

1                   BEFORE THE WASHINGTON UTILITIES AND  
2                   TRANSPORTATION COMMISSION

3	WASHINGTON UTILITIES AND	)	
	TRANSPORTATION COMMISSION,	)	Docket No. UE-031725
4		)	
	Petitioner,	)	Volume IV
5		)	Pages 447 to 569
	vs.	)	
6		)	
	PUGET SOUND ENERGY, INC.,	)	
7		)	
	Respondent.	)	
8	_____	)	

9

10                   A hearing in the above matter was held on

11 February 25, 2004, from 1:40 p.m to 5:00 p.m., at 1300

12 South Evergreen Park Drive Southwest, Room 206, Olympia,

13 Washington, before Administrative Law Judge DENNIS MOSS

14 and Chairwoman MARILYN SHOWALTER and Commissioner

15 RICHARD HEMSTAD and Commissioner PATRICK J. OSHIE.

16

17                   The parties were present as follows:

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2                    JUDGE MOSS: I don't think we have any new  
3                    appearances today.

4                    We have been handed up some revised and new  
5                    exhibits. We now have a substitute Exhibit 283C for  
6                    Mr. Elgin, and, Mr. Cedarbaum, would you just explain  
7                    briefly what's new about it.

8                    MR. CEDARBAUM: Yes, Your Honor. The reason  
9                    why we prepared the revised Exhibit 283 was that  
10                   yesterday there was some discussion that the Bench had  
11                   with Mr. Story I believe with respect to statements that  
12                   were in the company's accounting petition for Tenaska  
13                   and the Commission's order approving the petition. And  
14                   I think that there was perhaps a disconnect in those  
15                   questions and answers, because there had been a revised  
16                   petition along the way which was not included originally  
17                   in Exhibit 283. So what we did with Exhibit 283 was to  
18                   revise it only to include the company's revised petition  
19                   that came in in early December and was referenced in the  
20                   Staff memorandum, and that's the only change to the  
21                   exhibit. We just added the revised petition and then  
22                   renumbered the exhibit.

23                   I would note just for the record that if you  
24                   look at page 25 of 37, it states, and this is with  
25                   respect to Exhibit B to the revised petition, it says

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1 revision 2. We did not include revision 1 because  
2 revision 2 superseded revision 1, so that just seemed  
3 like extraneous paper to have in the record.

4 That is the reason for this revised exhibit  
5 and what's contained in that exhibit.

6 JUDGE MOSS: All right, we'll review it in  
7 due course, but satisfy my curiosity. Did the revised  
8 petition call for the amortization to begin the first  
9 year, or was that something that came about just as a  
10 result of the Staff recommendation in the case, if you  
11 know?

12 MR. CEDARBAUM: I would have to double check  
13 the revised petition.

14 JUDGE MOSS: All right.

15 MR. CEDARBAUM: I believe that was the result  
16 of discussions with Staff that prompted the revision,  
17 but I'm not sure of that.

18 JUDGE MOSS: Okay, well, we'll check it.

19 All right, we also have a new proposed  
20 cross-examination exhibit from Puget Sound Energy for  
21 Mr. Russell, and that's number 318, or was that new  
22 direct?

23 MR. CEDARBAUM: Yeah, just for the --

24 JUDGE MOSS: That's new direct.

25 MR. CEDARBAUM: Just for the record --



0455

1 JUDGE MOSS: Sorry.

2 MR. CEDARBAUM: The company has prepared a  
3 cross examination exhibit for Mr. Russell which they  
4 will keep, and that's fine, and that showed a  
5 Staff-company difference portrayal based upon the  
6 company's rebuttal and the Staff direct. There are some  
7 adjustments that the company made in their rebuttal case  
8 to which Staff agrees, so we have kind of gone the next  
9 step in preparing the exhibit to show where Staff and  
10 company are as to each other, contested and uncontested  
11 issues, and that's what Exhibit 318 shows. I will, with  
12 your permission when we get to Mr. Russell, ask him some  
13 additional redirect on that exhibit.

14 JUDGE MOSS: All right.

15 And then we did have two exhibits from PSE.  
16 One is an additional exhibit for Mr., it goes with  
17 Mr. Schoenbeck's set, and this is an exhibit we have  
18 marked it as 262. Do I understand that this is coming  
19 in by stipulation, the witness is no longer on the  
20 stand?

21 MR. GLASS: Your Honor, a brief explanation  
22 of what it is. Mr. Schoenbeck at the end of his  
23 testimony or cross-examination yesterday referenced a  
24 filing made on February 17th by Pacific Gas & Electric  
25 company, we have located that document, and that is what

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1 the document is. And it speaks for itself, there's no  
2 need for any examination on it.

3 JUDGE MOSS: No objection, Mr. Van Cleve?

4 MR. VAN CLEVE: No objection, Your Honor.

5 JUDGE MOSS: All right, 262 will be admitted,  
6 and we'll describe it for the record as amendment to  
7 application of Pacific Gas & Electric Company, February  
8 17, 2004, in application number 03-08-004.

9 And finally, we have a new proposed  
10 cross-examination exhibit for Mr. Schooley from PSE. I  
11 have marked it as number 310, and the description is PSE  
12 response to ICNU Data Request or DR 6.17, it's PSE  
13 Cross-Examination Exhibit Number 26. Again, that's for  
14 Mr. Schooley.

15 And with that, I believe we are ready to  
16 swear Mr. McIntosh.

17 Would you please rise and raise your right  
18 hand.

19 (Witness Henry McIntosh was sworn in.)

20 JUDGE MOSS: Thank you, please be seated.

21 When you're ready, Mr. Cedarbaum.

22 MR. CEDARBAUM: Thank you, Your Honor.

23

24

25

0457

1 Whereupon,

2 HENRY MCINTOSH,

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

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. CEDARBAUM:

8 Q. If you would please state your name and spell  
9 your last name for the record.

10 A. My name is Henry McIntosh.

11 Q. You need to speak into the mike, turn it on  
12 perhaps as well.

13 A. My name is Henry McIntosh, and my name is  
14 spelled M-C capital I-N-T-O-S-H.

15 Q. And what is your position with the  
16 Commission, Mr. McIntosh?

17 A. I'm a regulatory analyst.

18 Q. Do you have before you what's been marked for  
19 identification as Exhibit 291HC and Exhibit 292HC?

20 A. Yes.

21 Q. And does 291 constitute your direct testimony  
22 in this proceeding?

23 A. Yes, it does.

24 Q. And was this exhibit prepared by you or under  
25 your supervision and direction?

0458

1 A. Yes.

2 Q. Is it true and correct to the best of your  
3 knowledge and belief?

4 A. Yes.

5 Q. Turning to Exhibit 292HC, was this document  
6 also prepared by you or under your supervision or  
7 direction?

8 A. What is 292HC?

9 Q. It is your Exhibit HM-2C/HC.

10 A. Oh, yes, it was.

11 Q. And is this exhibit true and correct to the  
12 best of your knowledge and belief?

13 A. Yes.

14 MR. CEDARBAUM: Your Honor, I had a  
15 discussion with Mr. Glass earlier yesterday I believe  
16 about asking some additional redirect of Mr. McIntosh  
17 just to bring the state of the record up to speed as to  
18 where there are any remaining issues, if at all, between  
19 Mr. McIntosh and the company, and if I could go ahead  
20 and do that, I would appreciate it.

21 JUDGE MOSS: Please proceed.

22 BY MR. CEDARBAUM:

23 Q. Mr. McIntosh, there's no disagreement between  
24 you and the company on the Frederickson acquisition; is  
25 that right?

0459

1 A. That is right.

2 Q. If you could turn to your testimony, Exhibit  
3 291, at page 9 where you begin a discussion of several  
4 rate making adjustments that you proposed to the  
5 Commission, and then on page 10 you have a discussion  
6 about a maintenance schedule for normalization  
7 adjustment.

8 A. Okay.

9 Q. Can you please bring the Commission up to  
10 date as to whether or not this is a contested issue  
11 between the company and Staff?

12 A. This is no longer contested. Staff and  
13 company have reviewed -- in fact, Colstrip adjustment  
14 Staff suggested has been adopted by the company as a  
15 modeling change and modeled along with the March Point 1  
16 adjustment, and the winter peaking adjustment has been  
17 accepted by us with the proviso that new information be  
18 included on it as to actual expenses, and thus there is  
19 no remaining issue between the company and Staff there.  
20 On the adjustment for prudence of replacement power at  
21 Tenaska and March Point, after recomputation,  
22 adjustment, and discussion, Staff and the company are in  
23 agreement.

24 Q. Okay. So is it fair to say then that with  
25 respect to your testimony that there are no contested

0460

1 issues between the company and Staff?

2 A. Yes, I think that's true.

3 MR. CEDARBAUM: Thank you, those are all my  
4 questions.

5 JUDGE MOSS: All right.

6 Now for cross-examination we have time  
7 reserved both for ICNU and for PSE. Do you have any  
8 questions, Mr. Van Cleve?

9 MR. VAN CLEVE: No, Your Honor.

10 JUDGE MOSS: And do you have any questions,  
11 Mr. Glass?

12 MR. GLASS: I do.

13 JUDGE MOSS: All right, well, then why don't  
14 you proceed with those.

15

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

17 BY MR. GLASS:

18 Q. Good afternoon, Mr. McIntosh.

19 A. Good afternoon.

20 Q. You were the lead or you are the lead power  
21 cost witness for Staff in this case, aren't you?

22 A. Well, in a sense -- well, there's very --  
23 various elements of power cost so in -- not in the  
24 accounting sense.

25 Q. Okay.

0461

1 A. For sure.

2 Q. With respect to the items that Mr. Cedarbaum  
3 just mentioned, in summary you have, the Staff and  
4 company have agreed to maintenance schedule  
5 normalization, winter calls adjustment, and finally the  
6 March Point Phase 2 and Tenaska replacement power  
7 adjustments that were in your responsive testimony?

8 A. Oh, yes.

9 Q. Okay. And specifically with the Tenaska  
10 adjustment, you have agreed with the company's  
11 calculation, or the company and you have agreed to the  
12 1.2% disallowance calculation?

13 A. Yes, that's right.

14 Q. All right, good.

15 Just a few questions about your testimony on  
16 the Frederickson 1 acquisition.

17 A. All right.

18 Q. You were the Staff's lead investigator of the  
19 acquisition cost; is that true?

20 A. That's true.

21 Q. And in your testimony you cite the prudence  
22 standard on page 4 of your testimony. Could you please  
23 turn to that.

24 A. I'm there.

25 Q. Could you please read the indented first

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1 paragraph there beginning, in evaluating, the first two  
2 sentences of that standard, please.

3 A. All right.

4 In evaluating prudence, it is generally  
5 conceded that one can not use the  
6 advantage of hindsight. The test this  
7 Commission applies to measure prudence  
8 is what would a reasonable board of  
9 directors and a company management have  
10 decided given what they knew or  
11 reasonably should have known to be true  
12 at the time they made a decision.

13 Q. I would like to, using that standard which I  
14 believe is the one that you used in evaluating the  
15 Frederickson 1, go through some of the steps that you  
16 did in your investigation. Did you review PSE's  
17 solicitation process?

18 MR. CEDARBAUM: Your Honor, I guess I will  
19 object. First of all, these questions have been asked  
20 and answered in Mr. McIntosh's direct testimony, we're  
21 just repeating that same stuff. Second of all, there is  
22 no issue between the company and Staff on Frederickson,  
23 so this is either friendly cross, which isn't allowed,  
24 or beyond the scope of his testimony, which also isn't  
25 allowed, so I would object on those bases.



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1                   JUDGE MOSS:  And oddly enough, it does sound  
2 like friendly cross-examination, Mr. Glass, so your  
3 response, if any.

4                   MR. GLASS:  Well, from the company's  
5 perspective, I think the basic prudence evaluation that  
6 is going on with regard to Tenaska and in this case  
7 generally is at issue, how the company should have  
8 reacted or how should the company have decided things is  
9 something that is the central issue of this case.  I  
10 think --

11                   MR. CEDARBAUM:  Your Honor -- I'm sorry.

12                   MR. GLASS:  I think that Mr. McIntosh has  
13 investigated and the criteria, the analytical tools for  
14 making a decision, and I think that that is very  
15 illustrative for the type of process that we would hope  
16 would have been used for evaluation of our fuel  
17 decisions in '97 and '99 and forward.

18                   MR. CEDARBAUM:  Your Honor, if I could just  
19 be heard for a second.  I mean the response clearly  
20 shows the legitimacy of the objection.  They're not  
21 asking Mr. McIntosh about questions on his testimony,  
22 they're asking questions about prudence and the  
23 application of that standard with respect to the Tenaska  
24 issue.  These are legitimate questions, but they should  
25 be asked of the correct witness, and that's not

0464

1 Mr. McIntosh.

2 CHAIRWOMAN SHOWALTER: Don't you really want  
3 to ask the next two witnesses whether they agree with  
4 his statement?

5 MR. GLASS: Well, I doubt, to be honest, I  
6 don't think the next two witnesses did the same type of  
7 investigation and evaluation of the prudence that  
8 Mr. McIntosh does, and if I am not allowed to follow  
9 this line of questioning, there will be no way for you  
10 to compare what Mr. McIntosh did with regard to the  
11 Frederickson 1 acquisition and what the other witnesses  
12 did with regard to the fuel management over the last six  
13 or seven years.

14 COMMISSIONER HEMSTAD: Can't we read his  
15 testimony?

16 MR. GLASS: Mr. --

17 COMMISSIONER HEMSTAD: Well, is your line of  
18 questioning then going to go to what he would do with  
19 regard to Tenaska?

20 MR. GLASS: Absolutely not.

21 COMMISSIONER HEMSTAD: Then I don't  
22 understand what your questions will add that we can't  
23 get ourselves simply by reading his testimony.

24 JUDGE MOSS: I think I'm going to sustain the  
25 objection.

0465

1 MR. GLASS: No further questions.

2 JUDGE MOSS: Thank you.

3 Any questions from the Bench?

4 CHAIRWOMAN SHOWALTER: Just a clarifying  
5 question.

6

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

8 BY CHAIRWOMAN SHOWALTER:

9 Q. After your colloquy with Mr. Cedarbaum, is  
10 there anything left in your testimony that you regard as  
11 contested still?

12 A. Well, no, I don't think there's any issue  
13 that I'm aware of.

14 CHAIRWOMAN SHOWALTER: Thank you, no further  
15 questions.

16 THE WITNESS: Okay.

17 JUDGE MOSS: I have a couple of clarifying  
18 questions. Are there others from the Bench?

19

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

21 BY COMMISSIONER OSHIE:

22 Q. This is a clarifying question as well, but I  
23 think I want to make sure I understand it, Mr. McIntosh,  
24 that the company has agreed with the adjustments that  
25 you recommended in your testimony.

0466

1           A.     Well, we have come to an agreement.  My  
2 adjustments and their counter proposals were discussed,  
3 and we have settled on an adjustment, so yes, we are in  
4 agreement upon it.  So in that sense, they have accepted  
5 my -- I think they would not have made these adjustments  
6 had I not spoken up, and so therefore I claim credit for  
7 the adjustments.

