14 Commissioners did not feel that March Point had
15 demonstrated a substantial interest in the proceeding
16 and were concerned that it would not add to the
17 record. So the petition has been denied and you will
18 remain on the master service list, Mr. Kaufman, for
19 other things that come along.

20 MR. KAUFMAN: Your Honor, in your
21 introduction to the ruling you had indicated that that
22 was a ruling of the Commission.

23 JUDGE HAENLE: Yes, sir. I announced their

24 ruling. They talked about it. This is a ruling of
25 the Commission, not of the administrative law judge.

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1 MR. KAUFMAN: Thank you.

2 CHAIRMAN NELSON: Your Honor, to state the
3 obvious, we have a change in Commissioners in this
4 proceeding. And I just wanted to put this on the
5 record to apprise the parties that Commissioner
6 Hemstad will be participating fully in this phase and
7 the rebuttal phase presented by the company later. We
8 do have the statutory requirement decision maker here
9 in re substantially all of the testimony and I just
10 wanted to put that on the record to apprise the
11 parties, if there are any difficulties they should so
12 state so fairly quickly.

13 JUDGE HAENLE: We can take comments now if
14 people are ready to comment or we can take comments
15 after lunch if someone needs to think about that. I
16 assume you all have given it some thought.

17 MR. MARSHALL: We have no objection.

18 MR. TROTTER: No objection.

19 JUDGE HAENLE: Mr. Adams.

20 MR. ADAMS: Your Honor, I have no objection
21 but I guess I would ask as we went through this with
22 Washington Natural Gas, I don't frankly recall the
23 exact administrative law section in there, but I would

24 ask if there have have been any kind of contacts that
25 would be considered ex parte that those be revealed by

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1 the new Commissioner, but I have no objection to the
2 Commissioner.

3 COMMISSIONER HEMSTAD: I've had no ex parte
4 contacts regarding this case with any person or any
5 entity represented in this proceeding.

6 MR. ADAMS: Thank you, Commissioner Hemstad
7 and I have no objection.

8 MR. FURUTA: FEA has no objection.

9 MR. PAINE: No objections from Pacific
10 Corp.

11 MS. WILLIAMS: NCAC has no objections.

12 MR. TRINCHERO: WICFUR has no objections.

13 MR. BENNETT: BPA has no objection.

14 JUDGE HAENLE: There are a couple of people
15 as I indicated that are not here now. I will get
16 their comments later on the record when they do appear
17 and thank you for your courtesy.

18 MR. KAUFMAN: Before the hearing started as
19 we've been denied an intervention I wonder if I could
20 seek leave to retreat from counsel's table.

21 JUDGE HAENLE: Yes, indeed. You're
22 certainly free to go, Mr. Kaufman.

23 Anything else we need to talk about before

24 we begin with the witnesses, understanding that we
25 have some other procedural things that we can take up

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1 later. Let's go off the record to get Mr. Elgin on
2 the stand then.

3 (Recess.)

4 JUDGE HAENLE: Let's be back on the record.
5 During the time we were off the record the first
6 witness assumed the stand.

7 Whereupon,

8 KENNETH L. ELGIN,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE HAENLE: Also during the time we were
12 off the record I marked a number of documents for
13 identification as follows. Marked as Exhibit T-670 a
14 multiple-page document entitled Testimony of Kenneth
15 L. Elgin, KLE-Testimony, in 37 pages. Mr. Trotter has
16 also distributed an errata sheet which includes some
17 changes from Mr. Elgin's testimony. Be sure that you
18 have a copy of that errata sheet, please, and it will
19 become part of the prefiled testimony as well.
20 KLE-1, 671; KLE-2, 672; KLE-3, 673; KLE-4, 674 and
21 KLE-5 is 675.

22 (Marked Exhibits T-670, 671 through 675.)

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DIRECT EXAMINATION

25 BY MR. TROTTER:

(ELGIN - DIRECT BY TROTTER)

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1 Q. Would you please state your name and spell
2 your last name for the record?

3 A. Kenneth L. Elgin, E L G I N.

4 Q. What is your business address?

5 A. South 1300 Evergreen Park Drive Southwest,
6 Olympia, Washington 98504.

7 Q. You're employed by the Washington Utilities
8 and Transportation Commission as the assistant
9 director for energy for the utilities division; is
10 that correct?

11 A. Yes, I am.

12 Q. In the course of that employment, did you
13 have cause to prepare testimony and exhibits in this
14 proceeding?

15 A. Yes, I have.

16 Q. Is Exhibit T-670 your proposed testimony?

17 A. Yes, it is.

18 Q. If I asked you the questions that appear
19 there, would you give the answers that appear there?

20 A. Yes, I would.

21 Q. And in the course of that testimony, you
22 refer to various exhibits sponsored by you, Exhibit
23 671 through Exhibit 675; is that right?

24 A. That is correct.

25 Q. To the extent these exhibits were prepared

(ELGIN - DIRECT BY TROTTER)

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1 by you, are they true and correct?

2 A. Yes, they are.

3 Q. To the extent they were not prepared by
4 you, to the best of your knowledge are they accurate
5 for what they portray?

6 A. Yes, they are.

7 MR. TROTTER: Move for the admission of
8 Exhibit T-670 through Exhibit 675.

9 JUDGE HAENLE: Any objection, Mr. Marshall?

10 MR. MARSHALL: Yes. We have an objection
11 to Exhibit 671 and 672 because those appear to be
12 articles not written by the witness. They are
13 therefore hearsay and we're not able to cross-examine
14 the witnesses who authored these articles. The first
15 article 671 is by a Mr. Kihm. It attaches a number
16 of graphs and so forth. We believe those graphs are
17 inaccurate, that they do not portray accurately data
18 we felt we had the ability to cross-examine.

19 On Exhibit 672 this is an article written
20 by a person who's the vice-president of a corporation
21 who does a lot of independent power production. He
22 makes a case for independent power production. We
23 think that this witness is biased. We don't know

24 anything at all about where he got his information at
25 all for the article. We have no opportunity to

(ELGIN - DIRECT BY TROTTER)

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1 cross-examine. Therefore, we do have an objection as
2 to both of those exhibits as being
3 inadmissible hearsay.

4 MR. TROTTER: First of all, I would simply
5 note that the company offered similar types of
6 publications through, I believe it was Mr. Abrams,
7 certain other publications have come in through the
8 testimony of other witnesses. I believe Mr. Weaver
9 was one. Those have been admitted on the record.
10 These are noted publications. The other publications
11 were placed in the record as showing what certain
12 persons in the financial community are saying and
13 these two exhibits are offered for the same purpose.
14 We think fairness dictates that these be admitted for
15 consistency of treatment and to indicate that these
16 are statements being made in various investment
17 publications that they purport to represent.

18 JUDGE HAENLE: Brief response, Mr.
19 Marshall.

20 MR. MARSHALL: This is in a journal called
21 Electricity Journal. They are not a financial
22 community publication. Neither of the authors, Mr.
23 Kihm nor the fellow from the company, AES Corporation

24 are financial community people. When Mr. Abrams
25 testified it was about either information he himself

(ELGIN - DIRECT BY TROTTER)

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1 or his company prepared. There was no objection to
2 that, there was an opportunity for cross-examination
3 here. There is no opportunity for cross-examination
4 to the purported facts raised by these witnesses who
5 aren't subject to cross-examination; if they are
6 admitted they are admitted for all purposes and people
7 can rely on them for the truth of the matter asserted
8 whether they're true or not. That's the problem we
9 have. We do not believe they're true and we do not
10 have an opportunity to disprove their truth through
11 cross-examination.

12 JUDGE HAENLE: You're not suggesting that
13 all of the articles that were attached to your
14 witnesses were written by them or their companies, are
15 you?

16 MR. MARSHALL: No, but I do think those
17 show what the financial community was stating. They
18 were in large part prepared by people who were
19 associated with working with them. They're the kinds
20 of things that experts normally rely on. These are
21 not the kinds of things that experts -- there's no
22 testimony that any expert relies on any of these types
23 of things. There's no basis for any exception to the

24 hearsay rule that we're aware of at all for these
25 kinds of publications. It would be like attaching an

(ELGIN - DIRECT BY TROTTER)

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1 article from the Wall Street Journal or from the New
2 York Times or the Daily Olympian. This kind of
3 hearsay is not admissible.

4 MR. TROTTER: We don't believe these are
5 any different than the types of documents proffered by
6 the company previously. These are documents that are
7 produced by professionals in the industry and we
8 believe they're entitled to carry whatever weight the
9 Commission decides to give it.

10 JUDGE HAENLE: Did anyone else -- Mr.
11 Adams, have you an objection to any of the document?

12 MR. ADAMS: No objection.

13 JUDGE HAENLE: Were you saying that you had
14 an objection to any of the other documents as well,
15 Mr. Marshall?

16 MR. MARSHALL: No. One of the other
17 documents, Exhibit 673 is an order of the Commission
18 itself. Those typically aren't made exhibits. We
19 don't have any objection to that. Some others are
20 from a case we will produce some further information
21 ourselves on that to put those in perspective.

22 JUDGE HAENLE: Mr. Adams, had you any
23 objection?

24 MR. ADAMS: No objection.

25 JUDGE HAENLE: Objection from any of the

(ELGIN - DIRECT BY TROTTER)

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1 intervenors?

2 All right. I am going to overrule the
3 objection and enter the documents into the record.
4 Although they were not written by this witness you
5 will have the opportunity to ask this witness why he
6 agrees or disagrees, why he feels that these -- why he
7 felt that these were matters that he could rely on. I
8 feel that they are admissible under the Administrative
9 Procedures Act. That covers it. So I have overruled
10 your objection, enter the documents into the record.

11 Did you have anything else of the witness
12 before we turn to cross-examination, Mr. Trotter?

13 MR. TROTTER: No.

14 (Admitted Exhibits T-670, 671 through 675.)

15 JUDGE HAENLE: As corrected by the errata
16 sheet the documents are entered.

17 Mr. Marshall, will you be examining?

18 MR. MARSHALL: Yes, I will.

19

20 CROSS-EXAMINATION

21 BY MR. MARSHALL:

22 Q. Good morning, Mr. Elgin.

23 A. Good morning, Mr. Marshall.

24 Q. I have a number of questions here and just
25 to sort of set the stage for the way in which I

(ELGIN - CROSS BY MARSHALL)

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1 generally intend to proceed, your testimony covers a
2 number of issues including the PRAM decoupling
3 evaluation, the least cost plan evaluation, a
4 purchased power evaluation, a summary of various staff
5 cost disallowances, and then you conclude with a
6 discussion of Nintendo and of the proposed legislation
7 on conservation bonds. Among other things are those
8 the topics you've covered in your testimony?

9 A. Those are generally the topics I have
10 covered, yes.

11 Q. What I propose to do is take them pretty
12 much in the order in which I've just described them
13 which is again pretty much the order in which you've
14 covered them in your prefiled direct testimony.
15 First, what I would like to do is to turn to your
16 discussion about the PRAM decoupling mechanism. And
17 with regard to that, your evaluation on the PRAM
18 decoupling mechanism begins at page 7 of your prefiled
19 direct testimony; is that correct?

20 A. Yes, sir.

21 Q. You begin by referring to the three
22 specific goals to evaluate experiments in regulatory
23 reform?

24 A. That is correct.

25 Q. And those three specific goals you list as

(ELGIN - CROSS BY MARSHALL)

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1 follows. And what I have done just for ease of being
2 able to refer to them since they are somewhat lengthy,
3 I put them on a board here so that you can follow them
4 along and see if I quote them correctly from your
5 testimony in the orders in which they were drawn.
6 First, the first goal is "Determining whether our
7 regulatory structure adequately aligns utilities'
8 pursuit of profits with least cost planning."
9 Correct?

10 A. Yes.

11 Q. Second, "Determining if and how our
12 regulatory structure should recognize utilities'
13 increasing reliance on generating resources that are
14 not constructed by the regulated utilities"?

15 A. Yes, that's correct.

16 Q. And that means, purchased power from
17 independent power producers, for example?

18 A. That is correct.

19 Q. And the third is complying with the
20 legislature's mandate RCW 80.28.360 that the Commission
21 consider policies to improve the efficiency of energy
22 and to protect a company from a reduction of short term
23 earnings, due to such increased efficiency.

24 to 4?

25 A. Yes.

(ELGIN - CROSS BY MARSHALL)

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1 Q. And next you say that quote, "with respect
2 to the second policy goal Puget is provided with
3 recovery of the costs of all newly acquired resources,
4 plus changes in costs from existing resources"?

5 A. That is correct.

6 Q. And then you state -- so that's the second
7 goal, and on the third goal you state, "the PRAM is
8 responsive to the third policy goal, too." Correct?

9 A. Yes.

10 Q. Now, in its April 1, 1991 order the
11 Commission also established four general objectives to
12 be served by programs or mechanisms that encouraged
13 the goals of least cost planning. Are you generally
14 familiar with that?

15 A. Yes, I have that on my testimony in Q and A
16 on page 8, beginning on line 16 and ending on line
17 23.

18 Q. Let me put this on the board here and show
19 that to you. Those four objectives from the April 1,
20 1991 order from the Commission established the four
21 general objectives to be established are, one,
22 adjustment for changes in revenues and costs beyond a
23 utility's control; two, purchased power cost recovery;

24 three, conservation cost recovery; and four, incentives
25 for least cost supply and demand-side acquisitions." Is
(ELGIN - CROSS BY MARSHALL) 1935

1 that correct?

2 A. I think we're speaking about different
3 items. What I was referring to were the Commission's
4 first supplemental order in UE-92630 which is the PRAM
5 2 and it's identified -- in the testimony I referred
6 to I was looking at page --

7 Q. What I'm referring to you of course is page
8 4 of the April 1, 1991 Commission order. Right after
9 the three goals that we just went through, Commission
10 also in its April 1, 1991 order lists the four general
11 objectives to be served by programs or mechanisms that
12 encourage the goals of least cost planning?

13 A. I would agree with that.

14 Q. Do you have the order in front of you, the
15 April 1, 1991 order?

16 A. I have a copy here.

17 Q. Just to make sure that we're all operating
18 on the same --

19 A. Yes, I have that.

20 Q. Turn to page 4. I just want to make sure
21 that we've accurately quoted those.

22 A. Yes, you have, that's in the first full
23 paragraph on page 4.

24 Q. So those are in addition to the three
25 goals, there are four general objectives to be served

(ELGIN - CROSS BY MARSHALL)

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1 by the process, correct?

2 A. That is correct.

3 Q. Now, do you quote or refer to in your
4 testimony any of those four general objectives as set
5 forth in the April 1, 1991 order?

6 A. No, I do not.

7 Q. Did you review Mr. Sonstelie's testimony
8 prefiled direct testimony, in this case?

9 A. Yes, I have.

10 Q. Did you review his testimony on those four
11 general objectives?

12 A. Yes, I have.

13 Q. Did you see where he concluded that the
14 company met the objectives set forth in items 1, 2 and
15 3 with his proposals?

16 A. Yes, and that's consistent with my
17 testimony on page 8, lines 3 through 14 where I say
18 that it meets these policy objectives and I didn't
19 discuss these specific four, but I would agree with
20 the proposition that Mr. Sonstelie testified to those
21 and addressed those.

22 Q. And my question to you is whether you
23 agreed or disagreed with his testimony on those four

24 objectives?

25 A. In what sense did I agree or disagree?

(ELGIN - CROSS BY MARSHALL)

1937

1 Q. You indicated that you had reviewed his
2 testimony?

3 A. Yes.

4 Q. And you therefore understand what his
5 testimony was on those four general objectives. Do
6 you agree with his testimony or disagree?

7 A. You mean his conclusions?

8 Q. Yes, on those four general objectives.

9 A. No, I don't have any reason to disagree
10 with those conclusions.

11 Q. Now, you do agree that adjustment for
12 changes in revenues and costs beyond a utility's
13 control are part of the four general objectives?

14 A. Yes.

15 Q. And should be met?

16 A. Yes. The issue is to what extent can a
17 company manage those. So I agree that the Commission
18 has established that as part of its objective but the
19 other side of the coin is even though something may be
20 outside a utility's control one of the things that
21 management is compensated for is the ability to manage
22 those variables that are outside of its control.

23 Q. Certain things outside of its control are,

24 for example, the amount of water that flows out of
25 the Columbia River?

(ELGIN - CROSS BY MARSHALL)

1938

1 A. Precisely.

2 Q. Management doesn't really --

3 MR. TROTTER: Excuse me, he hadn't
4 finished.

5 Q. I apologize.

6 A. I was saying yes. Management has no
7 control on the amount of rain, if you will, but to the
8 extent it minimizes its power supply costs to deal
9 with adverse water conditions that's perfectly well
10 within its control.

11 Q. You understand that Puget Power gets about
12 38 percent of all of its power from five Mid Columbia
13 projects; is that correct?

14 A. That is correct.

15 Q. And do you understand that those projects
16 are not owned by the company so the company does not
17 have those projects in its rate base and the
18 stockholders do not earn a rate of return on the
19 investment in those projects?

20 A. That's my understanding, yes.

21 Q. And so the fuel for those projects is the
22 water, correct?

23 A. Yes.

24 Q. And the company doesn't make a profit, the
25 stockholders don't make a profit, on the generation of

(ELGIN - CROSS BY MARSHALL)

1939

1 power from those projects because it's not -- they
2 aren't in rate base, true?

3 A. I agree with that.

4 Q. And when the -- because they get a direct
5 flow-through, the benefits of good water years, the
6 ratepayers also have the risk of poor fuel conditions
7 in poor water years, correct?

8 A. Under the PRAM the ratepayers have that
9 risk, yes.

10 Q. And that's a risk you would agree would be
11 fair since the stockholders aren't getting any kind of
12 profit or rate of return on those projects. It's a
13 strict purchased power situation, correct?

14 A. Not necessarily, no.

15 Q. Do you have any indication that any of the
16 costs from any of those Mid Columbia projects are in
17 any way imprudent in this case?

18 A. No, I don't.

19 Q. And those costs are you would agree are
20 legitimate costs that should be passed through to the
21 customers who benefit from those projects?

22 A. That is correct. That has been the
23 traditional practice of the Commission.

24 Q. You also interpret that the third goal,
25 conservation costs recovery, that, as you've

(ELGIN - CROSS BY MARSHALL)

1940

1 interpreted, means timely and full conservation
2 recovery?

3 A. That is correct.

4 Q. So that there's no regulatory lag?

5 A. Well, as I understand it, the whole purpose
6 was of the Commission's objective No. 3 that you have
7 on the board there was to put conservation costs
8 recovery on an equal playing field with supply side
9 costs recovery. So in that sense, yes, an equal level
10 playing field and full and timely recovery to the
11 extent that they're treated the same way that any
12 supply side resource is treated.

13 Q. What were the goals established here by the
14 Commission in its previous order has been to permit
15 the timely and full recovery of conservation costs?

16 A. Yes.

17 Q. And those costs are as you've indicated
18 something that is encouraged by both state and federal
19 law?

20 A. Yes.

21 Q. Now, let's turn to that. Regarding whether
22 the PRAM decoupling is in the public interest, you
23 state in your testimony that the staff is "not

24 recommending that the mechanism be abandoned" because
25 you indicated "the mechanism offers other benefits

(ELGIN - CROSS BY MARSHALL)

1941

1 that are in the public interest"?

2 A. That is correct.

3 Q. And among the public interest benefits of
4 the PRAM decoupling mechanism you said at page 26,
5 "the PRAM and the decoupling aspect of the mechanism
6 offers significant benefits. However, the company has
7 aggressively pursued conservation resources which have
8 been declared a high priority resource under both
9 Washington and federal law."

10 Now, when you state that conservation
11 resources have been declared a high priority under
12 both Washington and federal law, what specific
13 Washington law did you mean by that?

14 A. I was referring to the statute that we
15 discussed earlier in my testimony as 80.28.260. It's
16 part of the Commission's -- it was part of the
17 legislature's adoption of the model conservation
18 standards. I believe that was in 1990 or 1991. I
19 don't have the specific date, but also previous to
20 that, in 1980, as part 80.28.024 when the legislature
21 created the, if you will, the 2 percent bonus return
22 on equity for investments in conservation
23 expenditures, even though that 2 percent equity kicker

24 has expired, that that part of the code is still on
25 the books where it does declare that it's in the

(ELGIN - CROSS BY MARSHALL)

1942

1 public interest to pursue both efficiency investments
2 and renewable type resources.

3 Q. The order that we quoted from before on the
4 three goals stated that the legislature's mandate was
5 chapter 2, laws of 1990 house bill 2198?

6 A. Yes.

7 Q. And that was then codified in the RCW that
8 you quoted?

9 A. That is correct.

10 Q. Was the section one of chapter 2 of the
11 laws of 1990, House bill 2198 codified anywhere in the
12 RCWs, to your knowledge?

13 A. I don't believe it was codified in title 80
14 but it may be codified in a different -- I don't know
15 exactly where it is.

16 Q. I am going to hand you an exhibit which is
17 chapter 2 laws of 1990 House bill 2198 which has section
18 one in it. Do you see that in front of you now?

19 A. Yes.

20 Q. Now, can you tell me where section one is
21 codified?

22 A. It looks to me like it's codified -- might
23 be in -- I don't know. Just from looking at this it

24 would take me some time.

25 MR. TROTTER: Your Honor, this is, I think, a
(ELGIN - CROSS BY MARSHALL) 1943

1 question of law as to where a statute is codified.
2 Mr. Elgin, I don't think, is positive exactly where.
3 If counsel wants to represent where it is we can check
4 it.

5 MR. MARSHALL: That's fine. I just wanted
6 to make sure we were proceeding on the legislative
7 mandate. I don't know if it has been mandated. I
8 have not been able to determine.

9 MR. TROTTER: I guess Mr. Elgin's
10 testimony --

11 JUDGE HAENLE: Gentlemen, why don't we have
12 you look that up during the break, report it to
13 counsel and we can discuss it. We can take care of
14 it in that manner.

15 Q. I would like to ask the witness if he
16 agrees that this does accurately represent the
17 legislative mandate with respect to energy
18 conservation, particularly section one of the second
19 paragraph where it states as quoted, "declared policy
20 in the state of Washington that energy be used
21 efficiently."

22 A. Yes.

23 Q. You don't disagree with that?

24 A. No, I don't.

25 Q. No matter where that's codified?

(ELGIN - CROSS BY MARSHALL)

1944

1 A. No.

2 Q. And, again, part of the public interest of
3 the PRAM decoupling that you were describing is the
4 public interest in complying with the legislative
5 mandate to use energy efficiently?

6 A. That is correct.

7 Q. And using energy efficiently is to be
8 promoted in part by removing regulatory barriers that
9 might otherwise have slowed utilities down in
10 investing in conservation efficiency use of energy as
11 opposed to just going out and building new coal plants
12 or other generating facilities?

13 A. Well, that's exactly what my testimony on
14 page 3 is talking about is what the legislature did to
15 title 80 with respect to this legislation and gave
16 some specific policy direction to the Commission for
17 evaluating its regulatory policies with respect to
18 conservation investment. That's RCW 80.28.260.

19 Q. Now, turning, now, to federal law which you
20 also said PRAM decoupling supports. What specific
21 federal law did you have in mind in your testimony
22 when you stated that conservation resources have been
23 declared a high priority under federal law?

24 A. No.

25 Q. Now, in your opinion, what are the reasons

(ELGIN - CROSS BY MARSHALL)

1946

1 why conservation, why energy efficiency is a high
2 priority resource under both federal and state laws?

3 A. It appears that conservation is both a low
4 cost and a low risk resource with respect to impact on
5 utility ratepayers. Also one of the benefits is it
6 has short lead time. It's acquired in increments,
7 small increments. It's flexible. It can be ramped
8 up, it can be ramped down, depending on the specific
9 needs of the customer and so between flexibility and
10 timing within a resource portfolio, also with the fact
11 that it's low cost and also tends to be low risk with
12 respect to environmental impacts.

13 Q. Now, with respect to environmental impacts,
14 was that a major impetus behind federal and state
15 public policy interest in encouraging conservation and
16 energy efficiency?

17 A. I am not sure. I have not read the
18 congressional background on what people were arguing.
19 I read synopsis and summaries of discussions, but I
20 don't recall anything specific in that regard.

21 Q. You haven't gone into legislative history
22 of the federal law?

23 A. No.

24 Q. Have you gone into legislative history of
25 the Washington state acts of 1990?

(ELGIN - CROSS BY MARSHALL)

1947

1 A. To the extent that there were some issues
2 on the meaning of RCW 800.28.260 I did review some,
3 and that had to do with an issue that we discussed in
4 the PRAM 1 filing in terms of what and where did the 2
5 percent equity bonus for conservation investments,
6 where that was mandated. And I reviewed that but that
7 has been three or four years ago since I looked at
8 that.

9 Q. Just so that we understand, when you say
10 "equity bonus" you had referred to that earlier as an
11 equity kicker?

12 A. Yes.

13 Q. What exactly do you mean by that?

14 A. In 1980 the legislature in terms of its
15 declaration of conservation as a high priority
16 resource provided a mandate that the Commission allow
17 its jurisdictional utilities an increment on its
18 return on equity for its investments in efficiency and
19 that was to be a 2 percent bonus. So, for example, if
20 the Commission determined that a fair return on equity
21 for the company's rate base was 10 percent, its
22 investments in efficiency would then be granted a 12
23 percent return on equity.

24 Q. That's 200 basis points as they say --

25 A. Yes, that's correct.

(ELGIN - CROSS BY MARSHALL)

1948

1 Q. -- in some of the other testimony?

2 A. Yes, 200 basis points.

3 Q. And this was -- you said you looked at the
4 legislative history behind that?

5 A. Yes.

6 Q. And that was considered by the legislature
7 to be a fair bonus or equity kicker to encourage
8 conservation at that time?

9 A. At the time, in 1980 it was. It expired in
10 1990.

11 Q. When you say, state in your testimony at
12 page 26 that "the company has aggressively pursued
13 conservation resources," what do you understand the
14 company has achieved since 1991 in acquiring
15 conservation resources?

16 A. It's achieved approximately 17 and a half
17 average megawatts in 1991 and I think in 1992, I don't
18 have the specific number but somewhere I think it was
19 25 to 26 average megawatts. Somewhere in there.

20 Q. And have you made a study of how the
21 company compares to other regulated utilities in the
22 United States in terms of acquiring conservation
23 resources?

24 A. No, I have not.

25 Q. Do you have a general impression that the

(ELGIN - CROSS BY MARSHALL)

1949

1 the company compares extremely favorably for companies
2 of its size in acquiring conservation resources?

3 A. Yes, I do.

4 Q. In fact isn't the company an acknowledged
5 leader in acquiring conservation resources?

6 A. And that's the basis for my understanding
7 of the testimony in terms of my discussion with staff
8 and following the policy collab -- excuse me, the
9 technical collaborative with respect to the program
10 design and valuation and also some of the materials
11 that I have read with respect to what other parties
12 felt in that technical collaborative about the
13 company. That's the basis for my testimony in saying
14 that Puget has aggressively acquired conservation
15 resources.

