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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 WASHINGTON UTILITIES AND)
4 TRANSPORTATION COMMISSION,) Docket No. UE-031725
5 Petitioner,) Volume II
6) Pages 51 to 248
7) vs.)
8 PUGET SOUND ENERGY, INC.,)
9) Respondent.)
10 _____)

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11 PORTIONS DESIGNATED CONFIDENTIAL

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14 A hearing in the above matter was held on
15 February 23, 2004, from 9:45 a.m to 4:45 p.m., at 1300
16 South Evergreen Park Drive Southwest, Room 206, Olympia,
17 Washington, before Administrative Law Judge DENNIS MOSS
18 and Chairwoman MARILYN SHOWALTER and Commissioner
19 RICHARD HEMSTAD and Commissioner PATRICK J. OSHIE.

20

21 The parties were present as follows:
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23 Assistant Attorney General, 1400 South Evergreen Park
24 Drive Southwest, Post Office Box 40128, Olympia,
25 Washington, 98504. Telephone (360) 664-1188, Fax (360)
586-5522, E-Mail bcedarba@wutc.wa.gov.

24 Joan E. Kinn, CCR, RPR
25 Court Reporter

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2 LISA HARDIE, Attorneys at Law, Heller Ehrman White &
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4 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
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241-8160, E-Mail mail@dvclaw.com.

7 COGENERATION COALITION OF WASHINGTON, by
8 DONALD E. BROOKHYSER, Attorney at Law, Alcantar & Kahl,
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10 THE PUBLIC, via bridge line by SIMON FFITCH,
11 Assistant Attorney General, 900 Fourth Avenue, Suite
12 2000, Seattle, Washington, 98164-1012, Telephone (206)
389-2055, Fax (206) 389-2058, E-Mail simonf@atg.wa.gov.

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1 (The following exhibits were premarked for
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4 BENCH EXHIBITS

5 1 Stipulation Between PSE and WUTC Staff
6 Regarding Weather Normalization Adjustment

7

8 WILLIAM A. GAINES

9 PSE

10 11 WAG-1T: Prefiled Direct Testimony

11 12 WAG-2: Witness Qualifications

12 13 WAG-3: Puget Energy's Five-Year Strategic
13 Plan

14 14 WAG-4: Overview of PSE Loads and Resources
15 2001-2010--Load Resource Balance February 2002

16 15 WAG-5: Overview of PSE Loads and Resources
17 2001-2010--August 26, 2002

18 16 WAG-6: PSE Internal Memorandum--George
19 Pohndorf to Energy Resources Committee, May
20 27, 2002, RE: WTUC Prudence Standard

21 17 WAG-7: PSE General Rate Case Docket Nos.
22 UE-011570 and UG-011571--Exhibit A to
23 Settlement Stipulation--Settlement Terms for
24 the Power Cost Adjustment Mechanism (PCA)

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1 18 WAG-8: Chart: Observed Runoff - Above Grand
2 Coulee--Water Year 2003 (Oct'02-Sep'03)
3 Chart: Hydrogeneration
4 19 WAG-9: Chart: Actual PCA 1 vs. PCA Settlement
5 Flat Heat Rate
6 20 WAG-10: PSE's Power Supply Portfolio
7 21 WAG-11: Letter of January 2, 2003 from Karl
8 Karzmar to the Commissioners, with
9 attachments, RE: Disposition of PSE's Nooksack
10 Hydro Facility
11 22 WAG-12: Whitehorn 2&3 Lease Renewal Analysis
12 23 WAG-13: Exhibit Supporting Snoqualmie Falls
13 Relicensing
14 24 WAG-14: The Aurora Dispatch Model
15 25 WAG-15: PCORC Power Cost Projections Rate
16 Year AURORA + Non-AURORA Power Costs
17 26 WAG-16: PCORC Power Cost Projections vs. 2002
18 Rate Case Power Cost Projections
19 27 Via adoption of C. J. Black prefiled
20 testimony.
21 WAG-17ST: First Supplemental Direct Testimony
22 (12/22/2003) (adopts CJB-1T: Prefiled Direct
23 Testimony: portions of pp. 4, 5-9, 23-41)
24 28 Via adoption of C. J. Black exhibits.
25 CJB-3: Least Cost Plan, April 30, 2003

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1 29 Via adoption of C. J. Black exhibits.
2 CJB-21: Eight Portfolio Planning Levels,
3 April 2003 LCP
4 30 Via adoption of C. J. Black exhibits.
5 CJB-22: Need for New Energy at Various
6 Planning Levels, April 2003 LCP
7 31 Via adoption of C. J. Black exhibits.
8 CJB-23: Need for New Capacity at Various
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10 32 Via adoption of C. J. Black exhibits.
11 CJB-24: Seasonal Variation in Need for New
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13 33 Via adoption of C. J. Black exhibits.
14 CJB-25: Portfolio Descriptions, April 2003
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16 34 Via adoption of C. J. Black exhibits.
17 CJB-26: Expected Cost of Different Planning
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19 35 Via adoption of C. J. Black exhibits.
20 CJB-27: Expected Cost Across Energy Levels
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23 CJB-28: Expected Cost Across Capacity Levels
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1 37 Via adoption of C. J. Black exhibits.
2 CJB-29: Expected Cost vs. Risk
3 38 Via adoption of C. J. Black exhibits.
4 CJB-30: Regional Load Resource Balance
5 39 Via adoption of C. J. Black exhibits.
6 CJB-31: Deferral Analysis
7 40 Via adoption of C. J. Black exhibits.
8 CJB-32: Need for New Energy and Capacity
9 Resources April 2003 LCP
10 41 (a/k/a 177) Via adoption of C. J. Black
11 exhibits.
12 CJB-33: Need for New Energy and Capacity
13 Resources August 2003 LCP Update
14 (also adopted in part by Eric M. Markell)
15 42 (a/k/a 178) Via adoption of C. J. Black
16 exhibits.
17 CJB-34: Determination of Need, Updated
18 (also adopted in part by Eric M. Markell)
19 43 Via adoption of C. J. Black exhibits.
20 CJB-35: Impact of Technology Mix on Expected
21 Cost and Risk
22 44 Via adoption of C. J. Black exhibits.
23 CJB-36: 10-Year Resource Addition Strategy,
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25 45 WAG-18T: Rebuttal Testimony filed 2/13/2004

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1 46 WAG-19: PCORC Rebuttal Power Cost Projections
2 - Rate Year AURORA + Non-AURORA Power Costs
3 47 WAG-20: PCORC Power Cost Projections vs. 2002
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5 48C WAG-21C: PSE Response to Staff DR No. 70
6 49C WAG-22C: PSE Response to ICNU DR No. 2.05
7 50C WAG-23C: PSE Response to ICNU DR No. 2.08
8 51 WAG-24: Time Line Depicting PSE Management of
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10 52 WAG-25: Transcript from WUTC Open Meeting,
11 12/10/97 Re PSE Accounting Petition
12 53 WAG-26: PSE Response to Staff DR No. 4 in
13 Docket No. UE-971619
14 54 WAG-27: PSE Response to Staff DR No. 45
15 55C WAG-28C: PSE Response to Staff DR No. 48
16 56 WAG-29: PSE 2000-2001 Gas and Electric Least
17 Cost Plan
18 57 WAG-30: Historical Overview of the Natural
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20 58 WAG-31: Pie Charts: Resource Mix Before and
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22 59C WAG-32C: Exhibit E to PSE Accounting Order
23 Petition
24 60C WAG-33C: Gas Commodity Price Forecasts
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2 Quotes, and Forecasts as of January 1988
3 62C WAG-35C: PSE Second Supplemental Response to
4 Staff DR No. 58
5 63C WAG-36C: Report of Risk Management Committee
6 Meeting--10/8/97
7 64 WAG-37: BPA Power Subscription Strategy
8 Proposal--September 18, 1998
9 65 WAG-38: PSE Minute Excerpt from the July 9,
10 1996 Board of Directors' Meeting
11 66C WAG-39C: PSE Second Supplemental Response to
12 Staff DR No. 58 (4 e-mails)
13 67C WAG-40C: PSE Response to Staff DR No. 13A in
14 Docket No. UE-031389
15 68C WAG-41C: PIRA Energy Group U.S. Gas Market
16 Forecast, 12/22/1999
17 69C WAG-42C: Historical Daily Power and Natural
18 Gas Prices
19 70 WAG-43: PSE Sumas Gas Price Comparison
20 71 WAG-44: Collection of Press Reports
21 72C WAG-45C: PSE Response to Staff DR No. 91-1 in
22 Docket Nos. UE-011570/UG-011571
23 73C WAG-46C: Third Party Price Forecast
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1 74 WAG-47: PIRA Energy Group U.S. Gas Market
2 Forecast, March 26, 2001 - September 25, 2001
3 75C WAG-48C: PSE Response to Staff DR No. 7 in
4 Docket Nos. UE-011163 and UE-011170
5 76 WAG-49: Staff Open Meeting Memo of January
6 11, 2001, in re Docket No. UG-001934
7 ICNU CROSS-EXAMINATION
8 77 ICNU Cross-Exhibit No. 1: Excerpts of PSE's
9 First Supplemental Response to ICNU Data
10 Request No. 5.01 (PSE Risk Management
11 Committee Minutes Jan. 1, 1998 to Present -
12 Organized by Date)
13 78 ICNU Cross-Exhibit No. 2: Excerpt of PSE's
14 Response to Staff Data Request No. 58 (PSE's
15 Response to Staff Data Request No. 2 in
16 UE-031389)
17 79 ICNU Cross-Exhibit No. 3: Excerpt of PSE's
18 Response to Staff Data Request No. 58 (PSE's
19 Response to Staff Data Request No. 3 in
20 UE-031389)
21 80HC ICNU Cross Exhibit No. 4: Excerpt of PSE's
22 Response to Staff Data Request No. 3.15 (PSE
23 Review of 2004 Power Costs and Margin
24 Uncertainty, RMC Meeting. 11 Dec 03)
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1 81 ICNU Cross Exhibit No. 5: Spreadsheet
2 depicting effective cost of gas for Tenaska
3 STAFF CROSS-EXAMINATION
4 82 (same as 247) 19th Supplemental Order, Docket
5 Nos. UE-921262, et al.
6 83 (same as 248) 20th Supplemental Order, Docket
7 Nos. UE-921262, et al.
8 84 1997 Annual Report to Shareholders, pp. 5, 8
9 and 28
10 85 1998 Annual Report to Shareholders, pp. 2, 3,
11 31 and 32
12 86 2000 Annual Report to Shareholders, pp. 3 and
13 16
14 87 (in Exh. 77) June 9, 2000 Risk Management
15 Committee Meeting
16 88 June 13, 2000 Risk Management Committee
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18 89 (in Exh. 77) July 25, 2000 Risk Management
19 Committee Meeting
20 90 April 4, 2000 Board of Directors presentation
21 91C PSE Response to Staff Data Request No. 89
22 ICNU CROSS-EXAMINATION
23 92 ICNU Cross Exhibit No. 6 (William Gaines): PSE
24 Response to ICNU DR 6.11
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1 93C ICNU Cross Exhibit No. 7 (William Gaines): PSE
2 Response to ICNU DR 6.10
3 94 ICNU Cross Exhibit No. 8 (William Gaines): PSE
4 Response to ICNU DR 6.14
5 95C ICNU Cross Exhibit No. 9 (William Gaines): PSE
6 Response to ICNU DR 6.01
7 96C ICNU Cross Exhibit No. 11 (William Gaines):
8 PSE Revised Response (2-16-04) to Staff DR 3
9 97 (admitted on Schoenbeck redirect) ICNU Cross
10 Exhibit No. 12

11

12 MICHAEL GRANOWSKI

13 PSE

14 101 (adoption of C.J. Black prefiled testimony)
15 MG-1T: Prefiled Direct Testimony
16 (portions of pp. 10-23, 41-44, 46, 47 of
17 Mr. Black's prefiled direct)
18 102 MG-2: Witness Qualifications
19 106 Via adoption of C. J. Black exhibits.
20 CJB-6: PSE Least Cost Plan Analysis Flowchart
21 107 Via adoption of C. J. Black exhibits.
22 CJB-7: Load Forecast (aMW) for April 2003
23 Least Cost Plan

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1 108 Via adoption of C. J. Black exhibits.
2 CJB-8: Load Forecast (aMW) for August 2003
3 Update Least Cost Plan
4 109 Via adoption of C. J. Black exhibits.
5 CJB-9: Existing Resources--April 30 Least
6 Cost Plan
7 110 Via adoption of C. J. Black exhibits.
8 CJB-10: Existing Resources--August 2003 Least
9 Cost Plan Update
10 111 Via adoption of C. J. Black exhibits.
11 CJB-11: Generic Resource Characteristics for
12 April 2003 LCP
13 112 Via adoption of C. J. Black exhibits.
14 CJB-12: Revised Generic Resource
15 Characteristics and Efficiency Improvements
16 for August 2003 LCP Update
17 113 Via adoption of C. J. Black exhibits.
18 CJB-13: Economic Assumptions for New Electric
19 Generating Resources, April 2003 LCP
20 114 Via adoption of C. J. Black exhibits.
21 CJB-14: Economic Assumptions for New Electric
22 Generating Resources, August 2003 LCP Update
23 115 Via adoption of C. J. Black exhibits.
24 CJB-15: Achievable Electricity Conservation
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3 CJB-16: Gas Price Forecasts used for the

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5 117 Via adoption of C. J. Black exhibits.

