

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
 2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	
4)	
	Complainant,)	DOCKET NO. UR-930711
5)	
	vs.)	
6)	
	US ECOLOGY, INC.,)	
7)	
	Respondent.)	
8	-----))	
	WASHINGTON PUBLIC POWER)	
9	SUPPLY SYSTEM,)	
)	
10	Complainant,)	DOCKET NO. UR-930890
)	
11	vs.)	Volume III
)	Pages 67-292
12	US ECOLOGY, INC.,)	
)	
13	Respondent.)	
14	-----))	

15 A hearing in the above matter was held on
 16 September 16, 1993 at 9:30 a.m., at 1300 South
 17 Evergreen Park Drive Southwest, Olympia, Washington,
 18 before Administrative Law Judge CHRISTINE CLISHE,
 19 Commissioner RICHARD D. CASAD, and Commissioner
 20 RICHARD HEMSTAD.

21 The parties were present as follows:

22 US ECOLOGY, INC. by JAMES M. VAN NOSTRAND,
 23 Attorney, 411 108th Avenue Northeast, #1800, Bellevue,
 Washington 98004.

24 Lisa K. Nishikawa, CSR, RPR
 25 Court Reporter

1 WASHINGTON PUBLIC POWER SUPPLY SYSTEM by
2 MELVIN N. HATCHER, Attorney, MD-396, 3000 George
3 Washington Way, P.O. Box 968, Richland, Washington
4 99352-0968.

5 PORTLAND GENERAL ELECTRIC COMPANY by J.
6 JEFFREY DUDLEY, Attorney, 121 Southwest Salmon Street,
7 1WTC13, Portland, Oregon 97204.

8 TELEDYNE WAH CHANG ALBANY by RICHARD H.
9 WILLIAMS, Attorney, 800 Pacific Building, 520
10 Southwest Yam Hill, Portland, Oregon 97204.

11 PUBLIC SERVICE COMPANY OF COLORADO by SALIE
12 B. O'MALLEY, Attorney, 950 South Cherry Street, Suite
13 520, Denver, Colorado 80222, and MICHAEL W. MAYBERRY,
14 Attorney, 926 24th Way Southwest, Olympia, Washington
15 98502.

16 THE COMMISSION by ANNE EGELER, Assistant
17 Attorney General, 1400 South Evergreen Park Drive
18 Southwest, Olympia, Washington 98504.

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I N D E X

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WITNESS: DIRECT CROSS REDIRECT RECROSS EXAM

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EXHIBIT MARKED ADMITTED

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

2 JUDGE CLISHE: The hearing will please come
3 to order. The Washington Utilities and Transportation
4 Commission has set for hearing at this time and place
5 the consolidated matter of Docket Number UR-930711,
6 the Commission complaint against US Ecology,
7 Incorporated, and Docket Number UR-930890, the
8 complaint of Washington Public Power Supply System
9 against US Ecology, Incorporated.

10 The hearing is taking place on September
11 16, 1993 at Olympia before Commissioner Richard D.
12 Casad and Commissioner Richard Hemstad. My name is
13 Christine Clishe. I'm an administrative law judge
14 from the Office of Administrative Hearings and I'll be
15 conducting the hearing.

16 The hearing today is to take testimony from
17 witnesses for all parties and for rebuttal testimony.
18 I would like to take appearances at this time, please,
19 beginning with the company and then we can go around
20 the table if you will.

21 MR. VAN NOSTRAND: For respondent, US
22 Ecology, James M. Van Nostrand of Perkins Coie, 411
23 108th Avenue Northeast, Bellevue, Washington.

24 JUDGE CLISHE: Thank you.

25 MR. HATCHER: For intervenor and
(COLLOQUY)

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1 complainant Washington Public Power Supply System,
2 Melvin Hatcher, Post Office Box 968, Richland,
3 Washington, 99352.

4 JUDGE CLISHE: Thank you.

5 MR. DUDLEY: Yes. For intervenor Portland
6 General Electric Company, I'm Jay Dudley. Address is
7 121 Southwest Salmon Street, Portland, Oregon 97204.

8 JUDGE CLISHE: Thank you.

9 MR. WILLIAMS: For intervenor Teledyne Wah
10 Chang Albany, Richard Williams, Lane, Powell, Spears,
11 Lubersky, 800 Pacific Building, Portland, Oregon,
12 97204.

13 JUDGE CLISHE: Thank you.

14 MS. O'MALLEY: For Public Service Company
15 of Colorado, Salie O'Malley, 950 South Cherry Street,
16 Suite 520, Denver, Colorado, 80222.

17 MS. EGELER: For the Commission, Anne
18 Egeler, assistant attorney general. Address is 1400
19 South Evergreen Park Drive Southwest, Olympia, 98504.

20 JUDGE CLISHE: Thank you. Is there anyone
21 else in the room who needs to enter an appearance this
22 morning?

23 MR. MAYBERRY: Your Honor, my name is Mike
24 Mayberry. I'm also here for the intervenor Public

25 Service Company of Colorado. My address is 926 24th
(COLLOQUY)

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1 Way Southwest, Olympia, 98502.

2 JUDGE CLISHE: All right, thank you.

3 Before we went on the record, we discussed the order
4 of witnesses and the timing, and a possible motion or
5 two which may come up at some point depending on the
6 testimony, and we determined that the witness order
7 would be the company witness Mr. Bede, Ms. Parker for
8 the Commission, Mr. Hutchins who is testifying on
9 behalf of Public Service Company of Colorado, Mr.
10 Young, and depending on how it goes for the rebuttal,
11 Mr. Bede and Mr. Gaynor. All right. Is there
12 anything else that anyone wants to bring up about our
13 discussion beforehand?

14 I think, Mr. Hatcher, you mentioned a
15 motion and that will come up in due time. All right.
16 Anything else? All right. Let's begin then with the
17 first witness. Mr. Van Nostrand, would you like to
18 call your first witness, please.

19 MR. VAN NOSTRAND: Yes, your Honor.
20 Company calls Barry Bede.

21 JUDGE CLISHE: Mr. Bede, would you like to
22 stand and raise your right hand, please.

23 Whereupon,

24 BARRY C. BEDE,

25 having been first duly sworn, was called as a witness
(COLLOQUY)

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1 herein and was examined and testified as follows:

2 MR. VAN NOSTRAND: Did you want to premark
3 the exhibits, your Honor, or just proceed in order, I
4 mean, the first exhibit will be T-1 and then go on
5 from there?

6 JUDGE CLISHE: Right. I think that would
7 be the easiest. Thank you.

8 MR. VAN NOSTRAND: Prefiled direct
9 testimony will be T-1?

10 JUDGE CLISHE: Yes, that would be Exhibit
11 T-1, and what is marked as BCB-2 will be Exhibit 2.
12 What is marked as BCB-3 will be Exhibit 3. The
13 replacement page for what was earlier filed and then a
14 later replacement filed marked as BCB-4 will be
15 Exhibit 4. These are all for identification. And
16 what was revised page 4 BCB-5 will be marked as
17 Exhibit 5.

18 (Marked Exhibits Nos. T-1, 2, 3, 4 and 5.)

19 MR. VAN NOSTRAND: Thank you, your Honor.

20

21 DIRECT EXAMINATION

22 BY MR. VAN NOSTRAND:

23 Q. Mr. Bede, do you have before you what has
24 been marked for identification as Exhibit T-1?

25 A. I do.

(BEDE - DIRECT BY VAN NOSTRAND)

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1 Q. Do you recognize that document as your
2 prefiled direct testimony in this case?

3 A. I do.

4 Q. Do you have any additions or corrections to
5 make to Exhibit T-1 at this time?

6 A. I do not.

7 Q. If I asked you the questions set forth in
8 Exhibit T-1 today, would you give the answers as set
9 forth in that exhibit?

10 A. Yes, I would.

11 Q. And do you also have before you what's been
12 marked for identification as Exhibits 2 through 5?

13 A. I do.

14 Q. Were these exhibits prepared under your
15 direction and supervision?

16 A. Yes, they were.

17 Q. Do you have any additions or corrections to
18 make to Exhibits 2 through 5 at this time?

19 A. I do not.

20 Q. Are these exhibits true and correct to the
21 best of your knowledge?

22 A. To the best of my knowledge, yes.

23 MR. VAN NOSTRAND: Your Honor, I move the
24 admission of Exhibit T-1 and Exhibits 2 through 5, and

25 Mr. Bede is available for cross-examination on his
(BEDE - DIRECT BY VAN NOSTRAND)

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1 direct testimony.

2 JUDGE CLISHE: Thank you. Is there any
3 objection to Exhibits T-1 through 5 being included in
4 the hearing record? All right. Hearing no objection,
5 I'll admit Exhibits T-1 through 5 into the hearing
6 record. And would you like to go ahead, Ms. Egeler,
7 with questions of Mr. Bede.

8 (Admitted Exhibits Nos. T-1, 2, 3, 4 and
9 5.)

10

11 CROSS-EXAMINATION

12 BY MS. EGELER:

13 Q. Good morning, Mr. Bede.

14 A. Good morning.

15 Q. Have you ever appeared before in a
16 regulatory proceeding before this Commission or any
17 other state regulatory commission?

18 A. I believe I -- no, I don't believe I have.
19 Not as a witness. I've attended these, certainly.
20 Numerous WUTC hearings previously.

21 Q. Any other state regulatory commissions that
22 you've attended proceedings at?

23 A. Dealing other than with UTC?

24 Q. Dealing with rate regulation.

25 A. No. I have not.

(BEDE - CROSS BY EGELER)

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1 Q. I would like to begin with the assertion
2 made in your testimony that it would be inappropriate
3 to consider volumes which were received in the year
4 1992. Let me begin by asking, does US Ecology know
5 the address of each of the generators it accepts waste
6 from?

7 A. Those are recorded on the site-use permit,
8 yes. We do know those addresses, yes.

9 Q. So does the company then know what compact
10 each of the generators is located in?

11 A. You're referring to the Northwest Compact
12 generators and the Rocky Mountain Compact generators?

13 Q. Correct.

14 A. Yes, we do.

15 Q. And US Ecology must report to the
16 Washington State Department of Ecology how much waste
17 it receives from each of those generators, is that not
18 correct?

19 A. To the Department of Ecology? We're
20 required to report to the Department of Ecology
21 nonreactor and reactor waste and allocation. We have
22 other documents that we file with the Department of
23 Health. I do not believe we have to list specific
24 generators and their exact total waste to the

25 Department of Ecology. Those come off of our

(BEDE - CROSS BY EGELER)

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1 manifests. The Department of Ecology has copies of
2 those manifests. That information is not provided by
3 US Ecology. That is provided as a manifest and which
4 they get a copy of.

5 Q. Okay. So the Department of Ecology has
6 copies of manifests?

7 A. That's correct.

8 Q. From each of the generators?

9 A. That's correct.

10 Q. From which they could determine how much
11 waste was disposed by each generator?

12 A. That's correct. The reason for that, we're
13 under -- in 1985, as you're well aware --

14 Q. I don't need the reason, Mr. Bede. I just
15 wanted to know if that information was provided to
16 the state of Washington.

17 A. The manifests are provided to the state of
18 Washington, yes.

19 Q. So then you are capable of determining how
20 much waste is received by month from generators in the
21 Northwest and rocky mountain compacts, is that
22 correct?

23 A. Yes. Yes, we are.

24 Q. And that was also the case in the year

25 1992, is that correct?

(BEDE - CROSS BY EGELER)

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1 A. Not only Northwest generators but all
2 generators outside of the Northwest Compact, yes.

3 Q. In your testimony you continuously refer to
4 the use of 1992 volumes in setting 1993 rates as,
5 quote, unlawful. Are you licensed to practice law in
6 the state of Washington?

7 A. I am not. I believe in my testimony that I
8 noted that our legal counsel could further discuss
9 that. I am not an attorney.

10 Q. In recommending a rate in the 1992 rate
11 case, US Ecology made an estimate of the volume it
12 would receive in 1993 based on the historic levels of
13 volume received from Northwest and Rocky Mountain
14 Compact generators, didn't it?

15 A. Could you rephrase that? Are you referring
16 to the test case period?

17 Q. Yes, I am.

18 A. Yes, we provided that actual information in
19 the test period which was from, I believe, October 1,
20 1990 through September of 19 -- or October 1990
21 through September of 1991, yes. That was the test
22 period.

23 Q. And in that case the company did not
24 recommend that any pro forma adjustments be made to

25 account for any differences in the way generators

(BEDE - CROSS BY EGELER)

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1 would dispose of their waste after the imposition of
2 regulation, did it?

3 A. Could you rephrase that question. I don't
4 think I totally understand it.

5 Q. Let me ask first, I'm not sure how familiar
6 with regulation -- do you understand what I mean when
7 I say pro forma adjustments?

8 A. I do, yes.

9 Q. Okay. Did the company recommend any pro
10 forma adjustments -- that any pro forma adjustments be
11 made to account for any differences in the way
12 generators would dispose of their waste after the
13 imposition of regulation?

14 A. I do not believe we did. In our initial
15 filing there were some additional pro forma
16 adjustments that were recommended by the company and
17 were not accepted by the Commission.

18 Q. I understand that, Mr. Bede, but were any
19 recommendations made, whether they were accepted or
20 not, with respect to pro forma adjustments to the
21 volume figures?

22 A. I don't believe so.

23 Q. Now, does the imposition of rate regulation
24 change the amount of waste generated in the Northwest

25 and Rocky Mountain Compacts?

(BEDE - CROSS BY EGELER)

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1 A. Does it change the amount generated?

2 Q. Correct.

3 A. We do not control the amount of waste
4 that's generated. That's a hypothetical question. I
5 have no idea how much waste is going to be generated
6 on a long-term period. We do not control the
7 generation of waste. The generators themselves
8 control that.

9 Q. I realize that. But we are in the year
10 1993.

11 A. That's correct.

12 Q. We do have over eight months of data to
13 look at. To your knowledge, to the extent you have
14 any knowledge, is there anything about the imposition
15 of regulation which would change the amount of waste
16 generated by the generators in the Northwest and Rocky
17 Mountain Compacts?

18 A. Yes. Yes, there are, and I think that can
19 be noted by specific generators. Certain generator --
20 a specific generator has indicated that they have
21 changed their process, and the reason for changing
22 that process was it was an economic decision, and that
23 related, in personal conversations with that specific
24 generator, to the imposition of rate regulation and

25 the increased cost of disposal.

(BEDE - CROSS BY EGELER)

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1 Q. Do you know what the company's rate was per
2 cubic foot before rate regulation?

3 A. Yes, we do.

4 Q. What was that rate?

5 A. That was a \$36 rate.

6 Q. And do you know what the rate was that the
7 Commission would impose?

8 A. The Commission imposed a rate of \$28 plus
9 additional taxes and fees. I think it needs to be
10 clarified within that \$36 there were additional state
11 -- other state taxes and fees included. And to just
12 make a comparison between \$36 and 28 is not an
13 accurate comparison.

14 Q. Let's make an accurate comparison then.
15 Let's take the rate absent any surcharges or taxes
16 that was charged by US Ecology before rate regulation.
17 What was that per cubic foot rate?

18 A. I don't know that at this moment.

19 Q. Would you accept subject to check that that
20 rate was approximately \$30 per cubic foot?

21 A. I will. Approximately \$30, yes. I don't
22 have the exact figure.

23 Q. And you've stated that the rate the
24 Commission would impose, absent taxes and surcharges,

25 would be \$28 per cubic foot, is that correct?

(BEDE - CROSS BY EGELER)

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1 A. That's correct, but one must realize that
2 there were additional taxes and fees that were
3 increased. Mainly there was a Benton County sur tax.
4 There was also a rate regulation tax which amounts to
5 one percent of our gross revenue that is incorporated.
6 These were new -- you're not comparing equal things in
7 a preregulated period to a regulated period.

8 Q. But I am talking about costs which increase
9 because of this Commission's rate regulation. Now,
10 does the Benton County surcharge have anything to do
11 with this Commission? Did this Commission impose the
12 Benton County surcharge?

13 A. No, it doesn't, but it directly impacts
14 generators because the generator is not interested
15 only in the UTC rate, they're also generated in the
16 total disposal rate in which they're paying. In that
17 way, yes, there has been a change between the
18 unregulated period and the regulated period.

19 Q. But that has nothing to do with the
20 regulated rate and that's what I would like you to
21 restrain your answer to. Just the regulation imposed
22 by this Commission, not what other state bodies or
23 local agencies may have imposed. And with respect
24 just to the regulation imposed by this Commission, has

25 that regulation changed the generation of low level
(BEDE - CROSS BY EGELER)

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1 nuclear waste by the generators in the Rocky Mountain
2 and Northwest Compacts?

3 A. Yes, it has. The issue is in December we
4 had extraordinary volumes that were disposed at our
5 facility and those were, I think, contingent on the
6 expected uncertainty of what the rate regulation was
7 going to be. We were notified I think in the mid part
8 of December that our rates would be regulated and we
9 accepted unprecedented volumes at our facility in
10 December.

11 Q. Do you think that that December volume
12 level might have been impacted by the Benton County
13 surcharge which was newly imposed in January of 1993?

14 A. The Benton County surcharge was one of the
15 factors, but not the only factor.

16 Q. Could you state for me and list the other
17 factors.

18 A. The other factor is the uncertainty about
19 rate regulation, the transition from a national
20 facility to a regional facility, the uncertainty about
21 Northwest Compact generators were paying a lower rate
22 than any out-of-region generator, i.e., a Rocky
23 Mountain generator. Rocky Mountain generators to use
24 the Richland facility in December of 1992 would have

25 been paying an additional surcharge of \$40 per cubic
(BEDE - CROSS BY EGELER)

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1 foot.

2 I think there was also concern among
3 generators of standards of operation, that our
4 facility has operated as a national facility taking
5 waste from the entire nation for approximately a
6 26-year period. Then we're faced in reducing that
7 national facility to a regional facility. I think
8 there was uncertainty among generators about how
9 operations would be performed at our facility. Would
10 our facility be open five days, 40-hour week period?
11 Would it be open just a couple days a week? We're
12 going from volumes of 1985, 1.4 million cubic feet to
13 volumes in 1993 of -- or 1992 of approximately a
14 little less than 400,000 cubic feet, and then the
15 estimated volume of limiting that only to Northwest
16 Compact and Rocky Mountain waste somewhere between 80
17 and 120,000 cubic feet.

18 Q. Now, given each of those factors you've
19 stated that one of the generators -- and I assume
20 you're referring to Precision Castparts -- has changed
21 its process so that it no longer is generating low
22 level radioactive waste, to your knowledge have any
23 other generators changed their processes or are they
24 generating less waste because of rate regulation?

25 A. Yes. Because of rate regulation I believe
 (BEDE - CROSS BY EGELER)

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1 I could reference other generators. Portland General
2 Electric, there the Trojan reactor is going to be
3 decommissioned.

4 Q. Let me interrupt you there. Is the Trojan
5 reactor going to be decommissioned because of rate
6 regulation?

7 A. I don't -- not solely because of rate
8 regulation, no.

9 Q. At all because of rate regulation?

10 A. It could be a factor.

11 Q. And why do you believe that that's a
12 factor? Do you have any knowledge upon which to base
13 that statement?

14 A. I believe the decommissioning or the
15 cessation of operations of Portland General Electric
16 was an economic decision. I believe that they could
17 no longer operate that facility economically.
18 Certainly waste receipts and the amount of disposal
19 costs might have entered into that decision.

20 Q. Do you know if they entered in into that
21 decision?

22 A. I have no personal knowledge of the
23 corporate structure of Portland General Electric that
24 that was a specific factor. I am hypothesizing that

25 it is a possible factor, yes.

(BEDE - CROSS BY EGELER)

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1 Q. I would like to turn now to your discussion
2 of the treatment of Public Service Company of
3 Colorado's waste as extraordinary volumes. The
4 Commission's order in the 1992 rate case specifically
5 found that the Public Service Company of Colorado's
6 waste are not extraordinary, didn't it?

7 A. That's correct, but we also -- the company
8 has opposed that finding and --

9 Q. I understand.

10 A. In fact, that's -- we're in Thurston County
11 court right now debating that issue.

12 Q. And for purposes of the escrow account that
13 the Thurston County Superior Court has established
14 while it is considering US Ecology's appeal, the
15 company is not treating Public Service Company of
16 Colorado's waste as extraordinary, is it?

17 A. In dealing with the escrow account as
18 explained, I believe, in my rebuttal testimony --

19 Q. Could you begin with a yes or no answer to
20 my question then.

21 A. Could you rephrase the question, please.

22 Q. For purposes of the escrow account that the
23 Thurston County Superior Court has established while
24 it is considering US Ecology's appeal, the company is

25 not treating Public Service Company of Colorado's
(BEDE - CROSS BY EGELER)

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1 waste as extraordinary, is it?

2 A. That escrow account --

3 Q. Could you please answer with a yes or no.

4 A. No. No.

5 Q. Okay, thank you. On page 7 of your --

6 MS. EGELER: Well, this goes into rebuttal
7 testimony, but would you like us to avoid discussing
8 rebuttal testimony at all at this time?

9 JUDGE CLISHE: I think that we had
10 discussed this with Mr. Van Nostrand and those of
11 you who were here that it seems more efficient to
12 cover all of Mr. Bede's testimony and then he may not
13 need to be recalled.

14 Q. On page 7 of your rebuttal testimony.

15 MR. VAN NOSTRAND: Your Honor, if that's
16 the case, we should probably put his rebuttal
17 testimony into the record. It's not now an exhibit.

18 JUDGE CLISHE: All right. Let's mark what
19 is identified as BCB-6 as Exhibit T-6 for
20 identification, and mark what is identified as BCB-7
21 as Exhibit 7.

22 (Marked Exhibits Nos. T-6 and 7.)

23 MS. EGELER: Do you want to have those
24 authenticated and admitted now or should I just go

25 forward with cross?

(BEDE - CROSS BY EGELER)

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1 MR. VAN NOSTRAND: We should probably
2 proceed with the foundation questions for that
3 testimony, I believe.

4 JUDGE CLISHE: Okay, yes. Thank you, Mr.
5 Van Nostrand.

6

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DIRECT EXAMINATION

8 BY MR. VAN NOSTRAND:

9 Q. Do you have before you what has been
10 marked for identification as Exhibit T-6?

11 A. I do.

12 Q. Do you recognize that document as your
13 prefiled rebuttal testimony?

14 A. I do.

15 Q. Do you have any additions or corrections to
16 make to Exhibit T-6 at this time?

17 A. No.

18 Q. If I asked you the questions set forth in
19 Exhibit T-6 today, would your answers be the same as
20 set forth in that document?

21 A. Yes, they would.

22 Q. Do you also have before you what has been
23 marked for identification as Exhibit 7?

24 A. I do.

25 Q. And was this exhibit prepared under your
(BEDE - DIRECT BY VAN NOSTRAND)

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1 direction and supervision?

2 A. It was.

3 Q. Do you have any additions or corrections to
4 make to Exhibit 7 at this time?

5 A. No, I do not.

6 Q. Is this exhibit true and correct to the
7 best of your knowledge?

8 A. Yes, it is.

9 MR. VAN NOSTRAND: Your Honor, I move the
10 admission of Exhibit T-6 and Exhibit 7.

11 JUDGE CLISHE: Is there any -- Mr. Dudley.

12 MR. DUDLEY: Yes, I'm just -- may I voir
13 dire the witness on Exhibit 7 --

14 JUDGE CLISHE: Yes.

15 MR. DUDLEY: -- what's been marked for
16 identification?

17

18 VOIR DIRE EXAMINATION

19 BY MR. DUDLEY:

20 Q. Mr. Bede, do you have what's been marked
21 for identification as Exhibit 7?

22 A. I do.

23 Q. What I see here appears to be a data
24 response of Precision Castparts to a question of US

25 Ecology. Is that what that is?

(BEDE - VOIR DIRE BY DUDLEY)

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1 A. I believe it's a data request from US
2 Ecology to Precision Castparts, yes.

3 Q. And that was not prepared by you, was it?
4 In other words, it came from somebody else and you're
5 attaching it to your testimony, isn't that right?

6 A. Our -- the request was made through our
7 attorney.

8 Q. Correct.

9 A. Right.

10 Q. But it wasn't prepared by you. I mean, the
11 information on here didn't come from sources that you
12 had personally available from you, did it, Mr. Bede?

13 A. This came from a response from Precision
14 Castparts. I believe from Mr. Dave Murray, yes.

15 Q. And what case did this come in?

16 A. I believe it came in a letter.

17 Q. And what proceeding did this come to your
18 possession, Mr. Bede?

19 A. I believe when we had requested information
20 from various generators about forecasting their
21 volume.

22 Q. Well, let me help you out. It came in the
23 1992 rate case, didn't it?

24 A. I believe it did, yes.

25

MR. DUDLY: Your Honor, based on those
(BEDE - VOIR DIRE BY DUDLEY)

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1 responses I would not -- I would object to the
2 admission of Exhibit 7. The witness clearly can't
3 confirm where it comes from or how it was prepared so
4 I would ask that it not be admitted as an exhibit.

5 JUDGE CLISHE: Any other comments on the
6 admissibility of what's been marked as Exhibit 7?
7 Nothing? Mr. Van Nostrand, do you have anything
8 that you want to comment on in response?

9 MR. VAN NOSTRAND: Yes, your Honor. The
10 source and nature of the document speaks for itself.
11 It is a response to a discovery request in the 1992
12 rate case. Mr. Bede has laid a foundation for it to
13 that effect. It's relevant to the extent it bears
14 on the issue of reliability of projections provided by
15 the generators, and this is an example of a response
16 that was given to a data request issued by US Ecology
17 in the '92 rate case and it's relevant to an issue in
18 this proceeding.

19 JUDGE CLISHE: Is there any objection to
20 Exhibit T-6, what's been marked as T-6? I'll admit
21 Exhibit T-6 into the hearing record, and I will
22 overrule the objection and admit Exhibit 7 into the
23 hearing record also. All right. Ms. Egeler, I think
24 we're back to you.

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(Admitted Exhibits Nos. T-6 and 7.)

(BEDE - VOIR DIRE BY DUDLEY)

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2

CROSS-EXAMINATION

3

BY MS. EGELER:

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Q. Yes, Mr. Bede, we were examining your rebuttal testimony, page 7. Let me give you a minute to get there.

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A. Yes.

Q. At lines 19 through 21 you state that if US Ecology did treat Public Service Company of Colorado's waste as extraordinary, it would have a, quote, negative effect, end quote, on the amount placed in escrow.

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A. That's correct.

Q. Do you mean by this that a greater amount would be put in the escrow account?

A. No. The escrow account is specifically designed to escrow the difference between the state rate and the UTC rate. The point we're making here is that the extraordinary volume rate is below the UTC rate.

Q. Let's go through this and discuss your understanding of the escrow account. Now. You've stated that the amount placed into the escrow account is the difference between the court imposed rate --

25 A. That's correct.

(BEDE - CROSS BY EGELER)

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1 Q. -- and the rate that would be charged
2 pursuant to the Commission's order in the 1992 rate
3 case, correct?

4 A. The \$28.30 the UTC has required, yes.

5 Q. Right. Now, do you know how the Commission
6 order would require the company to charge a generator
7 for extraordinary waste volumes?

8 A. Yes. One-half of that volume would be
9 priced at the UTC rate and then the remaining half
10 would be priced at the incremental rate, which is
11 three percent, represents three percent of our
12 incremental costs. That applying that -- I believe
13 applying that to the Public Service of Colorado waste,
14 that would generate a mean rate of about \$22 per cubic
15 foot for the entire waste that Public Service of
16 Colorado disposes at our facility, and that remains to
17 be our position. The situation is that the escrow
18 account cannot apply to a rate that is less than the
19 UTC rate. If we maintain our position in the Thurston
20 County suit that this is extraordinary volume.

21 MS. EGELER: Your Honor, could I interrupt
22 this. I did not ask for a recitation of the company's
23 argument. I asked a very limited question and I would
24 like to request that the witness be directed to limit

25 his answers to the question that is posed.

(BEDE - CROSS BY EGELER)

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1 JUDGE CLISHE: All right. Mr. Bede, if you
2 can just respond to Ms. Egeler's questions and then
3 perhaps Mr. Van Nostrand will be able to on redirect
4 cover any explanations you want to make.

5 THE WITNESS: I'll do my best.

6 MS. EGELER: Thank you, Mr. Bede.

7 Q. Now, you've stated that if an extraordinary
8 waste volume charge were made, Public Service Company
9 of Colorado would pay approximately \$22 per cubic
10 foot, and if it were to pay for a regular amount of
11 volume it would be \$28 a cubic foot under the
12 Commission order?

13 A. That's correct.

14 Q. And, therefore, if you were to place in the
15 escrow account the difference between the court-
16 imposed rate and what the rate would be under the
17 Commission order if extraordinary volume rates were
18 charged, wouldn't you be placing a greater amount of
19 money into the escrow account?

20 A. I don't believe we are permitted to do
21 that.

22 Q. I'm not asking you if you're permitted to
23 do it, Mr. Bede. I'm asking you if that number would
24 be greater or not. If you were permitted to do it,

25 wouldn't that be a greater amount of the money placed
(BEDE - CROSS BY EGELER)

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1 in the escrow account?