16 Q. In other words, Puget has performed pretty
17 much as expected and is encouraged by the various
18 policies and laws at both the federal and state level,
19 correct?

20 A. Yes, I would agree.

21 Q. Now I would like to ask you some questions
22 about the various changes that you propose to make to
23 the PRAM decoupling mechanism. First off, when the

24 PRAM decoupling mechanism was proposed, first
25 proposed, you opposed it; is that correct?

(ELGIN - CROSS BY MARSHALL)

1950

1 A. The staff continues to believe that
2 decoupling is not necessary. We did not necessarily
3 oppose it. We opposed the classification that the
4 company was proposing between base/resource category
5 and the staff went so far as to propose something that
6 we felt would meet all the requirements and provide
7 cost recovery for conservation, but we wanted to keep
8 it in the confines of traditional cost of service rate
9 making. So we proposed a different alternative but
10 then at the same time in the petition creating the
11 PRAM we also then proposed some modifications to the
12 company's decoupling proposal. So, in that sense we
13 proposed something that we felt worked with
14 traditional regulation but at the same time we also
15 said, okay, if you want to decouple and you want to
16 have a base/resource split that here's how we should
17 amend it and here's how it should be changed. So
18 that's our disagreement that we had with respect to
19 the PRAM and decoupling proposal.

20 Q. To make sure I understand what you had
21 proposed back then was a least cost tracker and you
22 opposed the PRAM decoupling mechanism?

23 A. We gave the Commission options. Our

24 preference was the least cost planning tracker.

25 Something that would normalize weather, normalize

(ELGIN - CROSS BY MARSHALL)

1951

1 sales and look at incremental resource costs and then
2 provide the company with an opportunity to recover
3 those on a prospective basis. We continued to have
4 problems with deferred accounting. We continued to
5 have problems with the fact that the PRAM is not
6 cost-based regulation, but what we're saying is that
7 our reading of the Commission is that -- to use their
8 words in the order they're committed to pursuing and
9 to seeing if decoupling will work. And so what the
10 staff is saying, what we interpret what the
11 Commission's desire is, is to find a decoupling
12 mechanism that works, and so our position in this
13 proceeding is to go back to what we originally
14 proposed is to fix the PRAM. And so that's what we're
15 proposing in this proceeding. Fix it.

16 Q. Just so that we, again, make sure that we
17 understand each other. In the April 1, 1991 order of
18 the Commission that established the PRAM decoupling
19 mechanism that we have now that opposed to that form
20 of the PRAM decoupling mechanism you proposed two
21 things instead of what was adopted. One, a least cost
22 tracker and, two, a number of modifications to in fact
23 what was adopted. Is that fair to say?

24 A. That's fair to say.

25 Q. Now, in your current testimony, you attach

(ELGIN - CROSS BY MARSHALL)

1952

1 an article that appears to suggest that decoupling
2 mechanism is not necessary; is that right?

3 A. That is correct.

4 Q. Who is that author of the article?

5 A. Steve Kihm.

6 JUDGE HAENLE: Spell it in this case?

7 THE WITNESS: K I H M?

8 A. No, I have not met Mr. Kihm.

9 Q. Apart from what you read in this article,
10 do you know anything about his background?

11 A. Only that it describes here that he's --

12 Q. I understand what the article says. I am
13 just asking if you know anything apart from what's
14 written in the article about his background?

15 A. No.

16 Q. Do you know anything about his prior
17 testimony that he's given in any proceeding?

18 A. No.

19 Q. Do you know anything about any of his other
20 positions that he may have taken on any other topic?

21 A. No, I do not.

22 Q. Do you know whether he's pro utility, anti
23 utility, what his bias is?

24 MR. TROTTER: Object to the question.

25 Already answered that he's unfamiliar with Mr. Kihm's

(ELGIN - CROSS BY MARSHALL)

1953

1 prior testimony. Cumulative.

2 JUDGE HAENLE: I agree, Mr. Marshall, unless

3 there's something in particular you were getting to.

4 Q. Have you spoken to anybody who knows

5 Mr. Kihm?

6 A. No, I have not.

7 Q. Have you gotten from anybody the backup

8 material to Mr. Kihm's earlier article to find out

9 where he derived his statistics and figures?

10 A. No, I have not.

11 Q. He purports to take 25 companies and run

12 some charts and regression analyses and so forth; is

13 that correct?

14 A. That is correct.

15 Q. Have you done any staff work-up to find out

16 whether he even has his math right?

17 A. No.

18 Q. If you take out one data point out of

19 there, Consolidated Edison on his chart that he has --

20 on all the charts, wouldn't that completely change his

21 analysis?

22 A. Which particular chart are you referring

23 to, Mr. Marshall?

24 Q. Take the first one. It doesn't really
25 matter. Do you see that?

(ELGIN - CROSS BY MARSHALL)

1954

1 A. Stockholder return as it's correlated to
2 KWH sales growth as a percent.

3 Q. Right. Do you see the one little box up in
4 the upper left-hand corner?

5 A. Where it says, "The stockholder return was
6 18 percent and the annual sales growth was less than
7 one percent," that one?

8 Q. I am pointing to --

9 A. Which observation are you referring to?

10 Q. Do you see the box that he has with the
11 little dots on them?

12 A. Yes.

13 Q. The dot, the very dot in the upper left-
14 hand corner, do you know what utility that is?

15 A. No, I do not.

16 Q. Would that be Consolidated Edison?

17 A. I don't know.

18 Q. If you took out that dot do you know what
19 that would do to his analysis?

20 A. It would seem to me what it would do is
21 tend to flatten it out some. I don't know. I already
22 admitted that.

23 Q. I am just trying to get to the basis for

24 your opinions whether you agree or disagree with that,
25 since this is now in evidence and I was asked to

(ELGIN - CROSS BY MARSHALL)

1955

1 inquire about what you might --

2 MR. TROTTER: Can we have a question,
3 please. This is Mr. Marshall chatting with the
4 witness. He has not asked a question.

5 MR. MARSHALL: I will ask a question.

6 Q. Do you know what the other dots represent
7 on that chart, what companies?

8 A. Off the top of my head, I don't. If I can,
9 to cut this short is the purpose of including this
10 exhibit --

11 Q. I haven't asked a question.

12 A. Well, I was following up to the series of
13 questions that you have been asking me about what I
14 did with this document. And all I am trying to
15 suggest is that --

16 Q. Can you wait? You will have an opportunity
17 later but I would like to really find out the basis
18 for the articles since the statistics in the article
19 are now into evidence.

20 JUDGE HAENLE: The article itself is into
21 evidence and I would prefer your questions not be
22 repetitious, Mr. Marshall.

23 MR. MARSHALL: Sure. I am trying to do

24 that.

25 Q. Are any of the companies represented here

(ELGIN - CROSS BY MARSHALL)

1956

1 nuclear power companies?

2 A. Well, they probably all were nuclear power
3 companies to the extent that even Puget was a nuclear
4 power company in the time series that this analysis
5 was done.

6 Q. What was the time frame for this analysis?

7 A. Again, Mr. Marshall, the purpose of my
8 testimony was not to reference any specific statistics
9 in here, the purpose of my testimony and introduction
10 of this article was to show that as a matter of fact
11 that if you were concerned about return to shareholders
12 that truly acquiring low cost demand-side resources
13 somehow was possibly correlated to the return, and it
14 does show, had some statistical evidence that showed
15 that as a matter of fact utilities that did have high
16 sales growth and pursued growth weren't necessarily the
17 most profitable as you measured shareholder returns.

18 Now, I am not talking about any specific
19 statistics. I am not talking about anything. It's
20 just a general proposition that the idea that a
21 utility goes out there and effectively, aggressively,
22 pursues additional load may not be in the best
23 interests of shareholders.

24 JUDGE HAENLE: Mr. Elgin, Counsel is
25 entitled because the article has been put into
(ELGIN - CROSS BY MARSHALL) 1957
1 evidence to question your knowledge of it and the
2 basis of the article. Let's just proceed with that,
3 please.
4 Q. My question, Mr. Elgin, is do you know what
5 time frame these statistics are drawn from?
6 A. It's in the article. 1969 and one study
7 was from 1969 to 1987. Some of the figures represent
8 data from 1972 through 1989.
9 Q. This figure one, to take that one again,
10 for what period of time was that taken?
11 A. 1972 through 1989. And it was a set of 24
12 major U.S. electric utilities and if you go to
13 footnote 3 it has the complete list of Moody's
14 electrical utilities where they extracted that data,
15 and then also it has a disclaimer that Centerior
16 Energy was not represented because the stock did not
17 exist for the entire '79 to '89 period.
18 Q. 1979 to 1989 period was a period where
19 there were significant disallowances for nuclear plant
20 in major parts of the country?
21 A. Not the entire period.
22 Q. Do you know what effect those disallowances
23 had on any of those called for here in this article?

24 assume you have some more questions in this regard.

25 MR. MARSHALL: I finished with the questions

(ELGIN - CROSS BY MARSHALL)

1959

1 on this article.

2 JUDGE HAENLE: Why don't we take our
3 morning recess and be back at 11:00, please.

4 (Recess.)

5 JUDGE HAENLE: Let's be back on the record
6 after our morning recess. Just for the record, I
7 should say that Mr. Butler from BOMA left a message
8 with my office last week, said he would not be
9 attending this portion of the hearings. And Mr. Meyer
10 from the Washington Water Power Company also left a
11 message that he was interested only in Mr. Winterfeld's
12 testimony and so would not be appearing before that
13 time. Those are the later appearances of counsel that
14 I was referring to. I might also indicate that I
15 believe Mr. Paine is going to be here for only a
16 portion of the testimony as well. Continue, Mr.
17 Marshall.

18 MR. MARSHALL: Thank you, your Honor.

19 Q. Mr. Elgin, you indicated that the reason
20 you attached the article by Mr. Kihm was because that
21 in your view showed the lack of need for a decoupling
22 mechanism. What I would like to ask you is are there
23 articles out there in various journals in the energy

24 field that support the need for decoupling?

25 A. Well, I think you've mischaracterized my

(ELGIN - CROSS BY MARSHALL)

1960

1 testimony.

2 Q. Well, let me rephrase it. I don't intend
3 to. Let me just ask you the plain question. Are there
4 articles out there in the energy publication area in
5 the various journals and so forth that support the need
6 for decoupling?

7 A. That's correct. And as my testimony
8 indicates on page 9, we still feel that -- I believe
9 it's page 9 -- that from the staff perspective --

10 Q. I'm just asking about the articles.

11 A. Yes. There are more articles out there
12 probably that the people who are supporting decoupling
13 are very prolific in their ability to write about the
14 benefits of decoupling and the problems with
15 traditional rate of return rate base regulation.

16 Q. Now what I would like to do is to go into
17 some of the details of the changes that you have
18 proposed with regard to the PRAM decoupling mechanism
19 adopted by the Commission in the April 1, 1991 order.
20 Before I go into the details of the changes you
21 proposed I first wanted to ask you about your view to
22 investor reaction. You state at page 26, at the top
23 of page 26 of your testimony, lines 1 through 4 that

24 you agree with the following principle. "I agree with
25 the testimony of Messrs. Miller and Olson that

(ELGIN - CROSS BY MARSHALL)

1961

1 uncertainty is what investors abhor. The investor
2 community is seeking some stability from the Commission
3 regarding the PRAM." Did I read your testimony
4 correctly?

5 A. Yes, you have.

6 Q. Now, when you state that investors abhor
7 uncertainty and that the investment community is
8 seeking some assurance of stability, would you agree
9 that any changes to the PRAM decoupling mechanism
10 should be done therefore with considerable caution?

11 A. Well, the context of my testimony in that
12 respect was specific reference to Mr. Olson when he was
13 talking about how the Commission had adopted ECAC,
14 abandoned ECAC, went back to traditional rate of return
15 regulation, now has PRAM and then there was some
16 uncertainty with respect to the PRAM. And what I am
17 suggesting is that as long as the PRAM remains in
18 effect in virtually the form that provides for timely
19 recovery of purchased power and basically does
20 something with respect to decoupling for conservation,
21 I think in essence minor modifications such as what the
22 staff is proposing should be not viewed -- will be
23 viewed favorably by the investment community and

24 basically will be a message that the Commission is
25 committed to pursuing this regulatory experiment and,

(ELGIN - CROSS BY MARSHALL)

1962

1 if you will, staying the course. So I don't view what
2 the staff is proposing as something that the street
3 would view as a wholesale change to what the Commission
4 has done with respect to PRAM.

5 Q. I guess all that I wanted to know by means
6 of the question was that because investors are
7 concerned and need the assurance, any substantial
8 changes to the PRAM decoupling mechanism should be
9 done with considerable caution?

10 A. Yes, any substantial change.

11 Q. So then it just becomes a question of what
12 we define as substantial change?

13 A. That's correct.

14 Q. Now, do you agree that there was a negative
15 reaction last fall about the possibility that PRAM
16 would be changed by increasing the period for recovery
17 of deferred amounts and by concern that other major
18 changes would be made to the PRAM decoupling mechanism?

19 A. My interpretation of what the concern was
20 had to do specifically with the issue of how the
21 company had shaped its revenues and booked revenues
22 with the deferrals and then the period of time with
23 which it could recover those deferrals through rates.

24 So my understanding was that the investment community
25 was primarily concerned as to whether or not Puget had

(ELGIN - CROSS BY MARSHALL)

1963

1 to go back and restate 1992 earnings because of the,
2 if you will, lengthening of the period with which
3 deferrals would be recovered through rates. So that's
4 my reading of the, if you will, negative reaction, and
5 that's the principal thing that the investment
6 community was focusing on, would Puget have to take a
7 hit to 1991 earnings.

8 Q. So you do agree that there was a negative
9 reaction to increasing the period for recovery of
10 deferred amounts and by concerns of other major changes
11 that might be forthcoming to the PRAM decoupling
12 mechanism?

13 A. I don't agree with the latter part of your
14 question. I agree with the first part of your
15 question that there was an issue with respect to
16 Puget's earnings and what they may have to do with
17 respect to a write-down and then to the extent of
18 recovery of those deferrals, any time you lengthen
19 that out, the likelihood of recovery, the longer the
20 period, I agree with the proposition that it poses
21 some more uncertainty. With respect to recovery the
22 issue still is the length of the recovery and the
23 Commission on its order of reconsideration said we will

24 do a two-year amortization of that and I believe that
25 that's what the company has filed and predicated is

(ELGIN - CROSS BY MARSHALL)

1964

1 PRAM 3 filing on was a two-year amortization amount.

2 Q. Would you consider moving from a one-year
3 amortization of deferred costs to two or three years
4 to be a major change in the PRAM decoupling mechanism?

5 A. I am not an accountant but it's my
6 understanding is that you can't -- if it's going to be
7 a three-year recovery you can't book the earnings
8 until you recover them, so until they're actually
9 recovered through rates and recognized in rates you
10 can't book the earnings. That's my understanding, but
11 you're going to have to speak with an accountant about
12 that.

13 Q. In terms of asking the company -- back to
14 requiring the company to come in for a general rate
15 case, a part of the Commission's order of doing that
16 was so that the PRAM decoupling mechanism could be
17 reviewed and I take it the implication there was that
18 substantial changes or minor changes might be made to
19 that mechanism. Is that fair to say?

20 A. It was fair to say that the Commission
21 wanted to evaluate the experiment, and whether it be
22 substantial changes or minor changes, there's a whole
23 panoply of proposed adjustments being offered for the

24 Commission to consider and what the Commission does
25 with those recommendations could be viewed as

(ELGIN - CROSS BY MARSHALL)

1965

1 substantial and some could be viewed as minor. I view
2 the staff proposal as some minor changes to the
3 regulatory mechanism but in essence leaves the PRAM
4 intact.

5 Q. Now, what I would like you to do for me, if
6 you could, would be to list all of the changes that
7 the staff have put forward in this case that would
8 change the PRAM decoupling mechanism from what it
9 currently is. Do you have a list in mind, a brief
10 list, that you could relate to us?

11 A. I don't have a list. I can show you and in
12 my testimony direct you to the various witnesses that
13 could go specifically through that, but I can give the
14 Commission a summary of what we're suggesting.

15 Q. That would be helpful, if you could list as
16 many of the changes to the PRAM decoupling mechanism as
17 you understand.

18 A. Be glad to. The first issue that we're
19 suggesting is that the division between base and
20 resource costs needs to have some kind of principled,
21 if you will, division.

22 Q. What I would like you to do rather than
23 going and describing all the reasons for the changes

24 just to list them briefly and then we can come back to
25 them and I will go through each one.

(ELGIN - CROSS BY MARSHALL)

1966

1 A. What we're asking is that costs that are
2 truly resource-related should be classified in the
3 resource category.

4 Q. So the first one is that you propose a
5 change to the base/resource cost allocation?

6 A. Or classification or whatever you call it.

7 Q. What's the next major change that you've
8 proposed?

9 A. Second thing has to do with the simplified
10 dispatch and I wouldn't characterize this as a major
11 change. I would characterize this as a correction
12 that seems to be warranted based on our experiment
13 with the PRAM today. And that is that there appears
14 to be an issue with the way secondary rates and sales
15 and revenues between the differences are accounted for.
16 Under the existing SDM they're treated as if they have
17 the same value and it turns out, as a matter of fact,
18 that when Puget is selling secondary energy versus
19 purchasing it there's a difference, and the PRAM
20 provides a favorable, if you will, treatment to Puget
21 because of that discrepancy.

22 Q. So the second issue is the simplified
23 dispatch model?

24 A. Yes.

25 Q. And again, if you could briefly list them

(ELGIN - CROSS BY MARSHALL)

1967

1 and then we can get through all of the list and we will
2 come back to them.

3 A. I don't have a list. I'm just trying to go
4 with --

5 Q. What's the third change that the staff is
6 proposing?

7 A. The staff is recommending that we -- this
8 is something that we originally proposed in the first
9 decoupling was to look at revenue per customer on
10 customer class basis, because as customers -- we won't
11 get into that.

12 Q. What's the fourth?

13 A. I believe that those are the major ones that
14 I can consider. With respect to the specifics if you
15 discuss with Mr. Martin, he can talk about the
16 classification and the allocations. Mr. Nguyen can
17 talk about the issue of revenue per customer on a
18 class specific basis and then Mr. Moast can address
19 everything related to the simplified dispatch model.
20 And again, from the staff perspective, these are all,
21 we feel, minor changes that basically keep PRAM intact
22 but it is a fair apportionment between the costs and
23 the recovery between ratepayers and stockholders.

24 Q. One of the areas that your testimony does
25 -- and I appreciate your giving me the list of the

(ELGIN - CROSS BY MARSHALL)

1968

1 people on your staff who would respond to those, but
2 one of the areas that you do address in some detail in
3 your testimony appears to be the current method under
4 the current PRAM decoupling mechanism for separating
5 costs into a base category and a resource category.
6 And you've addressed that in a little more detail than
7 the others. Is that fair to say?

8 A. That is correct.

9 Q. And you would change the way of allocating
10 costs between base and resource the same way that you
11 recommended in the staff presentation three years ago
12 before the April 1, 1991 order came down?

13 A. That is correct.

14 Q. In your testimony, I believe you said that
15 the recommendations for classifying revenues (costs)
16 between base and resource categories is "identical to
17 the presentation staff made in docket No. UE-901184-P."

18 A. That is correct.

19 JUDGE HAENLE: Where are you quoting from?

20 MR. MARSHALL: Testimony from Mr. Elgin
21 page 2, lines 18 to 21.

22 Q. Just to be clear, in that docket UE-
23 901184-P, you disagreed with the PRAM decoupling

24 mechanism and had suggested this least cost tracker
25 instead.

(ELGIN - CROSS BY MARSHALL)

1969

1 MR. TROTTER: Your Honor, that question has
2 been asked at least twice before. I will object, asked
3 and answered.

4 BY MR. MARSHALL:

5 Q. That was the docket in which you were
6 referring earlier to your least cost tracker; is that
7 correct?

8 A. Yes. But you mischaracterized the staff
9 position in that docket.

10 Q. In the order in that docket the Commission
11 UE-9011884-P evaluated the staff's criticism of the
12 proposed base/resource classification. True?

13 A. I don't believe that's true. I think what
14 the Commission did was basically accept the company's
15 proposal and only addressed the staff's proposal for a
16 least cost planning tracker.

17 Q. Well, in its April 1, 1991 order didn't the
18 Commission reject the staff's provision regarding
19 classification of base versus resource costs?

20 A. Yes.

21 Q. So it did consider and it did specifically
22 reject in that docket the staff's allocation
23 classification of base versus resource cost?

24 A. Essentially what I understand what the
25 Commission did, it did not accept the Commission

(ELGIN - CROSS BY MARSHALL)

1970

1 staff's recommendation for the split in the
2 classification.

3 Q. If I could refer you to the bottom of page
4 11 and the top of page 12 in the order where the
5 Commission did evaluate the staff's criticism of the
6 Puget classification.

7 COMMISSIONER CASAD: Excuse me, your Honor,
8 has the order been entered into evidence?

9 JUDGE HAENLE: No, it hasn't. We can
10 probably get you a copy. If anyone has it we could
11 borrow or refer to it.

12 MR. MARSHALL: We'll try to get an extra
13 copy or so of the order.

14 JUDGE HAENLE: That would be helpful.

15 COMMISSIONER CASAD: It would help if it
16 was contemporaneous with your questioning.

17 JUDGE HAENLE: Let's go off the record to
18 see if we can get that.

19 (Discussion off the record.)

20 JUDGE HAENLE: Let's be back on the record.
21 During the time we were off the record a copy of the
22 order was provided to the Commissioner. Go ahead, Mr.
23 Marshall.

24 Q. Let me just refer to page 12 of that order
25 where the Commission said --

(ELGIN - CROSS BY MARSHALL)

1971

1 Do you have that in front of you?

2 A. It's out getting photocopied.

3 Q. Well, let me see if I've quoted it
4 correctly. The Commissioners can tell me if I'm
5 incorrect. There in the order they said, "there are
6 many possible ways to allocate costs among base and
7 resource. The company's allocation is based on
8 identification of certain resource costs that may tend
9 to fluctuate from year to year plus certain resource
10 costs that may be increasing at a faster rate than the
11 growth in customers. The company's model shows that
12 this allocation is likely to produce earnings near the
13 company's authorized rate of return."

14 COMMISSIONER CASAD: Did you indicate that
15 you wanted the Commissioner to indicate whether you
16 read it correctly or not?

17 MR. MARSHALL: Did I read it correctly.

18 COMMISSIONER CASAD: I thought you did but
19 not completely, if you start at the beginning of the
20 paragraph.

21 MR. MARSHALL: I only have that one part
22 here in my typewritten version but I think the people
23 who need to have it in front of them have it in front

24 of them.

25 Q. The reason why I'm asking the question

(ELGIN - CROSS BY MARSHALL)

1972

1 to begin with is, did the staff in this case run any
2 financial model to show that change in allocation it
3 proposes, the same allocation that was considered
4 three years ago and not adopted, is "likely to produce
5 earnings near the company's authorized rate of
6 return"?

7 A. No, and I don't think that that's an
8 appropriate exercise for the staff to do. We're not
9 into the process of separating rate requests on the
10 basis of prospective financial results and earnings
11 levels that it may or may not produce.

12 Q. That was a no to my question, you have not
13 run a financial model?

14 A. That's right, emphatic no.

15 MR. TROTTER: Your Honor, questions that
16 are asked in this context have certain inferences to
17 them that every company witness has seen fully, fully
18 fit to respond to. And this attorney is denying staff
19 that opportunity to. We would like the same treatment
20 that was granted the many, many witnesses that Puget
21 has offered in this case.

22 JUDGE HAENLE: We need to strike a balance
23 as always, Mr. Trotter, between letting the witnesses

24 give a full answer but balancing that against going
25 beyond the question and getting into a --

(ELGIN - CROSS BY MARSHALL)

1973

1 MR. TROTTER: I will just ask for
2 consistency, your Honor.

3 JUDGE HAENLE: I hope that we're being
4 consistent. I have asked all of the witnesses to
5 begin with a yes or no and then to explain their
6 answers but not to go beyond the scope of the
7 question. I am sure that you are taking good notes,
8 Mr. Trotter, in terms of asking on redirect the
9 questions that you feel would be appropriate to bring
10 out those portions of the witness' proposals that you
11 feel are necessary.

12 My concern is that we not each time the
13 question is asked have an answer that goes far beyond
14 the scope of the question. And as I say, we're trying
15 to strike a balance between allowing the witnesses the
16 full opportunity to answer the question.

17 MR. TROTTER: Simply ask the panel to review
18 the testimony of Mr. Abrams in this proceeding.

19 JUDGE HAENLE: Let's continue.

20 Q. I take it that the --

21 A. So, no, we didn't.

22 Q. You didn't run a financial model?

23 A. No.

24 Q. I take it that since the April 1, 1991
25 order there has been actual financial data that's

(ELGIN - CROSS BY MARSHALL)

1974

1 accumulated between that point and today, true?

2 A. Yes.

3 Q. Did the staff take the company's actual
4 financial data since 1991, since the order, and apply
5 its proposed change to the allocation of base versus
6 resource to see what kind of earnings it would
7 produce?

8 A. No, we have not.

9 Q. Do you have any idea what earnings that if
10 your recommendation had been followed it would
11 produce?

12 A. I can tell you it would have probably
13 produced less, and the only reason why I would make
14 that statement is that in the company's rebuttal phase
15 the company ran a model which no one had any kind of
16 opportunity to evaluate, but the issue is to what
17 extent does this classification produce more than
18 favorable results for Puget.

19 Q. That's why I was asking whether you had
20 taken the past -- sorry to interrupt. Go ahead and
21 finish.

22 A. The only other thing I wanted to add is that
23 the Commission in the PRAM 2 order specifically asked

24 the parties to evaluate this very issue.

25 Q. You say that your view is that if the

(ELGIN - CROSS BY MARSHALL)

1975

1 base/resource cost allocation you had proposed had
2 been adopted in 1991 it would have produced earnings
3 that were less than they were. Do you know by how
4 much less?

5 A. All I said is I assume they would, assuming
6 that everything in the company's model would have
7 flowed and those assumptions in the model were to be
8 calculated.

9 Q. Under your proposed change to the
10 allocation of base and resources, do you know if you
11 would have to use a multiplier?

12 A. I don't know.

13 Q. And I take it therefore you don't know or
14 have any idea what that multiplier might be?

15 A. No. It's incumbent upon the company to
16 provide that data for the staff and the parties to
17 evaluate.

18 Q. How would you go about trying to determine
19 if a multiplier should be used under your proposal?

20 A. Well, Mr. Marshall, the multiplier was
21 proposed by the company as part of the original PRAM
22 -- as part of your proposal, the company's proposal.
23 And it would just seem to me that you had some idea as

24 to how it would be used. It's the company's model.

