

0061

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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

3

4

WASHINGTON UTILITIES AND) Docket UE-130137
TRANSPORTATION COMMISSION,) Docket UG-130138

5

) (Consolidated)

6

Complainant,)

7

v.)

8

PUGET SOUND ENERGY, INC.,)

9

Respondent.)

10

VOLUME II

11

Pages 61 through 320

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9:01 a.m.
May 16, 2013

14

Washington Utilities and Transportation Commission

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1300 S. Evergreen Park Drive SW

16

Olympia, Washington

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REPORTED BY: KATHLEEN HAMILTON, RPR, CRR, CCR 1917

20

Buell Realtime Reporting, LLC

21

1411 Fourth Avenue

22

Suite 820

23

Seattle, Washington 98101

24

206.287.9066 | Seattle

360.534.9066 | Olympia

800.846.6989 | National

25

www.buellrealtime.com

0062

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A P P E A R A N C E S

2

ADMINISTRATIVE LAW JUDGE:

3

DENNIS J. MOSS

4

COMMISSIONERS:

5

DAVID DANNER, Chairman

6

JEFF GOLTZ, Commissioner

PHILIP B. JONES, Commissioner

7

FOR PUBLIC COUNSEL:

8

SIMON J. FFITCH, Senior

9

Assistant Attorney General

Chief, Public Counsel

10

Division

Attorney General of

11

Washington

800 5th Avenue

12

Suite 2000, TB-14

Seattle, Washington 98104

13

206.389.2055

simonf@atg.wa.gov

14

FOR COMMISSION STAFF:

15

GREGORY J. TRAUTMAN,

16

Assistant Attorney General

SALLY BROWN, Senior Assistant

17

Attorney General

Chief, UTC Division

18

Attorney General of

Washington

19

PO Box 40128

Olympia, Washington 98504

20

360.664.1187

gtrautma@utc.wa.gov

21

sbrown@utc.wa.gov

22

23

24

25

0063

1 A P P E A R A N C E S (CONTINUED)

2 FOR PUGET SOUND ENERGY:

3 SHEREE STROM CARSON
4 Perkins Coie LLP
5 10885 NE Fourth Street
6 Suite 700
7 Bellevue, Washington 98004
8 425.635.1422
9 SCarson@parkinscoie.com

10 FOR KROGER CO:

11 KURT BOEHM
12 Boehm, Kurtz & Lowry
13 36 East Seventh Street
14 Suite 1510
15 Cincinnati, Ohio 45202
16 513.421.2255
17 kboehm@BKLLawfirm.com

18 FOR ICNU:

19 MELINDA J. DAVISON
20 JOSHUA D. WEBER
21 Davison Van Cleve PC
22 333 SW Taylor
23 Suite 400
24 Portland, Oregon 97204
25 503.241.7242
26 mjd@dvclaw.com
27 jdw@dvclaw.com

28 FOR NWIGU:

29 CHAD M. STOKES
30 Cable Huston Benedict Haagensen
31 & Lloyd LLP
32 1001 SW Fifth Avenue
33 Suite 2000
34 Portland, Oregon 97204
35 503.224.3092
36 cstokes@cablehuston.com

37

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0064

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A P P E A R A N C E S (CONTINUED)

FOR NORTHWEST ENERGY COALITION:

AMANDA GOODIN
Earthjustice
705 Second Avenue
Suite 203
Seattle, Washington 98104
206.343.7340 x1020
agoodin@earthjustice.org

FOR NUCOR STEEL:

DAMON E. XENOPOULOS (by phone)
Brickfield, Burchette, Ritts &
Stone, P.C.
1025 Thomas Jefferson St. NW
8th Floor, West Tower
Washington, D.C. 20007
202.342.0800
dex@bbrslaw.com

* * * * *

EXAMINATION INDEX

1	2	3	4
	WITNESS	BY:	PAGE
3	Mr. Gorman	Ms. Davison	187
		Commissioner Jones	187
4		Commissioner Goltz	212
		Ms. Carson	215
5	Mr. Piliaris	Ms. Carson	216
		Mr. Boehm	217
6		Mr. ffitich	229
		Commissioner Goltz	232
7	Mr. Marcelia	Judge Moss	238
		Commissioner Jones	239
8		Ms. Carson	242
	Mr. Doyle	Ms. Carson	244
9		Commissioner Goltz	248
		Mr. ffitich	250
10		Ms. Davison	251
		Commissioner Jones	253
11	Ms. Barnard	Ms. Carson	258
		Ms. Davison	260
12		Commissioner Goltz	266
		Commissioner Jones	268
13	Ms. Reynolds	Ms. Brown	272
		Ms. Davison	273
14	Mr. Schooley	Ms. Brown	275
		Ms. Davison	275
15		Commissioner Jones	278
		Commissioner Goltz	282
16		Chairman Danner	284
		Commissioner Goltz	284
17		Ms. Brown	286
	Mr. Dittmer	Mr. ffitich	288
18		Chairman Danner	289
		Mr. ffitich	291
19	Mr. Hill	Mr. ffitich	292
		Commissioner Goltz	293
20		Commissioner Jones	303
	Mr. Deen	Ms. Davison	304
21	Mr. Higgins	Commissioner Jones	306
	Mr. Hill	Mr. ffitich	313
22			
23			
24			
25			

0066

INDEX OF EXHIBITS
Dockets EU-130137 and UG-130138

1	2	3	4
NUMBER	DESCRIPTION		
	STIPULATION EXHIBITS		
5	S-1	PSE, NWECA, Commission Regulatory Staff	Multiparty Settlement Re: Coal Transition PPA and Other Pending Dockets" (Stipulation) filed on March 22, 2013
7	S-2	Energy Project	The Energy Project's Joinder in the Multiparty Settlement Re: Coal Transition PPA and Other Pending Dockets
10	S-3	NWIGU	The Northwest Industrial Gas Users' Joinder in the Multiparty Settlement Re: Coal Transition PPA and Other Pending Dockets
12	PSE WITNESSES		
13	KATHERINE J. BARNARD, Director Revenue Requirements and Regulatory Compliance		
14	KJB-1T		Prefiled Direct Testimony updating electric and natural gas costs and describing property tax tracker
16	KJB-2		Witness Qualifications
17	KJB-3		Electric Results of Operations Summary; Electric Revenue Requirement
18	KJB-4		Gas Results of Operations Summary; Gas Revenue Requirement
20	KJB-5		Electric Results of Operations Detailed Adjustments
21	KJB-6		Gas Results of Operations Detailed Adjustments
23	KJB-7		Commission Basis Report, Electric, for 12 months ended December 31, 2011
24	KJB-8		Commission Basis Report, Natural Gas, for 12 months ended December 31, 2011

0067

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 KJB-9

Property Tax Tracker Tariff Sheets-
Electric

4

KJB-10

Property Tax Tracker Tariff Sheets-Gas

5

KJB-11T

Prefiled Rebuttal Testimony

6

KJB-12

Puget Sound Energy Depreciation Expense
by Month 12 months Ending June 2012

7

8 KJB-13

Electric-Determination of ERF-Related
Revenues and Expenses for the Twelve
Months Ended June 30, 2012

9

10 KJB-14

Gas-Determination of Erf Related
Revenues and Expenses for the Twelve
Months Ended June 30, 2012

11

12 KJB-15

JPUD Ratebase Per Customer Comparison

13 KJB-16

Puget Sound Energy K-Factor Calculation
Based on Per Customer Escalation Rates

14

KJB-17

Puget Sound Energy Incremental Ratebase
Supported by Customer Growth

15

16 CROSS-EXAMINATION EXHIBITS

17 KJB-18CX ICNU

Settlement Statement - PSE-JPUD Asset
Purchase, dated 3/28/2013

18

DANIEL A. DOYLE, Senior VP and CFO, PSE

19

DAD-1T

Prefiled Rebuttal Testimony

20

DAD-2

Witness Qualifications

21

DAD-3

Average Authorized ROE and Equity Share
in Capital Structure for the Operating
Utilities In ICNU's Proposed Proxy
Group

22

23

24 CROSS-EXAMINATION EXHIBITS

25

0068

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS (CONTINUED)

NUMBER		DESCRIPTION
DAD-4X	ICNU	Puget Sound Energy, Inc.'s Annual "Commission Basis" Results of Operations for the 12-month period ended December 31, 2012
	KENNETH S. JOHNSON, Director, Rates and Regulatory Affairs	
KSJ-1T		Prefiled Rebuttal Testimony
KSJ-2		Witness Qualifications
	MATTHEW R. MARCELIA, Director of Tax, PSE	
MRM-1T		Prefiled Rebuttal Testimony
MRM-2		Witness Qualifications
MRM-3		Summary of Bonus Depreciation Legislation
CROSS-EXAMINATION EXHIBITS		
MRM-4X	Public Counsel	PSE 10-K (12/31/2012) Excerpt pp. 111-114
MRM-5X	Public Counsel	PSE Response to Public Counsel Data Request No. 21, Docket No. UE-121697 & UG-121705
	JANET K. PHELPS, Regulatory Consultant, Pricing and Cost of Service	
JKP-1T		Prefiled Direct Testimony re restatement of volume and revenue from natural gas operations; calculation of 2011 GRC rates applicable to ERF; removal of property taxes; gas rate spread and rate design
JKP-2		Witness Qualifications
JKP-3		Gas Adjustments to Volume by Rate Schedule; Reconciliation of Revenue at Actual Rates by Rate Schedule

0069

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 JKP-4

Allocation of Property Tax Revenue to
Rate Classes; Rates Applicable to ERF
with Property Tax Adjustment

4

5 JKP-5

Margin Revenue Calculation by Rate
Schedule at UG-111049 Rates Applicable
to ERF

6

7 JKP-6

Allocation of Revenue Deficiency to
Rate Classes; Current and Proposed
Rates Applicable to ERF by Rate
Schedule

8

9

JKP-7

Gas Tariff Sheets ERF Rate Adjustment

10

JON A. PILIARIS, Manager of Pricing and Cost of Service

11

JAP-1T

Prefiled Direct Testimony re Electric
Rate Spread and Rate Design

12

13 JAP-2

Witness Qualifications

14 JAP-3

Determination of June 2012 CBR ERF
Revenues Priced at 2011 GRC ERF Rates

15

JAP-4

Summary-Electric Rate Spread; Proforma
and Proposed Revenue by Rate Schedule

16

17 JAP-5

Tariffed Rate Components

18 JAP-6

Electric Tariff Sheets ERF Rate
Adjustment

19

JAP-7 through JAP-23 pertain to decoupling dockets only

20

JAP-24T

Prefiled Rebuttal Testimony

21

CROSS-EXAMINATION EXHIBITS

22

JAP-25X

Kroger

PSE Response to Kroger Data Request
3-004

23

24 JAP-26X

Public
Counsel

PSE's Response to Public Counsel Data
Request No. 22 (Including Attachments A
and B)

25

0070

1
2
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4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS (CONTINUED)

NUMBER	DESCRIPTION
COMMISSION STAFF	
	THOMAS E. SCHOOLEY, Assistant Director - Energy Regulation, Regulatory Services Division, UTC
TES-1T	Prefiled Direct Testimony in support of Multiparty Settlement
TES-2	Correspondence Between Governor's Office and UTC Chairman
TES-3	Comparison of Rate Changes to Earned Returns at PSE for 2005 through 2011
TES-4T	Prefiled Rebuttal Testimony
TES-5	Comparison of Rate Changes to Earned Returns at PSE
CROSS-EXAMINATION EXHIBITS	
TES-6X	Public Counsel Excerpt from the Deposition of Thomas Schooley, pp. 59-61
TEX-7X	Public Counsel Excerpt from the Deposition of Thomas Schooley, pp. 45-47
TEX-8X	ICNU Puget Sound Energy, Inc.'s Annual "Commission Basis" Results of Operations for the 12-month period ended December 31, 2012
PUBLIC COUNSEL	
JAMES R. DITTMER, Consultant	
JRD-1T	Prefiled Response Testimony re ERF, Decoupling and Rate Plan (K-factor), and alternative proposal re Rate Plan
JRD-2	Witness Qualifications
JRD-3	PSE Projected Schedule 139 Decoupling with K-Factor Revenues

1	INDEX OF EXHIBITS (CONTINUED)	
2	NUMBER	DESCRIPTION
3	JRD-4	Comparison of PSE and Public Counsel
4		ERF Revenue Requirement Deficiency (Electric)
5	JRD-5	Comparison of PSE and Public Counsel
6		ERF Revenue Requirement Deficiency (Gas)
7	JRD-6C	PSE Response to Public Counsel DR 032
8	STEPHEN G. HILL, Consultant	
9	SGH-1T	Prefiled Response Testimony proposing
10		50 basis point risk adjustment to
11		return on equity and an additional 30
12		basis point reduction to reflect
		changes in capital market since May
		2012 conclusion of Dockets UE-111048/ UG-111049
13	ICNU	
14	MICHAEL C. DEEN, Consultant	
15	MCD-1T	Prefiled Direct Testimony addressing
16		overall merits of settlement proposal
17		as a package and aspects of the
18		underlying proposals (i.e., ERF,
19		decoupling and rate plan)
20	MCD-2	Witness qualifications
21	MCD-3	Excerpt of Deposition Transcript -
22		Deborah Reynolds
23	MCD-4	Excerpt of Deposition Transcript -
24		Thomas Schooley
25	MCD-5	Regulatory Assistance Project, Revenue
		Regulation and Decoupling - A Guide to
		Theory and Application, June 2011
	MCD-6	Lesh, Pamela G, Rate Impacts and Key
		Design Elements of Gas and Electric
		Utility Decoupling: A Comprehensive
		Review, October 2009

0072

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 MCD-7

Staff Responses to ICNU DRs 4.6 and
4.23 in UE-121697 and 2.4 and 3.10 in
4 UE-130137

5 MICHAEL P. GORMAN, Consultant

6 MPG-1T

Prefiled Response Testimony proposing
7 adjustments to return on equity (50
basis point reduction), cost of debt
8 and equity share in capital structure
(to ~46%); revenue requirement
9 adjustments for pension expense federal
income tax and incentive compensation
10 based on financial goals; opposing
decoupling

11 MPG-2

Witness Qualifications

12 MPG-3

Return on Equity Study

13 MPG-4

Rate of Return Impact

14 MPG-5

Historical Capital Structure

15 MPG-6

Common Equity

16 MPG-7

Rate of Return

17 MPG-8

Proxy Group

18 MPG-9

Consensus Analysis Growth Rates

19 MPG-10

Constant Growth DCF Model

20 MPG-11

Payout Ratios

21 MPG-12

Sustainable Growth Rate

22 MPG-13

Constant Growth DCF Model

23 MPG-14

Electricity Sales Linked to Economic
24 Growth

24

MPG-15

Multi-Stage Growth DCF Model

25

0073

1 INDEX OF EXHIBITS (CONTINUED)

2	NUMBER	DESCRIPTION
3	MPG-16	Common Stock Market/Book Ratio
4	MPG-17	Equity Premium Risk-Treasury Bond
5	MPG-18	Equity Risk Premium-Utility Bond
6	MPG-19	Bond Yield Spreads
7	MPG-20	Treasury and Utility Bond Yields
8	MPG-21	Value Line Beta
9	MPG-22	CAPM Return
10	MPG-23T	Supplemental Testimony
11	MPG-24	Rate of Return (December 31, 2012)
12		NWIGU
	MICHAEL C. DEEN, Consultant	
13		
14	MCD-8T	Prefiled addressing overall merits of settlement proposal as a package and aspects of the underlying proposals (i.e., ERF, decoupling and rate plan) with focus on natural gas customers
15		
16	MCD-9	Witness Qualifications
17		
18	EDWARD A. FINKLEA, Executive Director of the Northwest Industrial Gas Users	
19	EAF-1T	Prefiled Direct Testimony re decoupling
20	EAF-2	Witness Qualifications
21	EAF-3	PSE Response to NWIGU DR 011, 13, 3, and NVEC Response to NWIGU DR 5
22		
23	EAF-4T	Supplemental Testimony in Support of MultiParty Settlement
24		NUCOR STEEL
25	KEVIN C. HIGGINS, Consultant	

1	INDEX OF EXHIBITS (CONTINUED)	
2	NUMBER	DESCRIPTION
3	KCH-1T	Prefiled Response Testimony
4		recommending adjusting ROE, rejecting
5		K-factors and decoupling (but, if
6		allowed, 25 basis point ROE adjustment,
7		found margin, exclude largest customers
8		or remove some demand-billed delivery
9		component, rate redesign for Schedule
10		139)
11	KCH-2	Electric K-Factor Calculation Using
12		2007 to 2011 Escalation Factors With
13		Adjustment for NOL Carry-Forward
14		Impact
15	KCH-3	Kroger ROE Adjustment for Revenue
16		Decoupling Adjustment to Electric ERF
17	KCH-4	Found Revenue: Accrual of PSE Delivery
18		Revenues with Growing Customer Counts
19		(Electric Example)
20		KROGER
21	KEVIN C. HIGGINS, Consultant	
22	KCH-5T	Prefiled Response Testimony with
23		similar recommendations for gas book,
24		plus do not apply decoupling to
25		transportation customers and remove
26		100% of contract firm revenues from
27		decoupling
28		ENERGY PROJECT
29	CHARLES M. EBERDT, Director, Energy Project	
30	CME-1T	Prefiled Response Testimony re
31		low-income customer issues
32	CME-2	Witness Qualifications
33	CME-3T	Testimony of Charles Eberdt in Support
34		of the Energy Project's Joinder in the
35		Multiparty Settlement Re: Coal
36		Transition PPA and Other Pending
37		Dockets

0075

1 INDEX OF EXHIBITS (CONTINUED)
2 DOCKETS UE-121691 and UG-121705

3	NUMBER		DESCRIPTION
4			STIPULATION EXHIBITS
5	S-1	PSE, NWECA, Commission	Multiparty Settlement Re: Coal Transition PPA and Other Pending
6		Regulatory Staff	Dockets" (Stipulation) filed on March 22, 2013
7			
8	S-2	Energy Project	The Energy Project's Joinder in the Multiparty Settlement Re: Coal Transition PPA and Other Pending
9			Dockets
10	S-3	NWIGU	The Northwest Industrial Gas Users' Joinder in the Multiparty Settlement Re: Coal Transition PPA and Other Pending Dockets
11			
12			PSE WITNESSES
13	KATHERINE J. BARNARD,	Director Revenue Requirements and Regulatory Compliance	
14			
15	KJB-1T		Prefiled Direct Testimony re calculation of K-factors
16	KJB-2		Witness Qualifications
17	KJB-3		Annual Growth Rate Based on GRC Compliance Filing Workpapers-Electric Operations
18			
19	KJB-4		K-Factor Calculations
20	KJB-5		Non-Production Plant-6/2012 Actual and Forecasts for 12/2013-12/2015
21			
22			KJB-6 through KJB-10 pertain to ERF Dockets only
23	KJB-11T		Prefiled Rebuttal Testimony
24	KJB-12		Puget Sound Energy Depreciation Expense by Month 12 months Ending June 2012
25			

0076

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 KJB-13

Electric-Determination of ERF-Related Revenues and Expenses for the Twelve Months Ended June 30, 2012

4

5 KJB-14

Gas-Determination of Erf Related Revenues and Expenses for the Twelve Months Ended June 30, 2012

6

7 KJB-15

JPUD Ratebase Per Customer Comparison

8 KJB-16

Puget Sound Energy K-Factor Calculation Based on Per Customer Escalation Rates

9

10 KJB-17

Puget Sound Energy Incremental Ratebase Supported by Customer Growth

11 CROSS-EXAMINATION EXHIBITS

12 KJB-18CX ICNU

Settlement Statement - PSE-JPUD Asset Purchase, dated 3/28/2013

13

TOM DE BOER

14

TAD-1T

Prefiled Direct Testimony providing "a high level overview" of PSE/NWEC's original decoupling proposal in these dockets

15

16

17 TAD-2

Witness Qualifications

18 DANIEL A. DOYLE

19 DAD-1T

Prefiled Rebuttal Testimony

20 DAD-2

Witness Qualifications

21 DAD-3

Average Authorized ROE and Equity Share in Capital Structure for the Operating Utilities In ICNU's Proposed Proxy Group

22

23

CROSS-EXAMINATION EXHIBITS

24

25

0077

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 DAD-4

ICNU

Puget Sound Energy, Inc.'s Annual
"Commission Basis" Results of
Operations for the 12-month period
ended December 31, 2012

5

KENNETH S. JOHNSON, Director, Rates and Regulatory Affairs

6

KSJ-1T

Prefiled Rebuttal Testimony

7

KSJ-2

Witness Qualifications

8

MATTHEW R. MARCELIA, Director of Tax, PSE

9

MRM-1T

Prefiled Rebuttal Testimony

10

MRM-2

Witness Qualifications

11

MRM-3

Summary of Bonus Depreciation
Legislation

12

13 CROSS-EXAMINATION EXHIBITS

14 MRM-4X

Public
Counsel

PSE 10-K (12/31/2012) Excerpt pp.
111-114

15

MRM-5X

Public
Counsel

PSE Response to Public Counsel Data
Request No. 21, Docket No. UE-121697 &
UG-121705

17

JON A. PILIARIS, Manager of Pricing and Cost of Service

18

JAP-1T

Prefiled Direct Testimony presenting
details of proposed decoupling
mechanisms, as filed October 26, 2012

19

20

JAP-2

Witness Qualifications

21

JAP-3

Proposed Tariff Sheets-Electric
Schedule 139

22

23 JAP-4

Proposed Tariff Sheets-Natural Gas
Schedule 139

24

25

0078

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 JAP-5

Development of Monthly Allowed Revenue
per Customer-Electric - Rate Year -
12 Months Ending April 2013

4

5 JAP-6

Development of Monthly Allowed Revenue
per Customer-Natural Gas - Rate Year -
12 Months Ending April 2013

6

7 JAP-7

Alternate K-Factor Scenarios-Sales
Growth Without Conservation vs.
Customer Growth

8

9 JAP-8T

Prefiled Supplemental Direct Testimony
presenting proposed changes to the
joint decoupling proposal originally
filed in October 2012

10

11

JAP-9

Detailed Description of Electric
Revenue Decoupling Mechanism

12

13 JAP-10

Detailed Description of Gas Revenue
Decoupling Mechanism

14

JAP-11

Development of Monthly Gas Lights &
Water Heater Rental Surcharge Rates

15

16 JAP-12

Development of Monthly Retail Wheeling
Service and Street & Area Light
Surcharge Rates

17

18 JAP-13

Electric Earnings Test

19 JAP-14

Development of Annual Allowed Delivery
Revenue Per Customer-Electric
(Exclusive of Related Property Taxes)

20

21 JAP-15

Development of Annual Allowed Delivery
Revenue Per Customer-Natural Gas
(Exclusive of Related Property Taxes)

22

23 JAP-16

Development of Monthly Allowed Delivery
Revenue Per Customer-Electric

24

JAP-17

Development of Annual Allowed Delivery
Revenue Per Customer-Natural Gas

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS (CONTINUED)

NUMBER		DESCRIPTION
JAP-18		Development of Delivery Cost Energy Rate and Schedule 139 Rate-Electric - Rate Year May 1, 2013 - April 30, 2014
JAP-19		Development of Delivery Cost Energy Rate and Schedule 139 Rate-Natural Gas - Rate Year May 1, 2013 - April 30, 2014
JAP-20		Revised Proposed Tariff Sheets-Electric Schedule 139
JAP-21		Revised Proposed Tariff Sheets-Natural Gas Schedule 139
JAP-22		Development of Deferrals-Electric-Residential-Calendar Year 2013
JAP-23		Development of Deferrals-Natural Gas-Residential-Calendar Year 2013
JAP-24T		Prefiled Rebuttal Testimony
CROSS-EXAMINATION EXHIBITS		
JAP-25X	Kroger	PSE Response to Kroger Data Request 3-004
JAP-26X	Public Counsel	PSE's Response to Public Counsel Data Request No. 22 (Including Attachments A and B)
NWEC		
RALPH CAVANAGH, Natural Resources Defense Council		
RCC-1T		Prefiled Direct Testimony supporting petition (focusing on changes from NWEC proposal in Dockets UE-111048 and UG-111049
RCC-2T		Prefiled Direct Testimony in Dockets UE-111048 and UG-111049

0080

1 INDEX OF EXHIBITS (CONTINUED)

2	NUMBER	DESCRIPTION
3	RCC-3T	Prefiled Supplemental Direct Testimony
4		supporting revised petition (filed
5		March 4, 2013)(focusing on changes from
6	RCC-4T	Prefiled Rebuttal Testimony
7	RCC-5	Morgan, Pamela, A Decade of Decoupling
8		for US Energy Utilities: Rate Impacts,
9	NANCY HIRSCH, Policy Director, NWE	Designs, and Observations

10	NH-1T	Prefiled Direct Testimony supporting
11		multiparty settlement re decoupling and
12	NH-2T	Prefiled Rebuttal Testimony

13 COMMISSION STAFF

14	DEBORAH J. REYNOLDS, Assistant Director of Conservation and	
15	DJR-1T	Prefiled Direct Testimony Supporting
16		PSE/NWEC Petition for Decoupling
17	THOMAS E. SCHOOLEY, Assistant Director - Energy Regulation,	
18	TES-1T	Prefiled Direct Testimony in support of
19		Multiparty Settlement
20	TES-2	Correspondence Between Governor's
21		Office and UTC Chairman
22	TES-3	Comparison of Rate Changes to Earned
23		Returns at PSE for 2005 through 2011
24	TES-4T	Prefiled Rebuttal Testimony
25	TES-5	Comparison of Rate Changes to Earned
		Returns at PSE

25 CROSS-EXAMINATION EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS (CONTINUED)

NUMBER		DESCRIPTION
TES-6X	Public Counsel	Excerpt from the Deposition of Thomas Schooley, pp. 59-61
TES-7X	Public Counsel	Excerpt from the Deposition of Thomas Schooley, pp. 45-47
TES8X	ICNU	Puget Sound Energy, Inc's Annual "Commission Basis" Results of Operations for the 12-month period ended December 31, 2012
PUBLIC COUNSEL		
JAMES R. DITTMER, Consultant		
JRD-1T		Prefiled Response Testimony re ERF, Decoupling and Rate Plan (K-factor), and alternative proposal re Rate Plan
JRD-2		Witness Qualifications
JRD-3		PSE Projected Schedule 139 Decoupling with K-Factor Revenues
JRD-4		Comparison of PSE and Public Counsel ERF Revenue Requirement Deficiency (Gas)
JRD-6C		PSE Response to Public Counsel DR 032
STEPHEN G. HILL, Consultant		
SGH-1T		Prefiled Response Testimony proposing 50 basis point risk adjustment to return on equity and an additional 30 basis point reduction to reflect changes in capital market since May 2012 conclusion of Dockets UE-11048/UG-111049
ICNU		
MICHAEL C. DEEN, Consultant		

0082

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 MCD-1T

Prefiled Response Testimony addressing overall merits of Multiparty Settlement and aspects of the underlying proposals (i.e., ERF, Decoupling and Rate Plan K-factor)

6 MCD-2

Witness Qualifications

7 MCD-3

Excerpt of D. Reynolds Deposition Transcript

8

MCD-4

Excerpt of T. Schooley Deposition Transcript

9

10 MCD-5

Regulatory Assistance Project, Revenue Regulation and Decoupling-A Guide to Theory and Application (June 2011)

11

12 MCD-6

Lesh, Pamela G, Rate Impacts and Key Design Elements of Gas and Electric Utility Decoupling: A Comprehensive Review (Excerpt)(October 2009)

13

14

MCD-7

Staff's Response to ICNU DRs 4.6 and 4.23 in Docket UE-121697, and PSE's Responses to ICNU DRs 2.4 and 3.10 in Docket UE-130137

15

16

17 MICHAEL P. GORMAN, Consultant

18 MPG-1T

Prefiled Response Testimony proposing adjustments to return on equity (50 basis point reduction), cost of debt and equity share in capital structure (to ~46%); revenue requirement adjustments for pension expense federal income tax and incentive compensation based on financial goals; opposing decoupling

19

20

21

22

23 MPG-2

Witness Qualifications

24 MPG-3

Return on Equity Study

25 MPG-4

Rate of Return Impact

0083

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 MPG-5

Historical Capital Structure

4 MPG-6

Common Equity

5 MPG-7

Rate of Return

6 MPG-8

Proxy Group

7 MPG-9

Consensus Analysis Growth Rate

8 MPG-10

Constant Growth DCF Model

9 MPG-11

Payout Ratios

10 MPG-12

Sustainable Growth Rate

11 MPG-13

Constant Growth DCF Model

12 MPG-14

Electricity Sales Linked to Economic
Growth

13

MPG-15

Multi-Stage Growth DCF Model

14

MPG-16

Common Stock Market/Book Ratio

15

MPG-17

Equity Premium Risk-Treasury Bond

16

MPG-18

Equity Risk Premium-Utility Bond

17

MPG-19

Bond Yield Spreads

18

MPG-20

Treasury and Utility Bond Yields

19

MPG-21

Value Line Beta

20

MPG-22

CAPM Return

21

MPG-23T

Supplemental Testimony

22

MPG-24

Rate of Return (December 31, 2012)

23

NWIGU

24 MICHAEL C. DEEN, Consultant

25

0084

1

INDEX OF EXHIBITS (CONTINUED)

2 NUMBER

DESCRIPTION

3 MCD-8T

Prefiled Response Testimony addressing overall merits of Multiparty Settlement vis-à-vis natural gas customers

4

5 MCD-9

Witness Qualifications

6 EDWARD A. FINKLEA, Executive Director of the Northwest Industrial Gas Users

7

EAF-1T

Prefiled Response Testimony re decoupling, proposing exclusion of gas transportation customers and consideration of cost of capital

8

9

10 EAF-2

Witness Qualifications

11 EAF-3

PSE Response to NWIGU DR 011, 13, 3, and NWECC Response to NWIGU DR 5

12

EAF-4T

Supplemental Testimony in Support of MultiParty Settlement

13

14

KROGER

KEVIN C. HIGGINS, Consultant

15

KCH-1T

Prefiled Response Testimony recommending adjusting ROE, rejecting K-factors and decoupling (but, if allowed, 25 basis point ROE adjustment, found margin, exclude largest customers or remove some demand-billed delivery component, rate redesign for Schedule 139)

16

17

18

19

20 KCH-2

Electric K-Factor Calculation Using 2007 to 2011 Escalation Factors With Adjustment for NOL Carry-Forward Impact

21

22

KCH-3

Kroger ROE Adjustment for Revenue Decoupling Adjustment to Electric ERF

23

24 KCH-4

Found Revenue: Accrual of PSE Delivery Revenues with Growing Customer Counts (Electric Example)

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0085

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INDEX OF EXHIBITS (CONTINUED)

NUMBER	DESCRIPTION
KEVIN C. HIGGINS	NUCOR STEEL
KCH-5T	Prefiled Response Testimony with similar recommendations for gas book, plus do not apply decoupling to transportation customers and remove 100% of contract firm revenues from decoupling
CHARLES EBERDT	ENERGY PROJECT
CME-1T	Prefiled Response Testimony re low-income customer issues
CME-2	Witness Qualifications
CME-3T	Testimony of Charles Eberdt in Support of the Energy Project's Joinder in the Multiparty Settlement Re: Coal Transition PPA and Other Pending Dockets

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OLYMPIA, WASHINGTON; MAY 16, 2013

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9:01 A.M.

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THE COURT: Good morning, everyone. My name is Dennis Moss. I'm an administrative law judge with the Washington Utilities and Transportation Commission. The commissioners have designated me in this proceeding or these proceedings, I should say, to serve them as a presiding officer and assist them at the bench. They will be joining us shortly.

11

We have a number of preliminary matters to take up first, and they decided they did not need to be here for my words of wisdom on the preliminary matters, so we'll launch into that in a moment.

15

First, however, let me, for the record, record the caption of the proceeding into our transcript, and it is as -- or they are as follows. I should for the benefit of the court reporter explain that we are conducting joint proceedings in two sets of consolidated dockets.

20

The first is in the matter of the petition of Puget Sound Energy, Inc. and Northwest Energy Coalition for an order authorizing PSE to implement electric and natural gas decoupling mechanisms and to record accounting entries associated with the mechanisms. That is dockets UE-121697 and UG-121705, and they are consolidated by prior order.

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0087

1 The second set of dockets is captioned WUTC versus --
2 or against Puget Sound Energy, Inc., dockets UE-130137 and
3 UG-130138. That is a so-called expedited rate filing, and
4 those dockets also have been consolidated by prior order.

5 I think at this juncture I'll go ahead and take
6 appearances, and then we'll move into the preliminary business
7 that we need to conduct before we get to the witnesses. So
8 let's take appearances, starting with you, Ms. Carson.

9 MS. CARSON: Good morning, your Honor. Sheree Strom
10 Carson with Perkins Coie representing Puget Sound Energy.

11 THE COURT: All right. We'll just go around the room.
12 Mr. Boehm, if you would, please.

13 MR. BOEHM: Good morning, your Honor. Kurt Boehm
14 appearing on behalf of the Kroger Company.

15 THE COURT: I apologize for pronouncing your name
16 incorrectly.

17 MR. BOEHM: No problem, Judge.

18 MR. STOKES: Good morning. Chad Stokes of Cable
19 Huston for the Northwest Industrial Gas Users.

20 MS. DAVISON: Good morning. Melinda Davison on behalf
21 of the Industrial Customers of Northwest Utilities. And also
22 with me today is Joshua Weber.

23 THE VIDEOGRAPHER: You stole his thunder, Ms. Davison.

24 MS. DAVISON: Oh, I'm sorry.

25 MR. FFITCH: Simon ffitich, the Office of Public

0088

1 Counsel.

2 MS. BROWN: Sally Brown and Greg Trautman, assistant
3 attorneys general, on behalf of commission staff.

4 THE COURT: And we'll come full circle back to you,
5 Ms. Goodin.

6 MS. GOODIN: Amanda Goodin with Earthjustice
7 representing the Northwest Energy Coalition.

8 THE COURT: All right. I didn't keep track. Are
9 there others in the room who wish to enter appearances? Are
10 there counsel on the teleconference bridge line who wish to
11 enter appearances?

12 MR. XENOPOULOS: Yes, sir. This is Damon Xenopoulos.
13 Good morning. I'm here for Nucor Steel Seattle, Inc.

14 THE COURT: All right, Mr. Xenopoulos. Thank you very
15 much. Anyone else? Apparently not. Hopefully that's
16 everyone.

17 All right. Now, we do have several motions and
18 requests pending that I want to dispense with at the outset.
19 We have an expedited motion by the Industrial Customers of
20 Northwest Utilities requesting authorization to file
21 supplemental testimony from Mr. Gorman.

22 PSE filed an opposition to that, principally citing
23 the shortness of time as its reason for objecting. I see that
24 you, I believe, filed a reply to that noting the irony. I
25 don't really need to hear anything on this, but if counsel feel

0089

1 compelled to argue, I will listen to your argument. Otherwise,
2 I'm prepared to rule.

3 All right. I'm seeing nods of affirmance. I'm
4 granting your expedited motion. The supplemental testimony
5 will be allowed.

6 MS. DAVISON: Thank you.

7 THE COURT: There was a request from you to move
8 Mr. Gorman up on the witness list. Ms. Carson, I believe,
9 kindly responded that PSE at least had no objection, and I'm
10 assuming no one else does, either. And I don't. So we'll move
11 Mr. Gorman up to the front of the line.

12 MS. DAVISON: Thank you, your Honor.

13 THE COURT: We'll also -- while I'm on that point, I
14 had something -- I can't recall from whom it came in, but
15 Mr. Cavanagh apparently has an early flight as well, and we'll
16 accommodate him, to the extent we can, and get him out of here
17 in time for a 3 o'clock flight. Yes, Ms. Carson.

18 MS. CARSON: Just to clarify on Mr. Gorman's
19 appearance. It was my understanding that he would be at the
20 front of the line of the non-settling parties.

21 THE COURT: Correct.

22 MS. CARSON: Okay.

23 THE COURT: Yes.

24 MS. CARSON: And I should say that Mr. Doyle also has
25 a flight to catch for graduation, so he will definitely need to

0090

1 go today, and by midafternoon. Hopefully, that will happen.

2 THE COURT: I can't see that that's going to be a
3 problem, but, you know, I've been surprised before, so --

4 MS. CARSON: Thank you.

5 THE COURT: We'll see. All right. Now, let's see.
6 We have a Public Counsel motion for leave to present oral --
7 excuse me -- to present oral surrebuttal by Misters Hill and
8 Dittmer. And I have read your pleading and your statement of
9 reasons, Mr. ffitch.