8

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

10  BY CHAIRWOMAN SHOWALTER:

11           Q.     Is there something in writing where we can  
12 see the agreed upon adjustments?

13           A.     Yes.

14           MR. CEDARBAUM:  Commissioners, if I -- I  
15 guess there is some confusion.  On the winter call  
16 issue, the substance of the agreement I think can be  
17 found in Ms. Ryan's testimony, which I can't recall the  
18 exact page and reference.  But in her rebuttal testimony  
19 she describes what she understands to be an agreement  
20 with Staff about the amount of an adjustment for winter  
21 call costs, and that's what we're agreeable to.  It  
22 wasn't that we were agreeable to what Mr. McIntosh  
23 specifically includes in his testimony.

24           CHAIRWOMAN SHOWALTER:  I'm sure we can read  
25 the record we just have created, but is there any harm

0467

1 in submitting a piece of paper that says the company and  
2 Staff are agreed upon the following when these are  
3 issues that were contested previously?

4 MR. CEDARBAUM: And I think that  
5 Mr. Russell's Exhibit 318 gets to that.

6 CHAIRWOMAN SHOWALTER: All right, sorry,  
7 thank you.

8

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

10 BY JUDGE MOSS:

11 Q. All right. Now just a couple of points, and  
12 this may be in your testimony somewhere, Mr. McIntosh,  
13 and if so you can just point me to it, otherwise I think  
14 my questions may go to some underlying points as to  
15 which I would like some clarity. My first question is  
16 what natural gas fuel price assumptions did the company  
17 use in demonstrating the economics of the Frederickson 1  
18 acquisition?

19 A. Well, they used the same fuel price forecast  
20 for all -- all the -- all of the alternatives  
21 considered, and so -- and I believe that was a -- that  
22 was a -- of the long run gas forecast, part of which is  
23 driven by forward forecast and part of -- on -- from the  
24 least cost planning database, which was an average out  
25 of I think forecasts from PIRA and other vendors.

0468

1 Q. So for a portion of the analysis they used  
2 the forward prices from NYMEX, and for another portion  
3 of the analysis they used data that was generated by  
4 their least cost plan model?

5 A. That's correct.

6 Q. And were you here for Mr. Schoenbeck's  
7 cross-examination yesterday?

8 A. I was.

9 Q. He produced an exhibit, we had an exhibit  
10 toward the end of the day there that purported to show  
11 the use of forecasts for portions and so, is that  
12 consistent with your understanding of what the company  
13 did; do you recall that exhibit?

14 A. No, I don't, no.

15 Q. Let me point you to it.

16 JUDGE MOSS: Help me out, Mr. Van Cleve, what  
17 exhibit was that, or maybe --

18 MR. VAN CLEVE: It's 97, I believe, Your  
19 Honor.

20 JUDGE MOSS: 97, so it was actually one of  
21 Mr. Gaines' exhibits.

22 MR. VAN CLEVE: It was labeled as a  
23 cross-exhibit for Mr. Gaines.

24 JUDGE MOSS: That's right, that's the one we  
25 had a little dust up about. Yes, it was Exhibit 97.

0469

1 Mine actually has writing all over it, do we have a  
2 clean copy of that 97 either from you, Mr. Cedarbaum, or  
3 from Mr. Van Cleve perhaps. It was an ICNU  
4 Cross-Exhibit 12.

5 MR. CEDARBAUM: I can provide my copy.

6 JUDGE MOSS: If it's clean, yeah, mine has  
7 handwritten notes. I wouldn't want to taint the  
8 witness.

9 And this is -- what you have there is --  
10 actually mine is several pages, it looks like you were  
11 just handed one page.

12 MR. CEDARBAUM: Your Honor, you did say  
13 Exhibit 97?

14 JUDGE MOSS: Yes, it's Exhibit 97, it was  
15 ICNU Cross-Exhibit 12.

16 MR. VAN CLEVE: Your Honor, I think that is a  
17 one page exhibit.

18 CHAIRWOMAN SHOWALTER: It's just one page.

19 JUDGE MOSS: Hm, well, that's funny. We'll  
20 have to clear this up perhaps at the end of the day, I  
21 have a two page exhibit. But anyway, the page that  
22 you're looking at is the page I'm interested in.

23 BY JUDGE MOSS:

24 Q. There was examination toward the end of the  
25 day with Mr. Schoenbeck concerning this exhibit, and he

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1 basically broke it into three periods there, the periods  
2 in the center for 2004, 2005, he indicated that was per  
3 NYMEX, and then 2006 through 2011 per least cost plan,  
4 and I see this is actually a response to a Staff data  
5 request, so would this be consistent with your  
6 understanding of --

7 A. Right, it is. I might point out that for the  
8 resource acquisition studies more -- a time frame past  
9 2011 would have been used.

10 Q. Okay.

11 A. So in the sense that this doesn't completely  
12 describe that.

13 Q. Right.

14 A. It isn't a replication of it.

15 Q. In those years beyond 2011, do you recall was  
16 that also least cost plan data?

17 A. I don't recall that.

18 Q. Okay, that's fine, I think I have sufficient  
19 information for my purposes of understanding.

20 All right, so hang on a second, I think that  
21 actually -- and when you did your analysis, did you  
22 consider alternative natural gas assumptions in  
23 evaluating the Frederickson?

24 A. I did not.

25 Q. Okay, so you found these acceptable



0471

1 assumptions?

2 A. All the alternatives were held to the same  
3 standard, and since ranking is the goal, it was the  
4 right thing to do.

5 JUDGE MOSS: All right, I believe that's all  
6 I have.

7 Any redirect?

8 MR. CEDARBAUM: No.

9 MR. GLASS: With regard to the gas pricing, I  
10 do have a few quick questions.

11

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

13 BY MR. GLASS:

14 Q. Mr. McIntosh, with the least cost plan that  
15 PSE filed this last year, isn't it true that the company  
16 used NYMEX prices for the first two years of that  
17 analysis?

18 A. That's true.

19 Q. With regard to the PCA settlement in the  
20 UE-011570 docket, isn't it true that the PCA settlement  
21 there was set on NYMEX prices?

22 A. You mean the base rates that the standard  
23 rates are built on?

24 Q. Correct.

25 A. And which are reflected in the PCA?

0472

1 Q. Yes.

2 A. That's true.

3 Q. And finally, looking to the fuel management  
4 strategy document that was appended to Mr. Markell's  
5 testimony that discussed how the fuel for Frederickson  
6 1, that analysis, which is Exhibit 173C, didn't that  
7 consider both long-term and short-term gas prices?

8 A. Well, could you tell me that exhibit number  
9 again?

10 Q. It is 173, and I can just hand it to you now.

11 A. That would be fine, okay. On what part of  
12 that page are you?

13 Q. Well, actually, I just would like you to  
14 confirm that that document actually considered both the  
15 long-term market fundamentals analysis as well as the  
16 short-term gas prices in evaluation of the fuel strategy  
17 for Frederickson 1.

18 A. Well, can I hedge that a little bit, yes and  
19 no.

20 JUDGE MOSS: That was a complete hedge, I  
21 think.

22 A. So the word fundamentals is not a precisely  
23 defined idea. And in some modelling circles,  
24 fundamentals means strictly a simulation model which  
25 models both supply of elements of the product to be

0473

1 consumed and the demand for it, and the model iterates  
2 to an equilibrium solution. This is a standard market  
3 simulation fundamentals model. Other people use the  
4 word fundamentals just to mean that they have considered  
5 funda -- basic drivers to determine the -- of the  
6 requirement for that commodity and basic inputs for  
7 determinations of its price and through other methods,  
8 maybe statistical smoothing methods, more deterministic  
9 common sense methods, maybe just drawing a line with a  
10 ruler among a set of points, and come up with a  
11 forecast. And in a sense, that is a fundamental  
12 forecast. So it kind of depends on what you're saying.  
13 To some degree fundamental forces are considered here.

14 Q. My question is somewhat more narrow in scope.  
15 That document, which is the fuel management strategy,  
16 all I want to know is whether you agree that it was both  
17 a long-term look at fuel as well as a short-term  
18 assessment of what prices were available at the time?

19 A. Oh, yes.

20 MR. GLASS: Thank you.

21 CHAIRWOMAN SHOWALTER: What document were you  
22 referring to just then?

23 MR. GLASS: I believe that's Exhibit 173.

24 JUDGE MOSS: All right, if there's nothing  
25 further from the Bench and, Mr. Cedarbaum, you still

0474

1 have no redirect?

2 MR. CEDARBAUM: That's correct.

3 JUDGE MOSS: All right, fine, then,

4 Mr. McIntosh, we thank you very much for being here and

5 testifying today, and we'll release you from the stand

6 subject to recall if we have any questions that come up

7 before the end.

8 THE WITNESS: Thank you.

9 JUDGE MOSS: While we're getting resettled

10 here and Mr. Schooley is bringing his materials to the

11 stand, I will mention that we are going to recess today

12 at 3:35 until 4:05 so that other important Commission

13 business can be conducted during that period.

14 And, Mr. Schooley, if you will remain

15 standing, raise your right hand.

16 (Witness Thomas E. Schooley was sworn in.)

17 JUDGE MOSS: Thank you, please be seated.

18

19 Whereupon,

20 THOMAS E. SCHOOLEY,

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

22 herein and was examined and testified as follows:

23

24

25

0475

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

2   BY MR. CEDARBAUM:

3           Q.     Would you please state your full name,  
4   spelling your last name.

5           A.     Yes, my name is Thomas Schooley, that's  
6   spelled S-C-H-O-O-L-E-Y.

7           Q.     Mr. Schooley, what is your position with the  
8   Commission?

9           A.     I'm a regulatory analyst in the energy  
10   section.

11          Q.     Do you have before you what's been marked for  
12   identification as Exhibit 301HC?

13          A.     Yes.

14          Q.     Does that constitute your direct testimony in  
15   this proceeding?

16          A.     Yes.

17          Q.     Is that document, was it prepared by you or  
18   under your supervision and direction?

19          A.     Yes.

20          Q.     And is it true and correct to the best of  
21   your knowledge and belief?

22          A.     As revised, yes.

23          Q.     Those revisions were previously filed with  
24   the Commission; is that right?

25          A.     Yes.

0476

1 Q. Turning to Exhibits 302 through 306.

2 A. Yes.

3 Q. Do those exhibits -- are those exhibits that  
4 are exhibits that are referenced in your direct  
5 testimony?

6 A. Yes, they are.

7 Q. And were all those exhibits also prepared by  
8 you or under your supervision and direction?

9 A. Yes.

10 Q. And are they true and correct to the best of  
11 your knowledge and belief as previously revised for the  
12 Commission?

13 A. Yes, they are.

14 MR. CEDARBAUM: Your Honor, at this point I  
15 would offer Exhibits 301 through 306.

16 JUDGE MOSS: If there's no objection, those  
17 will be admitted.

18 And it's probably a failing in my notes,  
19 Mr. Cedarbaum, but I did not mark Mr. McIntosh's  
20 exhibits as being admitted, so I think you may have  
21 offered them and I may have forgotten to rule. I'm sure  
22 there was no objection, and they will be admitted also.

23 (Exhibits 291HC and 292HC were admitted.)

24 MR. CEDARBAUM: Thank you, Mr. Schooley is  
25 available for questioning.

0477

1 JUDGE MOSS: All right, then for Mr. Schooley  
2 the only party indicating a desire to cross examine is  
3 PSE, so, Mr. Glass.

4

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

6 BY MR. GLASS:

7 Q. Good afternoon, Mr. Schooley.

8 A. Good afternoon.

9 Q. I would like to start with an exhibit that  
10 was premarked as PSE Cross-Ex. 26 which was just brought  
11 in today.

12 JUDGE MOSS: And that's --

13 MR. GLASS: Exhibit 310, sorry.

14 JUDGE MOSS: That's all right.

15 BY MR. GLASS:

16 Q. Have you reviewed this document?

17 A. This document originally was given to us  
18 perhaps two days ago. I have only had a chance to give  
19 it a cursory review.

20 Q. Okay. Will you accept subject to check that  
21 PSE provided this document request or a response to  
22 ICNU's Data Request 617 on February 19th, 2004?

23 A. It's dated as such, but I'm not sure when we  
24 actually received it.

25 Q. On page 2 of that exhibit, the document

0478

1 appears to be a memorandum from Jim Eldridge, who is the  
2 corporate secretary for Puget Sound Energy, to John  
3 Story.

4 MR. CEDARBAUM: Your Honor, I will object if  
5 that was a question, but I will object to any questions  
6 on this exhibit of this witness. This is an exhibit  
7 that was not prepared by Mr. Schooley. It was received  
8 only recently, I believe last Friday, and he has not, as  
9 he indicated, he has not had a chance to thoroughly  
10 review it, so this isn't -- this was not prepared by  
11 him, and he really can't answer any questions about the  
12 detail of it.

13 Moreover, all of the documents that are  
14 contained in Exhibit 310 are dated on dates prior to the  
15 company's filing of its rebuttal case. If the company  
16 felt that this was an exhibit that should be part of  
17 this record, they certainly could have made it a part of  
18 their rebuttal case either when it was prefiled or  
19 through redirect of any witness in the prior two days of  
20 hearing. They chose not to do either of those things.

21 So I would object on the basis of this,  
22 again, this witness -- it was not prepared by this  
23 witness, and the company had its opportunity on a number  
24 of occasions to make it an exhibit through an  
25 appropriate witness and did not do so.



0479

1                   JUDGE MOSS: Well, is your objection  
2 basically that the witness hasn't had an opportunity to  
3 prepare to respond to questions on this, or if the  
4 witness is unfamiliar with the exhibit and can't respond  
5 to questions, then in a sense that sort of boots the  
6 objection because he just won't be able to answer.

7                   MR. CEDARBAUM: I guess my concern is, Your  
8 Honor, that we go through a long line of questions about  
9 this exhibit before it's offered, and then whatever  
10 information comes in or not through these questions and  
11 answers is on the record, and it's difficult to deal  
12 with at that time. So I wanted to get the objection  
13 stated early on so we can find out whether this witness  
14 will be asked questions about it at all.

15                   And so I -- the objection is on the basis  
16 that he did not prepare it, and the company had the  
17 opportunity to offer it through witnesses who are  
18 familiar with it and they did not.

19                   COMMISSIONER HEMSTAD: Mr. Glass, if I can  
20 ask you, why wasn't this offered through a company  
21 witness?

22                   MR. GLASS: The company did not at the point  
23 of its rebuttal testimony understand that the finer  
24 points of the application of FAS 71 and FAS 144 would  
25 become an issue in this case. I believe that the

0480

1 questioning yesterday between yourselves and various  
2 witnesses brought these questions to light, and we're  
3 simply trying to provide the information that the  
4 company has with respect to the accounting treatment of  
5 the Staff and ICNU proposals.

6 I don't have a long line of questions for  
7 Mr. Schooley, I simply want to ask him what is his  
8 opinion and if there are any mistakes or errors in this  
9 document.

10 MR. CEDARBAUM: Your Honor, I guess just to  
11 interject, Mr. Story has testimony in his rebuttal case  
12 where he refers to FASB 71 and 144. The company has  
13 testimony in its case on this subject, and they chose  
14 not to use this document. To suggest that this was an  
15 unknown issue is just not demonstrated by the record.

16 JUDGE MOSS: And certainly, Mr. Glass, this  
17 witness already has established through your foundation  
18 question he's not going to be able to confirm any  
19 calculations or numbers in this document that he did not  
20 prepare and has not had an opportunity to review, so to  
21 the extent your questions go to that, we'll simply be  
22 wasting time, and we're not going to ask him to do  
23 calculations on the stand.

24 (Discussion on the Bench.)

