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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	Docket No. UE-991606
TRANSPORTATION COMMISSION,)	Volume IV
Complainant,)	Pages 308-411
v.)	(AM Session Only)
AVISTA CORPORATION,)	
Respondent.)	
_____)	

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A hearing in the above matter was held on March 28, 2000, at 9:25 a.m., at 1300 Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judges MARJORIE R. SCHAEER and KAREN CAILLE and CHAIRWOMAN MARILYN SHOWALTER, COMMISSIONER RICHARD HEMSTAD and COMMISSIONER WILLIAM R. GILLIS.

The parties were present as follows:

AVISTA CORPORATION, by David J. Meyer, Attorney at Law, E 1411 Mission Avenue, P.O. Box 3727, Spokane, Washington 99220.

ICNU, by Brad Van Cleve, Attorney at Law, 1300 S.W. Fifth Avenue, Suite 2915, Portland, Oregon 97201.

THE COMMISSION, by Mary M. Tennyson and Gregory Trautman, Assistant Attorneys General, 1400 S. Evergreen Park Drive S.W., P.O. Box 40128, Olympia, Washington 98504-0128.

RMS

1 PUBLIC COUNSEL, by Simon ffitich,
2 Attorney at Law, 900 Fourth Avenue, #2000, Seattle,
3 Washington 98164.

4 NORTHWEST ENERGY COALITION, by
5 Danielle Dixon, Policy Associate, 219 First Avenue
6 South, Suite 100, Seattle, Washington 98104.
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24 Barbara L. Spurbeck, CSR
25 Court Reporter

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Number T-46	317	317
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1 JUDGE SCHAER: Let's go on the record.
2 This is our second day of cross-examination hearings
3 in Dockets Numbers UE-991606 and UG-991607. It's a
4 general rate increase request by Avista Corporation.
5 And would you like to call your next witness, please,
6 Mr. Meyer?

7 MR. MEYER: I would. Thank you, Your
8 Honor.

9 JUDGE SCHAER: The following exhibits have
10 been marked in conjunction with Mr. Dukich's
11 testimony.

12 Exhibit T-46, the direct testimony of
13 Thomas D. Dukich. Exhibit 47, Fortnightly Article.
14 Exhibit 48, Fortnightly Article. Exhibit 49,
15 Customer Service Survey. Exhibit 50, Call Center
16 Magazine Article. Exhibit 51, New York Times
17 Article.

18 Exhibit 52, IRT Results Center Report.
19 Exhibit 53, Call Center Magazine Article. Exhibit
20 54, Project Share Media Awards. Exhibit 55, Web Site
21 Award. Exhibit 56, Environmental Awards. Exhibit
22 57, Formation of Avista Energy. Exhibit T-58,
23 Supplemental Direct Testimony of Thomas Dukich.

24 Exhibit 59, RCW 82.35. Exhibit 60, Public
25 Utilities Fortnightly, September 1, 1998 Article: The

1 Fortnightly 100 - Which Utility Ranks the Highest?
2 Exhibit 61, Response to WUTC Data Request Number 237.
3 Exhibit 62, Response to WUTC Data Request Number 239.
4 Exhibit 63, Response to WUTC Data Request Number 240.
5 Exhibit 64, Avista Response to SNAP Data
6 Request Number 3. Exhibit 65, Avista Response to
7 SNAP Data Request Number 4. Exhibit 66, Avista
8 Response to SNAP Data Request Number 6. Exhibit 67,
9 Avista Response to SNAP Data Request Number 7.
10 Exhibit 68, Avista Response to SNAP Data Request
11 Number 8.
12 Exhibit 69, Avista Response to SNAP Data
13 Request Number 9. Exhibit 70, Avista Response to
14 SNAP Data Request Number 10. Exhibit 71, Avista
15 Response to SNAP Data Request Number 12. Exhibit 72,
16 Avista Response to SNAP Data Request Number 13.
17 Exhibit 73, Avista Response to SNAP Data Request
18 Number 14. Exhibit 74, Avista Response to SNAP Data
19 Request Number 15.
20 Exhibit 75, Avista Response to SNAP Data
21 Request Number 47. Exhibit 76, Avista Response to
22 SNAP Data Request Number 49. Exhibit 77, Avista
23 Response to SNAP Data Request Number 50. Exhibit 78,
24 Avista Response to SNAP Data Request Number 51.
25 Exhibit 79, Avista Response to SNAP Data

1 Request Number 54. Exhibit 80, Avista Response to
2 SNAP Data Request Number 56. Exhibit 81, Avista
3 Response to SNAP Data Request Number 57. Exhibit 82,
4 Avista Response to SNAP Data Request Number 58.
5 Exhibit 83, Avista Response to SNAP Data Request
6 Number 59.