25 And I have no idea how you envisioned that to be

(ELGIN - CROSS BY MARSHALL)

1976

1 applied. As I testified in previous cases, it appears
2 to me that the PRAM is results-driven. We're looking
3 at future prospective financial results and it seems
4 to me that what the PRAM has done is it has put costs
5 into various categories that gives results that Puget
6 finds acceptable to produce -- it produces results
7 that are acceptable to the company and from the staff
8 perspective we have no way to evaluate that. We have
9 no way to know whether or not the rates that result
10 from the implementation of it are cost based.

11 Q. Mr. Elgin --

12 A. That's my concern.

13 Q. My question was simply, do you know how you
14 would go about determining what multiplier to use with
15 your base/resource cost proposed change?

16 A. I answered that question no.

17 Q. Do you know how anyone would go about
18 trying to determine the multiplier to use with your
19 base/resource cost change?

20 A. Well, obviously Puget should know because
21 they proposed the multiplier as part of the PRAM
22 model. I haven't seen anything to date to show me
23 what your thinking is in that regard and what the

24 company's thinking is. I have no idea. You proposed
25 it.

(ELGIN - CROSS BY MARSHALL)

1977

1 Q. What multiplier, if any, was used with the
2 current base/resource cost allocation? Isn't it true
3 that there's a multiplier one, essentially no
4 multiplier at all?

5 A. Correct.

6 Q. Would your proposed change to base/resource
7 cost allocation require a multiplier?

8 A. I suspect not.

9 Q. Have you done anything to determine whether
10 your thought might be correct?

11 A. Again, I have no data with which to do that
12 kind of study. Neither does the staff. We're not
13 equipped to do that.

14 Q. Do you agree that under the PRAM decoupling
15 mechanism the company was able to achieve earnings as
16 the Commission order indicated near its authorized
17 rate of return since the base/resource cost allocation
18 of PRAM was adopted on April 1, '91?

19 A. It is my understanding the per books return
20 on equity have been at or above what the Commission
21 determined in 1989 and this is precisely why I have a
22 problem with it. I don't think a 13 percent return on
23 equity is reasonable for the company to earn.

24 Q. My question was since the base/resource
25 cost allocation was adopted on April 1, 1991, do you

(ELGIN - CROSS BY MARSHALL)

1978

1 know what the company was able to achieve by way of
2 earnings whether that was near its authorized rate of
3 return or not?

4 A. It's my understanding that the company's
5 return on average booked equity has been somewhere
6 around 13 percent. That's the number I believe I
7 calculated, somewhere around there.

8 Q. Do you have a calculation showing that the
9 first full year following the adoption of
10 base/resource cost allocation of PRAM on April 1,
11 1991?

12 A. No, I don't.

13 Q. Do you have any idea what that would be,
14 again in a first full year following the adoption of
15 that Commission order.

16 A. I don't have that, and I don't think it can
17 be calculated because we don't get any results that
18 would have a full year implementation of that. We
19 have, on a rate making basis we have reports that end
20 in 12 months ending in June and September and the
21 first 12 months ended would have been in October --
22 excuse me, September 30. So I don't know whether we
23 have that data. All I can tell you is what the

24 company has earned per books in its financial reports.

25 Q. So is it fair to say then that you have no

(ELGIN - CROSS BY MARSHALL)

1979

1 evidence that you can present to the Commission to
2 date that would state that the company has exceeded
3 its authorized rate of return after adoption of the
4 base/resource cost allocation on April 1, 1991?

5 A. All I can tell you is that the company has
6 earned, my calculations per books in '91 and '92,
7 around 13 percent.

8 Q. Has the company after the adoption of that
9 exceeded its authorized rate of return?

10 A. And I said, it has been at or above its
11 authorized rate of return. 13 percent is above its
12 authorized and I also testified that I don't think
13 that's a fair rate of return. I think 13 percent is
14 too much.

15 Q. Do you have any evidence from any financial
16 model run that shows that a company would exceed its
17 authorized rate of return in 1993 by continuing to use
18 the same base/resource cost allocation adopted by the
19 Commission on April 1, 1991?

20 A. No. And, again, we don't have that kind of
21 resources. We're not equipped to do that kind of
22 activity, Mr. Marshall.

23 Q. Do you understand that public counsel data

24 request 1485 sought that information and the company
25 did respond with that information?

(ELGIN - CROSS BY MARSHALL)

1980

1 A. I don't know what public counsel asked the
2 company.

3 Q. Have you made a data request to obtain all
4 of the data requests from other parties in this case?

5 A. I believe the staff has. I haven't.

6 Q. Have you reviewed the response to data
7 request 1485?

8 A. No, I have not. I cannot answer any
9 questions with respect to that.

10 Q. Can you tell me precisely enough what your
11 specific changes to the allocation of costs would be
12 so that we could run a model ourselves before our
13 rebuttal case to see what results your proposed change
14 would have produced since April 1, 1991?

15 A. I didn't think we had to. You were able to
16 do it in the initial PRAM case. I don't think it
17 would be something that -- if you did it once before I
18 don't think it would be necessary for us to provide it
19 again. You know what we were doing in that case you
20 ran the model before.

21 Q. I would respectfully disagree that we
22 understood what that was. My question is simply,
23 could you tell me today precisely enough what changes

24 you are recommending to the base/resource cost
25 allocation that would enable us to do that?

(ELGIN - CROSS BY MARSHALL)

1981

1 A. Mr. Marshall, I told you which witnesses
2 could specifically answer those questions and all I
3 can tell you is that when the staff proposed that
4 change to the decoupling classification and as well as
5 public counsel proposed a change, the company came up
6 with rather specific figures with respect to the
7 impact on EPS. So in all due respect I think the
8 company understood what we were after and what we were
9 trying to do and clearly produced rather precise
10 figures with respect to the financial impact on Puget
11 of the staff and the public counsel recommendations.

12 Q. Do you recall what that impact was? Was it
13 so that the company would earn less than its
14 authorized rate of return if it used your
15 base/resource cost allocation?

16 A. It wasn't stated in terms of authorized
17 rate of return. It was stated in terms of per books
18 earnings per share. It was consistent with the kind
19 of figure that I was giving you earlier with respect
20 to the calculation I made with respect to Puget's
21 return on equity.

22 Q. Without running a model or a comparison of
23 your changes to what currently exists, would you be

24 able to testify whether the change you've made is in
25 fact a minor change or a major change to the PRAM

(ELGIN - CROSS BY MARSHALL)

1982

1 decoupling mechanism?

2 A. I believe it's a minor change but Mr.
3 Martin can address that more specifically in terms of
4 the impact on results of operations. He was able to
5 do that previously.

6 Q. If your new proposal, which is the old one
7 that had been considered before and not adopted,
8 produces lower earnings and doesn't allow the company
9 to earn its authorized rate of return, isn't it fair
10 to say that investors would consider that to be a
11 major change in the PRAM decoupling mechanism?

12 A. I can't answer that, Mr. Marshall.

13 Q. Do you consider whether that would be a
14 major change if it prevented the company from a fair
15 opportunity to earn its authorized rate of return?

16 A. And it's my understanding that what the
17 staff proposal will provide Puget is an opportunity to
18 earn a fair rate of return. What my testimony is here
19 is that the way it is now it's, if you will,
20 effectively gamed and we don't know on a prospective
21 basis what Puget will earn. All we can do is measure
22 on a rate making basis what it is that Puget will earn
23 based on staff recommendation and have an opportunity

24 to earn. Whether in fact it does earn that or not is
25 really incumbent upon Puget, on a whole host of things:

(ELGIN - CROSS BY MARSHALL)

1983

1 can it control costs, can it effectively manage its
2 operations, can it deal with some of the things that are
3 facing it? I can't tell you what staff is recommending
4 will enable Puget to earn a fair rate of return. Part
5 of it is incumbent upon Puget to control its cost and
6 effectively manage its company. What we're saying is
7 that the staff case will provide Puget with an
8 opportunity to earn a fair rate of return and that's
9 8.91 percent. And Mr. Martin can talk more about that,
10 the allocations. That's the best I can do for you.

11 Q. Apart from whether the company earns a fair
12 rate of return does in part depend on how you allocate
13 costs between base and resource as you go out over the
14 years. Isn't that fair to say?

15 A. What is fair to say is that if you put too
16 much costs in the base side and allow it to grow at
17 the rate of customers, it provides an unjustified
18 attrition adjustment. It provides too much revenue to
19 the company. And that's what Mr. Martin demonstrated
20 and I believe that's what Mr. Lazar talked about, that
21 it was -- that the classification had no basis for
22 rational separation of the two costs and that on a
23 prospective basis we don't know what it will produce.

24 But it does provide with an opportunity to earn a fair
25 rate of return. And if it turns out that our

(ELGIN - CROSS BY MARSHALL)

1984

1 discussion that we had previously about a multiplier
2 may be appropriate, come in and show us why a
3 multiplier may or may not be appropriate. We don't
4 know. We don't know what you had in mind with that
5 multiplier. You proposed it. Don't ask us to then
6 then come in and justify a multiplier.

7 Q. Are you finished?

8 A. Yes.

9 Q. Now, did you decide as a policy matter to
10 develop your proposal to the PRAM decoupling mechanism
11 on base versus resource cost allocation in a way that
12 would not engage the collaborative process?

13 A. Well, I didn't think it was necessary to
14 engage the collaborative process because the
15 collaborative process knew exactly what the staff
16 position was with respect to that classification. It
17 doesn't make any sense to get together and say, well,
18 this is what we always thought and we think this is
19 fair.

20 Q. Let me ask you this. You read the testimony
21 of Mr. Knutsen in October on prefiled direct testimony
22 in this case?

23 A. Yes.

24 Q. At the end of October the company was
25 ordered to file its case and Mr. Knutsen's testimony

(ELGIN - CROSS BY MARSHALL)

1985

1 was among the documents filed with the case.

2 A. Yes.

3 Q. And in that the company said that it wasn't
4 going to propose a continuation of PRAM decoupling
5 because first there wasn't the time. Second, we hadn't
6 had the opportunity to meet with the various people who
7 would determine what PRAM decoupling mechanism might be
8 changed to look like. Do you understand that that was
9 the general nature of the remarks made in that first
10 filing?

11 A. Well, I will agree with you that
12 Mr. Knutsen's testimony stands on its own. If that's
13 how you want to characterize his testimony, that's
14 fine

15 Q. One of the ways that Mr. Knutsen said that
16 he would recommend that the parties proceed was to form
17 a collaborative to discuss any changes that might be
18 proposed to the PRAM decoupling mechanism beyond the
19 two that were made by the Commission last summer?

20 A. That is correct.

21 Q. And were you invited to attend those
22 collaborative meetings?

23 A. Yes, we were.

24 Q. And did you attend any of those
25 collaborative meetings?

(ELGIN - CROSS BY MARSHALL)

1986

1 A. No, we did not.

2 Q. Did you advise other members of your staff
3 not to attend those collaborative meetings?

4 A. I believe it was a question of meeting with
5 my staff and discussing available resources that we
6 had to respond to the case that the company presented
7 and whether or not we felt that it was necessary to
8 attend another collaborative.

9 Q. Did you advise members of your staff not to
10 attend any any of the collaborative meetings?

11 A. Let me see if I can find -- I don't know
12 whether I advised them not to or that the staff said
13 we can't do this and this. I don't remember the
14 specifics. What I can tell you is we, the staff,
15 determined that it was not appropriate to attend any
16 collaboratives given the case that was filed before us
17 that we had to evaluate.

18 Q. The case was filed at the end of October.
19 When was the first time that you advised any party --
20 let me rephrase that. When was the first time you
21 advised the company that you were going to propose
22 that the PRAM decoupling mechanism be modified on its
23 base versus resource cost allocation?

24 MR. TROTTER: Your Honor, I will object to
25 this question. It's irrelevant. We have

(ELGIN - CROSS BY MARSHALL)

1987

1 predistribution deadlines and we're trying a rate case
2 here. What difference does it make?

3 JUDGE HAENLE: The issue is relevancy.

4 MR. MARSHALL: The witness has testified
5 that we all knew what the prior position of the staff
6 was. There wasn't any need to talk about it. I was
7 wondering when he first notified the company as to
8 what the position would be.

9 JUDGE HAENLE: Why?

10 MR. MARSHALL: So that we can determine
11 when we would have had an opportunity to run any
12 models, to do any other checking on the base versus
13 resource allocation that has now been proposed for the
14 first time we believe on May 3 of this year.

15 MR. TROTTER: That begs the question the
16 company witness said, Gee, we should have a
17 collaborative which was of course right after they
18 filed a massive rate case. Mr. Elgin has testified
19 that the staff did not have the resources to engage in
20 that effort and it was hard at work preparing its
21 preparation for this proceeding as well as many others
22 involved in this company. The issue of when staff
23 predistributed its case or if it should have

24 predistributed its case earlier or talked to the
25 company earlier is irrelevant.

(ELGIN - CROSS BY MARSHALL)

1988

1 JUDGE HAENLE: I don't find it particularly
2 productive, Mr. Marshall. Let's go on to something
3 else. I do not find it relevant. I will sustain the
4 objection.

5 Q. Now, did you get any information from the
6 collaborative meetings? Were you interested in what
7 the people who did attend those meetings were
8 discussing?

9 A. Yes. Mr. Knutsen provided me -- I think
10 there were two meetings I recall and provided me
11 minutes of those meetings, and I believe I talked with
12 Dick Watson from the Power Planning Council about a
13 meeting once.

14 Q. You also proposed changes to the simplified
15 dispatch model and to the revenue per customer
16 classification. Were any of those discussed at any of
17 the collaborative meetings?

18 A. I don't know. I don't recall that they
19 were.

20 Q. In general terms was the PRAM decoupling
21 mechanism the product of collaboration by the parties,
22 a collaborative process?

23 A. It's been characterized that way, yes, but

24 given the breadth of the proceedings, we collaborated
25 but we didn't agree on very much and the parties argued

(ELGIN - CROSS BY MARSHALL)

1989

1 before the Commission so we spent a lot of time
2 collaborating but I don't think there was very much
3 agreed to. I mean, there was -- excuse me, there was
4 some things agreed to but with respect to this
5 base/resource cost split there was not a meeting of
6 the mind.

7 Q. How about on revenue per customer or
8 simplified dispatch model or any of these issues?

9 A. There was not a meeting of the minds on
10 revenue per customer. There was some meeting of the
11 minds with respect to broad policy issues on resource
12 recovery and what, if you will, to deal with objective
13 No. 2, power cost recovery. But with respect to
14 adjustment for changes in revenues and cost beyond a
15 utility's control there was no meeting of the minds.
16 There was pretty much some agreement with respect to
17 conservation cost recovery. However, you well know
18 that we did disagree on tax treatment, and then we
19 went later on to discuss incentives as a separate
20 collaborative issue and did come up with some
21 agreements among the parties on incentives.

22 Q. Do you believe that as a policy matter that
23 the collaborative process is not a useful process?

24 MR. TROTTER: Your Honor, I will object on
25 relevancy grounds. I don't believe this is the forum

(ELGIN - CROSS BY MARSHALL)

1990

1 to discuss collaborative.

2 JUDGE HAENLE: What's the point you're
3 trying to make?

4 MR. MARSHALL: I think a number of parties
5 have proposed that working out details on this would
6 be wise to have a collaborative process. I think NCAC
7 has sponsored testimony on just that one issue.

8 MR. TROTTER: That's been withdrawn.

9 MR. MARSHALL: The collaborative process I
10 think is a process that's fairly to be addressed in
11 these proceedings. If there are changes to be made,
12 should those changes be made now without a
13 collaborative process, with a collaborative process or
14 a combination.

15 MS. WILLIAMS: Excuse me, your Honor. NCAC
16 is going to withdraw the prefiled testimony of
17 Ms. O'Neil and we had not mentioned that. I don't
18 know whether it seems to be relevant to this colloquy
19 on relevance of the inquiry of this witness so I will
20 make that announcement.

21 MR. TROTTER: I was advised of that this
22 morning.

23 JUDGE HAENLE: Thank you. If I understand,

24 you were trying to get this witness' opinion of the
25 manner in which the collaborative process would be

(ELGIN - CROSS BY MARSHALL)

1991

1 useful in solving these issues.

2 MR. MARSHALL: That wasn't just O'Neil's
3 testimony. It was the testimony of Mr. Cavanagh and
4 others on the collaborative process. The usefulness
5 of it. It was addressed in Mr. Knutsen's testimony
6 and Sonstelie's testimony. I think it is a fair
7 policy question to ask.

8 MR. TROTTER: Well, the Commission itself
9 has instituted -- asked that this proceeding be
10 instituted as the forum for evaluating the PRAM. And
11 that's specifically stated in the PRAM 2 order the
12 parties should be prepared to examine the base and
13 resource categories in this filing. So that's what
14 the staff has done. And so I think any discussion
15 about whether we should now -- I guess if the company
16 wants to withdraw its rate case we might be able to
17 talk but at this point it seems to me we are
18 responding to a direct Commission order and the
19 company is now talking about a process that is outside
20 of the Commission's expressed directives. Wasting a
21 lot of time.

22 JUDGE HAENLE: If that's the Commission
23 staff's position then I think that's a response to

24 Mr. Marshall's question whether it come from Mr. Elgin
25 or is a staff policy response in some manner.

(ELGIN - CROSS BY MARSHALL)

1992

1 MR. MARSHALL: You're right. It does
2 appear that that is the policy direction that we're
3 hearing.

4 MR. TROTTER: Well, your Honor, excuse me.
5 First of all, I don't set staff policy. I am just
6 reading from the Commission's order in PRAM 2 page 18.

7 JUDGE HAENLE: I will overrule the
8 objection in terms of getting the witness' response
9 about how useful a collaborative will be in this and
10 in what point it belongs but I suggest we spend not a
11 lot of time on this and go on to something else.

12 Q. This is my last question in the area is
13 whether it is the staff policy recommendation that
14 collaboratives are not useful in this process regarding
15 PRAM decoupling mechanism proposed changes?

16 A. No. I believe collaboratives are useful.
17 We did agree to some issues in the first
18 collaborative. So in that respect I think
19 collaboratives do have some use. In the context of
20 this proceeding and the complexities that were
21 presented to the staff we do not have resources to
22 evaluate this, and the issue of base/resource cost
23 split we felt that the company knew where the staff

24 was going all along and we did not have occasion to
25 communicate any additional option except for on one

(ELGIN - CROSS BY MARSHALL)

1993

1 occasion we did. And the company rejected that foray
2 and we left it at that time.

3 Q. I am going to turn to an entirely different
4 subject area now, the area of explaining the PRAM
5 decoupling mechanism which your testimony addresses.
6 You said at one point in your testimony you criticized
7 the company for "not adequately presenting the
8 benefits of PRAM to the financial community." And
9 then you stated that "Puget should be more effective
10 in its communications with the financial community in
11 explaining the significant investor benefits of the
12 Commission's experiment with decoupling and regulatory
13 reform." Is that a true quote from page 34, lines 25
14 to page 35, line 4?

15 A. Yes. That is not only my testimony but that
16 of Dr. Lurito who was retained by the Commission staff
17 with respect to this whole issue of explaining the
18 PRAM and specifically as it relates to purchased
19 power.

20 Q. And we will be talking to Dr. Lurito, I
21 expect, on Wednesday or Thursday. Have you determined
22 the number of times Puget has met with representatives
23 of the financial community to present facts about PRAM

24 decoupling?

25 A. The Commission staff asked the company to

(ELGIN - CROSS BY MARSHALL)

1994

1 provide in response to a deposition data request all
2 written documentation in terms of your communications
3 with Wall Street. We received two documents and they
4 both were in response to questionnaires or one was
5 specifically in response to a questionnaire from S&P.
6 And one was in response to an issue from Moody's on
7 how they ought to go about calculating Puget debt and
8 that's Exhibit 582. Those are the only two written
9 documents that I am aware of and that's all the
10 company could produce. The remainder is based on
11 inferences from my readings of various financial
12 publications that I have at my disposal on a regular
13 basis, which includes Value Line and Standard &
14 Poor's.

15 Q. My question was very narrow and I didn't
16 want to interrupt, but I want to know have you
17 determined how many times Puget Power has met with
18 representatives of the financial community to present
19 facts about PRAM decoupling, actual meetings?

20 A. I don't know how many actual meetings you
21 have had with members. All I know is that we asked for
22 written documentation and you provided us two
23 documents.

24 Q. Now, do you understand that Puget has had
25 numerous meetings in New York and elsewhere with

(ELGIN - CROSS BY MARSHALL)

1995

1 members of the financial community, investors, analysts
2 and so forth, to explain the facts about PRAM
3 decoupling? Do you understand that?

4 A. Well, I understand that that may be what
5 you're testifying to; however, in looking at what
6 various company witnesses have said is basically that
7 they don't have any influence and the other phrase
8 that struck me was that we're stuck with whatever they
9 do. So it seems to me that that kind of response
10 indicates that Puget is not doing everything it could
11 do with respect to communicating the Commission's
12 experiment with regulatory reform to these rating
13 agencies.

14 Q. That wasn't quite responsive. I appreciate
15 your comment, but just focusing on the number of times
16 that the company has gone to try to meet with the
17 investment advisors and analysts, have you made any
18 effort or do you have an understanding of how many
19 times the company has done this?

20 A. No, I don't. I do know that just recently
21 the company did have some meetings but like I say I
22 don't know how many times you have met and the issue
23 of frequency to me is irrelevant. The issue is

24 effectiveness.

25 Q. But whether it's irrelevant or not I guess

(ELGIN - CROSS BY MARSHALL)

1996

1 we can get to later, but just in terms of frequency,
2 in terms of the effort to accomplish it, you had
3 indicated something in your testimony about the
4 company should be more effective in its
5 communications. I simply wanted to get first at the
6 issue of frequency so we can talk about that.

7 MR. TROTTER: Your Honor, again, Counsel is
8 testifying. He is having a chat with the witness.
9 That wasn't a question. Move to strike the voluntary
10 statement.

11 MR. MARSHALL: Well, I seem to be having
12 some trouble communicating with the witness on just the
13 specific area. I will try to be more direct in my
14 questions so that I can get the answer in the area that
15 I am working for.

16 JUDGE HAENLE: Perhaps we could work on
17 both shorter and more to the point questions and
18 shorter and more to the point answers as well to be
19 sure that we get through all of this.

20 MR. MARSHALL: I will certainly try.

21 Q. With regard to the issue of frequency of
22 communication and meetings, do you have any idea what
23 the frequency of meetings has been between Puget and

24 members of the financial community?

25 A. No, I don't.

(ELGIN - CROSS BY MARSHALL)

1997

1 Q. Do you know whether Puget has devoted
2 substantial time to speak to investors and investment
3 advisors?

4 MR. TROTTER: I will object to the
5 question. It's just a repeat of the prior question.

6 JUDGE HAENLE: Sustain the objection
7 considering the witness has just indicated he doesn't
8 know.

9 Q. I am going to hand you what's been marked
10 as the next exhibit in order. Do you have that in
11 front of you?

12 A. Yes.

13 Q. Is that a letter that was sent to you by
14 Mr. Gaines at Puget Power inviting you to submit any
15 thoughts you had about communicating to investors
16 about various issues including PRAM decoupling?

17 A. Yes.

18 JUDGE HAENLE: Mark the one-page document
19 dated March 30, 1993 on Puget letterhead as Exhibit
20 676 for identification.

21 (Marked Exhibit 676.)

22 Q. Did you reply with a letter?

23 A. No, I did not.

24 Q. Did you write to Mr. Gaines on anything
25 specifically that you wished that Puget would

(ELGIN - CROSS BY MARSHALL)

1998

1 communicate on its annual visit to the rating agencies
2 between April 6 and April 9?

3 A. No, I did not.

4 Q. In the letter he said, "The most effective
5 way -- let me read the last full paragraph so I don't
6 take it out of context. "If there are any subjects
7 which you or others on your staff would like us to
8 convey to the agencies, e.g. purchased power, we would
9 be pleased to do so. The most effective way to do this
10 would probably be for the staff to put comments in
11 written form which we could then give to the agencies
12 at our meetings." Do you see that?

13 A. Yes.

14 Q. Did staff put together any comments in
15 written form?

16 A. To be quite candid with you, Mr. Marshall, I
17 believe that this is incumbent upon the staff to
18 effectively communicate with Wall Street what the
19 Commission is doing. I didn't view this as really our
20 role to, if you will, do Puget's job for them.

21 Q. I take it in your testimony that you have
22 specific criticisms about the things that Puget should
23 have said or done on its annual visit to rating

24 agencies. Is that a fair statement of what your
25 testimony says?

(ELGIN - CROSS BY MARSHALL)

1999

1 A. That is correct.

2 Q. And your testimony was filed on May 3; is
3 that correct?

4 A. Yes, it was.

5 Q. And in this area, the specific area about
6 communicating effectively to investment advisors, had
7 you prepared that testimony by April 6? Had you
8 formulated any of the thoughts on what the company
9 should be doing or differently than it had been doing?

10 A. I don't recall when exactly I formulated my
11 testimony. I know at that time I was also very busy
12 with the Washington Natural Gas case, which I think we
13 prefiled a few days after this. Maybe a couple of
14 weeks after this. I don't know the exact dates.

15 Q. By April 6, had you formulated any opinions
16 about what Puget should be saying that it hadn't been
17 saying to investment advisors, analysts or rating
18 agencies?

19 A. I believe I spoke, and I don't recall the
20 specifics with the date, but I do believe I talked to
21 both Mr. Lauckhart and Mr. Knutsen. I don't remember
22 the exact date, may have been a quarterly meeting but
23 Mr. Folsom and I, he was the electric program manager,

24 we did discuss with Puget, I believe, some concerns. I
25 don't recall the specific day but it had to do with our

(ELGIN - CROSS BY MARSHALL)

2000

1 concerns about the response to the Standard & Poor's
2 survey that was part of Exhibit 582.

3 MR. MARSHALL: Would you read the question
4 back.

5 JUDGE HAENLE: Is your concern the answer
6 was not responsive?

7 MR. MARSHALL: The question was by April 6
8 had you formulated any of the issues by which you
9 believe the company should have communicated
10 differently than it had?

11 JUDGE HAENLE: And I understood his answer
12 to be a description of what those were and but he
13 wasn't sure if it was on that date, before it or after
14 it. If there's anything to add let's do it, otherwise,
15 let's go on.

16 THE WITNESS: No, there's nothing to add.

17 JUDGE HAENLE: Actually, Mr. Marshall, is
18 this a good time to break?

19 MR. MARSHALL: Yes.

20 (Luncheon recess taken at 12:00 p.m.)

21

22

23

24

25

(ELGIN - CROSS BY MARSHALL)

2001

1 AFTERNOON SESSION

2 (1:30 p.m.)

3 JUDGE HAENLE: Let's be back on the record
4 after our lunch recess. Because we've had requests
5 from a couple of witnesses to go today to get their
6 testimony completed, we're going to break Mr. Elgin's
7 cross-examination at this point and take the other --
8 take two witnesses who need to be on today. We're
9 going to begin with the witness from the Federal
10 Executive Agencies.

