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1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3 THE WASHINGTON UTILITIES            )  
4 AND TRANSPORTATION COMMISSION,    )  
5                                    Complainant,            )  
6                                    vs.                            ) DOCKET NO. UE-991606  
7 AVISTA CORPORATION,                 ) VOLUME XII  
8                                    Respondent.             ) Pages 1403 - 1646

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9 THE WASHINGTON UTILITIES            )  
10 AND TRANSPORTATION COMMISSION,    )  
11                                   Complainant,            )  
12                                   vs.                            ) DOCKET NO. UG-991607  
13 AVISTA CORPORATION,                 ) VOLUME XII  
14                                   Respondent.             ) Pages 1403 - 1646  
15 -----

15                   A hearing in the above matter was held on July  
16 11, 2000, at 9:30 a.m., at 1300 South Evergreen Park  
17 Drive Southwest, Olympia, Washington, before  
18 Administrative Law Judges MARJORIE R. SCHAER and KAREN  
19 CAILLE and CHAIRWOMAN MARILYN SHOWALTER, COMMISSIONER  
20 RICHARD HEMSTAD, and COMMISSIONER WILLIAM R. GILLIS.

21                   The parties were present as follows:

22                   THE WASHINGTON UTILITIES AND TRANSPORTATION  
23 COMMISSION, by GREGORY J. TRAUTMAN and MARY M. TENNYSON,  
24 Assistant Attorney General, 1400 South Evergreen Park  
Drive Southwest, Post Office Box 40128, Olympia,  
Washington, 98504.

25 Joan E. Kinn, CCR, RPR  
Court Reporter

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1 AVISTA CORPORATION, by DAVID J. MEYER, General  
Counsel, E. 1411 Mission Avenue, Spokane, Washington,  
2 99220.

3 THE PUBLIC, by SIMON J. FFITCH, Assistant  
Attorney General, 900 Fourth Avenue, Suite 2000,  
4 Seattle, Washington, 98164-1012.

5 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,  
by S. BRADLEY VAN CLEVE, Attorney at Law, Duncan,  
6 Weinberg, Genzer and Pembroke, 1300 Southwest Fifth  
Avenue, Suite 2915, Portland, Oregon, 97201.

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01410

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

2 JUDGE SCHAER: This is a continuation of the  
3 Commission cross-examination hearing in Docket Numbers  
4 UE-991606 and UG-991607. We're meeting in the  
5 Commissioners' conference room in hearing room 206 on  
6 July 11th, 2000. And I would like to have counsel  
7 briefly note their appearances unless they were not here  
8 yesterday, and then you may give us a little bit longer  
9 version, starting with you, Mr. Meyer, please.

10 MR. MEYER: Thank you, Your Honor. Appearing  
11 on behalf of Avista, David Meyer.

12 MR. TRAUTMAN: Greg Trautman for commission  
13 staff.

14 MR. FFITCH: Public counsel, Simon ffitch,  
15 Your Honor.

16 MR. VAN CLEVE: Brad Van Cleve for ICNU.

17 JUDGE SCHAER: And you, ma'am?

18 KATHY MITCHELL: Kathy Mitchell with Avista.

19 JUDGE SCHAER: Good, I just didn't know who  
20 you were, sorry.

21 MS. MITCHELL: I'm not an attorney.

22 JUDGE SCHAER: No, that's fine.

23 Let's go ahead and you call your next  
24 witness, Mr. Trautman.

25 MR. TRAUTMAN: Thank you.



01411

1

2

D I R E C T   E X A M I N A T I O N

3

BY MR. TRAUTMAN:

4

Q.     Good morning, Ms. Huang.

5

A.     Good morning.

6

Q.     Could you please state your name and business  
7 address for the record.

8

A.     My name is Joanna Huang. My business address  
9 is 1300 South Evergreen Drive Southwest, Olympia,  
10 Washington, 98504-7250.

11

JUDGE SCHAER: Would you please raise your  
12 right hand, Ms. Huang.

13

14

Whereupon,

15

JOANNA HUANG,

16

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

18

JUDGE SCHAER: Okay, go ahead, Mr. Trautman.

19

20

D I R E C T   E X A M I N A T I O N

21

BY MR. TRAUTMAN:

22

Q.     Have you filed for identification with the  
23 Commission what has been marked as Exhibits T-570

24

through Exhibit 574?

25

A.     I have.

01412

1 Q. And have they been prepared by you or under  
2 your supervision?

3 A. Yes.

4 Q. And are they true and correct to the best of  
5 your knowledge?

6 A. Yes.

7 Q. And if I were to ask you the questions in  
8 your testimony today, would your answers be the same?

9 A. Yes.

10 MR. TRAUTMAN: I would move for admission of  
11 Exhibits T-570 through Exhibit 574.

12 JUDGE SCHAER: Any objections?

13 MR. MEYER: No objection.

14 JUDGE SCHAER: Those documents are admitted.

15 MR. TRAUTMAN: And Ms. Huang is available for  
16 cross.

17 JUDGE SCHAER: Did you have questions of  
18 Ms. Huang, Mr. Meyer?

19 MR. MEYER: Yes, I do.

20 JUDGE SCHAER: Go ahead, please.

21

22 C R O S S - E X A M I N A T I O N

23 BY MR. MEYER:

24 Q. Good morning.

25 A. Good morning.

01413

1 Q. Ms. Huang, in reviewing your qualifications  
2 that appear on page one of your testimony, I see that  
3 you have an accounting degree from Washington State  
4 University; is that correct?

5 A. Yes, Master Degree.

6 Q. Okay, thank you. And were you employed by  
7 previously the Department of Revenue as an excise tax  
8 examiner?

9 A. Yes.

10 Q. Okay. And you then became employed by this  
11 Commission in June of 1996?

12 A. Yes.

13 Q. Okay. And you also indicate that you  
14 attended a NAERC utility school in October of 1996?

15 A. Yes.

16 Q. All right. Now have you received a degree in  
17 human relations or what's commonly known as HR or  
18 organizational matters?

19 A. No.

20 Q. Okay. Have you attended or taken any  
21 detailed extensive course work in the area of employee  
22 management or organizational structure?

23 A. I must have some sort of courses during  
24 either undergraduate college courses. I can not recall  
25 I have that type, but classes in graduate class.

01414

1 Q. Okay. Have you ever received any training in  
2 executive compensation strategies?

3 A. No.

4 Q. Okay. Have you in the course of attending  
5 seminars and conferences with regard to utility  
6 regulations and operations received any specific  
7 training with regard to compensation strategies?

8 A. No.

9 Q. All right. The company proposes in this  
10 case, does it not, a proforma adjustment removing  
11 expenses of \$417,021 from its Washington electric  
12 operations and \$105,703 from its gas operations as it  
13 relates to compensation; is that correct?

14 A. For officer?

15 Q. That's for officer compensation, yes.

16 A. Yes.

17 Q. Now staff through your testimony would remove  
18 a greater level of expense of \$884,000 and \$222,000 from  
19 Washington electric and gas operations respectively; is  
20 that correct?

21 A. For officer, yes.

22 Q. That's correct, that's what we're talking  
23 about at this point, just officer compensation.

24 Now in the -- strike that.

25 The company adjustment then, which actually

01415

1 is a proforma adjustment removing certain levels of  
2 expense, actually is an adjustment to 1998 test year  
3 levels; is that correct? It's a proforma adjustment to  
4 the 1998 test year; is that correct?

5 A. Can you repeat that question again, please?

6 Q. Yes. Do the figures that I have given you  
7 for the company of \$417,000 and \$105,000 for electric  
8 and gas operations reflect proforma adjustments to the  
9 1998 test period which serve to reduce expenses by those  
10 amounts?

11 A. Yes.

12 Q. Okay. In the process of proposing a greater  
13 level of expense reduction in your case, have you  
14 excluded from executive compensation any restricted  
15 stock compensation?

16 A. Yes, I did.

17 Q. Have you excluded any signing bonuses?

18 A. Yes, I did.

19 Q. And have you excluded a portion of the CEO's  
20 base compensation?

21 A. Yes, I did.

22 Q. Have you also otherwise reduced base  
23 compensation for all other executives as a class as  
24 well?

25 A. Yes, I did.

01416

1 Q. Okay. Does your adjustment after taking into  
2 account these exclusions accomplish a 43% reduction in  
3 overall executive compensation? Would you accept that  
4 number subject to check?

5 A. Yes, I would accept that.

6 Q. And would you accept, again subject to check  
7 if need be, that you further reduce even this level of  
8 officer compensation by allocating across the board all  
9 officer compensation 48% to subsidiaries?

10 A. Yes, I did.

11 Q. Okay. So I'm sort of taking it step by step  
12 through at least the primary elements of your executive  
13 compensation adjustment, haven't I?

14 A. Yes.

15 Q. Now let's, in order to get some perspective  
16 on this issue, would you agree that total compensation  
17 for all 11 officers of the company as allocated to  
18 Washington electric operations represents approximately  
19 \$1.2 Million?

20 A. That's correct.

21 Q. And would you agree that total compensation  
22 for all 11 officers of the company as allocated to gas  
23 operation represents approximately \$300,000; is that  
24 correct?

25 A. Subject to check. I only remember the

01417

1 electric portion.

2 Q. Okay, subject to check?

3 A. Yes.

4 Q. Okay, thank you. Now these amounts of \$1.2  
5 Million for electric and \$300,000 for gas include base  
6 compensation amounts, don't they? Just as a frame of  
7 reference if it helps, we're talking about what the  
8 company has proposed by way of electric and gas  
9 Washington jurisdictional allocations, and I just want  
10 to explore briefly with you the components that make up  
11 the \$1.2 Million for electric.

12 A. That's the total compensation.

13 Q. Yes.

14 A. Not base.

15 Q. Correct.

16 A. Okay.

17 Q. Of that total compensation of \$1.2 Million,  
18 is base compensation one component?

19 A. Yes.

20 Q. Are signing bonuses as amortized over five  
21 years another component?

22 A. Yes.

23 Q. Are restricted stock awards yet another  
24 component?

25 A. Yes.

01418

1 Q. Is incentive pay yet another component?

2 A. Are you talking about the bonuses in team  
3 incentive bonuses?

4 Q. Yes.

5 A. For officer?

6 Q. Yes.

7 A. Yes.

8 Q. Thank you. So when you roll up all of those  
9 elements, the Washington -- the company's proposed  
10 allocation to electric Washington operations for all 11  
11 officers is \$1.2 Million?

12 A. Yes.

13 Q. Okay. Now in terms of a, this is an  
14 admittedly crude way of looking at things, but if you  
15 were to take an arithmetic average for all 11 executive  
16 officers for Washington electric and divide 11 into  
17 \$1,228,000, does that average approximately \$112,000 per  
18 officer, subject to check?

19 A. Yes, it does sound reasonable.

20 Q. Okay. And again, even that average per  
21 officer would include everything from base to incentive  
22 pay to signing bonuses as amortized as we discussed  
23 before, correct?

24 A. Yes.

25 Q. Okay. And same drill with regard to gas.



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1 What would, if we divide the \$300,000 plus figure for  
2 all 11 executive officers for Washington gas operations,  
3 arithmetically does that work out to about \$28,000 per  
4 officer?

5 A. Subject to check.

6 Q. Okay. Now you have had reason to examine  
7 what's been referred to as the Towers and Perrin study,  
8 compensation study. In fact, you have introduced that,  
9 or it's been marked I should say, as Exhibit C-388,  
10 hasn't it?

11 A. Yes.

12 Q. And that was actually just a portion of the  
13 study, isn't it?

14 A. Exhibit which one?

15 Q. C-388.

16 JUDGE SCHAER: That's just a document that's  
17 been marked for identification at this point.

18 A. Because there are two Towers and Perrin study  
19 has been entered into this proceeding. The first one is  
20 just partial of it. The second one is a complete set of  
21 it.

22 Q. That's right. And just so we're all clear on  
23 that, previously we had marked the partial version of  
24 this, which are the front pages, front several pages, as  
25 Exhibit C-388, and haven't we marked for identification

01420

1 the complete study as Exhibit C-576? Would you accept  
2 that subject to check?

3 JUDGE SCHAER: I would like you to repeat the  
4 number for the first, Mr. Meyer. I think you said 388,  
5 and I believe you might have meant 588.

6 MR. MEYER: No, C-388 according to my notes.

7 JUDGE SCHAER: Thank you, I misheard you  
8 earlier then.

9 BY MR. MEYER:

10 Q. Okay. Now you have had reason then to  
11 familiarize yourself with that entire study, haven't  
12 you?

13 A. Yes.

14 Q. Okay. Now would you agree that as concerns  
15 CEO base compensation -- let me back up for a moment.  
16 CEO base compensation was adjusted downward by you from  
17 \$750,000 to \$570,000; is that correct?

18 A. Yes.

19 Q. Okay. Now according to that Towers and  
20 Perrin study that you have examined, is the higher  
21 figure of \$750,000 as proformed into this case by the  
22 company under the 50th percentile for what has been  
23 termed the \$3 Billion to \$6 Billion revenue group as  
24 shown in that Towers and Perrin study?

25 A. Yes.

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1 Q. And --

2 A. Very close to 50 percentile.

3 Q. Very close to 50th percentile, okay. Now in  
4 fairness, that Towers and Perrin study examined a group  
5 of comparable companies with revenues in the range of \$1  
6 Billion to \$3 Billion, did it not?

7 A. Yes.

8 Q. Okay. And in the process, Towers and Perrin  
9 looked at both proxy groups of companies for purposes of  
10 its analysis; is that correct?

11 A. Yes.

12 Q. Okay. So it did not look just to the smaller  
13 group, it also looked to the bigger group in terms of  
14 revenues, correct?

15 A. Yes, but Avista doesn't fit into the bigger  
16 group in terms of all the three factors.

17 Q. Okay. Now do you have a copy of what has,  
18 and I will just take you to the longer, the longer  
19 version of that study marked as C-576, do you have that  
20 in front of you?

21 A. Yes, I do.

22 Q. Okay.

23 A. It's DR 286?

24 Q. Yes, it is.

25 A. Okay.

01422

1 Q. I will ask you a few questions relating to  
2 this complete version of the study.

3 A. Okay.

4 Q. Okay. Let's turn first to page two of that  
5 study.

6 A. Yes.

7 Q. Now there Towers and Perrin described its  
8 background methodology, didn't it?

9 A. Yes.

10 Q. And under the first bullet, actually the  
11 first sub bullet under the first bullet, the paragraph  
12 begins as follows:

13 For purposes of the analysis, we focused  
14 on companies from the \$1 Billion to \$3  
15 Billion and \$3 Billion to \$6 Billion in  
16 revenues reporting information to Towers  
17 Perrin 1999 energy services executive  
18 data base. Avista falls within the \$3  
19 Billion to \$6 Billion peer group from a  
20 revenue perspective, but on the other  
21 measures of scope (assets, employees,  
22 market capitalization) it compares more  
23 closely to \$1 Billion to \$3 Billion  
24 peers.

25 Have I read that accurately?

01423

1 A. Yes.

2 Q. Okay.

3 A. But I want to mention one thing.

4 Q. Sure.

5 A. The companies listed on page three are not

6 all the company that shows in Towers and Perrin study.

7 Q. Let's turn now to what appears to be, at  
8 least to my eye, the conclusions reached as reflected at  
9 page four of this same exhibit. Can you turn to that,  
10 please.

11 A. Yes.

12 Q. Okay. I will read aloud, and follow along,  
13 please.

14 The following pages compare Avista's  
15 total compensation to competitive. In  
16 general, first bullet, base pay for  
17 Avista officers --

18 And I assume here they mean the officers as a  
19 group.

20 -- falls at or somewhat above the median  
21 competitive market levels for \$1 Billion  
22 to \$3 Billion peer companies.

23 Next bullet:

24 Officer target annual incentive  
25 opportunities are fully competitive with

01424

1 peer company award opportunities  
2 essentially positioned at the 75th  
3 percentile of the \$1 Billion to \$3  
4 Billion organizations.

5 And lastly:

6 The expected value of 1998 stock options  
7 generally falls below competitive  
8 long-term incentive opportunities.

9 And then there are a couple of sub items that  
10 I won't read. Do those, does that in general summarize  
11 some of the conclusions of this study?

12 A. Yes. I want to mention the third item, the  
13 expected value of 1998 stock options, that has no effect  
14 to Avista's compensation expenses in 1998.

15 Q. Were any performance share awards made to  
16 officers in 1999?

17 A. Can you repeat that question?

18 Q. Were any performance share awards made to  
19 Avista officers in 1999?

20 A. Could you define that, share award?

21 Q. By way -- well, I'm actually just reading  
22 from the Towers and Perrin study. What do you  
23 understand they meant by that observation on page four?

24 A. Which line are you talking about?

25 Q. The very last line on page four, the sub

01425

1 bullet.

2 A. That's a stock option.

3 Q. Right. Now still approaching this issue of  
4 executive compensation from the broader perspective, do  
5 you believe the company's board of directors after  
6 relying on outside expert consulting advice should be  
7 given some measure of discretion in determining what  
8 compensation packages are necessary to attract and  
9 retain executive officers?

10 A. I do believe so. But the point here is what  
11 is appropriate level for this size of company in terms  
12 of revenue assets, number employee, and the market  
13 capitalization. Avista board of directors can pay  
14 Mr. Matthews as much as they want, but we are here to  
15 set up the appropriate level for Mr. Matthews' salary  
16 for rate making purposes.

17 Q. Ms. Huang, do you believe that bonuses and  
18 restricted stock awards are in any sense a necessary  
19 recruitment tool or a retention tool?

20 A. I do to a point, but executive skills that  
21 are necessary for current and future competitive  
22 endeavors, that again benefit primarily for shareholder.  
23 That should not be compensated out of rate payers.

24 Q. Ms. Huang, you said that you do to a point  
25 agree that bonuses and restricted stock awards may be a

01426

1 necessary recruitment and retention tool. Haven't you  
2 in this case removed all such bonuses and restricted  
3 stock awards from your adjustment?

4 A. I did.

5 Q. Thank you. Would you turn to your data set  
6 that you looked at for purposes of reaching a proforma  
7 on base compensation for Mr. Matthews, and I believe  
8 that appears in your Exhibit 572.

9 A. Yes.

10 Q. Would you agree subject to check that of the  
11 40 companies that you --

12 A. I'm sorry, 572?

13 Q. 572.

14 A. Yes.

15 Q. Okay, are you there?

16 A. Yes.

17 Q. Okay. Now you show 40 different companies  
18 that you reviewed proxy information for, don't you?

19 A. 41.

20 Q. Oh, okay, 41 with the revised exhibit, I  
21 understand. Of those 41, would you agree subject to  
22 check that 30 of those companies in your own study use  
23 some form of stock awards as a compensation tool?

24 A. Yes, subject to check.

25 Q. Thank you. And would you agree that in your



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1 own pool of some 41 companies as reflected in that  
2 exhibit, at least 8 out of those 40 companies noted in  
3 their proxy statements the use of signing bonuses or  
4 relocation allowances as part of the compensation  
5 package?

6 A. Yes, but I wanted to mention how other state  
7 the keep on we have to mention here is are they included  
8 in the rate approved by other commission. How did this  
9 Commission approve signing bonus in the past or not.

10 Q. But as we have just established, you removed  
11 all signing bonuses and restricted stock awards, didn't  
12 you?

13 A. Yes, I did.

14 Q. Okay. Would you please turn to Exhibit 577.  
15 That was an exhibit to be used on cross-examination of  
16 you today.

17 JUDGE SCHAER: That's still an exhibit for  
18 identification?

19 MR. MEYER: That's correct.

20 THE WITNESS: I have note here.

21 MR. MEYER: Do you need a copy of that?

22 THE WITNESS: No, no, I have a note on the  
23 other set, and I have other set. That's it.

24 JUDGE SCHAER: Go ahead and look for what you  
25 need, Ms. Huang.

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1 THE WITNESS: I'm done.

2 BY MR. MEYER:

3 Q. Do you have this set?

4 A. I do.

5 Q. Okay. Now in that exhibit, the Commission  
6 staff asked the company to provide proxy statements of  
7 companies that commonly use stock awards in their  
8 compensation programs under the Towers and Perrin study;  
9 was that the request?

10 A. Yes.

11 Q. And was the response that the following:  
12 23 companies that were part of the \$1  
13 Billion to \$3 Billion Towers and Perrin  
14 study commonly use stock awards in their  
15 compensation programs. Out of the 29  
16 companies in the \$1 Billion to \$3  
17 Billion group, this is 79%.

18 Is that a fair reading of that response?

19 A. Yes, but that response is incorrect.

20 Q. Do you have a different figure other than  
21 79%?

22 A. Okay. The following 23 company, out of that  
23 23 companies, four of them are not used in Towers and  
24 Perrin study, so the percentage would change too.

25 Q. So the 79%, instead of 23 of 29, even if we

01429

1 make your adjustment, it would be what, 19 of 29?

2 A. Yes.

3 Q. Okay. And whatever percentage then that  
4 works out to, that would be the percentage, correct?

5 A. Yes.

6 Q. Okay.

7 A. I want to mention something here, may I?

8 Q. Surely.

9 A. Okay. As I look at those companies'  
10 restricted stocks and stock option, I look at the dollar  
11 amount that they give it to the CEO's compared to  
12 Mr. Matthews received and how often they received, are  
13 they approved, how did this Commission mention in the  
14 past decision how should we deal with restricted stocks  
15 and stock option.

16 Q. Okay, thank you.

17 Does the Towers and Perrin study -- let me do  
18 this a little faster.

19 Would you accept subject to check that the  
20 Towers and Perrin study that you have examined  
21 demonstrates that base compensation for the remaining  
22 ten officers, the remaining ten officers excluding the  
23 CEO, is slightly less in the aggregate than the 50th  
24 percentile of the \$1 Billion to \$3 Billion peer group as  
25 shown in that study?

01430

1           A.       It said that base salary for officers falls  
2 at somewhat above the median competitive market levels  
3 for \$1 Billion to \$3 Billion peer companies.

4           Q.       No, I'm not asking you about that. What I'm  
5 saying is if we were to exclude, if we were to exclude  
6 the CEO base, treat that as a separate issue, and just  
7 look at the base compensation for the remaining ten  
8 officers, would you agree subject to check that that  
9 aggregate amount is slightly less than the 50th  
10 percentile for the \$1 Billion to \$3 Billion peer group  
11 as shown in that study, subject to check?

12          A.       As I checked, those officers' compensation is  
13 somewhat above or somewhat below.

14          Q.       That's what I'm saying, as a group. As a  
15 group, it's slightly below the 50th percentile?

16          A.       Some of them is above.

17          Q.       I understand, but if you roll them all up  
18 into one big pile, in the aggregate, in sum total, is  
19 that less than the 50th percentile?

20          A.       I would say it's somewhere around 50  
21 percentile.

22          Q.       Okay, close enough.

23                    Now if you were to apply, for example, your  
24 recommendation -- strike that.

25                    First of all, you are suggesting that the CEO

01431

1 base compensation ought to be pegged essentially at the  
2 way it works out at the 50th percentile of this \$1  
3 Billion to \$3 Billion peer group. Isn't that  
4 essentially what you're recommending?

5 A. Yes. I have reason for that.

6 Q. I understand that. Now if you were to apply  
7 that same logic, and if you were to peg the remaining  
8 ten officers at essentially the 50th percentile of this  
9 \$1 Billion to \$3 Billion peer group, would you agree  
10 subject to check that there would be essentially no  
11 difference with what the company has proformed into this  
12 case?

13 A. Yes, that's correct. But I want to mention  
14 that when I do this 3.2% adjustment for all officer  
15 except officer that work partially of 1998, I check the  
16 proxy statement 1997, the officer was granted 4%  
17 increase. For '98 was 3% to 11% increase. For '99  
18 proxy statement, the increase was 0% to 8% increase. In  
19 Avista's document, there's no record shows that 11% to  
20 49% increase for officer when I checked. Also I wanted  
21 to mention that in Ms. Mitchell's adjustment for  
22 non-officer is 2.14% increase. Per union employee is 3%  
23 increase. So my adjustment to 3.2% increase is close to  
24 those amount.

25 Q. All right. Before we move into the

01432

1 allocation issues, just a couple of issues on signing  
2 bonuses. Do a number of the executive employment  
3 agreements include signing bonuses?

4 A. Could you repeat that?

5 Q. Do a number of the executive employment  
6 agreements include signing bonuses?

7 A. Yes.

8 Q. And does the company propose in its filing to  
9 amortize these signing bonuses over a five year period?

10 A. Yes.

11 Q. And so in that sense, would you agree that  
12 these signing bonuses are only earned by these  
13 executives over a five year period?

14 A. Yes, but we have to define that whether a  
15 signing bonus was approved in rate in this Commission in  
16 the past.

17 Q. Understand. Has the company, do you know,  
18 has the company allocated a portion of these signing  
19 bonuses to its subsidiary operations?

20 A. Yes.

21 Q. And would you accept subject to check that  
22 the company has proposed to allocate through the  
23 proforma process approximately 36.8% of those bonuses to  
24 subsidiaries?

25 A. You mean signing bonus?

01433

1 Q. Yes.

2 A. Subject to check.

3 Q. Thank you. Likewise with regard to  
4 restrictive stock, some of the employment agreements  
5 include restricted stock awards; isn't that true?

6 A. Yes.

7 Q. And do these provide for vesting only over a  
8 period of years?

9 A. Five years.

10 Q. And so is it fair to suggest that those  
11 essentially are only earned over a five year period?

12 A. I would say at the end of five years  
13 Mr. Matthews or Mr. Meyer, that at that point that they  
14 can transfer or sell the stock to whatever party they  
15 want, but during this time they still has -- the stocks  
16 are still belong to Mr. Matthews or Mr. Meyer or  
17 Mr. Turner.

18 Q. Now let's talk a bit about allocation issues.  
19 Staff would allocate 52% of executive compensation to  
20 regulated operations and approximately 48% to  
21 non-regulated operations. Do I have that right?

22 A. Yes.

23 Q. Okay. Now in accomplishing this allocation,  
24 did staff look to a formula that was developed in a  
25 different proceeding?

01434

1 A. You mean did I check other docket that's how  
2 they do it?

3 Q. Yes.

4 A. Yes, I did.

5 Q. Okay. And was that a docket involving  
6 Washington Natural Gas?

7 A. Yes.

8 Q. And that was, I don't have the year on the  
9 top of my head, but that was some time ago?

10 A. Yes.

11 Q. Okay. Now again just setting the stage here,  
12 the company didn't use a formula based approach, did it?

13 A. No.

14 Q. Okay. Instead would you agree that the  
15 company allocated executive officer compensation on an  
16 individual officer by officer basis based on the  
17 informed judgment of that officer as to where that  
18 officer spends his or her time?

19 A. Mr. Meyer say it's feelings and thoughts,  
20 subjective matters.

21 Q. Okay. But was it based on the judgment of  
22 the particular officer?

23 A. Yes.

24 Q. Okay. And would you agree with me that in  
25 the exercise of that judgment, whether you believe it's



01435

1 informed or reasonable or not, but in the exercise of  
2 that judgment, that you have differing percentage  
3 allocations to subsidiaries depending on which officer  
4 you're talking about; is that correct?

5 A. Actually, I allocate officers compensation as  
6 a pool. I did not differentiate.

7 Q. No, I'm sorry, I'm just asking how the  
8 company did it.

9 A. Oh, okay.

10 Q. So some officers such as Mr. Turner, who is  
11 the head of energy delivery.

12 A. Yes.

13 Q. Essentially the utility, in his judgment  
14 allocated approximately 100% of his time?

15 A. Yes.

16 Q. To regulated operations, correct?

17 A. Yes.

18 Q. Other officers, whether it's Mr. Matthews or  
19 Mr. Healey, allocated a different percentage of their  
20 time.

21 A. Yes.

22 Q. Okay. So as I recall, Mr. Matthews allocated  
23 approximately 60% to utility, 40% to non-regulated. Is  
24 that right; do I have that right?

25 A. Yes.

01436

1 Q. Okay. And other officers have differing  
2 percentages, don't they?

3 A. Yes.

4 Q. Okay. Now would it be fair to assume that  
5 within this officer pool of 11 that officers have  
6 differing responsibilities within that group as between  
7 regulated and unregulated activities, correct?

8 A. Yes.

9 Q. Okay. But staff used essentially an across  
10 the board allocation factor, did it not, that would  
11 allocate the entire pool, 52% to the utility and 48% to  
12 subsidiaries, correct?

13 A. As a pool.

14 Q. Yes. But in the process, what have you done,  
15 for example, to Mr. Turner's allocation? I believe we  
16 established a moment ago that as head of energy  
17 delivery, he had allocated 100% of his time. If we were  
18 just to look at the effect of your allocation on  
19 Mr. Turner, would you agree with me that it would have  
20 the effect of allocating 48% of his time to  
21 subsidiaries?

22 A. Actually, the employees supervised by  
23 Mr. Turner, the employee numbers and the wages that they  
24 earned in the pool in this category and the department  
25 that Mr. Turner supervised the revenue in that

01437

1 department, it's all built into the calculation.

2 Q. Okay, well, that goes to your formula.

3 Again, I'm just talking about the way at this point that  
4 the company did it.

5 A. Okay.

6 Q. Now the formula that you're proposing that  
7 you have testified to was based on a prior proceeding  
8 involving Washington Natural Gas used essentially three  
9 elements, did it not? Number one, number of employees;  
10 number two, operating revenues; and number three,  
11 non-officer wages. Is that essentially correct?

12 A. Revenue wages and --

13 Q. Employees.

14 A. -- employee number, yes.

15 Q. And it was based on a three year average of  
16 those three elements, correct?

17 A. For the old proceeding?

18 Q. Yes.

19 A. The revenue is three years average, and wages  
20 and number employee is only test period.

21 Q. Let me explore with you now how meaningful  
22 that formula developed for Washington Natural is in  
23 present times for Avista. Now as part of the revenue  
24 element of that three part formula, have you included  
25 within that all wholesale marketing revenues received by

01438

1 Avista Energy?

2 A. For revenue I used 1998 10-K, so that would  
3 include revenue from subsidiary as well.

4 Q. Would you agree with me that the number you  
5 used of the 1998 10-K for revenue purposes reflected a  
6 total of \$2,642,268,000 of non-regulated operating  
7 revenue?

8 A. Subject to check.

9 Q. Subject to check, okay. Actually, that  
10 number, I'm sorry, that number out of the 10-K for 1998  
11 should be \$2,000,408,000, \$734,000 if I have that figure  
12 correct. With that change, would you accept that  
13 subject to check?

14 A. Yes.

15 Q. You're looking at page 16, are you, of the  
16 10-K?

17 A. On '98?

18 Q. Yes.

19 A. I'm looking at page 23.

20 Q. Okay, but it shows a \$2.4 Billion figure?

21 A. Yes.

22 Q. Okay, very good. Now would you agree with me  
23 that you have not offset that level of energy trading  
24 revenues by expenses incurred by Avista Energy to earn  
25 those revenues, have you?