25 JUDGE MOSS: Okay, the objection is

0481

1 sustained. Our thinking at the Bench is that this is an  
2 effort to essentially put in surrebuttal through  
3 cross-examination. If that's something the company  
4 would care to move to do, we would hear your argument as  
5 to why that is important to your case. Otherwise, the  
6 objection is sustained and you will not be allowed to  
7 question Mr. Schooley concerning this proposed exhibit.

8 MR. GLASS: We'll move on.

9 JUDGE MOSS: All right, then 310 will be  
10 treated as not offered.

11 Actually, let me amend that. I should give  
12 you the opportunity to offer it and to have me rule on  
13 it if you wish.

14 MR. GLASS: I don't foresee my chances as  
15 being very high.

16 JUDGE MOSS: I don't either, but I thought  
17 you might wish to preserve the point for appeal.

18 MR. GLASS: I would move for admission of  
19 Exhibit 310 into the record.

20 JUDGE MOSS: Is there an objection?

21 MR. CEDARBAUM: Yes, Your Honor, for the  
22 reasons previously stated.

23 JUDGE MOSS: The objection is sustained, the  
24 exhibit will not be accepted for the reasons previously  
25 stated.

0482

1 BY MR. GLASS:

2 Q. Mr. Schooley, please turn to Exhibit 307,  
3 which is PSE Cross-Ex. 18.

4 A. Yes.

5 Q. This exhibit is the Staff's answer to PSE's  
6 Data Request Number 3, is it not?

7 A. That's true.

8 Q. And specifically the question that was posed  
9 to Staff is:

10 Please provide all documents that relate  
11 or support the idea that a fixed cap was  
12 imposed in Docket UE-921262.

13 Is that correct?

14 A. Yes.

15 Q. And your response is that, your response or  
16 the Staff's response here is that the documents to  
17 support that are the 19th and 20th Supplemental Orders;  
18 is that correct?

19 A. Yes.

20 Q. Please turn to this is Exhibit 83, no 82,  
21 which is the 19th Supplemental Order, please.

22 JUDGE MOSS: And that was offered and  
23 received in connection with Mr. Gaines for those of you  
24 who have your books organized that way.

25 MR. CEDARBAUM: If I could just confirm with

0483

1 the witness that he has that order with him.

2 THE WITNESS: Is it part of Mr. Elgin's as  
3 well? No.

4 MR. CEDARBAUM: This is the 19th Supplemental  
5 Order?

6 MR. GLASS: Correct.

7 MR. CEDARBAUM: No, it's the Commission's  
8 19th Supplemental Order that you referenced in your data  
9 request response. You can be provided a copy if you  
10 need it.

11 THE WITNESS: Unfortunately I don't have a  
12 copy with me, I'm sorry. I have read it a number of  
13 times in the past week.

14 JUDGE MOSS: Unless you have it memorized, it  
15 might be best to have a copy. Have you been provided --

16 THE WITNESS: I have it, yes.

17 JUDGE MOSS: I think we're all on the same  
18 page.

19 CHAIRWOMAN SHOWALTER: I'm not on a page yet.

20 MR. GLASS: On page 28.

21 BY MR. GLASS:

22 Q. Staff's response to Request Number 3 points  
23 at it, and I quote, "particularly pages 28 to 33". Are  
24 you on page 28?

25 A. Yes, I am.

0484

1 Q. The title of the section that Staff cites  
2 here under sub (a) is:

3 An adjustment is appropriate because of  
4 Puget's failure to analyze  
5 dispatchability.

6 Is that correct?

7 A. Yes, and I might point out that the heading  
8 for number 2 says:

9 Adequate study by Puget would have shown  
10 that the avoided costs of the contract  
11 were lower than the prices it paid.

12 Q. Is there a subsection (b)?

13 A. Apparently not.

14 Q. So the subsection and adjustment is  
15 appropriate because of Puget's failure to analyze  
16 dispatchability using the subsection applicable to pages  
17 28 to 33; isn't that true?

18 A. I guess I don't understand what the question  
19 is.

20 Q. Staff has cited pages 28 to 33 for the  
21 proposition of the disallowance -- for explaining where  
22 the cap is found. I am simply stating that the context  
23 and the words and things cited by Staff here fall within  
24 the title, an adjustment is appropriate because of  
25 Puget's failure to analyze dispatchability; is that

0485

1 correct?

2 MR. CEDARBAUM: Your Honor, I will object to  
3 the form of the question if the intent was to limit  
4 Staff to these particular pages, because that's not what  
5 the data request response says.

6 JUDGE MOSS: Well, and furthermore I think,  
7 you know, the document is an order, it speaks for  
8 itself. The headings say what they say, the order says  
9 what it says. These are the page references, and we can  
10 be referred to the order on brief, so I don't see where  
11 you're going with this, Mr. Glass.

12 BY MR. GLASS:

13 Q. Mr. Schooley, I would like to talk about how  
14 the Commission calculated the disallowance, and I'm  
15 merely -- I asked or we asked Staff in the data request  
16 to point us to where the fixed cap would appear, and I  
17 am quoting your response, particularly pages 28 to 33.  
18 I am trying to figure out where the word cap or ceiling  
19 apply, and you have pointed me toward these pages, so I  
20 am just going to walk through this disallowance. At the  
21 bottom of that page it states that what Puget failed to  
22 do was measure the value of the difference between  
23 dispatchability of its build option and that of its  
24 purchase option to properly value its purchase options.  
25 Is that correct?

0486

1           A.     Could you repeat that, please? I was  
2 thinking ahead.

3           Q.     The last sentence on the page.

4                     JUDGE MOSS: Page 28.

5           A.     Yes, if we're only going to be reading the  
6 order, perhaps we can skip along. If you would like me  
7 to get to the essence of your question, I could do that.

8           Q.     I just need you to confirm that the  
9 Commission stated that it was looking to the value of  
10 the difference between dispatchability of the build  
11 option and the purchase options; is that correct?

12          A.     That's what they say.

13          Q.     On page 29 the Commission makes a finding,  
14 and the finding is specifically that the Commission  
15 finds that Puget's failure to evaluate dispatchability  
16 was a fundamental flaw. Would you agree that that  
17 sentence is there?

18          A.     That Puget admits after the fact that  
19 dispatchability does have value.

20          Q.     Yes, and then it continues that:

21                     We must now consider what the  
22                     appropriate value is and whether a  
23                     disallowance is warranted.

24          A.     Yes.

25          Q.     The next three pages contain a summary of



0487

1 various parties' estimates of the value of  
2 dispatchability; would you agree?

3 A. Yes.

4 Q. And the variety of those values vary  
5 somewhere between .2 mils and 4.55 mils roughly?

6 A. Correct.

7 Q. And on the final paragraph of page 32, the  
8 Commission announces its conclusion.

9 A. Yes, and I might say that in the next to last  
10 paragraph on page 32, the Commission points out that  
11 they are using the most conservative estimate of  
12 variable gas costs, and those choices mean we'll make an  
13 adjustment only to the amounts of the cost of March  
14 Point and Tenaska contracts, which will be passed on to  
15 rated payers, having used that conservative approach  
16 where they determined that the avoided cost was the  
17 maximum they should be allowed in rates. Given that  
18 conservative approach, they determined that the Sumas  
19 contract did not exceed the amount that they were going  
20 to be disallowing, so that avoided cost is what creates  
21 the cap. And that avoided cost was determined to be  
22 1.2% less than the contract cost.

23 Q. Can you point me to where in this order it  
24 says that the recovery shall be capped at the avoided  
25 cost as determined in this order?

0488

1           A.     If it had correctly, this is in the middle of  
2 the next to last paragraph:

3                     If it had correctly analyzed its avoided  
4 cost to purchase rates which properly  
5 valued the two specific projects as  
6 compared to a company built CCCT, it  
7 would not have agreed to purchase at the  
8 prices it's paid.

9           In other words, the prices it paid were  
10 greater than the maximum allowed costs that will be  
11 passed through rates.

12          Q.     Did the Commission in this order conclude  
13 that the disallowance would be avoided costs minus 1.2%?

14          A.     No, those avoided costs were 1.2% less than  
15 the fixed rate contract. The fixed rate contract itself  
16 creates a cap. In other words, if you have a dollars  
17 per megawatt hour that is greater than what would have  
18 been paid, then you can't exceed that dollars per  
19 megawatt hour. And the Commission determined 1.2% less  
20 than that was an appropriate penalty to assess Puget.

21          Q.     So it would be your opinion that this order  
22 establishes a cap at a dollar figure, the avoided cost  
23 dollar figure, in perpetuity and, well, for the life of  
24 the contract; is that true?

25          A.     I wouldn't -- it's not a dollar certain

0489

1 amount, but it's a dollar per megawatt hour maximum on  
2 the production of the plant, yes.

3 Q. So in the last paragraph when the Commission  
4 says that it is going to assess -- please look at the  
5 final paragraph on page 32. Would you agree that the  
6 first sentence:

7 The Commission finds that Puget's  
8 failure in the value of dispatchability  
9 caused Puget to pay too much for the  
10 contracts.

11 Would you agree with that?

12 A. I agree it says that, yes.

13 Q. Okay. Would you agree that for future --  
14 that two sentences further it says:

15 For future rate making treatment, these  
16 contracts should reflect disallowances  
17 for the following as follows for the two  
18 contracts, 1.2% of net contract charge  
19 for Tenaska.

20 Do you see where that is written?

21 A. Yes, and they state that the net charge will  
22 be the amount paid to the contractor plus any payments  
23 for replacement power resulting from economic dispatch.

24 Q. Right, they use the term net charge, and they  
25 have defined the disallowance to key off the net charge

0490

1 and contract; is that true?

2 A. They did. There was also another place in  
3 the order that says that the rate payers will not be  
4 responsible for any excess costs.

5 Q. I think we're going to get there.

6 Let's go to page 33, which I think you  
7 alluded to before. And as you say here, the Commission  
8 explained that it has chosen the damages option with the  
9 least impact on Puget's bottom line. Do you see that,  
10 that's right below or right above the heading Roman III?

11 A. We have chosen the damages or disallowance  
12 option with the least impact, yes.

13 Q. Finally on page, getting towards the end  
14 anyway, on page 45, Finding Number 6.

15 A. Page 44?

16 Q. Page 45.

17 A. Okay.

18 Q. I believe this is one of the findings of fact  
19 that your data response pointed to. Again, that first  
20 sentence of Finding of Fact Number 6 specifically goes  
21 to the value of dispatchability, doesn't it?

22 A. That's what they were using as a means of  
23 determining the disallowance, yes.

24 Q. And in Findings 7 and 8 which follow this,  
25 which actually 7 and 8 are nearly identical to each

0491

1 other I think my --

2 A. It appears there was a typographical error.

3 Q. Exactly. It is following on the finding of  
4 imprudence from the value of dispatch -- it is following  
5 on this finding of imprudence due to the value of  
6 dispatchability, isn't it?

7 A. Well, beginning of 8, which seems to be the  
8 more complete paragraph, it says:

9 As a result of Puget's actions, it has  
10 not obtained some resources at a  
11 reasonable cost. Because this is  
12 Puget's responsibility, rate payers  
13 should not bear the extra costs.

14 And they determined those extra costs on a  
15 fixed rate contract to be 1.2% less than the contract  
16 fixed rate, which creates a cap.

17 Q. Actually, I believe the third sentence says:

18 For Tenaska and March Point Phase 2,  
19 Puget's failure to factor in the value  
20 of dispatchability caused Puget to pay  
21 too much for the contracts.

22 Isn't that true?

23 A. That's what it says.

24 Q. And then in I think the next sentence, which  
25 ends due to dispatchability, and the final two

0492

1 sentences, dispatchability is a central point in the  
2 formation of this disallowance; isn't that true?

3 A. That was one of the main faults they found  
4 with these contracts, yes.

5 Q. Does the word cap appear anywhere in this  
6 order?

7 A. No, but I do think it does get to the issue  
8 of whether a maximum amount of cost should be allowed to  
9 rate payers, and they continuously state throughout this  
10 section of the order that there will be no more costs  
11 than what the fixed rate contract would have passed  
12 through.

13 Q. Does the word ceiling appear --

14 A. No, but --

15 Q. -- in this order?

16 A. -- excess cost does.

17 Q. Does the Commission's order say, all costs  
18 that exceeded avoided cost cap are disallowed?

19 A. When you have a fixed price contract, even  
20 though those fixed -- those prices may increase each  
21 year, I do see that as being a maximum allowed amount of  
22 expense.

23 Q. My question is, does it say, all costs that  
24 exceeded the avoided cost cap are disallowed?

25 A. No, because you used the word cap.

0493

1 Q. Does it say that the cost to the rate payers  
2 shall be fixed at an exact sum for the balance of the  
3 contract?

4 A. No.

5 Q. And does it use the words, the rate payers  
6 shall be held harmless in excess of a certain sum?

7 A. No, but it still just does not seem fair to  
8 me that the company could some years later be exceeding  
9 the costs that it would have paid under this contract  
10 and expect recovery of that.

11 Q. I would like to turn to the 20th supplemental  
12 order, which is Exhibit 83.

13 MR. CEDARBAUM: Again, the witness may need  
14 to be provided a copy.

15 THE WITNESS: It's right here.

16 MR. GLASS: It's there.

17 BY MR. GLASS:

18 Q. Would you confirm that between the 19th and  
19 the 20th supplemental orders that PSE sought  
20 clarification of the calculation of the disallowance?

21 A. I don't know why Puget sought clarification  
22 unless it states so in here, that may be.

23 Q. Your data request refers to Finding of Fact 6  
24 in the 20th Supplemental Order.

25 A. Is that on page 21?

0494

1 Q. You beat me to it.

2 Once again the Commission after significant  
3 briefing revised Finding of Fact Number 6, once again  
4 Finding of Fact Number 6 which you pointed to in your DR  
5 reads in the first sentence:

6 Puget was imprudent because it failed to  
7 analyze the value of dispatchability,  
8 and continues on.

9 Is that true?

10 A. Yes.

11 Q. In the 20th Supplemental Order, do the words  
12 cap or ceiling appear?

13 A. No, but they still refer to a contract which  
14 had amounts certain in it, and the disallowance was  
15 based on an amount certain.

16 Q. If the amount certain was known, why didn't  
17 it appear within the body of the contract?

18 A. At this point in time in the contract, the  
19 contract did allow for dispatchability under conditions  
20 that were perhaps a little onerous to obtain. As I  
21 understood the contract, and I don't believe this gets  
22 into confidential information, the company had to seek  
23 permission some time in advance of turning the plant off  
24 from the Tenaska partners. That created the ability and  
25 the company did dispatch or displace that contract



0495

1 occasionally during the next few years, so there was  
2 some displacement available to the company. So the  
3 maximum amount if they took 100% of the power would have  
4 been the most the company would have been allowed to  
5 collect, and then that was discounted by 1.2%. In times  
6 when they actually did reduce the production of the  
7 plant for economic reasons, then that 1.2% was applied  
8 to a smaller amount, because presumably it was  
9 economically valuable to do so.

10 Q. In the next page, which actually I think is  
11 page 22, revised finding of fact makes a clarification  
12 on how the disallowance would be calculated; would you  
13 agree?

14 A. It clarifies the calculation, yes.

15 Q. And the calculation is 1.2% times the net  
16 contract charge; is that true?

17 A. Yes.

18 Q. And the net contract charge in the revised  
19 finding of fact is the net cost of the contract, which  
20 includes the following three components; is that true?

21 A. Yes.

22 Q. And the three components are the amount paid  
23 to the contractor, the amount paid to the contractor  
24 under the displacement provisions, and the amount paid  
25 for replacement power; is that true?