2 A. I believe so, yes.

3 Q. Thank you. Now, to your knowledge is the
4 purpose of that escrow account to insure that if the
5 generators and the Commission are successful in this
6 court case that money will be available to refund to
7 the generators? In other words, the money that they
8 would have paid under the Commission rate is all that
9 they will end up having paid after that refund,
10 correct?

11 A. That's correct, yes.

12 Q. And so if a greater amount were placed into
13 the escrow account for Public Service Company of
14 Colorado, and the Commission were successful in this
15 case, they would therefore be refunded a greater
16 amount of money, is that correct?

17 A. I believe US Ecology would be refunded the
18 difference between the \$28 and the \$22 because this --

19 Q. You're right. You're correct. The
20 Commission order would require that PSC's volumes not
21 be treated as extraordinary.

22 Let's assume that US Ecology was successful
23 with respect just to that item that Public Service
24 Company of Colorado's rates should be extraordinary

25 volume rates. In that case if you were successful

(BEDE - CROSS BY EGELER)

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1 only on that point, then Public Service Company of
2 Colorado would be refunded a greater amount of money,
3 is that correct?

4 A. Yes. And it wouldn't come from the escrow
5 account, it would come directly from the company.

6 Q. If the amount had been placed into the
7 escrow account, however, it would come directly from
8 the escrow account, correct?

9 A. But it would come from the escrow account
10 to -- it could come directly from the escrow account
11 to Public Service of Colorado.

12 Q. Okay, thank you. There's just one last
13 area I would like to discuss, Mr. Bede. To your
14 knowledge is one of the goals of regulation to ensure
15 that the company earns a healthy profit?

16 A. The UTC rate guarantees us a set profit
17 margin, yes.

18 Q. Guarantees you a profit, correct?

19 A. I believe that the return was set at a
20 specific level, yes. Our fixed variable cost plus a
21 profit margin that determines what our rate is.

22 Q. Under regulation you are guaranteed that
23 profit level, is that your understanding?

24 A. On -- we are -- in our revenue requirement

25 we are guaranteed a -- our point is that we should be
(BEDE - CROSS BY EGELER)

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1 guaranteed a revenue requirement. And within that
2 revenue requirement are your fixed and variable costs
3 plus a profit margin.

4 Q. So the profit portion it is your position
5 that you should be guaranteed that profit level, is
6 that correct, under regulation?

7 A. The profit level is determined by the
8 Commission and not by the company.

9 Q. I understand that.

10 A. You're talking about a -- I believe that
11 margin is 29 percent.

12 Q. Correct.

13 A. And 29 percent relating to a revenue
14 requirement. You have determined what our fixed and
15 variable costs were -- would be, and then based on a
16 volume projection you come up with a revenue
17 requirement. There is not a guaranteed profit if
18 that volume projection is inaccurate. In fact,
19 looking at our actual receipts in the first and the
20 second quarters of 1993 there was not profit. We were
21 barely covering our fixed and variable costs.

22 MR. HATCHER: I object to the last portion.
23 We asked again for the company to provide financial
24 data in response to testimony which has now been

25 stricken from Mr. Bede's direct testimony, at least

(BEDE - CROSS BY EGELER)

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1 insofar as the prefiled. And the last portion of Mr.
2 Bede's statement again goes to the portion of the
3 prefiled direct testimony which was stricken. I would
4 ask that the witness be directed not to offer
5 testimony that has, in fact, been stricken due to the
6 company's failure to provide responses to data
7 requests.

8 JUDGE CLISHE: All right, thank you.

9 MR. VAN NOSTRAND: Your Honor, if the
10 witness is asked a question regarding his
11 understanding of whether the company's entitled to a
12 certain level of profit, an open-ended question like
13 that I believe gives the witness the right to respond
14 in terms of what the actual results are and whether or
15 not any profit has been achieved, regardless of what
16 this witness may have initially offered in his direct
17 testimony.

18 JUDGE CLISHE: Ms. Egeler.

19 MS. EGELER: I would disagree, your Honor.
20 I did not ask the witness whether or not the company
21 had earned a profit. I asked about the purpose of
22 regulation and whether or not it was a guarantee of
23 profit.

24 JUDGE CLISHE: I think that the witness has

25 gone a little far afield from what the exact question

(BEDE - CROSS BY EGELER)

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1 is, and with the agreement that all parties made
2 regarding striking some of Mr. Bede's testimony in
3 lieu of the company providing information regarding
4 their expenses and earnings, I am going to strike the
5 testimony of Mr. Bede's testimony regarding company
6 expenses and earnings.

7 Q. Let's return to this area. Is it your
8 understanding that the goal of regulation by this
9 Commission and these periodic adjustments is to
10 guarantee the company that 29 percent profit level?

11 MR. VAN NOSTRAND: Your Honor, could we
12 have a reference to some point in Mr. Bede's direct or
13 rebuttal testimony to which this question relates?

14 JUDGE CLISHE: Ms. Egeler, do you have a
15 reference?

16 MS. EGELER: No, I don't, your Honor, and I
17 don't believe I need a reference. I'm asking about
18 his basic understanding of the regulatory philosophy.
19 They are here asking for more money and I would like
20 to know whether or not they believe that they are
21 entitled to that because of a right to earn a set
22 profit level under regulation.

23 MR. VAN NOSTRAND: Your Honor, I would
24 object to that question as beyond the scope of this

25 witness's testimony and this proceeding. The

(BEDE - CROSS BY EGELER)

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1 Commission in the general rate case is concerned with
2 the level of profitability of this company. This is
3 an implementation proceeding regarding the inflation
4 volume adjustment and it's not a proceeding to debate
5 general theories of ratemaking.

6 JUDGE CLISHE: I'm going to overrule the
7 objection. I think this goes to some very general
8 basic knowledge. I would not expect that it would go
9 into any details of that, Ms. Egeler. Do you wish to
10 have the question repeated, Mr. Bede?

11 THE WITNESS: Please.

12 Q. Is it your understanding that under
13 regulation by the Washington Utilities and
14 Transportation Commission with these periodic
15 adjustments that part of the Commission's goal should
16 be to guarantee that US Ecology is able to earn that
17 29 percent profit level?

18 A. The Commission's requirement is to
19 guarantee us fair and sufficient rates and to provide
20 us with covering our fixed and variable costs plus a
21 designated profit margin.

22 MS. EGELER: Thank you, very much. Your
23 Honor, I have no further questions.

24 JUDGE CLISHE: All right, thank you. Mr.

25 Hatcher, do you have questions of Mr. Bede?

(BEDE - CROSS BY EGELER)

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1 MR. HATCHER: Yes, I do, your Honor.

2

3 CROSS-EXAMINATION

4 BY MR. HATCHER:

5 Q. Good morning, Mr. Bede?

6 A. Good morning, Mr. Hatcher.

7 Q. I would like to first talk a little bit
8 about your qualifications.

9 A. Certainly.

10 Q. You've been employed by US Ecology since
11 1984?

12 A. I believe, yes.

13 Q. And your present job title is Washington
14 operations manager?

15 A. That's correct.

16 Q. How long have you held that position?

17 A. I've held that position since the 15th of
18 April.

19 JUDGE CLISHE: I'm sorry. I couldn't hear
20 the last part.

21 THE WITNESS: April 15.

22 JUDGE CLISHE: Of this year?

23 A. Of this year.

24 JUDGE CLISHE: Thank you.

25 Q. Prior to becoming the Washington operations
(BEDE - CROSS BY HATCHER) 103

1 manager you were the regional manager for governmental
2 affairs?

3 A. That's correct.

4 Q. In your position as Washington operations
5 manager have you had an opportunity to review the
6 Commission's sixth and seventh supplemental order
7 concerning US Ecology's 1992 rate case?

8 A. Yes, I have.

9 Q. You are aware, then, that your position as
10 regional manager for governmental affairs was viewed
11 by the Commission as one primarily of a lobbyist?

12 A. That's correct.

13 Q. And you are also aware that 98 percent of
14 your time on behalf of US Ecology was assigned to
15 lobbying activities by the Utilities and
16 Transportation Commission?

17 A. The company contested that and I certainly
18 contested that. That was an, I believe --

19 Q. Is that a yes or no? Is that a yes or no?

20 A. Could you rephrase the question.

21 Q. Are you also aware that 98 percent of your
22 time on behalf of US Ecology was assigned to lobbying
23 activities by the Utilities and Transportation
24 Commission?

25 A. That's correct.

(BEDE - CROSS BY HATCHER)

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1 Q. Are you still a registered lobbyist with
2 the state of Washington?

3 A. I am.

4 Q. Do you maintain offices then both in
5 Olympia and in Richland?

6 A. I don't. I maintain an office in Olympia.

7 Q. You maintain no office in Richland
8 whatsoever?

9 A. I personally do not have an office in
10 Richland. The office has been changed with the change
11 in my function.

12 Q. How do you discharge your functions listed
13 as operations manager in what has been entered into
14 the record as Exhibit 2 concerning budget preparation
15 with regard to the Richland facility?

16 A. I'm involved in budget preparations, the
17 oversight of the operation of the facility, all issues
18 dealing with the Richland facility and all issues
19 dealing with generators in the Northwest and the Rocky
20 Mountain Compact.

21 Q. How do you discharge those functions? Do
22 you travel to Richland?

23 A. Yes, I do, basically on a weekly basis.

24 Q. And how much time then on a weekly basis do

25 you spend in Richland?

(BEDE - CROSS BY HATCHER)

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1 A. I would say eight hours.

2 Q. Eight hours a week?

3 A. A week. But I'm also in daily contact
4 with people at the Richland facility and our Houston
5 corporate headquarters.

6 Q. How do you discharge your responsibilities
7 with regard to sales and marketing in connection with
8 the Richland site?

9 A. I have an assistant that has been brought
10 into my office and deals with sales and marketing for
11 the -- specifically for the Northwest and Rocky
12 Mountain Compact generators.

13 Q. Is this assistant also located in Olympia?

14 A. Yes, he is. In my office.

15 Q. So basically you supervise this assistant
16 in the discharge of those responsibilities?

17 A. I am in a supervisory position for him,
18 yes.

19 Q. With regard to sales and marketing do you,
20 yourself, perform any responsibilities?

21 A. Yes, I do.

22 Q. Other than supervision?

23 A. Yes. Direct contact with generators on a
24 weekly basis at least, I think.

25 Q. How are you responsible -- I think perhaps

(BEDE - CROSS BY HATCHER)

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1 a better way to phrase this will be, what are your
2 specific responsibilities for the management of the
3 Richland facility?

4 A. I oversee the total management of the
5 Richland facility.

6 Q. Is there an on-site manager --

7 A. There's an on-site manager, yes.

8 JUDGE CLISHE: Excuse me just a second.

9 Mr. Bede, if you'll wait until the question is
10 finished. Mr. Hatcher, I didn't hear your whole
11 question. If you would restate it, please, and then
12 Mr. Bede can answer.

13 Q. I asked whether there was an on-site
14 manager at the Richland facility.

15 A. Yes, there is a facility manager on the
16 Richland facility and he's been in that position, I
17 believe, for the last five years.

18 Q. And that individual reports directly to
19 you?

20 A. Directly to me, yes.

21 Q. And who do you report directly to?

22 A. I report directly to the senior vice
23 president of radioactive management in the company.

24 Q. During the '92 rate case that individual

25 was Richard Sauer?

(BEDE - CROSS BY HATCHER)

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1 A. That's correct.

2 Q. Is Mr. Sauer still in that position?

3 A. No, he is not.

4 Q. Is that individual located in Texas?

5 A. That individual is not located in Texas.

6 Q. Where is that individual located?

7 A. In Rocklin, California.

8 Q. And who is that individual?

9 A. That individual in Rocklin, California is
10 Mr. Ron Gaynor.

11 Q. When you were named Washington operations
12 manager, there then was also a restructuring of
13 reporting relationships, was there not?

14 A. Yes, there was.

15 Q. And that restructure then would have
16 involved who the Richland site manager reported to?

17 A. That's correct.

18 Q. Any other restructuring and reporting
19 relationships?

20 A. Certainly my relationship was changed
21 drastically within the company. Those individuals I
22 was reporting to before were either no longer with
23 the company or put in different positions. I went
24 from a position of governmental management to a

25 position of overall management of the Richland

(BEDE - CROSS BY HATCHER)

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1 facility. Responsibilities for a very, very small
2 portion of our operations in the state of Washington,
3 mainly governmental affairs, to a position of
4 overseeing all operations within the Northwest
5 relating to our company.

6 Q. What was the company's rationale for making
7 that restructuring?

8 A. I hope it was confidence in my competence,
9 my previous performance within the company, and my
10 history with the company.

11 Q. Do you know what the company's rationale
12 for making the restructure was?

13 A. One of the basic rationales is we were
14 moving from a -- Richland facility moved from a
15 national facility to a regional facility, and
16 activities that were being handled on a national
17 perspective were now being regionalized, and there was
18 a restructuring within the company to make the
19 Richland operation a more autonomous operation and to
20 have direct supervision of that and more direct
21 management.

22 Much of that related to the rate case of
23 having the Richland facility being a stand alone
24 facility instead of a portion of a more expanded

25 facility that dealt with sites other places in the

(BEDE - CROSS BY HATCHER)

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1 country.

2 Q. Is the company's rationale for the
3 restructure documented?

4 A. I don't believe it is documented. We had a
5 number of things happen in our company. There was a
6 change in ownership of the company.

7 Q. So the answer is no?

8 A. To my best knowledge I am not aware of a
9 document that specifically documented --

10 Q. Are you aware of a series of documents
11 which relate to the restructuring of the Richland
12 facility to create the position of Washington
13 operations manager?

14 A. There are a number of documents, yes, not
15 one document.

16 MR. DUDLEY: I would like to make a record
17 requisition for the documents associated with the
18 restructuring of the Richland facility, specifically
19 to create the position of Washington operations
20 manager.

21 JUDGE CLISHE: Mr. Bede, can you provide
22 those documents?

23 MR. VAN NOSTRAND: Your Honor, I would like
24 to object. I don't quite know what the purpose of

25 additional discovery at this point is. I think we've

(BEDE - CROSS BY HATCHER)

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1 gone rather far afield as far as this witness's
2 testimony, and I don't know what the purpose is served
3 of generating documents which beyond today can't be
4 entered into the record.

5 JUDGE CLISHE: Mr. Hatcher, do you have any
6 explanation or response to Mr. Van Nostrand?

7 MR. HATCHER: Your Honor, I think Mr.
8 Bede's qualifications to testify today are a line of
9 inquiry that I'm presently pursuing, and I believe
10 that his technical qualifications on behalf of the
11 company as well as the reason for his being here are
12 matters of interest to my client, and I believe it is
13 a fair line of inquiry to go into the company's
14 rationale concerning its designation of Mr. Bede as
15 Washington operations manager.

16 MR. VAN NOSTRAND: Your Honor, with all due
17 respect it might be a matter of interest to Mr.
18 Hatcher and his client. It does not bear on Mr.
19 Bede's testimony in this proceeding. If we're going
20 to talk about his qualifications to perform his job,
21 that's one thing. If we're going to talk about why
22 the company put him in that job or what restructuring
23 was behind that sort of redesignation, it's entirely
24 irrelevant.

25 JUDGE CLISHE: Mr. Hatcher, can you explain
(BEDE - CROSS BY HATCHER) 111

1 a little bit more about what your purpose is for
2 requesting these documents, what you expect them to
3 show that would be relevant here.

4 MR. HATCHER: Your Honor, why don't I move
5 on, and if I perceive that as my line of questioning
6 with Mr. Bede develops I still feel it appropriate to
7 request those documents, I will remake my request at a
8 later point in time.

9 JUDGE CLISHE: All right, thank you, Mr.
10 Hatcher.

11 Q. Your educational background, Mr.
12 Bede, emphasizes political science?

13 A. Yes.

14 Q. Your BA and master's are in political
15 science?

16 A. That's correct.

17 Q. Have you completed your doctoral program?

18 A. My dissertation, yes.

19 Q. In what field is that?

20 A. In political science also.

21 Q. You responded to a question from Ms. Egeler
22 that you're not a lawyer.

23 A. I'm not an attorney.

24 Q. In BCB-1, Exhibit Testimony 1 and your

25 rebuttal testimony T-6, you make several legal

(BEDE - CROSS BY HATCHER)

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1 conclusions concerning the unlawful nature of looking
2 back to preregulation volumes?

3 A. I believe that those -- I state that those
4 legal conclusions that will be -- would be -- can be
5 embellished by our attorney.

6 Q. Do you have a personal basis to make those
7 legal conclusions or are you just reporting in your
8 direct testimony conclusions or opinions of others?

9 A. I am not an attorney. I am not qualified
10 to make legal conclusions. I am not qualified to
11 practice in the state of Washington to make those
12 conclusions. I am not an attorney.

13 Q. You then are reporting opinions or
14 conclusions of others and not those of yourself?

15 A. I can make -- I can develop legal
16 conclusions but I cannot represent those legal
17 conclusions as an attorney. I have participated in
18 this rate regulation process that involves numerous
19 legal questions and I have been asked do respond to
20 some of those, but I respond to those as a member of
21 the company and not as an attorney. We have
22 representatives -- representative counsel that serves
23 that purpose.

24 Q. What was --

25 A. But I provide communication and

(BEDE - CROSS BY HATCHER)

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1 consultation with and developing some of those legal
2 conclusions and also in seeing the relevance of them.

3 Q. What was the extent of your participation
4 in the 1992 rate case?

5 A. I was probably one of the two or three key
6 people that dealt with the rate case and providing
7 testimony, talking, and developing testimony for other
8 people in the company, in securing the legal counsel
9 for the company in this position, working with the UTC
10 staff and clarifications of the process, also I was
11 involved in drafting the initial legislation, the
12 three bills that have ended up with our company being
13 regulated. The legislative process, the statutory
14 process I have been very, very involved in.

15 Q. Did you meet and confer with Mr. Ash with
16 regard to developing the company's proposals in the
17 1992 rate case?

18 A. Yes, I did.

19 Q. Did you meet with and confer with Mr. Sauer
20 with regard to developing the company's proposals?

21 A. Yes, I did.

22 Q. You are aware, are you not, that one of the
23 issues involved in this case is the proper application
24 of the semi-annual volume adjustment mechanism?

25 A. That's correct. In fact, I participated in
(BEDE - CROSS BY HATCHER) 114

1 the working group that came up with that idea.

2 MR. HATCHER: Your Honor, I would like to
3 present to this witness a copy of the study group
4 proposal that he's just referred to and ask him if he
5 could identify it if I could.

6 JUDGE CLISHE: Okay, thank you. Yes.
7 Would you like this marked for identification, Mr.
8 Hatcher?

9 MR. HATCHER: Yes, I would, please.

10 JUDGE CLISHE: I'll mark for identification
11 as Exhibit 8 a multi-page document, the first page is
12 under letterhead of Principled Negotiations,
13 Incorporated and it's a memorandum dated November 18,
14 1990.

15 (Marked Exhibit No. 8)

16 Q. Mr. Bede, you've testified that you were on
17 a study commission that drafted proposals with regard
18 to the legislation.

19 A. I participated in that. I was not the
20 company's at-table representative to that. I was a
21 support person during those -- during the study group.
22 I believe the official representative of the company
23 was Brad Dillon.

24 Q. Could I ask you to turn three pages from

25 the back under Appendix 4. And is your name listed as
(BEDE - CROSS BY HATCHER) 115

1 a participant in the UTC study on rate regulatory
2 system for Hanford?

3 A. Yes, it is.

4 Q. And you're indicating that that is not an
5 accurate description of your --

6 A. I'm a participant. What my statement was,
7 that the way that David Stevens organized this, there
8 was one spokesman for the company and that spokesman
9 was -- that spokesman from this document looks to be
10 JoAnne Buler who is my superior.

11 Q. And that's on page 2 of Appendix 4?

12 A. Right.

13 Q. Now, do you recognize the document that
14 I've handed to you?

15 A. Yes, I do.

16 Q. And could you identify what this document
17 is for the record.

18 A. This is the transmission from the study
19 committee to the Utilities Commission on the
20 recommendation of the study group.

21 MR. HATCHER: I move for its admission.

22 JUDGE CLISHE: Is there any objection to
23 the admission of Exhibit 8 into the hearing record?

24 MR. VAN NOSTRAND: No, your Honor.

25 JUDGE CLISHE: All right, hearing no

(BEDE - CROSS BY HATCHER)

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1 objection, I'll admit Exhibit 8 into the record.

2 (Admitted Exhibit No. 8.)

3 Q. I would like to ask you, please, to turn to
4 approximately seven pages from the back of Exhibit 8
5 to Appendix 2. And Appendix 2 is entitled Explanation
6 of Volume Adjustment.

7 A. That's correct.

8 Q. Does this volume adjustment refer to 12
9 months of actual volumes in terms of its application?

10 A. Yes.

11 Q. In fact, the second paragraph indicates
12 that the volume adjustment is triggered if the actual
13 volumes of waste delivered to the site during the
14 preceding 12 months differ by five percent or more
15 from the volume, et cetera.

16 A. That's what the statement is, yes.

17 Q. Is there anything in this document
18 concerning a transition period to rate regulation?

19 A. Not in this document, but the study
20 committee did discuss that extensively.

21 Q. Is that referenced in this document?

22 A. I believe there's references that there
23 were -- there was discussion on all these issues.

24 Q. With regard to the volume adjustment, the

25 recommendation of the committee is as stated in the

(BEDE - CROSS BY HATCHER)

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1 Appendix 2?

2 A. It states a 12-month period, yes. In fact,
3 that was the company's proposal and we envisioned that
4 that 12-month period would be used during the -- once
5 you had 12 months of regulated data.

6 Q. Did the recommendation of the committee --
7 did the study committee recognize that rate regulation
8 if it were to become effective would be effective in
9 January -- beginning January of 1993?

10 A. That's correct, but there's no statement in
11 here that this says that it is applied from a specific
12 date in 1992 to a specific date in 1993.

13 Q. Could you please turn to page I. That is
14 approximately three pages into the document.

15 A. Yes.

16 Q. And this is an executive summary?

17 A. Yes, it is.

18 Q. And about half way down the page following
19 numeral 1 does it talk about initial disposal rates
20 after January 1, 1993?

21 A. It does.

22 Q. Does this reflect an awareness of the study
23 committee that rate regulation would become effective
24 in January of '93?

25 A. That's right, but also it also states that
(BEDE - CROSS BY HATCHER)

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1 it's not retroactive before that period. It states
2 that it is effective on January 1, 1993.

3 Q. Rate regulation is going to be effective
4 January 1, '93?

5 A. That's correct.

6 Q. And the volume adjustment identified in
7 Appendix 2 would occur, would it not, for a 12-month
8 time period or for a time period effective after rate
9 regulation in April?

10 A. For the time period after rate regulation.
11 That's the period after January 1, 1993 or after
12 December 31, 1992.

13 Q. As structured, the volume adjustment would
14 look back 12 months?

15 A. It would look back at 12 months of
16 regulated activities, regulated data.

17 Q. Is there anything in this document which
18 indicates that the volume adjustment was restricted to
19 12 months of regulated data?

20 A. The restriction is that rate regulation is
21 not effective prior to 1993.

22 Q. Show me that in this document.

23 A. Well, the statement is that it says that
24 the site operator would request initial to take effect

25 on -- okay, on January 1, 1993.

(BEDE - CROSS BY HATCHER)

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1 Q. For rate regulation?

2 A. For rate regulation, yeah.

3 Q. Where does it identify that the volume
4 adjustment is limited only to the period of regulated
5 rates?

6 A. The volume adjustment has no -- the UTC's
7 authority has no authority prior to 1992.

8 Q. Does the volume adjustment specifically
9 state anywhere in this document that it is limited to
10 volumes produced under rate regulation, yes or no?

11 A. I believe the development of the statute
12 and the application of the statute --

13 Q. Mr. Bede, does this document contain the
14 statement that I just referred to with regard to the
15 semi-annual volume adjustment?

16 A. The reference is -- the only reference I
17 can give is what you -- what the --

18 Q. Is the answer then no, Mr. Bede?

19 A. -- recommended for the volume adjustment on
20 Appendix 2 and there is no statement of dates in this
21 at all, no.

22 Q. You mentioned, however, that these were
23 topics of conversation?

24 A. That's correct.

25 Q. Yet the final committee report goes back 12
(BEDE - CROSS BY HATCHER) 120

1 months and it does not specifically identify that only
2 volumes produced under regulation would be subject to
3 the volume adjustment? And that's a yes or no answer,
4 Mr. Bede.

5 A. I don't -- the development of the study
6 group, the development of the statute, and the
7 development of this, the previous legislation that was
8 passed that I was involved in, said that rate
9 regulation and for the purpose of setting rates is
10 effective on January 1, 1993.

11 Q. The initial setting of rates, the initial
12 rate setting would occur in January of '93?

13 A. That's correct.

14 Q. You have previously identified that there
15 is nothing in the semi-annual volume adjustment which
16 refers to a limitation of that clause of the volume
17 adjustment provision to volumes produced under
18 regulation, is that correct?

19 A. That's correct.

20 Q. Mr. Bede, in your rebuttal testimony which
21 is Exhibit T-6, beginning on page 2 you characterize
22 the delivery estimates relied upon by Mr. Young as
23 self-serving?

24 A. That's correct. That's my testimony.

25 Q. What exactly is a self-serving statement as
(BEDE - CROSS BY HATCHER)

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1 you've used it in your testimony?

2 A. We are not in control of the generation
3 of waste or the shipment of waste. The amount of
4 waste that we receive at our facility is completely
5 dependent on the generators. The generator can
6 -- unlike another utility, has the liberty of
7 withholding their waste, storing their waste, possibly
8 reprocessing their waste. They can really control the
9 amount of waste that they dispose of during any period
10 of time.

11 It's not the company that controls the
12 amount of waste that we receive, it's the generators
13 themselves. And the generator can set a level or
14 project a level that could be in his own benefit.
15 That the process is dependent on the generators and
16 not on the site operator, and in that respect it is
17 self-serving for a generator to make a statement that
18 might not be verified in the future.

19 There's -- I have personal knowledge of
20 volume estimates that were made by generators that
21 never materialized. I think the Supply System is
22 probably the best example of that and I can give you
23 specific references to that in which, Yes, we are
24 projecting we are going to dispose of this waste.

25 And that waste never turns up at our facility.

(BEDE - CROSS BY HATCHER)

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1 Q. Are you then suggesting by your use of the
2 phrase "self-serving estimates" that the data relied
3 upon by Mr. Young is invalid?

4 A. I think it is -- I don't think it can be
5 verified. A generator has no obligation, they suffer
6 no penalty for giving a projection that might not
7 materialize.

8 Q. So the data relied upon by Mr. Young cannot
9 be verified. And is it fair then to draw from that
10 statement that it cannot be verified, that it is in
11 fact invalid?

12 A. Projections have to be actualized and
13 verified, and you do that by the amount of waste you
14 actually receive. A generator can say that, Well,
15 we're going to give you 60,000, in the purpose of
16 influencing what rates may be and may not fulfill
17 that projection. I have personal knowledge that
18 that's happened specifically.

19 And we're dependent our site is dependent --
20 on five or six major generators, and those five or six
21 major generators make up over 90 percent of all the
22 waste that's disposed of at our facility. That you're
23 dependent on the projections of one of those five can
24 greatly skew what your actual receipts would be.

25 We've gone through -- been notified by one of the
(BEDE - CROSS BY HATCHER)

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1 major volume generators that they've changed their
2 process. Their projections as of January 1 are no
3 longer valid. We have the -- Portland General
4 Electric the Trojan reactor is no longer providing us
5 with operations waste.

6 Q. Let me interrupt you at that point.

7 A. Certainly.

8 Q. Now, Mr. Young has identified that with
9 regard to Portland General Electric, that PGE will
10 ship approximately 5,000 cubic feet of waste to the
11 Richland facility in calendar year 1993.

12 A. I believe that's correct, but there's also
13 a --

14 Q. Mr. Bede, I would like you to do your best
15 to respond to my questions, and if I have a follow-on
16 voluntary statement that I would like to get from you,
17 I'll ask it.

18 Will you accept subject to check that Mr.
19 Young's -- that through the end of June of 1993 PGE
20 has shipped approximately 2,286 cubic feet to the
21 Richland facility?

22 A. Yes.

23 Q. And will you accept subject to check that
24 2,286 divided by 5,000 is approximately 46 percent?

25 A. Yes.

(BEDE - CROSS BY HATCHER)

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1 Q. So through the first half of the year PGE
2 had shipped approximately 46 percent of its annual
3 estimated volume to the Richland facility?

4 A. That's correct.

5 Q. And on an annual basis would you accept
6 subject to check that that is approximately 92 percent
7 on an annual -- if you annualize the first half
8 shipments on an annual basis that would be 92 percent?

9 A. 92 percent of what?

10 Q. Of its annual estimate. You're familiar
11 with annualizing --

12 A. Certainly.

13 Q. And you're familiar that when you annualize
14 like four months of waste you multiply it by three to
15 get the twelve?