7 Whereupon,

8 THOMAS DUKICH,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE SCHAER: Your witness is sworn, Mr.
12 Meyer.

13 MR. MEYER: Thank you.

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

15 BY MR. MEYER:

16 Q. Mr. Dukich, for the record, please state
17 your full name and your employer.

18 A. Thomas D. Dukich. I'm employed by Avista
19 Corp.

20 Q. In what capacity?

21 A. The rates director.

22 Q. And have you prepared and prefiled direct
23 testimony, marked as Exhibit T-46?

24 A. I have.

25 Q. And have you also sponsored supplemental

1 direct testimony, marked as Exhibit T-58?

2 A. Yes.

3 MR. MEYER: For the record, I have
4 distributed errata sheets for both T-46 and T-58.
5 The T-58 errata sheet is the third page in the group
6 of errata sheets. In addition, I have distributed an
7 additional page to be inserted within Mr. Dukich's
8 Exhibit 48, which we will identify in just a moment.
9 And that page was inadvertently omitted, and it
10 should appear or be inserted as the second to the
11 last page of Exhibit 48. It's not a replacement;
12 it's an addition.

13 JUDGE SCHAER: Thank you.

14 Q. Okay. With that having been said, Mr.
15 Dukich, do you have any other corrections beyond what
16 have been reflected in your errata sheet to either
17 exhibits T-46 or T-58?

18 A. No.

19 Q. If I would ask you the questions that
20 appear therein, would your answers be the same?

21 A. Yes.

22 Q. Likewise, with regard to sponsored exhibits
23 47 through 57, is the information contained therein
24 true and correct?

25 A. Yes.

1 Q. And were those exhibits prepared by you or
2 under your direction and supervision?

3 A. Yes, they were.

4 MR. MEYER: With that, Your Honor, I move
5 for admission of Exhibits T-46, T-58, and Exhibits 47
6 through 57.

7 JUDGE SCHAER: Are there any objections?

8 MR. FFITCH: No.

9 MS. TENNYSON: No objections.

10 JUDGE SCHAER: Those documents are
11 admitted.

12 MR. MEYER: Mr. Dukich is available for
13 cross.

14 JUDGE SCHAER: Okay. At this point,
15 everyone just relax for a moment and we're going to
16 ask the Commissioners to join us, and then we'll
17 proceed with the questioning.

18 Would you like to go ahead with your
19 cross-examination, Ms. Tennyson.

20 MS. TENNYSON: Certainly.

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

22 BY MS. TENNYSON:

23 Q. Good morning, Mr. Dukich.

24 A. Good morning.

25 Q. My name is Mary Tennyson, and I'm a Senior

1 Q. Now, this shows, doesn't it, that
2 Washington Water Power had the second largest decline
3 in efficiency of any of the companies listed in that
4 table between 1990 and 1995; isn't that true?

5 A. I hadn't looked at that, but I'll accept
6 that.

7 Q. Okay. And the study also found a strong
8 relationship between operational efficiencies and the
9 share of hydroelectric power that was in the
10 utilities generation mix; isn't that true?

11 A. They did, but they also found that some of
12 the companies that had significant hydro,
13 particularly Northeast, were not very efficient, but
14 they do state in the study that efficiencies, I
15 think, were highly related to hydro purchases, I
16 think. Something like that. But yes, they did,
17 basically.

18 Q. Okay. In terms of hydro purchases, I was
19 referring to -- the language about the strong
20 relationship that I was referring to, if you could
21 look at page six of seven, at the bottom of the
22 second column, continuing to the third column?

23 A. Right, we find a strong relationship
24 between operational efficiency and the share of hydro
25 electric power in the utilities generation mix.

1 Assistant Attorney General, representing Commission
2 Staff in this case. I'm going to start by asking you
3 some questions about Exhibit 47, which is one of the
4 exhibits submitted with your testimony.