0496

1 A. Yes.

2 Q. It does not say in that sentence or anywhere  
3 in this paragraph that the cost will be limited to the  
4 avoided cost figure established in 1994?

5 A. Well, again, that avoided cost figure was  
6 used to determine whether the fixed rate contract was  
7 prudent or not. As a fixed rate contract, as I have  
8 said before, there is in essence a maximum they would  
9 have paid even if this was a prudent contract. So how  
10 can you exceed that maximum at that point in time or any  
11 point in time and consider that to be an allowable  
12 expense in rates.

13 Q. The Commission in its 20th Supplemental Order  
14 does say that this is the final decision on this matter,  
15 doesn't it? It's actually on page 20.

16 A. I wouldn't -- it may say that, but every  
17 order that has come out since then concerning the  
18 Tenaska contract contains clauses that say that the gas  
19 purchases will be reviewed.

20 Q. Well, that's exactly where I want to turn  
21 next. You had a -- Puget Sound Energy filed a request  
22 for admission; do you have that before you?

23 A. I believe so.

24 Q. I'm trying to find the exhibit number, just a  
25 minute.

0497

1 MR. CEDARBAUM: 309.

2 JUDGE MOSS: Mr. Cedarbaum suggests 309.

3 BY MR. GLASS:

4 Q. And in Exhibit 309, the request for admission  
5 is:

6 Please admit or deny that the 1.2%  
7 disallowance and the net cost of the  
8 Tenaska contract have been reflected in  
9 the variety of rate proceedings from  
10 that September 1994 period to date.

11 Is that true?

12 A. Yes.

13 Q. And with respect to PRAM 3, you say that  
14 actually PRAM 3, it did not -- PRAM 3 had closed, isn't  
15 that true, by that time?

16 A. Yes.

17 Q. And so there was a retroactive application of  
18 a \$1 Million prudence disallowance to the PRAM 3 period;  
19 is that correct?

20 A. I think that's how it occurred, yes.

21 Q. And in PRAMS 4 and 5, the 1.2% disallowance  
22 was applied times the net contract charges; is that  
23 correct?

24 A. The 1.2% was applied as it was in the order.

25 Q. And subject to check, would you agree that

0498

1 the Commission's order in the merger proceeding included  
2 or referenced the settlement that included the PRAM 5  
3 power costs?

4 A. Yes.

5 Q. So the PRAM 5 power costs, which you have  
6 already admitted included the 1.2% disallowance, then  
7 flowed through to the merger proceeding?

8 A. Yes, and for PRAMS 3, 4, and 5, the contract  
9 was still operating as a fixed price contract. The  
10 company took the power at a set dollars per megawatt  
11 hour, which was not exceeded because it could not be  
12 exceeded, so therefore there was no excess cost over the  
13 amount of the contract.

14 Q. So the next significant regulatory proceeding  
15 then would have been the 2001 rate case, UE-011570; is  
16 that correct?

17 A. Yes.

18 Q. And you state in the answer to the request  
19 for admission that you can't say one way or another  
20 whether it included the application of the disallowance;  
21 is that true?

22 A. Yes, I was not assigned to that case and  
23 didn't participate except in other tangential issues.

24 Q. Would you accept subject to check that there  
25 was an audit performed of the power cost adjustment

0499

1 mechanism after the settlement in that matter was  
2 approved?

3 A. I don't -- after the settlement?

4 Q. Yes.

5 A. I don't know. I know that Mr. Lott on our  
6 staff did include the 1.2% disallowance on the Tenaska  
7 contract cost in his exhibit, and apparently Puget did  
8 not include the disallowance at all in their original  
9 filing. But as far as the settlement and the amount of  
10 costs that were allowed in it, I don't know.

11 Q. So you're not aware of the audit that took  
12 place after approval of the settlement?

13 A. No.

14 Q. Okay.

15 MR. GLASS: Your Honor, I would move for  
16 admission of 307, 308, 309, and 310.

17 JUDGE MOSS: We have already ruled on 310.

18 MR. GLASS: Right.

19 JUDGE MOSS: And that one was denied  
20 admission.

21 Any objection on 307 through 309?

22 MR. CEDARBAUM: No.

23 JUDGE MOSS: Hearing no objection, those will  
24 be admitted as marked.

25 Does that complete your cross-examination?

0500

1 MR. GLASS: Yes, Your Honor.

2 JUDGE MOSS: Thank you.

3 Do we have questions for Mr. Schooley from  
4 the Bench?

5 CHAIRWOMAN SHOWALTER: Yes.

6

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

8 BY CHAIRWOMAN SHOWALTER:

9 Q. I would like to ask you what effect you think  
10 the petition and approval of the accounting order had,  
11 and I think I will ask you a hypothetical question to  
12 test whether you think as a matter of theory a cap was  
13 imposed or as a matter of facts, the circumstances at  
14 hand. Assume that the Commission had found a facility  
15 to be prudent, and the total cost was \$10 Million.

16 A. Okay.

17 Q. As a matter of fact, let's assume that it was  
18 \$11 Million but the Commission approved \$10 Million of  
19 it in absolute dollars.

20 A. Okay.

21 Q. This is what's prudent.

22 A. Okay.

23 Q. And there was a gas component to it. And now  
24 five years later the company and the Staff and the  
25 Commission agree to a different arrangement for the gas

0501

1 component, and let's say that the proposal is to buy gas  
2 at an indexed market into the future. And suppose the  
3 Commission and the Staff and company all say under the  
4 current contract these gas prices are very high, we  
5 think that if we buy on an index basis we'll do better,  
6 but we don't know, we don't know, so we're going to  
7 basically take a chance that market prices will be  
8 lower, but it could go higher.

9           What I would like to know from you in that  
10 situation is, do you think that the Commission would be  
11 and the company would be limited to an upper limit of  
12 that original \$10 Million, or the Commission could if it  
13 were explicit about the whole thing say, well, we think  
14 this is a better bet, we don't know that it's going to  
15 be a better bet, we think it will be a better bet, so  
16 therefore we are approving this new gas arrangement, and  
17 it might go higher than \$10 Million overall. Do you  
18 think that's a permissible outcome?

19           A.     Is your question getting to the explicitness  
20 of the orders and the Commission's intent at that  
21 finding?

22           Q.     I guess my question is getting to whether you  
23 think there's any scenario if totally explicit whereby  
24 the Commission could allow an arrangement that might go  
25 higher than an earlier finding of a prudent amount, the

0502

1 \$10 Million?

2 A. I think the Commission of course could state  
3 it as such. Absent that statement, I think there's room  
4 for future judgments.

5 Q. All right. So now let's assume that none of  
6 this is explicit. We'll assume there was an original  
7 finding of \$10 Million on an \$11 Million contract, and  
8 now we come forward five years later -- let's see, what  
9 is my question. Maybe my refined question is, if it  
10 seemed absolute at the beginning, the \$10 Million seemed  
11 absolute, this is the absolute amount rate payers need  
12 to pay.

13 A. Okay.

14 Q. But do you think that at a later period in  
15 time the matter can be reopened, a reformation of the  
16 contract in a different way?

17 A. It can be, yes.

18 Q. Okay. So is your issue in this particular  
19 case that it either clearly was capped or wasn't  
20 expressly stated, therefore it is a cap?

21 A. I think it's more that the Commission has  
22 never relaxed the constraint of the '92 orders, and  
23 those are still in place. If the company has reformed a  
24 contract that cures some of the problems that were  
25 originally used to determine a disallowance, the company



0503

1 could come back and say, we have changed our ways, we  
2 have reformed the contract, we would like to relax that  
3 constraint, and that has not happened.

4 Q. All right. Then could we turn to the minutes  
5 of the meeting of the open meeting at which the  
6 accounting order was discussed.

7 CHAIRWOMAN SHOWALTER: And someone is going  
8 to have to help me with what number, 52 maybe?

9 JUDGE MOSS: That is, Exhibit 52 is the  
10 transcript from the Commission's open meeting of  
11 December 10th, 1997. That was offered and accepted into  
12 the record with Mr. Gaines.

13 MR. CEDARBAUM: I just want to confirm with  
14 the witness that he has a copy of it.

15 THE WITNESS: Not before me, no, I don't.

16 CHAIRWOMAN SHOWALTER: And I will say in  
17 passing, this is the exhibit where I noticed that we are  
18 missing a page, not of the exhibit, the exhibit is  
19 numbered 1, 2, 3, and 4. But if we look at the  
20 underlying document here, there is page 1 of the minutes  
21 of the meeting, and the next page is actually page 3 of  
22 the minutes of the meeting.

23 MR. GLASS: It was our exhibit, we would be  
24 happy to provide page 2. It was intentional at the  
25 time, but we would be happy to provide that.

0504

1                   JUDGE MOSS: Do you have that, we raised this  
2 with you a couple of days ago, do you have that with you  
3 today?

4                   MR. GLASS: It's not actually in the room  
5 right now, but we could have it first thing tomorrow  
6 morning.

7                   CHAIRWOMAN SHOWALTER: Well, let me you ask,  
8 you said it was intentional, is that because in your  
9 judgment it didn't bear on this issue?

10                  MR. GLASS: Correct.

11                  CHAIRWOMAN SHOWALTER: Well, I do want to see  
12 that.

13                  MR. GLASS: Certainly.

14                  CHAIRWOMAN SHOWALTER: I had wanted to see it  
15 by this point.

16                  MR. GLASS: I'm sorry.

17                  CHAIRWOMAN SHOWALTER: But I will take your  
18 word for now, for the time being.

19                  JUDGE MOSS: Are you furnishing a copy of  
20 that to your witness, Mr. Cedarbaum?

21                  MR. CEDARBAUM: It's my copy, so I don't have  
22 an additional one.

23                  JUDGE MOSS: Thank you.

24                  The witness has the transcript before him.

25 BY CHAIRWOMAN SHOWALTER:

0505

1 Q. Well, I'm looking at the discussion with  
2 Commissioner Hemstad. This is on page 2 of the exhibit.

3 A. Okay.

4 Q. And the question is raised first whether  
5 there is an intention -- whether anyone understands that  
6 the company is going to lock in prices, and I think you  
7 would agree that the answer is no; is that correct?

8 A. That's correct.

9 Q. So at this point, even though that's the  
10 case, it would still be your understanding that the risk  
11 is all on the company. That is they may not decide  
12 today to lock in prices long term, but that's their  
13 problem if they don't; is that right?

14 A. Especially given the setting at the time of  
15 the company being in a rate plan such that differences  
16 would not pass through to the rate payers, and that was  
17 true for the short term, the next few years.

18 Q. Okay. Well, then when Commissioner Hemstad  
19 asks what risks are the rate payers facing here and how  
20 should those risks be addressed, that's at the bottom of  
21 page 2 of the exhibit, and then at the top of page 3 you  
22 say:

23 The risks to the rate payers do exist,  
24 what was a known amount of gas supply at  
25 an increasing rate has now been replaced

0506

1           by a risky gas supply and/or a risky  
2           price for the gas supply, and that I  
3           guess will need to be addressed as  
4           future rate proceedings come up.

5           Well, what risk would that or could that have  
6   been to the rate payers in your mind if there is a cap?

7           A.    Well, I guess the risk would be that it would  
8   fluctuate, that it wouldn't be adding a known amount or  
9   even a known although increasing amount.  And there was  
10   the risk at the time that, as I stated, there may not be  
11   explicitly cost based rate making in the future.  What  
12   would then occur for how rates would be set for either  
13   power or gas or the gas underlying the power would  
14   introduce fluctuations that may not be anticipated.

15          Q.    So is the risk just a downward risk, there's  
16   a cap underneath of which but never above which costs  
17   fluctuate, that's the risk?

18          A.    There is that risk, and I state that that  
19   will be addressed in future rate proceedings, which I  
20   guess is now.

21          Q.    All right, is there anything else in this  
22   record that in your view establishes cap?  We have  
23   discussed the 19th and 20th Orders, and I think there is  
24   discussion here, not necessarily of a cap, but around  
25   the issue.

0507

1 A. Not that I can think of.

2 Q. Different topic, I just want to know who the  
3 right person, who the right witness is to address  
4 questions to regarding the forward looking benchmark,  
5 for lack of a better term, the NYMEX versus CEC type  
6 issue. I don't want to let you get off the stand if  
7 you're the right person.

8 A. It wouldn't be me.

9 CHAIRWOMAN SHOWALTER: All right, I will  
10 leave it at that, thank you.

11 COMMISSIONER HEMSTAD: I don't have any  
12 further questions.

13

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

15 BY COMMISSIONER OSHIE:

16 Q. Mr. Schooley, let me refer you back to  
17 Exhibit 52.

18 A. Was that the '92 orders?

19 Q. No, it was the reference to the open meeting.

20 A. Okay.

21 Q. The minutes of the open meeting in '97.

22 And I want to just -- I want to go back to an  
23 answer that you gave to Commissioner or Chairwoman  
24 Showalter, and that I guess, you know, having read the  
25 transcript and read your answer to Commissioner

0508

1 Hemstad's question that is on page 2, I assume that part  
2 of the risk that you were discussing there was the risk  
3 that the moneys paid to restructure the contract, that  
4 the benefits that were at least asserted by the company  
5 would not be realized. And so I guess I took it to be  
6 more than just the fact that the, you know, that the  
7 price of gas may vary, which, you know, in float with  
8 the market, but that the risk also included the benefits  
9 that the rate payers would receive from what is now the  
10 regulatory asset. But your answer to Commissioner or to  
11 Chairwoman Showalter did not include that. Now I --

12 A. That's a valid point. I think the issue of  
13 what is in essence a loan from the rate payers to the  
14 company, the creation of the regulatory asset which  
15 would be recovered over time, does create the need for a  
16 long-term view of what those -- what the benefits would  
17 be. The company said that they would not necessarily  
18 lock in a long-term contract, because they feared that  
19 really would be replacing one fixed price contract with  
20 another fixed price contract and not avoiding the risks  
21 associated. However, they would be replacing the one  
22 contract with another contract at a half to a third the  
23 costs, so it seems like that alone would reduce the risk  
24 considerably. The benefits projected and what seemed to  
25 be quite realistic at the time were very great, and it

0509

1 was difficult for us to say no to this regulatory asset.  
2 Therefore, with the full expectation that there would be  
3 benefits in the future, we, we the Staff, agreed to  
4 recommend approval of this regulatory asset.

5 Q. Mr. Schooley, how did -- what analysis did  
6 Staff undertake to determine that the regulatory asset  
7 could deliver at least the projected benefits that the  
8 company asserted in its petition for an accounting  
9 treatment?

10 A. Other than reviewing what the company  
11 presented in its petition and the exhibits which showed  
12 available gas prices at the time and going forward that  
13 were substantially less than the prices they would be  
14 paying under the contract, we didn't have time to go  
15 into any further review than that. The original  
16 petition was filed on November 10th, and this open  
17 meeting was on December 10th.

18 Q. Do you know if the company based its forward  
19 look at natural gas prices on I will just call it a bear  
20 forecast, or were they looking at what they could  
21 acquire in the market at the time that the regulatory  
22 asset was established?

23 A. It was represented to us that these were  
24 offers that they could take and have a gas supply at  
25 those prices for the long term. And by long term I

0510

1 don't mean just a year or two, which is often what's  
2 been spoken of in the last couple days, but long term  
3 out to 2011.