01439

1           A.       Yes, you are right. I have reason for it.  
2 The -- when the company tried to evaluate Mr. Matthews'  
3 salary, the revenue factor is the only factor that  
4 placed Avista into \$3 Billion to \$6 Billion ranges. The  
5 company totally ignored the other three factors. I'm  
6 using revenue as a factor to give value to Mr. Matthews'  
7 salary on officers allocation. I'm trying to be  
8 consistent with the company's methodology. In my  
9 allocation methodology, revenue is only one third of the  
10 factor that I use to evaluate the allocation.

11          Q.       I understand, and we will address all three  
12 factors in just a moment.

13          A.       Okay.

14          Q.       Now let's compare the revenue element of the  
15 formula that was developed for Washington Natural.  
16 Would you agree that the allocations that were developed  
17 for Washington Natural Gas reflected revenues derived  
18 from the following subsidiary sources, number one,  
19 merchandising and jobbing of non-utility products?

20          A.       Yes.

21          Q.       Number two, a gas and oil exploration and  
22 development business?

23          A.       Yes.

24          Q.       And number three, a home security business?

25          A.       Yes.

01440

1 Q. Do you know off hand whether those three  
2 types of subsidiary operations created revenues of the  
3 magnitude that we have just described in Avista's 10-K?

4 A. No, I don't know.

5 Q. Okay. Now let's turn to -- oh, incidentally,  
6 did Washington Natural in the process charge any  
7 executive compensation to its subsidiary operations?

8 A. Some.

9 Q. Do you know whether it charged a percentage  
10 that approached 38% to 40%?

11 A. No. As I remember, it's probably \$137,000.

12 Q. Out of all the compensation?

13 A. Yes.

14 Q. Okay. Now let's turn to the second element.

15 JUDGE SCHAER: Mr. Meyer, you have about 15  
16 minutes left on your estimate. Are you within range for  
17 that?

18 MR. MEYER: Actually, I'm running a little  
19 behind. I have probably about another half an hour.

20 JUDGE SCHAER: Okay. Because we've got eight  
21 hours of testimony today and six hours of hearing time.

22 MR. MEYER: Well, the good news is that I'm  
23 going to short myself on Mr. Parvinen.

24 JUDGE SCHAER: All right.

25 MR. MEYER: That's the good news. You don't

01441

1 want to hear any of the rest of the bad news, do you?

2 JUDGE SCHAER: No.

3 MR. MEYER: Okay.

4 BY MR. MEYER:

5 Q. Let's turn to the second element in the  
6 formula, number of employees. Now roughly how many  
7 employees, if you recall -- let me make this shorter.

8 Would you accept subject to check that you  
9 have used approximately 2,153 employees as the head  
10 count for purposes of using your formula for Avista for  
11 subsidiaries only? This is a subsidiary head count.

12 A. In '98?

13 Q. Yes.

14 A. Yes.

15 Q. 2,153?

16 A. Yes.

17 Q. Okay.

18 A. I gathered this information from the  
19 company's 10-K report to the SEC, and also Mr. Matthews'  
20 rebuttal testimony, page four, line nine, also mentioned  
21 that the number that I was used matched with  
22 Mr. Matthews.

23 Q. Mm-hm.

24 A. And Dr. Avera's testimony used this number as  
25 well, and the company's consultant Towers and Perrin

01442

1 study used this number as well.

2 Q. And I'm not disputing with you whether that  
3 is or isn't the correct number for total subsidiaries  
4 head count.

5 I would like though to direct your attention  
6 for comparison purposes to the information contained  
7 within exhibits marked for identification as Exhibit  
8 582. Would you get that in front of you.

9 A. Will you tell me the DR number?

10 Q. Certainly, DR 309.

11 A. Yes.

12 Q. Okay. Now attached to that exhibit is a  
13 table on page two, correct, labeled average number of  
14 employees for Avista Utilities?

15 A. Yes.

16 Q. Okay. So we will do some simple subtraction  
17 here. The first line shows for the test period 1998 for  
18 Avista Utilities 1,342 employees, doesn't it?

19 A. Yes.

20 Q. Then it goes on to list the number of  
21 employees for each of the operating subsidiaries,  
22 doesn't it?

23 A. Yes.

24 Q. And then it totals up all of the employees  
25 for not only the utilities but the subsidiaries?



01443

1 A. Yes.

2 Q. And that total number is 1,482, correct?

3 A. Yes.

4 Q. And if we subtract 1,482 or subtract from  
5 1,482, 1,342, the differences is 140?

6 A. Subject to check.

7 Q. Yes. So if you were to look at this exhibit,  
8 might you conclude based just on the information  
9 contained for test period 1998 that while the company  
10 may have had 1,342 employees engaged in utility  
11 operations, it had 140 engaged in subsidiary operations?

12 A. Yes.

13 Q. Okay. Now there's a difference obviously  
14 between your number of 2,153 subsidiary employees and  
15 the figure of 140 subsidiary employees, correct?

16 A. Yes.

17 Q. Now does your higher figure, your much higher  
18 figure of 2,153 subsidiary employees reflect employees  
19 that work within the operating subsidiaries underneath  
20 Pentzer?

21 A. I do not know that's the fact.

22 Q. Would you accept subject to check that it  
23 does?

24 JUDGE SCHAER: How would she check that,  
25 Mr. Meyer?

01444

1 MR. MEYER: She may have a work paper  
2 sufficient to do that. We can provide information that  
3 would allow her to do that if she doesn't.

4 JUDGE SCHAER: Okay, because usually we use  
5 subject to check for calculations kinds of matters.

6 MR. MEYER: I understand, and I'm just trying  
7 to expedite this as best I can.

8 JUDGE SCHAER: Okay.

9 BY MR. MEYER:

10 Q. So would you agree subject to check that that  
11 figure of 2,153 represents a substantial number of  
12 employees working within operating subsidiaries  
13 underneath the Pentzer company?

14 A. Subject to check, I believe that Avista own  
15 Pentzer at the time that those company has to be  
16 supervised by Avista officer or Avista employee. Even  
17 though they don't direct supervise them, that at some  
18 point somebody has to supervise them.

19 Q. Okay. Well, let's close the loop on this  
20 whole line of questioning. Do Avista officers, in fact,  
21 serve as either members of the board or as officers of  
22 any of these operating subsidiaries underneath Pentzer?

23 A. I do not know that's the fact.

24 Q. Okay. Have you examined, let's turn to what  
25 has been marked for information as or marked for

01445

1 identification as Exhibit 580.

2 MR. TRAUTMAN: And, Your Honor, I would  
3 object to this exhibit. This was not prepared by  
4 Ms. Huang, nor to my understanding was it even presented  
5 to Ms. Huang until very recently. So she is not the  
6 appropriate witness for this exhibit.

7 JUDGE SCHAER: Mr. Meyer, the staff objects  
8 to your questioning about this document.

9 MR. MEYER: I understand.

10 JUDGE SCHAER: In this format.

11 MR. MEYER: It was provided last week so  
12 that, as part of the cross-examination package of  
13 exhibits, so that this witness could familiarize herself  
14 with it.

15 JUDGE SCHAER: Mr. Meyer, did she prepare  
16 this document?

17 MR. MEYER: She didn't, but that's not the  
18 end of the inquiry.

19 JUDGE SCHAER: Did she supervise the  
20 preparation of this exhibit?

21 MR. MEYER: Did not.

22 JUDGE SCHAER: Okay. You may ask general  
23 questions, but I would prefer that you not ask them in  
24 terms of what's in these pages until we know whether  
25 this is going to be an exhibit.

01446

1 BY MR. MEYER:

2 Q. Have you had a chance to review any material  
3 that has been provided to you in these proceedings that  
4 identify the companies on which Avista officers serve as  
5 either members of the board or as officers?

6 A. No.

7 Q. So you have not had a chance to examine what  
8 was predistributed as Exhibit 580?

9 A. I received this last Thursday.

10 Q. Did you look at it?

11 A. Briefly.

12 Q. So you did examine it. To the best of your  
13 knowledge, did the information that we provided to you  
14 in that form suggest that any of the officers or  
15 directors of Avista served as officers or directors of  
16 operating subsidiaries underneath Pentzer?

17 A. As I say, I look at it briefly. I did not  
18 pay too much attention.

19 Q. So you don't know?

20 A. I don't know.

21 Q. Okay, fair enough. Now let's see if we can't  
22 pull this together, and we will just leave off with the  
23 first two of the three elements of this formula. We  
24 have talked about revenues. We have talked now about  
25 employee head count, two of the three elements of this

01447

1 Washington Natural formula, correct?

2 A. Yes.

3 Q. Okay. Now would you accept subject to check  
4 that mathematically if, number one, we were to use net  
5 revenues, not gross revenues, for Avista Energy, and  
6 number two, use only the employee counts for  
7 subsidiaries, reflecting 140 employees, not the 2,153  
8 employees, do you have those two assumptions in mind?

9 A. Yes.

10 Q. Would you accept that subject to check that  
11 this would produce in your formula an overall subsidiary  
12 allocation factor of 15.22%?

13 A. Subject to check, but I do not propose to use  
14 this method.

15 Q. Understand that. Is that figure of 15.22%  
16 less than the 31% charged by officers themselves to  
17 subsidiaries based on their own informed judgment?  
18 Mathematically it's less than that, isn't it?

19 A. Yes.

20 Q. Okay, let's turn to the next area now, team  
21 incentives. Ms. Huang, do you remove the entirety of  
22 \$4.4 Million of team incentives from the revenue  
23 requirement in this case?

24 A. Yes, I did.

25 Q. Okay. So you have not proformed in or

01448

1 attempted to proform any average level even of team  
2 incentives, have you?

3 A. No.

4 Q. Okay. Now does the \$4.4 Million of team  
5 incentives for 1998 reflect payments that were made  
6 throughout the Avista organization?

7 A. To officer and non-officer and union  
8 employees.

9 Q. Yes. Would you agree that of this \$4.4  
10 Million of team incentives that approximately, subject  
11 to check if you feel you can, that \$2.1 Million went to  
12 the energy delivery and transmission team?

13 A. Yes, subject to check.

14 Q. Okay. And subject to check, that even of  
15 that \$2.1 million, \$1.4 million approximately went to  
16 bargaining unit employees within that group?

17 A. That's an estimated number.

18 Q. I'm sorry?

19 A. That's an estimated number.

20 Q. Estimated number, yes.

21 A. That's not exact number.

22 Q. That's not an exact number, but would you  
23 accept that as a rough estimate?

24 A. That's the estimate that company provide to  
25 me.

01449

1 Q. Do you have reason to disagree with that  
2 estimate?

3 A. No.

4 Q. Okay. Now would you agree that approximately  
5 \$1.2 Million was ear marked for energy and market  
6 services and the generation subset of employees, subject  
7 to check?

8 A. Can you repeat that question again?

9 Q. Was approximately \$1.2 Million ear marked for  
10 energy market services and the generation subset of  
11 energy delivery employees?

12 A. Yes.

13 Q. Okay. Was another \$647,000 received by  
14 administrative employees?

15 A. Subject to check.

16 Q. Okay. Let's take an example of how this  
17 played itself out within the energy delivery and  
18 transmission team, which I believe you have testified  
19 accounted for about \$2.1 Million of the \$4.4 Million.  
20 Question, did the incentive plan for the energy delivery  
21 and transmission team include as part of the plan an  
22 explicit customer satisfaction target whereby employees  
23 would be eligible if satisfaction ratings for customers  
24 exceeded a 60% excellent rating in a survey?

25 A. Yes, that's in part of their department

01450

1 goals.

2 Q. Okay.

3 A. But we have to look at the focus, the general  
4 overview of the plan.

5 Q. Okay. Would you accept that, with reference  
6 to that one indicator of customer satisfaction, that  
7 approximately \$900,000 of the \$2.1 Million total paid  
8 out to the energy delivery group was because that group  
9 met those customer satisfaction targets? Do you accept  
10 that subject to check?

11 A. Yeah, subject to check, but I do not have the  
12 information to calculate that part.

13 Q. And would you accept that the balance of that  
14 point --

15 MR. TRAUTMAN: Object, she said subject to  
16 check, but she didn't have the information to check it.

17 JUDGE SCHAER: Again, Mr. Meyer, do you have  
18 some calculation numbers?

19 MR. MEYER: We can provide that.

20 JUDGE SCHAER: Something objective that you  
21 can provide for her to check?

22 MR. MEYER: We sure do.

23 JUDGE SCHAER: Okay, what form does that  
24 take?

25 MR. MEYER: In fact, actually she already has



01451

1 that. It was predistributed in the form of Exhibit  
2 C-585.

3 MR. TRAUTMAN: We object to admission of that  
4 exhibit as well.

5 MR. MEYER: I haven't moved yet for it, and I  
6 have just responded that she has the information in her  
7 possession that would allow her to accept that subject  
8 to check.

9 JUDGE SCHAER: I'm going to allow counsel  
10 then if they don't have what they view as an objective  
11 calculation or something in accord with our subject to  
12 check rules and our procedural rules to object to that  
13 response on that basis at the time that they can respond  
14 to subject to check items.

15 MR. MEYER: Well, let me make sure the record  
16 is clear on this point.

17 BY MR. MEYER:

18 Q. Do you have, Ms. Huang, information that you  
19 have examined or could examine that would allow you to  
20 accept subject to check that approximately \$900,000 of  
21 the \$2.1 Million paid out was for customer service  
22 satisfaction objectives?

23 A. I received this last Thursday.

24 Q. Okay. But if you were after the conclusion  
25 of the hearing in accordance with the subject to check

01452

1 process, could you look at that document and does that  
2 give the information you need to accept that estimate  
3 subject to check?

4 A. I don't know.

5 Q. Okay. Well, then if you don't, if you can't  
6 do it, you can always advise the law judge and the  
7 parties after the fact that you could not do that.

8 A. That's --

9 JUDGE SCHAER: That's what I've just  
10 indicated, counsel.

11 Q. So with that caveat, you will accept that  
12 subject to check, correct?

13 A. Yes.

14 Q. Thank you. Now would you agree that given  
15 the dynamic -- strike that.

16 Is the utility experiencing, as are most  
17 other utilities, structural changes within the industry?  
18 Just a general question. Lots of things are happening  
19 that haven't happened before, correct?

20 A. Yes, I believe the PacifiCorp probably  
21 experienced that.

22 Q. Okay. And would it be fair to characterize  
23 the industry as in a bit of a state of upheaval in  
24 recent years?

25 A. I do not know that's the fact.

01453

1 Q. Okay. You can quarrel with that  
2 characterization if you would like. Would you agree  
3 that the utility industry is rapidly evolving?

4 MR. TRAUTMAN: Objection, vague.

5 JUDGE SCHAER: Mr. Meyer, is there something  
6 in Ms. Huang's testimony you're asking this for?

7 MR. MEYER: Yes, this relates to compensation  
8 strategies in a changing environment.

9 JUDGE SCHAER: Could you ask a question that  
10 was more specific in that arena then, please.

11 MR. MEYER: Certainly, if the witness is  
12 unwilling to comment in that arena, I will ask it  
13 differently.

14 JUDGE SCHAER: Well, I have ruled on the  
15 objection without the witness being able to comment, as  
16 I'm sure you are aware. So please watch the ad hominem  
17 remarks going into this record.

18 BY MR. MEYER:

19 Q. Ms. Huang, do you believe that based on your  
20 training or your experience that the team incentive  
21 compensation strategy for the company, given what may or  
22 may not be changing circumstances in this industry, is  
23 necessary to recruit and retain qualified people?

24 A. No, I don't believe so.

25 Q. You believe it is not?

01454

1 A. Mm-hm.

2 Q. Okay. And what information do you rely on  
3 for that judgment?

4 A. In Docket UE-920433, it mentions so clearly  
5 that any bonus that tied to earning per share and  
6 benefit shareholder and a percentage of those bonus is  
7 calculated by whether they reach the earning per share  
8 target or not should be treated below the line item.

9 Q. Okay.

10 A. Actually, it specifically said that profit  
11 sharing plan should be below the line with shareholder  
12 bearing the costs. I believe this plan is very similar  
13 to the company's team incentive.

14 Q. Ms. Huang, lastly let's turn to the gas  
15 inventory adjustment. Is it your testimony that that  
16 inventory adjustment should be disallowed?

17 A. Yes, but at this point, I will accept the  
18 company's adjustment.

19 Q. And that adjustment then would reflect that  
20 the funds to purchase the inventory are provided by  
21 Avista Utilities, not Avista Energy, correct?

22 A. Yes.

23 Q. Very well.

24 MR. MEYER: With that, I'm done with my  
25 cross, and I will move the admission of certain exhibits

01455

1 if you will just let me go through my list. All right,  
2 I will move the admission of the following exhibits:  
3 Exhibit 582, Exhibit C-576, Exhibit 577, and Exhibit  
4 578.

5 MR. TRAUTMAN: Staff has no objection.

6 JUDGE SCHAER: Any other objections?

7 MR. FFITCH: Your Honor, before responding to  
8 that question, I have an inquiry regarding Exhibit C-576  
9 which has been designated as confidential.

10 JUDGE SCHAER: Yes.

11 MR. FFITCH: Counsel conducted a fairly  
12 lengthy set of questions with regard to that exhibit  
13 without any indication as to the confidentiality of the  
14 material in open hearing room. And I would move that on  
15 that basis that pages one through four of the exhibit  
16 not be designated as confidential and further inquire of  
17 counsel which portions of the exhibit in fact need to be  
18 designated as confidential. This is the Towers and  
19 Perrin report. Perhaps it may be that there are only  
20 specific very narrow portions of the exhibit that need  
21 to be held confidential.

22 JUDGE SCHAER: Mr. Meyer.

23 MR. MEYER: Well, actually, I would not have  
24 an objection to the first four background pages being  
25 released from the confidentiality seal.

01456

1 JUDGE SCHAER: Okay.

2 MR. MEYER: But beyond that, we need to  
3 preserve the particulars.

4 JUDGE SCHAER: Is there any particular  
5 portion of the remaining pages that you think should not  
6 be viewed as confidential Mr. ffitch?

7 MR. FFITCH: Let me just have a moment, Your  
8 Honor.

9 JUDGE SCHAER: Go ahead.

10 MR. FFITCH: I note that the background  
11 methodology, page two of the exhibit, refers to Appendix  
12 1, a profile of peer groups, and I would suggest that by  
13 that incorporation that that listing of peer group  
14 companies would also not be confidential. It comes from  
15 Standard and Poor's compusat. I'm not sure that's a  
16 confidential source.

17 JUDGE SCHAER: Looking at page 22, Mr. Meyer,  
18 do you have any --

19 MR. FFITCH: Pages 21 and 22.

20 MR. MEYER: I would not object to those  
21 appendix pages one and two.

22 JUDGE SCHAER: So pages, I'm looking at the  
23 pages printed on the document, or are we looking at the  
24 pages in the lower right-hand corner?

25 MR. FFITCH: I'm sorry, Your Honor, I was

01457

1 reading the pages printed on the document. The  
2 handwritten numbering would be pages 24 and 25 of the  
3 exhibit.

4 JUDGE SCHAER: So it appears to me, and  
5 please check this carefully, Mr. Meyer, that what we're  
6 talking about, using the numbers in the lower right-hand  
7 corner for the pages, is we're looking at page 1 through  
8 6 of 25 and then pages 24 and 25 as being considered  
9 non-confidential.

10 MR. MEYER: The 1 through 6, let me make sure  
11 we're tracking on that. I am seeing on my copy in the  
12 preprinted numbering at the lower right-hand corner --

13 JUDGE SCHAER: We're looking at the  
14 handwritten numbering put on apparently by the company  
15 in the lower right-hand corner when you look at this in  
16 portrait format.

17 MR. MEYER: Okay. In that case, 1 through 6  
18 are fine. And the other two were what?

19 JUDGE SCHAER: 24 and 25, the last two pages  
20 of the exhibit.

21 MR. MEYER: Those are fine as well.

22 MR. FFITCH: And just so the record is clear,  
23 those designated pages constitute the cover and pages 1  
24 through 4 of the Towers and Perrin study and the entire  
25 Appendix 1 of the Towers and Perrin study. And with

01458

1 that agreement of Mr. Meyer, we don't have any objection  
2 to the admission of these exhibits.

3 JUDGE SCHAER: Okay. Then I am going to  
4 admit Exhibit C-576 indicating that looking at the  
5 handwritten numbers in the lower right hand corner pages  
6 1 of 25 through 6 of 25 and page 24 of 25 and 25 of 25  
7 are admitted as non-confidential. The remainder of the  
8 exhibit is admitted as confidential.

9 And I'm going to admit Exhibit 577 for  
10 identification, Exhibit 578 for identification, and  
11 Exhibit 582 for identification.

12 I think it would be appropriate for us to  
13 take our morning recess at this time, and then after the  
14 recess, we will go forward with your cross-examination,  
15 Mr. ffitch.

16 MR. FFITCH: Thank you, Your Honor.

17 JUDGE SCHAER: Is there anything to discuss  
18 before we go off the record?

19 Okay, please be back in the room a couple of  
20 minutes before 11:00.

21 We're off the record.

22 (Recess taken.)

23 JUDGE SCHAER: Mr. ffitch, what I would like  
24 to do before we start with the next questions for  
25 Ms. Huang is to conclude a problem that came up at the



01459

1 end of yesterday's hearing where there had been a number  
2 placed in the record that should not have been there.  
3 And we have today the transcript of the question and  
4 answer that included that information, and what I have  
5 discussed with the parties is the possibility of  
6 striking at and then a number and then mils out of a  
7 sentence and then leaving the record open.

8           Would that work for you, Mr. Meyer?

9           MR. MEYER: It would.

10           JUDGE SCHAER: Would it work for you,  
11 Mr. Trautman?

12           MR. TRAUTMAN: Yes.

13           JUDGE SCHAER: Mr. ffitch?

14           MR. FFITCH: Yes.

15           JUDGE SCHAER: Okay. Do you think this is a  
16 sufficient description in the record that we will be  
17 able to tell what we did?

18           Okay then I am going to give the court  
19 reporter a copy of the question and answer with the  
20 phrase deleted and ask her to conform the transcript to  
21 this and take out the offending material.

22           MR. MEYER: Thank you for your attention to  
23 that matter.

24           MR. FFITCH: Your Honor, may I make a  
25 statement on behalf of public counsel with regard to

01460

1 that matter?

2 JUDGE SCHAER: Certainly.

3 MR. FFITCH: For the record, while public  
4 counsel does not object to the striking of that for  
5 purposes of this proceeding, we have a concern that in  
6 general that now that the contract with TransAlta has  
7 been entered into that there is, in fact, no  
8 justification for keeping the terms of the agreement  
9 confidential. It would be our position that presumption  
10 would be that the operation of a competitive market  
11 would include public information about the terms of such  
12 contracts.

13 JUDGE SCHAER: Thank you, Mr. ffitch.

14 What we're going to do then at this point is  
15 strike the information. If there is a desire at some  
16 point to put in information about the contract and about  
17 which there may need to be some ruling on  
18 confidentiality, let's do that in a way that's reasoned  
19 rather than doing it as a result of inadvertence. And  
20 that issue has not been decided by this deletion from  
21 the transcript. What we're doing here is just  
22 correcting an inadvertent mistake.

23 Did you have questions for Ms. Huang,  
24 Mr. ffitch?

25 MR. FFITCH: I do, Your Honor, thank you.

01461

1

2

C R O S S - E X A M I N A T I O N

3

BY MR. FFITCH:

4

Q. Good morning, Ms. Huang.

5

A. Good morning.

6

Q. I would like to ask you a couple of questions about the executive compensation issue. And as you know, public counsel has proposed through the testimony of Mr. Lazar some adjustments for administrative and general salaries. Were you generally aware of that?

10

11

A. Yes.

12

Q. And the amount of Mr. Lazar's adjustment is approximately \$4.1 Million on the electric system and \$1 Million and change on the gas system. These are a bit larger than the adjustments that you have proposed; would you agree?

16

17

A. Yes.

18

Q. I would like to spend just a few minutes making sure the record is clear on the differences between your approach and that which Mr. Lazar has taken. First, as I understand it, your adjustment consists of multiple parts.

22

23

A. Yes.

24

Q. The first is a reallocation of the officers' salaries between the regulated and non-regulated

25

01462

1 operations; is that right?

2 A. Yes.

3 Q. And that resulted in a transfer of \$280,000  
4 to non-regulated operations, and you state that on page  
5 10 of line 19 of your testimony T-570; is that correct?

6 A. Yes.

7 Q. Now the second step is that you established a  
8 level of executive compensation for 1999 by taking the  
9 actual '98 compensation, removing the bonuses, and  
10 escalating that by 3.2%; is that correct?

11 A. Yes.

12 Q. And that's shown at page 11, lines 14 through  
13 18, of Exhibit T-570?

14 A. Yes.

15 Q. And then at page 8 of that same exhibit,  
16 lines 12 through 14, you indicate that you used a 3.2%  
17 escalator; is that right?

18 A. Yes.

19 Q. And the reason that you give there is that  
20 this is the overall U.S. wage and benefits increase?

21 A. Yes.

22 Q. That seems to me to imply that you first  
23 simply accepted the 1998 level and escalated that. Did  
24 you do any independent analysis of whether the 1998  
25 administrative salaries were reasonable?

01463

1 A. 1998 or 1999?

2 Q. Which year would be the correct year? Did  
3 you do -- well, did you do an analysis for either one of  
4 those year?

5 A. For each individual's compensation?

6 Q. To determine whether that was a reasonable  
7 level.

8 A. For 1999 proforma adjustment?

9 Q. Correct.

10 A. Yes.

11 Q. But your starting point was when you looked  
12 at the 1998 level, you had accepted that?

13 A. Yes.

14 Q. As a given; is that right?

15 A. Mm-hm.

16 Q. And just to be clear, you didn't go back to  
17 any previously Commission approved level of  
18 administrative salaries such as the company's last rate  
19 case, but instead, as you note, you started in 1998?

20 A. Yes, that's correct.

21 Q. And this part of your adjustment has the  
22 effect of an \$884,000 adjustment for electric and a  
23 \$222,000 adjustment for gas, and I'm rounding there.

24 A. Mm-hm.

25 Q. Is that correct?

01464

1 A. Yes, that's deduction.

2 Q. That's shown on page 12, line 4 of your  
3 testimony?

4 A. Where?

5 Q. Page 12, line 4 of your testimony T-570.

6 A. That's correct.

7 Q. Now just so I understand how these two items  
8 interact, the first item being the \$280,000 shift of  
9 Mr. Matthews' costs to non-regulated, and the ultimate  
10 adjustment level being the second item, is the \$280,000  
11 shift embedded within the \$884,000 electric adjustment  
12 and the \$220,000 gas adjustment?

13 A. Yes.

14 Q. Now another part of your adjustment involves  
15 the bonus adjustment, and here you reduced electric  
16 operating expenses by \$2.2 Million for electric and  
17 \$434,000 for gas, correct?

18 A. That's correct.

19 Q. And to what FERC account or accounts do each  
20 of these two items fall? Is it all in account 920,  
21 administrative and general salaries?

22 A. Are you talking about bonuses? Bonuses  
23 spread all over everywhere. As far as I remember is  
24 account 557. It didn't include it in 920 account only.

25 Q. Okay.

01465

1 A. But Mr. Lazar analyze account 920 only.

2 Q. So you're saying that the adjustment items  
3 that you identified fall into a number of accounts, not  
4 just 920?

5 A. That's correct.

6 Q. And can you identify those other accounts at  
7 this time? Do you need to defer to Mr. Parvinen on that  
8 or --

9 A. No, I can find it.

10 Q. Would it be more convenient if I made a  
11 record requisition on that issue?

12 A. Sure. It's one of the DR that I answered to  
13 for Miss Kathy.

14 MR. MEYER: It's 167.

15 THE WITNESS: 167, is that --

16 MS. MITCHELL: It's not an exhibit.

17 MR. MEYER: May I approach the witness if  
18 this will speed things up?

19 THE WITNESS: Yes.

20 JUDGE SCHAER: Go ahead, Mr. Meyer.

21 A. Yes, for electric bonuses, some of the  
22 bonuses get into account 557, 588, 593, 920. For gas,  
23 it get into 928 and 920.

24 BY MR. FFITCH:

25 Q. Very well. And you are deriving that answer

01466

1 from the response to a data request that you have in  
2 front of you?

3 A. Yes, I respond to Ms. Mitchell's data  
4 request.

5 Q. Which number is that?

6 A. 167.

7 Q. Thank you. Now can we add all of these  
8 adjustments together to get to the bottom line of your  
9 adjustments to a total of something over \$3 Million for  
10 electric and about \$650,000 for gas, or is it a bit more  
11 complicated than that?

12 A. Subject to check, because of when I do the  
13 analysis, I do it differently. I do compensation in one  
14 group and bonuses in one group.

15 Q. Okay. But in both cases, your adjustments  
16 are about two thirds as large as Mr. Lazar's adjustment,  
17 correct?

18 A. Smaller or larger?

19 Q. Smaller.

20 A. Yes.

21 Q. Two thirds of the size?

22 A. Mm-hm.

23 Q. Now could you please take a look at the three  
24 cross-examination Exhibits 586, 587, and 588, and those  
25 are the staff's response to Avista data requests 69, 70,



01467

1 and 170, are they not?

2 A. Yes.

3 Q. And were those prepared by you or under your  
4 direction?

5 A. Yes.

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

8 A. Yes.

9 MR. FFITCH: Your Honor, I don't have any  
10 further questions for Ms. Huang, and I would offer  
11 Exhibits 586, 587, and 588.

12 JUDGE SCHAER: Any objection?

13 MR. TRAUTMAN: No objection.

14 JUDGE SCHAER: Those documents are admitted.

15 MR. FFITCH: Thank you, Ms. Huang.

16 JUDGE SCHAER: Commissioners, did you have  
17 questions for Ms. Huang?

18 CHAIRWOMAN SHOWALTER: I think I have only  
19 one.

20

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

22 BY CHAIRWOMAN SHOWALTER:

23 Q. And I apologize that I had to miss just a  
24 little bit of your testimony, and you may have covered  
25 it. I came in on a conversation which had to do with

01468

1 team incentives, and I thought I heard you say that you  
2 were going by a prior Commission order. Am I right on  
3 that? Or you were taking your cue from a prior  
4 Commission order on why it would not be appropriate to  
5 include, I don't know if it was bonuses or stock  
6 options.

7 A. They are two different thing.

8 Q. Okay. When you were referring to a prior  
9 Commission order, first of all, what order was that?  
10 You were reading from a prior Commission order on why  
11 the Commission was not going to recognize something.  
12 What order was that?

13 A. Are you talking about team incentives, or are  
14 you talking about stock option?

15 Q. This is why I'm not sure.

16 A. Okay.

17 Q. Stock options apparently.

18 A. Okay.

19 Q. Stock options.

20 A. Stock option, this Commission its decide in  
21 1987 it wanted -- the decision that Commission decide to  
22 disallow or recognize that a stock option or any stock  
23 given to executive officer to attract or retain officer  
24 for its long-term performance that Commission decide  
25 that this cost should be born by the shareholders, not

01469

1 rate payers.