11 Whereupon,

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

15 JUDGE HAENLE: Before we went on the record
16 I marked for identification an exhibit as T-677. It
17 is entitled up in the right-hand corner JBL-1. And
18 then 678 for identification in the upper right-hand
19 corner, JBL-2 which includes schedules one through
20 24. There was also a paper that was distributed with
21 those documents entitled Work Paper and as I
22 understand that is not going to be marked. Your
23 witness has been sworn.

24 (Marked Exhibits T-677, 678.)

25 MR. FURUTA: Thank you, your Honor. Let me

(ELGIN - CROSS BY MARSHALL)

2002

1 express our appreciation to the Commission and all the
2 parties here for allowing us to take our witness out of
3 order to accommodate his schedule.

4

5 DIRECT EXAMINATION

6 BY MR. FURUTA:

7 Q. Dr. Legler, could you please state your name
8 and spell your last name for the record?

9 A. Yes. My name is John B. Legler, L E G L E
10 R.

11 Q. State your business address.

12 A. Yes. Department of Banking and Finance,
13 Terry College of Business, University of Georgia,
14 Athens, Georgia 30602.

15 Q. And are you the same Dr. John B. Legler
16 whose qualifications are set forth at pages 1 through 3
17 of what has been marked as Exhibit T-677 and also in
18 schedule 1 of Exhibit 678?

19 A. I am.

20 Q. And were those two exhibits prepared by you
21 or under your supervision?

22 A. Prepared by myself.

23 Q. Do you have any corrections to make to

24 those exhibits at this time?

25 A. In T-677 a couple of minor changes. On

(LEGLER - DIRECT BY FURUTA)

2003

1 page 25, line 25, between the words "second" and "last"
2 should be inserted "quarter of" so it reads "second
3 quarter of last." And then on page 39, line 11 the
4 second word "proceeding" should be "proceedings,"
5 add an s.

6 Q. And are those all of your corrections?

7 A. They are.

8 MR. FURUTA: And I apologize, your Honor,
9 but the correction just came to my attention yesterday
10 so I haven't been able to prepare a separate errata
11 sheet. Wonder if those could be identified?

12 JUDGE HAENLE: I will make those on the
13 official copy and if there are just a couple of
14 corrections, that's fine. I prefer an errata sheet if
15 there are a number of corrections.

16 Q. Dr. Legler, to the extent that Exhibit 677
17 and 678 contain material that is factual in nature,
18 is it true and correct to the best of your knowledge?

19 A. It is.

20 Q. And to the extent that these exhibits set
21 forth matters of judgment, is it to your best
22 judgment?

23 A. Yes, it is.

24 MR. FURUTA: Your Honor, at this time I
25 would move for the admissions of Exhibit T-677 and

(LEGLER - DIRECT BY FURUTA)

2004

1 Exhibit 678.

2 JUDGE HAENLE: Any objection?

3 MR. MARSHALL: No objection.

4 MR. TROTTER: No objection.

5 MR. ADAMS: No objection.

6 MR. TRINCHERO: No objection.

7 JUDGE HAENLE: Exhibit T-677 and 678 will be
8 entered into the record.

9 (Admitted Exhibits T-677, 678.)

10 MR. FURUTA: Witness is available for
11 cross-examination.

12

13 CROSS-EXAMINATION

14 BY MR. MARSHALL:

15 Q. Thank you. Dr. Legler, you've attached
16 schedule 7 to your JBL-2, which is Exhibit 678. Could
17 you turn to schedule 7?

18 A. I have it before me.

19 Q. Briefly speaking, what is schedule 7?

20 A. It's a list of the common equity ratios of
21 single A utilities, electric utilities, electric and
22 gas, for the years 1989, 1990, '91, '92 projected for
23 1993 and '4, projected for the period '95, '96, '97.

24 Q. The single A rating is a rating that rating
25 agencies give to some utilities that meet certain

(LEGLER - CROSS BY MARSHALL)

2005

1 minimum qualifications, meet certain ratios, certain
2 preset mathematical financial conditions?

3 A. That is correct, and as shown in the
4 footnote to schedule 7 these companies are single A
5 rated by both Moody's and Standard & Poor's.

6 Q. And of course there are other ratings, you
7 could have a AA rating, AAA rating?

8 A. Triple A, double A, and single A, and then
9 there's B double A, below the single A class and those
10 would be the investment grade. Both Moody's and
11 Standard & Poor's basically have gradations within
12 their ratings. In the case of Moody's it would be a
13 single A one two and three and if it were S&P it would
14 be plus and minuses.

15 Q. And anything below a BAA would not be
16 investment grade?

17 A. That is correct.

18 Q. And those in common terms are called junk
19 bonds?

20 A. That is correct.

21 Q. Now of the schedule 7, what was the intent
22 for you to have schedule 7? What was the point that
23 you were illustrating by schedule 7?

24 A. It has to do with the financial risk of the
25 company in comparison to the group of single A

(LEGLER - CROSS BY MARSHALL)

2006

1 electrics. That was used both in the cost of equity
2 analysis and also in my capital structure analysis
3 basically indicating what a typical or average ratio
4 would be for a single A company.

5 Q. An equity ratio means basically, what, a
6 percentage of capital invested in a company, the stock
7 that people have invested compared to the debt that
8 the company borrows?

9 A. It's the proportion of equity in a firm's
10 capital structure. Capital structure would be
11 permanent capital consisting of long-term debt,
12 preferred stock and common equity.

13 Q. And what conclusion did you draw by
14 comparing Puget Power to other single A rated
15 utilities?

16 A. I basically drew the conclusion that a
17 ratio of 40 percent or above would be reasonable by
18 industry standards.

19 Q. And you found that more companies were
20 above Puget in terms of their capital ratio than were
21 below Puget?

22 A. Yes. At an actual ratio of roughly 41
23 percent, that would be on the low side in comparison

24 to the group of single A electricians.

25 Q. Did you make a recommendation in your

(LEGLER - CROSS BY MARSHALL)

2007

1 testimony that Puget's equity ratio be increased to 44
2 percent?

3 A. I wouldn't characterize it in exactly that
4 way. I do recommend that the equity ratio be
5 increased or if it were increased it would be
6 consistent with single A electricians. I used the 44
7 percent ratio basically as a ballpark number
8 recognizing that I don't have access to the financial
9 planning models that would fully incorporate all the
10 accounting adjustments and my recommended cost of
11 equity to calculate the precise ratio.

12 Q. And again the bond rating agencies like a
13 higher equity ratio because that provides more support
14 for the debt that a company will take on, is that a
15 fair statement?

16 A. Well, I guess in a loose way it's a fair
17 statement. Basically the rating agencies look at the
18 common equity ratios and assign ratings on the basis of
19 what they see. Obviously, the higher the equity ratio,
20 the lower the financial risk and other things being
21 equal the higher the company's bond rating.

22 Q. Some double A rated utilities have equity
23 ratios of over 50 percent, correct?

24 A. That is correct. In fact, I think you
25 will see a few single A companies that have equity

(LEGLER - CROSS BY MARSHALL)

2008

1 ratios of 50 percent or more.

2 Q. Turning to a slightly different topic.
3 Each day there's trading of public stock and the
4 reports of the trading on electric utilities in the
5 Wall Street Journal or the Seattle Times will give a
6 dividend amount, a price amount and then they will
7 derive from that a yield; is that right?

8 A. Yes.

9 Q. And when they derive a yield, what sort of
10 financial implication does that have? What does that
11 mean when the financial reports put a yield out on an
12 electric utility? What information does that convey
13 to people?

14 A. You would expect there to be some
15 comparability in terms of the dividend yields of
16 companies by industries and by bond ratings. Will
17 there be differences in the yields of different
18 companies on a spot basis and the answer is yes, it
19 may reflect the price of the company stock being out
20 of pace with the market for a short period of time or
21 it might be just the opposite trend. Generally
22 speaking, you might conclude that the higher dividend
23 yields would be accorded to companies that are

24 riskier.

25 Q. So the higher the dividend yield generally

(LEGLER - CROSS BY MARSHALL)

2009

1 speaking the riskier on balance the company all other
2 things being equal?

3 A. Other things being equal and recognizing
4 that on any particular day it's a spot observation.
5 Could change over time.

6 Q. Did you check to see what Puget's yield is
7 today based on Friday's close?

8 A. No, I haven't.

9 Q. Would you accept 6.6 percent as the yield?

10 A. I certainly would accept it subject to
11 check.

12 Q. And do you know of any other company in the
13 Northwest that's higher than that yield, in other
14 words, that would be considered riskier?

15 A. Well, I haven't checked Puget's so I
16 haven't checked the other companies and I really
17 couldn't give you any observations.

18 Q. Have you dealt with the California
19 utilities here recently, had occasion to testify in
20 rate cases there?

21 A. California reviews the cost of capital for
22 their major utilities each and every year and I have
23 participated in those proceedings since they were

24 started several years ago.

25 Q. Would you accept subject to check that the

(LEGLER - CROSS BY MARSHALL)

2010

1 yield for Pacific Gas and Electric is 5.4, the yield
2 for Southern California Edison is 5.8, the yield for
3 San Diego Gas and Electric is 5.75?

4 A. Yes. PG&E would be a single A rated
5 company. San Diego would be a split double A/single A
6 rated company and Southern California Edison has been
7 downgraded. It's a high single A now.

8 Q. Does that indicate, generally speaking,
9 that the market considers those companies to be less
10 risky than Puget Power?

11 A. Well, that's a pretty sweeping
12 generalization. If we could limit the analysis
13 strictly to the dividend yield I would probably agree,
14 but I would like to see what's happened to the dividend
15 yield over a period of time before I draw that
16 conclusion, but on the basis of that limited
17 information I would probably tend to agree with you.

18 Q. You also indicated that California has an
19 annual cost of equity proceeding, rate of return on
20 equity proceeding, correct?

21 A. It's a proceeding which reflects not only
22 the cost of equity but the cost of debt, the cost of
23 preferred and the capital structure. So it's the

24 whole ball of wax on a prospective basis, hearings go
25 on during one year and basically the cost of capital

(LEGLER - CROSS BY MARSHALL)

2011

1 is set for the coming year.

2 Q. And at the end of 1992, in November
3 December, did the California Public Utility Commission
4 issue an order setting the rate of return for these
5 three California utilities, electric utilities I
6 mentioned?

7 A. Yes, they did, and as I recall the cost of
8 equity set were very close to my recommendations, with
9 the exception of Southern California Edison.

10 Q. What was, if you can recall, Pacific Gas
11 and Electric's rate of return on equity?

12 A. It was to the second decimal place and I
13 believe it was something like 11.85, but if you've got
14 it I would be more than pleased to accept your number
15 subject to check.

16 Q. 11.85 percent is your recollection?

17 A. Yes.

18 Q. And what was the rate of return on equity
19 for Southern California Edison in that proceeding?

20 A. I believe it was 10 or 15 basis points
21 lower.

22 Q. So it would have been 11.7 something?

23 A. Probably, but to be honest I can't

24 remember.

25 Q. This is okay, just in the rough area?

(LEGLER - CROSS BY MARSHALL)

2012

1 A. Yeah, that's probably the ballpark.

2 Q. And so that was generally speaking what the
3 ballpark was for California, 11.7, 11.8, somewhere in
4 that vicinity?

5 A. Yes.

6 Q. And the top of your range is still in that
7 vicinity, too, is that correct, for your recommended
8 rate of return on equity for Puget Power?

9 A. That is correct. Well, I think the top end
10 of my range is 11.5.

11 Q. You wouldn't find 11.5 or 11.7, in your
12 opinion, to be out of line. Is that fair to state?

13 A. I think that's a fair characterization. I
14 think I state in my testimony that I find estimates of
15 costs of equity, since they are precisely that,
16 estimates, to the second decimal place a little bit
17 unwarranted. It basically -- it gives the appearance
18 of a great deal of precision which I really don't think
19 is warranted. So, I would say that the range is
20 appropriate.

21 MR. MARSHALL: I don't have any further
22 questions of the witness.

23 JUDGE HAENLE: Do you have questions?

24 MR. TROTTER: Yes.

25

(LEGLER - CROSS BY TROTTER)

2013

1 CROSS-EXAMINATION

2 BY MR. TROTTER:

3 Q. Dr. Legler, if you could turn back to
4 schedule 7 of Exhibit 678?

5 A. Yes, I have it.

6 Q. And the common equity ratios you show on
7 these tables were taken from Value Line?

8 A. Yes, they were.

9 Q. And Value Line reports common equity ratios
10 based on a capital structure that excludes short-term
11 debt; is that correct?

12 A. I believe it does, yes. I doubt that Value
13 Line evaluates whether the short-term debt is of a
14 permanent nature or not. So this is largely confined
15 to long-term debt.

16 Q. Is a capital structure of 63 percent equity
17 appropriate for Puget Power?

18 A. In my opinion, no, it's not.

19 Q. Now, in reading your testimony, these are
20 the companies shown in Exhibit 7 that you use, as the
21 table indicates, used in your DCF analysis for
22 comparable companies; is that right?

23 MR. ADAMS: Could counsel clarify if he's

24 referring to page 2 of 2.

25 MR. TROTTER: Schedule 7, page 2.

(LEGLER - CROSS BY TROTTER)

2014

1 A. Yeah. Schedule 1 embraces the full sample
2 of single A companies and the companies on schedule 2
3 are what I refer to as my surviving companies, those
4 that were ultimately used in my DCF analysis.

5 Q. And sticking with page 2. The basis of --
6 well, going from schedule 7, page 1 to schedule 7,
7 page 2, the basis of comparability on page 1 is that
8 these are A rated electricians by Moody's and Standard &
9 Poor's; is that right?

10 A. That's correct, yes.

11 Q. And then moving from page 1 to page 2, page
12 2 is a subset of page 1; is that right?

13 A. That is correct.

14 Q. And it is a subset -- that subset is
15 created by two criteria. One, page 2 shows those
16 companies from page 1 that had positive dividend growth
17 as forecast by Value Line; and second, had a bond yield
18 greater than or equal to 7.9 percent; is that correct?

19 A. That is correct, yes.

20 Q. Were there any other criteria that you used
21 to get from your group on page 1 to your group on page
22 2, schedule 7?

23 A. I don't believe so. I think you

24 characterized these positive dividend growth rates, I
25 excluded either zero or negative growth rates. The

(LEGLER - CROSS BY TROTTER)

2015

1 confirmation in terms of the reasonableness of those
2 companies appears in schedule 8 where I reviewed other
3 financial indicators for those companies and found the
4 surviving group on the basis of those indicators to be
5 quite comparable, very comparable to Puget Sound.

6 Q. And those indicators were also taken from
7 Value Line, the beta, safety rank, financial strength
8 and private stability?

9 A. Yes, they were.

10 Q. And did you find that -- look at schedule
11 8. Did you find that the group of companies on page 1
12 of that schedule were less comparable than the group
13 on page 2 of that schedule just looking at the four
14 ranking criteria you show on that schedule?

15 A. I think you will find that the average of
16 the indicators for the companies on page 1 were very
17 close to the average for the companies on page 2.

18 Q. Am I correct that you have done no
19 quantitative study of the safety and economy of the
20 capital structure you are recommending?

21 A. Have I evaluated the capital structure in
22 terms of it being the minimum cost of capital, the
23 answer is no, I have not.

24 MR. TROTTER: Nothing further, thank you.

25 JUDGE HAENLE: Did you have questions, Mr.

(LEGLER - CROSS BY TROTTER)

2016

1 Trinchero?

2 MR. TRINCHERO: No, your Honor.

3 JUDGE HAENLE: Ms. Williams?

4 MS. WILLIAMS: No, your Honor.

5 JUDGE HAENLE: Mr. Adams?

6

7 CROSS-EXAMINATION

8 BY MR. ADAMS:

9 Q. Couple of questions, Dr. Legler. First, in
10 terms of your treatment of long-term debt, I just want
11 to ask you how far out did you take into consideration
12 new issuances? Did you go through the end of 1993?

13 A. I believe I did. I basically took the
14 company's work and updated it for known changes and
15 then made some minor substitutions in terms of the
16 growth rate -- excuse me -- the interest rates on
17 projected issues. But I basically took the company's
18 financial plan as given, and I think I make the
19 statement I usually do that, I certainly believe that
20 the cost of debt should be updated if at all possible
21 for known changes subsequent to the filing of my
22 testimony and the Commission rendering a decision.

23 Q. Just a reference to schedule 7, page 2 of

24 2. I think you indicated to Mr. Trotter that Value
25 Line does not include short-term debt in its

(LEGLER - CROSS BY ADAMS)

2017

1 capitalization figures. Have you prepared that
2 information reflecting their actual short-term debt?
3 In other words, what is the actual capital structure
4 of those utilities reflecting short-term debt?

5 A. No, I have not. I have not made those
6 calculations, no. In fact it would require that you
7 basically go to the company's records to find out how
8 much short-term debt was there and whether or not it
9 was consistent over the course of the year. Short-
10 term debt is more volatile than long-term debt.

11 Q. Turning now to cost of equity, just a
12 couple of questions here. I know you've taken or used
13 several approaches in coming up with your estimate of
14 equity costs. Did you rely primarily on any one of
15 those? Was the DCF your primary reliance or any other
16 methods?

17 A. I believe first of all that it's appropriate
18 to use more than one method if at all possible. I
19 think when you take a look at my ultimate
20 recommendation it is higher than produced by the DCF
21 analysis. So if I had stopped short and simply used
22 the DCF analysis I might very well have come up with a
23 lower recommendation. I hesitate to characterize my

24 recommendation as being more dependent upon one method
25 compared to another method. Quite frankly, I used the

(LEGLER - CROSS BY ADAMS)

2018

1 same amount of judgment as all witnesses must do, in
2 arriving at a recommendation.

3 Q. In looking at your approaches I think you
4 used an average price approach and then another one
5 reflecting current prices and when you used the term
6 current prices, is that current stock prices that
7 we're talking about?

8 A. Yes. I think you're referring to the
9 summary on page 55 of my testimony and the average
10 prices and the current prices pertain to the DCF
11 method.

12 Q. And where it says average prices the
13 calculation was made using an average three-month
14 stock price?

15 A. The high and the low for the three-month
16 period basically divided by two and the current prices
17 were the closing price as of the last day of that
18 three-month period.

19 Q. Do you know what that number is compared
20 with the current stock price? Is that about the same
21 or is there a different price?

22 A. Well, I'm sure that if you were to take my
23 schedule 5 and update it you would find that probably

24 some stock prices of some companies have gone up a
25 little bit and prices of some companies have gone down

(LEGLER - CROSS BY ADAMS)

2019

1 a little bit. My perception is that the bottom line
2 number has not changed very much.

3 Q. So based on current prices for the DCF
4 method, as I understand it, you show a range of 9.5
5 percent through 10.5 percent, that's the DCF range that
6 you established?

7 A. Yes. I have a stated preference for the
8 use of average prices. I provide the current price
9 calculations to give the Commission the opportunity to
10 see if they feel there's any trend in the market.

11 Q. Using that approach, then, the DCF is a 9.8
12 percent to 10.8 percent range; is that correct?

13 A. That's what I put it in, yes. For the
14 company.

15 Q. Moving down to risk premium, I see three
16 different risk premium ranges depending on, I gather,
17 which indicator you used of those three, that is long-
18 term premium, five-year premium and Moody's. Do you
19 have a preference?

20 A. Well, I think if you take a look at the
21 testimony in risk premium analysis I have reservations
22 about using the shorter term than five year premiums.
23 In a couple of instances they turned out to be actually

24 negative values and I don't believe that provides
25 useful information to the Commission. So at the

(LEGLER - CROSS BY ADAMS)

2020

1 current time I would tend to have more confidence in
2 the longer term premium analysis.

3 Q. So that is the range of 9.32 percent to
4 10.73 percent; is that correct?

5 A. That's correct for the Puget Sound, the
6 range for the Moody 24 electricians would be about 9.6 to
7 10.9.

8 Q. And then finally on the cap M approach,
9 which is the third listed there, you list one for Puget
10 and one for comparable electricians. Is the Puget one
11 just a specific analysis using only Puget Power?

12 A. It's a specific analysis using Value Line
13 and Standard & Poor's beta for the company's itself,
14 all the other variables would be the same.

15 Q. Of that range between the comparables and
16 Puget, which of those two have you relied upon?

17 A. I wouldn't say I relied on either one
18 exclusively. The upper end of the range, the 11.1 is
19 based upon Value Line's beta which is an adjusted
20 beta, and I think I made some disparaging comments
21 about that in my testimony. The 9.9 is based upon
22 S&P's beta which is a raw beta. In truth of the
23 matter, if you ask for an opinion I would probably say

24 it's somewhere between those two.

25 Q. Would you agree that the cap M approach has

(LEGLER - CROSS BY ADAMS)

2021

1 come under increasing criticism in recent years? I
2 think particularly there was an article by Eugene Fama,
3 very critical of cap M?

4 A. Poor Mr. French. I believe it's by Fama and
5 French in last summer's issue of Journal Finance and
6 they basically concluded that beta is dead. I think
7 that's the cartoon version of it, yes. It has I think
8 come under increasing attack. On the other hand, I
9 think it's being used more frequently in rate of return
10 hearings. So I'm sort of at odds. It's coming under
11 increasing criticism but it's being used more.

12 Q. So it may not be dead but it's limping?
13 Would you agree with that characterization?

14 A. I guess it's a fair characterization.

15 MR. ADAMS: That's all I have.

16 JUDGE HAENLE: Commissioners, have you
17 questions?

18 CHAIRMAN NELSON: No questions.

19

20 E X A M I N A T I O N

21 BY COMMISSIONER CASAD:

22 Q. I see you have a high regard for fairness.

23 You want to get Mr. French involved as well as Mr.

24 Fama. I guess that's important as an economist, we
25 have several economists testifying in this case, and as

(LEGLER - EXAM BY COMMISSIONER CASAD) 2022

1 a product of that we have several recommended returns
2 provided to us. Our difficult choice, of course, is to
3 establish what is the most appropriate return. Why
4 should we -- and you've indicated as a preface that you
5 believe in ranges of return to allow the Commission
6 flexibility to see if there's something else or some
7 trend that might not be recognized. Why should we
8 accord your testimony more credence than we should
9 accord the testimony of other economists who are
10 providing us recommended rates of return?

11 A. Well, I think, one, I've applied more than
12 one methodology. Dr. Olson placed greater emphasis on
13 his DCF analysis, supported somewhat a risk premium
14 analysis. Staff witness Lurito I believe relied
15 virtually exclusively on a DCF analysis. I basically
16 have applied more than one method and I think what you
17 need to do is judge the reasonableness not only of the
18 methods but also of the assumptions that we make in
19 implementing those methods, and, frankly, I reviewed the
20 testimony of the other witnesses and I have confidence
21 and I believe that the assumptions that I have made are
22 more reasonable. Frankly, if I had based my
23 recommendation exclusively on the results of the

24 financial models, I would probably come up with a low
25 recommendation. But I think that you have to temper

(LEGLER - EXAM BY COMMISSIONER CASAD)

2023

1 the results of the financial models with informed
2 judgment. In my own case, I testify in proceedings
3 throughout the whole country, not only electricians but
4 gas, water, telephone companies, and I try to apply an
5 amount of consistency company to company and state to
6 state in terms of my recommendations.

7 My recommendation is almost in the middle
8 between the 10 percent recommended by Mr. Hill and the
9 12 percent, 12 and a half percent recommended by
10 Dr. Olson, and I suspect that Dr. Olson will update
11 his and perhaps he will lower it. But I really -- all
12 I can do is offer you my assumptions and you've got to
13 judge my credibility and the reasonableness of my
14 assumptions.

15 Q. Thank you, sir.

16 JUDGE HAENLE: Commissioners, questions.

17

18 E X A M I N A T I O N

19 BY COMMISSIONER HEMSTAD:

20 Q. Is a rate of return a conclusion you come to
21 as a front end kind of decision or is it more of a
22 plug, if that falls out of the analysis of all the
23 other factors and then you conclude that that is as a

24 back-end kind of conclusion?

25 A. No. I go into a case with no preconceived

(LEGLER - EXAM BY COMMISSIONER HEMSTAD)

2024

1 notion as to what my recommendation will be. I perform
2 the analysis and then review it and I also review it in
3 terms of the changes that have taken place in interest
4 rates over time. And basically as interest rates
5 decline as they have, the cost of equity should go
6 down. My recommendation is lower, interest rates have
7 gone down. I also believe, in contrast to some of the
8 other witnesses, that cost of equity doesn't
9 fluctuate. It's not as volatile as the cost of debt
10 and I think if you take my recommendation you will
11 find that I have basically honored that relationship
12 that the cost of equity generally goes in the same
13 direction as debt but not as volatile as the cost of
14 debt. So, I basically performed the analysis and then
15 make my recommendation. I do not have any
16 preconceived notions.

17 Q. Since Mr. Fama/French's conclusions seem
18 to have stunned the investment world, and if they say
19 beta is dead then why is it used increasingly in rate
20 hearings?

21 A. Well, one reason -- this is an opinion --
22 the capital asset pricing model will not have -- its
23 results will not be as volatile as the DCF model. The

24 beta is, typically speaking, based upon five years of
25 historical data, the relationship between the change in

(LEGLER - EXAM BY COMMISSIONER HEMSTAD)

2025

1 the price of the company's stock relative to the change
2 in the market. So that beta will move rather slowly
3 because if we update it for one month we have five
4 years of beta, let's say 60 observations, we drop one
5 observation and add one observation, but most of the
6 observations remain the same. As a result beta may
7 move slightly over time but it's generally speaking
8 going to be rather stable. So that you get more stable
9 results in terms of the capital asset pricing model
10 than you do if you use the DCF model. And I think that
11 witnesses find some comfort in stability of their
12 estimates.

13 Q. Was that intended to be used as a check on
14 other kinds of measurements or does it in itself
15 become a criterion for how you make a decision?

16 A. Well, given the criticism I would prefer to
17 think of it as a check. In other words, all of the
18 models require assumptions and I am not terribly sure
19 that the assumptions of the capital asset pricing model
20 are all that bad compared to the assumptions we make
21 for other models. So I prefer to think of it as a
22 check and quite frankly it's only been recently that
23 I've used that model. I formerly relied more upon the

24 DCF method and to a lesser extent the risk premium
25 method.

(LEGLER - EXAM BY COMMISSIONER HEMSTAD)

2026

1 COMMISSIONER HEMSTAD: No further
2 questions.

3 JUDGE HAENLE: Commissioners, anything
4 else?

5 Any redirect, Mr. Furuta?

6 MR. FURUTA: No redirect.

7 JUDGE HAENLE: Anything more of the witness?

8 MR. MARSHALL: Just a couple of follow-up
9 questions.

10

11 CROSS-EXAMINATION

12 BY MR. MARSHALL:

13 Q. You mentioned that you testified all
14 throughout the country and that one of the ways -- in
15 answer to Commissioner Casad's questions one of the
16 ways that you discussed how you came to your
17 conclusions is the exercise of your informed decision
18 using this consistency of results around the country.
19 My question on follow up, is that because your view is
20 that capital is very movable, that is, it can leave
21 one company and go to another company very quickly and
22 therefore there should be some consistency around the
23 country?