4 Q. If I remember from the petition, the company  
5 asserted that it had four offers then on the table?

6 A. Yes.

7 Q. For long-term gas prices?

8 A. There were four offers, not all of them went  
9 out to 2011. Only one of them went in beyond about  
10 2006.

11 Q. Did the Staff have an expectation that the  
12 company would lock in at least part of its gas  
13 requirements for Tenaska in the longer term contracts?

14 A. I don't know if we had an expectation then,  
15 but I think we had an expectation that the company would  
16 achieve the savings, and substantial savings at that.  
17 The testament to that is the sculpting of the  
18 amortization schedule such that there was very little  
19 amortization in the beginning with virtually all of the  
20 amortization occurring in the last few years. It was  
21 brought up that we are now about five, six years into  
22 this, and so far there's -- we're halfway through it,  
23 and there's only about a third of the amortization  
24 that's occurred so far. So I think that the expectation  
25 of greater savings in the out years shows that we really



0511

1 thought that they would be acquiring gas at  
2 substantially less price.

3 Q. Is the regulatory asset reflected in Puget's  
4 base rates today?

5 A. Yes.

6 Q. Is there any exhibit in the record to show  
7 what the base rate is now including Tenaska?

8 A. I think Mr. Russell might have that. It's in  
9 the PCORC filing itself showing all the regulatory  
10 assets, and it's one of the major items in there.

11 Q. When you say it's in rates, you just --  
12 there's been recovery by the company of the regulatory  
13 asset both in principal and interest and rate of return?

14 A. Yes.

15 Q. Okay. Let's go to, if you don't mind, if I  
16 can find it here, I think it's been marked as it's an  
17 exhibit of Mr. Elgin's, and I believe it's 282, excuse  
18 me, it's 283, and if you think Mr. Elgin would be the  
19 appropriate witness, we can ask him, but it has to do  
20 with the accounting treatment for the regulatory asset.

21 A. I can address those questions.

22 Q. Excuse me, I'm on page 7 of 24, it's page 6  
23 of the petition for an accounting order.

24 MR. CEDARBAUM: Commissioner, just for the  
25 record, this was the exhibit that we revised today, and

0512

1 it has different pagination, so I wanted to make sure  
2 that you and Mr. Schooley are on the same page.

3 COMMISSIONER OSHIE: Okay.

4 MR. CEDARBAUM: You may just want to refer to  
5 the exact document. That way I think we'll find it.

6 COMMISSIONER OSHIE: What was the, well, it's  
7 the petition for accounting order.

8 MR. CEDARBAUM: I'm sorry to interrupt, I  
9 just wanted to make sure that you were on the right  
10 page, because this is the document where the petition  
11 was revised.

12 COMMISSIONER OSHIE: Okay.

13 MR. CEDARBAUM: And that starts at page --

14 COMMISSIONER OSHIE: Page 21.

15 THE WITNESS: Page 15 of 37.

16 MR. CEDARBAUM: If you need another copy to  
17 make sure you have it, I can give another copy to you.

18 COMMISSIONER OSHIE: Well, I've got --

19 COMMISSIONER OSHIE:

20 Q. Okay, I'm on Exhibit 283, Mr. Schooley.

21 A. Yes.

22 Q. What's been marked as 283C, and I'm on page 9  
23 of 37.

24 A. Okay.

25 Q. And it has to do with the discussion that we

0513

1 had yesterday about the deferral of power cost savings.

2 A. Yes, this part is what was amended in the  
3 revised petition.

4 Q. I see.

5 A. So this did not come to pass.

6 Q. That did not come to pass?

7 A. True.

8 COMMISSIONER OSHIE: Okay, no further  
9 questions then, thank you.

10 JUDGE MOSS: Any further questions from the  
11 Bench?

12

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

14 BY JUDGE MOSS:

15 Q. Following up on Commissioner Oshie's question  
16 there, we were looking at page 9 of 37 of the revised  
17 exhibit, that was the original petition we were looking  
18 at?

19 A. Yes.

20 Q. In the revised petition, what would be the  
21 corresponding page?

22 A. The revised petition is after the set of  
23 yellow pages, the first set, and it's on page 20 of 37,  
24 or for the ordering requested order section on page 22  
25 of 37, paragraph 16.

0514

1 Q. Did Exhibit H change as between the original  
2 petition and the revised petition?

3 A. Yes.

4 Q. All right, yesterday I requested that the  
5 Bench be provided a copy of Exhibit H. I think I  
6 actually put that request to the company. I'm  
7 indifferent who provides it actually, but I would like  
8 to be sure that we have the Exhibit H, the revised  
9 edition. I do understand correctly, don't I,  
10 Mr. Schooley, that it is the revised petition on which  
11 the Commission acted?

12 A. Yes.

13 Q. So the original petition was never acted on?

14 A. True.

15 JUDGE MOSS: All right, well, that's  
16 important to know, it may explain some of our confusion  
17 regarding trying to walk through what's happened, and of  
18 course PSE has a Bench request to give us a full  
19 explanation of what's happened in an accounting sense  
20 and what is going on currently.

21 MR. GLASS: We're working on it.

22 JUDGE MOSS: So we'll have a full explanation  
23 in the record, and that's what I'm concerned about.

24 All right, if there's nothing further from  
25 the Bench, is there any follow up before we ask for

0515

1 redirect?

2 MR. GLASS: Three questions.

3 JUDGE MOSS: Three questions, I'm going to  
4 start counting and holding people to this.

5 MR. GLASS: I've been good to my time limits  
6 so far.

7 JUDGE MOSS: All right.

8

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

10 BY MR. GLASS:

11 Q. The first one, was the avoided cost ever  
12 discussed at the time of the '97 proceeding?

13 A. No.

14 Q. Did you understand that the company was going  
15 to lock in?

16 A. I didn't say that.

17 Q. No, did you understand at the time that the  
18 company was going to lock in a fixed rate or a fixed  
19 cost for fuel?

20 A. We made no claims that they would be locking  
21 in a fixed price for the fuel, that was represented to  
22 us that there were substantial savings over time and  
23 that there would be by this day.

24 Q. I would direct you to the revised Exhibit  
25 KLE-3C, page 29.

0516

1 A. Yes.

2 JUDGE MOSS: And that's still 282?

3 MR. GLASS: Yes.

4 BY MR. GLASS:

5 Q. And it states --

6 JUDGE MOSS: I don't think he's on the page  
7 yet.

8 THE WITNESS: I have page 29 of 37?

9 MR. GLASS: That's what it looks like to me,  
10 yes.

11 THE WITNESS: Okay.

12 JUDGE MOSS: Okay.

13 BY MR. GLASS:

14 Q. This document is your Staff memorandum to the  
15 Commission dated December 10th, 1997; is that correct?

16 A. Okay, I'm with you.

17 Q. On the next page it says, and I quote, I'm  
18 quoting from your memo:

19 PSE's stated objective in entering into  
20 the agreement was to buy out the gas  
21 supply in order to drive the gas cost  
22 element of the purchase power contract  
23 towards market.

24 Is that what that says?

25 A. (Reading.)

0517

1           At a price and at a time that provides  
2           maximum overall benefit to the company  
3           and its customers.

4           Q.     Yes.

5           A.     I have not seen any maximum benefits from  
6           this contract.

7           Q.     All right, but it does say that the company  
8           was doing it to move toward market, does it not?

9           A.     Well, it doesn't say it's moving towards a  
10          short-term daily market.  It says it will be moving  
11          towards a market.  There's some confusion I think as to  
12          what a market is.  There's long-term markets, there's  
13          short-term markets.  The company represented to us that  
14          there was a long-term market that they could buy gas for  
15          many years at a substantially lower price.

16          Q.     That description you just said is not in your  
17          Staff memorandum, is it?

18          A.     It doesn't say it's at a daily market either.

19                 MR. GLASS:  No further questions.

20                 JUDGE MOSS:  Any redirect?

21                 MR. CEDARBAUM:  No.

22                 JUDGE MOSS:  All right, thank you, moving  
23          right along.

24                 Mr. Schooley, we thank you very much for your  
25          testimony, and we'll release you from the stand subject

0518

1 to recall if we have any other questions before the  
2 proceeding is concluded. Thank you very much.

3 Well, let's see, I believe this brings us to  
4 Mr. Elgin, doesn't it? So we may as well get started,  
5 we have 20 minutes before we need to take our recess,  
6 so.

7 Mr. Glass, do you have an estimate for  
8 Mr. Elgin?

9 MR. GLASS: It would be nice to get done in  
10 15 minutes, I will be close.

11 JUDGE MOSS: Thank you.

12 Please raise your right hand.

13 (Witness Kenneth L. Elgin was sworn in.)

14 JUDGE MOSS: Thank you, please be seated.

15

16 Whereupon,

17 KENNETH L. ELGIN,

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

19 herein and was examined and testified as follows:

20

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

22 BY MR. CEDARBAUM:

23 Q. If you could please state your full name for  
24 the record.

25 A. Kenneth L. Elgin, E-L-G-I-N.



0519

1 Q. Mr. Elgin, what is your position with the  
2 Commission?

3 A. I'm the regulatory services division case  
4 strategist.

5 Q. Referring you to what's been marked for  
6 identification as Exhibit 281, does that document  
7 constitute your direct testimony in this case?

8 A. Yes.

9 Q. And this document, was it prepared by you or  
10 under your supervision and direction?

11 A. Yes.

12 Q. Is it true and correct to the best of your  
13 knowledge and belief?

14 A. Yes.

15 Q. During the course of your direct testimony,  
16 you refer to other exhibits, are the exhibits that have  
17 been marked for identification as Exhibits 282 through  
18 286 the exhibits that are referenced in your direct  
19 testimony?

20 A. Yes.

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

23 A. Yes.

24 Q. Are they true and correct to the best of your  
25 knowledge and belief?

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1 A. Yes.

2 MR. CEDARBAUM: Your Honor, I would offer  
3 Exhibits 281 through 286.

4 JUDGE MOSS: Hearing no objection, they will  
5 be admitted as marked.

6 MR. CEDARBAUM: Mr. Elgin is available for  
7 questioning.

8 JUDGE MOSS: Thank you, and let's see, well,  
9 Mr. Brookhyser is not with us, so though he had  
10 indicated some time, he just decided not to do that.

11 And so, Mr. Glass, you are the only counsel  
12 who has indicated the desire to cross examine, go ahead.

13

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

15 BY MR. GLASS:

16 Q. Afternoon, Mr. Elgin.

17 A. Hello.

18 Q. Could you please tell me when you became  
19 involved in the Tenaska fuel, well, in this issue in  
20 this case, in the Tenaska fuel price issue in this case?

21 A. I don't recall the exact date.

22 Q. Could you give me months or a rough time?

23 A. My recollection is I can tell you that when  
24 the company filed the PCORC testimony I read that, and  
25 so as case strategist that was the beginning of my

0521

1 involvement. And then I recall being -- raising some  
2 issues and some concerns about rate base and the PCORC  
3 mechanism and then becoming involved. So maybe a month  
4 to six weeks after the case was filed, somewhere in that  
5 time frame, maybe a little longer.

6 Q. So if the case was filed on October 24th, it  
7 was roughly end of November, early December?

8 A. Yeah, Thanksgiving would be a -- holiday  
9 would be good.

10 Q. Are you aware or subject to check that the  
11 company filed its PCA compliance filing in Docket  
12 UE-031389 on August 20th, 2003?

13 A. Yes.

14 Q. Are you aware that the Commission filed and  
15 the company responded to data requests in early -- on  
16 October 31st and thereafter with regard to the Tenaska  
17 fuel issue?

18 A. That's my understanding.

19 Q. Did you participate in the conversations in  
20 the PCA compliance docket in October and November?

21 A. Yes, I believe I did.

22 Q. Did you participate in the settlement  
23 discussions in early December?

24 A. Not directly.

25 Q. Are you aware, or excuse me, did you attend

0522

1 the pre-hearing conference proceedings before Judge  
2 Wallis during the first two to three weeks of December,  
3 in that docket, excuse me?

4 A. Was I physically present in the hearing room  
5 during the pre-hearing conference, is that your  
6 question?

7 Q. Yes.

8 A. No, sir.

9 Q. Please turn to Exhibit 289, which was PSE  
10 Cross-Ex. 22.

11 A. Yes, I have that.

12 Q. On page 3 of that exhibit, Mr. Cedarbaum was  
13 describing the settlement or the partial settlement in  
14 that docket. On line 18, could you read that paragraph?

15 A. (Reading.)

16 That stipulation, well, as part of our  
17 agreement the parties have also agreed,  
18 we believe, to have the remaining issue  
19 that has not been resolved in this  
20 particular case moved into the power  
21 cost rate case that's pending in Docket  
22 UE-031725, and that's the issue related  
23 to the fuel costs for Tenaska and  
24 Encogen.

25 Q. And, I'm sorry, I should have asked the

0523

1 question, this transcript comes from December 18th,  
2 2003; will you confirm that?

3 A. That's what page 1 of this document says,  
4 yes.

5 Q. And on the following page, page 4, will you  
6 please read the paragraph that Ms. Dodge stated that  
7 begins on line 15.

8 A. The entire, the entire text?

9 Q. Please, it will go quickly.

10 A. Okay.

11 Let me just add a couple items. One is  
12 that there was discussion in terms of  
13 moving the, we call it the impasse  
14 issue, over to the power cost only rate  
15 case docket that, at least among Public  
16 Counsel, Staff, and the company, the  
17 proposed approach was that the parties  
18 in the response testimony could raise  
19 whatever issues, specifics they wanted  
20 to with respect to the impasse issue and  
21 that the company would then address  
22 those in its rebuttal testimony so that  
23 supplemental direct testimony is not  
24 contemplated. And that's, you know,  
25 part of the reason, that is, the

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1           company's insistence that all along the  
2           power cost only rate case not be slowed  
3           down in any way because of this issue.

4           Q.     Thank you.  When you became involved in the  
5     Tenaska matter in late November, early December, did you  
6     meet with the company to discuss those issues?

7           A.     No.

8           Q.     So you never met with Ms. Ryan or Mr. Gaines  
9     to discuss your concerns about fuel management strategy  
10    or the history or the documentation?

11          A.     That's correct.

12          Q.     Did you take up the company's offer in  
13    several data requests to do so?

14          A.     No.

15          Q.     But you do acknowledge that the company did  
16    offer to have such meetings and explain its fuel  
17    management strategy?

18          A.     Well, what I at that time had read was  
19    response to interrogatories that indicated that the  
20    company would be willing to have those meetings.  But  
21    no, I did not take advantage of that.

22                 MR. GLASS:  Your Honor, I would move for the  
23    admission of Exhibits 287, 288, and 289 into the record.

24                 JUDGE MOSS:  Hearing no objection --

25                 MR. CEDARBAUM:  I'm sorry.

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1 JUDGE MOSS: Oh, you may have an objection.

2 MR. CEDARBAUM: I don't think so, I just  
3 forgot what the first two were.

4 MR. GLASS: I did not actually discuss them.  
5 They were Commission Staff's responses to two other, and  
6 yesterday I think I was too quick to not bother bringing  
7 them in, so I'm actually fine either way.

8 MR. CEDARBAUM: I have no objection. Again I  
9 just forgot exactly what they were.

10 JUDGE MOSS: All right, so 287, 288, and 289  
11 will be admitted.

12 Does that complete your examination?

13 MR. GLASS: Yes, it does.

14 JUDGE MOSS: Eight minutes, ooh.

15 Any questions for Mr. Elgin from the Bench?  
16

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

18 BY CHAIRWOMAN SHOWALTER:

19 Q. I am a little unclear if the Staff has a  
20 position on the I will call it the NYMEX issue. Do you  
21 concur with the company, not contest the company,  
22 disagree with the company on the going forward  
23 benchmark, for lack of a better term?