10 Puget Sound has opposed this stating that responding
11 to or rebutting response testimony is the very purpose of
12 rebuttal, which is the argument you made in your motion that
13 their rebuttal included detailed responses.

14 And of course, the purpose of rebuttal also is to give
15 the party with the burden of proof the last word. So again,
16 I'm prepared to rule, but if counsel feel compelled to present
17 argument, I'll certainly listen. Mr. ffitch.

18 MR. FFITCH: Your Honor, if I could just comment
19 briefly. This case is somewhat unique in its procedural
20 status, quite unique, and the -- the request is based upon the
21 fact that we received the rebuttal testimony last week on
22 Wednesday the 8th.

23 A number of the issues that were discussed in the
24 Puget testimony, as well as staff's testimony, were new in the
25 sense that they were the first time that we had heard from

0091

1 Puget Sound Energy and staff on issues relating to costs of
2 capital as well as the tax issues raised by Mr. Dittmer.

3 They were issues that could have been addressed and,
4 in our view, should have been addressed by the moving parties
5 earlier in the case. They were not. When we raised them, then
6 we heard for the first time the company and staff position on
7 those points, and so in a sense this is the first opportunity
8 of our witnesses to respond to the company and staff positions
9 on particular areas.

10 And so that's the basis of the request, in addition to
11 the fact that there really hasn't been any opportunity to -- to
12 conduct discovery on these matters between the filing and the
13 hearing.

14 THE COURT: Okay. Anything from you, Ms. Carson?

15 MS. CARSON: Well, I think we addressed those issues
16 really in our response to the motion. Parties shouldn't be
17 able to manufacture a reason for surrebuttal by raising new
18 issues.

19 And cost of capital shouldn't be an issue in the ERF.
20 Cost of capital was addressed in terms of in the context of
21 decoupling from the very beginning. It isn't appropriate to
22 have an ROE adjustment. So I don't see that there was anything
23 new. What PSE did was simply respond to the intervenors'
24 response testimony.

25 THE COURT: Okay. Yeah, I think that's right,

0092

1 Mr. ffitch. If -- if the company on its own initiative had
2 raised new issues, that would be one thing. Even then I would
3 be reluctant.

4 In fact, in point of fact, as you say, it was your
5 witnesses who raised these issues, and the company's position
6 is they are outside anything that needs to be done in this
7 proceeding.

8 Now, I will comment on that, because there have been
9 some other suggestions in that regard, particularly, for
10 example, in Mr. Doyle's testimony, that this -- the cost of
11 owning, your rate of return, whatever you want to call it, is
12 somehow beyond the scope of this proceeding.

13 It is not. This proceeding involves not only the ERF,
14 but also decoupling, and consideration of the rate of return is
15 a matter expressly called out in the decoupling statement as
16 something that should be considered in the context of a full
17 decoupling proposal.

18 So that issue has been there for however many years.
19 The decoupling policy statement has been there which is, I
20 believe, three. So everyone was aware. So I don't have any --
21 and I haven't heard any motion to strike or anything like that,
22 so it was fine for your witnesses to address these issues in
23 connection with decoupling at least, so I think we're okay
24 there.

25 But in terms of the surrebuttals, I think particularly

0093

1 considering what an extraordinary remedy that is, that we
2 reserve for the most exigent circumstances to preserve the
3 sanctity of our record and its completeness, I'm going to deny
4 your motion.

5 We have motions to allow supplemental testimony by
6 Mr. Eberdt and also by Mr. Finklea in support of the,
7 respectively, Energy Project's and Northwest Industrial Gas
8 Users' decisions to support the multiparty settlement. I can't
9 imagine there are any objections to that. Ms. Davison has an
10 objection, so my imagination fails me.

11 MS. DAVISON: Thank you, your Honor. Actually, I do
12 not have an objection to that testimony. I guess what I am
13 concerned about is that the testimony was filed so late that we
14 have not had an opportunity to respond to it.

15 And I -- I'm not sure, given the procedural posture of
16 the case, what your Honor is thinking about that, but I just
17 wanted to raise the issue that there is testimony that parties
18 that are not supporting the testimony or the settlement, the
19 global settlement, have not been able to respond to.

20 THE COURT: Okay. Well, I take your comment, and it's
21 fine. I will say in that connection that the testimonies are
22 both brief and to the point and basically memorialize that PSE
23 staff, NWECA, agreed to accept basically the litigation or some
24 of the litigation points that were raised through Mr. Eberdt's
25 and Mr. Finklea's earlier testimony.

0094

1 So to that extent, there's been some time to consider
2 these things, certainly the question of Schedules 85-T and so
3 forth. The question of additional funding for the Energy
4 Project as a consideration of the low-income issues in
5 connection with decoupling, for example, these things have been
6 around.

7 So I don't -- and you're not objecting, in any event,
8 but that's just my comment. We will grant the motions, and
9 that testimony will be in the record. Assuming we stipulate
10 everything in, I should say. We haven't done that yet.

11 Mr. ffitch, I understand, as of e-mail exchanges late
12 last night or early this morning that you have decided not to
13 offer or try to get Mr. Elgin's testimony excerpt in, and so we
14 can just pass right by that point?

15 MR. FFITCH: That cross-exhibit is withdrawn, your
16 Honor.

17 THE COURT: Okay. Thank you very much. And that
18 brings me to the last issue on my last, and I believe,
19 Mr. ffitch, you're going to have to refresh my recollection on
20 this, because in all the many exchanges we have had, both
21 formal and informal over the course of this proceeding, I think
22 you asked me at some point whether we could take official
23 notice of a 10-K and something else. And I don't recall what
24 it is.

25 MR. FFITCH: The something else, your Honor, is

0095

1 Mr. Elgin's testimony in the 2011 Puget general rate case,
2 which is a matter of public record at the commission.

3 THE COURT: Okay. Well, I -- well, does anybody want
4 to be heard on this? Okay. I will certainly -- we can
5 certainly take official notice of PSE's 10-K.

6 I'll reserve on the other piece of that, because I
7 have to be quite candid with you, I just simply didn't remember
8 what it was you were asking that other piece. Did you file
9 something on that or did you just say something in e-mail?

10 MR. FFITCH: It was -- it was part of the exchanges
11 with -- at the time of the cross-examination exhibits that were
12 being presented.

13 THE COURT: Okay. Well, I'll -- I haven't had a
14 chance to think about that or mention it to the commissioners,
15 and so they like to know what I'm doing in here, even though
16 they didn't come to listen, so I'll take that up later.

17 MR. FFITCH: And, your Honor, it's for the purpose of
18 being able to just being clear that we can cite to it on the
19 brief. We're not planning to conduct any examination on it
20 ourselves --

21 THE COURT: Okay.

22 MR. FFITCH: -- at this point.

23 THE COURT: And do I take it there's no objection?
24 From the silence, I do. Okay. Well, I'll mention that to the
25 commissioners and see what they think. And of course, the

0096

1 order is available to you for citation, in any event.

2 Brilliant piece of work.

3 The -- let's see. Oh, okay. Well, this actually does
4 bring us to the -- I told them 15 minutes. This brings us to
5 the subjective part of our day. We are, of course, going to
6 have this discussion at the outset concerning the legal
7 question cued up by e-mail that I sent to everyone on
8 Wednesday.

9 And then, here, let me review for you my plan for the
10 hearing. The settling parties identified a large panel -- 12
11 as I count it -- for purposes of supporting or defending or
12 whatever the right word is the -- the multiparty settlement.

13 I am agreeable to seating that panel. And indeed, the
14 unusual arrangement of the room or unusual relative to what we
15 normally do is a reflection of my willingness to accommodate
16 that.

17 So what we'll do, after the counsel have an
18 opportunity to address the legal issue, we'll ask you all to
19 retire back one row of tables, and we will empanel our
20 witnesses at your seat, where you're sitting now. And we'll
21 give you a couple minutes to do that so you can move things
22 around.

23 And so in my view, the settlement panel is primarily
24 for purposes of questions from the bench. And given that, and
25 also given the fact that we have cross-examination identified

0097

1 for a number of individual witnesses -- six by my count --
2 we're going to, after the settlement panel, after we're through
3 questioning the settlement panel, they will retire back to the
4 tables, and you all will come back to the foreground, and we
5 will call the individual witnesses who are indicated for
6 cross-examination.

7 Those of you on the conference bridge line, please
8 mute your phones if you're going to hold conversations. So is
9 that clear enough what we're going to do there? Okay. And
10 then, of course, the commissioners, of course, may wish to call
11 someone who's not indicated for cross-examination if they have
12 specific questions.

13 So that's always a possibility, too. And that would
14 be in the nature of an individual examination, in which case
15 counsel, of course, would be given an opportunity for follow-up
16 questions and what have you.

17 Now, when the individual witnesses are on the stand,
18 you may ask them about the settlement even though we've already
19 had a settlement panel or you may ask them about the substance.

20 As I told everyone at our one and only prehearing
21 conference in this matter, joint prehearing conference, given
22 the expedited nature of this matter, these matters and the --
23 the parties and the commission's determination to proceed on an
24 expedited schedule, we are going to resolve these matters on
25 their merits.

0098

1 And you all presented very useful testimony, pre-filed
2 testimony, and exhibits. The -- I will remind everyone of
3 something that I realized on reading the transcript, I rather
4 lamely related during the prehearing conference, but that is
5 the nature of a multiparty settlement is, as provided in the
6 rules, WAC 48007730 sub 3, multiparty settlement.

7 It is an agreement of some, but not all parties, on
8 one or more issues. May be offered as their position in the
9 proceeding along with the evidence that they believe supports
10 it. And then non-settling parties may offer evidence and
11 argument in opposition.

12 That's what we have, and that's what we're going to
13 do. So we're interested in this proceeding, and the purpose of
14 this proceeding, is to develop a full record, a joint record in
15 the two matters I identified at the outset.

16 Insofar as the filing yesterday, Ms. Brown, of your
17 suggestion to the secretary, and hence to us, that we
18 improperly noticed this, were I to agree with you, I would be
19 concerned that I would need to advise the commission that we
20 would need to postpone this hearing for at least seven days to
21 give proper notice.

22 So I'm not going to do that. That is not our view of
23 what this proceeding is about. And so for whatever it's worth,
24 we disagree with that analysis. So with that, the
25 commissioners have joined us, and we are ready to have our

0099

1 discussion concerning the point of law cued up by the e-mail I
2 sent to all of you on Wednesday.

3 I suppose, given that it is the company that's brought
4 forth these matters, that it should be given the opportunity to
5 speak first. So, Ms. Carson.

6 MS. CARSON: Thank you, your Honor. Good morning,
7 commissioners. We -- PSE believes that the commission can hear
8 the multiparty settlement in the way that has been proposed in
9 the multiparty settlement and there is no bar under the
10 Administrative Procedure Act.

11 The key under the Administrative Procedure Act is to
12 have an evidentiary hearing or to have a record as the basis
13 for an adjudicative proceeding. We have three different
14 adjudicative proceedings here. We have the ERF, the
15 decoupling, and there is also the Centralia.

16 The multiparty settlement addresses all three of those
17 adjudicative proceedings, and as long as the commission holds a
18 hearing on the multiparty settlement in all three proceedings,
19 all five dockets, there is a record of the proceedings in each
20 docket, including a record of the settlement of that
21 proceeding, and it should not be barred by the Administrative
22 Procedure Act. It is consistent with the Administrative
23 Procedure Act. Couple other points.

24 THE COURT: Let me interject there. Are you then
25 agreeing with counsel that we have improperly noticed this

0100

1 hearing?

2 MS. CARSON: Well, I do have concerns about that, and
3 I heard what you said, Judge Moss. And I guess I am -- I'm
4 interested to know more about what your position is or the
5 commissioners' position is.

6 THE COURT: Okay. I'll try to be more clear. Our
7 view is that this proceeding today concerns the four dockets I
8 identified at the outset; the two decoupling dockets, the two
9 ERF dockets.

10 To the extent there is a multiparty settlement in
11 those matters that implicates another docket that is not part
12 of this record, it does that, but that we're not -- we're
13 not -- we're not here today in docket UE-121373.

14 The settlement that you have filed in these dockets,
15 that other docket has -- is a subject of a final order. It's
16 pending on reconsideration. There's no question about
17 reopening the record except to the extent PSE has requested
18 with respect to Mr. Garrett's affidavit and the associated
19 exhibit, which is an amendment to the TransAlta coal transition
20 PPA. That's out there.

21 The parties will have their opportunity on the 30th of
22 this month to take the final procedural step in that case,
23 prior to a commission decision. And that is the filing of
24 responses in opposition to the petition for reconsideration and
25 the motion to reopen the record.

0101

1 When we have that, and we'll also have the briefs in
2 this proceeding, we can consider everything we need to
3 consider. If we agree that it is appropriate to settle the
4 decoupling and ERF matters somehow involving a tradeoff against
5 this other docket that is not part of these, then that's what
6 we'll do.

7 MS. CARSON: A couple of points I'd like to make.
8 First, as you correctly said, the TransAlta docket has a final
9 order that has been challenged by a petition for
10 reconsideration.

11 There's a motion to reopen the record, and for that
12 reason, it is appropriate. There is no law, there is no rule
13 that prohibits parties from suggesting a settlement of a
14 challenged final order. We've seen that on appeal.

15 The commission has been involved in such proceedings
16 before. No one has ever pointed to a rule that says there
17 can't be a settlement of a challenged final order. So although
18 there is a final order, I don't think that precludes -- I don't
19 see any -- any law that precludes that being part of a
20 settlement.

21 I think it's also important for the commission to
22 recognize that there are many different cases where the
23 commission has considered multiple-docket settlements. They
24 haven't consolidated them. They've looked at multiple dockets
25 together.

0102

1 And the key is they've had a evidentiary hearing on
2 all the dockets that comprise the settlement. And we saw this
3 in the 2001 general rate case for PSE when there was a separate
4 complaint that was filed by Public Counsel that went back to
5 the merger order in the 1990s and how residential exchange
6 benefits would flow back during that stay-out period.

7 That was a completely separate proceeding that was
8 going on, and it was settled as part of the 2001 general rate
9 case. They weren't consolidated. They were settled together,
10 considered in a joint settlement evidentiary hearing.

11 THE COURT: That was 011570?

12 MS. CARSON: I believe that's right. Yes.

13 THE COURT: I remember that docket well. It was the
14 subject of a full settlement after weeks of difficult
15 negotiations mediated by Judge Bob Wallace. So it's a little
16 bit different from what we have here, but your point is taken.

17 MS. CARSON: And I believe staff is prepared to talk
18 about another omnibus settlement that they also have
19 familiarity with. But I think the key is that the commission
20 can do this.

21 And your other approach may work as well. I'm just
22 concerned that I'm not sure that the commission is ever looking
23 fully at the multiparty settlement as a whole if you are
24 looking at only at the petition for reconsideration and
25 Centralia and you're not looking at the full settlement.

0103

1 THE COURT: Well, it's a little hard to avoid looking
2 at the full settlement. I mean, the interplay of the dockets
3 as provided in the multiparty settlement is quite clear, so
4 that you need not be concerned that we are not looking at it
5 that way.

6 COMMISSIONER GOLTZ: Judge Moss, may I ask a question?
7 I guess the concern that I have is, if we were to issue an
8 order approving -- first of all, do you envision, if we decide
9 to approve the settlement, quote-unquote, issue one order or
10 three orders or multiple orders or there's one order in
11 TransAlta docket and one or two orders in the other dockets?

12 MS. CARSON: I think you could issue one order
13 approving the settlement in all three dockets, and --

14 COMMISSIONER GOLTZ: But they're not consolidated.

15 MS. CARSON: They're not consolidated.

16 COMMISSIONER GOLTZ: My question, as I understand the
17 settlement, the -- that the commission staff is party -- is --
18 is -- is part of their thought in the ERF and decoupling
19 dockets is the fact that the company would -- would not contest
20 the equity, would drop its petition for reconsideration.

21 So that seems to me like the premise of the settlement
22 in ERF and decoupling is premised on a record in a different
23 case. And likewise, the same with you, you're -- the company's
24 view is that it's willing to acquiesce in the equity issue in
25 the TransAlta docket because of the record in a different case,

0104

1 the ERF and decoupling cases.

2 So, therefore, aren't -- isn't the premise of the
3 settlement that the TransAlta docket in your case is based on
4 stuff in a different docket and, therefore, it's based on a
5 different record? And that is a -- that's -- that's the
6 concern.

7 MS. CARSON: I guess I don't see that any more than
8 any other settlement that incorporates numerous dockets from
9 different cases that aren't consolidated. There is always
10 going to be a give and take if they're joined together in a
11 settlement. There's going to be a give and take between what
12 you're getting in one case versus what you're getting in a
13 settlement.

14 COMMISSIONER GOLTZ: But if it's a non-settlement, and
15 if we have to actually litigate this and come to a conclusion,
16 then would you agree that we have a problem in sort of
17 balancing the record of one off the record of another?

18 MS. CARSON: I guess I'm not exactly following that.
19 So if the settlement's not approved --

20 COMMISSIONER GOLTZ: We don't do the settlement, but
21 we say, "You know, we're going to approve the ERF and
22 decoupling, because they are -- because Puget's not going to
23 get all this in the other docket." So we kind of acknowledge
24 the settlement, but not approve it. What's the view from the
25 parties?

0105

1 MS. CARSON: Yeah, so you're saying is that an
2 alternative way to deal with this? Is that what you're saying?

3 COMMISSIONER GOLTZ: No. I'm just wondering if it
4 becomes a legal issue that we're basically looking at the
5 record in one as a justification for the other. If that's true
6 and we rely on that, then we're looking at extra-record
7 evidence, and we have to base our decision in each of the
8 dockets on a record in that case.

9 MS. CARSON: I guess the only way I see that happening
10 is if you're approving the settlement. I guess if you're
11 just -- if you just decide to approve the ERF and decoupling,
12 you're deciding those based on the ERF and decoupling.

13 THE COURT: Mr. Trautman.

14 MR. TRAUTMAN: Yes. Thank you, your Honor. We would
15 agree with the statements made by Ms. Carson and her analysis,
16 and we look at this also as the commission having evidentiary
17 records in all of these proceedings.

18 And there -- there was a proceeding in -- I believe
19 the final order was in 1999. And there were three dockets.
20 This involved GTE and Bell Atlantic. And the dockets were not
21 consolidated. There were three separate dockets. In fact,
22 Ms. Brown was the counsel for the staff, and your Honor was --

23 THE COURT: Was the judge.

24 MR. TRAUTMAN: Was the judge.

25 THE COURT: Yes.

1 MR. TRAUTMAN: And the dockets were -- they involved a
2 petition for a merger of GTE and Bell Atlantic. There was a
3 unlawful access charge complaint, and there was an informal
4 earnings review. And those were three entirely separate
5 dockets.

6 Now, they were common in the sense they had the same
7 company, and they all ultimately impacted the rates that would
8 be paid by the rate payers of that company.

9 The commission did not consolidate those dockets. The
10 commission, in fact, noted that the three separate dockets had
11 proceeded individually up to October of 1999, and on that date
12 the parties filed what they styled an omnibus settlement
13 agreement of the three separate dockets.

14 The commission approved the settlement of each of the
15 cases, and the commission noted that it is -- it has considered
16 the settlement agreement in light of the evidentiary records,
17 plural, developed in each of the separate dockets. And it
18 decided that, looking at the terms as a whole of all three
19 dockets, and there ultimately had -- there were tradeoffs among
20 those dockets, the commission approved that as a valid
21 settlement.

22 And we don't -- staff doesn't view this case as being
23 any different. I mean, there -- there -- there has been an
24 order in the TransAlta docket, but it's subject to a motion for
25 reconsideration and a motion to reopen the record, and the

0107

1 commission clearly has the authority to do so and to alter
2 that, to alter the current terms and conditions of the order.

3 And -- and we don't see any legal procedural barrier
4 for the commission considering that in conjunction with these
5 two other open dockets and approving the settlement of all
6 three.

7 Now, whether the commission substantively wants to do
8 that is another question, but we don't see any -- we don't
9 think there's a legal procedural barrier in the APA. And we
10 think this case --

11 THE COURT: In terms of the GTE/Bell Atlantic case
12 that you're mentioning there, there was not an order in the
13 related dockets prior to the settlement, was there?

14 MR. TRAUTMAN: No.

15 THE COURT: All right. And I think that's an
16 important point, Mr. Trautman, that concerns the commission.
17 And that is that what does a petition for reconsideration ask
18 the commission to do?

19 It asks the commission to reexamine the record
20 developed in the proceeding that led to the final order to
21 determine if there is a -- an error of material fact or law or
22 both. That's what a petition for reconsideration asks us to
23 do.

24 Now, it's a little difficult to understand how we can
25 reach into that docket and say, "Well, we were right all along

0108

1 in what we said in Order 3, but because the parties are
2 settling these other matters, we're going to grant
3 reconsideration." I just -- it doesn't seem procedurally
4 right.

5 MR. TRAUTMAN: I don't think so. You can say you were
6 right. That isn't the end of that matter anyways, because as a
7 practical matter, one of the questions of TransAlta is whether
8 the transaction's going to go forward. I mean, as a practical
9 matter, that's -- that's, from staff's perspective, an
10 important consideration.

11 But beyond that, what you are then deciding in the
12 settlement isn't whether you were right or whether you were
13 wrong. That isn't the issue. The issue is if the -- if the
14 TransAlta consideration were done perhaps in the slightly
15 different manner, would that -- would doing that and doing
16 things in two other dockets, if the totality was looked at,
17 would that be reasonable. I think it's a different question
18 you're asking in the settlement.

19 THE COURT: So you think it's reasonable for us to
20 consider whether a different outcome would have been
21 appropriate in the TransAlta proceeding if we were considering
22 what's going on in these other proceedings? Isn't that what
23 you're saying?

24 MR. TRAUTMAN: Yes.

25 THE COURT: So you're asking us to basically consider

0109

1 the record in these other proceedings in the resolution for the
2 petition for reconsideration.

3 MR. TRAUTMAN: In the resolution of three dockets
4 considered together. I mean, that's -- that's what -- that's
5 what a settlement is ultimately. You're just saying that the
6 ultimate outcome is reasonable, that the -- that's correct.
7 You're not having to say you were wrong in the first order.

8 THE COURT: Isn't that what a petition for
9 reconsideration asks the commission to do? It says, "Change
10 your mind."

11 MR. TRAUTMAN: But the settlement would not -- our
12 view on the petition for reconsideration, if the settlement of
13 all the dockets is approved, the reconsideration petition
14 becomes moot. I mean, it's otherwise withdrawn.

15 MS. CARSON: Yeah. And if I might just add something,
16 I think this petition for reconsideration is a little bit
17 different than some others in that PSE has heard some of the
18 concerns expressed by the commission and has amended the
19 contract to address issues that the commission had, has
20 proposed some, you know, provisions that address the
21 commission's concerns while still protecting PSE from having a
22 prudence determination.

23 THE COURT: But that's your motion to reopen. That's
24 not your petition for reconsideration. Your motion is to
25 reopen, take the Garrett affidavit, take the amendments.

0110

1 That's your motion to reopen. We can do that independently of
2 the motion.

3 MS. CARSON: Yes, but they were filed together as one
4 document.

5 THE COURT: Well, that's true.

6 MS. CARSON: I think it's reasonable that the
7 commission can look at them together. But it's not just the
8 amendment to the contract. It's other proposals that were put
9 forth in terms of how prudence and cost recovery could be
10 handled.

11 So it's not just commission saying, "We were -- we
12 were right, but we'll change." It's looking at an alternative
13 way of addressing concerns that were expressed in the final
14 order.

15 MR. TRAUTMAN: I guess also it just seems to me that,
16 I mean, if -- if this were an uncontested settlement, for
17 instance, in Bell Atlantic, and so now you had an order, but
18 now you had a petition, now you have a request to settle all
19 three dockets, including some changes to the TransAlta docket,
20 which is still not actually a filed docket, it's open on
21 reconsideration.

22 If this were uncontested, I can't see why there could
23 be possibly be any legal barrier for the commission not
24 approving the settlement of the three dockets, if it concluded,
25 looking at all three, that's it's in the public interest.

0111

1 Of course, the commission doesn't have to do that
2 substantively. But I don't see how there could be any -- I
3 don't see any legal procedural barrier. You would be looking
4 at all of the evidentiary records before you.

5 I mean, to me not having an evidentiary record means
6 that's where commissions go and they say, "Well, we're basing
7 this not based on what testimony came before us, but we're
8 basing it based on, you know, what we heard from the city
9 council somewhere else, so we're basing it on -- on stuff, on
10 information that's not in the record." We have records. We
11 have extensive records.

12 THE COURT: Let me suggest a scenario, a hypothetical,
13 and see what you think of it, Mr. Trautman. Let's -- let's do
14 hypothesize that there's a full settlement and that the
15 commission is persuaded that this -- as an overall package,
16 this looks like a pretty good deal, this is something we would
17 want to do.

18 Might it not be -- might it be that -- let me rephrase
19 that. Might it be the most appropriate way for the commission
20 to proceed in that event to say, "All right. We have this
21 agreement among all the parties out there, and in the
22 decoupling and ERF dockets we think their proposal to grant
23 those authorities as filed is a good idea, so we're going to do
24 that," without mentioning anything about TransAlta.

25 And then in a separate order, in TransAlta we say, "We

0112

1 think the company's agreement to withdraw its petition relative
2 to the equity adder coupled with a request to reopen the record
3 and add these amendments and -- and then there's this proposal
4 on the recovery mechanism, and the commission can reopen the
5 record on its own motion to receive that idea, and so we'll --
6 yeah, we'll go that way in the TransAlta docket."

7 Now, that seems to me legally cleaner than what you
8 all are proposing to do. That is to say, that does not require
9 an explicit tradeoff as between one docket and the other. And
10 that's the concern is we're concerned that we're getting into
11 the record of decoupling and ERF in the TransAlta docket, and
12 we just can't do that. That record is closed. To the extent
13 somebody asked us to reopen it, we can reopen it.

14 MR. TRAUTMAN: Well, and to that extent, you can
15 reopen it and you could reopen it. You could reopen it.
16 That's clear. So I mean, when you say it's closed, but it --
17 it can be legally reopened under the APA.

18 I think you could do it the way your Honor suggested
19 when you said it would be cleaner if it would achieve the same
20 result.

21 THE COURT: Would it achieve the same result,
22 Ms. Carson?

23 MS. CARSON: I think it could achieve the same result.

24 THE COURT: I'd rather hear it would achieve the same
25 result.

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1 MS. CARSON: I think, as I recall, a few months ago we
2 proposed something similar to that when these were being
3 treated as open meeting matters, the ERF and decoupling, and we
4 proposed that they go forward to an open meeting at the end of
5 March or April and that the Centralia be held open. So I think
6 it can achieve the same result.

7 THE COURT: Okay. Well, I appreciate your thoughts,
8 and we're going to hear from others. I -- I just want to say
9 that this is something that we need to be concerned about,
10 because above all else, the commission has to be concerned that
11 whatever order or orders it enters are sustainable.

12 And you all need to be concerned about that, too. And
13 so we -- that's the reason -- that's the underlying reason for
14 our inquiry this morning. We do have some concerns about it,
15 and your comments are well taken, and we will certainly
16 consider them.

17 Are there any more questions for these two counsel
18 before we move on to other counsel? Okay. Does anyone else
19 wish to be heard on this question this morning? Ms. Davison
20 does. Does anybody else? Mr. ffitch does.

21 No, Mr. Boehm, Mr. Stokes, Ms. Goodin? All right.
22 Well, let's hear first from you, Ms. Davison. Then we'll hear
23 from Mr. ffitch.

24 MS. DAVISON: Thank you, your Honor. Good morning,
25 commissioners. I, of course, respectfully disagree with --

0114

1 THE COURT: I'm shocked.

2 MS. DAVISON: -- the arguments that were just espoused
3 by staff counsel and PSE's counsel. As a starting point, we
4 all agree that we have three separate dockets at issue. These
5 three dockets are not consolidated dockets.

6 We have one that is a closed docket with a final
7 order, as you have explained. So this particular legal issue
8 is governed, in my view, by RCW 3405476. And that particular
9 statute, which is basically mirroring the APA, requires the
10 commission -- and this is the statute.

11 There's lots of areas where you have administrative
12 rule, and you have discretion to do something differently, but
13 this is a statute. And the statute specifically requires you
14 to make a decision in a adjudication based on the record, and
15 only the record, in that adjudication.

16 So you cannot go to a different record to support your
17 decision in TransAlta. It's simply by statute unambiguously
18 forbidden. To us, that really resolves the question that
19 this -- trying to cobble together a settlement that, you know,
20 the testimony of the witnesses is very clear.

21 The quid pro quo here is related very centrally to
22 TransAlta docket. And that is simply something that you cannot
23 consider in making your decision about whether to accept the
24 settlement in the decoupling or the ERF case, cases.

25 Now, these cases are not consolidated. If ERF and

0115

1 decoupling were consolidated, you would have a different
2 problem, and that is it would trigger the general rate case
3 rule, because if you combine those two proceedings, you get
4 over the three percent requirement.

5 And perhaps, in our view -- and I'm getting a little
6 ahead of some briefing that you will see from us, but we
7 actually believe that those should be consolidated. We believe
8 that they were separated simply in an effort to avoid the
9 general rate case rule.

10 And so it's a little bit of a catch-22 here. Because
11 if you do what the joint settling parties want you to do, you
12 really need to consolidate these cases so that you meet the
13 requirement of the statute. But the parties don't want you to
14 consolidate that, because it triggers the general rate case
15 rule, so --

16 THE COURT: I'm going to interject here, Ms. Davison,
17 to say we are developing a joint record even though the matters
18 are not consolidated. So we are developing a record in each
19 proceeding that is the same record, and we'll have a basis for
20 deciding each of the matters on the basis of that record.

21 So the fact that they're not consolidated, I don't
22 believe, precludes us from doing that and entering a single
23 order. In the deep recesses of my mind, there is some thought
24 that there is authority for the proposition that the commission
25 can conduct joint proceedings in this fashion and issue either

0116

1 one or, in this case, two orders.

2 And, you know, no final determination about how we'll
3 do that has been made, but that's a different -- that does make
4 a difference, the fact that we're doing a joint record.

5 MS. DAVISON: And, your Honor, I believe you can do a
6 joint record, but our point is that we believe these have been
7 separated for the purpose of avoiding the three percent general
8 rate case rule.

9 And -- and whether you have a joint record or two
10 separate records, we think that this is -- could be a new trend
11 to avoid looking at certain issues and avoiding a general rate
12 case.

13 But nevertheless, my point remains that by statute,
14 you simply cannot do what these parties are asking you to do in
15 terms of approving this global settlement.

16 THE COURT: Okay.

17 MS. DAVISON: Thank you.

18 THE COURT: And thank you for the previews of coming
19 attractions. Mr. ffitch.

20 MR. FFITCH: Thank you, your Honor. My comments can
21 be a bit abbreviated, because many of the points have been
22 mentioned already. Public Counsel agrees with the argument and
23 statements of Ms. Davison for ICNU.

24 We do not believe that approval of the multiparty
25 settlement can be reconciled with the APA for the reasons that

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1 have been discussed with regard to the problems of the record
2 and the statutory requirements of the APA. We are on record in
3 this case as far back as February and again in March in
4 opposing the linkage of Centralia to these rate matters.

5 Centralia -- the Centralia docket is not a rate
6 proceeding. It is not a decoupling proceeding. It has no
7 demonstrable common issues of fact or law with the rate
8 dockets. It has been combined solely for purposes of
9 bargaining.

10 There's been a lot of discussion about the -- that
11 technical legal problem of deciding these together without the
12 ability to refer to the record in a different docket. We think
13 there's actually also a serious problem of equities and of
14 fairness in rate setting raised by this effort as well, and
15 we'll be addressing that, you know, separately in our briefs.

16 But that's -- that's an underlying concern with the
17 way in which the Centralia docket is being used to, we believe,
18 result in concessions in the rate dockets that we would
19 probably not otherwise be seeing in the testimony.

20 As has been noted, the record is closed in Centralia.
21 There's a pending motion to be opened there that has not been
22 ruled upon. And so I think your Honor's already made this
23 extremely clear, but we certainly believe that it is not
24 appropriate today in this hearing for there to be any evidence
25 offered with respect to the Centralia matter as we're going to

0118

1 be moving into the panel portion of the day.

2 And as has also been noted, the Centralia matter is
3 not noticed for hearing today, so a further reason why we think
4 it's not appropriate to -- to be hearing about Centralia from
5 any of the witnesses today.

6 We believe that ERF and decoupling -- ERF and
7 decoupling should be decided on their own merits without
8 reference to the Centralia matter. We would recommend that the
9 commission take that view of the case.

10 And there is a -- an additional point I would like to
11 raise, and that's the application of the nondelegation rule.
12 We have mentioned this earlier in pleadings. That's WAC
13 48007700. That's the commission's settlement rule, and under
14 that rule the -- the commission states clearly that it does not
15 delegate its own authority to other parties to settle
16 proceedings for it.

17 The gist of the multiparty settlement is to attempt to
18 remove discretion from the commission or to seek to bind the
19 commission with regard to its decisions, particularly in the
20 Centralia matter on the motion to reopen and the
21 reconsideration motions. And so we think that that request by
22 the parties runs afoul of the nondelegation rule.

23 Just quickly with regard to the famous multiparty
24 settlement in 2001, which I was pleased to be a part of. We
25 think it is distinguishable. Puget Sound Energy does

0119

1 repeatedly mention the fact that part of that settlement was a
2 settlement of a Public Counsel complaint docket, and I would
3 just point out that that was a docket that related specifically
4 to customer rates, and that the residential exchange matter we
5 thought was very much germane to a general rate case, and was
6 not an unrelated matter whatever.

7 So while that was settled as part of that, we don't
8 think it was an unrelated case, and there was also no final
9 order in that matter.

10 With regard to the GTE Bell Atlantic case, again, no
11 final order in that case. I haven't gone back and read it.
12 It's interesting to go down memory lane a little bit.

13 THE COURT: I have a copy in my office.

14 MR. FFITCH: I was, I believe, also in that case.
15 There were no final orders resolved by that settlement. And in
16 fact, the rate dockets I think again were germane to the issues
17 that are considered in a merger proceeding which does involve
18 an examination of what effect a merger will have on customer
19 rates.

20 And so the fact that there was an earnings review
21 going on at the time was sort of logically and naturally folded
22 into examination of other merger issues. So again, I think
23 those are distinguishable authorities.

24 And I'll just finish up by saying that we agree with
25 Ms. Davison that we do think that there is an issue here with

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1 regard to the general rate case three percent rule. Those are
2 all my comments. Thank you, your Honor.

3 THE COURT: Okay. Thank you. And I think I just need
4 to make one comment in return, and that is with respect to your
5 suggestion that we will not mention today the TransAlta docket.
6 That is not something that is going to happen.

7 There is a multiparty settlement filed in the
8 decoupling dockets and the ERF dockets. That settlement of
9 those matters implicates the TransAlta matter. So to the
10 extent that's part of the settlement in these four dockets,
11 clearly we have to be able to talk about it, and we will.

12 The settlement panel will be here with us momentarily,
13 and we can certainly range into that territory of how that --
14 how that is part of the proposed settlement in the decoupling
15 and the ERF docket, so I just wanted to make that clear so we
16 don't have some unnecessary objections. Anything further from
17 the bench in this connection?

18 COMMISSIONER JONES: No.

19 THE COURT: All right. Anybody else wish to be heard?
20 Last chance. Ms. Carson wants the last word. Very well.

21 MS. CARSON: I just wanted to respond to the point by
22 Mr. ffitich that those cases are distinguishable because they --
23 the different dockets somehow are close -- more closely
24 related.

25 And that's really not the issue here, because those

0121

1 cases weren't consolidated, so this wasn't a matter of they
2 were consolidated because there was related fact and law
3 issues. They were separate proceedings, and I agree with your
4 Honor that the commission can hold joint proceedings and
5 multiple dockets.

6 And in fact, that's what happened in 2001. The
7 commission said the complaint docket is not consolidated with
8 the rate case docket, but is considered jointly here with these
9 proceedings in connection with a proposed settlement that
10 addresses issues in all three dockets.

11 So that's really what we have here. We have multiple
12 dockets. We -- they're not consolidated, but the commission
13 can look at them together.

14 I disagree with Mr. ffitich that this nondelegation
15 rule applies. All the settling parties are asking the
16 commission to do is to consider this settlement. We're not
17 trying to take away the commission's authority any more than
18 any other settlement does.

19 We recommend a settlement, we proposed it, and the
20 commission will consider it. You're not -- we're not usurping
21 the commission's authority by suggesting a settlement. And
22 again, I just think the Administrative Procedure Act 3405476 is
23 overstated by ICNU. It just requires that there be an agency
24 record. And if there's a hearing on the settlement, that's
25 part of the agency record in each of the dockets. Thank you.