16 A. That's exactly what my testimony looks --

17 Q. If we do the same thing with regard to PGE
18 and annualize its first half shipments, we would have
19 approximately 92 percent of its annualized estimate
20 delivered to you?

21 A. Of its projected amount.

22 Q. Of its projected amount delivered to you?

23 A. The projected amount coming from what -- I
24 don't have a document that says their projected amount

25 was X amount as of January 1. You're referring to Mr.

(BEDE - CROSS BY HATCHER)

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1 Young's testimony?

2 Q. You accepted subject to check, did you not,
3 that PGE has estimated an annual delivery to the
4 Richland facility of approximately 5,000 cubic feet?

5 A. Through Mr. Young's testimony, is that
6 correct?

7 Q. Correct.

8 A. Yes.

9 Q. And you've also accepted subject to check
10 that through the end of June of '93 they have shipped
11 approximately 46 percent of that total volume to the
12 Richland facility?

13 A. That's correct.

14 Q. And will you accept that if you accept
15 subject to check that on an annual basis that would
16 result in a 92 percent achievement factor to its
17 projected deliveries?

18 A. If that is annualized and those projection
19 that if the continuation is accurate, yes.

20 Q. And it is that 92 percent achievement
21 factor that you are characterizing as a self-serving
22 -- as Mr. Young is relying on a self-serving estimate,
23 are you not?

24 A. I'm making the statement that a generator,

25 for instance, Portland General Electric, could give

(BEDE - CROSS BY HATCHER)

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1 another projection, a projection that would be greater
2 than the amount that would be annualized or even less
3 than the amount that's annualized. I don't have a
4 projection in my possession directly from Portland
5 General Electric to our company that, Yes, we are
6 going to dispose of this amount of waste. We've asked
7 the question a number of times and the answer is that,
8 We can't give you specific numbers, or, We will give
9 you a number but we cannot be held accountable for it
10 because it may change.

11 Q. Mr. Young will testify -- and I'm sure you
12 have reviewed his prefiled testimony, have you not?

13 A. I have.

14 Q. And he will in fact testify that Portland
15 General Electric has estimated 5,000 cubic feet for
16 the year. And you have attacked that assertion as a
17 self-serving estimate, have you not?

18 A. My testimony --

19 Q. Is that a yes or no, Mr. Bede?

20 A. Not specifically Portland General Electric,
21 no. But as a group, Mr. Young's testimony that dealt
22 with speculation of other generators having
23 extraordinary volumes or volumes that were beyond what
24 I was aware of projections, to a certain extent those

25 projections can be self-serving. Those projections

(BEDE - CROSS BY HATCHER)

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1 were not made aware of -- they were not made aware to
2 me before, I believe, the testimony I received from
3 Mr. Young's prefiled testimony.

4 Q. With regard to Mr. Young's assertion that
5 will occur during his testimony that Portland General
6 Electric estimates 5,000 cubic feet for calendar year
7 1993, do you consider that reliance upon a self-
8 serving estimate?.

9 MR. VAN NOSTRAND: Objection. Your Honor,
10 that question has been asked and answered. The
11 witness indicated that with respect to the Portland
12 General's specific estimate he was not making that
13 assertion.

14 JUDGE CLISHE: Any response, Mr. Hatcher?

15 MR. HATCHER: So long as that is the
16 witness's response, I would accept that response.

17 JUDGE CLISHE: All right. It was my
18 understanding that is what he responded to earlier.

19 Q. With regard to Mr. Young's estimates with
20 regard to Teledyne Wah Chang, is that a self-serving
21 estimate as well?

22 A. It could be, yes.

23 Q. Based upon your prefiled testimony, were
24 you relying upon Mr. Young's characterizations of

25 Teledyne's annual estimates in making your

(BEDE - CROSS BY HATCHER)

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1 self-serving assertion?

2 A. After --

3 Q. Is that a yes or no?

4 A. I believe that further research by
5 me indicated that the information that Mr. Young was
6 using with Teledyne was not information that was
7 verified, and that it is possible that those figures
8 are figures that are not accurate, and if those
9 figures are not accurate, since we are reliant on
10 generators and it's to their advantage if they so
11 desire to make projections that might not be accurate
12 in order to influence rates, I think it's possible to
13 do.

14 Q. Does that mean yes or no?

15 A. Can you rephrase the statement and I'll
16 make it a yes or no answer to it.

17 MR. HATCHER: Your Honor, I'm having some
18 difficulty with this witness, and I have encouraged
19 the witness to respond first with a yes or no, and
20 instead I've not been treated very favorably with
21 regard to my question.

22 MR. VAN NOSTRAND: Your Honor, with all due
23 respect, a lot of the questions are incapable of being
24 answered with a yes or no.

25 JUDGE CLISHE: I think perhaps it would be

(BEDE - CROSS BY HATCHER)

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1 easiest if you believe, Mr. Bede, that you can't
2 answer yes or no, you can indicate that that's the
3 case and then if there's a follow-up question, to
4 explore the reasons for your statement. We can do it
5 that way.

6 THE WITNESS: I will do that.

7 JUDGE CLISHE: All right. Mr. Hatcher, I
8 think it would be helpful because now I've sort of
9 lost track of what your previous question was and then
10 if you'll restate that, Mr. Bede can indicate yes or
11 no or he doesn't know.

12 MR. HATCHER: Certainly.

13 Q. Mr. Bede, with regard to Teledyne Wah Chang
14 and the estimate relied upon by Mr. Young, does your
15 statement of self-serving relate to the estimates
16 relied upon by Mr. Young with regard to Teledyne?

17 A. Yes.

18 Q. With regard to the Supply System, your
19 statement of self-serving applies there as well? Your
20 self-serving estimate, your self-serving statement
21 relies to the Supply System's estimates that were
22 relied upon by Mr. Young?

23 A. Yes. But may I qualify that?

24 Q. Now, the Supply System has estimated 11,800

25 cubic feet for '93?

(BEDE - CROSS BY HATCHER)

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1 A. That's correct.

2 Q. And through June of '93 the Supply System
3 has shipped 5,000 cubic feet?

4 A. I believe that's correct.

5 Q. And will you accept subject to check that
6 that's 41 percent of its annual estimate?

7 A. Certainly.

8 Q. And on an annualized basis that would be 82
9 percent?

10 A. That's correct.

11 Q. Does your statement of self-serving also
12 apply to the annual delivery estimates of Public
13 Service of Colorado?

14 A. We believe that the estimates --

15 Q. Excuse me.

16 A. May I qualify that? I don't think I can
17 answer that question yes or no.

18 JUDGE CLISHE: Mr. Hatcher?

19 Q. Then please respond.

20 A. Public Service of Colorado, we believe that
21 that is an extraordinary volume, that is a one --

22 MR. HATCHER: Your Honor, I'm not asking
23 the witness about extraordinary volumes. Volumes
24 are volumes regardless of his characterization. I'm

25 asking the witness whether in the preparation of his

(BEDE - CROSS BY HATCHER)

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1 direct and rebuttal testimony he utilized the phrase

2 "self-serving" in relation to the estimates relied upon

3 by Mr. Young when discussing the Public Service of

4 Colorado's waste estimates.

5 A. Yes.

6 Q. Now, Mr. Young has identified the Public

7 Service of Colorado estimates an annual shipping total

8 of 32,307 cubic feet?

9 A. That's correct.

10 Q. Mr. Young also estimates that 28,500 cubic

11 feet will be delivered in the second half of '93 from

12 June forward?

13 A. That's the estimate --

14 Q. Will you accept that subject to check?

15 A. Yes.

16 Q. Mr. Hutchins will testify that Public

17 Service of Colorado presently as of today has 21,743

18 cubic feet of waste at the Richland facility. Will

19 you accept that figure subject to check?

20 A. Yes, I will.

21 Q. Will you accept subject to check that

22 21,743 divided by 31,307 is 67 percent?

23 A. Subject to check, yes.

24 Q. So 67 percent of Public Service of

25 Colorado's annual estimate is today at the US Ecology
(BEDE - CROSS BY HATCHER)

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1 facilities, subject to check?

2 A. I believe that's right.

3 JUDGE CLISHE: Excuse me, Mr. Hatcher, is
4 this a possible time we can take our morning break?

5 MR. HATCHER: I have about four or five
6 more.

7 JUDGE CLISHE: Let's continue. Thank you.

8 Q. To annualize this figure since September
9 is three-quarters of the way through the year, we
10 could then divide .67 by .75 to get to an annual
11 figure, could we not?

12 A. I believe you could do that, but I think --

13 Q. Yes or no, Mr. Bede?

14 A. Yes, with a qualification that I think
15 you're depicting Public Service of Colorado different.
16 They should be depicted differently from other
17 generators because this is not production waste. This
18 is decommissioned waste.

19 MR. HATCHER: Your Honor, again I'm talking
20 about volumes, and what this witness wishes to
21 characterize is an extraordinary volume. The volumes
22 that Mr. Young relied upon are the volumes to which
23 we're speaking.

24 JUDGE CLISHE: All right. I think if

25 you'll refer, Mr. Bede, just to the volume without

(BEDE - CROSS BY HATCHER)

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1 that characterization as to the type of waste that you
2 consider that.

3 COMMISSIONER CASAD: Just a minute. Mr.
4 Hatcher, is what you're trying to accomplish or what
5 you are attempting to accomplish is that the
6 projections that have been made by the various
7 companies have essentially been met on a proportionate
8 basis? That the companies projected there's going
9 to be so much waste at the end of the year, at this
10 point of time they've delivered so much waste, and as
11 a proportion they're meeting their projected waste
12 disposal schedule for the year?

13 MR. HATCHER: That they are substantially
14 meeting their projections. In the case of Public
15 Service of Colorado they are exceeding their
16 projections on an annual basis, and the self-serving
17 statement characterized by Mr. Bede is woefully short
18 of the mark.

19 COMMISSIONER CASAD: Well, seems to me --
20 well, let's take a break and then we'll discuss it.

21 JUDGE CLISHE: All right, let's take a
22 break at this point and then come back at five minutes
23 after 11:00 by the clock on the wall.

24 (Recess.)

25

JUDGE CLISHE: Let's be back on the record

(BEDE - CROSS BY HATCHER)

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1 after our morning break and some distribution of the
2 revised exhibits. Mr. Hatcher, you were asking
3 questions of Mr. Bede, and I understand you're leaving
4 the area you were questioning and moving on to
5 something else. Would you like to go ahead, please.

6 Q. Mr. Bede, I would like to ask you to please
7 turn to page 9 of BCB-1 which is Testimony-1.

8 A. Yes.

9 Q. Now, beginning on line 21 you respond to a
10 question as to whether or not the 12-month rolling
11 average of volume adjustment mechanism should be
12 abandoned, and your response was, no, it should not?

13 A. That's correct.

14 Q. Is it your understanding, then, that the
15 Commission has ordered the use of a rolling 12-month
16 volume, but for the reasons stated in your prefiled
17 testimony you do not believe that at the present time
18 that 12-month volume should be applied?

19 A. That's correct, yes. My reference is to
20 using a period in which the company is regulated,
21 which is basically January 1, 1993 on, that after you
22 gain 12 months of regulated information it's our
23 assumption and our belief that the 12-month rolling
24 is going to work. In fact, that was our proposal.

25 That is our proposal.

(BEDE - CROSS BY HATCHER)

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1 Q. Now, there is nothing in the Commission
2 order to that effect, but you believe that that is an
3 appropriate modification for the reasons as stated in
4 your prefiled?

5 A. That's correct.

6 MR. HATCHER: I have nothing further.

7 JUDGE CLISHE: All right, thank you. Ms.
8 O'Malley, did you have questions of Mr. Bede?

9 MS. O'MALLEY: No, your Honor. I believe
10 the other examiners have raised most of our questions.

11 JUDGE CLISHE: All right, thank you. Mr.
12 Dudley, I believe you have questions of Mr. Bede.

13 MR. DUDLEY: Yes, I do. Thank
14 you.

15

16 CROSS-EXAMINATION

17 BY MR. DUDLEY:

18 Q. Good morning, Mr. Bede.

19 A. Good morning, Mr. Dudley.

20 Q. In your testimony I believe you claim that
21 the December '92 waste deliveries were
22 unrepresentative, is that correct?

23 A. Can you direct me to that statement.

24 Q. Page 8, line 21, Exhibit T-1.

25 A. 22, yes. Combination of these events

(BEDE - CROSS BY DUDLEY)

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1 results in waste volumes during 1992 which are
2 unrepresentative of rate year volumes, that's correct.

3 Q. Okay, thank you. And now for Northwest and
4 Rocky Mountain generators, this was for December '92
5 about 132,000 cubic feet, is that correct?

6 A. That's correct. That's right. And that's
7 unprecedented. It's an aberration from any other
8 month that our facility has ever received Northwest
9 or Rocky Mountain waste.

10 Q. Yet this volume does represent actual
11 volumes from the operations of the Northwest and Rocky
12 Mountain generators, doesn't it?

13 A. It represents some unusual volumes of a
14 specific generator and the result of generators taking
15 advantage of the transition from a national facility
16 to a regional facility, from an unregulated position
17 to a regulated position, from a national site to a
18 regional site.

19 Q. So I take it the answer to my question is,
20 yes, this does represent actual volumes actually
21 generated by those Northwest and Rocky Mountain
22 generators, right?

23 A. The volume is actual volume. That's what
24 we received. That's what we invoice, actual volume.

25 Q. Now, US Ecology's parent, American Ecology,
(BEDE - CROSS BY DUDLEY) 137

1 is a publicly traded company, is it not?

2 A. That's correct.

3 Q. And as such, it files reports with the
4 Securities and Exchange Commission that are subject to
5 SEC rules and regulations?

6 A. That's my belief, yes, my understanding.

7 Q. And under those rules, Mr. Bede, American
8 Ecology cannot make a false or deceitful statement in
9 its financial statements, can it?

10 A. I'm not aware of the specific statute or
11 reference to that. I'm not aware. Can you give me a
12 reference to where that is stated somewhere?

13 Q. I'm just testing your knowledge. If you
14 know that to be a fact, say so.

15 A. No, I don't know that to be a fact.

16 Q. Now, in its financial statements for the
17 Richland site, US Ecology has taken \$1.1 million from
18 December '92 and reported them in January of 1993,
19 isn't that correct?

20 A. I believe that's -- I think I need to maybe
21 clarify that a little bit. We had unprecedented
22 volumes coming in in 1992. Some of that waste was not
23 invoiced until 1993, but goes to 1992 revenues, and I
24 believe our accounting system has corrected that.

25 That situation has been corrected.

(BEDE - CROSS BY DUDLEY)

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1 Q. Well, what I have reference to, Mr. Bede,
2 is a response to Portland General Electric's Data
3 Request No. 19, and the statement is made, and I
4 quote, It should be noted that the January 1993
5 figures and June year-to-date figures on the attached
6 schedules include 1,101,000 in revenues for waste
7 received in December 1992 that for financial reporting
8 purposes was included in 1993, end quote. Now let me
9 ask, is that a correct statement about the financial
10 reporting at the US Ecology site, Mr. Bede?

11 A. I believe that was in our data request to
12 you, yes.

13 Q. And so is that a correct statement about
14 the financial reporting for the US Ecology site, Mr.
15 Bede?

16 A. I have to -- if you have a reference in the
17 financial report. Is it in our annual report you're
18 taking this statement from or what's the source?

19 Q. I'm taking it from your response to our
20 Data Request No. 19.

21 A. That's the reference I have.

22 Q. And my question is, is that correct?
23 You're the site manager. You're the Washington
24 operations manager, Mr. Bede. I'm asking you.

25 A. I realize that. We had a change in our
 (BEDE - CROSS BY DUDLEY)

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1 accounting procedures and those procedures are being
2 changed now. We're also -- we had a change from going
3 -- from dealing with our Richland facility the way
4 revenues were handled previously, to the way they are
5 going to be handled from January 1, 1993, in 1993
6 forward. If the statement is was that in our annual
7 statement that 1.1 million was put into our 1993
8 revenues, I think that's an accurate statement, but
9 that has been rectified by other accounting means to
10 say that this is going to be corrected and placed in
11 1992 revenues.

12 Q. Then I don't really understand what your
13 response is, Mr. Bede. I'm only dealing with what I
14 see in response to my Data Request No. 19.

15 A. May I have a copy of that?

16 MR. VAN NOSTRAND: (Handing.)

17 A. I have this in front of me, yes.

18 Q. And could you read the last sentence on
19 there to me, please.

20 A. It should be noted that in January 1993
21 figures in June year-to-date figures on the attached
22 schedules include 1.101 -- 1,100,000 revenues of waste
23 received in December 1992 that for financial reporting
24 purposes was included in 1993. That's a correct

25 statement, yeah.

(BEDE - CROSS BY DUDLEY)

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1 Q. Okay.

2 A. But there's a different -- there are
3 different accounting systems that the company uses
4 for. For this report I think it's accurate to say,
5 yes, that was reported as 1993. What you have to
6 realize is there was so much waste received in
7 December, some of that was not invoiced and really
8 realized until 1993.

9 Q. Okay.

10 A. And there was also some waste that was --
11 we received at our facility that was not disposed,
12 that was out-of-region waste that was accepted but
13 not -- accepted in 1992 but not disposed of until
14 1993, and I think that's what this statement is trying
15 to indicate.

16 Q. But does it not also indicate, Mr. Bede, that
17 presumably your auditors decided it was lawful to take
18 preregulation revenues and report them in a period of
19 regulation? Isn't that correct?

20 A. I'm not an accountant and I didn't prepare
21 this response myself. I'm -- I think I can check to
22 find where that is but I'm not in the position to be
23 able to answer that question.

24 MR. DUDLEY: May I ask is there anybody

25 appearing for US Ecology that could respond to that
(BEDE - CROSS BY DUDLEY)

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1 question?

2 MR. VAN NOSTRAND: No.

3 Q. Now, Mr. Bede, turning to another subject
4 here, you're also sponsoring the inflation adjustment
5 for the first time, is that correct?

6 A. That's correct.

7 Q. And to calculate this adjustment you use
8 the implicit price deflator for the third quarter
9 1993, is that correct?

10 A. That's correct.

11 Q. And in your proposal for this inflation
12 adjustment you're using data from a period before
13 regulation to adjust rates in 1993?

14 A. We're using an averaging, I think what
15 you're taking as an averaging of the second, third,
16 and fourth quarter of 1992 and the first and second
17 quarter of 1993.

18 Q. Yes. And that means, does it not, Mr.
19 Bede, that you're using data from a period prior to
20 regulation to adjust your rates in 1993 for the
21 inflation adjustment, is that right?

22 A. The inflation adjustment relates to looking
23 at those, yes.

24 Q. So I take it the answer to my question is

25 yes?

(BEDE - CROSS BY DUDLEY)

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1 A. Yes.

2 MR.DUDLEY: Okay. Your Honor, that's all
3 the questions I have for Mr. Bede. I would wonder,
4 there is an exhibit as a result of the data responses
5 that we received just yesterday that I do want to get
6 into evidence. My plan is to get it into evidence
7 through Mr. Young, but if that doesn't work, I want to
8 reserve the right to recall Mr. Bede for the purpose
9 of laying the foundation to that exhibit.

10 JUDGE CLISHE: All right, that's fine.
11 Thank you. Mr. Williams, did you have any questions
12 of Mr. Bede?

13 MR. WILLIAMS: Yes, I do, your Honor. A
14 follow-up on an earlier answer.

15

16 CROSS-EXAMINATION

17 BY MR. WILLIAMS:

18 Q. Mr. Bede, I believe you testified in
19 response to one of the questions earlier this morning
20 that five or six large generators account for 90
21 percent of the volume received at the Richland
22 facility?

23 A. That's been -- historically has been true,
24 yes.

25 Q. And I take it those five or six generators

(BEDE - CROSS BY WILLIAMS)

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1 are the intervenors in this proceeding?

2 A. Right. Historically Public Service of
3 Colorado was not included in that historically because
4 they were not using our Richland facility.

5 Q. Do you recall how many Northwest Compact
6 generators deposited waste at the Richland facility
7 during the test year used in the 1992 rate case?

8 A. I believe there were 82.

9 Q. And do you recall what percentage of the
10 waste deposited at the facility during the test year
11 was accounted for by generators other than the
12 intervenors in this case?

13 A. The intervenors with the exception of
14 Portland General Electric made up about 95 percent of
15 all waste.

16 Q. I believe you testified that you attended
17 the hearings during the 1992 rate case, is that
18 correct?

19 A. That's correct.

20 Q. And did you also read the prefiled
21 testimony filed by witnesses in that case?

22 A. Yes, I did.

23 Q. And did that include the prefiled testimony
24 of staff witness Edward Nikula?

25 A. Ed Nikula, that's correct, yes.

(BEDE - CROSS BY WILLIAMS)

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1 MR. WILLIAMS: I have an excerpt from Mr.
2 Nikula's testimony that I would like to have marked as
3 an exhibit.

4 JUDGE CLISHE: Would you like this marked
5 as an exhibit -- for identification as an exhibit, Mr.
6 Williams?

7 MR. WILLIAMS: Yes, please.

8 JUDGE CLISHE: All right. I'll mark for
9 identification as Exhibit 9 what is identified in the
10 upper right-hand corner Docket Number TG-920234,
11 Exhibit Number T-38 for witness Edward J. Nikula.

12 (Marked Exhibit No. 9.)

13 Q. Mr. Bede, do you recognize what has been
14 marked for identification as Exhibit Number 9 as an
15 excerpt from the prefiled testimony of Mr. Nikula in
16 the 1992 rate case?

17 A. Yes, I do.

18 Q. Consisting of the cover sheet, page 1, page
19 19, page 20 and page 21?

20 A. Yes.

21 Q. And I would direct your attention to the
22 sentence that carries over from the bottom of page 20
23 to the top of page 21. Am I correct in stating that
24 that sentence states that the volume received during

25 the test period was 121,202 cubic feet?

(BEDE - CROSS BY WILLIAMS)

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1 A. That's correct.

2 Q. And on page 20 there is a table that sets
3 out the volume delivered during the test year by
4 various generators?

5 A. That's correct.

6 Q. And that table includes Precision
7 Castparts, Teledyne Wah Chang Albany, the Supply
8 System, Portland General Electric --

9 A. Yes, it does.

10 Q. -- among others?

11 A. Yes, that's correct.

12 MR. WILLIAMS: Your Honor, I have another
13 exhibit that I would like marked for identification.
14 This is a compilation done by me which shows the
15 percentage, taken from Mr. Nikula's numbers, of the
16 volumes delivered during the test year by the
17 intervenors and compares that to the percentage
18 deposited by other Northwest Compact generators. If I
19 may, I would like to distribute that and have that
20 marked for identification.

21 JUDGE CLISHE: All right. Is that one
22 page?

23 MR. WILLIAMS: Yes.

24 JUDGE CLISHE: I'll next mark for

25 identification as Exhibit 10 a one-page document.

(BEDE - CROSS BY WILLIAMS)

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1 MR. VAN NOSTRAND: Your Honor, I wonder if
2 before we proceed down this path any further we might
3 discuss the admissibility of what's been marked for
4 identification as Exhibit 9 before we take additional
5 evidence on additional documents based on the same
6 exhibit.

7 JUDGE CLISHE: All right. Let me first
8 indicate the heading of what's been identified as
9 Exhibit 10. It indicates 1992 Rate Case Test Year
10 October 1991 through September 1992, and as Mr.
11 Williams described, this is information that he has
12 apparently taken from Exhibit 9 for purposes of
13 setting out apparently the volume for the intervenors.

14 All right. At this time, Mr. Van Nostrand,
15 if you wish to speak to the admissibility of the
16 Exhibit 9 you may.

17 (Marked Exhibit No. 10.)

18 MR. VAN NOSTRAND: Yes, I would like to
19 question, is Exhibit 9 as being offered to prove the
20 truth of the matter asserted that these are in fact
21 the volumes deposited by generators during the test
22 period in that case?

23 JUDGE CLISHE: Do you have a response, Mr.
24 Williams?

25 MR. WILLIAMS: Yes. I'm offering it to

(BEDE - CROSS BY WILLIAMS)

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1 impeach Mr. Bede's testimony that historically 90 to
2 95 percent of the volumes received from Northwest
3 Compact generators at the facility have come from the
4 intervenors in this case. I believe that is not a
5 correct figure, and the purpose of offering Mr.
6 Nikula's testimony, the excerpt, is to show that that
7 is not correct.

8 MR. VAN NOSTRAND: I object to it as
9 hearsay, your Honor. It's being offered to prove the
10 truth of the matter asserted. Mr. Nikula is not here
11 to stand cross on these figures as he was in the 1992
12 rate case, and I don't believe a foundation has been
13 laid for entry of this exhibit.

14 JUDGE CLISHE: Any other comments?

15 MS. EGELER: If I may comment, I don't
16 think there's a great deal of risk with respect to
17 what's been marked for identification as Exhibit No.
18 9, because the volume levels are within the possession
19 of the company, and if they think that there is
20 something wrong with the numbers in Mr. Nikula's
21 testimony, they are best able to refute those.

22 MR. VAN NOSTRAND: Through
23 cross-examination of Mr. Nikula who is not present.

24 JUDGE CLISHE: I think that this exhibit

25 has some relevance and I think that if the company
(BEDE - CROSS BY WILLIAMS)

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1 wishes to dispute the figures that are in this
2 document which was entered into the 1992 rate case for
3 the company, then the company may do that. However,
4 for purposes of this I will overrule the objection and
5 admit Exhibit 9 into the hearing record.

6 (Admitted Exhibit No. 9.)

7 MR. WILLIAMS: Your Honor, may I have
8 marked for identification, if that has not already
9 been done, as Exhibit 10 the one-page sheet that I've
10 just passed out.

11 JUDGE CLISHE: Yes. I think I did, Mr.
12 Williams, but we sort of lost track of it with the
13 other exhibit, but I have marked for identification as
14 Exhibit 10 the one-page document titled 1992 Rate
15 Case.

16 MS. EGELER: As a preliminary matter I
17 wonder if you might want to correct your title caption
18 there. I believe the test year was October of '90
19 through September of '91.

20 MR. WILLIAMS: Yes. Thank you. That is
21 correct. The sheet marked as Exhibit 10 should be
22 corrected. The test year properly stated is October
23 1990 through September 1991.

24 JUDGE CLISHE: All right. Thank you, Mr.

25 Williams.

(BEDE - CROSS BY WILLIAMS)

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1 Q. Mr. Bede, would you accept subject to check
2 that this sheet marked as Exhibit 10 accurately takes
3 figures from Mr. Nikula's testimony?

4 A. You're referring to the 19 -- to this
5 document 1992 --

6 Q. Yes. It's been marked for identification
7 as Exhibit 10.

8 A. Yes. You've rounded off Portland General
9 Electric, that's the only thing. Yes.

10 Q. So you would accept subject to check the
11 accuracy of the information on this sheet?

12 A. Yes.

13 Q. And the sheet shows that the percentage
14 deposited during the test year by other Northwest
15 Compact generators was 29 percent?

16 A. That's correct, yes.

17 MR. WILLIAMS: Thank you. I move the
18 admission of Exhibit 10, your Honor.

19 JUDGE CLISHE: Is there any objection to
20 Exhibit 10?

21 MR. VAN NOSTRAND: No objection other than
22 as previously stated in as much as it relies on
23 Exhibit 9.

24 JUDGE CLISHE: All right. I will overrule

25 any objection to Exhibit 10 and admit this into the
(BEDE - CROSS BY WILLIAMS)

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1 hearing record.

2 (Admitted Exhibit No. 10.)

3 MR. WILLIAMS: That's all I have, your
4 Honor.

5 JUDGE CLISHE: All right, thank you.
6 Commissioners, do you have questions of this witness?

7 COMMISSIONER CASAD: No.

8 COMMISSIONER HEMSTAD: I have no questions.

9 JUDGE CLISHE: All right. Mr. Van
10 Nostrand, do you have any redirect of Mr. Bede?

11 MR. VAN NOSTRAND: Yes, I do, your Honor.
12 Just a few questions.

13

14 REDIRECT EXAMINATION

15 BY MR. VAN NOSTRAND:

16 Q. Mr. Bede, if we could follow up a moment on
17 your discussion with Ms. Egeler on the escrow account
18 in the Thurston County action appealing the Commission
19 decision. Why was that escrow account set up?

20 A. That was set up to insure that if the
21 company did not win in its litigation, that there was
22 a resource to refund to generators and to escrow the
23 amount between the UTC case and the state -- UTC rate
24 and the state rate.

25 Q. And at whose request was the escrow account
(BEDE - REDIRECT BY VAN NOSTRAND) 151

1 set up?

2 A. On the request of the court, and the
3 request of the intervenors really in that litigation.

4 Q. And was any request made by Public Service
5 of Colorado with respect to escrow of the difference
6 between the UTC rate and the extraordinary volume
7 rate?

8 A. No.

9 Q. And is there anything that would prevent
10 the company from making a refund to Public Service of
11 Colorado independent of the escrow fund?