24 A. I don't have a position on that. I think the  
25 appropriate witness to re-call would be Mr. McIntosh and

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1 inquire of him, but I have not taken a position on that.  
2 And I think the Staff -- the Staff has analyzed that,  
3 but Mr. McIntosh was responsible for that.

4 CHAIRWOMAN SHOWALTER: Okay, thank you, I  
5 think I have no other questions, thank you.

6 COMMISSIONER HEMSTAD: I have no questions.

7 COMMISSIONER OSHIE: And I have no questions.

8 JUDGE MOSS: This is beginning to sound like  
9 a game show. I have questions.

10

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

12 BY JUDGE MOSS:

13 Q. I just want some clarification though,  
14 Mr. Elgin. Mr. Schooley I believe it was, and perhaps  
15 Mr., well, maybe it's just Mr. Schooley, Mr. Russell too  
16 I guess, filed some revised exhibits in the proceeding  
17 that involved some adjustments to the proposed  
18 disallowances, and it somehow relates to the gross up  
19 for taxes. You, however, did not file revisions, and so  
20 if I could refer you to page 12 of your prefiled  
21 response testimony, there's some discussion there about  
22 adjustments 12 and 13, which are the adjustments in  
23 Mr. Russell's exhibits that relate to Tenaska and  
24 Encogen. And you talk here in terms of the adjustments  
25 are presented so that the Commission may consider them



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1 individually or in combination.

2           And my question to you is, is there any --  
3 how should we understand the revised numbers relative to  
4 this testimony by you? Because here you're referring  
5 back to the original amounts, 33 and 11, and now those  
6 amounts have changed significantly. So how should we  
7 view this concept of combining them or considering them  
8 individually?

9           A. Well, if you turn to the previous page, for  
10 the PCORC rate year my adjustment remains unchanged.  
11 Essentially the adjustment says that because the company  
12 has failed to adequately show that it demonstrated  
13 prudence and its actions with the reformed contracts  
14 result in reasonable rates, we were proposing an  
15 adjustment to the cost of fuel for Tenaska. Within that  
16 adjustment, if that's accepted by the Commission, then  
17 Mr. Schooley's adjustment is not necessary.

18           And so the reason why we presented  
19 Mr. Schooley's adjustment separately was that we felt  
20 that the Commission's prior '92 prudence order as a  
21 stand alone matter is -- should be presented that way,  
22 that that is implementing a prior order and the  
23 Commission's decision to cap the amount of cost for  
24 Tenaska. Then if the Commission were to accept our  
25 proposal with respect to the total cost of fuel, that

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1 adjustment would not be necessary.

2 Q. And so the net figure we're looking at here  
3 really then is the difference between Mr. Schooley's  
4 adjustment under his theory and your total adjustment,  
5 and that other figure falls out, right?

6 A. That's correct.

7 Q. And that's why they balance?

8 A. Yes.

9 JUDGE MOSS: That got us there very quickly  
10 and within the time necessary, thank you very much.

11 Oh, you do get an opportunity I guess for  
12 follow up and so forth, any follow up and any redirect?

13 MR. CEDARBAUM: I do have some redirect, but  
14 if Mr. Glass wants to.

15 JUDGE MOSS: All right, redirect.

16

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

18 BY MR. CEDARBAUM:

19 Q. Mr. Elgin, you were asked some questions  
20 about whether you had any contact with the company, any  
21 direct conversations with the company during this  
22 proceeding. You have reviewed a substantial amount of  
23 information though in this case, haven't you?

24 A. Yes, sir.

25 Q. And can you just describe what you have

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1 looked at and the time frames that you were engaged in  
2 that work?

3 A. Well, the work began with the review of the  
4 PCA discovery and both the request propounded by ICNU  
5 and Public Counsel and PCA review, and then additional  
6 responses that I had asked, and then supplemental  
7 responses and approximately two feet, well, similar to a  
8 stack that you see here on the table, which is about  
9 what, 18 inches, of materials with responses to data  
10 requests and primarily risk management committee  
11 meetings. I also as case strategist regularly review  
12 the company's report to shareholders, financial  
13 statements, so the company's performance and financial  
14 profile I'm intimately familiar with.

15 Q. And did your review of these materials, I'm  
16 assuming they took place before the Staff filed its  
17 case?

18 A. Yes, they did.

19 Q. Did you continue to review materials after  
20 you filed your case?

21 A. Yes.

22 Q. And did you continue to review materials  
23 after the company filed its rebuttal case?

24 A. Yes.

25 Q. In Exhibit 289, which is the transcript from

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1 the pre-hearing conference, you were asked to recite  
2 some sections of that. Is there anything about the  
3 Staff presentation in this case just from a procedural  
4 perspective that you believe is inconsistent with  
5 anything that was stated at the pre-hearing conference  
6 from the PCA audit case?

7 A. No.

8 Q. And why is that?

9 A. We are proceeding as we were analyzing the  
10 company's rebuttal case, and we are proceeding within  
11 the time frame, and the company has presented its  
12 rebuttal case, and we are analyzing that and responding  
13 to it and will file the brief on that and let our  
14 position to the Commission be known at that time within  
15 the time schedule that was contemplated in the PCA  
16 settlement agreement.

17 Q. Was there anything in your presentation that  
18 should be interpreted to have precluded the company from  
19 filing its rebuttal case?

20 A. No.

21 Q. And in your direct testimony, you do have a  
22 section which discusses what would happen if I believe  
23 you used the term new evidence or new discovery was  
24 presented and how the Commission may want to treat that.  
25 Can you please clarify what that -- what you -- what

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1 that testimony was?

2 A. Well, my -- the reason why I drafted that  
3 testimony was that if the company had filed new  
4 evidence, I felt that it was only fair to the parties to  
5 have an opportunity to respond to that new evidence.  
6 And so my testimony was very, very clear in that regard,  
7 that should the company on rebuttal file something new,  
8 that the parties should be able to respond to it. And I  
9 tried to use a mechanism that the Commission itself had  
10 previously adopted in trying to fashion what I think  
11 what be an appropriate process should that happen.

12 Q. When you say new evidence though, do you mean  
13 evidence within the scope of rebuttal or outside the  
14 scope of rebuttal?

15 A. I mean outside the scope of proper rebuttal.

16 Q. And what is your recommendation to the  
17 Commission about the what I will call a prudence spinoff  
18 review, or do you feel that that is necessary?

19 A. That is not necessarily at this time.

20 Q. So Staff is prepared just to proceed on  
21 schedule in this case?

22 A. Yes, it is.

23 MR. CEDARBAUM: Thank you, those are all my  
24 questions.

25 JUDGE MOSS: Thank you.

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1                   Mr. Elgin, that appears to complete the  
2 questions for you at this time, and so we thank you for  
3 your testimony, release you from the stand subject to  
4 recall if we come up with something we need to ask you  
5 about later.

6                   THE WITNESS: Thank you, sir.

7                   JUDGE MOSS: We do need to take our recess  
8 here in about two minutes. We will come back at about  
9 4:05. I wonder should -- Chairwoman Showalter will have  
10 to go ahead and leave, and the other commissioners may  
11 choose to stay. This would be a good opportunity for us  
12 to talk about the case management issue concerning  
13 Mr. Lazar.

14                   We had some discussion earlier today off the  
15 record, Mr. ffitich, concerning Mr. Lazar's availability  
16 and so forth. I appreciate your telephone call. My  
17 understanding is, and of course yesterday, Mr. Glass,  
18 you said that the company is prepared to waive  
19 cross-examination of Mr. Lazar.

20                   MR. GLASS: It is so long as he doesn't make  
21 more direct.

22                   JUDGE MOSS: Well, we'll talk about that.  
23 The Bench can also forgo asking Mr. Lazar questions,  
24 which means that we won't have to have him live unless  
25 there is some problem with stipulating his testimony

0533

1 into the record. I understand that there has been some  
2 discussion between you, Mr. ffitch, and Mr. Glass  
3 concerning that process, and maybe you could just brief  
4 us on that.

5 MR. FFITCH: Well, there has been a  
6 discussion. I think perhaps the issue that we need to  
7 just talk a bit more about is our proposal to withdraw  
8 Mr. Lazar's numerical exhibit, his one exhibit, which  
9 has some calculations in it. And we had intended to, as  
10 I advised the company, intend to withdraw that, and we  
11 need to just talk to them a little bit more about how we  
12 would present that to the Commission in a way that  
13 wouldn't require any further examination. So we haven't  
14 had the chance to have that conversation yet, but other  
15 than that I think we're fine just offering his narrative  
16 testimony and without any further examination.

17 JUDGE MOSS: What would be the effect of  
18 offering his narrative testimony unsupported by his  
19 exhibit, what would be the impact on the narrative  
20 portion?

21 MR. FFITCH: Essentially the purpose of the  
22 -- if he had taken the stand, he would say I'm going to  
23 adopt calculations propounded by other parties, and I  
24 actually have in writing some -- the specific answer to  
25 your question, how it would change his testimony, a few

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1 minor corrections, if you will, that we could provide to  
2 you that would answer that question in detail. And I  
3 haven't had a chance to talk to the company about that  
4 yet, but that's the kind of specific arrangement I would  
5 propose if we can get agreement with the company.

6 JUDGE MOSS: Okay, well, I think the  
7 appropriate thing to do then is for you to have that  
8 discussion during this break, and perhaps when we come  
9 back, or perhaps we'll get Mr. Russell up and off. Or  
10 another point comes to mind, which is that the Bench may  
11 wish to recall Mr. McIntosh for a brief period, and so  
12 we do have some additional business to conduct beginning  
13 again at approximately 4:05, and this will be among that  
14 business.

15 COMMISSIONER HEMSTAD: I have a different  
16 topic.

17 JUDGE MOSS: I'm finished.

18 COMMISSIONER HEMSTAD: This is really posed  
19 to the company. There are two issues where I was  
20 possibly expecting you would consider a motion to make  
21 oral surrebuttal, and I'm going to pose the question.  
22 Of course, other parties may have concerns about it.  
23 One is the testimony of Mr. Schoenbeck with his fourth  
24 alternative that he hadn't described in his prefiled  
25 testimony, as to whether you would wish an opportunity



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1 for one of your witnesses to respond to that. And  
2 secondly is the proffered Exhibit 310, whether you wish  
3 to do that with regard to that exhibit. As I say, other  
4 parties may have concerns to make that motion, but you  
5 may want to consider it over the brief recess here as to  
6 whether you wish to do so.

7 MR. GLASS: Thank you, Your Honor, we will.

8 JUDGE MOSS: All right, I think is there  
9 anything further from the parties of this nature?

10 Then with that we will be in recess, and we  
11 will see you all back here at shortly after 4:00.

12 (Recess taken.)

13 JUDGE MOSS: I am passing around the room  
14 copies of Bench Request Numbers 5 and 6.

15 Bench Request Number 5 is to ICNU in which we  
16 ask that you please provide any available analyses that  
17 examine the historical relationship between NARG  
18 forecasts of average annual natural gas prices at Sumas  
19 or other Western trading points and actual average  
20 annual gas prices for each of the following five  
21 calendar years. And I know Mr. Schoenbeck is not with  
22 us today, but perhaps you could consult with your  
23 witness and see if there's such material available.

24 MR. VAN CLEVE: I will certainly do that,  
25 Your Honor.

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1 JUDGE MOSS: Thank you.

2 And Bench Request Number 6 is directed to  
3 Puget Sound Energy, please provide any available  
4 analyses that examine the historical relationship  
5 between the average of NYMEX future prices offered in  
6 September for the next calendar year adjusted for basis  
7 differential for Sumas and actual average annual gas  
8 prices at Sumas for each of the following five calendar  
9 years. And again, if you will consult with your  
10 witnesses, Mr. Glass, and see if there's such analyses  
11 available.

12 And provide those if possible by the end of  
13 the week, if not, certainly by early next week since we  
14 have a short briefing schedule in this case.

15 We have left a couple of case management  
16 issues pending. I believe we asked that Mr. McIntosh be  
17 made available for the possibility for some additional  
18 questions, and I see he is in the room, and we had  
19 discussed the situation with respect to Mr. Lazar. I  
20 think I would propose to defer further discussion on  
21 Mr. Lazar for the moment, and we can take that up at the  
22 end and -- give me a moment.

23 (Discussion on the Bench.)

24 JUDGE MOSS: Okay, I think the best way to  
25 proceed at this point is before we call Mr. Russell, who

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1 is I believe your last witness, we'll go ahead and ask  
2 Mr. McIntosh if he will take the stand again at this  
3 time for some questions from the Bench.

4 And, of course, you remain under oath.

5 THE WITNESS: Yes.

6

7 Whereupon,

8

HENRY MCINTOSH,

9 having been previously duly sworn, was called as a  
10 witness herein and was examined and testified as  
11 follows:

12

13

E X A M I N A T I O N

14 BY CHAIRWOMAN SHOWALTER:

15 Q. Thank you for returning.

16 A. No problem.

17 Q. It seems that in every case somehow I miss  
18 the witness that I want to ask the questions of, but not  
19 this time, I missed you once.

20 I want to ask you about your views of the  
21 NYMEX approach versus the CEC approach for shorthand,  
22 and first of all, what is your position?

23 A. Well, our position -- my position as Staff  
24 witness on this topic is that the NYMEX price series  
25 generated is adequate for the purposes of this filing.

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1 It's not to say it's the best thing to do. It's not to  
2 say that if there were a general rate case with a full  
3 investigation of every issue available then other things  
4 wouldn't be done. However, that doesn't mean that I  
5 think this was improperly done.

6 My position is that it's a very interesting  
7 issue. The gas price for Puget is becoming a lot more  
8 important because it's beginning to rely more and more  
9 on fuel. As I said in my testimony on Frederickson, I  
10 didn't look at gas supply cost for that as part of its  
11 actual acquisition because it hasn't been acquired,  
12 there's no specific fuel element there. It was  
13 evaluated with other alternatives with the general gas  
14 costs and the random variables to simulate variation  
15 around that, and everything was held to the same  
16 standards. So in terms of ranking that, it was properly  
17 done.

18 For normalized rate making, I think what we  
19 have before us is adequate. Nonetheless, it depends,  
20 you use these numbers in a way that's consistent with  
21 their purpose. If you're forecasting gas prices for a  
22 region like what Northwest Power Planning Council does,  
23 for example, the goal there is to get a general idea  
24 over a long number of years of a trend, a base and a  
25 trend in gas prices, because you're simulating interplay

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1 of lots of resources, and the goal there isn't to set  
2 anybody's prices.

3 CHAIRWOMAN SHOWALTER: Can you slow down just  
4 a bit.

5 THE WITNESS: I'm sorry.

6 CHAIRWOMAN SHOWALTER: I thought maybe the  
7 court reporter was having trouble, but I do know I was  
8 also.

9 THE WITNESS: Should I go back a bit?

10 CHAIRWOMAN SHOWALTER: No, that's okay.

11 JUDGE MOSS: I think she got it all so far.

12 THE WITNESS: Okay.

13 A. In normalized rate making, the idea is to  
14 capture a number which reflects more or less a base  
15 around which markets vary in the term, the time frame in  
16 which that rate is probably going to be used. Since  
17 PCORC's are available to the company at their whim, and  
18 they are in definitely need of more resources, we expect  
19 to see more PCORC's. We also have been led to believe  
20 that a general rate case might be in the offing, and  
21 sooner than later. Therefore, the duration that this  
22 number has to be good is shorter than I would otherwise  
23 expect. So in other words, I think one of the things  
24 you have to take into account is the cycle of -- between  
25 rate cases.

