

1 BEFORE THE WASHINGTON STATE
 UTILITIES AND TRANSPORTATION COMMISSION
 2 WASHINGTON UTILITIES AND) DOCKETS UE-080416
 TRANSPORTATION COMMISSION,) and UG-080417
 3) (consolidated)
 Complainant,)
 4))
 vs.) Volume V
 5) Pages 125 to 357
 AVISTA CORPORATION d/b/a)
 6 AVISTA UTILITIES,)
))
 7 Respondent.)
 _____)

8

 9 PORTIONS DESIGNATED CONFIDENTIAL

10 A hearing in the above matter was held on
 11 November 6, 2008, from 9:30 a.m to 4:15 p.m., at 1300
 12 South Evergreen Park Drive Southwest, Room 206, Olympia,
 13 Washington, before Administrative Law Judge PATRICIA
 14 CLARK and CHAIRMAN MARK H. SIDRAN and Commissioner
 15 PATRICK J. OSHIE and Commissioner PHILIP B. JONES.

 The parties were present as follows:
 16 THE PUBLIC, by SIMON J. FFITCH, Senior
 Assistant Attorney General, 800 Fifth Avenue, Suite
 17 2000, Seattle, Washington 98104-3188, Telephone (206)
 389-2055, Fax (206) 464-6451, E-Mail simonf@atg.wa.gov.

18

 THE COMMISSION, by GREGORY J. TRAUTMAN,
 19 Assistant Attorney General, 1400 South Evergreen Park
 Drive Southwest, Olympia, Washington 98504-0128,
 20 Telephone (360) 664-1187, Fax (360) 586-5522, E-Mail
 gtrautma@wutc.wa.gov.

21

22

23

24 Joan E. Kinn, CCR, RPR

25 Court Reporter

0126

1 AVISTA CORPORATION, by DAVID J. MEYER, Chief
2 Counsel, 1411 East Mission Avenue, Spokane, Washington
3 99220-3727, Telephone (509) 495-4316, Fax (509)
4 495-8851, E-Mail david.meyer@avistacorp.com.

5

6 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,
7 by IRION A. SANGER, Attorney at Law, Davison Van Cleve,
8 333 Southwest Taylor Street, Suite 400, Portland,
9 Oregon, 97204, Telephone (503) 241-7242, Fax (503)
10 241-8160, E-Mail ias@dvclaw.com

11

12 NORTHWEST INDUSTRIAL GAS USERS, by CHAD M.
13 STOKES, Attorney at Law, Cable Huston Benedict Haagensen
14 & Lloyd, 1001 Southwest Fifth Avenue, Suite 2000,
15 Portland, Oregon 97204, Telephone (503) 224-3092, Fax
16 (503) 224-3176, E-Mail cstokes@chbh.com.

17

18 THE ENERGY PROJECT, by RONALD L. ROSEMAN,
19 Attorney at Law, 2011 - 14th Avenue East, Seattle,
20 Washington 98112, Telephone (206) 324-8792, Fax (206)
21 568-0138, E-Mail ronaldroseman@comcast.net.

22

23

24

25

0127

1

2

INDEX OF EXAMINATION

3

4 WITNESS:

PAGE:

5

CHARLES M. EBERDT, DANNY P. KERMODE,

6

KELLY NORWOOD, PAULA E. PYRON

7

and CLINT G. KALICH

8

Examination by Commissioner Jones

180

9

Examination by Commissioner Oshie

184

10

Cross-Examination by Mr. ffitich

190

11

Redirect Examination by Mr. Meyer

192

12

KELLY NORWOOD

13

Direct Examination by Mr. Meyer

194

14

Cross-Examination by Mr. ffitich

195

15

Examination by Chairman Sidran

196

16

DON M. FALKNER

17

Direct Examination by Mr. Meyer

200

18

Cross-Examination by Mr. Sanger

200

19

Examination by Commissioner Jones

209

20

Examination by Commissioner Oshie

211

21

Redirect Examination by Mr. Meyer

212

22

Recross-Examination by Mr. Sanger

215

23

Redirect Examination by Mr. Meyer

217

24

ELIZABETH M. ANDREWS

25

Direct Examination by Mr. Meyer

218

0128

1	Cross-Examination by Mr. ffitch	218
2	Examination by Commissioner Jones	259
3	Redirect Examination by Mr. Meyer	263
4	JOHN J. SPANOS	
5	Direct Examination by Mr. Meyer	265
6	Cross-Examination by Mr. ffitch	266
7	ALAN D. FELSENTHAL	
8	Direct Examination by Mr. Meyer	282
9	Cross-Examination by Mr. ffitch	283
10	TONI E. PESSEMIER	
11	Direct Examination by Mr. Meyer	309
12	Cross-Examination by Mr. ffitch	310
13	CONFIDENTIAL SESSION	314
14	Cross-Examination by Mr. ffitch	314
15	CONFIDENTIAL SESSION CONCLUDED	318
16	MICHAEL P. PARVINEN	
17	Direct Examination by Mr. Trautman	320
18	Cross-Examination by Mr. ffitch	320
19	MICHAEL J. MAJOROS, JR.	
20	Direct Examination by Mr. Sanger	337
21	Direct Examination by Mr. Ffitch	342
22		
23		
24		
25		

0129

1

2

INDEX OF EXHIBITS

3

4

5

EXHIBIT:

MARKED:

ADMITTED:

6

BENCH EXHIBITS

7

1

138

172

8

2

138

172

9

3

138

172

10

CHARLES M. EBERDT, DANNY P. KERMODE,

11

KELLY NORWOOD, and PAULA E. PYRON

12

4T

138

172

13

5

138

172

14

PUBLIC COUNSEL

15

6

138

172

16

SCOTT L. MORRIS

17

SLM-1T

138

172

18

SLM-2

138

172

19

SLM-3

138

172

20

MALYN K. MALQUIST

21

MKM-1T

139

172

22

MKM-2

139

172

23

WILLIAM E. AVERA

24

WEA-1T

139

172

25

WEA-2

139

172

0130

1	WEA-3	139	172
2	WEA-4	139	172
3	WEA-5	139	172
4	WEA-6	139	172
5	WEA-7	139	172
6	WEA-8	139	172
7	WEA-9	139	172
8	WEA-10	139	172
9	WEA-11	139	172
10	WEA-12	140	172
11	WEA-13	140	172
12	DENNIS P. VERMILLION		
13	DPV-1T	140	172
14	DPV-2	140	172
15	DPV-3	140	172
16	DPV-4	140	172
17	DPV-5C	140	172
18	CLINT G. KALICH		
19	CGK-1T	140	172
20	CGK-2	140	172
21	CGK-3	140	172
22	CGK-4T	140	172
23	CGK-5	140	172
24	WILLIAM G. JOHNSON		
25	WGJ-1T	141	172

0131

1	WGJ-2	141	172
2	WGJ-3	141	172
3	WGJ-4	141	172
4	WGJ-5	141	172
5	WGJ-6T	141	172
6	WGJ-7	141	172
7	WGJ-8	141	172
8	WGJ-9	141	172
9	BRUCE F. HOWARD		
10	BFH-1T	141	172
11	BFH-2	141	172
12	BFH-3	142	172
13	TONI E. PESSEMIER		
14	TEP-1TC	142	172
15	TEP-2C	142	172
16	TEP-3C	142	172
17	TEP-4TC	142	172
18	TEP-5C	142	172
19	TEP-6C	142	171
20	TEP-7C	142	171
21	TEP-8C	142	171
22	TEP-9C	143	171
23	DON F. KOPCZYNSKI		
24	DFK-1T	143	172
25	DFK-2	143	172

0132

1 SCOTT J. KINNEY

2 SJK-1T 143 172

3 SJK-2 143 172

4 SJK-3 143 172

5 DAVE B. DEFELICE

6 DBD-1T 143 172

7 DBD-2 143 172

8 DBD-3 143 172

9 DBD-4 143 172

10 ELIZABETH M. ANDREWS

11 EMA-1TC 143 172

12 EMA-2C 143 172

13 EMA-3 144 172

14 EMA-4T 144 172

15 EMA-5C 144 172

16 EMA-6C 144 172

17 EMA-7T 144 172

18 EMA-8 144 171

19 EMA-9 144 171

20 EMA-10 144 171

21 EMA-11 144 171

22 EMA-12C 144 171

23 EMA-13 144 171

24 EMA-14 145 171

25 EMA-15 145 171

0133

1	EMA-16	145	171
2	EMA-17	145	171
3	EMA-18C	145	171
4	EMA-19	145	171
5	EMA-20	145	171
6	EMA-21	145	171
7	EMA-22	145	171
8	EMA-23	145	171
9	EMA-24	145	171
10	EMA-25	146	171
11	EMA-26	146	171
12	EMA-27	146	171
13	EMA-28	146	171
14	EMA-29C	146	171
15	TARA L. KNOX		
16	TLK-1T	146	172
17	TLK-2C	146	172
18	TLK-3	146	172
19	TLK-4	146	172
20	TLK-5	146	172
21	TLK-6	146	172
22	TLK-7T	146	172
23	TLK-8C	147	172
24	BRIAN J. HIRSCHKORN		
25	BJH-1T	147	172

0134

1	BJH-2	147	172
2	BJH-3	147	172
3	BJH-4	147	172
4	BJH-5	147	172
5	BJH-6	147	172
6	BJH-7	147	172
7	BRUCE W. FOLSOM		
8	BWF-1T	147	172
9	BWF-2	147	172
10	DON M. FALKNER		
11	DMF-1T	147	172
12	DMF-2	147	172
13	DMF-3	148	171
14	DMF-4	148	171
15	DMF-5	148	171
16	DMF-6	148	171
17	DMF-7	148	171
18	DMF-8	148	171
19	DMF-9	148	171
20	DMF-10	148	171
21	DMF-11	148	171
22	DMF-12	148	171
23	ALAN D. FELSENTHAL		
24	ADF-1T	149	172
25	ADF-2	149	172

0135

1	ADF-3	149	171
2	ADF-4	149	171
3	ADF-5	149	171
4	ADF-6	149	171
5	ADF-7	149	171
6	ADF-8	149	171
7	ADF-9	149	171
8	ADF-10	149	171
9	ADF-11	149	171
10	ADF-12	150	171
11	ADF-13	150	171
12	ADF-14	150	171
13	ADF-15	150	171
14	ADF-16	150	171
15	ADF-17	150	171
16	ADF-18	150	171
17	ADF-19	150	171
18	ADF-20	150	171
19	ADF-21	150	171
20	ADF-22	150	171
21	ADF-23	150	171
22	ADF-24	151	171
23	ADF-25	151	171
24	ADF-26	151	171
25	ADF-27	151	171

0136

1	ADF-28	151	171
2		KELLY O. NORWOOD	
3	KON-1T	151	172
4		JOHN J. SPANOS	
5	JJS-1T	151	172
6	JJS-2	151	171
7	JJS-3	151	171
8	JJS-4	151	171
9	JJS-5	152	171
10	JJS-6	152	171
11	JJS-7	152	171
12	JJS-8	152	171
13	JJS-9	152	171
14	JJS-10	152	171
15	JJS-11	152	171
16	JJS-12	152	171
17	JJS-13	152	171
18	JJS-14	152	171
19	JJS-15	152	171
20		MICHAEL P. PARVINEN	
21	MPP-1T	153	172
22	MPP-2	153	171
23	MPP-3	153	171
24	MPP-4	153	171
25	MPP-5	153	171

0137

1	MPP-6	153	171
2	MPP-7	153	171
3	MPP-8	153	171
4	MPP-9	153	171
5	MPP-10	154	171
6	MPP-11	154	171
7	MPP-12	154	171
8	CHARLES W. KING		
9	CWK-1T	154	172
10	CWK-2	154	172
11	CWK-3	154	172
12	CWK-4	154	172
13	CWK-5T	154	172
14	MICHAEL J. MAJOROS, JR.		
15	MJM-1TC	154	172
16	MJM-2	154	172
17	MJM-3	154	172
18	MJM-4C	154	172
19	MJM-5	154	172
20	MJM-6	154	172
21	MJM-7	155	172
22	MJM-8T	155	172
23	MJM-9C	155	341
24	MJM-10	155	NA
25			

0138

EXHIBIT LIST

1
2 BENCH EXHIBITS
3 1 Response to Bench Request # 1 (CD) Rcvd.
4 4/15/08
5 2 Response to Bench Request # 2 (CD) Rcvd.
6 4/15/08
7 3 Response to Bench Request # 3 Rcvd. 10/21/08
8 PARTIES: Avista, Commission Staff, NWIGU, The Energy
9 Project
10 WITNESSES: Kelly O Norwood, Danny P. Kermode, Paula E.
11 Pyron, Charles M. Eberdt
12 4T Joint Testimony in Support of Multi-Party
13 Settlement Stipulation (32 pp.)
14 5 Multi-Party Settlement Stipulation (29 pp.)
15 PARTY: Public Counsel
16 6 Compilation of Written Public Comments
17 PARTY: AVISTA
18 WITNESS: Scott L. Morris
19 SLM-1T Prefiled Direct Testimony of Scott L. Morris
20 (30 pp.)
21 SLM-2 Avista Corporation Overview (4 pp.)
22 SLM-3 Lewiston Tribune Article dated 1/13/08
23 (2 pp.)
24
25

0139

1 WITNESS: Malyn K. Malquist
2 MKM-1T Prefiled Direct Testimony of Malyn K. Malquist
3 (22 pp.)
4 MKM-2 Cost of Capital/Capital Structure Exhibits
5 (5 pp.)
6 WITNESS: William E. Avera
7 WEA-1T Prefiled Direct Testimony of William E. Avera
8 (43 pp. including table of contents)
9 WEA-2 Qualifications of William E. Avera (8 pp.)
10 WEA-3 Quantitative Analyses (21 pp.)
11 WEA-4 Capital Structure (1 p.)
12 WEA-5 Constant Growth DCF Model - Utility Proxy
13 Group (1 p.)
14 WEA-6 Sustainable Growth Rate - Utility Proxy Group
15 (1 p.)
16 WEA-7 Constant Growth DCF Model - Non-Utility Proxy
17 Group (2 pp.)
18 WEA-8 Sustainable Growth Rate - Non-Utility Proxy
19 Group (2 pp.)
20 WEA-9 Forward-looking CAPM - Electric Utility Proxy
21 Group (1 p.)
22 WEA-10 Forward-looking CAPM - Non-Utility Proxy Group
23 (1 p.)
24 WEA-11 Historical CAPM - Electric Utility Proxy Group
25 (1 p.)

0140

1 WEA-12 Historical CAPM - Non-Utility Proxy Group
2 (1 p.)
3 WEA-13 Expected Earnings Approach (1 p.)
4 WITNESS: Dennis P. Vermillion
5 DPV-1T Prefiled Direct Testimony of Dennis P.
6 Vermillion (23 pp.)
7 DPV-2 Integrated Resource Plan (CD)
8 DPV-3 Background of Settlement of Claims Between
9 Avista Corporation and State of Montana
10 (10 pp.)
11 DPV-4 Memorandum of Negotiated Settlement Terms -
12 October 19, 2007 (3 pp.)
13 DPV-5C **CONFIDENTIAL** Avista Utilities Energy
14 Resources Risk Policy (25 pp.)
15 WITNESS: Clint G. Kalich
16 CGK-1T Prefiled Direct Testimony of Clint G. Kalich
17 (14 pp.)
18 CGK-2 Avista Utilities Loads and Resources Position
19 - Energy Tabulation (1 p.)
20 CGK-3 Aurora Summary Output - Project Generation
21 (3 pp.)
22 CGK-4T Prefiled Supplemental Direct Testimony of
23 Clint G. Kalich (4 pp.)
24 CGK-5 Aurora Summary Output (3 pp.)
25

0141

1 WITNESS: William G. Johnson
2 WGJ-1T Prefiled Direct Testimony of William G.
3 Johnson (11 pp.)
4 WGJ-2 Power Supply Pro forma - Washington
5 Jurisdiction (2 pp.)
6 WGJ-3 Avista Corp. Brief Description of Power Supply
7 Adjustments (7 pp.)
8 WGJ-4 Avista Corp. Market Purchases and Sales, Plant
9 Generation and Fuel Cost Summary (1 p.)
10 WGJ-5 Avista Corp. Pro forma January 2008 - December
11 2009 ERM Authorized Power Supply Expense &
12 Retail Sales (1 p.)
13 WGJ-6T Prefiled Supplemental Direct Testimony of
14 William G. Johnson (4 pp.)
15 WGJ-7 Power Supply Pro forma - Washington
16 Jurisdiction (2 pp.)
17 WGJ-8 Avista Corp. Market Purchases and sales, Plant
18 Generation and Fuel Cost Summary 1 p.)
19 WGJ-9 Pro forma January 2009-December 2009 ERM
20 Authorized Power Supply Expenses and Retail
21 Sales (1 p.)
22 WITNESS: Bruce F. Howard
23 BFH-1T Prefiled Direct Testimony of Bruce F. Howard
24 (7 pp.)
25 BFH-2 Spokane River Hydroelectric Projects (1 p.)

0142

1 BFH-3 Spokane River Relicensing Timeline (2 pp.)
2 WITNESS: Toni E. Pessemier
3 TEP-1TC **CONFIDENTIAL** Prefiled Direct Testimony of
4 Toni E. Pessemier (7 pp.)
5 TEP-2C **CONFIDENTIAL** Spokane River Hydroelectric
6 Project (1 p.)
7 TEP-3C **CONFIDENTIAL** Background of Settlement of
8 Claims (12 pp)
9 TEP-4TC **CONFIDENTIAL** Prefiled Rebuttal Testimony
10 of Toni E. Pessemier (21 pp.)
11 TEP-5C **CONFIDENTIAL** Timeline (1 p.)
12 CROSS-EXAMINATION EXHIBITS
13 TEP-6C Public Counsel/ICNU **CONFIDENTIAL** Avista
14 Response to Public Counsel Data Request No.
15 346C (Attachment A included Confidential)
16 (41 pp.)
17 TEP-7C Public Counsel/ICNU **CONFIDENTIAL** Avista
18 Response to Public Counsel Data Request No.
19 348C (Attachments A through L included
20 Confidential) (120 pp.)
21 TEP-8C Public Counsel/ICNU **CONFIDENTIAL** Avista
22 Response to Public Counsel Data Request No.
23 346C9C (1 p.)

24

25

0143

1 TEP-9C Public Counsel/ICNU ****CONFIDENTIAL**** Avista
2 Response to Public Counsel Data Request No.
3 350C (1 p.)
4 WITNESS: Don F. Kopczynski
5 DFK-1T Prefiled Direct Testimony of Don F. Kopczynski
6 (8 pp.)
7 DFK-2 Systems Improvements & Efficiencies (10 pp.)
8 WITNESS: Scott J. Kinney
9 SJK-1T Prefiled Direct Testimony of Scott J. Kinney
10 (19 pp.)
11 SJK-2 Avista Corporation Energy Delivery (1 p.)
12 SJK-3 Asset Management Plan Model (1 p.)
13 WITNESS: Dave B. Defelice
14 DBD-1T Prefiled Direct Testimony of Dave B. Defelice
15 (24 pp.)
16 DBD-2 Rising Utility Construction Costs: Sources and
17 Impacts (September 2007) (33 pp.)
18 DBD-3 Capital Expenditures (1 p.)
19 DBD-4 Avista 2008 Capital Additions detail (System)
20 (1 p.)
21 WITNESS: Elizabeth M. Andrews
22 EMA-1TC ****CONFIDENTIAL**** Prefiled Direct Testimony of
23 Elizabeth M. Andrews (42 pp.)
24 EMA-2C ****CONFIDENTIAL**** Electric Revenue Requirement
25 and Results of Operations (9 pp)

0144

1 EMA-3 Gas Revenue Requirement and Results of
2 Operations (8 pp.)

3 EMA-4T Prefiled Supplemental Direct Testimony of
4 Elizabeth M. Andrews (13 pp.)

5 EMA-5C **CONFIDENTIAL** Updated Electric Revenue
6 Requirement (10 pp.)

7 EMA-6C **CONFIDENTIAL** Summary of Revised Electric
8 Revenue Requirement Adjustments (1 p.)

9 EMA-7T Prefiled Rebuttal Testimony of Elizabeth M.
10 Andrews (27 pp.)

11 CROSS-EXAMINATION EXHIBITS

12 EMA-8 Public Counsel/ICNU - Avista's response to
13 Public Counsel Data Request No. 119 (11 pp.)

14 EMA-9 Public Counsel/ICNU - Avista's response to
15 Public Counsel Data Request No. 120 (17 pp.)

16 EMA-10 Public Counsel/ICNU - Avista's response to
17 Public Counsel Data Request No. 232 (26 pp.)

18 EMA-11 Public Counsel/ICNU - Avista's response to
19 Public Counsel Data Request No. 260 (5 pp.)

20 EMA-12C Public Counsel/ICNU **CONFIDENTIAL** Avista's
21 response to Public Counsel Data Request No.
22 273, Attachment C- Confidential (31 pp.)

23 EMA-13 Public Counsel/ICNU - Avista's response to
24 Public Counsel Data Request No. 275 (1 p.)

25

0145

1 EMA-14 Public Counsel/ICNU - Avista's response to
2 Public Counsel Data Request No. 276 (1 p.)
3 EMA-15 Public Counsel/ICNU - Avista's response to
4 Public Counsel Data Request No. 278 (2 pp.)
5 EMA-16 Public Counsel/ICNU - Avista's response to
6 Public Counsel Data Request No. 280 (6 pp.)
7 EMA-17 Public Counsel/ICNU - Avista's response to
8 Public Counsel Data Request No. 290 (1 p.)
9 EMA-18C Public Counsel/ICNU ****CONFIDENTIAL**** Avista's
10 response to UTC Staff Data Request No. 14C
11 (11 pp.)
12 EMA-19 Public Counsel/ICNU - Avista's response to UTC
13 Staff Data Request No. 43 Supplemental (2 pp.)
14 EMA-20 Public Counsel/ICNU - Avista's response to UTC
15 Staff Data Request No. 45, Attachment A
16 (6 pp.)
17 EMA-21 Public Counsel/ICNU - Avista's response to UTC
18 Staff Data Request No. 69 (3 pp.)
19 EMA-22 Public Counsel/ICNU - Avista's response to UTC
20 Staff Data Request No. 80 (11 pp.)
21 EMA-23 Public Counsel/ICNU - Avista Response to
22 Public Counsel Data Request No. 135 (3 pp.)
23 EMA-24 Public Counsel/ICNU - Avista Response to
24 Public Counsel Data Request No. 114 (1 p.)
25

0146

1 EMA-25 Public Counsel/ICNU - Avista Response to Staff
2 Data Request No. 044 (Attachment A included)
3 (3 pp.)
4 EMA-26 Public Counsel/ICNU - Avista Response to
5 Public Counsel Data Request No. 271 (1 p.)
6 EMA-27 Public Counsel/ICNU - Avista Corp. Corporate
7 Governance Guidelines (4 pp.)
8 EMA-28 Public Counsel/ICNU - Avista 2008 Proxy
9 Statement (54 pp.)
10 EMA-29C Public Counsel/ICNU ****CONFIDENTIAL**** Avista
11 Response to Staff Data Request No. 013C
12 (Attachment B only) (5 pp.)
13 WITNESS: Tara L. Knox
14 TLK-1T Prefiled Direct Testimony of Tara L. Knox
15 (17 pp.)
16 TLK-2C ****CONFIDENTIAL**** Production Property
17 Adjustment Calculation (2 pp.)
18 TLK-3 Electric Cost of Service (9 pp.)
19 TLK-4 Cost of Service Basic Summary (Electric)
20 (3 pp.)
21 TLK-5 Natural Gas Cost of Service Study (9 pp.)
22 TLK-6 Cost of Service General Summary (Natural Gas)
23 (3 pp.)
24 TLK-7T Prefiled Supplemental Direct Testimony of Tara
25 L. Knox (2 pp.)

0147

1 TLK-8C **CONFIDENTIAL** Production Property
2 Adjustment Calculation (2 pp.)
3 WITNESS: Brian J. Hirschkorn
4 BJH-1T Prefiled Direct Testimony of Brian J.
5 Hirschkorn (24 pp.)
6 BJH-2 Tariff Sheets (Electric) (14 pp.)
7 BJH-3 Tariff Sheets (Electric) (14 pp.)
8 BJH-4 Proposed Increase by Service Schedule
9 (Electric) (2 pp.)
10 BJH-5 Tariff Sheets (Natural Gas) (10 pp.)
11 BJH-6 Tariff Sheets (Natural Gas) (10 pp.)
12 BJH-7 Proposed Increase by Service Schedule (Natural
13 Gas) (3 pp.)
14 WITNESS: Bruce W. Folsom
15 BWF-1T Prefiled Direct Testimony of Bruce W. Folsom
16 (10 pp.)
17 BWF-2 Summary of DSM Energy Savings & Levelized Cost
18 (3 pp.)
19 WITNESS: Don M. Falkner
20 DMF-1T Prefiled Rebuttal Testimony of Don M. Falkner
21 (16 pp.)
22 DMF-2 Correction for Computational Errors - Federal
23 Income Tax Adjustment (1 p.)
24
25

0148

1 CROSS-EXAMINATION EXHIBITS:

2 DMF-3 Public Counsel/ICNU - Memorandum - IRS Ruling
3 Position on the Treatment of Consolidated Tax
4 Adjustments Under the Normalization Rules
5 (6 pp.)

6 DMF-4 Public Counsel/ICNU - Avista Response to
7 Public Counsel Data Request No. 46.
8 Supplemental, with Attachment A on CD only

9 DMF-5 Public Counsel/ICNU - Avista Response to
10 Public Counsel Data Request No. 74 (7 pp.)

11 DMF-6 Public Counsel/ICNU - Avista Response to
12 Public Counsel Data Request No. 295 (1 p.)

13 DMF-7 Public Counsel/ICNU - Avista Response to
14 Public Counsel Data Request No. 300 (1 p.)

15 DMF-8 Public Counsel/ICNU - Avista Response to
16 Public Counsel Data Request No. 302 (1 p.)

17 DMF-9 Public Counsel/ICNU - Avista Response to
18 Public Counsel Data Request No. 303 (1 p.)

19 DMF-10 Public Counsel/ICNU - Avista Response to
20 Public Counsel Data Request No. 304 (1 p.)

21 DMF-11 Public Counsel/ICNU - Avista Response to
22 Public Counsel Data Request No. 305 (1 p.)

23 DMF-12 Public Counsel/ICNU - Avista Response to
24 Public Counsel Data Request No. 310 (3 pp.)

25

0149

1 WITNESS: Alan D. Felsenthal

2 ADF-1T Prefiled Rebuttal Testimony of Alan D.

3 Felsenthal (30 pp.)

4 ADF-2 Curriculum Vitae (5 pp.)

5 CROSS-EXAMINATION EXHIBITS:

6 ADF-3 Public Counsel/ICNU - "Fixed Depreciation

7 Accounting" Public Utility Fortnightly,

8 October 2008 (4 pp.)

9 ADF-4 Public Counsel/ICNU - Avista Response to

10 Public Counsel Data Request No. 312 (1 p.)

11 ADF-5 Public Counsel/ICNU - Avista Response to

12 Public Counsel Data Request No. 313 (1 p.)

13 ADF-6 Public Counsel/ICNU - Avista Response to

14 Public Counsel Data Request No. 314 (1 p.)

15 ADF-7 Public Counsel/ICNU - Avista Response to

16 Public Counsel Data Request No. 315 (1 p.)

17 ADF-8 Public Counsel/ICNU - Avista Response to

18 Public Counsel Data Request No. 316 (1 p.)

19 ADF-9 Public Counsel/ICNU - Avista Response to

20 Public Counsel Data Request No. 317 (1 p.)

21 ADF-10 Public Counsel/ICNU - Avista Response to

22 Public Counsel Data Request No. 318 (1 p.)

23 ADF-11 Public Counsel/ICNU - Avista Response to

24 Public Counsel Data Request No. 319 (1 p.)

25

0150

1 ADF-12 Public Counsel/ICNU - Avista Response to
2 Public Counsel Data Request No. 320 (2 pp.)
3 ADF-13 Public Counsel/ICNU - Avista Response to
4 Public Counsel Data Request No. 321 1 p.)
5 ADF-14 Public Counsel/ICNU - Avista Response to
6 Public Counsel Data Request No. 322 (1 p.)
7 ADF-15 Public Counsel/ICNU - Avista Response to
8 Public Counsel Data Request No. 323 (1 p.)
9 ADF-16 Public Counsel/ICNU - Avista Response to
10 Public Counsel Data Request No. 324 (1 p.)
11 ADF-17 Public Counsel/ICNU - Avista Response to
12 Public Counsel Data Request No. 325 (1 p.)
13 ADF-18 Public Counsel/ICNU - Avista Response to
14 Public Counsel Data Request No. 326 (1 p.)
15 ADF-19 Public Counsel/ICNU - Avista Response to
16 Public Counsel Data Request No. 327 (1 p.)
17 ADF-20 Public Counsel/ICNU - Avista Response to
18 Public Counsel Data Request No. 328 (1 p.)
19 ADF-21 Public Counsel/ICNU - Avista Response to
20 Public Counsel Data Request No. 329 (1 p.)
21 ADF-22 Public Counsel/ICNU - Avista Response to
22 Public Counsel Data Request No. 330 (1 p.)
23 ADF-23 Public Counsel/ICNU - Avista Response to
24 Public Counsel Data Request No. 331 (1 p.)
25

0151

1 ADF-24 Public Counsel/ICNU - Avista Response to
2 Public Counsel Data Request No. 332 (1 p.)
3 ADF-25 Public Counsel/ICNU - Avista Response to
4 Public Counsel Data Request No. 333 (1 p.)
5 ADF-26 Public Counsel/ICNU - Avista Response to
6 Public Counsel Data Request No. 334 (1 p.)
7 ADF-27 Public Counsel/ICNU - Avista Response to
8 Public Counsel Data Request No. 335 (1 p.)
9 ADF-28 Public Counsel/ICNU - Avista Response to
10 Public Counsel Data Request No. 336 (1 p.)
11 WITNESS: Kelly O. Norwood
12 KON-1T Prefiled Rebuttal Testimony of Kelly O.
13 Norwood (9 pp.)
14 WITNESS: John J. Spanos
15 JJS-1T Prefiled Rebuttal Testimony of John J. Spanos
16 (22 pp.)
17 CROSS-EXAMINATION EXHIBITS:
18 JJS-2 Public Counsel/ICNU - Avista Corporation Form
19 10-Q, report for the quarterly period ended
20 June 30, 2008, cover and page 7 (2 pp.)
21 JJS-3 Public Counsel/ICNU - Maryland PSC Order No.
22 81517, Case No. 9092 (118 pp.)
23 JJS-4 Public Counsel/ICNU - Statement of Financial
24 Accounting Standards No. 143 (49 pp.)
25

0152

1 JJS-5 Public Counsel/ICNU - UGI Corporation Form
2 10-K (excerpt) (3 pp.)
3 JJS-6 Public Counsel/ICNU - Metropolitan Edison
4 Annual Report 2007 (2 pp.)
5 JJS-7 Public Counsel/ICNU - Avista Response to
6 Public Counsel Data Request No. 337 (1 p.)
7 JJS-8 Public Counsel/ICNU - Avista Response to
8 Public Counsel Data Request No. 338 (1 p.)
9 JJS-9 Public Counsel/ICNU - Avista Response to
10 Public Counsel Data Request No. 339 (1 p.)
11 JJS-10 Public Counsel/ICNU - Avista Response to
12 Public Counsel Data Request No. 340 (1 p.)
13 JJS-11 Public Counsel/ICNU - Avista Response to
14 Public Counsel Data Request No. 341 (1 p.)
15 JJS-12 Public Counsel/ICNU - Avista Response to
16 Public Counsel Data Request No. 342 (1 p.)
17 JJS-13 Public Counsel/ICNU - Avista Response to
18 Public Counsel Data Request No. 343 (1 p.)
19 JJS-14 Public Counsel/ICNU - Avista Response to
20 Public Counsel Data Request No. 344 (1 p.)
21 JJS-15 Public Counsel/ICNU - Avista Response to
22 Public Counsel Data Request No. 345 (1 p.)
23
24
25

0153

1 PARTY: Commission Staff

2 WITNESS: Michael P. Parvinen

3 MPP-1T Prefiled Cross-Answering Testimony of Michael
4 P. Parvinen (8 pp.)

5 CROSS-EXAMINATION EXHIBITS:

6 MPP-2 Public Counsel/ICNU - Unisource, Energy
7 Corporation, Qwest Sprint 10-K excerpts
8 (14 pp.)

9 MPP-3 Public Counsel/ICNU - Unisource, Energy
10 Corporation, American Electric Power, Verizon,
11 Bell South, SBC Communications, Annual Report
12 excerpts (21 pp.)