24 A. Well, I believe we have a national
25 financial market so we shouldn't limit it to one state

(LEGLER - CROSS BY MARSHALL)

2027

1 or one region of the country. Capital is movable,
2 yes, it is.

3 Q. You used a phrase in your testimony page 57
4 about investor shock. Was that one of the bases for
5 making the exercise of your informed judgment not to
6 drop Puget's stock because of a change in the rate of
7 return on equity so as to create large investor shock?

8 A. I think I tried to be fair. We've used
9 ratepayer shock as the reason for not moving rates to
10 quickly, and I believe that a drop of 280 basis points
11 from 10.8 to 10 in the cost of equity might very well
12 be perceived by the market as something unusual.

13 Q. In other words, if that were to happen it
14 would be a strong negative signal to investors
15 considering Puget Power?

16 A. I am afraid a drop of 280 basis points in
17 the cost of equity would be looked upon unfavorably by
18 investors.

19

20 CROSS-EXAMINATION

21 BY MR. TROTTER:

22 Q. Did you consider that last factor in
23 performing your analysis?

24 A. Not in performing my analysis.

25 Q. Your overall recommendation.

(LEGLER - CROSS BY TROTTER)

2028

1 A. I think it might have been reflected in
2 terms of my overall recommendation.

3 Q. I take it you're not suggesting that other
4 cost of capital witnesses in this case have not
5 offered consistent testimony around the country?

6 A. No, I am not suggesting that at all.

7 MR. TROTTER: Nothing further.

8 JUDGE HAENLE: Anything more?

9 Thank you, sir, you may step down. Go off
10 the record to change witnesses, please.

11 (Recess.)

12 (Marked Exhibits T-679 and T-680.)

13 JUDGE HAENLE: Let's be back on the record.

14 The next witness is another one that needed to go on
15 Tuesday from the Northwest Conservation Act Coalition.
16 During the time we were off the record I marked for
17 identification two documents as follows: Marked as
18 Exhibit T-679 is a 13-page document. In the upper
19 right-hand corner it has KB-1. It is entitled Direct
20 Testimony of Kevin Bell.

21 Exhibit T-680 for identification is a
22 five-page document. In the upper right-hand corner
23 it has KB-is 1. It is entitled Supplemental Testimony

24 of Kevin Bell.

25 In addition to these Ms. Williams has

(LEGLER - CROSS BY TROTTER)

2029

1 distributed this afternoon a one-page errata sheet
2 which applies to both the testimony, direct testimony,
3 and the supplemental testimony. So be sure that you
4 do have a copy of that. I've indicated to her she
5 does not need to have her witness go through those
6 changes in asking him the questions.

7 MS. WILLIAMS: We also would like to thank
8 the Commission and the other parties and their
9 witnesses for allowing Mr. Bell to go out of order.
10 And counsel and Mr. Bell express our appreciation for
11 that accommodation.

12 Whereupon,

13 KEVIN BELL,

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

16

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q. Mr. Bell, would you state your name and
20 spell your name for the record, please?

21 A. My name is Kevin Bell, K E V I N, B E L L.

22 Q. Also for the record, would you state your
23 business address?

24 A. 6001 Phinney, P H I N N E Y Avenue North,
25 Seattle, Washington, 98103.

(BELL - DIRECT BY WILLIAMS)

2030

1 Q. Are you the same Kevin Bell who's
2 qualifications are set forth at pages 1 and 2 of the
3 Exhibit T-679?

4 A. I am.

5 Q. And at the request the Northwest
6 Conservation Act Coalition, did you prepare Exhibit
7 T-679 and Exhibit T-680?

8 A. I did.

9 Q. Referencing first Exhibit T-679, which is
10 identified as your direct testimony, if you were asked
11 the questions, the same questions as are set forth in
12 that testimony, would your answers be the same today
13 except for the errata previously mentioned?

14 A. Except for the errata and a couple of minor
15 changes, yes.

16 Q. Could you identify the minor changes?

17 A. Yes. On page 9, beginning at line 13,
18 delete the words "as Ms. O'Neil points out in her
19 testimony," and the G in the next word "good" becomes a
20 capital G.

21 On page 10, line 5, delete the words "as
22 Ms. O'Neil points out in her testimony," and the T in
23 the following word "this" becomes a capital.

24 On page 12, line 18, delete the words "and
25 in testimony by Ms. O'Neil."

(BELL - DIRECT BY WILLIAMS)

2031

1 Q. Except for the errata and the changes which
2 you have just indicated, to the extent that your
3 answers and testimony pertain to issues of fact, are
4 they true and correct to the best of your knowledge?

5 A. They are.

6 Q. And to the extent that there are matters
7 involving professional judgment, are they your best
8 professional judgment today?

9 A. They are.

10 Q. Referencing now your supplemental testimony
11 which has been entered as Exhibit T-680, except for
12 the changes indicated on the errata sheet, if asked
13 the same questions today would your answers be the
14 same today?

15 A. Yes.

16 Q. And, again, as to matters of fact are those
17 contained therein true and correct to the best of your
18 knowledge?

19 A. Yes.

20 Q. And to the extent that they involve matter
21 of professional judgment, are they also your best
22 professional judgment today?

23 A. They are.

24 MS. WILLIAMS: I would move that Exhibits
25 T-679 and T-680 be accepted into evidence in this

(BELL - DIRECT BY WILLIAMS)

2032

1 proceeding.

2 JUDGE HAENLE: Any objection, Mr. Marshall?

3 MR. MARSHALL: No objection.

4 JUDGE HAENLE: Mr. Trotter?

5 MR. TROTTER: No objection.

6 MR. ADAMS: No objection.

7 MR. TRINCHERO: No objection.

8 JUDGE HAENLE: Exhibits T-679 and T-680

9 will be entered into the record, then.

10 (Admitted Exhibits T-679 and T-680.)

11 MS. WILLIAMS: Counsel may inquire.

12

13 CROSS-EXAMINATION

14 BY MR. MARSHALL:

15 Q. I just have a few. Good afternoon.

16 A. Good afternoon.

17 Q. In your supplemental testimony you relate
18 some of the various proposals that parties have made,
19 positions that they've taken on positions including
20 base/resource cost splits, weather, hydro variations,
21 and so on. Was this supplemental testimony meant to
22 endorse any particular position taken by the various
23 parties that had filed testimony between the time you

24 filed your direct and when you filed the supplemental
25 testimony?

(BELL - CROSS BY MARSHALL)

2033

1 A. On those specific issues, base/resource
2 cost split, hydro, no, they were not.

3 Q. You were recommending, I take it, in
4 essence, that these are the kinds of things that based
5 on your direct testimony would be properly taken up in
6 a collaborative effort?

7 A. What I said in my direct testimony was that
8 there was a need for the Commission to establish some
9 clear policy directions on those issues and that having
10 done that I believe that the implementation details
11 will be most productively carried out in a
12 collaborative setting to set up for final approval to
13 the Commission.

14 Q. So the Commission might choose to stay with
15 the existing base/resource allocation adopted in 1991
16 but then details of other things relating to the PRAM
17 decoupling mechanism, the actual mechanics of things,
18 could be worked out in a collaborative process once
19 the general policy is set by the Commission?

20 A. Yes. It was not -- NCAC has tried very
21 hard to avoid taking specific positions about what the
22 Commission should decide about issues like a
23 base/resource cost split. We've merely tried to

24 lay out the parameters that we think need to go into
25 consideration of that decision.

(BELL - CROSS BY MARSHALL)

2034

1 Q. Just in general terms, as my last question,
2 do you find that the decoupling mechanism, that
3 portion of PRAM, is a good way of encouraging
4 conservation?

5 A. I believe that decoupling is a necessary
6 component to encouraging a utility to aggressively
7 pursue conservation and I think that in the case of
8 Puget we have evidence that it's had a positive
9 effect. One of the questions before this Commission
10 is whether decoupling alone is sufficient for the
11 utility to pursue aggressive conservation.

12 Q. Would you agree generally with the
13 proposition that it's NCAC's position that the
14 Commission not do anything to penalize the company for
15 having followed up and done what it was expected to do
16 under decoupling?

17 A. Yes.

18 MR. MARSHALL: No further questions.

19 JUDGE HAENLE: Mr. Trotter.

20

21 CROSS-EXAMINATION

22 BY MR. TROTTER:

23 Q. Mr. Bell, were you here when Mr. Elgin gave

24 testimony this morning?

25 A. I was.

(BELL - CROSS BY TROTTER)

2035

1 Q. Did you hear him talk about conservation
2 being a low cost, low risk resource and I think he had
3 some other characteristics regarding short lead time
4 and so on?

5 A. I did.

6 Q. Do you agree with those characteristics?

7 A. Generally, yes. One thing I think is
8 important to point out is that the perspective of
9 myself and the coalition tends to be a long term
10 social cost perspective which can differ radically from
11 a short term company or ratepayer perspective.

12 Q. But with that in mind, you're in general
13 agreement with what he had to say?

14 A. Yes.

15 Q. If conservation has those features, low
16 cost, low risk, shouldn't the company do that with or
17 without decoupling?

18 A. Should the company do it? The company
19 should do it. I don't think that's the issue here. I
20 think the issue is whether the company will do it if
21 there are other incentives in place that make it want
22 to do something else.

23 Q. Were you surprised when Puget filed its

24 direct case initially without decoupling?

25 A. I was.

(BELL - CROSS BY TROTTER)

2036

1 Q. Have you read the testimony of Mr. Powers,
2 another NCAC witness?

3 A. Yes.

4 Q. And that's not evidence yet but in that
5 testimony he said that of the PRAM 2 increase, 8
6 percent was due to decoupling. Is that a fair
7 characterization?

8 A. Yes.

9 Q. And do you agree with that?

10 A. If we are talking about -- yes, I would.

11 Q. Now, in your testimony you referred to the
12 integrated resource planning or the least cost
13 planning process; is that correct?

14 A. That is correct.

15 Q. And part of your qualifications, you acted
16 at this Commission in developing those plans, is that
17 correct or developing the models that were the basis
18 for some of those --

19 A. I was coauthor of a planning model that was
20 developed by this Commission for use by Washington
21 electric utilities which Puget used extensively in its
22 initial -- I guess in its second least cost of money
23 process and has used as part of that process since

24 then which Pacific Power has modified somewhat but
25 still uses and which Water Power still uses.

(BELL - CROSS BY TROTTER)

2037

1 Q. And in your view of that process, is a
2 resource that is purchased that is consistent with
3 general parameters of least cost plan, is that, to
4 your mind, showing a prudence of that resource?

5 A. No.

6 Q. Is it a showing that that resource is
7 acquired at least cost?

8 A. It depends on the quality of the integrated
9 resource planning process. If the information that is
10 in that least cost planning process is selectively
11 controlled by the company, if it is general in nature,
12 if it is modified to meet corporate financial goals
13 over the objections of an advisory committee, then I
14 wouldn't call that a good process.

15 Q. Do those characteristics apply to Puget's
16 least cost plan?

17 A. In the case of Puget there is a lack of
18 specific information in the integrated resource
19 planning process that makes it difficult to assess
20 whether the resources that Puget has identified are in
21 fact least cost and how the weighting of indirect costs
22 has been accomplished. Weighting of risks, weighting
23 of short term versus long term impacts, for example.

24 The problem that you run into is that if you -- it
25 doesn't make much sense to try and give utilities an

(BELL - CROSS BY TROTTER)

2038

1 incentive to implement their least cost plan if there
2 is not enough information in the least cost plan to
3 make an objective determination of whether they are in
4 fact least cost resources.

5 Q. On page 6 of your testimony T-679 you
6 recommend or suggest that the decoupling adjustments
7 be rolled into rates in April of each year. Do you
8 see that?

9 A. I do.

10 Q. And the reason -- and that would provide a
11 separation between the resource recovery and the
12 decoupling feature of the PRAM?

13 A. That is correct.

14 Q. And you also recommend that rate changes
15 under the PRAM be limited to 3 percent each year?

16 A. I recommend that rate changes relating to
17 the nonlong-term resource acquisition cost components
18 of the PRAM be limited to 3 percent a year. That is,
19 decoupling, any hydro adjustment, any temperature
20 adjustments, any other adjustments that are made in
21 the base cost calculation and Puget short-term revenue
22 recovery.

23 Q. But you also recommend that any amount over

24 or under that limit would be deferred?

25 A. For the components that I have identified,
(BELL - CROSS BY TROTTER)

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1 that is, those components that are not related to
2 acquisition of long term supply or demand side
3 resources, yes.

4 Q. And what would happen to increases
5 associated with those items under your suggestion?

6 A. I think that how those costs go into rates
7 is one issue before this Commission. My concern
8 here is that a lot of the ratepayer shock that is
9 associated with the annual PRAM adjustments, I
10 believe, has been misdirected. The fact of the matter
11 is that the vast bulk of those costs is related to
12 long term resource acquisition, that those costs will
13 be in rate base sooner or later or will be up for
14 consideration for inclusion in rate base sooner or
15 later. I think it's important to make it clear to
16 ratepayers where the costs are coming from and one of
17 the concerns that I express in my testimony is that
18 it's not clear the way the PRAM currently works.

19 MR. TROTTER: Nothing further.

20 JUDGE HAENLE: Questions, Mr. Trincherero?

21 MR. TRINCHERO: Yes. A few, your Honor.

22

23 CROSS-EXAMINATION

24 BY MR. TRINCHERO:

25 Q. Good afternoon, Mr. Bell.

(BELL - CROSS BY TRINCHERO)

2040

1 A. Afternoon.

2 Q. You were just asked a series of questions
3 by counsel for staff regarding the proposal that
4 decoupling-related adjustment be made in April and
5 that cost recovery adjustments be made in October.
6 Have you considered whether or not this could lead to
7 greater rate volatility for ratepayers?

8 A. My belief is that -- let me make clear
9 exactly what I am suggesting be considered in April
10 first of all. It is simply the base cost adjustment
11 relative to number of customers which is one component
12 of the PRAM. There simply is not that much volatility
13 that is going to occur on a yearly basis in that
14 number. It's just not a very big number.

15 Q. Let me rephrase the question. Would having
16 two separate annual rate adjustments create a type of
17 rate volatility that may not be acceptable to
18 customers?

19 A. The purpose in proposing that separation is
20 to make it clear that decoupling in and of itself
21 simply does not have that much effect on rates and
22 that the short term revenue recovery and long term
23 cost recovery components are what's driving rate

24 volatility.

25 As I have proposed the April adjustment it

(BELL - CROSS BY TRINCHERO)

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1 would be an accounting adjustment. My feeling is, no,
2 that it would not increase volatility, that most of
3 all volatility would still be happening in the October
4 adjustment.

5 Q. Would it be possible to convey to
6 ratepayers this notion that the real driver to the
7 rate increases is the resource recovery aspect as
8 opposed to the decoupling aspect simply through an
9 educational program?

10 A. It's possible. If the company and if the
11 Commission chose to seek to make that distinction
12 clearly to ratepayers, I think they could.

13 Q. I also want to turn to the summary at the
14 end of your direct testimony. On page 12 beginning at
15 line 14 you discuss the different components of the
16 PRAM mechanism that should be dealt with separately,
17 and you have listed revenue stabilization, resource
18 cost recovery, performance incentive questions, and
19 decoupling would be the fourth; is that correct?

20 A. That is correct.

21 Q. You've made a specific recommendation
22 regarding decoupling. Have you made any specific
23 recommendations in this case regarding issues of

24 revenue stabilization, resource cost recovery, or
25 performance incentives?

(BELL - CROSS BY TRINCHERO)

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1 A. As far as how specifically the Commission
2 should proceed?

3 Q. Yes.

4 A. No, I have not. I have made
5 recommendations about how the kind of parameters
6 should go in that I believe the Commissioners should
7 consider in making that decision but have not made a
8 specific proposal.

9 Q. To clarify an answer to an earlier question
10 by counsel for the company. You did state that while
11 implementation issues should be considered in the
12 collaborative arena that policy issues on these
13 factors should be made by the Commission. Would that
14 be by the Commission in this case?

15 A. I believe that this case is an excellent
16 opportunity to make those decisions, yes.

17 Q. Which leads me to my last question. The
18 company recently filed its PRAM 3 request. Is it your
19 opinion that the Commission should apply those policy
20 parameters and directives to the treatment of the PRAM
21 3 filing?

22 A. I am not qualified as an attorney to know
23 if they even can, so I would rather not answer that

24 question. I am not qualified to really answer -- I
25 have a personal opinion about it but I don't know if

(BELL - CROSS BY TRINCHERO)

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1 it has any bearing on what's possible.

2 Q. Let's set aside whether or not it may or may
3 not be legally possible and I understand you're not an
4 attorney, what is your personal opinion on whether
5 that should be done if it were legally possible?

6 A. If it were possible and not disruptive to
7 the overall process I would say that would be
8 appropriate.

9 MR. TRINCHERO: No further questions.

10

11 CROSS-EXAMINATION

12 BY MR. FURUTA:

13 Q. Good afternoon, Mr. Bell. I think you
14 testified that the rate of return issue and the PRAM
15 issue be separated out; is that correct?

16 A. That's correct. Or that they be considered
17 separately but in this case.

18 Q. Do you know if findings in each of those
19 issues, if they were handled on a separate basis,
20 could that result in ratepayers being charged more or
21 less than the total cost of providing service?

22 A. I am not quite sure I understand what
23 you're saying. You're saying that if the Commission

24 considered each of those questions separately -- oh,
25 okay. Let me see if I can rephrase your question.

(BELL - CROSS BY FURUTA)

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1 You are asking if the Commission considered each of
2 these topics in isolation whether the sum of the parts
3 may not match up to a fair and reasonable rate of
4 return to a utility and a fair rate for ratepayers?

5 Q. Yes.

6 A. I did not suggest the topics be considered
7 in isolation. I suggested that they be considered --
8 that there be recognition that they are distinct
9 issues from the issue of decoupling.

10 Q. Let's assume for the moment that the
11 Commission determined that the PRAM should be approved
12 again but didn't take that into consideration in the
13 rate of return calculation in this case. Then at a
14 later date let's assume that the Commission determined
15 in a separate proceeding that because PRAM shifts risk
16 that Puget's return on common equity should be
17 lowered. Do you have those assumptions in mind?

18 A. Yes.

19 Q. Wouldn't this result in ratepayers being
20 overcharged for the period of time between the
21 Commission finding that the PRAM was appropriate and
22 the next case in which it lowered the rate of return?

23 A. It potentially could.

24 Q. Do you have an opinion whether a piecemeal
25 regulation of that nature is an appropriate form of

(BELL - CROSS BY FURUTA)

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1 regulation?

2 A. In general I don't think it is; in practice
3 it happens all the time. In principle, no, it's not a
4 good idea.

5 Q. Thank you, Mr. Bell. No further questions.

6 JUDGE HAENLE: Mr. Adams.

7

8 CROSS-EXAMINATION

9 BY MR. ADAMS:

10 Q. Mr. Bell, I just have a few questions. I
11 understand your response I believe to Mr. Marshall that
12 you attempted to stay out of some of the contentious
13 details in this proceeding but I wanted to ask you, if
14 I could, whether certain of the proposals made by
15 parties are acceptable to NCAC or you in your position
16 in the modifications to the PRAM process. First would
17 be the base/resource cost categories as proposed by
18 the staff in this proceeding.

19 A. The position that I've taken in the
20 supplemental testimony is essentially identical to the
21 position that I took in testimony in UE-901183 and 84
22 which is that the issue on the table here really isn't
23 which costs you've put into what pile and which

24 multiplier you've used. The real issue is when you've
25 done all of that, is there a fair and reasonable amount

(BELL - CROSS BY ADAMS)

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1 of money on the table for the company and at a fair
2 rate to ratepayers. In principle, the base
3 and resource cost split proposed by staff is perfectly
4 acceptable if the Commission has taken into account
5 any potential impact on Puget earnings and made a
6 determination on balance having made any other
7 adjustments that they're going to make that Puget is
8 getting a fair and reasonable rate of return.

9 Q. How about the class by class based costs
10 suggested by staff? You may recall that was an issue
11 back at the original time.

12 A. In principle, again, I think there's nothing
13 wrong with it. There is some question in my mind as
14 there was a question in the previous case about whether
15 you gain enough in making that calculation to make it
16 worth the trouble, but in principle there's nothing
17 wrong with it.

18 Q. What about the weather normalization as
19 public counsel witness Blackman is recommending?

20 A. In principle there's nothing wrong with it.
21 The effect on utility earnings would be substantial and
22 the Commission, I think, would have to take that into
23 account in setting a fair rate of return.

24 Q. How about hydronormalization?

25 A. Same answer.

(BELL - CROSS BY ADAMS)

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1 Q. Now, what about just eliminating the PRAM
2 altogether assuming one leaves decoupling -- these
3 aren't your words but sort of a pure decoupling plus
4 recovery of DSM investments in a timely manner?

5 A. In principle, there's nothing wrong with
6 that. Again, the Commission having done that I think
7 would have to take into account all the testimony in
8 this case and use their own judgment to set a fair rate
9 of return that reflects the increased risk to the
10 company relative to their current position.

11 Q. I want to ask you a couple of things about
12 your recommendation on the 3 percent limit and I
13 believe you said this is similar to a proposal that's
14 being made in Oregon?

15 A. In implementation it looks like a proposal
16 that's been made in Oregon. It's not identical.

17 Q. One area that I don't understand, if I
18 understand it correctly, if you had a scenario which
19 would be fairly similar to the last couple of years
20 which is warm winters particularly and dry hydro
21 conditions such that you had substantial deferrals, as
22 we are currently seeing under the PRAM, would you
23 apply the 3 percent limit to these costs since they

24 are not -- not talking about adding the resources
25 here, just talking about under recoveries?

(BELL - CROSS BY ADAMS)

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1 A. About that component -- yeah.

2 Q. If you had this scenario over several
3 years, you might very well not collect those costs
4 using that 3 percent cap for more than two years, would
5 that not be correct?

6 A. Yes. My assumption is that if that is the
7 case those costs would be an issue in the general rate
8 case in that third year.

9 Q. And what about the concern raised by Puget
10 about the difficulty in having to recover those within
11 two years or not report them as earnings?

12 A. I am not qualified to answer that. Witness
13 Parcell would be a good one to ask that to.

14

15 E X A M I N A T I O N

16 BY CHAIRMAN NELSON:

17 Q. I'm being caught for not being prepared for
18 you today, Mr. Bell. Are you the policy witness for
19 the Northwest Conservation Act Coalition?

20 A. I am one of the policy witnesses.

21 Q. Is Parcell another one?

22 A. No, Cavanagh and Watson are also policy
23 witnesses.

24 Q. May I ask you why Ms. O'Neil's testimony is
25 being withdrawn?

(BELL - EXAM BY CHAIRMAN NELSON)

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1 A. Ms. O'Neil, when we received information
2 that Puget was going to use Ms. O'Neil as a witness on
3 rebuttal on issues related to conservation advertising
4 expenditures and we were concerned that although I have
5 -- the issues that she would be testifying on for Puget
6 and NCAC are different and while I have confidence in
7 Ms. O'Neil's personal integrity, we were concerned that
8 there would be the appearance of a conflict of
9 interest; that it would reduce the value of her
10 testimony on our behalf; and the fact that NCAC used
11 her as a witness might be construed as our taking the
12 position on whether Puget should or should not receive
13 those conservation advertising expenditures and we're
14 trying not to take a position on things like that.

15 Q. Thank you for that answer. I had hoped to
16 ask her some questions about the recent experience in
17 Oregon. Would you be qualified to share a little bit
18 about --

19 A. I was not directly involved in that but I
20 am familiar with it.

21 Q. Would Mr. Watson or Mr. Cavanagh be better
22 situated?

23 MS. WILLIAMS: I am afraid I was the only

24 other one at the PGE proceeding, Commissioners.

25 A. Both of them are familiar with it. We're

(BELL - EXAM BY CHAIRMAN NELSON)

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1 all familiar with it. You can ask any of us.

2 MS. WILLIAMS: I believe Mr. Watson was

3 present at the PGE decoupling and Mr. Golden as

4 executive director of NCAC attended some of those

5 meetings but not any of the witnesses in this case?

6 THE WITNESS: Watson.

7 MS. WILLIAMS: Mr. Watson but that was not

8 the substance of his testimony.

9 Q. We will do the best we can. I understand
10 that out of the Oregon experience Pacific Power & Light
11 has said it will do a decoupling but only for the
12 residential class. Does your group have an opinion on
13 that?

14 A. Mr. Cavanagh was directly involved in the
15 PP&L proceedings so he would be a good one to ask. I
16 can render my opinion on it if you would like.

17 Q. Why don't you while you're here.

18 A. As I've expressed to this Commission before,
19 we have some concerns that Pacific Power is only
20 interested in least cost planning, decoupling to the
21 extent that it's compatible with their overall
22 corporate financial goals and that we feel their
23 corporate financial goals are somewhat excessive. I

24 see their current proposal as consistent with that
25 strategy on their part.

(BELL - EXAM BY CHAIRMAN NELSON)

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1 MS. WILLIAMS: I think we could clarify, the
2 two collaborative processes were conducted separately
3 by design and intention by the expressed order of the
4 Commission. Mr. Cavanagh was present during the PP&L
5 collaborative and in fact did express on the record
6 disagreement with the proposal by Pacific to apply
7 decoupling only to the residential class. The PGE
8 collaborative, Miss O'Neil was the participant
9 facilitator at that particular time in that
10 collaborative but not the PP&L later. They were
11 distinct and came up with uniquely tailored proposals
12 partly because of the personality, the nature of the
13 facilitator and maneuver characteristics that perhaps
14 made one in some ways apparently more successful or a
15 what different kind of processes than another. So
16 perhaps I will amend my earlier suggestion. I believe
17 Mr. Cavanagh has enough oversight of both of the
18 process that he would be able to answer the Chair's
19 questions on those subjects.

20 CHAIRMAN NELSON: I was going to ask him a
21 question about New York, too, and I understand he's
22 moving there. So I will ask him when I see him.

23 Q. Take up your testimony on the general

24 conduct of collaboratives. Page 11 you indicate what I
25 call the three statutory parties, the company, staff,

(BELL - EXAM BY CHAIRMAN NELSON)

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1 public counsel, would be a governing committee, I
2 guess. And then indicate by a majority vote this
3 committee would set budgets, et cetera. You mean two
4 out of the three get to decide how the collaborative
5 would be conducted? And then my follow-up question
6 would be isn't that not a consensus method?

7 A. The problem here is that, as I indicate on
8 page 10 between line 10 and line 17, I kind of laid
9 out four parameters that I think need to be considered
10 for a collaborative process to succeed and then follow
11 with why I believe the Puget process had mixed results.