0540

1 BY CHAIRWOMAN SHOWALTER:

2 Q. So --

3 A. So if I were God and knew the right number, I  
4 wouldn't tell you. Okay, I would tell you, but it  
5 wouldn't be a single number, it would change in time  
6 periods. So I wouldn't be able to recommend a number or  
7 a short series of numbers. Because it's a rate case  
8 where if no one challenged that and the case lived on  
9 for maybe ten years like in this jurisdiction they  
10 sometimes have, then it would be very hard to pick one  
11 number that would do the service necessary, because the  
12 rate year is really 12 months. So I would have to pick  
13 a number that represented sort of a say upward sloping  
14 or wiggling shape of that price factor, and every year  
15 would have to be close to or reasonably close to the  
16 representation of the rate year.

17 In short, it's not an easy thing to do, one,  
18 and I'm trying to say that my view is that we have done  
19 an adequate job for the purpose in front of us. And if  
20 given a chance for a more general case, I will probably,  
21 and my colleagues too, will join me in investigating  
22 other alternatives. It doesn't mean to say that we find  
23 this unacceptably weak, it's just that every -- every  
24 issue becomes more or less important over time. This  
25 particular one is going to grow in importance, so it

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1 will observe a greater scrutiny, and I think  
2 Mr. Schoenbeck has raised an interesting point.

3 Q. So one thing that seems to weigh with you is  
4 that you would predict that we will be revisiting this  
5 issue even though for legal purposes we're set -- we are  
6 asked to set a rate that will not change until either  
7 the company comes in or a complaint against the rate is  
8 made?

9 A. Yes.

10 Q. And I think that perhaps it's coming off of  
11 the gas benchmark case, but there are just some  
12 interesting contrasts. If we were in a traditional rate  
13 making setting, we would have a test year, pick a rate  
14 that is a gas rate that figures into the overall rate,  
15 and like any rate case there is a rate, and it stays  
16 there until the company comes in or a complaint is  
17 issued, and I presume we would be looking at, in  
18 general, prices fairly close in time to the test year,  
19 forward prices.

20 A. Right.

21 Q. On the other hand, in the gas benchmark case,  
22 which the Commission rejected, but in any event the  
23 theory there was pick an index that moves in time, and  
24 the company buys half its gas on a yearly basis based on  
25 an index, month to month based on an index, and then

0542

1 there's some wiggling around those and then with  
2 incentives above and, well, incentives that work to  
3 induce the company to beat the average, the index. But  
4 my point there is that it's the benchmark itself moves  
5 in time.

6 A. Right.

7 Q. So it strikes me that, well, neither the  
8 NYMEX nor the CEC moves in time, although I think  
9 Mr. Schoenbeck feels that his is more durable over time  
10 than what happens to be ten days of a NYMEX forecast.  
11 And there's a little, there's a bit of the incentive  
12 mechanism here in that there are proposed side boards.  
13 At least it is risk sharing, and I think that whenever  
14 there is risk sharing, the company has an incentive to  
15 avoid the up side if it can.

16 A. Right.

17 Q. Up side meaning cost to them. And I guess my  
18 question is, does it make sense to have this kind of  
19 arrangement of risk sharing with a figure that doesn't  
20 vary, it doesn't move, it's not dynamic over time? And  
21 maybe your answer is, well, it probably won't last very  
22 long.

23 A. Well, that's part of my answer. I think,  
24 yeah, as a matter of fact that is an interesting thing  
25 about the rate making in the PCA PCORC system. However,



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1 in electric rate making usually, unlike the gas LDC  
2 system, you usually use a notion of regulatory lag in  
3 that a number is used, a rate is fixed whether or not  
4 there's a band of sharing, and the company manages  
5 around that. And to some extent that's true in LDC's as  
6 well, but there's more of a cost flow through concept  
7 there in the LDC. That's partly because that is the  
8 primary cost, the variable cost for the LDC, whereas in  
9 the electric company there's, for example, coal costs  
10 and electric power contracts bought from a market or  
11 direct from hydro electric resources. So there's one of  
12 many elements.

13 As I was saying, the cost of gas is going to  
14 become more important, because it -- certainly the gas  
15 turbine is the margin resource technologically. If the  
16 company is facing a period of acquisition requirements  
17 and may face PPA's which have a fuel, a variable fuel  
18 driver in them, so the cost of gas will become of  
19 increasing importance to them.

20 Getting back to your question, it is tempting  
21 to want to float the base rate, but on the other hand  
22 then that sort of undercuts the general idea of giving  
23 the company a basis to which to manage.

24 Q. Well, in for either the Tenaska contract or  
25 Frederickson, what is the percentage of the cost in a

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1 ball park sense of the gas cost versus the fixed and  
2 other costs?

3 A. Well, I would say for Tenaska I can't tell  
4 you. For Frederickson, let's see, I would say gas cost  
5 is going to be around 60% of the levelized cost of  
6 Frederickson. That means in annualized dollars per  
7 megawatt hour, it's going to be gas will comprise about  
8 60% of that annual cost.

9 Q. And for natural gas service, probably isn't  
10 directly comparable, but what is the -- what percentage  
11 are gas costs say to the end user --

12 A. The LDC.

13 Q. -- versus distribution costs? Or you can  
14 give it to me in another way too.

15 A. Well, okay. For the LDC end user, who is not  
16 comparable to the wholesale buyer, namely Puget, there's  
17 about 60%, 45% to 50%, maybe 60% driven by the commodity  
18 and transportation of it. So in other words, most of  
19 the cost of the LDC end user is gas. An awful lot of it  
20 is infrastructure if my memory serves. I haven't been  
21 doing gas for a while but -- on the other hand if an  
22 integrated electric company owns several kinds of  
23 technology, as they do Colstrip, hydroelectric  
24 resources, and so forth, the amount -- the cost of gas  
25 as part of their total revenue requirement which is

0545

1 passed on to the eventual rate payer is much smaller.

2 Q. Right. And not only that, but you don't  
3 always -- you're not using the gas plant in the same  
4 regular way that a gas company is providing gas --

5 A. That's right.

6 Q. -- to its customers.

7 A. That's right.

8 Q. All right. Well, anything else you want to  
9 add on this?

10 A. No, I think it's a very interesting question  
11 that Mr. Schoenbeck has brought up, and I'm sure we will  
12 be looking at it in the future.

13 Q. Thank you.

14 A. You're welcome.

15 JUDGE MOSS: All right, do counsel wish to  
16 follow up with anything they have heard from the Bench?

17 MR. GLASS: No, thank you.

18 MR. VAN CLEVE: I have a couple of questions,  
19 Your Honor.

20

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

22 BY MR. VAN CLEVE:

23 Q. Mr. McIntosh, I'm trying to understand your  
24 distinction that you're trying to draw between a general  
25 rate case and this power cost only rate case. Isn't it

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1 true that you're looking at all of the company's power  
2 costs in this case?

3 A. Well, that's true.

4 Q. And does the company have an obligation to  
5 show that all of its power costs are just and  
6 reasonable?

7 A. That's true, all costs, right.

8 Q. And are gas costs a significant component of  
9 the company's power costs?

10 A. Yes.

11 Q. So why is it not appropriate to look in  
12 detail at gas costs in this case?

13 A. Well, I didn't say they weren't looked at in  
14 detail. I said that they weren't challenged, they were  
15 -- Puget's numbers were used.

16 Q. Have you looked at Mr. Schoenbeck's testimony  
17 regarding the transaction volumes on the NYMEX?

18 A. Well, I think I was present when he discussed  
19 it, yeah, and while you circulated a revised exhibit.

20 Q. Do you happen to have Mr. Schoenbeck's  
21 testimony with you? It's his direct testimony, Exhibit  
22 231.

23 A. I think I just have the original testimony.

24 Q. That's it, it's DWS-1T.

25 A. Oh.

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1 Q. And if you can refer to page 14.

2 A. Okay, I think that is -- you said it was page  
3 14?

4 Q. Yes.

5 A. Okay.

6 Q. Okay. Do you see the chart there with the  
7 NYMEX volumes from the September 5th to 18th, 2003, for  
8 the NYMEX strip that PSE is using in this case?

9 A. I have a list of numbers on my page, you're  
10 referring to a chart.

11 Q. Right, there's a list of numbers with the  
12 NYMEX volumes.

13 CHAIRWOMAN SHOWALTER: Let us see what your  
14 page looks like.

15 JUDGE MOSS: Yes, that's where he is.

16 THE WITNESS: Okay.

17 BY MR. VAN CLEVE:

18 Q. You understand what these numbers represent,  
19 correct?

20 A. I understand these are volume -- numbers of  
21 contracts of standbys contracts at 10,000 MMBtu total.

22 Q. And the rate year in this case begins in  
23 April of 2004 and runs through March of 2005; is that  
24 correct?

25 A. That's the basis, correct, yeah.

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1 Q. And is it your opinion that these contract  
2 volumes on the NYMEX represent a liquid market?

3 A. Well, that's hard to accept.

4 Q. Do you think that it's important that there  
5 be a liquid market if you're going to use those market  
6 prices to set rates?

7 A. Well, yes and no. I mean it certainly --  
8 it's certainly important if you're going to trust those  
9 markets to transact in. If you're looking at them as a  
10 matter of price discovery, they could still lose value.  
11 I wish they were more liquid, as do others. But on the  
12 other hand, of course, Puget isn't using NYMEX, it's  
13 using NYMEX plus a displacement to simulate a local  
14 delivery point.

15 Q. That's the Sumas basis differential?

16 A. That's right.

17 Q. So do you think that it would be appropriate  
18 if there was one contract traded on the NYMEX to set  
19 rates in this case based on that?

20 A. That would bother me, yeah.

21 Q. So there is some point at which a lack of  
22 liquidity would argue that the NYMEX prices shouldn't be  
23 used to set rates; isn't that correct?

24 A. There is a limit, and I'm sure at this time I  
25 don't know what it is.

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1 MR. VAN CLEVE: Thanks, that's all I have.

2 CHAIRWOMAN SHOWALTER: I have a follow up to  
3 that.

4

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

6 BY CHAIRWOMAN SHOWALTER:

7 Q. If you have more prices over a longer period  
8 of time, that is instead of ten days you have three  
9 months of prices, does that make a difference in terms  
10 of the validity of the prices, or is an illiquid market  
11 for three months the same as ten days?

12 A. Well, no, liquidity would change over time,  
13 because the NYMEX is really the average of transactions,  
14 forward transactions committed to by buyers and sellers,  
15 and over time, of course, the number of people  
16 committing change, and so a larger number of days might  
17 damp out some of the difficulties with a less liquid  
18 sample point, that's right.

19 Q. Because we're talking about buying ahead say  
20 12 months, 18 months, but yet you have 365 days in any  
21 particular year to execute that contract. So is it, if  
22 we imagine collapsing 3 months of prices and look at it  
23 that way, is that fair? Such a market, such a collapsed  
24 price set of prices would look more liquid than looking  
25 at it day by day. Is a market made of decisions made

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1 over time in a way that each day doesn't tell you? For  
2 example, one hour of the day might have no trades, and  
3 one hour of the day might have a lot.

4 A. That's correct.

5 Q. We don't see that difference, so we happen to  
6 be able to see the daily difference here.

7 A. Right.

8 Q. But if we took it in quarters, quarters of  
9 years, it would look more -- it would look more liquid,  
10 wouldn't it?

11 A. Yes, that's true.

12 Q. But would it be more liquid, or at least  
13 would it be more dependable for our purposes here?

14 A. Yeah, the liquidity would be a matter of the  
15 market itself rather than the purposes to which we put  
16 it, and it still is a matter of coming up with a  
17 reasonable price estimate for the future. You mean you  
18 think that maybe averaging quarterly results might come  
19 out with more robust estimators of the market price,  
20 which is a --

21 Q. That's my question to you, but robust, I  
22 think that was one of the words I was looking for.

23 A. Okay. Well, yes, it might.

24 So do you have another question?

25 CHAIRWOMAN SHOWALTER: No, I don't, thank



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1 you.

2 JUDGE MOSS: All right, does that complete  
3 our questions?

4 All right, Mr. McIntosh, thank you for  
5 rejoining us and being responsive to the Bench's  
6 questions and those of counsel, and we will yet again  
7 release you subject to recall. Given the late hour, you  
8 may be safe this time.

9 Why don't we get Mr. Russell onto the stand.  
10 Oh, he is here, I was looking for him in the wrong part  
11 of the room.

12 Please raise your right hand.

13 (Witness James M. Russell was sworn in.)

14 JUDGE MOSS: Please be seated, thank you.

15 And I believe in this instance the company  
16 has indicated some interest in cross-examination, and no  
17 one else has, so why don't you put on the witness, and  
18 we'll proceed.

19 MR. CEDARBAUM: Thank you.

20

21 Whereupon,

22 JAMES M. RUSSELL,  
23 having been first duly sworn, was called as a witness  
24 herein and was examined and testified as follows:

25



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1 identification as Exhibits 312 through 316, are these  
2 exhibits associated with your direct testimony?

3 A. Yes, they are.

4 Q. And were they prepared by you or under your  
5 supervision and direction?

6 A. Yes.

7 Q. Are they true and correct to the best of your  
8 knowledge and belief?

9 A. For the same reason, they might change, some  
10 of the numbers would change, yes.

11 Q. Turning now to Exhibit 318, can you please  
12 describe what this exhibit is.

13 A. Well, this is basically an update of the  
14 company and Staff differences in this case. I  
15 originally provided a case difference in my JMR-2,  
16 Exhibit 312 at page 18, but this is an update since the  
17 company filed its rebuttal case. And again, the shaded  
18 numbers have been changed to match the company's  
19 adjustments.

20 And basically the testimony included -- the  
21 testimony that supports those numbers are included in  
22 Mr. Story's rebuttal testimony. For adjustment 1, he  
23 explains power costs on page 4. For adjustment 2, he  
24 explains the reason for that adjustment on page 5. And  
25 the adjustment 7, Montana Energy Tax he discusses at

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1 page 7. And the production adjustment changed just a  
2 tweak, and he discusses that on page 9 of his testimony.

3 Q. So if I understand correctly, the first  
4 column that's labeled PSE Rebuttal, those are numbers  
5 from Mr. Story's exhibit and perhaps other witnesses  
6 based on their rebuttal case?

7 A. That's correct.

8 Q. The company's rebuttal case?

9 A. That's correct.

10 Q. And then the Staff post rebuttal column would  
11 be your -- the Staff direct case, except that what's  
12 shaded would be adjustments in which -- of the company's  
13 that the Staff now agrees with?

14 A. That is correct, yes.

15 Q. And if we look at the differences column, the  
16 differences then appear on lines 14 and 15 for  
17 adjustments 12 and 13; is that right?

18 A. Yes.

19 Q. So those adjustments represent the contested  
20 issues as between Staff and the company in this case?

21 A. Yes, they do.

22 MR. CEDARBAUM: Thank you.

23 Your Honor, at this time I would offer  
24 Exhibits 311 through 316 and 318.

25 JUDGE MOSS: There is no objection, and so

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1 those will be admitted as marked.