13 MPP-4 Public Counsel/ICNU - Staff Response to Public
14 Counsel Data Request No. 2 (1 p.)

15 MPP-5 Public Counsel/ICNU - Staff Response to Public
16 Counsel Data Request No. 3 (1 p.)

17 MPP-6 Public Counsel/ICNU - Staff Response to Public
18 Counsel Data Request No. 4 (1 p.)

19 MPP-7 Public Counsel/ICNU - Staff Response to Public
20 Counsel Data Request No. 5 (1 p.)

21 MPP-8 Public Counsel/ICNU - Staff Response to Public
22 Counsel Data Request No. 6 (1 p.)

23 MPP-9 Public Counsel/ICNU - Staff Response to Public
24 Counsel Data Request No. 7 (1 p)

25

0154

1 MPP-10 Public Counsel/ICNU - Staff Response to Public
2 Counsel Data Request No. 8 (1 p.)
3 MPP-11 Public Counsel/ICNU - Staff Response to Public
4 Counsel Data Request No. 9 (1 p.)
5 MPP-12 Public Counsel/ICNU - Staff Response to Public
6 Counsel Data Request No. 10 (1 p.)
7 PARTY: ICNU and Public Counsel
8 WITNESS: Charles W. King
9 CWK-1T Prefiled Responsive Testimony of Charles W.
10 King (17 pp. including table of contents)
11 CWK-2 Summary of Qualifications & Experience (1 p.)
12 CWK-3 Appearances as an Expert Witness (13 pp.)
13 CWK-4 Depreciation Expense Adjustment (5 pp.)
14 CWK-5T Prefiled Testimony in Response to Settlement
15 (3 pp. including cover sheet)
16 WITNESS: Michael J. Majoros, Jr.
17 MJM-1TC ****CONFIDENTIAL**** Prefiled Responsive Testimony
18 of Michael J. Majoros, Jr. (43 pp. including
19 table of contents)
20 MJM-2 Summary of Qualifications (1 p.)
21 MJM-3 Appearances as an Expert Witness (8 pp.)
22 MJM-4C ****CONFIDENTIAL**** Calculation of General
23 Revenue Requirement (22 pp.)
24 MJM-5 Data Request Responses (7 pp.)
25 MJM-6 Consolidated Tax Adjustment (1 p.)

0155

1 MJM-7 Excerpts from "The Process of Ratemaking"
2 (3 pp.)
3 MJM-8T Prefiled Testimony in Response to Settlement
4 (5 pp.)
5 MJM-9C **CONFIDENTIAL** Corrected MJM-4T Calculation
6 of Revenue Requirement (22 pp.)
7 MJM-10 Summary Table of Adjustments to Electric
8 Revenue Requirement (3 pp.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

2 JUDGE CLARK: Good morning, it's
3 approximately 9:30 a.m. on November 6, 2008, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and the place set for hearing in the matter
6 of Washington Utilities and Transportation Commission
7 versus Avista Utilities, given Docket Numbers UE-080416
8 and UG-080417. Patricia Clark Administrative Law Judge
9 for the Commission presiding.

10 This matter came before the Commission on
11 March 4th, 2008, when Avista filed requests for rate
12 relief for both its electric and gas operations. In the
13 initial filing for its electric service, Avista
14 requested an additional \$36.6 Million, and the monthly
15 bill for residential customers would have increased
16 about 9.2%. For its gas service, Avista requested about
17 \$6.6 Million, which would have increased customers'
18 rates approximately 3.4%.

19 On September 16th, Avista, the Commission
20 Staff, Northwest Industrial Gas Users, and The Energy
21 Project filed a settlement in this proceeding resolving
22 all issues between those parties. Industrial Customers
23 of Northwest Utilities joined in some but not all of
24 that settlement agreement. The Public Counsel section
25 of the Office of the Attorney General did not concur

0157

1 with the terms and conditions of the settlement and
2 contests at least 11 adjustments to that settlement.

3 Under the settlement agreement reached to by
4 the forgoing parties, the new rates would take effect on
5 January 1, 2009, which is in advance of the deadline for
6 the Commission to issue an order in this proceeding
7 pursuant to the tariff suspension. Under the
8 settlement, Avista now seeks to collect an additional
9 \$32.5 Million in rates from its electric service
10 customers, and for its gas service it now seeks
11 approximately \$4.8 Million.

12 One other matter before I take appearances
13 from the parties, the Commissioners will join us after
14 we have addressed a number of preliminary matters on the
15 record.

16 At this juncture I will take appearances.
17 Appearing on behalf of Avista.

18 MR. MEYER: Thank you, Your Honor, appearing
19 on behalf of Avista, David Meyer.

20 JUDGE CLARK: Thank you, Mr. Meyer.
21 Appearing on behalf of the Commission Staff.

22 MR. TRAUTMAN: Gregory J. Trautman, Assistant
23 Attorney General for Commission Staff.

24 JUDGE CLARK: Thank you.

25 Appearing on behalf of Northwest Industrial

0158

1 Gas Users.

2 MR. STOKES: Your Honor, this is Chad Stokes
3 for the Northwest Industrial Gas Users.

4 JUDGE CLARK: Thank you, Mr. Stokes.

5 Appearing on behalf of Industrial Customers
6 of Northwest Utilities.

7 MR. SANGER: This is Irion Sanger with
8 Davison Van Cleve appearing on behalf of the Industrial
9 Customers of Northwest Utilities.

10 JUDGE CLARK: Thank you.

11 And appearing on behalf of Public Counsel.

12 MR. FFITCH: Simon ffitch, Senior Assistant
13 Attorney General on behalf of Public Counsel.

14 JUDGE CLARK: Thank you.

15 Mr. Roseman, I've delayed as long as I
16 possibly can, but I now need an appearance from The
17 Energy Project.

18 MR. ROSEMAN: I apologize for being late,
19 Your Honor, my name is Ronald Roseman, I'm appearing on
20 behalf of The Energy Project.

21 JUDGE CLARK: Thank you.

22 We do have a number of preliminary matters to
23 address this morning, and I'm just going to run through
24 those in the order in which I have them listed. The
25 first is Public Counsel's objection to the admission of

0159

1 the supplemental testimony submitted by Avista, Mr.
2 ffitich.

3 MR. FFITCH: Your Honor, thank you, Public
4 Counsel has filed an objection to the admission of the
5 supplemental testimony into the record. The formal
6 objection was filed with the records center yesterday.
7 The basis of the objection is as set forth in the
8 original opposition to the supplementation of the
9 testimony which we filed earlier in the case in August.
10 And without belaboring the record, Your Honor, we would
11 make those same arguments as the basis for not
12 permitting this evidence to come into the record and
13 effect an increase in the revenue requirement that's
14 being sought by the Company in this case above the
15 amount of the filed tariffs which are before the
16 Commission.

17 JUDGE CLARK: Thank you, Mr. ffitich.

18 Mr. Meyer.

19 MR. MEYER: Thank you, Your Honor. Given
20 those representations, we won't belabor the argument,
21 because the positions in our prior pleadings on this
22 issue I think well state the Company's position. And,
23 in fact, this Commission was quite clear in its order,
24 previous order rejecting those objections. Commission
25 of course noted that there were some similarities to

0160

1 what had occurred with respect to the Puget proceeding
2 on a similar issue, but more importantly that it had
3 applied a balancing test and that the supplemental
4 testimony would further the Commission's interest in
5 having a full and adequate record on which to render its
6 decisions, and the testimony corrects for known errors
7 as well as updates other testimony with the most current
8 information available. So again without belaboring the
9 point, I think that the same ruling should apply as
10 previously issued from the Bench, thank you.

11 JUDGE CLARK: All right, the objection is
12 overruled, the Commission will allow the supplemental
13 direct testimony in evidence in this record in the
14 interests of having a full and complete record on which
15 the Commission can render its decision. But as always,
16 with not only this evidence but any other evidence
17 adduced in this morning's hearing, the Commission will
18 determine the appropriate weight, if any, to be given to
19 these documents.

20 The second matter I have on my little
21 preliminary agenda is the confidential material that has
22 been filed in this proceeding. We have a number of
23 witnesses who have presented information that has been
24 designated confidential and subject to the terms and
25 conditions of the protective order issued in this

0161

1 proceeding, so any examination on those documents will
2 necessarily be conducted in an in camera proceeding.
3 The Commission will exclude all individuals from the
4 hearing room who have not signed a protective agreement
5 and agreed to abide by the terms and conditions of the
6 protective order issued in this proceeding. Because
7 that portion of the proceeding is closed, the transcript
8 is sealed, and then members of the public are allowed to
9 reenter the hearing room, I would like to avoid
10 shuffling bodies in and out of the hearing room to the
11 extent practicable. Therefore, I would like to conduct
12 one in camera proceeding. If you have examination on
13 any confidential information in this proceeding, it may
14 actually be necessary to take some witnesses out of
15 order in order to accommodate that. I would like to do
16 that as close to a recess or the lunch break as we
17 possibly can again to avoid unnecessary disruption and
18 waste of time in the hearing room.

19 So I'm going to turn to you first,
20 Mr. ffitch, and see what examination you have that would
21 need, the witnesses for which you have examination that
22 would need to be conducted in an in camera proceeding.

23 MR. FFITCH: Your Honor, we don't anticipate
24 that there is any examination that would need to be in
25 camera. I do have some questions for Ms. Pessemier.

0162

1 The cross-exhibits for her and her testimony is
2 confidential, but my intention is to try to ask
3 questions in a way that avoids confidential discussion
4 on the record. And so I simply mention that because
5 that is the one area where depending on what she wants
6 to testify to and what Mr. Meyer perhaps wants to get
7 into on redirect or the Commission wants to get into,
8 that could perhaps go that direction. But we are not
9 planning to request in camera examination.

10 JUDGE CLARK: All right. Well, then I will
11 remind everyone that if you are to make any reference
12 whatsoever to these documents, the sole terms that you
13 are allowed to use are the terms confidential
14 litigation, and no other mention of any of this
15 information will be permitted in the public hearing.

16 Is there anyone else who intends to have
17 examination on any documents that were designated as
18 confidential in this proceeding?

19 All right, everyone's shaking their head
20 negatively, which is not picked up all that great on the
21 microphone, but all right.

22 The third item I have on my agenda is
23 according to the cross-examination estimates presented
24 by all parties, it appears that we have approximately
25 7.5 hours of hearing day today. The Commissioners would

0163

1 prefer to finish this hearing in one day if that means
2 we will not have to return for a very brief session
3 tomorrow. That is it's sort of a waste of time, effort,
4 energy, and resources to come back for a half an hour
5 worth of proceeding. So to the extent possible, the
6 Commission would like to conclude the hearing today.

7 That having been said, they do have other
8 Commission obligations that commence at 5:00 p.m., so we
9 will need to either recess or adjourn this proceeding at
10 5:00 p.m. this afternoon. I will make whatever
11 accommodations I can in the schedule, which I'm sure you
12 will be delighted to learn will probably include
13 abbreviating breaks and abbreviating your lunch hour.
14 The lunch hour will have to be between 12:00 and 1:00
15 today to also accommodate a Commissioners conference
16 call. And I'm hopeful that everyone can work toward the
17 goal of concluding the proceeding in the hearing today.
18 I do recognize that both Avista and the Commission Staff
19 in the interests of saving travel time and expense have
20 agreed to waive cross-examination if necessary of the
21 joint testimony of those individuals sponsored by Public
22 Counsel and Industrial Customers of Northwest Utilities,
23 and in light of the Commission's schedule, I would like
24 you to keep in mind whether or not you would be willing
25 to do that to accommodate the hearing schedule. You

0164

1 don't have to answer me now.

2 The next preliminary matter that I have on my
3 agenda is one that was the topic of a brief at bar this
4 morning, and that is late yesterday afternoon the
5 Commission received a revised exhibit for Public Counsel
6 and ICNU joint witness Michael Majoros, I hope I'm not
7 mispronouncing anyone's name, Mr. Majoros, it was a
8 corrected Exhibit MJM-4TC, and that document came in
9 through the Commission's web portal. That document is
10 not properly filed according to the Commission's
11 regulations and will need to be refiled in accordance
12 with WAC 480-07-460(1)(b)(4). Specifically you need to
13 clearly delineate on that document, that 22 page
14 document, where the corrections and revisions were made
15 so that it is readily apparent to anyone intending to
16 use that document. And at this juncture, Mr. Sanger, I
17 believe it would be an appropriate time for you to raise
18 your other concern regarding that.

19 MR. SANGER: We had some discussion prior to
20 this conference with counsel for Avista and Public
21 Counsel. I believe the intention is for us to file that
22 document as revised but give it a new exhibit number so
23 that we keep the original one in the record, so I
24 believe that would be Exhibit Number 9 on the list that
25 you have.

0166

1 information is perhaps helpful, Your Honor. It's our
2 understanding that the correction is agreed, Mr. Meyer
3 can certainly address this, but it's intended to be an
4 agreed upon correction as to that one particular item in
5 the exhibit, so.

6 MR. MEYER: That is correct. Insofar as it
7 corrects for agreed upon computational errors, the
8 Company does agree with it.

9 JUDGE CLARK: All right.

10 And you had another matter, Mr. Sanger.

11 MR. SANGER: Yes, the exhibit corrects a
12 computational error, and there are three places in
13 Mr. Majoros's testimony itself where he has numbers
14 which derive from that exhibit. My first intention was
15 to have Mr. Majoros correct those on the stand, however
16 I wanted to ask the Judge your guidance on whether you
17 would like us to file a revised version of those pages
18 or simply correct on the stand.

19 JUDGE CLARK: If you simply have three errors
20 in the testimony itself, it will be fine for you to take
21 the approach that you have proposed and simply have
22 Mr. Majoros make those corrections at the onset of the
23 presentation of his testimony.

24 MR. SANGER: Thank you, Your Honor.

25 JUDGE CLARK: We all have pens, and we are

0167

1 capable of writing those in.

2 All right, the last item I have on the agenda
3 is the cross-examination exhibits that were filed in
4 this proceeding. There were a number of
5 cross-examination exhibits that were not timely filed.
6 By electronic ruling issued October 22nd, 2008, I
7 designated October 29th, 2008, at noon as the deadline
8 for the submission of cross-examination exhibits to the
9 Commission and to other parties in this proceeding. A
10 number of documents designated as cross-examination
11 exhibits were submitted by Public Counsel after that
12 deadline. So, Mr. Ffitch, I would like some explanation
13 regarding the late filing of these exhibits.

14 MR. FFITCH: Your Honor, the exhibits were
15 filed -- first of all, we did file an initial batch of
16 exhibits on the deadline date. Our office made its best
17 efforts to provide cross-exhibits as soon as they became
18 available to us. The great majority of the exhibits
19 that we provided were responses to data requests from
20 Avista that we did not receive until after October 29th,
21 although there were an additional group which were
22 exhibits that we developed as we prepared for
23 cross-examination. So we understand that this places a
24 burden on the Commission, Your Honor, receiving these
25 after the established deadline. One of the concerns

0168

1 frankly that we've had, Your Honor, with this schedule
2 is that it has become quite accelerated because of the
3 settlement that was entered into and because of the
4 request for acceleration by the settling parties. We've
5 had a full month removed from our previous schedule and
6 removed from the time that we had available to us to
7 prepare for hearing. And so the filing of the exhibits
8 after October 29th was our best effort to meet that
9 deadline and to work within the very short timelines
10 that we were presented with.

11 JUDGE CLARK: All right, well, I am not
12 concerned at all with the exhibits that were responses
13 to data requests that the Public Counsel and ICNU did
14 not receive until after the deadline, and I am well
15 aware that there are a number of those. However, there
16 are also a number of cross-examination exhibits that are
17 designated on the highlighted portion of the exhibit
18 list I handed out this morning that include exhibits
19 that were designated for Ms. Andrews and Mr. Parvinen
20 and others. For these, the data request responses were
21 received well in advance of the cross-examination
22 exhibit filing deadline, in many instances months in
23 advance of that deadline, and some of these documents
24 are third party documents not directly related to this,
25 exhibits or data responses in this proceeding that were

0169

1 actually generated years in advance of the filing
2 deadline, and it is those that I am concerned with this
3 morning.

4 MR. FFITCH: Well, Your Honor, all I can say
5 is that as the record reflects, we had seven days
6 between the filing of rebuttal testimony in this case
7 and the deadline for parties to submit testimony.
8 That's an extremely short period of time. I'm not aware
9 of very many Commission cases where parties have been
10 given one week between rebuttal testimony and the time
11 that they're required to file cross-examination
12 exhibits. And while documents are available to us and
13 are available in the record, it often is the case, Your
14 Honor, that as we prepare cross-examination, we only
15 make those decisions about which documents we want to
16 use in the final period of time before the hearing. So
17 we think that we have the right to present
18 cross-examination exhibits, they have been all provided
19 to the Bench and the parties before the beginning of the
20 hearing. We are very willing to make our best efforts
21 to try to distribute those in advance to the extent
22 possible, but we believe that we have a right to present
23 cross-examination exhibits up until the time of the
24 hearing for cross-examination of witnesses to make the
25 record in the case.

0170

1 JUDGE CLARK: Well, the Bench certainly does
2 not dispute that you have the right to present
3 cross-examination exhibits in support of your
4 proceeding. However, if you are unable to meet a
5 Commission deadline for these documents or any other,
6 you need to request leave from the tribunal and comply
7 with the Commission's regulations. For example, if you
8 seek continuance, that would be WAC 480-07-385, and it
9 would be appropriate to attempt to seek consensus from
10 the other parties regarding these documents rather than
11 simply filing the documents without any explanation. I
12 will note that admonition is not applicable to those
13 documents for which you received data requests after the
14 filing deadline. The explanation was clearly stated in
15 those filings that you were unable to meet those filing
16 deadlines because you had not yet received the responses
17 by the deadline.

18 All right, are there any other preliminary
19 matters that we need to address this morning before the
20 Commissioners join us?

21 MR. MEYER: Yes, Your Honor.

22 JUDGE CLARK: Mr. Meyer.

23 MR. MEYER: Thank you. In the interests of
24 expediting matters and maybe shortening some cross, the
25 Company is prepared to waive objection to the admission

0171

1 of all cross-examination exhibits so that we needn't
2 spend time laying the foundation for each and every one
3 of them through the Company witness.

4 JUDGE CLARK: Thank you.

5 Mr. Trautman.

6 MR. TRAUTMAN: Your Honor, while Staff did
7 share some of the concerns that you raised, particularly
8 with regard to the two exhibits that were not prepared
9 by Staff, we too, given that concern, we would also be
10 willing in the interests of expediting the hearing to
11 waive objection to the exhibits.

12 JUDGE CLARK: Thank you.

13 And does anyone else wish to be heard on the
14 admission of the cross-examination exhibits in their
15 entirety?

16 MR. SANGER: No, Your Honor.

17 JUDGE CLARK: All right, hearing nothing, the
18 Commission will accept all cross-examination exhibits
19 filed in this proceeding. The exhibit list will
20 necessarily need to be revised yet again, and I will
21 hope to do that and present that to the parties,
22 although I think the urgency for doing so having
23 admitted everything is not exigent.

24 MR. MEYER: Your Honor, perhaps you will
25 cover this when we go on the record, but in addition of

0172

1 course to the cross-examination exhibits, will you
2 confirm that all other prefiled exhibits will be
3 introduced by stipulation of the parties.

4 JUDGE CLARK: The prefiled direct
5 examination, I mean direct testimony including all
6 attached exhibits were received by stipulation of all
7 parties prior to the onset of the hearing today, and
8 with my earlier ruling on the one preliminary matter,
9 the supplemental direct testimony of Avista witnesses
10 will also be received in the record so that the
11 Commission will have the opportunity to review all
12 prefiled testimony as well as all of Public Counsel and
13 ICNU's cross-examinations exhibits when rendering a
14 decision in this proceeding. I'm also including
15 categorically in that the new revised MJM-9 that we will
16 simply identify for the record once that correction has
17 been made.

18 MR. MEYER: Thank you.

19 And one -- I promise this is my last
20 housekeeping matter.

21 JUDGE CLARK: We don't have a limit.

22 MR. MEYER: All right. You or the Bench had
23 requested the presence of Clint Kalich telephonically,
24 and we made arrangements to have him present through the
25 bridge line. May I inquire if Mr. Kalich is listening

0173

1 in and available?

2 JUDGE CLARK: Mr. Kalich, are you available
3 on the bridge line at this juncture?

4 If you turn off the mute caller button, it is
5 much easier for those individuals on the bridge line to
6 respond.

7 Mr. Kalich, are you available on the bridge
8 line?

9 MR. MEYER: Again, our intent was to have him
10 available as part of the panel, and we will contact him.
11 I know he's aware of this, we've set it up so he should
12 be on the line, but we will call him independently and
13 have him rejoin if he's not.

14 JUDGE CLARK: All right. We did have some
15 difficulty with the bridge line this morning. You may
16 recall some individual had their telephone on hold,
17 which plays music into the hearing room, so we were
18 required to disconnect that call and ask everyone who
19 was participating on the bridge line to call back in.
20 But we will be taking a brief recess before the
21 Commissioners join us, and hopefully you can make the
22 call to Mr. Kalich at that time, we'll have a few
23 minutes.

24 MR. MEYER: Thank you.

25 JUDGE CLARK: All right, are there any other

0174

1 preliminary matters?

2 Mr. ffitch.

3 MR. FFITCH: One other matter, Your Honor.

4 We have been preparing a summary of adjustments, which
5 is essentially by way of a further response or a
6 response to Bench Requests 1 and 2 which request that
7 parties provide a full statement of their revenue
8 requirement testimony. In this case, that exhibit for
9 Public Counsel and ICNU is MJM-4, and it's now going to
10 be corrected as we've been discussing. However, because
11 of the need to compare the settlement testimony and
12 settlement revenue presentation with the Public Counsel
13 position and somewhat confusing nature of the
14 comparisons if you will, we thought that it would be
15 useful to prepare an exhibit that essentially compares
16 the different positions in the case with the adjustments
17 shown and so on and so forth. So that is -- in fact I
18 have in front of me a copy of that, we're having our
19 experts look at that this morning, and what we propose
20 to do is offer that as a response to Bench Requests 1
21 and 2. We would share that with the other parties as
22 soon as we can get copies distributed and confer with
23 them over the lunch hour perhaps. And then if they want
24 to examine Public Counsel witnesses about the exhibit,
25 they could do that. At this point, Your Honor, what I'm

0175

1 doing is advising you that we would like to offer that
2 when it's been finalized and when we've had a chance to
3 share with other parties.

4 JUDGE CLARK: All right, I'm going to reserve
5 any ruling on that until the parties have had the
6 opportunity to review that exhibit. Obviously I'm not
7 going to ask your opinion on something you haven't seen.
8 And I'm thinking simply for the clarity of the record
9 that it might be better to categorize that as an
10 attachment or an exhibit to one of the witnesses'
11 testimony. The sole reason for that is the other Bench
12 Request responses are exclusively on CD, and this would
13 be a text paper copy that the parties and the Commission
14 could review. So if you would simply just put that into
15 the hopper to be thought about the appropriate witness
16 to sponsor that document once it's prepared and
17 distributed.

18 MR. FFITCH: Thank you, Your Honor, I expect
19 it to be Mr. Majoros, but we will take that up.

20 JUDGE CLARK: Thank you, and so it's likely
21 to be MJM-10 unless there's confidential material in
22 there.

23 MR. FFITCH: Now this is, I guess I need to
24 confer with my witness, but is the type of exhibit that
25 it may be amenable of being presented in the spreadsheet

0176

1 working formula intact, which the Bench might like to
2 have, so in that case --

3 JUDGE CLARK: If that's the case, we would
4 want the CD.

5 MR. FFITCH: All right, so we'll figure that
6 out.

7 JUDGE CLARK: All right, thank you, and we'll
8 address that when you're ready to present that exhibit.

9 Are there any other procedural matters that
10 we need to address this morning?

11 All right, we are going to take a few moments
12 off record to allow the Commissioners to join us for the
13 evidentiary portion of this proceeding. The first
14 witnesses designated to testify this morning are a panel
15 that is being presented by the settling parties, so if
16 you would take the opportunity to have the witnesses who
17 will be testifying this morning take one of the four
18 seats to my immediate left during this recess.

19 We're at recess until further call.

20 (Recess taken.)

21 JUDGE CLARK: At this juncture we have been
22 joined by all three commissioners, Chairman Mark Sidran,
23 Commissioner Patrick Oshie, and Commissioner Philip
24 Jones. Chairman Sidran has kindly advised me that it
25 would be a good idea to let everyone know in the hearing

0177

1 room today that we are having some testing done on the
2 water system in the Commission's building, which may
3 cause the fire alarm to go off. It is simply a
4 technical difficulty and does not give you the
5 opportunity to immediately vacate the hearing room. So
6 you need to remain where you are even if the alarm goes
7 off unless we are advised that it's not a technical
8 difficulty.

9 During the brief recess, the parties
10 accommodated my request to have the panel seated. That
11 panel in support of the settlement will be the first
12 individuals who will present testimony in this morning's
13 hearing, and at this juncture I will swear you in.

14 (Witnesses CHARLES M. EBERDT, DANNY P.
15 KERMODE, KELLY NORWOOD, and PAULA E. PYRON
16 were sworn.)

17 JUDGE CLARK: Thank you, please be seated.
18 And will you be the individual introducing
19 the panel, Mr. Meyer?

20 MR. MEYER: You know, I will, and good
21 morning, Commissioners. Before we get to that, could I
22 confirm again that Mr. Kalich is on the bridge line. He
23 was on, but he was speaking and just couldn't be heard.

24 JUDGE CLARK: Mr. Kalich. Mr. Kalich. Oh, I
25 heard him. Mr. Kalich, are you available on the bridge

0178

1 line? Mr. Kalich.