2 Q. And what docket number was that?

3 A. I can give it to you here.

4 Q. I think you read from it, am I correct that  
5 that was what you were reading from?

6 A. I was reading from other Commission's order  
7 that regarding executive compensation. But for  
8 restricted stocks, I am using this Commission's order.

9 Q. All right, and was it a 1987 or not?

10 A. Yes.

11 Q. I'm showing a docket number 920433, so I'm  
12 not sure what that was?

13 A. That's team incentive.

14 Q. Okay. This is the source of my confusion,  
15 so.

16 A. Okay. I can give you the cause number for  
17 this restricted stocks.

18 Q. Okay.

19 A. It's case number FR-86-142, FR-86-142.

20 Q. Now is that this Commission's?

21 A. Yes.

22 Q. Okay. The question I have about that is do  
23 you in the intervening years, which is about 12 years,  
24 do you feel that the rationale for that Commission  
25 decision at that time still holds today, or have

01470

1 changing circumstances of utilities influenced what that  
2 rationale should be?

3 A. Restricted stock is actually as a cash  
4 payment to shareholders, and I believe that this is  
5 considered as a signing bonus. Actually, in one of  
6 Kathy's data requests, what she identified this as a  
7 stock base signing bonuses. As my research in  
8 Washington state that there are no regulated company  
9 that issues signing bonus to their CEO in Washington  
10 state. Avista is the only one. And I check other  
11 utility whether they consider this signing bonus is a  
12 part of the rate pay expenses or not. I check Oklahoma  
13 Commission, they disallow this portion of the signing  
14 bonus.

15 Q. Okay. So is your recommendation to disallow  
16 it, is it based on a prior order, is it based on what  
17 happens generally in the world today, or is it --

18 A. Yes.

19 Q. Both?

20 A. Yes, because I have all sorts of information.  
21 The Oklahoma City decision is '95 decision, so it's  
22 quite current for signing bonus.

23 Q. And whose decision is that?

24 A. Oklahoma Commission.

25 Q. Well, then switching over to the team

01471

1 incentive, and I think that was when I heard you, I  
2 believe, reading from 920433.

3 A. Yes.

4 Q. And I guess my question is the same there.  
5 Is your recommendation based on that order, and if it  
6 is, is there anything about the intervening years, the  
7 last eight years in that case, that should change our  
8 view about team incentives?

9 A. No, it shouldn't be changed. This is -- this  
10 1992 rate case talk about the team -- talking about the  
11 bonus plan is very similar to Avista's team incentive.  
12 If you look at the whole plan, the whole plan is geared  
13 to earning per share, earning performance. Particularly  
14 in 1999 plan if you look at the company's plan, this all  
15 tie to earning per share.

16 Q. Let's say they're identical.

17 A. Yes.

18 Q. Let's say today Avista's plan is identical to  
19 the one in '92 that we had an opinion on.

20 A. Mm-hm.

21 Q. My question is should our view about those  
22 plans be different because of basically any changing  
23 circumstances in the utility world since that time, or  
24 does the rationale for that time still hold today? So  
25 I'm not talking about what we did, but the rationale for

01472

1 what we did.

2 A. The rationale should be the same.

3 Q. And why?

4 A. Because bonuses, if you put bonuses in the  
5 rate and bonus is part of the salary, and at that time  
6 it lost the meaning of the bonus, then it's not bonus  
7 any more, it's salary. Particularly in 1999, the  
8 company did not give out team incentive, so the  
9 shareholder get to keep that part of money. And for  
10 this plan, it's all pay at management's discretion.  
11 It's not a certain level. So one year could be \$4.7  
12 Million. One year could be zero in 1999. It all tied  
13 to earning per share, so the bonus amount is not known  
14 and measurable.

15 Q. Supposing a company's policy were to have a  
16 pool of money every year, this isn't in this particular  
17 situation, I don't think, but said, well, every year  
18 we're going to reserve \$200,000 or \$500,000, some  
19 amount, and we are going to pass it out to the best  
20 employees. In other words, it would be known that it  
21 would be used, but it would be used in a discretionary  
22 basis only, not a bonus basis. Is that the kind of --  
23 is that type of incentive plan something that can be  
24 recognized, do you think, in regulated rates, or if it's  
25 not in base salaries, it shouldn't be?

01473

1 A. Bonus should not be in rates.

2 Q. No matter what kind of system you set up?

3 A. Mm-hm.

4 Q. And is the reason because it's not known and  
5 measurable, or it's not part of salary, or because it  
6 ultimately devolves to profits? At least that's what  
7 your testimony seemed to suggest.

8 A. It all tied to earning per share.

9 Q. And you don't see a relationship between  
10 earnings per share and value to rate payers; is that  
11 correct? I think your testimony said because it's  
12 geared toward rewarding the shareholders, the  
13 shareholders should pick it up. But it didn't really  
14 answer the other question, which is, does it benefit the  
15 rate payers in some way to have a system, an incentive  
16 system?

17 A. Can you ask that question again?

18 Q. Well, what I'm getting at is I think it's the  
19 question should this Commission for regulatory purposes  
20 be open to or recognize any forms of incentive systems  
21 or bonus systems or other things that reward good  
22 employees? And good, I think, is probably could be  
23 defined a number of ways. Is there benefit to the  
24 performance of a company and therefore benefit to rate  
25 payers to have an incentive system for employees, or

01474

1 does that type of benefit really only ultimately reward  
2 shareholders? Because I think that was your testimony.

3 A. I have to consider the whole plan in this in  
4 this rate case. In this particularly situation that  
5 Avista's operating income from 1997 was decreasing to  
6 1998 level, and from 1998 level decreased to 1999 level.  
7 And look at the company's earning per share in '96 is  
8 \$1.41. In '98, I'm sorry, in '95 is \$1.41. In '97 is  
9 \$1.35. '98 is \$1.28. '99 is \$.12. So you have to look  
10 at the whole plan how the company perform.

11 Q. So you're saying even if as a theoretical  
12 matter in some other situation, bonuses and incentives  
13 might be okay, I don't know, but you're saying in this  
14 situation in these years that we're looking at, it  
15 isn't, is that --

16 A. That's correct, and then especially if  
17 bonuses embedded in the rate, and the next year, which  
18 is 1999, they did not give out any bonuses to the  
19 employees. And later, if we approve this bonuses in the  
20 rate when they don't give out the bonuses in the future  
21 years, the shareholder get to keep this money, to me, I  
22 feel like rate payer get adverse impact on this issue  
23 that put in bonus in the rate that which they didn't  
24 give out in future.

25 CHAIRWOMAN SHOWALTER: Okay, thank you.



01475

1 THE WITNESS: You're welcome.

2 JUDGE SCHAER: Commissioners, any questions?

3 COMMISSIONER HEMSTAD: No.

4 COMMISSIONER GILLIS: No.

5

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

7 BY JUDGE SCHAER:

8 Q. Ms. Huang, looking first at Exhibit 574, page  
9 two.

10 A. Yes.

11 Q. And looking at lines three and four for the  
12 years 1997, 1998, and 1999, how did you determine the  
13 number of employees that you used?

14 A. The number of employees on line three and  
15 four?

16 Q. Yes.

17 A. I use the 10-K the company send it to SEC.

18 Q. All right. Now you have been talking about  
19 different kinds of incentive plans, and of the various  
20 types of incentive plans available to Avista employees,  
21 there is one called gain sharing, is there not?

22 A. Yes, that's for energy delivery department.

23 Q. Did you make any adjustments to that  
24 incentive plan?

25 A. I disallow it all.

01476

1 Q. Okay.

2 A. Because in the past order that it said that  
3 any gain sharing plan and profit sharing plan should be  
4 treated below the line item.

5 Q. All right. In looking at page six, line one  
6 of your testimony.

7 A. Yes.

8 Q. You mentioned \$1 to \$4.2 Billion as a revenue  
9 range.

10 A. Yes.

11 Q. Of comparable companies. Could you explain  
12 how you arrived at that specific range?

13 A. In data request 286, which is Exhibit --

14 Q. Would that be C-576?

15 A. Yes.

16 Q. Okay.

17 A. Page 22.

18 Q. Mm-hm.

19 A. The bottom box is Avista Corporation's sales,  
20 assets, employees, market capitalization. If you look  
21 at Avista's number compare with this \$3.6 Billion range,  
22 Avista's sales hit close to 25 percentile in this group.  
23 But if you look at assets, employee capital, market  
24 capitalization, Avista's number didn't fit anywhere in  
25 this group.

01477

1 Q. Now looking at the page you're discussing,  
2 there are two different page numbers on these pages.  
3 There's one that's printed with the document, and then  
4 in the lower right-hand corner, there's a handwritten  
5 page number that would say something 25. What is that  
6 number for this?

7 A. It's a printed number page 22.

8 Q. So what is the handwritten number, please?

9 A. I don't have that number.

10 Q. Okay.

11 A. It's Appendix 1, profile publicly traded peer  
12 companies, \$3.3 Billion to \$6 Billion range.

13 JUDGE SCHAER: Mr. Trautman, that appears to  
14 me to be page 25 out of 25 and what is in the record.

15 Mr. Meyer, I believe this was your exhibit.

16 Can you confirm that that's the correct page?

17 MR. MEYER: Well, the 25 of 25 which is  
18 Appendix 1 shows a profile for \$3 Billion to \$6 Billion  
19 companies. The preceding page is for \$1 Billion to \$3  
20 Billion. So I'm not sure which page this witness is  
21 leveraging off of.

22 THE WITNESS: It's \$3 Billion to \$6 Billion  
23 range, that page.

24 JUDGE SCHAER: So the page that's numbered 22  
25 on one corner is the same as the page that's numbered 25

01478

1 out of 25 by the company; is that correct?

2 MR. MEYER: Yes.

3 JUDGE SCHAER: And that's a page that you  
4 have agreed is non-confidential?

5 MR. MEYER: That is correct.

6 BY JUDGE SCHAER:

7 Q. Okay, go ahead, Ms. Huang.

8 A. If you look at the sales, Avista's sales for  
9 1998 is \$3.6 Billion range. It fit close to that 25  
10 percentile. But if you look at, assets employee, market  
11 capitalization column, Avista fit nowhere in this  
12 category. But if you flip back to page 24, the previous  
13 page that is \$1 Billion to \$3 Billion range, if you look  
14 at the second column, assets for '98, Avista fit into  
15 somewhere between 25 to 50 percentile. For the employee  
16 portion, Avista fit into 50 percentile. For market  
17 capitalization, Avista fit in 0 to 25 percentile.  
18 Avista in general fit in this group.

19 In order to give weight to the sales for  
20 1998, Avista's sales revenue is 3.6, I extended the  
21 sample population to 4.2 billion range to give weight  
22 for this revenue factor so that Avista fit in right in  
23 the middle in this revenue factor so that Avista can fit  
24 in right in the middle in this revenue factor as shown  
25 in my exhibit JH-2, page 2, Exhibit 572.

01479

1 Q. JUDGE SCHAER: Okay, thank you, Ms. Huang.  
2 Is there any redirect for this witness?  
3 MR. TRAUTMAN: Yes, just a couple of  
4 questions.

5

6 R E D I R E C T E X A M I N A T I O N

7 BY MR. TRAUTMAN:

8 Q. Ms. Huang, could you turn to Exhibit 577, and  
9 this is in response to data request 328. Do you have  
10 that?

11 A. Yes, I do.

12 Q. And you were asked questions about stock  
13 awards used in compensation programs?

14 A. Yes.

15 Q. Do you have that exhibit?

16 A. Yes.

17 Q. Does this data response indicate that any of  
18 the stock awards have ever been included for rate making  
19 purposes?

20 A. I do not know that's the fact.

21 Q. Does the response indicate that it is? Does  
22 the response say that it is?

23 A. No, it did not.

24 Q. And you were asked a question as to how  
25 officers' allocations were treated by the company, and I

01480

1 believe you said that Mr. Meyer had said that they were  
2 based on thoughts and feelings. Did you mean to say  
3 Mr. Matthews?

4 A. I meant to say Mr. Matthews.

5 MR. TRAUTMAN: Thank you, that's all I have.

6 CHAIRWOMAN SHOWALTER: I have just one last  
7 question.

8 JUDGE SCHAER: Go ahead.

9

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

11 BY CHAIRWOMAN SHOWALTER:

12 Q. On page 14 of your testimony, you indicated  
13 that -- the question was, what about the pace setter  
14 bonuses. And you say, I left those in as they seem to  
15 be at a constant level over recent years. What  
16 distinguishes the pace setter bonuses that you did allow  
17 from the other bonuses that you did not, just the fact  
18 that they have been constant?

19 A. No, actually team incentive it's -- if you  
20 look at team incentive, the whole plan is geared to  
21 earning per share and earning performance, and I believe  
22 that pace setter is only couple hundred, maybe \$200,000  
23 to \$300,000 per year. It's pretty constant. So team  
24 incentives are more at management's discretions whether  
25 they can get it in one year or not. It all depends on

01481

1 management's discretion.

2 Q. And then what is pace setter, how is it  
3 awarded and on what basis?

4 A. Pace Setter is to recognize individual's  
5 outstanding performance and recognize at the spot. Most  
6 of them gets capitalized, which is not expense in 1998.

7 Q. So it's the pace setter bonuses are not tied  
8 to earnings per share; they're just tied to individual  
9 performance?

10 A. Yes, that how I believe.

11 CHAIRWOMAN SHOWALTER: Okay, thanks.

12 JUDGE SCHAER: Is there anything further for  
13 this witness?

14 Thank you for your testimony, Ms. Huang.

15 THE WITNESS: Thank you.

16 JUDGE SCHAER: Would you like to call your  
17 next witness, please, Mr. Trautman.

18 MR. TRAUTMAN: Staff will call witness Tom  
19 Schooley.

20 JUDGE SCHAER: Let me indicate while  
21 Mr. Schooley is taking the stand that what I propose to  
22 do at this point is get him sworn in, get his exhibits  
23 identified and his case in chief offered, and then we  
24 will start with questioning of Mr. Schooley at 1:00  
25 after our lunch recess.

01482

1

2 Whereupon,

3

THOMAS SCHOOLEY,

4 having been first duly sworn, was called as a witness

5 herein and was examined and testified as follows:

6

JUDGE SCHAER: Go ahead, Mr. Trautman.

7

8 .HE (SCHOOLEY - DIRECT BY TRAUTMAN)

9

D I R E C T E X A M I N A T I O N

10 BY MR. TRAUTMAN:

11

Q. Good morning, Mr. Schooley.

12

A. Good morning.

13

Q. Could you please state your name and business

14

address for the record.

15

A. My name is Thomas Schooley. My business

16

address is 1300 Evergreen Park Drive Southwest, Olympia,

17

Washington, 98504.

18

Q. And have you filed for identification with

19

the Commission what has been marked as Exhibits T-595

20

through 600?

21

A. Yes.

22

Q. And have you also adopted the testimony of

23

Roland Martin that is filed as Exhibit 601?

24

A. Yes.

25

Q. And were Exhibits 595 through 600 prepared by



01483

1 you or under your supervision?

2 A. Yes.

3 Q. Are they --

4 A. Well, actually Exhibit 598, I prepared the  
5 spreadsheet on it. The balance of that exhibit is an  
6 appraisal report from the Nez Perce settlement, so I did  
7 not prepare that portion of it.

8 Q. And with that reference in mind, were those  
9 exhibits otherwise prepared under your supervision?

10 A. Yes.

11 Q. And are they true and correct to the best of  
12 your knowledge?

13 A. Yes.

14 Q. If I were to ask you the questions set forth  
15 in Exhibits T-595 as well as in exhibit I believe it  
16 should be T-601 would your answers be as set forth?

17 A. Yes.

18 MR. TRAUTMAN: I would move for the admission  
19 of exhibits T-595 through T-601.

20 JUDGE SCHAER: Any objections?

21 MR. MEYER: None.

22 JUDGE SCHAER: Those documents are admitted.

23 MR. TRAUTMAN: And Mr. Schooley is available  
24 for cross-examination.

25 JUDGE SCHAER: Thank you, Mr. Trautman.

01484

1                   Let's take our lunch recess at this point.

2 Please be back --

3                   MR. FFITCH: Your Honor.

4                   JUDGE SCHAER: Excuse me, yes, Mr. ffitch.

5                   MR. FFITCH: Sorry, Your Honor, one brief  
6 matter. To clarify, we had indicated a duplication of  
7 exhibits, a cross exhibit for Mr. Schooley, and that  
8 duplication is that his exhibit Cross Exhibit 603 is the  
9 same as Mr. Falkner's Cross Exhibit 286. We would  
10 withdraw the Exhibit 603 for Mr. Schooley, and we will  
11 examine him briefly on the Falkner exhibit, but we will  
12 introduce 286 through Mr. Falkner.

13                   JUDGE SCHAER: Thank you, Mr. ffitch.

14                   Then as I was stating, let's take our lunch  
15 recess at this time. Please be back promptly at 1:00,  
16 and we're off the record.

17                   (Luncheon recess taken at 11:45 a.m.)

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01485

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2

AFTERNOON SESSION

3

(1:05 p.m.)

4

5

6

JUDGE SCHAER: Let's be back on the record  
after our lunch recess.

7

8

Did you have questions of Mr. Schooley,  
Mr. Meyer?

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MR. MEYER: I do.

JUDGE SCHAER: Go ahead, please.

MR. MEYER: Thank you.

C R O S S - E X A M I N A T I O N

BY MR. MEYER:

Q. Good afternoon, Mr. Schooley.

A. Good afternoon.

Q. You have adopted the testimony and are  
sponsoring the testimony of Mr. Martin, aren't you?

A. Yes.

Q. Okay. Does staff, excuse me, I don't want to  
say it the wrong way, I don't want to say does staff  
witness Martin, but is staff through your testimony now  
proposing to change the jurisdictional allocation  
percentage applicable to the Centralia gain?

A. I haven't considered that.

01486

1 Q. Does Mr. Martin in his pre-filed testimony  
2 that you sponsored recommend such a change?

3 A. He does. I can't recall what we have  
4 discussed since rebuttal testimony.

5 Q. Okay. Would you agree that the allocation  
6 factor used in the Centralia sale dockets to allocate  
7 the gain between Washington and Idaho was 66.99% for  
8 Washington and 33.01% for Idaho?

9 A. Yes.

10 Q. Was this also the same production  
11 transmission allocation factor that is used in this  
12 proceeding from the 1998 test period?

13 A. Yes.

14 Q. Has this allocation factor also been accepted  
15 by the Idaho Public Utility Commission to allocate the  
16 Centralia gain?

17 A. I don't know.

18 Q. Okay. Now would -- apparently staff's  
19 proposal to adjust this allocation factor, would that  
20 result in a reduction in the gain allocated to  
21 Washington operations given the new proposed factor of  
22 66.14%?

23 A. I believe that's what Mr. Falkner's rebuttal  
24 testimony says.

25 Q. Do you disagree with that?

01487

1 A. I don't have any basis to argue with it.

2 Q. Okay.

3 A. I would have to accept it subject to check.

4 Q. Okay. Now are you also proposing through  
5 your sponsorship of Mr. Martin's testimony to establish  
6 a Centralia bill credit equal to the DSM tariff rider?

7 A. Yes.

8 Q. And do you propose that a separate item  
9 appear on the face of the bill for a "Centralia bill  
10 credit"?

11 A. I believe that was the intention, yes.

12 Q. Have you or has any other staff witness  
13 examined whether such a billing adjustment to the  
14 company's billing system would require costly changes to  
15 that system?

16 A. No, we haven't looked at that.

17 Q. Okay. Is there an argument that the tariff  
18 rate for the Centralia gain should somehow be based on  
19 the stated amortization period for the Centralia gain  
20 and not otherwise tied directly to DSM tariff rider  
21 rates?

22 A. I don't understand the question.

23 Q. Okay. Is it the proposal of the staff  
24 through Mr. Martin's testimony to establish a credit  
25 equivalent to the DSM tariff rider rate?

01488

1 A. Yes.

2 Q. Okay. So wouldn't that have the effect of  
3 returning by way of the Centralia bill credit dollars  
4 back to rate payers that are equivalent to whatever the  
5 DSM tariff rider rate in effect is at the time?

6 A. I think the testimony states that it would be  
7 as in effect at this point in time. If there is a  
8 change in the DSM tariff rider level, that may or may  
9 not affect the credit for the Centralia gain.

10 Q. But the essence of my question you agree  
11 with, whatever the tariff rider rate is in effect at the  
12 time would be the rate used?

13 A. At this point in time, yes.

14 Q. Yes, okay. Now whatever that DSM tariff  
15 rider rate is at whatever time one looks at that rate,  
16 would that have any necessary relationship with the  
17 stated amortization period of the Centralia gain, any  
18 necessary relationship?

19 A. The amount of time it took to whittle down  
20 the gain on Centralia would then be determined by the  
21 rate at which its credit is set at, not the other way  
22 around.

23 Q. That's right. So the only logic to using  
24 that type of amortization to cause it to equal the DSM  
25 tariff rider rate is the fact that you have a DSM tariff

01489

1 rider rate in effect at a certain level at that time,  
2 right?

3 A. Yes, I think it was chosen just as a  
4 convenient number and as a, in some sense, an equivalent  
5 or another type of power cost. And then you could have  
6 a debit for power cost or a charge against a credit.

7 Q. But no other logic than just that?

8 A. No, I don't believe so.

9 Q. Okay. Now let's turn now to the injuries and  
10 damages adjustment.

11 JUDGE SCHAER: Could you provide a page  
12 number at least for the Bench, Mr. Meyer?

13 Q. Page four of your testimony.

14 JUDGE SCHAER: So we're back in  
15 Mr. Schooley's pre-filed?

16 MR. MEYER: Yes, I'm sorry.

17 JUDGE SCHAER: Thank you. That helps us  
18 track where you are.

19 MR. MEYER: Okay.

20 JUDGE SCHAER: We're on T-595.

21 BY MR. MEYER:

22 Q. This first line of questioning will deal with  
23 injuries and damages. Let me set the stage.

24 Mr. Schooley, do you contend that litigation costs  
25 associated with obtaining a settlement of the 1991 fire

01490

1 storm litigation should be excluded?

2 A. Yes.

3 Q. Do you propose that the entirety of the 1996  
4 ice storm cost should be disallowed?

5 A. Yes.

6 Q. Okay. Let's turn first to the litigation  
7 costs surrounding fire storm.

8 A. Back on the previous question, you say they  
9 should be disallowed. I would say they should be  
10 excluded on the basis that they are not part of the test  
11 year and are prior period events. So I would say it's a  
12 disallowance in the sense that it's often used here.

13 Q. Okay.

14 A. And your next question was?

15 Q. My next question, let's focus just on the  
16 fire storm litigation costs.

17 A. Right.

18 Q. With respect to fire storm cost recovery, do  
19 you accept for purposes of rate recovery the final  
20 settlement of the litigation net of insurance proceeds  
21 as recoverable as part of the injuries and damages  
22 adjustment?

23 A. Yes.

24 Q. Okay. But you exclude what I will loosely  
25 term as the litigation costs associated with achieving



01491

1 that settlement, don't you?

2 A. Yes.

3 Q. And don't you argue in the process that the  
4 recovery of the legal fees and associated costs are in  
5 your words unnecessary and duplicative?

6 A. Well, its unnecessary to recover them  
7 separately in addition to the test year's level of legal  
8 expenses. It would be a duplication of test year level  
9 of legal expenses to add to that the amount of legal  
10 expenses it took to settle the fire storm. The test  
11 year's level of legal expenses exceeds that of any of  
12 the five or six years prior to that anyway.

13 Q. I see. Would you characterize this fire  
14 storm litigation as extraordinary in terms of the  
15 litigated nature of the case?

16 A. I don't know. I didn't follow the case to  
17 that level of detail.

18 Q. Okay. Do you know how long it took to  
19 resolve the case?

20 A. Well, the settlement occurred in '97, I  
21 believe, and the damages were incurred in '91, so it  
22 sounds like about six years.

23 Q. About six years. During that time, would you  
24 agree that the company incurred substantial litigation  
25 costs to arrive at that settlement?

01492

1           A.       They incurred litigation costs. I don't know  
2 if they were substantial relative to the total  
3 litigation costs incurred by the company for utilities  
4 during that period of time. They were probably in the  
5 range of less than 10% or around 10% of the total  
6 litigation costs for all purposes.

7           Q.       Do you know, Mr. Schooley, whether the  
8 company's proposal would amortize through the injuries  
9 and damages adjustment over time these litigation costs?  
10 Is that what the company proposes?

11          A.       They propose including those litigation costs  
12 as part of the six year average. I wouldn't say it's an  
13 amortization as such.

14          Q.       Okay. But it has the effect of averaging it  
15 out over a six year period?

16          A.       It has the effect of building 1/6 of that  
17 total litigation cost into the expenses for determining  
18 rates.

19          Q.       So would it be your testimony that -- strike  
20 that.

21                   Were the legal and other settlement costs  
22 that were involved in achieving a resolution of this six  
23 year litigation costs that were necessary to incur in  
24 order to reach that settlement? Have you reached a  
25 decision or a conclusion with respect to whether the

01493

1 company needed to spend those dollars?

2 A. That's not for me to determine. The question  
3 at hand is whether the litigation costs should be or  
4 even some part of them should be added on top of the  
5 litigation costs for the test year, and we're not  
6 questioning the validity of those expenses over time nor  
7 the necessity of them to achieve a settlement in that  
8 situation.

9 Q. So you are offering no testimony here or  
10 offering no opinion here as to whether or not those  
11 litigation costs were necessary to achieve the  
12 settlement; is that fair?

13 A. That's true.

14 Q. Okay. Mr. Schooley, if the settlement  
15 payment other than litigation costs, if the settlement  
16 payments themselves are deemed reasonable for recovery  
17 but not the associated litigation costs that were  
18 incurred in order to reach that settlement, are you with  
19 me so far?

20 A. Right.

21 Q. Are included, can you imagine a situation  
22 where this could provide a perverse incentive for a  
23 company to reach an earlier settlement and perhaps a  
24 disadvantageous settlement in order to avoid incurring  
25 additional legal costs?

01494

1           A.     No, because I'm under the assumption the  
2 company is run by prudent people who will act in manners  
3 that arrive at the optimal level of a settlement. And  
4 if it takes an additional year of litigation to achieve  
5 that, then that's what they will do. If it means that  
6 the early settlement is the best settlement they can  
7 arrive at, then I would imagine that they will do that.

8           Q.     If a company knows that in a major piece of  
9 litigation that it will not recover its litigation  
10 costs, is that a factor that a company might take into  
11 account in terms of the timing or the level of  
12 settlement ultimately reached given the litigation costs  
13 involved?

14          A.     No, I don't think so. Because rate making is  
15 not a process of determining a particular expense that  
16 will be recovered or not. It's a question of  
17 establishing the total expenses of the company in  
18 relationship to the revenues, those total expenses  
19 including a fair return on the rate base to the  
20 investors in that rate base. So no particular expense  
21 is used in the rate making process. So the question of  
22 whether these litigation expenses should or should not  
23 be recovered is a moot point.

24          Q.     Well, it may be a moot point, but are you at  
25 all worried about the message you send in your proposal?

01495

1           A.       Well, you say there may be perverse  
2 incentives. I would hope that the company is not being  
3 driven by perverse people that would reach those end  
4 results, that the prudent people would act in a prudent  
5 manner, and they will arrive at the settlement that is  
6 the one they feel is the best they can do in those  
7 circumstances.

8           Q.       And you don't take issue with the settlement  
9 reached here, do you?

10          A.       We have not.

11          Q.       Now let's turn now to the subject of ice  
12 storm costs. Have you or has any other witness from the  
13 staff questioned the legitimacy or the prudence of the  
14 \$12 Million of costs incurred by the company to restore  
15 service after the ice storm of 1996?

16          A.       No.

17          Q.       Does the company, Mr. Schooley, have a public  
18 service obligation to restore service as quickly,  
19 efficiently, and safely as possible?

20          A.       Yes.

21          Q.       Were the costs that were incurred by the  
22 company by definition legitimate business expenses that  
23 were necessary to meet that public service obligation?

24          A.       I suppose so. They were necessary expenses  
25 in the year 1996. We're using a 1998 test year.

01496

1 Q. So your testimony is that the company when it  
2 incurred those expenses needed to do so to fulfill its  
3 public service obligation, correct?

4 A. Yes.

5 Q. Thank you. Now was the company's ice storm  
6 1996 overview report, which has been marked for  
7 identification as Exhibit 85, submitted to this  
8 Commission in the few months following ice storm? Why  
9 don't you turn to that exhibit. That might be best.  
10 It's Exhibit 85 as marked for identification.

11 A. 85.

12 JUDGE SCHAER: The exhibit to Mr. Dukich's  
13 testimony. Do you have that available to you,  
14 Mr. Schooley?

15 THE WITNESS: I do not.

16 MR. MEYER: May I approach the witness?

17 JUDGE SCHAER: Yes, you may.

18 MR. MEYER: Okay.

19 A. This is the ice storm overview two months  
20 later. I believe you put it in Falkner's rebuttal  
21 testimony too.

22 BY MR. MEYER:

23 Q. Yes. Is this dated January 28, 1997?

24 A. Yes, it is.

25 Q. Would you kindly turn to the page 14 of that

01497

1 exhibit.

2 A. Yes.

3 Q. And at the very end I believe I have there is  
4 a marginal note there. Would you read the two sentences  
5 that begin, the remaining \$17.1 Million, could you read  
6 that into the record.

7 A. It states here:

8 The remaining \$17.1 Million, \$11.1  
9 Million after tax, will be included with  
10 other non-insured losses from storms and  
11 accidents. Annual expense level is  
12 determined through the use of a six year  
13 average.

14 That's not exactly true though, because the  
15 company --

16 Q. Excuse me, I'm asking you just for present  
17 purposes to read that excerpt.

18 A. End quote at six year average.

19 Q. All right. Does it then go on to say in the  
20 very next sentence that:

21 WWP will not seek a specific rate sir  
22 charge due to the costs of ice storm '96  
23 restoration?

24 A. Yes.

25 Q. Thank you. Did the company beginning with

01498

1 the semi annual reports filed for the 12 month period  
2 December 31, '96, as filed with this Commission, include  
3 ice storm costs as part of its six year average for  
4 injuries and damages?

5 A. Yes, it did.

6 Q. Has staff after receiving this semi annual  
7 report ever questioned for purposes of that report this  
8 component for semi annual reporting purposes?

9 A. I noted it at the time when that first report  
10 came through, finding it curious that you had made  
11 statements to the effect that there will not be a  
12 recovery of it and that on the other hand you included  
13 it in the six year average for those purposes. We did  
14 not question the company on that if that's what you're  
15 asking.

16 Q. That's what I'm asking. Now, Mr. Schooley,  
17 don't you argue in your testimony that the ice storm  
18 damages were to company owned property and not to  
19 property owned by third parties?