6 CJB-17: Gas Price Forecasts used for the

7 August 2003 LCP Update

8 118 Via adoption of C. J. Black exhibits.

9 CJB-18: AURORA Electric Price Forecasts for

10 the April 2003 LCP

11 119 Via adoption of C. J. Black exhibits.

12 CJB-19: AURORA Electric Price Forecasts for

13 the August 2003 LCP Update

14 120 Via adoption of C. J. Black exhibits.

15 CJB-20: Portfolio Screening Model Inputs

16 121 Via adoption of C. J. Black exhibits.

17 CJB-37: Conservation Cost with Acceleration

18 122 Via adoption of C. J. Black exhibits.

19 CJB-39: Impact of CO2 Credit Prices on

20 Generation Technologies

21 123 Via adoption of C. J. Black exhibits.

22 CJB-42: Comparison of AURORA and Portfolio

23 Screening Models

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1 ERIC M. MARKELL

2 PSE

3 131 EMM-1T: Prefiled Direct Testimony

4 132 EMM-2: Witness Qualifications

5 133HC EMM-3C/HC: Presentation to Board of Directors

6 on October 7, 2003: Update on Electric

7 Resource Strategy and Recommendation for

8 Frederickson 1 Acquisition

9 134HC EMM-4C/HC: Memorandum on the Acquisition of

10 49.85% of EPCOR's Interests in the

11 Frederickson 249.3 MW (Nominal) Single-Unit,

12 Natural Gas-Fired, Combined Cycle Generating

13 Facility located in Frederickson WA

14 135 EMM-5: Planned Pacific Northwest Power Plant

15 Additions

16 136HC EMM-6HC: Summary of Presentations to Board of

17 Directors during 2002 and 2003

18 137 EMM-7: Load & Resource Outlook

19 138HC EMM-8HC: Progress Report--Generation Planning

20 139HC EMM-9HC: Power Resource Acquisition Team

21 Weekly Progress Review

22 140HC EMM-10HC: Resource Acquisition Opportunity

23 Review; Update to Board of Directors, January

24 6, 2002

25 141 EMM-11: Discussion of Business Context

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1 142 EMM-12: Least Cost Plan Report
2 143HC EMM-13C/HC: Resource Acquisition Team Report
3 144HC EMM-14C/HC: Resource Planning and Acquisition
4 Update to the PSE Board of Directors March 7,
5 2003
6 145HC EMM-15HC: Resource Acquisition Updated to the
7 PSE Board of Directors, April 16, 2003
8 146HC EMM-16HC: Presentation to the Board of
9 Directors: Resource Planning Acquisition
10 Update July 8, 2003
11 147HC EMM-17C/HC: Energy Resources Group: 5-Year
12 Capital and Expenses Plan
13 148HC EMM-18HC: Power Resource Acquisition Team
14 Financial Prioritization of Opportunities,
15 December 4, 2002
16 149 EMM-19: Request for Expression of Interest
17 for Generation Facility, September 16, 2002
18 150HC EMM-20HC: Summary of Non-Financial Screening
19 Criteria
20 151 EMM-21: Solicitation of Proposals for Power
21 Purchase Agreements
22 152HC EMM-22HC: PPA Evaluation Process, January 14,
23 2003
24 153HC EMM-23HC: PPA Evaluation Process Status
25 Report

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1 154HC EMM-24HC: Power Resource Acquisition Team
2 Weekly Progress Review, February 5, 2003
3 155 EMM-25: Final Report: Assessment and Report
4 on Self-Build Generation Alternative for PSE's
5 2002-2003 Least Cost Plan
6 156 EMM-26: Memorandum of September 24, 2003,
7 from Doug Lauver, Tenaska, to Charlie Black,
8 PSE
9 157 EMM-27: Power Resource Acquisition Team
10 Summary of Tenaska Report, February 19, 2003
11 158HC EMM-28HC/AC: Due Diligence Training, 4/11/03
12 159HC EMM-29HC: Comparison of Initial Offer to
13 Final Price
14 160C EMM-30C: Standard & Poor's Corporate Finance
15 Criteria
16 161HC EMM-31HC: Project Comparison
17 162HC EMM-32HC: Project Comparison
18 163HC EMM-33HC: PSE Minutes of the Board of
19 Directors' Meeting October 7, 2003
20 164 EMM-34: Ranking of EPCOR Fossil Fuel Fired
21 Plants by the Canadian Electricity Association
22 165 EMM-35: Probabilistic Analysis of Risk
23 Factors
24 166C EMM-36C: Market Dependent Comparison
25 167HC EMM-37C/HC: Purchase and Sales Agreement

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1 168HC EMM-38C/HC: Joint Ownership Agreement
2 169HC EMM-39C/HC: Operation and Maintenance
3 Agreement
4 170HC EMM-40C/HC: Shared Services, Cooperation and
5 Indemnification Agreement
6 171 EMM-41: Map showing location of Frederickson
7 Power, L.P. and Plat of Plant Site
8 172HC EMM-42C/HC: Purchase Price Estimate
9 173C EMM-43C: Natural Gas for Power--Fuel
10 Management Strategy: Integration of
11 Frederickson 1 Plant Acquisition
12 174 Via adoption of C. J. Black prefiled
13 testimony.
14 EMM-44ST: First Supplemental Direct Testimony
15 (12/22/2003) (adopts portions of Charles J.
16 Black's testimony and exhibits)
17 175 Via adoption of C. J. Black exhibits.
18 CJB-4: Least Cost Plan Update, August 2003
19 176 Via adoption of C. J. Black exhibits.
20 CJB-5: Comparison of Need Between Least Cost
21 Plan, With and Without Conservation
22
23
24
25

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1 177 (a/k/a 41) Via adoption of C. J. Black
2 exhibits.
3 CJB-33: Need for New Energy and Capacity
4 Resources August 2003 LCP Update
5 (Also adopted in part by William A. Gaines)
6 178 (a/k/a 42) Via adoption of C. J. Black
7 exhibits.
8 CJB-34: Determination of Need, Updated
9 (Also adopted in part by William A. Gaines)
10 179 Via adoption of C. J. Black exhibits.
11 CJB-38: Updated Resource Strategy
12 180 Via adoption of C. J. Black exhibits.
13 CJB-40: Draft Conservation Program
14 181 Via adoption of C. J. Black exhibits.
15 CJB-41: PSE Resource Acquisition Strategy
16 August 25, 2003
17 182 EMM-45T: Rebuttal Testimony
18 183 EMM-46: PSE Power Point Presentation:
19 Bringing Order from Chaos
20 184HC EMM-47HC: PSE Response to DR No. 68
21
22 JULIA M. RYAN
23 PSE
24 191 JMR-1T: Prefiled Direct Testimony
25 192 JMR-2: Witness Qualifications

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1 193C JMR-3C: PSE Energy Supply Hedging and
2 Optimization Procedures Manual
3 194 JMR-4: Managing Energy Risk
4 195C JMR-5C: Gas Counter-Parties; Electric
5 Counter-Parties
6 196 JMR-6: Regulated Utilities below investment
7 grade and/or filed for Chapter 11 (October
8 2003)
9 197C JMR-7C: PSE Inc's POWER Suppliers' Credit
10 Ratings (Senior Unsecured Debt Rating, unless
11 noted otherwise) as of 10/10/03; PSE Inc's GAS
12 Suppliers' Credit Ratings (Senior Unsecured
13 Debt Rating, unless noted otherwise) as of
14 10/10/03
15 198C JMR-8C: Financial Counter-Parties/Rating
16 Triggers
17 199 JMR-9: Upgrading the Capacity and Reliability
18 of the BPA Transmission System; Report to the
19 Infrastructure Technical Review Committee
20 200 JMR-10: Map showing NW Constrained Paths
21 201 JMR-11T: Rebuttal Testimony filed 2/13/2004
22 202C JMR-12C: PSE Response to Staff DR No. 33(C)
23 203C JMR-13C: PSE Response to Staff DR No. 34(C)
24 204C JMR-14C: PSE Response to Staff DR No. 51 (C)
25

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1 205C JMR-15C: PSE response to Staff DR No. 58 (DRs
2 12 &13 in Docket No. UE-031389
3 206C JMR-16C: PSE Response to ICNU DR No. 3.15
4 207C JMR-17C: PSE Response to ICNU DR No. 4.07
5 208 JMR-18: PSE Response to ICNU DR No. 5.01

6 ICNU CROSS-EXAMINATION

7 209C ICNU Cross Exhibit No. 10 (Julia Ryan):
8 Additional PSE Risk Management Committee
9 Documents provided by PSE on 2-20-04 in
10 Response to ICNU DR 5.01

11

12 JOHN H. STORY

13 PSE

14 211 JHS-1T: Prefiled Direct Testimony
15 212 JHS-2: Witness Qualifications
16 213 JHS-3: Total Revenue Requirement Table
17 214 JHS-4: Power Cost Rate, Test Year Actual 2003
18 Test Year with Adjustments
19 215C JHS-5C: Power Cost Rate, Twelve Months Ended
20 June 30, 2003
21 216 JHS-6: PSE Revenue Requirement PCORC Compared
22 to June 2001 General Rate Case Settlement 40%
23 Equity/7.30% Net of Tax Rate of Return
24 217 JHS-7: Allocation of New Resource Cost

25

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1 218 JHS-8: Statement of Pro Forma and Proposed
2 Revenues
3 219 JHS-9: Proposed Revised and Original Tariff
4 Sheets
5 220 JHS-10T: Rebuttal Testimony (February 13,
6 2004)
7 221 JHS-11: Adjustments to Power Cost Rate
8 222C JHS-12C: Power Cost Rate Calculations for 12
9 Months Ended June 30, 2003
10 223 JHS-13 PSE Revenue Requirement PCORC compared
11 to June 2001 GRC Settlement
12 224 JHS-14: Explanation of Differences in the
13 Revenue Deficiency Calculated in JHS-6
14 (Original Filing) and JHS-13 (Rebuttal
15 Testimony)
16 225 JHS-15: Allocation of PCORC Revenue
17 Requirement
18 226 JHS-16: Statement of Proforma and Proposed
19 Revenues
20 227 JHS-17: Correspondence of January 5, 2004
21 from Department of Revenue to D. Michael
22 Young, Partner KPMG
23 STAFF CROSS-EXAMINATION
24 228 Standards of Financial Accounting and
25 Reporting (excerpt)