2 MR. KALICH: Yes, can you hear me this time?

3 JUDGE CLARK: Yes, we can hear you loud and
4 clear this time.

5 MR. KALICH: It was working one way I know, I
6 heard all the --

7 JUDGE CLARK: That was the Administrative Law
8 Judge error which has now been corrected by the
9 Chairman. Thank you for bringing that to the attention
10 of everyone in the hearing room this morning.

11 Mr. Kalich, I'm sure that you did not have
12 the opportunity to take the oath when I swore in the
13 other individuals who are present as the panel, and so
14 I'm going to ask you at this juncture to raise your
15 right hand.

16 (Witness CLINT G. KALICH was sworn.)

17 JUDGE CLARK: Thank you.

18 Now, Mr. Meyer, will you be the individual
19 introducing the panel, including Mr. Kalich on the now
20 functioning bridge line?

21 MR. MEYER: I will be happy to do so, and I'm
22 going to do it in a very abbreviated way. Rather than
23 with each witness ask them to identify themselves and
24 who they are, what they do, and are there changes or
25 corrections, I will represent there are no changes or

0179

1 corrections to the exhibits marked as 4T and 5, and the
2 members of the panel are Mr. Eberdt, Mr. Norwood,
3 Mr. Kermode, and Ms. Pyron. We have also asked
4 Mr. Kalich to join us on the bridge line to respond to
5 any questions. And with that I will make them available
6 for any examination.

7 JUDGE CLARK: All right, thank you.

8 There's only two microphones, when we do have
9 individuals who are appearing on the bridge line, it is
10 important that you speak directly into a microphone and
11 perhaps a little more loudly than you would ordinarily
12 speak in order to allow that individual to hear you.

13 Is it the pleasure of the Bench to have
14 cross-examination of the panel or to commence with
15 Commissioner inquiry?

16 CHAIRMAN SIDRAN: Go with the cross.

17 JUDGE CLARK: Thank you.

18 Mr. ffitch.

19 MR. FFITCH: I don't have any questions for
20 the panel.

21 JUDGE CLARK: If you could turn your
22 microphone on, please, we'll get that on the transcript.

23 MR. FFITCH: I apologize, Your Honor. I
24 don't have any questions at this time for the panel. I
25 may have follow-up questions.

0180

1 JUDGE CLARK: All right.

2 Commissioner Jones, I believe you had some
3 inquiry for Mr. Kalich, would it be appropriate at this
4 juncture to proceed with that?

5

6 Whereupon,

7 CHARLES M. EBERDT, DANNY P. KERMODE, KELLY NORWOOD,

8 PAULA E. PYRON and CLINT G. KALICH,

9 having been first duly sworn, were called as witnesses
10 herein and were examined and testified as follows:

11

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

13 BY COMMISSIONER JONES:

14 Q. This is Commissioner Jones, I've got a couple
15 of questions for Mr. Norwood I think. The first relates
16 to Mr. Malquist's testimony on capital structure. The
17 settlement agreement calls for an equity ratio of 46.3%,
18 does it not?

19 A. (Mr. Norwood) Yes, it does.

20 Q. Does that ratio in the settlement include any
21 issuance of new equity during the latter part of 2008 as
22 the Company described in its prefiled case? I think
23 Mr. Malquist referred to that on page 18 of his direct
24 testimony.

25 A. (Mr. Norwood) My understanding is that would

0181

1 reflect the issuance of some shares of stock through the
2 end of '08. The cap structure was designed to target
3 the cap structure at the end of '08, and we have issued
4 I believe 750,000 shares under that program that was
5 explained by Mr. Malquist.

6 Q. So under that agency agreement with -- could
7 you provide for the Bench what that agency agreement is,
8 with which bank and underwriter and some details on that
9 equity issuance?

10 A. (Mr. Norwood) I would have to circle back
11 and provide that data later. I don't have the bank
12 name.

13 Q. Okay.

14 A. (Mr. Norwood) But we do have a plan out
15 there and an arrangement to sell up to 2 million shares
16 of common stock.

17 Q. Right. But isn't it true that the equity
18 ratio at the end of December '07 was 45.4%?

19 A. (Mr. Norwood) I would accept that subject to
20 check, yes.

21 Q. Okay, that's all on capital structure.

22 My next question relates to power costs, this
23 may go to Mr. Kalich or you. Could you describe what is
24 the unhedged portion of the 2009 generation, what that
25 is? Is it based on a normal water year? Was the \$8.30

0182

1 per decatherm natural gas price a compromise, or was it
2 based on some point in time in terms of forward strips
3 or an average of forward strips based on a snapshot of
4 the market?

5 A. (Mr. Kalich) Well, I guess I could start
6 with that, Commissioner. Your first question around
7 normal water year just for explanation for this rate
8 period is explained in my prefiled testimony. We run
9 water years through from 1929 through 1978 through the
10 dispatch model, and we average the results. So we don't
11 run simply the average water year, we run all of the
12 accepted water years and then average the results.

13 You asked a question with regard to hedging,
14 we did some calculations on that yesterday and the day
15 before, and we today have hedged either through on
16 Colstrip thinking more hydro units or Kelso plants or
17 through gas acquired to run through our thermal
18 resources on gas such as Coyote Springs, Rathrop, other
19 plants, nearly 95% of the power supply for calendar
20 2009.

21 Let's see, I think the third question you had
22 was on the \$8.30 being compromised. My recollection,
23 and Kelly can correct me if I'm incorrect, I wasn't
24 involved in all of those intimate settlement
25 discussions, but my understanding was that that price

0183

1 was roughly reflective of a period of time at the time
2 of settlement based on the closing on that date for
3 calendar year 2009.

4 A. (Mr. Norwood) If I may, I could add to that,
5 I was directly involved in those discussions. The \$8.30
6 that you referenced was a negotiated number. It did
7 take into consideration the price for calendar year '09
8 at the time that we were negotiating this agreement. We
9 also took into consideration the 30 day and 90 day
10 average and the volatility that we have been
11 experiencing in this industry for this year. In fact,
12 we still believe that that \$8.30 given the volatility,
13 the uncertainty, just as an example in this last week
14 cost of natural gas has gone up by 75 cents per
15 decatherm which is over 10%, so we still have that
16 volatility present, and so we think that \$8.30 is still
17 a good number for calendar year '09.

18 Q. So just a couple of follow-up questions, this
19 is for Mr. Kalich, so is it fair to understand that for
20 calendar year '09 for power generation fuel sources that
21 only 5% is unhedged?

22 A. (Mr. Kalich) That's probably a fair
23 representation. I mean certainly assuming average water
24 conditions for calendar year '09 it's accurate, but with
25 what we now know today approximately 95% has been

0184

1 hedged.

2 Q. And then, Mr. Norwood, what method did you
3 use, I know they may not be precisely apples and apples,
4 but we just had a PGA adjustment come to us last week
5 that we approved. What was the average, what was the
6 commodity cost projection method that was used in that,
7 was it 30 day or 90 day or 60 day average?

8 A. (Mr. Norwood) I believe we used a 30 day
9 average, and if I remember correctly that price of gas
10 we reflected in the PGA was right at \$8.02 is what comes
11 to mind.

12 Q. About how much?

13 A. (Mr. Norwood) \$8.02 per decatherm.

14 COMMISSIONER JONES: Okay, that's all I have.

15 JUDGE CLARK: All right.

16 Commissioner Oshie.

17 COMMISSIONER OSHIE: Yes, thank you, Judge.

18

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

20 BY COMMISSIONER OSHIE:

21 Q. My question for the panel has to do with, and
22 this is probably not a surprise, but with the energy
23 efficiency and the low income assistance programs that
24 are being -- that are included in the settlement offered
25 by the Company, and so the question really I have is not

0185

1 -- the numbers are in there as to what the totals will
2 be and the increases to the program, but there's no
3 description, and perhaps it wasn't contemplated by the
4 parties, but there will have to be some kind of
5 allocation of that \$500,000 that's included in the
6 agreement between gas and electric, so how's the --
7 what's the parties' intention with regard to the split
8 between the natural gas side of the company and the
9 electric side with regard to let's start with LIRAP
10 funds?

11 A. (Mr. Eberdt) Hi, this is Chuck Eberdt.
12 Commissioner Oshie, the intention with the LIRAP funds
13 is to address the need that comes in the door. And in
14 this case as I recall from the last two years we're
15 seeing a greater number of gas customers coming in than
16 we had previously. I couldn't actually give you an
17 exact percentage split, I don't know how that works out,
18 and I don't -- I could circle back and find out what it
19 was in the last two years, but I don't have that right
20 off the top of my head.

21 Q. All right, well, this is -- Mr. Eberdt, I was
22 really only talking about the \$500,000 increment that's
23 going to be added and whether that will be added 50/50,
24 \$250 thousand to gas and \$250,000 to electric, or
25 whether it's --

0186

1 A. (Mr. Norwood) If I might.

2 Q. Mr. Norwood.

3 A. (Mr. Norwood) It actually was separated out
4 in Appendix 5 to Exhibit 5, if you go to Appendix 5 it
5 shows that of the additional \$500,000, \$253,000 would go
6 to natural gas and \$247,000 to electric.

7 Q. Okay.

8 A. (Mr. Norwood) It also breaks down the
9 funding for the DSM funding also, \$280,000 for electric
10 and \$70,000 for natural gas.

11 Q. That's the number, yes, I can see that.

12 A. (Mr. Norwood) Okay.

13 Q. I guess maybe my question is more is this --
14 I'm sure that the parties believe that this split that's
15 in Appendix 5 is necessary with regard to the customers
16 served and the burden that's placed that you see
17 perhaps, Mr. Eberdt, on the community, and this amount
18 reflects at least some satisfaction of that burden, if
19 you will. And so is this, although the moneys seem to
20 be rather evenly split, what was the basis for that, is
21 it just as a raw percentage or just the communities
22 affected?

23 A. (Mr. Eberdt) I don't think that the agencies
24 themselves or I had any input onto how those funds were
25 split across those two sections. We weren't actually

0187

1 particularly concerned about that split in a way,
2 because we knew whatever it was we were going to use it.
3 So it wasn't a question of are these the right numbers,
4 because the right numbers are actually larger, so that
5 wasn't a concern that we brought to the table.

6 Q. All right. And I guess the same answer then
7 for the DSM program for the \$350,000?

8 A. (Mr. Eberdt) Yes, sir.

9 Q. Mr. Norwood.

10 A. (Mr. Norwood) Commissioner, my understanding
11 is folks at Avista that deal directly with the community
12 action agencies, both on DSM as well as for LIRAP,
13 provided input as we went through these negotiations as
14 to where the greatest need was and where it would
15 provide the most benefit. And I was not a part of that
16 discussion, but my understanding is our folks there did
17 have input on the split that would provide the most
18 benefit.

19 Q. All right, thank you, Mr. Norwood.

20 One final question in this area, and this is
21 you use a term both in your testimony and in the
22 settlement that there's a certain -- I guess let me
23 refer to the testimony, it's in line 8 on page 29, and
24 that sentence actually is lines 8, 9, 10, and part of
25 11. But in that sentence the testimony includes the

0188

1 term energy related health and safety measures, and can
2 the panel elaborate on what that means and the intent
3 here?

4 A. (Mr. Eberdt) Sure. We find that in a number
5 of houses we deal in there are situations where we can
6 not actually install certain energy measures unless we
7 dealt with other things that are related to that.
8 Health and safety can be anything from an unsafe
9 condition in the house that prevents us from installing
10 a measure, it could be a structural problem that needs
11 to be fixed. Frequently, or I shouldn't, well,
12 frequently, it's not uncommon for example to go into a
13 low income house and find unsafe levels of mold or
14 mildew in a bathroom, and that needs to be dealt with if
15 you're going to tighten up a house. Another classic
16 condition is that the furnace is not properly drafted or
17 they've got -- or a water heater that back drafts, so if
18 you do anything to tighten up the house or insulate the
19 house, you're going to worsen that situation, you need
20 to actually deal with the venting problem. That in
21 itself isn't an energy saving, but you can't do the
22 energy saving work unless you take care of that problem.
23 Otherwise you could really be doing some harm to the
24 people who live there.

25 Q. All right, thank you, Mr. Eberdt.

0189

1 And the 15% limitation, is that an amount
2 that has been commonly used by the Company and by the
3 action agencies to allocate a certain level of funding,
4 or is this sort of a -- is this something that is,
5 although implied perhaps historically, is now expressly
6 stated in the agreement?

7 A. (Mr. Norwood) What we have found in talking
8 to Mr. Folsom who runs our energy efficiency programs at
9 Avista is that our, you know, one of our primary
10 interests here is to make sure that whatever dollars we
11 spend on energy efficiency, they're still cost
12 effective. And what we have found that we're able to
13 spend up to 15% in general terms and still be able to
14 meet the cost effectiveness tests.

15 COMMISSIONER OSHIE: All right, thank you,
16 Mr. Norwood.

17 I don't have any further questions at this
18 time, Judge.

19 JUDGE CLARK: Thank you, Commissioner Oshie.
20 Chairman Sidran.

21 CHAIRMAN SIDRAN: No questions.

22 JUDGE CLARK: Do you have follow-up inquiry,
23 Mr. ffitch?

24 MR. FFITCH: Thank you, Your Honor, yes, I
25 have a couple of questions.

0190

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

2 BY MR. FFITCH:

3 Q. I guess I will direct them to Mr. Norwood,
4 but they perhaps are for Mr. Kalich also following up on
5 Commissioner Jones' questions. Is the current power
6 cost the same as the power cost that's incorporated in
7 the settlement agreement?

8 A. (Mr. Norwood) I'm not sure what you mean by
9 current, Mr. ffitch.

10 Q. Well, if you calculated the power cost for
11 Avista in the same way it was calculated for the number
12 that's included in the settlement, if you did that
13 today, would it be the same?

14 A. (Mr. Norwood) There would obviously be some
15 differences. You would have to take a look at all the
16 changes in our costs, whether it be natural gas costs,
17 cost of coal, cost of wood waste, any changes in
18 contracts, so I couldn't tell you today whether it would
19 be higher or lower because there's so many elements that
20 go into that calculation.

21 Q. Am I correct that natural gas prices have
22 been falling since the settlement was entered into?

23 A. (Mr. Norwood) In the last several weeks they
24 have declined, that's correct.

25 Q. But you don't know whether the power cost

0191

1 amount would be different or would be lower if it were
2 recalculated today?

3 A. (Mr. Norwood) By factoring in a reduced cost
4 of gas, it would bring it down. But as I mentioned, you
5 would have to take into consideration any other changes
6 that occurred at this point in time.

7 Q. If the power costs were not included in this
8 rate case, the power costs that are the subject of the
9 supplemental testimony and then incorporated into the
10 settlement, if those were not incorporated in this rate
11 case, would they be recovered through the Avista ERM,
12 the Energy Recovery Mechanism?

13 A. (Mr. Norwood) Some of it would be, but as
14 you know there's what's called the deadband where to the
15 extent costs are higher or lower than what's built in to
16 base rates, the Company would either absorb some amount
17 or retain some amount. So as we go to the future, you
18 know, as we -- actually part of the stipulation is to
19 actually modify one part of the banding on the ERM so
20 that if indeed as we go forward the cost of natural gas
21 is lower than what's built in to rates, customers would
22 actually get 75% of that benefit once you go through the
23 deadband.

24 Q. All right. And so what you're saying is that
25 if the power costs were not treated in this rate case,

0192

1 they would be run through the ERM and recovered
2 according to what the ERM permits?

3 A. (Mr. Norwood) Yes, but I think it's
4 important as we look at setting rates in any proceeding
5 that we try to set them at a level that most closely
6 represents the actual costs and not rely on a tracking
7 mechanism to true up dollars with the thought that you
8 set them at the wrong level. So I think we need to
9 focus on setting them at the appropriate level.

10 MR. FFITCH: Those are all the follow ups I
11 have, thank you, Your Honor.

12 JUDGE CLARK: Thank you, Mr. ffitch.

13 Any redirect, Mr. Meyer?

14 MR. MEYER: Yes, Your Honor, just a few
15 follow-on questions.

16

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

18 BY MR. MEYER:

19 Q. Again with reference to the \$8.30 figure for
20 gas fuel costs, I believe, Mr. Norwood, you said that it
21 was a negotiated number.

22 A. (Mr. Norwood) Yes, that's correct.

23 Q. And was that arrived at after extensive
24 discussions with respect to whether or not to use
25 averages or a point estimate?

0193

1 A. (Mr. Norwood) Yes, in fact the \$8.30, the
2 natural gas cost was just one of the elements, and of
3 course we took into consideration other adjustments to
4 power supply, adjustments to the ERM that we just talked
5 about as well as other components of the stipulation,
6 whether it's A&G costs or others, so it's part of the
7 total package.

8 Q. And while certainly not creating any kind of
9 precedent, did the recently approved settlement
10 involving Puget Sound Energy in its general rate case
11 also include a point estimate of I believe it was \$8.50?

12 A. (Mr. Norwood) Yes, I believe it was \$8.50 or
13 \$8.52 per decatherm.

14 MR. MEYER: Thank you, that's all I have.

15 JUDGE CLARK: Thank you, Mr. Meyer.

16 Is there any objection to Ms. Pyron,
17 Mr. Kermode, Mr. Eberdt, and Mr. Kalich being excused?

18 MR. FFITCH: No objection.

19 JUDGE CLARK: All right, hearing none, you
20 are excused.

21 Mr. Norwood is of course a witness of his own
22 testimony and sponsors his own testimony, so we can't
23 excuse him at this juncture.

24 And I'm not taking a recess in the interest
25 of trying to expedite the hearing this morning.

0194

1 Mr. Meyer, would you call your next witness,
2 please.

3 MR. MEYER: Yes, I would call to the stand
4 Mr. Norwood.

5 JUDGE CLARK: Mr. Norwood, I remind you that
6 you remain under oath.

7 MR. NORWOOD: Yes.

8 JUDGE CLARK: Mr. Meyer.

9 MR. MEYER: Thank you.

10

11 Whereupon,

12

KELLY NORWOOD,

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

14 herein and was examined and testified as follows:

15

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

17 BY MR. MEYER:

18 Q. Mr. Norwood, have you sponsored what has been
19 marked for identification as Exhibit KON-1T?

20 A. Yes.

21 Q. Do you have any changes or corrections to
22 make to that?

23 A. No.

24 Q. So if I were to ask you the questions, your
25 answers would be the same?

0195

1 A. Yes.

2 MR. MEYER: And it's already been admitted,
3 so Mr. Norwood is available for cross-examination.

4 JUDGE CLARK: Thank you.

5 Mr. ffitch.

6

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

8 BY MR. FFITCH:

9 Q. Good morning again, Mr. Norwood.

10 A. Good morning.

11 Q. First question, Avista just reported its net
12 income through the end of September 2008; is that
13 correct?

14 A. That's correct.

15 Q. And this year's net income through September
16 is double the net income for the same period in 2007; am
17 I correct?

18 A. Yes, that's correct.

19 Q. And this is at least in part due to the
20 higher rates for Washington customers that were approved
21 in the last Avista rate case?

22 A. That is part of it, and there's a number of
23 other factors as we explained in the news release that
24 contributed to that change.

25 Q. All right. And is it correct that Avista is

0196

1 planning to file a new general rate case by March 2009?

2 A. That is our current plans, yes.

3 Q. And will that rate case be filed prior to the
4 end of the suspension period in this case?

5 A. We have not chosen a target date at this
6 point.

7 Q. There's no stay-out period in this settlement
8 agreement that would prevent you from filing prior to
9 the end of the suspension period in this case; is that
10 correct?

11 A. That's correct.

12 MR. FFITCH: Those are all my questions, Your
13 Honor.

14 Mr. Norwood, thank you.

15 MR. NORWOOD: You're welcome.

16 JUDGE CLARK: Thank you.

17 Is there any inquiry from the Bench?

18 CHAIRMAN SIDRAN: Yes.

19 JUDGE CLARK: Chairman Sidran.

20

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

22 BY CHAIRMAN SIDRAN:

23 Q. Good morning.

24 A. Good morning.

25 Q. I wanted to just set some context here with

0197

1 some background questions, so if you'll bear with me, I
2 want to go back to a prior docket in which the
3 Commission approved the reorganization of Avista into a
4 holding company with Avista Utilities as a subsidiary of
5 what I believe is called AVA, and I want to take you
6 back to the settlement stipulations, the commitments
7 that were made. This was an all party settlement if
8 memory serves that included Public Counsel, and I just
9 wanted to confirm that certain commitments made as part
10 of that settlement have been fulfilled or at least what
11 the status is of those commitments.

12 So I'm referring here to Docket U-060273, and
13 it's Order Number 3, and that order was entered on
14 February 28th, 2007, and I wanted to ask you about 3
15 specific commitments that are part of that settlement
16 starting with number 15. Number 15 says that within 3
17 months of closing the transaction, AVA and Avista, and I
18 won't go on to quote it, but in effect will secure
19 written confirmation from one or more rating agencies
20 that there will be rating separation between AVA and
21 Avista Utilities, and if that does not occur, then there
22 will be follow up with the Commission in terms of notice
23 to that effect and perhaps some additional ring fencing
24 provisions adopted. Has that happened, has there been a
25 written rating agency statement with respect to

0198

1 separation?

2 A. I guess we have to step back even further
3 from that in that the holding company proposal has not
4 closed. We have received approval from this state and
5 the state of Idaho. We have not received -- and the
6 federal commission. We have not received approval from
7 the state of Oregon nor the state of Montana, and we are
8 in the process now of developing new proposals to work
9 with the parties in the state of Oregon. Hopefully that
10 will move this toward a decision one way or the other.
11 At this point, we have not been able to reach agreement
12 on conditions that we're willing to live with to move
13 forward with that, so the matter is still pending in
14 Oregon.

15 Q. All right, so just to be clear here, the
16 bottom line is these commitments that are part of this
17 order are basically not currently operative because
18 there is no holding company established yet?

19 A. That's correct.

20 CHAIRMAN SIDRAN: All right, that answers all
21 of my other questions.

22 MR. NORWOOD: Good.

23 CHAIRMAN SIDRAN: Thank you.

24 JUDGE CLARK: Any redirect?

25 MR. MEYER: No redirect.

0199

1 JUDGE CLARK: Is there any objection to
2 Mr. Norwood being excused?

3 MR. FFITCH: No objection.

4 JUDGE CLARK: Hearing none, you're excused,
5 Mr. Norwood.

6 MR. MEYER: I call to the stand Mr. Falkner.

7 JUDGE CLARK: All right, we'll take a moment
8 off record.

9 (Discussion off the record.)

10 JUDGE CLARK: Avista has called its next
11 witness, which is Mr. Falkner.

12 Mr. Falkner, if you would stand and raise
13 your right hand.

14 (Witness DON M. FALKNER was sworn.)

15 JUDGE CLARK: Thank you, please be seated.

16 Mr. Meyer.

17 MR. MEYER: Thank you.

18

19 Whereupon,

20 DON M. FALKNER,

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

23

24

25

0200

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

2 BY MR. MEYER:

3 Q. Mr. Falkner, have you prepared, prefiled, and
4 have admitted into evidence your rebuttal testimony
5 marked as DMF-1T?

6 A. Yes, I have.

7 Q. Any changes to that?

8 A. No.

9 Q. Likewise DMF-2 is yours, and do you have any
10 changes to that?

11 A. No, I don't.

12 MR. MEYER: Thank you, he's available for
13 cross.

14 JUDGE CLARK: Thank you.

15 Mr. ffitch.

16 MR. FFITCH: Your Honor, the examination I
17 believe is going to be conducted by Mr. Sanger.

18 JUDGE CLARK: All right, thank you, I'm
19 sorry, Mr. Sanger.

20

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

22 BY MR. SANGER:

23 Q. Good morning, Mr. Falkner.

24 A. Good morning, Mr. Sanger.

25 Q. I'm going to ask you some questions about

0201

1 your rebuttal testimony. Does your rebuttal testimony
2 specifically address Mr. Majoros's consolidated federal
3 income tax adjustment?

4 A. That was the attempt, yes.

5 JUDGE CLARK: Is your microphone on,
6 Mr. Falkner?

7 THE WITNESS: It is now, yes.

8 BY MR. SANGER:

9 Q. Pages 4 and 5 of your rebuttal testimony.

10 JUDGE CLARK: Which is exhibit?

11 Q. Which is Exhibit DMF-1T.

12 JUDGE CLARK: Thank you.

13 Q. Do you identify what you describe as a
14 computational error regarding Mr. Majoros's effective
15 tax rate that he uses?

16 A. It is his effective tax rate calculation and
17 his consolidated tax adjustment, yes.

18 Q. Is an effective tax rate as described by
19 Mr. Majoros obtained by dividing Avista's tax liability
20 by the sum of the taxable income of all members with
21 positive taxable income?

22 A. Could you restate that question.

23 Q. Yes, I can. As Mr. Majoros uses the term, an
24 effective tax rate that you're describing or that he's
25 testifying to, is that obtained by dividing Avista's tax

0202

1 liability by the sum of the taxable income of all
2 members of positive taxable income?

3 A. No, his effective tax calculation is after
4 the allocation of lost subsidiaries to the regulated
5 utility.

6 Q. So could you briefly summarize in your words
7 what Mr. Majoros's use of effective tax rate is?

8 A. Well, basically what he's doing is taking tax
9 losses from non-regulated subsidiaries, applying those
10 to the tax liability of the regulated operation, and
11 recalculating the statutory rate to an effective tax
12 rate.

13 Q. Thank you. And you testified that the
14 correct effective tax rate should be 34%?

15 A. No. We recalculated Mr. Majoros's testimony
16 or calculation to correct for computational errors and
17 produced a 34% rate per his calculation. We don't
18 accept that methodology. 35% statutory rate is the
19 proper rate to use.

20 Q. Okay, let me rephrase the question.

21 A. Sure.

22 Q. According to the way that Mr. Majoros
23 proposes that an effective tax rate should be used,
24 using his concept of an effective tax rate, and he had a
25 number for that effective tax rate, did you find a

0203

1 computational error in that and recalculate that?

2 A. Yes, I did.

3 Q. And was your number 34%?

4 A. Yes, as illustrated in my Exhibit DMF-2, and
5 that's using the 2005/2006 tax years for his
6 calculation.

7 Q. Correct.

8 A. We didn't update it for the fact that 2007
9 tax return has been filed. If we were to redo it again
10 with the \$350,000 tax loss, the 34% would be basically
11 35% again.

12 Q. Was that tax report provided to Mr. Majoros
13 before he filed his testimony?

14 A. I don't know the timing exactly, but it has
15 been provided. It was probably pretty close.

16 Q. Are you aware of the revised exhibit that
17 Public Counsel and ICNU filed regarding Mr. Majoros's
18 effective tax rate?

19 A. I have seen a number of exhibits back and
20 forth the last few days.

21 JUDGE CLARK: Which exhibit are you referring
22 to, Mr. Sanger?

23 MR. SANGER: This is the exhibit that we
24 filed yesterday, the corrected MJM-4.

25 JUDGE CLARK: Which I believe has not been

0204

1 yet correctly filed, distributed to all the parties and
2 the Bench.

3 MR. SANGER: That is correct.

4 JUDGE CLARK: All right, so I am not going to
5 allow examination on a document that has yet to be
6 filed. Do you want to examine him on the version that
7 is in the record, the original MJM-4TC?

8 MR. SANGER: No, I wanted to ask him
9 questions about the revised MJM-4T.

10 JUDGE CLARK: Okay.

11 MR. MEYER: You know, may I weigh in here?
12 If where counsel is going is to establish just really
13 for the benefit of all concerned that the parties have
14 reached agreement to correct computational errors that
15 were identified by the Company, perhaps that would prove
16 helpful at this point so at least we narrow the issues
17 that separate us still on this issue of the effective
18 tax rate.

19 MR. SANGER: Yes, Your Honor and Mr. Meyer,
20 the question that I intend to ask is essentially whether
21 Avista was provided a copy of this corrected exhibit and
22 whether it corrects the computational error that
23 Mr. Falkner identified on page 5 of his testimony.

24 JUDGE CLARK: I will allow that.

25 A. The answer is yes. There is -- I'm not sure

0205

1 exactly what the final filed version is, but the
2 adjustments -- the exhibit that I've seen has correctly
3 applied the issues that we noted in my testimony to his
4 original calculation. So as far as we're concerned, the
5 original calculation has been corrected for the
6 computation errors both on the pretax rate and the
7 jurisdictional allocation.

8 BY MR. SANGER:

9 Q. Thank you, Mr. Falkner.

10 I would like you to refer to page 14 of your
11 testimony. Does page 14 of your rebuttal testimony
12 discuss the IRS normalization rules and raise your
13 concerns about whether Mr. Majoros's tax adjustment
14 violates the IRS normalization rules?

15 A. Page 14 basically summarizes my concern that
16 the adjustment as proposed by Mr. Majoros could violate
17 normalization as we read it, as we understand the code
18 and the regulations, and that at the very least if this
19 sort of adjustment was imposed on the Company, we would
20 be put in the position of having to get a ruling from
21 the IRS on whether this did or did not violate
22 normalization.

23 Q. Are you aware that the states of Oregon,
24 Pennsylvania, New Jersey, and West Virginia have adopted
25 consolidated tax adjustments?

0206

1 A. I'm aware they have adopted mechanisms or
2 adjustments they call consolidated tax adjustments. I'm
3 not -- each state I think is very different from the
4 readings that I -- from what I've read so far. What I
5 see here proposed by Mr. Majoros is not what we
6 experienced in Oregon, which is my most recent
7 experience, and to the best of my knowledge it's not
8 what is in place in the other states.