20 A. That's what I testified to. That's what I  
21 believe happened.

22 Q. Okay. And then don't you conclude based on  
23 that observation that such damages could not be  
24 recovered or should not be recovered through the  
25 injuries and damages adjustment, because that adjustment



01499

1 only is meant to address damages to third parties?

2 A. That adjustment as it was initiated in the  
3 early '90's or late '80's came about because of damages  
4 to third parties in a gas accident. It's never been  
5 broadened to include other types of damages such as  
6 those that we're talking about due to weather events.

7 Q. Now let's explore whether this is a  
8 meaningless or a meaningful distinction between damage  
9 to third parties or damage to company owned property.  
10 Would you agree conceptually that whether or not the  
11 damage was to the property of the company or to a third  
12 party, the necessity for expenditures may be the same in  
13 order to fulfill a public service obligation?

14 A. Necessity to cure the damage is there.

15 Q. In either circumstance?

16 A. Yes.

17 Q. Okay. So it's your position then, as I  
18 believe we have established, that the company should not  
19 be able to recover these type of costs in that clause  
20 insofar as it relates to company owned property.

21 Mr. Schooley --

22 A. Did I say that?

23 Q. Yes.

24 MR. TRAUTMAN: Was that a question, Your  
25 Honor?

01500

1 MR. MEYER: Yes, it is.

2 JUDGE SCHAER: I didn't hear a question come  
3 out of that, I believe. If you would like to ask that  
4 as a question, please do, Mr. Meyer.

5 MR. MEYER: Surely.

6 BY MR. MEYER:

7 Q. Now should or shouldn't the company be able  
8 to recover costs related to damages to company owned  
9 property?

10 A. Yes, and they do. There is a test year level  
11 of expenses for weather damages to company owned  
12 property to the extent of about \$1.2 Million system one.  
13 That's not in question here.

14 Q. Mr. Schooley, did you testify in the 1992  
15 Puget Sound Energy case?

16 A. Yes.

17 Q. Was that Docket Numbers UE-920433, UE-920499,  
18 and UE-921262?

19 A. Yes, we generally refer to that as the  
20 UE-921262 case.

21 Q. Okay. Do you have before you what has been  
22 marked for identification as Exhibit 602?

23 A. Yes.

24 Q. Do you recognize what has been marked as  
25 Exhibit 602 as an excerpt from the Commission's 11th

01501

1 supplemental order dated September 21, 1993, in those  
2 proceedings?

3 A. Yes.

4 Q. Did you recommend in that proceeding,  
5 Mr. Schooley, that the recovery of storm damage costs  
6 should be based on a six year amortization period?

7 A. I did. And in this case, the company, Puget,  
8 had been involved -- had been requesting a total accrual  
9 or capitalization of all storm damage costs of all costs  
10 due to any weather event. And in this case, we backed  
11 it down to an averaging mechanism.

12 In the case before us today, Avista has  
13 picked out a particular event and said they would like  
14 to create a so-called average of six years for that. I  
15 think the company would have a better stance if they had  
16 come in with a full-fledged proposal for averaging of  
17 weather damage due to damages due to weather.

18 Q. At page 51 of that excerpt, Exhibit 602,  
19 that's page 51 of the Commission's order. It's actually  
20 marked as Exhibit page number two.

21 A. Right.

22 Q. Do you have that in front of you?

23 A. Yes.

24 Q. The second paragraph, does the order read as  
25 follows in pertinent part:

01502

1 Mr. Schooley proposed normalizing the  
2 storm damage expense based on a six year  
3 period and that truly extraordinary  
4 events should be deferred as  
5 extraordinary property damage and  
6 amortized into rates over a six year  
7 period.

8 Is that a fair reading?

9 A. You read that correctly.

10 Q. All right. Now, Mr. Schooley, did the  
11 Commission accept your recommendation to use a six year  
12 average for purposes of normalizing the storm damage?

13 A. For the normal every year expenses, yes, they  
14 did.

15 Q. Were these storm damages suffered by Puget  
16 damages to company owned property by and large, or were  
17 they damages to third parties?

18 A. To company owned property, and that was the  
19 sole subject of that particular portion of this  
20 discussion.

21 Q. Okay. Contrast, if you will, your  
22 recommendation for fire storm costs. Is it your  
23 position that fire storm costs other than the litigation  
24 surrounding that should be recovered in this case?

25 A. I don't understand your question of

01503

1 contrasting it to that.

2 Q. Just take that part of the question as  
3 follows: Were fire storm losses proposed to be included  
4 or excluded in this case?

5 A. The settlement payments to parties who felt  
6 they were injured are included in this.

7 Q. That's right. And as we have discussed, the  
8 litigation costs were not?

9 A. I proposed that those not be included as they  
10 would duplicate expenses of the test year.

11 Q. Now those fire storm losses other than  
12 litigation costs surrounding that would be included  
13 within the injuries and damages adjustment, correct?

14 A. Yes.

15 Q. But the ice storm costs, for reasons I  
16 believe you have already described, would not be  
17 included in that injuries and damages according to your  
18 recommendation?

19 A. Yes, because the Commission has not given any  
20 indication that those sorts of costs in past orders or  
21 past events should be included. The event that arose  
22 for this type of adjustment for Avista or Washington  
23 Water Power at the time was solely due to damages to  
24 third parties, and there is a distinction to be made  
25 there.

01504

1 Q. Now witness -- strike that.

2 Let's turn to a subject of proforma  
3 miscellaneous adjustments. You have eliminated a couple  
4 of items contained within this proforma adjustment, one  
5 of which was corporate name change costs and another  
6 related to Y2K costs; is that correct?

7 A. Yes.

8 Q. Let's turn first to the subject of Y2K cost  
9 recovery. Do you understand the company to be proposing  
10 an amortization of its Y2K costs that it incurred during  
11 the 1998 test period over a five year period?

12 A. Yes.

13 Q. Now do you understand the company's stated  
14 logic for that five year amortization was to better  
15 reflect the long-term nature of the cost incurrence?

16 A. That's what they said. I can't say I  
17 understand it though.

18 Q. Okay. But you understand that that is the  
19 stated logic?

20 A. That is the stated logic. I don't understand  
21 that logic.

22 Q. Okay. Now the amortization relates to 1998  
23 test period costs associated with Y2K only, correct, and  
24 not years 1997 or 1999; is that correct?

25 A. Correct.

01505

1 Q. Okay. So the company is not proposing in  
2 this proceeding to otherwise recover Y2K costs that were  
3 incurred in 1999 or in 1997, the years that surround the  
4 test period, correct?

5 JUDGE SCHAER: Mr. Meyer, isn't that the  
6 identical question that you just asked and had answered.

7 MR. MEYER: I wanted to make sure I  
8 understood the answer.

9 JUDGE SCHAER: I believe the answer was yes.

10 BY MR. MEYER:

11 Q. Is that the answer?

12 A. That's yes.

13 Q. Okay, thank you.

14 A. Rearrange the question, the answer is the  
15 same.

16 Q. Mr. Schooley, you recommended that all Y2K  
17 operating expenses be completely eliminated?

18 A. Yes.

19 Q. And you argue, don't you, that they are  
20 non-recurring?

21 A. Yes, I do, that the expenses incurred for  
22 whatever computer fixes were deemed necessary are not  
23 expenses that will be incurred in the future and that  
24 rates in the future should reflect only the ongoing  
25 expenses of the company.

01506

1 Q. And don't you elsewhere comment at page 15 of  
2 your testimony, I believe it's line 14.

3 A. Mm-hm, yes.

4 Q. That:

5 It is the company's responsibility to  
6 maintain all of its systems in proper  
7 functioning order regardless of the  
8 calendar numerals.

9 A. That's true.

10 Q. Okay. And when you testified that its the  
11 company's responsibility to maintain its systems in  
12 proper functioning order. Is that because that is part  
13 of its public service obligation?

14 A. Yes.

15 Q. Okay. If it did not maintain its systems in  
16 proper functioning order, would it be derelict in that  
17 regard?

18 A. At some point I think if the company had done  
19 nothing with its computer systems that there probably  
20 would have been negligible, if any, damage resulting  
21 from that.

22 Q. But you haven't in your adjustment suggested  
23 that some but not all Y2K costs be allowed, have you?

24 A. The company did not propose that. Well, I  
25 guess the company could say it proposed a fifth element



01507

1 to be included. But I would say that that is also a  
2 non-recurring expense, that the reason that 1998 was  
3 such a high number and that the company would like to  
4 amortize it is because they didn't begin the project in  
5 1994 or 1995 when these types of problems were first  
6 being identified. It seemed like a little more lead  
7 time would have reduced the expense over time in  
8 general.

9 Q. I'm not sure I made my question clear enough.  
10 Are you recommending that even dollar one of  
11 test period costs relating to Y2K be recovered?

12 A. That's the nature of a non-recurring expense.  
13 They take that out of the test period, because it won't  
14 be reflective of expenses in the future.

15 Q. Mr. Schooley, as part of this process, do you  
16 understand that the company incurred Y2K costs with  
17 regard to its desk top computer systems, its business  
18 systems, and its other embedded systems?

19 A. Other embedded systems, I suppose you do not  
20 mean or do not include in that the main frame systems  
21 for accounting. I believe those and other large main  
22 frame systems are maintained by the EDS Corporation and  
23 are not included in this.

24 Q. Correct. With that caveat, would you agree  
25 that we incurred costs for those types of items?

01508

1 A. Right.

2 Q. Okay. Now did Avista at the same time take  
3 the opportunity to address issues relating to external  
4 parties such as external energy suppliers and their  
5 ability to deliver?

6 A. That's what has been stated in rebuttal  
7 testimony.

8 Q. Do you disagree with that, reason to disagree  
9 with that?

10 A. I have no reason to disagree with that.

11 Q. Okay. Do you have any reason to disagree  
12 with the assertion that the company expended Y2K funds  
13 on emergency services preparedness?

14 A. You have made that statement. I can not  
15 verify that.

16 Q. Do you know that we did or did not?

17 A. I don't know.

18 Q. Okay. Do you know whether or not as part of  
19 those Y2K expenditures the company revisited its  
20 emergency power distribution capabilities within its  
21 facilities?

22 A. You have made that statement. I don't know  
23 why that would be a specific Y2K type expense, why it  
24 would necessarily need to be added or amortized over a  
25 period of time. It seems like you do that as an ongoing

01509

1 expense.

2 Q. Do you know whether the categories of expense  
3 that I have just referred you to were necessary for the  
4 company to be fully prepared for Y2K contingencies?

5 A. No, I do not know that.

6 Q. Okay. Do you know whether any of the  
7 benefits achieved through this process both internally  
8 and externally will be ongoing benefits beyond the test  
9 period?

10 A. But any benefits that may be ongoing would be  
11 of the nature that they should be going on anyways, so I  
12 don't see why this particular event would be the cause  
13 of an expense to maintain the system in the manner that  
14 it should be maintained anyways.

15 Q. Did the company in colloquial terms spend Y2K  
16 dollars to refresh its computer system, for lack of a  
17 better characterization?

18 A. I don't know what you mean by refresh.

19 Q. Change out, put in different computers using  
20 this as an opportunity for that purpose?

21 A. I don't know.

22 Q. You don't know, okay.

23 Was Avista's Y2K preparedness held up as a  
24 state wide model of Y2K preparedness?

25 A. I don't know.

01510

1 Q. Do you know whether the company received  
2 accolades within the state or elsewhere for its Y2K  
3 initiatives?

4 A. I don't know.

5 Q. Okay. Does the SEC -- do you know whether  
6 the company actually appeared through some of its  
7 representatives before members of this Commission to  
8 talk about its Y2K preparedness?

9 A. I don't know, and I don't really see the  
10 point of these questions, because it doesn't really  
11 matter.

12 Q. You don't know?

13 A. Right.

14 Q. Okay. Does the SEC or did the SEC require  
15 detailed disclosure to investors in the company's form  
16 10-K's concerning how the publicly traded company was  
17 planning on addressing Y2K issues?

18 A. Yes, I believe they required that of all  
19 publicly traded companies.

20 Q. And was that a fairly detailed and  
21 prescriptive set of disclosure guidelines, as you  
22 recall?

23 A. I haven't read those specifically, no.

24 Q. Okay. Did you consider normalization of  
25 these Y2K costs as a possibility instead of excluding

01511

1 them altogether?

2 A. No, I didn't.

3 Q. Okay. Name change costs, please. Do you  
4 understand the company has proposed to normalize its  
5 name change costs over a five year period?

6 A. No, I understand they have requested 1/5 of  
7 their name change costs to be built into rates.

8 Q. Okay. Has the company only included 1998  
9 test year name change expenditures as opposed to  
10 expenditures made in 1997 or 1999?

11 A. I believe that's so, yes.

12 Q. Was Avista's name used in 1997 by the  
13 company's subsidiaries under the internal holding  
14 company then known as Avista Corporation, Inc.?

15 A. Yes.

16 Q. Then would you agree that in approximately  
17 early 1999 the Washington Water Power name was retired  
18 and the Avista Corporation name was transferred from the  
19 internal holding company to the parent company formerly  
20 known as Washington Water Power Company?

21 A. If that's the process it took, yes.

22 Q. Okay. Now let's explore then briefly in what  
23 sense the name Washington Water Power reflects the  
24 nature of the company's business today. Mr. Schooley,  
25 is the company confined to the State of Washington with

01512

1 regard to its operations?

2 A. Not entirely, about two thirds of it or more.

3 Q. Does it have operations in Oregon?

4 A. Yes.

5 Q. California?

6 A. Yes.

7 Q. Idaho?

8 A. Yes.

9 Q. Okay. And, of course, its obvious at least  
10 to those of us in this room that we don't have a water  
11 distribution business, correct?

12 A. No, but you produce power from water.

13 Q. I see.

14 A. Which I think was imported into the name.

15 Q. But could it be on occasion there might be  
16 confusion as to whether or not, for those who are not  
17 initiated, confusion over whether this company remains a  
18 water distribution company?

19 A. Not really. If it said Washington Water and  
20 Power, then maybe there could be. But I don't think  
21 there's generally been any problem with that.

22 Q. I see, not in the circles at least that  
23 you're familiar with?

24 A. Or even prior to my working with the  
25 Commission, there was no question.

01513

1 Q. Now were you here to listen to Mr. Matthews  
2 when he testified during the direct phase of this  
3 proceeding concerning possible confusion within the  
4 investment community around the water power name?

5 A. Yes.

6 Q. Do you personally have much reason to  
7 interact with the investment community or analysts in  
8 connection with your job?

9 A. Not directly, no.

10 Q. Okay. So you're not today here to take issue  
11 with Mr. Matthews' assertions with regard to what he  
12 perceives as the investment community reaction, are you?

13 A. I think it would be speculative for me to say  
14 how he reacted to them or whether anybody ever mentioned  
15 a possible confusion. I think Mr. Redmond would have  
16 handled the investment community, and basically they  
17 would be the same people then as there are now.

18 Q. I don't believe that was the question. The  
19 question was, are you then, given the testimony you have  
20 just given, in a position to disagree with Mr. Matthews'  
21 suggestion in his direct phase that there is investment  
22 confusion?

23 A. I have no information to the contrary.

24 Q. Okay. Turn now to the proforma Nez Perce  
25 adjustment. That takes us to pages 12 and 13 of your

01514

1 testimony?

2 A. Yes.

3 Q. Did you propose to reduce the company's Nez  
4 Perce adjustment as a result of an assignment of certain  
5 settlement costs involved in that litigation to the  
6 Idaho jurisdiction?

7 A. Yes.

8 Q. Okay. And those two assignment items that  
9 you tried to break out were taxes and rights of way,  
10 correct?

11 A. Yes.

12 Q. Okay. Did you -- strike that.

13 Did the global or the so-called black box  
14 settlement reached in the Nez Perce litigation on its  
15 face purport to assign dollar values to individual  
16 issues relating to rights of way or tribal taxes?

17 A. It didn't assign dollar values to it, but I  
18 would think from what I have read in this settlement, it  
19 wouldn't exactly be a black box settlement, but maybe a  
20 transmittal gray settlement, that there is a way to look  
21 through here to assign expenses to different categories.

22 Q. But that, the information provided to you did  
23 not allow you with any precision, did it, to identify  
24 how much of the settlement dollars could be traced  
25 directly to rights of way or tribal taxes, correct?



01515

1 A. Not correct. I think that the settlement and  
2 the appendix which I included in my exhibit does give a  
3 way to assign an amount to the distribution rights of  
4 way across tribal lands.

5 Q. What were the dollar amounts that you have  
6 jurisdictionally assigned to Idaho in total for both of  
7 those adjustments?

8 A. Approximately \$50,000 a year.

9 Q. \$50,000 a year, okay.

10 A. Total.

11 Q. Total. Did you allocate, jumping around a  
12 bit here, regarding CEO search costs, did you testify as  
13 to the allowance or disallowance of a portion of those  
14 costs?

15 A. I believe that's part of one of my  
16 adjustments, yes.

17 Q. Okay. And is the effect of what you have  
18 done is to disallow for rate making purposes a portion  
19 of those costs?

20 A. No, it's not a question of disallowing it.  
21 It's a question of saying that those costs are a  
22 function of the subsidiaries, not the utility.

23 Q. The effect of what you are proposing though  
24 is to allocate approximately 48% of those CEO search  
25 costs to subsidiaries, correct?

01516

1 A. Yes.

2 Q. Now you understand based on our earlier  
3 cross-examination of staff witnesses that we do not  
4 agree with the allocation procedures used for this  
5 purpose, correct?

6 A. Yes, I do.

7 Q. Okay. Mr. Schooley, can you sitting where  
8 you're at today say that even without subsidiaries  
9 considered, the company would not have gone through the  
10 same rigorous national search for a new CEO?

11 A. I don't think that's a relevant issue. You  
12 have a company that has subsidiaries, you have a company  
13 that has subsidiaries with great potential, and you are  
14 looking for a person to develop that potential. I don't  
15 think a search for somebody who was solely going to be  
16 running a utility company would require the amount of  
17 pay for that person or the necessity to expend as much  
18 time or effort in finding that person, so. But  
19 nonetheless, I don't think that's a relevant question,  
20 because you are looking for a person for the company you  
21 have or wish to have in the future.

22 Q. Well, Mr. Schooley, we can argue on brief  
23 whether these are relevant issues or questions. I'm  
24 simply asking you whether in your belief the company  
25 would have gone through the same rigorous national

01517

1 search if it had no subsidiaries; do you know?

2 A. No, probably not. I think they could have  
3 hired from within if they were looking for that. I  
4 would suggest Mr. Falkner myself.

5 MR. MEYER: I believe that completes my  
6 cross. Thank you.

7 JUDGE SCHAER: Thank you.

8 Mr. Ffitch, did you have questions for this  
9 witness?

10 MR. FFITCH: Yes, particularly in view of the  
11 last answer.

12 JUDGE SCHAER: Has that added a couple of  
13 hours to your estimates?

14 MR. FFITCH: I will have to submit discovery  
15 with regard to Mr. Falkner.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. FFITCH:

19 Q. First of all, a housekeeping matter,  
20 Mr. Schooley, and even before that, a matter of  
21 courtesy, good afternoon.

22 A. Good afternoon.

23 Q. You have been provided with a cross exhibit  
24 which has been identified as 603. We have withdrawn  
25 that, because it's identical to Exhibit 286, which we

01518

1 will offer through Mr. Falkner. I'm going to refer to  
2 it as 286, since that will be the surviving number. I  
3 would like to start out with a better understanding of  
4 your proposal with respect to hydro relicensing.

5 A. Okay.

6 Q. This is important to public counsel in  
7 evaluating Mr. Buckley's testimony where he's identified  
8 a significant benefit from the hydro system which the  
9 company did not include in its filing. The company  
10 spent \$14 Million to get through the relicensing  
11 process; is that correct?

12 A. Yes.

13 Q. As I understand it, the company has included  
14 these expenses in rate base as part of the hydroelectric  
15 investment. Is that your understanding as well?

16 A. Or the equivalent of such, yes.

17 Q. Is the staff contesting the \$14 Million rate  
18 base item?

19 A. No.

20 Q. You are allowing every penny of the program  
21 mitigation and enhancement expenses. In fact, you're  
22 allowing about \$60,000 more than the company is  
23 requesting; is that right?

24 A. That was my exhibit showed that, yes, as a  
25 sort of a level that would be representative of the rate

01519

1 year or the year in which rates would go into effect.

2 Q. The difference comes in administrative  
3 expenses, does it not?

4 A. The difference between?

5 Q. The additional \$60,000.

6 A. No, it was the difference in the timing of  
7 the programmatic costs. I did not add any incremental  
8 administrative costs above what was purported to be the  
9 \$700,000 plus in the testimony.

10 Q. I see. And the company is proposing an  
11 addition of \$650,000 per year for administration costs  
12 which Mr. Anderson addresses in his rebuttal testimony;  
13 is that correct?

14 A. Well, in his rebuttal testimony, it's the  
15 \$1.2 Million in programmatic costs plus \$900,000 some in  
16 administrative costs. His rebuttal testimony has  
17 provided the information that was lacking prior. I'm  
18 willing to accept his rebuttal testimony as an ongoing  
19 expense.

20 Q. Very well. I would like to turn to the topic  
21 of name change at this point. You have proposed  
22 disallowing all of the name change expense, but because  
23 you say it's non-recurring and also because it provides  
24 no value to customers; is that right?

25 A. Correct.

01520

1 Q. Did you review Mr. Lazar's testimony  
2 regarding the imputation of franchise fees to the  
3 non-regulated subs for the use of the Avista name?

4 A. I read it, yes.

5 Q. Have you proposed any such assessments in  
6 your proposed adjustments?

7 A. No.

8 Q. If the Commission were to allow the company  
9 to charge rate payers for the cost of the name change,  
10 do you think it would then be appropriate to treat the  
11 new name as paid for by the rate payers, and would you  
12 then reconsider whether the unregulated subs should pay  
13 for the use of the corporate name?

14 A. I'm having a hard time figuring out how that  
15 would work, and I don't know if I would really want to  
16 get into that discussion. I basically treat it by  
17 throwing it all out.

18 Q. Even if the name change expense were allowed?  
19 That's the premise of my question.

20 A. Right. I suppose you could make that  
21 argument.

22 Q. Next I would like to touch on the question of  
23 memberships, and this brings us to Exhibit 286. At page  
24 17 of your testimony, which is Exhibit T-595, you  
25 propose disallowing the company's memberships in certain

01521

1 lobbying type organizations?

2 A. I said that because there is lobbying  
3 inherent in many of these organizations, and the company  
4 nor I have identified specific amounts, that I would  
5 just remove all of those expenses.

6 Q. All right. Now I would like to refer you to  
7 Exhibit 286.

8 JUDGE SCHAER: For identification.

9 Q. For identification. We can certainly look at  
10 603 if you have it there. It's the same document. That  
11 response indicates that there are three of the  
12 organizations listed which the company is no longer even  
13 a member of, and specifically those are the Northwest  
14 Energy Coalition, the International Trade Alliance, and  
15 the Greater Saint Jo Development. Do I have those names  
16 correct?

17 A. That's what this DR says, yes.

18 Q. In the event that the Commission does allow  
19 some portion of the corporate memberships as operating  
20 expenses, would you recommend an adjustment so the  
21 discontinued memberships be removed?

22 A. You could do that. I don't think there's a  
23 need to. I think that, as I have said before, the idea  
24 in rate making is to set total levels of expenses, not  
25 any particular ones.

01522

1 Q. Finally, I would like to ask you about  
2 promotional advertising, and also at page 17 of your  
3 testimony, you proposed the disallowance of certain  
4 promotional advertising expenses. And in preparing that  
5 testimony, did you review Exhibit 501 in this proceeding  
6 previously admitted, which is the compilation of billing  
7 inserts introduced through Mr. Hirschhorn?

8 A. No, I didn't look carefully at that.

9 MR. FFITCH: I have a copy of that exhibit  
10 with me if that would be helpful to you. I have  
11 additional copies, Your Honor, if need be, to  
12 distribute.

13 JUDGE SCHAER: Do you have that exhibit  
14 available to you, Mr. Schooley?

15 THE WITNESS: I don't have it with me.

16 JUDGE SCHAER: Okay. Why don't you go ahead  
17 and pass those out just as a convenience as Mr. Meyer  
18 did with some of his yesterday. It does help us to have  
19 that available to look at.

20 MR. FFITCH: I'm afraid it's rather large,  
21 Your Honor.

22 JUDGE SCHAER: Well, luckily this is one that  
23 we can recycle after we look at it since it's already a  
24 part of the record.

25 MR. FFITCH: All right.



01523

1 JUDGE SCHAER: This is just a representative  
2 exhibit; is that correct, Mr. ffitch?

3 MR. FFITCH: That's correct, Your Honor.

4 JUDGE SCHAER: Okay.

5 BY MR. FFITCH:

6 Q. Have you had a chance to look at that,  
7 Mr. Schooley?

8 A. I have flipped through it.

9 Q. Okay. Do you need some more time? Here is  
10 my question. Do you have an opinion on whether any of  
11 the goods and services marketed through the bill inserts  
12 constitute promotional advertising?

13 A. There appear to be a number of items which  
14 could be considered promoting products that are not  
15 utility related. I don't really -- haven't specifically  
16 seen anything that would fit into promotional  
17 advertising as defined in the WAC.

18 Q. Does your adjustment include any reduction in  
19 allowed expenses for the bill inserts?

20 A. No.

21 MR. FFITCH: Thank you. Those are all the  
22 questions I have, Mr. Schooley.

23 And because of our treatment of the exhibits,  
24 Your Honor, I don't have any exhibits to tender at this  
25 time.

01524

1 JUDGE SCHAER: Thank you.  
2 Did you have any questions for Mr. Schooley,  
3 Mr. Van Cleve?

4 MR. VAN CLEVE: No, Your Honor.

5 JUDGE SCHAER: Commissioners, did you have  
6 questions?

7 Excuse me, Mr. Meyer, did you want to go  
8 ahead of the commissioners instead of after again?

9 MR. MEYER: No, I just wanted to move, so  
10 it's not forgotten, the entry of Exhibit 602, which was  
11 a cross-examination exhibit.

12 JUDGE SCHAER: Okay, I'm going to admit that  
13 document.

14 MR. TRAUTMAN: No objection.

15 JUDGE SCHAER: We have been looking at other  
16 Commission orders, and we have been following a rule of  
17 convenience. So even though this is not an item that  
18 you're required to make an exhibit before the Commission  
19 since we can always take notice of our own orders, I  
20 think because it is easier for us perhaps to find it in  
21 this format, that we will put this in as Exhibit 602.

22 Commissioners, do you have questions of  
23 Mr. Schooley?

24

25

E X A M I N A T I O N

01525

1 BY CHAIRWOMAN SHOWALTER:

2 Q. Just to follow up on your last question, you  
3 said there were items in the, I don't know if this is an  
4 exhibit or whatever this is that Mr. ffitch handed out.

5 JUDGE SCHAER: I believe that's an exhibit  
6 that's been admitted through Mr. Hirschhorn.

7 CHAIRWOMAN SHOWALTER: What exhibit number is  
8 it then?

9 MR. MEYER: 501.

10 JUDGE SCHAER: Exhibit 501.

11 BY CHAIRWOMAN SHOWALTER:

12 Q. You said you saw items that promoted  
13 non-utility products, but that they didn't fit the  
14 definition of promotional advertising under I believe it  
15 was a statute or a WAC.

16 A. WAC.

17 Q. Just for my benefit, what are, under the WAC,  
18 what are the kinds of promotional advertising that you  
19 were referring to?

20 A. WAC 488-90-043 or 143 says:

21 No gas utility may recover from any  
22 person other than the shareholders or  
23 other owners of such utilities any  
24 direct or indirect expenditure by such  
25 utility for promotional or political

01526

1 advertising.

2 And it defines advertising, and under it

3 says:

4 Term, promotional advertising means any  
5 advertising for the purpose of  
6 encouraging any person to select or use  
7 the service or additional service of a  
8 utility or the selection or installation  
9 of any appliance or equipment designated  
10 to use such utility's service.

11 Q. Okay. I just happened to be flipping  
12 through, and it's not paginated, so I don't know how  
13 you're going to find this piece of paper, but from the  
14 back, it's, well, it might be about 12 from the back,  
15 and it has a picture, says what's new at in the top  
16 left-hand corner.

17 A. There's probably more than one of those.

18 Q. Okay.

19 A. Okay, we've got the dish?

20 Q. Yes, we've got the dish. It seems to be  
21 saying:

22 If you're looking for a satellite  
23 system, Washington Water Power has great  
24 news. You can now order a dish TV  
25 system from Washington Water Power for

01527

1 as little as \$149.

2 Just educate me, is this the kind of  
3 promotional activity that is contemplated by the WAC in  
4 your opinion, or that is not?

5 A. No, this is what I'm saying. This is a  
6 non-utility product. That would not be covered and  
7 should not be recovered in rates. I mean there is other  
8 dish things in here too and other something else about  
9 framing and framing America's landscapes, paintings from  
10 the Addison Gallery.

11 Q. Okay, maybe I misunderstood your answer to  
12 Mr. ffitch. Maybe that's my problem. Are you saying  
13 this is the kind of promotional advertising that the WAC  
14 does cause to be excluded from the base rate?

15 A. No, I'm saying this is not even --

16 Q. It's not even, doesn't get --

17 A. -- covered within utility rating issues  
18 because --

19 Q. Because it's a non-utility?

20 A. -- because it's a non-utility.

21 Q. All right. So it's beyond the scope of the  
22 WAC; is that what you're saying?

23 A. I suppose you could say there's reason that  
24 somebody would use their television more often because  
25 they have a dish, and therefore it uses more

01528

1 electricity. But that's getting a little far fended.  
2 But that's I think the WAC is addressing selling things  
3 that increase the use of the product gas or electric.

4 Q. Okay. So the WAC is addressing a narrower  
5 scope that is regulated utility products?

6 A. Right.

7 Q. In saying that we would not allow those  
8 promotions to be included?

9 A. Right.

10 Q. But as to non-utility products such as the TV  
11 dish, what does our rule say about that, if anything?

12 A. I think it would just be under the general  
13 rules that only utility expenses incurred for utility  
14 services should be included in rates.

15 Q. So it's so far out that the WAC hasn't  
16 reached it; is that what you're saying?

17 A. Or that there's broader WAC's that would  
18 cover it and RCW's.

19 Q. Okay. I just, I think, have a couple more  
20 questions. Mr. Meyer questioned you about perverse  
21 incentives with respect to the litigation expenses for  
22 the fire storm settlement.

23 A. Right.

24 Q. The question I have is that following his  
25 logic, I mean to the extent that there is a perverse

01529

1 incentive, i.e., there may be an incentive not to spend  
2 money on litigation expenses if they're not going to be  
3 recovered, isn't that same logic apply to virtually any  
4 expense of the agents of the company? That is, let's  
5 take the litigation expenses that are included in the  
6 base rate. Once they're included, isn't it the case  
7 that anything that the company does not spend on  
8 litigation or lawyers saves it money?