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1 DONALD W. SCHOENBECK
2 ICNU
3 231C DWS-1TC: Prefiled Response Testimony
4 232 DWS-2: Witness Qualifications
5 233C DWS-3C: Colstrip Availability
6 234 DWS-4: March Point Generation
7 235C DWS-5C: NYMEX Gas Forecast
8 236C DWS-6C: Risk Assessment Description
9 237C DWS-7C: Market Fundamentals Report, Dec. 2003
10 238 DWS-8: CEC NARG Model
11 239C DWS-9C: Summary of PSE Call Option
12 Calculation
13 240C DWS-10C: PSE Call Option Price Support
14 241C DWS-11C: RMC Presentation--Update on Winter
15 Peaking Capacity Purchases--1 May 2003
16 242C DWS-12C: RMC Meeting Minutes of May 1, 2003
17 243HC DWS-13HC: RMC Hedging Margin Risk--December
18 18, 2003
19 244C DWS-14C: Tenaska--Exhibit B--Buyout Update
20 245 DWS-15: Tenaska Gas Management
21 (non-confidential portion of PSE response to
22 ICNU DR 2.06)
23 246 DWS-16: ICNU Rate Spread Recommendation
24
25

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1 PSE CROSS-EXAMINATION
2 247 (same as 82) PSEEX-1: 19th Supplemental Order
3 - UE-921262
4 248 (same as 83) PSEEX-2: 20th Supplemental Order
5 - UE-921262
6 249 PSEEX-3: ICNU's Response to PSE's DR#4
7 250 PSEEX-4: ICNU's Response to PSE's DR#5
8 251 PSEEX-5: ICNU's Response to PSE's DR#6
9 252 PSEEX-6: ICNU's Response to PSE's DR#9
10 253 PSEEX-7: ICNU's Response to PSE's DR#11
11 254 PSEEX-8: ICNU's Response to PSE's DR#14
12 255 PSEEX-9: ICNU's Response to PSE's DR#17
13 256 PSEEX-10: ICNU's Response to PSE's DR#20
14 257 PSEEX-11: ICNU's Response to PSE's DR#21
15 258 PSEEX-12: CEC Staff Report - Natural Gas
16 Market Assessment (August 2003) (excerpts)
17 259 PSEEX-13: CEC Commission Report - Electricity
18 and Natural Gas Assessment Report (December
19 2003) (excerpts)
20 260 PSEEX-14: WUTC Policy Statement, Docket No.
21 UG-940778
22 261 PSEEX-15: PG&E Prepared Testimony re 2004
23 Energy Resource Recovery Account
24
25

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1 JIM LAZAR

2 PUBLIC COUNSEL

3 271C JL-1TC: Prefiled Response Testimony

4 272C JL-2C: Comparison of Tenaska Prudence Review

5 Level and Current Cost

6 PSE CROSS-EXAMINATION

7 273 PSEEX-16: Public Counsel Response to PSE's

8 DR 3

9 274 PSEEX-17: Public Counsel Response to PSE DR 11

10

11 KENNETH L. ELGIN

12 COMMISSION STAFF

13 281HC KLE-1THC: Prefiled Response Testimony

14 282 KLE-2: Witness Qualifications

15 283C KLE-3C: PSE's Accounting Petition in Docket

16 No. UE-971619 (Tenaska); Staff Memo;

17 Commission Order

18 284C KLE-4C: PSE's Accounting Petition in Docket

19 No. UE-991918 (Encogen); Staff Memo;

20 Commission Order

21 285 KLE-5: ECAC Order in Cause No. U-58-87

22 286 KLE-6: PSE Form 8K (October 22, 2003)

23 PSE CROSS-EXAMINATION

24 287 PSEEX-20: WUTC Staff's Response to PSE's DR7

25 288 PSEEX-21: WUTC Staff's Response to PSE's DR8

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1 289 PSEEX-22: Transcript of prehearing conference,
2 December 18, 2003 in Docket No. UE-031389

3

4 HENRY MCINTOSH

5 COMMISSION STAFF

6 291HC HM-1TC/HC: Prefiled Response Testimony

7 292HC HM-2C/HC: Adjustments

8

9 THOMAS E. SCHOOLEY

10 COMMISSION STAFF

11 301HC TES-1TC/HC: Prefiled Response Testimony

12 302C TES-2C: Tenaska Power Contract per Docket No.

13 UE-921262 Prudence Review

14 303HC TES-3HC: PCA #1 Adjustment to Power Cost for

15 Prudence Review

16 304C TES-4C: PCORC Adjustment to Power Cost for

17 Prudence Review

18 305C TES-5C: PCA #1 Adjustment for Mr. Elgin's

19 Testimony

20 306C TES-6C: PCORC Adjustment for Mr. Elgin's

21 Testimony

22 PSE CROSS-EXAMINATION

23 307 PSEEX-18: WUTC Staff's Response to PSE DR3

24 308 PSEEX-19: WUTC Staff's Response to PSE DR9

25 309 PSEEX-24: WUTC Staff's Response to PSE DR 35

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1 JAMES M. RUSSELL

2 COMMISSION STAFF

3 311 JMR-1T: Prefiled Response Testimony

4 312 JMR-2: Restating and Pro Forma Power Cost

5 Adjustments

6 313 JMR-3: PCA-2 Power Cost Rates and Exhibits

7 314 JMR-4: Revenue Deficiency Calculation

8 315 JMR-5: Allocation of PCORC Revenue Deficiency

9 316 JMR-6: Statement of Current and Proposed

10 Revenues

11 PSE CROSS-EXAMINATION

12 317 PSECX-23: Spreadsheet re PSE PCORC Case

13 Differences

14

15 YOHANNES K.G. MARIAM

16 COMMISSION STAFF

17 321 YKGM-1T: Prefiled Response Testimony

18 322 YKGM-2: Weather Normalization Adjustment

19

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

2 JUDGE MOSS: Good morning, everyone. My name
3 is Dennis Moss. I am an Administrative Law Judge for
4 the Washington Utilities and Transportation Commission.
5 With me on the Bench today is Chairwoman Marilyn
6 Showalter and Commissioners Richard Hemstad and Patrick
7 Oshie. We are here convened in the matter styled
8 Washington Utilities and Transportation Commission
9 against Puget Sound Energy, Inc., Docket Number
10 UE-031725, and we are of course convened for purposes of
11 our evidentiary hearing.

12 We have our witness list and our cross
13 examination of course will follow over the course of the
14 next couple of days. We will first take appearances and
15 then consider whether there are any preliminary matters
16 that need to be handled on the record. I appreciate the
17 parties being ready this morning to handle a few
18 preliminary matters off the record, that is to say the
19 distribution and completion of exhibits and the
20 completion of the Bench books.

21 So with that, let's take the appearances, and
22 we will begin with the company.

23 MR. GLASS: Todd Glass, Heller Ehrman White &
24 McAuliffe of Seattle on behalf of Puget Sound Energy.
25 With me is Lisa Hardie of the same firm.

0092

1 JUDGE MOSS: All right.

2 And why don't we just go around the room,
3 that will be the easiest thing.

4 MR. BROOKHYSER: Thank you, Judge, for the
5 Cogeneration Coalition of Washington, Donald Brookhyser
6 of Alcantar & Kahl.

7 JUDGE MOSS: Thank you.

8 MR. VAN CLEVE: Brad Van Cleve on behalf of
9 the Industrial Customers of Northwest Utilities.

10 MR. CEDARBAUM: Robert Cedarbaum for
11 Commission Staff.

12 JUDGE MOSS: All right. Now I previously
13 indicated the conference bridge line is available for
14 monitoring but not participation in the evidentiary
15 proceeding, so we won't take appearances by telephone.

16 All right, are there any preliminary matters
17 that we need to take up on the record before we call our
18 first witness?

19 Seeing no indication, then let's begin.
20 Mr. Glass, if you would call your first witness.

21 MR. GLASS: The company would like to call
22 Eric Markell, please.

23 JUDGE MOSS: Mr. Markell, if you take a
24 minute to get yourself situated and remain standing, I
25 will swear you in.

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1 (Witness Eric M. Markell was sworn in.)

2 JUDGE MOSS: Thank you, please be seated.

3

4 Whereupon,

5 ERIC M. MARKELL,

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

7 herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. GLASS:

11 Q. Good morning, Mr. Markell. Will you please
12 state your position with Puget Sound Energy.

13 A. I am the Senior Vice President for Energy
14 Resources.

15 Q. Did you prepare testimony for this
16 proceeding?

17 A. I did.

18 Q. Were your direct testimony and exhibits,
19 Exhibits 131 through 173, prepared by you or under your
20 direction?

21 A. They were.

22 Q. Were your supplemental testimony adopting
23 portions of Charlie Black's testimony, Exhibits 174
24 through 181, prepared by or under your direction?

25 A. It was.

0094

1 Q. And were your rebuttal testimony and
2 exhibits, Exhibit 182 through 184, prepared by you or
3 under your direction?

4 A. They were.

5 Q. Have you identified any errata in your
6 testimony or exhibits?

7 A. No.

8 Q. Are you prepared today to answer questions
9 about your testimony and exhibits?

10 A. I am.

11 MR. GLASS: Your Honor, Mr. Markell is ready
12 for cross-examination.

13 JUDGE MOSS: All right. You often will move
14 for the admission of his exhibits, and we'll determine
15 whether there may be any objection at this time. Do you
16 want to go ahead and do that or wait until
17 cross-examination is complete?

18 MR. GLASS: No, that's perfectly fine. I
19 would like to move Exhibits 131 through 184HC into the
20 record, please.

21 JUDGE MOSS: Is there any objection to any of
22 these exhibits?

23 Hearing none, they will be admitted as
24 marked.

25 And we didn't establish an order of

0095

1 cross-examination, would Staff prefer to go first?

2 MR. CEDARBAUM: I can do that, Your Honor,
3 perfectly fine with me.

4 JUDGE MOSS: Unless someone has a strong
5 preference, that what's we'll do.

6 MR. CEDARBAUM: Thank you.

7

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

9 BY MR. CEDARBAUM:

10 Q. Good morning, Mr. Markell.

11 A. Good morning.

12 Q. Again, my name is Robert Cedarbaum, I'm
13 representing Commission Staff, and my questions concern
14 your Exhibit 182, which is your rebuttal testimony. And
15 in that testimony, you discuss the disagreement that
16 exists between the company and Staff regarding the
17 clause of the Frederickson contract that allows either
18 party of that contract to withdraw from the contract in
19 the absence of Commission rate making treatment of the
20 Frederickson costs by a certain period of time; is that
21 correct?

22 A. Yes.

23 Q. And just to kind of get some context here,
24 it's your understanding the Staff position with respect
25 to that clause is that that clause is not consistent

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1 with the public interest, and the company disputes that
2 conclusion?

3 A. Correct.

4 Q. Is it correct that the -- and I will just for
5 shorthand, I will call the clause we're talking about
6 the WUTC approval clause; is that okay with you?

7 A. Of course.

8 Q. Is it correct that that clause was negotiated
9 as part of the overall contract negotiations?

10 A. Yes.

11 Q. If you could turn to page 4 of Exhibit 182,
12 your rebuttal testimony, at line 11 and then on through
13 line 14 you discuss some approvals that you --

14 MR. GLASS: He needs to catch up.

15 MR. CEDARBAUM: Sorry.

16 JUDGE MOSS: And could you give me the page
17 reference again?

18 MR. CEDARBAUM: Page 4, and I'm looking at
19 line 11.

20 JUDGE MOSS: Thanks very much.

21 BY MR. CEDARBAUM:

22 Q. Just let me know when you're at that page,
23 Mr. Markell.

24 A. Okay.

25 Q. You reference some governmental approvals

0097

1 like the Hart Scott Rodino Act and Federal Power Act
2 approvals; do you see that?

3 A. I do.

4 Q. Is it correct that other than the WUTC
5 approval clause the parties negotiated in the
6 Frederickson deal that there are no approvals required
7 by this Commission?

8 A. As far as I know.

9 Q. At lines 17 to 18 of the same page, you state
10 that:

11 Prudent management practice dictates
12 that a business eliminate or reduce the
13 impact of risk factors where possible.