12 A. No. It's my assumption that if we are
13 successful in -- assuming -- in establishing that that
14 is extraordinary volume, that the company would make
15 that refund.

16 Q. If I could follow up a little bit on the
17 discussion you had with Mr. Hatcher regarding your
18 testimony on the reliability of projections made by
19 the generators. Mr. Hatcher discussed with you the
20 actual deliveries versus the projections with respect
21 to Public Service of Colorado, the Supply System, and
22 Portland General Electric. Do you recall that?

23 A. That's correct.

24 Q. Did you have in mind other generators as

25 well when you made the statement regarding the

(BEDE - REDIRECT BY VAN NOSTRAND)

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1 asserted self-serving nature of their volume
2 projections?

3 A. Certainly. The two that come to mind are
4 certainly Teledyne Wah Chang and Precision Castparts.

5 Q. What are the circumstances with respect to
6 Teledyne Wah Chang that led you to make that assertion
7 in your testimony?

8 A. The statement that they are going to have
9 extraordinary volumes for an additional cleanup, and
10 the statement dealing with Precision Castparts dealing
11 with the decommissioning of a building.

12 Q. Turning first to the statements from
13 Teledyne Wah Chang, what is your basis for not
14 accepting the volume projection regarding the asserted
15 extraordinary volume delivery?

16 A. It's based on personal knowledge. A
17 similar situation occurred in December of 1992 which
18 extraordinary volume was accepted from Teledyne Wah
19 Chang. At that time we received about 52,000 cubic
20 feet. Teledyne's estimate was much greater than that.
21 In further verification of the levels that Mr. Young
22 was using with Teledyne Wah Chang people, they were
23 noted as being gross figures of the amount of waste of
24 the entire cleanup, not the amount of waste that was

25 going to be coming to US Ecology's facility.

(BEDE - REDIRECT BY VAN NOSTRAND)

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1 Approximately 20 to 25 percent of the waste that was
2 excavated in the December project came to our
3 facility.

4 The reference that 21,000 cubic feet are on
5 the pad, further verification of that indicates that
6 somewhere between 20 to 25 percent of that waste is
7 going to come to our site. That was not an accurate
8 projection that 21,000 or that 50 to 70,000 cubic feet
9 are going to come to our facility. and that's from
10 personal knowledge and also further communications
11 with that generator.

12 Q. And what about the circumstances with
13 respect to Precision Castparts that led you to make
14 your statement regarding asserted self-serving
15 projections?

16 A. Precision Castparts indicated that they
17 have changed their process and would not be giving us
18 any additional waste. This decommissioning was
19 indicated maybe could happen sometime before July of
20 1994. It was not indicated that this waste is
21 guaranteed to come in in the fourth quarter or any
22 time during 1993 or if the 12,000 cubic feet volume is
23 an accurate volume. It could be more, it could be
24 less than that. But they were unwilling to say that,

25 yes, 12,000 cubic feet is the volume.

(BEDE - REDIRECT BY VAN NOSTRAND)

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1 MR. VAN NOSTRAND: I have no further
2 questions, your Honor.

3 JUDGE CLISHE: All right, thank you.

4 COMMISSIONER HEMSTAD: I have one.

5 JUDGE CLISHE: Yes, Commissioner.

6

7

EXAMINATION

8 BY COMMISSIONER HEMSTAD:

9 Q. Mr. Bede, if this Commission were to
10 conclude that it was appropriate to use a 12-month
11 standard rather than a 4-month standard that you're
12 proposing, would you agree that that period should be
13 that which the staff is using here, which I believe is
14 May 1992 through April 1993?

15 A. Right. There are some aberrations during
16 that period that is not a consistent 12-month period.

17 Q. All right, but if that's the appropriate
18 12-month period, in looking at it were we to so
19 conclude that a year is the appropriate standard, is
20 all of the waste that was delivered to the site during
21 that 12-month period exclusively from the Northwest
22 region or is there any that was delivered there from
23 outside of our region?

24 A. No. This is strictly Northwest Compact

25 waste.

(BEDE - EXAMINATION BY HEMSTAD)

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1 Q. It is only that?

2 A. It is only that, yes.

3 Q. Now, it's your position that the December
4 waste is extraordinary and should be excluded.

5 Wouldn't it follow that at least sometime during that
6 year that waste would have been delivered?

7 A. No. It's possible that that waste would
8 not have been delivered at all. I give the example of
9 Teledyne Wah Chang, the decision to remediate and ship
10 52,000 cubic feet. That was a decision that was --
11 may not have been made at any time. It was made for
12 an economic reason that this is the time to do this.
13 That material, as I understand, could stay in situ.

14 Q. Indefinitely?

15 A. EPA is doing a cleanup of that area. I'm
16 not fully aware that it could be there indefinitely.
17 I'm not exactly sure if it would have ended up at our
18 facility. It possibly could have ended up at another
19 facility, a facility other than our Richland site.

20 Q. Where would that be?

21 A. At a facility, could be Barnwell. It could
22 be Envirocare of Utah's facility in Clive, Utah,
23 which is a facility within the Northwest Compact.

24 Q. So it's your position that the

25 extraordinary volumes of December might -- should be
(BEDE - EXAMINATION BY HEMSTAD)

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1 excluded because they could have gone someplace else?

2 A. No. I'm saying they were extraordinary
3 because they took advantage of the opportunity to
4 dispose of that waste at that time. If that 52,000
5 cubic feet would have been disposed of, say, on
6 January 1, 1993, it would have been receptive to an
7 additional \$6.50 per cubic foot surcharge, and if that
8 additional revenue was put on that, that cost, that
9 might have influenced a decision for that waste to go
10 somewhere else or not go anyplace at all.

11 COMMISSIONER HEMSTAD: That's all I have.

12 JUDGE CLISHE: Thank you. Any other
13 questions, any other recross? Mr. Dudley?

14 MR. DUDLEY: Yes, if I might.

15

16 RE-CROSS-EXAMINATION

17 BY MR. DUDLEY:

18 Q. In response to your question by Mr. Van
19 Nostrand, you talked about the estimates of Precision
20 Castparts. You don't mean to suggest that Mr. Young
21 has used any estimates at Precision Castparts in his
22 testimony, are you?

23 A. That are -- Mr. Young is using estimates
24 for Precision Castparts I believe of 12,000 cubic

25 feet.

(BEDE - RECROSS BY DUDLEY)

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1 Q. I'm wondering if you could point to me in
2 his testimony where he does that.

3 A. Maybe -- I don't have his testimony right
4 with me, but it was my assumption that that was what
5 the statement was made. I could be mistaken on that.
6 In fact, in retrospect, I believe that Mr. Young talks
7 about Teledyne, the Supply System, and Portland
8 General Electric.

9 MR. DUDLEY: Thank you. That's all I
10 have.

11 JUDGE CLISHE: Any other questions of Mr.
12 Bede?

13 MR. WILLIAMS: Your Honor, I have two
14 questions.

15

16 RECROSS-EXAMINATION

17 BY MR. WILLIAMS:

18 Q. Mr. Bede, you are aware, are you not, that
19 the Teledyne Wah Chang plant facility is undergoing an
20 EPA supervised cleanup?

21 A. That's correct.

22 Q. Do you have any knowledge that EPA would
23 permit that waste to remain in situ?

24 A. I'm not aware of what the EPA cleanup

25 program is. I can't comment that it could not be kept

(BEDE - RE CROSS BY WILLIAMS)

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1 there. If it is determined to be innocuous waste, it
2 certainly probably could stay there.

3 Q. Do you think the company would incur the
4 cost to ship it to you if it remained where it is?

5 A. Probably not.

6 Q. Are you aware that Teledyne Wah Chang has
7 ever sent any waste to Envirocare of Utah?

8 A. They have not.

9 MR. WILLIAMS: Thank you. That's all I
10 have.

11 JUDGE CLISHE: All right. Anything else
12 for Mr. Bede? Thank you, Mr. Bede, for your
13 testimony. All right, thank you. Ms. Egeler, would
14 you like to call your witness, please.

15 MS. EGELER: Yes. I would like to call
16 Julia Parker.

17 JUDGE CLISHE: All right. Ms. Parker,
18 would you like to raise your right hand, please.

19 Whereupon,

20 JULIA M. PARKER,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23 MS. EGELER: I would like to have Ms.
24 Parker's testimony and the exhibits as she has

25 prefilled marked for identification.

(BEDE - RECROSS BY WILLIAMS)

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1 JUDGE CLISHE: All right. I'll mark for
2 identification as Exhibit T-11 what is identified as
3 JMP-1, and I will mark for identification as Exhibit
4 JMP-2, that will be marked as Exhibit 12. Exhibit 13
5 will be for identification JMP-3. Exhibit 14 for
6 identification will be JMP-4.

7 (Marked Exhibits Nos. T-11, 12, 13 and 14.)

8 MS. EGELER: We have JMP-4R which is the
9 revised Exhibit 4 that we passed out, your Honor.

10 JUDGE CLISHE: All right. If you'll please
11 substitute what Ms. Egeler has just passed out as the
12 exhibit that is JMP-4.

13 And I will mark for identification as JMP-5
14 Exhibit 15.

15 (Marked Exhibit No. 15.)

16

17 DIRECT EXAMINATION

18 BY MS. EGELER:

19 Q. Ms. Parker, would you state your full name,
20 spelling your last for the record.

21 A. My name is Julia M. Parker. It's
22 P A R K E R.

23 Q. And would you please give your business
24 address.

25 A. It's Chandler Plaza Building, 1300 South
(PARKER - DIRECT BY EGELER) 160

1 Evergreen Park Drive Southwest, Olympia, Washington,
2 98504.

3 Q. Referring to what has been marked for
4 identification as Exhibit T-11 for identification, is
5 this your entire direct testimony in this case?

6 A. Yes, it is.

7 Q. Do you have any corrections or additions to
8 make to that document?

9 A. No, I do not.

10 Q. Is it therefore true and correct to the
11 best of your knowledge and belief?

12 A. Yes, it is.

13 Q. In the course of your testimony are you
14 sponsoring what has been marked for identification as
15 Exhibits 12 through 15?

16 A. Yes, I am.

17 Q. With the understanding that there has been
18 a replacement page substituted for Exhibit 14, are
19 there any other corrections to be made to those
20 exhibits?

21 A. No, there is not.

22 Q. And are they true and correct to the best
23 of your belief and knowledge at this time?

24 A. Yes, they are.

25

MR. EGELER: Your Honor, I would offer

(PARKER - DIRECT BY EGELER)

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1 Exhibit T-11 and Exhibits 12 through 15 for admission
2 at this time.

3 JUDGE CLISHE: Is there any objection to
4 Exhibit T-11 and 12 through 15? Hearing no objection,
5 I'll admit Exhibit T-11 and 12 through 15.

6 (Admitted Exhibits Nos. T-11, 12, 13, 14,
7 and 15.)

8 MS. EGELER: Ms. Parker is available for
9 cross-examination now.

10 JUDGE CLISHE: All right. Mr. Van
11 Nostrand, do you have questions of Ms. Parker?

12 MR. VAN NOSTRAND: Yes, I do, your Honor.
13 Just a few.

14

15 CROSS-EXAMINATION

16 BY MR. VAN NOSTRAND:

17 Q. Good morning, Ms. Parker.

18 A. Good morning.

19 Q. You testified on behalf of staff in US
20 Ecology's general rate case last year, is that right?

21 A. Yes, I did.

22 Q. And in that proceeding you presented
23 testimony regarding historical volumes and you also
24 made a proposal regarding rate year volumes, is that

25 right?

(PARKER - CROSS BY VAN NOSTRAND)

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1 A. That's correct.

2 Q. And do I recall correctly that it was your
3 volume projection that was adopted by the Commission
4 in the seventh supplemental order?

5 A. Yes, it was.

6 Q. In turning to your testimony in this
7 proceeding, one of the things that you examine is the
8 company's calculation of the inflation adjustment, is
9 that right?

10 A. That's correct.

11 Q. And I take it from your testimony you agree
12 with the company's method, with minor qualification,
13 is that right?

14 A. That's correct.

15 MR.VAN NOSTRAND: Your Honor, I would like
16 to have an exhibit marked for identification.

17 JUDGE CLISHE: All right. I'll mark for
18 identification as Exhibit 16 a three-page document
19 identified on the first page WUTC Versus US Ecology,
20 Incorporated, and this appears, at least the first
21 page, to be a response to respondent's Data Request
22 No. 1-1.

23 (Marked Exhibit No. 16.)

24 Q. Ms. Parker, do you recognize what has been

25 marked for identification as Exhibit 16 as staff's
(PARKER - CROSS BY VAN NOSTRAND)

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1 response to the company's Data Request No. 1-1?

2 A. Yes, I do.

3 Q. And this relates to your testimony
4 regarding the source of your information on the
5 inflation adjustment, is that right?

6 A. That's correct.

7 Q. And this is the document from which you
8 excerpted the figure used in your calculation to
9 verify the company's calculation of the inflation
10 adjustment?

11 A. That's correct.

12 MR. VAN NOSTRAND: Your Honor, I move the
13 admission of Exhibit 16.

14 JUDGE CLISHE: Is there any objection to
15 Exhibit 16 being admitted into the hearing record?
16 Hearing none, I will admit Exhibit 16 into the record.

17 (Admitted Exhibit No. 16.)

18 Q. The other thing you pointed out in your
19 testimony is a mathematical error in the company's
20 calculation of the impact of the inflation adjustment
21 on the revenue requirement, is that correct?

22 A. That's correct.

23 Q. And have you had an opportunity to review
24 the revised exhibits prepared by Mr. Bede and

25 sponsored by him this morning?

(PARKER - CROSS BY VAN NOSTRAND)

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1 A. Yes, I have.

2 Q. And his revisions do correct for the
3 mathematical errors discussed in your testimony?

4 A. Yes, they do.

5 Q. So there's no disagreement about the
6 revenue requirement of \$4.907 million roughly?

7 A. Yeah, that's correct.

8 Q. \$4,907,649?

9 A. That's correct.

10 Q. If you could turn to your testimony on the
11 analysis of the volume adjustment. Your testimony
12 states that the actual volumes from the Northwest and
13 rocky mountains regions during the 12 months ended
14 April 1993 was 250,318 cubic feet, is that right?

15 MS. EGELER: Could we have a page
16 reference, please?

17 MR. VAN NOSTRAND: Page 7, lines 17 through
18 19.

19 A. Could you repeat your question, please.

20 Q. Yes. I'm just confirming that the 250,318
21 cubic feet was delivered from Northwest Rocky Mountain
22 regions during the 12 months ended April 1993
23 according to your testimony.

24 A. Yes, that's correct.

25 Q. And included in this figure are volumes for
(PARKER - CROSS BY VAN NOSTRAND) 165

1 December 1992 of 131,887 cubic feet, is that correct?

2 A. That's correct.

3 Q. And you would agree, wouldn't you, that an
4 unusual combination of circumstances occurred at the
5 site during the fourth quarter of 1992 that
6 contributed to these abnormally high volumes?

7 A. Yes, I do.

8 Q. And one of these circumstances that you
9 mention in your testimony is the \$6.50 surcharge
10 imposed by Benton County beginning in January 1993, is
11 that right?

12 A. That's correct.

13 Q. And you would agree, wouldn't you, that
14 the imposition of this surcharge represented a
15 material change in the cost of disposal?

16 A. I would agree that the cost of disposal
17 does increase.

18 Q. I believe your testimony is that this
19 caused the overall cost of disposal to increase to a
20 level which had an impact on the delivery of waste to
21 the site.

22 A. That's correct.

23 Q. And to avoid this added cost generators
24 adjusted their delivery schedules and disposed of

25 larger than normal volumes during December 1992, is

(PARKER - CROSS BY VAN NOSTRAND)

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1 that a fair statement?

2 A. That's true.

3 Q. And another change in circumstances cited
4 in your testimony was the imposition of rate
5 regulation at the site which resulted in an assessment
6 of a Commission regulatory fee, is that right? If I
7 could refer you to your testimony at page 11, lines
8 15, 16.

9 A. That's true.

10 Q. And your proposal --

11 MS. EGELER: Excuse me. Could we have some
12 clarification. I'm not sure if I understand the
13 question. Were you referring to her statement or were
14 you asking her to agree to your statement that rate
15 regulation changed conditions at the site? I heard
16 two different things.

17 MR. VAN NOSTRAND: No. I was asking for
18 her agreement that a change in circumstances was the
19 imposition of regulation which resulted in the
20 Commission regulatory fee which she refers to on lines
21 15 and 16 on page 11 of her testimony.

22 MS. EGELER: Is that what you understood
23 yourself to be asked, Ms. Parker?

24 THE WITNESS: Yes.

25 Q. Turning to what you're proposing in this
(PARKER - CROSS BY VAN NOSTRAND) 167

1 proceeding for application of the volume adjustment,
2 you're proposing to use the 12 months ended April 1993
3 but to exclude December '92 and January '93 as
4 abnormal, is that right?

5 A. That's correct.

6 Q. And then you annualize the volume based on
7 the remaining ten months, is that right?

8 A. That's correct.

9 Q. And doing this produces a volume of 136,032
10 cubic feet?

11 A. Yes.

12 Q. And if this volume is used for purposes of
13 the volume adjustment, that produces your proposed
14 rate of \$31.54 per cubic foot, is that right?

15 A. That's correct.

16 Q. And later on this year under the automatic
17 adjustment mechanisms the company will be submitting
18 its second semi-annual rate adjustment, is that right?

19 A. That's correct.

20 Q. And this would be for rates to be effective
21 January of 1994?

22 A. Yes, according to the schedule effective in
23 January.

24 Q. And is it your understanding that for

25 purposes of that semi-annual rate adjustment the

(PARKER - CROSS BY VAN NOSTRAND)

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1 volume portion of that adjustment would be based on a
2 rolling 12 months ending October 1993?

3 A. Yes, that's my understanding.

4 Q. And this 12-month period would continue to
5 include December 1992 and January 1993, is that right?

6 A. That's correct.

7 Q. And do I understand your testimony
8 correctly that you anticipate again excluding these
9 two months from the rolling 12-month average for
10 purposes of that rate adjustment?

11 A. I would have to look at the volumes that
12 have come in during the period of time between this
13 adjustment and the next adjustment and make my
14 decision.

15 MR. VAN NOSTRAND: I have no further
16 questions, your Honor.

17 JUDGE CLISHE: All right. I think at this
18 point we'll take our lunch break and come back at
19 1:30. Thank you. We'll be off the record.

20 (Lunch recess taken at 11:58 a.m.)

21

22

23

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25

(PARKER - CROSS BY VAN NOSTRAND)

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AFTERNOON SESSION

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1:32 p.m.

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JUDGE CLISHE: Let's be back on the record after our lunch break, and would you like to go ahead with questions of Ms. Parker, Mr. Van Nostrand.

MR. VAN NOSTRAND: I completed my cross-examination, your Honor.

JUDGE CLISHE: All right, thank you. Mr. Hatcher.

MR. HATCHER: I just have a couple questions, your Honor.

CROSS-EXAMINATION

BY MR. HATCHER:

Q. Ms. Parker, is it your understanding that the Commission did order a rolling 12-month average that would include each and every month within the May to April time frame?

A. It's my understanding that the Commission adopted the company's proposal in the previous case which was to use a 12-month rolling average.

Q. And your proposal then is a modification of what the Commission adopted?

A. My proposal is to look at the 12 months as

25 was indicated in the previous filing and make an

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1 adjustment for the reasonableness of the data that it
2 provided.

3 Q. Within the Commission order, to your
4 knowledge, was there an adjustment mechanism such as
5 that you are proposing in the present matter?

6 A. I don't believe the order addressed an
7 adjustment mechanism, and I don't believe it
8 prohibited one either.

9 Q. Prior to the luncheon break Mr. Van
10 Nostrand asked whether December and January would
11 always be adjusted out so long as they were within the
12 12-month window. Do you recall that question?

13 A. Yes, I do.

14 Q. And your response, I think, was you didn't
15 know, you would have to look at the data?

16 A. That's correct.

17 Q. What exactly would you look at?

18 A. I would look at the results of the 12-month
19 period that we would be looking at for that adjustment
20 and determine whether December continues to be an
21 outlier and whether those circumstances would not
22 continue into the future.

23 Q. Would your review be limited solely to
24 December and January?

25 A. No. My review would encompass the 12

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1 months ended I believe it's October.

2 Q. So you would look at each and every month
3 within that 12-month period for any outliers?

4 A. That's correct.

5 Q. And the outliers could be either high-
6 volume months or low-volume months?

7 A. They could be in terms of volume or in
8 terms of circumstances which would affect the volumes
9 for those months.

10 Q. Would you not be looking at the result of
11 that of the specific months within that 12 months to
12 see if their volumes were either high or low?

13 A. I would take that into account as well.

14 Q. You then are not looking just strictly at
15 the aggregate volume within a specific month, you're
16 looking for factual circumstances surrounding why a
17 specific month has a level of volume associated with
18 it?

19 A. I think when looking at the volumes you
20 have to look at all the circumstances involved in
21 determining whether that volume will continue into the
22 future.

23 Q. And you conducted an analysis of the
24 May '92 to April '93 volumes on a month-by-month

25 individual case basis is what you're indicating?

(PARKER - CROSS BY HATCHER)

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1 A. I looked at month-to-month volumes.

2 Q. Did you look at any specific circumstances
3 associated with any month within the April -- I'm
4 sorry, within the May '92 to April '93 time period
5 other than December, January, and February?

6 A. I looked into the circumstances involving
7 each month as they pertained to the volumes.

8 Q. And what specific circumstances did you
9 look at?

10 A. In reviewing the volumes as shown on my
11 Exhibit 4R, Exhibit 14 in this proceeding, I had to
12 look at whether the volumes would continue into the
13 future. There are certain circumstances in each of
14 the months, obviously, that would attribute to the
15 volumes, and I took those circumstances into account.
16 Now, there are a lot of assumptions to be made at any
17 time and so I couldn't look solely at the
18 circumstances during the 12-month time period which
19 we're looking at right now. I had to compare the 12
20 months to each of the months for the last six years,
21 so I -- my review encompassed the period in time we're
22 looking at right now, 12 months ended April of '93,
23 but it also looked at volumes for each and every month
24 as far back as 1987.

25 Q. Now, with regard to December of '92, the

(PARKER - CROSS BY HATCHER)

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1 volumes there were high?

2 A. They were high.

3 Q. And that triggered your review of specific
4 factors associated with whether that particular volume
5 would be expected to continue?

6 A. Yes.

7 Q. Did you do that type of filtering analysis
8 with regard to each and every other month within
9 the May '92 to April '93 time frame to determine
10 whether you would conduct a more in-depth analysis of
11 it? For example, did you look at January '92, 18,000
12 cubic feet and what process did you utilize to
13 determine whether you would or whether you would not
14 conduct an analysis of volumes received in January
15 of '92 to determine whether those volumes could be
16 expected to continue into the future?

17 A. I did look at volumes within a range, like
18 I stated before, and I compared the volumes -- the
19 monthly volumes with the monthly volumes as far back
20 as 1987 or 1988.

21 Q. So you have a filter -- you basically have
22 a range of volumes that if they are within that range
23 you would not look further at a specific month?

24 A. If they fell within the range, they

25 appeared to be normal volumes and would appear to

(PARKER - CROSS BY HATCHER)

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1 continue into the future.

2 Q. And what is that range? Is the range the
3 same for each and every month within a period or is it
4 all Januarys within the last six years?

5 A. I think the range -- well, the range I
6 looked at is a range approximating about 5,000 cubic
7 feet per month up to about 20,000 cubic feet per
8 month. During the period of time we looked at a
9 volume each and every month as long as the company was
10 nonregulated, the volumes appeared to be -- and that's
11 the historical volume which we had to look at, was the
12 nonregulated periods -- the volumes appeared to be
13 within that range. There seemed to be no real
14 operating cycle where January appeared to have the
15 same amount of volume every month. Therefore, as long
16 as the volumes were not, say, ten times the volumes of
17 the preceding month, there appeared to be nothing to
18 indicate to look into those volumes.

19 Q. Do I understand that a two-stage -- and
20 I'll use the word "litmus test" first off, if a
21 particular volume within a month was within the range
22 of five to 20,000 cubic feet, that was one indication
23 that those volumes would be expected to continue, and
24 also you looked at whether a specific month was within

25 a 10,000 cubic foot range of the preceding month?

(PARKER - CROSS BY HATCHER)

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1 A. That's fairly accurate, yes.

2 Q. Are there any other parameters associated
3 with your methodology as to what months to look at
4 more in-depth than others or are those the only two?

5 A. Those were two. I also randomly chose a
6 month to look at the circumstances surrounding those
7 months.

8 Q. And what factors prompted a random
9 selection of specific months or of a month?

10 A. I don't know if I can state any type of a
11 factor that prompted a look into a month. In
12 the previous case the company had provided their
13 pricing schedules through a period of time and I
14 looked at the volume received just prior to a month
15 where the price increased and --

16 Q. You've mentioned that before. I'm sorry,
17 no. That is a different factor. So you looked at
18 months where price increases occurred?

19 A. Yes. I briefly looked at months where
20 price increases occurred and the months following to
21 see if there was a relationship in an unusual amount
22 of disposal during that period of time.

23 Q. Whether the disposal volumes increased
24 prior to --

25 A. Yes.

(PARKER - CROSS BY HATCHER)

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1 Q. -- the price increase?

2 Did you inquire as to whether the company
3 signaled price increases or did you just look at
4 whether there in fact was a price increase or not?

5 A. I looked at the basic price increase.
6 There was no way in the records we had to know where
7 the company had signaled a price increase.

8 Q. Without knowing whether or not the company
9 signaled a price increase, how were you able to
10 correlate any cause-and-effect relationship between a
11 price change and an increase in volumes from a
12 preceding month?

13 A. I did no correlation of cause and effect.
14 I just briefly did a summary review and when the price
15 increase happened and the approximate amount of a
16 change in volume.

17 Q. And again I think I may have asked you this
18 and I apologize if I did, but within the '92 rate case
19 was there or was there not any specific recognition
20 within the semi-annual volume adjustment mechanism
21 adopted by the Commission that would permit an
22 adjustment of the type that you have described to
23 occur?

24 MS. EGELER: Objection. Your Honor, that

25 has been asked and answered twice already.

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1 JUDGE CLISHE: Any response, Mr. Hatcher?

2 MR. HATCHER: No response.

3 JUDGE CLISHE: I'll sustain the objection.

4 I think that has been in the record already.

5 MR. HATCHER: I have nothing further.

6 Thank you.

7 JUDGE CLISHE: All right. Ms. O'Malley,

8 did you have questions of Ms. Parker?

9 MS. O'MALLEY: Just a couple.

10

11 CROSS-EXAMINATION

12 BY MS. O'MALLEY:

13 Q. In your exhibit which is now Exhibit 15 of
14 your testimony you subtracted \$377,055 from the new
15 revenue requirement that you identified. You
16 performed that as a result of the Commission's order?

17 A. That's correct.

18 Q. So this number is not based on actual
19 collection of revenues for Schedule B charges?

20 A. No, it's not.

21 Q. If you had information that the Schedule B
22 charges resulted in more than 377,055 being collected,
23 would you have subtracted that same amount?

24 A. I believe the initial order chose \$377,000

25 as revenues which were to be used for Schedule B

(PARKER - CROSS BY O'MALLEY)

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1 because they reflect accurately the costs associated
2 with providing those services, and if additional
3 revenues were collected, it's assumed in this -- or I
4 assumed that the costs were generated to -- or had
5 been covered and had been associated with those. So
6 if additional revenues had been collected, then
7 additional costs had been incurred.

8 Q. All right. If you were aware that
9 additional revenues had been collected, would you have
10 used a different number?

11 A. No, I would not.

12 Q. If it turned out that less than the 377,000
13 and so forth dollars was collected, would you have
14 used a lower number or would you continue to have used
15 the 377?

16 A. I would continue to use the 377 until such
17 time it appeared that that was an incorrect number to
18 use.

19 Q. Okay. What would give you the impression
20 it was an incorrect number?

21 A. In the '92 case, the general rate case, we
22 looked at the costs associated with providing Schedule
23 B -- or Schedule B charges of services, and to deter
24 from the \$377,000 worth of revenue subtracted here, we

25 would have to look into the costs again. I believe

(PARKER - CROSS BY O'MALLEY)

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1 that would be done in the '95 rate case as ordered by
2 the Commission.

3 Q. So you don't believe that any correction of
4 that number should occur until the '95 rate case?

5 A. In the '95 rate case is the appropriate
6 time to correct that number.

7 Q. Okay. In the meantime, however, over the
8 next several years and through each rate adjustment,
9 but over the next several years, a collection in
10 excess of the 377,000 would result in an
11 overcollection of that Schedule B allotment, is that
12 correct?

13 A. No. I don't think an overcollection of
14 the Schedule B allotment. The Schedule B charges are
15 set up to cover Schedule B expenses, and it's assumed
16 that they are collecting the proper operating margin
17 for the Schedule B services, so there would be no
18 adjustment and I don't believe an overcollection as
19 well.