9 A. Yes, that's true.

10 Q. And same with say salaries?

11 A. Yes.

12 Q. Salaries go into the calculation at a certain  
13 level, but to the extent the company doesn't spend that  
14 amount, it pockets the difference; am I right?

15 A. Yes, that's one of the incentives under rate  
16 based regulation that once rates are set, there's a  
17 great incentive to cut expenses.

18 Q. So it seems to me that that "perverse  
19 incentive" is more inherent in our regulatory structure  
20 than whether it is or isn't included in the base rate.  
21 Am I correct on that?

22 A. Yes, I think you have a clear idea of what's  
23 happening there.

24 Q. Okay. And so then the question becomes what  
25 are truly extraordinary legitimate non-recurring costs

01530

1 versus ongoing types? And I guess for the purposes of a  
2 hypothetical, to the extent that there are legitimate  
3 extraordinary non-recurring costs, and maybe a fire  
4 storm is one of them, maybe an ice storm is one of them,  
5 but assuming that it is extraordinary, what is the  
6 appropriate way for the company to recover those costs?  
7 Is it a sur charge?

8 A. No. The companies have to their avail the  
9 ability to come in with an accounting petition which  
10 claims the expenses which a non-regulated company would  
11 need to flow through their expense accounts and reduce  
12 their profits. They may come in and ask for those  
13 expenses to be capitalized, to be held as a regulatory  
14 asset, and to be amortized over a period of years. And  
15 the Commission must approve that for the companies to do  
16 that. That's covered under Financial Accounting  
17 Statement 71 as well as many accounting orders we have  
18 addressed here.

19 Q. Okay. And so I realize I'm asking fairly  
20 basic regulatory questions, but thank you for the  
21 answers. If that is done then, the company does  
22 recover, but that expense does not go into the current  
23 or a future rate base or base rate, one or the other?

24 A. Yes. It would though at that point in time  
25 when they have a rate case, then it would be built into



01531

1 rates at that point because you, the Commission, have  
2 approved that expense to be recovered in addition to the  
3 normal ongoing expenses of the company.

4 Q. Well, then I guess that's my question. Of  
5 things that might be amortized over six years or five  
6 years or of expenses that are extraordinary but should  
7 be recovered in some manner, why is it that the  
8 appropriate way is to recover it ultimately in rates  
9 that then continue? Why wouldn't it be sir charges that  
10 recover the cost over some period of time but then end?

11 A. We don't want to build up a system where you  
12 have enumerable lines on a customer's bill saying you  
13 have a \$.10 charge this month for one thing and a \$.02  
14 credit for another thing. The essence of the regulatory  
15 assets is to give the companies the ability to determine  
16 that things are truly outside the normal operations of  
17 the business and are of such a magnitude that they  
18 should be allowed to recover those in rates at a later  
19 point in time than the event itself.

20 Q. But those rates continue on for that cost,  
21 that component continues on?

22 A. That component could continue on beyond its  
23 amortization period if there's no rate cases, that's  
24 true. That's why it behooves Commissions to use  
25 accounting petitions judiciously.

01532

1 Q. Then also with respect to these perhaps  
2 extraordinary expenses or not, let's take the Y2K  
3 expenses. You recommend disallowing all of it, and  
4 maybe my question is similar to Mr. Meyer's, I'm not  
5 sure. But if the company showed, and I don't know that  
6 they have, that some of their so-called Y2K expenses  
7 actually are of the nature that if it weren't for Y2K  
8 might have occurred anyway, upgrading computers or  
9 something like that, or if they showed that by spending  
10 the money this year they weren't going to spend it the  
11 next year, maybe that cuts the other way, is there the  
12 possibility that these, that the Y2K expenses overlap to  
13 a small degree, not the whole degree, but to a small  
14 degree with regular ongoing expenses, and therefore some  
15 portion of it should be assumed to be ongoing?

16 A. That's true. The company could have not  
17 included those expenses in the work order that was  
18 accumulating the Y2K expenses if these were an ongoing  
19 type expense to assure that their vendors were able to  
20 supply them properly and things like that. Then they  
21 could have just been a part of the test year expenses,  
22 and they would have flowed through in the normal course  
23 of events.

24 Q. And I think I've got the same question with  
25 the name change. Suppose it could be shown that there's

01533

1 some degree of confusion out there about Washington  
2 Water Power, and to the extent that Wall Street  
3 understands that Avista means power, I mean, you know,  
4 electricity and gas and telecom maybe, that that has  
5 some value to the rate payers, but maybe not anywhere  
6 near as much to the regulated side as to the  
7 non-regulated side, would it be appropriate to apportion  
8 the cost, you know, 10%-90%?

9 A. I don't think so, because I don't think there  
10 is -- that confusion I don't think has been removed.  
11 There are many other companies or some other companies  
12 at least that use the name Avista. There's an Avista  
13 Incorporated in Wisconsin. There's an Avista Hotels in  
14 Florida. There's an Avista Society that studies  
15 technology in the Middle Ages. I think that the name  
16 Avista is not unique, and therefore I don't know why the  
17 confusions would be removed. I would think they would  
18 be as much enhanced as anything.

19 Q. So maybe I should take it to a hypothetical  
20 matter, because maybe they picked the wrong name. Maybe  
21 they picked a name that's equally confusing. But  
22 supposing they had not, supposing water power was a  
23 confusing name and the new name was clearer or more  
24 understandable. Can you see that the regulated side of  
25 the company could benefit, you know, via Wall Street

01534

1 essentially in some way from a name change?

2 A. I can take leaps of imagination to create  
3 benefits like that, but I don't see how they're  
4 inherently beneficial to a company that's been around  
5 for 100 years.

6 Q. Okay. And then a similar question with the  
7 CEO search costs. Perhaps the primary motivation for a  
8 search or for a nation wide search of the extent that  
9 was conducted was due to the non-regulated side. But to  
10 the extent that a search also benefits or would have  
11 been beneficial to the regulated side absent the  
12 non-regulated side, is it appropriate to apportion some  
13 of those expenses?

14 A. Yes, I believe we did that by allocating  
15 some.

16 Q. You did, okay.

17 A. To the regulated, to the non-regulated side.

18 Q. What was the apportion, what was the amount  
19 apportioned to the regulated side?

20 A. 52%.

21 Q. Okay. I had forgotten that point, thank you.

22 CHAIRWOMAN SHOWALTER: I have no more  
23 questions.

24

25

E X A M I N A T I O N

01535

1 BY COMMISSIONER HEMSTAD:

2 Q. Just a clarifying point. The Chair asked a  
3 question about whether costs, extraordinary costs, are  
4 amortized over time being a permanent part of the rate  
5 base. That would occur because it comes up in the test  
6 year, some portion of it; isn't that correct?

7 A. Yes.

8 Q. Well, of course, assuming there's some  
9 reasonably routine new rate cases brought over a period  
10 of time, then that issue would go away presumably as of  
11 the next subsequent rate case. When there's a review of  
12 the books, that amortization would have ended; isn't  
13 that true?

14 A. Yes, and we have a situation of that in this  
15 case where there was an asset that was being amortized  
16 over a period of time, and I think it was called the  
17 Clearwater hydro adjustment, and it disappeared at the  
18 end of '98. And it has now been removed. It was a  
19 small amount, but that's just the type of situation  
20 you're looking at.

21 Q. Just a quagmire point, how much is the dollar  
22 amount of the fire storm legal fees that are in dispute?

23 A. I think it's around \$200,000 a year.

24 Q. That's for my purposes close enough, thank  
25 you.

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1 COMMISSIONER HEMSTAD: That's all I have.

2 COMMISSIONER GILLIS: No questions.

3 CHAIRWOMAN SHOWALTER: Just a follow up to  
4 Commissioner Hemstad.

5

6 EXAMINATION

7 BY CHAIRWOMAN SHOWALTER:

8 Q. On the amortizations phasing out, in the one  
9 you mentioned, when did the amortization year end  
10 compared to 2001?

11 A. It ended at the end of '98 was its tenth year  
12 of a ten year amortization, and the company had actually  
13 left it in there, and Mr. Parvinen took it out in his  
14 testimony, and the company has accepted that on their  
15 rebuttal.

16 Q. So in general, wouldn't all of this work a  
17 lot better if companies came in at least every five  
18 years for a rate increase or review?

19 A. Sometimes they do, and sometimes they don't.  
20 We have one company that's in here regularly and two  
21 companies that decided to come in for the first time in  
22 15 years.

23 Q. Well, if it is another 15 years and you have  
24 amortized something over five, isn't there an additional  
25 ten years that is built into the rate base that it

01537

1 wouldn't be if the company came back every five years?

2 A. In essence that's true. You must assume that  
3 there must be other expenses that are going down that  
4 keeps them from coming in or other reasons that they  
5 don't care to increase their rates.

6 Q. In a declining cost industry such as telecom,  
7 there is, in fact, isn't there, an incentive not to come  
8 in?

9 A. That may have been true in electricity for  
10 the past ten years too.

11 CHAIRWOMAN SHOWALTER: Thanks.

12 MR. FFITCH: Your Honor, may I have one or to  
13 follow ups?

14 JUDGE SCHAER: After I ask my questions, you  
15 may, Mr. ffitch.

16 MR. FFITCH: Sorry.

17 JUDGE SCHAER: That's okay.

18

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

20 BY JUDGE SCHAER:

21 Q. Mr. Schooley, did you analyze the company's  
22 test period legal costs?

23 A. I looked at some invoices. I didn't look at  
24 the total of all legal costs.

25 Q. Were there any extraordinary legal costs in

01538

1 the balance that could be or are being normalized?

2 A. I found one small one that I took out in my  
3 miscellaneous adjustment that was a non-utility item. I  
4 did not look for specific large items that would be  
5 considered out of the ordinary. The test year legal  
6 expenses are about \$2.6 Million, far overwhelming  
7 expenses of the prior years. The amount for fire storm  
8 is minor compared to that. Especially in the test year,  
9 there's only about \$90,000 in fire storm expenses.

10 Q. Okay. Another area, looking at the search  
11 costs for CEO, I'm trying to look at what the relevant  
12 comparison is here. You were asked some questions by  
13 Mr. Meyer about whether it could have cost as much to  
14 search for a CEO for just Avista Utilities as it cost to  
15 search for a CEO for all of Avista Corporation. And I'm  
16 wondering maybe the best way to do this would be in  
17 hypothetical.

18 Let's say that you have Company A, and it  
19 would cost \$500,000 to search for an executive. You  
20 have Company B and on its own it would cost \$500,000 to  
21 search for an executive. And then they somehow have  
22 become Company AB, and to search for an executive for  
23 both pieces, it costs \$600,000. Would you assign, if  
24 one of them, one of the pieces was a utility, would you  
25 still assign \$500,000 to that piece and only \$100,000 to



01539

1 the other piece? Or if there was \$600,000 to both  
2 pieces, would you split it in half?

3 I guess what I'm asking is is there some kind  
4 of minimum system here where the utility has to pay what  
5 it would cost them, and then the subs only pay what's  
6 incrementally more, or is there a kind of a sharing  
7 theory that you look at who benefits and share the  
8 benefits between both entities?

9 A. I guess I would be looking at it from the  
10 total company point of view, and the allocation of  
11 expenses that are common would need to be attributed to  
12 all the entities within one company. And so it would be  
13 more your latter idea, that you would then assign half  
14 of it to Company A and half of it to Company B, that the  
15 total cost would not double just because you have a  
16 company that's twice as large.

17 JUDGE SCHAER: Okay. Is there any redirect  
18 for Mr. Schooley?

19 MR. TRAUTMAN: Yes, I have one question.

20 JUDGE SCHAER: Go ahead, Mr. Trautman.

21

22 R E D I R E C T E X A M I N A T I O N

23 BY MR. TRAUTMAN:

24 Q. Mr. Schooley, you were asked some questions  
25 by counsel for the company on Exhibit 85. Do you recall

01540

1 that?

2 A. Which exhibit was that?

3 Q. That was the -- it was attached to the  
4 testimony of Mr. Dukich, the ice storm '96 overview.

5 A. Right.

6 Q. And you were referred to page 14 of this 18  
7 page exhibit and referred to, I believe, two sentences  
8 near the bottom of the page. Do you recall that?

9 A. Two sentences out of 18 pages.

10 Q. Do you recall that? Do these two sentences  
11 within this 18 page document constitute an accounting  
12 petition for rate making treatment of these costs?

13 A. Not in the least, no.

14 MR. TRAUTMAN: That's all I have, thank you.

15 JUDGE SCHAER: Mr. ffitch. Excuse me,  
16 Mr. Meyer then Mr. ffitch, because you need to go in  
17 order.

18 MR. MEYER: Yes, actually this follows up  
19 nicely on not only the Chair's question but staff  
20 counsel questions.

21

22 R E C R O S S - E X A M I N A T I O N

23 BY MR. MEYER:

24 Q. Referring you back to Exhibit 602, which is  
25 the Puget, excerpt from the Puget order with regard to

01541

1 recovery of its storm damages. Do you have that before  
2 you?

3 A. Yes.

4 Q. Again, you were a witness in that proceeding?

5 A. Yes.

6 Q. Isn't it true that Puget did not request a  
7 deferred accounting order with regard to its storm  
8 damages?

9 A. That was the point, that they had not  
10 requested deferred accounting orders for either weather  
11 related damages or damages to third parties, other types  
12 of liabilities. Accounting petitions can also come out  
13 of Commission orders regardless of the request from the  
14 company. The Commission can come forward and say, this  
15 expense is allowed, you will amortize it over a  
16 particular period of time. And then that would be the  
17 method the company follows from that point on.

18 Q. And, in fact, isn't that exactly what this  
19 Commission did? Isn't it true that notwithstanding the  
20 lack of a deferred accounting order, this Commission  
21 nevertheless in its 11th supplemental order in a rate  
22 case determined that storm damages should be normalized  
23 and should be amortized in rates over a six year period?

24 A. Well, there are two parts to that, the  
25 ongoing expenses in an area where there can be

01542

1 volatility can be normalized without the amortization  
2 necessity. The amortization arises when you create a  
3 regulatory asset, and it begins a specific period of  
4 amortization or a write off of that over a period of  
5 time when otherwise it would be a one time period  
6 expense.

7 Q. I don't believe you answered the question.  
8 Did the Commission in that order approve that  
9 normalization and the six year amortization of Puget  
10 storm damage costs?

11 A. And I said there were two parts to it.

12 Q. The answer --

13 A. Two things. Yes, they did approve it, but  
14 there were two different distinct parts of that.

15 MR. MEYER: Thank you, that's all I have.

16 CHAIRWOMAN SHOWALTER: I've got to follow up  
17 on that then.

18

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

20 BY CHAIRWOMAN SHOWALTER:

21 Q. Is your recommendation or any part of it  
22 based on the fact that the company didn't file earlier a  
23 deferred accounting petition? Are you saying that that  
24 was a prerequisite, and otherwise they shouldn't get any  
25 recovery? Or are you basing it on something other than

01543

1 that fact?

2 A. That is one of the primary reasons. They  
3 have both not requested recovery of this as a specific  
4 item even three years later. They have made statements  
5 and did make statements to the public that they would  
6 not be seeking recovery of it, that it would be an  
7 expense of 1996, and it was a financial expense of 1996.  
8 At this point in time, they can not go back and recreate  
9 that expense on their books. They can't come back and  
10 say, we now want a regulatory asset, for something that  
11 they have already flowed through to the owners equity  
12 section of their balance sheet.

13 Q. They can't, and I guess I'm hung up on that  
14 word can't. They can't because an accounting principle  
15 says so, or we have said so in past cases, or could we  
16 say, well, we say they can today because it's a big  
17 expense, and even though they said in a press release  
18 they weren't going to get it through rates, well, that  
19 was a mistake, and it really was an extraordinary  
20 expense?

21 A. You may have a point that the word can't is  
22 not operative here, but I don't think that it would be  
23 wise to do so. I think that there is -- you can't back  
24 up three years worth of finances to say that this will  
25 be in there as an amortized item.

01544

1 Q. So you're saying first as a matter of policy,  
2 we should not permit the company to do this, because we  
3 should send the message that, look, if you're going to  
4 try to recover these expenses, you have to get in here  
5 early and start up the deferred accounting?

6 A. Right, otherwise I think you're entering the  
7 field of retroactive rate making, and this would be a  
8 good example on doing so.

9 Q. Why is it not possible to defer for the  
10 coming five years even though the event happened in  
11 1996?

12 A. Well, it's possible. Your questions of a  
13 moment ago, that would build into the rates a level of  
14 expense that would be ongoing, a level of \$2 Million in  
15 this case, is a good one. It would build that expense  
16 into the future level of expenses used to determine  
17 revenues and rates. That gives the company an  
18 additional incentive to stay out, but it also, as you  
19 were implying, gives them additional revenues that  
20 aren't representative of the ongoing expenses of the  
21 company.

22 If you look at the company's weather related  
23 expenses, they are fairly static, in the range of  
24 \$800,000 to \$1.2 Million a year, maybe as much as \$1.5  
25 Million or \$1.6 Million. And on an average basis, the

01545

1 test year's weather related expenses of \$1.2 Million is  
2 about equal to the five year average absent 1996, which  
3 was an unusual year. So it's a question of --

4 (Bridge Line Interruption.)

5 THE WITNESS: You probably have a wrong  
6 number.

7 CHAIRWOMAN SHOWALTER: That sounded as if you  
8 were talking to me.

9 THE WITNESS: I was looking at the ceiling.  
10 I forgot where I was.

11 CHAIRWOMAN SHOWALTER: Would you like to have  
12 that read back?

13 THE WITNESS: Yes.

14 (Record read as requested.)

15 A. So it's a question of establishing rates  
16 based on an ongoing expense level, not picking out  
17 certain items that are not likely to occur again and are  
18 of, although they may have been prudently incurred, are  
19 not going to be occurring again.

20 BY CHAIRWOMAN SHOWALTER:

21 Q. I don't know if this all helps me or not. I  
22 comprehend the point of trying to have only, you know,  
23 fairly regular ongoing expenses going into the basic  
24 calculation. But then it seems that for extraordinary  
25 expenses, it's the traditional method to create an

01546

1 accounting petition of deferred accounting. But that  
2 too goes into the rate base. So it goes in whether it  
3 got filed in '96 or '97 or it gets done today, doesn't  
4 it?

5 A. It can, yes. If you put in an accounting  
6 petition, at least you have been given notice of it that  
7 it will occur and that you have had the chance to judge  
8 whether that's a reasonable thing to do.

9 Q. Yes, but don't we have that same opportunity  
10 today? I'm not saying it's ideal, because we all would  
11 have been more familiar with this issue in '96 or '97,  
12 but isn't that the exercise we're going through today  
13 instead of having done it in '97? Is this or isn't this  
14 an extraordinary expense that should be amortized over  
15 five years.

16 A. You have that choice before you, yes, that's  
17 true.

18 Q. And also, when we do the accounting  
19 petitions, as I recall, when they are done timely, which  
20 seems to be a better method, do we approve them or don't  
21 we have some language in there that we're not actually  
22 finally approving the prudence of them, if that's the  
23 right word, until the next rate case?

24 A. Yes, that's true.

25 Q. So whether or not it was filed "when it



01547

1 should have been" or today, isn't the ultimate decision  
2 on it, doesn't it wait until the rate case anyway?

3 A. For the prudence of the expense itself,  
4 usually in the accounting petitions you're only giving  
5 the company permission to take what would be an expense  
6 for the year and allowing them to put it on their  
7 balance sheet instead so that it doesn't look so bad on  
8 their financial statements.

9 CHAIRWOMAN SHOWALTER: I see, thanks.

10 JUDGE SCHAER: Mr. ffitch.

11 MR. FFITCH: Thank you, Your Honor.

12

13 R E C R O S S - E X A M I N A T I O N

14 BY MR. FFITCH:

15 Q. I would like to turn back to Exhibit 501 for  
16 a moment, Mr. Schooley. And you were asked some  
17 questions regarding the promotional or reputedly  
18 promotional materials in these mailing inserts, and I  
19 would like you to look at page 14 of the exhibit. They  
20 are not numbered, I'm afraid. And what I'm looking for  
21 when you get there is a page that says what's new at the  
22 top, and underneath it says renting, look for natural  
23 gas.

24 A. Okay.

25 Q. Would you like to take a moment to look at

01548

1 that. My question is would you characterize that as  
2 promotional under your interpretation of the WAC?

3 A. It could be as it's telling people to look  
4 for existing apartments with natural gas.

5 Q. If there are other similar bill inserts here  
6 encouraging people to use natural gas, would they also  
7 fit your definition of promotional? I will refer you,  
8 for example, to page 24 to another what's new entry, and  
9 the heading is, insist on natural gas in your  
10 manufactured home.

11 A. Those would be the types of things that fall  
12 under promotional advertising yes.

13 Q. The other kinds of things typically at least  
14 in the past include the sale of appliances that use the  
15 company's product, meaning the electricity or the gas  
16 product; isn't that correct?

17 A. Right.

18 Q. Is a TV dish an appliance or one of the kind  
19 of item that you discussed earlier in response to the  
20 Commission's question? I believe it's a TV dish.

21 A. There was a TV dish mentioned that Chairwoman  
22 brought up. Is that an appliance? I suppose it could  
23 be considered as such.

24 Q. Is there any practical distinction between  
25 that and any other kind of electrical using appliance?

01549

1 A. No. I don't know how much electricity a dish  
2 uses, probably not much.

3 Q. I don't know either, but I'm asking you.

4 MR. FFITCH: Those are all the questions I  
5 have. Thank you, Your Honor.

6 JUDGE SCHAER: Is there anything further for  
7 Mr. Schooley?

8 Thank you for your testimony.

9 Would you like to call your next witness,  
10 Mr. Trautman.

11 MR. TRAUTMAN: Staff would call Michael  
12 Parvinen.

13 JUDGE SCHAER: The estimates I have for  
14 Mr. Parvinen are 20 minutes from Avista and 30 minutes  
15 from public counsel. Are those still relatively  
16 accurate?

17

18 Whereupon,

19

20 MICHAEL PARVINEN,  
21 having been first duly sworn, was called as a witness  
22 herein and was examined and testified as follows:

23 JUDGE SCHAER: Go ahead, Mr. Trautman.

24

25 D I R E C T E X A M I N A T I O N

BY MR. TRAUTMAN:

01550

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. Could you please give your name and business  
4 address for the record.

5 A. Yes, my name is Michael P. Parvinen,  
6 P-A-R-V-I-N-E-N. My address is 1300 Evergreen Park  
7 Drive Southwest, Olympia, Washington, 98504.

8 Q. Have you filed for identification with the  
9 Commission what has been marked as Exhibits T-608  
10 through Exhibit 617?

11 A. Yes.

12 Q. And have you also filed an errata sheet to  
13 your testimony together with revisions to your exhibits  
14 of July 7th, 2000?

15 A. Yes.

16 Q. Were the testimony and exhibits prepared by  
17 you or under your supervision?

18 A. Yes, they were.

19 Q. And with the exceptions noted in the errata  
20 sheet, are they true and correct to the best of your  
21 knowledge?

22 A. Yes.

23 Q. And if I were to ask you the questions in the  
24 testimony noting the exceptions in the errata sheets,  
25 would your answers be the same as in that testimony?

01551

1 A. Yes, they would.

2 MR. TRAUTMAN: I would move for admission of  
3 Exhibits T-608 through 617.

4 JUDGE SCHAER: Any objection?

5 MR. MEYER: None.

6 JUDGE SCHAER: Those documents are admitted.

7 Is Mr. Parvinen available?

8 MR. TRAUTMAN: Mr. Parvinen is available for  
9 cross-examination.

10 JUDGE SCHAER: Mr. Meyer, go ahead, please.

11 MR. MEYER: Thank you, Your Honor.

12

13 C R O S S - E X A M I N A T I O N

14 BY MR. MEYER:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. Subject concerns franchise fees. Do company  
18 and staff differ in this proceeding with respect to the  
19 inclusion of franchise fees as a general cost of  
20 operations?

21 A. Yes, we do.

22 Q. And has the company proposed a regulatory  
23 treatment for the recovery of franchise fees by means of  
24 a general cost of operation?

25 A. Yes.

01552

1 Q. And what has the staff proposed?

2 A. The staff has proposed that those be removed  
3 from general recovery in general rates and recovered  
4 through the municipal tax schedules.

5 Q. Okay. So essentially the staff position is  
6 that those franchise fee imposing entities, those cities  
7 that impose a franchise fee, that customers living  
8 within those boundaries ought to be paying for those  
9 fees on a separate schedule. Is that the essence of it?

10 A. Would you repeat that one more time?

11 Q. Is the essence of the staff position that  
12 franchise fees ought not to be spread across all  
13 customers, but rather only ear marked for those  
14 customers who live within the cities that impose such  
15 fees?

16 A. Yes, to the extent that they -- to the extent  
17 that they are not identified as actual administrative  
18 costs identified in RCW 35.21.860.

19 Q. Okay. Now are we talking here about the  
20 cities of Spokane, Millwood and Colville?

21 A. Yes.

22 Q. And what are the present franchise fee  
23 levels, if you recall, for each of those cities?

24 A. I believe they range, they vary by the --  
25 they vary by the three cities, but I believe they're

01553

1 from oh, 1% to 1 1/2% to 2 1/2% is the highest one.

2 Q. Are all three franchise fee percentages below  
3 3%?

4 A. Yes, they are.

5 Q. Okay.

6 MR. MEYER: May I for convenience sake  
7 approach the Bench and hand an extra copy out of an  
8 exhibit?

9 JUDGE SCHAER: Go ahead, please, Mr. Meyer.

10 MR. MEYER: The record should reflect I'm  
11 handing out a duplicate copy of what has been marked for  
12 identification as Exhibit 271 consisting of a prior  
13 order of this Commission in Docket Numbers U-79-43,  
14 U-79-49, and U-79-50.

15 BY MR. MEYER:

16 Q. Have you had a chance to examine this order?

17 A. Yes, I have.

18 Q. Okay. Now is it true that the Commission  
19 issued its order in these dockets and addressed in the  
20 process the very issue of whether franchise fees should  
21 be recovered from all rate payers or only the payers  
22 within the city imposing the fee?

23 A. Yes, it did. I would point out that this  
24 order was signed prior to the RCW which came into effect  
25 on April 20th, 1982.

01554

1 Q. Now was this order essentially a, for want of  
2 a better term, a generic order involving all the  
3 identified utilities on the face of that order?

4 A. Yes.

5 Q. And those utilities are?

6 A. Pacific Power and Light and Washington  
7 Natural Gas.

8 Q. And? Was Water Power a participant in those  
9 proceedings?

10 A. Water Power was an intervener, yes.

11 Q. Okay. Now would you turn to finding of fact  
12 number 18.

13 A. (Complies.)

14 Q. Would you read aloud that finding of fact.

15 A. (Reading.)

16 Franchise fees which municipalities in  
17 the state of Washington have  
18 historically imposed on revenues derived  
19 from sales made by public utility  
20 companies within their corporate limits  
21 average approximately 2.5%. Expenses  
22 attributed to any such franchise fees  
23 not exceeding 3% are reasonable expenses  
24 to include in general operating  
25 expenses. Expenses attributable to



01555

1 franchise fees exceeding 3% of revenues  
2 from perspective municipal sales shall  
3 be passed on directly to the customers  
4 in the municipalities collecting such  
5 fees.

6 Q. Thank you. And I believe or is it still your  
7 testimony that none of the three franchise fees  
8 involving Spokane, Millwood, and Colville exceed 3%?

9 A. That's correct.

10 Q. Has the Commission since it issued this  
11 generic order in that docket had a reason to revisit  
12 this issue for jurisdictional utilities in this state  
13 prior to this case?

14 A. Not by direct order. There was -- it was  
15 brought up as an issue in a settled gas case in  
16 UG-970932, in which case staff had discovered a similar  
17 situation and proposed changing that within the  
18 settlement, and the company had agreed to that. But  
19 that was a settled case without the formal order  
20 identifying that specific issue.

21 Q. Final point, you made reference to a statute,  
22 RCW 35.21.860. Do any limitations on the level of  
23 franchise fees that might appear in that statute apply  
24 with respect to franchise fees imposed by contracts  
25 existing prior to April 20, 1982?

01556

1 MR. TRAUTMAN: Objection to the extent it  
2 calls for a legal conclusion.

3 JUDGE SCHAER: Mr. Meyer, does it call for a  
4 legal conclusion?

5 MR. MEYER: No, it calls for a simple reading  
6 of the face of the statute.

7 JUDGE SCHAER: Mr. Parvinen, do you have that  
8 statute there?

9 THE WITNESS: Yes, I do.

10 JUDGE SCHAER: Go ahead and read that.

11 CHAIRWOMAN SHOWALTER: How many sentences is  
12 that statute in case it's -- we could just have it read  
13 to us?

14 MR. MEYER: Why don't I distribute a copy of  
15 it.

16 CHAIRWOMAN SHOWALTER: That would be  
17 terrific.

18 MR. TRAUTMAN: I would restate my objection.  
19 I don't see how that is not a legal conclusion if we're  
20 reading a legal statute.

21 JUDGE SCHAER: Mr. Trautman, I am going to  
22 allow the witness to tell us what his understanding is  
23 of the statute, and then I wish to move on.

24 BY MR. MEYER:

25 Q. I will give you just a moment to familiarize

01557

1 yourself.

2 A. My understanding is that subsection two  
3 within this RCW allows franchise fees that were in  
4 existence by contract prior to April 20, 1982, to the  
5 extent that those fees cover allowable costs under  
6 subsection one, and subsection one identifies which  
7 actual costs are to be recovered.

8 Q. Does subsection one on the face of this --

9 JUDGE SCHAER: Mr. Meyer, you passed out the  
10 statute now, and I really am uncomfortable with you  
11 proceeding to ask questions of this witness about it.

12 MR. MEYER: Very well, we can handle it  
13 easily in brief.

14 JUDGE SCHAER: I think so. Go ahead, please.

15 MR. MEYER: And that completes my cross.

16 Thank you.

17 JUDGE SCHAER: Thank you.

18 Mr. ffitch, did you have questions of this  
19 witness?

20 MR. FFITCH: I do, Your Honor. Thank you.

21

22 C R O S S - E X A M I N A T I O N

23 BY MR. FFITCH:

24 Q. Good afternoon, Mr. Parvinen.

25 A. Good afternoon.

01558

1 Q. I will ask you first to turn to the exhibit  
2 that's been marked 618 for identification. That is the  
3 staff request, excuse me, staff response to Avista data  
4 request 11.

5 A. Yes, I have that.

6 Q. First of all, a housekeeping matter. In  
7 reviewing this response, do you know whether this is, in  
8 fact, a response to the data request from public  
9 counsel, or is it, in fact, a response to a request from  
10 Avista?