14 Do you see that?

15 A. I do.

16 Q. Would you agree that generally speaking that
17 when a company engages in those practices to reduce or
18 eliminate risk, there's a cost attributable to that
19 practice?

20 A. Not always.

21 Q. Can there be?

22 A. From time to time, yes.

23 Q. Would you agree that the Commission when it
24 sets rates for this company or any other company that it
25 regulates, that it includes the costs of prudent

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1 management in the rates that the company is allowed to
2 recover?

3 A. I'm not sure what you mean by prudent
4 management.

5 Q. Well, I will just use your phrase, prudent
6 management practice, on page 4. Is it correct that when
7 the Commission sets rates for a regulated company it
8 allows the company to recover the cost of prudent
9 management practice?

10 A. I think that's generally the case.

11 Q. With respect to the Frederickson contract, is
12 it correct that the seller in this contract was itself
13 concerned during the negotiations about the time period
14 in which this Commission would be processing this case?

15 A. I think it would be a more accurate
16 characterization to say that they wanted to understand
17 what the process would be.

18 Q. Let me ask you to turn to your Exhibit 184HC,
19 and that's -- can you confirm that that's the company's
20 response to Staff Data Request Number 68?

21 A. Counsel is going to have to locate that
22 response.

23 JUDGE MOSS: It would be your premarked was
24 EMM-47HC. It's identified in this record as Exhibit
25 Number 184HC. It's one of Staff's cross-examination

0099

1 exhibits I believe, or no, it would be your exhibit,
2 EMM.

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

4 A. I do.

5 JUDGE MOSS: Let me interject here. This is
6 our first encounter with a confidential exhibit, and so
7 I think it's important to be mindful and make the
8 witness mindful that we are dealing with something
9 that's confidential here. And so I'm sure Mr. Cedarbaum
10 will be careful in his questions, and you will need to
11 be careful in your answers so that there is not some
12 inadvertent waiver of confidentiality. And if we need
13 to, we'll take steps to protect, but I just want to say
14 that. This is the first time, I won't repeat that, so
15 everybody remain mindful of it.

16 Thank you, Mr. Cedarbaum, I apologize.

17 MR. CEDARBAUM: Thank you, Your Honor, I
18 understand this is on blue paper so I will try to be
19 careful, especially careful.

20 JUDGE MOSS: And a very attractive blue at
21 that.

22 MR. CEDARBAUM: Although I would note for the
23 record, Your Honor, that -- and I'm looking at page --
24 what's marked as page 2 of 32 in Exhibit 184, and I
25 would direct the witness's attention to the first full

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1 sentence of the first full paragraph on that page, and I
2 would just note for the record that I believe the
3 company has marked for identification a
4 cross-examination exhibit of Commission Staff where
5 Staff quoted this particular sentence, and they
6 submitted it to us on white paper, so I don't know if
7 this is confidential or not.

8 JUDGE MOSS: Well, let's be mindful, we have
9 two requirements on confidential exhibits. One is that
10 they be filed on the colored paper as you reflected.
11 The other is that the confidential material on the pages
12 be highlighted, and it does not appear to me that this
13 is highlighted, therefore I would assume it is not in
14 fact, that sentence at least, is not confidential. Is
15 this a reasonable assumption on my part, or was there an
16 oversight?

17 MR. GLASS: Your Honor, with regard to that
18 exhibit and with regard to the EPCOR transaction
19 document itself, which is itself another exhibit to Eric
20 Markell's testimony, the entire contract is highly
21 confidential. However, in conversations with
22 Mr. Cedarbaum, I think we had agreed that the actual
23 language of the regulatory approval clause could be
24 treated as non-confidential. However, it's difficult to
25 excise out blue from white paper on that exact page.

0101

1 But the company's sensitivity with regard to the actual
2 approval clause itself does not merit the highly
3 confidential.

4 JUDGE MOSS: All right, so Mr. Cedarbaum can
5 refer directly to this sentence without concern.

6 Go ahead, Mr. Cedarbaum.

7 MR. CEDARBAUM: Thank you, sorry for that
8 delay.

9 BY MR. CEDARBAUM:

10 Q. Anyway, Mr. Markell, looking at Exhibit 184,
11 page 2 of 32, it states in that first full paragraph:

12 In September during the negotiations of
13 the purchase and sale agreement, FPLP,
14 which is the seller, expressed concern
15 about the length of time necessary to
16 obtain WUTC approval.

17 Do you see that?

18 A. I do.

19 Q. If the WUTC approval clause had not been
20 included in the contract, isn't it correct that FPLP
21 would not have had that concern?

22 A. That is probably true.

23 Q. If you could now turn to page 6 of your
24 rebuttal testimony.

25 A. (Complies.)

0102

1 Q. Okay, at lines 19 to 20, you refer to a
2 sentence in the PCA settlement from the last --
3 company's last general rate case; do you see that?

4 A. I do.

5 Q. And that sentence is:

6 One objective of a new resource
7 proceeding is to have a new power cost
8 rate in effect by the time the new
9 resource would go into service.

10 Do you see that?

11 A. I do.

12 Q. Is it correct that the new resource
13 proceeding was not intended to circumvent or eliminate
14 or reduce this Commission's prudence review process?

15 A. Well, I wasn't involved in negotiation of
16 what that proceeding would be like, so it would be
17 speculation on my part to talk about its intent.

18 Q. Well, you included it in your testimony --

19 A. I did.

20 Q. -- so I assume you feel qualified to -- let
21 me finish.

22 So I assume you felt qualified to testify on
23 it and answer questions about it.

24 A. I do.

25 Q. And my question is, is it correct that the

0103

1 PCA settlement specifically with respect to that clause
2 did not intend to either circumvent or change this
3 Commission's prudence review process, other than perhaps
4 in reducing the amount of time that it might take?

5 A. I think that's a fair statement.

6 Q. And that the intent, if you know, of this
7 particular clause was to try to make it occur that the
8 rates to recover a new resource would go into effect
9 about the time that a new resource actually went on
10 line?

11 A. Yes.

12 Q. At the bottom of the same page 6 and on to
13 the top of page 7, you state that it was important for
14 the company to understand precisely what the Commission
15 expects of the company with respect to a prudence
16 review. Is that a fair characterization?

17 A. Correct.

18 Q. Are you saying that the company didn't
19 understand what this Commission intended by a prudence
20 review?

21 A. No.

22 Q. Isn't it correct that Mr. Gaines in his
23 what's been marked for identification as Exhibit 16,
24 which is WAC 6, has a fairly detailed explanation of --
25 I think which includes prior orders and statements and

0104

1 policies of this Commission which specifically set forth
2 what the prudence review is about?

3 A. That's true.

4 Q. Was there anything about those statements the
5 company didn't understand?

6 A. I don't -- I wouldn't say we didn't
7 understand them, but in the context of those orders and
8 various other communications from the Commission
9 regarding historical descriptions of our planning and
10 analysis capabilities being inadequate, inadequate
11 processes, inadequate communications with our board of
12 directors, we viewed the Frederickson acquisition as
13 sort of a means to affirm that with respect to those
14 standards that you have referred to that our procedures
15 and analysis and data and our communications with the
16 board at least with respect to the Frederickson facility
17 were adequate and met those standards, and that is what
18 is valuable to the company about the PCORC proceeding.

19 Q. But the company understood all those
20 standards and requirements going into this acquisition,
21 didn't it?

22 A. We understood the plain language of the
23 standards, but we are now here describing what we have
24 actually done with respect to our plans and our
25 analysis, and the approval of the Commission with

0105

1 respect to the resource is an affirmation that indeed we
2 have met the burdens set forth in those general
3 standards.

4 Q. My final question for you concerns the bottom
5 of page 7. Actually I'm looking at line 17 of page 7
6 where you state that you included language to the effect
7 in the solicitations, and that refers back to the 2002
8 solicitations:

9 And communicated our intent to resource
10 owners and developers who responded, and
11 none of them balked at the prospect of
12 Commission scrutiny.

13 Do you see that?

14 A. I do.

15 Q. Did any of the resource -- let me retract
16 that and rephrase.

17 Did every resource owner or developer that
18 you solicited respond to this solicitation?

19 A. Respond to this phraseology in the
20 solicitation?

21 Q. Respond to the 2002 solicitations that you
22 reference in your testimony.

23 A. I don't think I would have a way of knowing
24 if every resource owner responded to our solicitation.
25 I think we have provided a list of all that did.

0106

1 MR. CEDARBAUM: Okay, thank you, Mr. Markell,
2 those are all my questions.

3 JUDGE MOSS: Do other parties have
4 cross-examination for Mr. Markell?

5 MR. VAN CLEVE: ICNU does not have any
6 questions, Your Honor.

7 MR. BROOKHYSER: No questions.

8 JUDGE MOSS: All right, then it would appear
9 that we are ready for questions from the Bench prior to
10 any redirect.

11

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

13 BY CHAIRWOMAN SHOWALTER:

14 Q. I just have one pretty general question. You
15 mentioned a little bit about risk, and I think given a
16 certain level of risk, the Commission or anyone else for
17 that matter, a utility or Wall Street, looks at how the
18 risk is shared between shareholders and rate payers. My
19 question is whether the electricity environment today is
20 more risky in an absolute sense than it was say five
21 years ago?

22 A. From --

23 Q. In other words, is there more risk in general
24 to allocate?

25 A. I suppose the answer to that depends on where

0107

1 one is in the electricity value chain. My perspective
2 generally is from that of a generator, someone wants to
3 build their own or operate generation, and I have been
4 involved doing that since 1978 with the passage of the
5 PURPA legislation. I don't, from my personal
6 perspective, I don't think there's been ever a time
7 since 1978 when the regulatory groundwork in the state
8 and federal legislative groundwork is as confused as it
9 is today for someone who wants to get in the generation
10 business.

11 Q. Does that mean that without looking at the
12 allocation of risk between shareholders and rate payers
13 that collectively at this particular moment in time the
14 rate payers and the shareholders are paying more for
15 that risk than they were say 10, 15 years ago?

16 A. I think the irony is that perhaps
17 shareholders and I think almost certainly customers have
18 been sort of getting a free ride on the -- at the events
19 of the last three or four years. An enormous amount of
20 capital has been lost by capital providers, both debt
21 and equity, and at least \$10 Billion of debt has been
22 rolled over in merchant projects sort of with no real
23 hope that it will ever be taken and ultimately
24 amortized, so there are still more losses to come.
25 These capital subsidies in my view are sort of having a

0108

1 depressing price on -- depressing effect on current
2 market prices, and until these events clear out of the
3 market, we're probably not going to see a kind of a
4 bid-and-ask market for a generation that's sort of
5 sensible.

6 Q. In one of your answers to Mr. Cedarbaum, you
7 intimated that there may be times when an action can
8 reduce overall risk and not necessarily shift it from
9 shareholders to rate payers or vice versa. Did I
10 understand your intimation correctly?

11 A. Yes.

12 Q. And could you give me an example of what you
13 mean or expand on what you meant?

14 A. Well, I think a case in point with respect to
15 the Frederickson transaction, we sort of view cost as
16 risk, and we expended a great deal of time and effort to
17 structure the transaction in a way that would be tax
18 efficient, meaning incurred the least amount of taxes
19 that would have to go into the acquisition cost. Those
20 efforts proved to be productive, and the cost of the
21 project to the buyer was reduced about \$6 Million, and
22 the cost to the seller of the transaction was reduced
23 about a million and a half. You know, I don't know
24 that's a shifting between shareholders and customers.
25 The customers ultimately benefit from that, and the

0109

1 capital providers have to therefore put up less capital
2 and aggregate to secure that transaction.

3 Q. So in general if a utility is selecting or
4 making a choice among alternatives say under its least
5 cost plan or general planning abilities, at the point it
6 selects one and gets some degree of approval, I don't
7 want to use that term technically, but at that point
8 don't both the shareholders and the rate payers have
9 some degree of less risk, because they both know the
10 choice that has been made relative to the unknown
11 future?