0122

1 THE COURT: Thank you. All right. Apparently being
2 nothing further --

3 COMMISSIONER GOLTZ: Oh.

4 THE VIDEOGRAPHER: Oh, there is something further. My
5 mistake.

6 COMMISSIONER GOLTZ: Ms. Carson, here's option A and
7 option B. These are all hypothetical. Option A, we issue an
8 order in all three dockets based on the evidence or in all --
9 in the various matters based without reference to one another
10 and we give -- and that's exactly everything in those three
11 orders, it conforms with the settlement.

12 Option B is whether we issue one order or three, but
13 we say specifically our approval of the multiparty settlement
14 in the ERF docket is based in part on the concessions made in
15 the TransAlta docket.

16 Would you rather have option A or option B as a matter
17 of law?

18 MS. CARSON: Well, between those two choices, I'd
19 probably rather have option A.

20 COMMISSIONER GOLTZ: And that's because? There's a
21 legal issue with option B.

22 MS. CARSON: Well, I don't think in settlements you
23 usually say -- there can be numerous dockets. You usually say,
24 "We approve this settlement." You don't -- I don't think your
25 orders approving a settlement usually say it quite like that.

1 So the language that you suggested would potentially
2 raise more concerns. But I do think that if you are looking at
3 all the records together, then you can -- you could do that.
4 So if you have a joint evidentiary hearing looking at all --
5 all the records together, then I don't think there's a problem
6 with that. But I also think your A option is a option, also.

7 COMMISSIONER GOLTZ: You might give that a thought for
8 closing, for final briefing. Because as Judge Moss said,
9 whatever we decide, we want to make -- we like the fact that we
10 don't get reversed on appeal. And I think if we decide in your
11 favor, in whole or in part, that would be your interest as
12 well.

13 THE COURT: All right. Thank you very much. We
14 appreciate that. I think because we are next going to empanel
15 the settlement group, and that means all the counsel are going
16 to need to move their toys and let the panelists bring theirs
17 to the floor, we'll take a recess at this time until ten after
18 the hour, and then we'll come back and have our panel. Thank
19 you.

20 (A break was taken
21 from 9:56 a.m. to 10:14 a.m.)

22 THE COURT: All right. The way that we're going to
23 proceed with the panel is to launch directly into questions
24 from the bench. So we have all the materials I think
25 sufficiently in mind to take that approach.

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1 The commissioners will be asking some questions. They
2 may identify any of you individually or they may put the
3 question to the panel, in which case the most suitable witness
4 will answer the question. Or more than one, in some instances.

5 We may -- they may put a question to all of you and
6 ask for each of your responses. So I don't know. I haven't
7 been through the questions with them. So we'll find out.

8 So with that, I need to swear you all in, so I'll ask
9 that you all rise and raise your right hands. And do you each
10 solemnly swear or affirm under penalty of perjury that the
11 testimony you give in this proceeding will be the truth, the
12 whole truth, and nothing but the truth?

13 THE WITNESSES: I do.

14 THE COURT: Thank you very much. Please be seated.
15 All right. We may begin. At your pleasure.

16 CHAIRMAN DANNER: Who wants to start?

17 COMMISSIONER GOLTZ: I'm happy to start, if you want.
18 Go ahead.

19 BY CHAIRMAN DANNER:

20 Q. Well, all right. Let me -- I just have a question or
21 two. For Mr. Johnson, looking over the testimony, nowhere did
22 I see an affirmative commitment to implement the Power Purchase
23 Agreement if the settlement were approved.

24 What I saw was an agreement to withdraw the petition
25 for reconsideration, and you somewhere else said kind of in the

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1 negative that if a result of rejecting the settlement would be
2 that the PPA would not be implemented, and I wanted to know if
3 you would be able to commit that if the settlement or the
4 components thereof were approved, would in fact you go forward
5 and implement the Power Purchase Agreement.

6 BY MR. JOHNSON:

7 A. If the settlement is approved --

8 Q. Put your mic on.

9 A. I'm sorry.

10 THE COURT: The light should be illuminated.

11 MR. JOHNSON: My apologies. Chairman Danner, I would
12 state for the record that it would be the intention of the
13 company to execute the Power Purchase Agreement with TransAlta
14 for delivery of energy from Centralia if the global settlement
15 is approved as presented to the commission for its
16 consideration.

17 BY CHAIRMAN DANNER:

18 Q. Okay. And then when we talked about the component
19 parts as opposed to a global settlement, but the component
20 parts approved in the global settlement, would that be the same
21 answer?

22 A. If the parts of the global settlement were approved as
23 presented independent, in our view, that would be the same
24 result. I believe Ms. Carson suggested that earlier.

25 Q. Uh-huh. Okay. So the intention to proceed, there

0126

1 would still be reasons, then, that you might not proceed,
2 despite that intention?

3 A. No, I -- so let me attempt to make it even clearer,
4 that Puget Sound Energy would execute the contract with
5 TransAlta if the global settlement is approved as presented to
6 the commission.

7 CHAIRMAN DANNER: Thank you. Okay. So I'll let the
8 other commissioners ask some questions.

9 BY COMMISSIONER GOLTZ:

10 Q. Okay. Following up on that, but so you'd be okay with
11 a -- a condition of the settlement approval would be that --
12 that you would execute?

13 A. Could you --

14 Q. In other words, you would say --

15 A. Conditions --

16 Q. It would be more elaborate than this. Settlement
17 approved subject to condition that PSE executes the contract,
18 meaning that if you didn't, the settlement would be undone.

19 A. I -- I see no problem with that. If the settlement is
20 approved as presented to the commission, the commission would
21 move forward with the execution.

22 Q. The company would move forward, yeah. Okay. Let me
23 ask this, then, Mr. Johnson. And I'll ask this to Mr. Schooley
24 as well.

25 You basically said that the consequence of failing to

0127

1 approve the settlement would be you'd walk away from the
2 execution of the Power Purchase Agreement; correct?

3 A. I -- I think we have made it clear that there -- that
4 the conditions in the final order, barring resolution as they
5 are proposed in the global settlement, would prevent the
6 company from executing the Power Purchase Agreement.

7 Q. The conditions in the final TransAlta order?

8 A. Correct.

9 Q. So --

10 A. Which have been addressed in the settlement.

11 Q. Correct. I understand. But I guess what I'm
12 wondering is -- is this. It's -- it seems a little bit, you
13 know, with all respect, a little bit like a line in the sand
14 saying, "Take this settlement or we walk."

15 Are you saying that, that if we add conditions, if we
16 add reporting requirements, if we add -- if we change the --
17 the K-factor in some way, plus or minus, or if we change the
18 decoupling, we change the duration, I mean, any number of --
19 there's about a thousand moving parts here, a thousand
20 variables in this whole thing, and if we change one or two of
21 them some way, then you say, "Hey, all bets are off"?

22 A. Well, quite honestly, Commissioner, we -- we would
23 anticipate that -- that the commission would have some
24 conditions in the order. I can't say that we would or wouldn't
25 decide today, not knowing what those conditions are, that we

0128

1 would unequivocally walk from the Power Purchase Agreement.

2 Q. Well, that's helpful, because it -- there's a -- as I
3 say, there's lots of variables here, and -- and it's -- it's --
4 what I'm trying to avoid is at least an understanding that the
5 only choice for the commission is to rubber stamp the
6 agreement, which kind of assumes that the -- all the public
7 interest factors that are out there that normally we work on,
8 massage, tweak, that that's -- that the parties -- and this is
9 right into Mr. Schooley -- the settling parties are basically
10 saying, "Commission, that's none of your business. It's all or
11 nothing." And I want to find out if it is all or nothing,
12 then, you know, that's -- that's quite a statement.

13 A. And we have not made that statement, nor would I here
14 today. I think that we would take any final order issued by
15 the commission, look at those conditions, and we would make an
16 analysis based on our view of the impacts of those conditions,
17 and make a decision at a future point in time based on that
18 review and the analysis as to whether or not it would be in the
19 best interest of the company and our customers from our view of
20 proceeding with --

21 Q. So in that sense, the statement that the
22 consequence -- and I don't have the quote in front of me -- one
23 consequence of failing to approve the settlement would be that
24 you wouldn't execute.

25 More accurately it would say, "If the settlement's not

0129

1 approved, we would reevaluate everything"?

2 A. Correct.

3 Q. Okay. And so, Mr. Schooley, maybe that's -- maybe I
4 don't need to ask you now, but how did you view this "all or
5 nothing" situation that I read into this?

6 BY MR. SCHOOLEY:

7 A. My personal opinion on this is that it is not an all
8 or nothing. That if you came up with conditions or variations
9 on the theme, but generally approved it, it would give the
10 company choices to make, and they would have to go forward with
11 whatever they did.

12 But I would also recognize that it's -- the commission
13 had given its full attention to it and made its opinion of the
14 public interest well known at that point, so --

15 Q. Okay. One of the issues, Mr. Schooley, in -- or one
16 of the components of the -- of the proposed multiparty
17 settlement is a stay-out for a general rate case with some
18 reopeners.

19 And -- and one of the consequences of that, I believe,
20 would be that the return on equity number of 9.8, which is from
21 the last general rate case --

22 A. Right.

23 Q. -- is in effect locked in for several years going
24 forward.

25 A. It's -- well, we would be seeing a rate, a new rate

0130

1 case as soon as two years from now or certainly within three
2 years, so it's not that far into the future.

3 Q. Well, it would be filed --

4 A. Filed then.

5 Q. -- three years from now?

6 A. Yes.

7 Q. With rates effective shortly thereafter?

8 A. Early '17, yes.

9 Q. Right. I mean, so it'd be like three and a half years
10 at least?

11 A. Approximately a -- yeah.

12 Q. I mean, at least at the company's option?

13 A. Right.

14 Q. They would have that locked into rates for three and a
15 half years. And as we have evidence presented by Public
16 Counsel and by ICNU, to the effect that in general the ROE's,
17 the trend is that ROE's are continuing to decline.

18 And so if there's -- they assert that if we were to
19 redetermine them now or a year from now, it wouldn't be 9.8, it
20 would be something less than that.

21 And I -- so what my question is, is whether if -- I
22 know that historically we've sometimes just kind of carried
23 forward, the commission has carried forward an ROE for a year
24 or two, but isn't this a rather long time to kind of just say,
25 "We aren't going to look at that"?

0131

1 A. I wouldn't say it's a rather long time, but I would
2 also say that if the company's going to have to perform in
3 order to reach that level to start with, and if the company's
4 been underachieving traditionally, then they -- regardless of
5 what's been authorized, it's been insufficient, so --

6 Q. Not the 9.8 is insufficient, but that their actual
7 attainment is insufficient?

8 A. Correct.

9 Q. And -- and so is this one of those provisions among
10 all the provisions that sort of locking in 9.8, that's kind of
11 one of those things that cuts in favor of the company?

12 A. I'd say it cuts in favor of the company if they're
13 able to achieve that.

14 Q. What's your view of instead of having three and a half
15 years, it's roughly -- I mean three years from now before the
16 filing of a rate case at the company's option, so it'd be like
17 three and three-quarters years, what's the -- what's your view
18 of a -- of a check-in, sort of a confirmation of how things are
19 going somewhere in the middle of that?

20 A. Would you be referring to such as a report on how it's
21 going or what type of format?

22 Q. Report if possible. In other words, there's reopeners
23 for, you know, if the -- if the economy tanks and they -- under
24 the Pacific Northwest Bell Factor for interim rates there's a
25 reopener for them.

0132

1 But what if, you know, it turns out that it's, you
2 know, they're getting more than they need out of all this after
3 a couple of years, what would you -- rather than locking in for
4 three and a half years, you lock it in for a shorter period of
5 time and revisit it in some way.

6 Did you guys think about that?

7 A. Well, they're -- in that instance, there is the
8 earnings test condition in here that if they begin over earning
9 to up -- using the rate of return of 7.8 percent, then if they
10 achieve 25 basis points more than that, which would be 8.05
11 percent, then they would begin sharing anything over that
12 level.

13 So I think there is an inherent check-in at that
14 point. Yes, they'll be over earning, but if they were over
15 earning at 8.05 percent now, wouldn't we be filing a complaint?
16 I don't think so.

17 Q. The -- and this is for I think Mr. Schooley,
18 Ms. Barnard, and maybe Mr. Marcelia. As I understand it, we've
19 set this into a rate plan -- in effect it's a rate plan, for up
20 to three and a half years or more.

21 And -- and at that point, subject to some specified
22 exceptions, like pipeline replacement, which we consider
23 differently, and there's some other matters like that, any
24 revenue that comes in to the company that's unanticipated or
25 maybe not specified, I should say, unspecified revenue, and

0133

1 also any extraordinary costs other than those specified, such
2 as storm damage, the costs would be borne by the company as
3 part of a risk sharing, and the revenues would come to the
4 company.

5 Is that -- am I correct on that?

6 A. I think that's true, yes.

7 Q. Ms. Barnard, is that basically your understanding?

8 BY MS. BARNARD:

9 A. Yes. I think the thing that we have to remember,
10 though, is those revenues would be included in our annual CBR,
11 and that's where the earning sharing test is. So any
12 additional revenues would be eligible for inclusion in the
13 earnings sharing.

14 Q. If you -- if you --

15 A. If they were to go over, yes.

16 Q. Okay. So I guess my question is, are you aware of any
17 possible revenue streams -- and I'll just list a couple of
18 examples. Tax issues, which is why I asked you.

19 Are there any potential tax refund issues? Is there
20 going to be any -- any other court judgments that you might get
21 or costs, I suppose as well, that might be in there that we
22 just don't know about?

23 BY MR. MARCELIA:

24 A. Not that we're aware of. Of course, tax laws change
25 all the time.

0134

1 Q. But you would be aware if you had a pending tax case
2 in the State Department of Revenue or before the Internal
3 Revenue Service.

4 A. Right. We don't have one before the IRS or before the
5 State of Washington. We have a property tax issue before the
6 State of Montana, but that's part of property taxes, which is a
7 whole different deal.

8 So those are the only ones that are active right now.
9 But there's audits going on all the time, and things change,
10 but nothing's close or pending or anything like that.

11 Q. Okay. Using that as an example, though, if you got
12 audited and all of a sudden you owed a whopping amount to the
13 state or to the IRS, under this agreement, that you eat that?

14 A. Well, I would -- let me ask you this question, though,
15 if I might.

16 CHAIRMAN DANNER: Is that allowed?

17 BY COMMISSIONER GOLTZ:

18 Q. Because I know so much about tax.

19 A. Well, let's say there's tax reform at a federal level,
20 and the rate goes from say 35 to say 25 or it goes to 45,
21 whatever has to happen.

22 Q. Yeah.

23 A. Well, my mind would be we'd have to come down and do
24 something, because everything is premised on a 35 percent
25 effective rate.

0135

1 Q. And that may have been specifically spelled out in the
2 agreement, though; is that correct, Ms. Barnard?

3 BY MS. BARNARD:

4 A. Yes, it is.

5 Q. So you got that covered for you. So I have a question
6 about other possible costs, and on the pipeline infrastructure
7 replacements. I'm just a little confused by we have a policy
8 statement on a cost recovery mechanism for pipeline
9 infrastructure, and that I believe, Ms. Barnard, you said is --
10 is separate.

11 But -- but wouldn't that be -- but there is some
12 pipeline replacement in the -- in the settlement that's
13 contemplated by the K-factor.

14 Am I correct on that?

15 A. The K-factor is based on the historical growth, the
16 historical trends from compliance reporting. So yes, there is
17 a certain portion of pipeline replacement that is in there.
18 However, I think when we look at the possibility of the CRM and
19 the commission's policy statement, that's particularly relating
20 to elevated-risk pipe.

21 It would be based on investments that would be
22 approved in the pipe replacement plan, and those would actually
23 be at levels accelerated beyond what we have been historically
24 doing.

25 Q. Well, I meant -- I'm not sure that's true. And the

0136

1 reason I say this is right now, as I understand it, you're
2 replacing high-risk, elevated-risk pipe as we speak, probably.

3 There's been ongoing effort, at least we were lead to
4 believe that, that you are replacing, as need be, the
5 elevated-risk pipe, and what the policy statement contemplated
6 was pursuant to a plan accelerating that level, that there
7 would still be included in that replacement policy statement,
8 would still be kind of what you're doing all long, which I
9 assume is replacing elevated-risk pipe.

10 So my concern is, if that's just in the K-factor,
11 there's some baked in there, how do we know that it's not
12 double counting?

13 A. So that is a commitment that we made as part of the
14 settlement agreement is to make sure that whatever we did
15 request in a CRM, if we file for a CRM, would -- we would
16 demonstrate that it wasn't in the K-factor.

17 If we look at what's developed the K-factor, that was
18 based on the historical growth rates through the 2010 or 2011
19 GRC, general rate case, which was investments in place through
20 2010. And so when you look at the pipe that would likely be
21 included in the CRM, that would be replacement of the Dupont,
22 you know, the Dupont and an elevated level.

23 As I recall, the amount we were historically spending
24 was about 2.4 million on that particular type of pipe. So in a
25 CRM, we would be demonstrating that what we would be requesting

0137

1 recovery of would be a level higher than what was already
2 embedded in those K-factor.

3 Q. So comparing it with electric infrastructure upgrades,
4 which is included in the mechanism; correct, a certain amount
5 is anticipated going forward over the next three or four years,
6 included in the plan; right?

7 A. Can you re --

8 Q. I'm just saying --

9 A. I want to make sure I'm following this.

10 Q. Let's not think about gas. Think about, you know,
11 distribution --

12 A. Okay.

13 Q. -- electricity infrastructure. What you're doing is
14 you're going to continue to do all the upgrades, and you're --
15 and you have an amount baked into the rate plan that
16 contemplates a certain amount of that.

17 And under the rate plan, if you go over that, you're
18 going to invest -- you're going to make the investment anyway,
19 because you have to, to have reliable, safe equipment. So --
20 so -- so there's no sort of safety-net exclusion on the
21 electric side, but on the gas side, assuming if there's always
22 going to be some elevated-risk pipe that's going to be
23 replaced, if you go over the amount that's baked into the rate
24 plan, you can just file a CRM and still have accelerated cost
25 recovery.

0138

1 Is that the way that works?

2 A. I wouldn't entirely agree with that, because the
3 pipe -- to include something in the CRM, it has to be approved
4 and be part of the elevated -- the pipeline replacement
5 program.

6 We have to -- under your policy statement, we need to
7 file a master plan along with a two-year action plan. And so
8 it's not like we can just go and do more and then get it
9 through the CRM. It would have to be part of that pipeline
10 replacement plan and have been approved.

11 And so part of the reason we needed to leave the --
12 the exclusion is because we're not sure how much additional we
13 will be required to do beyond what we've been planning. We
14 have a basic plan that was all part of the original PIP
15 discussion, but under the -- the commission's policy statement,
16 we're going to need to present a higher risk pipeline plan
17 that's going to be reviewed and approved by the commission.

18 It's developed with the pipeline safety staff, and if
19 they suddenly expand what we've thought we would need to be
20 including, we needed the methodology to recover that.

21 Q. In the last rate plan that we approved with Avista,
22 which is -- is only basically two years, one of the concerns we
23 had was whether or not the -- we wanted to make sure if they
24 were basically explicitly called an attrition adjustment based
25 on anticipated capital expenses.

0139

1 And one of our concerns was how do we know or how
2 would we know if the anticipated capital expenditures for which
3 the -- on which the attrition adjustment was based will
4 actually be made.

5 So how will we know here, because we're doing -- your
6 settlement contemplates a similar sort of action here where you
7 would continue to do capital investments as required, and it's
8 based on some trends.

9 How do we know that you will make those capital
10 investments as contemplated if we just kind of let you go for
11 three and a half years? So should there be some reporting
12 requirements, and would you object to reporting requirements?
13 And how many questions did I just ask?

14 A. I don't know, but we'll see how many I manage to
15 answer. I think your fundamental question was is that we've
16 developed a K-factor. Looking forward there is a certain level
17 of investment, and we've stated that the historical trends will
18 continue. And your question is what -- what guarantees do you
19 have.

20 I think one of the key things that's different between
21 our rate plan and that that was approved in Avista is the fact
22 that ours also includes the annual earnings sharing test that
23 would be part of -- we have to file, as all the utilities do,
24 an annual Commission Basis Report.

25 Q. Right. So -- but that seems to me to be saying,

0140

1 "Well, if we don't make the investment, the amount we save
2 might be shared with everybody."

3 THE COURT: Let me ask that the parties on the bridge
4 line please mute their phones. We're getting background
5 conversations.

6 BY COMMISSIONER GOLTZ:

7 Q. So I guess how would -- it seems to me that
8 continue -- and this is the basis for a lot of the discussion
9 in recent years about the need for an attrition adjustment or
10 expedited rate filings or any number of mechanisms is because
11 of the ongoing need for infrastructure replacement, that is
12 basically non-revenue-generating infrastructure replacement.

13 And with Avista it was just a two-year plan. This is,
14 you know, upwards of three and a half. And so the amount of
15 sort of good faith involved in making sure that all these
16 things get done, it's a bigger leap of faith, I should say.

17 And so with Avista we said, "We want to see reports
18 coming back so we know that this is done." And I'm assuming
19 that those would be among the sorts of reasonable conditions
20 that wouldn't trigger Mr. Johnson's testimony.

21 Do you have any problem with that? And if you have to
22 discuss it --

23 A. You want me to punt to you?

24 Q. We can do it in closing briefs.

25 BY MR. JOHNSON:

0141

1 A. Commissioner Goltz, I would just state that we have no
2 concerns with adding reporting requirements and presenting
3 those on a scheduled basis you had mentioned.

4 Q. Okay. Thank you. So again, different topic now. So
5 we have here an expedited rate filing or ERF, E-R-F. And I
6 think -- I think I may have asked you this, Ms. Barnard,
7 earlier or in a different stage of this proceeding, perhaps at
8 an open meeting.

9 But why not use the most recent Commission Basis
10 Report? I mean, if the whole idea of the ERF is to get your
11 rates up-to-date, up to the minute, why wouldn't we use that
12 instead of the ad hoc one that you folks prepared midyear?

13 BY MS. BARNARD:

14 A. Well, I think a big portion is it's like with a
15 general rate case, you know. The timing moves. And if we had
16 waited, I'm sure there would have been tons of other arguments
17 about other issues that were stale.

18 This commission used to require a Commission Basis
19 Report done on a midyear, so that was our starting point.
20 Could it be, you know, done based on the 2012? Well, that
21 would require us to go through the process to then do the
22 carve-outs of the ERF, and it just further delays this.

23 Q. Have you done an analysis on whether you're better or
24 worse off under the most recent CBR?

25 A. We haven't.

0142

1 Q. What would it take to do that?

2 A. A few weeks of going in and going through the piece
3 parts.

4 Q. Is the basis -- as I understand the basis for the
5 K-factor is historical expenditure patterns from 2004 through
6 2011.

7 A. The K-factor is based on the approved compliant
8 filings from 2006 through 2011. It's not as far back as 2004.
9 We used a five-year period based on the compliance filings from
10 the commission's orders from the general rate cases.

11 Q. Is that -- is there any concern about the fact --
12 maybe others, Mr. Schooley can add to this. Sort of after a
13 few years into that period, you know, the economy really
14 changed, and it's changing again maybe.

15 So does that make it a difficult representative
16 period? In other words, is that too brief, too short or too
17 varied of a representative period?

18 A. That's actually the reason we chose the five-year
19 period. We had concerns, if you do something shorter, that
20 you're going to have volatility between the GRC's just because
21 of a shorter period of timing. We looked at a longer trend as
22 well, and it still produced similar results.

23 Q. The -- let me ask a question about just how the
24 settlement agreement contemplates the end -- end of all this.
25 It basically says that the company can file a rate case in

0143

1 April 2016, at the earliest, and 2017 at the latest.

2 Do I have that right?

3 BY MR. SCHOOLEY:

4 A. No, they can file as soon as April of '15.

5 Q. 2015 and 2000 -- April of 2016 --

6 A. They must file one by that, yeah.

7 Q. Unless all the parties to their last rate case agree
8 to either an earlier one or a later one; is that the way that
9 works?

10 A. I think it was just to extend it later, not earlier.

11 Q. And I'm assuming that includes commission staff?

12 A. Yes.

13 Q. And I'm assuming that commission staff wouldn't agree
14 to that without checking with us?

15 A. If you wish.

16 Q. Okay. That covers that. And then so at the end of
17 it, then, is it -- does it all by its terms expired or is it --
18 in other words, do we start over by the terms, the ERF, the
19 decoupling, those terminate and they have to be redone or do
20 they continue unless they're revisited? So a little bit what's
21 the status quo at the end of that period?

22 A. I think the decoupling would continue absent action.
23 The ERF was a one-time deal for today.

24 Q. Right.

25 A. So that --

0144

1 Q. Right. Of course.

2 A. -- just moves a baseline.

3 Q. I'm calling it the rate plan.

4 A. The rate plan, we hadn't looked at the end game on
5 this in its totality.

6 Q. And I'm not sure it makes a difference whether it ends
7 subject to being started or --

8 A. I think the rate case that's filed in 2016 at the
9 longest period of time would address all those issues.
10 Otherwise, I'm not sure -- I'm forgetting what we -- we did
11 address that. I'm not sure exactly what --

12 Q. Well, I'm not sure it was addressed. It didn't seem
13 to me when I read the settlement -- we read the settlement
14 agreement that I noticed that. And maybe it doesn't make any
15 difference, but we'll -- we can look at that later.

16 THE COURT: Mr. Piliaris has an answer for us, I
17 suppose.

18 MR. PILIARIS: I think the contemplation was that the
19 decoupling mechanism would be evaluated some time a few years
20 hence, and that evaluation would occur within the next filed
21 general rate case. And within that general rate case, there
22 would likely be a filing to extend or not the decoupling
23 mechanism as part of that rate case, so --

24 BY COMMISSIONER GOLTZ:

25 Q. So refresh my memory. Is there a -- between now and

0145

1 the filing of the next general rate case, is there an
2 evaluation of the decoupling mechanism baked into this?

3 A. The evaluation would be filed concurrent with the
4 general rate case.

5 Q. Okay. And I really don't have any more questions, but
6 I can't let Mr. Cavanagh just sit there. So can you tell us
7 the difference between the decoupling mechanism in this case
8 and the decoupling mechanism that NWEA and you proposed in the
9 last general rate case?

10 MR. CAVANAGH: Commission Goltz, there are. I would
11 describe them as structurally very similar. The important
12 differences are that the revised proposal is more
13 comprehensive. It encompasses both electricity and natural
14 gas.

15 It encompasses more customer classes, which we took to
16 be responsive to the commission's guidance. It includes
17 low-income bill support and weatherization assistance, and
18 which Mr. Eberdt can speak to, but which for the coalition is
19 an important additional element and a strengthening.

20 And finally, it includes a commitment by the company
21 to enhanced energy efficiency performance, both in terms of the
22 electric target actually being raised, and on the natural gas
23 side, participation in a market transformation initiative from
24 the Northwest Energy Efficiency Alliance. I think those are
25 the most important differences.

0146

1 Q. And the -- but I know that when this first came up,
2 there was a very interesting exchange between you and
3 Mr. Lazar.

4 A. Yes.

5 Q. But now this proposal eliminates the so-called
6 throughput incentive?

7 A. Yes. Also to be clear, we had -- after we came back
8 with Puget and made an initial proposal, concerns were raised
9 in particular at the first of the workshops on that proposal
10 about the way that the K-factor is structured.

11 And the K-factor is also in addition to the original
12 coalition proposal. The K-factor has been changed, both to
13 simplify it, and to remove any possibility of an unintended
14 throughput incentive.

15 Q. And so the original proposal filed last year, I
16 mean --

17 A. In the rate case.

18 Q. -- was filed in March 1 --

19 A. Yes.

20 Q. -- of this year. The earlier proposal that was
21 maybe -- I don't know if it was actually filed, but was
22 proposed, it did still have that throughput incentive baked
23 into the K-factor?

24 A. Yeah. To be clear, I thought -- I'm sorry,
25 Commissioner. I thought you were referring to the proposal we

0147

1 made initially in the general rate case. Those were the
2 differences I was describing. Then in October we filed with
3 Puget a proposal incorporating a K-factor that was subsequently
4 changed in response to those concerns.

5 Q. Right. And -- but major changes between that one you
6 filed in October and then this one -- I was asking you about
7 the --

8 A. About those.

9 Q. -- the earlier one. But the one between -- the
10 difference between October and this one is substantially the
11 K-factor.

12 A. Yes. And -- and some enhanced support for low-income
13 bill support and weatherization.

14 Q. Right. Okay. I have no other questions. Thank you.

15 BY CHAIRMAN DANNER:

16 Q. All right. Thanks. I want to just follow up on some
17 of the -- oh, thank you. Commissioner Goltz took all my
18 questions, but I wanted to follow up.

19 The -- the matter of the CRM and the K-factor on the
20 gas side, I think that you've addressed the matter of
21 double-dipping, but it still seems that if a CRM is -- is
22 implemented, then there's a couple boxes that can be chosen for
23 some of the gas investments that are made. And it would seem
24 to me they might have different recovery mechanisms.

25 So, you know, is there a way to make sure that what

0148

1 would go into the CRM boxes is consistent with the plan as
2 opposed to getting the company discretion to say, "Well, this
3 is beneficial, we'll put it in this box as opposed to that
4 box"? And it's a question for Ms. Barnard, I think.

5 BY MS. BARNARD:

6 A. The investments that will go in the CRM will be
7 outlined in the plan. I guess I'm possibly a little confused
8 by the question.

9 Q. Well, it just seems that there's a gray area about
10 we're going to be making certain investments anyway, we're
11 going to be making certain investments that might have multiple
12 purposes, you know. They're consistent with the PIP or the,
13 you know, the --

14 A. CRM.

15 Q. Whatever we're calling it, and so we have our choice
16 of places to put it. We can arguably put it here. We can
17 arguably put it there.

18 I just wondered is there a way to sort of create a
19 fine line or is that really left to the plan?

20 A. I don't believe we've thought of if there can be a
21 fine line. I don't think that we're opposed to that. I
22 believe that --

23 Q. And it may not be a big money matter anyway.

24 A. I think what we had envisioned is that we would make
25 sure that we showed that what was supporting the K-factor and

0149

1 what was the standard level would be over in the K-factor, the
2 normal bucket, and then whatever we did we would be proving
3 that this is a level elevated from where we've historically
4 been investing in the replacement pipe.

5 And that's what we would be putting forth in our
6 pipeline replacement plan, those specific projects would be
7 reviewed and included as what I would call an action plan, and
8 those would be the only things that would be potentially
9 eligible for the CRM.

10 Q. Okay. So there's no --

11 A. And --

12 Q. Yeah.

13 A. And the policy statement is fairly limited on the
14 types of pipe that it can be. It has to meet that higher
15 elevated risk. So there were some items that we would have
16 originally thought of including that are going to flow into the
17 K-factor side anyway that we will continue to do to improve the
18 safety.

19 Q. Okay. I just --

20 A. Did that answer?

21 Q. I'm not sure how big a problem it is, if it's a
22 problem at all. I just wanted to make sure I understood where
23 the line was drawn.

24 A. And I think that the CRM, I mean, basically we've said
25 any filing under the CRM is separate from the settlement

0150

1 agreement. And so this commission would -- I mean, we would
2 have to put forth the tariff, we would have to put forth the
3 information and show that it's consistent with the pipeline
4 plan, and then ultimately the commission would have to approve
5 those rates.

6 So there is another opportunity to make sure that
7 there isn't a double counting, and that is part of our
8 responsibility should we utilize the CRM.

9 Q. Okay. Okay. Again, following up on Commissioner
10 Goltz's question. There was -- certainly you're familiar with
11 the Detroit Edison matter involving decoupling that didn't go
12 as planned. And I'm sorry, I'm looking your way now,
13 Mr. Piliaris.

14 Can you envision a situation where circumstances would
15 be so changed that the terms of the settlement would no longer
16 be beneficial to the -- to the company or to the customers?

17 BY MR. PILIARIS:

18 A. That question appeared to go well beyond the Detroit.
19 The Detroit case I think was more specific to a particular
20 class of customers and the effects --

21 Q. So start after the Detroit clause on that sentence.
22 Are there any circumstances that, you know, you can envision
23 that -- in which circumstances would be so changed that, you
24 know, the terms of the settlement would no longer be beneficial
25 to the company?

0151

1 A. I think if we're speaking more broadly to the terms of
2 the settlement, I would probably defer that to probably our
3 policy witness from that standpoint. I can speak more to the
4 rate elements.

5 Q. Okay. Okay. We're swinging slowly to the -- to the
6 north.

7 BY MR. JOHNSON:

8 A. I'm sorry, Chairman. Would you repeat the question
9 for me?

10 Q. Well, the question is really a very general one. Are
11 there any circumstances that you think -- or any scenario under
12 which the circumstances are so changed that the terms of the
13 settlement would no longer be beneficial to the company?

14 You know, and I don't mean like nuclear war or
15 anything like that. I'm just thinking things that are in the
16 realm of probability or possibility.

17 A. Certainly, in negotiating the settlement with the
18 joining parties, we attempted to consider any circumstance that
19 would lead to that conclusion. And we believe that those are
20 captured within the settlement, and that we are comfortable
21 that it would be an extraordinary circumstance that would lead
22 us to that conclusion at the -- that the settlement captures
23 those and includes them in the final agreement.

24 Q. You have any examples?

25 A. I thought the earthquake one worked pretty well.

0152

1 Q. Okay. Well, I just -- I thought I would throw that
2 one out there. Mr. Cavanagh?

3 BY MR. CAVANAGH:

4 A. Mr. Chairman, I just wanted to draw your attention to
5 the exhibit to my rebuttal testimony, which is a comprehensive
6 assessment of the national experience with revenue decoupling
7 for 52 gas utilities, 25 electric utilities, more than 1200
8 rate adjustments.

9 And I think it is a helpful antidote to concerns that
10 there might somehow be a terrible unpleasant surprise lurking
11 here somewhere.

12 The national experience over the last decade has been
13 positive. The rate impacts of these adjustments have been
14 minimal. And I think we drew on all that experience in this
15 settlement. And I would express confidence that, short of an
16 earthquake, I could not foresee such a circumstance.

17 Q. Okay. So Detroit Edison, you see that as a set of
18 circumstances that --

19 A. I do.

20 Q. -- unlikely here?

21 A. Mr. Chairman, in part Detroit Edison came to the
22 conclusion which -- with which I did not agree, that it would
23 be better for the company to have a lost revenue mechanism than
24 a decoupling mechanism.

25 They asked the commission's permission to substitute a

0153

1 lost revenue mechanism, and the commission rejected that. So
2 in my mind, the Detroit Edison case stands both for the
3 proposition that commission policy on decoupling over lost
4 revenue recovery, the preference this commission has expressed
5 is a widely held one.

6 I think the other thing that's worth noting is that
7 there were in Detroit Edison, and still are, disputes over how
8 to handle which costs go into the mechanism and which do not.
9 There was not the kind of global settlement on that that there
10 is here, and that has contributed to the problem.

11 Q. Thank you. And actually, while you have the
12 microphone, in your testimony, you talked about accelerating
13 investments in energy efficiency and in conservation as a
14 result of this settlement. And it seems to me that -- that
15 you're talking about opportunities that are already existent
16 and people going after them.

17 In other states where decoupling has been done in
18 fact, do you see anything going beyond this where utilities are
19 actually partners in searching for new energy efficiency or
20 actually inventing new stuff that would fall under that bucket?

21 A. Yes, Mr. Chairman, is the short answer. And in my
22 initial testimony, we pointed out, for example, that if you
23 look at the correlation between the states with the highest
24 expenditure per capita on energy efficiency and, in my
25 judgment, certainly the strongest utility commitments, there is

0154

1 a clear correlation between the adoption of revenue decoupling
2 and the accelerated effort.

3 Based on my experience, I have no problem assuring you
4 that I do see a palpable difference in terms of management
5 commitment, innovation and engagement. That's part of why we
6 support the settlement.

7 Q. Thank you.

8 BY COMMISSIONER JONES:

9 Q. Good morning to the panel. Good to see familiar faces
10 back here. I think I'll start a little bit following up on
11 Chairman Danner's question on decoupling. This is first for
12 Mr. Piliaris.

13 When we first had our workshop, wasn't the proposal
14 focused on conservation-induced recovery mechanisms? It wasn't
15 as broad as price elasticity, economic and, you know, the
16 broader mechanism.

17 BY MR. PILIARIS:

18 A. That's correct.

19 Q. So how did that morph into the broader -- just explain
20 to me -- and I'm going to pose this to staff to Ms. Reynolds,
21 too -- how did that morph into what we have before us today
22 with the K-factor and a little more complicated mechanism?