9 Q. In any of those other states, Oregon,
10 Pennsylvania, New Jersey, or West Virginia, have any of
11 those states' utilities violated the IRS normalization
12 rules?

13 A. To the best of my knowledge, there has been
14 no negative rulings from the IRS on normalization.

15 Q. And did Mr. Majoros ask in a discovery
16 request for the Company to calculate the Oregon
17 consolidated tax adjustment in this case?

18 A. There was a DR that was prepared by someone
19 else that did ask if it could be a -- actually it asked
20 for a revenue requirement calculation, a tax expense
21 calculation, and that's technically not what happens in
22 SB 408. The SB 408 is more of a income tax true up tax
23 -- true up tax mechanism. It's not part of a general
24 revenue requirement, which I think was that data
25 request.

0207

1 Q. And are you aware that in 1991 the IRS's
2 chief counsel wrote to Congress that consolidated tax
3 adjustments can be made without violating the
4 normalization requirements of the Internal Revenue Code?

5 A. Yes, that's the -- I think it's called the
6 Shashy Memo. It is part of I guess it's my DMF-3. And
7 if you read it, I mean it says it can be, consolidated
8 tax adjustment can be constructed to the point where it
9 won't violate normalization, but it's rather specific
10 about requirements to make sure accelerated tax benefits
11 are completely isolated and retained by the Company.
12 And it basically also says in absence of additional
13 regulations. It leaves open the possibility of a
14 construction of a consolidated tax adjustment that won't
15 violate normalization, but it doesn't exactly say how.

16 Q. So do you agree or disagree with the
17 statement that is the current -- is the position of the
18 Internal Revenue Service that consolidated tax
19 adjustments as a general rule are not inconsistent with
20 the normalization requirements of the code?

21 A. I would agree and point out that as a general
22 rule. The only thing that I'm looking at, and I think
23 if you look at my testimony I use the word might and
24 could violate, I didn't say will and does, that -- it's
25 a two piece calculation what Mr. Majoros is proposing.

0208

1 One is the consolidated tax adjustment -- adjustment
2 stand alone where you take -- where you attempt to take
3 non-regulated losses and apply them as an adjustment to
4 revenue requirement. But what he did was he went a step
5 further and took this effective tax rate as calculated,
6 rolled it in to conversion factor, and applied it to all
7 the other adjustments. That's basically what you're
8 doing is you're applying it to all the other adjustments
9 in the revenue calculation. That's across the board.
10 Does it impact the recovery of deferred taxes, does it
11 impact the rate base adjustment for DFIT? Not really
12 sure, but because of the pervasive -- because of what
13 the conversion factor does, it touches every single
14 adjustment, I think it would take quite a bit of
15 analysis to say it does or doesn't, and we've pretty
16 much spent a number of months looking at it and put it
17 in the hands of the IRS. The first part stand alone,
18 just the adjustment of consolidated tax of losses from
19 non-regulated subs, might be pretty simple to construct
20 based on what the other states have done. It's the
21 conversion factor element that I think gives me the most
22 pause.

23 MR. SANGER: I have no further questions,
24 Your Honor.

25 JUDGE CLARK: All right.

0209

1 Is there any inquiry from the Bench?

2 Commissioner Jones.

3

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

5 BY COMMISSIONER JONES:

6 Q. Mr. Falkner, just a couple of follow-up
7 questions. On page 14 that counsel was referring to,
8 you talk about the Company would be forced to request an
9 official determination from the IRS through a Private
10 Letter Ruling.

11 A. Yes.

12 Q. Now it appears from DMF-5 from your exhibit
13 that you received a Private Letter Ruling from the IRS
14 on Senate Bill 408, did you not?

15 A. Yes, we did.

16 Q. About how long does that take? I note that
17 the process with the IRS took about one year for this
18 particular --

19 A. Correct. In our case it took just a little
20 over a year. That also included some supplemental
21 filing of some revised regulations from Oregon.

22 Q. Okay.

23 A. I don't think that's the standard. We were
24 advised that this could take more than a year, two
25 years, three, depending on --

0210

1 Q. Okay.

2 A. -- how it got addressed.

3 Q. So it could be anywhere from one to three
4 years?

5 A. Easily from what I've been told.

6 Q. Okay. Does a Private Letter Ruling have the
7 force of law, have the force of --

8 A. No.

9 Q. -- law?

10 A. No. What it is, it's a determination by the
11 IRS specific to the entity that filed, and it's
12 non-precedential in any other filing.

13 Q. So when you say it would be a long
14 administrative process, what specifically are you
15 referring to; are you referring to the IRS process or to
16 a process before this Commission or what exactly?

17 A. I was actually envisioning both going back to
18 what happened in the southern state of Oregon. The
19 process to put rules together from a regulatory
20 standpoint was cumbersome and over a year, and that
21 preceded the filing of the Private Letter Ruling, so it
22 was -- and in that particular case, that process alone
23 was two years. So when I -- long administrative
24 process, I was actually thinking both from the IRS
25 standpoint and from implementation on a regulatory

0211

1 standpoint.

2 COMMISSIONER JONES: That's the end of my
3 questions on this one, thank you.

4 JUDGE CLARK: Commissioner Oshie.

5 COMMISSIONER OSHIE: Thank you, Judge.

6

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

8 BY COMMISSIONER OSHIE:

9 Q. I just have a clarification for the record,
10 Mr. Falkner. You used in one of your answers the term
11 DFIT, and if you could just for the record state what
12 that means. I know, I believe I know what it means, I
13 believe I heard the term, but if you could please
14 clarify.

15 A. DFIT is an acronym for deferred federal
16 income tax.

17 COMMISSIONER OSHIE: All right, thank you.

18 JUDGE CLARK: Any other inquiry?

19 All right, redirect?

20 MR. MEYER: Just some brief follow up, and
21 this is meant to be helpful to the Commission and
22 perhaps remove some of the mystery around the agreement
23 that the witness spoke about in terms of correcting the
24 tax computational error.

25

0212

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

2 BY MR. MEYER:

3 Q. Mr. Falkner, you testified earlier that there
4 was a common understanding now of what the corrected
5 calculation should be for the computational error.

6 A. The corrected calculation assuming
7 Mr. Majoros's methodology, yes.

8 Q. Right. And I understand this relates just to
9 agreement around correcting, if you will, the arithmetic
10 or the computation, it does not suggest any agreement
11 conceptually with what Public Counsel and ICNU have
12 proposed, correct?

13 A. Correct, I think we've been pretty clear
14 about that.

15 Q. All right. And is it your understanding that
16 correcting for the computational error only with respect
17 to the electric revenue requirement would serve to
18 increase Public Counsel and ICNU's proposed revenue
19 requirement from \$20.118 Million to \$24.477 Million?

20 A. Yes.

21 Q. And just to complete the story, and with
22 respect to the natural gas revenue requirement would
23 serve to increase their proposed revenue requirement
24 for --

25 MR. SANGER: Your Honor, I object, I would

0213

1 like to object to Mr. Meyer's characterization of the
2 ICNU and Public Counsel position. I believe that that
3 does not accurately characterize the ICNU and Public
4 Counsel position. I would like to make sure that that
5 is clarified that what Mr. Meyer is referring to is how
6 Avista and the settling parties have characterized the
7 ICNU/Public Counsel settlement position, but it's not
8 the litigated position that ICNU and Public Counsel
9 support.

10 JUDGE CLARK: So is your problem with the way
11 the question was posed?

12 MR. SANGER: My problem is how the question
13 was posed and the foundation for the question. It
14 assumes that the way that Avista is characterizing the
15 ICNU/Public Counsel position is correct, and that has
16 not been established yet.

17 JUDGE CLARK: All right.

18 Mr. Meyer, response.

19 MR. MEYER: I was simply trying to isolate
20 for the benefit of the Commissioners what the dollar
21 impact would be of the parties' agreement around
22 correcting for the computational error, and I think that
23 would prove helpful earlier on in the proceeding rather
24 than waiting until the end when we admit the corrected
25 exhibit.

0214

1 JUDGE CLARK: All right, the objection is
2 overruled. I have allowed your inquiry, Mr. Sanger,
3 regarding the agreement between ICNU, Public Counsel,
4 and Avista regarding the correction of a computational
5 error in MJM-4TC, and this is appropriate inquiry
6 regarding that computational correction.

7 Mr. Meyer.

8 MR. MEYER: Thank you, Your Honor.

9 BY MR. MEYER:

10 Q. So just to complete that part of it, with
11 respect to the natural gas revenue requirement, would
12 correcting for that computational error serve to
13 increase the \$627,000 revenue requirement to
14 approximately \$3.3 Million?

15 A. Yes, it would.

16 Q. Okay.

17 Turning to normalization, very briefly what
18 are the consequences to the Company and its rate payers
19 of a normalization violation?

20 A. As I stated in my testimony, you would stand
21 to lose the benefit of accelerated tax depreciation,
22 income taxes go up, cash outflows go up, financing costs
23 go up.

24 Q. Would you agree that that would have a
25 substantial impact?

0215

1 A. Generally speaking, accelerated tax
2 depreciation is a large benefit to a capital intensive
3 company like Avista.

4 Q. So were this Commission to order or to accept
5 a consolidated tax adjustment in the form proposed by
6 Public Counsel and ICNU, do you believe it would still
7 be prudent for the Company to seek a revenue ruling in
8 that regard?

9 A. Oh, absolutely, I can't imagine the Company
10 not.

11 MR. MEYER: All right, thank you.

12 JUDGE CLARK: All right.

13 Mr. Sanger.

14 MR. SANGER: I have a couple follow-up
15 questions based on the examination by Commissioner Jones
16 and Mr. Meyer.

17 JUDGE CLARK: All right, I'm going to allow
18 that, and then I will allow additional redirect, but it
19 is unusual to allow additional cross-examination,
20 Mr. Sanger.

21

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

23 BY MR. SANGER:

24 Q. In the questioning by Commissioner Jones, you
25 mentioned the Oregon process.

0216

1 A. Yes.

2 Q. And I assume you're referring to Senate Bill
3 408 in Oregon?

4 A. Yes, I am.

5 Q. And did that statute apply to PacifiCorp as
6 well as Avista?

7 A. It applied to any utility in the state of
8 Oregon with more than 100,000 customers, 50,000
9 customers, excuse me.

10 Q. And did that apply to PacifiCorp as well?

11 A. Yes, it did, PacifiCorp, Northwest Natural,
12 Portland General.

13 Q. And did the Oregon Commission adopt a
14 consolidated tax adjustment for PacifiCorp in a rate
15 case before the Oregon Public Utility Commission?

16 A. I'm not aware of anything the Oregon
17 Commission has adopted for PacifiCorp other than the SB
18 408 methodology, which applies to all of us.

19 MR. SANGER: No further questions, Your
20 Honor.

21 JUDGE CLARK: Mr. Meyer, does that prompt
22 additional redirect?

23 MR. MEYER: I think just one.

24

25

0217

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

2 BY MR. MEYER:

3 Q. Was the Oregon experience prompted by
4 legislative directive, legislation, or was it initiated
5 by the Commission?

6 A. Oh, this was from the legislation. It was a
7 senate bill that basically was the result of the Enron
8 debacle and the ownership of Portland General, it was a
9 unique circumstance.

10 MR. MEYER: Thank you.

11 JUDGE CLARK: All right, thank you.

12 Thank you, Mr. Falkner.

13 Is there any objection to this witness being
14 excused?

15 Hearing none, you're excused, Mr. Falkner.

16 MR. FALKNER: Thank you.

17 MR. MEYER: The next witness would be
18 Elizabeth Andrews.

19 (Witness ELIZABETH M. ANDREWS was sworn.)

20 JUDGE CLARK: Thank you, please be seated.

21 Mr. Meyer.

22 MR. MEYER: Thank you, Your Honor.

23

24

25

0218

1 Whereupon,

2 ELIZABETH M. ANDREWS,

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

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. MEYER:

8 Q. Ms. Andrews, have you prepared testimony that
9 has been marked and admitted identified as EMA-1TC,
10 EMA-2C, EMA-3, EMA-4T, EMA-5C, EMA-6C, and EMA-7T?

11 A. Yes, I have.

12 Q. Do you have any changes to make to those?

13 A. No, I do not.

14 MR. MEYER: With that, having had these
15 admitted before, the witness is available for cross.

16 JUDGE CLARK: Thank you, Mr. Meyer.

17 Will Mr. ffitch or Mr. Sanger be inquiring?

18 MR. FFITCH: I will examine, Your Honor,
19 thank you.

20 JUDGE CLARK: Thank you.

21

22 CROSS - EXAMINATION

23 BY MR. FFITCH:

24 Q. Good morning, Ms. Andrews.

25 A. Good morning.

0219

1 Q. And you are the manager of revenue
2 requirement for Avista; is that correct?

3 A. Yes, that's correct.

4 Q. So you were asked to sort of handle the --
5 cover the entire waterfront in your testimony?

6 A. Yes.

7 Q. I would like you to turn, please, to your
8 rebuttal testimony, which is Exhibit EMA-7T, and if you
9 could go to page 6, please.

10 A. Yes, I'm there.

11 Q. Now the question at the top of the page has
12 you stating that the settlement positions of Public
13 Counsel and ICNU regarding A&G adjustments,
14 administrative and general adjustments, are nearly
15 identical to the positions of the settlement, correct?

16 A. Yes, that's correct.

17 Q. You say that we're within \$44,000 of the, we
18 being the Public Counsel/ICNU position, is within
19 \$44,000, right?

20 A. Yes, on the electric side.

21 Q. You do acknowledge at line 7 there that we
22 get there in different ways, don't you?

23 A. That's true.

24 Q. And if you could please turn to the next
25 question on the page or look down at the next question

0220

1 on the page, you say there that there are some
2 differences in the two positions that largely cancel
3 each other out, right?

4 A. Yes, that's correct.

5 Q. All right, sorry, I didn't mean to talk over
6 you.

7 Now the first example you give is that the
8 settlement removes \$1.19 Million for non-officer and
9 union wages, correct?

10 A. Yes, for electric. On the electric side,
11 yes, that's correct.

12 Q. On the electric side. And then you quote
13 below Mr. Majoros's testimony indicating that he does
14 not remove that amount, right?

15 A. That's true, Mr. Majoros did not object to
16 the pro forma salaries, because those typically are
17 allowed by this Commission.

18 Q. Okay.

19 Now if you could turn to page 3 of your
20 testimony to table 1.

21 A. Okay, I'm there.

22 Q. And that's a table you prepared to show a
23 comparison between Public Counsel/ICNU position and that
24 of the settlement, correct?

25 A. That is correct, at least as far as the where

0221

1 there were some comparisons, not every position
2 obviously, but where there were comparisons between the
3 settlement and Public Counsel.

4 Q. Okay. And if we look at the line next to the
5 marginal line 16, administrative and general expenses,
6 we look over and we see the two numbers there, Public
7 Counsel is \$1.89 Million and the multi-party number of
8 \$1.85 Million, and that's where you get your \$44,000
9 dollar difference; is that right?

10 A. That's correct, yes.

11 Q. Now keeping in mind the non-executive salary
12 reduction that we just mentioned on the electric side,
13 that's again \$1.19 Million.

14 A. Yes.

15 Q. Right?

16 A. Yes, that's true.

17 Q. That would -- if we look at line 5(e), you're
18 designating a Public Counsel adjustment number there but
19 it's shown as line 5(e) union and non-executive
20 salaries, if we put your 1.19 into this chart, it would
21 appear on that line over in the right-hand column,
22 correct?

23 A. Yes, it would.

24 Q. You're aware that Mr. Majoros accepted the
25 \$1.19 Million adjustment in his testimony responding to

0222

1 the settlement, aren't you?

2 A. Yes, I am.

3 Q. Okay. And so if we look at this line for
4 adjustment 5(e) in the Public Counsel column, we should
5 actually insert the \$1.19 Million into the Public
6 Counsel adjustments column as well to get an accurate
7 comparison, shouldn't we?

8 A. No, we should not. You've already mentioned
9 that we got to this place in different -- we got to the
10 total A&G cost in a different manner. Mr. Majoros
11 looked at certain areas within our A&G costs that he
12 felt that should be excluded, although I would say that
13 there were many cases where he didn't actually provide
14 enough information to show that the costs were improper.
15 As far as the settlement position, the Company -- let me
16 back up. That is in my understanding Public Counsel's
17 litigation position for adjustments to administration
18 and general expenses. For the settlement position,
19 those were adjustments that were made by the parties as
20 a give and take process of what -- basically a way to
21 reduce the revenue requirement to an acceptable level by
22 all the parties. That particular adjustment for labor
23 and/or union and non-executive salaries was made as an
24 attempt to recognize that other parties may have
25 additional adjustments. Just the fact that union and

0223

1 non-union pro forma salaries are typically included by
2 this -- have been allowed by this Commission, and as you
3 said Mr. Majoros said the same in his direct testimony,
4 that those costs were acceptable, that does not mean
5 that I would expect Public Counsel then to reduce their
6 litigation position by those additional dollars that we
7 have agreed to remove within the settlement. The
8 settlement is a -- should be looked at as a total
9 package of a give and take by all sides, but it does not
10 mean that we would under a litigation position assume
11 that those dollars then become imprudent or -- I mean
12 that's my understanding of what you mean, that the
13 Public Counsel should be able to remove then those costs
14 from your totals.

15 Q. You're not withdrawing that aspect of the
16 settlement here today, are you, the Company is
17 agreeing --

18 A. No.

19 Q. -- to withdraw that amount of money from --

20 A. That's right.

21 Q. -- the revenue requirement?

22 A. Yes, we are agreeing to remove that dollar
23 amount from the revenue requirement as a part of the
24 settlement, as a part of a give and take process that --
25 with the assumption that the end result of the entire

0224

1 multi-party settlement is fair and reasonable and in the
2 best interests of the customers.

3 Q. All right. And Public Counsel's not
4 objecting to that portion of the settlement, is it?

5 A. Okay, no.

6 Q. Well, still looking at table 1, you don't
7 show any adjustments on the right-hand column for the
8 multi-party settlement, correct?

9 A. No, I did not.

10 Q. And I understand, if you would just bear with
11 me, we'll kind of walk through it a little bit.

12 A. All right, sorry.

13 Q. But in Footnote 4 there you do indicate what
14 the basis or the components of that, of the total \$1.85
15 Million is, do you not?

16 A. I do.

17 Q. And it's correct, isn't it, that you break
18 those out on page 7 of your testimony in a table?

19 A. Yes, I do.

20 Q. All right. And so is it fair to say that
21 this shows the adjustments or the specific items that
22 were agreed to in the settlement that compose the \$1.85
23 Million, and those are non-officer compensation we've
24 already talked about, officer compensation, incentive
25 comp, and sponsorship expenses, right?

0225

1 A. That's correct.

2 Q. And so you could take those numbers and put
3 them over in the right-hand column in the table 1, could
4 you not, next to their respective adjustments?

5 A. That's true.

6 Q. All right.

7 A. But as I mentioned, the reason why I did not
8 try to attempt to do that is because there are
9 differences perhaps on why the adjustments were being
10 removed, so I just lumped them together because I didn't
11 want there to be any confusion on why one might have
12 been reduced versus compared to what Public Counsel's
13 adjustments might have been.

14 Q. All right. But just for example if we go to
15 adjustment 6(e), Public Counsel has a number, a
16 reduction of \$389,000, and the settlement has a number,
17 a reduction of \$140,000, correct?

18 A. Yes, that's correct, and it is my
19 understanding that both Public Counsel and the
20 adjustment that we made was the -- was to include a
21 correction of an error that the Company had found during
22 the process of reviewing that information.

23 Q. All right.

24 A. It was \$140,000.

25 Q. And am I correct that the settlement contains

0226

1 no stated adjustment for advertising?

2 A. That is correct.

3 Q. For dues?

4 A. That is correct.

5 Q. For charitable contributions?

6 A. That is correct.

7 Q. Directors compensation?

8 A. That is correct.

9 Q. And directors and officers insurance?

10 A. That is correct. Because as I may have
11 already stated, the -- by removing \$1.5 Million of
12 electric and gas union and non-union compensation, the
13 Company has attempted to remove areas where maybe there
14 was some additional charges that should have been
15 charged below the line that had not been during our
16 review of our revenue requirement, but since the -- we
17 felt that that would encompass any of those types of
18 charges considering the fact that \$1.5 Million of
19 salaries that has been approved by this Commission in
20 the past, and so therefore a prudent type of cost, we've
21 removed those types of prudent type costs which more
22 than offset or for the most part offset or are similar
23 to what Public Counsel has proposed in their litigation
24 position. Keep in mind, like you said, that's Public
25 Counsel's litigation position for all of those

0227

1 individual items that you just mentioned, and so we
2 didn't -- I did not -- we did not isolate specific areas
3 of those adjustments, but we feel that the salary level,
4 removing those salaries reflects those types of charges
5 that should have been maybe charged below the line.

6 Q. Okay, can you turn, please, to
7 cross-examination Exhibit 9, EMA-9.

8 A. I'm there.

9 Q. All right. And this is a data request that
10 asks you to detail advertising expenses, correct, over
11 \$10,000?

12 A. Correct, just over -- the ones over \$10,000.

13 Q. Right.

14 A. We had previously provided a total full of
15 detail of advertising expenses to Mr. Majoros.

16 Q. All right. And if we look down at the bottom
17 part of the page, there is a table showing vendors,
18 amounts, descriptions, location of ad, right?

19 A. Yes, that's correct.

20 Q. And if we look at the first 2 boxes there,
21 there's an indication or wording 14-4 is the name of the
22 vendor, and then under description there's Avista
23 history on Avistautilities.com, correct?

24 A. That's correct.

25 Q. And if we turn to page 12 of this exhibit,

0228

1 well, and the location of the ad or web site is given,
2 correct?

3 A. That's right.

4 Q. Getting ahead of myself here. So if we turn
5 to page 12 of this exhibit, we see a printout of the
6 first page of that Avista legacy web site?

7 A. Yes, that's correct.

8 Q. And actually there's a couple more pages
9 shown there?

10 A. Mm-hm.

11 Q. This web site is designed to enhance Avista's
12 reputation and create a positive opinion of Avista among
13 its customers and the general public, isn't it?

14 A. Well, it was created to promote the Company's
15 history as a safe, reliable, dependable company, as it
16 always has been, to provide company and customer
17 education of milestones in the Company's history.

18 Q. So that would enhance the Company's
19 reputation and --

20 A. Hopefully continue the reputation that we
21 have.

22 Q. All right.

23 If you turn to page 16 of the exhibit.

24 A. Is that the one with the picture of the
25 little girl? Am I on the correct one?

0229

1 Q. That is page 17 I believe.

2 A. Oh.

3 Q. So 16 is right before that.

4 A. Starts with natural gas, the benefits of
5 natural gas?

6 Q. Right.

7 A. Okay. I'm sorry, that was the picture I was
8 referring to in that little box.

9 Q. Yes.

10 A. Okay.

11 Q. Sorry.

12 A. No, that's okay.

13 Q. Now can you just tell us what that is?

14 A. Let me make sure I'm looking at the right
15 thing.

16 Q. This is an advertisement I guess obviously,
17 right?

18 A. Yes, it is, and I'm trying to decipher if
19 that is the -- yes, that's the Kokes, Kokes in the
20 fourth column of the box on page 1 of this exhibit, is
21 that correct? I believe that's true. Yes, okay, I just
22 want to make sure I'm looking at the right one.

23 Q. Okay.

24 A. Yes, those are particular -- these are areas
25 where someone can, as the next page shows, they're

0230

1 different YouTube runs of those ads, and they're also I
2 believe ran by -- on the air, and those particular ads
3 were for promoting natural gas. And within those
4 advertisements, they advertised the clean burning fuel,
5 that there -- it's the most efficient fuel, and energy
6 efficiency, energy efficiencies of natural gas,
7 convenient, convenience of natural gas, clean, reliable,
8 but it is also a promotion for the services of natural
9 gas.

10 Q. All right, so it is encouraging people to
11 install natural gas appliances or equipment?

12 A. Yes, in your home, that's correct.

13 Q. And to select Avista's natural gas service I
14 assume?

15 A. Sure.

16 Q. Let's go on to another topic, sponsorship
17 agreements or sponsorship expenditures.

18 A. Yes.

19 Q. The multi-party settlement removed amounts
20 for sponsorship agreements on the electric side,
21 correct?

22 A. That's correct.

23 Q. And if -- that's actually shown on, well, a
24 number of places, but if you were -- we were going back
25 and looking at your table 1 -- actually it's not on the

0231

1 table 1, it's on your page 7 --

2 A. 7, correct.

3 Q. -- your table there.

4 A. That's correct.

5 Q. That's \$109,000 on the electric side, right?

6 A. Yes, that's correct.

7 Q. Can you go to your Exhibit 19, please.

8 A. Yes, I'm there.

9 Q. All right. And this amount states, or excuse
10 me, the exhibit states the amounts attributable to gas
11 and electric sponsorship, and on page 2 towards the
12 bottom on the right side it states that the amount
13 allocable to Avista's Washington gas revenues is
14 \$65,000, correct?

15 A. That's correct, revenue requirement of
16 \$68,000.

17 Q. All right.

18 Can you please turn to Exhibit 24, your
19 EMA-24?

20 A. Yes.

21 Q. And this confirms, does it not, that the
22 sponsorship costs have been removed on the electric
23 side, and in the last sentence it says, these costs
24 still need to be removed from the natural gas case,
25 correct?

0232

1 A. Yes, that's true.

2 Q. And have those costs been removed from the
3 natural gas case as part of the settlement?

4 A. No, they were -- I will admit they were
5 inadvertently missed on the gas side when we did the
6 settlement. However, as I've mentioned about the
7 salaries that have been removed, we've removed \$300,000
8 of prudent costs that otherwise would be admitted under
9 litigation purposes, we have removed \$300,000 that more
10 than offset those types of -- that type of expense.

11 Q. So that adjustment is not going to be made,
12 it's just being lumped in with what's already been
13 agreed to?

14 A. Yes. I believe that under the full package
15 of the multi-party settlement that the revenue
16 requirement that has been included in that is
17 reasonable.

18 Q. Would you please turn to Exhibit 25, EMA-25.
19 Do you have that?

20 A. Yes, I do.

21 Q. All right. And that response states that a
22 portion of charitable donations were recorded as utility
23 expense, correct?

24 A. That's correct.

25 Q. All right. And there's an attachment that

0233

1 shows those amounts, which is pages 2 and 3 of the
2 exhibit, and that shows amounts paid to support
3 charities and activities such as Spokane Youth Sports
4 Association, 4-H Animal Sales, Benefit Golf Tournaments,
5 High School Year Book, correct?

6 A. That is correct, and Mr. Majoros has removed
7 a total of \$16,000 electric and \$8,000 gas for those
8 particular adjustments.

9 Q. All right. And the settlement does not have
10 any specific adjustment for charitable donations,
11 correct?

12 A. No. And again, I believe the total A&G
13 adjustment that's been made within the multi-party
14 settlement reflects these types of activities that if
15 under further review required removal that the total A&G
16 costs are similar that's been reduced in the multi-party
17 settlement.

18 Q. Is it Avista's position that these charitable
19 contributions are necessary to the provision of safe and
20 reliable gas and electric service in Washington state?

21 A. No, not necessarily. I mean I think that
22 they promote or they help the communities that we serve,
23 and therefore in benefiting our communities I think our
24 customers do benefit. But these types of costs that if
25 we had been aware of them during the test period may

0234

1 have removed them. I would have to look at each -- what
2 I did not do with these and other, some of the other
3 adjustments that Mr. Majoros made because of the
4 proceeding that's in front of us with the multi-party
5 settlement, I did not go down every line item or
6 transaction that he excluded to see whether it was
7 appropriate or not.

8 Q. All right. Did the Staff recommend any
9 adjustments in any of these areas that we've been
10 talking about that were not specifically culled out in
11 the --

12 A. No, they did not. Although they were under I
13 think the same understanding, that by removing the
14 salaries, if there were things that were inadvertently
15 missed, by removing \$1 1/2 Million of salaries you're
16 probably encompassing areas that may have been
17 overlooked as reductions.

18 Q. A settlement was reached before any party had
19 filed testimony in the case addressing the Company's
20 revenue requirement in detail, correct?

21 A. That's true, but it was after a full review
22 including audit by many Staff members that had visited
23 Avista's offices and reviewed each adjustment within our
24 revenue requirement request, and I believe that was over
25 a period of several months.

0235

1 Q. Let's look at another area now, dues and
2 membership fees. Again, there's no specific adjustment
3 for those amounts in the settlement, correct?

4 A. That is correct.

5 Q. And let's go to Exhibit 20 now, EMA-20.

6 A. Yes, I'm there.

7 Q. And this is a listing of dues and membership
8 fees that were paid out by the Company, and also you
9 were asked to indicate lobbying and political
10 activities, right?

11 A. That's correct.

12 Q. And can you show us where the lobbying and
13 political activity items on the attached sheets are?

14 A. Yes, on page 1, let me think, on page 1 of 5,
15 typically charges that go for lobbying and political
16 are charged to 426100, and if you look on page 2 I guess
17 of the exhibit, if you look in the far left column, and
18 I know it's a little small, apologize for that, but it
19 says 426100 are typically charitable and civic expenses
20 or below the line type charges are where we typically
21 charge those.

22 Q. All right. You say they're typically below
23 the line, so everything -- this charitable and civic
24 expenses category includes both charitable and
25 political?