12 A. I think all the parties benefit if our -- a
13 company's practices and procedures and analysis have
14 good results and the Commission in its oversight of
15 those processes and procedures finds them to be adequate
16 or robust. Everyone benefits from that process.

17 Q. All right. And then my last question, on
18 page 9 of your rebuttal testimony, Exhibit 182, I'm
19 sorry, there was a point in your testimony, I can't seem
20 to find it right now, where you say you were not asking
21 for prior approval; is that correct?

22 A. That's correct.

23 Q. This is page 7, line 21. But you go on to
24 say:

25 However, we do ask the Commission to

0110

1 assess PSE's actions in the context of
2 the P-C-O-R-C.

3 Are people calling this PCORC or what?

4 MR. GLASS: P-C-O-R-C works fine.

5 CHAIRWOMAN SHOWALTER: All right.

6 BY CHAIRWOMAN SHOWALTER:

7 Q. And I'm just wondering if you could clarify
8 what you mean by assess. What are you asking us to do
9 here when you say you're asking us to assess PSE's
10 actions?

11 A. Well, I think that if the Commission grants
12 the company the relief it's asked for, at least
13 impliedly it tells us that again our processes, our
14 analysis, the way we went about our decision making with
15 respect to this specific transaction met the burdens of
16 proof set forth in the Commission's standards for
17 prudent management practice.

18 Q. And how is that different from prior
19 approval?

20 A. Well, perhaps this is semantics, but when I
21 think about prior approval, I think about bringing a
22 generic resource to the Commission in advance of
23 transacting around it, saying if I were to, you know,
24 bring a plan of thus and so technology or thus and so
25 size at thus and so cost, could I have a decision today,

0111

1 and if I do that it will go into rates. That's how we
2 think about prior approval.

3 Q. So your distinction is that here virtually
4 all of the details are known, and we are assessing or
5 giving our approval or putting into rates something that
6 we can, in fact, look at today in all its particulars --

7 A. That's --

8 Q. -- versus a bit of a pig in a poke; is that
9 what you're saying?

10 A. Exactly.

11 CHAIRWOMAN SHOWALTER: Thank you, I have no
12 further questions.

13

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

15 BY COMMISSIONER HEMSTAD:

16 Q. Well, just follow on to the initial inquiry
17 of the Chair, you stated that with regard to generation
18 risk it's more confused today than at any time since
19 1978, and I think you went on to say that there had been
20 a huge loss of capital, but that has been primarily lost
21 by independent power producers, not by vertically
22 integrated companies holding generation; isn't that the
23 case?

24 A. I don't know I have seen data on that.

25 Certainly the unregulated subsidiaries of integrated

0112

1 utilities such as Duke, for example, Duke's shareholders
2 at the holding company level have suffered greatly from
3 their activities.

4 Q. And I guess I would put in the IPP category
5 those unregulated subsidiaries of the regulated
6 utilities. So there's quite a difference between the
7 unregulated generation and the vertically integrated
8 utility when it comes to assessing generation risk;
9 isn't that the case?

10 A. Yes.

11 Q. And a strong handed, relatively strong handed
12 vertically integrated utility could, in fact, actually
13 have lower risk in the current environment than higher
14 risk?

15 A. I would agree with that also.

16 COMMISSIONER HEMSTAD: That's all I have.

17 COMMISSIONER OSHIE: I don't have any
18 questions of Mr. Markell, thank you.

19

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

21 BY JUDGE MOSS:

22 Q. I have just one related to an apparent
23 factual dispute with respect to your testimony
24 concerning the effect of the regulatory approval clause
25 on the price of the acquisition vis a vis Mr. Elgin's

0113

1 testimony, which is that it caused the price to
2 increase, and you testify that it caused the -- the
3 inclusion of that clause and the factors surrounding it
4 caused the price to be lower. I'm looking at page 9 of
5 your rebuttal testimony, the question at line 9. And
6 then as I studied the prefiled materials, I came across
7 PSE Cross-examination Exhibit Number 21, which in this
8 record is Exhibit 288, and apparently the company
9 proposes to use that when cross examining Mr. Elgin.
10 Are you familiar with that PSE cross-examination
11 exhibit? It's the UTC Commission Staff Response to Data
12 Request Number 8 from PSE.

13 A. I don't believe that I am.

14 JUDGE MOSS: Could you provide your witness
15 with a copy of that, please.

16 MR. CEDARBAUM: Your Honor, what was the
17 number?

18 JUDGE MOSS: I'm sorry, it's Exhibit 288 in
19 our record, PSE Cross-Ex. 21.

20 MR. CEDARBAUM: Thank you.

21 JUDGE MOSS: For Mr. Elgin.

22 BY JUDGE MOSS:

23 Q. And the focus of the factual dispute appears
24 to be how one views the depreciation, I will call it
25 depreciation adjustment for lack of a better phrase.

0114

1 You and Mr. Elgin seem to be taking opposite views of
2 how that was affected, and I would like to have you tell
3 us, if you will, for purposes of your examination today
4 how that worked without of course disclosing anything
5 confidential.

6 A. I would be happy to do that. I guess I would
7 look to my counsel to advise whether or not kind of
8 describing negotiating strategy and tactics trips over
9 the confidential process.

10 Q. I'm more really focused and interested in the
11 dollar impacts which are disclosed on a non-confidential
12 exhibit. The exhibit I referred you to, Request Number
13 8 for example, discusses in the second paragraph of the
14 response from Mr. Elgin his view of what happened in
15 terms of days and dollars, and you seem to take a
16 different view based on your response at page 9 of 10 of
17 your rebuttal testimony. And so I would like to have
18 your view on the record here today basically responding
19 if you will to that second paragraph in Exhibit 288.

20 MR. GLASS: Mr. Markell, I think you should
21 just go ahead and answer the question fully.

22 Q. I don't really care about the negotiation
23 strategy and so forth that went into this. I'm
24 interested in the results.

25 A. Well, I will address the results, but the

0115

1 strategy and tactics were important to this. It was a
2 relatively at least initially sort of a soft market with
3 respect to negotiating with all the sellers, and we
4 wanted to negotiate in our letters of intent and terms
5 sheets all the flexibility we could possibly get. We
6 also wanted to have tactics that would allow us to
7 negotiate downward price revisions with the sellers, and
8 we needed some sort of, I don't know, trade bait if you
9 will to do that.

10 And one of the things was to utilize the
11 regulatory approval process, something we absolutely had
12 to have. And to do that we then argued that, and oh, by
13 the way, since you're sitting on an asset that may well
14 be causing you non-cash depreciation losses, the longer
15 you have it, we and our customers should be entitled to
16 those non-cash benefits with respect to our purchase
17 price. And ironically sort of the longer this dragged
18 on during this negotiation period, the more beneficial
19 it was for our customers.

20 There got to be a point when we were less
21 confident that the PCORC process would occur in sort of
22 the five month time frame as perhaps we were hopeful it
23 would, and we were concerned that it -- we might need
24 longer time than that, say 180 days or even longer than
25 that, and we didn't want to put the Commission in a

0116

1 position of acting as if we were putting the gun to your
2 head with respect to, you know, drop dead dates and
3 agreements. So there was a lot of negotiation around,
4 you know, how long could this really drag on, and there
5 were also a variety of other commercial issues open on a
6 whole set of other conditions that were open.

7 And at the end we sort of had this resolution
8 that we would back off our 30 day period, we locked down
9 on the amount of the depreciation price adjustment, and
10 we settled all the outstanding commercial issues that
11 were then available. So we viewed it as a means and
12 methods to gain price reduction, not to increase price.

13 JUDGE MOSS: Okay, thank you, very thorough
14 answer.

15

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

17 BY CHAIRWOMAN SHOWALTER:

18 Q. I have a follow-up to Commissioner Hemstad's
19 question in which he asked you to compare the riskiness
20 of a utility's acquisitions versus independent power
21 producers, and I don't want to put words in his mouth,
22 but I think that the question alluded to a theory which
23 is very plausible that regulated utilities have a means
24 to ensure their revenues, at least if they are prudently
25 incurred, and the opportunity to ensure them because

0117

1 there are customers and there's a regulator there to set
2 rates, and it is an entirely plausible theory.

3 My question to you is whether you in your own
4 direct experience in the last year or two observe that
5 Wall Street analysts share that theory. It seems to me
6 that they view the regulator as its own risk in
7 disregard of what the overall scheme is about and that
8 that is part of what drives the desire to have some
9 degree of assurance, approval, or other comfort from
10 regulators that didn't used to be there. Could you
11 comment on that?

12 A. My first comment would be I don't think I can
13 speak fully for Wall Street, the community of Wall
14 Street analysts. But having said that, I would say that
15 generally my impression is that when they speak of
16 regulatory risk, they are looking at several factors,
17 not only the activities that a state commission goes
18 through with respect to rate making activity, but
19 they're all obviously very focused on what the FERC is
20 doing both in terms of its case specific actions and its
21 general policy statements.

22 And for utilities such as Puget Sound Energy
23 that have enunciated a plan, a strategic plan to be a
24 load serving vertically integrated utility, and one that
25 happens to be short a good deal of energy, they look at

0118

1 us and say, well, you've got issues to deal with with
2 your commission, you have a history that this current
3 management team is addressing.

4 Q. When you say they, do you mean Wall Street
5 analysts?

6 A. Yes.

7 And you've got a lot of unknowns coming out
8 of Washington D.C. with respect to RTO's, SMD, the OGE
9 process, and who knows what else, and they say all those
10 factors together make capital providers cautious.

11 CHAIRWOMAN SHOWALTER: Thank you.

12 JUDGE MOSS: That appears to complete the
13 questions from the Bench, so is there any redirect?

14 MR. GLASS: No, thank you, Your Honor.

15 JUDGE MOSS: Okay, Mr. Markell, we appreciate
16 your testimony today, and we'll release you from the
17 witness stand but ask that you remain available subject
18 to recall if we need you later in the process.

19 MR. CEDARBAUM: Your Honor --

20 THE WITNESS: Thank you.

21 MR. CEDARBAUM: Your Honor, I'm sorry.

22 JUDGE MOSS: Oh, did you have some follow up?

23 MR. CEDARBAUM: I didn't think I was giving
24 up my opportunity to ask a couple of questions based on
25 the commissioners' questions.

0119

1 JUDGE MOSS: Typically we don't have
2 redirect, that's why I skipped over you, but if you have
3 a follow-up question, Mr. Markell, I'm sorry, you will
4 have to take another moment of tension here after having
5 taken a deep breath.

6 MR. CEDARBAUM: You thought you were off the
7 hook.

8

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

10 BY MR. CEDARBAUM:

11 Q. Just following up on a couple of questions
12 from the commissioners. Is it correct that the
13 regulatory approval clause that we have been talking
14 about allows the company or the seller to withdraw from
15 the contract if this Commission doesn't allow rates
16 sufficient to allow recovery of the Frederickson costs?

17 A. Yes, subject to management exercising its
18 discretion.

19 Q. And as far as you know, there is no issue
20 amongst the parties that the company's costs for
21 Frederickson should be recovered; is that right? That's
22 an uncontested issue in this proceeding?

23 A. Yes, that is how it has eventuated, yes.

24 Q. And if the Commission approves that
25 recommendation, then the company has the ability to go

0120

1 forward with the acquisition?

2 A. Yes.

3 Q. Now with respect to this particular
4 acquisition, isn't that preapproval?

5 A. Well, in my dialogue with the Commission
6 Chairperson, I think I described to you how I view the
7 phrase preapproval. This particular set of facts isn't
8 within how I would define it.

9 Q. But you are asking -- this clause of the
10 contract will allow the company to withdraw from
11 acquisition if it does not get rate making treatment of
12 the cost?

13 A. If it does not get rate making treatment
14 which in our judgment allows us to move ahead.

15 MR. CEDARBAUM: Thank you, those are all my
16 questions.

17 JUDGE MOSS: All right, fine, well, now you
18 can take a second deep breath and relax, Mr. Markell.
19 Again, thank you.