23 A. So you know, we filed our most recent proposal in
24 October of last year. And the mechanism operated as you
25 describe. And subsequent to that we had some technical

0155

1 workshops where various stakeholders, including the
2 commissioners, participated.

3 And the company received the feedback, and in an
4 attempt to continue to remain responsive to that feedback,
5 Mr. Cavanagh and I, in particular, shared a number of
6 conversations around how the K-factor, the K-factor in
7 particular, could be changed to both meet the company's needs
8 as well as the needs or the concerns expressed during those
9 technical workshops.

10 So on the January 15th technical workshop, we floated
11 a proposal to move away from the conservation-based K-factor to
12 something that was completely divorced from that. And so we
13 just -- we picked a number that was roughly comparable to the
14 number produced in the original proposal.

15 And the conversations in that technical conference
16 seemed to be far more positive and receptive. From there --
17 and this is where the -- there begin as a confluence of the ERF
18 discussions and the Centralia and everything else coming
19 together, and the possibility of a settlement.

20 The notion of a rate case stay-out was starting to
21 bubble to the surface. And so the question was, well, what
22 would it take from the standpoint of a K-factor to accomplish
23 that? So at that point, we need to do the analysis, look at
24 the cost trends and see what it would take to get to that
25 point, and that led to what has been filed most recently on

0156

1 March 1.

2 Q. Okay. And I think I remember that workshop with the
3 commissioners. I think we were present then, and I think we
4 did give some feedback on the K-factor at that point, as I
5 recall.

6 Mr. Cavanagh, I'd also like to hear from Ms. Reynolds
7 on this, but why don't you go first.

8 BY MR. CAVANAGH:

9 Q. Commissioner Jones, all I would want to add is, I
10 think it's important to emphasize, we didn't make the K-factor
11 more complicated. We made it simpler. The objection remember
12 to the original proposal was that the K-factor would have to be
13 continuously recalculated based on potentially disputed
14 numbers.

15 The new proposal, you see it. You're not going to
16 recalculate it. You know exactly what it is. It -- as the
17 Regulatory Assistance Project model recommended, the manual
18 that we all talked about in both of those workshops, as it
19 recommended, the K-factor reflects, and there's some national
20 experience with this, a cost-of-service-based approach to
21 attrition, not a conservation -- an imputed conservation
22 approach.

23 And it was for the simplicity, it was for the
24 avoidance of that litigation between rate cases that I think
25 all of us thought this was a better way to go. We were not

0157

1 trying to introduce additional complexity. It was the reverse.

2 Q. And, Ms. Reynolds, that was one of your concerns as we
3 developed the decoupling policy statement in docket 100522;
4 correct? There were many concerns I think staff had at that
5 point. In fact, you were opposed to full electric decoupling
6 at that point, if I recall. But I think your thinking has
7 evolved.

8 But one of your concerns was the complexity of the
9 adjustment and all the different factors that could go into an
10 annual true-up on a full electric decoupling mechanism;
11 correct?

12 BY MS. REYNOLDS:

13 A. That is correct, Commissioner Jones. One of our key
14 concerns at that time was the throughput incentive that was
15 introduced by that K-factor that was proposed in October. I
16 had concerns about trying to use energy savings estimates as
17 billing determinants, and the company had made an attempt to
18 create a K-factor that moved those further away from the actual
19 calculation of rates.

20 But I still felt like it was far too close to -- far
21 too close to the rate-setting process with some numbers that
22 were pretty hard to pin down exactly. Staff continues to think
23 that an incentive mechanism or other mechanism would be a
24 better way to deal with that aspect. And this -- this
25 decoupling mechanism does have a much simpler K-factor than the

0158

1 previous.

2 Q. So from a staff perspective, it's much more simple to
3 administer and track how it actually works; correct?

4 A. Yes, it is.

5 Q. Okay. Mr. Piliaris, in your rebuttal testimony, you
6 take great pains to say that you tried to come up with a
7 mechanism that is consistent with your decoupling policy
8 statement; right?

9 BY MR. PILIARIS:

10 A. Correct.

11 Q. And I think you just described the two workshops in
12 which the commissioner staff were present in which we gave you
13 feedback, and others did, and you tried to incorporate that.
14 And you probably know this is coming, but I'm going to say it
15 anyway. The impact on rate of return.

16 So in our policy statement, we state that we would
17 like to hear evidence evaluating the impact of the proposal on
18 risks to investors and rate payers and its effect on the
19 utility's ROE.

20 So maybe this is better for Mr. Doyle, but either you
21 or Mr. Doyle, why -- why don't we see any evidence in this case
22 on -- on the impact? Because all the commissioners have right
23 now is testimony from Mr. Higgins, testimony from Mr. Gorman, a
24 little bit from Mr. Cavanagh, but -- but you, the utility, are
25 the experts.

0159

1 We've been talking about this darn thing for four
2 years now. And so when we say "evidence," we would like to
3 hear some evidence from the entity most directly affected, and
4 there's nothing in the record. At least for me it causes me a
5 little bit of concern. So could you address that?

6 BY MR. DOYLE:

7 A. You want to start? No. Okay. So in terms of -- I
8 can't speak to what happened four years ago. And I wasn't
9 privy to the discussions in the workshops. So I can kind of
10 take a step back and describe the approach that we took.

11 Number one, I've thought about, you know, this
12 particular issue, and in my testimony I reference quite frankly
13 the only real study I can find which rigorously analyzes some
14 data to come up with potential correlations or lack of
15 correlations on a statistically significant basis to describe
16 whether or not there is, in fact, anything underlying this.

17 And, you know, the Brattle Group report comes up with
18 a very interesting result that there's statistical significance
19 that potentially decoupling raises it. But, you know -- you
20 know, when I take a step back, you know, that study in and of
21 itself tells me that we may or may not have before us all the
22 potential factors that we ought to be looking at in terms of
23 figuring this question out.

24 The second thing that I thought about in this
25 particular mechanism is, you know, from a broad-based

0160

1 perspective, the cash flow profile of this company is not going
2 to change dramatically going into the future.

3 So customers are going to face volumetric changes both
4 up and down. The company will have to manage and finance the
5 business in the context of each calendar year to respond to
6 that.

7 Then, as Mr. Cavanagh describes, there will be a
8 potential adjustment going forward for the deferred decoupling
9 piece from year to year, which I expect will go in both
10 directions. And so as a finance guy, I kind of looked at it
11 from -- from a rating agency perspective and said, if I saw
12 this very minimal change in cash flow profile, would I be
13 moved, and I probably wouldn't.

14 Q. Okay. So -- so you don't think there -- I think the
15 other witnesses -- and we'll hear from them this afternoon --
16 talk about earnings and cash flow volatility caused by this
17 mechanism.

18 So you disagree with that statement, that there will
19 not be more volatility in earnings?

20 A. Excuse me. I'm sorry. I think the volatility is
21 going to be what it otherwise would have been. So we're going
22 to have warm winters, we're going to have cooler winters. And
23 the decoupling is going to handle those variances, and we'll
24 have to handle, from a financing and operating perspective, the
25 implications of running the business in that.

0161

1 And then again, the carry-over or the deferral that
2 gets rolled into rates in the following year, Mr. Cavanagh and
3 I think Ms. Morgan's study states those differences are very
4 minimal, so --

5 Q. Okay.

6 MR. CAVANAGH: Commissioner Jones.

7 COMMISSIONER JONES: I'll come back to you in a
8 minute, Mr. Cavanagh.

9 BY COMMISSIONER JONES:

10 Q. So -- but Mr. Piliaris said that, you know, the
11 mechanism morphed from a conservation-focused mechanism to a
12 broader mechanism; right? And that's the one that you as CFO
13 are dealing with right now; right?

14 So this barter mechanism involves weather, as you
15 said, warm, cool. It involves the economy. You know, we could
16 go have another recession. Customers could drop. It involves
17 price elasticity; right? And involves everything.

18 So that to me kind of indicates more volatility,
19 because we can't predict the future with great accuracy about
20 how these different parts of a very broad metric is going to
21 act.

22 But I will just take you at your word that that's your
23 statement, and I think we'll have more discussion on this. But
24 it just seems to me that the -- the volatility of both cash
25 flows and earnings are going to increase when you introduce a

0162

1 pretty dramatic change in the rate-making mechanism for -- for
2 this company.

3 That's not a question. You can respond, if you wish.
4 I have one question for you, and it relates a little bit to
5 what Chairman Danner talked about. I'm getting confused, and I
6 can't find a good exhibit in the record, and maybe this will be
7 a bench request, Judge.

8 But maybe you have these numbers in your head. But
9 I -- I recall that when the commission approved the merger, you
10 had an angle CAPX, capital investment plan, of about 800, 900
11 million, a billion a year initially. I recall in the merger
12 commitments, there was a credit facility set up specifically
13 for CAPX; right?

14 But what is your CAPX forecast for December 2013,
15 these three years of the rate plan, '13, '14 and '15, broken
16 down by electric and gas, and do you have a -- do you have a
17 total number in your head about -- about how much CAPX?

18 BY MR. DOYLE:

19 A. I think I can give you ballpark estimates. Our CAPX
20 will be, for the next three to four years, based on plans as we
21 see them now somewhere between a half a billion and 600
22 billion -- million.

23 Q. Boy, you really got my attention.

24 COMMISSIONER GOLTZ: That's a big ballpark.

25 MR. DOYLE: Per year.

0163

1 BY COMMISSIONER JONES:

2 Q. Okay.

3 A. The delivery side of the business will be in the
4 roughly 400 million dollar range, if I remember correctly, and
5 then the rest would fall into generation and the rest of the
6 business.

7 Q. Okay. And, Ms. Barnard, there is an exhibit, and I'm
8 just going to quote, and this may be better for you. It's in
9 KGB-5, page 1. It's non-production plan, Puget Sound Energy.
10 This is your net of accumulated depreciation, your net plan and
11 service number.

12 But in response to what Chairman Danner was talking
13 about with the pipeline replacement program, just looking at
14 gas, the incremental net plan and service that you forecast for
15 2013 December is 197 million dollars.

16 And I just want to clarify, if you do apply for a CRM
17 and we approve it, this one hundred and ninety-seven million
18 that is net plan in service right now, this is the amount that
19 you intend to invest in any case with or without a CRM;
20 correct? This is baseline CAPX net plan and service?

21 BY MS. BARNARD:

22 A. Correct. And I would like to point out that the
23 reason this is such a large number in 2013, is this is
24 non-production plant. So it's not only what we're putting in
25 in terms of pipe infrastructure, but this is also including the

0164

1 completion of our -- what we've called internally our big S,
2 our big technology projects.

3 Q. Okay.

4 A. The OMS, electric and gas, GIS, and then also a
5 customer information system. So that's why 2013 is so large.
6 And those have, in fact, gone into service.

7 Q. Yeah. I was looking at that, because it goes from one
8 hundred and ninety-seven million in '13 to 36 million. That's
9 a dramatic drop-off. But I was thinking -- and we'll get into
10 this later in the K-factor calculations, but it just -- it just
11 struck me as, you know, I didn't know exactly what was building
12 up to this.

13 And you have the bare steel replacement program on gas
14 that's winding down this year; right?

15 A. Correct. I think it's this year or 2014. Mr. Doyle
16 can correct me.

17 BY MR. DOYLE:

18 A. No, I think, getting to the chairman's question
19 earlier in terms of how you separate these things, so the bare
20 steel program, we are looking to really get that under control
21 and out of the ground in the next two to three years.

22 My recollection is that -- my recollection is that
23 there's two other kinds of pipe, I think it's the Dupont stuff
24 that gets moved into the CRM. So the point I'm making is not
25 to distinguish between the two from the standpoint of how much

0165

1 we're spending, but they can be tracked separately, and we can
2 keep them from a reporting perspective.

3 Q. And from a financial reporting perspective, the CRM
4 will be a regulatory asset, a FASB, what is called a FAP, it
5 will be a regulatory asset carried on the balance?

6 A. And I'm going to toss that one back to --

7 Q. -- on the balance sheet; correct? It wouldn't go into
8 net plan and service? Just correct my memory.

9 BY MS. BARNARD:

10 A. No. Actually, the way the CRM, it's not allowed. We
11 have to do a separate accounting. We have to make sure that we
12 can track those, but they are not deferrals. They're not
13 regulatory assets.

14 But I do need to make a correction to Mr. Doyle. He
15 referenced bare steel. The bare steel replacement will be
16 completed by '14, 2014, by order. What he's referring to is
17 wrapped steel pipe, which was a different category that was
18 part of the original PIP. Sorry.

19 Q. Okay. I think I'm -- I'm getting clearer on this, but
20 it is a concern I think of the commission the way this -- if
21 you do apply for CRM, and we approve it, how it's accounted
22 for. I think I -- I think I understand now. Mr. Cavanagh,
23 back to you.

24 BY MR. CAVANAGH:

25 A. I'm sorry. Thank you, Commissioner Jones.

0166

1 Q. Now, first of all, you said 25 electric utilities have
2 full electric decoupling --

3 A. Yes.

4 Q. -- across the country?

5 A. Yes.

6 Q. Not a lost margin recovery?

7 A. No. Full decoupling.

8 Q. Full decoupling?

9 A. Yes.

10 Q. In how many cases of those have you testified in?

11 A. A substantial majority, Commissioner Jones. And let
12 me just say that, although when I first testified on revenue
13 decoupling for Puget Sound Energy 20 years ago to the week, I
14 would not have claimed to be an expert on return-on-equity
15 issues and decoupling.

16 I do now, in part of as a result of all of that
17 experience. And, Commissioner Jones, I must -- I bristle just
18 a little at the suggestion that it was only a small or glancing
19 reference in my testimony in this issue.

20 So just to reinforce the record, precisely because too
21 often this gets discussed with commissions with either side
22 cherry-picking the national record, I want to emphasize that
23 you have in front of you an assessment of every ROE decision in
24 a revenue decoupling case compiled by Pamela Morgan updated to
25 March of 2013.

0167

1 And here are the number. 76 relevant decisions. 60
2 declining to make a prospective ROE adjustment. You will, of
3 course, have an opportunity to look at the history, look at the
4 experience, and decide if an adjustment is appropriate. But in
5 60 of 76 cases, there is no adjustment. In nine more, there's
6 a ten basis point adjustment, half of them as a result of
7 settlement.

8 What is proposed to you on ROE in the joint settlement
9 is the mainstream of commission experience with this issue.
10 And, Commissioner Jones, please, please look at pages 14 to 18
11 of Pamela Morgan's assessment where she addresses in detail the
12 ROE issues of great concern and justified concern to you, the
13 volatility issues, the countervailing points that you're giving
14 up an upside, particularly as we -- as we hope the country's
15 moving into economic recovery, and her conclusion that on
16 balance this is simply not material for overall ROE purposes, a
17 conclusion further reinforced by the Brattle Group study, which
18 is also in the record, which couldn't find a correlation,
19 although that is a natural gas utility assessment, not an
20 electric assessment.

21 But you've got -- please don't -- we really were
22 attentive to your insistence on a better, more comprehensive
23 assessment of the ROE issue, and I hope we've provided it.

24 Q. Okay. Well, I appreciate that point. I think one can
25 distinguish between the natural gas decoupling mechanisms and

0168

1 the full electric decoupling mechanisms, and it's wise to focus
2 on apples and apples and oranges and oranges. But you're
3 right, the study that Pamela Morgan did is a reasonable study,
4 but there are other studies out there as well.

5 Let's talk about the northwest. What was the ROE
6 adjustment in the Portland general case?

7 A. Ten basis points. And it was done on the basis --
8 essentially what the commission said to the utility was, "Will
9 you accept the settlement with a ten basis adjustment?" It was
10 not imposed. And the utility made a judgement based on
11 everything else in the package to do it.

12 Q. And were you involved in that case?

13 A. Yes.

14 Q. And what about the Idaho Power case?

15 A. No adjustment.

16 Q. No adjustment. Prospectively; correct?

17 A. That's right. And there hasn't been an adjustment
18 retrospectively, either.

19 Q. Okay.

20 A. I think Idaho has the most experience now with revenue
21 decoupling in the region. Just made -- just made the mechanism
22 permanent in January with no ROE adjustment.

23 Q. And I think you testified in the Pepco case before the
24 Maryland commission --

25 A. Yes.

0169

1 Q. -- did you not? And they made a 50 point -- a 50
2 basis point reduction in the ROE; right?

3 A. They did not make it when they adopted the mechanism
4 initially, Commissioner Jones. They did make it some years
5 into the process; that's correct.

6 Q. Okay.

7 A. They are an outlier among state commissioners.

8 Q. So they're an outlier, but basically as we do in cost
9 accountable calculations, you get a range, you know, 9.5, 10.5
10 percent --

11 A. Yeah.

12 Q. -- on DCF, and then, you know, at some point the
13 commission in its judgment makes a determination of where the
14 midpoint or what's reasonable, so --

15 A. Taking everything into account. And that's how it
16 should be done. I agree, Commissioner. As opposed to singling
17 out one issue like revenue decoupling and making a targeted
18 adjustment there.

19 Q. Okay. Staff, your position on ROE adjustments, I --
20 state that again. I find it a little bit confusing. I don't
21 understand the logic.

22 BY MS. REYNOLDS:

23 A. Okay.

24 Q. It is to adopt the full multiparty settlement with the
25 ERF baseline and then decoupling, plus K-factor, and then take

0170

1 a look at ROE in the next general rate case, which as
2 Commissioner Goltz said, could be 2015 or 2016.

3 A. That's correct.

4 Q. That's your position?

5 A. Yes, it is.

6 Q. So explain the logic of that to me based on changing
7 financial markets, evidence in this case, and in other cases
8 that we've relatively ruled on.

9 A. I think there are a number of things that make us
10 comfortable with this. First is that this is not a guarantee
11 of return. This is a guarantee of the revenue per customer.
12 And so the company still has an underlying responsibility to
13 control costs. They may or may not earn that allowed rate of
14 return that's in place.

15 The second point that made us more comfortable was
16 that in the recent Avista settlement, it included a very -- it
17 included the same return on equity. Then another -- another
18 piece that colored our acceptance of this -- of this proposal
19 was the commission's decision to not accept the decoupling
20 mechanism in the last general rate case because the company
21 opposed it.

22 And the company opposed it because they were afraid
23 that they were going to get a return-on-equity adjustment in
24 part. So staff felt like this was a good way to get decoupling
25 in place for this company.

0171

1 It does have protections in place, and there is an
2 earnings test that ensures that if that should they over earn,
3 they have to share that with their customers. And so we felt
4 like all of those -- and also if Puget had a history of earning
5 their -- their rate of return, then I don't think we would -- I
6 don't think we would be before you with this particular
7 proposal.

8 Q. Okay. And I think also weren't you affected by our
9 language in the most recent rate case with Puget where we
10 basically invited staff and the company to develop expedited
11 rate filings, decoupling mechanisms, and I think at one
12 point -- I'm just referring to it now briefly -- we -- we talk
13 about the pattern of one general rate case filing following
14 quickly after the resolution of another is overtaxing the
15 resources of all participants, including staff.

16 So was that a factor in your -- in your willingness to
17 accept this as well?

18 A. That was a factor in choosing to put the -- to put the
19 requirement to file -- to file their next general rate case out
20 in 2015 and as late as 2016. We did at one point consider
21 making it even further out than that, but we felt like that was
22 sort of a good balance point.

23 Q. Okay. Judge, I am finished with my questions. Thank
24 you.

25 THE COURT: Paragraph 507 keeps coming back to us.

0172

1 COMMISSIONER GOLTZ: Judge, may I follow up on a
2 couple questions there?

3 THE COURT: Please.

4 BY COMMISSIONER GOLTZ:

5 Q. Mr. Cavanagh, your response to questions triggered a
6 couple more in my mind. First of all, in K-factor, since
7 you've got this national experience, what other states have
8 adopted a K-factor, and how do those -- pick a good example,
9 and how is that different from the one here?

10 BY MR. CAVANAGH:

11 A. The -- I would characterize the K-factor as in the
12 family of revenue decoupling mechanisms that Ms. Morgan's study
13 calls attrition mechanisms, Commissioner Goltz. And a couple
14 of differences to keep in mind in terms why I think this is a
15 conservative proposal.

16 It only addresses delivery revenues, remember, which
17 are as -- in my original testimony, I think I estimated about
18 500 million or 2 billion. So it is a small -- relatively small
19 portion of revenues.

20 Other decoupling -- other decoupling mechanisms
21 address a larger fraction of utilities revenues. In addition,
22 this K-factor is set in advance by the commission at a
23 specified level.

24 In jurisdictions like Hawaii, for example, the revenue
25 requirement can increase between rate cases based on additional

0173

1 approved expenditures not contemplated at the time that the
2 mechanism was approved, which has created some controversy.
3 You can see arguments both for and against it.

4 The expenses do have to be approved by the commission.
5 But I would characterize this as in the mainstream of attrition
6 mechanisms, somewhat conservative because it only applies to
7 delivery revenues.

8 And as you can see from Ms. Morgan's study, attrition
9 mechanisms are quite common in revenue decoupling mechanisms
10 across the country.

11 Q. On the ROE issue, I thought going back historically --

12 A. Yeah.

13 Q. -- the argument for no ROE adjustment was in part
14 based on the fact that, well, the company will be back for a
15 general rate case next year anyway, so let's do it then. And
16 so there's a kind of a temporal issue there that, well, okay.
17 So if there is going to be one, and there is an advantage, it
18 will be short-lived and we'll deal with it at the next general
19 rate case.

20 Am I correct on that?

21 A. I don't -- that's not my impression,
22 Commissioner Goltz. That is I think that it -- a stronger
23 factor in this is a sense that since there really isn't any
24 comprehensive -- in terms of the empirical evidence of the
25 impact of revenue decoupling on cost of capital, it's all in

0174

1 the record before you.

2 Which is to say we know what commissions have
3 historically done, we have the Brattle Group study, which as
4 Commissioner Jones points out, is only on the gas side. Hasn't
5 been done for electric.

6 We do not have evidence that allows us in terms of any
7 specific empirical, published, peer reviewed work to make a
8 rigorous assessment, so what do you do?

9 And I think what commissioners generally have done --
10 I think, Commissioner Goltz, the persuasive argument has been
11 more along the lines of when we do a rate-of-return
12 determination in a rate case, we should look at everything,
13 with revenue decoupling one of many factors, and make a
14 judgment in part informed, of course, by what other commissions
15 are doing and what other utilities are earning.

16 But I haven't heard -- I think in terms of the
17 frequency of rate cases, it varies. If you look at the
18 decoupled utilities across the country, it isn't the case that
19 somehow there's a tendency to very frequent rate cases.

20 In fact, the argument is often made that revenue
21 decoupling will extend rate case durations too far. And that
22 was one of the reasons we built in an assurance to you that
23 Puget would be back within a reasonable period of time.

24 Q. Right. I was just thinking about -- I thought the
25 argument was in general, well, let's -- we don't have to deal

0175

1 with ROE issues at the time of the decoupling decision. We'll
2 deal with it retrospectively.

3 A. Sure.

4 Q. And that's I think your advocacy; right?

5 A. Exactly.

6 Q. Retrospectively.

7 A. And they're going to be back in '15 or 2015 or 2016.

8 I think, Commissioner Goltz, it would be different -- in one
9 Iowa -- one celebrated Iowa instance, the utility didn't come
10 back for 17 years. And we're not talking about that.

11 Q. Right.

12 A. Okay. Two to three years is not outside the national
13 mainstream at all.

14 Q. Okay. But this is -- this three- to perhaps four-year
15 stay-out is longer than we're used to, for good or bad.

16 MR. SCHOOLEY: And welcome at that.

17 BY COMMISSIONER GOLTZ:

18 Q. And welcome at that. So let me shift to one other
19 issue, and I think I can articulate an answer to this, but I
20 want to hear from you, because it might probably come up.

21 You testified that the rate impacts of the decoupling
22 proposal are minimal. I think you said seven cents a day or
23 basically \$2 a month. And I can assure that at a public
24 hearing on this, there will be those that say a \$2 -- two
25 percent increase is not minimal. There's people for whom that

0176

1 is still a meaningful amount.

2 So what do we say to those -- to that argument saying,
3 "Well, this isn't minimal"? I mean, how do we make the
4 justification if we approve this that this is actually
5 beneficial to those folks?

6 A. And, Commissioner Goltz, I think this is the crucial
7 question. And I think you say two things. First of all, you
8 emphasize we are not raising rates here by two percent. We are
9 not adding something to the cost of service.

10 What we are doing is ensuring that the revenue
11 requirement that we have deemed reasonable and approved is
12 required no more and no less.

13 So, Commissioner Goltz, what you can say is the
14 history of revenue decoupling around the country, as the Morgan
15 study shows, is one of adjustments both up and down. This is
16 not a cost adder to the bill. And finally, the principal
17 benefit to customers, of course, is enhanced energy efficiency
18 performance, which is a top priority of the State of
19 Washington, which we know to be the most promising way to
20 reduce customers' bills over time, improve economic health.

21 That -- we're not doing this purely -- decoupling's
22 not an end in itself. It's a means to the end of improved
23 energy efficiency performance.

24 Q. Am I correct or correct me if I'm wrong that the
25 benefits from enhanced energy efficiency performance accrue

0177

1 less to low-income -- low-income customers than to others?

2 A. Unless specific effort is made to target services to
3 low-income households, which this settlement emphatically does.

4 Q. But in general, that's the case?

5 A. In general you would be correct, which is why we
6 thought it's so important to include a low-income element in
7 the settlement.

8 Q. Okay. Thank you. And one more question for
9 Mr. Schooley, I guess, I meant to ask the first time around.

10 To what extent is staff's endorsement of the
11 settlement based on a desire to basically engage in some
12 experimentation? Meaning we're -- I don't want to use the word
13 "paradigm shift."

14 COMMISSIONER JONES: You just did.

15 BY COMMISSIONER GOLTZ:

16 Q. All right. Strike that. But to use some different
17 mechanisms that haven't been used before, and as part of just
18 it's appropriate, maybe even good to do some experimentation
19 here?

20 BY MR. SCHOOLEY:

21 A. I haven't thought of that as specifically a goal, but
22 I think that is a positive aspect of it. This commission over
23 time has been willing to engage in various experimental
24 rate-making mechanisms, such as the periodic rate adjustment
25 mechanism from the early '90s when I began here.

0178

1 I think that this is a way to see if decoupling works
2 in terms of enhancing energy efficiency. I think it's a way to
3 see if decoupling does in fact reduce volatility in the
4 company's earnings.

5 I'd like to point out that the so-called evidence
6 that's in the record so far is more that of theory and
7 hypothesis and very short on empirical evidence, supporting
8 Mr. Cavanagh's statements earlier.

9 So I think this does give us a chance to look at how
10 it does impact the company's earnings over the next few years.
11 Even that might be too short of a test period to actually see
12 if there's any real improvements. So I think I welcome the
13 chance of experimenting in this case, and I think the
14 commission should, too.

15 COMMISSIONER GOLTZ: I'm done.

16 BY THE COURT:

17 Q. In that connection, I just wanted to follow up on one
18 question that's in my mind after listening to all of this.
19 Mr. Schooley, you mentioned in your final set of testimony
20 something about being open to reporting requirements, and I
21 think I heard Mr. Johnson say earlier today that the company
22 would be open to some sort of reporting on a routine basis or
23 scheduled basis or something like that. I can't recall
24 exactly.

25 And listening to your comments about the experiment,

0179

1 if you will, or the testing that's going on, what I'm curious
2 about is how we accomplish this gathering of information and
3 reporting, and how do we keep an eye on this to see what effect
4 it's having, how the company is doing.

5 Do we have to wait for three -- I know there's this
6 report in three years that will be prepared by a third party,
7 independent third party. That certainly will be something very
8 useful.

9 But shouldn't we look at something, getting something
10 in the interim or do we need to wait three years to see how's
11 it going? What about having a workshop or something in the
12 interim period that would help inform -- I won't use the
13 paradigm shift, either.

14 Mr. Johnson, you testified a good bit in your
15 testimony about the embracing of new ideas and new approaches
16 to rate making, and I think that's going on. Whether we call
17 it a paradigm shift or something else, that's definitely going
18 on here.

19 And so what I'm interested in -- in learning about is
20 what people have in mind, if anything, in terms of sort of
21 getting back to the commission regularly with a report on how
22 things are going.

23 BY MR. SCHOOLEY:

24 A. I think that's a great idea, and I think it does
25 require some thought to determine what it is that would be

0180

1 meaningful. You can come up with all sorts of reports that
2 really don't give you anything to go on. So we'd be happy to
3 engage with the company and other parties to -- and yourselves
4 if we have the opportunity to come up with reports that provide
5 genuine information and helpful data.

6 Q. And is the company for its part willing to engage with
7 us in this way and come back to the commission on some sort of
8 a not-too-spaced-out basis and talk to us?

9 BY MR. JOHNSON:

10 A. Absolutely, your Honor. And it was our assumption
11 that the periodic reviews that will be done, the annual reviews
12 of the earnings test would capture a lot of the information
13 that I think the commission is looking for, and we welcome the
14 opportunity to spell out specifically more information that
15 would be of benefit that we could provide in a reporting
16 fashion to the commission on an annual or frequent basis, if it
17 made the commission more comfortable in assessing the -- the
18 benefits of -- of the settlement as it progresses along in its
19 term.

20 Q. So the annual, that would be the CBR that we're
21 looking at, the Commission Basis Report? Is that what you're
22 referring to there?

23 A. Correct. But we assumed that the earnings test would
24 enlighten a discussion around the information presented and the
25 performance of the company. And again, if there's something

0181

1 specific that would be of benefit, we could work with staff and
2 the commission to provide that.

3 Q. The earnings test, does that spring from the CBR?

4 BY MS. BARNARD:

5 A. Yes.

6 Q. Yes? Okay. So -- and there's been some mention of
7 the fact that we used to require CBR's on a twice annual basis.
8 So something like that might be a more frequent way to sort of
9 check in and see how things are going.

10 Is that doable?

11 A. Yes.

12 Q. Okay. And so -- and also I seem to recall -- this is
13 stretching the memory a little bit, but there was some
14 discussion much earlier on in this whole process about perhaps
15 the need to modify the CBR in some fashion, to make it more
16 meaningful given the specific context of the decoupling and,
17 well, probably the ERF will be just a piece of history next
18 time.

19 But is there some -- I ask Mr. Schooley. Is there
20 some additional information beyond what we get in the CBR's now
21 or some different form of information relative to those data
22 that are being reported that might be more useful?

23 BY MR. SCHOOLEY:

24 A. I think what you may be referring to is the Commission
25 Basis Report itself is not sort of ready-for-prime-time

0182

1 rate-making.

2 Q. Right.

3 A. But with certain adjustments to it, it becomes more
4 relevant in that sense. And if that's necessary to provide the
5 meaningful data, then that -- we can work on that.

6 Q. And the company would be willing to engage in that?

7 BY MR. JOHNSON:

8 A. Correct.

9 Q. Okay. Good. Well, I think that pretty well dots the
10 period on that sentence. Puts a period on it. Maybe not.

11 CHAIRMAN DANNER: Mr. Cavanagh is familiar with all
12 the 76 decoupling decisions out there. Maybe he can tell us
13 what are some of the check-ins that are used in other states
14 that kind of make sure that --

15 MS. DAVISON: Is your microphone on?

16 CHAIRMAN DANNER: No, it's not. Thank you. So I'll
17 say that again.

18 CHAIRMAN DANNER:

19 Q. Just what are some of the check-ins and reporting
20 requirements that you are aware of in other states that help us
21 keep an idea of what is happening?

22 BY MR. CAVANAGH:

23 A. And this is not -- that was not one of the issues that
24 was included, for example, in Ms. Morgan's survey of the
25 jurisdictions, Mr. Chairman, so here I need to be anecdotal.

0183

1 But I will say it's certainly not uncommon for
2 commissioners to want to know how it's going, as you suggest.
3 There certainly is ample precedent for what we've included in
4 the settlement, which is, as part of the evaluation, look at
5 how the company's doing in terms of energy efficiency
6 performance and whether there is a demonstrable link between
7 the new business model that's been adopted and the company's
8 actual performance.

9 And since I characterize it as a means to an end, I
10 think that's a widely held view, and nothing you're suggesting
11 sounds out of line to me.

12 THE COURT: Ms. Reynolds.

13 MS. REYNOLDS: I just -- I just wanted to also point
14 out that the company files annual conservation reports that
15 we'll be relying on to track their progress in conservation.

16 BY THE COURT:

17 Q. So that can all be part of the conversation that we
18 may have about this?

19 A. Indeed.

20 Q. I had just one other area I wanted to touch on. And
21 this is really I think gets back to you, Mr. Piliaris. You
22 were talking a little bit about your conversations with
23 Mr. Cavanagh and how this K-factor evolved from October to
24 March.

25 And I was -- I don't remember the numbers now, but for

0184

1 some reason the figure 1.7 percent comes to mind as the
2 original proposal. And that was based on some conservation
3 measures, so on and so forth.

4 So how did you get from there? That -- that approach
5 to developing the K-factor was just abandoned in favor of
6 something else; is that right?

7 BY MR. PILIARIS:

8 A. Correct.

9 Q. And how did you come up with the basis that we're
10 looking at today?

11 A. That would be the testimony of Ms. Barnard.

12 Q. Okay. So Ms. Barnard describes how it's done, but I'm
13 just wondering how you -- you know, is that a common way to --
14 to do it, Mr. Cavanagh?

15 BY MR. CAVANAGH:

16 A. Judge Moss, I would characterize what we did as
17 shifting from what was a unique proposal to the mainstream of
18 how this is done, which is essentially the K-factor reflects
19 historical information about escalation and costs, it's a
20 cost-of-service measure in the purest sense.

21 What we were trying to do in terms of imputing
22 conservation impacts was new and unique, and no one liked it
23 and we abandoned it.

24 THE COURT: Okay. Thanks. That really answers my
25 question. Thank you very much. Anything else from the bench

0185

1 for the panel? All right. Well, we're going to have our
2 individual witnesses back.

3 Do we want to go ahead and just break for lunch now
4 and break for lunch? All right. We'll take an early lunch
5 today, since this is a logical breaking point, and then when we
6 come back we'll have counsel back up here. This area needs to
7 be left vacant for the witnesses. And we look forward to
8 seeing you at -- shall we just come back at 1:00?

9 CHAIRMAN DANNER: Yeah, 1 o'clock.

10 THE COURT: We'll come back at 1 o'clock. That will
11 give us an hour and 20 minutes. We'll be in recess.

12 (A luncheon recess was taken
13 from 11:40 a.m. to 1:03 p.m.)

14 THE COURT: Mr. ffitch, I had committed to you that I
15 would have some conversation and give you a ruling on your
16 request for official notice of the Elgin testimony from the
17 previous rate case, and the answer is we will do so for
18 purposes of your briefing or anybody else's briefing, for that
19 matter. And objected to, I might add.

20 Okay. Let's see. We have Mr. Gorman on the standby
21 prior arrangement, because he needs to catch a flight, and
22 we'll try to get him up and off. I think Commissioner Jones
23 has some questions. I'm not sure about others. So if you will
24 please rise and raise your right hand.

25 Do you solemnly swear or affirm under penalty of

0186

1 perjury that the testimony you give in this proceeding will be
2 the truth, the whole truth, and nothing but the truth?

3 THE WITNESS: I do.

4 THE COURT: Thank you so much. Do you want to put the
5 witness on briefly or --

6 MS. DAVISON: Yes, unless --

7 THE COURT: Actually, let's try that. How about can
8 we stipulate all the exhibits in, folks? Or are there going to
9 be some objections?

10 MS. DAVISON: No objection.

11 MS. BROWN: No objection.

12 MS. CARSON: There is a couple of exhibits that we
13 think are designated for the wrong person or at least one.

14 THE COURT: We'll work that out.

15 MS. CARSON: Otherwise we're fine.

16 THE COURT: Okay. All right. Very good. And some of
17 them are designated for more than one witness, because I wasn't
18 sure how you all were going to work those things out, but
19 anyway. All right. So -- so we will have -- all the exhibits
20 are part of the record now, so we won't need to go through that
21 exercise.

22 MS. DAVISON: Thank you, your Honor. And thank you to
23 the bench for accommodating Mr. Gorman's travel schedule.

24

25

0187

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

2 BY MS. DAVISON:

3 Q. Mr. Gorman, do you have any changes, corrections to
4 your testimony?

5 A. I do not.

6 MS. DAVISON: With that, your Honor, I believe
7 Mr. Gorman is available for cross.

8 THE COURT: All right. Well, we will turn to -- we
9 will turn to Commissioner Jones, I think, because no one
10 indicated cross from the parties, but Commissioner Jones had
11 some questions.