20 Q. But you wouldn't change your subtraction of
21 that \$377,000 amount?

22 A. Not from the overall revenue requirement.

23 Q. Your calculation in Exhibit 15 also
24 identifies your multiplication of your -- of the

25 adjusted new revenue requirement after the Schedule B
(PARKER - CROSS BY O'MALLEY) 180

1 subtraction. You multiplied it by 95 percent. Is
2 that also as a result of what was ordered in the
3 supplemental, the seventh supplemental order?

4 A. It was a result of the rate design that was
5 ordered in the '92 rate case.

6 Q. Okay. And that provides for 95 percent of
7 the revenues to be collected through volumes, is that
8 your understanding?

9 A. That's my understanding.

10 Q. That leaves five percent for activity and
11 exposure charges?

12 A. That's correct.

13 Q. And again, if it was shown that activity
14 and exposure charges exceeded the five percent of the
15 revenue requirement, the actual collection of the
16 activity and exposure charges exceeded the five
17 percent that -- what would be five percent of the
18 revenue requirement, would that modify your
19 calculation at all in this circumstance?

20 A. If it were shown that more than five
21 percent of the revenue were from the activity charges,
22 yes, a modification of the percentage should be made.
23 There is -- until the '95 case there is no way to
24 determine whether a modification is made, therefore, I

25 used the 95 percent for this proceeding.

(PARKER - CROSS BY O'MALLEY)

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1 Q. You don't believe that actual data is able
2 to be achieved in the meantime?

3 A. I don't believe the means or, well, the
4 actual data on a full test year basis is available at
5 this time. The Commission set up the '95 rate case to
6 establish and adjust the rate design mechanism and the
7 adjustment mechanisms for the reason that we need to
8 have a period of time to collect data underneath the
9 guidelines set forth by the Commission and make the
10 adjustments later.

11 Q. So prior to the 1995 rate case, despite the
12 fact there may be an overcollection in the activity
13 and exposure charges over and above the five percent,
14 you don't suggest that any adjustment should be made?

15 A. I don't think that we have the ability to
16 make that adjustment in the semi-annual adjustment
17 proceedings.

18 Q. And that's despite the fact that the impact
19 of that is that there is a greater collection over the
20 revenue requirement that would result in a collection
21 over the revenue requirement?

22 MS. EGELER: Objection. That assumes facts
23 which are not in evidence. Ms. O'Malley is suggesting
24 that there's an overcollection and Ms. Parker has

25 repeatedly said we don't have the data or the ability

(PARKER - CROSS BY O'MALLEY)

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1 to get the data in this proceeding to see whether or
2 not there would be an overcollection.

3 MS. O'MALLEY: Your Honor, I was not
4 suggesting that that is the case at this time. I was
5 suggesting that exploring her methodology, that if in
6 fact the numbers showed that there was an
7 overcollection in activity and exposure charges over
8 and above the five percent, would she also make a
9 modification to her methodology or to the seventh
10 supplemental order's methodology, as she has done with
11 the volumes, to adjust for an overcollection of the
12 revenue requirement.

13 JUDGE CLISHE: I think as you've phrased
14 it, it could be a hypothetical and Ms. Parker can
15 answer that question. Do you understand that it's not
16 assuming facts, it's if these facts were present?

17 A. Could you repeat the question. I'm a
18 little confused.

19 Q. If it were shown that right now there's an
20 assumption that five percent of the activity and
21 exposure charges -- five percent of the revenue
22 requirement will be collected through activity and
23 exposure charges, and all I'm asking you to do is
24 ponder for a moment, if in fact it could be shown to

25 you that greater than five percent was being collected

(PARKER - CROSS BY O'MALLEY)

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1 by the company through activity and exposure charges
2 in one year, would that modify or would you modify
3 your calculation to reflect that there's an
4 overcollection in the revenue requirement by whatever
5 overage of the five percent the activity and exposure
6 charges result in the collection of?

7 A. If it could be shown that more than five
8 percent is collected through activity charges, I
9 believe a modification should be made to the
10 calculation.

11 Q. And additionally, if the opposite were
12 true, that less than five percent were collected in
13 activity and exposure, would you also recommend that
14 the parties wait until the 1995 rate case before that
15 adjustment is made?

16 A. Yes, I would recommend if the opposite were
17 true that we wait until the '95 rate case.

18 Q. I would like to refer you to page 12 of
19 your testimony which is Exhibit 11, for a moment, to
20 lines 13 through 15. In there you state that you
21 verified that -- well, you're discussing the site
22 surveillance increase from \$1.58 to 3.71 and you state
23 that both of these changes were verified with the
24 responsible agency. You just verified that the change

25 occurred, is that correct?

(PARKER - CROSS BY O'MALLEY)

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1 A. I verified that the change occurred and
2 that what the new rates were.

3 Q. Okay. You didn't verify whether the new
4 rates were correctly calculated?

5 A. Because we don't have jurisdiction over the
6 other agencies, there's no reason for me to calculate
7 whether they -- or redo their calculation and say
8 whether they're right or wrong.

9 Q. Okay. And your opinion here is not
10 reflecting that that's an appropriate number, \$3.71?

11 A. No, I'm not saying that's an appropriate
12 number.

13 Q. In -- do you know on what basis those --
14 that number was calculated, on what volume amount that
15 number was calculated?

16 A. I do have a memorandum which states what
17 the volume used by Department of Health to set the
18 \$3.71.

19 Q. And if that volume number was shown to be
20 different, would you agree that that \$3.71 may be
21 different as well?

22 A. Yes. The \$3.71 would be changed after six
23 months if the volumes do not occur as the Department
24 of Health states that they will occur.

25 Q. Your recommendation at the bottom of this
(PARKER - CROSS BY O'MALLEY)

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1 page and approximately line 19, you refer to the
2 company being able to file their request for the site
3 surveillance fee and have it become effective
4 immediately at -- and you state in line 20 at the
5 correct rate. What are you referring to as the
6 correct rate?

7 A. It's my understanding that the Department
8 of Health has increased its site surveillance fee and
9 is charging the company the \$3.71 per cubic foot as
10 it's received by the site, and my recommendation is to
11 allow them to withdraw that page from this filing and
12 allow it to go -- be refiled under a separate docket
13 number and to go into effect immediately so that the
14 company is not bearing the cost of those extra fees.

15 Q. Are you aware that the state no longer
16 requires the company to collect that fee on the basis
17 of volume?

18 A. It's my understanding that the company is
19 required to collect on the basis of volume, it's a per
20 volume charge. In the past it's been a percent of
21 income received and they've now made it a percentage
22 -- or a set volume charge.

23 Q. Are you saying the state has made it a
24 percentage of volume charge?

25 A. No.

(PARKER - CROSS BY O'MALLEY)

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1 Q. Or that the company has made it a per
2 volume charge?

3 A. In the past, it's my understanding of the
4 statutes, and I'm not an attorney so I can't give a
5 legal opinion of what the statute says, but that it
6 was a percent of the basic disposal volume that set
7 the site surveillance fee? And the recent change has
8 made it a per cubic foot fee that will be imposed as
9 wastes are disposed at the site.

10 MS. O'MALLEY: Your Honor, may I take a
11 moment.

12 JUDGE CLISHE: Yes, that's fine.

13 MS. O'MALLEY: Your Honor, I would like to
14 show the witness a document which I would like to mark
15 for identification as an exhibit.

16 JUDGE CLISHE: All right.

17 MS. O'MALLEY: And I'm not sure what
18 exhibit we're on.

19 JUDGE CLISHE: The next exhibit is 17.
20 All right. I'll mark for identification as Exhibit
21 17 a four-page document. The first page indicates
22 that it is a response to Teledyne Data Request No. 6.

23 (Marked Exhibit No. 17.)

24 Q. Ms. Parker, have you had a chance to look

25 at this exhibit?

(PARKER - CROSS BY O'MALLEY)

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1 A. Yes, I have.

2 Q. Have you seen it before?

3 A. No, I have not.

4 Q. I would refer you to the third page of this
5 exhibit in a letter addressed to Mr. Barry Bede from
6 Gary Robertson of the Department of Health for the
7 state of Washington.

8 MS. EGELER: Your Honor, before counsel
9 begins, I would like to state if she is going to go
10 into the actual language of this letter, I would
11 object. Ms. Parker said she has never seen this
12 before. She is not the individual who wrote these
13 letters and she is not someone who received these
14 letters, and she is not someone to authenticate this.
15 This is not the appropriate witness to put the exhibit
16 in through.

17 MS. O'MALLEY: I'm not sure it's necessary
18 to admit this exhibit. It's simply to demonstrate to
19 Ms. Parker that if in fact according -- if this letter
20 were true, and the letter identifies that the state's
21 requirement for volume-based billing has changed to an
22 actual cost reflection on a quarterly basis, would
23 that change her opinion that the volume charges are
24 based -- are state based on -- excuse me -- the site

25 surveillance fee is state required to be based on

(PARKER - CROSS BY O'MALLEY)

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1 volume charges.

2 JUDGE CLISHE: I think it's fine if you ask
3 it in the nature of a hypothetical without assuming
4 that the numbers involved are true.

5 MS. EGELER: Your Honor, that being the
6 case, I believe that if this is not going to be
7 admitted for evidence that this should be collected
8 and not used as something which guides the
9 Commissioners in making a decision in any way.

10 MS. O'MALLEY: Your Honor, I have no
11 problem with that. I don't need it as an exhibit.
12 It's simply for Ms. Parker's information so she can
13 comfortably base her hypothetical on that.

14 JUDGE CLISHE: Why don't we withdraw
15 Exhibit 17, but you may, based on the information here
16 as a hypothetical, ask questions of Ms. Parker
17 regarding that.

18 (Withdrew Exhibit No. 17.)

19 MS. O'MALLEY: And if necessary, your Honor,
20 I may be able to get it in through another witness's

21 --

22 JUDGE CLISHE: Okay. That's fine.

23 MS. O'MALLEY: -- examination.

24 Q. Ms. Parker, would you agree that this

25 letter, at least on its face, appears to indicate that

(PARKER - CROSS BY O'MALLEY)

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1 the --

2 MS. EGELER: Objection. Your Honor,
3 counsel has stated that she will be using a
4 hypothetical in addressing Ms. Parker. Referring to
5 the letter and what the letter says is not the use of
6 a hypothetical.

7 JUDGE CLISHE: Any comments?

8 MS. O'MALLEY: Your Honor, if I ask her to
9 assume this letter is true for purposes of my
10 hypothetical, would that satisfy counsel?

11 MS. EGELER: I see this as putting this
12 into the record, into evidence through the back door.
13 If we don't call it an exhibit, then it's not an
14 exhibit. That's just not the case here, your Honor.

15 MR. DUDLEY: I have a suggestion. If we
16 could excuse Ms. Parker, get Mr. Bede on the stand and
17 see if we can provide the proper foundation for this
18 and get it in as an exhibit.

19 JUDGE CLISHE: That might be the easiest
20 way instead of spending time trying to tiptoe around
21 whether we need to use the information in it. Ms.
22 Parker.

23 MS. EGELER: Could I make a further
24 suggestion. In looking at a site surveillance fee

25 which is imposed by another state agency, the

(PARKER - CROSS BY O'MALLEY)

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1 Commission staff has to accept the Department of
2 Health's surveillance fee and pass it through, much
3 like a disposal fee from a landfill would be passed
4 through. The staff doesn't have the ability to tell
5 the other agency you're doing this incorrectly, and
6 therefore if we are being given -- if the staff is
7 being given misinformation from the company, then
8 perhaps counsel's questions should be addressed to the
9 company witness so that we can determine whether or
10 not the staff has been given inappropriate information
11 regarding another agency's surveillance fee.

12 MS. O'MALLEY: Your Honor, maybe I can
13 speed this up a little.

14 JUDGE CLISHE: Okay.

15 MS. O'MALLEY: What I would like to do is
16 simply demonstrate that Ms. Parker in her testimony
17 adopts the \$3.71 as the correct amount to be
18 associated with the volume charges, and that is based
19 on the volume estimates of the company at this time or
20 the volume estimates from which that \$3.71 was
21 generated which Ms. Parker has already testified to
22 and affirmed. What I would like to demonstrate here,
23 and I think we can avoid getting Mr. Bede on the
24 stand, although that would be fine if we need to do

25 that, however, my point is only that if in fact --

(PARKER - CROSS BY O'MALLEY)

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1 first of all, that this is -- if in fact this were not
2 a state-mandated requirement that the \$3.71 be
3 associated with the volume and that in fact that is a
4 company method of recovering their site surveillance
5 fee at this point, that that would change Ms. Parker's
6 calculation in terms of the site surveillance fee
7 being based on actual volumes delivered.

8 JUDGE CLISHE: Is that --

9 MS. EGELER: If you would like to ask that
10 question of her, you're asking it basically in a
11 hypothetical form, and I think that would be perfectly
12 fine.

13 JUDGE CLISHE: I think that's fine. Okay,
14 why don't you do that.

15 Q. Ms. Parker, if you had information that the
16 site surveillance fee was not a state-mandated
17 requirement, would you necessarily adopt the \$3.71 as
18 appropriate for recovery of the state's site
19 surveillance fee requirement?

20 A. In my discussions with the Department of
21 Health on just this issue, they stated that their site
22 surveillance fee would be \$3.71. I received
23 calculations of the \$3.71 and even though I do not
24 agree with the volumes that they used in calculating

25 their \$3.71, I don't believe it's the place of staff
(PARKER - CROSS BY O'MALLEY)

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1 to say whether or not the \$3.71 should or should not
2 be -- well, actually I believe it's staff's position
3 that it should be placed in the tariff because the
4 Department of Health has stated that's what their site
5 surveillance fee is and will be collected on the basis
6 of volumes.

7 Q. Okay. And all I'm asking you to assume for
8 the moment is that the State of Washington Department
9 of Health does not require \$3.71 per cubic foot and
10 that in fact that is a company determined number to
11 recover their obligation to the state.

12 A. If that is not a Department of Health
13 number, then the Department of Health should tell us
14 what their number is so that we can get it into the
15 tariff. The site surveillance fee is mandated by
16 statute and the statute should indicate how it should
17 be calculated and what it should be. I don't believe
18 the company should be able to set the rate of a state
19 imposed fee.

20 Q. Okay. Thank you. Then would you agree
21 that on page 12 of your testimony, again, when you
22 refer to correct rate, that a correct rate would be
23 that rate which allows the company to meet its
24 obligation to the state to pay its site surveillance

25 obligation?

(PARKER - CROSS BY O'MALLEY)

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1 A. Yes.

2 Q. Whatever that number is?

3 A. Whatever the number is should be tariffed
4 and it should be what the company is paying to the
5 Department of Health to meet their obligation.

6 MS. O'MALLEY: Okay. Thank you. That's
7 all the questions I have.

8 JUDGE CLISHE: Thank you. Mr. Williams, do
9 you have questions of Ms. Parker?

10 MR. WILLIAMS: Yes.

11

12 CROSS-EXAMINATION

13 BY MR. WILLIAMS:

14 Q. Ms. Parker, I would like to ask you some
15 questions about your proposal for how the semi-annual
16 volume adjustment will work in the future. As I
17 understand your proposal, it is that the adjustment
18 will be based on 12 months historic volume adjusted in
19 two ways, the first way being for extraordinary
20 volumes as defined by statute and, second, for
21 reasonableness. If there are data within that 12
22 months which do not appear to be in line with previous
23 volumes, then they may be factored out. Is that a
24 fair summary of your proposal?

25 A. Yes.

(PARKER - CROSS BY WILLIAMS)

194

1 Q. Who will make the decision about whether
2 data within the 12 months should or should not be
3 included?

4 A. The final decision will be made by the
5 Commission, however, on the staff's review and their
6 recommendation to the commissioners, the staff will
7 make that determination.

8 Q. Would you agree that the presence of that
9 second factor in the determination leaves room for
10 disagreement among generators, the company, and
11 Commission staff about what is reasonable and what
12 should be included and excluded?

13 A. Yes, I believe there's room for
14 disagreement.

15 Q. Do you think, then, that that proposal will
16 lead to a greater likelihood that each six months we
17 will be in proceedings before the Commission
18 disagreeing about the semi-annual volume adjustment?

19 A. I don't believe that we will be in front of
20 the Commission every single six-month period for a
21 semi-annual volume adjustment. And I don't agree --
22 or believe this because the circumstances which came
23 about to encourage 131,000 cubic feet of waste to be
24 disposed of in one month I don't believe will ever

25 happen again.

(PARKER - CROSS BY WILLIAMS)

195

1 There are so many circumstances, for lack
2 of a better word, that made one month period to be
3 very similar to an entire year period that we looked
4 at during the test year. That one month is so extreme
5 that I don't believe we will be going through this and
6 doing a test of reasonableness for each and every
7 semi-annual volume adjustment.

8 Q. Are you saying, then, that as a matter of
9 principle, that in the future the adjustment will not
10 be subjected to your reasonableness test?

11 A. I think I always need to use and any staff
12 person in the Commission always uses a reasonableness
13 test. We're here to set fair, just, and reasonable
14 rates. But as a matter of course in the future, I
15 believe the operating cycle of the company and of all
16 the generators will take over and the rates will
17 resume at a normal level.

18 Q. But if the standard, if you will, for
19 making the adjustment includes a reasonableness test,
20 then would not the generators and the company in
21 addition to staff have the right to challenge the
22 reasonableness of including or excluding particular
23 data?

24 A. Could you restate your question.

25 Q. Yes. If the legal standard for making the
(PARKER - CROSS BY WILLIAMS) 196

1 semi-annual volume adjustment includes a test for the
2 reasonableness of including or excluding particular
3 data, if that's the legal standard, then does not each
4 generator and the company have the right to contest
5 whether or not inclusion or exclusion of particular
6 data is reasonable?

7 A. The generators or the intervenors in this
8 case and the company always have the right to contest
9 whatever opinions staff has on reasonableness in any
10 proceeding.

11 Q. Then do you not think that your proposal
12 makes it more likely that there will be proceedings
13 each six months before the Commission about the
14 semi-annual volume adjustment? I'm not asking you to
15 predict that it's going to occur every six months.
16 I'm just saying, don't you agree that it makes it more
17 likely that it will occur?

18 A. I think that to disregard a reasonableness
19 check in this proceeding would encourage -- or would
20 cause more proceedings to happen in front of the
21 Commission because of the fact that the company would
22 not be meeting a revenue requirement that was set by
23 the Commission.

24 Q. Well, your answer assumes that the company

25 would be, from its point of view, would suffer

(PARKER - CROSS BY WILLIAMS)

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1 detrimentally, but I'm asking a more general question.

2 I'm not talking about this specific adjustment and

3 whether or not, as your testimony suggests, the

4 company would file an emergency rate proceeding. I'm

5 just asking you to agree or disagree with the

6 proposition that your methodology makes it more likely

7 that each six months there will be a proceeding before

8 the Commission for the semi-annual rate adjustment.

9 A. I don't believe so. And my answer is based

10 on my six-year review of monthly volumes. In the

11 past, taking out two months did not make a significant

12 difference in any 12-month period. The months we're

13 looking at here are from, I believe, 28 -- or as high

14 as 28 times that of any other month received in the

15 six-year history that I looked at.

16 Q. So I take it that the answer to my question

17 about whether it's more likely is, no, you don't think

18 it will be more likely?

19 A. I don't believe it will be more likely, but

20 of course I can't foresee every instance in the

21 future.

22 Q. And you make that answer having witnessed

23 the 1992 rate case, the court proceedings, and this

24 proceeding?

25 A. Having witnessed those, that's why I

(PARKER - CROSS BY WILLIAMS)

198

1 qualify. I am proposing my volume at this point in an
2 effort to keep rates stable and to bring the industry
3 back to a stability that I think is necessary to
4 continue in the future so that we're not continuously
5 involved in semi-annual -- contested semi-annual
6 adjustments.

7 Q. Is it your understanding that the
8 semi-annual rate adjustment was intended by the study
9 group, by the Legislature, and by the Commission in
10 the 1992 rate case to be an automatic adjustment? And
11 by automatic I mean the application of historical
12 verifiable figures to an agreed or ordered formula
13 which is not subject to dispute.

14 A. That's correct.

15 Q. But your proposal is not automatic in that
16 sense, is it?

17 A. No. My proposal is not automatic for the
18 period of time in which we are looking at.

19 Q. Now, are you limiting your answer to the 12
20 months May '92 through April '93 or are you speaking
21 generally?

22 A. I'm limiting my answer to the periods which
23 would provide a skewed result, namely, in this case,
24 the 12 months ended April 1993.

25 Q. My concern, obviously, is that we not be
(PARKER - CROSS BY WILLIAMS)

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1 back here every six months. And I would suggest to
2 you that in principle your proposal is not automatic
3 because it requires the application of a
4 reasonableness test and therefore is not automatic.
5 Would you agree with that proposition?

6 A. My proposal is limited to this case and to
7 the case in January where the December volumes could
8 possibly skew the outcome of any rate set by this
9 Commission.

10 Q. All right. Perhaps I've misunderstood your
11 testimony then. Is it your proposal that the
12 reasonableness test be applied only to this adjustment
13 and to the next adjustment, but that thereafter it
14 would not apply?

15 A. It's my proposal that this particular
16 adjustment which I'm proposing be used in this case
17 and possibly in the January case if the circumstances
18 still state that it's the most reasonable, in the
19 future the Commission should look at the data and not
20 just perform a standard preset adjustment. The
21 Commission needs to keep its flexibility and use
22 judgment in making any semi-annual adjustment in the
23 future.

24 Q. So the reasonableness aspect of the test

25 would continue on?

(PARKER - CROSS BY WILLIAMS)

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1 A. I don't mean to say that we should be here
2 every six months, but I don't believe that the
3 Commission should state 12 months and no adjustments,
4 because we cannot predict in the future events which
5 would cause considerable swing in volume. We've seen
6 that by the December 1992 volumes. None of the
7 generators nor the company in the 1992 case predicted
8 131,000 cubic feet to be disposed of in December 1992.

9 Q. Could you turn, please, to Exhibit Number 8
10 if you have that on the witness stand. Do you have
11 Exhibit 8 in front of you now?

12 A. Yes, I do.

13 Q. And Exhibit 8 is the report of the study
14 committee, is that correct?

15 A. That's correct.

16 Q. And could you turn, please, to Appendix 2
17 which is toward the back. Do you have Appendix 2
18 before you?

19 A. Yes, I do.

20 Q. And that appendix is captioned Explanation
21 of Volume Adjustment?

22 A. That's correct.

23 Q. Could you read into the record, please, the
24 last two sentences of the second paragraph which

25 begins, Although the volume adjustment.

(PARKER - CROSS BY WILLIAMS)

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1 A. Although the volume adjustment will occur
2 every six months, it will be based on a rolling
3 12-month period. The volumes used for purposes of
4 calculating the volume adjustment would be those
5 reported periodically by US Ecology to the Department
6 of Ecology.

7 Q. Thank you. I would like to move to a
8 different subject, and the other subject is your
9 decision to exclude December and January volumes in
10 your proposal as to how the current semi-annual
11 adjustment should be made. Could you turn
12 particularly to page 7 of your testimony. At the
13 bottom of page 7 you state that you examined the
14 volumes for each month and determined that volumes in
15 three months varied significantly from other volumes,
16 is that correct?

17 A. That's correct.

18 Q. And those were the volumes for December
19 1992 and January and February 1993?

20 A. Yes.

21 Q. And your testimony goes on to say that
22 those appeared to be abnormal because December was
23 very high, for reasons that have been discussed, and
24 that consequently January and February were lower, is

25 that correct?

(PARKER - CROSS BY WILLIAMS)

202

1 A. I indicate that a corresponding low volume
2 was experienced in early '93.

3 Q. Yes. And the reason for that appears to be
4 that generators adjusted their delivery volumes --
5 delivery schedules and dumped larger than normal
6 volumes before the price increase went into effect?

7 A. That's correct.

8 Q. Then when you did your actual calculation
9 you excluded the months of January and December but
10 not February, is that correct?

11 A. That's correct.

12 Q. Why did you not also exclude February since
13 your conclusion was that February was -- low volumes
14 in February were attributable to high volumes in
15 December?

16 A. There were a number of reasons why February
17 was not excluded from my calculation. Number one is,
18 I know that many of the generators can alter their
19 schedules somewhat, however, many cannot alter their
20 schedules and they don't have the storage capacity.
21 From that there's no way of knowing how much February
22 was affected by December's high volumes. There's no
23 way anybody can tell that. I'm sure we could do an
24 average, but the average spreading December's volume

25 out over the entire year comes up with too high of an

(PARKER - CROSS BY WILLIAMS)

203

1 annual volume number to be reasonable. The February
2 volumes, because there's no way of knowing how much
3 February was affected, there seemed no point in
4 excluding February from an annualized adjustment. The
5 volumes picked up again in March. There might have
6 been weather conditions in February. I just didn't
7 know all the specifics, having not been there at the
8 site in February.

9 Q. Is it possible to determine, and do you
10 know the extent to which the low volume in January was
11 attributable to the same factors that you've mentioned
12 that caused you to not exclude February? In other
13 words, what distinguishes January from February?

14 A. January, because of the ability of
15 generators to dispose quicker I think in December, for
16 lack of a better word, I think January was
17 significantly impacted by December volumes. I don't
18 believe February was as significantly impacted and I
19 don't believe that we can state where to draw the
20 line. I chose to draw the line between January and
21 February because they -- January seemed to be so
22 significantly impacted by December and February
23 appeared to be returning to its normal range. In
24 addition, March definitely returned to the normal

25 range. It's really hard to say when schedules could

(PARKER - CROSS BY WILLIAMS)

204

1 return and where they did return.

2 Q. Excluding or including February was a
3 judgment call that could go either way?

4 A. I think excluding February was my judgment
5 call and I felt it was more appropriate. I didn't
6 want to slice too big a hole in the 12-month period.
7 To do so would in my opinion go back to the cyclical
8 approach. You can't take a full quarter out of a
9 12-month operating cycle and expect that to be
10 reflective of a year.

11 Q. Did you calculate an annualization with an
12 exclusion of December, January, and February?

13 A. At one point I believe I did. I don't have
14 that information, though.

15 Q. Would you accept subject to check, that
16 that annualization would be 143,850 cubic feet?

17 A. Yes, I would accept that number.

18 Q. Did you also perform a calculation of the
19 base rate per cubic foot based on that volume,
20 143,850?

21 A. No, I did not make that calculation.

22 Q. Would you accept subject to check that that
23 base volume rate is \$29.87 per cubic foot?

24 A. Was how much?

25 Q. \$29.87?

(PARKER - CROSS BY WILLIAMS)

205

1 A. I come up with 29.92, but the difference
2 is small.

3 Q. Ms. Parker, do you have any reason to
4 believe that any of the wastes that were delivered in
5 December 1992 would not have been delivered at a later
6 date?

7 A. I have no reason to believe that they would
8 not have been delivered at a later date, however, I do
9 believe that they would have been delivered during a
10 period of time to exceed one year, and to use that
11 particular volume number in a one-year figure to set
12 rates is not appropriate.

13 Q. Why do you believe that some of those
14 wastes would have been delivered a year later, did you
15 say?

16 A. Over a period to exceed one year.

17 Q. Why do you believe that?

18 A. Again looking at the historical volumes
19 over a six-year period on a per-month basis there's
20 no reason for me to believe that a large amount of --
21 a large volume would be received later. In addition,
22 to assume that they would be shipped during the period
23 -- the next 12-month period, would assume that
24 approximately 16,000 cubic feet per month, would be --

25 or 20,000 cubic feet per month if using the whole

(PARKER - CROSS BY WILLIAMS)

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1 131,000, would be received each and every month on
2 average over a period of one year, and the volumes
3 received each and every month for in the periods six
4 months prior there was not a consistent volume
5 received of 20,000 cubic feet from these two compact
6 regions.

7 Q. So your judgment was based on looking at
8 the numbers --

9 A. At historical experience, yes.

10 Q. Ms. Parker, you referred earlier in your
11 testimony to a 1995 rate case. Do you recall that the
12 Commission's order from the 1992 rate case required US
13 Ecology to file a general rate case in the future?

14 A. Yes, I do.

15 Q. And do you recall the time period during
16 which US Ecology must file a general rate case?

17 A. I believe they are ordered to file in early
18 1995 using a test period from the time -- any test
19 period. I don't believe they required a specific test
20 period to file.

21 Q. Let me state my recollection and then get
22 your reaction as to whether that jogs your memory. My
23 recollection is that the order requires the filing of
24 a general rate case at any time during a window

25 beginning March 1994 and I'm not certain of the back

(PARKER - CROSS BY WILLIAMS)

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1 end date but I believe it's May '95. Does that ring a
2 bell?

3 A. I'll accept that subject to check, but,
4 yes, that rings true.

5 Q. So it's possible that US Ecology could be
6 filing a general rate case as early as March 1994?

7 A. Yes.

8 Q. If that is correct?

9 A. If that's correct, I think the Commission
10 did provide that option.

11 MR. WILLIAMS: Thank you. That's all I
12 have.

13 JUDGE CLISHE: Thank you. Mr. Dudley, did
14 you have questions of Ms. Parker?

15 MR. DUDLEY: Yes, just a few.

16

17 CROSS-EXAMINATION

18 BY MR. DUDLEY:

19 Q. Ms. Parker, I heard you say in response
20 to Mr. Williams that you cannot take a quarter out of
21 an operating cycle and expect it to represent a year.
22 Did I catch your quotation on that right?