20 (Discussion on the Bench.)

21 JUDGE MOSS: We'll go ahead and call our next
22 witness then.

23 MR. GLASS: Puget Sound Energy would like to
24 call Mike Granowski, please.

25 JUDGE MOSS: Please raise your right hand.

0121

1 (Witness Michael Granowski was sworn in.)

2 JUDGE MOSS: Thank you, please be seated.

3

4 Whereupon,

5 MICHAEL GRANOWSKI,

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

7 herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. GLASS:

11 Q. Good morning, Mr. Granowski. Could you
12 please state your employer, title?

13 A. I'm director at Navigant Consulting.

14 Q. Are you appearing on behalf of Puget Sound
15 Energy?

16 A. Yes, I am.

17 Q. Did you prepare testimony for this
18 proceeding?

19 A. Yes, I did.

20 Q. Were your direct testimony and exhibits,
21 which have been marked as Exhibit 101 through 123,
22 wherein you adopt certain portions of Charlie Black's
23 testimony and exhibits, prepared by you or under your
24 direction?

25 A. Yes, they were.

0122

1 Q. Have you identified any errata in those
2 testimony or exhibits?

3 A. I have not.

4 Q. Are you prepared today to answer questions --

5 A. Yes, sir.

6 Q. -- about your testimony and exhibits?

7 A. Yes, I am.

8 MR. GLASS: Your Honor, Mr. Granowski is
9 ready for cross-examination.

10 JUDGE MOSS: Did you want to move his
11 exhibits?

12 MR. GLASS: Absolutely, I would move exhibits
13 101, 102, and I believe 105 through 123 into the record.

14 JUDGE MOSS: All right, with a small
15 correction that it's 106 through 123, is there any
16 objection?

17 Hearing no objection, those exhibits will be
18 admitted as marked.

19 I will just note for the record that we did
20 not use numbers 103 through 105 in order to simplify the
21 numbering conventions.

22 And the witness is available for
23 cross-examination, Mr. Cedarbaum.

24 MR. CEDARBAUM: No questions.

25 JUDGE MOSS: No questions.

0123

1 Do any other counsel have questions for
2 Mr. Granowski?

3 MR. VAN CLEVE: No questions.

4 MR. BROOKHYSER: No questions.

5 JUDGE MOSS: Well, Mr. Granowski, likely the
6 easiest time you will ever have on the witness stand.

7 Does the Bench have any questions?

8 CHAIRWOMAN SHOWALTER: No.

9 COMMISSIONER HEMSTAD: No.

10 COMMISSIONER OSHIE: No questions.

11 JUDGE MOSS: Even I do not have a question.

12 With that, we thank you for appearing today to sponsor
13 and present your testimony, and of course it will become
14 a part of our record as admitted, and we will release
15 you from the stand subject to recall should we think of
16 any questions later.

17 THE WITNESS: Thank you very much, Your
18 Honor.

19 JUDGE MOSS: Thank you, sir.

20 Well, we're making such great progress I
21 think we should exploit the momentum and call our third
22 witness.

23 MR. GLASS: Puget Sound Energy would like to
24 call Julia Ryan, please.

25 JUDGE MOSS: Ms. Ryan, please raise your

0124

1 right hand.

2 (Witness Julia M. Ryan was sworn in.)

3 JUDGE MOSS: Thank you, please be seated.

4

5 Whereupon,

6 JULIA M. RYAN,

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

8 herein and was examined and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. GLASS:

12 Q. Good morning, Ms. Ryan. Will you please

13 state your position with Puget Sound Energy.

14 A. I am Vice President of Energy Portfolio

15 Management.

16 Q. Did you prepare testimony for this

17 proceeding?

18 A. Yes, I did.

19 Q. Were your direct testimony and exhibits,

20 Exhibits 191 through 200, prepared by you or under your

21 direction?

22 A. Yes, they were.

23 Q. Were your rebuttal testimony and exhibits,

24 Exhibits 201 through 208, prepared by you or under your

25 direction?

0125

1 A. Yes, they were.

2 Q. Have you identified any errata in these
3 testimonies or exhibits?

4 A. No, I do not.

5 Q. We filed errata last week.

6 A. I'm sorry, okay.

7 Q. And those, I will make a statement, please
8 correct me if I'm wrong, those errata were filed and
9 they have been passed out to the parties?

10 A. Yes.

11 Q. Very good.

12 JUDGE MOSS: You filed revised pages?

13 MR. GLASS: Yes.

14 JUDGE MOSS: So we have those, they have no
15 doubt been substituted?

16 MR. GLASS: Correct.

17 JUDGE MOSS: Fine.

18 BY MR. GLASS:

19 Q. Are you prepared to answer questions today
20 about your testimony and exhibits?

21 A. Yes, I am.

22 MR. GLASS: Your Honor, I shall move to have
23 Exhibits 191 through 208 moved into the record, please.

24 JUDGE MOSS: Any objection?

25 Hearing none, those will be admitted as

0126

1 marked.

2 And the witness is available for
3 cross-examination, Mr. Cedarbaum.

4 MR. CEDARBAUM: No questions at this time.

5 JUDGE MOSS: Do any other parties have
6 questions for Ms. Ryan? ICNU has an exhibit, so surely
7 you have a question, Van Cleve?

8 MR. VAN CLEVE: Yes, I do, Your Honor.

9 JUDGE MOSS: All right.

10

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

12 BY MR. VAN CLEVE:

13 Q. Good morning.

14 A. Good morning.

15 Q. Can you tell us what the risk management
16 committee is?

17 A. The risk management committee is a group of
18 officers at Puget Sound Energy who direct policy,
19 approve procedures, and also approve risk management
20 strategies proposed by staff.

21 Q. And are you a member of the risk management
22 committee?

23 A. Yes, I am.

24 Q. And what is your function on the committee?

25 A. I along with other members of the committee

0127

1 approve strategies proposed by staff, and I also work
2 with staff prior to meetings to understand what they
3 will be proposing.

4 Q. And what is your role with respect to risk
5 management within the company?

6 A. As Vice President of Energy Portfolio
7 Management I direct risk management activities in the
8 short-term portfolio as well as the activities of our
9 gas supply operations team and our power supply
10 operations team.

11 Q. Do you consider yourself an expert in the
12 area of energy risk management?

13 A. I consider myself knowledgeable in the area,
14 yes. There's always more to learn.

15 Q. Do you have Exhibit 77 available to you?

16 JUDGE MOSS: Who is that for?

17 MR. VAN CLEVE: That is a cross-examination
18 exhibit for Mr. Gaines.

19 JUDGE MOSS: So that would be one of the ICNU
20 cross-examination exhibits for Mr. Gaines?

21 MR. VAN CLEVE: Yes, it would.

22 JUDGE MOSS: Can the witness with provided
23 with a copy of that, Mr. Glass.

24 MR. GLASS: (Complies.)

25 A. So I have the package here in front of me,

0128

1 could you repeat which exhibit number we're looking at?

2 BY MR. GLASS:

3 Q. It's Exhibit Number 77, which up in the
4 right-hand corner says ICNU Cross-Exhibit 1.

5 A. Okay.

6 Q. And there's a page number, and I will be
7 referring to the page numbers in the upper right-hand
8 corner. And this is a data response from the company;
9 is that correct?

10 A. Yes, it is.

11 Q. And down at the bottom under assigned witness
12 where it says JMR, does that refer to you?

13 A. Yes, it does.

14 Q. Let me explain what this exhibit is first.
15 Certain materials were provided as described in the
16 answer from the risk management committee meetings, and
17 they weren't in chronological order, so what we have
18 done is reordered the pages so that they are in
19 chronological order just so that it makes sense to you.

20 If you could turn to page 73.

21 JUDGE MOSS: Under what tab is that?

22 MR. VAN CLEVE: That is December 13, 2001,
23 risk management committee meeting.

24 A. Okay.

25 BY MR. VAN CLEVE:

0129

1 Q. Are these the minutes of the risk management
2 committee from December 13, 2001?

3 A. Yes, I believe they are.

4 Q. And were you in attendance at that meeting?

5 A. Yes, I was. This was one of my first
6 meetings after joining the company.

7 Q. Were you an advisor to the risk management
8 committee prior to joining the company?

9 A. I was a guest at the RMC meetings, sorry,
10 risk management committee meetings and working in an
11 advisory relationship for risk advisory services to the
12 company.

13 Q. And --

14 A. Prior to December 1, 2001.

15 Q. And for what period of time did you perform
16 that role?

17 A. I was invited to come to the meetings from
18 approximately October 2000 forward until July or August
19 of 2001.

20 Q. And who did you work for at that time?

21 A. I worked for Merchant Energy Group of the
22 Americas, which also goes by the name of MEGA.

23 Q. And when you attend the risk management
24 committee meetings, do you typically take notes?

25 A. No, typically the staff takes notes, and then

0130

1 the notes are put into meeting minutes, and that becomes
2 our record.

3 Q. Okay, I would like to ask you some questions
4 specifically about the Tenaska contract. Let me ask you
5 an introductory question. If you could refer to the
6 July 25th, 2000, tab.

7 A. Okay.

8 Q. And if you look at page 37.

9 COMMISSIONER HEMSTAD: I'm sorry, I was
10 distracted, page 37 of the same exhibit?

11 MR. VAN CLEVE: Right, I'm going to be on
12 Exhibit 77 for a while here, and this is the July 25,
13 2000, tab.

14 BY MR. VAN CLEVE:

15 Q. Okay, what is this document?

16 A. I believe this is a document, a presentation
17 made by some of my colleagues to the risk management
18 committee meeting, risk management committee who was
19 convened on this day.

20 Q. And this is the company that you worked for,
21 Merchant Energy Group?

22 A. Yes.

23 Q. And they were, this company was advising the
24 risk management committee on risk management issues?

25 A. I believe this was one of the first meetings

0131

1 where we were advising on risk management issues
2 associated with the portfolio. Prior to this time we
3 were working more on procedures and processes.

4 Q. Do you know if you were involved in the
5 preparation of this document?

6 A. No, I was not.

7 Q. If you could refer to page 48, which is part
8 of the same MEGA presentation, do you see the second
9 bullet there?

10 A. Yes, I do.

11 MR. VAN CLEVE: Your Honor, I would like to
12 ask if this statement here is confidential. It was
13 produced -- I can refer to it without mentioning it, but
14 it might be easier.

15 JUDGE MOSS: We'll put the question to
16 Mr. Glass. On this particular page you are talking
17 about, page 48?

18 MR. VAN CLEVE: Right.

19 JUDGE MOSS: Second bullet.

20 MR. GLASS: I don't have any objection to
21 reading it into the record for our discussion here
22 today.

23 JUDGE MOSS: Thank you.

24 BY MR. VAN CLEVE:

25 Q. It says that:

0132

1 It is important to manage each item
2 along with the entire portfolio, e.g.,
3 Tenaska and Encogen gas purchases.

4 Is that correct?

5 A. That's what it says, correct.

6 Q. And do you agree with that statement?

7 A. I do. I read that statement as saying that
8 it is important to look at all items in a port -- as
9 part of an entire portfolio.

10 Q. But isn't it also saying that it's important
11 to manage each item also?

12 A. Knowing how we managed our portfolio and how
13 we advised the company, I think the proper reading of it
14 is that it is important to look at all the items
15 together.

16 Q. If you could please turn to the December
17 13th, 2001, risk management committee minutes, which are
18 in this same Exhibit 77. And I think that you have
19 already indicated that you were in attendance at this
20 meeting, but focusing on page 77, are you familiar with
21 this document?

22 A. Yes, I recall it from the meeting.

23 Q. Do you know who created it?

24 A. My staff did, the energy risk management
25 staff.

0133

1 Q. So you were involved in the preparation of
2 the strategy?

3 A. I was aware that they were going to be
4 presenting this at the meeting.

5 MR. VAN CLEVE: Your Honor, I'm going to ask
6 a series of questions about this document, pages 77
7 through 86 of Exhibit 77, and I think I need to refer to
8 individual statements and numbers in the document, so I
9 guess we should -- maybe we could ask the company again
10 if this is all confidential at this point.