12 COMMISSIONER JONES: Thank you, Judge Moss.

13 THE COURT: You are welcome.

14

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

16 COMMISSIONER JONES:

17 Q. Welcome, Mr. Gorman.

18 A. Thank you. Good afternoon.

19 Q. What time approximately do you need to leave the
20 commission by?

21 A. Need to be at the gate by 4:30, so --

22 Q. Okay. Well, this isn't going to take that long.

23 THE COURT: Ominous question you're asking.

24 THE WITNESS: That's great news.

25 COMMISSIONER JONES: Is everybody listening?

0188

1 THE COURT: You got our attention.

2 BY COMMISSIONER JONES:

3 Q. Mr. Gorman, how long did it take you to carry out your
4 cost of capital study, approximately?

5 A. You know, typically we do so many cost of capital
6 studies that sometimes more than one can be done at the same
7 time.

8 Q. Would you turn your -- yeah, so it's lighted. There
9 you go.

10 A. I can't say for sure, but typically a cost of study --
11 cost of equity study can be done in about a week to a week and
12 a half. That includes the analyses and the supporting
13 testimony along with comments, you know, in this case for
14 capital structure and any other specific issue related to the
15 case.

16 Q. And you're aware that in this docket or in this
17 consolidated dockets you are the only one who carried out a
18 full cost of capital study; correct?

19 A. Yes.

20 Q. Have you had a chance to look at the other testimony,
21 either responsive or rebuttal, responding to cost of capital
22 issues, Mr. Higgins, Mr. Deen and Mr. Doyle?

23 A. Yes.

24 Q. Okay. This is kind of a broad question, but you get
25 to it in your MPG-1-T as you describe I think early on the

0189

1 overall -- no, this is in MPG-3, which MPG-3 is your actual
2 return on equity study; correct?

3 A. Yes.

4 Q. So in there you describe the overall conditions and
5 financial markets, I think. And on page -- let me see. Page 4
6 of MBG-3, up at the top you at least cite one ratings agency,
7 Fitch, that states that they expect downward pressure on
8 authorized ROE's for regulated utilities to persist; correct?

9 A. Yes.

10 Q. What about the other ratings agencies, S&P and
11 Moody's?

12 A. Well, I think the other rating agencies have
13 recognized that the authorized returns on equity generally do
14 fall in capital market cost for utility companies. I didn't
15 quote any of them specifically, but there have been reports --
16 one comes to mind for Standard & Poor's which concerns the
17 authorized return on equity and various regulatory mechanisms,
18 and in that it did note, as I recall, that authorized returns
19 on equity have been trending down along with reductions in
20 utilities' cost of capital.

21 Q. What period do you think we should use for this when
22 we're looking at financial market trends? What period do you
23 think we should refer to? The company is making the assertion
24 that financial market conditions haven't changed that much.

25 We issued our order in May of 2012, and I think the

0190

1 test year period in that case was end of calendar year 2010,
2 was it not?

3 A. I believe that's right, yes.

4 Q. So those -- that analysis was based on the end of
5 2010. And then we have the 2011/2012 period, then we're
6 projecting three years into the future.

7 So how do you advise that we -- that the commission
8 should look at the financial market conditions in terms of the
9 time period?

10 A. Well, I think the -- the relevant period is the period
11 rates will be in effect. So the cost of capital today I think
12 is the most important element in assessments of whether or not
13 there's a consensus by independent economists that that capital
14 market cost will change over the next three years. And that's
15 what I tried to capture in my return on equity study.

16 By looking at current cost of capital with the DCF
17 analysis and the risk premium studies, but also looking at
18 forward trends and projected capital cost by using forecast
19 interest rates in the CAPM and one component of my risk premium
20 study. So that I think is the most relevant --

21 Q. Okay.

22 A. -- time period for this, but I also think it's
23 important to look at the observable market evidence of changes
24 in capital cost today relative to the time the last order was
25 issued.

0191

1 And the -- the irrefutable observable market evidence
2 is that capital market costs are lower now than they were at
3 the time the commission's order was approved.

4 Q. You're anticipating a future question, so just let me
5 get back to the commission-authorized ROE's and the trends
6 there.

7 Do you have any data that you can refer to us on first
8 quarter 2013 trends in commission-authorized ROE's that -- that
9 support your thesis that ROE's are continuing to trend down
10 both for natural gas utilities and electric utilities?

11 A. Well, the Regulatory Research Associates is probably
12 the -- that most source studies relied on most often at
13 regulatory proceedings.

14 Q. Yes, and we receive that here at the commission.

15 A. So I would point to that for regulatory-approved
16 returns on equity. But generally what I was referring to was
17 more market-driven capital market cost, because with -- because
18 with the authorized returns on equity for many regulatory
19 decisions around the country now, those have been considering,
20 in my judgment, factors more than just the current market cost
21 of equity.

22 They also reflect, I think, commissioners' concern
23 about where -- where capital market costs will be during the
24 rate effective period. So I think they -- they encapsulate
25 those commissions' judgments as well as assessments of the

0192

1 current market cost of capital.

2 Q. Okay. So you would refer us to the RRA analysis if we
3 want more recent data. And the reason I ask this is there were
4 questions this morning or a line of questioning about using the
5 most recent data, whether it's the Commission Basis Report that
6 are filed with us, and I think Commissioner Goltz had a series
7 of questions about that.

8 And I share generally the view that we should be
9 basing our decisions on the most recent data that has been
10 published and vetted. And so it would be interesting --
11 interesting to know what the first quarter 2013 numbers are,
12 because the CBR report goes up through April 30th, 2013;
13 correct?

14 A. Yes.

15 Q. Okay.

16 A. Would the -- note that it's important when you look at
17 the RRA report to look at the entire document that publishes
18 the authorized returns for electric and gas utilities, because
19 often in the text in the beginning of that, SNL or RRA will
20 give an assessment of those authorized returns.

21 And that's important right now, because there are some
22 jurisdictions that are awarding incentive return-on-equities
23 that are not represented to be estimates of current market cost
24 to capital.

25 And when you don't remove those incentive

0193

1 return-on-equities, such as a return that -- in Virginia, as an
2 example, that is based on state law which encourages investment
3 in generation and asset development inside the state that burns
4 Virginia coal and some other -- some other requirements.

5 If you don't remove those from the mix, you're not
6 getting a true estimate of what regulatory commissions are
7 finding as a cost of capital for integrating utility companies.

8 Q. Okay. If you could turn to page MPG-1-T, your
9 responsive testimony page -- what page are we on? Page 12.
10 We're talking about the risk premium.

11 A. I'm there.

12 Q. Okay. So just -- I just want to make sure I
13 understand this. And again, if there's any more recent data on
14 this.

15 But this basically you're trying to get at the --
16 the -- the yield spread between treasuries; correct, and --

17 A. No, these are the actual utility bond yields --

18 Q. Okay.

19 A. -- for a 13-week period at two points in time.

20 Q. All right.

21 A. One is in May 2012 at the time that the commission
22 ordered, and the other one is a more recent 13-week period.
23 And I use this to illustrate that observable market evidence on
24 current cost of capital tells us that utilities cost of capital
25 is 25 to 40 basis points lower for debt capital right now. And

0194

1 that's a pretty good indication that cost of capital for
2 electric securities are also down a fair amount.

3 Q. Uh-huh. And is there -- the same point here. Is
4 there any more recent data? Have these trends continued in the
5 first quarter of 2013?

6 A. We are developing a study right now, and I will know
7 the answer to that when I look at the results of that study.
8 But the last few studies I've seen, the single A-rated utility
9 bond yield has been pretty consistently in the low fours for
10 most of this year.

11 Q. Okay. And Puget would be not in the top line. It's
12 not an A-rated utility bond yield, but a BAA. This is the
13 Moody's classification, BAA-rated utility bond yield?

14 A. Correct.

15 Q. So that would correspond to a 41 basis point
16 reduction?

17 A. Yes.

18 Q. Okay. In your study, did you -- or well, I'll first
19 address this to PSE. Based on Mr. Doyle's rebuttal testimony
20 and what you know about the company, has -- PSE is a little bit
21 unique, is it not, because it only goes to the capital markets
22 for debt, not for equity.

23 Is that common throughout the country, to have
24 privately owned utilities that don't need to raise equity in
25 public markets?

0195

1 A. Actually, that is more the common structure in today's
2 marketplace where a holding company will own one or more
3 utility companies.

4 Q. Okay.

5 A. There's very few publicly traded utility companies
6 today.

7 Q. Okay. But have you seen any problems or any
8 hindrances to market access, capital market access, by Puget or
9 other companies in the last year or two?

10 A. Not if there -- if there has been, it's been problems
11 unrelated to the utility companies. Some companies with
12 merchant generation facilities or other more risky endeavors
13 may have financial difficulty.

14 You know, Dayton Power and Light is owned by AES Corp.
15 which is a below investment grade parent company. Also owns
16 Indianapolis Power and Light. Their access to capital has been
17 more constrained relative to other parent companies that have a
18 stronger profile.

19 Generally speaking, the market has embraced utility
20 investments, because they're generally regarded by the
21 marketplace as low-risk, stable investments. And in distressed
22 economic times such has been in existence in the marketplace
23 since 2007, 2008, stable business model industries like
24 utilities have not had trouble getting -- attracting capital.

25 Q. And that would apply to Puget Sound Energy as well;

0196

1 correct?

2 A. Yes.

3 Q. Okay. In terms of your specific recommendation on
4 cost of capital, you're recommending that we adopt a 9.30 cost
5 return on equity; correct?

6 A. Yeah, I believe that's the best estimate of the
7 current market cost of equity.

8 Q. Let's go back to your recommendation in the latest
9 rate case that we had with Puget. Your recommendation there
10 was 9.70 percent; right?

11 A. I would have to check that, but that sounds correct.

12 Q. And we ended up with an order at 9.8 percent; correct?

13 A. Yes.

14 Q. Okay. So that's a 40 basis point reduction. So what
15 is your primary -- it's in your return on equity study, but I'd
16 like you to summarize it.

17 What is the primary reason for that 40 basis point
18 recommendation that you're -- that you're providing to us?

19 A. The primary basis for it is the market's valuation of
20 utility securities. The dividend yields of utilities have come
21 down significantly over the last five years, and they have over
22 the last year.

23 The -- and when the price goes up, the yield comes
24 down. The cost of capital for utility comes down as the price
25 goes up. Essentially means the utility can sell fewer shares

0197

1 to attract the capital it needs to invest in utility plan
2 equipment.

3 Utility bonds yields have also come down during that
4 time period. And that also is an indication that the market is
5 willing to invest in utilities at a lower rate of return. All
6 that again reflects the general assessment by market
7 participants that utilities are low-risk, safe-haven-type
8 investments.

9 And that's what the market's looking for, particularly
10 during times in the marketplace that we've seen over the last
11 five years or so. So the reason for it is simply a balanced
12 application of the cost of capital models in the same way in
13 this case that I did the last case.

14 But in this case I didn't rely as heavily on the
15 results of my CAPM study, because I found that result to be too
16 low. And the reason I think it's too low is I think there's a
17 temporary imbalance between the estimate of the market risk
18 rerate and then the market risk premium. So I didn't give that
19 significant, if any, weight in forming my recommended return.

20 But the analyses here were very same as the analyses I
21 used before, and my recommended return on equity in this case,
22 like the last case, is my best estimate of what the current
23 cost of capital is for a utility.

24 Q. I think your CAPM result came out at about 8.4
25 percent, did it not?

0198

1 A. It did. It was very low.

2 Q. And I agree with you, that's unusually low, even given
3 the low interest rates in this market. And for the record, I
4 appreciate you doing a CAPM study. I think you've heard me
5 before on this and read our commission orders.

6 I for one appreciate a -- an analysis done from many
7 different perspectives -- risk premium, CAPM and the various
8 flavors of -- of DCF. And I appreciate that.

9 So how much weight -- so you did five different
10 studies; right?

11 A. Yes.

12 Q. How much weight do you give to the different studies?
13 You just stated for the record that you didn't accord much
14 weight to CAPM, but what about the three different DCF
15 methodologies and then the risk premium? Do you have any
16 numbers or can you give us anecdotal weighting of how you
17 weighted those studies?

18 A. Well, I go through the results of each of the model
19 and give my general assessment of what I think, if the result
20 is reasonable based on a -- the evidence for developing that
21 model in that case.

22 It's been my experience, having done these analyses
23 for over 20 years, there are times where one model gives a good
24 reliable result, and market conditions change, and the next
25 time you perform the model, the result's either too high or too

0199

1 low.

2 So I review the results of each of the models,
3 independently outline why I think it's a reasonable result or
4 not, and then make a recommendation based on what I find to be
5 a reasonable estimate of -- of the cost of equity considering
6 those models and observable interest rates and projected
7 interest rates in forming -- what I am attempting to do is
8 create a reasonable estimate of current cost of equity.

9 But that requires then going through the constant
10 growth DCS study, look at the growth rates and the dividend
11 yields, look at the sustainable growth rates and the results of
12 those models, look at the multi-growth-stage DCF model, and
13 commenting on all of those factors.

14 And when I get into the risk premium model, I have
15 been using an above-average risk premium in measuring the cost
16 of equity, because I -- I'm observing a large spread between
17 treasury bonds and utility bonds yields.

18 Although utilities are generally reviewed as low risk,
19 treasury bonds are generally reviewed as the lowest risk
20 security. When that spread increases, that's an indication
21 that the industry has higher risk than average.

22 Consequently, I think the risk premium should reflect
23 that higher than average risk when you apply an equity risk
24 premium to the observable bond -- utility bond yield or
25 treasury bond yield. So I made that assessment in developing a

0200

1 risk premium study.

2 Again, when I develop my CAPM study, I was concerned
3 about the results, because I think the treasury bond yield
4 which is used as a risk-free rate is so low in comparison to
5 the historical market risk premium that I just thought there
6 was a mismatch there.

7 That when risk-free rate is that low, the risk premium
8 is probably higher than average, so I didn't give considerable
9 weight to the results of that study.

10 Q. On page 25 of MPG-3 of your study, you get into -- and
11 I just want to ask a clarifying question on risk premium. You
12 gave a 75 -- 75 percent rating for your high-end estimate and
13 25 percent for low-end estimate.

14 These are your estimate of the treasury, I think, to
15 produce an equity risk premium which came out at 9.44 percent.
16 So I'm just curious as how you developed that split of the high
17 end and the low end when you're trying to estimate the equity
18 risk premium over this rate effective period.

19 A. Well, that was based on my observation of an unusually
20 large observable. And that's important, what's observable in
21 the market, an unusually large spread between utility bond
22 yields and treasury bond yields.

23 Even though utility bond yields are low, treasury bond
24 yields are a little bit lower. So the spread between the two
25 is an indication that the risk of utility bond yields relative

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1 to risk-free rate is higher than average.

2 The average equity risk premium would have been given
3 50-percent weight to the low end to the high end to come up
4 with the midpoint. Since I found that observable evidence
5 suggests that utilities are currently a little above -- the
6 risk premium is above an average relative to a risk-free rate,
7 I scaled that weight up to give more weight to the high end in
8 the risk premium estimate than the low end.

9 Q. Okay. Is it fair to characterize your ultimate
10 conclusion in the weighting of your methodologies, then, as
11 saying it was equally weighted between a DCF and a risk premium
12 analysis or do you accord more weight -- which I think did you
13 last time -- to the DCF analysis, whether it's sustainable
14 growth or multi-stage growth?

15 A. Well, I mean, my conclusion for both of the studies
16 was a 9.3 percent return. So I didn't --

17 Q. Okay.

18 A. -- make an effort to try to say it was a weighting of
19 the two together. But both of them supported ultimately what I
20 found to be an appropriate return. I still think the DCF
21 studies in this marketplace are producing reasonably reliable
22 results.

23 Q. Okay.

24 A. And I think the risk premium corroborates that
25 finding.

0202

1 Q. Okay. Just a few more questions. Payout ratio, there
2 appears to be some discussion, and with Mr. Doyle on rebuttal,
3 too, about what is an appropriate payout ratio. In MPG-11,
4 your exhibit on payout ratios, if you could go there.

5 What is the -- the current observable PSE to the whole
6 holding company is about 80 percent, recent evidence, isn't it?
7 Isn't that your assertion that an 80 percent dividend payout
8 ratio is too high?

9 A. Well, not exactly. You know, the payout ratio from
10 the publicly traded company to public shareholders typically is
11 an important factor, and utilities typically manage that in a
12 stable way because they want to support the dividend
13 expectations of public shareholders.

14 When you have a holding company structure and the
15 subsidiaries are paying dividends up to the parent company,
16 that typically is a resource allocation decision which is
17 managed differently than the ultimate payment of dividends to
18 public shareholders.

19 So from that standpoint, an 80 percent payout ratio
20 may not be inappropriate for a subsidiary, but it might be --
21 might be too high for the publicly traded company.

22 The issue I have that Mr. Doyle responded to related
23 to whether or not they managed their capital structure in line
24 with what I understood the commission's objectives for
25 establishing a capital structure in the last rate case.

0203

1 In the last rate case, the GAAP or the capital
2 structure based on financial reporting books had an equity
3 ratio of around 46 percent. In that case I believe it was
4 Mr. Gains argued that, "Well, you need to pull out the other
5 comprehensive income adjustments and some retained earnings,"
6 similar to what Mr. Doyle's proposing here.

7 But when he did that, he came up with a 48 percent.
8 And I understood the commission to say, "Well, we're going to
9 use the 48 percent capital structure, but we're going to use it
10 as a hypothetical. We're not embracing your methodology.
11 We're just taking your capital structure."

12 And they also said in that same order that, "We expect
13 the actual capital structure, common equity ratio, to be built
14 up to that hypothetical during the rate effective period." So
15 in a sense it was an attrition, as I interpreted, block
16 adjustment to the cost of service.

17 So the expectation was is the actual capital
18 structure, common equity ratio, would be built up to 48
19 percent. So I tested whether or not it appeared as though
20 Puget Energy -- Puget Sound Energy was attempting to build up
21 the regulated utilities capital structure, the actual capital
22 structure, to be in line with the hypothetical capital
23 structure.

24 They didn't meet that objective, and it looked like it
25 wasn't a high priority to them, because they were paying up

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1 most of their earnings to the parent company as dividends, so
2 the parent company could use it for parent company purposes
3 rather than the utility use it to modify its capital structure
4 to meet the targets from the last order.

5 Q. I see. Because I notice in that draft, too, it lists
6 Avista Corporation, another company we regulate, and they have
7 a payout ratio of 83 percent.

8 But again, they are a publicly traded company that
9 wants to maintain a strong credit rating and satisfy investor
10 expectations; correct?

11 A. Yeah. That's a different ratio, because that is the
12 publicly traded payout ratio.

13 Q. Which is --

14 A. Not of a subsidiary to parent.

15 Q. Which is different than the ownership structure of
16 this company; correct?

17 A. Yes.

18 Q. So in terms of the CAP structure, you are recommending
19 a 46 common equity layer of 46.7 percent?

20 A. I'm recommending using the actual capital structure.

21 Q. Right.

22 A. And at the time of the June 30th, it was about a 46.7
23 percent common equity ratio.

24 Q. And do you have the same response -- this can be quick
25 a quick exchange here. We had the same issues I think in the

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1 last rate case on this issue of derivative, other comprehensive
2 income, Puget West, the subsidiary, where the company makes
3 adjustments, effectively pulls that out of capital structure to
4 develop a higher equity layer recommendation.

5 And your response to that is the same as last time,
6 you stand by your analysis in this case?

7 A. I do. Well, I mean, I wouldn't object to pulling out
8 the subsidiary -- the common equity supporting subsidiaries, if
9 you pulled out all of the common equity supporting
10 subsidiaries.

11 Q. Okay.

12 A. If you just pull out the retained earnings, and the
13 subsidiaries have bad or negative retained earnings, then
14 you're essentially falsely implying there's more common equity
15 invested in the utility company than what can possibly be
16 invested in the utility company. So I think that's just
17 misstating how much equity capital is available to invest in a
18 utility plan.

19 And the OCI adjustment is simply a required accounting
20 standard that relates to pensions, and it represents an
21 obligation of the utility to meet its pension obligations. So
22 it's proper accounting, it's required accounting, and it
23 shouldn't be reversed.

24 Q. So Mr. Doyle's arguments on rebuttal were not
25 persuasive to you on that pension issue and OCI?

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1 A. They are not. And I disagree with him that that's
2 standard industry practice.

3 Q. Okay. Last question and then I'm done. Decoupling
4 ROE impact issue. You have a recommendation at a minimum of 25
5 basis points.

6 Mr. Gorman, you have the same recommendation in the
7 last case; correct?

8 A. Yes.

9 Q. 25 basis points. But what -- what evidence backs that
10 up? I guess that's what I'm going to drive at. Is that just
11 your gut feeling of doing this for 20 years, and looking at the
12 evidence, both from this case and in other jurisdictions, of
13 full electric decoupling, that that's -- because, as you say,
14 you didn't have time to do a full-blown study on this; right?

15 A. That's right. And generally I started with -- with
16 trying to articulate why are we talking about a decoupling
17 mechanism, what is the purpose of implementing one. And as I
18 understand it, the purpose of implementing a decoupling
19 mechanism is to offset the disincentive utilities have for
20 pursuing conservation actions which reduces sales per customer.

21 The reason they have a disincentive of doing that is
22 it reduces their profit, because there's profit based in
23 utility sales. So if a decoupling mechanism offsets that
24 erosion of profit caused by conservation efforts, then the
25 purpose of a decoupling mechanism is to stabilize earnings,

0207

1 it's to stabilize cash flow.

2 And if it doesn't do that, then there's -- it puzzles
3 me why we'd even be talking about implementing that kind of
4 mechanism. So if the mechanism's sole purpose is to stabilize
5 earnings, stabilize cash flow, then that has to be recognized
6 as a reduction in the risk of the utility.

7 And if you reduce the risk of the utility, then the
8 rate of return that compensates the utility for the risk it
9 must assume should go down, because it's assuming less risk.

10 So with that as the background, I tried to quantify
11 that -- that in terms of a return-on-equity adjustment by
12 simply looking at the spreads of single A and B double A
13 utility bond yields.

14 A single A utility bond yields gives far more -- is an
15 indication that that company has less risk of full repayment of
16 that bond relative to a B double A company. So because it has
17 less risk of full cost recovery, the market will price the
18 yield of that bond at a lower rate than a B double A bond.

19 Over time -- right now it's a little above 25 basis
20 points, but over time about a 25 basis point spread seems to be
21 generally consistent with the market measures of enhancing the
22 cost recovery of the enterprise and equating that to a change
23 in the market-required cost of capital for that cost recovery
24 enhancement.

25 Q. You heard Mr. Cavanagh this morning and others on the

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1 panel, did you not, on this issue of decoupling?

2 A. I did.

3 Q. So you don't buy the argument of Mr. Cavanagh's that
4 this is meant to be consistent with Washington State energy
5 policy of promoting energy efficiency, removing a financial
6 disincentive, and promoting innovation in our electric
7 efficiency sector? You don't buy that argument?

8 A. Well, I mean, those can be the objectives, but if
9 the -- the objectives need to be balanced with proper
10 consideration of the other stakeholder in the process, and
11 that's the customer.

12 If the objective is for efficient conservation
13 measures, then there needs to be concern with whether customers
14 are pursuing energy efficient conservation measures. And in
15 order for them to maximize their efforts, they need stable and
16 predictive pricing structures from the utility; otherwise, they
17 may forgo conservation actions on their side.

18 So I see those as the state goals. I'm not convinced
19 the decoupling mechanism is the way to achieve that goal. And
20 the reason I say that is I think the pricing structure of the
21 utility is critically important.

22 A price sets a market-based parameter for the utility
23 management to try to maximize its profit based on the prices
24 it's allowed to charge its customers without deferring anything
25 in the interim. The price also acts as a threshold for which

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1 customers can make conservation investments or procedure
2 economic studies on their part to see whether or not they want
3 to invest in new higher efficient energy assets or to shift
4 production from high-priced period to low-priced period.

5 And the reason they need to do the economic studies on
6 the customer side. More efficient equipment costs more, so
7 there needs to be a payback. So they need to reduce their
8 bills to compensate them for making the higher investment in
9 energy equipment.

10 So I think decoupling kind of misses the need for
11 customers to be able to do an economic assessment in order to
12 make conservation decisions just like the utility does. And
13 the reason I think a decoupling program misses that point is
14 because it sets a mechanism which ensures each customer pays a
15 specified level of revenue irrespective of what they do on
16 their side of the meter.

17 And that can discourage investors or -- excuse me --
18 that can discourage customers from making conservation
19 investments that reduce energy if -- if they're not going to
20 get a benefit of a lower bill for having done that.

21 Q. So in your view, the mechanism is much more of a -- of
22 a way of stabilizing or guaranteeing, if you will, company
23 margins in earnings?

24 A. Very much is. I do not see it as a balanced
25 mechanism.

0210

1 Q. And any other state jurisdictions that you've been
2 involved with where they have made a decoupling ROE adjustment?
3 Are you aware of any? Have you been successful in any other
4 state jurisdictions in getting a decoupling ROE adjustment?

5 A. No, I can't say explicitly I have, but I do know that
6 in some jurisdictions the return-on-equity adjustment has been
7 made in recognition of a change in regulatory mechanisms. In
8 Missouri a utility was allowed a fuel adjustment clause, and
9 the commission recognized based on the evidence in the record,
10 the undisputed evidence in the record, even the company
11 acknowledged the risk would be lower if a fuel adjustment
12 clause was implemented.

13 And while there wasn't an explicit adjustment in the
14 ROE, the commission said the ROE reflected the approved
15 regulatory mechanisms, including the fuel adjustment clause.

16 So I think it can be difficult to say with certainty
17 that there's not an adjustment in the ROE if the regulatory
18 commission is aware of the regulatory mechanisms on the table
19 when it determines what an appropriate ROE is.

20 Because it doesn't have to start with X and subtract Y
21 to make an adjustment with a decoupling mechanism. It simply
22 needs to order return on equity which it finds to be just and
23 reasonable based on the regulatory mechanisms that are being
24 approved in that order.

25 Q. In your view, are the Wall Street analysts -- you read

0211

1 a lot of Wall Street and financial analyst information. Are
2 either the equity analysts or the ratings agencies, is this
3 even important to them?

4 A. It's certainly important to credit analysts, because
5 they do see regulatory mechanisms stabilizing cash flows and
6 providing greater assurance of full cost recovery.

7 The equity analysts I think are also important --
8 concerned about this, because the cash flows that are there to
9 cover debt obligations are the cash flows available to equity
10 investors. So to the extent they're stronger, they're more
11 stable, they're more predictable, the risk of the enterprise
12 drops, and equity investors reap the benefit of those higher
13 cash flows, higher earnings.

14 Q. Okay.

15 A. But from a practical standpoint, the investor analysts
16 that publish those reports typically have meetings with
17 management. They don't necessarily have meetings with
18 regulatory personnel, so they're only hearing the management
19 side of the decoupling issue.

20 So it's not clear to me that some of the analyst --
21 equity analyst reports give a true evenhanded assessment of the
22 regulatory mechanisms and the balance needed in the rate-making
23 process.

24 Q. I think just for the record, Mr. Gorman, there is one
25 person at S&P who tends to follow what we do. He comes to

0212

1 NARUC meetings. I'm currently heading up that association.
2 He's always there, and he's always following our proceedings.

3 But the question is more, you know, he's kind of the
4 interface with NARUC and regulatory commissions across the
5 country. The question I think is a legitimate one is how much
6 of that information that he gathers from us is factored into
7 the ultimate reports on the credit metrics and the reports that
8 S&P and Moody's and Fitch issue? And I think what you're
9 saying is that they do they do take that into account.

10 A. I find there to be more in-depth studies by credit
11 analyst than I do the equity analyst.

12 Q. Okay. Okay. Thank you. Those are all my questions.
13 Appreciate it.

14

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

16 BY COMMISSIONER GOLTZ:

17 Q. Thank you. I just have a couple, Mr. Gorman. You
18 mentioned if we're looking at the RRA data on what's going on
19 around the country with ROE's, you have to be careful to
20 control for those that -- that have incentive ROE's. So you
21 pull those out of the mix.

22 I'm wondering if there's another variable here that we
23 should worry about. And I don't know the answer to this.

24 It's -- I notice that some of the recent lower ROE's that have
25 come out of the reports by RRA are associated with CAP

0213

1 structures that have relatively high equity ratios above 50
2 percent, maybe 52, 53. And I'm wondering if you also have to
3 control for that variable.

4 In other words, can you just look at all of the ROE's
5 or do you have to say look at only the ROE's with the
6 comparable CAP structures to really get a sense of where Puget
7 is in all that?

8 A. I agree. I think there is a balance between an ROE
9 and a CAP structure. So if you really want get a good sense of
10 a balance and the financial risk in a relationship to an ROE, I
11 would look at both.

12 Q. Okay. And then the other one is, does it make a
13 difference if the company is in a vertically integrated -- is a
14 vertically integrated utility or whether it's in a restructured
15 market?

16 A. It can. But in my experience, a wires-only company
17 relative to an integrated company typically is regarded by most
18 market participants as being a lower operating risk company,
19 because it doesn't have commodity cost recovery or its
20 investment is in lower technology.

21 It's wires and substation as opposed to, you know,
22 dispatchable generating stations. It's more -- production is
23 more complicated business.

24 But what you might see in a lot of wires companies is
25 they'll have a higher debt ratio and lower equity ratio, and

0214

1 they'll finance with more debt, because they can, because
2 they're lower operating risk than is an integrated electric
3 utility company.

4 There's a lot of Texas TDU's that have 60 percent debt
5 ratios and 40 percent equity ratios, as an example. So if
6 you're going to separate integrated companies from wire
7 companies, keep in mind that if you see a difference in equity
8 structure, that might be appropriate because of the difference
9 in operating risk between wires and integrated companies.

10 Q. Are you saying that all things -- everything else
11 equal, being equal, that the risk in a vertically integrated
12 company is greater than in a restructured company in a
13 restructured market?

14 A. All else being equal, there are some exceptions to
15 that. I mean, if there's legislative or regulatory problems
16 with a mandate to buy power on behalf of their customers, and
17 some wires company may not be able to fully recover the cost of
18 that power they're obligated to buy, you know, that's an
19 exception, that's a pretty unique exception.

20 Although it's happened. You know, in California and
21 Illinois, and it's been corrected in both of those
22 jurisdictions. But -- but except for those unique
23 circumstances, I think it's generally recognized the operating
24 risk of the wires is lower than an integrated, unless there's
25 something unique going on at the wires company.

0215

1 Q. Okay. Thank you.

2 THE COURT: Anything else? No? Okay. Anything from
3 counsel?

4 MS. CARSON: Judge Moss, I just have one clarification
5 based on a question that was raised.

6 THE COURT: Sure. Go ahead.

7

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

9 BY MS. CARSON:

10 Q. Mr. Gorman, in your peer group selection, did you
11 exclude electric and gas utilities that have incentive returns
12 built in to the ROE's?

13 A. No.

14 MS. CARSON: Thank you.

15 THE COURT: Thank you. I think that's the first time
16 a lawyer has ever said they had one question and actually only
17 asked one question. Wow. This hearing's full of surprises.
18 All right. Then I think we're finished with Mr. Gorman. Thank
19 you very much, and we hope you make your flight in good time.

20 THE WITNESS: Thank you for taking me out of order.

21 THE COURT: And now, Mr. Piliaris, if you can get your
22 cart and all your books back up. Whenever you're ready we'll
23 get you sworn.

24 Do you solemnly swear or affirm under penalty of
25 perjury the testimony you give in the proceeding will be the

0216

1 truth, the whole truth, and nothing but the truth?

2 THE WITNESS: I do.

3 THE COURT: Thank you. Please be seated. Now, let's
4 see. We have -- well, I'll let you put your witness on, of
5 course, but I think we have cross from Public Counsel and from
6 Kroger.

7 I just want to say one caution. I think Mr. Piliaris
8 may be the only witness in this situation, but there are
9 duplicate exhibit numbers. There are two JAP-1-T's, for
10 example, one in the original ERF, and one in the original
11 decoupling.

12 So we'll ask questions -- if we're referring to
13 exhibits, we'll need to identify to the extent those are
14 overlapping which one you're talking about, because I have them
15 in separate books. Okay. Go ahead, Ms. Carson.

16 MS. CARSON: Thank you.

17

18 EXAMINATION

19 BY MS. CARSON:

20 Q. Mr. Piliaris, we have stipulated into the record your
21 pre-filed exhibits. Do you have any corrections to your
22 testimony or exhibits?

23 A. I do not.

24 Q. Thank you.

25 MS. CARSON: And, your Honor, we make Mr. Piliaris

0217

1 available for cross-examination.

2 THE COURT: All right. Did you all decide who wants
3 to go first, Mr. ffitch, Mr. Boehm?

4 MR. FFITCH: We did not, your Honor. Any event, we
5 have no questions for Mr. Piliaris, so we'll defer to
6 Mr. Boehm. Thank you.

7 THE COURT: Oh, okay. Go ahead, Mr. Boehm.

8 MR. BOEHM: Thank you, your Honor.

9

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

11 BY MR. BOEHM:

12 Q. Good afternoon, Mr. Piliaris.

13 A. Good afternoon.

14 Q. I wanted to start by just talking generally about rate
15 design. In Schedule 139 charts that you propose, you talk
16 about the volumetric, you use the term "volumetric," and I take
17 that to mean just the demand in energy component; is that
18 correct?

19 A. That's correct.

20 Q. So you're excluding the customer charge, the minimum
21 charge?

22 A. That's correct.

23 Q. And this is obviously for nonresidential customers.
24 Just on a very basic level, an energy charge is a charge for
25 the kilowatt hours used by a customer in a month; correct?

0218

1 A. Or any other period of time; correct.

2 Q. Okay. And then the demand charge, how does the demand
3 charge differ from that?

4 A. It's an instantaneous measure of use.

5 Q. So it charges -- it bills the customer for the -- the
6 peak kilowatt or the peak kilowatts that the customer would use
7 in a month; is that correct?

8 A. Typically, yes.

9 Q. So obviously, the reason that you have demand charges
10 and energy charges, because you're measuring different things;
11 is that right?

12 A. Correct.

13 Q. Different costs. Now, if a customer was -- reduces
14 its kilowatt hour usage a month, that doesn't necessarily mean
15 that it will reduce its kilowatts -- kilowatt usage a month; is
16 that correct?

17 A. That's correct.

18 Q. And in fact, you have -- in some of your
19 nonresidential rate schedules, you have demand ratchets. And
20 the demand ratchets ensure that a customer, even if it -- even
21 if the customer does reduce its kilowatt usage in a month, that
22 they will still pay either all or a portion of their peak
23 kilowatt usage in a 12-month period, even in a month where
24 they're not -- they're not hitting that peak; is that correct?

25 A. For Puget, we have demand ratchets for customers

0219

1 serviced at primary and transmission voltage levels only.
2 Secondly, we do not have any demand ratchets for customers
3 served under secondary -- a secondary voltage. The ratchet as
4 applied is, I believe, throughout the schedules is 60 percent
5 of the prior winter peak use.

6 Q. In the theory there, the reason you have that is
7 because it's a recognition that even if you aren't using -- if
8 you don't hit that peak in any given month, you're still
9 causing the cost, because the company has -- has to plan for
10 the peak that you did hit; is that correct?

11 A. I'd say that's a fair representation.

12 Q. Okay. I'm going to talk about the way that the
13 deferrals are calculated in the -- in your decoupling proposal.
14 Could you please turn to JAP-22.

15 A. I'm there.

16 Q. All right. Now, the first set of numbers lines, 1
17 through 3, is it fair to characterize line 3 as your -- as
18 Puget's proposed allowed revenue requirement for the month
19 shown?

20 A. It's the allowed total delivery revenue in each month.

21 Q. Thank you for that clarification. So it's the
22 delivery revenue minus the minimum, the customer charge;
23 correct?

24 A. Correct.

25 Q. Okay. So it's the demand in energy delivery revenue

0220

1 for all non-business customers. You're lumping them all in
2 together; is that correct?

3 A. So we're on page 2.

4 Q. I'm sorry. Yeah, page 2.

5 A. Okay. This is for all the nonresidential to which it
6 would apply. There are certain exceptions, Schedule 449 being
7 the primary one.

8 Q. So I want to go to a month where you're not shown a
9 negative. So let's go to -- let's go to September, which is
10 column K. And so in that month you're allowed revenue
11 requirement for non or -- I'm sorry -- for volumetric delivery
12 charges for nonresidential customers is 18.37 million; is that
13 correct?

14 A. Correct.

15 Q. So when you calculate -- when you calculate the -- the
16 deferral, you're going to subtract some number from that number
17 in order to get the amount of the deferral; is that correct?