5 A. Okay.

6 Q. Now, is it true that this study, the data
7 used in this study was gathered between 1990 and
8 1995?

9 A. I think the efficiency -- is the efficiency
10 data from '95, or you're talking about the rankings?

11 Q. Where I'm looking is actually the second
12 column on the first page of the exhibit, in the last
13 paragraph of that column, We have estimated --

14 JUDGE SCHAER: Are you referring to the
15 second page as being the second page past the cover
16 sheet, Ms. Tennyson?

17 MS. TENNYSON: Yes, what's marked page two
18 of seven, as opposed to the cover of the --

19 THE WITNESS: Okay. So it's page two of
20 seven, okay.

21 Q. Yes.

22 A. Yes, okay.

23 Q. And then turning to Table One of this
24 document, which is page four of seven.

25 A. Okay.

1 Q. Generation mix normally doesn't refer to
2 purchases of power, does it?

3 A. That's probably true, yeah.

4 Q. I'd like to refer you to Exhibit 48.

5 A. Okay.

6 Q. This is also a study. This one was based
7 on data from 1990 to 1996.

8 A. Right.

9 Q. Is that correct?

10 A. Mm-hmm.

11 Q. At this point, you have inserted the page,
12 the second to last page on this exhibit; correct?

13 A. Correct.

14 Q. Okay. And I would like you to refer to
15 that page you have just inserted today.

16 A. Okay.

17 Q. Now, in looking here at the overall
18 percentage change in productivity, the last column on
19 this table.

20 A. Correct.

21 Q. This table starts on the previous page.

22 A. Got it.

23 Q. Now, isn't it true there that in terms of
24 change, overall change in productivity, Washington
25 Water Power shows the second greatest negative change

1 in productivity?

2 A. Yes, we had ice storm in '95 and '96, and
3 we booked approximately \$17 million worth of expense,
4 in the end of '96. So despite that, we were still
5 ranked, I think, tied for fifth in overall
6 efficiency, but we had a -- you'll hear other
7 testimony today that it was a significant event. So
8 despite that --

9 Q. So for 1995, where we have the minus .39,
10 that was when the ice storm occurred?

11 A. It was booked in '96.

12 Q. Okay.

13 A. So the overall efficiency, I think, is
14 ranked from -- actually, I don't understand exactly
15 how they did these numbers. I tried to tease out how
16 much of this was due to ice storm, but I don't think
17 they have the primary data in this study to be able
18 to do that.

19 Q. They don't mention the ice storm in this?

20 A. No, they don't. Plus, I tried to
21 recalculate the percentages taking ice storm out of
22 there out of curiosity to see how we would have done,
23 but I didn't have the primary data to do that. But
24 we did book ice storm to the tune of 17 million in
25 November of '96, so I'm quite sure that that had a

1 significant impact.

2 But you can't do an overall number if you
3 look -- you see quite a bit of variation from year to
4 year in efficiencies, all the way from a plus 23
5 percent in '94/'95, to that negative .39 in '95/'96,
6 so I suspect that that has quite a bit to do with ice
7 storm. We also booked in '91 or '92, I think, what
8 we call fire storm, which was a series of fires that
9 had to do with a severe drought we had in the Spokane
10 area. I think up to a hundred homes were destroyed
11 in those wildfires. So that had a significant impact
12 on the company, as well.

13 Q. And this study also excluded consideration
14 of purchased power; isn't that true? Would you
15 accept that, subject to check?

16 A. I don't recall. Could you point me to a
17 place that --

18 Q. I was just looking. It was the one thing I
19 didn't highlight in here.

20 A. I don't think it did.

21 Q. Let me see if I can find it. I know that I
22 read this yesterday. If that is the case, but --

23 A. Okay.

24 Q. Would you accept that, subject to check,
25 and we can review it later in the day?

1 A. I think that was one of the variables, but
2 I don't recall that they excluded it. I think what
3 they concluded -- maybe I'm a little confused, either
4 in this study or the other one -- is that purchased
5 power was a significant determiner of efficiency. I
6 think, if you had real high purchases, with the
7 exception of Avista, I might add, I think there's a
8 table that shows that. Unless I'm confusing these
9 two studies.

10 Q. They are very similar, but not --

11 A. Well, they were done by the same people one
12 year after the other for the purposes of comparisons.
13 But I think if you look at Exhibit 47 -- if I can
14 find it. Yes, on Exhibit 47, page six of seven.