0236

1 A. Since we were speaking dues and memberships,
2 that's what it says.

3 Q. That's right, I apologize, dues and
4 memberships and political.

5 A. Yes.

6 Q. So it's all lumped together in this category?

7 A. Yes, it's all -- those types of charges are
8 charged -- this particular account is for our below the
9 line transactions.

10 Q. Now are any of these charges being sought for
11 recovery in the Company's revenue requirement?

12 A. Not those that are within the 426100, they
13 would not be included in the test period and therefore
14 would not be within the revenue requirement.

15 Q. But there are some dues and membership fees
16 that are included in the revenue requirement.

17 A. That is correct.

18 Q. Am I understanding correctly?

19 A. Yes.

20 Q. And are they shown on here as well?

21 A. Yes, they would be within the -- I mean this
22 particular exhibit shows all of the expense accounts
23 that has charges pretty much starting at page -- since
24 page 2 of that exhibit is mainly balance sheet or
25 non-utility, I believe the first expenses start at about

0237

1 page 3 of the exhibit about halfway down, a quarter of
2 the way down, those types of expenses start there.

3 Q. So that would include items like Edison
4 Electric Institute?

5 A. That's correct.

6 Q. Chamber of commerce expenditures, rotary
7 club, things of that nature?

8 A. That's true.

9 Q. And is it Avista's position that payments to
10 rotary clubs, chambers of commerce, and other items
11 shown on this exhibit are necessary to the provision of
12 safe and reliable natural gas and electric service?

13 A. I believe to promote economic growth and they
14 also provide -- they also provide dollars for healthy
15 communities that ultimately benefit our customers. So
16 yes, to the extent that those -- the costs -- the
17 charges within the transactions were prudently -- were
18 prudent costs, I would agree.

19 Q. So it's your statement that these are
20 necessary to the provision of electric and gas service?

21 A. I haven't had the opportunity to look through
22 every single transaction to know if every detail line
23 item is -- has -- are charges that -- if there were any
24 that should have been below the line or not. I have not
25 reviewed those in the context of this proceeding with --

0238

1 Mr. Majoros has made \$159,000 electric adjustment and
2 \$39,000 gas adjustment, and I have not looked through
3 every detail item of this, these transactions just for
4 this proceeding due to the material amount.

5 Q. All right.

6 All right, let's talk a little bit about
7 executive salaries. Executives at Avista spend some
8 portion of their time on subsidiary related work, do
9 they not?

10 A. Yes, they do.

11 Q. And also a portion of their time is spent on
12 shareholder related work I assume?

13 A. That's true. Some of the officers, not all.

14 Q. If we could turn to EMA-17, you're asked
15 there generally to explain how executives classify their
16 time between utility and non-utility.

17 A. Yes, I am.

18 Q. That's right. And does Avista have a
19 specific mechanism or required framework in place to
20 determine how much time executives allocate between
21 Avista Utility and any subsidiary?

22 A. Yes, the officers are asked on, at least
23 annually, on an individual basis based on their judgment
24 what they believe the amount of allocation should be to
25 non-utility operations, and this is based on their

0239

1 individual knowledge of their individual job
2 responsibilities.

3 Q. All right. So that's the mechanism that's
4 used?

5 A. Yes. It would be difficult and time
6 consuming for each officer to track on a daily or hourly
7 basis what areas they are -- what areas their workload
8 or responsibilities covered on a daily basis.

9 Q. Does Avista require executives to use a
10 specific or set list of factors in exercising their
11 judgment under this approach?

12 A. I would assume the individual officer would
13 be -- would know best what they -- where their time --
14 where they think -- where they believe they're going to
15 spend their time in the pro forma period, which is what
16 has been included in this test period.

17 Q. All right.

18 Please turn to Exhibit 16, EMA-16.

19 A. I'm there.

20 Q. And in general this data request asks for
21 shareholder related expenses, correct?

22 A. It does.

23 Q. And please turn to page 2 of the exhibit.

24 A. Okay.

25 Q. Does this line E on this exhibit, is that --

0240

1 am I correct that this shows the amounts of compensation
2 Avista paid to its directors in those different years?

3 A. I believe those are for meeting expenses is
4 what I believe that is for. I have to look at --

5 Q. Take a minute to look at it if you want.

6 A. Yeah, I believe those are for meeting
7 expenses, and I think B might be the directors fees and
8 expenses. What was your question, I'm sorry?

9 Q. Actually I was asking about line E.

10 A. Oh, I'm sorry, I misheard, I'm sorry, I
11 thought you said B, I'm sorry, yes, that would be my
12 assumption, yes, that that would be, yes.

13 Q. All right. And line B is the expenses for
14 those director meetings?

15 A. Right.

16 Q. All right. Now has the Company assigned --
17 well, I'm sorry, let me start again.

18 What portion of these expenses has the
19 Company assigned to the regulated utility?

20 A. The Company has assigned 100% of these
21 charges as a necessary expense of doing business.

22 Q. All right. I take it then that the
23 settlement does not include any sharing of these costs
24 between shareholders and rate payers?

25 A. No, it does not. We believe that these

0241

1 charges benefit the customers. These particular
2 charges, they support the financing of the utility, they
3 provide access to capital markets at reasonable terms,
4 and these types of expenses for our shareholders help
5 build and maintain the infrastructure that allows us to
6 provide a safe, reliable, and efficient utility, and
7 therefore they benefit our customers, and so the company
8 has recorded these 100% to the utility.

9 Q. All right.

10 Please turn to EMA-27.

11 A. Yes.

12 Q. And that is a copy of Avista's corporate
13 governance guidelines; is that correct?

14 A. Yes, it is.

15 Q. Could you look, well, the first section is
16 entitled responsibility of the board of directors, and
17 at the end of the first paragraph it states that the
18 directors are elected by the shareholders, correct?

19 A. That is true.

20 Q. Not the rate payers?

21 A. Correct.

22 Q. And if you turn to page 2 of that exhibit,
23 just over halfway down there's a section headed
24 compensation of directors, right?

25 A. That's correct.

0242

1 Q. And who determines how the, or excuse me, how
2 much directors are compensated?

3 A. According to -- oh, how much or -- I'm sorry,
4 repeat your question.

5 Q. Who determines how much directors are
6 compensated?

7 A. This states that it will be determined by the
8 board based on recommendations of the governance
9 nominating committee.

10 Q. All right. And it's correct, isn't it, that
11 a portion of the compensation is provided and held in
12 company stock?

13 A. I believe that to be true.

14 Q. And can you read the last sentence of that
15 section, please.

16 A. (Reading.)

17 The board believes that it's important
18 to align the interests of the board with
19 the company shareholders, and
20 accordingly a portion of directors
21 compensation will be provided and held
22 in company stock.

23 Is that the sentence you're referring to?

24 Q. Yes, thank you.

25 And could you please go to the next Exhibit,

0243

1 EMA-28, which is the proxy statement for 2008.

2 A. Okay.

3 Q. And if you could go to page 41 using exhibit
4 numbering, which is page 38 in the proxy statement.

5 A. 38 did you say? Oh, page 38 in the proxy
6 statement? Is that page 41 that you said?

7 Q. The upper right-hand corner would be page 41.

8 A. Yes, I am there.

9 Q. All right. And please look at the fourth
10 full paragraph from the top starting at their February
11 2008 meeting. Do you have that?

12 A. Yes.

13 Q. And that states that the board increased the
14 share ownership requirement from 6,500 to 9,500 shares,
15 correct?

16 A. Correct.

17 Q. And can you read the third sentence, please,
18 beginning with the words, the ownership.

19 A. (Reading)

20 The ownership expectation illustrates
21 the board's philosophy of the importance
22 of stock ownership for directors in
23 order to further strength the
24 commonality of interest between the
25 board and shareholders.

0244

1 Q. All right, thank you.

2 Let's talk about directors and officers
3 insurance. Avista assigns 100% of the cost of directors
4 and officers insurance to rate payers, correct?

5 A. No, that is not correct.

6 Q. Excuse me, I know where you're going because
7 -- let me rephrase that.

8 A. Thank you.

9 Q. After reduction for subsidiaries and
10 allocation between jurisdictions, does Avista assign
11 100% of directors and officers insurance costs to rate
12 payers?

13 Did I get it right this time?

14 A. I think so, but I'm going to clarify to make
15 sure I understand what you're asking. Of the total
16 directors and officers insurance that is -- that the
17 Company pays for on an annual basis, one third of those
18 charges are charged to non-utility and two thirds of
19 that expense is charged, currently charged to customers
20 in the 2007 test period.

21 Q. All right. But none of it's charged to
22 shareholders?

23 A. Well, we charge, as I mentioned, one third to
24 non-utilities, so you can --

25 Q. Other than that?

0245

1 A. -- charge that where you want.

2 Q. All right.

3 A. Or take that however you want.

4 Q. And again, the settlement does not reflect
5 any adjustment for this particular item, correct?

6 A. No, there was no discussion about whether --
7 about reduction to insurance in the settlement.

8 Q. All right.

9 Now if we look at EMA-15, the last paragraph
10 which goes from the first page to the second page, I
11 will let you get there first.

12 A. The second page did you say?

13 Q. Starting at the bottom of the first page.

14 A. Oh, without sufficient coverage?

15 Q. Right. My question is this answer
16 essentially states that directors and officers coverage
17 protects individual directors from personal liability,
18 right?

19 A. That is correct. I believe that's the
20 purpose of directors and officers insurance.

21 Q. And it's to address liability that could
22 result from poor directorial decisions?

23 A. Well, I believe it's a -- directors insurance
24 is -- the purposes of director insurance is a means to
25 remove significant financial risk to directors and

0246

1 officers that are directors and officers of any
2 business. I don't think that I would characterize it
3 the same way that you have. It does protect from legal
4 liabilities, but over the last number of years there's
5 been hundreds of claims that have been put before
6 companies for -- against their directors and officers,
7 and I don't believe that this in any way means that
8 there was necessarily management mistakes that were
9 made. I mean that's just the nature I think of today's
10 society with the number of lawsuits that have hit
11 companies today.

12 Q. All right, well, it covers claims for --

13 A. Yes.

14 Q. -- a variety of reasons which could include
15 liability from poor directorial decisions?

16 A. Thank you, yes.

17 Q. And it's a benefit to directors and officers,
18 is it not?

19 A. Yes. I don't believe that any director and
20 officer of a business would agree to become a director
21 and officer without this type of protection as a
22 director officer of that business.

23 Q. When directors and officers insurance policy
24 pays a claim, where does the money go?

25 A. To whoever -- I guess whoever it was that

0247

1 filed the lawsuit would be my assumption.

2 Q. Very typically that would be shareholders,
3 would it not?

4 A. Yes, I, you know, as I said, that's not the
5 purpose of D&O insurance, but it's the outcome typically
6 of any claims, those dollars, any claims, those dollars
7 would go to those shareholders.

8 Q. All right. And so that becomes a
9 supplemental source of shareholder value in effect,
10 wouldn't you say?

11 A. I'm not sure that I would claim it that way,
12 no.

13 Q. And --

14 A. I certainly as a shareholder would not buy
15 stock in a company thinking that I was going to receive
16 value from that stock because I had to later file a
17 claim against the Company.

18 Q. All right. The proxy statement lists a D&O
19 insurance payout with respect to a specific shareholder
20 suit, does it not?

21 A. It does. It was not related to any
22 activities that occurred in 2007. I believe that was a
23 payout related to some claims that occurred in 2002,
24 subject to check.

25 Q. And that was -- that payout went to

0248

1 shareholders also?

2 A. Yes, it did.

3 Q. Let's see, I want to ask a question or two
4 about the confidential litigation, and I think that's
5 referred to on your table 1. If you could go back to
6 your rebuttal testimony, back to table 1 on page 3,
7 rebuttal testimony EMA-7.

8 JUDGE CLARK: Could you repeat that page
9 reference for me, Mr. ffitch.

10 MR. FFITCH: Your Honor, it's page 3 in
11 Exhibit EMA-7.

12 JUDGE CLARK: Thank you.

13 BY MR. FFITCH:

14 Q. And do you have that, Ms. Andrews?

15 A. I do.

16 Q. And I'm looking at the adjustment 4E line for
17 confidential litigation there.

18 A. Yes.

19 Q. And that's, you know, those numbers and even
20 the footnote are not designated as confidential, right,
21 so we can talk about those, is that --

22 A. Yes, I believe that's true.

23 Q. All right. And you generally make the point
24 in your testimony again that the number in the Public
25 Counsel column and the multi-party settlement column are

0249

1 fairly close, right?

2 A. Right. What I didn't elaborate to in my
3 testimony probably as clearly as I might otherwise have
4 in order to avoid the confidential issue, but what the
5 -- what my testimony I believe says is that we have
6 incorporated the same 2. or we have incorporated the
7 same \$2.4 Million that is in that confidential
8 litigation column that Public Counsel has removed, but
9 there were additional dollars that the Company removed
10 related to other relicensing type activities.

11 Q. All right. It's true though, is it not, that
12 under the settlement all the costs of the confidential
13 litigation are ultimately going to be recovered by the
14 Company, correct?

15 A. Correct, if approved by this Commission,
16 correct.

17 Q. So you're going to establish a deferral
18 account which will earn interest, and ultimately that
19 will be placed in rates so the rate payers will pay all
20 the costs of those --

21 A. Yes, that's correct.

22 Q. All right. And that's not the case with the
23 Public Counsel adjustment, is it?

24 A. No. But for purposes of this proceeding,
25 these dollars have been removed from the revenue

0250

1 requirement.

2 Q. All right. So this just postpones the
3 payment of those costs so that they can be and they will
4 be paid by future rate payers?

5 A. Yes, that's correct.

6 Q. Isn't it the case, Ms. Andrews, that if
7 Avista had been paying expenses associated with
8 confidential litigation matter, these expenses would
9 have been included for rate making purposes by Avista in
10 its expense statement?

11 A. Yes, if we had been paying these types of
12 expenses currently or in the test period or it would
13 have been -- yes, they would have been -- they would
14 have been incurred. We pro formed these costs in
15 because the expectation is that these -- this particular
16 activity would have been concluded enough to know to
17 include those dollars.

18 Q. All right. And that's true if you had been
19 paying those expenses in 1950 or 1980, correct, they
20 would have been included in rates?

21 A. I'm assuming any expense that gets recorded
22 in any of the test periods in each case that's before
23 this Commission would have been requested for recovery.

24 Q. All right.

25 Could you please turn to your Exhibit EMA-4T,

0251

1 that's your supplemental testimony. I will have to find
2 that also.

3 A. I'm sorry, what was that page, did you give
4 me a page already?

5 Q. I don't think I did yet.

6 A. Oh, okay.

7 Q. Page 2.

8 A. Page 2, okay.

9 Q. This is again supplemental testimony of
10 Ms. Andrews, EMA-4T at page 2.

11 A. I'm there.

12 Q. Now just to start with, generally the purpose
13 of your supplemental testimony is to demonstrate the
14 basis of the alleged increase in the electric revenue
15 requirement above the original filed level, correct?

16 A. The purpose of my testimony was to support a
17 revenue requirement of \$47.4 Million versus the \$36.6
18 Million that we had originally filed. However, we did
19 not request a change to what we had -- the revenue
20 requirement that we were asking at that time, we were
21 just providing information to support that level of
22 dollar amount.

23 Q. All right. And Avista did not file revised
24 tariffs to reflect the original, excuse me, the
25 additional amount of \$47.4 Million or the increase to

0252

1 \$47.4 Million, did it?

2 A. That's correct, because at that time we were
3 not asking for recovery of \$47.4 Million.

4 Q. All right. And that in this testimony
5 reflects an increase amount of \$10.8 Million which is
6 approximately a 30% increase in revenue requirement,
7 isn't that right?

8 A. That's true.

9 Q. And at line 17 and 18 you say, accordingly
10 Avista is not requesting additional rate relief beyond
11 the requested \$36.6 Million, right?

12 A. Right, beyond that -- the amount, the dollar
13 amount, beyond the \$36.6 Million, we were not requesting
14 to go above that level at this time.

15 Q. All right. If we turn to page 3, the next
16 page of the exhibit, there's a breakout in table form of
17 the adjustments that are contained in the supplemental
18 testimony, right?

19 A. Yes, that's correct.

20 Q. And that's where the \$10.8 Million comes
21 from?

22 A. Correct.

23 Q. Now can we turn, please, to the multi-party
24 settlement stipulation at page 4.

25 A. That I actually don't have in front of me.

0253

1 JUDGE CLARK: Mr. Meyer, do you have a copy
2 of Exhibit 5?

3 MR. MEYER: Sure.

4 JUDGE CLARK: You are referring to 5,
5 Mr. Ffitch, rather than the testimony?

6 MR. FFITCH: Yes, Your Honor.

7 JUDGE CLARK: All right, the record should
8 reflect that Mr. Meyer has just handed Ms. Andrews a
9 copy of the settlement.

10 BY MR. FFITCH:

11 Q. And page 4 is what I want you to look at. If
12 possible I guess I'm going to be asking you to look at
13 both documents.

14 A. Okay, I have them both open.

15 Q. All right.

16 JUDGE CLARK: Are you talking about the
17 testimony?

18 MR. FFITCH: I'm asking her to compare the
19 table on page 3 of her supplemental testimony --

20 JUDGE CLARK: Thank you.

21 MR. FFITCH: -- with the summary table in the
22 multi-party stipulation.

23 JUDGE CLARK: On page 4?

24 MR. FFITCH: On page 4.

25 JUDGE CLARK: Thank you.

0254

1 A. Yes, I'm there.

2 BY MR. FFITCH:

3 Q. All right.

4 A. I believe.

5 Q. All of the adjustments by category at least
6 that are shown in your supplemental testimony are
7 incorporated in the multi-party table, are they not?

8 A. Each of the items 2 through 7 have been
9 included in the multi-party settlement. The power
10 supply adjustment, the item number 1 in my supplemental
11 testimony, there's sort of pieces and parts. In our
12 supplemental testimony for the power supply agreed, the
13 power supply gas costs is different than what was agreed
14 to in the multi-party settlement. And in the
15 multi-party settlement, there was additional power
16 supply adjustments such as the hydro filtering, the
17 WNP-3 contract, the Colstrip, and the Noxon is
18 separately identified as item number 4 on the
19 supplemental, so that one has been included, so it's the
20 natural gas portion that is different between the two.

21 Q. All right.

22 A. But everything else being equal, we're either
23 included -- all the other ones in the supplemental party
24 were included -- I mean in my supplemental testimony was
25 included, and there were additional adjustments related

0255

1 to power supply in the multi-party that were also
2 adjusted that are different than my supplemental
3 testimony.

4 Q. Is the net effect still \$10.8 Million, do you
5 know, is it more or less than that?

6 A. I believe it would be less because of the
7 additional power supply, the hydro filtering, the WNP-3
8 contract, and the Colstrip correction that would reduce
9 by \$2 Million the power supply costs.

10 Q. All right.

11 A. But I didn't pick those up, I did not pick up
12 those adjustments in my supplemental testimony.

13 Q. Well, we are speaking generally here, but if
14 we take out \$2 Million, then you would have \$8.8 Million
15 of revenue coming over from the supplemental testimony
16 into the settlement; isn't that correct?

17 A. Yes, that's correct.

18 Q. So the revenue requirement in the settlement
19 is increased by instead of \$10.8 Million, \$8.8 Million
20 roughly; is that right?

21 A. I believe again subject to check. I think
22 that the -- I guess I look at them kind of separately
23 because the settlement agreement -- in any settlement
24 whether we had filed this supplemental testimony or not
25 would have -- could have included these types of

0256

1 adjustments in the settlement agreement process, because
2 there would have been costs that increased, could have
3 increased or decreased that settlement agreement, the
4 revenue requirement that we had filed.

5 Q. The total amount of the adjustments shown at
6 the bottom of the page, adjusted amounts --

7 A. Which page now are we talking about?

8 Q. I'm sorry, I'm talking about page 4 of the
9 multi-party settlement stipulation.

10 A. Okay.

11 Q. In the summary table, the total amount at the
12 bottom of \$32.5 Million, this is the electric table.

13 A. Yes.

14 Q. That represents the amount of the rate
15 increase that customers will pay if the settlement's
16 approved, right?

17 A. That's correct, which is obviously below both
18 the \$36 Million in our direct filing and the \$47 Million
19 within our supplemental filing.

20 Q. And if the amounts derived from the
21 supplemental testimony are removed, that number is
22 roughly \$8.8 Million lower, right?

23 A. I'm sorry, would you repeat that, I'm not
24 sure what you're asking.

25 Q. If you remove all the amounts from the

0257

1 supplemental testimony which you've said are now in the
2 range of \$8.8 Million, then the rate increase amount
3 arising from the settlement is \$8.8 Million lower,
4 correct?

5 A. I'm still not sure what you're -- I'm sorry,
6 would you repeat that one more time.

7 Q. Well, let's just look at the summary table of
8 adjustments in the multi-party stipulation.

9 A. Yes.

10 Q. And if you take out every item, items 2
11 through 7, actually items 1 through 7, which you said
12 add up to approximately \$8.8 Million, if you remove all
13 of those items which are derived from the supplemental
14 testimony, then the rate increase that customers will
15 see will be \$8.8 Million lower, correct?

16 A. I will take that subject to check. I guess
17 I'm having a little confusion because I know that there
18 are adjustments that are going up and down, they're
19 coming both directions. Some of them are corrections
20 that we agreed to pick up in the settlement, so, you
21 know, subject to check.

22 Q. All right.

23 MR. FFITCH: May I have a moment, Your Honor.

24 JUDGE CLARK: Actually this would probably be
25 an appropriate time for our lunch recess. As I

0258

1 indicated at the onset of this mornings's proceeding,
2 the Commissioners have other obligations that require us
3 to take our recess today from 12:00 to 1:00. And to
4 ensure that we finish today, if everyone will return
5 promptly at 1:00 it will be greatly appreciated.

6 We are at recess until 1:00.

7 (Luncheon recess taken at 12:00 p.m.)

8

9 A F T E R N O O N S E S S I O N

10 (1:05 p.m.)

11 JUDGE CLARK: When we recessed for lunch,

12 Ms. Andrews was on the stand and Mr. ffitch was

13 inquiring.

14 Mr. ffitch.

15 MR. FFITCH: No further questions, thank you,

16 Your Honor.

17 JUDGE CLARK: All right, is there any inquiry

18 from the Bench?

19 CHAIRMAN SIDRAN: We should take more breaks.

20 JUDGE CLARK: We will be at brief recess.

21 CHAIRMAN SIDRAN: No, I don't have any

22 questions.

23 JUDGE CLARK: All right, is there any other

24 inquiry?

25 COMMISSIONER OSHIE: No, no questions.

0259

1 COMMISSIONER JONES: Your Honor, I have a
2 couple questions.

3 JUDGE CLARK: Thank you.

4

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

6 BY COMMISSIONER JONES:

7 Q. Ms. Andrews, this relates to your rebuttal
8 testimony, EMA-7T, on executive compensation, on page
9 15, lines 11 through 15, right in that section.

10 A. Page 11 did you say, I'm sorry?

11 JUDGE CLARK: 15 I believe.

12 Q. Page 15.

13 A. Oh, page 15, lines 11 through 15?

14 Q. Right.

15 A. Okay.

16 Q. And here you're talking about, to summarize,
17 the three adjustments that you made regarding the three
18 adjustments of Mr. Majoros. One is the estimated rates
19 for 2008 base pay, the second is the use of an estimated
20 5% factor for a 2009 payment increase, and then the
21 allocation of time executives charge between utility and
22 non-utility. Now is it accurate to say that you made
23 these adjustments for litigation, you went back and
24 looked at his adjustments and for litigation purposes
25 you --

0260

1 A. Yes.

2 Q. -- you put the numbers in?

3 A. Yes, for litigation purposes, I said that for
4 litigation purposes we could -- we would agree that the
5 adjusting for actual 2008 rather than the estimate,
6 which on the electric side would have adjusted our
7 non-executive salaries by \$21,000, and that we would
8 with further information that we have now a 4% increase
9 for officer salaries is more appropriate, and that was
10 that. So those two additional we would include for
11 litigation purposes. For the settlement, we did
12 incorporate the correction of the \$140,000, so the
13 majority of that change on what we said for litigation
14 purposes we would agree to a different number, the
15 majority of that was a correction of \$140,000, which
16 actually is also included in the settlement.

17 Q. So my questions relate to the other two
18 adjustments.

19 A. Okay.

20 Q. Not the computational error that you made,
21 but for the other two adjustments. On the known 2008
22 pay and then the other adjustment, you did not include
23 either of those in the settlement agreement revenue
24 requirement?

25 A. No, we did not. We -- by -- you know, when

0261

1 we looked at the total salaries because we had already
2 removed some -- removed the \$1.5 Million in salaries in
3 the settlement, I didn't go back and adjust that for
4 these known changes, which would be, as I said, would be
5 the \$21,000, electric would be \$21,000, I forget where
6 it is, and \$4,000.

7 Q. Okay.

8 A. And so about \$25,000 electric.

9 Q. No, I know where it is in the record.

10 A. Okay.

11 Q. You say that -- two more questions. One is
12 the use of the conference board study on salary
13 increases, is this the first time that you've used that
14 particular source of data for this Commission --

15 A. No.

16 Q. -- in a rate case, or do you commonly use the
17 conference board salary survey to compute salary
18 increases?

19 A. Yes, for I believe it's mainly the
20 non-executive salary increases, there are several
21 surveys that the Company participates in and receives
22 that they use in order to determine what the salary
23 increases might be for the following year. This happens
24 to be one of those.

25 Q. Is that included in the record?

0262

1 A. Yes, it is.

2 Q. Okay.

3 And the last question, you responded to a few
4 questions on the allocation of executive time and the
5 fact that it's very burdensome and time consuming for
6 your senior executives to keep time sheets or to
7 allocate between the regulated activities and the
8 non-regulated activities, correct?

9 A. Well, they do keep time sheets, but within
10 that time sheet they have an allocation that they
11 determine that for all of their time, that is going to
12 just be split a certain percentage between utility and
13 non-utility, and they carry that forward for the entire
14 year, but they do not track hour by hour and change
15 their time throughout the year.

16 Q. My question is, who is the third party? I
17 think you say in one part of your testimony that there
18 is some person to review that allocation or reviews --
19 to review that individual judgment.

20 A. Oh, no.

21 Q. Is there any third party, whether it be the
22 human resources department or anybody who checks that
23 within your company, or do you just accept the informed
24 judgment of the senior executive?

25 A. We accept the informed judgment of each

0263

1 individual officer, yes.

2 COMMISSIONER JONES: Thank you, that's all I
3 have.

4 JUDGE CLARK: All right.

5 Redirect, Mr. Meyer?

6 MR. MEYER: Yes, thank you.

7

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

9 BY MR. MEYER:

10 Q. Ms. Andrews, have you participated in prior
11 settlement discussions in prior cases?

12 A. Yes, I have.

13 Q. And are you familiar with the settlement
14 process in general?

15 A. Yes, I am.

16 Q. Is it in your estimation fairly common as
17 part of any settlement process to attempt to correct for
18 known errors or to otherwise take into account more
19 recent information?

20 A. Yes, absolutely.

21 Q. Would you agree that even if the Company had
22 not filed any supplemental testimony that the Company
23 would have attempted to correct for known errors or
24 otherwise take into account more information, more
25 recent information as part of this settlement process?

0264

1 A. Yes, we would have.

2 MR. FFITCH: Objection, leading.

3 MR. MEYER: That's all I have.

4 JUDGE CLARK: Do you want to respond to the
5 objection?

6 MR. MEYER: Yes, I think the witness
7 answered.

8 JUDGE CLARK: She did.

9 MR. MEYER: Is the objection to strike?

10 JUDGE CLARK: Well, given the timing, that
11 would be the outcome if I were to sustain the objection.

12 MR. MEYER: Okay, so --

13 MR. FFITCH: Your Honor, given the fact that
14 the witness answered, I will withdraw the objection.

15 JUDGE CLARK: Thank you, Mr. ffitich.

16 MR. MEYER: That's all I have, thank you.

17 JUDGE CLARK: All right, thank you,

18 Ms. Andrews.

19 Is there any objection to this witness being
20 excused?

21 Hearing none, you are excused.

22 And, Mr. Meyer, if you would call your next
23 witness, please.

24 MR. MEYER: Yes, Mr. Spanos, please.

25 JUDGE CLARK: Thank you.

0265

1 MR. ROSEMAN: Your Honor, before --

2 JUDGE CLARK: Yes, if you can just get to a
3 microphone, Mr. Roseman.

4 Thank you, Mr. ffitch.

5 MR. ROSEMAN: Thank you. The Energy Project
6 really has no cross-examination for any of the following
7 witnesses, and therefore I would like to be excused from
8 the hearing.

9 JUDGE CLARK: You're excused, thank you for
10 your participation, Mr. Roseman, Mr. Eberdt.

11 Mr. Spanos, if you would raise your right
12 hand, please.

13 (Witness JOHN J. SPANOS was sworn.)

14 JUDGE CLARK: Thank you, please be seated.

15 Mr. Meyer.

16 MR. MEYER: Thank you.

17

18 Whereupon,

19 JOHN J. SPANOS,
20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

22

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

24 BY MR. MEYER:

25 Q. Mr. Spanos, have you prepared prefiled

0266

1 rebuttal testimony marked as JJS-1T?