12 The big question in a collaborative process
13 I think is who controls the process. I think that one
14 of the problems with the collaborative process as we
15 have seen it with Puget is that Puget has controlled
16 the process. And that Puget controls the process in
17 part because the Commission is concerned that if they
18 are perceived as controlling the process the results of
19 that process will be construed as preapproval, that it
20 would impair Commission prudence review authority. So
21 the problem is to come up with some kind of logistical
22 structure that does not give control to the company and
23 does not put the Commission on the hook potentially to

24 approve the results of a collaborative process.

25 So the thinking was that if there are three

(BELL - EXAM BY CHAIRMAN NELSON)

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1 statutory parties who do not have a financial stake in
2 -- a direct financial stake in the outcome of the case
3 and are clearly not the Commissioners, there is the
4 potential for an independent collaborative process to
5 proceed that is not under the control of the company
6 and that clearly does not impair Commissioner's
7 prudence review authority.

8 So the thinking was that the three
9 statutory parties would handle logistics basically,
10 that assuming this is a good faith collaborative
11 process, they don't control the process but they do
12 handle the logistics and act as convenors and that if
13 there was a disagreement, yes, two out of three would
14 make the decision. By the way, this is not dissimilar
15 to the process that's in place in Montana. It's a
16 single convenor.

17 There happened to be a person there that
18 everybody agreed was objective, fair and capable but
19 it's similar to that, that kind of process, except
20 there's three people instead of one.

21 Q. Well, there are fads in everything. I think
22 there are fads in regulation and collaboration seems to
23 be the latest fad, at least in electric utility

24 regulation around the country. And I am all for
25 alternative forms of dispute resolution but I am really

(BELL - EXAM BY CHAIRMAN NELSON)

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1 trying to find out why collaborative seemed to be so
2 much the rage for your group. In World War II
3 collaboration was not a good term.

4 A. It's not a word I chose.

5 Q. And I am not sure who is the free French
6 and who is Vichy in this game, but the other day we
7 had Mr. Lazar on the stand on Washington Natural and I
8 asked him a few questions about fuel switching and we
9 got into a discussion about Washington Water Power.
10 And I relayed that to Washington Water Power at last
11 Wednesday's open meeting and the company took great
12 umbrage that Mr. Lazar had shared anything he had
13 learned in the collaboration with the Commissioners.
14 And I am afraid that what we do when we establish
15 these procedures is your rival consideration about a
16 shadow Commission activity does arise. And I just --
17 it seems to me that if we do -- we tried once before,
18 it was offered once before as charter for
19 collaboration -- the rules have to be more rigorously
20 defined than vaguely defined. And I guess this is not
21 really going to end up being a question. This is
22 going to be a comment on the record that I think
23 your concerns about our concerns about a shadow

24 Commission are well taken and if we are to rely on
25 collaboratives for implementation beyond a conceptual

(BELL - EXAM BY CHAIRMAN NELSON)

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1 framework we're going to have to do a lot more work in
2 sort of getting those details ironed out.

3 A. Can I respond?

4 Q. Please.

5 A. First of all, I think that one of the
6 problems with the initial collaborative charter was
7 that it proposed what amounted to a permanent standing
8 collaborative gain that would sit around for years on
9 end and make decisions that the Commissioners really
10 didn't have access to. And I tried to deal with those
11 concerns about proposing, first of all, that any
12 processes that are convened under these procedures
13 would be task oriented, that the lifetime of that group
14 would be a schedule set by the Commission to the
15 Commissioners -- to reach some kind of proposal to
16 make to the Commissioners and the group would dissolve
17 having achieved their goal or having reached the
18 deadline, whichever comes first. And I think it is a
19 fair criticism that the Commissioners needed to have
20 more information about what was going on in the
21 collaborative process than they had.

22 One of the problems that you get into is
23 that for people to feel like they can speak frankly,

24 they need to know that they're not on the record and
25 that they're not going to be quoted and second-guessed

(BELL - EXAM BY CHAIRMAN NELSON)

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1 down the road. If you look at the kind of process
2 that goes on with Environmental Protection Agency,
3 with Bonneville, with the Northwest Power Planning
4 Council, I think it's possible to develop some
5 procedures that provide the Commissioners with
6 sufficient information about how the process is going
7 without exposing every participant to the threat of
8 having something that they say in an unguarded moment
9 come back at them a year later. I think there's --
10 you can balance the need for free and frank
11 conversation with the need for information on the part
12 of the Commissioners about how the process is going.

13 Q. Well, definitely is the need of the
14 Commissioners, need of the public to assure that
15 there's been openness in proceedings that are taken in
16 their name.

17 A. Absolutely. Let me go back to what you
18 were saying about why NCAC likes nonadversarial
19 process. This case, for example, is a major effort on
20 NCAC's part and relatively speaking, it's a tiny, tiny
21 fraction of what any of the other major intervenors
22 are committing to this case. The fact of the matter
23 is that adversarial cases are the same four or five

24 intervenors case after case. And that the process is
25 much more exclusive than one where any party that has

(BELL - EXAM BY CHAIRMAN NELSON)

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1 some substantive information or some substantive
2 perspective to contribute can participate in without
3 having to be in it to the tune of settlement of
4 thousand dollars. It is not a perfect process. It is
5 far better than the adversarial process that has
6 traditionally governed proceedings around the country.

7 COMMISSIONER CASAD: Follow on. That's an
8 interesting observation because I think it was all the
9 rage that we were probably provided a lot of fuel,
10 because I think we're the first ones to really explore
11 the collaborative process, really try to adopt one.
12 And quite frankly our reasoning at the time was
13 exactly as you stated. Every issue of the adversarial
14 process resulted in every single miniscule issue being
15 litigated and as a result we never got any place and
16 the intervenors and the company and the staff were all
17 at each other's throat all the time and it wasn't
18 necessary. And I quite frankly, and I will
19 editorialize here a little bit, too, I believe the
20 collaborative process is a very worthwhile process. I
21 think it has resulted in what you have indicated, that
22 is, that the adversarial environment has lessened
23 somewhat and that players get a chance to participate

24 more extensively. Therefore, I am not dissatisfied at
25 all with the collaborative process, and I think the

(BELL - EXAM BY CHAIRMAN NELSON)

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1 greatest threat to the collaborative process is if we
2 try to over codify it. If we establish all kinds of
3 rules and regulations and procedural methodologies and
4 restrictions and this kind of thing, then we probably
5 tend to make useless what could be a very kind of
6 useful process. I will ask it and then I will give
7 you an opportunity to respond but I need to frame it
8 as a question rather than a comment and I suspect
9 that's what you were indicating in your answer to
10 Chairman Nelson.

11 A. As a participant in that process, from my
12 perspective, the critical component that makes a
13 cooperative process work is good faith and good will on
14 the part of the participants. That's the critical
15 component and if there's a perception that one party
16 controls the process or that someone is going to make
17 the ultimate decision simply isn't going to take the
18 process seriously, the good will and good faith
19 erodes, and from my perspective that's exactly what
20 happened in the various collaborative processes with
21 Puget. There has been, as the Commissioners have
22 raised more and more questions about the process,
23 there has been less and less good will and less and

24 less good faith and more and more posturing, and I
25 think as this Commission noted in the PRAM 2 ruling,

(BELL - EXAM BY CHAIRMAN NELSON)

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1 an increase in adversarial -- there was like a decline
2 in adversarial approach to resolving these issues and
3 there has been a recent increase in the tendency of
4 the parties to take an adversarial approach.

5 Q. I think the Commissioners' concerns about
6 the collaborative process were not about the
7 collaborative process itself but the Commissioners
8 lacked an independent review of the process. The
9 staff was a participant and therefore all the
10 collaborators, if I can use that term, signed off
11 prior to coming to the Commission so the Commission
12 had no one to independently review the product, and we
13 weren't represented during the process, and we had no
14 one to independently review the product of the group.
15 So it wasn't the process itself, it was that product
16 that concerned us so that we could get some insight
17 that was separate and distinct.

18 A. I am not really qualified to speak to the
19 role of Commission rate staff relative to the
20 Commissioners. My impression is that independent
21 review is the responsibility of the Commissioners'
22 policy staff and that the Commission rate staff is
23 another party in the proceeding and that they're on

24 the other side of the ex parte line. And it's not
25 appropriate.

(BELL - EXAM BY CHAIRMAN NELSON)

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1 Q. We've tried to do that because of that very
2 fact that the staff not being on the other side of the
3 ex parte line obviously could not provide us with that.
4 As a stopgap we decided let's have the policy people
5 represent us and they are independent of that. I am
6 not certain how that's going to work because we're just
7 now into that phase of things to see.

8 A. The most important message that I've tried
9 to get across and that we hope to present in Ms.
10 O'Neil's testimony and that we will be presenting in
11 our closing brief is that the status of the process is
12 mottled and you are free to decide that you like the
13 adversarial process. I am just saying that if you want
14 to try something else you need to make some -- you need
15 to further define what it is that you do more.

16 Q. I don't think it's necessary to burden the
17 record. It's a worthwhile discussion that should be
18 held perhaps outside the context of a rate case because
19 it is the type of thing that it is an experiment as is
20 decoupling or as alternative form of regulations.
21 Nothing is set in concrete. It's an effort to improve
22 the process and whatever supports that objective is
23 probably good and then if it doesn't improve the

24 process it's probably bad.

25 A. Let me try and respond to that briefly

(BELL - EXAM BY CHAIRMAN NELSON)

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1 because I believe that there is a clear connection
2 between good integrated resource planning, good
3 competitive bidding, a healthy good faith discussion
4 between interested parties, good rate making and some
5 kind of decoupling/incentive/whatever else you want to
6 throw into may determine fair rate of return regulatory
7 policy.

8 I agree with you that the discussion of what
9 constitutes the right process shouldn't be a primary
10 focus of this case but I would submit that it is a
11 critical component of the overall package of regulatory
12 policies that you're defining here. You can't consider
13 it in isolation.

14 Q. On page 2 and page 3 of your supplemental
15 testimony, when you're discussing the base/resource
16 cost split, you say they don't essentially affect
17 decoupling but they certainly affect the amount of
18 money on the table?

19 A. That is correct.

20 Q. And the amount of money that's on the table
21 is a critical part of a rate case without question.
22 You indicate that you think that if we're dissatisfied
23 with the amount of money that's on the table, the

24 company makes excessive profits, we can go ahead and
25 readjust the cost of allocation or tamper with the

(BELL - EXAM BY CHAIRMAN NELSON)

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1 methodology. How would you suggest we do that? If the
2 object here is to simplify things, what do we do
3 outside of a rate case or -- which is the opportunity
4 that we're taking right now to resolve an issue, how do
5 we resolve it in the future, once we find out the
6 company is making excessive money, what's your
7 proposal?

8 A. I am not quite understanding you.

9 Q. Maybe I can rephrase it. The issue is
10 how much money is on the table and either the company
11 might make excessive profits or make inadequate
12 profits and therefore we need to readjust the cost
13 allocation or multiply the existing base cost
14 component by an adjustment factor et cetera, et
15 cetera. What process do you suggest we use to
16 accomplish that other than the rate case?

17 A. As far as a venue, I think that the rate
18 case is the appropriate place to make that
19 determination. What I hear is two separate questions.
20 One is what's the procedure for making that
21 determination and then the second question is how do
22 you address any problems if you've made a mistake, and
23 I guess my feeling is that if you've made a bad

24 mistake and things are badly out of whack either staff
25 files or the company files for a modification and you

(BELL - EXAM BY CHAIRMAN NELSON)

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1 reconsider it.

2 The point I was trying to make in my
3 testimony on page 2 and 3 of the supplemental
4 testimony was not a recommendation on how to proceed
5 specifically. It was pointing out that if you are
6 making -- the point that I was trying to make is that
7 several parties in this case have stated that the
8 problem is the base/resource costs adjustments, the
9 problem is the weather adjustment, the problem is the
10 hydro adjustment. The underlying concern in my
11 perception on the part of all of us intervenors is the
12 company is making more money than they should. And
13 the responsibility of the Commissioners is to
14 determine how much money the company should make.
15 Having done that, there are a variety of ways that you
16 can allow the company to make that money or to
17 establish a greater or lesser probability that the
18 company will make the fair rate of return that you've
19 established. Those are decisions that I think do need
20 to be made in the rate case, that need to be made
21 explicitly in a rate case.

22 Q. Page 5 of your supplemental. You indicate
23 -- I kind of judge that you're recommending that the

24 Commission fashion a coat of many colors. You say the
25 Commission has before it a complete and thorough

(BELL - EXAM BY CHAIRMAN NELSON)

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1 decoupling mechanism which conforms to Dr. Power's
2 recommendations, unfortunately is divided between the
3 testimony of several witnesses, and you discuss
4 base/resource cost split which is different from but
5 equally precise to that proposed by Puget.
6 Mr. Blackman proposes a methodology to isolate weather
7 in the hydro recommendations. Mr. Schoenbeck proposes
8 a mechanism to insure that Puget has an incentive to
9 minimize the cost of short term power purchases. All
10 of these taken together add up to a workable
11 decoupling mechanism. So from this I assume that you
12 are saying that the particulars of the testimony of
13 each of these witnesses in a single area is worthwhile
14 and should be accepted and other than those which you
15 have identified here should not be.

16 A. That's not correct. And I am sorry, I
17 wasn't quite clear enough in that closing statement.
18 My intent -- Dr. Power presents testimony that shows
19 that if you want to consider decoupling and you only
20 want to consider decoupling you can do that
21 theoretically. What I intended to show was that if you
22 wanted an example of a way, not the only way, to apply
23 decoupling and decoupling only in the case of Puget, if

24 you look at the components of testimony that are from
25 other intervenors and put them together in the

(BELL - EXAM BY CHAIRMAN NELSON)

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1 combination that I describe here you have an example of
2 a decoupling proposal that is just decoupling. I did
3 not intend to say that this Commission should proceed
4 with selecting these components throwing out the rest
5 of the PRAM. As I state elsewhere in my testimony, I
6 think that that would have a severe impact on Puget's
7 ability to earn a fair rate of return and that this
8 Commission needs to make that determination what a
9 fair rate of return is and how it will allow the
10 company to get a fair rate of return. My point here
11 is to demonstrate that decoupling is a separate and a
12 desired acceptable component of the PRAM and that the
13 issues related to short term cost recovery and
14 resource cost recovery are separate issues. They are
15 legitimate issues but they are separate issues.

16 COMMISSIONER CASAD: Thank you.

17 JUDGE HAENLE: Commissioners?

18 MR. HEMSTAD: I have no questions.

19

20 E X A M I N A T I O N

21 BY JUDGE HAENLE:

22 Q. Mr. Bell, referring to your testimony at
23 page 6 where you talk about that April portion, on a

24 practical level, how would you do that without a
25 hearing, separate decoupling from temperature since

(BELL - EXAM BY JUDGE HAENLE)

2066

1 sales fluctuations can depend on temperature, can
2 depend on a number of customers, how would you do that?

3 A. The component that I would put into rates
4 in April would simply be a calculation of the number
5 of customers as of a certain date times the amount
6 that Puget is receiving in a base costs per customer
7 separated by class delivered with a multiplier
8 desired. It doesn't take weather fluctuations, hydro
9 fluctuations or anything else into account. That
10 would be part of the October proceeding or the June
11 proceeding.

12 Q. Your testimony elsewhere indicates that you
13 don't care much about the division between base costs
14 and resource costs, but isn't that part of it?

15 A. The policy issue of what the base and
16 resource costs split should be is part of this rate
17 case. Having made that decision the implementation of
18 it is straightforward.

19 JUDGE HAENLE: Redirect?

20 MS. WILLIAMS: No redirect but I wanted to
21 point out that in the errata sheet we handed out is
22 slightly inconsistent with the changes that Mr. Bell
23 made when he testified, and so to simplify things I

24 think I will just file and serve an errata sheet that
25 conforms with the testified changes. They have to do

(BELL - EXAM BY JUDGE HAENLE)

2067

1 not with the spelling errors but with the striking of
2 the references to the withdrawn testimony of Ms.
3 O'Neil and as indicated on the errata sheet I struck
4 the whole sentence. Mr. Bell struck only the
5 reference to Ms. O'Neil's testimony and I think the
6 simplest thing for me to do is to clarify that with
7 serving an amendment.

8 JUDGE HAENLE: Can you have that tomorrow?

9 MS. WILLIAMS: Yes, I can.

10 JUDGE HAENLE: Anything more of the witness?

11 MR. MARSHALL: Actually, I do. I hesitated.

12 I do have a couple of follow-up questions on questions
13 Mr. Adams asked of Mr. Bell.

14 JUDGE HAENLE: Briefly. Why don't we go
15 ahead and take our afternoon break now.

16 (Recess.)

17 JUDGE HAENLE: Let's be back on the record
18 after our afternoon recess. You had some questions,
19 Mr. Marshall?

20 MR. MARSHALL: I did, thank you.

21

22 CROSS-EXAMINATION

23 BY MR. MARSHALL:

24 Q. Going back to some of the questions that
25 Mr. Adams asked you. He asked you whether in principle

(BELL - CROSS BY MARSHALL)

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1 making certain changes to the base versus resource and
2 revenue per customer numbers were acceptable or not
3 acceptable and you mentioned that it would be
4 determined in part by the impact on earnings. My
5 follow-up question to you on base versus resource is
6 have you done a systematic study to determine what
7 impact on earnings the staff proposal on base versus
8 resource would have on the company?

9 A. I have not done a systematic study on that.
10 As I recall the impact from 1183/1184 was on the order
11 of 10 to \$20 million.

12 Q. Have you determined whether looking forward
13 the company's base versus resource split would give a
14 fair chance to the company to earn its allowed rate of
15 return going forward?

16 A. I have not.

17 Q. So in other words, although you may say in
18 principle it could be one or the other you just haven't
19 done the mathematics or the studies to determine if
20 there is a need to switch from the current system to
21 something else?

22 A. That is correct. I have not taken a
23 position on what the base or resource costs switch

24 should be and so I have not done a study on what I
25 think it should be.

(BELL - CROSS BY MARSHALL)

2069

1 Q. Is the same true for revenue per customer
2 and the weather normalization, those things as well you
3 haven't done a systematic study on the earnings for
4 those?

5 A. Not in this case.

6 Q. Because you haven't done a study on impact
7 on earnings and because the impact on earnings is what
8 would determine whether you would be for or against a
9 particular change, you don't have a position on a
10 particular change?

11 A. Yes.

12 MR. TRINCHERO: I have a few follow-ups on
13 the questions asked by the Commissioners.

14

15 CROSS-EXAMINATION

16 BY MR. TRINCHERO:

17 Q. Mr. Bell, you had a discussion with both the
18 chair and Commissioner Casad regarding collaborative
19 groups, and I believe one of the things that you stated
20 was that the cost of participating in collaborative
21 efforts was less than participating in full litigation.
22 Do you know of any quantitative study that would show
23 that that is true?

24 A. Any quantitative study, no. I was speaking
25 on the basis of our organizational experience. For

(BELL - CROSS BY TRINCHERO)

2070

1 example, as a policy director at the coalition, I was
2 involved in cooperative process involving four
3 electric utilities and when we compare that to the
4 several hundred thousand dollars that Puget is
5 expending on this rate case alone, it's several orders
6 of magnitude of difference in what it takes to be
7 heard and to be effective in the proceeding.

8 Q. So you were basically comparing the NCAC's
9 costs of participating in a collaborative effort with
10 Puget's costs of litigation; is that correct?

11 A. Yeah.

12 Q. One other issue on collaborative groups.
13 Can the same kind of narrowing of issues be achieved
14 through workshops which are scheduled during rate
15 cases, workshops in which parties would get together
16 to discuss the issues and try to narrow the disputes?

17 A. If your definition of workshop is something
18 that may extend over several sessions and involves good
19 faith and good will discussions, I think that the two
20 processes are essentially identical. You can call it
21 a workshop or you can call it a collaborative.

22 Q. If the distinction -- if we were to assume
23 that the main distinction between the two types of

24 efforts is that the collaborative group effort is
25 expected to come up with some sort of package consensus

(BELL - CROSS BY TRINCHERO)

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1 agreement whereas the workshop is intended simply to
2 narrow issues but then resolve ultimately the issues
3 through hopefully litigation that is more expedient,
4 would that change your opinion as to the effectiveness
5 of workshops?

6 A. It depends on what your goal is. I see
7 mediation and negotiation and cooperative or
8 collaborative process as having several different
9 goals. One may be to narrow differences and there are
10 some issues where mediation or collaborative process is
11 simply not a substitute for a determination by the
12 Commission about what a fair rate of return is. And
13 that that is going to be litigated and that's
14 completely appropriate. There are points where trying
15 to narrow differences are appropriate. There are
16 points where trying to put together a package is
17 appropriate. There are points where trying to figure
18 out -- to compliment a rule or policy where a
19 regulatory or administrative agency is outlined is
20 appropriate and in fact that's the context that I use
21 collaborative in my testimony. So I think there are
22 points where the workshop proceeding that you're
23 proposing is completely appropriate and there are

24 times when a post decision collaborative process is
25 also appropriate.

(BELL - CROSS BY TRINCHERO)

2072

1 MR. TRINCHERO: Thank you.

2

3 CROSS-EXAMINATION

4 BY MR. TROTTER:

5 Q. You used in questions just now from Mr.
6 Marshall a \$20 million figure with respect to I think
7 it was the staff's base revenue split?

8 A. I think he said 10 to 20 million. I don't
9 remember exactly.

10 Q. 10 to 20 million. And do you recall that
11 that was more than just a single year's effect, that
12 amount was over a three-year period?

13 A. I do not. I was speaking off the top of my
14 head.

15 JUDGE HAENLE: Mr. Adams.

16

17 CROSS-EXAMINATION

18 BY MR. ADAMS:

19 Q. Couple of follow-ups. Mr. Bell, maybe I
20 misheard you but in a colloquy you had with
21 Commissioner Casad, I thought I heard you suggest that
22 the Commission policy staff be a part of the
23 collaborative process, and therefore, as I understand

24 it, if they were a part of that they would also then
25 be giving advice to the Commissioners when whatever

(BELL - CROSS BY ADAMS)

2073

1 the product of the collaborative was put before the
2 Commission for a determination. Is that what you
3 meant to suggest?

4 A. That is not. What I was trying to say --
5 sorry if I wasn't clear -- was that it is appropriate
6 for the rates staff to be part of that process because
7 they are on the same side of the ex parte line as the
8 intervenors. My understanding of the Commission
9 ruling on the collaborative charter was that the
10 Commission was concerned that there was not -- that
11 they did not have access to an objective source of
12 information that was responsible primarily to them
13 instead of to any of the intervenors, and what I was
14 suggesting in my conversation with Mr. Casad was that
15 that's the role that the policy staff should be taking
16 relative to the Commissioners. If in fact the
17 Commission wants an independent advisor then it's not
18 appropriate for policy staff to be a part of that
19 negotiation process.

20 Q. Now, in this case, the company has
21 requested as part of its general rate case
22 approximately \$117 million of rate increase and you
23 may not have seen it yet but it's my understanding

24 that the company filed a PRAM filing on I guess it was
25 Friday of approximately another \$76 million so we're

(BELL - CROSS BY ADAMS)

2074

1 looking at a total there of \$193 million. It's not
2 your suggestion that a collaborative process would
3 have eliminated the need for or would have resolved
4 \$193 million, is it?

5 A. No. Is that a more complete IRP process
6 would have allowed the public and intervenors and
7 Commissioners to have a better idea of what was
8 coming. I think that a healthy collaborative process
9 would have identified which components were related to
10 resource cost and which were related to revenue
11 recovery policy, but, no. Collaborative process would
12 not have significantly changed the amount of money
13 that's on the table.

14 Q. There still are certain issues that the
15 Commission needs to decide which would probably have
16 to be handled in some form of a more traditional
17 process, don't you think?

18 A. My intent in the collaborative process that
19 I have proposed is to support the Commission as the
20 final arbiter of any policy decision and any financial
21 decision made in giving utilities a fair and
22 reasonable rate of return and their customers a fair
23 deal. So -- and I expect that there will always be

24 issues that need to be determined, where a judgment
25 needs to be made by the Commissioners, and I expect

(BELL - CROSS BY ADAMS)

2075

1 that any product that comes out of a negotiation
2 process needs to be subject to final approval based on
3 the judgment of those Commissioners. So, no, it's not
4 a substitute for a rate proceeding.

5 Q. One last thing, and this is a mechanical
6 question. Going back to the bifurcation of the
7 decoupling piece and the PRAM piece. If you applied
8 it as you're suggesting in April, I think is your
9 suggestion, for the decoupling portion, rates will
10 have just come off winter rates?

11 A. That is correct.

12 Q. And isn't it likely as a practical matter
13 that customers will not even realize that there's been
14 a rate increase because as winter rates come down to
15 summer rates, if you apply this adjustment it simply
16 won't come down as far?

17 A. That's possible. The reason for proposing
18 it in April is because it's a point where there is an
19 adjustment anyway. I thought that might make it
20 administratively a little easier, and if I thought
21 that the maximum possible rate impact of that
22 adjustment was very large, I think that would be a
23 legitimate cause for concern. I just don't think it's

24 a very big number.

25 Q. But effectively it will ratchet up the

(BELL - CROSS BY ADAMS)

2076

1 fall, won't it? Rates don't fall as far in the summer

2 and then you go back to the next October PRAM

3 adjustment you will be starting from a higher base?

4 A. You will be starting from a higher base,

5 yeah.

6 JUDGE HAENLE: Anything else? Thank you,

7 sir, you may step down. Let's go off the record to

8 change witnesses.

9 (Recess.)

10 JUDGE HAENLE: Let's be back on the record.

11 We're now back to Mr. Elgin and will continue with

12 Mr. Elgin's cross-examination by Mr. Marshall.

13 Whereupon,

14 KENNETH ELGIN,

15 having been previously duly sworn, was recalled as a

16 witness herein and was examined and testified as

17 follows:

18

19 CROSS-EXAMINATION

20 BY MR. MARSHALL:

21 Q. Before lunch we were talking about a

22 Standard & Poor's questionnaire and you had mentioned

23 that you had a conversation with Mr. Swofford and

24 Mr. Knutsen of the company. Do you recall that
25 general subject matter?

(ELGIN - CROSS BY MARSHALL)

2077

1 A. Yes. I don't know if I mentioned
2 Mr. Swofford's name but I remember the general
3 discussion.

4 Q. And you said that you had found some, in
5 response to a data request, some information that
6 Puget Power had provided to the rating agencies. And
7 just so that we have the record clear, is that Exhibit
8 582 that you were referring to?

9 A. Yes, it is.

10 Q. And in 582, the deposition request No. 2
11 was --

12 Do you have that in front of you by the
13 way?

14 A. Yes, I do.

15 Q. It says, "Please provide a copy of written
16 information provided to rating agencies regarding the
17 treatment of Puget's purchased power obligations." Do
18 you see that?

19 A. Yes.

20 Q. That wasn't on PRAM decoupling but on
21 purchased power obligations, correct?

22 A. That is correct.

23 Q. So was your answer referring to PRAM

24 decoupling mechanism information or purchased power
25 obligations?