15 Q. Yes.

16 A. At the top. You'll see the top three
17 companies rated there.

18 Q. Yes.

19 A. Do you see that in table two? In the
20 middle -- in the column where it says Washington
21 Water Power, which is now Avista, if you go down
22 almost a third from the bottom line, it says percent
23 purchased power. We had 42 percent. The other
24 companies had, like, two and four in the top three,
25 and then it compared it to the bottom three

1 companies, which had high percentages of purchased
2 power.

3 So even though we had a high percent
4 purchased power, we still ranked in the top three.
5 Their point in this table is that purchased power
6 usually means you have less efficiency, but --

7 Q. Could you refer to --

8 MR. MEYER: I'm sorry, Mr. Dukich, were you
9 finished with your response?

10 THE WITNESS: No.

11 MS. TENNYSON: I think he finished with his
12 response about a couple of minutes ago.

13 MR. MEYER: Well, wait a minute. Your
14 Honor, if the witness has more to say, the witness
15 should be allowed to say it, if it's reasonably
16 responsive.

17 MS. TENNYSON: My question related to
18 Exhibit 48. He is now referring to Exhibit 47.

19 MR. MEYER: He was trying to respond, Your
20 Honor, to a question about the impact of purchased
21 power. The fact is that the information is contained
22 in Exhibit 47, in that table. He's trying to explain
23 himself. He should be allowed to do so.

24 JUDGE SCHAER: I think, at this point, I
25 would prefer if we had a new question for Mr. Dukich.

1 I believe I did hear the last question being about
2 where something could be found in Exhibit 48. And I
3 think we're kind of far afield from that at this
4 point. Would you ask another question, please, Ms.
5 Tennyson?

6 MS. TENNYSON: Certainly.

7 Q. If you refer to Exhibit 48, and I'm looking
8 at page six of 12.

9 A. Okay.

10 Q. In the second column of the text on that
11 page, in the first full paragraph, the second
12 sentence states that purchased power was removed from
13 total megawatt sales. Do you see that?

14 A. Yes, I'm not sure that means that it was
15 removed from the efficiency calculations, however.
16 It was -- it may have been removed from the sales.
17 If you purchase and resell, like Mr. Norwood
18 testified to, then you're an energy broker company,
19 and that probably was excluded. I think that the
20 point was to try to get the megawatt hours that are
21 used for the retail load. So that may have been an
22 adjustment that was made.

23 Q. Okay. Thank you. I'd like to refer at
24 this point to Exhibit 57.

25 A. Pardon, what?

1 Q. Five-seven. It's one of your last exhibits
2 before your supplemental testimony.

3 A. Last exhibit, okay.

4 Q. Now, this is the letter about the -- to the
5 Commission relating to the formation of the internal
6 holding company?

7 A. Correct.

8 Q. And I gather, also, the creation of Avista
9 Energy; is that correct?

10 A. It was primarily to address the creation of
11 Avista Energy, yes.

12 Q. And Avista Energy is the nonregulated
13 portion of the company's energy trading and
14 marketing; correct?

15 A. It's not state-regulated. It is regulated
16 by the FERC.

17 Q. Okay. It's not part of this case --

18 A. Right.

19 Q. -- in terms of setting rates or anything?

20 A. Right, right.

21 Q. And in that letter, there is a statement on
22 page three, the third full paragraph that starts
23 with, Even though resource optimization?

24 A. Yes.

25 Q. Do you see that?

1 A. Got it.

2 Q. Now, in the last sentence there, can you
3 read that for us?

4 A. The one that starts, In addition?

5 Q. That's correct.

6 A. In addition, Avista will be one of more
7 than 50 active participants in a WSCC market and
8 anticipates a market share of less than five percent,
9 hardly enough to materially affect resource
10 optimization costs.

11 Q. And what's the WSCC market that's being
12 referred to there?

13 A. At the risk of -- I'll guess here, which
14 may be a little bit risky. I think it's basically
15 the Rocky Mountains, and it goes into Canada and
16 might even technically include a little bit of
17 Mexico.