11 A. It was actually a response to a request from  
12 public counsel.

13 Q. So where it says Avista under requester on  
14 this exhibit, it should say public counsel?

15 A. Yes.

16 CHAIRWOMAN SHOWALTER: Mr. ffitch, what  
17 exhibit are you on, I'm sorry?

18 MR. FFITCH: Your Honor, I'm on 618.

19 CHAIRWOMAN SHOWALTER: Thank you.

20 BY MR. FFITCH:

21 Q. In our data request 11, we inquired as to  
22 whether staff conducted an audit of the company's sales  
23 of real property, did we not?

24 A. Yes.

25 Q. And there you answered that:

01559

1 Staff did not specifically prepare an  
2 analysis regarding the disposition of  
3 real property.

4 A. That's correct.

5 Q. Are you aware that in docket U-85-53 the  
6 Commission ruled that the gain on sale from real  
7 property should impure to rate payers and directed staff  
8 to prepare an audit for sales of real property by Puget  
9 Sound Power and Light?

10 A. I am vaguely aware of that. I have not  
11 reviewed that over a long time.

12 Q. Are you aware that this audit was completed  
13 and presented in Puget's next general rate proceeding,  
14 U-892688-T?

15 A. I believe so.

16 Q. And Puget appealed the Commission's decision,  
17 and a stipulated order of dismissal was entered based on  
18 agreement on how gain on sale would be handled in the  
19 future. Do you --

20 A. That part I don't recall.

21 Q. Well, certainly the orders speak for  
22 themselves.

23 A. Yes.

24 Q. And I will just continue. Are you generally  
25 aware that the policy that grows out of those decisions

01560

1 is that rate payers are entitled to the gain on the sale  
2 of real property in proportion to the time it was in the  
3 utility rate base?

4 A. Yes.

5 Q. And shareholders are entitled to gain in  
6 proportion of the time it was owned by the company?

7 A. Yes.

8 Q. But not in the rate case; is that correct?

9 A. That's correct.

10 Q. Did you not prepare any sort of audit either  
11 following the procedures used by staff in the Puget  
12 docket or using the procedures called for in the  
13 stipulated order of dismissal with regard to real  
14 property?

15 A. Well, like I said in this data request, I did  
16 not specifically prepare that analysis. I had looked at  
17 all the, since the last rate case, all the additions,  
18 retirements of all planned items, and did an analysis of  
19 certain items of which I was concentrating primarily on  
20 acquisitions as opposed to sales.

21 Q. Okay. Now can I ask you to turn to what has  
22 been marked for identification as Exhibit 620.

23 A. I have that.

24 Q. This is Avista's response to a public counsel  
25 data request 133, is it not?

01561

1 A. Yes.

2 Q. And this exhibit consists of, in addition to  
3 the cover sheet, 19 pages of listed property  
4 dispositions, does it not?

5 A. Yes, it does.

6 Q. You had prepared an audit of the type -- and  
7 pardon me, these are real property dispositions since  
8 1994 just to be clear about what's in that exhibit. You  
9 can take a minute to look at that.

10 JUDGE SCHAER: Had you asked a question,  
11 Mr. ffitch?

12 Q. The question was whether this exhibit lists  
13 property dispositions since 1994.

14 A. Yes, that's what it shows.

15 Q. Up through the present, through 1999?

16 A. Yes.

17 Q. If you had prepared an audit of the type  
18 staff was directed to do in U-85-53 would you have  
19 looked to this type of information and identified the  
20 amount of gain on sale of the real property which should  
21 be amortized to the rate payers?

22 A. Yes, this would be the type of transaction  
23 where I would at least start an analysis on them.

24 Q. Thank you. Next topic I would like to ask  
25 about is debt interest. As I understand it, you're

01562

1 responsible for computing the proforma tax benefit of  
2 interest; is that correct?

3 A. Yes.

4 Q. And in your original trial testimony, you  
5 used the cost of capital prepared by Dr. Lurito, and  
6 that has since been amended, correct?

7 A. Yes.

8 Q. Your own amended exhibits reflect this change  
9 in the fair rate of return, do they not?

10 A. Based on Dr. Lurito's revised testimony and  
11 exhibits, yes.

12 Q. Am I correct that one of Dr. Lurito's changes  
13 which carries over into your work is that the preferred  
14 trust securities were originally treated by Dr. Lurito  
15 as preferred stock for which the dividend yield is not  
16 deductible for federal tax purposes?

17 A. That was not my understanding of his original  
18 testimony.

19 Q. What's your understanding?

20 A. My understanding was that his testimony, that  
21 the capital structure was a hypothetical capital  
22 structure and that those preferred securities were  
23 included as a cost of debt. Granted this came from more  
24 conversations with Dr. Lurito on the treatment of those  
25 in preparing the cost of debt exhibit that I did.



01563

1 Q. In his revised exhibit, he treated this as  
2 long-term debt for which the interest is deductible; is  
3 that right?

4 A. Yes.

5 Q. Now in your original exhibit, did the  
6 proforma tax benefit of interest include or exclude the  
7 tax benefit available for the company that was  
8 associated with the yield on the preferred trust  
9 securities?

10 A. It's my understanding that it was included.

11 Q. In your original exhibit?

12 A. In my original exhibit.

13 Q. Now in your revised exhibit, has that now  
14 been changed so that the proforma tax benefit of  
15 interest is now excluded in the staff revenue  
16 requirement, or is that still included?

17 A. Maybe I'm getting a bit confused here now.  
18 It's my -- the preferred securities of which we are  
19 talking about here are -- do have tax deductible  
20 interest, and that is included in the long-term debt in  
21 Mr. Lurito's revised testimony and exhibits, and that  
22 has been included in the proforma debt calculation.

23 Q. All right. But that's a change, is it not,  
24 from prior testimony of staff?

25 A. No. Although it was not clear in

01564

1 Dr. Lurito's original testimony where those preferred  
2 securities were actually treated, he did respond to data  
3 requests and to inquiries to myself as to where those  
4 were included.

5 Q. All right. Well, just to finish up, I would  
6 like to ask you some questions just to clarify whether  
7 there are overlapping adjustments between the staff and  
8 the public counsel in the case to avoid duplication of  
9 adjustments in the post hearing briefs.

10 A. Okay.

11 Q. I'm sorry, I'm just reviewing my notes here.  
12 We have already discussed with Ms. Huang and  
13 Mr. Schooley administrative and general salaries and  
14 corporate name, franchise fee adjustments. Do you have  
15 anything to add to their testimony regarding overlap,  
16 public counsel's position?

17 A. Not that I can think of.

18 Q. Secondly, there is a hydro depreciation  
19 expense adjustment proposed by Mr. Lazar. Has staff  
20 proposed any adjustment to hydro depreciation expense  
21 beyond that reflected in the amended exhibit filed by  
22 the company?

23 A. No.

24 Q. So in that sense, there is no overlap between  
25 the staff and the public counsel and the Commission?

01565

1 A. No.

2 Q. Thirdly in the Kettle Falls bonus rate of  
3 return issue, staff has rejected this bonus request, as  
4 has public counsel; is that correct? So in that  
5 instance, the adjustments are identical?

6 A. Yes.

7 Q. Fourth, in the area of bimonthly meter  
8 reading and billing, the bill inserts adjustment  
9 proposed by Mr. Lazar, we have previously discussed with  
10 Mr. Schooley whether his promotional advertising  
11 adjustment addressed this issue, and he indicated that  
12 did not overlap. Is there any other adjustment by staff  
13 addressing either meter reading or billing expenses for  
14 the bill inserts?

15 A. No.

16 Q. So there's no overlap on that issue?

17 A. No, I don't believe there is.

18 Q. Next, the company has requested a bonus to  
19 their return on equity, and staff has proposed a return  
20 on equity computed by Dr. Lurito, and public counsel has  
21 used Mr. Hills' rate of return, both of which appear to  
22 exclude any such bonus, so you would not see any, or  
23 rather in that area, there is an overlap. There is a  
24 difference as to the rate of return we would use on  
25 brief, but essentially a consistency of position on the

01566

1 issue of the bonus return on equity?

2 A. Yes.

3 Q. Finally with regard to the effect of the  
4 Centralia sale, is it staff's position that the gain on  
5 the sale of Centralia is being addressed in this  
6 proceeding, in the Centralia docket, or elsewhere?

7 A. Yes, here in this proceeding.

8 Q. And what staff witness is proposing the  
9 appropriate treatment of the Centralia gain?

10 A. Mr. Schooley.

11 Q. And can you identify the exhibit where that  
12 is addressed in Mr. Schooley's testimony?

13 A. It's through the adoption of Mr. Martin's  
14 testimony. It is not specifically shown in an exhibit.  
15 If you refer to my exhibit which has been marked as  
16 Exhibit 609, page three of three, column MM, there was a  
17 column put in for the sale of Centralia, but there was  
18 no reflection in this revenue requirement for that  
19 result. As of staff's filing date on May 5th, the sale  
20 hadn't been consummated yet, so it was not -- the  
21 physical effects of that sale was not put in staff's  
22 case. So any treatment of the gain on Centralia would  
23 be on top of the revenue requirement shown in that  
24 Exhibit 609.

25 Q. And how would you or staff, how would staff

01567

1 propose to incorporate that gain since it's not shown on  
2 that exhibit? How would you propose to incorporate that  
3 in this proceeding?

4 A. Well, staff's testimony -- well, staff's  
5 recommended revenue requirement would be shown through  
6 general rates. The Centralia gain would then be treated  
7 as an offsetting tariff to a DSM rider.

8 Q. Last question, also on Centralia. What  
9 treatment of the state income tax issue in connection  
10 with the Centralia sale has staff proposed?

11 A. Staff did not specifically address that  
12 issue.

13 Q. Is it fair to say that the staff and public  
14 counsel have different positions on that issue in this  
15 proceeding, to your knowledge?

16 A. While staff did not specifically address that  
17 issue, we would not be adverse to public counsel's  
18 position on those taxes.

19 Q. Lastly, let me turn you to the exhibits  
20 themselves. With regard to Exhibits 618 and 619, those  
21 are responses to data requests prepared by Washington  
22 UTC, are they not?

23 A. Yes.

24 Q. And they were prepared by you or under your  
25 direction?

01568

1 A. Yes.

2 Q. And are they true and correct to the best of  
3 your knowledge?

4 A. Yes.

5 MR. FFITCH: Your Honor, I have no further  
6 questions, and I would offer Exhibits 618 and 619 for  
7 the record.

8 MR. TRAUTMAN: No objections.

9 JUDGE SCHAER: Those documents are admitted.

10 MR. FFITCH: Your Honor, 620 is prepared by  
11 Mr. Falkner, and we propose to offer it when Mr. Falkner  
12 takes the stand.

13 JUDGE SCHAER: And have you also filed this  
14 with Mr. Falkner, or are you just going to use this  
15 number and ask him about it, Mr. ffitch?

16 MR. FFITCH: We would use this number at that  
17 time.

18 JUDGE SCHAER: Thank you.

19 Mr. Van Cleve, did you have questions for  
20 Mr. Parvinen?

21 MR. VAN CLEVE: No, Your Honor.

22 JUDGE SCHAER: Commissioners, do you have  
23 questions?

24 CHAIRWOMAN SHOWALTER: I have a couple.

25

01569

1 EXAMINATION

2 BY CHAIRWOMAN SHOWALTER:

3 Q. I think there was a question deferred to you.  
4 I think there were a few questions deferred to you from  
5 yesterday, and I'm hoping you're going to remember what  
6 they are. One was a question about the difference  
7 between financial and operating something. I have  
8 forgotten them now. But do you recall that question?

9 A. I believe it was there was some testimony, in  
10 Mr. Buckley's testimony, there was a phrase related to  
11 the purchase of Rathdrum that stated that it was an  
12 operating lease for book purposes and a financial lease  
13 for tax purposes. My understanding is the question was,  
14 well, what is the difference.

15 Q. Yes.

16 A. An operating lease is essentially expensing  
17 the lease on a pay as you go basis, and it's my  
18 understanding that the financial lease for tax purposes  
19 is that it's considered a capital lease, that it's  
20 treated as debt, the interest is deductible, and then  
21 the item is capitalized for tax purposes.

22 Q. Yesterday it might have made sense in the  
23 context, but I have forgotten why I even asked it. But  
24 I think you were also going to bring a copy of a prior  
25 order. Maybe you did. Or wasn't there something else

01570

1 that Mr. Parvinen was going to go look at? Do you  
2 recall that? I just didn't -- I just wanted -- I didn't  
3 want to leave a loose end. I just remember making the  
4 crack that you were going to spend time in the library  
5 looking for something. Again, I don't remember what it  
6 was.

7 THE WITNESS: Can I cross the room to get my  
8 notes from yesterday?

9 JUDGE SCHAER: Go ahead, Mr. Parvinen.

10 MR. TRAUTMAN: Was it the Wood Power contract  
11 date?

12 THE WITNESS: Yes.

13 MR. BUCKLEY: The date of the original Wood  
14 Power contract.

15 BY CHAIRWOMAN SHOWALTER:

16 Q. I think that was it, the date of the original  
17 Wood Power contract.

18 MR. BUCKLEY: Whether it was before the last  
19 rate case.

20 A. Yes, now I remember. The question was, has  
21 the Commission addressed the Wood Power contract before,  
22 and that contract was originally signed in 1982. So I  
23 would assume that in the 1985 or '86 rate case that it  
24 was a component of Power Supply. Since Power Supply is  
25 done on a system basis, it would have been a component



01571

1 of that. Whether it was specifically addressed, that  
2 I'm not sure, but it would have at least been a  
3 component of that.

4 Q. And then my only question has to do with your  
5 testimony on page 11 where I do think you are  
6 interpreting RCW 35.21.860, or at least I want to ask  
7 you about your statements there.

8 The other day in an open meeting, we were  
9 asked to invalidate or disallow a utilities payment of  
10 an Indian tribe's tax that was imposed. And we said,  
11 we're not a tax court, we're not here to figure out  
12 whether this is or is not a valid tax unless it's on its  
13 face invalid or we have evidence of a court order maybe  
14 that would invalidate it. But in general, we're not  
15 going to -- we're not going to question the validity of  
16 a tax.

17 Now this is a franchise fee, but my question  
18 to you is the same. Isn't the effect of what you're  
19 saying is that you're not going to allow it here unless  
20 the company shows that the fee is used for expenses of  
21 the city or town that are directly related to the permit  
22 licensing, et cetera. Doesn't that put both the company  
23 and us in the position of getting information from a  
24 city and determining that its fee is or isn't valid  
25 under the law?

01572

1           A.     Well, let me answer that this way and see if  
2 that gets to your question. We're not disallowing the  
3 expenses.

4           Q.     Mm-hm.

5           A.     We're just saying that those should be  
6 collected from the cities that impose them.

7           Q.     Yes, but the statute requires the city to  
8 impose only fees prior to April '82 that would be  
9 considered taxes to the extent that they exceed the cost  
10 allowable under one. I think maybe I see what you're  
11 saying is that how do we know. Is what you're saying,  
12 how do we know?

13          A.     Right, and I did ask that question through a  
14 data request and did not get a response as to what the  
15 actual costs are. And I did say that had these costs  
16 been identified, we would continue to treat them as a  
17 franchise fee.

18          Q.     Now are you assuming that each fee that a  
19 company pays to the city has to be justified for the  
20 expenses of that company, for the expenses incurred by  
21 the city for that company? Or would it satisfy you if  
22 the city itself, if we either -- if it either were shown  
23 or we presume one way or the other that the fee in total  
24 covers expenses for the city for all fee, all permits  
25 that they issue?

01573

1           A.       That's what we don't know in this case.  If  
2 these three cities that are at issue here were actually  
3 charging a fee on a permit basis, that would be much  
4 easier to show that there's a cost base behind those  
5 fees that they would be paying.  But since they are a  
6 fee that is attached to revenues on an annual basis,  
7 it's not a cost driven fee.  Or it may be.  It hasn't  
8 been demonstrated.

9           Q.       So going back to the order in finding number  
10 18, are you saying that seems to be a judgment by this  
11 Commission of what's a reasonable amount, but that's now  
12 distinguished from what the statute says has to cover  
13 expenses?

14          A.       That's my understanding.  The statute, the  
15 current statute came into place after this order.

16          Q.       So is your view that what in finding number  
17 18 the Commission found as a reasonable amount simply  
18 doesn't provide information on what under the statute is  
19 or isn't coverage of city expenses, just a different  
20 measure?

21          A.       Well, I see the order and the rule as  
22 somewhat complimentary.  The order states that fees up  
23 to the 2 1/2% are reasonable to pass on to the general  
24 customers.  The rule then states --

25          Q.       It was, by the way, it was exceeded 3%,

01574

1 right, not 2 1/2%, right?

2 A. Right, exceeded 3%. But on average, they  
3 were 2 1/2% at the time. Right, exceeded 3%. Excuse me  
4 a moment, because I lost my train of thought. Okay, so  
5 let me start over.

6 The order came out and said that essentially  
7 that up to the 3% was an allowable limit. The RCW then  
8 came out and said that those actual costs would still be  
9 allowed as a franchise fee to the extent to any of these  
10 contracts prior to '82. But what hasn't been  
11 demonstrated is that these costs are actuals. And under  
12 that last sentence in the subsection two, that last  
13 phrase, it says that they need to be identified as  
14 actual costs.

15 Q. So in this case, is it your view that the  
16 burden is on the company to show that the fee in general  
17 covers actual costs for the city in general, otherwise  
18 it should be considered a tax?

19 A. That is essentially the outcome, yes.

20 CHAIRWOMAN SHOWALTER: Thanks.

21

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

23 BY JUDGE SCHAER:

24 Q. Mr. Parvinen, do you have Mr. Falkner's  
25 rebuttal testimony available to you?

01575

1 A. Yes, I do.

2 Q. Would you please turn to what's been marked  
3 for identification as Exhibit 268 and then to page 23 of  
4 that exhibit, and then top line through page 24, page 24  
5 line 15 through 24, is it correct that in this proposed  
6 testimony, Mr. Falkner argues that:

7 The balance of deferred revenues from  
8 the PGE contract restructuring that  
9 would be available for expense offsets  
10 and rate base reductions should be  
11 adjusted to reflect the beginning of the  
12 rate year, October 1st, 2000, rather  
13 than the end of the test year, which was  
14 December 31, 1998?

15 A. I see that.

16 Q. So it's correct that that's what he  
17 recommends?

18 A. Yes.

19 Q. Okay. Do you agree with his recommendation?

20 A. I would agree that to put the calculation on  
21 an apples to apples basis, that would be a -- that would  
22 be an appropriate calculation. There's a number of --  
23 because of the -- because of the situation regarding PGE  
24 calculation, I don't believe it's inappropriate to start  
25 with the original \$143 Million. But because these items

01576

1 that are being netted against \$143 Million are  
2 calculated at the beginning of the rate here, to do it  
3 -- to do a comparison to -- if you accepted the  
4 amortization as the company originally booked, that  
5 would be the number.

6 And if you use that calculation, then you  
7 would need to carry Mr. Falkner's exhibit out further in  
8 that the amortization on the remaining balance would be  
9 the remaining length of that contract, which is 14 and a  
10 quarter years. So what was projected in my numbers was  
11 a 16 year number.

12 Q. Looking next at your other adjustments to gas  
13 and electric rate base, and specifically at the gain  
14 associated with sale of the office building, on page  
15 seven of your testimony in section A, you list company  
16 adjustments that you agree with; is that correct?

17 A. Yes.

18 Q. On line three of this page, is the reference  
19 that you accepted the company's deferred gain on office  
20 building adjustment correct?

21 A. No. Given the company's rebuttal testimony  
22 and my treatment of other regulatory assets, I would  
23 accept the company's rebuttal testimony on this issue.

24 JUDGE SCHAER: Thank you.

25 Is there any redirect for Mr. Parvinen?

01577

1 MR. TRAUTMAN: No, Your Honor.

2 JUDGE SCHAER: Anything further for this  
3 witness?

4 MR. MEYER: There's just one issue. I think  
5 I will be very quick about it.

6

7 R E C R O S S - E X A M I N A T I O N

8 BY MR. MEYER:

9 Q. You were asked by public counsel as to  
10 whether or not staff had a position with regard to  
11 income taxes associated with the Centralia gain. Do you  
12 recall that?

13 A. Yes.

14 MR. MEYER: Now may I approach the witness  
15 and hand to the witness a copy of Exhibit T-601, which  
16 is the direct testimony of Roland Martin?

17 JUDGE SCHAER: Do you have that available to  
18 you, Mr. Parvinen?

19 THE WITNESS: Yes, I have that here.

20 JUDGE SCHAER. Okay why don't you go ahead  
21 and just pull that out.

22 THE WITNESS: Okay.

23 BY MR. MEYER:

24 Q. Page three, please. Would you read the  
25 sentence that appears at line 19 that carries over onto

01578

1 the top of page four, those two sentences, okay, read it  
2 aloud?

3 A. This amount --

4 Q. You can start there. I was thinking of the  
5 following sentence.

6 A. Oh, okay, I'm sorry.

7 I should note at this point that in  
8 addition to truing up the amounts in the  
9 gain calculation, the 66.99% factor  
10 applicable to the 1998 test year used by  
11 Avista to allocate the amount to  
12 Washington jurisdiction will also need  
13 to be updated.

14 Q. And then continue on.

15 A. (Reading.)

16 In addition, the tax rates used in the  
17 calculation should also be revised  
18 accordingly.

19 Q. And does that suggest to you, Mr. Parvinen,  
20 that the testimony of Mr. Martin adopted by Mr. Schooley  
21 recommended a treatment of income taxes that differs at  
22 all from what the company proposes?

23 A. I don't know.

24 Q. The words, taxes should be revised  
25 accordingly, does that suggest a difference of opinion



01579

1 with the company?

2 A. I'm not sure what is meant by revised  
3 accordingly here.

4 MR. MEYER: That's all I have, thank you.

5 JUDGE SCHAER: Anything further for this  
6 witness?

7 Thank you for your testimony, Mr. Parvinen.

8 It's appropriate that we take our afternoon  
9 recess at this time. I would ask that during the recess  
10 Mr. Norwood get prepared to go, and let's return at  
11 3:40.

12 Is there anything that we need to discuss  
13 before the break?

14 Okay, we're off the record until 3:40.

15 (Recess taken.)

16 JUDGE SCHAER: Let's be back on the record  
17 after our afternoon recess.

18 Mr. Meyer, do you want to call your next  
19 witness.

20 MR. MEYER: Yes, I call to the stand  
21 Mr. Kelly Norwood.

22

23 Whereupon,

24 KELLY NORWOOD,

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

01580

1 herein and was examined and testified as follows:

2 JUDGE SCHAER: Go ahead, Mr. Meyer.

3

4 D I R E C T E X A M I N A T I O N

5 BY MR. MEYER:

6 Q. Mr. Norwood, have you pre-filed rebuttal  
7 testimony that has been marked for identification as  
8 Exhibit T-203?

9 A. Yes.

10 Q. Are you also sponsoring what had been marked  
11 for identification as Exhibits 204 through 217?

12 A. Yes, that's correct.

13 Q. For the record, I have distributed an errata  
14 sheet with reference to the testimony. Do you have,  
15 Mr. Norwood, any changes to make to the additional  
16 exhibits that I have just identified?

17 A. None other than those indicated on the errata  
18 sheet.

19 Q. Okay. If I were to ask you the questions  
20 that appear in your pre-filed rebuttal with those  
21 corrections having been made, would your answers be the  
22 same?

23 A. Yes.

24 MR. MEYER: With that, Your Honor, I move for  
25 the admission of Exhibits T-203 as well as Exhibits 204

01581

1 through 217.

2 JUDGE SCHAER: Are there any objections?

3 MR. TRAUTMAN: No objection.

4 MR. FFITCH: No objection.

5 JUDGE SCHAER: Those documents are admitted.

6 Now it appears to me that we have an errata  
7 sheet for Mr. Norwood which I will indicate is to be  
8 marked and has been admitted as a part of his exhibit  
9 T-203. We also have some cross exhibits that were  
10 distributed this morning by Mr. Van Cleve, and we have a  
11 replacement exhibit that's just been distributed by  
12 Mr. ffitch let's get all of this information identified,  
13 and then we can go ahead with the questioning.

14 And I believe that the documents that you  
15 distributed this morning, Mr. Van Cleve, have already  
16 been marked for identification.

17 MR. VAN CLEVE: That's correct, Your Honor.

18 JUDGE SCHAER: But they were not physically  
19 present in the hearing room when that was done; is that  
20 correct?

21 MR. VAN CLEVE: Yes, they're Exhibits 222,  
22 223, and 224.

23 JUDGE SCHAER: Okay. So Exhibit 222 for  
24 identification is a table headed net present value of  
25 \$16.2 Million for 1999 through 2014 at various discount

01582

1 rates. Exhibit 223 for identification is the Avista  
2 Utilities response to ICNU data request number 73. And  
3 Exhibit 80 for identification is the Avista response to  
4 ICNU data request number 80.

5 MR. FFITCH: Your Honor, I believe you  
6 misspoke, that would be Exhibit 224 for identification.

7 JUDGE SCHAER: Thank you, Mr. ffitch, you're  
8 correct, that would be Exhibit 224.

9 And then the document that you distributed,  
10 Mr. ffitch, is a replacement for what's been marked for  
11 identification as Exhibit 430; is that correct?

12 MR. FFITCH: That's correct, Your Honor. The  
13 purpose of the replacement was to provide clean copies  
14 of the exhibit. The copy previously distributed  
15 contains handwritten notes of Mr. Lazar.

16 JUDGE SCHAER: Okay.

17 MR. FFITCH: The exhibit consists of two  
18 exhibits from the Centralia consolidated proceeding,  
19 Exhibits 304 and 332.

20 JUDGE SCHAER: Is that 22 or 32?

21 MR. FFITCH: 332, Your Honor.

22 JUDGE SCHAER: All right, thank you. There's  
23 a mistake in the exhibit list for anyone who is using  
24 the Commission exhibit list. It needs to be noted that  
25 is Exhibit 332 rather than 322.

01583

1                   Is Mr. Norwood available for cross then,  
2 Mr. Meyer?  
3                   MR. MEYER: Yes.  
4                   JUDGE SCHAER: Did you have questions,  
5 Mr. Trautman?  
6                   MR. TRAUTMAN: Pardon?  
7                   JUDGE SCHAER: Did you have questions for  
8 Mr. Norwood?  
9                   MR. TRAUTMAN: No, staff has no questions for  
10 Mr. Norwood.  
11                   JUDGE SCHAER: And did public counsel have  
12 questions for Mr. Norwood?  
13                   MR. FFITCH: Yes, thank you, Your Honor.  
14                   JUDGE SCHAER: Go ahead, please.  
15 .HE               (NORWOOD - CROSS BY FFITCH)  
16                   C R O S S - E X A M I N A T I O N  
17 BY MR. FFITCH:  
18            Q.       Good afternoon, Mr. Norwood.  
19            A.       Good afternoon, Mr. ffitch.  
20            Q.       I would like to start out asking about the  
21 topic of water. You have been with the company since  
22 1981 initially in rates and later in power supply; is  
23 that correct?  
24            A.       Yes, that's correct.  
25            Q.       And in 1984, were you in the rates department

01584

1 of the company?

2 A. Yes, I believe that's correct.

3 Q. Did you have any involvement in the company's  
4 1984 rate case which was Docket Number U-84-28?

5 A. I believe I was involved in some manner. I  
6 don't believe I was a witness in that case.

7 Q. Have you reviewed the power supply portion of  
8 the Commission's second supplemental order in that  
9 proceeding?

10 A. I may have. You have to refresh my memory as  
11 to what's in there.

12 MR. FFITCH: May I approach the witness, Your  
13 Honor?

14 JUDGE SCHAER: You may.

15 MR. FFITCH: Your Honor, I'm just touching on  
16 this briefly, but I wanted the witness to be able to  
17 have a look at this to be able to better answer the  
18 questions. I have not prepared copies for everyone.

19 JUDGE SCHAER: Go ahead then, Mr. ffitch.

20 BY MR. FFITCH:

21 Q. In that proceeding U-84-28, Mr. Norwood, the  
22 company proposed to base normalized power costs on a 40  
23 year water study using the years 1928 through 1968; is  
24 that correct?

25 A. You would have to direct me to where that's

01585

1 indicated. I don't know that that's true.

2 Q. All right. Well, I'm going to just let the  
3 order speak for itself, and if you can't recall, we will  
4 cite the relevant portions of the order. Would you  
5 accept subject to check that that was the company's  
6 position in that proceeding?

7 A. Yes, I will.

8 Q. And also in that case, public counsel  
9 presented testimony proposing the use of a much longer  
10 hydroelectric record, either a 50 year average or a 105  
11 year average. Isn't that the case?

12 A. Again, I don't know that.

13 Q. The highlighted portions of the internal  
14 pages of the decision there may refresh your  
15 recollection.

16 A. I see that there are references to a 105 year  
17 study as well as a 50 year study.

18 Q. And again, the company did not support those  
19 and instead recommended a 40 year average, isn't that  
20 the case?

21 A. I would accept that subject to check.

22 Q. And again in this proceeding, you're opposing  
23 the use of a 40 year study presented by Mr. Buckley, are  
24 you not, in the current rate case proceeding?

25 A. That's correct, but we're talking about a

01586

1 different time frame. My understanding is and you  
2 referenced the period 1928 to '68. At the time of that  
3 case, it may well have been that the 40 years of record  
4 may have been the available data from the Northwest  
5 Power Pool. I don't know that to be the case.

6 But in this case what we have proposed is to  
7 use again all the available data from the Northwest  
8 Power Pool Study. So again, staff has proposed 40 years  
9 in this case. We have opposed that, but that is the  
10 period 1949 to 1988, not 1928 to 1968.

11 Q. I don't differ with you, Mr. Norwood. My  
12 point is that in that case in 1984, you did support the  
13 use of a 40 year average without -- I'm not focusing on  
14 the particular years that are specified in the decision,  
15 but on the use of the time period, whether it be 40  
16 years or 60 years or 105 years.

17 A. Again, I would accept that subject to check.

18 Q. Now in the 1992 Puget case, you advocated or  
19 Washington Water Power advocated a 50 year period; isn't  
20 that correct?

21 A. That's correct.

22 Q. It's true, is it not, that Washington Water  
23 Power and PacifiCorp both intervened in the 1992 Puget  
24 case specifically because power cost normalization  
25 methodology was to be a major issue in that case?



01587

1 A. Yes.

2 Q. I would like to move on to the question of  
3 power costs for Centralia.

4 MR. FFITCH: Before I do that, I would like  
5 to retrieve my exhibit so I don't forget.

6 MR. MEYER: May we get an extra copy of that,  
7 please.

8 MR. FFITCH: You may if you would like to  
9 make that copy and then just return that to me, that  
10 would be fine.

11 MR. MEYER: Fine.

12 MR. FFITCH: Thank you.

13 BY MR. FFITCH:

14 Q. You were present during the Centralia  
15 hearings when Mr. Johnson testified, were you not?

16 A. I believe that's correct.

17 Q. I'm going to direct you to what's been marked  
18 for identification as Exhibit 430.

19 A. I have it.

20 Q. Now first of all, do you recall in his  
21 written testimony in that proceeding that he stated:

22 Based on market price quotes for longer  
23 term through 2010 power purchases,  
24 Avista believes that replacement power  
25 will be less costly than projected plant

01588

1 costs over the next ten years.