(ELGIN - CROSS BY MARSHALL)

2078

1 A. It was to the latter. As my testimony in
2 page --

3 Q. It was to purchased power obligations; is
4 that correct?

5 A. Yes, that's correct.

6 Q. Before lunch, however, my question was
7 directed to what Puget Power had communicated to the
8 financial community regarding a PRAM decoupling
9 mechanism, correct?

10 A. I don't recall what the specific question
11 was. I think you referred me to page 27 of my
12 testimony and there I am talking specifically about
13 purchased power and associated risks and that's where
14 I take issue about Puget's treatment or discussions
15 with Wall Street about PRAM and the benefit to
16 shareholders.

17 Q. Actually I referred you to page 34 of your
18 testimony, line 25 to page 35 line 4. That was the
19 reference to your criticism of the company for not, in
20 your view, adequately presenting the benefits of PRAM
21 to the financial community.

22 A. Well, the reference on 34, yes, that's
23 correct, that's where you did reference me but this

24 reference is also specifically in conjunction with
25 the testimony on page 27 that begins on line 12.

(ELGIN - CROSS BY MARSHALL)

2079

1 Q. In any event do you have any information
2 about what Puget was conveying to the financial
3 community in the meetings that it had regarding the
4 PRAM decoupling mechanism?

5 A. My general understanding of the -- let me
6 strike that and go back to your question. No, I don't
7 know specifically. I haven't seen any specific
8 document. My general understanding of what Puget has
9 done with respect to communicating the decoupling
10 portion and the treatment of conservation, I don't
11 think that I take any issue with respect to what Puget
12 has done there. In fact that's one of the things that
13 I do have a concern about. It seems that the company
14 has done a pretty good job of explaining the treatment
15 of conservation but a less than adequate job with
16 respect to the treatment of purchased power.

17 Q. Now, then, turning to purchased power
18 rather than PRAM decoupling. This Exhibit 582 that
19 you referred to which asked for the information
20 provided to rating agencies on purchased power
21 includes the document, the Standard & Poor's
22 questionnaire and the response, and you had made
23 reference to a comment that you had thought that Puget

24 ought to revise to that Standard & Poor questionnaire.

25 You made some reference to that in your testimony

(ELGIN - CROSS BY MARSHALL)

2080

1 before lunch?

2 A. I don't recall anything in my prefiled
3 direct testimony where I made that. I just said this
4 is all that I've seen with respect to that issue.

5 Q. Maybe I misunderstood you but I thought
6 that you had mentioned that you had some communication
7 with Mr. Knutsen of the company about something that
8 the company should have said before it did send in its
9 answers to the Standard & Poor purchased power
10 questionnaire. Do you recall that?

11 A. Yes.

12 Q. Did the company comply with whatever
13 requests you had to make your comment on the purchased
14 power questionnaire?

15 A. I don't know whether they did or not.

16 Q. You haven't looked into that further to
17 find out?

18 A. No.

19 Q. Has the company ever failed or refused to
20 communicate -- let me rephrase it so it's specific --
21 has the company ever refused to communicate any fact
22 about PRAM decoupling or purchased power that you
23 believed or told the company it should communicate

24 where they refused to do that?

25 A. Not to my knowledge, no.

(ELGIN - CROSS BY MARSHALL)

2081

1 Q. Puget stock is a publicly traded stock of
2 course?

3 A. Yes.

4 Q. And as such Puget is subject to Securities
5 and Exchange Commission regulation?

6 A. That's correct.

7 Q. And under the Securities and Exchange laws,
8 federal laws governing publicly traded stock Puget has
9 certain disclosure obligations?

10 A. That is correct.

11 Q. In general terms can you describe what
12 those disclosure obligations are, just your
13 understanding briefly?

14 A. My understanding is they have to generally
15 disclose all material aspects of its business that may
16 affect the financial statements that they are
17 publishing that describe the financial performance and
18 the financial statement of the company.

19 Q. It can't gloss over facts that may be
20 uncomfortable. Is that fair to say?

21 A. I don't know what you mean by that.

22 Q. It has to fairly represent facts to the
23 SEC?

24 A. Yes, it does.

25 Q. And thereby to investors?

(ELGIN - CROSS BY MARSHALL)

2082

1 A. That is correct.

2 Q. Potential investors of course?

3 A. Right.

4 Q. And if Puget misrepresents facts it is
5 subject to liability, correct?

6 A. Best of my understanding.

7 Q. And its fairly severe liability at times?

8 A. I don't know. I would accept that.

9 Q. Are members of Puget's board of directors
10 potentially liable if the company fails to meet its
11 disclosure obligations?

12 A. I will accept that.

13 Q. Do you know if directors must sign any
14 documents that are filed with the SEC?

15 A. It's my understanding that the SEC
16 documents that I've seen are signed by company
17 officers.

18 Q. Do you know whether the company directors
19 have to sign on any stock issuance?

20 A. I believe they do.

21 Q. Do you recommend in this case that Puget
22 Power drop its directors and officer liability
23 coverage?

24 A. I have not recommended that. I don't know
25 where you would get that from my testimony.

(ELGIN - CROSS BY MARSHALL)

2083

1 Q. Have any of your staff members recommended
2 that Puget drop its D and O policy?

3 A. I don't know. I don't see any in this
4 case.

5 Q. Do you believe that the financial community
6 is in fact concerned about what future changes might
7 be made to the PRAM decoupling mechanism?

8 A. Yes, I'm sure they're concerned and would
9 be interested in what the Commission is doing is as it
10 was originally implemented it was to be an experiment
11 and I would expect that the financial community is
12 interested in what the results of this proceeding will
13 bode for the company.

14 Q. Have you made any recommendations on what
15 the company should be telling the investment community
16 about potential changes to the PRAM decoupling
17 mechanism?

18 A. What they should be telling?

19 Q. Yes, have you made any recommendations in
20 that regard?

21 A. No, I have not.

22 Q. I take it you recall reviewing articles
23 last fall on various energy-related publications that

24 speculated about whether PRAM decoupling would be
25 changed or even discontinued. Do you remember those

(ELGIN - CROSS BY MARSHALL)

2084

1 articles?

2 A. Yes.

3 Q. And so there is concern out there about
4 what direction this is going to take and that this
5 experiment will be continued in any event, correct?

6 A. Yes, and most of those concerns were, I
7 believe, as you already indicated, communicated by the
8 company to the financial community, and as I interpret
9 the Commission's order, as I understand what they're
10 saying is they're committed to decoupling and pursuing
11 regulatory reform and my understanding is that the
12 Commission was trying to understand the process that
13 it has created, trying to understand the rates that
14 resulted from that process, but in terms of abandoning
15 the PRAM I did not read that in the Commission's
16 order.

17 Q. You would agree that there is significant
18 uncertainty in the investment community about changes
19 that could be made to the PRAM decoupling mechanism?

20 A. I wouldn't know what you mean by
21 significant. Until the Commission issues its order
22 there is some uncertainty.

23 Q. Now, let me turn to your administrative

24 criteria for evaluating the PRAM decoupling mechanism.

25 A. Page for me, please?

(ELGIN - CROSS BY MARSHALL)

2085

1 Q. Sure, beginnings at page 8. In addition to
2 the three objectives that we had on the board here and
3 the four goals of PRAM, there are four criteria for
4 evaluating a new proposal, one that it must be
5 measurable; two, it must be relatively simple to
6 administer; three, it must be easily explained to
7 customers; and four, it must be improved on balance
8 over the current method of regulation?

9 A. That's right.

10 Q. And I know that you've made some testimony
11 there at page 8 but you weren't quoting at page 8 from
12 the April 1, 1991 order, you sort of paraphrased it?

13 A. Yes.

14 Q. Instead of easily understood you used the
15 word intuitive and so on?

16 A. Yes.

17 MR. TROTTER: Excuse me, your Honor. Can
18 we have the witness refer to the order?

19 Q. You used the word intuitive and the order
20 used the relative easily.

21 MR. TROTTER: I see the word.

22 A. Mr. Marshall was referring to the original
23 PRAM decoupling order and I took this from the PRAM 2

24 order.

25 Q. The April 1, 1991 order is the one that I
(ELGIN - CROSS BY MARSHALL)

2086

1 was referring to, is the one that I had the three
2 objectives and the four general goals and so forth.

3 MR. TROTTER: Maybe we better go back. I
4 think I am in a sloppy fashion registering an
5 objection to the question that Mr. Elgin had
6 paraphrased the criteria and it's our belief that he
7 did not. He in fact took them from page 3 of the PRAM
8 2 order. So if there was any paraphrasing that was
9 done it was the Commission paraphrasing that Mr. Elgin
10 has adopted. I don't think it matters but I wanted to
11 make the record clear on that point.

12 THE WITNESS: That's correct. I took it
13 directly from page 3 of the order in docket No. UE-
14 920630.

15 JUDGE HAENLE: Go on.

16 Q. You state in your testimony that the
17 current mechanism fails to meet the standards in all
18 but one category but then you add, of course, "the
19 staff is not recommending that the mechanism be
20 abandoned."

21 With regard to the four criteria you see,
22 that the PRAM satisfy the first criteria, that is it
23 must be measurable. Is that fair?

24 A. From my interpretation of what the
25 Commission meant by that statement, yes, I do.

(ELGIN - CROSS BY MARSHALL)

2087

1 Q. Second criteria is whether PRAM is
2 relatively simple to administer. Do you agree with
3 the statement that the PRAM should be simple to
4 administer?

5 A. Yes, automatic adjustment mechanism should
6 be but the issue is sometimes they produce unexpected
7 results and that makes them difficult to administer
8 because parties raise different issues trying to cope
9 with the magnitude of the increases that result from
10 simple measures and simple administrative rate type of
11 filings.

12 Q. If PRAM is truly an automatic adjustment
13 mechanism then by definition it is relatively simple
14 to administer?

15 A. Yes, that is correct.

16 Q. But you criticize PRAM in this area not on
17 whether it's an automatic adjustment mechanism,
18 because I believe that you think it is, but that in
19 the application of that, it doesn't admit to having
20 discretion or judgment apply to it. Is that fair?

21 A. That's fair.

22 Q. So in effect it is a relatively simple
23 mechanism in the way what you're saying is it's too

24 simple because it doesn't allow for some application
25 of judgment or discretion?

(ELGIN - CROSS BY MARSHALL)

2088

1 A. What's simple about it is the fact it
2 produces a number.

3 Q. Right, an automatic number.

4 A. What's difficult about it is sometimes the
5 number is untenable. It's difficult to accept. And
6 that's what balancing those two issues, that always
7 makes administration problems.

8 Q. What I was trying to get at is that if it's
9 relatively simple to administer, just so we make sure
10 we understand each other, you're saying it is an
11 automatic mathematically simple thing to come up with
12 a number?

13 A. That is correct.

14 Q. And whether that number should be modified
15 in some other judgmental way is another issue?

16 A. That is correct.

17 Q. As you put it the mechanism may have worked
18 but the results could be problematic was the word I
19 think you used?

20 A. Yes. Rate increases in the magnitude of 10
21 to 14 percent are problematic for customers to deal
22 with.

23 Q. Moving on to the third criteria after

24 simplicity of administration you state that "PRAM and
25 its workings are very difficult to explain to

(ELGIN - CROSS BY MARSHALL)

2089

1 customers and are not likely to be understood by
2 customers." Is that your testimony at page 10?

3 A. Yes, it is.

4 Q. And when a customer asks you to summarize
5 what PRAM is designed to do, what do you say?

6 A. What do I say? Say it's designed to
7 recover costs of conservation, costs of new power
8 resources, costs changes associated with contract
9 changes in existing resources, prior period deferrals
10 and then I get a blank look.

11 Q. Is there a way to step back and start with
12 the big picture by saying what the entire mechanism
13 was intended to accomplish, the overall goals?

14 A. Yes. And if I give them the overall goals
15 and then I also say that it's also designed to provide
16 Puget additional revenue because they did not sell
17 enough energy or for the fact that two years ago
18 we didn't collect enough I get a blank look.

19 Q. Would it be possible to describe PRAM to
20 customers in the following way: PRAM is a way of
21 setting utility rates, utility prices, based on last
22 year's costs so that revenues cover future costs in
23 future years in a way not tied to new sales of

24 electricity. Instead, growth and revenue will be tied
25 to the number of new customers that are added. By

(ELGIN - CROSS BY MARSHALL)

2090

1 separating revenues from increased sales of electricity
2 PRAM is designed to encourage a utility to invest in
3 energy conservation. Would that be a fair description?

4 A. It would be fair. I am not sure that
5 it's understandable. As I testified to, Mr. Marshall,
6 if I tell a customer that his rates are based on costs
7 and the Commission has evaluated those costs and the
8 rates are designed to provide a fair chance to recover
9 those costs of service, customers understand that.
10 But when I get into issues designed to describe
11 decoupling or describe various elements of deferred
12 cost recovery I get a blank look. It's difficult for
13 customers to understand.

14 Q. When you try to describe to customers
15 traditional rate making, do you describe that to them
16 with the energy adjustment mechanism or without the
17 energy adjustment mechanism?

18 A. Without.

19 Q. You've indicated in response to a data
20 request how many states around the United States have
21 an energy adjustment mechanism; is that correct?

22 A. Yes, I did. I actually had quite a few
23 data requests in this proceeding so do you want to

24 direct me to which one specifically?

25 Q. Why don't we take a look at 4522.

(ELGIN - CROSS BY MARSHALL)

2091

1 A. Okay.

2 MR. MARSHALL: I am going to pass out to
3 everyone an exhibit that represents your response to
4 that data request. Be asked that that be marked as
5 the next exhibit number.

6 JUDGE HAENLE: This exhibit will be 681.
7 I want to remind you that you still had not moved 676
8 for identification and we need to take care of that.

9 MR. MARSHALL: I will move for that to be
10 admitted.

11 JUDGE HAENLE: Any objection to the entry
12 of 676 which was a one-page letter?

13 MR. TROTTER: No.

14 MR. ADAMS: No objection.

15 MR. TRINCHERO: No objection.

16 JUDGE HAENLE: 676 then will be entered.

17 (Marked Exhibit 681.)

18 (Admitted Exhibit 676.)

19 JUDGE HAENLE: I have marked as 681 for
20 identification, at the top it says Response to Company
21 Data Request 4522.

22 Q. Could you describe what it is?

23 A. It's my response to data request No. 4522.

24 It's essentially a photocopy of a compilation of
25 energy cost adjustment clauses for electric and gas

(ELGIN - CROSS BY MARSHALL)

2092

1 utilities. This was taken from a NARUC annual report
2 and it basically describes -- it would be the second
3 page of the exhibit at the top would be identified as
4 table 24. It talks about regulation of electric
5 utility energy cost adjustment clauses. Continues on
6 to page 60. 61 has some footnotes describing the
7 various energy cost adjustment clauses and then on
8 page 62 it continues with a description of gas utility
9 adjustment clauses.

10 Q. Energy cost adjustment clauses are
11 sometimes shortened to the acronym ECAC, correct?

12 A. Yes.

13 Q. And in fact there was an ECAC mechanism in
14 Washington state for some period of years, true?

15 A. Yes, only for Puget Sound Power & Light but
16 not for the other jurisdictions and utilities.

17 Q. And for what years was the ECAC in place
18 for Puget Power?

19 A. It was accepted in cause U-81-41. I
20 believe it began in 1982 and it continued and was
21 abolished by the Commission in docket U-89-2688. So
22 period of seven or eight years.

23 Q. Out of all of the jurisdictions that are

24 reported here, and I take it every state jurisdiction
25 is reported here, plus Washington DC and so forth,

(ELGIN - CROSS BY MARSHALL)

2093

1 in Exhibit 681, how many of the states have ECAC
2 mechanisms?

3 A. I didn't add them up. I didn't count them.

4 Q. Subject to check are there only five states
5 that do not have an ECAC?

6 MR. TROTTER: Excuse me, on the checking
7 several of the notes say that mechanisms have either
8 been abolished either by court decision or by the
9 Commission. So in checking did you exclude those?

10 MR. MARSHALL: No.

11 Q. You're perfectly welcome to try to add them
12 up yourself. Somewhere between 40 and 45 states have
13 an ECAC mechanism for their rate making purposes for
14 electric utilities, is that fair to say?

15 A. All I did was photocopy this. With respect
16 to what the various states are doing, I have looked at
17 them with respect to what they say for this
18 Commission. I don't know who compiled this for our
19 state but it's my understanding a few of the
20 adjustment clauses even though a state may have them
21 in terms of how they're implemented they tend to be
22 all over the place with respect to what they're
23 attempting to do and to what extent to have deferred

24 accounting and to what extent their limits -- they're
25 all over the map and just to say that a utility has an

(ELGIN - CROSS BY MARSHALL)

2094

1 ECAC somehow makes it 40 out of the 50 jurisdictions
2 or whatever makes it something that is universal, I
3 think is hard to draw any kind of inference from, Mr.
4 Marshall.

5 Q. On the gas side it's even more states and
6 commissions have ECAC's for gas companies than for
7 electric companies, true?

8 A. Yes.

9 Q. And I take it from your prior answer just
10 before that one, you really haven't made a systematic
11 study to find out how many states do have an ECAC
12 mechanism tied to their rate making?

13 A. No, I have not.

14 Q. And the footnote 14 to Washington state
15 indicated that the energy cost adjustment clause
16 previously authorized to an investor-owned utility
17 was eliminated in January of 1990 and replaced in
18 January of 1991 with a limited adjustment clause. Do
19 you see that footnote?

20 A. Yes, I do.

21 Q. Now, the PRAM part of what we call the PRAM
22 decoupling mechanism is an ECAC like provision. Is
23 that fair to say?

24 A. Yes, it is.

25 Q. Have you tried to explain when Washington

(ELGIN - CROSS BY MARSHALL)

2095

1 state did have an ECAC to customers what the ECAC was
2 designed to do?

3 A. No, I was not in my position at that time
4 so I never had a chance to talk to ratepayers about
5 that element of Puget's rate making.

6 Q. In those states whether it be 40 or 45 or
7 some other number that have an ECAC for electric
8 utilities, how would you describe to a customer in
9 those states that have them what their rate making is
10 about?

11 A. I wouldn't know how to go about that
12 because I don't know the specifics of the fuel
13 adjustment clause or the ECAC or whatever they have,
14 the specific characteristics of the utility and the
15 circumstances surrounding that, why it would make good
16 policy to have an ECAC or not.

17 Q. Well, let me just ask you this in the most
18 general sense, how would you define an energy
19 adjustment mechanism, an ECAC mechanism?

20 A. It depends on the utility I'm trying to
21 describe it for. It would be a much different
22 description if I were trying to explain it to a
23 customer if it would be a utility in California versus

24 a utility in the Pacific Northwest versus a utility in
25 the Midwest. It just depends on the utility, the

(ELGIN - CROSS BY MARSHALL)

2096

1 jurisdiction, the customer base.

2 Q. Is there any generalizations you can make
3 whatsoever about ECAC's in the United States what
4 sorts of things are designed to allow to vary?

5 A. As my understanding they were originally
6 called fuel adjustment clauses and they were
7 instituted in an era when a lot of larger utilities
8 that have had significant thermal requirements were
9 faced with significant increases in the price of fuel
10 oil, and in order to provide some type of rate relief
11 for these utilities absent filing a general rate
12 proceeding was to somehow look at fuel expense and
13 adjust fuel expense accordingly, and that was the
14 genesis of them, and I think that that was the reason
15 why they came about for electric industries. For gas
16 industries it was primarily with the passage of the
17 Natural Gas Policy Act in 1978 when the FERC made part
18 of interstate natural gas pipeline tariffs PGA
19 mechanism and was trying to deal with the price
20 spikes there. So it was primarily fuel-related and it
21 was a significant part of the generation that was
22 fired by fuel and that was the purpose of them, is my
23 understanding.

24 Q. Does Washington state have a fuel
25 adjustment clause for its gas utilities, any of them?

(ELGIN - CROSS BY MARSHALL)

2097

1 A. No, it has what we call the PGA clause.

2 Q. Referring to?

3 A. Purchased gas adjustment.

4 Q. So if the price of gas that is being
5 purchased by a gas utility goes up that automatically
6 adjusts the prices for that utility?

7 A. That is correct.

8 Q. Whether it be up or down?

9 A. That is correct.

10 Q. And the ECAC clause that Puget had prior to
11 PRAM, that adjusts fuel prices upward as well as
12 downward, correct?

13 A. Well, it adjusted a lot more than fuel
14 prices is my understanding but I am not as familiar
15 with what the ECAC, what it did, and I didn't see any
16 reason to get very familiar with it because when I
17 accepted my position as assistant director of energy
18 the Commission had just abolished the ECAC and issued
19 some policy directives with respect to what it would
20 like to see. So I didn't see any benefit in looking
21 at the specifics but it's broader -- my understanding
22 of ECAC it was broader than just fuel.

23 Q. For hydroelectric facilities, water is

24 their fuel, true?

25 A. It could be characterized that way, yes.

(ELGIN - CROSS BY MARSHALL)

2098

1 Q. It's the thing that drives the generators
2 whereas in a coal plant the thing that drives
3 generators or the turbines that runs the generators is
4 steam produced by the burning of coal?

5 A. That is correct.

6 Q. And in a gas-fired plant the gas burns,
7 eats water, drives the turbines and so forth?

8 A. Yes.

9 Q. So the fuel in a hydro project is therefore
10 water?

11 A. That is correct.

12 Q. Are there commissions around the state that
13 adjust for the hydro fuel as well as for fuel based on
14 coal or gas, other typical kind of fuel?

15 MR. TROTTER: The question was whether
16 commissions around the state?

17 MR. MARSHALL: I mean around the United
18 States.

19 A. It's my understanding that the Idaho PUC
20 has a limited hydro adjustment clause for the
21 Washington Water Power company. It's not a hydro
22 adjustment clause that worked like ECAC. It's my
23 understanding it has a dead band with which there are

24 no adjustments and it only adjusts for, if you will,
25 abnormalities.

(ELGIN - CROSS BY MARSHALL)

2099

1 I know Idaho Power does not have such a
2 mechanism in Idaho so I don't believe -- I don't
3 believe Pacific has -- which operates in Idaho. I am
4 not real familiar with Montana Utilities and Portland
5 General Electric I believe has some kind of fuel
6 mechanism, but the other -- Pacific does not have
7 something in Oregon, so it's not universal in
8 Washington. I think it's the exception rather than
9 the rule in the region where there's hydro utilities.

10 Q. Is it fair to say that you could, if you
11 want, divide rate making into three categories, rate
12 making without an ECAC, rate making with an ECAC and
13 the PRAM decoupling type of mechanism that we have
14 here now. Would that be one way that you could
15 categorize different approaches currently available
16 and used in the United States toward rate making?

17 A. Well, I don't know. I mean, you could. I
18 don't know for what purpose, but yes, you could.

19 Q. Those three ways, those three approaches to
20 rate making, when a Commission reviews rates in each
21 of the three ways, in the first year, year one, those
22 rates are all cost-based amounts, correct?

23 A. This is with any kind of fuel adjustment

24 clause and without any kind of PRAM or decoupling.

25 Q. Rate making without an ECAC, rate making

(ELGIN - CROSS BY MARSHALL)

2100

1 with an ECAC and PRAM decoupling, each of the three,
2 year one, all cost-based?

3 A. That is correct.

4 Q. And under the rate making without an ECAC
5 the costs are set on a -- under traditional rate
6 making without an ECAC the costs are established in a
7 rate expressed in cents per kilowatt hours, aren't
8 they?

9 A. Yes.

10 Q. And under rate making with an ECAC costs
11 are separated into two parts, a base part, if you
12 will, and a resource that gets adjusted, whether it be
13 fuel or whatever, and those are expressed in cents per
14 kilowatt, correct?

15 A. No, it's not my understanding as to how the
16 jurisdictions separate and distinguish the rates that
17 customers pay. They --

18 Q. We're still talking about just year one.

19 A. Well, look at Puget's rates. There are no
20 -- if you look at Puget schedule 7, there are no
21 separate base and resource separated type costs for
22 any of its schedules. I don't have your hypothetical
23 in mind. I don't know what you're --

24 Q. Let me back up. Under rate making with an
25 ECAC, you said in year one is the rates and they're

(ELGIN - CROSS BY MARSHALL)

2101

1 expressed in kilowatt cents per hour?

2 A. Yes.

3 Q. But then those costs will vary in future
4 years depending on whether they're adjustable costs
5 or base costs, right?

6 A. Again, Mr. Marshall. I don't know what
7 you're talking about. I haven't a clue as to what
8 you're talking about. I'm sorry, I can't help you.

9 Q. Were you at all familiar with the rate
10 making that Puget had with an ECAC?

11 A. Yes.

12 Q. And in the year 1990 to 1991, did Puget
13 have rate making with an ECAC?

14 A. As a result of the order in 89-2688-T,
15 which began January 1, 1991 -- 1990 going forward, it
16 had no ECAC or no PRAM. Is that what you're asking
17 me?

18 Q. The year before the ECAC was abolished
19 there was a year in which we had ECAC?

20 A. Yes.

21 Q. Get back to that point. And the rates were
22 set in cents per kilowatt hour?

23 A. Right.

24 Q. That's all that I wanted. We were probably
25 communicating on a different level. You were thinking

(ELGIN - CROSS BY MARSHALL)

2102

1 that I was trying to get to some other issue.

2 A. No, I just didn't understand what you were
3 trying to do.

4 Q. And in that time if you had very good hydro
5 in a cold winter what would happen?

6 A. Well, it would depend on, it was my
7 understanding you had the ECAR portion with estimated
8 energy costs you had a DCAR portion which was the
9 deferred piece and then you somehow looked at what the
10 actual fuel expense was and some of the other things
11 that were handed through the ECAC and then, if you
12 will, through deferred accounting trued up actual
13 expenses to what you estimated.

14 JUDGE HAENLE: Need to spell those
15 acronyms.

16 THE WITNESS: E C A R, estimated costs of
17 energy I think and decar D C A R or something like
18 that.

19 A. And in any event, there was a projection
20 and then there was a reconciliation to actual based on
21 what those projections were.

22 Q. So ECAC tried to adjust some costs to what
23 actual costs were?

24 A. That is correct.

25 Q. And the costs that weren't adjusted, what

(ELGIN - CROSS BY MARSHALL)

2103

1 happened to those?

2 A. Those stayed the same.

3 Q. Same as what?

4 A. As they always were.

5 Q. In year one when they were initially set?

6 A. That is correct.

7 Q. Even if the costs may have gone up or down

8 they still stayed the same?

9 A. Again, you're talking about -- I think what
10 you probably should do is maybe defer this to Mr.

11 Nguyen or Mr. Martin who are more familiar with the
12 workings of the ECAC or rates under ECAC. I don't
13 know what you're getting at and what you're talking
14 about. I'm confused.

15 Q. I was trying to get to your statement that
16 the PRAM decoupling mechanism is not cost-based rate
17 making and trying to figure out what you did to
18 compare that to other forms of rate making that set
19 costs in one year and even if those costs change over
20 the years following the rates are still set at some
21 historic year.