18 A. Correct.

19 Q. And the way that you calculate that is in the next
20 several lines, 5 through 7. Line 5 says, you call that
21 forecast at KWH. And I think that might be a little bit of a
22 misleading name. You tell me.

23 When you say "forecasted," that's not your actual
24 forecasted KWH sales in that month; is that correct?

25 A. Well, it depends on how you're attempting to use this

0221

1 particular exhibit. The intent of this exhibit was to show how
2 the mechanism would work over time, so we included the
3 forecast.

4 If the intent is to use this as a -- an exercise in
5 showing how the mechanism would operate in practice, and these
6 were actual numbers, then the actual numbers would be
7 substituted for the forecast here.

8 Q. Okay. So in September of '13, you're calculating the
9 deferral -- September of '13, you're going to use the actual
10 KWH sales, you're not going to use this number?

11 A. Correct.

12 Q. So then you're going to multiply that number by 2.1
13 cents per kilowatt hour; is that correct?

14 A. Correct.

15 Q. Now let's talk about how the 2.1 cents is calculated.
16 Can you please turn to JAP-18, page 1.

17 A. I'm there.

18 Q. All right. Try to do this as quickly as possible.
19 Line 2 shows -- we're under the nonresidential column. Line
20 shows -- line 2 shows your delivery revenue, and that's your
21 total delivery revenue in line 4 is your minimum charge
22 revenue, your customer charge.

23 You're going to subtract that out and you're going to
24 get your volumetric delivery revenue in line 6; correct?

25 A. Correct.

0222

1 Q. Now you're going to take -- so that's -- that's all
2 your demand and all of your energy revenue, delivery revenue,
3 and you're going to -- the next thing that you're -- that you
4 do is you divide that by your KWH sales; is that correct?

5 A. That's correct.

6 Q. And then you get a unit -- what do you call it? A
7 volumetric -- volumetric delivery revenue per unit charge. And
8 that's -- that's almost the entire 2.1 cents, but there's this
9 little bit of an adder.

10 Can you explain the adder, which is calculated in the
11 next six, five or six lines?

12 A. Beginning in line 12?

13 Q. Yeah. How does -- another way to phrase that question
14 is how does this, you know, 2 cents become 2.1 cents?

15 A. In other words, how do we come up with the rates in
16 Schedule 39?

17 Q. Right.

18 A. Which is what this sheet is intended to calculate. So
19 there are two pieces to the calculation. There's a
20 forward-looking piece, and there's a backward-looking piece.
21 And the forward-looking piece takes the allowed delivery
22 revenue per customer, and it projects out over the rate year
23 the forecasted number of customers.

24 So it derives some expectation as to how much allowed
25 delivery revenue the company will collect over the 12-month

0223

1 period. Added to that or perhaps subtracted from that are any
2 deferrals from the previous calendar year.

3 So the amounts deferred up through December of the
4 previous calendar year, whether it's positive or negative, is
5 applied against the forecasted allowed delivery revenue. And
6 that gives you a dollar amount, which is then divided by the
7 projection of sales over that same period.

8 And that gives you a rate which is in line 24 of the
9 exhibit, which is slightly higher than the test year level that
10 we ended on in line 10. So the difference between those two is
11 the amount that is reflected in Schedule 139.

12 Q. The difference between those two, as you mentioned, is
13 very slight. It's -- it's five one-hundredths of a penny,
14 essentially; correct?

15 A. I'm not seeing five one-hundredths.

16 Q. Well --

17 A. The number I'm seeing is, if I'm looking at -- if
18 we're looking at JAP-18, page 1 of 2, I'm seeing in dollars
19 0.000338 dollars.

20 Q. Okay. Perhaps my math isn't very good. But so let's
21 go back to JAP-22, page 2. And so here we see the number we
22 were just talking about in line 6. And as we discussed --
23 let's go to September of 2013, column K.

24 So we multiply that number by the kilowatt hour sales
25 for that month, and we get 17.4 million; is that correct?

0224

1 A. Correct.

2 Q. So then we take the -- what we agreed was essentially
3 your -- your allowed revenue requirement, which is in column 3.
4 You subtract it by 17.4 million and you get the amount
5 of your deferral; is that right?

6 A. Correct.

7 Q. So my question is line -- line 3 is made up of both
8 demand and energy, but when you compare that with line 7, you
9 are taking the per unit -- the per unit cost and you're only
10 multiplying that by the actual KWH; is that correct?

11 A. I might characterize this a little differently. We're
12 taking the -- the amount in line -- the rate in line 6 includes
13 an energy component and a -- and a unitized demand component,
14 and those are both reflected within that same rate.

15 Q. Right. But this is -- in line 3 you're taking your
16 actual revenue requirement, which consists of a demand and
17 energy component, and you're comparing that to a -- an imputed
18 revenue, not your actual revenue; is that correct?

19 A. It's a imputed; correct.

20 Q. And it's imputed by the -- the -- by the -- the
21 reduction in the KWH sales, not by -- and it does not take into
22 account the actual reduction, if there is any, of KW; is that
23 correct?

24 A. I can't answer it whether or not it does or does not.
25 It just depends on what the actual results show. We've looked

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1 at -- in developing this particular calculation, we've looked
2 at it both ways where we've attempted to -- one of the
3 challenges we run into is that if we're going to use this
4 approach, we don't have a forecast of bill demands.

5 So -- but taking our best guess at it, and by taking
6 your best guess at it, you're having to use the energy forecast
7 anyway. What we ended up finding, we ended up at the same
8 place regardless of which path we took, whether or not we
9 unitized demand charge and baked it into the single rate, as
10 shown here, or we decomposed it with a demand component and an
11 energy component.

12 Q. We were discussing, before we turned to these
13 exhibits, the fact that an energy charge measures a different
14 type of cost than a demand charge.

15 And I thought that we agreed that when a customer
16 reduces its energy consumption, it doesn't necessarily reduce
17 its demand consumption; is that correct?

18 A. It may or may not.

19 Q. And in fact, as we discussed, demand ratchets ensure
20 that a customer has limited ability to reduce its KW, not KW
21 usage, but the amount of demand it's billed for; is that
22 correct?

23 A. And the demand ratchet revenue is already reflected in
24 the calculus of that rate to begin with.

25 Q. Doesn't this -- isn't the way that you calculate this

0226

1 rate always going to overstate the loss of revenue to the
2 company?

3 A. I can't answer that it will always do that, no.
4 Fundamentally, the company's view is that we have an allowed
5 revenue per customer. That's what we get, ultimately. So
6 decoupling in and of itself -- I mean, with decoupling we're
7 moving away from the tariff rate structure.

8 So it's -- it's a little bit rougher just by its
9 design than standard rate making. So we didn't see the
10 splitting of hairs between the energy and demand component
11 as -- as material. And, in fact, not even quantifiable in the
12 construction of the decoupling mechanism.

13 And, in fact, as we looked around at other tariffs for
14 decoupling models across the country, typically what we found
15 was this approach was taking a single unit amount as we're
16 presenting here for calculating the deferrals.

17 Q. Doesn't this approach -- it -- it puts demand and
18 energy into the same per unit cost?

19 A. Uh-huh.

20 Q. And then it assumes that all reduction in -- in a KWH
21 sales are going to equal, proportionally equal, the -- a
22 reduction in KW; isn't that correct?

23 A. Effectively, yes.

24 Q. So how is that not going to overstate the revenue loss
25 by the company?

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1 A. It depends on how much ratchets come into play. In
2 they don't, then it really doesn't make any difference.

3 Q. Well, even without a ratchet, the -- a reduction in
4 energy, in KWH usage, is not necessarily going to -- is not
5 going to be proportional to KW; is that correct?

6 A. I don't have -- I have evidence that, based on
7 Kroger's example, is that they're fairly close. They may be
8 not precise; that's correct.

9 Q. Let's go to -- can you please turn to your rebuttal
10 testimony.

11 A. I'm there.

12 THE COURT: That's Exhibit 24-T for the record,
13 JAP-24-T.

14 BY MR. BOEHM:

15 Q. Bottom of page 17.

16 A. I'm there.

17 Q. You say -- I'm just going to read the answer.

18 "As PSE showed in its 2011 general rate case with
19 Kroger's own data, the demand charge revenues received
20 from Kroger's location served under Schedule 40 are
21 materially impacted by the energy efficiency measures it
22 implemented. This shows that while not as strong, the
23 throughput incentive also extends to demand charge
24 revenue, i.e. demand charge revenue is not fixed."

25 A. I see that.

0228

1 Q. So the phrase, "while not as strong," I read that as a
2 concession on your part that demand revenue did not follow the
3 same rate as energy revenue; is that correct?

4 A. That would be correct. And I would add that the
5 difference is, at least insofar as the revenue impact, are I
6 would expect de minimus.

7 Q. Does Schedule 40 have a demand ratchet?

8 A. Schedule 40, yes, it does. And it's my understanding
9 that it rarely -- since the customer served under that schedule
10 have very high load factors, to my knowledge, it hardly ever
11 comes into play.

12 Q. Now, another way of doing this, of ensuring that as --
13 as conservation measures are implemented that the company does
14 not see revenue loss is to raise demand charges and lower
15 energy charges; is that correct?

16 A. I don't agree with that statement, no.

17 Q. Can you explain why you don't agree with that
18 statement?

19 A. As I've noted in the GRC testimony, the last rate
20 case, there was -- through Kroger's energy efficiency, there
21 was a material reduction in demand charge revenue. So raising
22 demand charges would not have protected the utility from the
23 losses associated with their reduction in demands.

24 Q. Schedule 130 includes all customers; correct? I'm
25 sorry. Schedule 139 includes all nonresidential customers;

0229

1 correct?

2 A. No, that's not correct. As I mentioned earlier, it
3 doesn't include Schedule 449, but the vast majority.

4 Q. The vast majority. But you're basing this assumption
5 on just looking at Kroger's information?

6 A. That was an example that I had.

7 Q. Okay. And you're aware that Kroger is a sophisticated
8 customer that -- that tracks its demand charges and implements
9 demand-reduction measures?

10 MS. CARSON: Object to the form of the question.
11 Counsel is testifying.

12 MR. BOEHM: Your Honor, I think I said "and you're
13 aware of."

14 THE COURT: I think we can just let it go.

15 MR. BOEHM: Sure. Those are all the questions I have.
16 Thank you, Mr. Piliaris.

17 THE WITNESS: Thank you.

18 MR. FFITCH: Your Honor.

19 THE COURT: Did you find a question, Mr. ffitich?

20 MR. FFITCH: I did. If I may, your Honor, just to
21 follow up to some of the explanations of Mr. Piliaris.

22

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

24 BY MR. FFITCH:

25 Q. Going back to some of the descriptions of how the

0230

1 mechanism works. And I'm interested in asking about what
2 happens at the end. And I'm looking at -- I guess I could ask
3 you to turn to your Exhibit 22. I think we were there a little
4 earlier also with Mr. Boehm. Page 7 of JAP-22.

5 A. You said page 7?

6 Q. Page 7 of JAP-22.

7 A. I'm there.

8 Q. And I'm looking at line 18 which reads, "Plus deferred
9 balance at the end of calendar year 2014." And I'm assuming if
10 you get to the end of the plan -- for example, if the company
11 decided to seek new rates for 2016, then you'd have a similar
12 line that would say, "deferral balance at the end of calendar
13 year 2015"?

14 A. Our proposal would be that it would -- if the
15 mechanism were to end, whatever deferral balances that
16 remained, whether they were plus or minus, would unwind under
17 the normal course as proposed under the mechanism.

18 Q. Can I ask you to explain what you mean by "unwind"?

19 A. They would be amortized.

20 Q. So they would be recovered from rate payers?

21 A. Or rebated.

22 Q. Or rebated. So in this case, we're looking at, as a
23 hypothetical, 6.2 million for residential rate payers under
24 column C?

25 A. Correct.

0231

1 Q. And those would be rolled into rates in the general
2 rate case that would set rates starting in the next calendar
3 year through -- through an amortization, for example?

4 A. It could happen that way. I believe the expectation,
5 it would just continue to be amortized through Schedule 139.
6 If -- if the mechanism -- if the deferrals were to end, if we
7 were in -- at the end of the general rate case, the commission
8 decided that the decoupling mechanism would be no longer, the
9 Schedule 139 would be allowed to continue to operate to
10 amortize whatever balances are left.

11 Q. And that would be in addition to obviously any rate
12 change that would occur as a result of that general rate case?

13 A. That would be a separate component, whether it's a
14 surcharge or a rebate.

15 Q. So it's kind of like a tail to the -- to the rate
16 plan, residual effects that play out even at the end of the
17 rate plan?

18 A. Correct.

19 Q. And is there a specified amortization period?

20 A. The end the expectation is you amortize the prior
21 year's balance over a 12-month period beginning each May 1.

22 Q. All right. So the full -- if there is a deferral
23 balance left owing to the company, that full amount would be
24 collected? For example, if it was the 6 million dollars, that
25 would be collected in the following 12-month period, divided up

0232

1 over 12 -- 12 incremental months or 12 individual months?

2 A. I would suppose -- the setup for this hypothetical
3 confuses me a little bit, but if at the end of the calendar
4 year or the end of the mechanism there were 6.2 million dollars
5 in the deferral account, that amount would be recovered over a
6 12-month period beginning the next May 1 that followed.

7 Q. So that would also then include some interest on the
8 delayed recovery, the delay of the recovery until that May 1,
9 just as the current mechanism does?

10 A. At the FERC interest rate; correct.

11 Q. Those are all my questions. Thank you.

12 THE COURT: Thank you. Are there any questions from
13 the bench?

14

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

16 BY COMMISSIONER GOLTZ:

17 Q. Just a couple. So just putting aside the K-factor,
18 just looking at the decoupling mechanism and comparing it to
19 how it would work just with the ordinary rate structure you
20 have now with volumetric rates, have you or can you calculate
21 how you forecast the difference to be for the company?

22 I mean, the volumetric, you will lose some revenue
23 that you otherwise would get with the decoupling mechanism or
24 you gain some revenue from what you otherwise would get from
25 the decoupling mechanism.

0233

1 A. I believe it would depend on the customers. It would
2 depend on the trajectory and the use per customer.

3 Q. Sure. But I mean, it's separately for electric and
4 gas, of course, but have you -- in some of the -- in the last
5 round of questions, you talked about forecasting some of these
6 revenues.

7 So have you or can you forecast what those differences
8 would be as to how much revenue under decoupling --

9 A. Yeah.

10 Q. -- absent the K-factor, you would be gaining or losing
11 compared with what you would forecast under the current rate
12 structure?

13 A. So if I understand the question correctly, it's
14 essentially what's the with and without K-factor result.

15 Q. Yeah.

16 A. Yes, that's --

17 Q. No, no, no. I'm not talking about the K-factor. I'm
18 just talking about without.

19 A. Exactly. What's the difference between the two
20 that --

21 Q. Right.

22 A. -- there's the K-factor effective and there's without
23 the K-factor --

24 Q. Without the K-factor, how would this work without the
25 K-factor? What would you lose, what would you gain in both

0234

1 electric and gas?

2 A. As simple as changing one of the sheets from 1.03 to
3 1.00, and the results would flow right through.

4 Q. So we may want to issue a bench request that spells
5 that out. I mean, we could get that from you? I take it it's
6 not -- it's not a week-long study; right?

7 A. No. I believe it's very similar to a previous -- one
8 of the previous bench requests, but yeah, we can certainly
9 provide that.

10 THE COURT: We can make that a bench request. I'm a
11 little concerned that we didn't quite get at the question. But
12 were you looking for the with K-factor? Without K-factor?

13 COMMISSIONER GOLTZ: No, I'm just saying without
14 K-factor.

15 THE COURT: You're looking at it between the
16 volumetric rate and the revenue per customer rate without a
17 K-factor. That's -- we're there?

18 THE WITNESS: What ultimately I believe the answer
19 you're looking for is whether that deferral amount is positive
20 or negative. If it's positive --

21 BY COMMISSIONER GOLTZ:

22 Q. And by how much.

23 A. The number will be there.

24 Q. And -- granted. Now, and that's obviously a forecast
25 or maybe even a back cast, too. I don't know. But since it's

0235

1 so quick.

2 A. The back cast is much harder.

3 Q. Okay.

4 THE COURT: Oh, then let's make you do that. Don't
5 want you to be bored. Okay. Well, I guess that is cleared up.

6 COMMISSIONER GOLTZ: And maybe we need to spell that
7 out and be careful and get the wording right if we want to
8 think about that tomorrow.

9 THE COURT: Okay.

10 COMMISSIONER GOLTZ: That's all.

11 THE COURT: Anything else from the bench?

12 CHAIRMAN DANNER: No.

13 THE COURT: All right. Do you have any redirect?

14 MS. CARSON: No.

15 THE COURT: Okay. Do I have any questions for you?

16 Gee, I suppose not. Thank you, Mr. Piliaris. We appreciate
17 you being here today.

18 THE WITNESS: Thank you.

19 THE COURT: And all the witnesses are subject to
20 recall, but I'm not anticipating the need. Okay. We're going
21 to take a ten-minute recess. Let's be back by 2:25, 27,
22 roughly.

23 (A break was taken
24 from 2:17 p.m. to 2:31 p.m.)

25 THE COURT: Let's be on the record. Mr. Marcellia, I'm

0236

1 going to go ahead and swear you, because I only know where our
2 desktop is going to go, and you may end up having to testify.
3 So let's please.

4 Do you solemnly swear or affirm under penalty of
5 perjury that the testimony you give will be the truth, the
6 whole truth, and nothing but the truth?

7 THE WITNESS: Yes, I do.

8 THE COURT: Thank you. Please be seated. All right.
9 Now, the commissioners are wondering what is he talking about,
10 desktop. Well, while we were off the record, Ms. Carson or
11 Mr. ffitch indicated that he was -- actually had no cross for
12 Mr. Marcelia.

13 He was the only one who had indicated cross for this
14 witness. He, Mr. ffitch, had indicated as a cross-examination
15 exhibit for him the PSE 10-K, which -- as to which we took
16 official notice earlier today.

17 Ms. Carson has requested that she be allowed to direct
18 a couple of direct questions to Mr. Marcelia about the 10-K,
19 and Mr. ffitch is objecting to that. Have I captured it?

20 MR. FFITCH: That's correct, your Honor, I do object.
21 The purpose of connecting this document with Mr. Marcelia was
22 simply housekeeping. We asked to have official notice taken of
23 certain pages of the 10-K for reference.

24 It has now been -- official notice has been taken. We
25 don't have any reason to ask, therefore, Mr. Marcelia about it,

0237

1 and I would object to commission or -- excuse me -- the company
2 counsel then embarking upon some sort of additional direct
3 examination of their own witness on topics that I can't
4 anticipate.

5 There's several pages of data here. They don't know
6 what -- you know, what specifically we might have asked about
7 it. It's sort of phantom redirect for cross that never
8 happened.

9 So it's also extremely unconventional. I don't know
10 that I can think of another example where a stipulated document
11 that came into the record then gave the other counsel
12 opportunity to just embark upon some sort of direct
13 examination, speculative direct examination. So we would
14 object to company examining Mr. Marcellia.

15 THE COURT: All right. I'll let you have a word.

16 MS. CARSON: Thank you, your Honor. This did come in
17 as a cross-exam exhibit for Mr. Marcellia from Public Counsel.
18 He also asked for official notice of it, but it did come in as
19 a -- as a cross-exam exhibit.

20 In the past when a party has submitted a cross-exam
21 exhibit with no cross-examination, the bench, recognizing that
22 it would be used in brief, has given the party upon whom it was
23 served the opportunity to ask question, voir dire, redirect or
24 whatever it may be.

25 THE COURT: I'm not sure which judge that was. It

0238

1 wasn't me.

2 MS. CARSON: I think it was.

3 THE COURT: Really? Gee whiz, I'd have to see the
4 transcript to believe that. I was thinking that this was a
5 novel situation in my experience here, but perhaps it has
6 happened that way in the past.

7 I think we've allowed some redirect in that fashion
8 that you describe, but in this instance we have the additional
9 wrinkle that he's not going to be cross-examined. So I am
10 disinclined to allow your questions.

11 A 10-K is a publicly available document. It pretty
12 well speaks for itself, as lawyers are fond of saying, and so
13 we'll let it do just that. All right.

14 MS. CARSON: Thank you.

15 THE COURT: Do we have any questions from the bench?
16 All right. I have only one for you.

17

18 EXAMINATION

19 BY THE COURT:

20 Q. I have heard your name pronounced about six different
21 ways. I would love to know so I can get it right the next
22 time.

23 A. It's Marcelia.

24 Q. Marcelia. I was getting it. I was doing pretty good.
25 Okay. Thank you, Mr. Marcelia.

0239

1 COMMISSIONER JONES: Judge Moss, I actually have some
2 questions.

3 THE COURT: Oh, you do?

4 COMMISSIONER JONES: But I'm glad you actually asked
5 that question so I can address him properly.

6

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

8 BY COMMISSIONER JONES:

9 Q. Mr. Marcelia, these will be brief. It relates to
10 accumulated deferred FIT, federal income tax. So I want to
11 explore the presentation of rate base focused on this issue
12 under the different cost recovery mechanisms proposed in this
13 proceeding.

14 In the ERF filing, isn't it correct that the total
15 revenue requirement has been divided into three pieces:
16 PCA-related revenue, property tax and ERF; is that correct?

17 A. It sounds correct. I think that's a better question
18 for Ms. Barnard.

19 Q. Ms. Barnard?

20 A. Yes.

21 Q. Well, hypothetical, let's say that it is.

22 A. Okay. Let's say that it is.

23 Q. Okay. So the ERF rate piece, the ERF rate base,
24 including the accumulated-through-FIT component is presented to
25 us on a calendar -- an end-of-calendar-year basis instead of

0240

1 the usual AMA basis; right?

2 A. Correct.

3 Q. Is it true that in your current pending PCORC before
4 us, UE-130617, AF -- ADFIT was filed on an AMA basis?

5 A. I am not real familiar with that particular filing.

6 Q. You're not?

7 A. No, I'm not. But you're probably correct.

8 Q. We are. We've got lots of boxes the other day.

9 A. Okay. Okay.

10 Q. Another case from you. Let's say that it is. And if
11 it's true, wouldn't there be an inconsistency, if you're using
12 AMA for the PCORC filing, and you'll be using end-of-period
13 rate base for this filing, for the ERF?

14 A. Well, there -- the filings have different -- different
15 points. And so I'd have to kind of defer to Ms. Barnard --

16 Q. Okay.

17 A. -- on the particulars, but I mean, there's -- there's
18 different points and there's different reasons you would file
19 differently for different things.

20 Q. Well, then these questions may be better for
21 Ms. Barnard, because I was going to ask you if this would
22 violate any normalization roles.

23 A. Okay. Well, that I can answer. I was waiting for you
24 to -- okay. Okay. I'm with you now. Okay. The requirement
25 for normalization is that the rate base on which you are

0241

1 filing, making a rate filing, and the deferred taxes that
2 relate to that rate base are filed on the same basis.

3 So you can use end of period for both the plant
4 balance and the deferred income tax or you can use an AMA
5 method for both. You have to be consistent within the filing
6 in order to avoid violating the normalization provisions.

7 Q. So in this filing, to take the ERF case -- and this
8 may be directed toward you or Ms. Barnard -- we have to be
9 consistent.

10 Let's just talk not the PCORC, because you said you're
11 not aware of it; right?

12 A. Correct.

13 Q. Okay. But in the -- you're familiar with this filing?

14 A. Yes.

15 Q. Correct?

16 A. Yes, yes.

17 Q. So what -- is there a consistency between the two in
18 this filing with the deferred income tax and the end-of-period
19 rate base?

20 A. They are filed consistently in this -- in this filing.

21 Q. Okay. So you're not going to ask for any private
22 lender ruling from the IRS on this subject?

23 A. We're not planning on it.

24 Q. Okay. And you're not -- okay. That's all I have.

25 Thank you.

0242

1 A. Okay.

2 THE COURT: All right. Anything else from the bench?
3 I'll try not to jump ahead too fast in the future. All right.
4 Now I think you may be excused. Thank you very much.

5 MS. CARSON: I just want to clarify whether or not
6 Mr. Marcelia had any corrections for his testimony.

7 THE COURT: Oh, I didn't give you a chance to do that,
8 did I? Okay. Go ahead.

9

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

11 BY MS. CARSON:

12 Q. Mr. Marcelia, we've stipulated into the record your
13 pre-filed testimony and exhibits. Do you have any corrections
14 to those?

15 A. I do not.

16 MS. CARSON: Thank you.

17 THE COURT: Everybody's testimony is just fine this
18 time. So all right. Now who's next? Ms. Barnard, you are
19 next. Oh, there's a reason for that, sorry. You weren't
20 prepared, were you? Mr. Doyle had cross -- indicated by ICNU
21 and Ms. Davison has indicated that she is waiving that cross.
22 So you're up.

23 MS. CARSON: Your Honor -- go ahead.

24 MR. FFITCH: We are waiving cross of Ms. Barnard.
25 Public Counsel is waiving cross.

0243

1 THE COURT: You're waiving cross on Ms. Barnard?

2 MS. CARSON: Your Honor, could we go back to
3 Mr. Doyle?

4 THE COURT: Well, okay.

5 MS. CARSON: We do have a correction and some
6 additional information for the commission.

7 THE COURT: All right. But what about Ms. Barnard?
8 We also have ICNU indicating cross for Barnard.

9 MS. DAVISON: Yes.

10 THE COURT: And you do have it?

11 MS. DAVISON: Yes.

12 THE COURT: Okay. So either way, Ms. Barnard, you're
13 coming up, but apparently we need to have Mr. Doyle briefly for
14 a correction. Things are moving at such a fast pace, it's just
15 overwhelming me.

16 Mr. Doyle, you need to remain standing just long
17 enough to be sworn.

18 THE WITNESS: I'm sorry.

19 THE COURT: That's all right. No worries. Do you
20 solemnly swear or affirm under penalty of perjury that the
21 testimony you give in this proceeding will be the truth, the
22 whole truth, and nothing but the truth?

23 THE WITNESS: Yes, I do.

24 THE COURT: Thank you. Please be seated. Go ahead
25 Ms. Carson.

0244

1

E X A M I N A T I O N

2

BY MS. CARSON:

3

4

Q. Mr. Doyle, we have stipulated into the record your pre-filed testimony and exhibits. Do you have any corrections to those testimony -- the testimony and exhibits?

6

7

8

9

10

A. Yes, a couple of very minor ones. On page 2 of DAD-1-T, line 12, there's an obvious error there where the line starts, "Counsel and ICNU." We should strike "and ICNU," because later in my testimony I do discuss the studies that they filed.

11

12

13

14

15

16

THE COURT: Okay. So the line should read, "The recommended reductions to PSE return on equity proposed by Public Counsel," it should be, "reduction" and/or it could be "reductions," but it -- is it "reductions" or just "reduction"? I want to make sure we get the whole sentence right, since we're going singular here.

17

18

19

20

THE WITNESS: Right. So I have on line 12 --

THE COURT: Uh-huh.

THE WITNESS: -- "Public Counsel and ICNU." "And ICNU" should be stricken.

21

22

23

24

25

THE COURT: And it's just those two words?

THE WITNESS: Yep, just those two words.

THE COURT: All right. Anything else?

THE WITNESS: Yeah. Back in my credentials, I had a couple of issues. So in the second, third question on page 1

0245

1 of what is DAD-2.

2 THE COURT: Uh-huh.

3 THE WITNESS: The last line or the second to the last
4 line in the answer should say, "I also served at a D." And
5 then continuing on, "as chief accounting officer of Puget
6 Energy until the first quarter of 2012."

7 THE COURT: I lost you there. Tell me again where you
8 were.

9 THE WITNESS: Okay. So it's the answer to the third
10 question.

11 THE COURT: Up here. Okay. I'm sorry. I was on the
12 wrong first --

13 THE WITNESS: Second to the last line.

14 THE COURT: Okay.

15 THE WITNESS: So "I also served," and then at the end,
16 "until the first quarter of 2012."

17 THE COURT: Got it. Thank you so much.

18 THE WITNESS: You're very welcome.

19 THE COURT: My fault.

20 THE WITNESS: Then on the very next page, the last
21 sentence of that page it says, "I have been." We should strike
22 "have been" and insert "was a board member of Wisconsin Sports
23 Development." Then at the end of the sentence, "until August
24 of 2012." And that's it.

25 THE COURT: All right.

0246

1 BY MS. CARSON:

2 Q. Did you have any update?

3 A. Yeah, I have one more. I filed -- my testimony was
4 filed I believe a week ago yesterday when I was in a board
5 meeting. And during that board meeting, our board basically
6 authorized me and the financial management of the organization
7 to undertake a refinancing of certain pollution control bonds.
8 And I wanted to update -- wanted to update the record on this
9 issue.

10 First off, it's important to note that PSE has two
11 outstanding series of pollution control bonds. The bonds were
12 originally issued to finance pollution control facilities at
13 Coal Strips unit 3 and 4.

14 The bonds outstanding are a total of about a hundred
15 and sixty-one million dollars. The two -- Series 1 is a
16 hundred and thirty-eight. The other is 23, basically
17 comprising a little less of four percent than PSE's total
18 long-term debt.

19 The current coupons on those bonds are 5 percent, and
20 5.1. And the maturity date of both is March 1, 2031. Those
21 bonds became callable on March 1, 2013. Current market
22 conditions, which I started monitoring in detail starting last
23 Monday, we had our first pricing call, had one yesterday, and
24 then two this morning.

25 The first one I was present, the second one I was

0247

1 briefed on would suggest that the economics of moving forward
2 with that transaction remain attractive to the company and its
3 rate payers.

4 I wanted to make you also aware of the fact that on
5 Friday, May 10th, after we got approval from our board to move
6 forward with that transaction, we did file the appropriate
7 noticing to the commission of the refinancing. And if I have
8 the docket right here, it's docket number UE-130733.

9 Again, as I mentioned earlier, final pricing was --
10 call took place this morning and the transaction was launched.
11 Happy to report that we were oversubscribed on both issues and
12 basically were able to settle in on pricing.

13 The pollution control bond market is obviously backed
14 by the muni bond market, which is a little bit different than
15 regular corporate, so this coupon is going to take a little bit
16 of time to sort itself out, but next week we should have the
17 final pricing.

18 At this point in time, subject to finalizing that
19 pricing, it looks like we're going to be able to pass back to
20 customers about 1.5 to 2 million dollars of annual interest
21 savings per year.

22 We would like to basically work with commission staff
23 on the appropriate way to get this reflected, this change
24 reflected into our capital structure for the ERF filing, and
25 basically that ends my update.

0248

1 THE COURT: So do I have it right, you're suggesting
2 that the company's debt costs have come down, and you want that
3 reflected in the ERF filing?

4 THE WITNESS: Yes. If you look at our capital
5 structure, the actual dollars outstanding, even of these
6 particular issues, do not change. So all we have to do is
7 change the coupons to the new coupon, reextend it, and run it
8 through the calculations, and we're happy to pass that along.

9 THE COURT: Okay. Thank you. Anything from the bench
10 on this? Any questions about this.

11 COMMISSIONER JONES: Not about this.

12

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

14 BY COMMISSIONER GOLTZ:

15 Q. I have something about this. So let's assume this
16 hadn't taken place yesterday or today, but it took place this
17 coming -- would take place next July.

18 What would be the difference for the rate payers in
19 that regard, under the -- assuming the settlement's approved?

20 A. Well, basically it would be a temporal issue; right?
21 Because now I'm in -- I'm in receipt of actual information that
22 I can reflect in the record where if I'm looking out to July,
23 I'm basically guessing.

24 Q. No, no. I'm saying is that if this hadn't happened,
25 and this refinancing happened in July instead, after the

0249

1 settlement's approved, presumably in June or something, then
2 would this have had any impact on the rate payers? All this
3 savings would have gone to the company under the rate plan;
4 correct?

5 A. All the savings would have gone to the company under
6 the rate plan. However, if interest rates were to go up above
7 the rates reflected, obviously the company would be at risk
8 subject to on the back end we've got the protections on the
9 bands on ROE.

10 Q. Okay. So is this -- is the idea, then, that there
11 will be a filing of a -- this may be for Ms. Carson -- an
12 amended settlement agreement or what?

13 MS. CARSON: We thought perhaps a response to a bench
14 request or something, we could put the actual effect on the
15 ROR, and that it could be worked into the line item reduction
16 on the ERF, perhaps.

17 I don't know that it's a -- it just seemed like
18 information that was happening, you know, contemporaneous with
19 this hearing, and it was something important for the commission
20 to have. And we're certainly willing to pass this known and
21 measurable reduction in debt cost to customers.

22 So we can figure out how to do it. I don't think it
23 has to be an amendment to the settlement agreement. And if the
24 commissioners aren't interested in reflecting it, we don't have
25 to.

0250

1 THE COURT: I think you can provide us with a thorough
2 going exhibit that will lay it all out for us in a
3 comprehensible way so that we can then translate that into any
4 order we might enter approving the ERF subject to the reduction
5 in debt cost.

6 So if you could provide that, please. I don't have a
7 bench request number for you. I don't think I've actually
8 issued a bench request in this hearing, have I? So that will
9 be bench request number 1.

10 MS. CARSON: I think Commissioner Goltz perhaps --

11 CHAIRMAN DANNER: The one on the --

12 COMMISSIONER JONES: What was it?

13 MS. CARSON: I think we've got it.

14 THE COURT: But it's bench request number 2, then.

15 Okay. It will be bench request 2, then.

16 MR. FFITCH: Your Honor.

17 THE COURT: Yes, sir.

18 MR. FFITCH: May I be permitted to ask a couple of
19 questions of the witness in light of the new testimony?

20 THE COURT: Sure.

21

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

23 BY MR. FFITCH:

24 Q. Thank you. Good afternoon, Mr. Doyle.

25 A. Good afternoon.

0251

1 Q. Can you tell us what the coupon rate was on the new
2 debt?

3 A. The temporary coupons are in the 3.9 to 4 percent
4 range. They are two different series. One of the series is
5 subject to alternative minimum tax, and one of the series is
6 not subject, so obviously the higher -- the higher coupon would
7 apply to the AMT issue.

8 Q. All right. And the -- you stated that the current
9 rate for the non-AMT is 5 percent, and for the AMT is 5.1
10 percent?

11 A. Well, actually referred to the coupons for the
12 pricing, that tentative pricing we got this morning.

13 Q. Okay. Were these oversubscribed?

14 A. Yes, they were.

15 Q. Thank you. No further questions.

16 THE COURT: Okay.

17 MS. DAVISON: I think there's a confusion. If I could
18 ask a quick follow-up question.

19 THE COURT: Okay. Go ahead. Let's don't have any
20 confusion.

21

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

23 BY MS. DAVISON:

24 Q. Good afternoon, Mr. Doyle.

25 A. Good afternoon.

0252

1 Q. The filing that you made with the commission on May
2 10th indicates that you have a 2003 A series at the interest
3 rate of 5 percent, a 2003 B series at 5.1 percent.

4 Does that sound correct?

5 A. I am not sure which the A or B goes to. I mean, I
6 wasn't responsible for making that filing. In fact, I didn't
7 see it before it went.

8 Q. And what you're saying is, based on a call that you
9 were on today, that interest rate for whichever series will go
10 down to 3.9 and 4.0; is that correct?

11 A. Again, that's the temporary rate. I think I was
12 pretty clear that this market takes a while to settle out, so
13 basically it will be -- it will be probably mid next week
14 before it's totally final, but those were the indicative prices
15 that came in.

16 Q. And do you have any other anticipated refinancing of
17 your bonds?

18 A. Not based on call options that are available to us.

19 Q. Are there other options that you're looking at
20 refinancing?

21 A. No, there are other -- there are obviously -- over
22 time there are maturities that come into play that we have to
23 refinance over time, so the answer to that would be yes. I
24 think we have about 13 million later on this year. 2014 is
25 pretty clear of any refinancings, if I remember correctly. And

0253

1 then I'm losing sight into the future after that.

2 Q. So the 13 million for later this year, do you know
3 what interest rate that's at?

4 A. I don't. I don't.

5 Q. Is it -- would it be a guess that it would be in the 5
6 percent rate cases range?

7 A. I'm not going to guess.

8 THE COURT: Are you done?

9 MS. DAVISON: I'm done.

10 THE COURT: Okay. Thank you. All right. We have
11 some questions from the bench for you, Mr. Doyle.

12

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

14 BY COMMISSIONER JONES:

15 Q. Just a couple Mr. Doyle. Welcome back.

16 A. Thank you.

17 Q. That's good news for rate payers, it sounds like. On
18 page 6 of your testimony -- and you heard my exchange with
19 Mr. Gorman this morning, did you not?