2 A. I don't have that in front of me, but I would  
3 accept that subject to check.

4 Q. And to check that, you would refer to his  
5 rebuttal testimony in the Centralia case at page three.

6 A. Thank you.

7 Q. And do you also recall that Mr. Johnson  
8 presented an exhibit which compared Centralia power  
9 costs to estimates of replacement power costs, and that  
10 was marked and admitted as Exhibit 304 in that  
11 proceeding; do you recall that?

12 A. Yes.

13 Q. And that again is incorporated in Exhibit 430  
14 here, is it not?

15 A. The first two pages appear to be that  
16 exhibit.

17 Q. Thank you. Now let's take a look at that  
18 exhibit. Bear with me a moment, and I will get my  
19 convenient for reference. If we look at the first page  
20 of that exhibit, we see entries for the year 2000. His  
21 analysis shows an estimated cost of power from Centralia  
22 of 26.45 mils per kilowatt hour, and that's shown in the  
23 far right-hand column, second line of that exhibit;  
24 isn't that right?

25 A. Yes, I see that.

01589

1 Q. And that compares with, if we turn to page  
2 two of that exhibit, the line for the year 2000 shows us  
3 that again that compares with the range of 25.21 mils to  
4 27.12 mils for replacement costs during the year 2000,  
5 correct?

6 A. I guess it would actually be a range of 25.12  
7 to 27.12.

8 Q. Correct, I may have misspoken; that's what I  
9 meant to say.

10 A. Yes, I see that.

11 Q. And so Centralia again was above most of that  
12 range, was it not?

13 A. It was above the low market and the median  
14 market.

15 Q. Now let's look at the year 2001 and go back  
16 to page one. Mr. Johnson's exhibit shows that the  
17 delivered cost of power from Centralia was 28.93 mils  
18 per kilowatt hour; is that correct?

19 A. Yes.

20 Q. Again, that's the far right-hand column of  
21 that exhibit in the third line. Now if we go to page  
22 two, again the entries for 2001 show a range of a low of  
23 25.55 mils to a high of 28.12 mils. So again, Centralia  
24 was more -- was projected to be more expensive than the  
25 replacement power costs; is that correct?

01590

1 A. Yes.

2 Q. But your testimony in this proceeding is that  
3 the replacement power cost for Centralia is \$4.1 Million  
4 greater than the cost of power from Centralia, is it  
5 not?

6 A. That's correct.

7 Q. When did the company first estimate that  
8 replacement power costs would be greater than the cost  
9 of Centralia?

10 A. The thing that you have to keep in mind here  
11 is the comparison of costs. And in this case, we have  
12 included the costs of the replacement power.

13 MR. FFITCH: I'm sorry, Your Honor, I'm  
14 willing to let the witness perhaps provide this  
15 information, but he doesn't appear to be responsive to  
16 my question.

17 A. Could you ask the question again, please?

18 Q. Okay, I would be happy to.

19 When did the company first estimate that  
20 replacement power cost would be greater than the cost of  
21 Centralia?

22 A. The cost, the replacement power cost in this  
23 case are greater, and it's because --

24 Q. Excuse me, Mr. Norwood, I'm sorry to  
25 interrupt, but --

01591

1 JUDGE SCHAER: I think he's asking you a  
2 timing question, Mr. Norwood.

3 A. Right, in this case.

4 Q. So --

5 A. But I need to clarify why it's different than  
6 this case here, and this is very important, because this  
7 makes the whole issue.

8 Q. And you will get a chance to do that, but  
9 right now I'm just asking about time frames. So your  
10 answer is in this case. So are you saying that's in  
11 your testimony in this case, in this Avista rate case,  
12 this docket, is that what your answer is?

13 A. Yes.

14 Q. And do you have a specific date in mind when  
15 you say that?

16 A. I believe that hearing, the earlier hearings  
17 that we had in this case, we presented I believe there  
18 was an exhibit that was introduced which outlined the  
19 power costs associated with the replacement power  
20 contract. And I believe either through that exhibit or  
21 witness McKenzie, we quantified the increased cost to  
22 be, I believe, \$4.1 Million.

23 Q. All right.

24 MR. FFITCH: Now at this point, Your Honor,  
25 I'm going to examine regarding a confidential exhibit.

01592

1 For Mr. Meyer's benefit, that's been marked for  
2 identification as -- actually, it's been admitted as  
3 C-214, that's KONC-11 to Mr. Norwood's testimony.

4 Now I believe we may be able to do this  
5 without a problem if some of the numbers that I'm going  
6 to mention are not actually confidential or sensitive  
7 numbers. Let me, if I may, just confer very briefly  
8 with Mr. Meyer. Perhaps we could then avoid having to  
9 take special steps with regard to the hearing room.

10 JUDGE SCHAER: Go ahead and do that,  
11 Mr. ffitch. And if this comes up again in this hearing,  
12 please try to do that in the break preceding the  
13 witness.

14 MR. FFITCH: I will do that, Your Honor.

15 JUDGE SCHAER: Thank you.

16 (Discussion off the record.)

17 MR. FFITCH: Thank you, Your Honor, I believe  
18 that we can proceed without any special arrangements.

19 JUDGE SCHAER: Go ahead then, Mr. ffitch.

20 BY MR. FFITCH:

21 Q. We have if we could turn, please, to Exhibit  
22 C-214, which is KONC-11 to your rebuttal testimony.

23 A. Yes, I'm there.

24 Q. And I'm looking at page one of that exhibit.  
25 There you show -- and essentially I'm looking at the

01593

1 four right-hand columns of this exhibit.

2 MR. FFITCH: And I guess just for the record,  
3 counsel for Avista has indicated that we may discuss  
4 these numbers shown in the four right-hand columns in  
5 the open hearing.

6 JUDGE SCHAER: Is that correct, Mr. Meyer?

7 MR. MEYER: Yes.

8 JUDGE SCHAER: Go ahead, please.

9 BY MR. FFITCH:

10 Q. And those on that portion of the exhibit, you  
11 show estimated cost of Mid Columbia Power and associated  
12 transmission, do you not?

13 A. Yes, that's correct.

14 Q. And to compare that to Centralia, would we  
15 use the sum that appears in the column total Mid  
16 Columbia, which would be the second to the right?

17 A. And the question is, is that the column to  
18 compare to the cost of Centralia?

19 Q. Yes.

20 A. That's correct.

21 Q. The total average cost then for January  
22 through December of 2000, and 2000 is the year shown on  
23 this sheet, is it not?

24 A. That's correct.

25 Q. So the total average cost then for January

01594

1 through December 2000 is 27.93 mils per kilowatt hour;  
2 is that correct?

3 A. For the Mid Columbia, yes.

4 Q. For Mid Columbia. And that number is shown  
5 in the central part of the exhibit, second column from  
6 the right?

7 A. Yes.

8 Q. Now that's quite a bit more than Mr. Johnson  
9 testified to in the Centralia proceeding. His testimony  
10 was between 25.2 and 27.1 mils per kilowatt hour; isn't  
11 that right?

12 A. Which numbers are you comparing again? Okay,  
13 the year 2000 market prices versus the ones on page one.

14 Q. Correct.

15 A. Of that exhibit.

16 Q. Again, thanks for kind of walking us back  
17 through that.

18 A. Yes, that is higher.

19 Q. You looked back at page two of Exhibit 304  
20 under the year 2000 line, and the heading of that is  
21 Centralia plant replacement power, it shows a range of  
22 25.21 through 27.12, and this is higher than that?

23 A. Yes.

24 Q. When was your confidential exhibit prepared?  
25 I see a date of November 5th, 1999, at the bottom of



01595

1 that page.

2 A. Yes, that's what it reads.

3 Q. And if we turn the pages to 2001, 2002, and  
4 2003, we see that the total Centralia price, which is  
5 again shown in the right-hand column, is right at or  
6 about the Mid Columbia plus transmission cost price in  
7 the next column over; isn't that right?

8 A. Yes.

9 Q. So by November of 1999, you had an analysis  
10 which showed that the total cost of power from Centralia  
11 was lower than the company's own estimate of the Mid  
12 Columbia price plus associated transmission, didn't you?

13 A. Would you restate the question again, please?

14 Q. By November of 1999, you had an analysis  
15 which showed that the total cost of power from Centralia  
16 was lower than the company's own estimate of a Mid  
17 Columbia price plus associated transmission?

18 MR. MEYER: I'm sorry, was that with or  
19 without scrubbers?

20 A. Well, this shows --

21 MR. FFITCH: Well, the witness can answer.

22 A. This shows that the cost of Centralia was  
23 lower than the market estimates here, but it shows that  
24 the cost of Centralia was higher than replacement power  
25 costs that we actually acquired.

01596

1 Q. Where does it show that?

2 A. If you compare, again, I'm on page one of  
3 this Exhibit Number 213, excuse me, 214, C-214. If you  
4 look at the middle column, and again I won't reference  
5 or state any numbers, but at the top it says total  
6 TransAlta, January through December. If you compare  
7 that number with the total Mid Columbia, the cost of the  
8 replacement purchase is below the total Mid Columbia  
9 cost as well as being below the Centralia cost.

10 Q. All right, but the answer to my question is  
11 with regard to the cost of power from Centralia as  
12 compared with the Mid Columbia price plus associated  
13 transmission. You had that analysis in November of '99,  
14 which showed the total Centralia cost was lower than the  
15 estimate of Mid Columbia price plus associated  
16 transmission?

17 A. These numbers do show that that's correct.  
18 But that's not what we purchased to replace Centralia,  
19 and that's not what we included in this case.

20 Q. Mr. Johnson testified in the Centralia case  
21 on January 7th and 8th of 2000, did he not?

22 A. I would accept that subject to check.

23 Q. And that's two months after this confidential  
24 analysis was prepared? Was this confidential analysis  
25 submitted to the parties in the Centralia proceeding?

01597

1 A. I'm not certain, but I think that it was. I  
2 would have to verify that.

3 Q. Was it made a part of the record in that  
4 proceeding?

5 A. I don't know.

6 Q. How would you go about verifying whether it  
7 was made available to the parties? Can you do that now  
8 so that you can answer during your examination, or is  
9 that information you can provide later?

10 A. We would have to provide it later. We would  
11 have to go back to the company and see what was provided  
12 to the parties in that case.

13 MR. FFITCH: Your Honor, perhaps before the  
14 conclusion of the hearing, Mr. Meyer could advise  
15 whether the information was provided through a response  
16 to a data request or an exhibit or other --

17 MR. MEYER: Surely.

18 MR. FFITCH: -- means to the parties.

19 MR. MEYER: We can do that.

20 JUDGE SCHAER: Make a note, Mr. Meyer.  
21 Go ahead, Mr. ffitch.

22 MR. FFITCH: Those are all my questions, Your  
23 Honor. And the exhibit would be offered through  
24 Mr. Johnson.

25 Thank you, Mr. Norwood.

01598

1 JUDGE SCHAER: Mr. Van Cleve, did you have  
2 questions of Mr. Norwood?

3 MR. VAN CLEVE: Yes, Your Honor.

4 JUDGE SCHAER: Go ahead, please.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. VAN CLEVE:

8 Mr. Norwood, I would like to ask you some  
9 questions about the PGE transaction. Were you involved  
10 in the negotiation of the monetization transaction?

11 A. I was involved in early discussions in early  
12 '98. I was not involved in the last six months or so.

13 Q. Was the concept for the transaction developed  
14 within Avista?

15 A. I guess that's a tough question as to who  
16 initiated or -- the company certainly pursued that with  
17 an outside party, the arrangement.

18 Q. And who was the outside party?

19 A. I guess I need to ask counsel if that was  
20 confidential. No, I guess it's not. With Enron.

21 Q. Is it possible that the idea for the  
22 transaction came from Enron?

23 A. I don't believe that's the case. My  
24 understanding is our wholesale marketing representative  
25 initiated it with the Enron representative in thinking

01599

1 -- in recalling what took place early on in the  
2 discussions.

3 Q. I would like to refer you to page ten of your  
4 rebuttal testimony at lines five to six.

5 A. Yes.

6 Q. Where you talk about the primary purpose  
7 being preserving the value. Did Avista feel that there  
8 was a significant risk that PGE would default under the  
9 capacity contract?

10 A. Given the changes that were occurring in the  
11 state of Oregon and the changes that had occurred with  
12 the court in General Electric, there was increased  
13 concern, and we believe there was increased risk  
14 associated with receiving those revenues over the term  
15 of the agreement, so yes.

16 Q. You refer on page ten, lines five to six, as  
17 that being the primary purpose. Was there any other  
18 purpose?

19 A. There may have been other reasons. I guess I  
20 can't think of any right now. In my discussions related  
21 to the agreement early on, the focus was on the  
22 increased uncertainty.

23 Q. I would like to refer you now to page 11,  
24 lines 21 through 25 of your rebuttal testimony. You  
25 state that Avista exchanged a \$16.2 Million revenue

01600

1 stream for 16 years for \$145 Million up front; is that  
2 correct?

3 A. Yes.

4 Q. And you also state on page 11 of your  
5 rebuttal testimony that a \$16.2 Million revenue stream  
6 for 16 years has the same net present value as \$145  
7 Million up front assuming a discount rate of 7.83%; is  
8 that correct?

9 A. Yes.

10 Q. Would you agree, Mr. Norwood, that \$145  
11 Million would have a higher net present value than a 16  
12 year revenue stream of \$16.2 Million if a higher  
13 discount rate is assumed?

14 A. No, I think it's the opposite. But if you  
15 will state that again, I will listen carefully.

16 Q. Would you agree that a \$145 Million up front  
17 has a higher net present value than a 16 year revenue  
18 stream of \$16.2 Million if a higher discount rate is  
19 assumed?

20 A. I guess I need to state it another way. If  
21 you used a higher discount rate, you would end up with a  
22 lower value up front than the \$145 Million.

23 Q. Well --

24 A. \$145 Million is the present value number.

25 Q. Assuming a particular discount rate?

01601

1 A. That's correct.

2 Q. And your testimony is that assuming the 7.83%  
3 discount rate, that the present value of \$145 Million is  
4 equal to the present value of \$16.2 Million over 16  
5 years; is that right?

6 A. \$145 Million is the present value of the  
7 \$16.2 Million per year for 16 years at 7.83%, if that's  
8 what you're asking.

9 Q. Well, let me refer you to Exhibit Number 222,  
10 which is an ICNU cross-examination exhibit.

11 A. I have it.

12 MR. MEYER: Your Honor, I object to this  
13 exhibit and object to cross-examination. May I voir  
14 dire this witness to establish the basis for that  
15 objection?

16 JUDGE SCHAER: Go ahead, Mr. Meyer.

17

18 V O I R D I R E E X A M I N A T I O N

19 BY MR. MEYER:

20 Q. Mr. Norwood, did you prepare what has been  
21 marked for identification as Exhibit 222?

22 A. No.

23 Q. In fact, in reviewing this exhibit, have you  
24 found certain errors in this exhibit?

25 A. Yes.

01602

1 Q. Furthermore, do you agree with any -- do you  
2 agree with what purport to be conclusions drawn at the  
3 end of this exhibit, bottom paragraph?

4 A. No, I do not.

5 MR. MEYER: Your Honor, for all of those  
6 reasons, I object to the introduction of  
7 cross-examination on this exhibit. First of all,  
8 consistent with your earlier rulings to the effect that  
9 data responses that were not prepared by the witness  
10 being examined should not be entered through the  
11 cross-examination process, this would fall into that  
12 category. Secondly, this witness has testified that he  
13 disagrees with what purport to be conclusions in a  
14 cross-examination exhibit not prepared by him. He also  
15 has concerns about the accuracy. For those reasons,  
16 object.

17 JUDGE SCHAER: Mr. Van Cleve, brief response.

18 MR. VAN CLEVE: Your Honor, this exhibit was  
19 prepared by us for illustrative purposes to demonstrate  
20 what the net present value of the \$16 Million revenue  
21 stream would be at various discount rates, and I believe  
22 that Mr. Norwood has just given testimony about the  
23 contents of this exhibit and that he disagrees with it,  
24 and I think I should be able to probe what errors and  
25 disagreements that he has.



01603

1                   JUDGE SCHAER: Mr. Van Cleve, I am not going  
2 to admit this exhibit at this time. I don't believe  
3 that it's appropriate to put in something through this  
4 witness that he not only did not prepare, but that he  
5 believes to be inaccurate.

6                   I will allow you to ask questions of  
7 Mr. Norwood regarding the subject matter of this exhibit  
8 and to perhaps have him make some calculations that he  
9 would other -- that he might otherwise have been able to  
10 refer to this for. But I will not admit this as a  
11 substantive exhibit.

12                   In terms of an illustrative exhibit,  
13 Mr. Meyer, would you have any objection to looking at  
14 the basic premises here of -- I believe that the  
15 question that we had just heard asked that Mr. Norwood  
16 was not able to answer in a way that Mr. Van Cleve liked  
17 might be something that could be where his answer could  
18 be demonstrated by reference to this document.

19                   MR. MEYER: I think --

20                   JUDGE SCHAER: Or would you prefer to maybe  
21 have just some discussion or elimination perhaps by  
22 writing something on a piece of paper.

23                   MR. MEYER: Well, Your Honor, again, my  
24 objection goes to the use of this exhibit for any  
25 purpose. Counsel is free to artfully pose questions

01604

1 that seek to elicit the same information that he tried  
2 otherwise to introduce through this exhibit, but that  
3 questioning should be separate and apart from reliance  
4 on this exhibit.

5 JUDGE SCHAER: Okay, well, then let's go  
6 ahead without this exhibit as part of the record.

7 Mr. Van Cleve, if you could frame your  
8 questions.

9

10 C R O S S - E X A M I N A T I O N

11 BY MR. VAN CLEVE:

12 Q. Mr. Norwood, have you calculated what the net  
13 present value of a \$16.2 Million revenue stream for 16  
14 years would be at any discount rate other than 7.83%?

15 A. No. When I did my calculation, I calculated  
16 what the implicit discount rate would be to arrive at  
17 the \$145 Million, so no.

18 Q. Is it fair to say, Mr. Norwood, that if a 12%  
19 discount rate was used that a \$16.2 Million revenue  
20 stream for 16 years would have a lower net present value  
21 than if a 7.83% discount rate was used?

22 A. Yes, it would. But in this case, I'm not  
23 sure that that's relevant. If you look at or if you  
24 were to use the overall cost of capital as, the after  
25 tax cost of capital as the discount rate, then -- as a

01605

1 proxy for the discount rate, in this case the range of  
2 rates of return are between 7 1/2% to 8 1/2%. And the  
3 7.83% falls within the middle of those recommendations  
4 that are made in this case. If the utility were to be  
5 authorized a rate of return that gave you an after tax  
6 discount rate of 12%, then there may be some relevance  
7 to this, but --

8 MR. VAN CLEVE: Your Honor, I think this is  
9 going way beyond the question that I asked.

10 JUDGE SCHAER: I think you were answered, and  
11 we usually allow a short explanation.

12 So perhaps you could wrap this up,  
13 Mr. Norwood.

14 THE WITNESS: I'm finished, thank you.

15 JUDGE SCHAER: Okay, go ahead, Mr. Van Cleve.

16 BY MR. VAN CLEVE:

17 Q. Well, the question that I'm trying to ask  
18 you, Mr. Norwood, is on page 11 of your testimony in  
19 lines 23 and 24, you state that the present value of  
20 \$16.2 Million per year for 16 years at a discount rate  
21 of 7.83% is equal to \$145 Million.

22 A. That's correct.

23 Q. And if you use any other discount rate, it  
24 would not be equal; is that correct?

25 A. That's correct. The issue in this case

01606

1 though is do we give customers the \$16.2 Million per  
2 year over the 16 years, or do we give them the \$145  
3 Million. The point is, based on the cost of money  
4 recommendations that have been made in this case, they  
5 are -- the 7.83% is right in the middle of the  
6 recommendations, so the bottom line to the customer is  
7 that the \$145 Million is essentially equivalent to the  
8 \$16.2 Million over the 16 year period. And so customers  
9 are made whole either way.

10 A larger discount rate, you can talk about  
11 it, but it's irrelevant because the cost of money, which  
12 is really the time valuing on your discount rate, the  
13 numbers that have been proposed in this case run in line  
14 with the 7.83% that I have used as a discount rate.

15 Q. Did Avista seek approval of the PGE  
16 monetization transaction from the Commission?

17 A. We did not file for approval.

18 Q. Did Avista inform the Commission or the staff  
19 of the PGE monetization transaction prior to this rate  
20 case?

21 A. We filed a Commission basis report in  
22 November of '99. And in that report, it included an  
23 adjustment for the PGE monetization transaction. As far  
24 as a specific letter or formal notification, there was  
25 no formal notification directly to the Commission other

01607

1 than a notice that they probably received from FERC  
2 related to a filing with the Federal Energy Regulatory  
3 Commission.

4 Q. Are you aware of whether the company's direct  
5 testimony in this case disclosed the existence of the  
6 PGE transaction?

7 A. It did not.

8 Q. Okay. Could you refer to Exhibit 224.

9 JUDGE SCHAER: That's 224 for identification?

10 MR. VAN CLEVE: Yes.

11 A. I have that.

12 BY MR. VAN CLEVE:

13 Q. This is an ICNU cross exhibit. This data  
14 request asks what documents the company provided to the  
15 staff prior to this case regarding the PGE transaction;  
16 is that correct?

17 A. At the time the transaction was complete.

18 Q. Could you read the first sentence of the  
19 response, please.

20 A. Yes.

21 The company was not required to provide  
22 documents regarding the PGE monetization  
23 transaction to the WUTC staff, and none  
24 were provided.

25 Q. If you could refer to page 10 of your

01608

1 rebuttal testimony at lines 10 and 11, you state that  
2 the PGE transaction was a financial arrangement and is  
3 considered a loan for tax purposes; is that correct?

4 A. Yes.

5 Q. Would you agree that for tax purposes,  
6 Spokane Energy LLC loaned Avista \$145 Million in  
7 exchange for an assignment of a portion of the revenues  
8 under the PGE contract?

9 A. It's my understanding of this transaction  
10 that --

11 JUDGE SCHAER: Would you answer yes or no  
12 before you explain, please.

13 A. I don't know exactly.

14 Q. Well, let me ask you this. Is it your  
15 understanding that Spokane Energy LLC paid \$145 Million  
16 to Avista?

17 A. Yes.

18 Q. And that occurred when?

19 A. It would have occurred in December '98 or  
20 January '99.

21 Q. And in addition, Avista assigned to Spokane  
22 Energy LLC \$16.2 Million per year for 16 years from the  
23 PGE capacity contract; is that correct?

24 A. Yes, Spokane Energy would receive basically  
25 \$9 per kilowatt month, which I believe would be \$16.2

01609

1 Million plus or minus some related to the assignment.

2 Q. And is it your understanding that that  
3 transaction is characterized as a loan for tax purposes?

4 A. I have been told by our tax employee at the  
5 company that this is clearly a loan for tax purposes.

6 Q. Did Avista enter into written agreements with  
7 Spokane Energy LLC to accomplish this transaction?

8 A. I believe that's correct, yes.

9 Q. Can you please describe the ownership of  
10 Spokane Energy LLC?

11 A. I believe that it's a subsidiary of Avista.  
12 I'm not certain of that.

13 Q. Are you aware of whether Spokane Energy LLC  
14 is an affiliate of Avista?

15 A. That's what I just responded to. I'm  
16 assuming that it is an affiliate. I'm not certain.

17 Q. And do you know whether the Commission's  
18 rules require that agreements between a utility and its  
19 affiliates be filed with the Commission?

20 A. I don't know what the rule is there.

21 Q. Do you know if the agreements between Avista  
22 and Spokane Energy LLC were filed with the Commission?

23 A. No, they have not been, to my knowledge.

24 Q. And let me ask you a hypothetical. If Avista  
25 borrowed \$145 Million by issuing a note that was payable

01610

1 over 16 years, would it be required to make any filing  
2 with the Commission?

3 A. I don't know the answer to that.

4 Mr. Eliassen, a later witness, could probably respond to  
5 that question.

6 Q. Referring to Exhibit 223.

7 JUDGE SCHAER: And again, that's 223 for  
8 identification at this point, Mr. Van Cleve?

9 MR. VAN CLEVE: Right.

10 A. I have it.

11 BY MR. VAN CLEVE:

12 Q. Did you prepare this answer to a data  
13 request?

14 A. Yes, I did.

15 Q. Is it accurate to the best of your knowledge?

16 A. Yes.

17 Q. And referring to what's been marked as  
18 exhibit 224, did you prepare this exhibit?

19 A. Yes.

20 Q. And is it accurate to the best of your  
21 knowledge?

22 A. Yes.

23 MR. VAN CLEVE: That's all the questions I  
24 have, Your Honor. I would move for the admission of  
25 Exhibits 223 and 224.



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1 JUDGE SCHAER: Any objection?

2 MR. MEYER: No objection.

3 JUDGE SCHAER: Those documents are admitted.

4 THE WITNESS: I guess I need to clarify one  
5 item on 224. This refers to all documents. And after  
6 responding to this request, I realized that we had  
7 provided documents to the Commission in November of '99.  
8 I guess I need to take that back, because it would not  
9 be relevant to this response, so.

10 JUDGE SCHAER: Anything further?

11 Commissioners, do you have questions for  
12 Mr. Norwood?

13 CHAIRWOMAN SHOWALTER: You do?

14 COMMISSIONER HEMSTAD: (Nodding head.)

15 CHAIRWOMAN SHOWALTER: I will let

16 Commissioner Hemstad go first.

17 JUDGE SCHAER: Okay.

18

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

20 BY COMMISSIONER HEMSTAD:

21 Q. I want to pursue, as Mr. ffitch did, the  
22 water flow issues. And I have read your testimony  
23 several times trying to understand its flow. We start  
24 from the premise that there are both random and  
25 non-random variables that affect the normalization of

01612

1 hydroelectric generation and resulting in power costs?

2 A. Yes.

3 Q. All right. And what do you understand by the  
4 term that you use in your testimony at page 33? And  
5 this is a reference to the earlier cases of "long-term  
6 cumulative error"?

7 A. Okay. I went back to Mr. Winterfeld's  
8 testimony that he filed back in the 85-36 case, and I  
9 was actually involved in that case at the time, and we  
10 duplicated his analysis. And what happens is over a  
11 long period of time when you use a shorter rolling  
12 average such as 10 years, for example, the annual  
13 difference from the mean is greater with a 10 year  
14 average than it is, for example, with a longer average,  
15 say 50 years each year. But as you progress through  
16 time over 50, 70, 100 years, the errors that happen each  
17 year tend to offset one another. And that's the  
18 long-term cumulative error that Mr. Winterfeld referred  
19 to in his testimony was that over that long period of  
20 time, and it's just the way the math works, is they tend  
21 to offset one another.

22 And my concern that I expressed in my  
23 testimony is that if you're going to use a methodology  
24 which we know will not provide as good an estimate now,  
25 and we're going to count on an error in the opposite

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1 direction 20 years from now to offset it, if you don't  
2 have the same power plants in place or the same hydro  
3 conditions in place, then the error that you're  
4 intending to be offset 20, 30, 40 years from now can't  
5 occur, because you don't have the same conditions in  
6 place.

7 Q. Okay. But that gets then to the point of the  
8 distinction between random error and non-random error.  
9 And the point of your testimony, as I read it, is that  
10 the so-called flaw in the call it the Winterfeld  
11 analysis for this purpose is that it does not adequately  
12 take into account the non-random future events. Is that  
13 a fair statement?

14 A. Right, I'm not taking issue with the fact  
15 that you will get a long -- a lower cumulative error if  
16 you keep the same mechanism in place for 40, 50, 60  
17 years if you're just dealing with precipitation and run  
18 off each year.

19 But what we do is we take that precipitation  
20 each year and we run it through the hydro plants that we  
21 have available to us. And so I agree that the hydro  
22 data is random, and you will have this offset. But if  
23 you're running it through your hydro plants and you  
24 don't have all these hydro plants in the future, then  
25 you can't have the offset occur from a dollars and cents

01614

1 perspective if these are different.

2 Q. Well, but whether you're talking about a 30  
3 or a 40, 50, 60, or 114 year period, won't any  
4 non-random events apply to all of them? Or let me  
5 phrase it another way. Why is the issue of a non-random  
6 event more critical to the rolling 40 year analysis than  
7 it is to any of the others?

8 A. It's really important, because what we're  
9 after here is the best estimate of average stream flow  
10 conditions for rate making purposes. What's the best  
11 estimate of average. And Mr. Winterfeld in his  
12 testimony said a rolling average of the more current  
13 stream flow records will produce a less reliable  
14 estimate of average conditions. What his testimony was  
15 was that the rolling 40 year average actually produces a  
16 less reliable estimate of near term average conditions.  
17 But because, you know, if the method is applied for  
18 many, many years, decades, eventually you will end up  
19 with a lower cumulative error. But that's only the case  
20 if you have random variables.

21 And what we're proposing in this case is to  
22 use all the data available, a longer average, which will  
23 give you a better estimate of the mean.

24 Q. But I'm trying to understand the relevance of  
25 those future non-random events to the issue. For

01615

1 example.

2 A. Okay.

3 Q. One of them that you reference is either the  
4 termination or renewal with modifications of the Mid  
5 Columbia contracts.

6 A. Right, let me explain that then.

7 Q. But that would apply to any period of time  
8 that you used for the water flow data, wouldn't it?

9 A. It will -- power costs will change once those  
10 Mid Columbia contracts drop out. The issue here is that  
11 for the past 15 years, we have set power costs based on  
12 a series of water conditions, if you have seen this  
13 graph, where there's more water years with above average  
14 conditions than below average, which reduces our power  
15 costs. So that's been in place for 15 years.

16 A. And now in this case if we use again a series  
17 of water conditions that have more above average  
18 conditions than below, again we will understate power  
19 costs with the intention that later on once we progress  
20 into these water years that are well below average here,  
21 if we continue to do this, we will eventually get to  
22 these.

23 A. But if the power plants that we have  
24 available to us are no longer there once we get to that,  
25 then there isn't a way for us to recover that under

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1 collection that we have today, because, for example, the  
2 Mid Columbia contracts start expiring in 2005. We will  
3 no longer receive that hydrogeneration. And so at that  
4 point, the data would show that there's less water  
5 available, our power costs would be higher, and it would  
6 offset the current lower power costs that are being  
7 estimated using this methodology.

8           So the bottom line is, with those contracts  
9 going away, you don't have the opportunity to recoup the  
10 underestimate of power costs that's going on today.

11       Q.     Well, but maybe it's my lack of  
12 sophistication with statistical analysis, but say we  
13 used -- the issue comes down to the choice between,  
14 apparently, between 40 and 60, but we could be talking  
15 about 30 or 50.