2 A. Yes, I have.

3 Q. Do you have any changes or corrections to
4 make to that?

5 A. No, I do not.

6 MR. MEYER: With that, the witness is
7 available for cross.

8 JUDGE CLARK: Thank you.

9 Mr. ffitch, will you be inquiring?

10 MR. FFITCH: Yes, Your Honor.

11 JUDGE CLARK: Thank you.

12 MR. FFITCH: Thank you.

13

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

15 BY MR. FFITCH:

16 Q. Good afternoon, Mr. Spanos, is it Spanos or
17 Spanos?

18 A. Spanos. Good afternoon.

19 Q. Good afternoon, I'm Simon ffitch from the
20 Public Counsel office. I would like to start by trying
21 to determine where you and Mr. King disagree, Public
22 Counsel witness Mr. King, and where you don't disagree
23 with respect to depreciation. First of all, Mr. King
24 accepts the service lives and survivor curves that were
25 agreed to in the last Avista rate case, does he not?

0267

1 A. That is correct.

2 Q. And is it correct that the only disagreement
3 between you and Mr. King relates to the treatment of
4 removal costs?

5 A. I believe it's net salvage, but net salvage
6 is the culmination of costs of removal and gross
7 salvage.

8 Q. All right.

9 A. But the major component in that is cost of
10 removal, yes.

11 Q. All right. You take salvage and you take
12 cost removal and put them together and you end up with
13 net salvage?

14 A. That's correct.

15 Q. All right. Does Mr. King accept, is it
16 Gannett Fleming or Gannett Fleming, I don't know if I
17 have the pronunciation.

18 A. Gannett Fleming.

19 Q. Gannett Fleming, excuse me, does Mr. King
20 accept Gannett Flemming's removal cost ratios as the
21 starting point for his recommended removal cost
22 accruals?

23 A. The manner in which I have developed my net
24 salvage component has been accepted by Mr. King in his
25 methodology of determining a discounted value method.

1 Q. Okay. Now you spend a good part of your
2 testimony citing the need to recognize removal costs
3 over the service life of the assets to be removed. Does
4 Mr. King's method of treating removal costs ultimately
5 accrue all of those costs over the service life of the
6 asset to be removed?

7 A. Well, I think the important factor that we
8 need to bring in to make sure that I answer your
9 question appropriately is that the development of a
10 depreciation rate includes three components, the
11 recovery of the original cost, the recovery of the end
12 of life costs which are costs of removal, and the gross
13 salvage. Those two, those last two components happen at
14 the end of life. My methodology recovers that entire
15 investment rationally and systematically over the course
16 of the life of the asset, which is called it's true
17 service value. Mr. King's approach takes and recovers
18 the cost on a discounted method, which gets to the same
19 end point but does not do it in a rational and
20 systematic manner that is consistent with what all of
21 the rate payers will be paying that render a value of
22 those assets.

23 Q. Okay, so you're basically summarizing your
24 theory of the case here in answer to my question, but I
25 think you got to a yes there in the sense that you would

0269

1 agree that his method ultimately accrues all of the
2 costs of removal over the service life of the asset to
3 be removed?

4 A. Assuming that the estimates in place are
5 reasonable and you have an opportunity to make those
6 adjustments. Because if the costs are -- if the asset
7 goes out of service earlier than anticipated, then his
8 costs won't recover all of those. But with that taken
9 out of the picture and assuming that all estimates in
10 place are sound, he will recover at the end the same
11 amount.

12 Q. Okay. So Mr. King's method will generate
13 sufficient allowances to cover the cost of removing
14 plant at the end of its life? I understand you don't
15 agree with his method, but in that respect, or excuse
16 me, that his method will generate sufficient allowances,
17 will it not?

18 A. It won't do it equitably, but it will,
19 assuming all estimates in place, will get you to the
20 same end point for specific assets.

21 Q. Well, if both methods recover the same total
22 removal costs, isn't it true that the only real
23 difference has to do with the timing of the removal cost
24 accruals?

25 A. The timing of the accruals is very important.

0270

1 I think the other factors that come into play are the
2 rate base and revenue requirement factors that aren't
3 taken into consideration. Because when you do this
4 systematically and with my traditional approach, what
5 happens is you have an equal level of recovery each
6 year, which in turn will, in comparison to Mr. King's
7 approach, will reduce rate base and in turn adjust a
8 revenue requirement each year. So there are other
9 components, but as far as just depreciation at the end
10 of the day for a specific asset, you will get an equal
11 total. So each year is different, but at the end point
12 you will recover the same. Again, the whole point based
13 on the Uniform System of Accounts is to do it
14 systematically and rationally over the course of those
15 assets, and that should be for all rate payers, not a
16 different amount for whichever rate payer is in service
17 at the beginning or at the end.

18 Q. Your approach accrues the same nominal dollar
19 amount each year, while Mr. King's approach adjusts the
20 accruals to account for inflation; is that correct?

21 A. That's a relatively accurate assessment.

22 Q. Okay. And is it fair to say that Mr. King's
23 approach is modeled after the method adopted by the
24 Financial Accounting Standards Board FAS 143?

25 A. It's modeled after that document, which is a

0271

1 financial reporting document, but that is, based on my
2 understanding of how he puts his calculations together,
3 that's how it's modeled.

4 Q. All right. And if you need to look at it, we
5 have a copy of FAS 143 in the record as Exhibit JJS-4.
6 I'm not going to walk you through it, but it is there if
7 you want to take a look at it.

8 A. I do have the document here.

9 Q. Okay.

10 Do you believe that the Financial Accounting
11 Standards Board was wrong when it adopted a method that
12 accrues removal costs in gradually increasing annual
13 amounts?

14 A. The intent of this document is financial
15 reporting, and it is not designed to match the recovery
16 of the consumption to the utilization of over the life
17 of the asset. It is a financial reporting document, so
18 to attempt to assign that to regulatory rate making
19 purposes does not make sense. So in that regard,
20 applying this procedure to a regulatory rate making
21 process in my view is incorrect. It's not the
22 calculations or the what was developed in FAS 143, but
23 it was the theory behind it that it's not for regulatory
24 purposes.

25 Q. All right. I guess I would appreciate it,

0272

1 Mr. Spanos, if you would stick a little closer to the
2 question, and you're straying I think a bit into
3 summaries of your entire testimony.

4 Let me go back to the question one more time.
5 Do you believe that the Financial Accounting Standards
6 Board was wrong when it adopted a method that accrues
7 removal costs in gradually increasing annual amounts,
8 were they wrong?

9 A. Can I ask a clarification as to whether
10 that's for financial purposes or regulatory purposes?

11 Q. Whatever purposes.

12 A. Okay, as I stated, for financial purposes
13 that's correct. For applying that to regulatory
14 purposes, I disagree.

15 Q. So you believe -- my question is, do you
16 believe they were wrong in adopting this accrual method?

17 MR. MEYER: Your Honor, the question now has
18 been asked and answered twice already, so I object.

19 MR. FFITCH: Your Honor, I don't believe
20 we've had an answer from this witness that was
21 responsive to the question.

22 JUDGE CLARK: The objection is sustained.

23 BY MR. FFITCH:

24 Q. Mr. Spanos, do you believe that the Financial
25 Accounting Standards Board method of recognizing future

0273

1 removal costs improperly distributes those costs over
2 the years that the asset is in service?

3 A. Again, I have to ask are we talking for
4 financial reporting purposes or for regulatory purposes?

5 Q. Whatever purposes.

6 A. Well, I'm here in relationship for regulatory
7 purposes, and in my mind it does not properly allocate
8 the percentages each year equitably.

9 Q. What about for financial purposes?

10 A. For the purpose of financial reporting, that
11 methodology is an accepted methodology.

12 Q. All right.

13 In your testimony you state that the
14 methodology, Mr. King's methodology, has not been
15 embraced by this Commission, correct?

16 A. That's correct.

17 Q. To your knowledge, has the Commission ever
18 been presented with the opportunity to consider this as
19 an unresolved issue in a case and adopt this
20 methodology?

21 A. There is a recent case that this methodology
22 was brought about, I believe it was eventually settled
23 so I don't know that it came in front of the Commission
24 for review, which was the Puget Sound case. But this
25 methodology has been embraced by, or excuse me, has been

0274

1 presented to many commissions and not accepted. The
2 specifics to this Commission other than the Puget Sound
3 case, I can not feel comfortable having a true feeling
4 on that. Those are the cases I'm aware of.

5 Q. Well, there was no ruling in the Puget Sound
6 case on this methodology, was there?

7 A. There was a settlement agreement.

8 Q. And you in your testimony at page 4, take a
9 look at that, this is your -- you only filed rebuttal
10 testimony, so this is your rebuttal testimony JJS-1. At
11 page 4, line 7, you say that the Public Counsel approach
12 or Mr. King's approach is inadequate because it does not
13 match the service life of the plant. Do you disagree
14 that Mr. King's approach attempts to charge each year's
15 inflation in the year when the inflation occurs?

16 A. Just for clarification, I state it's
17 inequitable. I'm not sure if that's different than what
18 you're trying to describe. I didn't hear it that way.

19 Q. All right, if I misread that, I'm sorry,
20 inequitable.

21 A. Okay. In my opinion, Mr. King's approach
22 does attempt to allocate the inflation factor to the
23 year that each occurs. However, when you are recovering
24 the full service value of the asset, each asset does not
25 have a different -- when you project out what the future

0275

1 inflation is, you're not developing a different
2 percentage each year unless you're going through and
3 reevaluating the estimate. So you need to establish
4 what the estimated cost removal is, and that gets
5 recovery over the full service life, which each customer
6 each year has a fair share of paying.

7 Q. All right.

8 Let's turn to page 5, next page of your
9 testimony, line 16. You there talk about the different
10 flaws in Mr. King's approach, and first you state that
11 what you call back end loading of capital recovery can
12 result in significant shortfalls if assets are retired a
13 few years prior to their estimated service lives,
14 correct?

15 A. That's correct.

16 Q. And when we're talking about removal costs,
17 are we speaking of capital recovery or of accrual for
18 future costs?

19 A. Well, we're speaking of capital recovery. We
20 are including the original costs plus the anticipated
21 removal costs of the asset when it's at its end of life.

22 Q. So are you saying it's both, it's capital
23 recovery and accrual of future costs?

24 A. I'm saying the plant cost and the capital
25 cost of removal component, if that's a clearer term.

0276

1 For example, when an asset goes into service, it's the
2 actual plant in service amount is one component, the
3 cost of removal is another component, the combined is
4 the capital recovery of the asset.

5 Q. Does your concern about significant
6 shortfalls of cost in the event of early retirement
7 apply to depreciation accruals as well as removal costs?

8 A. Yes, it does apply to both pieces.

9 Q. If plant retires, if plant retires
10 prematurely, the depreciation will not have recovered
11 all of its initial investment, correct?

12 A. That's correct, that's why you use the
13 remaining life methodology.

14 Q. Your next critique is that the increase in
15 net salvage accruals results in an underrecovery unless
16 there's a rate case every year, right?

17 A. That is a point I've made.

18 Q. That's a point you make, and again isn't this
19 -- doesn't this condition apply to depreciation accruals
20 as well?

21 A. Yes, it does. However, when you're doing a
22 full -- when you have the remaining life basis, you have
23 an opportunity to catch your over and underaccrual
24 situations.

25 Q. And then your next point is that the sinking

0277

1 fund method applied to group properties is difficult and
2 complex, right?

3 A. That's correct.

4 Q. Wasn't Mr. King able to implement this in a
5 one page spreadsheet, CWK-4? Look at that if you want
6 to.

7 A. I don't have the schedule right in front of
8 me. I understand that that was his presentation, and
9 that lacks the rate base adjustments that occur that are
10 a major component that's missing here. But again, the
11 sinking fund method applies so much of the costs at the
12 end of recovery that if the asset goes out early, you
13 have problems, and the amount of calculations that are
14 needed to recover the investment and its removal become
15 very difficult, much more time consuming for the
16 accounting departments.

17 Q. Please turn to page 10 of this same testimony
18 at line 5, and there you state that any change in
19 depreciation by one jurisdiction would require the
20 company to obtain approval by all of the state
21 commissions that regulate Avista, correct?

22 A. That's correct.

23 Q. Are you aware of any electric utilities that
24 have different depreciation rates for the different
25 states where they operate?

0278

1 A. Yes, there are states that or utilities that
2 have assets in different states that have different
3 depreciation rates, different methodologies, different
4 procedures, that does apply.

5 Q. All right.

6 Turn to page 15, please, of your testimony,
7 line 11. Do you have that?

8 A. Yes, I do.

9 Q. There you state that FAS 143 requires a legal
10 obligation to retire plant before it can be recognized
11 as a liability. Is it your position that Avista has no
12 obligation to recognize non-legal obligations to retire
13 plant?

14 A. It's my opinion that there are assets within
15 the system that there is no legal obligation to retire
16 that plant. However, they get retired based on the
17 needs of the company to provide quality service to their
18 customers. So obviously, as we've shown in the
19 statistics, there are cost of removal that's incurred
20 that was not a legal obligation, that's part of doing
21 the business.

22 Q. Let me ask the question again, if I may. Is
23 it your position that Avista has no obligation to
24 recognize non-legal obligations to retire plant?

25 A. I'm not sure of the context that you're

0279

1 asking the question to be able to answer that. Can you
2 rephrase it in another way, please?

3 Q. Can you turn to Exhibit JJS-2, please. Do
4 you have that?

5 A. Yes, I do.

6 Q. And that is an excerpt from Avista's 2008
7 10-Q form, correct?

8 A. That's what it seems to be.

9 Q. And can you turn to page 2 of the exhibit,
10 which is actually page 7 of the 10-Q, and if you look
11 about halfway down the page, you will see an entry, a
12 line for regulatory liability for utility plant
13 retirement costs, correct?

14 A. I see that line.

15 Q. And that amount shown there as of June 30th,
16 2008, is \$212 Million, right?

17 A. That's correct.

18 Q. Would you agree that Avista evidently does
19 believe it has a requirement to recognize plant removal
20 costs as a liability?

21 A. This is a financial reporting document, so in
22 that regard they present that information. Now again,
23 I'm discussing in my testimony regulatory obligations,
24 and FAS 143 didn't apply. For financial reporting, it
25 does, and that's what you see here.

0280

1 Q. Okay.

2 In the final pages of your rebuttal
3 testimony, you cite several commission decisions from
4 other jurisdictions. Can you please take a look at
5 JJS-3, which is the decision of the Maryland Commission,
6 and go to page, bear with me, I don't believe it's page
7 30, page 30 of the order, but it is exhibit page 37.

8 A. I am on that page.

9 Q. All right. And this section of the order
10 generally discusses, these two paragraphs at least
11 discuss cost of removal issue in the case, right?

12 A. Yes, it does.

13 Q. And the final paragraph states that:

14 The commission has carefully reviewed
15 the record and finds that the present
16 value method should be adopted for the
17 recovery of removal costs.

18 And then it says:

19 The straight line method recovers the
20 same annual costs in nominal dollars
21 from rate payers today as it does at the
22 time plant is removed from service.

23 However, a dollar is worth substantially
24 more today than it will be 20 to 40
25 years from now. Consequently today's

0281

1 rate payers would pay more in real
2 dollars under the straight line method.
3 It is the straight line method you're
4 advocating in this case, correct?

5 A. That is correct.

6 MR. FFITCH: Thank you, Mr. Spanos.
7 No further questions, Your Honor.

8 JUDGE CLARK: Is there anything for
9 Mr. Spanos from the Bench?

10 All right, thank you.

11 Mr. Meyer, do you have redirect?

12 MR. MEYER: No.

13 JUDGE CLARK: Thank you for your testimony,
14 Mr. Spanos.

15 THE WITNESS: Thank you.

16 JUDGE CLARK: Is there any objection to this
17 witness being excused?

18 MR. FFITCH: No, Your Honor.

19 JUDGE CLARK: Hearing none, you're excused.

20 MR. FFITCH: Your Honor, we have not been
21 offering cross exhibits as the day has gone forward with
22 the understanding that they were stipulated already.

23 JUDGE CLARK: That is correct.

24 MR. FFITCH: All right.

25 JUDGE CLARK: One of the procedural matters

0282

1 we addressed before the Commissioners joined us was the
2 admission of all cross-examination exhibits as well as
3 all direct and supplemental direct. We have two I will
4 affectionately refer to as dangling exhibits, and those
5 are the ones I've reserved spots for as MJM-9 and 10 for
6 Mr. Majoros. The remainder are in.

7 MR. FFITCH: Thank you, Your Honor.

8 JUDGE CLARK: Mr. Meyer, would you call your
9 next witness, please.

10 MR. MEYER: Yes, Mr. Felsenthal, please.

11 JUDGE CLARK: Thank you.

12 (Witness ALAN D. FELSENTHAL was sworn.)

13 JUDGE CLARK: Thank you, please be seated.

14 Mr. Meyer.

15

16 Whereupon,

17 ALAN D. FELSENTHAL,

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

19 herein and was examined and testified as follows:

20

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

22 BY MR. MEYER:

23 Q. Mr. Felsenthal, have you prepared prefiled

24 testimony marked and admitted as ADF-1T?

25 A. Yes.

0283

1 Q. Any changes to that?

2 A. No.

3 Q. And you're also sponsoring ADF-2, correct?

4 A. Correct.

5 MR. MEYER: With that, Your Honor, I tender
6 him for cross.

7 JUDGE CLARK: Thank you, Mr. Meyer.

8 And who will be examining?

9 MR. FFITCH: I will be, Your Honor.

10 JUDGE CLARK: Thank you, Mr. ffitch.

11

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

13 BY MR. FFITCH:

14 Q. Good afternoon, Mr. Felsenthal.

15 A. Good afternoon.

16 Q. Your testimony cites FAS 71 and FAS 143,
17 correct?

18 A. Yes, it does.

19 Q. And those are financial accounting standards,
20 are they not?

21 A. They are.

22 Q. And does FAS 143 constitute what's called
23 Generally Accepted Accounting Principles or GAAP?

24 A. Yes.

25 Q. Your testimony regarding both of these

0284

1 standards, 71 and 143, reflects your own interpretation
2 of the standards and your resulting opinion, right?

3 A. In what regard?

4 Q. In the sense that --

5 A. I mean sometimes I'm just quoting verbatim
6 from the standards, so.

7 Q. All right, well, other than your verbatim
8 quotations, it's your interpretation and your opinion
9 about the standards?

10 A. Yes, although I don't think there's much
11 opinion.

12 Q. And actually Mr. Majoros also addresses FAS
13 171 and FAS 143 in his testimony, right?

14 A. FAS 71.

15 Q. I'm sorry, did I say 171, FAS 71 and FAS 143.
16 Do you agree that in the past this Commission has
17 included estimated future cost removal in the
18 depreciation rates charged to rate payers?

19 A. It's my understanding that in the past this
20 Commission as well as most commissions have allowed for
21 the recovery of not only the cost of the asset but its
22 salvage or cost of removal on a straight line basis over
23 the life of the asset.

24 Q. All right. And would you agree that this
25 Commission implicitly understood that if these future

0285

1 costs of removal were not incurred, then future service
2 rates would be reduced by corresponding amounts?

3 A. Could you rephrase that again?

4 Q. Would you agree that this Commission
5 implicitly understood that if those future costs of
6 removal were not incurred, then future service rates
7 would be reduced by corresponding amounts?

8 A. It's my understanding that when you apply
9 this factor and you have -- this factor is included as
10 an element of depreciation, the determination of
11 depreciation. When you do a depreciation study, you
12 compare actuals to what was estimated, and to the extent
13 that there are differences, that factor is then taken
14 into account in determining future depreciation rates.

15 Q. That sounds like a yes, am I right? Are you
16 essentially agreeing that yes, they would take that into
17 account in rates?

18 A. I'm not sure what you -- the term future
19 inflation, I'm not sure what that means. But I do
20 believe that the Commission understood that to the
21 extent that there is a accrual of a cost, in this case
22 depreciation cost of removal and salvage, and to the
23 extent that that number over, it's an estimate, that
24 that estimate over or underrecovers the cost, that that
25 will be taken into account in the future -- in future

0286

1 determinations of depreciation.

2 Q. And --

3 A. If that's a yes, then that's a yes.

4 Q. All right.

5 A. But that's what I'm saying.

6 Q. And reflected in rates?

7 A. And reflected in rates.

8 Q. All right, that is a yes, thank you.

9 Would you agree that the Commission
10 implicitly holds Avista accountable for any amounts
11 charged pursuant to these rates and not yet expended for
12 future costs of removal?

13 A. I would repeat my answer. I think the
14 Commission who approves depreciation studies where these
15 factors are taken into consideration, to the extent that
16 there are over or undercollections of the estimates that
17 they will be included in future determinations of
18 depreciation.

19 Q. All right. And it's correct that we just saw
20 in Exhibit JJS-2, a 10-Q excerpt, that Avista has
21 identified and reported a \$200 Million plus regulatory
22 liability for removal costs; is that correct?

23 A. I haven't seen JJS-2, but subject to check.
24 I kind of knew what -- I was following you. The amount
25 that's been included in rates charged customers for cost

0287

1 of removal is identified, is tracked, separately kept
2 track of, and for financial reporting purposes reported
3 as a regulatory liability.

4 Q. All right. And that's a regulatory liability
5 resulting from prior charges to rate payers for future
6 costs of removal?

7 A. It's a regulatory liability because under the
8 accounting standards you have to record a debit, which
9 is the cost of removal. And to the extent that that
10 amount -- to the extent that that amount is taken into
11 consideration when you separate charge customers, and to
12 the extent that debit does not have an offset in credit,
13 you need a credit which under FAS 71 turns out to be a
14 regulatory liability.

15 Q. And would you agree that the regulatory
16 liability was created because Avista collected future
17 costs of removal from rate payers that has not yet been
18 expended for its intended purpose?

19 A. Yes, I would, yes.

20 Q. Do you describe these amounts as non-legal
21 asset retirement obligations?

22 A. From an accounting standpoint, those are
23 non-legal asset retirement obligations. Although they
24 are obligations, they're just not -- they don't meet the
25 standards in FAS 143 of what you need to record as a

0288

1 legal obligation or a legal asset retirement obligation
2 under the standard.

3 Q. Okay. Does the UTC require Avista to incur
4 these non-legal asset retirement obligations?

5 A. Avista and most other utilities when -- the
6 end of an asset's life, they are obligated to remove the
7 asset, dismantle or remove the asset. An example would
8 be a pole. You can put up a utility pole, and while
9 there's no legal obligation to take it down at the end
10 of its life, or a generating station, there's no legal
11 obligation to take it down at the end of its life,
12 you're going to do it. It's just -- you aren't going to
13 leave the countryside full of poles and generating
14 stations.

15 Q. Would you say that the UTC requires that to
16 occur?

17 A. I don't know what the UTC requires.

18 Q. Has Avista promised or committed to this
19 Commission or the public or its customers to incur these
20 obligations, non-legal asset retirement obligations, and
21 spend these amounts on its intended purpose?

22 A. I don't know if they've committed to or not.
23 I know that historically at the end of the asset's life,
24 they have removed the assets. So based on history, I
25 would think that there is an obligation, implicit if you

0289

1 will, while not legal, to actually remove, tear down
2 these assets, or if it's -- in many cases you incur
3 obligations like removing asbestos, although that might
4 be a legal one, but there are obligations that you have
5 that as a good corporate citizen you're going to do.

6 Q. Okay. Am I correct that -- I'm going to ask
7 you to go back to FAS 71 again and ask you a question or
8 two about that. And if we need to go look at it, we
9 can, but --

10 A. I have that.

11 Q. Okay. Am I correct that paragraph 11(b) of
12 FAS 71 requires the unexpended amounts to be recognized
13 as liabilities and taken into income only when the
14 associated costs are incurred?

15 A. What FAS 71 does is it recognizes that the
16 regulatory process creates an economic effect that needs
17 to be considered in the financial reporting of regulated
18 companies. So to the extent that an asset -- that a
19 cost is incurred before it is actually expended, and
20 that cost would not be a GAAP cost, a Generally Accepted
21 Accounting Principle cost, then a regulatory liability
22 should be recorded. You need to have a credit, and
23 since the regulator in their wisdom have allowed for the
24 cost to be recovered in advance of the expenditure, then
25 for rate purposes the offset is that that revenue that

0290

1 you collect from customers is not revenue, it's going to
2 be -- represent an amount that's going to have to be
3 paid down the road, so that's a regulatory liability.
4 Now what paragraph 11(b) says, I can read it if you
5 want.

6 Q. Okay

7 A. Current rates are intended to recover such --
8 let me back up.

9 11(b). A regulator can provide current
10 rates intended to recover costs that are
11 expected to be incurred in the future
12 with the understanding that if those
13 costs are not incurred, future rates
14 will be reduced by corresponding
15 amounts. The current rates are intended
16 to recover such costs, and the regulator
17 requires the enterprise to remain
18 accountable for any amounts charged
19 pursuant to such rates and not yet
20 expended for intended purposes. The
21 enterprise shall not recognize revenue
22 amounts charged pursuant to such rates.
23 Those amounts shall be recognized as
24 liabilities and taken to income only
25 when the associated costs are incurred.

0291

1 Q. Okay. And in Washington, it's true, isn't
2 it, that Avista reports this \$200 Million cost of
3 removal regulatory liability as a component of
4 accumulated depreciation?

5 A. For regulatory purposes, the FERC, F-E-R-C,
6 does not -- embraces including the cost of removal
7 component of depreciation as an element of accumulated
8 depreciation. Washington has adopted the FERC Uniform
9 System of Accounts, and as such Avista and most
10 utilities that I know of include the cost of removal,
11 the accumulated cost of removal, as an element of
12 accumulated depreciation and does not report it
13 separately as a regulatory liability.

14 Q. Did Avista spend some of the money it
15 collected on actual cost of removal?

16 A. I don't know, but I believe I would say yes.
17 I don't know the amount, but they have an annual, I
18 think annual expenditures on actual cost removal.

19 Q. And the figures we saw in the 10-Q, the \$200
20 Million plus amounts for cost removal, they're amounts
21 that were collected but not spent, that's a net figure
22 for cost of removal, right?

23 A. That's the difference between what has been
24 accrued for cost of removal and charged customers versus
25 what has been spent as of the financial reporting date.

0292

1 Q. All right. And what does Avista do with the
2 \$200 Million and some, spend it on general corporate
3 purposes?

4 A. They spend it like, well, like any other
5 asset that they -- any other cash that they receive.

6 Q. Does it get put into the bank?

7 A. As opposed to?

8 Q. Being held in the bank, you know, for the
9 future cost of removal down the line, segregated as a
10 separate fund.

11 A. It is not -- it's my understanding it's not
12 segregated in a separate fund or put in a lockbox or
13 anything like that. It's like any other cost that they
14 collect from customers. The amount the customers pay
15 are for the estimated costs of service. What Avista
16 does with the funds once they collect them, that's up to
17 them. They still have the obligation for in this case
18 cost of removal to spend the money to remove the asset
19 at the end of its life. Just like when Avista collects
20 money to recover depreciation, a portion of that
21 depreciation is used to pay down the debt that -- the
22 debt that financed the construction in the first place.
23 They don't put that in a lockbox either. They are --
24 they have good corporate treasury practices that when
25 they need the money going forward, they do their cash

0293

1 forecasting, and they figure out how they're going to
2 pay their obligations with the assets that they have.

3 Q. All right. So this fund or this \$200 Million
4 is available for general corporate purposes. It's also
5 reported as an additional depreciation expense in
6 accumulated depreciation, right?

7 A. It's recorded as additional -- for the
8 non-legal costs of removal, the amount charged customers
9 is a depreciation expense, included as a factor in
10 depreciation expense.

11 Q. But the accumulated depreciation is not
12 listed as a liability account, right?

13 A. It's a contra asset account but separately
14 disclosed as a regulatory liability for financial
15 reporting purposes. For regulatory purposes on the Form
16 1 for instance when they report to FERC, it stays in
17 accumulated depreciation.

18 Q. Do you consider a regulatory liability to
19 constitute a lockbox?

20 A. I think a regulatory liability is a
21 regulatory liability. It's one of the three, this
22 paragraph you made me -- I read, there are three
23 different examples of when you record a regulatory
24 liability, that is one of them.

25 Q. Well, one of the issues raised by FAS 71 in

0294

1 the paragraph that you read was protecting the excess
2 from being taken into income before the costs were
3 actually incurred, correct?

4 A. Taken into revenues, yes. You know, FAS 71
5 is a statement where it's important to match the
6 revenues that a company collects, utility, with the
7 costs that are incurred. This is the only industry
8 where prices are set based strictly on costs. So with
9 that economic dimension, what FAS 71 does is says for
10 financial reporting purposes you are to reflect the
11 economic effects of regulation in financial reporting,
12 and if a regulator allows for a cost to be recorded in a
13 period other than when somebody else -- enterprise in
14 general would record it, it would -- the balancing
15 account is either a regulatory asset or a regulatory
16 liability. It just recognizes that regulators set costs
17 or establish prices based on costs, whereas in other
18 industries prices are set based on the market or
19 competition.

20 Q. Well, let me ask that again, because I'm not
21 sure you answered the question specifically. I'm asking
22 if one of the issues raised by FAS 71 in paragraph 11(b)
23 is protecting the excess from, excess recovery for cost
24 removal, from being taken into income before the costs
25 were actually incurred; is that one of the issues raised

0295

1 in FAS 71?