22 A. No. That's precisely my point is that when
23 we measure these relationships between base and

24 resource costs and provide increased rates and
25 establish a new revenue requirement we don't in fact

(ELGIN - CROSS BY MARSHALL)

2104

1 measure whether or not those cost relationships remain
2 in fact.

3 One of the big things that we don't
4 estimate in this proceeding is we're establishing a
5 new rate of return, and when we provided increased
6 rates to Puget through the PRAM, one of the things
7 that we weren't able to capture was the reductions in
8 rate of return, but we increased rates as if those
9 rate relationships remained constant, and I am saying
10 that's one of the infirmities of this mechanism, but
11 as I said it's not cost-based rate making and in issue
12 is the rates. Not revenues, the issue is rates. And
13 the increase in rates that result from that new way of
14 calculating revenue requirement.

15 Q. There's some electric utilities in this
16 state that have not been in a general rate case
17 proceeding for several years; is that correct?

18 A. Correct.

19 Q. When was the last time the Commission
20 examined rates for those utilities?

21 A. The Commission last examined rates for
22 Pacific Power & Light in cause U-8602 as a general
23 matter. There was some subsequent review of the rates

24 as a part of the merger and a couple of -- one or
25 two adjustments to those general results of operations

(ELGIN - CROSS BY MARSHALL)

2105

1 from the 8602 cause. And then for Water Power we had
2 general rate relief for their increase associated with
3 the WNP-1 increase which was in 1990. That was the
4 last time for those two electric companies.

5 Q. In your opinion, do the current costs
6 today, the actual costs for those utilities reflect
7 the historic costs the Commission used to determine
8 the rates when they set the rates years ago for those
9 utilities, including the cost of money?

10 A. The issue is not the cost. The issue is
11 Water Power or is Pacific before this Commission
12 asking for new rates without an underlying review of
13 the costs, that's the point. That the fundamental
14 issue. The staff monitors those company's financial
15 performance but as a matter of fact those companies
16 aren't in asking for additional revenues through
17 higher rates and if they were they would have to
18 justify those higher rates on the basis of costs. And
19 what my testimony is in this proceeding is that the
20 PRAM provision for increased rates and additional
21 revenues without an underlying review of the costs to
22 support those rates.

23 Q. Actually, the ECAC-like mechanism in PRAM

24 does true to actual costs for those resource areas,
25 true?

(ELGIN - CROSS BY MARSHALL)

2106

1 A. Yes. For those limited accounts.

2 Q. So for the fuel part, for the hydro part,
3 those things are trued up to actual costs?

4 A. Yes.

5 Q. So your argument seems to be with the
6 decoupling portion, the nonECAC portion; is that
7 correct? While you're thinking about that why don't
8 we go back to my other question.

9 MR. TROTTER: There's a question pending
10 and he should be able to answer it.

11 JUDGE HAENLE: I agree.

12 MR. MARSHALL: Withdraw the question.

13 MR. TROTTER: Could I ask the reporter to
14 mark it, please.

15 Q. Do the actual current costs to the
16 utilities who haven't been in for a rate case reflect
17 the historic costs the Commission used to determine
18 rates when it set them years ago?

19 A. That question doesn't make any sense for me
20 to answer. It's a nonsensical question. I can't
21 answer it.

22 Q. Isn't it true that the year that you set
23 rates under any of the three categories of rate

24 making, whether it be rate making with an ECAC, rate
25 making without an ECAC or PRAM decoupling, you're

(ELGIN - CROSS BY MARSHALL)

2107

1 talking about the actual costs?

2 A. That is correct.

3 Q. And then as you move out into the future
4 those actual costs change, but under traditional rate
5 making there's no adjustment to those?

6 A. That's right. And under traditional rate
7 making you don't increase rates without a review of
8 those underlying costs and a new test period and new
9 restating adjustments and new proforma adjustments,
10 everything that goes along with establishing a revenue
11 requirement in this jurisdiction. So you may
12 establish a certain level of rates but prospectively
13 that is the rate level that the Commission has
14 determined fair, just and reasonable. If you want a
15 new rate level, higher rates from customers, you have
16 to come in and support that with a showing that the
17 costs warrant the increase in rates.

18 Q. Now, of course under traditional rate
19 making if you have increased sales of kilowatt hours,
20 you automatically get increased revenues from that,
21 right?

22 A. That is correct.

23 Q. And the whole purpose of decoupling is to

24 decouple revenues from increased sales of kilowatt
25 hours?

(ELGIN - CROSS BY MARSHALL)

2108

1 A. That is correct.

2 Q. So you have to recouple that with something
3 else which, in this case, is to the growth of
4 customers, correct?

5 A. That's what the company has proposed and
6 the Commission has accepted, yes.

7 Q. Now --

8 A. That doesn't make it cost-based rate
9 making.

10 Q. Are you saying, in effect, that the only way
11 to do a decoupling type mechanism is to have annual
12 rate cases?

13 A. No, what I am saying is that to do
14 decoupling one of the infirmities of it is that you no
15 longer have traditional cost-based rate of return
16 regulation. What you have to do is you have to make
17 the assumption is that the revenue and the costs
18 relationships that you established in your base
19 proceeding hold throughout the period that you're
20 going to be adjusting rates on a prospective basis.
21 If you look at what we did from 1989 with that cause
22 and that level of rate of return to now, you have the
23 infirmity, if you will, that Puget is basing its costs

24 in rate relationships on a 1989 test period. That
25 includes -- that includes capital costs that are

(ELGIN - CROSS BY MARSHALL)

2109

1 no longer reflective of current market conditions.
2 Reflects depreciation rates that are too high. It may
3 reflect other type of things that are not appropriate
4 and they are not indicative of the cost levels that
5 Puget is incurring yet we're providing rate relief as
6 if they were. And as long as you recognize that,
7 that's fine, and as I testified to is that you have to
8 balance that -- that's cost, that's one of the things
9 that you have to pay to get decoupling. And then you
10 have to weigh that against the benefits of decoupling
11 through, as I described in my testimony, as you weigh
12 that against the conservation the company has
13 achieved, whether or not in fact that it's purchased
14 power resources that are truly least cost resources
15 and some of the other things like rate design that I
16 have described. So those are the benefits that you
17 put in, you have to weigh it with these costs of, and
18 one of the costs is that it's not cost-based rate
19 making.

20 Q. Are you suggesting that each time a PRAM,
21 each annual PRAM that you go in and adjust the costs
22 of money and of depreciation and everything else and
23 in fact have an annual rate case?

24 A. No, I am not suggesting that. As a matter
25 of fact, is what the company has suggested is that it

(ELGIN - CROSS BY MARSHALL)

2110

1 may need to continue decoupling and a least cost
2 planning hearing last year in Bellevue the company
3 said that the Commission might have to consider a rate
4 of return tracker as part of a continuation of the
5 PRAM but it's nothing that the staff is suggesting.
6 All we're suggesting is that it's a cost, it's one of
7 the things you have to pay as a part of decoupling and
8 here's the other benefits that you get.

9 Q. I just want to make sure I understand.
10 After decoupling revenues increase between general
11 rate cases based on the number of new customers,
12 correct?

13 A. Yes.

14 Q. And also there is some way to allow utility
15 revenues to go up when customer sales or kilowatt hour
16 sales or customers increase, that would cause an
17 annual rate case, correct?

18 A. It may or may not depending on what other
19 factors may be influencing a utility's cost.

20 Q. Are you familiar with the what FASB is?

21 A. The Financial Accounting and Standards
22 Board, just generally.

23 Q. Do you know what FASB statement No. 71

24 states with regard to cost-based rate making?

25 A. No, not really. You will have to direct

(ELGIN - CROSS BY MARSHALL)

2111

1 that question to Mr. Martin.

2 Q. Well, let me hand you an exhibit first and

3 see if you can tell me whether you're familiar with

4 FASB statement No. 71. I am going to direct your

5 attention to page 1212 of statement No. 71.

6 JUDGE HAENLE: Were you asking this be

7 marked?

8 MR. MARSHALL: Yes, please.

9 JUDGE HAENLE: You've handed me a

10 multi-page document with that caption on the front

11 page. Mark this as 682 for identification and remind

12 you that 681 hasn't been moved yet.

13 (Marked Exhibit 682.)

14 Q. If an enterprise being the company does not

15 meet the criteria for accounting, for regulatory type

16 accounting, it can lose the ability to account for

17 deferred revenues as traditional utility accounting

18 has permitted, and one way that that could happen

19 under accounting principles is under 4B, "A change in

20 the regulator's approach to setting rates from

21 cost-based rate making to another form of regulation."

22 Do you see that under 4B?

23 A. Yes, I see that.

24 Q. And is what you're testifying to that if
25 you're correct that decoupling is not cost-based rate

(ELGIN - CROSS BY MARSHALL)

2112

1 making, would that permit Puget Power under generally
2 accepted accounting principles to continue to
3 recognize any deferred revenues?

4 A. No, that's not our testimony, and all I can
5 do is ask you to discuss this with Mr. Martin. We've
6 had this discussion. He can respond to this. But
7 it's not our position, no.

8 Q. The cost-based rates that were set for
9 utilities such as Pacific and Washington Water Power,
10 those relationships, do they hold any more true to
11 current costs than they do for Puget's current costs?

12 A. Again, they don't but the issue is -- and
13 the fundamental question -- I don't know how many
14 times I have to say this, Mr. Marshall -- is that
15 neither Pacific nor Water Power, even though those
16 costs are divergent from when we last looked at them,
17 are not asking for any increases in rates and so we
18 don't have to, if you will, go out and measure those
19 costs again to establish new rate levels. That's the
20 fundamental point.

21 Q. So each time in a PRAM proceeding when a
22 rate is changed we have to go out and measure each of
23 the costs?

24 A. That's not what I'm testifying.

25 MR. TROTTER: Your Honor, I am going to

(ELGIN - CROSS BY MARSHALL)

2113

1 object. It's clear that staff is simply responding to
2 the company's assertions that PRAM is cost-based rate
3 making and Mr. Elgin's testimony is that it is not.
4 This specific question has been asked now I think this
5 is the fourth time. So I guess I better object.
6 Asked and answered.

7 JUDGE HAENLE: Mr. Marshall, I agree it
8 sounds very, very familiar to me.

9 MR. MARSHALL: He's directed me to talk to
10 Mr. Martin and I think we will pick it up because,
11 again, our concern is a fundamental one due to the
12 method of accounting that we are under.

13 JUDGE HAENLE: I think that you're covering
14 things that might better be covered on brief and
15 argument of differing views of the fact rather than
16 testimony of the witnesses.

17 MR. MARSHALL: This is a fairly important
18 point but we will take that up with Mr. Martin.

19 JUDGE HAENLE: Did you wish to move those
20 two?

21 MR. MARSHALL: We move that for
22 introduction.

23 JUDGE HAENLE: Any objection?

24 MR. TROTTER: Yes, I will object. There's
25 been no tie to the notion that what FASB considered --

(ELGIN - CROSS BY MARSHALL)

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1 in fact cost-based rate making is not defined, at
2 least not pointed out to me it's been defined in this
3 statement and more to the point there's been no
4 connection made between the concept that FASB is
5 talking about for cost-based rate making, whatever
6 that is, with whatever the concept that Mr. Sonstelie
7 and Mr. Elgin have been debating in this proceeding.
8 Until we have some definition from FASB 71, it's
9 irrelevant.

10 JUDGE HAENLE: Do you object to 681?

11 MR. TROTTER: No.

12 JUDGE HAENLE: Respond briefly.

13 MR. MARSHALL: I believe that we found out
14 that this is an issue that is relevant. How the
15 Commission staff views decoupling is an important
16 one with respect to the accounting principles under
17 FASB 71. Those are utility accounting standards. I
18 think just for ease of reference on the record it
19 should be admitted. I don't think there is any
20 question that this is FASB 71 and it is applicable to
21 utilities.

22 MR. TROTTER: We don't deny that it is FASB
23 71. We just say it hasn't been shown to be relevant.

24 Unless how FASB defines the term cost-based rate
25 making and if it's the same context that the debate

(ELGIN - CROSS BY MARSHALL)

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1 has been going on on that term in this case and unless
2 that connection has been made this document is
3 useless.

4 JUDGE HAENLE: Have you any objection?

5 MR. ADAMS: It seems to me Mr. Martin is
6 the appropriate person to address this issue and I
7 don't know why it can't be addressed at that time
8 rather than through this witness who hasn't seen it
9 before.

10 JUDGE HAENLE: I understood that the
11 witness was familiar with it in a general manner.

12 MR. ADAMS: I think he said as a
13 nonaccounting was familiar with it in that manner.
14 I think it's appropriate to address it to Mr Martin.

15 MR. TRINCHERO: I would concur with staff's
16 objection. There's been no basis made on the record
17 to find that this piece of evidence is relevant at
18 this time.

19 JUDGE HAENLE: I am going to overrule
20 objections to 682, enter both of the documents into
21 the record. Now, whether or not the Commission
22 ultimately accepts the company's argument, I think
23 that it's useful to have this in the record as a

24 reference point, as the company asks its questions.
25 The Commissioners may or may not look at it -- may or

(ELGIN - CROSS BY MARSHALL)

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1 may not accept its view ultimately, but I think it's
2 useful to have into the record since there is
3 apparently no argument about whether this is indeed
4 what it has been said to be, that is the FASB
5 statement, just whether it applies to this particular
6 situation. So I will enter 681 and 682.

7 MR. FURUTA: Your Honor, with regard to
8 682, my copy seems to indicate that it is not in fact
9 the FASB statement No. 71 but rather accounting for
10 the discontinuing of the application of that statement.
11 I wonder if that's how it really should be identified.

12 MR. MARSHALL: That's really how it should
13 be identified.

14 JUDGE HAENLE: The heading is indeed FASB
15 101 in the upper right-hand corner and Mr. Furuta has
16 properly read the heading.

17 (Admitted Exhibits 681 and 682.)

18 Q. I am going to direct your attention to
19 least cost planning.

20 A. Yes.

21 Q. And your testimony also discusses the least
22 cost planning process, correct?

23 A. Yes. As it relates to the company's use of

24 that product with respect to its resource
25 acquisitions.

(ELGIN - CROSS BY MARSHALL)

2117

1 Q. And the staff had occasion to comment on
2 Puget's least cost plan here the occasion of the last
3 least cost use plan?

4 A. That's correct.

5 Q. And comments were submitted on that?

6 A. Yes.

7 Q. Now, you seem to suggest in your testimony
8 that, "There should be an analysis of alternative
9 'resource stack' with which to compare Puget selected
10 alternative," at page 20, lines 14 and 16 of your
11 testimony.

12 A. As part of the least cost planning process,
13 no, that's not my testimony. That testimony in
14 comparison of alternate resource stacks is in the
15 context of Puget demonstrating that it has in fact
16 acquired a least cost mixed resource as a result of
17 the PRAM, that there was a connection -- there's two
18 things. Is there connection between the PRAM and
19 company's least cost acquisition strategies, as a
20 matter of fact what specific resources did Puget
21 acquire, and how does that compare up to some
22 alternate resource stack.

23 Q. With respect to whether Puget should have

24 an analysis of an alternative resource stack to
25 compare its selected alternatives, is it true that

(ELGIN - CROSS BY MARSHALL)

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1 the competitive bidding process automatically produces
2 alternatives to compare?

3 A. Yes, it does, but it doesn't mean that
4 Puget has to acquire those.

5 Q. Are you saying in the testimony with regard
6 to alternate resource stacks that Puget should compare
7 any new resource it purchases with new resources
8 purchased by, say, BPA?

9 A. No, that's not what I'm testifying.

10 Q. Is there any specific you can point to to
11 show that Puget has not purchased new resource
12 compared to some other resource that it could have
13 purchased that would have been less expensive?

14 A. There's nothing in the testimony with which
15 I can make that comparison. I don't know.

16 MR. TROTTER: He wasn't finished.

17 Q. I thought the question was, did you make
18 that, and you said no?

19 A. "No."

20 Q. Did the Commission staff compare Puget's
21 existing resource strategy to any alternative such as
22 BPA's, any specific alternative?

23 A. No, we did not. It's not our role to, to

24 demonstrate prudence. It's the company's role to
25 demonstrate prudence.

(ELGIN - CROSS BY MARSHALL)

2119

1 Q. Do you have any evidence of what BPA's
2 resource purchases have been, at what given price?

3 A. Again, the question is what should staff
4 have to use to evaluate Puget's decisions with respect
5 to what resources it acquired and, again, that's not
6 our responsibility. It's incumbent upon Puget to
7 demonstrate that it in fact has acquired a least cost
8 mix of resources and that in fact these resources that
9 Puget has acquired were prudent. What Bonneville
10 acquires for resources is irrelevant.

11 Q. Well, if Puget can't -- how is Puget to
12 show that what it has done, if in fact it has the
13 burden to show that it's absolutely least cost
14 resource, than to compare to what some other
15 comparable utility is doing?

16 A. Well, at least you could have done that.
17 You haven't done that.

18 Q. Was there any suggestion that Puget has
19 acted imprudently compared to BPA or any other
20 comparable utility by --

21 MR. TROTTER: Your Honor, I am going to
22 object to the question. Company is attempting to
23 shift the burden of proof to the staff. We through

24 Paul Curl asked the company to supplement its direct
25 case since it was not responsive to the Commission's

(ELGIN - CROSS BY MARSHALL)

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1 order that asked for such a showing and the record is
2 still threadbare on this issue and now the staff is
3 compelled to prove the company's case for it and I
4 think it's totally improper and I object.

5 MR. MARSHALL: I think this is what I am
6 trying to get is the burden of proof issue. If the
7 company is supposed to come in in a rate case and
8 prove that every cost decision it made and
9 affirmatively show that it is prudent, it's like
10 tantamount to being guilty until proven innocent.
11 That would reduce the company to a situation where
12 every truck it bought, every substation it acquired,
13 it would have to show its prudence rather than to
14 defend against a claim, based on some substantial
15 evidence, that there was some imprudence. Moreover,
16 whether something is actually the least cost, the
17 lowest price thing available on the market, doesn't
18 say whether it was prudent to acquire it or not. I
19 suppose you could buy a truck and find something the
20 next day that you could have gotten for less but that
21 wouldn't mean that you were acting imprudently.

22 JUDGE HAENLE: Well, the company has the
23 burden to demonstrate that this rate case will result

24 in rates that are fair, just and reasonable and part
25 of that is that its decisions are prudent.

(ELGIN - CROSS BY MARSHALL)

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1 MR. MARSHALL: That may be, if there's a
2 claim any hint that there is an imprudent decision
3 anywhere. Moreover, I don't think that there's
4 anything that anybody can point to that has to show
5 that it's acquiring something or anything that it may
6 purchase at least cost in order to show imprudence.
7 This is highly unusual, of course, and it would result
8 in cases that I think would last an awfully long time.

9 MR. TROTTER: Just a brief response. This
10 case arises in a unique context and clearly the PRAM
11 orders and other orders involving review of utility
12 contracts clearly point to the rate cases when Puget
13 could make the showing that these resources were
14 prudent, and in that context I think it's very clear
15 that this type of proof is incumbent upon the company
16 to produce and that's the genesis of our objection.

17 JUDGE HAENLE: If what you are asking, Mr.
18 Marshall, is whether the staff -- what kinds of
19 showings the staff would consider to be proof of that
20 type of prudency determination, I think that that's a
21 fair question. If you gentlemen are arguing about the
22 burden of proof, this isn't the time to do that. You
23 can do that on brief.

24 MR. MARSHALL: I agree that we're not going
25 to resolve that issue here today but I think one way

(ELGIN - CROSS BY MARSHALL)

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1 to proving prudence is to make a showing in general,
2 as we have, that we believe that the resources we
3 acquired were pursuant to an Integrated Resource Plan,
4 competitive bidding below avoided costs and were in
5 all ways in our view prudent.

6 JUDGE HAENLE: You can certainly give that
7 determination in your brief, you can make your
8 arguments on brief. What we're talking about now is
9 what testimony we're going to get from the witness.

10 MR. MARSHALL: What I was going to add, if
11 you bear with me just one more moment.

12 JUDGE HAENLE: It sounded a lot like legal
13 argument and I am really not interested in hearing the
14 legal argument at this point.

15 MR. MARSHALL: Well, I wanted to show that
16 the question that I am asking the witness I believe is
17 relevant to the issue, which is if we can through
18 testimony find from the staff that has no basis upon
19 which to state that this cost is not prudent that is
20 also a way of demonstrating prudence.

21 MR. TROTTER: Well, we strenuously object
22 to that characterization, your Honor.

23 JUDGE HAENLE: I sustained the objection,

24 Mr. Marshall. Let's go on and we need to look for
25 within the next few minutes a time to break. We're

(ELGIN - CROSS BY MARSHALL)

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1 getting close to 5:00.

2 COMMISSIONER CASAD: I can't resist this
3 observation. My question to counsel, you're not
4 holding Bonneville's resource acquisition policy as a
5 model of what Puget should be doing, are you?

6 MR. MARSHALL: No, certainly we're not.
7 What we're trying to say, though, is that we believe
8 that we're acting as well as we can.

9 JUDGE HAENLE: Let's go on, please.

10 Q. Do you agree that if the company is
11 required to "Demonstrate the long term revenue
12 requirement of various revenue resources this would
13 require considerable resources by all parties
14 involved"?

15 A. Yes. If it turned out -- and that's
16 exactly what the staff is trying to suggest here, is
17 that deference to a least cost plan as it is
18 constructed and as the rule requires the company
19 produce in this state is not sufficient to demonstrate
20 prudence of any specific resources that the company
21 has acquired. If you look at the least cost planning
22 rule and what it does is it really provides some broad
23 overview in terms of what's out there. It tells the

24 Commission in terms of the heads up, what the company
25 is doing. It tells the Commission what its estimate

(ELGIN - CROSS BY MARSHALL)

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1 of avoided costs are and it also tells the Commission
2 to what level of demand-side management and demand
3 side resources the company will acquire and be ramping
4 up towards. That's it. It does not then provide
5 sufficient evidence to show that any one of the
6 exhibits -- any one of the resources that are listed
7 in Mr. Lauckhart's Exhibit JRL-10 was in fact that
8 specific decision to acquire that resource was
9 prudent. We don't know and that least cost planning
10 IRP process is not sufficient enough to make that
11 determination. That's the theme in the staff case
12 that it's not enough. Why was Tonaska prudent, why
13 was Encogen prudent?

14 Q. What is enough in your definition?

15 A. As I testified on page 20, I will give you
16 a couple of examples, you might have said that --
17 compared to an option of purchase under BPA NR rate
18 schedule. It might very well be a strategy that you
19 would compare to Puget ownership of these resources.
20 I might add that one of the things that's lacking is a
21 comparison of a hydro firming strategy in this
22 presentation. I think Mr. Blackman has raised some
23 interesting points about the whole issue of

24 dispatchability and what those resources are worth.

25 So I think those are all types of questions that Puget

(ELGIN - CROSS BY MARSHALL)

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1 could have made some comparison and said, yes, as a
2 matter of fact, these specific decisions we made are
3 prudent.

4 Q. Would that have been enough?

5 A. I don't know. It's not -- I'm not
6 responsible -- I don't know what you have, Mr.
7 Marshall, as a company. I don't know what you base
8 your decision on. The company knows what's enough.
9 The company knows what it bases its decision on and it
10 needs to demonstrate that. You haven't.

11 Q. If Puget is purchasing resources rather
12 than building resources, do Puget's stockholders earn
13 any sort of a profit on that?

14 A. I've answered that question earlier this
15 morning and the answer is no.

16 Q. Would Puget have any incentive to buy a
17 resource that is higher than it could obtain by using
18 its best efforts?

19 A. No, it should not. But you still haven't
20 answered the question of why these specific resources.
21 Why are these good resources.

22 Q. When the staff commented on Puget's least
23 cost planning effort, did you bring up any of the

24 issues you just now discussed, the option to a BPA NR
25 rate, the comparison to Puget ownership or hydro

(ELGIN - CROSS BY MARSHALL)

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1 firming?

2 A. No, we did not, because the staff never
3 contemplated that the company would use the IRP as the
4 documentation for prudence.

5 Q. You indicated that if the company were
6 required to demonstrate a long term revenue
7 requirement comparing to various resource scenarios,
8 this would require considerable cost; is that right?

9 A. That is correct.

10 Q. Have you estimated the cost of what you've
11 just now testified that Puget should be required to
12 do?

13 A. You're not making the correct connection
14 between the testimony in that issue versus what I am
15 testifying about with respect to prudence, Mr.
16 Marshall.

17 Q. And in your definition of proving prudence,
18 are you stating that the company must demonstrate that
19 a specific resource decision is in fact the absolute
20 least cost?

21 A. No, I am not. What I am suggesting is that
22 Puget needs to demonstrate is the fact that the
23 specific resources and the trade-offs it made and

24 why it chose to do what it chose to do is in fact in
25 the public interest, is in fact a least cost, not with

(ELGIN - CROSS BY MARSHALL)

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1 respect to just pure economic costs but also with
2 respect to some of the other types of costs that could
3 be facing Puget in the long run. If I can give you an
4 example. Why in Puget IRP did -- take that back. I
5 am trying to give you a good example here.

6 JUDGE HAENLE: Need to think about finding
7 a good place for a stopping point, gentlemen.

8 A. A good example doesn't come to me right at
9 hand. What I am thinking of is it could very well be
10 that a good example would be, for example, the
11 company's own generation, why did Puget not select and
12 choose to convert its own combustion CT's to hydro
13 firming. That would be an example of something that
14 you would have to discuss why you bought high load
15 factor thermal resources as opposed to hydro firming
16 strategy, why that's in the public interest.

17 Q. When you suggested in your criticism of
18 Puget's effort to communicate to the financial
19 community that PRAM automatically allowed a full
20 recovery, full and timely recovery of all purchased
21 power, did you have in mind this test of prudence that
22 you now just discussed would have to be met?

23 A. Yes, I did.

24 Q. And does that fact -- should that fact have
25 been communicated to the financial community, this new

(ELGIN - CROSS BY MARSHALL)

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1 test of prudence?

2 MR. TROTTER: Object to the question as
3 being characterized as a new test of prudence, no
4 foundation for that statement.

5 JUDGE HAENLE: Mr. Marshall?

6 MR. MARSHALL: Withdraw that.

7 Q. Did you have in mind to communicate to the
8 financial community the idea that resources that Puget
9 acquired from independent power producers would be put
10 in timely and in full with this test in mind that
11 you've just testified to?

12 A. I think even Puget had it in their mind
13 that they would have to come in and justify prudence
14 in terms of a general rate proceeding. So I believe
15 that the financial community was well aware that any
16 specific resource decision that has significant impact
17 on rates, Puget would have to demonstrate prudence.

18 MR. MARSHALL: This would be a good time to
19 stop.

20 JUDGE HAENLE: We'll recess for the evening
21 then. Be here ready to go at 10:30 and we'll begin as
22 soon after the open meeting is over.

23 COMMISSIONER CASAD: Go Sonics.

24

(Hearing adjourned at 5:00 p.m.)

25