16       A.     I think and I stated in my testimony that 40  
17 and 60 aren't the only choices. We can look at  
18 something else. And I even stated in my testimony, if  
19 you look at -- if you look at this data by itself, this  
20 data would tell me that probably the 50 year period,  
21 1939 to '88, would be the better estimate, because the  
22 average stream flow conditions there are about 199,000 C  
23 at best during that period, and the 114 year average is  
24 200,000. So they're almost equal.

25       Q.     But I find that to be a result oriented kind

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1 of analysis. I mean if you look at the conclusions and  
2 say that 50 years is like 114, but that's simply  
3 coincidence. I assume, for example, if we had in place  
4 more up-to-date data through say 1998 and then used a 50  
5 year period, it would again be pure coincidence if that  
6 were the same as the 114 year data.

7 A. You would have to look at the data to see  
8 again what is reasonable, and that's what we're looking  
9 for in this case is given a number of measures, and  
10 looking at this data is just one measure, but if you  
11 look at this information, and again it's not -- you can  
12 probably pick a number of series of water years along  
13 this continuum where you would end up with an average  
14 that's equal to or close than the 114 year average. And  
15 I guess our position in this case is we ought to pick a  
16 series of water years which is representative of average  
17 conditions based on the data that's available.

18 Q. Well, then why wouldn't we be better off  
19 using the 114 year data?

20 A. The problem with that is for the Clark Fork  
21 River the data that we have available goes back only to  
22 September 1928. We don't have measurements prior to  
23 that time.

24 Q. But if that's the case, then I come back to  
25 isn't it just accidental that for your purposes 114 year

01618

1 period is substantially equivalent to the 50 year  
2 period? I don't see the relevance then with the making  
3 of that comparison.

4 A. No, I think the relevance is taking a look at  
5 the data that's available. And at The Dalles on the  
6 mainstream of the Columbia, we have data back to 18 it  
7 must be 79. On the Clark Fork, we have data back to  
8 1928. And all we're doing here is taking a look at what  
9 is the data available, and what does it tell us. It  
10 doesn't mean that, you know, I don't know what happened  
11 prior to 1879 on the Columbia. I don't know what  
12 happened prior to 1928 on the Clark Fork. All we know  
13 is the data that we actually have available, and I think  
14 that's all we have to work with. And so we have to look  
15 at that and pick a series of water years that we think  
16 is representative for average conditions for rate making  
17 purposes.

18 Q. Well, is it the company's position that  
19 because of the relevance of data on the Clark Fork only  
20 to 1928 that analyses that were done in first '89 and  
21 then the 1992 Puget cases that it's such that your  
22 situation is different?

23 A. I'm not sure I understand the question.

24 Q. Well, one of the points you appear to make is  
25 that you have data only to 1928 from where your dams are



01619

1 located.

2 A. Right, the Clark Fork.

3 Q. But the river flow data is, as I understand  
4 it, is what occurs annually as measured at The Dalles,  
5 which is the entire river system.

6 A. There are gauging stations. There's one at  
7 The Dalles, and that's what this data is based on.

8 Q. Right.

9 A. There's also a gauging station on the Clark  
10 Fork River at White Horse Rapids, and that gauging  
11 station was put in place and the records began September  
12 1928. So we don't have the same data. There are two  
13 different measuring points. One measures specific flows  
14 on the Clark Fork, and the other is at The Dalles.

15 Q. Well, okay. So we have the 1985 rate case,  
16 if that's a correct year, with the Water Power,  
17 Washington Water Power?

18 A. That's correct.

19 Q. And we have the 1989 Puget case and the 1992  
20 Puget case.

21 A. Yes.

22 Q. And Water Power was a party to that case, and  
23 you were the witness, I believe.

24 A. That's correct.

25 Q. On the point. And the Commission was rather

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1 emphatic at that point that it was -- considered putting  
2 this issue to bed unless there was clear and convincing  
3 evidence of a change. But are you or are you not  
4 relying on the fact that there's different data for the  
5 Clark Fork as a reason why we should treat you  
6 differently than the conclusion reached in the 1992  
7 Puget case?

8 A. I'm not suggesting here that we reach a  
9 different conclusion based on different data. These  
10 numbers that I have here are the same data that were  
11 introduced in that '92 case. And I guess what I'm  
12 stating here is that even though the non-random  
13 variables were discussed in that '92 case, they weren't  
14 discussed very much.

15 And I don't think it was clear in that case  
16 that if you look at just the random, then we're okay.  
17 But if you bring in the non-random, then there's a  
18 problem there. And for us, there clearly is a problem,  
19 because we have contracts that are dropping out for the  
20 hydrogeneration we get from the Columbia River projects.

21 And there's also been changes in the  
22 operation of our Clark Fork River due to relicensing as  
23 well as the biological opinion. And so that will also  
24 change the generation that comes out of those projects  
25 based on the same amount of water.

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1           So if you still have a random stream flow  
2 going through the same projects but you're operating  
3 them differently or if they have been changed in some  
4 way, you're going to get a different amount of energy,  
5 which means the offsets that you had intended to occur  
6 aren't going to occur, because they're operated  
7 differently.

8           Q.     Well, we may be on different levels of  
9 understanding here, but I come back to the point that  
10 I'm not sure why that is any more relevant to your 40  
11 year period than it is to the 50 or 60 year cycles that  
12 would be considered.

13          A.     The point here is that we have -- the witness  
14 that developed the rolling 40 year average,  
15 Mr. Winterfeld, he stated two different times in his  
16 testimony that the rolling average will not produce a  
17 more reliable estimate. The most reliable -- the more  
18 reliable estimate was the use of all the data.

19                 And I think that's the concern here is that  
20 there was -- by using a rolling 40 year average  
21 methodology, you're accepting that you're using a less  
22 reliable estimate, and you're accepting the fact that  
23 you're going to incorporate a series of water years that  
24 have more years with favorable stream flows than  
25 unfavorable. So you're going to set power costs at a

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1 level that are lower than what they otherwise would have  
2 been. And the company will under collect costs.

3 And the theory is that we will over collect  
4 costs at some point in the future, and we don't believe  
5 that it's reasonable to set costs at a level that are  
6 understated now with the intention of overstating them  
7 later so that on the long-term you will end up with a  
8 lower cumulative error, especially when there are things  
9 that are changing and we know will change that will not  
10 allow this offset to occur.

11 And so the concern is that we're putting into  
12 place an estimate which is not the best estimate. The  
13 witness that developed that methodology agreed with that  
14 included in his direct testimony.

15 Q. At page 38 of your testimony, and this is  
16 shifting the subject somewhat, at line 1, you state that  
17 studies have concluded there are no trends or cycles to  
18 the water record data, and that has been a continuing  
19 theme, I suppose, in your other cases, are there trends  
20 or are there not.

21 A. Right.

22 Q. But you reference that studies have shown;  
23 what studies are you referring to?

24 A. Mr. Winterfeld indicated in his testimony  
25 back in the U-85-36 that Bonneville had sponsored a

01623

1 study. On page four, he says Bonneville Power  
2 Administration funded a study in 1982 to analyze the  
3 stream flow patterns of the Columbia River, and that was  
4 at The Dalles. The result of the statistical testing  
5 revealed no dependency between annual stream flows. And  
6 these results support the concept that various levels of  
7 annual stream flow occur randomly and are independent to  
8 prior years. So that's the study I was referencing.

9 Q. Okay. Now one of the non-random events that  
10 I think your testimony refers to is the stream flow in  
11 the Columbia for fish purposes and the like. I'm  
12 reading more into it, I think, than you narrowly stated.  
13 But in other words, the water flow in the Columbia is  
14 based on --

15 A. Right, the biological opinion changed the  
16 regulation of the river.

17 Q. Well, wouldn't that in itself introduce what  
18 you would call a trend in the system as against the  
19 conclusion that there are no trends or cycles?

20 A. I guess I wouldn't consider it a trend. I  
21 guess in my mind it would be a change in the operation,  
22 so it would be a step where the operation of the rivers  
23 would be different than they were before. As to whether  
24 there will be other steps or changes to the future, we  
25 don't know that.

01624

1 Q. But to --

2 A. It's really the timing of when the water will  
3 be released from the reservoirs.

4 Q. But to the degree that Bonneville is required  
5 to hold back additional water and so that there is, I  
6 believe, less maximum water available for hydro power  
7 purposes, that would tend to increase your costs,  
8 wouldn't it?

9 A. It can increase the costs, that's correct.  
10 Again, over the course of a year you will have the same  
11 amount of water, but it's the timing of the release of  
12 that water. And obviously the value of that power will  
13 be different as to whether it's released in June versus  
14 August or September or any other period.

15 Q. Well, to the extent that that is a factor  
16 that would tend to increase costs, wouldn't a shorter  
17 time frame actually be a benefit to the company?

18 A. In choosing water years?

19 Q. Yeah.

20 A. No, I don't think that it will, because the  
21 generation that is included in the case is based on the  
22 existing operation of all of the reservoirs and all of  
23 the hydro projects. And what this power pool does is  
24 they take the historical stream flows, basically the  
25 precipitation and the run off, and they run it through

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1 the existing hydro projects based on the existing  
2 operation of the reservoirs. So by doing the study in  
3 that manner, what you end up with then is the historical  
4 stream flow record run through existing projects and  
5 existing operations. And so the important thing is to  
6 make sure that your reservoir operations and your hydro  
7 plants are current. And once you have that, you can run  
8 any series of water years through it to figure out what  
9 your average power costs are.

10 COMMISSIONER HEMSTAD: That's all I have,  
11 thank you.

12

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

14 BY COMMISSIONER GILLIS:

15 Q. It all gets rather circular, but I want some  
16 additional clarification. I don't understand your point  
17 about the non-random errors, and I'm not quite sure  
18 what's the way to ask it. If you pictured a graph, a  
19 chart with an X and a Y axis, and you had a line that  
20 was fitted to random errors around the mean, mean over  
21 time I guess because it's time that we're talking about,  
22 then what you're saying is the longer the period of that  
23 time is, then you're going to minimize those errors,  
24 minimize the cumulative of some of those errors, right?

25 A. It really comes -- the long-term cumulative

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1 error that is reduced really is a function of choosing a  
2 series of water years and doing the math. For example,  
3 the data is updated every ten years, and so what was  
4 proposed here was that every ten years you drop ten, you  
5 add ten. And when you go through, and I can't remember  
6 how many years Mr. Winterfeld used, but if you go  
7 through, for example, 100 or 150 years and you use the  
8 first 40 and then you go to the next 40 and so on, then  
9 the application of that rolling methodology over time  
10 will cause you to have a lower cumulative error over  
11 that very long period of time if you use that rolling  
12 average as opposed to using the mean. In other words,  
13 as you add ten years, just add the next ten years, 60  
14 years. As you get ten more years, you add another ten  
15 years to get 70 years. And you use that and measure the  
16 variance of each year that way. So it's really the  
17 rolling method that causes you to get that long-term  
18 cumulative error. I had to do the math myself back in  
19 '85 to understand it.

20 Q. Yeah, well, the long-term cumulative error, I  
21 understand and agree with that, but talking about a  
22 forecast on a going forward basis, what we're looking  
23 for.

24 A. Yes.

25 Q. And what I didn't understand in your response



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1 is that it seems to me that a non-random error is a  
2 systematic change, and it's as opposed to a random error  
3 which is random.

4 A. Right.

5 Q. And a systematic change, I think I was trying  
6 to get you to visualize this line, because I would  
7 visualize it as either shifting the line up or down on  
8 the Y axis, and that's the way --

9 A. You're saying the non-random changes.

10 Q. For forecasting the future.

11 A. Yes.

12 Q. And the minimizing the long run cumulative  
13 error isn't the way I would at least intuitively think  
14 about the right way to forecast the future. When you  
15 forecast the future, you want to take advantage, take  
16 account of the systematic change that occurs.

17 A. Yes.

18 Q. And that would, in fact, be consistent with,  
19 at least as I understand the description of that rolling  
20 40 years average.

21 A. What we have included in this case is we have  
22 captured all the known, basically known and measurable  
23 non-random variables. We know what the operation of the  
24 reservoirs are, we know which contracts are in place for  
25 hydrogeneration, we know what our projects are. So in

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1 this case, we have captured all the non-random variables  
2 and included them based on what's known.

3           What we don't know is the random part, and  
4 that's where we have said the rolling method happens to  
5 choose a series of water years that has more above  
6 average than below average conditions. So we know based  
7 on this data that's available, we're going to set power  
8 costs at a lower level than we otherwise would if we had  
9 used the mean of all the data available.

10           So we have captured non-random pieces and  
11 reflected them in the case. What we have reflected on  
12 the random piece is all the data that's available from  
13 the Northwest Power Pool, and that's a 60 year study.  
14 Now we can look at this data and say, well, maybe 50 is  
15 better. And 50 is closer, you know, than a 60, and it's  
16 closer than a 40, so maybe that's the right one. Our  
17 concern is that the 40 year that's included here  
18 understates our power cost, because it includes water  
19 years that are higher than the average.

20           Q.       And your choice of 60 is because of that's  
21 the now data that's available essentially; is that  
22 right?

23           A.       Right, in the 15 years I have been doing  
24 this, we have always used the data that comes right out  
25 of the Northwest Power Pool study. It was 40 years

01629

1 originally. They added 10 years, it was 50, we used the  
2 50. Once they added the 60, we used the 60.

3 Q. And if you had 80 years?

4 A. We would use the 80.

5 Q. You would recommend 80 years?

6 A. Right.

7 Q. And that's because you're saying you have  
8 already captured the non-random piece?

9 A. We have. That's built into the model that's  
10 run. The model that's run to estimate the generation  
11 from each of the projects reflects the existing projects  
12 in place and the existing reservoir operation that's in  
13 place.

14 Q. Yeah, I think I understand that.

15 Now the other question I had is the relevance  
16 of the flows for the Clark Fork River versus the  
17 Columbia River where you have longer data is because  
18 that's where your projects are; is that right?

19 A. Right. About the majority of our  
20 hydrogeneration for the company is on the Clark Fork  
21 River, and then we have San Juan on the Spokane River,  
22 and then we have the contract hydro on the Columbia  
23 River.

24 Q. But in a dispatch model, I mean like that's  
25 what this is for, doesn't -- which one sets the price?

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1 I mean is it going to be the Columbia River, is it going  
2 to be the Clark Fork River, is it going to be a  
3 significant difference for practical purposes?

4 A. Okay. In the hydro generation that we  
5 include in the dispatch model, that data comes from the  
6 Northwest Power Pool. The generation for the Mid  
7 Columbia project that we have rights to is based on the  
8 flows on the Columbia River. And the generation for our  
9 Clark Fork projects comes from the actual flows for that  
10 60 year period on the Clark Fork, same thing with the  
11 Spokane River.

12 So the data that we get from the Northwest  
13 Power Pool is generation based on the flows that  
14 occurred on each of those respective tributaries. Once  
15 we have that information, then we put it into the  
16 dispatch model, and that sets the level of generation  
17 for each of the 60 years of the study.

18 Then what we do is we again get data from the  
19 Power Pool to estimate how much surplus is in the  
20 region, and that surplus based on the uses of that  
21 surplus is used to determine the market price for power.  
22 And generally speaking, when stream flows are low,  
23 prices are higher. When there's lots of surplus in the  
24 region, market prices are lower.

25 Q. I think the essence of my question, if we

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1 work with your theory, the longer the time period, the  
2 better for the data that you have for predicting the  
3 random, for minimizing those random errors for that  
4 piece.

5 A. Yes.

6 Q. And you have better data for the Columbia  
7 River system?

8 A. We have more data.

9 Q. You have more data?

10 A. Correct. And there has also been a study  
11 done to determine the correlation of the Clark Fork  
12 River versus the Mid Columbia. And there was a study  
13 that was referenced in this case which indicated that  
14 the correlation wasn't that good between the Clark Fork  
15 and the Mid Columbia.

16 COMMISSIONER GILLIS: That was my question,  
17 thank you.

18

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

20 BY CHAIRWOMAN SHOWALTER:

21 Q. Well, I'm beginning to see why the prior  
22 commissioners said put this issue to bed.

23 A. It is complicated, but it's a lot of money at  
24 stake, and it's important to us.

25 Q. So are you saying that it just so happens

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1 that the 40 years that would be picked here if we picked  
2 40 years happened to be a bad 40 years as measured by  
3 the mean of 114 years?

4 A. Yeah, I think you need to look at that and  
5 see. And again, what we're after here is what's fair  
6 and what's reasonable. And if we were to pick a series  
7 of years let's say down in here that include an abnormal  
8 number of below normal stream flow conditions, I don't  
9 know that I could say that that's the best series of  
10 water years to use.

11 Q. So your implicit benchmark here is the mean  
12 of 114 years; is that what you're measuring against?

13 A. I'm using that because that data is available  
14 for the Columbia River. And then on another page, I  
15 have the data for the Clark Fork River.

16 Q. Okay.

17 A. And again, I think we need to look at this to  
18 see, do we have a reasonable number of above average and  
19 below average water conditions to use for our average.  
20 And if we don't, then I think we need to take a look at  
21 it.

22 Q. Okay. Now on that 114 years, does that mean  
23 include or not include non-random events?

24 A. This data does not include non-random events.  
25 What this data represents, and the question was asked

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1 yesterday, I believe, well, why do you update every 10  
2 years. What they do is they go back to the actual flows  
3 that occurred during that 114 year period, and what they  
4 do is they adjust all of those actual flows that  
5 occurred for current levels of irrigation that came out  
6 of the rivers, other reasons that the water would be  
7 depleted. So they actually go back to each of the  
8 tributaries that flow into the Columbia River, and they  
9 adjust these stream flows every month for all of those  
10 114 years. They do that every time they update the  
11 data. So that there's -- you end up then with a series  
12 of stream flow conditions based on current level of  
13 irrigation and depletion.

14 Q. So it's, in effect, I don't know what the  
15 right word is, that it's normalized or for today's  
16 configuration?

17 A. In essence, that's what they have done. They  
18 have said how much water came down the river back then,  
19 and what's in place today that would change that and  
20 then make an adjustment for that.

21 Q. So in other words, if 114 years ago we had  
22 today's configuration, here's how much flow we would  
23 have had?

24 A. That's correct.

25 Q. So in essence, those charts are a purified

01634

1 version, purified meaning you have taken out the effect  
2 of the non-random events?

3 A. That's right, you have apples to apples.

4 Q. And you've updated it to today's  
5 configuration?

6 A. That's correct.

7 Q. Okay. So then in terms of future non-random  
8 events, you said, well, we know what contracts will end  
9 and we have taken those into account, right, you the  
10 company has?

11 A. Well, they're not reflected in this case,  
12 because they're still in place for this case. But in  
13 the year 2005, one of the Mid Columbia agreements  
14 terminates, and we won't have that level of generation  
15 anymore.

16 Q. So you're saying you don't want to count on  
17 that to offset what happens to be this 40 year?

18 A. Right.

19 Q. Below or above mean average?

20 A. That's correct. You can't count on it,  
21 because the contract terminates.

22 Q. So I mean one way is to go to a different set  
23 of years, not this 40 years but another 40 years or 50  
24 or 60. Another way would be to take our 40 years or 50  
25 years or whatever and say here we have it, but we know



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1 in the future certain things are going to happen,  
2 therefore let's incorporate that into our thinking in  
3 some way. Let's incorporate into our thinking the fact  
4 that these contracts are going to end, or let's  
5 incorporate into our thinking the risks that the  
6 biological opinion will change the configuration. That  
7 is, can we treat those events, those that we know that  
8 will happen and maybe those that we think may well  
9 happen independently from what rolling average or  
10 average we pick?

11 A. Are you saying you go out and you recognize  
12 that this is going to go away, and so therefore there's  
13 not going to be an offset and you bring that adjustment  
14 back to today?

15 Q. Essentially yes. What I'm saying is we would  
16 take some average, it may not be the 40 that you don't  
17 like or it may be, but then perform an adjustment on it  
18 based on non-random events that we know will occur or  
19 non-random events we think will occur. But I guess the  
20 question I'm getting at is that it doesn't seem to me  
21 that those non-random future events really do or don't  
22 invalidate or validate what group we take. It's just  
23 that you object to the 40 years that we would happen to  
24 end up with, and you would be worried that things will  
25 not come out in the wash because of the non-random

01636

1 events.

2 A. Based on the information that we know today,  
3 it won't come out in the wash, and that's our concern.

4 Q. Okay.

5 A. You know, you could make some adjustments  
6 today for those events, and it would be difficult to try  
7 to estimate what those are because -- I suppose you  
8 could make an estimate.

9 Q. Well, it could cause us to go in one  
10 direction or another or be more conservative or not  
11 based on if we thought, well, the effect of the probable  
12 non-random events in the future is to raise the costs  
13 for the company. I mean that the trend, if you want to  
14 call it a trend, but I think the probability is that  
15 discreet events in the future will raise costs. That  
16 would be either a discreet adjustment we make, or it  
17 might affect our judgment in terms of what kind of  
18 average or set of years we pick.

19 A. Right.

20 Q. Okay. A couple -- I asked Mr. Buckley a few  
21 questions yesterday, and I just want to ask you on the  
22 same topics. One is on Bonneville Power on the  
23 subscription allocation.

24 A. Yes.

25 Q. First of all, do you agree that the company

01637

1 has not incorporated that into its proposal?

2 A. It has not been included, and the reason it  
3 hasn't been included is that any subscription power  
4 benefits it would get, my understanding is they would  
5 begin in October of 2001, and that's beyond the rate  
6 year, the known and measurable data that we have  
7 captured here.

8 Q. So how would you propose in a general way  
9 that that be treated if it -- when it becomes available?

10 A. Well, I think once that begins, and my  
11 understanding is I guess I don't know all the details  
12 there, but I think the benefits there related to, you  
13 know, residential and customers basically, and so I  
14 think we need to capture those benefits and track them  
15 and reflect them in one way or another in our rates.  
16 Whether we defer them for some period and then deal with  
17 them, I guess I'm not sure what the best way to do that  
18 is yet, and I don't think we know exactly what they are  
19 yet. But as we get close to that, we need to be talking  
20 and figuring out the best way to get those reflected in  
21 the rates.

22 Q. Okay. And then there was some discussion  
23 yesterday about the dispatch model and the market  
24 transaction proposal of Mr. Buckley. And am I correct  
25 that the company is uncomfortable with the balance of

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1 risks and benefits between the rate payers and the  
2 company that would result or that are inherent in that  
3 recommendation?

4 A. Yes, and just to make sure I understand,  
5 you're talking about Mr. Buckley's proposal to include I  
6 believe it's \$3 1/2 Million in this case, right.  
7 Mr. Buckley is, you know, he has identified what he  
8 believes are low risk opportunities. But the, you know,  
9 we operate in a very competitive market, and I think he  
10 suggested in his testimony that there may be  
11 opportunities to buy at less than market, sell at  
12 market, or you buy at market and sell at more than  
13 market. And with the market that we're involved in now,  
14 it's very competitive, very volatile, and there are  
15 very, very few opportunities where you know of someone  
16 who is willing to sell at below market and you can buy  
17 it and make a profit at it. It just doesn't happen.

18 And Mr. Hirschhorn put together an exhibit to  
19 show the operation of our hydro system, the way our  
20 system is run to serve our loads. And we're operating  
21 our system to the maximum. We operate the hydro system  
22 to the maximum during heavy load hours, and we back it  
23 off during light load hours. All that is reflected in  
24 the case that we filed.

25 And my concern with Mr. Buckley's analysis is

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1 that he suggested there's value that hasn't been  
2 proposed in the case, and I don't see any value that  
3 hasn't been reflected already in the case. And we had  
4 asked in data requests for him to identify specifically  
5 what that value is, and he referred to personnel  
6 benefits and technology and transmission. But he  
7 offered no examples or no identification of what those  
8 -- of how we arrived at those benefits. And we have  
9 included the full value of operating our system in this  
10 case.

11 And to go beyond that, you get into this  
12 speculative arena of having to buy on a speculative  
13 basis, buy low, sell high to try to make a profit. And  
14 you may have seen the recent press release that the  
15 company issued stating that the company is no longer  
16 going to enter into wholesale transactions that are  
17 unrelated to operating in system for our customers.

18 Q. So you probably made my next question  
19 unnecessary. I was going to ask you whether you had  
20 considered ways to share the risk in an appropriate way  
21 between rate payers and shareholders. I think your  
22 answer is there is really not anything there to share.

23 A. I think we have taken enough risk, and we  
24 have decided we're not going to do that anymore. So  
25 we're simply going to operate our system to serve our

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1 load, and that gets into running your hydro system hard  
2 during the on-peak hours to serve your load, and what  
3 you need you buy, and if you're surplus, you sell it,  
4 and that's what's reflected in our case here.

5 CHAIRWOMAN SHOWALTER: I think that's all the  
6 questions I have. Thank you.

7

8

E X A M I N A T I O N

9 BY COMMISSIONER HEMSTAD:

10 Q. I just wanted to -- something else -- you  
11 answered the first question I asked about long-term  
12 cumulative error and what it means, but I want to come  
13 back to that. And what does the term error mean here in  
14 the water record context? Is it an error in water flow,  
15 or is it an error in power costs or is it --

16 A. It's really a difference from the mean of the  
17 data basically.

18 Q. So, well, error in that sense then is in the  
19 context of water flow, it really gets back to the  
20 question that the Chair asked yesterday, would a model  
21 that throughout the high and low years deal with that  
22 better?

23 A. Would you state that again, please, I'm  
24 sorry.

25 Q. That coming up with a normalizing process if

01641

1 you threw out the worst water years.

2 A. Okay.

3 Q. And the best water years. Would that be a  
4 mechanism to better deal with this issue? I would  
5 assume probably lots of other people have thought about  
6 this.

7 A. Right. I heard that yesterday, and we talked  
8 a little bit about that, and I guess the things that ran  
9 through my mind was, you would still need to pick, you  
10 know, what years are you going to -- are you going to  
11 pick that you would throw the high and the low out.

12 And the other concern there is that during  
13 the low water years, prices tend to be higher, and so  
14 that's going to cost you X amount of money. During the  
15 good water years, prices tend to be lower, and the value  
16 you get in the good years is not as much as what you  
17 lost down here. So if you threw out an equal number of  
18 highs and lows, asymmetrical, ideally what we would do  
19 here is we would put in a power cost estimate mechanism  
20 so that every year you true up the difference from what  
21 you put in -- what you authorized in this case, and then  
22 this whole 40, 50, 60 year issue kind of dies, because  
23 you're basically truing up to what the actual is.

24 Q. I'm not making a comment on the ultimate  
25 resolution of that issue, but that presents its own sets

01642

1 of problems, excuse me, I mean a different set of  
2 problems, or let's say problems don't all of a sudden  
3 all go away.

4 A. Is that a question?

5

6

E X A M I N A T I O N

7 BY COMMISSIONER GILLIS:

8 Q. I have one more question too. Yesterday  
9 Mr. Buckley had made a comment about the power costs  
10 seemed to be less linked to water supply than in the  
11 past. Do you agree with that?

12 A. I do agree with that. Recently, well, just  
13 as an example, in June, we just finished the month of  
14 June, that's typically a run off month. The heavy load  
15 index price at the Mid Columbia printed at \$180 per  
16 megawatt hour. That's, you know, in any kind of water  
17 condition, that's very unusual.

18 And I think that's one of the reasons that  
19 the PCA mechanism is so important to the company is that  
20 now we've got a situation where not only are hydro  
21 conditions unpredictable and variable over time, but you  
22 also have market prices now that appear to be much less  
23 correlated to hydro conditions, and they're also  
24 unpredictable. And for both of those, we don't have  
25 control of either one of those variables, and they are



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1 significant.

2           And if you look on the gas side for our gas  
3 business, you have a case where we purchase natural gas,  
4 those costs are also unpredictable and really  
5 essentially beyond our control. We tend to buy natural  
6 gas at index prices and do have a tracking mechanism.

7           And we're to the point now on the electric  
8 side where we rely to some degree on short-term  
9 resources to serve our load. And with the variability  
10 in the prices, we really need to be able to true that  
11 up. If the prices are lower than what's in our rates,  
12 then we ought to pass that on. If they're higher, then  
13 we recover that.

14           So we really do have two major variables now  
15 that are very unpredictable, and we can't control the  
16 market prices of the Mid C, and we can't control the  
17 amount of precipitation that we get every year.

18           And the mechanism that we proposed here is  
19 really scaled down. That's down to where you -- you  
20 basically are tracking costs associated with water and  
21 market prices.

22           And in listening to Mr. Buckley yesterday, I  
23 think the issues have really been narrowed to maybe just  
24 a couple of issues where you have a question about do  
25 you reduce your rate of return, is there a reduction in

01644

1 risk.

2           And in talking with the company personnel, if  
3 that's what it takes to get it, then I think in the  
4 Puget case several years ago, there was a reduction of  
5 about 10 to 15 basis points return on equity related to  
6 implementing a tracking mechanism at that time. If  
7 that's what it takes, then we should reduce our return  
8 on equity by 10 or 15 basis points and implement it.  
9 But it's a very simplified method.

10           I think we resolved the majority of the  
11 issues, and I think it's been eight months now that we  
12 have been looking at this, and I think that we ought to  
13 put it in place and give it a shot. If there is a  
14 problem with it, we can always revisit it later on and  
15 make adjustments if we need to. But it's very similar  
16 to the one that's been in place in Idaho for 12 years.

17           Q.     The specific question I had for you is, does  
18 that trend have any implications for your dispatch model  
19 that we have been discussing?

20           A.     I think it does. I think we need to take a  
21 look at that as we go to the future. And again, in any  
22 model that you run to estimate power costs, you need to  
23 step back from it and ask the question, is it  
24 reasonable. And if I were to refile the power costs in  
25 this case, I certainly wouldn't use an average purchase

01645

1 price of \$22 per megawatt hour. And the market prices  
2 that we -- I mean the prices for tomorrow are over \$80.  
3 And for Q3 unit, you're looking at \$100 for pricing.  
4 And even in '99, the prices were \$27. So we really  
5 understated our power costs in this case, and as far as  
6 the modeling, I think we do need to revisit that in the  
7 future, that correlation between market pricing and  
8 hydro conditions.

9 COMMISSIONER GILLIS: Thank you.

10 JUDGE SCHAER: Let's go off the record for  
11 just a minute to discuss scheduling.

12 (Discussion off the record.)

13 JUDGE SCHAER: We're going to break now,  
14 Mr. Norwood, and then continue tomorrow with the  
15 remainder of the questions from the Bench. And then any  
16 redirect and recross, I believe this break will allow  
17 everyone to write very efficient questions, if any, for  
18 the redirect and recross.

19 And so tomorrow morning is the Commission  
20 open meeting. You will need to move papers off the  
21 tables. You don't have to necessarily move them out of  
22 the room, but probably stack them in a corner somewhere  
23 out of the way.

24 And we will reconvene tomorrow at 1:30.

25 Please be here about 1:20 in case we have anything we

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1 need to talk about.

2 We're off the record.

3 (Hearing recessed at 5:20 p.m.)

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