2 A. As I said, in paragraph 11(b), it says:

3 The enterprise -- when this occurs where
4 a regulator provides current rates
5 intended to recover costs that are
6 expected to be incurred in the future
7 with the understanding that if those
8 costs are not incurred in future -- not
9 incurred, future rates will be reduced
10 by corresponding amounts. If current
11 rates are intended to recover such costs
12 and the regulator requires the
13 enterprise to remain accountable for any
14 amounts charged pursuant to such rates
15 and not yet expended for the intended
16 purpose, the enterprise shall not
17 recognize as revenue amounts charged
18 pursuant to such rates.

19 You're going to ask me if I think that's a
20 yes, right? It is what it is.

21 Q. Well, I may be ready to give up, we've
22 exhausted that topic I think.

23 A. It says I mean just -- those amounts shall be
24 recognized as liabilities and taken to income only when
25 the associated costs are incurred.

0296

1 Q. All right.

2 On page 4 of your testimony, if you go to
3 that, please, at line 20 you say:

4 For regulatory purposes, Avista's not
5 permitted to remove amounts previously
6 accrued for removal costs from
7 accumulated depreciation and record them
8 in income or apply them to some other
9 account without regulatory approval.

10 Right?

11 A. That's what it says.

12 Q. That's your testimony?

13 A. Mm-hm.

14 Q. Are you aware of any electrical utilities
15 that have taken such amounts into income without
16 regulatory approval?

17 A. No.

18 Q. Are you aware --

19 A. Can I -- well, go ahead. I was going to
20 qualify. The only examples that I know where something
21 would be taken to income is if a company in connection
22 with becoming deregulated or going off of cost of
23 service regulation, if there was a regulatory liability
24 for such amounts, I'm familiar with companies who have
25 taken that regulatory liability, removed it, and used

0297

1 it, in most cases you can call it income, but in most
2 cases it was used to offset regulatory assets which were
3 taken to expense.

4 Q. But in those cases, the funds were
5 transferred, the unspent amounts were transferred from
6 the accumulated depreciation into income, weren't they?

7 A. I don't know that they were transferred into
8 income. Where I'm familiar with it is where those costs
9 were considered in determining the stranded cost or the
10 stranded investment of the whole asset group, and I'm
11 really not familiar with companies that ended up with a
12 big income pick up from getting rid of or removing their
13 regulatory liability. In most cases, it was just used
14 to offset a bigger effect from offsetting a stranded
15 regulatory cost.

16 Q. You stated that in 2008 you filed rebuttal
17 testimony on behalf of Tucson Electric Power before the
18 Arizona Corporation Commission.

19 A. Correct.

20 Q. What was the gist of your testimony in that
21 case?

22 A. There were two elements. One had to do with,
23 just like I said, Tucson in 19, let me think, 1989,
24 that's probably the wrong year, 1999, was told to get
25 ready for competition and deregulate their generating

1 assets. The state legislature had put together a
2 deregulation plan, and in connection therewith Tucson
3 discontinued the application of FAS 71. They went to
4 the commission, and they had to deal with their stranded
5 costs. They agreed -- the Commission allowed them to
6 recover their stranded cost, stranded cost meaning
7 generating assets that could not be recovered in a
8 competitive -- competitively, competitive market. They
9 calculated the amount of stranded cost, which was around
10 I believe \$400 Million, and were allowed to recover that
11 over the next 10 years. The \$400 Million consisted of
12 \$500 Million of stranded asset costs less approximately
13 \$100 Million of cost removal that was included in the
14 calculation. So I testified in that, submitted rebuttal
15 testimony talking about why it was appropriate to
16 discontinue the application of FAS 71.

17 And secondly, in that case the, I forget who
18 it was, but the other side believed that they should
19 restore the regulatory liability or the cost of removal
20 for cost of removal -- the liability for cost of removal
21 in setting rates going forward because they were -- in
22 Arizona they never really went through to a full
23 competitive -- the plan didn't work, they didn't do it,
24 there was no competition, so they became reregulated,
25 and the question was, what do we do with the costs of

0299

1 removal. And in this case I testified that, well, the
2 cost of removal has already gone to the customers.

3 There was also an issue in that case where
4 the other side questioned when FAS 143 came out, the
5 Company took into income as part of their transition to
6 143 a cost of removal credit that was sitting in
7 accumulated depreciation, and I testified that that was
8 appropriate because it was deregulated, there was no
9 longer any removal obligation associated with being
10 regulated, and frankly I couldn't figure out how they
11 ended up with that same \$143 Million or whatever the
12 number was, \$100 Million of cost of removal when they
13 had already refunded it, so I thought it had already
14 been considered when they determined their stranded
15 costs. But I wasn't around, I didn't do the
16 bookkeeping, I don't know how they ended up with double
17 accounting for the same \$100 Million credit, so I think
18 that's kind of an outlier.

19 Q. Were you testifying that they should keep the
20 \$100 Million?

21 A. I testified that the \$100 Million had already
22 gone back to customers. The \$100 Million had already
23 been considered when they deregulated generation, and it
24 was used to reduce the stranded costs or the competitive
25 transition charge, if you will, so it really wasn't --

0300

1 customers had already been compensated for the cost of
2 accumulated depreciation cost of removal component.

3 Q. What was -- who -- which party was your
4 testimony rebutting in that case, you filed rebuttal
5 testimony?

6 A. I think it was Mr. Smith. He's with Larkin &
7 Associates I believe.

8 Q. Which party was that?

9 A. I don't recall. I can get you that.

10 MR. FFITCH: May I have a second, Your Honor?

11 JUDGE CLARK: Yes.

12 MR. FFITCH: Just a couple more questions.

13 BY MR. FFITCH:

14 Q. Mr. Felsenthal, if you could go to the
15 Ferguson article that's been marked as ADF-3, this is --
16 do you have that?

17 A. Yes.

18 Q. Okay. Have you had a chance to review that?

19 A. Yes.

20 Q. This is an article from the Public Utility
21 Fortnightly from last month, October I believe; is that
22 right?

23 A. Yes.

24 Q. And are you familiar with the article, had
25 you looked at it, were you aware of it before this

0301

1 hearing before we provided it?

2 A. No. I think it's an excellent article. I'm
3 glad you provided it.

4 Q. And the article is entitled "Fixing
5 Depreciation Accounting: Accumulated provisions for
6 depreciation belong on the right side of the balance
7 sheet", right?

8 A. That's the title.

9 Q. And in the middle of the third column,
10 Mr. Ferguson states, an objection to right side
11 treatment -- well, let me back up. The right side of
12 the balance sheet is liabilities and capital, correct?

13 A. It's the window.

14 Q. The window, all right.

15 A. Debits and credits, yes.

16 Q. All right. And Mr. Ferguson states that an
17 objection to right side treatment was that the
18 accumulated depreciation is not a liability, so it
19 doesn't belong on the right side. The accumulated
20 depreciation obviously isn't a liability but is a source
21 of funds, and sources of capital are recorded on the
22 right side. That's what he says, right?

23 A. That's what he says.

24 Q. Are you an accountant?

25 A. Yes.

0302

1 Q. Do you agree that what that means is that
2 Mr. Ferguson is advocating the transfer of accumulated
3 depreciation to equity?

4 A. No, I don't agree at all with that
5 characterization.

6 Q. Where else would it be going if it's moving
7 over to the right side of the balance sheet?

8 A. It could be as a -- well, I'm not agreeing
9 with Mr. Ferguson that it belongs on the right side.
10 And I can also say that if it goes to the right side, it
11 could be there as a deferred credit. There are other
12 places, there are other elements, mezzanine, could be a
13 mezzanine credit.

14 Q. Do you want to explain what a mezzanine
15 credit is for me?

16 A. It's not a current liability, it's not
17 equity, it's not -- a mezzanine credit would be
18 something that would be unique.

19 Q. Mr. Ferguson is talking about transferring it
20 to equity though, is he not, as a source of funds?

21 A. I don't know what he's talking about, but I
22 do know this. In this article he's criticizing FAS 143,
23 since you've raised the article, and he, you know, there
24 are other paragraphs in here where he -- the thrust of
25 this article is that FAS 143 does a poor job of allowing

0303

1 for the recovery of removal costs. He says right in
2 here on -- it's in the second, the first column on page
3 18, regulators were well ahead, meaning utility
4 regulators:

5 Regulators also were ahead in
6 recognizing there are three components
7 of depreciation, investment, salvage,
8 and removal expenditures, and that
9 accurately charging these costs to rate
10 payers necessitates recording them
11 ratably over the useful life of the
12 related PP&E.

13 He goes further and he says:

14 This treatment assures that rate payers
15 are charged no more and no less than the
16 costs being incurred to serve them at
17 the time the service is rendered and the
18 costs are incurred, which is known as
19 the regulatory principle of
20 intergenerational equity.

21 Q. All right. And that's essentially your
22 theory in this case, and so --

23 A. I like that part of the article, yes.

24 Q. That's the part you like?

25 A. Yeah.

0304

1 Q. But you don't like the actual recommendation
2 of the article; is that what you just said earlier?

3 A. I would say that the actual recommendation of
4 the article, he proposes two things. It wouldn't be
5 difficult to eliminate -- I'm quoting in the last
6 paragraph, second to last paragraph:

7 It wouldn't be difficult to eliminate
8 strange removal cost accounting --
9 He means FAS 143.
10 -- and the potential for violating the
11 principle of intergenerational rate
12 payer equity. Doing so would allow
13 financial statements to more accurately
14 depict the financial position and
15 results of operations of the reporting
16 enterprises and ensure that rate payers
17 bear the costs being incurred to serve
18 them. All that's necessary is to
19 recognize that the accumulated provision
20 for depreciation is a source of funds
21 that belongs on the right side of the
22 balance sheet and to change the
23 reference to salvage in the GAAP
24 definition of depreciation to net
25 salvage.

0305

1 Where Mr. Ferguson lost out on this right
2 side treatment is when the FASB or the ARB at the time
3 determined that depreciation, recording depreciation,
4 it's an allocation, it's an allocation of costs, and
5 we've had that -- well, Mr. Ferguson is older than me,
6 so he's fairly old, but he for a long time -- he would
7 know those things that happened more than 50 years ago,
8 I don't. I don't agree with that right side
9 characterization. It's equity, it's source of funds
10 supplied by investors, that's already in equity, and
11 that the allocation of plant costs on a systematic and
12 rational basis is what we record and have recorded for
13 years as accumulated depreciation.

14 Q. If the accumulated depreciation, and for
15 Avista we have seen that that's in the most recent
16 filing 10-Q a little over \$200 Million for retirement
17 costs, do you agree that that amount would be
18 transferred to Avista's equity under the Ferguson
19 proposal? I understand you don't agree with his
20 proposal, but isn't that what would occur?

21 A. Mechanically?

22 Q. Yes.

23 A. Under the Ferguson proposal, yeah, I think
24 you would move all elements of accumulated depreciation
25 to the right side. But again, that's not in accordance

0306

1 with Generally Accepted Accounting Principles currently
2 or the FERC system of accounts or -- I can't think of
3 any -- it's not good for regulatory accounting or
4 financial reporting purposes.

5 Q. All right. So you don't like that part of
6 the article?

7 A. I would think -- I mean I would suggest that
8 anyone who's -- for what's been proposed in this case by
9 Public Counsel, this article, other than this one
10 article about putting -- the geography of where the
11 credit goes, this is -- this whole article is --
12 supports Avista's, this Commission's, mine, Mr. Spanos's
13 testimony.

14 Q. Do you agree that Avista's a growing utility?

15 A. Yes.

16 Q. And since it's a growing utility, would you
17 agree that the \$200 Million plus is likely to grow each
18 year, the retirement obligation account?

19 A. It's going to grow until they spend it.

20 Q. It will continue to grow because cost of
21 removal charges to rate payers will continue to exceed
22 the actual cost of removal Avista incurs; isn't that
23 correct?

24 A. It will mechanic -- it will -- it will --
25 rates charged customers including elements for cost of

0307

1 removal, until those removal costs are spent, the costs
2 of removal will, component of accumulated depreciation,
3 will increase.

4 Q. Why in your opinion is it acceptable to
5 require rate payers to pay more to Avista for costs of
6 removal than Avista is actually spending for cost of
7 removal?

8 A. The cost removal is a cost that's associated
9 with the cost of plant. It's appropriate to charge
10 these rate payers on a straight line basis removal costs
11 to allow for the current recovery of an incurred cost,
12 not a spent cost, but an incurred cost on a straight
13 line basis, and that way the appropriate customers pay
14 for the costs in the appropriate period. These
15 arguments, the same line of questioning that you just
16 asked, sounds very similar to the deferred tax or
17 whatever you call them, DFIT, the deferred federal
18 income tax arguments that took place a long time ago,
19 '60's and '70's, why would you charge customers for
20 deferred taxes when you're not paying them, and if
21 you're a constantly growing utility, they'll never turn
22 around. We found out -- if you went back to the old
23 days, I was in some hearings in that regard, most of
24 those deferred tax balances have reversed, are starting
25 to reverse, and the argument that it was continually

0308

1 growing were -- did not hold water in hindsight.

2 MR. FFITCH: No further questions, thank you,
3 Your Honor.

4 Thank you, Mr. Felsenthal.

5 JUDGE CLARK: Thank you, Mr. ffitch.

6 Is there any inquiry from the Bench?

7 All right, Mr. Meyer, any redirect?

8 MR. MEYER: No redirect, thank you.

9 JUDGE CLARK: All right, thank you for your
10 testimony, Mr. Felsenthal.

11 Is there any objection to this witness being
12 excused?

13 Hearing none, you're excused.

14 MR. MEYER: Next witness, unless you're
15 intending to take a break, is Ms. Pessemier.

16 JUDGE CLARK: I think we'll take a break
17 after Ms. Pessemier.

18 MR. MEYER: All right.

19 (Witness TONI E. PESSEMIER was sworn.)

20 JUDGE CLARK: Thank you, please be seated.

21 Mr. Meyer.

22 MR. MEYER: Yes, thank you. And again, prior
23 to the start of the hearing we had a discussion about
24 the confidential nature of the testimony, and I think
25 there's an understanding, at least I hope there is, that

0309

1 that will be respected during this process.

2

3 Whereupon,

4 TONI E. PESSEMIER,

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

6 herein and was examined and testified as follows:

7

8 DIRECT EXAMINATION

9 BY MR. MEYER:

10 Q. Ms. Pessemier, are you sponsoring what have

11 been marked for identification as Exhibits TEP-1TC,

12 TEP-2C, TEP-3C, TEP-4TC, and TEP-5C?

13 A. Yes, I am.

14 Q. Do you have any corrections to make to any of

15 those?

16 A. No, I do not.

17 MR. MEYER: So with that, Ms. Pessemier is

18 available for cross.

19 JUDGE CLARK: Thank you. And as Mr. Meyer

20 noted, the majority of this witness's testimony is

21 indeed confidential information subject to protective

22 order. You may use the terms confidential litigation to

23 refer to the content and no other terms or we will

24 conduct an in camera session.

25 Mr. ffitich.

0310

1 MR. FFITCH: Thank you, Your Honor.

2

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

4 BY MR. FFITCH:

5 Q. Good afternoon, Ms. Pessemier.

6 A. Good afternoon.

7 Q. I'm going to go carefully here, so if I'm
8 asking you something that should not be discussed on the
9 open record, please don't answer. We can deal with
10 that.

11 A. Okay.

12 Q. So I'm not trying to get you to violate the
13 confidentiality designation.

14 A. Thank you.

15 Q. Has the matter that is the subject of the
16 confidential litigation been resolved as of today?

17 A. You mean are we able to announce it publicly,
18 is that your question?

19 Q. No, I'm just asking as a matter of fact.

20 A. We have a signed settlement in principle
21 that's part of the hearing here, and we're -- there's
22 one component of the settlement in principle that needs
23 approval by another party, and that's what we're waiting
24 for.

25 Q. And so the result of this settlement of the

0311

1 confidential litigation is a specific dollar amount,
2 correct?

3 A. Correct.

4 Q. And the settlement at this point assumes that
5 there is currently now today a specific dollar amount?

6 A. Correct.

7 Q. The settlement proceeds as if, excuse me, the
8 settlement of the general, the rate case settlement in
9 this rate case docket assumes that the confidential
10 litigation settlement is final and the dollar is a known
11 figure; is that correct?

12 A. The one component that I said needs to be
13 reviewed by another party, there's a possibility that
14 there might be a slight adjustment to that one
15 component. It would relate to payments that are --

16 MR. MEYER: You know, I'm sorry, I think for
17 us to even begin to explain sufficiently for the record
18 to make any sense about what the components of the
19 settlement are, we really need to do this in camera so
20 the witness can answer completely and fairly.

21 MR. FFITCH: Well, before -- I hate to create
22 a lot of trouble. My question simply is, you know, is
23 the number going to change in the future, and if so, how
24 would that be dealt with in the --

25 JUDGE CLARK: If I can interrupt, Mr. ffitch,

0312

1 you have indicated in your cross-examination estimate
2 that you have approximately 30 minutes of inquiry for
3 this witness. Is that still a reasonably accurate
4 estimate?

5 MR. FFITCH: No, it's less now, significantly
6 less.

7 JUDGE CLARK: Significantly less?

8 MR. FFITCH: I just have a few more
9 questions.

10 MR. MEYER: And I'm not anxious to push this
11 into an in camera needlessly, but the question that was
12 asked just moments ago had to do with whether the
13 settlement was final, paraphrasing here, with respect to
14 the confidential litigation. There are different
15 aspects to the settlement, some of which relate directly
16 to the confidential litigation and others that relate to
17 something else that require a third party involvement,
18 and I can't be any more descriptive than that, so.

19 JUDGE CLARK: Right, I think it would be
20 helpful for us to conduct this portion of the proceeding
21 in camera, and so we are going to take a brief recess,
22 and during that brief recess all individuals who have
23 not signed a protective agreement and agreed to abide by
24 the terms and conditions of the protective order in this
25 proceeding need to vacate the hearing room, and the

0313

1 hearing room doors will be shut and so notified. And
2 when we go back on the record, we will ensure that the
3 transcript for this portion of the proceeding will be
4 sealed and segregated from the public transcript that
5 will be produced in this proceeding.

6 We are at recess until further call.

7 (Recess taken.)

8 (Confidential Session.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0314

1

(Confidential Session.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0315

1

(Confidential Session.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0316

1

(Confidential Session.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0317

1

(Confidential Session.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0318

1

(Confidential Session.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0319

1 (Confidential Session Concluded.)

2 JUDGE CLARK: All right, we're back on the
3 record, the in camera portion of the proceeding has been
4 concluded, and at this juncture we will be taking our
5 afternoon recess for approximately 10 minutes.

6 (Recess taken.)

7 JUDGE CLARK: Mr. Meyer, does that conclude
8 presentation of Avista's case?

9 MR. MEYER: Yes, it does, Your Honor.

10 JUDGE CLARK: Thank you.

11 And Commission Staff, Mr. Trautman.

12 MR. TRAUTMAN: Thank you, Your Honor, we have
13 one witness, Mr. Michael Parvinen.

14 JUDGE CLARK: Thank you.

15 Mr. Parvinen, if you would rise and raise
16 your right hand, please.

17 (Witness MICHAEL P. PARVINEN was sworn.)

18 JUDGE CLARK: Please be seated.

19 Mr. Trautman.

20 MR. TRAUTMAN: Thank you.

21 Whereupon,

22 MICHAEL P. PARVINEN,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

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

0320

1 BY MR. TRAUTMAN:

2 Q. Good afternoon, Mr. Parvinen.

3 A. Good afternoon.

4 Q. Do you have before you what's been marked as
5 Exhibit MPP-1T?

6 A. Yes.

7 Q. And was that prepared by you?

8 A. Yes.

9 Q. And do you have any changes or corrections to
10 make to that testimony?

11 A. No, I do not.

12 MR. TRAUTMAN: Your Honor, Mr. Parvinen is
13 available for cross-examination.

14 JUDGE CLARK: Mr. Ffitch, will you be
15 examining?

16 MR. FFITCH: Yes, Your Honor.

17

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

19 BY MR. FFITCH:

20 Q. Good afternoon, Mr. Parvinen.

21 A. Good afternoon, Mr. Ffitch.

22 Q. I'm sure that everyone will be pleased to
23 know that we're going to continue with the riveting
24 topic of depreciation as the afternoon wears on. Do you
25 agree that Mr. Majoros is asking this Commission to

0321

1 recognize a regulatory liability for the \$200 Million
2 plus that Avista has collected from rate payers for
3 non-legal asset retirement obligations?

4 A. Yes.

5 Q. And do you agree that Avista included the
6 \$200 Million plus in accumulated depreciation for rate
7 making purposes?

8 A. Yes.

9 Q. And Avista's also reporting the \$200 Million
10 as a regulatory liability for financial reporting for
11 GAAP purposes, correct?

12 A. That's correct.

13 Q. And Mr. Majoros, do you understand that
14 Mr. Majoros is asking this Commission to reclassify this
15 amount from accumulated depreciation to other regulatory
16 liabilities for rate making purposes?

17 A. Yes.

18 Q. And do you agree that the reclassification
19 would have no revenue requirement impact in and of
20 itself?

21 A. That's correct, it would just be for
22 presentation.

23 Q. Is it your understanding that Mr. Majoros is
24 making this request as a protection for rate payers?

25 A. I understand that that's what his testimony

0322

1 states. My testimony states that it's unnecessary, an
2 unnecessary protection.

3 Q. Do you agree that it does provide some
4 protection, but you don't believe that it's necessary,
5 is that -- am I understanding your testimony?

6 A. No, it's -- no, that's not. My testimony
7 said that it doesn't provide any more protection than
8 the current system, current method.

9 Q. If you could turn to -- I want to go through
10 some of your responses to data requests; do you have
11 those?

12 A. Yes, I do.

13 Q. Response to Request Number 3, which is marked
14 as your Exhibit 5.

15 A. Okay.

16 Q. Do you agree that the -- let's just use the
17 \$209 Million amount, which is the 2007 year end amount
18 for Avista, correct? Do you recall that from the 10-Q?

19 A. Yes.

20 Q. Do you agree that the \$209 Million amount is
21 the result of allowing Avista to charge estimated
22 unincurred future inflation to current rate payers?

23 A. That is not how I would characterize it.
24 What the \$209 Million represents is the future cost of
25 -- the actual future cost, actual estimated, it's based

0323

1 on current actuals, but the estimated cost of future
2 cost of removal that has been collected from current
3 customers.

4 Q. But that incorporates a component which is
5 future inflation, correct?

6 A. Yes.

7 Q. And that future inflation has not yet been
8 incurred, and it is estimated; isn't that true?

9 A. Well, it's estimated under either approach,
10 but it's based on -- it's based on actual cost of
11 removal of actual expenses or actual assets that have
12 incurred applied to original cost of current assets.

13 Q. Do you agree that by definition Avista has
14 not yet spent any money for estimated future inflation
15 expenses?

16 A. Well, by nature it's a future cost of removal
17 of current assets. They have incurred cost of removal
18 for which that's the basis of calculating the estimated
19 future costs of removal.

20 Q. Could you please turn to your Exhibit 6,
21 which is a response to Data Request Number 4, and there
22 you say that Avista does not have a regulatory liability
23 for non-legal asset retirement obligations. Is it your
24 opinion that Avista's GAAP financial statements are
25 inaccurate or false and that external auditors have

0324

1 misled the shareholders?

2 A. That is not my position at all. My position
3 is from a regulatory standpoint, and from a regulatory
4 standpoint it is not a regulatory liability, it's a
5 contra account to the asset itself.

6 Q. Can you please turn to Exhibit 7, please,
7 which is your response to Number 5, and actually in that
8 Number 5 you just refer us back to Number 4, the
9 question there is, do you agree that the \$209 Million is
10 a cash benefit to Avista?

11 A. Well, similar to depreciation, it is a
12 non-cash cash item in the revenue requirements
13 calculation.

14 Q. It's a non-cash item?

15 A. Yes. Well, it's a non-cash cash item in that
16 it's a non-cash expense of which the Company recovers
17 through its revenues that it collects.

18 Q. So it's a benefit to Avista?

19 A. It's a -- yes, well, it's a recovery of costs
20 and expected costs.

21 Q. In your testimony, you said that Mr. Majoros
22 doesn't say where the actual costs of removal will come
23 from when it's time to pay removal costs if those funds
24 have been used in the meantime to offset other expenses.
25 Is that a fair paraphrase of your testimony?

0325

1 A. Yes.

2 Q. Let's go to Exhibit 8, do you agree that
3 Avista has already spent the \$209 Million in the sense
4 that it's available for general corporate expenditures
5 other than cost of removal?

6 A. Well, I don't know specifically what they've
7 used it for. I guess it would be fair to say that they
8 have used it to run the -- to run the Company in its
9 day-to-day operations. It could have been used for cost
10 of removal of any current assets that they've retired
11 but not the specific assets that they've collected those
12 funds on.

13 Q. But isn't the \$209 Million actually net of
14 actual cost of removal expenditures?

15 A. Yes.

16 Q. As far as you know, Avista hasn't actually
17 taken the \$209 Million and put it in the bank so that
18 it's available down the line for paying for cost of
19 removal for future plant retirement.

20 A. No.

21 Q. Have they?

22 A. No.

23 Q. Do you anticipate that at some future date
24 Avista will cease operations and have to spend \$209
25 Million for removing plant and equipment?

0326

1 A. I don't see them ceasing operations, but it
2 is anticipated that they will incur the \$209 Million to
3 remove these assets. That's why it's built in to the
4 cost of removal. If, for example, they get to the end
5 of the life of an asset and they don't remove it for
6 whatever reason, then those funds would go back to
7 customers, whether that be in the form of reduced
8 depreciation expense or reduced -- reduced depreciation
9 expense going forward or through an amortization of some
10 gain. If, for example, they sold an asset rather than
11 remove it, then the gain associated with that would then
12 go back to customers.

13 Q. If Avista hypothetically were to cease
14 operations and remove all its plant and equipment in the
15 test year, would it be required to spend \$209 Million,
16 or would it spend the present value of the \$209 Million?

17 A. I'm sorry, would you repeat that one more
18 time.

19 Q. If hypothetically Avista were to cease
20 operations and remove all of its plant and equipment in
21 the test year, would it be required to spend \$209
22 Million or the present value of the \$209 Million?

23 A. It would spend whatever was required to do
24 that removal, and that would be netted into the final
25 calculation to remove that asset from the books.

0327

1 Q. Where would Avista get the money to remove
2 the plant and equipment in the test year?

3 A. That would be -- that would basically be up
4 to the Company on how it generated those funds. They
5 have been recovered from rate payers, so they would not
6 be a rate payer responsibility, they've already been
7 recovered.

8 Q. Do you disagree with Mr. Majoros that there
9 is a -- that Avista customers face a possibility of
10 losing the \$209 Million or the amount that is in that
11 asset retirement obligation at any given time if they're
12 not protected in a regulatory liability?

13 A. No, those dollars are protected because
14 they've been collected from customers. The Company can
15 not remove its asset through the sale or without
16 Commission approval. And when it retires that asset,
17 that transaction is also reviewed and audited and any
18 gains and losses dealt with at that time or in the next
19 proceeding, general rate case.

20 Q. Can you turn to another one of your
21 cross-exhibits here, these are the annual reports,
22 10-K's, let me get to those. One is Exhibit 2 and one
23 is Exhibit 3. I want you to look at the American
24 Electric Power annual report, so that would be in
25 Exhibit 3. I'll find the page for you in a moment.

0328

1 That begins at page 10 of the exhibit, and I'll get you
2 a page number here, and if you could turn to page 11 and
3 read the third full paragraph, take a look at that.

4 A. Starting with the word certain?

5 Q. Correct.

6 A. Okay.

7 Q. Could you read that, please.

8 JUDGE CLARK: Slowly.

9 A. The full paragraph?

10 Q. Yes, please.

11 A. (Reading.)

12 Certain of our utility operating
13 companies have collected removal costs
14 from rate payers for certain assets that
15 do not have associated legal asset
16 retirement obligations. To the extent
17 that operating companies have now been
18 deregulated, we reversed the balance of
19 such removal costs, totalling \$287.2
20 Million after tax, which resulted in a
21 net favorable cumulative effect in 2003.
22 We have reclassified approximately \$1.2
23 Billion of removal costs for our utility
24 operations from accumulated depreciation
25 to regulatory liabilities and a third

0329

1 investment tax credit in 2003 and to
2 deferred credits and other in 2002. In
3 addition, \$9 Million is classified as
4 held for sale related to the TCC
5 generation assets as of December 31,
6 2003, and 2002.

7 Q. Thank you. So what is this telling the
8 reader happened to the \$287.2 Million that's mentioned
9 in the third line?

10 A. I'm not sure exactly what they've done.
11 They've reversed the balance of \$287.2 Million after
12 tax.

13 Q. They've taken the funds into income; isn't
14 that correct?

15 A. Well, I don't see in here where it said that
16 they've taken it to income. I read it as they've taken
17 it from the accumulated depreciation and have treated it
18 as a regulatory liability.

19 Q. That's your reading of this?

20 Well, let's move on to a different exhibit.

21 MR. TRAUTMAN: Your Honor, I don't believe
22 the witness answered the last question.

23 JUDGE CLARK: Mr. Parvinen.

24 A. That would be my reading of it, yes.

25 BY MR. FFITCH:

0330

1 Q. Now if you could turn over to page 15 of this
2 same exhibit and look at the Verizon annual report
3 excerpt. Take a look at those first two paragraphs.