11 JUDGE MOSS: Give me a minute.

12 (Discussion on the Bench.)

13 JUDGE MOSS: Let me ask, Mr. Glass, unless
14 you can just tell us right now that there's no
15 possibility that any of this stuff can be disclosed into
16 the record, if this would be a good moment for our
17 morning recess, and you and Mr. Van Cleve could discuss
18 whether there are portions or whatnot that he could
19 refer to and other portions where perhaps he could
20 construct his questions in a way as to just do it by
21 reference, would that be a useful exercise?

22 MR. GLASS: That would be useful.

23 JUDGE MOSS: All right, well, let's take a 15
24 minute recess, and we will resume at about 11:00 there
25 on the wall clock.

0134

1 (Recess taken.)

2 JUDGE MOSS: I have discussed with the
3 parties off the record the protocol for proceeding with
4 this line of questioning that involves certain
5 confidential information, and I have asked and I will
6 repeat that anyone who is present in the room at this
7 moment who is not a signatory to the confidentiality
8 agreement under the protective order in this proceeding
9 will need to leave the room, we are going into
10 confidential session. I am also going to mute the send
11 function of our teleconference bridge line so that those
12 who are connected will also not be able to hear for the
13 duration of this line of questioning.

14 Once we have finished, Mr. Van Cleve is going
15 to tell us, and we will then turn the conference bridge
16 line send function back on, and we will send someone out
17 into the hall to inform those who are waiting there that
18 they may return to their comfortable seating. So with
19 that, I'm going to hit the mute send, and I think my
20 earlier announcement apparently was effective so that
21 those who need to be out of the room are out of the
22 room. Our doors are shut, and, Mr. Van Cleve, you may
23 proceed with your questions.

24 MR. VAN CLEVE: Thank you.

25 (Confidential session.)

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0224

1 JUDGE MOSS: All right, it appears that we
2 have completed our confidential session with Ms. Ryan,
3 and so we will go back into non-confidential session at
4 this point where Mr. Gaines has been called to the
5 stand. And if someone would inform anyone who is out in
6 the hall, I would appreciate that, and I have turned on
7 the teleconference bridge send function.

8 And, Mr. Gaines, once you are settled, if you
9 will rise and raise your right hand.

10 (Witness William A. Gaines was sworn in.)

11 JUDGE MOSS: Thank you very much, please be
12 seated.

13

14 Whereupon,

15 WILLIAM A. GAINES,
16 having been first duly sworn, was called as a witness
17 herein and was examined and testified as follows:

18

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

20 BY MR. GLASS:

21 Q. Good afternoon, Mr. Gaines, please state your
22 position with PSE.

23 A. My position is Vice President Engineering and
24 Contracting.

25 Q. Did you prepare testimony for this

0225

1 proceeding?

2 A. Yes, I did.

3 Q. Were your direct testimony and exhibits,
4 Exhibits 21 through 26, prepared by you or under your
5 direction?

6 A. Yes, they were.

7 Q. Were your supplemental testimony and exhibits
8 adopting Charlie Black's testimony and exhibits prepared
9 by you or under your direction?

10 A. Yes.

11 Q. Were your rebuttal testimony and exhibits,
12 Exhibits 44 through 76, prepared by you or under your
13 direction?

14 A. Yes, they were.

15 Q. We have filed on your behalf errata with
16 regard to some of these testimonies and exhibits; is
17 that correct?

18 A. Yes, that's right.

19 Q. Are there any additional errata?

20 A. I think beyond the corrections made this
21 morning, there are no others.

22 Q. That is correct, Exhibit 58 which was the pie
23 charts has been corrected, thank you.

24 Are you prepared today to answer questions
25 about your testimony and exhibits?

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1 A. Yes, I am.

2 MR. GLASS: Your Honor, I would offer
3 Exhibits 71 and 76 into the record at this time, excuse
4 me, 11 to 76 into the record.

5 JUDGE MOSS: Okay.

6 MR. GLASS: I am ably helped here.

7 JUDGE MOSS: Had me wondering there for a
8 minute. That would shorten things considerably.

9 All right, 11 through 76 have been moved for
10 admission, any objection to any of these exhibits?

11 Hearing none, they will be admitted as
12 marked.

13 And I believe Mr. Gaines then will be
14 available for cross-examination, Mr. Cedarbaum.

15 MR. CEDARBAUM: Thank you.

16

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

18 BY MR. CEDARBAUM:

19 Q. Hello, Mr. Gaines.

20 A. Good afternoon.

21 Q. I wanted to start off by asking you a
22 hypothetical question, and I would like you to take
23 yourself back in time to 1997 when the company came
24 before the Commission with its petition to restructure
25 the Tenaska contract and get Commission approval to book

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1 the regulatory asset. Do you have that generally in
2 mind?

3 A. Yes, I think we will be going back in time
4 often over the next day.

5 Q. I would like you to assume that rather than
6 the Commission approving that petition, the Commission
7 reached the conclusion that the natural gas and electric
8 industries were in a state of upheaval which presented
9 fundamental uncertainties, and so the Commission denied
10 the petition rather than granting it. Do you have that
11 hypothetical in mind?

12 A. Yes, I have.

13 Q. And if that had happened, I assume then or is
14 it correct that the company would not have gone through
15 with the restructuring?

16 A. I think that's a fair likelihood.

17 Q. And we would be sitting here today in this
18 power cost only rate case applying an adjustment based
19 on the prudence review 1.2% disallowance?

20 A. That's correct, which I think is essentially
21 what we have done since 1994.

22 Q. And that adjustment would mirror Staff
23 witness Mr. Schooley's adjustment that he has presented
24 in his testimony; is that right, with respect to the
25 rate period?

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1 A. Well, I think Mr. Schooley has a number of
2 adjustments that he suggests in his testimony, but I
3 think it includes the 1.2% prudence disallowance.

4 MR. CEDARBAUM: Okay, and for the record,
5 Your Honor, that would be in Exhibit 304 for the rate
6 review period and Exhibit 303 for the PCA audit period.

7 BY MR. CEDARBAUM:

8 Q. Let me turn from that hypothetical. On pages
9 6 and 7 of your rebuttal testimony, which is Exhibit 45,
10 at the bottom you just outlined a bullet that describes
11 the first element of disagreement you have with Staff
12 with respect to the Tenaska issues; do you see that?

13 A. I hope I have the same pagination, but I'm at
14 the bottom of page 6.

15 Q. That's what I meant to say if I did not.

16 A. Okay.

17 Q. On the bottom of page 6 you have a bullet
18 that references the Tenaska disallowance, the issue with
19 respect to the Tenaska disallowance that Staff
20 recommends concerning the prudence review?

21 A. Yes, that's the subject of this bullet.

22 Q. And the prudence review orders that were
23 under discussion by Staff I think in the company's case
24 were the 19th and 20th supplemental orders in that
25 UE-921262 case?

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1 A. That's correct.

2 MR. CEDARBAUM: Your Honor, I have marked for
3 identification Exhibits 82 and 83, those supplemental
4 orders, and I would offer them at this time just for the
5 convenience of the Commission. I understand that they
6 can always be referenced by official notice, but it
7 seemed like a convenient way to go.

8 JUDGE MOSS: Yes, I have thought about that,
9 and I believe we will allow one set of them to be made
10 part of our record. I will note, however, while we're
11 on the subject that these are the same as what have been
12 marked as 247 and 248, so we won't need to have them a
13 second time whenever we get to whoever's exhibits those
14 are.

15 And do you want to go ahead and move them?

16 MR. CEDARBAUM: Yes, I would, Your Honor.

17 JUDGE MOSS: All right, well, I can't imagine
18 there would be any objection to that, so they will be
19 admitted as marked.

20 BY MR. CEDARBAUM:

21 Q. On page 7 of your testimony, Mr. Gaines, you
22 state at the bottom that the Commission found that Puget
23 paid too much for the Tenaska agreement because it
24 should have factored in the value of dispatchability; do
25 you see that?

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1 A. Yes, I do.

2 Q. Isn't it also correct that the Commission
3 found that the -- reached the factual legal conclusions
4 that the Commission's management of Tenaska wasn't
5 prudent?

6 A. Pardon me?

7 Q. Didn't the Commission in its orders in the
8 19th supplemental orders reach the factual legal
9 conclusions that the company's decision to acquire
10 Tenaska was imprudent?

11 A. Yes, those orders talked a lot about process
12 and documentation and determined imprudence.

13 Q. And didn't the Commission after it reached
14 that imprudence conclusion, it looked at whether or not
15 a disallowance was warranted in order to ensure that
16 rate payers would not pay the excessive costs with
17 respect to the Tenaska acquisition?

18 A. It from my reading of the supplemental orders
19 found imprudence largely on process and documentation
20 grounds, determined that there should be a disallowance,
21 and then proceeded to fashion a remedy by working with a
22 number of alternative remedies that were proposed in
23 those proceedings.

24 Q. And all of those alternative remedies were
25 designed to ensure that rate payers would not be

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1 responsible for the excessive costs of Tenaska?

2 A. Or not responsible for the portions
3 determined to be imprudent.

4 Q. If you could look at page, in Exhibit 82,
5 Finding of Fact 7 and 8, and this is on page 45 and 46
6 of that order, doesn't the Commission specifically state
7 that rate payers should not bear the extra costs with
8 respect to the Tenaska acquisition?

9 A. I'm looking at paragraph 7 at the bottom of
10 page 45, and there's a phrase, rate payers should not
11 bear the extra cost.

12 Q. And a similar sentence is used in Finding of
13 Fact Number 8 on the next page?

14 A. It says again, rate payers should not bear
15 the extra costs.

16 Q. And as you indicated, the Commission looked
17 at a range of disallowances with respect to Tenaska; is
18 that right?

19 A. That's my understanding, yes.

20 Q. And is it correct or would you accept subject
21 to check that the range of disallowances went from the
22 1.2% that was adopted to 19.4%?

23 A. I would accept that subject to check.

24 Q. I'm not sure you need to reference it
25 specifically, but in your direct testimony in this

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1 proceeding you refer in pages 28 and 29 of that document
2 to the company's petitions on Tenaska and Encogen, and
3 you refer to the economic analyses that were presented
4 to the Commission at that time; do you recall that?

5 A. Yes, I do.

6 Q. Is it correct that the petitions and the
7 economic analyses that were presented to the Commission
8 in the Tenaska restructuring docket showed an
9 expectation of significant savings from the
10 restructuring?

11 A. Well, they showed a projection or an
12 estimate, yes.

13 Q. My question was, didn't they show an
14 expectation of significant savings from the
15 restructuring?

16 A. Particularly in the case of Tenaska.

17 Q. And is it your understanding that Staff
18 witness Mr. Elgin has included those, the petitions both
19 for Tenaska and Encogen, in his direct testimony?

20 A. Yes, I believe I recall seeing those as
21 exhibits to his testimony.

22 Q. Is it also correct that the company presented
23 to the financial community its expectations that there
24 would be significant savings from the restructuring of
25 the Tenaska and Encogen contracts?

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1 A. I'm sure it did in AK releases that were
2 prepared at the time and also in its 10-K and annual
3 report talk about the savings that were expected or
4 projected at that time.

5 Q. And if you could refer to Exhibit 84 for
6 identification, do you recognize this as the cover page
7 and then some select pages of the company's 1997 annual
8 report to shareholders?

9 A. Yes.

10 Q. Looking at the second page of the exhibit
11 which is page number 5 of the annual report that's shown
12 at the bottom left, bottom right, in the middle column
13 toward the bottom there's a sentence that says, good
14 progress was achieved; do you see that?

15 A. Yes.

16 Q. Is that with reference to the Tenaska
17 contract?

18 A. Yes, I'm almost certain it is.

19 Q. And so the company was telling shareholders
20 that there would be a reduction in power supply costs of
21 about \$30 Million in 1998 and more in coming years?