18 Q. So it's like the western part of the
19 market?

20 A. Mm-hmm. I think it's 14 states, plus
21 Canada and Mexico. I think.

22 Q. So it's not the New York Stock Exchange or
23 anything like that; it's a different market?

24 A. No, no, it's -- right.

25 Q. Okay. And the statement about anticipating

1 a market share of less than five percent for Avista
2 Energy, is that still true, given what we heard from
3 Mr. Matthews yesterday about the company's
4 reorganization restructuring?

5 A. I think that referred to Avista
6 Optimization in that paragraph. Can I read it and
7 make sure?

8 Q. Go ahead and refer. The sentence starts
9 with a reference to Avista.

10 A. Yeah, to tell you the truth, I thought that
11 meant, when I -- I thought it meant -- it's been a
12 while since we wrote this, but I thought that meant
13 that resource optimization would be -- may be
14 competing against Avista Energy, but since they're
15 such a small percent of the market, that it wouldn't
16 affect it. But I can't recall, to tell you the
17 truth, so --

18 Q. The sentence does indicate that Avista,
19 which, at that point, was Washington Water Power, was
20 the name of the utility; correct?

21 A. Right. You know, I need to defer that
22 question, probably. Unfortunately, Mr. Norwood is
23 off the stand, but he might be the best one to answer
24 that.

25 Q. This was an exhibit you presented; correct?

1 A. I realize that.

2 JUDGE SCHAER: Mr. Meyer, if we need to
3 recall Mr. Norwood, will he be available?

4 MR. MEYER: Sure.

5 JUDGE SCHAER: Thank you.

6 THE WITNESS: I suppose we could do that
7 through a record requisition or something if you need
8 clarification.

9 Q. Why don't we do that, so we have that clear
10 on the record as to what that does refer to. Because
11 I understood it as referring to Avista Energy's
12 portion of the market and --

13 A. That's probably true, as well, but like I
14 said, I'd be guessing.

15 Q. So at this point, you don't know whether
16 Avista Energy would have a target of five percent of
17 the market or greater?

18 A. No, I don't.

19 JUDGE SCHAER: So as Record Requisition
20 Number 11, the company is going to provide further
21 information about full paragraph three, third full
22 paragraph on page three of six in Exhibit 57. And
23 just as a reminder to you, Ms. Tennyson, so you don't
24 have a nasty surprise, record requisitions are like
25 data requests. They come to the parties, but do not

1 come to the bench. So if you want that to be part of
2 the record, you'll have to include that response at a
3 later time.

4 MS. TENNYSON: Thank you.

5 JUDGE SCHAEER: All right. Go ahead,
6 please.

7 Q. Mr. Dukich, you gave your title this
8 morning as the rates director, and in your testimony,
9 you referred to yourself as the manager of rates and
10 tariff administration. That's the same thing?

11 A. I have a new title.

12 Q. Okay. Does that mean a change in your job
13 duties?

14 A. No.

15 Q. Okay. And you've been employed by Avista
16 since 1978?

17 A. Yes.

18 Q. In your position as rates director, is your
19 salary fixed or do you receive some sort of
20 incentive, bonus consideration?

21 A. Over the years, I think it's changed, but I
22 think currently I am under an incentive system that
23 awards options and occasionally bonuses.

24 Q. Okay. Options being stock options?

25 A. Yes.

1 Q. Options to purchase stock?

2 A. Right.

3 Q. And in your testimony, you proposed that
4 the Commission allow Avista a 25 basis point premium
5 above the 12 percent return on equity that's
6 recommended by Dr. Avera; correct?

7 A. Right.

8 Q. And you indicate that this is to compensate
9 the company for the customer benefits produced by
10 various management initiatives?

11 A. That's one of the reasons, yes. There are
12 others, but that is one.

13 Q. If the Commission did grant this 25 basis
14 point on top of the return on equity that Dr. Avera
15 recommends, do you expect that the salaries of
16 Avista's management would rise accordingly?

17 A. Can I think about that a second?

18 Q. Certainly.

19 A. Probably not.

20 Q. Have you discussed that with anyone or has
21 anyone discussed with you the effect or what the
22 company might do if the Commission granted the 25
23 basis points on equity?

24 A. Could you repeat the question?

25 Q. Have you discussed with anyone in

1 management what the company would do if the
2 Commission -- with that 25 basis point, the return on
3 equity, if the Commission granted it?

4 A. Well, we have discussed it, yes, and I
5 don't think we came to the conclusion that it would
6 do anything but provide a recognition by the
7 Commission of what we believe is a well-managed
8 company. It was more in that vein.