23 A. It sounds pretty accurate.

24 Q. Can you cite any statistical references

25 that support that conclusion?

(PARKER - CROSS BY DUDLEY)

208

1 A. I don't have statistical references that
2 would support that conclusion, however, I have been
3 auditing companies through the Commission and know
4 that operating cycles are -- they are cyclical. They
5 go up and down throughout the period of time. Usually
6 sales can increase during a period of time and slow
7 down, and I do know that all companies appear to
8 follow the same cycle for their industry.

9 Q. So the answer is, no, you can't cite a
10 statistical reference?

11 A. No, I can't cite a statistical reference,
12 but I do have a professional basis to back that up.

13 Q. What other companies have you reviewed to
14 reach that conclusion?

15 A. I am personally responsible for auditing 26
16 small water companies for the Commission. I've also
17 worked on several garbage companies.

18 Q. Now, water companies certainly have an
19 annual cycle consumption pattern, don't they? People
20 water their lawns in the summertime and stuff like
21 that, correct?

22 A. That's correct.

23 Q. And regular garbage companies also have a
24 regular cycle pattern? I mean, non-low level

25 radioactive waste companies, is that correct?

(PARKER - CROSS BY DUDLEY)

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1 A. That's correct.

2 Q. And you use your experience from those
3 utilities to make your statement that you can't take a
4 quarter off an operating cycle and expect it to
5 represent a year?

6 A. I used my experience from those utilities
7 and from the other companies which I'm familiar with.

8 Q. And which are those?

9 A. From my personal background I do have a
10 background in retail sales, restaurant businesses. I
11 have seen quite a few background -- or industries.

12 MR. DUDLEY: Okay. That's all I have.

13 JUDGE CLISHE: Thank you. Ms. Egeler, do
14 you have any additional questions or redirect of Ms.
15 Parker? Oh, Commissioners, do you have questions?

16

17 EXAMINATION

18 BY COMMISSIONER CASAD:

19 Q. Ms. Parker, when you were being questioned
20 about outliers -- your term "outliers" -- if December
21 was high in both of the years in which you made your
22 calculations, will you still consider December to be
23 an outlier then?

24 A. I don't think I understand your question.

25 Q. Okay. In your computation you used ten

(PARKER - EXAMINATION BY JUDGE)

210

1 months instead of 12. You removed two months because
2 you consider them aberrational, not representative, is
3 that correct?

4 A. That's correct.

5 Q. If you had two years of data and you did
6 this on a 12-month basis, if you had two years of data
7 and each year December was extraordinarily high, would
8 you still consider December to be an outlier?

9 A. No, I don't believe I would, because the
10 12-month period would be fairly identical for both.

11 Q. So it would tell you then to be
12 representative of December?

13 A. Yes, it would be representative.

14 COMMISSIONER CASAD: Thank you. That's all
15 I have.

16

17 EXAMINATION

18 BY COMMISSIONER HEMSTAD:

19 Q. I want to pursue the same point and which
20 seems to be a matter of significance here. It would
21 appear the problem is that the premises of using 12
22 months, that premise doesn't work very well now
23 because of this very large one-month volume. Doesn't
24 that follow? In other words, if you could take a much

25 longer period and there were not other kinds of

(PARKER - EXAMINATION BY HEMSTAD)

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1 externalities that were affecting general volume, then
2 the averages would control and you wouldn't be
3 excluding the one large month at that point?

4 A. If we had a much larger period of time to
5 look at, I don't believe the large volume would be as
6 significant and would make the impact it makes in a
7 12-month period.

8 Q. And there seems to be general consensus
9 this is brought about because of the strong incentives
10 on the part of the generators to scrape the bottoms of
11 the barrels, so to speak, to get everything in in
12 December because of the price increase that was coming
13 in January. That's your testimony?

14 A. That appears to be what has happened.

15 Q. Well, and I was interested in your response
16 to Mr. Williams that it's your view that that wouldn't
17 have smoothed itself out through the remainder of the
18 12-month period, the volume averages wouldn't have
19 ultimately smoothed themselves out over the next
20 -- let's see -- it would be five months, would not be
21 sufficient to have allowed the smoothing that one
22 ultimately would expect would occur.

23 A. I don't believe that the next 12-month
24 period would have smoothed out that extraordinary

25 volume had the circumstances --

(PARKER - EXAMINATION BY HEMSTAD)

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1 Q. You wouldn't expect it to occur over even
2 the following 12 months?

3 A. No, I don't believe so.

4 Q. Okay. But doesn't that pose a problem then
5 that the next time we take this measure, those
6 following months post July 1993 would also be
7 relatively low for the fact that there was such an
8 immense accumulation in the volume in December of
9 1992?

10 A. I think the volumes following July of '93
11 appear low compared to the December volumes, but I
12 think they show that they will return to normal more
13 like the months preceding December.

14 Q. But if they -- if the effects of the
15 December 1992 volume are going to be felt for a
16 relatively long period of time, it means that the next
17 measurement period will have a downward skewing total
18 volume. I realize that's rather speculative at this
19 point, but that's the consequence of your testimony,
20 isn't it?

21 A. I don't think so. The volumes in December
22 were high for a number of reasons. I understand the
23 companies took that opportunity to do a lot of cleanup
24 that --

25 Q. With good reason.

(PARKER - EXAMINATION BY HEMSTAD)

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1 A. Exactly. I don't believe that that type of
2 a volume surge will happen in the future and I don't
3 believe that this would be -- the companies have no
4 incentive to spread their waste out over a number of
5 -- a period of time. I guess I'm trying to say that I
6 don't believe they would have made an effort to smooth
7 out that high volume. If it were smoothed out, it
8 would be over a longer period of time than the
9 12-month period.

10 Q. The practical consequence of all of this is
11 that the excess volume of December will simply never
12 be accounted for in any kind of averaging.

13 A. I think we'll never see it within the
14 average, but then December was an incredible month.
15 The company for their argument was not subject to the
16 regulation of the Commission, and I don't know at this
17 point whether it's appropriate to account for those
18 volumes within a 12-month period. I think in the
19 future using a more stabilized approach and using the
20 -- concentrating right now on setting rates based on
21 the volume of a normal waste stream would give the
22 company the incentive to use their extraordinary
23 volume adjustment application and we wouldn't -- I
24 believe that application will work for itself. The --

25 to concern ourself with making sure that that 131,000

(PARKER - EXAMINATION BY HEMSTAD)

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1 cubic feet of waste is spread or that revenue is
2 spread over a period of time I believe is
3 inappropriate.

4 COMMISSIONER HEMSTAD: I don't have any
5 other questions.

6

7

EXAMINATION

8 BY COMMISSIONER CASAD:

9 Q. I would like to pursue that a little bit
10 farther, if I may. If I understand your testimony
11 correctly, you had indicated that you feel a rule of
12 reason should be applied when one approaches these
13 kinds of issues. And would your testimony about the
14 aberrational December be supportive of Mr. Bede's
15 testimony that the companies have the ability to
16 manipulate the amount of disposable material which
17 they are sending? In this case I think you testified
18 they manipulated it because of the Benton County \$6.50
19 tax. Is that correct?

20 A. I think they have the ability to adjust
21 within a reasonable range to take advantage of certain
22 economic impact.

23 Q. That being the case, you further testified,
24 if I understand you correctly, that you doubt that

25 this will continue to happen, or you wouldn't expect

(PARKER - EXAMINATION BY CASAD)

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1 to see this manipulation in the future because you
2 don't foresee any event which would trigger it being
3 to the advantage of the various companies to go ahead
4 and do that. Is that correct?

5 A. I think as long as the rates are stable,
6 there is no advantage to the companies to manipulate
7 -- to use that word -- their waste delivery schedules.

8 Q. Well, that's somewhat of a conundrum. If
9 rates are established based on volume that there's
10 no incentive. If you can adjust the volume, you can
11 adjust the rates, so how can rates be stable? One
12 contributes to the other.

13 A. I think you're driving at a point I was
14 trying to get across to making my restating
15 adjustment. If you use a volume that is incredibly
16 high, the rates will go drop down low. It's possible
17 that the companies will continue to ship enormous
18 amounts of waste to clean out whatever back storage
19 they have or cleanup that they have, but, however, at
20 some point the waste stream will not be there and all
21 of a sudden rates will jump to a level -- just
22 following economic theory, will jump to a level --

23 Q. And when the rates do jump to that level,
24 there will not be waste there to pay the rates off.

25 Mr. Gaynor is not available tomorrow and we would like

(PARKER - EXAMINATION BY CASAD)

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1 to get him on and off today.

2 JUDGE CLISHE: All right. I think I don't
3 have -- the estimate of his testimony is about an
4 hour. Why don't we go off the record and we'll switch
5 witnesses.

6 (Discussion off the record.)

7 JUDGE CLISHE: Let's be back on the record.
8 And, Mr. Van Nostrand, we have agreed that we would
9 take Mr. Gaynor's testimony out of order since he
10 is not able to be here tomorrow. So we'll turn to
11 the prefiled testimony of Mr. Gaynor. And, Mr.
12 Gaynor, if you'll come up, please.

13 Whereupon,

14 RON K. GAYNOR,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17 MR. VAN NOSTRAND: Your Honor, I would like
18 to have premarked for identification as rebuttal
19 testimony T-18 and the exhibit RKG-2 as Exhibit 19.

20 JUDGE CLISHE: I'll mark for identification
21 as Exhibit T-18 what has been prefiled as RKG-1, and I
22 will mark for identification as Exhibit 19 what has
23 been prefiled as RKG-2.

24 (Marked Exhibits Nos. T-18 and 19.)

25 MR. VAN NOSTRAND: Your Honor, I would like
(PARKER - EXAMINATION BY CASAD) 218

1 to thank you for accommodating Mr. Gaynor's schedule
2 and taking him out of order.

3

4 DIRECT EXAMINATION

5 BY MR. VAN NOSTRAND:

6 Q. Mr. Gaynor, do you have before you what's
7 been marked for identification as Exhibit T-18?

8 A. Yes, I do.

9 Q. Do you recognize that document as your
10 prefiled rebuttal testimony in this case?

11 A. Yes, I do.

12 Q. Do you have any additions or corrections to
13 make to Exhibit T-18 at this time?

14 A. No, I do not.

15 Q. If I asked you the questions set forth in
16 Exhibit T-18 today would you give the answers as set
17 forth there in?

18 A. Yes, I would.

19 Q. And do you also have before you what's
20 been marked for identification as Exhibit 19?

21 A. Yes.

22 Q. And was this exhibit prepared under your
23 direction and supervision?

24 A. Yes, it was.

25 Q. And is it true and correct to the best of
(GAYNOR - DIRECT BY VAN NOSTRAND)

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1 your knowledge?

2 A. Yes, it is.

3 Q. Do you have any additions or corrections to
4 make?

5 A. Only that it's incomplete, and that since
6 May of this year I have also the responsibilities for
7 US Ecology's radioactive waste operations, including
8 the Richland, Washington facility.

9 Q. And with that addition is Exhibit 19 true
10 and correct to the best of your knowledge?

11 A. Yes, it is.

12 MR. VAN NOSTRAND: Your Honor, I move the
13 admission of Exhibit T-18 and Exhibit 19.

14 JUDGE CLISHE: Are there any objections to
15 Exhibit T-18 and 19 being included in the hearing
16 record? Hearing no objection, I'll admit Exhibit T-18
17 and 19 into the hearing record.

18 (Admitted Exhibits Nos. T-18 and 19.)

19 MR. VAN NOSTRAND: Mr. Gaynor is available
20 for cross-examination.

21 JUDGE CLISHE: Thank you. Ms. Egeler, do
22 you have questions of Mr. Gaynor?

23 MS. EGELER: Yes.

24

25

CROSS-EXAMINATION

(GAYNOR - CROSS BY EGELER)

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1 BY MS. EGELER:

2 Q. Good afternoon, Mr. Gaynor.

3 A. Good afternoon.

4 Q. Do you know the rates that are being
5 charged by US Ecology to each of the generators?

6 A. I believe that the rate sheet is included
7 in this briefing book. I don't have it memorized.

8 Q. Are any of the generators being given a
9 contract rate which is lower than the rate that the
10 Commission would impose upon them or that the court
11 would impose upon them?

12 A. Not to my knowledge.

13 MS. EGELER: No further questions, your
14 Honor.

15 JUDGE CLISHE: All right, thank you. Mr.
16 Hatcher, do you have questions for Mr. Gaynor?

17 MR. HATCHER: Yes, I do, and I'll try to go
18 through them as quickly as I can in deference to Mr.
19 Gaynor's flight schedule. I've been in that
20 predicament myself.

21

22 CROSS-EXAMINATION

23 BY MR. HATCHER:

24 Q. You began your employment with US Ecology

25 as a senior geotechnical engineer?

(GAYNOR - CROSS BY HATCHER)

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1 A. That's correct.

2 Q. And that was between 1980 and 1981?

3 A. That's correct.

4 Q. Did you have any responsibilities with
5 regard to the Richland facility at that time?

6 A. From an engineering perspective, yes.

7 Q. Did you have any organizational component
8 of the Richland facility reporting to you at that
9 time?

10 A. No, I did not.

11 Q. You then moved to a position entitled
12 engineering manager from about 1981 to 1982?

13 A. Yes.

14 Q. Did you have any responsibilities with
15 regard to the Richland facility at that time?

16 A. Again from the engineering standpoint.

17 Q. Briefly what were those?

18 A. Design of the disposal units themselves,
19 the environmental monitoring systems, and also at
20 least during part of that time some of the radiation
21 health and quality assurance responsibilities.

22 Q. So basically you helped design the
23 trenches?

24 A. Yes.

25 Q. And helped procedurally with the

(GAYNOR - CROSS BY HATCHER)

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1 environmental monitoring requirements and personnel

2 monitoring requirements?

3 A. Yes.

4 Q. Did you have any individuals at the

5 Richland facility reporting to you at that time?

6 A. Not direct from an administrative

7 standpoint, but from a strictly reporting standpoint

8 from a health and safety and quality assurance

9 reporting.

10 Q. You then served as vice president technical

11 services from '82 through '86?

12 A. Yes.

13 Q. And what responsibilities at that time did

14 you have with regard to the Richland facility?

15 A. Overview, as before, from the engineering and

16 health and safety, but also some data processing,

17 electronic support, information management.

18 Q. And the personnel that reported to you from

19 the Richland facility at that time would have been --

20 A. The personnel at the Richland facility did

21 not report directly to me. The personnel that

22 reported to me were at the corporate headquarters in

23 Louisville, Kentucky and we provided support services

24 to the operational group.

25 Q. What was your position between 1986 and
(GAYNOR - CROSS BY HATCHER)
1 1988?

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2 A. 1986 we were selected as a company to
3 develop the disposal facility for the state of
4 California, a new regional facility under the compact
5 system, and I was senior vice president of US Ecology
6 with the responsibility for that project and corporate
7 development activities in line with that project.

8 Q. Could you please turn to the first page of
9 Exhibit 19. There was a gap in here in the chronology
10 of your employment with the US Ecology and my notes
11 reflect it was between '86 and '88. Is this just a
12 typographical error?

13 A. To what are you referring where the gap
14 occurs?

15 Q. 1980 to mid 1988. And I was able to find
16 time frames associated with the employments that I've
17 described to you up until the point of 1986. Between
18 '86 and '88.

19 A. I believe that that's discussed in this
20 document, Exhibit 19, which says from 1980 to mid 1988
21 served as vice president, responsible for development
22 and management of the California project. First new
23 site to be developed --

24 Q. Let me just interrupt you. You're

25 basically identifying at the point in 1986 you became
(GAYNOR - CROSS BY HATCHER)

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1 a senior vice president of US Ecology --

2 A. Well, I'm sorry. Actually the title of
3 senior vice president was granted in 1988 by this.
4 But the duties that I'm describing were in the period
5 of '80 to '88.

6 Q. But from '86 forward is when you began your
7 responsibilities with regard to the California
8 facility?

9 A. That's correct.

10 Q. And with regard to the California facility
11 did you have any duties or responsibilities concerning
12 the Richland facility at that time?

13 A. No, I did not.

14 Q. Now, the time frame then associated with
15 your development of a closure and post-closure care
16 and maintenance plan for the Richland facility would
17 have been when?

18 A. Closure and post-closure care?

19 Q. Correct.

20 A. Those activities were conducted after the
21 time that I was responsible for the engineering, which
22 was prior -- I know longer had the responsibility for
23 the engineering after October of 1985.

24 Q. So sometime prior to 1985 you were

25 responsible for the closure and post closure?

(GAYNOR - CROSS BY HATCHER)

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1 A. Any activities that were associated with it
2 at that time, yes, from an engineering standpoint.

3 Q. Mr. Gaynor, I would like to show you, if I
4 could, an exhibit that was entered into evidence in
5 the 1992 rate case which is a corporate structure of
6 American Ecology and I would just like you to look at
7 that and identify whether there are any changes
8 between then and the present time.

9 MR. HATCHER: I would like to have this
10 premarked as an exhibit if I could.

11 JUDGE CLISHE: All right. I'll mark for
12 identification as Exhibit 20 a one-page document which
13 is the American Ecology Corporation ownership
14 structure.

15 (Marked Exhibit No. 20.)

16 Q. Have you had an opportunity to review that,
17 Mr. Gaynor?

18 A. Yes, I have.

19 Q. Is that the present ownership structure of
20 American Ecology?

21 A. The subsidiary companies have changed but
22 not to the extent that American -- they do not affect
23 the relationship between American Ecology and US
24 Ecology and the subsidiary Texas Ecologists. There

25 have been changes in the other subsidiary businesses.

(GAYNOR - CROSS BY HATCHER)

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1 Q. In terms of the existence or nonexistence?

2 A. Yes.

3 Q. Which ones no longer exist?

4 A. This ATI. And when I say they no longer
5 exist, they are no longer owned by American Ecology.
6 They may have been closed. They may have been sold,
7 so they may exist under someone else's allegiance.
8 Detox was, I believe, one that was sold. National
9 Triple R I really can't speak to. I really don't
10 remember exactly what that was. I think it was an
11 older -- I'm not sure what that was.

12 Q. And ALEX is still --

13 A. ALEX is an insurance subsidiary for -- it's
14 a captive insurance company.

15 Q. Are there any additional subsidiaries of
16 American Ecology that are not listed here?

17 A. Yes. There is one recent acquisition, WPI,
18 which stands for Waste Processors, Incorporated.

19 Q. Any others?

20 A. WPI has a subsidiary which is called
21 TransTech which is a waste transportation company.
22 And I believe that's the substantive changes.

23 MR. HATCHER: I would like to move for the
24 admission of Exhibit 20, if I could, with the

25 testimonial clarifications of the witness.

(GAYNOR - CROSS BY HATCHER)

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1 JUDGE CLISHE: Are there any objections to
2 Exhibit 20 being included in the hearing record?

3 Hearing no objection, I'll admit Exhibit 20.

4 (Admitted Exhibit No. 20.)

5 Q. In addition to being a senior vice
6 president of US Ecology you're on the board of
7 directors of US Ecology?

8 A. I am on the board of directors of US
9 Ecology.

10 Q. Do you hold any position within American
11 Ecology?

12 A. I have recently been elected vice president
13 of American Ecology.

14 Q. And that occurred when?

15 A. I believe in May.

16 Q. At approximately the same time you assumed
17 radiological responsibility --

18 A. Shortly after. It occurred at the annual
19 meeting of the board of directors which I don't recall
20 the exact date, but I believe it was in May.

21 Q. You did not testify on behalf of US Ecology
22 in the 1992 rate case?

23 A. I did not.

24 Q. At that time of the 1992 rate case did

25 either Mr. Sauer or Mr. Ash report to you?

(GAYNOR - CROSS BY HATCHER)

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1 A. They did not.

2 Q. Did you have any input, control, or
3 direction into the testimonial positions developed by
4 those gentlemen for the 1992 rate case?

5 A. No, I did not.

6 Q. Your knowledge of the semi-annual volume
7 and inflation adjustment is based upon a review of
8 documentary records?

9 A. That's correct.

10 Q. Is it your understanding that the Utilities
11 and Transportation Commission adopted the company's
12 proposal for a rolling 12-month volume adjustment
13 mechanism?

14 A. Based on the testimony I've heard today,
15 yes.

16 MR. HATCHER: That's all I have for this
17 witness. Thank you.

18 JUDGE CLISHE: All right. Thank you, Mr.
19 Hatcher. Ms. O'Malley, did you have any questions of
20 Mr. Gaynor?

21 MS. O'MALLEY: No, your Honor.

22 JUDGE CLISHE: All right. Mr. Williams?

23 MR. WILLIAMS: I would like to defer to Mr.
24 Dudley, if I may, with an opportunity to follow Mr.

25 Dudley rather than precede him.

(GAYNOR - CROSS BY HATCHER)

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1 JUDGE CLISHE: All right, that's fine. Mr.

2 Dudley, do you have questions?

3 MR. DUDLEY: Yes, I do.

4

5 CROSS-EXAMINATION

6 BY MR. DUDLEY:

7 Q. Good afternoon, Mr. Gaynor.

8 A. Good afternoon, Mr. Dudley.

9 Q. I guess you've already confirmed with Mr.
10 Hatcher here that you did not have any involvement in
11 the '92 rate case of US Ecology, is that correct?

12 A. That is correct.

13 Q. I am unclear here. As I read your
14 testimony filed in this case, are you saying that it
15 was not the company proposal in the '92 case to
16 use '92 volumes for the volume adjustment in '93?

17 A. My understanding of the '92 case is that we
18 did not anticipate any specific necessity for a volume
19 adjustment at any particular point in time. That the
20 disposal prices were set based on the test year of
21 October I believe '90 through September of 1991, and
22 that if the volumes received in this year were within
23 five percent of those volumes that there would have
24 been no need for this proceeding except for the

25 inflationary adjustment, that no volume adjustment
(GAYNOR - CROSS BY DUDLEY)

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1 would have been required.

2 So I don't think that at the time that the
3 process for routine volume adjustments was being
4 established, that anyone was specifically thinking
5 about a specific period in time that it would be
6 implemented.

7 Q. Okay. So then the answer is that the
8 company was not advocating in the '92 case what it is
9 advocating here, that is, that no '92 volumes should
10 be used in the first volume adjustment?

11 A. What the company is advocating is the
12 establishment of volumes that are a reasonable
13 projection of volumes to be received so that a
14 reasonable rate can be established that would allow
15 collection of the revenue requirement or a reasonable
16 chance of collection of the revenue requirement. In
17 the application of the 12-month rolling review, we
18 identified the problem that the month of December was
19 an aberration on the normal flow of waste to the
20 facility because of economic influences on the
21 generators who have the ability to schedule when waste
22 goes to the facility. As a result, it was clear that
23 the 12-month process was going to lead to an
24 artificially low estimate of what the rate should be

25 in order to collect the revenue requirement. We

(GAYNOR - CROSS BY DUDLEY)

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1 proposed an alternative method to address that --

2 Q. If I could interrupt, I think I understand
3 what you're proposing now.

4 My question to you was, in 1992 in the rate
5 case did you or anybody testifying for US Ecology
6 propose that the first volume adjustment to be made
7 in '93 should exclude '92 volumes? I think you can
8 answer that yes or no.

9 A. I'm not aware that anyone proposed that
10 there would be a volume adjustment in 1993, except
11 perhaps as a hypothetical.

12 Q. Okay. And I think what you're referring to
13 is my cross-examination of Mr. Ash in the case?

14 A. I have seen it.

15 Q. Yes.

16 A. Do you have it?

17 Q. (Handing.)

18 MR. DUDLEY: Your Honor, I would like to
19 have this marked for identification.

20 JUDGE CLISHE: All right. I'll mark for
21 identification as Exhibit 21 a two-page document which
22 appears to be pages 1028 and 1029.

23 (Marked Exhibit No. 21.)

24 Q. Is this the examination to which you just

25 referred, Mr. Gaynor?

(GAYNOR - CROSS BY DUDLEY)

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1 A. Yes, it is.

2 Q. And referring to your testimony, Exhibit
3 T-18, would you turn to page 8. --

4 A. Yes.

5 Q. -- and lines 5 and the lines following, do
6 you see that?

7 A. Yes.

8 Q. What I've handed you marked for
9 identification as Exhibit 21, is this the transcript
10 that you're referring to there in your testimony at
11 that location?

12 A. Yes, it is.

13 MR. DUDLEY: I would ask that it be
14 admitted at this time.

15 JUDGE CLISHE: Are there any objections to
16 Exhibit 21 being included in the hearing record?
17 Hearing no objection, I'll admit Exhibit 21 into the
18 hearing record.

19 (Admitted Exhibit No. 21.)

20 Q. Now, I take it you claim that the
21 statements made by Mr. Ash do not represent the formal
22 proposal offered by US Ecology, Mr. Gaynor. Is that
23 your testimony?

24 A. The statements made by Mr. Ash are

25 hypothetical -- or a description of how it would be

(GAYNOR - CROSS BY DUDLEY)

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1 implemented at a hypothetical point in time. We, as a
2 company, have no problem with the proposal as far as
3 using the 12 months for future adjustments in the
4 volume used for calculation of rates, providing there
5 are not aberrations in the wastes received during
6 those periods that will lead to a wrong result in the
7 projection of volumes for the future. If there is
8 something that occurred that caused volumes to be
9 extraordinarily high or also extraordinarily low, then
10 some reason should be applied in order to achieve the
11 goal of regulation which is to set reasonable rates.

12 Q. Mr. Gaynor, would you please read the
13 questions and answers on Exhibit 21 to us.

14 A. Beginning with line 15?

15 Q. Yes, sir.

16 COMMISSIONER CASAD: You intend to read the
17 whole thing? We can read.

18 MR. DUDLEY: All right. Well, we'll skip
19 that.

20 Q. You do agree, turning to the second page of
21 Exhibit 21, Mr. Gaynor, that when I asked Mr. Ash the
22 question, "Let's get concrete. Suppose rates go into
23 effect on January 1, 1993. You would make your first
24 filing on June 1, 1993. And you would use 12 months

25 of data ending at the end of April 1993?"

(GAYNOR - CROSS BY DUDLEY)

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1 Answer by Mr. Ash, "that's my
2 understanding."

3 QUESTION: "So you would pick up in May of
4 1992, is that correct? That would be the beginning of
5 the period?"

6 The answer is, "Correct."

7 Was that the testimony you were referring
8 to in your exhibit, Mr. Gaynor?

9 A. That's what I read, yes.

10 Q. And wouldn't you agree, Mr. Gaynor, that a
11 person listening to Mr. Ash's statement that was given
12 under oath on August 27, 1992 could reach the
13 conclusion that the company was proposing to use the
14 12-month rolling average for its first adjustment in
15 1993?

16 A. What I believe is that on August 22, 1992
17 that neither Mr. Ash nor anyone else had any way of
18 anticipating the economic events that created an
19 aberrant month of December 1992 where volumes received
20 at the site were equivalent to what had been received
21 in any given year for the past six years and did not
22 have any reason to believe that using that month would
23 lead to the imposition of unreasonable and unrealistic
24 rates for future purposes.

25 MR. DUDLEY: Your Honor, I request an
(GAYNOR - CROSS BY DUDLEY)

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1 instruction directing the witness to answer my
2 questions yes or no, and if he feels he needs an
3 explanation further, he may give it.

4 Q. Mr. Gaynor, the question was don't you
5 agree that a person listening to Mr. Ash's statement
6 when it was given could conclude that the company was
7 proposing to use a rolling twelve months starting in
8 May of 1993 for the first volume adjustment in -- May
9 of 1992 for the first volume adjustment in 1993? Do
10 you agree with that, sir?

11 A. No.

12 Q. You don't agree with that? Okay.

13 A. I would be happy to explain why.

14 Q. I think you have.

15 Now, if it became known to you that
16 somebody was misunderstanding the statement, don't you
17 think it would be very important to point it out to
18 that person, Mr. Gaynor?

19 A. Certainly if a misunderstanding of this
20 statement had any impact on that person it would be
21 appropriate.

22 Q. Yes. Thank you. And at no point after
23 August 27, 1992 did the company ever try to correct
24 any misimpression that this statement might have made

25 in anybody's mind, isn't that correct?

(GAYNOR - CROSS BY DUDLEY)

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1 A. There was no reason to.

2 Q. Okay. And that was because there's only
3 one reading of this statement that you weren't going
4 to use -- no reasonable person could listen to this,
5 could read this, and assume that a rolling 12-month
6 average could be used for the first adjustment, is
7 that what you're saying?

8 A. No. I'm saying until May or June of 1993
9 no one could predict whether a volume adjustment was
10 going to be required in this hearing.

11

12 Q. Well, at some time in December of 1992 the
13 company must have known that extraordinary volumes
14 were being received at the site, didn't they?

15 A. Yes.

16 Q. And at no time did anybody in the company
17 ask to correct the record in the rate case or to ask
18 for extraordinary relief to acknowledge that fact in
19 the case which had not been decided in December, by
20 the way, did they?