2 And is your witness available for  
3 cross-examination?

4 MR. CEDARBAUM: Oh, I'm sorry, yes, he is.

5 JUDGE MOSS: Thank you.

6 Mr. Glass.

7

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

9 BY MR. GLASS:

10 Q. Good afternoon, Mr. Russell.

11 A. Good afternoon.

12 Q. One quick question, and as I think we just  
13 went over or you just went over with Mr. Cedarbaum, in  
14 looking at your Exhibit 318, the company and Staff have  
15 agreed to numbers acceptable to both parties on  
16 adjustments 1 through 11 or lines 2 through 13; is that  
17 correct?

18 A. Correct, yes.

19 Q. So for the lines on PSE Exhibit 318, which  
20 was the cross-examination exhibit --

21 JUDGE MOSS: No, we're looking at 318, that's  
22 Mr. Russell's.

23 Q. I was moving, excuse me, to 317, which was  
24 the company's, it's the same or similar statement of the  
25 adjustments, that there is no difference in the

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1 settlement of the numbers there?

2 A. Correct.

3 MR. GLASS: Your Honor, I would move for  
4 admission of Exhibit 317 into the record.

5 JUDGE MOSS: No objection, it will be  
6 admitted.

7 MR. GLASS: No further questions.

8 JUDGE MOSS: And your -- oh, those are all  
9 direct, sorry.

10 Any questions from the Bench?

11 CHAIRWOMAN SHOWALTER: Well, I just want to  
12 correct a question that I implied that while there were  
13 12 months or 18 months to buy for you had 360 days to  
14 buy them in, it actually would be a subset of that, the  
15 work days.

16 JUDGE MOSS: Okay.

17

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

19 BY JUDGE MOSS:

20 Q. I just have one clarifying question, and I  
21 may show myself up to be a total loss at math, but  
22 looking at your Exhibit 312, which was previously  
23 identified as JMR-2.

24 A. Okay.

25 Q. And looking at page 2 of 18. As I analyzed

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1 your exhibits, I could not make the math work for myself  
2 in the total adjustment column, the very final number  
3 down there, you come up with 37,705,936 and I came up  
4 with a negative 7,581,253.

5 A. Okay.

6 Q. And I'm wondering if I got it right, you got  
7 it right, or --

8 A. Are you adding in the 41 million above?

9 Q. Yes.

10 A. You don't do that.

11 Q. Okay, yeah, so --

12 A. Yeah, those are the assets, and basically the  
13 return on those assets tax effective are included down  
14 below the 41 million, so.

15 Q. I think what I actually did was add the  
16 numbers in that row from left to right.

17 A. Oh, across?

18 Q. Yes.

19 A. Okay, that should add to 37.

20 Q. All right, well, maybe --

21 A. Well, you don't want to include the first  
22 column. You don't want to include --

23 Q. Well, right.

24 A. -- the first column. But from adjustment 1  
25 through adjustment 13, yes, that should equal 37

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1 million.

2 Q. Okay, well, let's look at it this way, and  
3 this is what threw me. You start with a test year  
4 actual there of 862 million some odd.

5 A. Mm-hm.

6 Q. And then you end up with a restated of 854  
7 million some odd.

8 A. Correct.

9 Q. And --

10 A. Oh, I see.

11 Q. -- so the difference between those is the 7  
12 million some odd that I mentioned.

13 A. I see, I see.

14 Q. So that's again I kept sticking on that  
15 number when I would analyze this exhibit, and I want to  
16 make sure that our record is correct.

17 A. Well, that doesn't appear to be correct, so  
18 54, 62 minus, plus 37, definitely not.

19 Q. Well, we don't need to belabor the point on  
20 the stand. I pointed it out.

21 A. Okay.

22 Q. And if there does need to be a correction  
23 made there, perhaps Staff could simply submit something  
24 for the record that would correct that, it would be  
25 fine.



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1 A. Okay.

2 Q. It's not a big issue, I think it's just --

3 A. Okay.

4 Q. I wanted to make sure the exhibit was

5 accurate --

6 A. Right.

7 Q. -- for our record.

8 A. Okay.

9 JUDGE MOSS: Okay, I have lost track of where  
10 we are, we have had our Bench questions opportunity,  
11 follow up, no, redirect, no.

12 All right, then, Mr. Russell, we thank you  
13 for your testimony, and we will release you from the  
14 stand subject to recall if we think of anything in the  
15 next 17 minutes.

16 All right, that I believe completes the  
17 presentation of our witnesses with the exception of  
18 resolving any lingering issues about Mr. Lazar. We had  
19 previously discussed that Public Counsel and the company  
20 would have some conversation concerning how best to  
21 treat his testimony. Could you report on that for me,  
22 Mr. ffitch.

23 MR. FFITCH: Yes, thank you, Your Honor. I  
24 will represent what I believe our understanding is, and  
25 Mr. Glass can interrupt me if I get it wrong.

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1                   First of all, it's my understanding that the  
2 company will stipulate to the admission of Mr. Lazar's  
3 prefiled response testimony, which has been premarked as  
4 Exhibit 271C in this case, and will waive  
5 cross-examination of Mr. Lazar. And it's my  
6 understanding that no other party has cross-examination  
7 questions for Mr. Lazar.

8                   Secondly, Mr. Lazar's Exhibit 272C numerical  
9 calculations in support or in connection with his  
10 narrative testimony will be withdrawn, and Mr. Lazar  
11 will adopt calculations presented by Mr. Schooley with  
12 the Commission Staff. With respect to that adoption, I  
13 have a statement which I have shared with Mr. Glass that  
14 I can read into the record regarding the adoption of the  
15 calculations. I also have a number of specific  
16 corrections to exhibit references that are in the nature  
17 of testimony corrections to Exhibit 271C. Very simply  
18 what those would do is replace Mr. Lazar's reference to  
19 his own exhibit with references to Mr. Schooley's  
20 Exhibits 3C through 6C.

21                   I have those all written down, I can read  
22 those specifics into the record or can simply provide a  
23 written version of those corrections for the Bench.  
24 And, in fact, I would urge the Bench to accept the  
25 written version, because I have just realized that the

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1 specific references are to the very first version of the  
2 confidential testimony that was filed and don't track  
3 quite specifically with the most recent confidential  
4 version that was filed, so I need to just fine tune  
5 them.

6 JUDGE MOSS: I think the Bench would prefer a  
7 written errata.

8 MR. FFITCH: Thank you.

9 So I guess I would just like to state for the  
10 record then that with regard to the UE 92 disallowance,  
11 Ken Elgin presents testimony regarding this, and  
12 Mr. Lazar would adopt the calculations prepared by  
13 Mr. Schooley in support of Mr. Elgin's testimony.

14 With regard to the 1997 restructuring of the  
15 Tenaska contract, Mr. Schooley presents calculations  
16 regarding that, and Mr. Lazar would adopt those  
17 calculations.

18 JUDGE MOSS: Did Mr. ffitch represent the  
19 agreement as you understand it, Mr. Glass?

20 MR. GLASS: Yes, Your Honor.

21 JUDGE MOSS: Okay. And there's otherwise no  
22 impact from your perspective on Mr. Lazar's narrative  
23 testimony other than the references you have given us  
24 generally and that you will provide by errata?

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

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1                   JUDGE MOSS: Well, that would seem to be a  
2                   satisfactory resolution then. I take it you would move  
3                   the admission of 271C, and being no objection, that will  
4                   be admitted, and then just simply not offer 272C.

5                   MR. FFITCH: That's correct.

6                   JUDGE MOSS: All right.

7                   MR. FFITCH: I have one other matter, Your  
8                   Honor, which was to request an exhibit number for the  
9                   public exhibit document.

10                  JUDGE MOSS: Yes, all right, and let me give  
11                  you that. Let's see, I think I distributed Bench  
12                  request Numbers 5 and 6, and those will occupy Exhibit  
13                  Numbers 6 and 7. I think I will skip 9 for the time  
14                  being and assign the public comments exhibit as Number  
15                  10.

16                  MR. FFITCH: Thank you, Your Honor.

17                  JUDGE MOSS: And when can that be provided?

18                  MR. FFITCH: It's under preparation right  
19                  now, Your Honor, and we would propose to file it by the  
20                  end of Friday of this week.

21                  JUDGE MOSS: Great.

22                  Is there anything further from the parties to  
23                  inform our record?

24                  MR. GLASS: Commissioner Hemstad before the  
25                  break suggested two possibilities of motions for

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1 surrebuttal. We could either proceed as a motion for  
2 surrebuttal or pursuant to WAC 480-07-470 I understood  
3 that we would have the opportunity to put on witnesses  
4 after having heard the other cases. The only two things  
5 we would do is move to put Mr. Story on to provide the  
6 foundation necessary and his understanding of I believe  
7 it was Exhibit 310 that we brought before the Commission  
8 earlier today, and the second thing would be to bring  
9 Mr. Gaines back for a few questions with regard to and  
10 make him available for other parties and the Commission  
11 to answer questions about Mr. Schoenbeck's scenario  
12 number four or alternative number four.

13 JUDGE MOSS: All right, we will want to hear  
14 from other parties with respect to the proposal to have  
15 some additional direct.

16 Is there any objection to the idea?

17 MR. CEDARBAUM: Yes.

18 JUDGE MOSS: Then state your objection.

19 MR. CEDARBAUM: Thank you, Your Honor. First  
20 of all, this was not the Staff's motion to present  
21 additional testimony on the Schoenbeck alternative four,  
22 but if the Commission is going to allow that, then we  
23 would also like the opportunity to put a witness on just  
24 for that limited purpose.

25 With respect to the other aspect of the

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1 company's motion to put on really what's not surrebuttal  
2 but additional rebuttal testimony that was not prefiled  
3 on the Exhibit 310, we would object for two basic  
4 reasons, and these somewhat are duplicative of what I  
5 indicated before, but I would like to -- I think they  
6 bear repeating.

7           The first is that we're operating under an  
8 expedited schedule in this case, and we're on the  
9 schedule the company wanted to have. And we certainly  
10 agreed to have an expedited schedule in these PCORC  
11 proceedings, but we are also at a disadvantage when that  
12 happens, because all of the evidence that we look at is  
13 with the company, the company gets rebuttal. And we  
14 understand those rules of the game when we go in, but  
15 when the company is allowed essentially to file and  
16 present what is additional rebuttal testimony that was  
17 not prefiled, that puts that disadvantage I think into  
18 the unfair category. It's just unfair to the Staff and  
19 remaining parties that when the company rests its  
20 rebuttal case that there's this possibility that there  
21 is additional rebuttal that is presented live.

22           And I think that unfairness really is  
23 exacerbated in this case because this could have been  
24 avoided by the company. This is an exhibit again that  
25 was in the company's possession at the time it filed its

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1 rebuttal case. It could have put it in its rebuttal  
2 case, and we would have had a week to analyze it and  
3 review it, questions about it. They could have also  
4 done it through redirect of Mr. Story yesterday. They  
5 chose not to do that as well. So this was a -- it's an  
6 unfair situation that we did not create and that was  
7 avoidable from the company's perspective, so we would  
8 object to that aspect of the motion.

9           And we also would, with respect to the first  
10 part of the motion to deal with the Schoenbeck  
11 alternative four, we would just like an equal  
12 opportunity if the Commission is going to grant that  
13 part.

14           JUDGE MOSS: Would your witness on the  
15 Schoenbeck issue four be adverse to Mr. Schoenbeck's  
16 proposal?

17           MR. CEDARBAUM: Well, the witness would be  
18 Mr. Lott for one. It would not be an existing Staff  
19 witness, because Mr. Lott is most familiar with the PCA  
20 and how it works. And I believe his position would be  
21 adverse, although it's critical, I don't know if I could  
22 say how critical, how critical he is against that  
23 proposal, but he would not be supportive.

24           JUDGE MOSS: All right.

25           Anybody else want to be heard on this?

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1                   MR. VAN CLEVE:  Yes, Your Honor.  We would  
2 support Mr. Cedarbaum's objection.

3                   With respect to putting Mr. Story back on the  
4 stand for the reasons that he stated.  With respect to  
5 putting Mr. Gaines on the stand to discuss  
6 Mr. Schoenbeck's alternative four, if the Commission  
7 would like to hear more discussion of that alternative,  
8 we're not opposed to doing that, but I think it would be  
9 useful if we're going to have two witnesses on the stand  
10 talking about it to have Mr. Schoenbeck here, because  
11 there may be some uncertainty about what his proposal  
12 actually is, and I have been advised that he could be  
13 here in the morning if that would work.

14                  JUDGE MOSS:  All right, so you don't object,  
15 you would just propose a process that would include  
16 Mr. Schoenbeck?

17                  MR. VAN CLEVE:  That's correct.

18                  JUDGE MOSS:  All right.

19                  MR. FFITCH:  Your Honor, we're in a similar  
20 position, concur with Staff with regard to Mr. Story.  
21 If there is going to be further testimony regarding the  
22 scenario number four, we would like an opportunity to  
23 have a witness address that.  Mr. Lazar will be  
24 available tomorrow if we felt a need to tender him, so.

25                  JUDGE MOSS:  All right, we'll have a



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1 conference at the Bench.

2 (Discussion on the Bench.)

3 JUDGE MOSS: All right, we have had an  
4 opportunity to confer at the Bench. The decisions are  
5 these.

6 With respect to the request to put Mr. Story  
7 back on the stand for purposes of sponsoring the exhibit  
8 previously identified as 310, that request is denied.

9 With respect to the proposal regarding  
10 Mr. Schoenbeck's alternative four that was presented  
11 from the stand yesterday, we are going to grant some  
12 process on that, so we can have Mr. Gaines back for the  
13 company if he is the appropriate witness. It appears  
14 that Staff may have some critical view of the matter  
15 that they would have an opportunity to put a witness on  
16 for, and I suppose if Public Counsel were in the same  
17 position we would allow that for Public Counsel as well.  
18 As for Mr. Schoenbeck himself, he has presented his  
19 alternative, and we are disinclined to give him an  
20 opportunity to further testify subject to you renewing  
21 that request. We certainly have no difficulty with him  
22 being here, and of course he may be able to support the  
23 cross-examination that you would be allowed as to these  
24 other witnesses. So again, that's the ruling and  
25 without prejudice.

0568

1 All right.

2 MR. GLASS: Your Honor, I have one last  
3 matter. During the last two hours we have been able to  
4 obtain a full and complete copy of Exhibit 52, which was  
5 the UTC open meeting in December of 1997, the complete  
6 transcript. Ms. Hardie will pass it out, and I  
7 apologize for not having it in the record earlier.

8 JUDGE MOSS: And nicely marked I might add, I  
9 don't have to write numbers.

10 All right, thank you for that.

11 If there is nothing further this afternoon  
12 that we need to take up, we are approaching the 5:00  
13 hour, anything further?

14 I'm forgetting something, I can tell by the  
15 expression, Mr. Cedarbaum.

16 MR. CEDARBAUM: So Mr. Gaines and Mr. Lott  
17 will testify on the Schoenbeck subject tomorrow?

18 JUDGE MOSS: That is correct, and if  
19 Mr. Lazar, if Public Counsel finds that there is some  
20 adversity with respect to that proposal, then they would  
21 be allowed as well.

22 (Discussion on the Bench.)

23 JUDGE MOSS: All right, then I think we are  
24 finished for the day. We'll reconvene tomorrow morning  
25 at 9:30 unless there is something else.

0569

1                   No, okay, good, we are in recess until 9:30

2 tomorrow morning.

3                   (Hearing adjourned at 5:00 p.m.)

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