9 Q. And that recognition comes in the form of
10 additional money to the company, does it not?

11 A. It does, but the level of money, to be
12 honest about it, is probably less important than the
13 fact that there's an official recognition of a
14 difference between what we consider a well-managed
15 company and maybe an adequately managed one. So from
16 a Commission policy point of view, it's important, I
17 think, that the Commission do something affirmatively
18 maybe to recognize that, if they believe we are, in
19 fact, well-managed.

20 Q. And in your testimony, you say that it's
21 reasonable that the company should receive an upward
22 adjustment to the return on equity?

23 A. Correct.

24 Q. I'm trying to understand what you mean when
25 you say company. Is that the company management, is

1 it the stockholders?

2 A. It's effectively the stockholders.

3 Q. Okay.

4 A. Which is a recognition provided in the
5 capital markets, I suppose you might say, that it
6 becomes, then, part of what analysts look at in terms
7 of our regulatory treatment.

8 Q. Okay. Now, in terms of -- if the
9 Commission granted this return on equity, this
10 increase in the return on equity, wouldn't it cause
11 the company -- or would it likely cause the company's
12 stock price to rise?

13 MR. MEYER: Don't speculate.

14 JUDGE SCHAER: Mr. Meyer, unless you have
15 an objection to make, I would like you to make it for
16 the record.

17 MR. MEYER: I do have an objection. It
18 asked for a speculative response.

19 JUDGE SCHAER: Okay. Ms. Tennyson, your
20 objection is that there's speculation called for.

21 MS. TENNYSON: I'm looking for the witness'
22 knowledge of the input or impact of this type of an
23 increase. He's indicated that this would acknowledge
24 the well-managed aspects of the company being
25 well-managed, and there's obviously some benefit that

1 they're seeking by looking for a 25 basis point
2 increase to the return on equity.

3 If we look at Dr. Avera's testimony later,
4 he's talked about the impact on the stock market on
5 an extensive basis of what is the return on equity
6 and how that impacts the stock market. What I'm
7 looking at is what is the company looking for. If we
8 would grant this kind of an increase, what's going to
9 be -- what is the impact?

10 JUDGE SCHAER: As I understand the
11 question, it's directed to you, Mr. Dukich, because
12 you are sponsoring the company's request for the 25
13 basis point adder, and it's asking you what outcomes
14 the company expects to obtain if your recommendation
15 is granted. Is that correct, Ms. Tennyson?

16 MS. TENNYSON: That's correct.

17 JUDGE SCHAER: Would you answer it in those
18 terms, please?

19 THE WITNESS: What we expect to gain; is
20 that what you're saying?

21 JUDGE SCHAER: What are you hoping to gain
22 out of this adder?

23 THE WITNESS: What we're -- I think that is
24 outlined in my testimony, and I think that there's a
25 two-pronged piece that's, number one, does the

1 Commission, as a matter of policy, want to recognize
2 well-managed versus adequately-managed companies. Do
3 they want to make a distinction between well-managed
4 and adequately-managed. If they do, do we fit in the
5 well-managed category.

6 And we are suggesting that one of the ways
7 to do that is to provide an equity kicker of a
8 quarter of a percent. Now, past that, it would be
9 speculation on my part to know whether or not that
10 would cause stock price to go up in any material way.

11 Q. Okay. Assuming that a 25 basis point adder
12 were added on to the company's equity, and assuming
13 that that caused Avista's stock price to rise, who
14 would that benefit?

15 A. Well, it may benefit everybody, I think,
16 customers, as well as the shareholders.

17 Q. Now, it would benefit existing
18 stockholders, correct, if the stock price went up?

19 A. Sure, as well as people who traded in the
20 stock or when the company went to issue equity, it
21 would, in general, provide a healthier financial
22 environment for the company in all regards, I would
23 think.

24 Q. If the stock --

25 A. To the extent that stock price is

1 indicative of a healthy financial situation for the
2 company, I think it would benefit everyone. I mean,
3 employees, the company, and customers.

4 Q. It wouldn't benefit new stockholders, those
5 who purchased after the price rose, would it?

6 A. In the long-term, it might.

7 Q. Now, assuming that the increase from the
8 higher return on equity, this 25 basis point equity
9 markup was granted, assuming that was used to raise
10 management's salaries, then that would also cause an
11 increase in the company's salary expense, wouldn't
12 it?