22 A. That's right.

23 Q. On the next page of the exhibit, which is
24 shown as page 8 of the annual report, again in the
25 middle column, the second sentence down and the

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1 remainder of that paragraph, is there also reference to
2 savings in power supply costs with respect to the
3 Tenaska restructuring?

4 A. That was a question?

5 Q. Yes.

6 A. Yeah, it appears to be largely a restatement
7 of what was on the prior page.

8 MR. CEDARBAUM: Your Honor, I would move the
9 admission of Exhibit 84.

10 JUDGE MOSS: All right, no objection, 84 will
11 be admitted.

12 BY MR. CEDARBAUM:

13 Q. Turning to Exhibit 85 for identification, and
14 I apologize, Your Honor, my copy at least didn't quite
15 show very well the year that this is, but, Mr. Gaines,
16 do you recognize this document on the first page as the
17 cover page to the company's 1999 annual report to
18 shareholders and then some selected pages from that
19 report?

20 A. Yes.

21 Q. And if we turn to the second page of the
22 exhibit, which is the third page of the annual report,
23 we see Mr. Weaver and at the top of the page, well, does
24 this also reference the Tenaska contract buyout?

25 A. Yes. Again, this is reflective of our

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1 estimate of the cost savings at that time.

2 Q. And the cost savings that you expected were a
3 17% reduction in the cost of power?

4 A. At that time.

5 Q. On the next page of the exhibit, which is
6 page 31 of the annual report, the right-hand column
7 about in the middle, that paragraph that begins in
8 December 1999, that relates to power supply savings,
9 power cost savings from the Encogen restructuring; is
10 that right?

11 A. You're at the paragraph that begins in
12 December '99?

13 Q. Yes.

14 A. This relates to the restructuring of the gas
15 supply contract that underlies Encogen, yes.

16 Q. So that's the Cabot contract?

17 A. Yes.

18 Q. The company actually owns the Encogen
19 facility itself?

20 A. It does as a result of an earlier purchase
21 transaction.

22 Q. And then finally in this exhibit on the last
23 page, the first column at the bottom, the sentence that
24 begins, these revised arrangements, there's also
25 discussion about power supply cost savings from Tenaska;

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1 do you see that?

2 A. Yes.

3 MR. CEDARBAUM: Your Honor, if I haven't
4 moved the admission of 85, I would do that now.

5 JUDGE MOSS: You have not, there apparently
6 is no objection, and it will be admitted as marked.

7 BY MR. CEDARBAUM:

8 Q. If I could have you just turn back to Exhibit
9 84 just for a second, this is the 1997 annual report,
10 the last page of the exhibit, there's a chart in the
11 middle, and under the 1997 column there's a number of
12 \$215 Million. That's the Tenaska buyout; is that right?

13 A. I believe that's right.

14 Q. So that shows that the company booked that
15 rate asset on its books?

16 A. As a result of the accounting order being
17 approved.

18 MR. CEDARBAUM: Just give me a minute, Your
19 Honor, I will find my place.

20 BY MR. CEDARBAUM:

21 Q. If you could turn to Exhibit 65, and at page
22 24 of the exhibit, and this is WAC 38 that's been marked
23 and admitted as Exhibit 65, just tell me when you're
24 there and I will continue.

25 MR. CEDARBAUM: And for the Commission, my

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1 reference will begin on page 24 of that exhibit.

2 A. All right, I have what was marked as WAC 38,
3 and I am at page 24.

4 BY MR. CEDARBAUM:

5 Q. Okay, and this is a -- page 24 shows an
6 agenda that was presented to the company's board of
7 directors with respect to Tenaska restructuring on
8 December 8, 1997; is that right?

9 A. That's right.

10 Q. And if you look at page 26 of the exhibit, at
11 the top of the page in this presentation that was given
12 to the board, the board was informed that the
13 anticipated savings, tax savings from Tenaska
14 restructure are approximately \$395 Million over the
15 remaining 14 year life of the contract. Do you see
16 that?

17 A. As with the documents that you showed me
18 previously, that was the amount of savings that we
19 estimated based on the indicative gas price quotes that
20 we received at that time.

21 Q. So the board of directors was informed of
22 this expectation of significant savings over the
23 remaining term of the contract?

24 A. That's right, and also of the fact that the
25 savings might not all materialize or that more savings

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1 might materialize as gas prices changed over time.

2 Q. Was there ever a presentation to the board
3 that showed that there would be no savings?

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

5 And there would not be such a presentation
6 today.

7 Q. If I could have you now turn to Exhibit 90.
8 Do you have it?

9 A. Yes, I believe Exhibit 90 is a board
10 presentation dated April 4th, 2000.

11 Q. That's correct. This is a, as you indicated,
12 a document that was provided to the board of directors
13 of the company on April 4th, 2000, with respect to the
14 restructuring of the Tenaska and Encogen contracts. It
15 was a discussion including those topics.

16 A. It included that. When I reviewed this
17 exhibit before, it appeared that this was in response to
18 a request from the board to review our then current
19 position with respect to stranded cost, total stranded
20 costs across the whole power supply portfolio.

21 Q. And part of the position with respect to
22 stranded costs was the company's restructuring of these
23 contracts? In other words, the restructuring reduced
24 the company's stranded cost exposure?

25 A. Yes, that's correct.

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1 Q. And that what's shown at the bottom as page
2 190 of the exhibit, that shows -- it's a bar chart
3 showing savings that the company was presenting to the
4 board of directors with respect to Cabot, Encogen,
5 Tenaska, and Montana Power?

6 A. Yes, again, and this time in April of 2000,
7 this was a projection of savings based on conditions
8 that existed at that time.

9 MR. CEDARBAUM: Your Honor, I would move the
10 admission of Exhibit 90.

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

13 BY MR. CEDARBAUM:

14 Q. I would like you to --

15 MR. CEDARBAUM: Well, Your Honor, just for
16 the record, I don't know how you want to handle this,
17 but Exhibits 87 and 89 are already part of Exhibit 77,
18 and I could either offer them again or withdraw those
19 particular exhibits, whatever your preference is.

20 JUDGE MOSS: Why don't you just not offer
21 them, and we can refer to Exhibit 77 that's already in
22 the record.

23 BY MR. CEDARBAUM:

24 Q. Mr. Gaines, if I could refer you to Exhibit
25 88 for identification.

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1 A. Yes, I believe I have that one.

2 Q. And do you recognize this document as a risk
3 management committee meeting notes and documentation for
4 a June 13, 2000, meeting?

5 A. Yes.

6 Q. These were provided in response to discovery
7 requests in this case?

8 A. Yes.

9 Q. If you could turn to the second page of the
10 exhibit, there's a reference to an Elsea study,
11 E-L-S-E-A, study for 1998 to 2000, big net gains; do you
12 see that?

13 A. Yes, I see the reference.

14 Q. Do you know what was meant by big net gains?

15 A. Well, as we responded to a data request in
16 this proceeding, which I believe relates to this
17 reference, we produced studies that looked at the
18 increase in the spark spread value of the Tenaska and
19 other gas fired generation.

20 Q. Before we move on, can you just give a
21 definition of what you mean by spark spread.

22 A. Yeah, I'm sorry. I believe what was
23 happening during this period was that of course we were
24 in the beginning of what ultimately became the West
25 Coast energy price crisis, and both power and gas market

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1 prices began to increase at rates and to levels that
2 were unprecedented and unpredicted by anyone. But even
3 as this began, the power market prices moved up more
4 rapidly than the gas market prices, so that the heat
5 rate or spark spread value of a gas fired generator
6 increased as a result. Anyone that controlled gas fired
7 generation could convert natural gas into power, and the
8 value of that conversion grew as a result of the
9 divergence between gas prices and power prices.

10 Q. And so just to return to Exhibit 88 again was
11 the June 13th meeting that refers to the Elsea study,
12 and you indicated that that study was provided to Staff
13 in response to a data request, and is that data request
14 response what's now marked as Exhibit 91C?

15 A. I don't believe I have that data response in
16 front of me here.

17 MR. CEDARBAUM: I did provide it to counsel.

18 MR. GLASS: We're catching up, just a minute.

19 JUDGE MOSS: Are we still searching for a
20 copy of 91C?

21 MR. GLASS: Yes.

22 We've got one.

23 A. All right, I have in front of me our response
24 to Staff Data Request 89.

25 BY MR. CEDARBAUM:

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1 Q. And when Mr. Elsea spoke of big net gains,
2 his study was what's in Exhibit 91C, and if we look at
3 page 2 of 15 of the exhibit, what he did was he compared
4 the value of power from Tenaska with the cost of gas to
5 run Tenaska, and then the next column of net better or
6 worse is the difference?

7 A. That's right.

8 Q. If you could turn to page 9 of this exhibit.

9 A. I might also say before we move on though,
10 looking back at the risk committee meeting handwritten
11 notes --

12 Q. Mr. Gaines, I actually don't have a question
13 pending to you about that, unless it's related to the
14 question I did ask you.

15 A. Well, it is. What Mr. Elsea's study talks
16 about here is just exactly what you described, the
17 increase in the spark spread value of the plant. But
18 back on the handwritten notes where we started, there
19 was also a mention of the increased option value of the
20 plant, and that's not a part of the analysis that we
21 have here from Mr. Elsea.

22 Q. But the analysis we do have for Mr. Elsea is
23 the support for the statement in the handwritten notes
24 of 1998 to 2000 big net gains?

25 A. Particularly with respect to the increased

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1 heat rate value.

2 Q. On page 9 of Exhibit 91C, and you will have
3 to tell me if you can speak freely about this, because I
4 just don't know. Are you there?

5 A. Yes.

6 Q. Toward the bottom of the page there's a
7 sentence that begins, you can see that. And then at the
8 end of that sentence the words, heat rate play, appear.

9 A. Yes.

10 Q. Can you just define what heat rate play is?

11 A. I think I can describe how it's being used
12 here, and this is going to be important to the
13 understanding of this throughout this whole proceeding.
14 We had a situation back in this period of time in the
15 late 1990's and around 2000 where the Tenaska generator
16 and the Encogen generator were essentially the marginal
17 resources on our system. That is that in a merit order
18 dispatch based on variable operating costs, these would
19 be the last units to be dispatched and the first units
20 to be displaced in the service of our retail load.

21 And so I believe what Mr. Elsea is talking
22 about here is that when the generation from Tenaska and
23 Encogen is surplus to load needs, then it looks like a
24 heat rate in the wholesale market. The company would
25 use that heat rate, buy gas, generate, sell power,

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1 realize revenues, which of course are netted against its
2 power costs. And then so that as our load grows over
3 time, as our retail customer needs grow over time, the
4 amount of this generation that's surplus to load needs
5 is reduced absent other changes.

6 Q. Mr. Gaines, does this exhibit say whether or
7 not Tenaska is available as a heat rate play?

8 A. This page by itself does not indicate what
9 portion of Tenaska is needed for service to load and
10 what portion is needed -- is surplus to those needs and
11 therefore available for secondary sales. This page by
12 itself would not show that.

13 MR. CEDARBAUM: Your Honor, I guess I don't
14 know how long we'll need to be in a confidential session
15 or not, but I'm feeling cramped in terms of how I can
16 ask this question.

17 JUDGE MOSS: Well, we have recognized
18 throughout this proceeding that there is a fairly
19 significant amount of confidential information that's
20 been exchanged under the protective order and that it
21 might be necessary to go into confidential session from
22 time to time, so it comes as no surprise to anyone. And
23 I think if that's what we need to do, then let's do
24 that. Is that what you think we need to do?

25 MR. CEDARBAUM: I would like to, Your Honor.

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1 Again, I don't know if it would last very long or not,
2 but I think it's preferable.

3 JUDGE MOSS: All right, well, again then
4 those who, if any are in the room who have not signed
5 the necessary agreement under the confidentiality under
6 the protective order, I will have to ask you to leave
7 the room, and I will mute the send function for the
8 teleconference bridge, and I will ask the reporter to
9 mark the transcript and so on as we are in confidential
10 session.

11 (Confidential session.)

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