20 A. I did.

21 Q. He said it basically takes a week or two to do a cost
22 to capital study. And you know there are many experts around
23 the country who are more than happy to do this for a fee. And
24 you basically said you didn't have time, you only had seven
25 business days to prepare your rebuttal testimony.

0254

1 That's -- is that really why you didn't prepare a
2 study? Weren't you aware earlier in March or April that this
3 was going to be coming along to the commission, and did you not
4 have some time to prepare a cost of money study?

5 A. Well, I think, you know, in the context of the
6 discussions that have taken place that resulted in the global
7 settlement, that there was agreement in the context of that to
8 basically take the capital structure and all the returns and
9 everything and just set it aside.

10 I think that's probably more indicative of why we
11 didn't front end that work. And then when we got into the back
12 end of it, we just didn't have time. And that is -- that is
13 the actual reason.

14 I mean, basically I was preparing for board meetings.
15 I was in board meetings for two days the week before, so it was
16 a pretty busy time, and I just did not have time to do it.

17 Q. Okay. Okay. Well, I will accept that answer for the
18 record. One last question. Did you hear my exchange with
19 Mr. Gorman today? There appears to be a disagreement on how to
20 account for this OCI issue, the pension expense, and how to
21 adjust capital structure.

22 A. I did hear it.

23 Q. Was there anything in there that you disagree -- that
24 you still stand by your position that the CAP -- the actual
25 capital structure at the end of the year, which he says is

0255

1 46. -- or whatever, should be -- should be adjusted with those
2 four adjustments, and you're saying those adjustments, like
3 OCI, should not be made?

4 A. Actually, I think it's the reverse, if I understood
5 your question.

6 Q. Okay.

7 A. I'll try and explain back to you.

8 Q. Okay.

9 A. Tell me if I answer your question. Mr. Gorman starts
10 out with a generally accepted accounting principle
11 representation of the capital structure and determination,
12 particularly of equity.

13 Our filings and the Commission Basis Report, it's my
14 understanding -- and again, I'm new to the jurisdiction, but
15 I've seen enough of the calculations to know that adjustments
16 are made in order to reconcile between items that are treated
17 differently on the regulated side of the equation than they are
18 for GAAP, and to mix and match those is inappropriate.

19 You have to keep the bases of accounting on both sides
20 of the equation consistent with what you're trying to
21 accomplish. You know, I've seen these kind of calculations and
22 reports in the airline industry, the railroad industry, water
23 and sewer. There's all kind of different bases for regulatory
24 reporting, and they all have to be reconciled back to GAAP.

25 So I would stand by my testimony that those

0256

1 adjustments that we made are appropriate, getting from GAAP
2 back to regulatory.

3 Q. Okay. I think he admitted on the stand today that
4 the -- the removal of accumulated retained earnings from PWI
5 would be an appropriate adjustment.

6 A. He did.

7 Q. But the other adjustments were inappropriate, so it's
8 just -- so you're standing by your assertion GAAP versus
9 regulatory accounting has to be done this way, and he stands by
10 his position; right?

11 A. Yeah. I mean, you know, for GAAP you treat those
12 transactions one way. For regulatory you treat them another.
13 And my testimony is you can't mix them, and his testimony is
14 you can.

15 Q. Okay. That's all I have. Thank you.

16 THE COURT: Okay. Anything else? All right. Well,
17 while you're still sitting there, I suppose this is as good a
18 time as any to make a -- do a housekeeping matter here on one
19 of our exhibits. There was originally an exhibit in our
20 exhibit list marked for Mr. Schooley which was -- if I can find
21 it here.

22 MS. BROWN: TES-8.

23 THE COURT: TES-8-X, I believe it was.

24 MS. BROWN: That's correct.

25 THE COURT: And that was the current commission or

0257

1 latest Commission Basis Report. After some discussion among
2 counsel and e-mails back and forth, it became an exhibit for
3 you, Mr. Doyle, that I marked DAD-4-X.

4 After yet further discussion among counsel, I am now
5 reliably informed, I hope, that the exhibit should be for
6 Ms. Barnard, and that would be her Exhibit 19-CX. KJB-19-CX.
7 That is the Puget Sound Energy, Inc. annual commission basis
8 results of operation for 12-month period ended December 31st,
9 2012.

10 And with that clarification, such as it was, for the
11 record, Mr. Doyle, thank you very much for being here with us
12 today.

13 THE WITNESS: Thank you.

14 THE COURT: And you are excused. All right. And so,
15 Ms. Davison, you do have some questions for Ms. Barnard; right?

16 MS. DAVISON: I do, your Honor.

17 THE COURT: Okay. Very well. While she's getting
18 organized, I'll go ahead and swear you so you can sit down. Do
19 you solemnly swear or affirm under penalty of perjury that the
20 testimony you give in this proceeding shall be the truth, the
21 whole truth, and nothing but the truth?

22 THE WITNESS: I do.

23 THE COURT: Please be seated. Now, Ms. Carson, help
24 me out here. Is Ms. Barnard also like Mr. Piliaris, a witness
25 that has, for example, two KJB-1-T's?

0258

1 MS. CARSON: That's correct.

2 THE COURT: Okay. So there is some overlap in the
3 exhibit numbers, so there may be moments of confusion as we go
4 through this. And if there are, let's stop and figure out
5 which set we're on; okay?

6 All right. Hopefully we can avoid that by having
7 counsel identify whether decoupling or expedited rate filing.

8 All right. Go ahead.

9

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

11 BY MS. CARSON:

12 Q. Ms. Barnard, we have stipulated into the record your
13 pre-filed testimony and exhibits. Do you have any corrections
14 to any of your testimony and exhibits?

15 A. Yes, I have a couple. So in KJB-11-T on page 23, line
16 18.

17 Q. And do we know which docket that is?

18 A. I'm sorry.

19 THE COURT: That's the rebuttal.

20 THE WITNESS: That is in the rebuttal testimony.

21 CHAIRMAN DANNER: Page 23.

22 THE WITNESS: Yes. Line 18, the value should be 3.43,
23 not 3.44.

24 CHAIRMAN DANNER: Sorry. 3 --

25 THE WITNESS: 43. On page 24 at the top, the 2.71

0259

1 should be 2.68. And the last change is on Exhibit KJB-14, page
2 2 of 2, the second line from the bottom is a subtotal. And it
3 omitted the line 3, so the number needed to be 1773827.

4 THE COURT: I'm sorry. Without line numbers, I got
5 lost.

6 THE WITNESS: I know. It's the second from the bottom
7 titled "Subtotal decrease to Public Counsel's recommended
8 surplus."

9 THE COURT: It's currently 1,453,242?

10 THE WITNESS: Correct.

11 THE COURT: And that should be?

12 THE WITNESS: One million seven hundred and
13 seventy-three thousand eight hundred and twenty-seven.

14 THE COURT: All right. Seems like everybody got that.
15 Thank you.

16 MS. CARSON: Thank you, your Honor. Ms. Barnard is
17 available for cross-examination.

18 THE COURT: All right. Ms. Davison, why don't you go
19 ahead, then.

20 MS. DAVISON: Thank you, your Honor. We have marked
21 KJB-18 and the now infamous KJB-19 for cross-examination, and
22 I'd like to move both of those into the record.

23 THE COURT: All right. Well, I think we previously
24 stipulated everything, but we do have some new numbering, so
25 yeah, they're in the record.

0260

1 MS. DAVISON: All right. Thank you, your Honor. I
2 just wanted to make sure.

3 THE COURT: I understand. Belts and suspenders,
4 Ms. Davison, never hurts.

5 MS. DAVISON: Thank you.

6

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

8 BY MS. DAVISON:

9 Q. Ms. Barnard, in your rebuttal testimony 11-T, you
10 state that PSE serves just over 18,000 customers in Jefferson
11 County, and that constituted approximately 1.7 of the electric
12 customer base.

13 Have you calculated the revenue impact of losing 1.7
14 percent of PSE's electric customer base?

15 A. We have done a preliminary calculation, and it was
16 roughly 1.5 percent based on Jefferson County's load.

17 Q. And when will you do a final calculation of that?

18 A. We are required to come and bring a filing to the
19 commission with a final accounting on the transaction, and that
20 will be done when the final transaction has been completed,
21 which is 90 days after the date. There is not a full
22 accounting on that at this point.

23 Q. And when's the 90 days after the date?

24 A. The transition -- the transfer occurred on April 1st,
25 so it would be 90 days after that. End of June, early July. I

0261

1 can't do the math. Apologize.

2 Q. Is PSE currently recovering a return on rate base as
3 well as depreciation expense corresponding to the assets that
4 have been transferred to Jefferson County PUD?

5 A. Can you repeat your question?

6 Q. The -- so we can agree that you transferred assets to
7 Jefferson County PUD on April 1st of this year; is that
8 correct?

9 A. Yes, that is correct.

10 Q. And the cross-examination Exhibit 18 shows that
11 Jefferson County PUD paid you a hundred and seven million six
12 hundred thousand and change for the transfer.

13 Do you see that on the bottom of the --

14 A. I do, but I'm not sure that that's the entire amount
15 that we received. But I recognize that the 107158524.85 was
16 the preliminary or estimated transaction.

17 Q. Correct. And that is in part related to Jefferson
18 County PUD taking over some of PSE's physical assets; correct?

19 A. There was a transfer of assets; correct.

20 Q. And so those assets are currently in your rate base;
21 correct?

22 A. When you say "currently," as of today, no. As of the
23 last general rate case, yes. Or as of the ERF filing date,
24 which was end of period plant, June 30th of 2012, yes, they
25 were in there, as well as those customers and the expenses

0262

1 associated with those customers.

2 Q. So have you made any tariff filing adjustments to
3 remove the costs associated with serving the Jefferson County
4 PUD customers from your current rate base?

5 A. Will you repeat that question?

6 Q. So essentially you no longer serve the Jefferson
7 County PUD customers, but prior to April 1, you did. And those
8 electric assets were part of your rate base; correct?

9 A. The electric -- yes, prior to April 1, they were part
10 of our rate base, and those customers were part of our service
11 territory. As I said in my testimony, we will be making a
12 filing. That was part of the order.

13 We came before the commission back in 2010, I believe,
14 where we had the -- it was a declaratory order requesting to
15 make sure that the price was deemed reasonable, and in that
16 order there was a clause that the company would need to come
17 back in for a final accounting to determine what gains, and at
18 that point in time those types of issues would be dealt with.

19 Q. But currently your rate base includes the Jefferson
20 County PUD assets?

21 A. My historical rate base included the Jefferson County
22 assets, yes. But that doesn't impact the ERF, because the ERF
23 was at June 30th of 2012, and they were customers at that point
24 in time.

25 Q. And so essentially we are going to be using the ERF

0263

1 rate base for a going-forward basis that includes the Jefferson
2 County PUD assets; correct?

3 A. Not entirely, because we are using the ERF in terms of
4 decoupling for a revenue per customer number. So when you talk
5 about the ERF including the rate base, it also included the
6 revenues from those customers as well as their expenses.

7 So it was a complete matching of revenues, costs and
8 rate base as of June 30th of 2012, which included them. When
9 we move and take the ERF numbers and put them into a revenue
10 per customer, the only time there would be an issue is if there
11 is a difference in the relationship.

12 So if it cost significantly more or less to serve a
13 Jefferson -- so if the alignment of revenues, costs and rate
14 base for Jefferson County is significantly different than those
15 customers remaining, there could be an issue. We don't believe
16 there is an issue at this point.

17 Q. I understand that's your opinion, but my question went
18 to the actual rate base, that the rate base is going to have
19 the numbers in it as if you were still serving Jefferson County
20 PUD.

21 I'm talking about rate base. I'm not talking about
22 the revenue side. I'm talking about the rate base side, and
23 that you have not made a correction to that to reflect current
24 circumstances; isn't that correct?

25 MS. CARSON: Objection. This question has been asked

0264

1 and answered three times.

2 MS. DAVISON: And I have not got a straight answer.

3 THE COURT: Well, I'm going to sustain the objection.

4 I think it's clear from what Ms. Barnard has testified that the
5 ERF is based upon an end-of-period rate base as of June 30th,
6 2012, and at that time the Jefferson County assets were part of
7 the rate base. So that's clear to me. Maybe it's not clear to
8 you, but I think it's clear to everyone else. So go ahead,
9 move on.

10 MS. DAVISON: Thank you.

11 BY MS. DAVISON:

12 Q. So does PSE consider the loss of the Jefferson County
13 PUD service territory to be a material impact?

14 A. I would say we don't consider it to be a significant
15 portion or a major portion. It is 1.7 percent of our customer
16 base.

17 Q. My question is: Do you consider it to be a material
18 impact?

19 MS. CARSON: Objection. Asked and answered.

20 THE COURT: Can you reframe the question? I mean,
21 she's basically telling you that the loss of 1.7 percent of
22 their customer base is not something they -- which she would
23 attach the word significant to, so --

24 MS. DAVISON: And I'm wondering whether she thinks
25 it's material.

1 THE COURT: I'm not sure I know what the difference
2 is. Can you tell me what the difference is?

3 MS. DAVISON: Yes. It's a term of art.

4 THE COURT: Material in what sense?

5 MS. DAVISON: Material in terms of changing what the
6 material looks like. The utility has 18,500 customers fewer.
7 It has less rate base. It seems to me to be a fairly material
8 event that has happened during the course of this proceeding.

9 And we are setting a rate base going forward that we
10 know is not accurate, because it includes the Jefferson County
11 service territory as if it was not sold to Jefferson County
12 PUD. And I'm trying to understand why the company isn't making
13 that change.

14 Well, it was great they came forward today with the
15 pollution control bond change. I'm not sure why this has not
16 been precisely calculated and dealt with in this case so that
17 we can actually have correct numbers on a going-forward basis.

18 THE COURT: And let me see if I know the answer. Is
19 the answer that you filed the ERF on the basis of the
20 end-of-period rate base as of June 30th, 2012?

21 THE WITNESS: That is correct. And I would add so now
22 that Ms. Davison has defined her threshold of materiality, I
23 can say that, no, I don't consider it to be material in that
24 context, because it's only 1.7 percent of my overall customers.

25 The other thing that needs to be recognized is that

0266

1 the ERF was to be based on the restating adjustments. That
2 would have been a pro forma adjustment factor something well a
3 year -- well, nine, ten months after the fact.

4 MS. DAVISON: Thank you. I don't have any further
5 questions.

6 THE COURT: I got to your question, I think.

7 MS. DAVISON: Yes, it did.

8 THE COURT: Okay. Very good. All right. Any --
9 let's see. You were the only one, I believe, who had indicated
10 cross. Somebody had, but they waived it. Any questions from
11 the bench?

12

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

14 BY COMMISSIONER GOLTZ:

15 Q. Following up on that a little bit. So Jefferson
16 County's a pretty rural area; correct? It's one of your more
17 rural service areas?

18 A. I believe so, yes.

19 Q. Wasn't it pretty high maintenance?

20 A. I don't know that I can say whether it was high
21 maintenance or not. We did through the discovery process have
22 to answer some questions where we looked at tax jurisdictions
23 and found that, you know, in terms of O&M expense, it
24 represented about 1.5, 1.4 percent of our O&M expense during
25 the ERF period. That was a response that we have provided.

0267

1 Q. I guess I'm wondering if the infrastructure
2 investments, the capital investments for Jefferson County over
3 the past seven or eight years has been disproportionate to the
4 load.

5 A. No. As shown on page 22 of my rebuttal testimony, I
6 have a comparison of rate base, and you can see when you look
7 at our rate base in Jefferson County --

8 THE COURT: Let us get there.

9 THE WITNESS: Okay.

10 THE COURT: What page again?

11 THE WITNESS: Page 22 of my rebuttal.

12 THE COURT: That's Exhibit 11-T?

13 THE WITNESS: Correct.

14 BY COMMISSIONER GOLTZ:

15 Q. It's actually lower is what you're saying?

16 A. On a per customer basis, it's actually lower. Based
17 on -- this is preliminary. These are not final numbers.

18 Q. No further questions.

19 CHAIRMAN DANNER: What page is that?

20 THE COURT: This is page 22, Exhibit 11-T.

21 CHAIRMAN DANNER: Great.

22 THE COURT: Okay. Go ahead.

23

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E X A M I N A T I O N

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BY COMMISSIONER JONES:

Q. Just a follow-up question. You heard my exchange with Mr. Marcelia on accumulated deferred income tax, did you not?

A. I did.

Q. Okay. So -- and he deferred to you, of course, on the PCORC, because he wasn't aware of what was in the PCORC on whether it's in the period or using AMA.

So is it true that in your pending PCORC, recently filed, that you did do the filing on AMA basis?

A. The test year was a historical AMA basis, yes.

Q. Historical test year AMA?

A. Right.

Q. So there is an inconsistency between that filing and the filing here; correct?

A. I would say that the standard filing is an AMA, but with the ERF, it was explicitly filed to be end of period to address regulatory lag. So a PCORC or a GRC we would normally do on an AMA basis.

Q. Okay.

A. But we were consistent with all of the numbers. So rate base, deferred taxes, everything is done either on an AMA or an end-of-period basis.

Q. But going forward with the mechanism, if we approve it, everything will be done with the -- with the ERF baseline

0269

1 updates on an end-of-period rate base -- on an end-of-period
2 basis; correct?

3 A. So the ERF is a one-time adjustment.

4 Q. Right.

5 A. And that is at end of period June.

6 Q. Right.

7 A. And I didn't get the second part of the question.

8 Q. We were with the -- well, I thought that we were going
9 to be updating that either on the Commission Basis Report or
10 through an updated filing.

11 No?

12 A. No, we won't update the ERF again. We will report our
13 commission basis for the earnings-sharing portion of the
14 decoupling mechanism.

15 THE COURT: And I think maybe I can add some
16 clarification here. As I recall, the WAC provides that the
17 Commission Basis Report will be filed on an AMA basis, doesn't
18 it?

19 THE WITNESS: Just a moment. I don't believe it is
20 specific. That's what I'm checking.

21 THE COURT: I thought one of the witnesses, perhaps
22 Mr. Piliaris, said that the Commission Basis Report that was
23 prepared for June 30th, 2012, as a sort of baseline, if you
24 will, for the ERF had some exceptions to the normal Commission
25 Basis Report.

0270

1 CHAIRMAN DANNER: Mr. Dittmer.

2 THE COURT: Was it Mr. Dittmer, then, who testified
3 that. So it wouldn't be your witness after all. But --

4 THE WITNESS: I don't believe by rule. The rules say
5 that you file consistent with the general -- with your general
6 rate case.

7 THE COURT: Okay.

8 THE WITNESS: And we have done our general rate cases
9 on an AMA basis.

10 THE COURT: Okay. And that's still true today?

11 THE WITNESS: Correct.

12 THE COURT: Okay. So you would expect your Commission
13 Basis Report is going to be filed next April to be on an AMA
14 basis?

15 THE WITNESS: Correct.

16 THE COURT: Maybe that was a better way for me to have
17 posed the question in the first place.

18 THE WITNESS: Could have answered that.

19 THE COURT: It will be AMA when we get the next report
20 is what I was trying to get at.

21 BY COMMISSIONER JONES:

22 Q. Yeah, I think I get it. Just let me clarify finally.
23 In essence what we're doing with the ERF baseline is a one-time
24 adjustment using end-of-period rate base to address the issue
25 of regulatory lag?

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1 A. Correct, and to bring the rate base to June 30th of
2 2012.

3 Q. To bring the rate base to June 30th, 2012?

4 A. Correct.

5 Q. Okay. Thank you.

6 THE COURT: Anything else?

7 CHAIRMAN DANNER: No.

8 THE COURT: Any redirect?

9 MS. CARSON: No.

10 THE COURT: All right. Thank you, Ms. Barnard.

11 THE WITNESS: Thank you.

12 THE COURT: That brings us -- do we want to take a
13 brief recess?

14 CHAIRMAN DANNER: Who's next?

15 THE COURT: Ms. Reynolds. We're moving on to the
16 staff. Yes? No? If everyone's wanting to, we'll just press
17 ahead. All right. Let's go.

18 MR. FFITCH: Your Honor, if I can just remind the
19 bench that Public Counsel witnesses, Mr. Dittmer, whose name
20 was just mentioned in connection with some of these questions,
21 and Mr. Hill are both here today if the -- they do not have
22 scheduling issues, so they are available for bench questions
23 should that be desired at some point in the proceedings.

24 THE COURT: Okay. Well, we have another set of
25 witnesses following this, and we'll see if the commissioners

0272

1 have questions. They're in that group.

2 MR. FFITCH: Thank you.

3 THE COURT: Now, Ms. Reynolds, you've already been
4 sworn today, so I just remind you that you are under oath as
5 you testify without going through the exercise a second time.

6 THE WITNESS: Thank you, your Honor.

7 MS. CARSON: Your Honor, may Mr. Doyle be excused? He
8 does have to catch a flight.

9 THE COURT: All right, Mr. Doyle. You may be excused
10 to catch a flight. I don't think we'll need him back.

11

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

13 BY MS. BROWN:

14 Q. Okay. Thank you. Ms. Reynolds, we have stipulated
15 your testimony into the record. Do you have any revisions to
16 that testimony today?

17 A. I do not.

18 Q. Thank you. Ms. Reynolds is available for
19 cross-examination.

20 THE COURT: All right, then. Let's see. We had some
21 cross from Public Counsel indicated. Mr. ffitch, do you have
22 some cross?

23 MR. FFITCH: I apologize, your Honor. We have no
24 cross-examination for Ms. Reynolds.

25 THE COURT: All right. And what about ICNU?

0273

1 MS. DAVISON: Yes, I do, your Honor.

2 THE COURT: All right. Then you may proceed.

3 MS. DAVISON: Thank you.

4

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

6 BY MS. DAVISON:

7 Q. Good afternoon, Ms. Reynolds. On March 8, 2013, the
8 Northwest Industrial Gas Users joined the global settlement
9 subject to certain changes to the decoupling proposal.

10 So specifically to gain the Northwest Industrial Gas
11 Users' support, PSE is proposing through the settlement to
12 remove gas schedules 85, 85-T, 87, and 87-T from the decoupling
13 proposal; is that correct?

14 A. That is correct.

15 Q. And does staff support removing the gas,
16 transportation and the industrial gas sales customers from
17 decoupling?

18 A. Yes, we do.

19 Q. And why is that?

20 A. In -- for two reasons, really. First is that it was a
21 very small change in -- in the amount of money recovered, and
22 PSE --

23 CHAIRMAN DANNER: I'm sorry. Is your microphone on?

24 THE WITNESS: It is, but I'll pull it closer.

25 THE COURT: That's better, yeah.

0274

1 THE WITNESS: Staff agrees for two reasons. First,
2 there's a \$300,000 impact to this, and the company agreed not
3 to recover that revenue from another customer class. So that's
4 a benefit to other rate payers.

5 And then second, because those customers will be
6 included in the overall rate plan, which we believe addresses
7 the commission's policy statement requirement that all
8 customers be included in a decoupling mechanism, unless there's
9 some reason to keep them out.

10 BY MS. DAVISON:

11 Q. Thank you. So would staff support removing the
12 comparable electric schedules, Schedule 49 and Schedule 40
13 customers --

14 A. We've had --

15 Q. -- from decoupling?

16 A. We've had no opportunity to discuss that, but we would
17 certainly be interested in the discussion.

18 Q. Thank you. No further questions.

19 THE COURT: Any questions from the bench for
20 Ms. Reynolds? Apparently not. Ms. Reynolds, thank you for
21 being here and testifying this afternoon, and we will have
22 Mr. Schooley. I'm sorry. I neglected to ask if you had
23 redirect. My mistake.

24 MS. BROWN: No questions.

25 THE COURT: Mr. Schooley, you have been previously

0275

1 sworn, so we need not go through that exercise again. I simply
2 remind you that you remain under oath. With that you may
3 introduce your witness.

4

5

E X A M I N A T I O N

6 BY MS. BROWN:

7 Q. Thank you. Mr. Schooley, we have stipulated your
8 testimony exhibits into the record. Do you have any revisions
9 to that testimony or any of your exhibits today?

10 A. No, I do not.

11 Q. Thank you. Witness is available for
12 cross-examination.

13 THE COURT: All right. Ms. Davison, go ahead.

14 MS. DAVISON: Thank you, your Honor.

15

16

E X A M I N A T I O N

17 BY MS. DAVISON:

18 Q. Good afternoon, Mr. Schooley.

19 A. Good afternoon, Ms. Davison.

20 Q. The global settlement now includes the Energy Project
21 in a -- and a additional 1.5 million dollars for low-income
22 assistance; is that correct?

23 A. Correct.

24 Q. And can you explain how the 1.5 million will be
25 funded?

0276

1 A. I believe that's funded through the company's
2 low-income assistance tariff, which is filed every each fall, I
3 believe.

4 Q. And has staff conducted an analysis of the impact of
5 this 1.5 million increase on a rate-class basis?

6 A. Not on a rate-class basis, as I understand it. It's
7 on a total of about 20-plus million dollars to start with, so
8 I'm not that familiar with the low-income things. Probably
9 should have asked Ms. Reynolds when she was up here.

10 Q. Are you aware that in PSE's last general rate case
11 order, call it order 08, that staff recommended that proposals
12 for increases in low-income funding should include analysis of
13 customer demographics and economic conditions specific to PSE's
14 service territory before adopting any changes to low-income
15 funding?

16 A. No, I'm not aware of that.

17 Q. So is it fair to say that you did not conduct that
18 analysis with regard to this increase to low-income funding?

19 A. I did not. Perhaps you should have asked Ms. Reynolds
20 those questions.

21 Q. You testified this morning that if the company over
22 earns during the period of this rate plan, that there will be a
23 sharing between the company and customers with regard to that
24 over earning; correct?

25 A. Yes.

0277

1 Q. And what is the amount of sharing?

2 A. If the company earns -- the company's authorized rate
3 of return is currently 7.8 percent. If they exceed that number
4 by 25 basis points, the company will share 50 percent of the
5 earnings over the 8.05 percent.

6 Q. And how did you arrive at the conclusion that it
7 should be a 50/50 sharing?

8 A. That was the proposal. It seemed fair.

9 Q. Well, if during the rate plan the company is actually
10 over earning, wouldn't it be more fair to customers to receive
11 the full amount of the over earning?

12 A. That wasn't the proposal. That's not the proposal
13 before us. If there had been a broader participation after the
14 filing to settle this matter, then that could have been brought
15 up.

16 Q. Did staff audit the 2011 PSE Commission Basis Report?

17 A. No, I believe we were in the middle of a rate case at
18 that time.

19 Q. Can you recall the last year that staff did audit one
20 of PSE's Commission Basis Reports?

21 A. No, I can't recall.

22 Q. Does staff intend to audit the 2012 Commission Basis
23 Report?

24 A. It's been assigned to someone. I'm not sure what
25 process will go through on it. It's not a tariff filing.

0278

1 There's no clock ticking on it.

2 MS. DAVISON: I have no further questions, your Honor.

3 THE COURT: Okay. Thank you. Any questions from the
4 bench for Mr. Schooley? Commissioner Jones.

5

6 EXAMINATION

7 BY COMMISSIONER JONES:

8 Q. Mr. Schooley, in your testimony you state the overall
9 rate of return for the company now and in this stipulation
10 would be 7.8 percent; right?

11 A. Yes.

12 Q. But and then you go on to say staff does not believe
13 that PSE will fully achieve that earnings level. What is the
14 basis of that? Is that just based on historical data over the
15 past four or five years or are you -- are you projecting into
16 the future?

17 A. I'm more going on the history of the past several
18 years and the showings that they've been under earning their
19 equity by a hundred and seventy basis points or 250 basis
20 points, by substantial amounts. So that's what my conclusion's
21 based on.

22 Q. So you think the future is going to look like the
23 past?

24 A. Unless the company is able to reduce their expenses,
25 which was in the -- in the delivery and A&G costs to a

0279

1 substantial margin, and that's part of the goal of the rate
2 plan is to give the company the incentive to make serious
3 management decisions.

4 Q. So what is the incentive in the rate plan to encourage
5 the company to make those O&M -- the A&G savings? I'm -- I'm
6 not squaring those dots. I mean, they get a K-factor that's 3
7 percent on the electric side, 2.2 on the gas side; right?
8 That's guaranteed?

9 A. Yes, for the delivery costs.

10 Q. Right. For the delivery costs, that's guaranteed.
11 They are protected under the PCA with a sharing bands for power
12 costs; right?

13 A. We would consider it protection. They consider it
14 cost, so --

15 Q. Okay.

16 CHAIRMAN DANNER: I'm sorry. They consider it?

17 THE WITNESS: They consider it a cost, an additional
18 cost. Yes, there is protections on the upside or the downside
19 that they will not exceed certain expenses in the power costs
20 area. And that's --

21 BY COMMISSIONER JONES:

22 Q. Right.

23 A. -- the subject of a different matter.

24 Q. That's not what I'm driving at. I'm driving at with
25 the rate plan that we just put through for Avista, there were

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1 specific tangible cost savings that management announced I
2 think after the settlement agreement, but before we approved
3 it. And that was a voluntary severance reduction, a voluntary
4 reduction plan in staff, and there were other things that the
5 company Avista did as part of their plan.

6 Is there anything in this record that -- that is
7 specific to how the company is going to be more efficient?

8 A. No, there is not, and I think some of the intent is to
9 give the company the incentive to make those tough decisions,
10 and they will bear the fruits of those decisions during the
11 rate plan.

12 And the coming out of it in the next rate case, be
13 that filed in 2015 or '16, they should have a lower cost
14 structure upon which rates will be based at that time.

15 Q. And by incentives to the company and the company
16 enjoying the fruits of this increased efficiency, you're
17 talking about, if they over earn, they get to keep 25 basis
18 points of the over earning?

19 A. Yes, and then share it beyond that.

20 Q. And I should be -- strike that word "over earning."
21 This is earning in excess of the 7.8 percent authorized?

22 A. Right.

23 Q. That's probably a better way to say it. So you think
24 that is sufficient, from staff's point of view?

25 A. Yes, I think -- I think that's a -- giving the company

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1 the fair incentive to manage their business better.

2 Q. Okay. Did you hear Mr. Doyle today? I asked him a
3 few questions about capital expenditures, which I think don't
4 you agree that capital expenditures, CAPX, is one of the major
5 drivers of attrition in regulatory lag?

6 A. One of several, yes.

7 Q. What would be the other big ones?

8 A. Probably labor costs, and general overhead expenses.

9 Q. Don't we generally pro form at least three, six months
10 into the future? Don't we pro form certain labor costs --

11 A. Yes, we generally do.

12 Q. -- during a general rate case? I think my questions,
13 were those numbers -- I think you said five to 600 million
14 ballpark for CAPX?

15 A. Right. Five to 600 million, yes.

16 Q. And what have been the numbers in that historical
17 period, '6 to '11? I think they're more in the range of 900
18 million, aren't they?

19 A. I'm -- there have been substantial generation assets
20 added, which is a different subject. I'm not certain what
21 they've been on the -- I can look at Ms. Barnard's testimony is
22 where that's been laid out. So it's been substantial, though.

23 Q. My overall point is, I think -- and you make a good
24 point on production versus non-production plant. But I -- I --
25 I've -- based on what I've seen in this record and previously,

0282

1 I think there's a declining trend in capital investment, in
2 CAPX.

3 And so if you're basing your support for quote "under
4 earnings and regulatory lag" on 2006 to '11 when CAPX was
5 fairly high, and CAPX is going to go down during the period of
6 the rate plan, that's -- that could be a concern, at least to
7 me, the way this new mechanism would operate.

8 A. It could be. I don't think the rate plan aspects of
9 it are fully -- fully capturing increases or decreases in the
10 CAPX expenditures. I think it's also part of the ongoing
11 expenses that it's addressing as well.

12 Q. The A&G or the operations and maintenance?

13 A. Correct, yes.

14 Q. Okay. I think you've already -- I think you or
15 Ms. Reynolds answered my question on your position on ROE. I'm
16 not going to ask you on that. And I think that's it. Thank
17 you.

18

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

20 COMMISSIONER GOLTZ:

21 Q. Mr. Schooley.

22 A. Mr. Goltz.

23 Q. So frequently there's discussion in rate-making
24 circles on the benefits or problems with regulatory lag. I
25 think that a number of folks would say, "Well, regulatory lag

0283

1 goes both ways, and it can be a benefit, because it creates
2 incentive for the company to contain its costs."

3 Tell me where in this rate plan there's regulatory lag
4 remaining.

5 A. I think there is in the timing of the rate plan
6 increases or the K-factor. The expedited rate filing
7 establishes rates, a cost basis as of June 2012. The first
8 installment of the K-factor, the three percent for electric on
9 the delivery, basically just brings us up to today.

10 It doesn't actually go into the future. It's just
11 accomplishing cost increases for the past year, given that
12 we're looking at June already. And the K-factors in beginning
13 of 2014 would be at about the midpoint of the next 12 months
14 beyond June of this year.

15 So I think it's addressing regulatory lag to a certain
16 extent in that it's not requiring a new filing with the
17 commensurate litigation or process before receiving an
18 increase, but it is looking at scheduled increases along the
19 way which bring the company that little bit further into the
20 costs that they are incurring in each commensurate year.

21 Q. So you're saying, I believe, that the scheduled
22 K-factor increases would still in effect be -- lag the
23 actual -- some of the actual costs that the increases are meant
24 to cover?

25 A. Yes.

0284

1 Q. Okay. Thanks. That's all I have.

2

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

4 BY CHAIRMAN DANNER:

5 Q. Just to clarify, it falls short, it doesn't really
6 catch up?

7 A. It doesn't cover the entire future period that it is
8 in the middle of. It's maybe just catching up to maybe the
9 middle of that period. If you're looking at -- we are now
10 bringing ourselves with the first installment up to June of
11 '13, and then the next installment in January '14 would only be
12 six months of history at that point in time and six months of
13 the future. So it's basically centered in what each of the
14 next two or three increases. That's how I picture it.

15 Q. Okay. Okay.

16

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

18 BY COMMISSIONER GOLTZ:

19 Q. But I have one more question on that. But the
20 component of the K-factor that is calculated by the Consumer
21 Price Index --

22 A. It's not calculated by that precisely. It was just a
23 measure using three different factors to determine if three
24 percent was a reasonable level and allowed for stretch goals
25 for the company to achieve beyond -- savings beyond what the

1 revenues were producing.

2 Q. Right. But the CPI went into that?

3 A. It was for the A&G costs, yes.

4 Q. Right. So part of this, and whether or not there's
5 lag, I suppose, is whether or not that's the proper measure of
6 increased costs.

7 A. That argument can always be made.

8 Q. And how did you land on that as opposed to some other
9 measure?

10 A. Well, it's the CPI less a half a percent for that
11 portion of the costs that the K-factor would be recovering,
12 which was about 50 percent of it. And that was in spite of the
13 trends in those costs being far greater than that, more like in
14 the four percent range than what CPI was.

15 Q. Right. But that again is a little bit of -- so we
16 talked a little bit this morning, this is an experiment,
17 there's a little bit of -- of assumption that the past is
18 prologue, that what happened in the past is going to continue
19 in the future.

20 A. That's true. In geology they say the present is the
21 key to the past. I don't know if that's applicable here.

22 Q. Okay. Thank you.

23 THE COURT: Some redirect?

24 MS. BROWN: Just one question, your Honor.

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

2 BY MS. BROWN:

3 Q. Mr. Schooley, you were asked about the 50/50 sharing
4 on earnings. In your opinion, would the company have any
5 incentive to control costs if it is required to return all over
6 earning to customers?

7 A. I think that does give the company pause to continue
8 saving beyond that point, whereas if they can keep some of
9 those savings, it will benefit them in the present period, it
10 will benefit customers in the future period when the general
11 rate case comes around.

12 Q. Thank you.

13 THE COURT: Twice in one day. Amazing.

14 CHAIRMAN DANNER: Twice what?

15 THE COURT: Twice that a lawyer said they were going
16 to ask one question and did.

17 CHAIRMAN DANNER: Oh, oh.

18 THE COURT: It's a trend. It's going to continue into
19 the future, I am sure. All right. Now, Ms. Davison, you had a
20 couple of your questions deferred off to Ms. Reynolds. Do you
21 want to have her back for those questions or are they not so
22 important that we need to do that?

23 MS. DAVISON: I -- your Honor, I believe the record is
24 okay on these issues.

25 THE COURT: All right. Fine. Bonus opportunity

0287

1 passed up. All right. Well, Mr. Schooley, thank you very much
2 for being with us today, and that brings your testimony to a
3 close for us.

4 We have another set of witnesses identified in our
5 list of witnesses here under the heading "Parties opposing
6 settlement," and we've already had Mr. Gorman up and questions
7 from the bench, but I want to go through the remaining list and
8 ask the commissioners.