13 MR. MEYER: I object.

14 THE WITNESS: Yes.

15 MR. MEYER: There hasn't been a sufficient
16 foundation laid for that. A question was previously
17 asked of this witness whether a 25 basis point adder
18 would somehow translate into direct management
19 incentive compensation. I don't believe the witness
20 testified that it would.

21 MS. TENNYSON: He did not, which is --

22 JUDGE SCHAER: I'm going to overrule the
23 objection. I heard the question as being a
24 hypothetical. It was, very clearly, and I think if
25 the witness is able to answer the question, he should

1 do so. Go ahead, Mr. Dukich.

2 THE WITNESS: I think I need it repeated.
3 It seemed to have three or four premises built in.

4 Q. It was assuming that the increase in equity
5 were used to increase management salaries, that's the
6 only assumption I'm asking you to make, then that
7 would increase the company's salary expense, wouldn't
8 it?

9 A. I don't know how that's calculated, but by
10 definition, I think salary includes cash count, but
11 I'm not sure. I don't know the answer to that
12 question, because I'm not sure of the definition of
13 the terms.

14 Q. Which terms don't you understand?

15 A. Well, I'm not sure how all that's booked.
16 Just the opportunity to purchase stock, I'm not sure
17 if that's reflected in current --

18 Q. No, I asked if it caused the management's
19 salaries to rise; I didn't ask to for stock options,
20 salaries --

21 A. I don't see how that could happen.

22 Q. If -- and I'm asking you to assume it does
23 -- that a salary expense is something that the
24 company normally asks --

25 A. Then I think, if that's true, then I think

1 I'd have to answer yes. It's a hypothetical that
2 basically is just A is A, yeah.

3 Q. And normally, the company asks to recover
4 salary expense from the ratepayers; right?

5 A. Mm-hmm.

6 Q. Your answer is yes?

7 A. Yes.

8 Q. Okay, thank you. Now, in the case of
9 Avista, the top management does receive bonuses from
10 time to time; is that correct?

11 A. Correct.

12 Q. And the cost of bonuses are included in
13 expenses that the company's asking to recover in
14 rates; is that also correct?

15 A. I don't know if that's -- to tell you the
16 truth, I don't know if that's true in this test year.
17 You might have to ask Ms. Mitchell that.

18 Q. And so you don't know whether this tariff
19 filing asks for recovery of bonuses?

20 A. I'm not sure what level is in there, and I
21 would -- no, I don't know exactly what's in the test
22 year. You would have to ask Mr. Falkner and Ms.
23 Mitchell exactly what's in it this time. The reason
24 I'm answering that way is I recall from our prior
25 discussions that there may not have been certain

1 levels reflected in the test year this time.

2 Q. But there were some?

3 A. I don't know exactly, so I can't answer
4 that with authority, I'm sorry.

5 Q. And in terms of the company's incentive
6 plans for its management, does that include a
7 relationship to the company's stock price?

8 A. Could you say that again?

9 Q. For the company's incentive plan for
10 management, does it include a relationship to the
11 company's stock price, that the level of bonus may
12 increase with stock price increases?

13 A. Oh, okay. I didn't understand the
14 question. Could you start all over again? I'm
15 sorry. One more time. It totally reversed my
16 understanding of the question when you added that
17 little tag on the end, so --

18 Q. I'm trying to see if I can rephrase it
19 including that phrase.

20 A. Okay.

21 Q. Essentially, what I'm looking for is does
22 the incentives that the company provides for its
23 management --

24 A. Okay.

25 Q. -- that the amount of incentive or bonus

1 that they can receive is partially dependent on the
2 company's stock price?

3 A. Over the years, I think, depending upon the
4 plan that the company had in effect, sometimes it was
5 related to stock price and sometimes it was not.

6 Q. I'm looking at now, in terms of the plans
7 going forward of what management compensation is
8 based on?

9 A. You know, I don't actually recall exactly.

10 MS. TENNYSON: I would like at this point
11 to do an additional records requisition for a copy of
12 the incentive plan and the basis for compensation of
13 executives.