21 A. I'm sorry. Could you repeat that.

22 Q. At some time in December you became aware
23 that extraordinary volumes were arriving at Richland,
24 right?

25 A. Yes.

(GAYNOR - CROSS BY DUDLEY)

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1 Q. And at no time in December did anybody from
2 US Ecology inform this Commission or the parties to
3 this case of that event, did they?

4 A. I really don't know. I wasn't involved at
5 that time.

6 Q. Okay. Would you accept subject to check
7 that they didn't?

8 A. Certainly.

9 Q. Okay. Now, isn't it true that in its brief
10 in this proceeding, Mr. Gaynor, that PGE did state
11 that '92 volumes should be used in the '93 first
12 adjustment?

13 A. I'm not sure what you're referencing.

14 MR. DUDLEY: I would like to have this
15 marked as an exhibit, your Honor.

16 JUDGE CLISHE: All right. I'll mark for
17 identification as Exhibit 22 a four-page document, the
18 title page indicates Brief of Portland General
19 Electric Company in the matter of Docket Number TG-
20 920234.

21 (Marked Exhibit No. 22.)

22 Q. Now, you're of course familiar with the
23 record that was submitted as part of the 1992 rate
24 case, aren't you, Mr. Gaynor?

25 17. If this waste is not included, the volume for the
(GAYNOR - CROSS BY DUDLEY) 239

1 adjustment will be understated and the rates too high
2 giving a windfall to US Ecology." Do you see that?

3 MR. VAN NOSTRAND: Yes. That has no
4 bearing on a rolling 12-month period beginning in May
5 1992 through April 1993. It's irrelevant for the
6 point at issue.

7 JUDGE CLISHE: Are you objecting to the
8 document?

9 MR. VAN NOSTRAND: Yes, your Honor.

10 JUDGE CLISHE: Do you have a response, Mr.
11 Dudley?

12 MR. DUDLEY: Yes, I do. It shows that on
13 my part there was the understanding and belief based
14 on my examination of Mr. Ash that 1992 volumes would
15 be used by the company in setting the first volume
16 adjustment in 1993. And I'm simply pointing out to
17 the administrative law judge a modification to be sure
18 that Beatty volumes, because Rocky Mountain Compact
19 generators were sending to Beatty at that time, should
20 also be included in that first volume adjustment.

21 MR. WILLIAMS: May I speak in support of
22 the admissibility?

23 JUDGE CLISHE: Yes, Mr. Williams.

24 MR. WILLIAMS: The point is that in the

25 1992 rate case everyone expected that the 12-month
(GAYNOR - CROSS BY DUDLEY)

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1 historical volumes would be included in the first
2 semi-annual rate adjustment. This document is
3 intended to support that fact. Statements to the
4 contrary are revisionist history.

5 MR. VAN NOSTRAND: Yes. And, your Honor, my
6 point is this document speaks to a 12-month period
7 which apparently begins in March of '92, so apparently
8 we have all sorts of misunderstandings as to what the
9 rolling 12-month period is.

10 JUDGE CLISHE: All right. Thank you. I'm
11 going to overrule the objection and admit Exhibit 22
12 into the hearing record.

13 (Admitted Exhibit No. 22.)

14 Q. Mr. Gaynor, I presume that you've read the
15 sixth and seventh supplemental orders that were issued
16 by -- the sixth, by the administrative law judge, and
17 the seventh, by the Commission in the case below.

18 A. I believe I have, but I don't recall
19 exactly what's included in them.

20 Q. Do you have the sixth supplemental order in
21 front of you in your briefing book there? I ask you
22 to turn to page 33.

23 MR. DUDLEY: Your Honor, I don't intend to
24 make an exhibit of this. It's quite a lengthy

25 document. And I think the Commission could take

(GAYNOR - CROSS BY DUDLEY)

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1 administrative notice of this document.

2 JUDGE CLISHE: All right. I think that
3 would be fine. It also was included, I believe, in
4 the complaint filed by the supply system.

5 MR. DUDLEY: Okay.

6 Q. Do you have page 33, Mr. Gaynor?

7 A. I'm not sure if I have the right one.

8 THE WITNESS: Do you have it?

9 MR. VAN NOSTRAND: (Handing.)

10 A. Yes, I do.

11 Q. And in the second paragraph there, and I'll
12 read it to you, and this is written by the
13 administrative law judge, Intervenor PGE on brief
14 accepted the company's volume adjustment proposal so
15 long as the first volume adjustment properly accounted
16 for Rocky Mountain Compact volumes sent to Beatty,
17 Nevada during 1992. End quote. Do you see that?

18 A. I do.

19 Q. Now, having my client and myself laboring
20 under the misimpression of the company's proposal of
21 using 1992 volumes for the first volume adjustment in
22 1993, what did the company do to correct my
23 misunderstanding of what your proposal was, Mr.
24 Gaynor?

25 A. Again, until we knew that a volume

(GAYNOR - CROSS BY DUDLEY)

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1 adjustment of any kind was necessary, we had no reason
2 to point out that the mechanism was going to be
3 inappropriate.

4 Q. So in other words, it wasn't until May or
5 June that it suddenly dawned on you that this
6 mechanism wasn't going to be a good idea, is that
7 right?

8 A. Well, unfortunately the company finds
9 itself in the position of not knowing the waste that
10 is likely to come from the generators, and so until
11 they have sent it to us, we don't know if the volumes
12 are matching what was the basis for the rates or not.

13 Q. So what you did is you went into your
14 office and you closed the door and sat down at your
15 desk and then it came to you that it wouldn't be a
16 good idea to include 1992 volumes in your 1993 volume
17 adjustment? Is that what happened, Mr. Gaynor?

18 A. We prepared a proposal for the volume
19 adjustment, an alternative proposal, because the
20 12-month rolling review was inappropriate, and we
21 appreciated that the UTC staff saw the same problem,
22 although they proposed another approach to the
23 problem. It's a different approach. It yields a
24 somewhat different result. And as I have testified,

25 we appreciate that as a positive step in the right
(GAYNOR - CROSS BY DUDLEY)

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1 direction to try to address the inconsistencies and
2 come up with a reasonable estimate of volumes to be
3 received in the next period.

4 But beyond that, we have made numerous
5 contacts to the generators that we were concerned
6 about the volumes throughout the period of months in
7 the first part of this year, that the volumes were not
8 matching the volumes that were predicted under the
9 rate base and that if those volumes did not rise, that
10 we would expect that an adjustment upward in the unit
11 disposal price would be required.

12 Q. So your proposal was an alternative to the
13 rolling 12-month process that was ordered by the
14 Commission, is that correct, Mr. Gaynor?

15 A. It was an alternative to allow a chance for
16 the revenue requirement to be collected.

17 Q. Is the answer yes or no to my question, Mr.
18 Gaynor?

19 A. That was a positive answer.

20 Q. Okay. So you're acknowledging that the
21 Commission did order a rolling 12-month average for
22 the first volume adjustment?

23 A. They accepted the proposal of the company
24 that the 12-month period be used to project the

25 volume. Now, whether or not -- I don't have enough
(GAYNOR - CROSS BY DUDLEY)

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1 knowledge to know whether or not that means you kick
2 that volume or use it to project the volume.

3 MR. DUDLEY: That's all the questions I
4 have, Mr. Gaynor. Thank you.

5 JUDGE CLISHE: All right, thank you. Mr.
6 Williams, do you have questions of Mr. Gaynor?

7 MR. WILLIAMS: Yes. Thank you.

8

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Mr. Gaynor, I believe you testified that in
12 the future, once we get beyond this period when
13 December 1992 is in the picture, that the company
14 would expect to use the 12-month method subject to
15 adjustment for extraordinary low or extraordinary high
16 volumes in a particular month, is that correct?

17 A. That is correct.

18 Q. Is a receipt of 4,000 cubic feet
19 extraordinarily low?

20 A. I wouldn't be able to answer that without
21 looking at some comparative figures, and based on the
22 time of year that it occurred, and whether or not
23 there were any economic influences that would have
24 influenced the flow of waste to the site.

25 Q. So we would need to look at a number of
(GAYNOR - CROSS BY WILLIAMS)

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1 factors to determine whether 4,000 cubic feet was
2 extraordinarily low, is that correct?

3 A. Well, for my opinion, yes.

4 Q. And generators can also have an opinion on
5 that subject, can't they?

6 A. Of course.

7 Q. And is 20,000 cubic feet extraordinarily
8 high?

9 A. Certainly on an average that is much higher
10 than what we are receiving since the beginning of
11 1993. Whether or not that would be high for an
12 individual month, I couldn't say.

13 Q. And that again would depend on looking at a
14 number of different factors?

15 A. I would assume so, yes.

16 Q. And those factors could be the subject of a
17 proceeding before this Commission every six months?

18 A. I agree with Ms. Parker that it's unlikely
19 that there will be economic influences comparable to
20 what occurred at the end of 1992 that would lead to
21 that type of variation in volume to the site, unless
22 the \$19.61 rate were approved, which certainly would
23 lead to the dumping of some large volume of waste
24 which would bring us back here in six months again or

25 maybe even earlier.

(GAYNOR - CROSS BY WILLIAMS)

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1 Q. So you don't think, then, that economic
2 influences would bear on the judgment as to whether
3 20,000 cubic feet is extraordinarily high?

4 A. I'm not sure I understand your question.

5 Q. I understood your answer to be that you
6 would not expect proceedings before this Commission
7 every six months because you wouldn't expect the kinds
8 of levels that we saw in December 1992 to reoccur. Is
9 that correct?

10 A. That's correct.

11 Q. My point is that if we accept your
12 formulation which is that we need to look at each
13 months's data and throw out extraordinarily low and
14 extraordinarily high volumes, then we need to make a
15 judgment about whether a particular volume -- and I've
16 used 20,000 as an example -- whether that's an
17 extraordinarily high volume. And I think your answer
18 is that that depends on a variety of factors. And my
19 point is if that's the case, then we're going to have
20 to have proceedings to look at those factors.

21 A. It's going to be certainly in the judgment
22 of the generators and the company and the Commission
23 as to whether or not there is any aberration that
24 leads to an unreasonable rate being set.

25 Q. Thank you. In your testimony, your

(GAYNOR - CROSS BY WILLIAMS)

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1 prefiled testimony, you have used a number of
2 positive, almost glowing adjectives to refer to Ms.
3 Parker's testimony, and if I may, I would like to list
4 those. Reasonable position; responsible; innovative
5 solution; sincere; again, reasonable; and again,
6 responsible. Is that a fair summary of the kinds of
7 adjectives that you've used to describe her testimony?

8 A. To describe the position that they had
9 taken on trying to make a reasonable volume estimate
10 for the future, yes.

11 Q. All right. Is US Ecology adopting Ms.
12 Parker's proposal as the volume adjustment to be
13 made in this proceeding?

14 A. We have not adopted that proposal. It
15 certainly is a step in the right direction. We have
16 made our own proposal. The staff has a proposal. The
17 intervenors have a proposal. We believe that the
18 staff's proposal and US Ecology's proposal is a
19 reasonable effort to cooperate on trying to stabilize
20 these rates and come up with a system that is
21 workable, and we believe that there is a position
22 there that will work for the future.

23 Q. So I take it you would not object to
24 adoption of staff's proposal in this proceeding?

25 A. I can't say that we wouldn't, but we

(GAYNOR - CROSS BY WILLIAMS)

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1 certainly look favorable on the rationale that is used
2 in it.

3 Q. Why can't you say whether or not you would
4 object to it?

5 A. Because I would have to consult counsel and
6 the rest of my company to make that determination.

7 Q. Well, you are here testifying as a company
8 witness. Do you or do you not object to staff's
9 proposal?

10 A. It would depend on the specific way it was
11 ordered by the Commission.

12 Q. I'm not clear on that answer. She is
13 proposing a specific base volume rate based on a
14 specific methodology based on specific figures.

15 A. Yes.

16 Q. Do you or do you not object to that
17 proposal?

18 A. I don't have any reason at this point in
19 time to object to that proposal. I think it is a
20 reasonable approach to adjust the figures used for --
21 so at this point in time I don't know of a reason that
22 we would object, but I can't promise that we
23 wouldn't.

24 Q. Is it fair to say, then, that you don't

25 object to it?

(GAYNOR - CROSS BY WILLIAMS)

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1 A. It's fair to say that I don't know of a
2 reason to object at this point.

3 Q. Mr. Gaynor, you've characterized the
4 intervenors' proposal as gamesmanship in your
5 testimony, is that correct?

6 A. That is correct.

7 Q. At the same time you acknowledge, do you
8 not, that the intervenors' proposal is the mechanism
9 proposed by US Ecology in the 1992 rate case, is that
10 correct?

11 A. That is correct.

12 Q. Do you think it's gamesmanship for the
13 intervenors to expect you to do what you said you were
14 going to do?

15 A. I think it's gamesmanship to --

16 Q. Could I have a yes or no answer to that
17 question.

18 A. I don't think I can answer that yes or no.

19 MR. WILLIAMS: Your Honor, may I have an
20 instruction for a yes or no answer?

21 JUDGE CLISHE: The witness has said he
22 doesn't know if he can, but I think, Mr. Gaynor, if
23 you'll make your best estimate and perhaps on redirect
24 you might be able to explain a little more.

25 A. Would you mind rephrasing the question.

(GAYNOR - CROSS BY WILLIAMS)

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1 Q. Yes. Do you think it's gamesmanship for
2 a person to expect that you're going to do what you
3 said you were going to do?

4 A. No.

5 MR. WILLIAMS: Thank you. That's all I
6 have.

7 JUDGE CLISHE: All right. Thank
8 you. Commissioners, do you have questions of Mr.
9 Gaynor?

10 COMMISSIONER CASAD: Yes.

11

12 EXAMINATION

13 BY COMMISSIONER CASAD:

14 Q. Mr. Gaynor, references have been made,
15 page 8 of your rebuttal testimony, and reference was
16 made by counsel to -- Counsel Dudley -- to the
17 testimony of Mr. Ash, indicating that Mr. Ash, as I
18 understood the questions and answers, was committing
19 the company to a course of action regarding the
20 establishment of rates.

21 I notice that on page 8 of your rebuttal
22 testimony in the last complete sentence you indicate
23 the transcript excerpt cited by the intervenors does
24 not represent the formal proposal offered by the

25 company and adopted by the Commission. From that I
(GAYNOR - EXAMINATION BY CASAD)

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1 must infer that the testimony of Mr. Ash here you do
2 not believe is germane and that there is a separate
3 proposal, separate formal proposal offered by the
4 company which the Commission accepted. Is that true,
5 and if it is true, would you explain to me what that
6 is.

7 A. I believe that -- and I can't put my hands
8 on it right at the moment, but I believe that there
9 were proposals made in the study group about the means
10 by which volume adjustments would be made, that it was
11 a proposal that was made primarily by the company and
12 discussed in the study group and that became
13 effectively the formal proposal, that Mr. Ash's
14 response to questioning was more specific and
15 hypothetical dealing with specific periods of time,
16 and that is the part that we believe is not what we
17 had proposed as a company.

18 For instance, we had not proposed
19 specifically adjusting the rate in this hearing, this
20 specific hearing, for the period of time April '93, or
21 whatever it is, for the period of time specified in
22 Mr. Ash's testimony, nor could we even have known
23 until this time that an adjustment was even required.
24 But that Mr. Ash's testimony does definitely meet the

25 spirit of what the company had proposed as far as the
(GAYNOR - EXAMINATION BY CASAD)

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1 basic formula.

2 Q. In your view, then, the formal proposal
3 offered by the company and accepted by the Commission
4 was the product of the working group's deliberations
5 and conclusions, and if so, where was that
6 memorialized?

7 A. Well, I believe that was the case and,
8 again, I'm -- I'm relying on a fairly recent review of
9 the record and maybe not as detailed as we would wish
10 it had been, but I believe it is discussed in the
11 study report to the Commission.

12 Q. I'm reading your own testimony. And your
13 testimony is explicit. It says the transcript excerpt
14 cited by the intervenors does not represent the formal
15 proposal offered by the company and adopted by the
16 Commission. Therefore, I'm led to believe that you
17 had a -- or have a specific formal proposal in mind to
18 which you're referring which was offered by the
19 company and adopted by the Commission, and from your
20 responses I'm a bit at sea trying to understand what
21 that formal proposal is, where it is.

22 A. I believe that it is in -- and this I know
23 is an exhibit now, but I'm not sure which exhibit it
24 is.

25 MR. HATCHER: Eight.

(GAYNOR - EXAMINATION BY CASAD)

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1 THE WITNESS: Eight?

2 A. Exhibit 8, page 6, at the bottom which says
3 semi-annual rate adjustment, which says rate changes
4 due to application of the adjustment factors would
5 occur semi-annually. Based on volume and inflation.
6 And then Appendix 1 is referenced for the volume
7 adjustment. I'm sorry. It's Appendix 2 is the volume
8 adjustment.

9 Q. And in your view, then, or it is your
10 testimony that the formal proposal offered by the
11 company, adopted by the Commission, is contained on
12 page 6 of Exhibit 8 with the inclusion of Appendix 2?
13 Would that be correct?

14 A. Yes, sir.

15 COMMISSIONER CASAD: Thank you. I have no
16 further questions.

17

18 EXAMINATION

19 BY COMMISSIONER HEMSTAD:

20 Q. Mr. Gaynor, my sense from listening to the
21 testimony and reading the testimony here, there would
22 appear to have been a general agreement as to how to
23 proceed at the time of the rate case when the premise
24 of a 12-month period would be taken into account was

25 established. But the problem presented is that no one

(GAYNOR - EXAMINATION BY HEMSTAD)

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1 foresaw the -- when the fact occurred, this perhaps
2 one-time, unique, one-month aberration of this
3 enormous volume. It was not that it was
4 unforeseeable, but it was unforeseen, and so everybody
5 agrees with this arrangement.

6 So now the question is what do we do about
7 it. And we have three proposals in front of us, the
8 company, the staff, and the intervenors'. In your
9 opening case it was your position that it was illegal
10 for this Commission to take into account the period
11 prior to January of 1993. In view of the comments in
12 your testimony, also in response to the questions from
13 Mr. Williams, I take it you've now abandoned that
14 position that its illegal for this Commission to take
15 into account the period prior to January 1, 1993?

16 A. I'm not sure that that's an accurate
17 statement of what we intended in the statement
18 relating to unlawful. And again, I'm not an attorney.
19 Based on what I have been told by our attorneys, the
20 position is not that it is illegal to include 1992
21 volumes, but that it is illegal to reduce revenues to
22 the company under regulation in 1993 because of
23 revenues that were received at the end of 1992 that
24 rightfully should have been received in 1993 under

25 regulation. That to do so would be applying revenues

(GAYNOR - EXAMINATION BY HEMSTAD)

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1 received by the company under an unregulated period to
2 cover the cost.

3 Q. All right. But your written testimony is
4 to the effect that the staff's position is
5 unreasonable?

6 A. Yes, it is, which is why we would not say
7 that their use of the 1992 data, we would not claim
8 that that would be illegal.

9 Q. But your position in retrospect now, taking
10 your position that you can only look at the first four
11 months of 1993, after this extraordinary aberration of
12 December of 1992 which was stealing from 1993, I think
13 everybody agrees, puts you in a remarkably fortuitous
14 position, doesn't it?

15 A. I can understand your perspective in that,
16 and certainly using the first four months of the year
17 is not the most desirable way to set rates.

18 Q. Which are the four lowest -- just about the
19 four lowest months over the 18 months that are
20 covered?

21 A. Right. However, after eight months of data
22 we're still 30 percent below the volumes that were
23 used to establish the existing rates. Using the eight
24 months of data that we have and annualizing that -- I

25 believe that's in Mr. Bede's rebuttal testimony --

(GAYNOR - EXAMINATION BY HEMSTAD)

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1 shows only a slight increase over the estimates
2 produced by the first four months, but it does produce
3 a somewhat greater volume and would certainly lead us
4 to propose a somewhat lower unit rate.

5 Q. Well, okay, but are you prepared to concede
6 that taking the first four months is an unrealistic
7 skewing of the volumes that after the discussion
8 here in cross-examination and the like would not be an
9 appropriate way for this Commission to determine the
10 mechanism of setting the rate?

11 A. Yes, I would agree with that.

12 Q. So that leaves the other two, the staff
13 position of leaving out two months or the intervenors'
14 position of taking -- call it the letter of the law,
15 so to speak, of the agreement that doesn't concede at
16 least the problem, if it is a problem, of the one-
17 month aberration. So obviously between those two you
18 would prefer the staff position?

19 A. Most definitely.

20 Q. Do you see any problem, particularly with
21 the testimony of Ms. Parker, that if the skewing
22 effect of the December volumes apparently will
23 continue through the remainder -- at least through the
24 remainder of 1993, that that will tend to understate

25 the volumes when the next period comes in?

(GAYNOR - EXAMINATION BY HEMSTAD)

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1 A. If the December volumes were used in the
2 next period?

3 Q. No. I say because of the huge volume that
4 occurred in December of 1992, it means that for
5 significant period of months Ms. Parker's testimony
6 was that it would be beyond -- the impacts are beyond
7 of April 1993.

8 A. I understand. The impacts -- we're in the
9 unfortunate position that we have five or six
10 generators who produce 70 to 90 percent of the waste.
11 Not only do they produce that much of the waste but
12 they have the ability to decide when and if they ship
13 large portions of that waste. Some of them can store
14 their waste for up to five years. Some of them are
15 involved in cleanups where it's a matter of regulatory
16 negotiations to when they will send those waste and
17 their own economic conditions as to when they choose
18 to send those waste.

19 I would expect that the large volume in
20 December of 1992 represents waste that could have come
21 to the Richland facility five years ago, and some of
22 it might not have been available for three years under
23 the -- if there were no other economic considerations.
24 So the -- I believe the waste itself has -- you could

25 project its effect in both directions, in the past as
(GAYNOR - EXAMINATION BY HEMSTAD)

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1 well as the future.

2 COMMISSIONER HEMSTAD: I have no further
3 questions.

4

5 EXAMINATION

6 BY COMMISSIONER CASAD:

7 Q. Taking your last response to Commissioner
8 Hemstad, if that's the case where the generators have
9 this capacity to store for five years and to
10 essentially dump waste, why in the world would your
11 company accept a 12-month volumetric approach to
12 establish rates?

13 A. Well, my personal opinion is that that may
14 be a problem, but I wasn't involved at the time that
15 we made that proposal, and that was a group discussion
16 including the generators and including some public
17 interest groups and the study group, and I was not
18 party to those discussions.

19 We believe that given a reasonable
20 application of the volumes in retrospect, based on the
21 conditions that were applied, that it should even out
22 over time, and absent large rate swings such as the
23 one that would occur if the intervenors' proposal was
24 accepted at this point, that over time the variations

25 in volume and the swings in the unit rates shouldn't
(GAYNOR - EXAMINATION BY CASAD)

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1 be untenable.

2 Q. As I recall the testimony, the Commission
3 accepted the company's position on this issue to use
4 the 12-month volumetric approach to set rates. Are
5 you now disavowing that position?

6 A. I have made no intention to disavow that
7 position. We certainly would not oppose a Commission
8 initiative, or anyone else's initiative for that
9 matter, to come up with a mechanism that provided
10 greater rate stability.

11 Q. I would like to move to another topic
12 just briefly. As we go along here we tend to develop
13 these things a little bit. In view of your responses
14 and your testimony as to what constituted the formal
15 proposal offered by the company and adopted by the
16 Commission and the reference you made to the report of
17 the study group, and the language in the memorandum
18 which forwarded that study to the Commission, the
19 final paragraph reads, the committee feels that the
20 implementation of the preferred regulatory approach
21 described in the attached report meets these criteria.
22 We encourage your careful review and consideration of
23 the committee's recommendations. Which falls
24 substantially short of formal adoption by the

25 Commission of the recommendations of that group. Is

(GAYNOR - EXAMINATION BY CASAD)

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1 there anyplace in the Commission's order that you can
2 establish where the Commission adopted the specific
3 recommendations of the study group?

4 A. May I refer to my counsel?

5 Q. Please.

6 THE WITNESS: Do you have the reference to
7 that in the Commission's order?

8 Q. If one exists.

9 MR. HATCHER: Your Honor, Mr. Commissioner,
10 I believe that Mr. Dudley has pointed that out.

11 COMMISSIONER CASAD: I'm aware of Mr.
12 Dudley's question.

13 MR. VAN NOSTRAND: It's kind of a two-step
14 process in that the committee report then was picked
15 up, and the company's proposal in the '92 rate case
16 which is in Mr. Bede's exhibit here. Those are
17 essentially a reproduction of the same exhibits that
18 are included in Exhibit 8 if you look at Mr. Bede's
19 Exhibit 3.

20 COMMISSIONER CASAD: It's not necessary to
21 unnecessarily complicate the process. I cannot recall
22 anyplace in the order where it indicated that the
23 Commission specifically adopted this memoranda which
24 were the recommendations of the study group, and I was

25 asking if there was such, if I had missed it, if it
(GAYNOR - EXAMINATION BY CASAD)

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1 was someplace.

2 MR. VAN NOSTRAND: It's just part of the
3 legislative history of the procedure background of
4 this whole ratemaking mechanism. And there was a
5 letter from the Commission that transmitted this
6 proposal to the legislature and the legislation, the
7 legislature whether the Commission adopted the finding
8 of the study group, then that was turned into chapter
9 81.108 RCW, so it's kind of a trail of --

10 COMMISSIONER CASAD: In that context, yes,
11 but as far as the order of the Commission establishing
12 the rates, no.

13 MR. VAN NOSTRAND: No, except to the extent
14 it adopts the company's proposal which picks up on the
15 study group proposal.

16 COMMISSIONER CASAD: I recognize what point
17 you're trying to make.

18 Q. Now if I could turn to Commissioner
19 Hemstad's comment about the intervenors trying to use
20 the letter of the law approach. If -- it seems that
21 there's a question if the report of the study
22 committee was not formally adopted by the Commission,
23 the question is just exactly what did everybody agree
24 to as far as the mechanical process to be used in

25 arriving at fair, just, and reasonable and sufficient
(GAYNOR - EXAMINATION BY CASAD)

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1 rates? The counsel for PGE indicates that he
2 considers -- or I'm led to believe that he considers
3 the testimony of Mr. Ash to be binding on the company
4 as far as an approach to be used. I'm not asking for
5 comment from you at this particular point in time.
6 I would like counsel to address this issue on brief,
7 if I made the issue clear as to what I'm seeking, and
8 that's support for the letter-of-the-law approach, if
9 there is any, contained in Mr. Ash's testimony. Do
10 you understand what I'm after? Thank you.

11 COMMISSIONER HEMSTAD: I would follow up on
12 that comment with the further point that if we're
13 talking about the letter of the law, then we also are
14 talking about the response like a court of equity. I
15 mean, we have a circumstance that was not anticipated,
16 and it seems to me, by any of the parties and
17 therefore does that justify carving out an exception,
18 if you will, or an adjustment to take that
19 extraordinary event into account.

20 COMMISSIONER CASAD: Your suggestion is
21 maybe that should be addressed, and I would absolutely
22 agree.

23 COMMISSIONER HEMSTAD: Rather than these
24 somewhat arbitrational devices about using the first

25 four months, for example, which I don't think -- just
(GAYNOR - EXAMINATION BY CASAD)

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1 doesn't seem to me to be reasonable.

2 MR. HATCHER: I would like the opportunity
3 to ask the witness a hypothetical question because I
4 think the issues that both of you gentleman are
5 raising kind of begs the question because the court
6 -- as you know, we are under a stay and the court
7 remanded this matter back to the Commission and we
8 will argue on brief that the limited scope of the
9 remand is to apply the formula, and I believe that the
10 witness has conceded specifically what that formula
11 is, and the company at no time, including up until the
12 present time, has taken the appropriate steps to seek
13 permission from the court to obtain relief from this
14 Commission in the form of modifying -- in the form of
15 modifying the semi-annual volume adjustment which this
16 witness -- which the company witness has conceded the
17 company's attempting to do. And we can talk back and
18 forth and we can argue on brief, as we will, about
19 what the strict letter-of-the-law approach is, but I
20 think central to Commissioner Hemstad's concern over
21 whether an equitable exception can be carved out, I
22 think we must keep in mind also that we are under a
23 stay and the scope of the remand, at least we will
24 argue in brief, is extremely limited. And I think

25 this witness has conceded that point and that is --
(GAYNOR - EXAMINATION BY CASAD)

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1 COMMISSIONER CASAD: I think it's fair,
2 Counsel, for the company to be heard on that issue
3 too.

4 COMMISSIONER HEMSTAD: We may be turning
5 this into an argument up here.

6 MR. DUDLEY: If I just may address the
7 point even before we get to brief, is that it's
8 Portland General's position that the company was bound
9 to file the letter-of-the-law adjustment for the
10 six-month volume change and that would have led them
11 to a rate that they didn't like. It would have been a
12 low rate.