9 There's no cross indicated for these witnesses, but
10 you may have questions for me. So do we have questions for
11 Mr. Dittmer?

12 CHAIRMAN DANNER: Yeah, I have one question for
13 Mr. Dittmer.

14 THE COURT: All right, then. Mr. Dittmer, if you will
15 please join us at the witness stand, we'll have time for -- and
16 we'll see if the bench is as good at holding its one-question
17 commitment as the lawyers have been today. If you'll remain
18 standing just for a moment.

19 Do you solemnly swear or affirm under penalty of
20 perjury that the testimony you give in this proceeding will be
21 the truth, the whole truth, and nothing but the truth?

22 THE WITNESS: I do.

23 THE COURT: Thank you. Please be seated.

24 MR. FFITCH: Your Honor, shall I do the initial
25 formalities?

0288

1 THE COURT: If there -- yeah, if there are any
2 correction or so forth, sure.

3 MR. FFITCH: Thank you, your Honor.

4

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

6 BY MR. FFITCH:

7 Q. Good afternoon, Mr. Dittmer.

8 A. Good afternoon.

9 Q. And could you please give your full name for the
10 record.

11 A. James R. Dittmer.

12 Q. And were you retained by Public Counsel as an expert
13 witness in this proceeding?

14 A. I was.

15 Q. And has your direct testimony, JRD-1-T and
16 accompanying exhibits, been admitted into the record of the
17 proceeding?

18 A. I think so.

19 Q. Do you have any changes or corrections to that
20 testimony?

21 A. I do not.

22 MR. FFITCH: Your Honor, thank you. Mr. Dittmer's
23 available for questions.

24

25

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

2 BY CHAIRMAN DANNER:

3 Q. Thank you. Thank you for all the steps and ceremony
4 you had to go through for my one question. I appreciate --

5 A. I'm hoping for more.

6 Q. Swearing yourself in and so forth. But on page 13 of
7 your testimony, you basically say that the employment of an
8 end-of-test-period method represents a -- what you call a new
9 theory that is not permitted when preparing CBR's per the
10 Washington Administrative Code.

11 So is it your position -- I think that the -- the
12 question I have is: Is the -- is what they submitted in
13 violation of the Washington Administrative Code or is this --
14 so I -- is this kind of an exception? Because it's not really
15 the CBR's that are required to be filed.

16 So you're not suggesting that there's a violation of
17 the rule in what they submitted, it's just that it's
18 inconsistent with the administrative code for when they're
19 required to submit CBR's?

20 A. Going from memory, because I don't have the rule right
21 in front of me, but when I was writing this --

22 Q. You don't cite it here, either.

23 A. -- I was of the opinion that the CBR's had to be filed
24 consistent with the way the rate case was filed the last time
25 around. The commission in their findings -- and the commission

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1 in their findings used an average -- monthly averages.

2 So in that sense, moving to a -- a year-end rate base
3 relative to what the commission found reasonable in the last
4 case does represent a new theory, in my opinion. And I think
5 it is -- I think it's in violation of the rules. The rules
6 said you had to file it consistent with the -- the previous
7 generator.

8 Q. I think I said I had one question.

9 THE COURT: But Mr. Dittmer's hoping for more, so
10 please proceed.

11 BY CHAIRMAN DANNER:

12 Q. So -- well, I think that your testimony does talk
13 about why you oppose the new theory. I guess I would let you
14 expound upon that here.

15 A. Well, I suggest here is a new theory for the CB --
16 inconsistent with the CBR, but I actually am not opposing the
17 year-end rate base. I'm supporting it in this case, as I did
18 in the Avista case.

19 So what I'm -- what I say here is true. It is a new
20 theory, but nonetheless, I am not opposing it for purposes of
21 calculating the ERF.

22 Q. Okay. I was -- what I was getting at was whether, you
23 know, that would have been permitted by the WAC, and it sounds
24 like you're saying, yes, it is in violation of the WAC.

25 A. I think it is.

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1 Q. Thank you.

2 CHAIRMAN DANNER: Did you find the WAC?

3 THE COURT: It is. It's right here. It's WAC
4 480100257, Commission Basis Report. So we can read it later.

5 CHAIRMAN DANNER: Thank you.

6 THE COURT: Anything else for Mr. Dittmer from the
7 bench?

8 CHAIRMAN DANNER: No.

9 THE COURT: Did that precipitate any questions from
10 you, Mr. Ffitch?

11 MR. FFITCH: Your Honor, perhaps just to ask the
12 witness to clarify his testimony with regard to his support
13 during the period of rate base.

14

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

16 BY MR. FFITCH:

17 Q. Mr. Dittmer, is that unqualified support for
18 end-of-period rate base or does your testimony contain any
19 additional explanation or condition for that support?

20 A. I do explain the support for it. It reduces
21 regulatory lag, which is what we're trying to address in this
22 proceeding, and other proceedings, for that matter. So yes,
23 I'm supportive of it, because it does reduce regulatory lag,
24 and to some extent obviates the need for the K-factors, if we
25 continue to do more K-factors shortening regulatory lag,

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1 particularly using a year-end rate base approach.

2 THE COURT: Okay. Thank you, Mr. Ffitch.

3 CHAIRMAN DANNER: Thank you.

4 THE COURT: All right, Mr. Dittmer. It appears that
5 your stay with us was brief, but we appreciate you being here.
6 Thank you very much.

7 THE WITNESS: Thank you.

8 THE COURT: And let's see. Do we have anything from
9 the bench for Mr. Hill?

10 COMMISSIONER GOLTZ: Is he here?

11 THE COURT: Yes, he is here.

12 COMMISSIONER GOLTZ: I have a couple questions.

13 THE COURT: You have a couple questions?

14 COMMISSIONER GOLTZ: Yes, sir.

15 THE COURT: All right. Mr. Hill, please. Do you
16 solemnly swear or affirm under penalty of perjury that the
17 testimony you give in this proceeding will be the truth, the
18 whole truth, and nothing but the truth?

19 THE WITNESS: Yes, I do.

20 THE COURT: Thank you. Please. Welcome.

21 THE WITNESS: Thank you.

22

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

24 MR. FFITCH:

25 Q. Good morning, Mr. -- or good afternoon, Mr. Hill.

0293

1 Could you please state your full name for the record.

2 A. Steven G. Hill.

3 Q. And, Mr. Hill, were you retained by Public Counsel to
4 present testimony regarding cost capital issues in this matter?

5 A. Yes, I was.

6 Q. And do you have in front of you what's been marked
7 Exhibit SJ1-T and -- Exhibit SJ-1-T as your direct testimony?

8 A. Yes, it is.

9 MR. FFITCH: And, your Honor, I believe that's already
10 been admitted into the record by stipulation.

11 THE COURT: That's correct.

12 BY MR. FFITCH:

13 Q. Do you have any corrections or changes to your
14 testimony, Mr. Hill?

15 A. Not that I'm aware of.

16 MR. FFITCH: Your Honor, Mr. Hill's available for
17 questions.

18 THE COURT: Mr. Goltz has questions.

19

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

21 BY COMMISSIONER GOLTZ:

22 Q. The first one just came to me, because you were in the
23 hearing room, I gather, when Mr. Doyle testified?

24 A. Yes.

25 Q. And you heard him discuss the recent information from

0294

1 the last couple days that lead to a lowering of interest rates?

2 A. Yes.

3 Q. And that was offered up, I think, properly with -- as
4 new information, because it's a known measurable change to the
5 cost of debt that is sort of mid-proceeding and that should be
6 passed on. At least I gather that's the theory.

7 And you also advocated for a change because -- in the
8 cost of money, because of a reduction in the cost of debt?

9 A. In my testimony I discuss the fact that interest rates
10 are declining. And specifically I looked at Puget Sound
11 Energy's current yields on their outstanding debt, and at that
12 time I wrote my testimony, there were around a little over
13 four, a little bit lower now.

14 But I made the point that it's likely, as the company
15 refinances, it will be doing so at a lower interest rate. And
16 its embedded costs of debt, which is in the six percent range
17 now, I think will probably come down. And I think these recent
18 issues confirm that.

19 Q. So the theory, I believe, why that particular
20 information is relevant is that's a known and measurable
21 amount.

22 But you're talking about is not quote, "known and
23 measurable," is it? It's more anticipated?

24 A. That's correct. It's not -- and I didn't -- in my
25 calculation of overall return, I didn't alter the embedded debt

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1 costs that was awarded in the last rate case. I merely point
2 that out as another indication that the commission might
3 consider lowering the return, which I believe is appropriate in
4 this case because of decoupling.

5 Because the company, I think, is going to have an
6 advantage going forward by when it refinances, I think it will
7 do so at a lower rate. I do admit, as Mr. Doyle points out,
8 that there is a possibility that, if the economy catches fire,
9 that interest rates could go back up.

10 But that -- that's been a promise that we've been
11 living with for about four or five years now. It hasn't
12 happened, and I'm not sure of where that fire's coming from in
13 this economy. So I think we're in for a long slog with low
14 interest rates.

15 Q. And then also, you know, we -- you talked about
16 adjustments to the -- another option is reducing the equity
17 ratio, CAP structure.

18 A. Changing the capital structure, yes, sir.

19 Q. So what's the merits of that versus an ROE reduction
20 or the theoretical basis for doing that instead of ROE
21 reduction, if there is one?

22 A. I think that they worked to produce the same thing.
23 You're, looking to how can you come to the same overall return.
24 And there's more than one way to do it. You can change the
25 capital structure, essentially assign a hypothetical capital

1 structure to set rates on, which has been done before.

2 The purpose of it is to recognize the lower risk of
3 decoupling, and you can do that through lowering the common
4 equity ratio, effectively raising the debt ratio and setting
5 rates on that basis using the same capital costs or I think --
6 I don't think that's a preferable methodology.

7 I mention it because the Regulatory Assistance Project
8 had -- had made that position before this body before, and so I
9 would recognize that. And give you an example of, if you
10 follow that lead and want to get to the same overall rate of
11 return, this is how low you'd have to go with the common equity
12 ratio.

13 Q. Right. And I -- I read that as being for the purposes
14 you're undertaking there is somewhat result-oriented. To get
15 to that -- you're basically saying, "To get to that same ROE
16 reduction, here's what you would do." I was looking more on
17 the theoretical --

18 A. Merits.

19 Q. -- justification for one versus the other. And I hear
20 you saying it's six of one, half a dozen of the other. But I
21 wonder if -- I mean, that justification for redoing -- reducing
22 the equity ratio is that revenues are more stable so you're
23 able to sustain more debt; is that it?

24 A. Well, theoretically, that's true. I mean, if you go
25 back to basic finance 101, a firm that has no business risk can

0297

1 be financed easily with a hundred percent debt, because if you
2 know your revenues with certainty, it's quite easy to finance
3 with all debt.

4 But the more volatile your income stream becomes, the
5 less you're able to do that, because there may be a point that
6 you're not able to meet your debt costs. And so the average
7 industrial company is capitalized with about a 60 percent
8 common equity, 62 percent common equity, and 38 to 40 percent
9 debt.

10 Utilities are less equity rich, because they're more
11 stable companies. Even though they are very capital intensive,
12 their revenue streams are more stable. So yes, theoretically,
13 it -- altering the capital structure is based on that
14 fundamental idea that if you make a company -- if you make a
15 revenue stream less volatile, then the company's better able to
16 support a higher debt load.

17 But in this exercise, my preference is to lower the
18 common equity ratio. I think that's the causation focus here
19 with decoupling. But another way to achieve the same result,
20 and it is -- it is a 50/50 proposition, as I presented in my
21 testimony, theoretically, I personally prefer acting on the
22 cost of equity. I think the RAP prefers the other.

23 Q. So putting aside the K-factors, ignoring that --

24 A. Okay.

25 Q. -- for the time being. We're just talking about

0298

1 decoupling, and on the electric side. In the past Puget has
2 been resistant to that, because without a K-factor -- because,
3 as I understand it -- and the record would speak for itself
4 here if I misstate it -- that there is some upside benefit to
5 increasing loads on the electric side, whether it be from
6 electric vehicles, whether it be because people are buying more
7 stuff and plugging it in.

8 So the result of decoupling, then, without a K-factor,
9 is a reduction in revenues. Even though there's some
10 stabilizing influence, you know, result from decoupling,
11 there's still overall in general an anticipated lower revenues.

12 So with just those factors, ignoring the K-factor,
13 that scenario that I just described would not suggest a
14 reduction in the ROE, would it?

15 A. Your question assumes that decoupling causes a
16 reduction in revenues.

17 Q. I'm saying that -- yes, I'm suggesting that there --
18 because they lose the throughput, that there's some revenues
19 they would not otherwise get because of increased load.

20 A. Well, decoupling is designed to make up for that loss
21 of throughput. I mean --

22 Q. They gained -- well, the throughput would not -- the
23 throughput loss would not come from conservation, because there
24 would be per customer load growth. I'm positing per customer
25 increased load.

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1 A. So per customer load growth is declining for some
2 other reason than conservation, you're saying that's a given.

3 Q. Per customer load growth is increasing because of some
4 other reason, whether it be increased use of electricity --

5 A. And I guess I don't -- I'm having difficulty
6 understanding how decoupling would short-circuit that.

7 Q. Chairman Danner's going to rescue me on this.

8 CHAIRMAN DANNER: No, I think -- all right. So you
9 have the utility and it's got decoupling, doesn't have a
10 K-factor and they engage in conservation. Conservation is
11 effective, but at the same time let's say electric cars take
12 off in a big way, everybody's got one. Load goes up despite
13 the conservation.

14 In that scenario what is the effect of decoupling on
15 revenues? Revenues go down; right?

16 THE WITNESS: Frankly, I haven't -- I haven't studied
17 that rate. Rate design is not my particular cup of tea. But
18 it seems to me that in that situation, as long as the per
19 customer use is adjusted, if -- if customers are using more
20 electricity, the kilowatt-hour-per-customer figure is going to
21 climb with the usage.

22 So that -- that's the metric that you will use to
23 reset every year. So if everybody's got electric cars all of a
24 sudden, then the per customer use jumps up and that metric
25 jumps up with it. So I don't think that you lose revenue.

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1 There may be -- there may be a lag of a year where the
2 per customer revenue thing -- let's assume that everybody
3 tomorrow goes out and gets an electric car, and we're setting
4 the per customer usage on what it was yesterday. Well, there's
5 going to be a year lag before per customer usage jumps up to
6 recognize the use of an electric car.

7 But in that situation, if usage goes up, then that per
8 customer usage figure, which is the key metric, goes up with
9 it. So I don't -- you know, that's why I'm having difficulty
10 saying that if there's load, additional load, you're losing
11 money through -- through decoupling.

12 Decoupling primarily is designed to reduce the
13 volatility of situations where the company is not earning the
14 revenues that it was promised in the rate case. And couple
15 witnesses today have talked about the Morgan study that says
16 that there's over and under earnings.

17 Well, there's a lot more over earnings -- I mean a lot
18 more under earnings than there are over earnings. Adjustments
19 are about 65/35 up versus down. So, you know, decoupling
20 primarily is -- makes whole the company for losses that might
21 otherwise occur.

22 BY COMMISSIONER GOLTZ:

23 Q. You -- that's an example. You say 65 up or meaning 70
24 percent adjustments are increasing?

25 A. Right.

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1 Q. But some are decreasing.

2 A. Right. There are --

3 Q. And that's -- that's the situation I'm positing here
4 is that -- is that in a situation where there's -- that
5 happens, and if that happens with some regularity with this
6 given utility, then the reduction of an ROE is still justified
7 or not?

8 A. Yes, it is justified. And here's --

9 Q. Earnings volatility.

10 A. That's a very good -- that's a very good question,
11 because I think Ms. Morgan misunderstands that question in
12 her -- in her paper. The fact that there are lost
13 opportunities on the high side is true, but there are lost
14 negatives on the low side.

15 The overall effect of that is that the risk is
16 lowered. Yes, you -- you -- let's look at it this way. Let's
17 say we have two opportunities to invest, one of which is --
18 they both promise a ten percent return.

19 One of -- one of the opportunities is a certainty.
20 You're going to get a ten percent return without question. The
21 other opportunity is a very variable one. You might get 20
22 percent, but you might also get zero percent.

23 They have the same -- they had the same projected ten
24 percent return. They cost the same. Which one are you going
25 to buy? You're going to buy the safe one, not the risky one.

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1 And, yes, you're giving up the possibility of making 20
2 percent, but you're also giving up the possibility of having
3 squat.

4 So what that goes to is the risk of the investment.
5 And so when you -- when you -- when the decoupling is able to
6 reduce that volatility of revenues, then -- and you'll lose
7 some ones that you might win, but you also get pushed up on
8 ones that you're going to lose. So the overall effect is a
9 risk reduction.

10 Someone asked also earlier, if you'd allow me to go to
11 this, about what investors think about decoupling. And the
12 National Society of Utility Financial Analysts had a conference
13 recently. We had investor -- equity investors talk about that
14 very thing.

15 And they're quite aware of decoupling. And they're
16 quite aware that it makes their revenues less risky. They wish
17 it would work only on the low side and not on the high side.

18 Q. Others have said that, too, actually.

19 A. But it does work on both sides, and I think for that
20 reason it lowers risk. I think if you look at only the --
21 they're foregoing the upside benefits. You have to look at
22 both sides of the picture. It all ultimately lowers risk.

23 Q. Thank you.

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E X A M I N A T I O N

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BY COMMISSIONER JONES:

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Q. Mr. Hill, your recommendation of 9.0 percent -- so just to finish up Commissioner Goltz's point. You're aware of the merger commitment that was stipulated in the merger that the equity layer for that company cannot go below 44 percent; right?

A. Yes.

Q. So you performed that calculation on the equity layer just as a way of kind of illustrating how an ROE adjustment would work and how an equity CAP structure adjustment would work; right?

A. That's correct.

Q. Okay. Just to clarify, your 9.0 percent ROE recommendation, that includes all impacts of decoupling, K-factor, the ERF, it's -- it's all in, that's an all-in adjustment?

A. Yes, sir.

Q. Okay. That's all I have. Thanks.

THE COURT: Okay. That appears to complete the questions from the bench. Mr. ffitch, anything? All right. Very well. Mr. Hill, thank you very much for traveling up from West Virginia. It's good to see you again.

THE WITNESS: You, too.

THE COURT: All right. Step down. And next on our

0304

1 list is Mr. Deen. Does the bench have questions for Mr. Deen?

2 COMMISSIONER GOLTZ: No.

3 CHAIRMAN DANNER: No.

4 THE COURT: All right. Apparently Mr. Deen will --
5 all dressed up, no place to go.

6 MS. DAVISON: Excuse me, Judge Moss. Mr. Deen does
7 have a correction to his testimony.

8 THE COURT: All right. Well, let's have Mr. Deen up
9 to make his correction. Do you solemnly swear or affirm under
10 penalty of perjury that the testimony you give in this
11 proceeding will be the truth, the whole truth, and nothing but
12 the truth?

13 THE WITNESS: I do.

14 THE COURT: Please be seated. Go ahead, Ms. Davison.

15 MS. DAVISON: Thank you, your Honor.

16

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

18 BY MS. DAVISON:

19 Q. Mr. Deen, do you have any corrections to your
20 testimony and exhibits that have already been admitted to the
21 record?

22 A. Yes. I have one correction. I'd like to strike the
23 sentence on page 4 of my testimony, which is NCD-1-T.

24 Q. All right.

25 COMMISSIONER GOLTZ: Which testimony?

0305

1 BY MS. DAVISON:

2 Q. So page 4 and lines --

3 A. It's the sentence that begins on line 19 and runs
4 through halfway of line 21.

5 Q. That starts with?

6 A. Starts, "It also appears that if PSE considered," and
7 continues.

8 Q. Thank you. Do you have any other corrections to your
9 testimony?

10 A. I do not.

11 MS. DAVISON: That's all we have, your Honor.

12 THE COURT: All right. Thank you for that. And still
13 appears there are no questions for Mr. Deen from the bench. So
14 thank you very much for being here. And last we have
15 Mr. Higgins is on the list. He's on there twice. He testified
16 for both Kroger and Nucor Steel. And I understand he's
17 available by telephone.

18 MR. BOEHM: That's correct, your Honor.

19 THE COURT: So are there questions for Mr. Higgins
20 from the bench?

21 COMMISSIONER JONES: Yes, Judge Moss.

22 THE COURT: All right. Mr. Higgins, I need to swear
23 you in. I'll -- I'll just take your word for it that you are
24 standing and your right hand is raised and ask you, do you
25 solemnly swear or affirm under penalty of perjury that the

0306

1 testimony you give in this proceeding is the truth, the whole
2 truth, and nothing but the truth?

3 THE WITNESS: Yes, I do. I'm further away, because I
4 am standing with my hand up.

5 THE COURT: Me, too. Thank you, Mr. Higgins. We
6 appreciate that formality. And I believe Commissioner Jones
7 has a question or two for you.

8

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

10 BY COMMISSIONER JONES:

11 Q. Good afternoon, Mr. Higgins. This is Commissioner
12 Jones.

13 A. Good afternoon, Commissioner Jones.

14 Q. Your testimony is labeled KCH-1-T. I'd like you to
15 turn to page 25, 26 of that where you talk about the Detroit
16 Edison case.

17 A. Yes.

18 THE COURT: Can you speak a little louder,
19 Mr. Higgins.

20 THE WITNESS: Yes, I am there.

21 THE COURT: Okay. That's a little better. The court
22 reporter can hear better now.

23 BY COMMISSIONER JONES:

24 Q. So the reason you're bringing this to our attention
25 is, as you say, it's a cautionary tale about full revenue

0307

1 decoupling both on the electric and gas side.

2 And some -- and at least in this case, it did not work
3 to the advantage of the company; correct?

4 A. Well, in this case the company identified that there
5 was some anomalies occurring.

6 THE COURT: We're losing you, Mr. Higgins.

7 THE WITNESS: I'm sorry. I'll pick up the phone. Is
8 that better?

9 THE COURT: That's a little better.

10 THE WITNESS: Okay. Yes, the company recognized that
11 there were anomalies occurring with its full revenue decoupling
12 mechanism.

13 COMMISSIONER JONES: Lost him. Okay.

14 THE WITNESS: I'm still here.

15 CHAIRMAN DANNER: He's on the line.

16 THE WITNESS: I'm still here.

17 THE COURT: Well, we don't know what sort of
18 interference we just experienced, Mr. Higgins, but please go
19 ahead.

20 THE WITNESS: Certainly. The -- the company, Detroit
21 Edison, realized that there were anomalies that were occurring
22 with the implementation of full revenue decoupling,
23 particularly for its nonresidential customers, and were seeking
24 to have that remedied by withdrawing that particular mechanism
25 in favor of a lost -- a fixed-cost-recovery-type of mechanism,

0308

1 in essence because they felt there were unanticipated
2 consequences from the commission's adoption of the full revenue
3 decoupling.

4 BY COMMISSIONER JONES:

5 Q. And in your view, what were the major -- I'm looking
6 at the testimony of the company witness. The major factor
7 in -- in the company's change of mind on this appears to be, as
8 you say, the nonresidential class.

9 Would it be the automotive -- after the recession in
10 2008, perhaps certain automobile industry or large industrial
11 customers, that load going away due to bankruptcy and plant
12 closings?

13 A. It was that sort of thing, Commissioner. There were,
14 in essence, recognizing when you're targeting fixed revenue per
15 customer for a large heterogeneous class like nonresidential
16 customers, then you can get changes in revenue per customer
17 simply by changes in the composition of the class.

18 If large customers exit, you have impact solely
19 because they've exited due to no other consequence. Similarly,
20 if you have smaller than average customers enter the group,
21 that's going to also impact revenues per customer, solely
22 because the composition changes.

23 And Detroit Edison realized that it was facing revenue
24 decoupling adjustments that were artifacts of creating this
25 target of average revenue per customer for a large

0309

1 heterogeneous class of customers.

2 Q. Okay. But I also see in that testimony that there was
3 some talk about migration to electric choice. And, of course,
4 you're aware in this state, we do not have retail electric
5 choice among our residential class; correct?

6 A. Certainly among the residential class. I know you do
7 have Rate Schedule 449 for a group of industrial customers.

8 Q. Right. So did you do any analysis or any conjecture
9 on Puget Sound Energy's territory here in the commercial and
10 industrial class in any -- any thoughts about how this might
11 be -- this might happen in Puget's territory or are you just
12 bringing this to our attention, as you say, a cautionary tale?

13 A. I'm bringing it I would say primarily as a cautionary
14 tale. However, you know, I did examine in my testimony the
15 volatility associated with changes in average uses per customer
16 as part of my return on equity recommendation.

17 Q. Okay.

18 A. And indeed, there are swings solely due to changes in
19 usage per customer. And that's going to be a function of, you
20 know, the economy, weather, but also composition of the class.

21 Q. And on page 27 of your testimony, you talk about a
22 utility close to Puget's Portland General Electric, and about
23 when the commission approved a decoupling recommendation there,
24 they excluded totally any customers with 1,000 kilowatts and
25 above, and there was kind of a sliding mechanism between 30 and

0310

1 1,000; correct?

2 A. That is correct.

3 Q. Were you involved in that case?

4 A. I was involved in that case, yes.

5 Q. Okay. So this is a -- if we were to approve full
6 revenue decoupling, it's this sort of flexibility for the large
7 commercial and industrial clients that you would recommend that
8 we consider?

9 A. Yes, sir. And I would also recommend the result that
10 was negotiated in the Arizona Public Service Company case which
11 addressed the very same question and came up with a more
12 flexible result.

13 Q. Okay. My last question, and I'll be brief on this, is
14 you're -- you're recommending on the ROE -- did you hear the
15 exchanges this morning when I was questioning Mr. Gorman?

16 A. I apologize. I did not hear those exchanges.

17 Q. Okay. Well, I'm not going to repeat that, obviously,
18 but you're arguing for a 33 basis point reduction in the ROE
19 due -- or a 25 basis point -- your analysis I think says 33,
20 but you recommend at least at a minimum 25 basis point ROE
21 adjustment?

22 A. Yes, I'm recommending a 25 basis point ROE adjustment.
23 My analysis shows that the average volatility for -- on the
24 electric side for changes in usage per customer is about a 33
25 basis point delta in return on equity.

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1 That is if you look back to 2002 through 2011, on
2 average the change in usage per electric customer produces
3 about a 33 point ROE swing from year to year. And, you know,
4 it's high as 75 basis points, which was -- in fact would have
5 occurred in 2011. So I concluded that the 25 basis point
6 adjustment fell comfortable basically within that range of
7 volatility.

8 Q. And that's outlined in your Exhibit KCH-3; correct?

9 A. Yes, sir.

10 Q. I've had a chance to look at that. Have you had a
11 chance to review Mr. Doyle's rebuttal testimony on some of your
12 points, and has any of that been persuasive to you or anything
13 you want to bring to our attention?

14 A. I have reviewed Mr. Doyle's testimony, and it was not
15 persuasive to me. And in fact -- in fact, he indicated that no
16 party took a look at the -- the impact of the business risk
17 changes on return on equity.

18 And I guess I beg to differ because, in fact, I did
19 look back at the changes in the company's earnings attributable
20 to changes in usage per customer as part of formulating my
21 recommendation. So my basic conclusion was he dismissed in one
22 sentence that no one took a look at it. I felt that, in fact,
23 I had.

24 Q. Thank you. That's all I have, Judge Moss.

25 THE COURT: All right, Mr. Higgins. It appears that

0312

1 there are no other questions for you from the bench.

2 Mr. Boehm, anything?

3 MR. BOEHM: No. I'd just like to thank you for
4 accommodating us by phone.

5 THE COURT: Mr. Higgins, we thank you for appearing by
6 phone today. Mr. ffitch, did you have something?

7 MR. FFITCH: Not for Mr. Higgins.

8 THE COURT: Thank you. And you're excused,
9 Mr. Higgins. That brings us to the end of our witness list, so
10 this part of the hearing at least is complete, but we have some
11 other business to take care of, I suppose.

12 MR. FFITCH: This is witness business. I'm sorry. I
13 was trying to slip in there at the end.

14 THE COURT: Go ahead.

15 MR. FFITCH: We would like to request to have Mr. Hill
16 come back to the stand. After he got off the stand,
17 immediately realized the answer he gave to Commissioner Jones'
18 question was -- didn't match up with his testimony on -- on the
19 ROE question, the application of the ROE question. So with
20 permission, we could bring him back up and just correct the
21 answer that he gave to Commissioner Jones.

22 THE COURT: Yeah, I think our interest in having
23 that -- a clear record makes that a good suggestion. So why
24 don't we do that. Mr. Hill, if you could rejoin us. You're
25 under oath.

0313

1 MR. FFITCH: May I proceed, your Honor?

2 THE COURT: Yes, go ahead.

3

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

5 BY MR. FFITCH:

6 Q. And this is trying to clarify an answer to
7 Commissioner Jones' question, so of course, Commissioner Jones
8 may want to clarify my clarification.

9 Mr. Hill, you were being asked about the nine percent
10 ROE recommendation in your testimony, and I believe
11 Commissioner Jones asked you if that was all inclusive with the
12 ERF, decoupling and the K-factor.

13 Do you recall that question?

14 A. I do recall it, yes.

15 Q. And can you again think about that question and
16 clarify whether your nine percent ROE applies to all of those
17 three components or just to which ones it applies?

18 A. I answered too quickly. Does not apply, does not
19 apply to the K-factor. That was not part of our case. We
20 didn't recommend that. In fact, recommended the commission not
21 approve that.

22 My recommendation was based primarily on the decline
23 in capital costs overall, and also a decrement for lower risk
24 due to decoupling. So the K-factor was not part of that, and I
25 apologize. I was too quick to agree with what you asked me.

0314

1 THE COURT: Okay. All right. I don't think we need
2 any follow-up on that Mr. Hill. We appreciate you coming
3 back --

4 THE WITNESS: Thank you, Judge.

5 THE COURT: -- and clarifying that point. Thank you,
6 Mr. ffitch. All right. Now I believe we have completed our
7 witness -- and I see no other movement toward any of the
8 microphones.

9 So all right. I think with that, then, is there any
10 other substantive business that we need to take up? I'll have
11 a few housekeeping matters with you. Then I think we can let
12 the commissioners safely leave the room, if they wish to do so.
13 Or they are, of course, welcome to stay for a few more minutes
14 while we finish this up.

15 And if you have any parting words, we can interject
16 them here, if you wish. All right. Very well. All right.
17 Well, the remaining items are that we have -- I had some
18 discussion with the court reporter, Ms. Hamilton, and with
19 Ms. Carson, and I believe we determined that we would have our
20 transcript on Tuesday. So that's what we're looking forward
21 to.

22 And we have briefs due in this proceeding on the 30th,
23 so we'll be looking forward to those as well. And that should
24 be all of the post-hearing process that we need. But I'm sure
25 you'll let me know if there's anything that comes up that you

0315

1 want us to consider. Yes, Ms. Davison.

2 MS. DAVISON: Thank you, your Honor. I just wanted to
3 ask a clarifying question about the briefs in these two
4 dockets, whether we should be -- whether we can file one brief,
5 and if so, what the length of that brief would be permitted to
6 be.

7 THE COURT: Well, I think these issues are
8 sufficiently related, because of the way the ERF has now been
9 presented as basically a starting point for decoupling and
10 application of the K-factor, that a single brief is
11 appropriate. And what's the normal page limit, 60?

12 MS. DAVISON: Yes, sir.

13 THE COURT: Pardon? 65? Well, whatever the normal
14 length is. If it's more than 30, it seems sufficient to me.
15 So I think that's probably enough space to cover these topics.
16 These are limited in scope. It's not like we're doing a GRC
17 here. And we have 60-page briefs and GRC's that are more than
18 adequate to my needs. So I think that will work. Is that --
19 anybody have a strong disagreement with that?

20 MS. BROWN: Won't be 60.

21 THE COURT: Pardon me?

22 MS. BROWN: It won't be 60.

23 THE COURT: Well, others -- others --

24 MS. BROWN: No other suggestions.

25 THE COURT: Others may have more to say than you. I

0316

1 think that's fair enough, though. I think that will be enough.

2 MS. DAVISON: Thank you.

3 MR. FFITCH: I guess just to clarify. That doesn't
4 apply to the reconsideration issues in Centralia. I believe
5 your Honor, in the prehearing conference, indicated that's a
6 separate filing also due on May 30th.

7 THE COURT: That's a separate matter, it's a separate
8 docket, and the responses are due by coincidence that same day.
9 Actually, they're by plan, of course, as you know. But yes,
10 the same day the responses will be due. Since those have no
11 doubt been prepared for months, that shouldn't be too
12 burdensome for you. Okay? Anything else?

13 MR. FFITCH: Your Honor, there's the matter of the
14 public comment exhibit. The public comment hearing is this
15 evening.

16 THE COURT: At 6:00.

17 MR. FFITCH: So we -- once the record is closed, and
18 I'm -- whenever the bench declares the record closed, then we
19 would submit the public comment exhibit. I've talked with
20 commission staff, public affairs staff about gathering those
21 documents. I think we could file this easily by next
22 Wednesday. We could file it sooner than that, earlier in the
23 week, if the bench requests.

24 THE COURT: Are we -- has the practice been to mark
25 that as a bench exhibit in recent periods or --

0317

1 MR. FFITCH: I believe so, yes, your Honor.

2 THE COURT: I think that's right. I haven't
3 identified any bench exhibits yet. We have a couple of bench
4 requests outstanding, but I'll -- I'll make that Bench 1, B-1.
5 And that will be the public comment exhibit. I understand
6 there are 80 or so comments, at least as of yesterday.

7 MR. FFITCH: That's my understanding.

8 THE COURT: So okay. We'll have that. And then we'll
9 use the other B-2, B-3 and so forth, I'll mark them when they
10 come in, when the responses come in. Excuse me. Okay. And
11 the public comment hearing is at 6 o'clock this evening in this
12 room, for those of you who wish to attend and hear from, as we
13 wish to hear from, the members of the public who come to
14 testify.

15 MR. FFITCH: And, your Honor, I do have one other
16 matter with respect to the first bench request. We were
17 interested in clarifying what might be provided in response to
18 the bench request discussed with Mr. Piliaris, which I think is
19 Bench Request Number 1.

20 THE COURT: All right.

21 MR. FFITCH: And as we understood the request, it --
22 it appears the bench is essentially requesting an update of
23 Mr. Piliaris's Exhibits 22 and 23 which depict the revenue
24 impacts of the proposal with no K-factor, and the -- or a
25 K-factor of 1.0, which would sort of be the same thing. That

0318

1 was our understanding.

2 And I guess that was the first question is if
3 that's -- if we're understanding the bench request correctly.
4 Probably looking at the company, too, to see.

5 THE COURT: Well, probably looking back to
6 Mr. Piliaris to see if he agrees with that. And he's shaking
7 his head in the affirmative. So I think we can count on that
8 being the mutual understanding.

9 MR. FFITCH: Well, our request for clarification was
10 that Mr. Piliaris's Exhibits 22 and 23 only go through 2015.
11 But there is a potential -- and those are -- actually, the
12 projections were extended out through 2016, which is a
13 potential time period for the full run of the rate plan.

14 And so we were going to ask if the bench request could
15 be expanded to include the full potential run of the rate plan
16 out through 2016, and then Mr. Piliaris has done that in
17 response to discovery. In fact, that's a cross exhibit in the
18 case.

19 THE COURT: Well, then we already have it, don't we?

20 MR. FFITCH: You have -- you have it with the existing
21 K-factor, but the bench requests would not include the full
22 potential term of the rate plan, I think as originally stated.
23 So we're essentially suggesting that it be modified with the
24 permission, indulgence of the bench, it be modified to go all
25 the way through the full potential run of the rate plan.

0319

1 THE COURT: How about that, Ms. Carson?

2 MS. CARSON: That's fine.

3 THE COURT: Okay. That's fine.

4 MR. FFITCH: Thank you, your Honor.

5 THE COURT: Thank you, Ms. Carson. Anything else?

6 Apparently not. Thank you all very much for being here. I
7 think we've had -- we've built a good record, and it's been a
8 pleasure working with you, as always. So we'll look forward to
9 receiving the briefs. And with that, we'll be adjourned.

10 (Hearing concluded at 4:27 p.m.)

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C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Kathleen Hamilton, a Certified Shorthand Reporter and
7 Notary Public in and for the State of Washington, do hereby
8 certify that the foregoing transcript of the proceedings on
9 MAY 16, 2013, is true and accurate to the best of my knowledge,
10 skill and ability.

11

IN WITNESS WHEREOF, I have hereunto set my hand and seal
12 this 21st day of MAY, 2013.

13

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16

KATHLEEN HAMILTON, RPR, CRR, CCR

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18 My commission expires:

19 APRIL 2014

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