4 MR. FFITCH: Just one moment, please, Your
5 Honor, we're locating the quote here.

6 BY MR. FFITCH:

7 Q. If you look at the second paragraph on the
8 page in the left-hand column, this section is discussing
9 the impact of FAS 143, correct?

10 A. Second paragraph?

11 Q. Well, the section with the heading, the first
12 two paragraphs are discussing the impact of FAS 143, and
13 they indicate that Verizon has adopted FAS 143, correct?

14 A. Yes.

15 Q. And could you read the last sentence at the
16 end of the second paragraph?

17 A. (Reading.)

18 The adjustment was recorded as a
19 cumulative effect of an accounting
20 change resulting in the recognition of a
21 gain of \$3,499,000,000, and that's
22 \$2.150 Million after tax or .77 per
23 diluted share.

24 Q. All right.

25 A. I will comment that on both of these

0331

1 articles, these are reports based on their financial
2 statements and that I don't have a clear picture of what
3 was done for regulatory purposes for these companies.
4 As an example, in the previous article it stated what
5 was done on the books, but there is no mention what
6 happened to the balance. It recognizes that customers,
7 that rate payers paid for those funds, but there is
8 nothing in there that states what was done with those
9 funds for the benefit of rate payers, and the Commission
10 would have that authority to deal with those amounts.

11 Q. Do you know whether or not the assets that
12 you're referring to here were deregulated and that the
13 funds were actually not made available to rate payers
14 for that reason; do you know one way or the other?

15 A. No, I don't know.

16 But I would state that it would make no
17 difference if the amount were recorded as accumulated
18 depreciation or as a regulatory liability at that point.
19 The funds are for the same purpose. I would expect that
20 if it was deregulation that took over, that occurred,
21 that those funds if they were to disappear would
22 disappear whether they were treated as accumulated
23 depreciation or a regulatory liability.

24 Q. But if you're operating outside of a
25 regulated environment, the Company could simply take

0332

1 those funds into income, spend it for any purpose, and
2 there's no obligation to refund them to rate payers or
3 have them otherwise be recaptured or reflected in rates,
4 is there?

5 A. Both balances, whether they're treated as
6 accumulated depreciation or a regulatory liability, are
7 essentially a regulatory liability. It's the Commission
8 has authorized that level of accumulated depreciation
9 and the buildup of that account.

10 Q. The regulatory liability is an amount owed to
11 rate payers; is that right?

12 A. Owed to somebody, yes, in this case rate
13 payers.

14 Q. All right.

15 Do you agree with Mr. Felsenthal that
16 Avista's a growing utility?

17 A. Yes.

18 Q. And do you agree that the \$209 Million is
19 likely to grow every year?

20 A. Hard to say. I would assume so, if it's
21 growing that it will continue to grow until such time as
22 the Company starts incurring and retiring its assets.

23 Q. And isn't it continuing to grow because the
24 cost of removal charges to rate payers will continue to
25 exceed the actual cost of removal that Avista incurs?

0333

1 A. I don't understand the question, could you
2 repeat that?

3 Q. Isn't it true that the \$209 Million will
4 continue to grow because the cost of removal charges to
5 rate payers will continue to exceed the actual cost of
6 removal that Avista incurs?

7 A. No, I don't believe that those -- the \$209
8 Million may continue to grow, but it's because the
9 Company is continuing to grow and the cost of removal to
10 remove its assets. As they continue to grow, then the
11 removal costs would continue as well.

12 Q. In your view, why is it acceptable to require
13 rate payers to pay more to Avista for costs of removal
14 than Avista is actually spending for cost of removal?

15 A. They're not. They are recovering their
16 expected cost of removal, and it's based on actual
17 experience is what derives that future cost.

18 Q. Do you agree that future expenses should be
19 matched in the future periods in which they are
20 incurred?

21 A. That would depend. I think that's an
22 incomplete question in that there's also the service of
23 the asset in this case associated with the future costs
24 and the revenues.

25 Q. So you, well, let me ask the question again

0334

1 and see if you may not have understood the question.

2 Let me try it again, and if it's the same answer, that's

3 fine. But do you agree that future expenses should be

4 matched to the future periods in which they are

5 incurred?

6 A. I guess my answer still holds true in this

7 case, because we're talking about a asset that has a

8 service life that's greater than a year. If it were an

9 expense in the future that is expensed in one year, then

10 it should be matched with that one year in the future.

11 Q. If a methodology for recovering costs of

12 removal recovered the present value of future costs of

13 removal on a straight line basis and at the same time

14 matched future inflation to the periods incurred, the

15 periods when it was incurred, would you accept this

16 approach?

17 I will repeat that if you would like.

18 A. Thank you.

19 Q. Let me describe the approach hypothetically.

20 A. All right.

21 Q. Under this approach, you would recover the

22 present value of future costs of removal on a straight

23 line basis. At the same time, you would match future

24 inflation to the periods when the inflation is incurred.

25 Would you accept that approach?

0335

1 A. It sounds like those were two conflicting
2 sentences, so maybe I'm just misunderstanding what
3 you're trying to ask me.

4 Q. All right. I guess they are -- there are two
5 components, and one of the components is the future cost
6 of removal which you would recover on a present value
7 basis, and the other component of cost of removal is
8 inflation, and that would be recovered matched to the
9 periods when the inflation occurs, and those two would
10 be combined into a cost recovery methodology. Would you
11 accept a cost recovery methodology with those
12 characteristics?

13 A. Possibly under circumstances where the
14 balances were actually set aside in say an escrow type
15 account where they earned that return to get to that
16 ending balance.

17 MR. FFITCH: Your Honor, can I just have a
18 second, I think I'm done or almost done, check my notes.

19 JUDGE CLARK: All right.

20 MR. FFITCH: Your Honor, those are all my
21 questions.

22 Thank you, Mr. Parvinen.

23 JUDGE CLARK: Thank you, Mr. ffitch.

24 Is there any inquiry for Mr. Parvinen from
25 the Bench?

0336

1 All right.

2 Redirect?

3 MR. TRAUTMAN: No, Your Honor.

4 JUDGE CLARK: Mr. Parvinen, thank you for
5 your testimony.

6 Is there any objection to this witness being
7 excused?

8 Hearing none, you're excused, Mr. Parvinen.

9 Does that conclude presentation of the
10 Commission Staff's case in this proceeding?

11 MR. TRAUTMAN: Yes, Your Honor.

12 JUDGE CLARK: Thank you.

13 I would like to take just a few minutes off
14 record now before we proceed with the presentation of
15 the joint testimony of Public Counsel and ICNU to see if
16 there is going to be inquiry for these two witnesses to
17 call to the stand, and I will inquire of the Bench, and
18 perhaps Mr. Meyer and Mr. Trautman can confer. We will
19 be off record for about five minutes.

20 (Recess taken.)

21 JUDGE CLARK: Mr. Ffitch.

22 MR. FFITCH: Your Honor, Public Counsel calls
23 Mr. Mike Majoros.

24 (Witness MICHAEL J. MAJOROS, JR. was sworn.)

25 JUDGE CLARK: Thank you, please be seated.

0337

1 Mr. ffitch.

2 MR. FFITCH: Your Honor, Mr. Sanger is going
3 to inquire initially of Mr. Majoros with respect to one
4 of the exhibits.

5 JUDGE CLARK: All right, Mr. Sanger.

6

7 Whereupon,

8 MICHAEL J. MAJOROS, JR.,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11

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

13 BY MR. SANGER:

14 Q. Mr. Majoros, good afternoon.

15 A. Good afternoon.

16 Q. Did you prepare your exhibits which are
17 labeled MJM-1 through MJM-7 as well as MJM-8?

18 A. Yes.

19 Q. Did you also prepare an exhibit which is
20 labeled MJM-9C?

21 A. Yes. And when I say I prepared them, my
22 assistant and I prepared these under my direction.

23 Q. Can you please provide a brief explanation as
24 to the change that is in MJM-9C?

25 A. Yes. Mr. Falkner identified a mathematical

0338

1 error in my consolidated tax adjustment. I went back to
2 my adjustment and determined that he was correct, so
3 I've corrected that error, and this is the corrected
4 version.

5 Q. Do those corrections also require you to make
6 changes to your prefiled direct testimony, which is
7 MJM-1?

8 A. Yes, I would --

9 Q. I'm sorry, and also MJM-4C?

10 A. Yes.

11 Q. Is it your understanding that a redlined
12 revised version of that will be filed as soon as
13 possible, most likely tomorrow, with the Commission?

14 A. Yes.

15 MR. SANGER: Your Honor, I would like to move
16 for the admission of MJM-9C.

17 JUDGE CLARK: All right, let's back up just a
18 little bit and have Mr. Majoros identify at least the
19 pages or the manner of identification for the correction
20 of that calculation error.

21 MR. SANGER: Yes, Your Honor.

22 BY MR. SANGER:

23 Q. On the revised or on the Exhibit MJM-9C, is
24 it correct that on each page in which a revision occurs
25 there is a title on the top of that which says revised

0339

1 11-6-08?

2 A. Yes.

3 Q. Is it also correct that the revisions are
4 shown in highlighted format?

5 A. Yes, they are.

6 Q. And can you please explain why the revisions
7 are on the majority of the pages of your exhibit?

8 A. Yes. Because the tax rate flows through most
9 of these exhibits to calculate the revenue requirement
10 impact, and so the tax rate affects, as Mr. Falkner
11 said, the conversion factor, so I have corrected
12 everything. It flows through the exhibit.

13 JUDGE CLARK: Perfect, thank you.

14 And then the revised Exhibits 4T, not 4T, his
15 testimony, MJM-1TC, is a document that you are going to
16 file with the Commission tomorrow?

17 MR. SANGER: Yes, Your Honor.

18 JUDGE CLARK: And there was a mention of one
19 other document that I believe that the exhibit that
20 you've distributed which has been marked as MJM-9C is
21 actually the replacement of MJM-4C; is that correct?

22 MR. SANGER: Your Honor, MJM-4C was the
23 original version of that. We're not replacing that,
24 we're revising it and correcting it with MJM-9C.

25 JUDGE CLARK: Right, so you're not going to

0340

1 be filing a new MJM-4C tomorrow, correct?

2 MR. SANGER: Well, it may be a little
3 confusing, Your Honor, because a portion of MJM-4C,
4 MJM-4CT is his testimony, and attached to that is
5 MJM-4C, so his testimony is MJM-4TC, and that we are
6 going to need to file revised pages.

7 JUDGE CLARK: I've got his testimony as
8 MJM-1TC.

9 MR. SANGER: Okay, mine is labeled 4TC, but
10 that may be incorrect.

11 JUDGE CLARK: All right, I've got it, thank
12 you.

13 Is Mr. Sanger going to continue?

14 MR. FFITCH: Your Honor, there is, if
15 Mr. Sanger is finished with addressing the tax
16 adjustment correction, I would like to tender an
17 additional exhibit through Mr. Majoros at this time.
18 This is what's been marked for identification as MJM-10
19 and presented, copies of which have been shared with
20 counsel and with the Bench a few minutes ago.

21 MR. MEYER: Your Honor, would it be possible
22 for us to take these up one at a time, because while we
23 have no objection to MJM-9C, we do have objections to
24 the one that Mr. ffitch is referring to.

25 JUDGE CLARK: All right, is there any

0341

1 objection to the admission of MJM-9C?

2 MR. MEYER: No objection, Your Honor.

3 MR. TRAUTMAN: No, Your Honor.

4 JUDGE CLARK: Hearing none, it is received.

5 And the slot that we have reserved for
6 MJM-10C is the one you will be addressing now. Is this
7 purely an evidentiary matter, Mr. Ffitch?

8 MR. FFITCH: Your Honor, I'm not quite sure
9 how to answer that.

10 JUDGE CLARK: The reason I'm inquiring is I'm
11 wondering if this is a matter that we need to take up in
12 front of commissioners or if this is a matter that we
13 can take without commissioners.

14 MR. FFITCH: I don't have a preference, Your
15 Honor. What I intended to do at this moment was to have
16 Mr. Majoros describe this exhibit and what's in it, and
17 I do understand -- we have shared this exhibit with
18 other counsel earlier in the day, they've advised me
19 that they will be making an objection, and so there will
20 be argument on that.

21 JUDGE CLARK: Okay, Mr. Meyer, is this an
22 evidentiary matter?

23 MR. MEYER: I think it would be appropriate
24 if this could be heard before the Commissioners.

25 JUDGE CLARK: All right.

0342

1 Mr. Trautman?

2 MR. TRAUTMAN: I agree.

3 JUDGE CLARK: All right, please proceed,
4 Mr. ffitch.

5 MR. FFITCH: Thank you, Your Honor.

6

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

8 BY MR. FFITCH:

9 Q. Good afternoon, Mr. Majoros.

10 A. Good afternoon.

11 Q. Do you have before you a document entitled
12 Summary Table of Adjustments to Electric Revenue
13 Requirement on the top of the first page?

14 A. Yes.

15 Q. And that's a three-page document?

16 A. Yes.

17 Q. And was this document prepared by you or your
18 office under your direction or control?

19 A. Yes.

20 Q. And what I would like to do is to have you
21 walk through it with us and just explain what the
22 document is, and let's start with the first page. The
23 left-hand column is headed settlement and contains a
24 number of values, could you just describe what's
25 contained in that column of numbers?

0343

1 A. Yes, those are the numbers reflected in the
2 joint party settlement and the joint testimony in
3 support of the settlement at page 19.

4 Q. And going to the next major column that's
5 entitled reverse changes related to supplemental
6 testimony, could you please explain what is shown in
7 those columns C and D?

8 A. Yes, those reflect the increase to the
9 originally filed revenue, the revenue requirement that
10 the Company originally filed.

11 Q. And those --

12 A. And what I'm doing is reversing those out.

13 Q. Those are the -- those values are -- all
14 right, withdraw that.

15 The next column, final settlement accepted by
16 Public Counsel, could you explain that column, please.

17 A. Yes. After eliminating the values that
18 increased the revenue requirement, my, not rebuttal
19 testimony, I think it was my supplemental testimony
20 accepted several of the items reflected in the
21 settlement, and those are shown in those two columns.

22 Q. And then the next column is remaining Public
23 Counsel adjustments?

24 A. Yes.

25 Q. Those values shown at the bottom, could you

0344

1 explain what --

2 A. Those are what remains from my original
3 testimony as corrected for the tax adjustment.

4 Q. Could you --

5 A. That were not addressed in the settlement.

6 Q. All right. And could you show us where the
7 number for the tax, the tax corrected number shows up in
8 this section of the table?

9 A. Yes, the tax corrected number is the negative
10 \$758,000 on line 21.

11 Q. All right.

12 A. Which you can trace to page 3, column 2, of
13 Exhibit Number MJM-9C.

14 Q. All right.

15 And then what's the last column, Public
16 Counsel revised position?

17 A. That is Public Counsel's position reflecting
18 the portions of the joint settlement that we've agreed
19 to and the correction of the tax calculation and the
20 remaining -- our remaining adjustments that were not
21 addressed in the joint party settlement and the revenue
22 requirement there.

23 Q. And that includes the reversal of the
24 supplemental testimony also; is that correct?

25 A. Yes, that is correct.

0345

1 Q. Now could you please turn to page 2 of the
2 exhibit, the first column is headed settlement, is that
3 the same information that's shown in the settlement
4 column?

5 A. Yes, it is.

6 Q. In the first page. And the second column is
7 remaining Public Counsel adjustments?

8 A. Yes.

9 Q. Can you just explain what that is again?

10 A. Yes, basically this is a collapsed version of
11 the first page.

12 Q. All right. And is it fair to say this
13 displays the position if we -- if there's no adjustment
14 made for the issue of the supplemental testimony, that's
15 simply left as is incorporated in the Staff/Company
16 settlement?

17 A. Yes.

18 Q. And so the Public Counsel revised position in
19 the far right-hand column shows that comparison with the
20 settlement position and our additional --

21 A. It compares with -- the joint party
22 settlement with our -- with PC's additional adjustments
23 and the correction of the tax expense.

24 Q. All right. And then the last page of the
25 exhibit is the summary table with regard to natural gas,

0346

1 correct?

2 A. That's correct.

3 Q. Do you want to add any other explanation to
4 that, anything else that --

5 A. It starts with the settlement. There was not
6 an increase to the settlement, to the gas settlement, as
7 there was with the electric settlement, so this merely
8 presents our position starting with the settlement and
9 then adding the remaining adjustments that were not
10 addressed in the settlement.

11 MR. FFITCH: All right.

12 Your Honor, we are tendering this exhibit for
13 purposes of clarity in the case. We have a table that's
14 been presented in the rebuttal testimony of Ms. Andrews
15 in Exhibit EMA-7 which compares Public Counsel and --
16 Public Counsel's position with the settlement,
17 settlement position of the joint parties. We felt that
18 in the spirit of Bench Requests 1 and 2, although not
19 specifically in response to those requests, that it
20 would be helpful to the Bench to actually simply present
21 a spreadsheet which effectively updates our position in
22 the case by comparison with other parties' positions.
23 Because it's rather difficult without this kind of an
24 exhibit to actually fully state the different competing
25 revenue requirement results of the different settlement

0347

1 positions, and so we have prepared this exhibit for
2 those purposes. It does include a representation of the
3 effect of our argument with respect to the supplemental
4 testimony, but other than that policy matter, we believe
5 it's simply a reflection, it's intended to be a
6 reflection of values that are already in the record for
7 purposes of comparison and in response to the comparison
8 table and comparison testimony presented by the Company
9 and particularly Ms. Andrews.

10 JUDGE CLARK: Mr. Meyer.

11 MR. MEYER: Thank you. I have several
12 objections to this, some on procedural grounds, but more
13 importantly as always in terms of the substance. In
14 terms of the process, I mean this goes well beyond --
15 this exhibit goes well beyond simply restating numbers
16 for clarity or for the convenience of the Commission.
17 It really is turned into an advocacy piece, and I will
18 explain that in a minute.

19 We were provided with this three-page exhibit
20 at lunch. Everything in this three-page exhibit could
21 have been provided to us as part of the answering
22 testimony of Public Counsel and ICNU when they filed
23 their answering testimony in response to the joint
24 testimony and in support of the settlement. That could
25 have been done a week and a half to two weeks ago.

0348

1 There's nothing new here that they couldn't have done
2 back then. We could have then, which is the purpose of
3 rebuttal, provided rebuttal explaining why there are
4 several substantive errors and why this exhibit at its
5 heart is misleading. And if -- I mean if we're forced
6 to address this, not only does it of course put us at a
7 procedural disadvantage, but what we're arguing about
8 here then is not just a simple updating of a Bench
9 request, but we're having to tear this exhibit apart and
10 explain why it is misleading.

11 Let me just give you a few examples. Page 1
12 of Exhibit 10C has a column that Mr. ffitch referred to
13 as reverse changes related to supplemental testimony.
14 Now if you work your way down that column, there are
15 four or five numbers under the revenue requirement
16 piece, and those numbers relate to, for example, hydro
17 filtering. There was nothing in the supplemental
18 testimony related to hydro filtering. The next line
19 item, line item 3, WNP-3 contract, and there's an entry
20 under his column reverse changes relating to
21 supplemental testimony. His supplemental testimony
22 never addressed the WNP-3 contract. Skip down, just by
23 way of another example, line item 5, Colstrip, the
24 supplemental testimony didn't speak to that. So he's
25 rolling these elements up, making an adjustment, putting

0349

1 them under a heading called reverse changes relating to
2 supplemental testimony, and doing the arithmetic. So
3 the arithmetic at the end is faulty because the premise
4 is faulty.

5 Moreover, even if you try and parse the
6 arithmetic in this exhibit, you've just introduced
7 Exhibit, no objection to it, Exhibit MJM-9C, and in that
8 exhibit of Mr. Majoros which we all agreed to there is a
9 revenue requirement, an electric revenue requirement of
10 \$24,477,000. Next page there is a gas requirement,
11 revenue requirement associated with Public Counsel's
12 litigation position of \$3,341,000. Those numbers don't
13 agree with the revenue requirement numbers shown at the
14 bottom of any of these pages. So we have been going
15 based on an agreed upon substitute exhibit which we've
16 worked through during the past week, I feel like we're
17 shooting at a moving target here. This is in the
18 record, this is where they stand, this is where we've
19 argued the case, and this is how we'll brief the case.
20 This is misleading.

21 JUDGE CLARK: And did you also wish to be
22 heard on this, Mr. Trautman?

23 MR. TRAUTMAN: Well, Mr. Meyer has made the
24 two major arguments I was going to make. First of all,
25 it is exceedingly misleading as to the effect of the

0350

1 supplemental testimony and implies that there is a 1 to
2 1 direct correlation between those various items that
3 are mentioned and then the items in the settlement. And
4 as Mr. Meyer pointed out, several of these line items
5 are not contained in the supplemental testimony, they
6 were negotiated as part of the settlement. And as to
7 the then resulting revenue requirements which results --
8 well, I would also point out that for instance there's a
9 reduction -- there is a -- in the reversing changes
10 related to the supplemental testimony, it points out the
11 production property adjustment has been pulled out, but
12 Mr. Majoros in his earlier testimonies said that he
13 accepted that, so that's a \$2 Million discrepancy. And
14 then as to the total revenue requirement, we have the
15 24,477, which we can get to by taking their prior number
16 which was \$20 Million approximately and adding the
17 computational error to get to 24,477. But now when we
18 look at the rates on the new exhibit, we have I see for
19 just electric alone there's 23.6, 18.3, and 27.2. I
20 mean none of them match. There's three different
21 figures, none of them match what is supposedly Public
22 Counsel's revenue requirement. So in my mind, this is
23 not illustrative or clarifying, it's additional argument
24 which if it were to be made should have been made at a
25 much earlier date. So we object.

0351

1 JUDGE CLARK: All right, the objection to
2 MJM-10 is sustained first on procedural grounds, and
3 this falls back to the discussion we had earlier this
4 morning about the timing of when these exhibits come in,
5 and that is a due process concern about whether or not
6 the other parties will have an opportunity to address
7 this matter in a timely manner in rebuttal or in other
8 examination on presentation of other witnesses. Second,
9 substantively it appears that gauging the numbers from
10 the exhibit that I just received, which is the corrected
11 MJM-9 reflecting the revised revision to MJM-4TC, it
12 doesn't appear that these numbers track through in a
13 manner that will aid the Commission in rendering its
14 decision.

15 MR. MEYER: Thank you, Your Honor.

16 JUDGE CLARK: And do you have further matters
17 with Mr. Majoros, Mr. Ffitch?

18 MR. FFITCH: Mr. Majoros is available for
19 cross-examination.

20 JUDGE CLARK: Thank you.

21 Is there cross-examination, Mr. Meyer?

22 MR. MEYER: No cross, thank you.

23 JUDGE CLARK: Mr. Trautman?

24 MR. TRAUTMAN: No, Your Honor.

25 JUDGE CLARK: And I checked with

0352

1 Commissioners during the recess, and there is no inquiry
2 from the Bench.

3 Thank you, Mr. Majoros.

4 Any objection to this witness being excused?

5 Hearing none, you're excused.

6 (Discussion on the Bench.)

7 JUDGE CLARK: Before we took the recess, I
8 asked Avista and Commission Staff to confer to see if
9 there was any cross-examination for Mr. King.

10 MR. TRAUTMAN: No.

11 MR. MEYER: No.

12 JUDGE CLARK: You're both negatively shaking
13 your heads, again not showing up well on the microphone.

14 The Bench does not have any inquiry for
15 Mr. King, and we have received Mr. King's exhibits in
16 evidence. Is there another purpose, Mr. Ffitch, for
17 calling Mr. King to take the stand?

18 MR. FFITCH: No, Your Honor.

19 JUDGE CLARK: All right, thank you. Does
20 that conclude presentation of Public Counsel and ICNU's
21 case?

22 MR. FFITCH: Yes for Public Counsel, Your
23 Honor.

24 MR. SANGER: Yes for ICNU, Your Honor.

25 JUDGE CLARK: And, Mr. Chairman, I believe

0353

1 you had --

2 CHAIRMAN SIDRAN: Yeah, I just want to ask
3 Public Counsel a question so I can clarify my
4 understanding surrounding this latest exchange about the
5 various numbers flowing out of people's testimony
6 related to revenue requirement and rate base. Now under
7 our rule related to settlements, which is WAC
8 480-07-750, the rule provides that if -- and let me
9 actually begin with I understand Public Counsel's
10 position in this litigation to be that the Commission
11 should reject the settlement, correct?

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

13 CHAIRMAN SIDRAN: If the Commission rejects
14 the settlement, the rule provides that the proceeding
15 will, "return to its posture as of the day before the
16 settlement was filed". The settlement was filed
17 September the 15th of 2008, 16th, although it's dated
18 September 15th but I guess it was filed September 16th,
19 2008. I don't know the date of Ms. Andrews'
20 supplemental testimony, maybe someone could tell me
21 that, do you know?

22 MR. MEYER: I think that was back in June or
23 July, July 25th.

24 CHAIRMAN SIDRAN: So what I'm trying to
25 understand about this argument about these moving

0354

1 targets about numbers is that if we reject, if we accept
2 Public Counsel's position and reject the settlement,
3 then all of the numbers that will be in dispute in
4 litigation are numbers that existed on September 15th,
5 correct?

6 MR. FFITCH: Your Honor, we have rebuttal
7 testimony from the other parties that came in on October
8 22nd which characterizes the different positions and
9 characterizes our position in different ways that we
10 don't agree with, so that was part of the genesis of our
11 offering this exhibit. Certainly lots of the numbers in
12 the case have been on file with the Commission since,
13 you know, up to and including September 15th.

14 CHAIRMAN SIDRAN: I guess my query is, under
15 our rule all of the numbers that are being presented to
16 us that are litigation positions or settlement positions
17 that arose after the 15th of September will not be the
18 basis if we were to reject a settlement for going
19 forward. It would simply be the numbers that existed
20 before the settlement was filed. And then it may be
21 that the numbers would be revised as the litigation
22 proceeds, but we would be dealing with a record as it
23 existed on that date, not these various revisions of
24 numbers that are coming in in the context of the
25 settlement?

0355

1 MR. FFITCH: I guess that's correct, Your
2 Honor. I'm hesitating a little bit because I don't
3 think I've ever actually lived through that kind of a
4 scenario. I think that's correct. It has been Public
5 Counsel's position, we have argued this in other cases,
6 that the Commission has actually the authority in a case
7 such as this or with any disputed settlement to simply
8 issue a decision on the basis of the record and go
9 beyond simply an up or down or conditional response to a
10 settlement agreement. We believe the Commission has the
11 authority to simply rule on the record, and we have
12 advocated against an unduly narrow treatment of the
13 issues in settlement hearings, believing that that
14 unduly favors a sub group of settling parties. It has
15 been our position that if fewer than all of the parties
16 settle, that simply amounts to a sub group agreement on
17 an issue in the case and that the case should be fully
18 presented to the Commission in the ordinary course for
19 decision. But I can't disagree with the wording of the
20 Commission rules and how they set up the sort of
21 decisional framework with regard to settlement hearings,
22 I understand those are the rules.

23 MR. SANGER: Chairman Sidran, this is Irion
24 Sanger with ICNU.

25 CHAIRMAN SIDRAN: Yes.

0356

1 MR. SANGER: I would like to provide ICNU's
2 position on this. ICNU has a slightly different
3 perspective than Public Counsel, at least in terms of
4 the evidence in the case. ICNU joined in part of the
5 settlement but not in all the provisions of the
6 settlement. So ICNU's position in this case is that the
7 Commission should adopt the adjustments in the
8 settlement based on the condition that they adopt
9 further adjustments that ICNU is supporting in this
10 case. So I think the end result may not be different
11 than what Public Counsel is proposing, but our position
12 is that the Commission should adopt the settlement
13 adjustments that we support in the settlement and the
14 additional -- and condition that and conditionally adopt
15 the settlement based on additional adjustments.

16 CHAIRMAN SIDRAN: All right, well, I don't
17 want to get into an extended colloquy, but I just wanted
18 to clarify something. Even if we were to accept the
19 proposition that we could condition a settlement by
20 accepting the positions of those parties that have
21 joined in some or part or none of the settlement and
22 then provide a modified or conditional settlement, the
23 settling parties entered into a settlement as a result
24 of certain compromises that have been described here
25 today, that's the premise of their deal. And if we were

0357

1 to condition a settlement along the lines for example
2 that ICNU might prefer, I assume you would agree that
3 settling parties could reject that, and we would then
4 return under our rule to a litigation as it stood the
5 day before the settlement was filed?

6 MR. SANGER: Yes, Chairman, I would agree
7 with you. And I believe, although I'm not -- I don't
8 remember under the settlement, I believe there is a
9 provision in the settlement that allows the settling
10 parties that opportunity. And once you issue your
11 order, you can condition it on any -- you can approve
12 the whole settlement, make conditions on a minor basis
13 or major basis, and the settling parties have a period
14 of time to accept that or not accept that. And if they
15 do not accept that, then the litigation would return to
16 the point as you're describing, the earlier point. But
17 they would have the opportunity to accept that depending
18 on what conditions the Commission adopted.

19 CHAIRMAN SIDRAN: All right, thank you,
20 that's all I have.

21 JUDGE CLARK: All right, is there anything
22 further to be heard on this record?

23 Hearing nothing, we're adjourned.

24

25