13 And then to address Commissioner Hemstad's
14 equity concern they should have simultaneously filed
15 for emergency or additional relief from that result,
16 and the answer would have been that the rates that
17 would have gone into effect at the time they should
18 have gone into effect, July, would have been the lower
19 rates and all of the customers would have been
20 enjoying the benefits of those lower rates until this
21 Commission had a chance to address this alternative.

22 COMMISSIONER CASAD: I think that might
23 more appropriately be addressed in briefs rather than
24 now, and that's what I was asking for.

25 MR. DUDLEY: I would be happy to do it

(GAYNOR - EXAMINATION BY CASAD)

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1 JUDGE CLISHE: Mr. Van Nostrand, do you
2 have any redirect?

3 MR. VAN NOSTRAND: No, your Honor.

4 JUDGE CLISHE: All right. I think at this
5 time, then, we're finished with Mr. Gaynor's
6 testimony. Any recross? All right. Thank you very
7 much, Mr. Gaynor.

8 THE WITNESS: Thank you for letting me go
9 out of order.

10 JUDGE CLISHE: Let's take our afternoon
11 break and come back at 15 after 4:00.

12 (Recess.)

13 JUDGE CLISHE: Back on the record after our
14 afternoon break, and at this point I believe our next
15 witness is Mr. Hutchins and who is going to be -- Ms.
16 O'Malley, okay. Thank you.

17 Whereupon,

18 LESTER C. HUTCHINS,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MS. O'MALLEY:

24 Q. Mr. Hutchins, can you state your name and

25 employment for the court reporter.

(HUTCHINS - DIRECT BY O'MALLEY)

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1 A. My name is Lester C. Hutchins. I'm a
2 senior health physicist for the Public Service Company
3 of Colorado, Fort St. Vrain nuclear generating
4 station, 16805 Weld County Road 19 1/2, Platteville,
5 Colorado.

6 Q. Mr. Hutchins, did you prefile testimony in
7 this case?

8 A. Yes, I did.

9 Q. Do you have a copy of that testimony before
10 you?

11 A. I do.

12 MS. O'MALLEY: I would like to offer that
13 for identification at this time, your Honor, mr.
14 Hutchins' testimony.

15 JUDGE CLISHE: All right. I'll mark for
16 identification as Exhibit T-23 what is identified as
17 LCH-1, and I will mark for identification as Exhibit
18 24 what is identified as LCH-2. I'll mark for
19 identification what is identified as LCH-3, and that
20 will be marked Exhibit 25. I will mark for
21 identification as Exhibit 26 what is identified as
22 LCH-4, and I'll mark for identification as Exhibit 27
23 what is identified as LCH-5.

24 (Marked Exhibits Nos. T-23, 24, 25, 26, and

25 27.)

(HUTCHINS - DIRECT BY O'MALLEY)

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1 MS. O'MALLEY: Thank you.

2 Q. Did you prepare this testimony?

3 A. Yes, I did.

4 Q. And the exhibits which have been marked
5 Exhibits 24 through 27, were those exhibits prepared
6 for your testimony by you or under your control?

7 A. Yes, they were. I would like to point out
8 there was an Exhibit LCH-6 which I do not believe was
9 given a number.

10 JUDGE CLISHE: Yes, I just noticed. LCH-6
11 and LCH-7. So I'll mark for identification as LCH-6
12 and that will be marked as Exhibit 28. Exhibit 29
13 will be marked what is identified as LCH-7. Thank
14 you.

15 (Marked Exhibits Nos. 28 and 29.)

16 Q. And all the exhibits, 24 through 29, were
17 prepared at your direction or control?

18 A. That is correct.

19 Q. Have you had a chance to review your
20 prefiled testimony in this case?

21 A. Yes, I have.

22 Q. And if I were to ask you those same
23 questions today, would your answers be the same?

24 A. Yes, they would.

25 Q. Do you have any additions or corrections to
(HUTCHINS - DIRECT BY O'MALLEY) 268

1 that testimony -- excuse me -- changes or corrections
2 to that testimony?

3 A. I do have an update I would like to provide
4 in that through this date a total of 21,743 cubic feet
5 of low level radioactive waste has been sent from Fort
6 St. Vrain and received at the Benton County facility.
7 Another 2,468 cubic feet will arrive either or have
8 arrived sometime today or should arrive tomorrow.
9 There is an additional 2,468 cubic feet which is
10 scheduled for departure on Monday.

11 JUDGE CLISHE: Excuse me, Mr. Hutchins.
12 Which of your exhibits are you updating?

13 THE WITNESS: It is an update to the
14 question which began at approximately line 19 on
15 page 5.

16 JUDGE CLISHE: Can you tell me which
17 exhibit this is of yours, please?

18 THE WITNESS: That was not an exhibit. It
19 was in the testimony itself.

20 JUDGE CLISHE: Okay. All right. Thank
21 you. And this is page 5?

22 THE WITNESS: Yes.

23 JUDGE CLISHE: Okay. Are you planning to
24 submit, Ms. O'Malley, a revised page?

25 MS. O'MALLEY: I can do that, your Honor,
(HUTCHINS - DIRECT BY O'MALLEY)

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1 if that's what you would like us to do.

2 JUDGE CLISHE: I think that with the -- it
3 sounds as though there's a fair amount of new
4 information and I think it would be most helpful if
5 you could provide a revised page so we all have the
6 same figures.

7 MS. O'MALLEY: Okay. I would also like to
8 move to have Mr. Hutchins' testimony and Exhibits 23
9 through 29 admitted as evidence.

10 JUDGE CLISHE: Are there any objections to
11 Exhibits T-23 through 29? Hearing no objection, I'll
12 admit Exhibits T-23 through 29 into the hearing
13 record.

14 (Admitted Exhibits Nos. T-23, 24, 25, 26,
15 27, 28 and 29.)

16 MS. O'MALLEY: And Mr. Hutchins is
17 available for cross-examination.

18 JUDGE CLISHE: All right, thank you. Mr.
19 Van Nostrand, do you have questions of Mr. Hutchins?

20 MR. VAN NOSTRAND: Yes, I do, your Honor.
21 Thank you.

22

23 CROSS-EXAMINATION

24 BY MR. VAN NOSTRAND:

25 Q. Good afternoon, Mr. Hutchins.

(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 A. Good afternoon.

2 Q. One of the issues you discuss in your
3 testimony is whether or not the waste from the Fort
4 St. Vrain decommissioning should be treated as an
5 extraordinary volume, is that correct?

6 A. No, sir. I don't believe that that was a
7 very large issue in here. It was mentioned
8 essentially in passing. Could you provide me a
9 reference.

10 Q. Yes. Page 2, lines 20 to 26. You said
11 that despite the decision of the WUTC in the seventh
12 supplemental order, US Ecology attempts to consider
13 these volumes as extraordinary and that this
14 influences the results of the volumes to be used for
15 the rate adjustment.

16 A. That is correct.

17 Q. And so it's your understanding that the
18 Commission in the seventh supplemental order decided
19 the waste from Fort St. Vrain would not be treated as
20 an extraordinary volume, is that correct?

21 A. Yes.

22 Q. And have you reviewed testimony from last
23 year's rate case describing how the extraordinary
24 volume mechanism works?

25 A. Yes, I have. I have read it. I am not an
(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 expert of the details.

2 Q. Is it fair to say if waste received appears
3 an extraordinary volume that it's priced such that
4 one-half of the quantity is priced at the normal or
5 ordinary rate and the other half is priced at the
6 incremental rate which currently is about three
7 percent of the normal rate?

8 A. That is correct. In absence of a contract
9 between the company and the customer.

10 Q. And if we were to attempt to quantify what
11 the rate would be for an extraordinary volume using
12 the \$28.30 rate set by the Commission in the 1992 rate
13 case, would that rate for extraordinary volume be
14 calculated by taking one-half times the 28.30 and then
15 one-half times three percent of the 28.30 which
16 produces a rate of \$14.57.5 rounded up to 14.58?
17 Would you accept that subject to check?

18 A. Those numbers are correct for the volume
19 portion only.

20 Q. And for waste from the Fort St. Vrain
21 decommissioning for just a normal cubic or a cubic
22 foot of low activity waste, wouldn't Public Service of
23 Colorado rather pay \$14.58 than \$28.30 cents per cubic
24 foot?

25 A. That is not true because Fort St. Vrain
(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 generated waste carry a large number of surcharges,
2 liner surcharges, curie surcharges, et cetera. The
3 volume portion is a small portion of that, and we
4 would have to evaluate that against all of the other
5 charges.

6 Q. But has Public Service of Colorado done any
7 sort of an economic analysis to determine that it's in
8 its economic interest to have this waste treated as
9 ordinary volumes rather than extraordinary volumes?

10 A. No evaluation has been done.

11 Q. Do you suspect volumes would be \$14.58 as
12 compared to \$28.30 for ordinary deliveries, that it
13 would be at the Public Service of Colorado's economic
14 advantage to have these wastes treated as
15 extraordinary volumes?

16 A. I have insufficient information to answer
17 that question because that would affect the
18 -- potentially the curie and liner surcharges which
19 may change as a result of treating as an extraordinary
20 volume. I do not have enough information.

21 Q. Are the disposal costs for Fort St. Vrain
22 waste being paid by Public Service Company of Colorado
23 or by Scientific Ecology Group?

24 A. The invoices are being paid by Scientific

25 Ecology Group who in turn is reimbursed by Public
(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 Service Company of Colorado.

2 Q. And is Public Service of Colorado affected
3 by the disposal rates determined in this proceeding?

4 A. Yes, we are.

5 Q. And what are the terms of the contract
6 between Fort St. Vrain and SEG regarding the disposal
7 invoices for decommissioning waste?

8 MR. HATCHER: Your Honor, I don't
9 understand the -- I object on the grounds of
10 relevance. Maybe it's late in the day. I just don't
11 understand what the relevance of this line of
12 questioning is.

13 MS. O'MALLEY: I would also agree in
14 support of that objection. I'm not sure where counsel
15 is going and what the contract between SEG and the
16 company is. The witness has testified that Public
17 Service Company is responsible for payments and is
18 directly affected by a rate increase or rate
19 adjustments in this proceeding, SEG being simply a
20 contractor in the middle.

21 JUDGE CLISHE: All right, thank you. Mr.
22 Van Nostrand, do you have any comments?

23 MR. VAN NOSTRAND: No. I'll withdraw the
24 question, your Honor.

25 JUDGE CLISHE: All right.

(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 Q. Your testimony also discusses the portion
2 of the total revenue requirements that is to be
3 recovered by surcharges and special charges, is that
4 correct?

5 A. Would you point to the --

6 Q. Page 3, lines 4 through 7.

7 A. Yes, it does.

8 Q. And it's your testimony, apparently, that
9 the company is required to establish a tariff sheet
10 which allows it to collect no more than \$377,055 from
11 surcharges and special charges?

12 A. That is correct.

13 Q. And so if you look at calendar year 1993,
14 it's your testimony that US Ecology should not be
15 allowed to recover any more than \$377,055 from
16 surcharges and special charges?

17 A. It is our position that we believe that
18 that -- those revenues -- revenues are in excess of
19 that amount may be collected, and at this point the --
20 there has been no direction given to us via the
21 seventh supplemental order as to what would occur if
22 that revenue were to be exceeded.

23 Q. What if the company had collected less than
24 \$377,055 from surcharges and special charges?

25 A. I believe that that is similarly

(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 unaddressed.

2 Q. And do you recall the total amount of the
3 revenue requirement determined by the Commission in
4 the seventh supplemental order?

5 A. Rounded off, it's approximately \$4.8
6 million.

7 Q. And as you say \$377,055 is to be recovered
8 from surcharges and special surcharges, doesn't that
9 leave about \$4.5 million to be recovered from volume
10 and activity charges?

11 A. Yes.

12 Q. And have you done any analysis to determine
13 whether or not the company will recover the \$4.5
14 million in revenues from volume and activity charges
15 during 1993?

16 A. No. My analysis has been limited to Public
17 Service Company of Colorado only.

18 Q. And consistent with your testimony
19 regarding the revenues from surcharges and special
20 services, isn't the company entitled to recover an
21 amount no more or no less than \$4.5 million from
22 volume and activity charges in 1993?

23 A. I would like to have you rephrase that
24 question slightly.

25 Q. Consistent with your position regarding
(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 the treatment of the \$377,055 from surcharges and
2 special services, isn't the company also entitled to
3 recover an amount no more or no less than \$4.5 million
4 from volume and activity charges in 1993?

5 MR. WILLIAMS: I'll object on the ground it
6 calls for the witness to draw a legal conclusion.

7 JUDGE CLISHE: Any response?

8 MR. VAN NOSTRAND: It's merely an extension
9 of his testimony on one item to the remaining portion
10 of the company's revenue requirement. It's no more a
11 legal conclusion than his original testimony, your
12 Honor.

13 JUDGE CLISHE: I'll overrule the objection
14 and you can answer the question.

15 A. May I have it repeated one more time,
16 please.

17 Q. Certainly. Consistent with your proposed --
18 or with your position with respect to the revenues
19 from surcharges and special charges, isn't the company
20 entitled to recover an amount no more or no less than
21 \$4.5 million from volume and activity charges during
22 1993?

23 A. I believe that the rate structure should
24 exist such that that would be the recovery. I cannot

25 answer directly as to how that dollar amount was
(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 directly applied.

2 Q. So if actual volumes were such that the
3 company does not recover \$4.5 million from volume and
4 activity during 1993, are you proposing that the
5 company recover this amount in a subsequent period?

6 A. I believe that the rate structure is such
7 that the volume adjustment, if necessary, would have
8 already corrected for that.

9 Q. And could you explain how the volume
10 adjustment insures that the company will recover the
11 \$4.5 million in revenue responsibility allocated to
12 volume and activity during 1993?

13 A. Formulation has been provided to calculate
14 a rate based on that revenue requirement. If volumes
15 should change significantly, then the number that
16 you're dividing into, the \$4.5 million revenue
17 requirement would change and thereby change the base
18 rate.

19 Q. Does that give the company an opportunity
20 to recover the \$4.5 million for 1993 that has been
21 assigned for volume and activity charges in the
22 seventh supplemental order?

23 A. I believe it does.

24 MR. VAN NOSTRAND: I have no further

25 questions of this witness, your Honor.

(HUTCHINS - CROSS BY VAN NOSTRAND)

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1 JUDGE CLISHE: All right, thank you. Ms.
2 Egeler, did you have questions of Mr. Hutchins?

3 MS. EGELER: Very few, your Honor.
4

5 CROSS-EXAMINATION

6 BY MS. EGELER:

7 Q. Good afternoon, Mr. Hutchins.

8 A. Good afternoon.

9 Q. Could you please turn to page 6 of your
10 testimony which is Exhibit T-23. You make a number of
11 predictions about the volume of waste that Public
12 Service Company of Colorado will be disposing at US
13 Ecology's site. Am I correct in understanding that
14 Public Service Company of Colorado will be disposing
15 of these volumes but there is some issue as to the
16 exact date that these will be disposed?

17 A. Those are volumes that will be disposed of
18 prior to December 31, 1993. I cannot give the exact
19 date for disposal of each and every cubic foot.

20 Q. Is there anything that is legally binding
21 Public Service Company of Colorado to dispose of that
22 level of volume by December of 1993?

23 A. No, there is not.

24 Q. So at this time these volume estimates,

25 these disposal estimates, are the very best estimate
(HUTCHINS - CROSS BY EGELER)

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1 you can make at the time, but you do not have known
2 and measurable data at this point, is that correct?

3 A. No, that's not correct. As I started
4 providing in an update to my testimony, as of this
5 minute we have 21,743 cubic feet already there with
6 another 2,468 cubic feet in transit which was -- has
7 arrived either today or will arrive tomorrow, with an
8 additional 2,468 cubic feet planned to leave on
9 Monday.

10 Q. So the volume that you have already
11 disposed of at US Ecology site would be known and
12 measurable, correct?

13 A. That is correct.

14 Q. And the volume that you have in transport
15 on its way there, the volume that you're referring to
16 that should be there by Monday, that also is known and
17 measurable, you know exactly how much it is at this
18 point, correct?

19 A. That is correct.

20 Q. Now, volumes beyond that you have just
21 given this Commission your best estimate, is that
22 correct? In other words, they can't be known and
23 measurable until they're actually shipped to the site,
24 can they?

25 BY MS. O'MALLEY:

(HUTCHINS - REDIRECT BY O'MALLEY)

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1 Q. Mr. Hutchins, in response to a question
2 asked by Mr. Van Nostrand, you stated that the minimum
3 volume rate or the base rate that Public Service
4 Company pays for its decommissioning waste is really
5 maybe a small portion, or I guess you said it was a
6 small portion of the total payment that you make per
7 cubic foot of waste from Fort St. Vrain. Do you have
8 any information as to what portion volume represents
9 to the activity and exposure surcharges attended to
10 decommissioning waste from Fort St. Vrain?

11 A. Yes. I was provided in what is now Exhibit
12 No. 25 and through -- I'm sorry -- Exhibit No. 26,
13 through June of 1993, the volume-related charges were
14 approximately 54 percent of what the total revenue was
15 to US Ecology from these wastes.

16 Q. And what percentage of your payments to US
17 Ecology represents the activity and exposure
18 surcharges?

19 A. Activity and exposure surcharges were
20 approximately 44 percent.

21 Q. You discussed with Ms. Egeler and updated
22 your testimony to represent that 21,743 cubic feet
23 have been delivered to the site, 2,468 is on its way
24 today. Approximately what percentage of the projected

25 waste for Fort St. Vrain does this amount represent?

(HUTCHINS - REDIRECT BY O'MALLEY)

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1 A. The seventh supplemental order adopted a
2 recommendation from Commission staff of an estimated
3 1993 disposal volume of 25,800 cubic feet. With the
4 last two series of shipments completed, our total
5 disposal volume will be 26,679 cubic feet,
6 significantly exceeding that plan by the Commission
7 even if no further shipments were to be made.

8 Q. So greater than 100 percent?

9 A. Yes.

10 MS. O'MALLEY: No more questions.

11 JUDGE CLISHE: Thank you. Any recross of
12 Mr. Hutchins? All right. Thank you, Mr. Hutchins,
13 for your testimony. And, Ms. O'Malley, are you also
14 calling Mr. Young or is that Mr. Dudley?

15 MR. DUDLEY: I am.

16 JUDGE CLISHE: All right, thank you.

17 MR. DUDLEY: While Mr. Young is making his
18 way to the stand, perhaps we can mark his exhibits for
19 identification.

20 JUDGE CLISHE: All right. I'll mark for
21 identification as Exhibit T-30 what is identified as
22 REY-1. I'll mark for identification as Exhibit 31
23 what is identified as REY-2, and I'll mark for
24 identification as Exhibit 32 what is identified as

25 REY-3.

(COLLOQUY)

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1 (Marked Exhibits Nos. T-30, 31, and 32.)

2

3

DIRECT EXAMINATION

4 Whereupon,

5

ROBERT E. YOUNG,

6 having been first duly sworn, was called as a witness

7 herein and was examined and testified as follows:

8

9

DIRECT EXAMINATION

10 BY MR. DUDLEY:

11 Q. Good afternoon, Mr. Young.

12 A. Good afternoon.

13 Q. Please state your name and give your
14 address, please.

15 A. My name is Robert Young. My address is
16 2530 Southwest Vista, Portland, Oregon, 97201.

17 Q. And for whom are you sponsoring testimony
18 here today?

19 A. Portland General Electric, the Washington
20 Public Power Supply System, Teledyne Wah Chang Albany,
21 Public Service company of Colorado and Precision
22 Castparts.

23 Q. Do you have before you what's been marked
24 for identification as Exhibits 30, 31, and 32?

25 A. Yes, I do.

(YOUNG - DIRECT BY DUDLEY)

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1 Q. And are there any changes that need to be
2 made in those exhibits at this time?

3 A. Yes, there are. On page 3.

4 Q. Of which one, sir?

5 A. My testimony.

6 Q. That's T-30?

7 A. T-30, that's correct. Line 15 I referenced
8 an attachment to my testimony which was inadvertently
9 not included, however, the exhibit I referenced is a
10 part of Barry C. Bede's testimony, BCB-3, at which is
11 Exhibit 2, page 2.

12 Q. Excuse me. Exhibit 3?

13 A. Excuse me. Yes, Exhibit 3.

14 Q. Okay.

15 COMMISSIONER CASAD: Wait a minute.

16 JUDGE CLISHE: This is confusing. Could
17 you go through this, Mr. Dudley, what this is?

18 MR. DUDLEY: I would be happy to. Maybe an
19 explanation would help. On line 15 there, Mr. Young's
20 testimony --

21 JUDGE CLISHE: Page 3, is that right?

22 MR. DUDLEY: Page 3. He makes a reference
23 to Exhibit 16 from the prior case which is attached.
24 Do you see that's the beginning of that sentence

25 there?

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1 JUDGE CLISHE: Yes, I do.

2 MR. DUDLEY: It was not attached, but the
3 same reference is now part of this record as Exhibit
4 3.

5 JUDGE CLISHE: All right.

6 COMMISSIONER CASAD: Would it be fair to
7 say, then, that it would read, "I have not attached an
8 example of the volume adjustment mechanism, bup, bup,
9 bup, bup, in the 1992 rate case, Exhibit 3, which shows
10 its operation"?

11 MR. DUDLEY: If we were going to rewrite
12 that, it would say, "I have --

13 JUDGE CLISHE: "An example is"?

14 MR. DUDLEY: Yes. "An example."

15 JUDGE CLISHE: All right. So we're
16 changing lines 11 and part of 12?

17 MR. DUDLEY: Delete "I have attached" and
18 start, "An example --

19 JUDGE CLISHE: -- is," and then cross out
20 "of" and then go on, "the volume adjustment," and so
21 forth?

22 MR. DUDLEY: Yes. "Is Exhibit 3," at the
23 end of line 14.

24 Q. And Mr. Young, are there any other changes

25 to your exhibits?

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1 A. Yes. On page 12, line 10, the sentence
2 that -- or the "additional 21,000 cubic feet," that
3 should read, "an additional 3,000 to 21,000 cubic
4 feet."

5 Q. So you would caret in "3,000 to" on line
6 10?

7 A. Right. And then on line 15 where "an
8 additional 50,000 cubic feet," that should read
9 "additional," and then insert the phrase "amount of
10 cleanup waste, which could be as much as 50,000 cubic
11 feet," and so forth.

12 Q. And would you explain, Mr. Young, why
13 you're making these changes at this time.

14 A. I was advised by counsel to make these
15 changes.

16 Q. And what was the reason that you were told
17 to make these changes?

18 A. Well, specifically with respect to the
19 3,000 to 21,000, that the original estimate of 21,000
20 cubic feet was based on a ratio of the radioactive
21 waste to the non-radioactive waste from the 1992
22 shipment, and Teledyne Wah Chang Albany is doing a
23 more careful evaluation using technique radon gas
24 analysis to determine how much of the waste is

25 actually radioactive and therefore needs to be shipped
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1 to Richland. 3,000 cubic feet has already been
2 evaluated and packaged and is ready to go.

3 Q. Okay. And how recently were you advised of
4 this new information?

5 A. I believe yesterday.

6 Q. Do those changes affect any other parts of
7 your submittal here, Mr. Young?

8 A. Not materially, no.

9 MR. DUDLEY: Okay. And, your Honor,
10 through Mr. Young I would like to have marked another
11 exhibit at this time.

12 JUDGE CLISHE: I'll mark for identification
13 what has been handed to me and is marked as Exhibit
14 33. This is a one-page interoffice memo to Mr. Gaynor
15 dated August 24, 1993.

16 (Marked Exhibit No. 33.)

17 COMMISSIONER CASAD: Question, your Honor.
18 It's marked "confidential." Has an order pertaining
19 to confidential material been issued in this case or
20 is the confidential to be ignored?

21 JUDGE CLISHE: I know that an order for
22 confidential material has not been issued. Mr.
23 Dudley, do you want to explain?

24 MR. DUDLEY: Yes. If the commissioner will

25 notice that this document has redacted figures. There

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1 are white blanks there where there otherwise would be
2 words. And by agreement of counsel for US Ecology it
3 was acceptable that what was the original version is
4 confidential, but with these redactions is acceptable
5 to have it submitted as -- well, offered for an
6 exhibit in this proceeding.

7 Q. And, Mr. Young, let me ask you, what's
8 been marked for identification as Exhibit 33, was this
9 provided to you and to Portland General in response to
10 our Data Request No. 17 which was, Please provide any
11 and all internal US Ecology correspondence, letters,
12 documents, computer files, memos, records of phone
13 conversations, et cetera, relating to any internal
14 forecasts, projections, or any other estimate of
15 projected LLRW volumes for 1993 at the Richland site?

16 A. Yes, it was.

17 Q. And when did you receive this response to
18 data request, Mr. Young?

19 A. I believe I received a part via facsimile
20 on Tuesday last, and with the confidential material
21 coming on Wednesday via overnight courier.

22 Q. What you have marked for identification as
23 Exhibit 33 was just presented to you yesterday?

24 A. Yes.

25 Q. Are what's been marked for identification,
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1 your Exhibits T-30, 31, and 32 true and correct to the
2 best of your knowledge and belief with the corrections
3 that you've just testified to, Mr. Young?

4 A. Yes, they are.

5 MR. DUDLEY: I would move for admission of
6 Exhibits Nos. T-30, 31, 32, and 33.

7 JUDGE CLISHE: All right. Are there any
8 objections to including Exhibits T-30, 31, 32, and 33
9 into the hearing record?

10 MR. VAN NOSTRAND: No objection as to T-30
11 through 32. The company does object to Exhibit 33.
12 No foundation for this exhibit can be laid by this
13 witness, your Honor, and it's being offered to prove
14 the truth of the matter asserted and this witness can
15 make no comments whatsoever regarding the truth of the
16 statements made in this document. This is a document
17 that could have and should have been offered through a
18 company witness so that a company witness can lay a
19 foundation for it and answer questions pertaining to
20 it. The way it is now, it's extremely misleading, and
21 this witness simply can't lay the foundation for it.

22 JUDGE CLISHE: Do you have a response,
23 Mr. Dudley?

24 MR. DUDLEY: I do, your Honor. It

25 certainly qualifies. All the foundation necessary
(YOUNG - DIRECT BY DUDLEY)

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1 evidentiary requirements are satisfied by its being
2 provided by US Ecology, a party to this proceeding.
3 It's an admission from them. It satisfies hearsay
4 tests and foundation tests by being provided by the
5 company in response to the specific question that I
6 phrased. It is the company's internal estimate of
7 volumes for 1993. It's probative and it's very
8 relevant to this proceeding.

9 JUDGE CLISHE: I'll overrule the objection
10 and admit this as Exhibit 33, and I'll also admit
11 Exhibits T-30, 31 and 32.

12 (Admitted Exhibits Nos. T-30, 31, 32, and
13 33.)

14 Q. I just have another couple of foundation
15 questions. Mr. Young, based on what you see in
16 Exhibit 33, what can you now say about the estimated
17 volumes to be received at the US Ecology site for
18 1993?

19 A. At this point it appears that approximately
20 151,000 cubic feet of waste will be received by US
21 Ecology, less the reductions that I just mentioned
22 from Teledyne Wah Chang which are included in here, so
23 that 151,000 minus 18,000 -- let me get my calculator
24 here. It's about approximately 133,000 cubic feet of

25 waste, and it's my opinion that that's a conservative
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1 estimate.

2 Q. Well, let me just break that down a little
3 bit. What is the amount of waste that's been
4 delivered to the site through June of 1993, Mr. Young?

5 A. The January to June total volumes shipped
6 to US Ecology's Richland facility is 46,697 cubic
7 feet.

8 Q. And what does this -- according to this
9 memo, what is projected to be shipped for the third
10 quarter of 1993?

11 A. 45,000 cubic feet. Excuse me. 49,000
12 cubic feet.

13 Q. And that's in paragraph 2 of Exhibit 33?

14 A. Yes, it is.

15 Q. And for the fourth quarter what's intended
16 to be shipped?

17 A. 56,000 cubic feet.

18 Q. And what are the total of those figures,
19 Mr. Young?

20 A. The total of those figures is 151,697.

21 Q. And the adjustment that you've just talked
22 about for Teledyne, what's the basis of that?

23 A. Just to be conservative, we'll assume that
24 so that the -- we'll assume a low estimate or a low

25 estimate for volumes will back out the 18,000 cubic

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1 feet of waste that is included in this memo based on
2 the conversation I had with counsel regarding the
3 Teledyne Wah Chang cleanup waste.

4 MR. DUDLEY: Okay. That's all I have. Mr.
5 Young is available for cross-examination.

6 JUDGE CLISHE: All right. I think we are
7 recessing. This probably is a good time now before we
8 get started with cross-examination. We will have Mr.
9 Young's testimony tomorrow and a witness that staff is
10 presenting. Does anybody else plan to present anybody
11 else tomorrow?

12 MR. VAN NOSTRAND: The company will be
13 recalling Mr. Bede for purposes of limited rebuttal
14 testimony.

15 JUDGE CLISHE: All right. We'll recess and
16 resume at 9:30 tomorrow. Thank you.

17 (Adjourned at 4:59 p.m.)

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