14 JUDGE SCHAER: Is that something you would
15 be able to provide, Mr. Dukich?

16 MR. MEYER: A point of clarification. For
17 which period are we talking about?

18 MS. TENNYSON: Well, we're looking for what
19 the company's asking to include in the tariffs that
20 are on file, so since the test year is 1998 --

21 MR. MEYER: Test year incentive plans.

22 MS. TENNYSON: Test year, and if there are
23 any pro forma adjustments for that in the rate case,
24 then --

25 JUDGE SCHAER: So you'd want to see the

1 rate year, as well?

2 MS. TENNYSON: That's correct. If there
3 were changes in the rate year, I'd want that.

4 JUDGE SCHAER: Is that something you can
5 provide, Mr. Dukich?

6 THE WITNESS: Yes, I think, actually, it's
7 probably something -- I don't know, I don't want to
8 speak for Ms. Mitchell, but I think Mr. Falkner or
9 Ms. Mitchell may actually be able to answer some of
10 that, as well.

11 MR. MEYER: I think we may have already
12 provided that response to a data request, as far as
13 the test year. So if you want to put that question
14 again to Ms. Mitchell when she takes the stand, she
15 can confirm whether we've already provided that. If
16 we haven't, we'd be glad to respond to that.

17 MS. TENNYSON: I did request it, because my
18 staff adviser indicated he didn't think we had that.

19 JUDGE SCHAER: I'm going to leave that as
20 Record Requisition Number 12. If you can answer
21 Record Requisition Number 12 during the hearings by
22 providing the documents, especially if you could
23 provide them before the witnesses that would be able
24 to discuss them, that would be lovely. But let's
25 leave that as Record Requisition 12 at this point.

1 Go ahead, Ms. Tennyson.

2 MS. TENNYSON: Thank you.

3 Q. Mr. Dukich, you've also testified about the
4 company's request for what we call the Kettle Falls
5 equity kicker?

6 A. Sounds good.

7 Q. Okay. Have to admit --

8 A. The word kicker sounds really good.

9 Q. -- that's a new term for me working in this
10 field.

11 A. That could also be maybe an incentive.

12 Q. Negative incentives might be good in some
13 cases, too.

14 A. Well, the other thing was the kicker, as
15 well.

16 Q. Yes, I understand that. And you're
17 requesting here in a positive --

18 A. Yes.

19 Q. -- increase for the Kettle Falls project;
20 is that correct?

21 A. Yes.

22 Q. Okay. I would like to refer to what's been
23 marked as Exhibits 61, 62 and 63.

24 A. Do I have those?

25 Q. I can give you another copy if you do not.

1 of that project to be placed in the rate base?

2 A. Yes.

3 Q. And so in other words, they disallowed a
4 portion of the expenses of that project?

5 A. Not to quibble over the language, but I
6 think they disallowed the capital, which was
7 ultimately reflected in ratepayer costs, but you say
8 expense. I'm not sure any expense was disallowed. I
9 think a level of investment was.

10 Q. But the entire costs of the project were
11 not allowed to be included in rate base?

12 A. The ultimate impact on customers was
13 adjusted, I think is one way to say that, through a
14 reduction in maybe capital that went into rate base.

15 Q. So less of the money involved with that
16 project was passed on to the ratepayers?

17 A. Yes, and the reason that's important is
18 because that would reflect on the amount of money the
19 company earned on the plant. If you just had
20 disallowed the expenses, it wouldn't affect
21 necessarily the company's earnings, but if you
22 disallow the rate base, then that affects going
23 forward, which affected the FASB write-off and things
24 like that.

25 Q. Now, the Commission only allowed a portion

1 of this project to be included in rate base, because
2 they found there were other less expensive
3 alternatives; isn't that true?

4 A. I don't read the order that way. The
5 Commission said that they would allow, on the last
6 page of the order, I think it says -- not on the last
7 page of the order, I think on page --

8 Q. Page 16.

9 A. If you look at page 13 and 16 together, the
10 Commission concluded that it would allow into rates a
11 level of Kettle Falls that was planned in 1980 that
12 they considered prudent and the least cost
13 alternative to satisfying the resource.

14 Q. And could you refer to page 16 of the
15 order?

16 A. Sure.

17 Q. Sorry, this is Exhibit 28.

18 A. I have it.

19 Q. Wait a minute for the Commissioners to get
20 it.

21 A. Oh, I'm sorry, I guess we should wait for
22 the Commissioners.

23 MS. TENNYSON: Page 28. I'm sorry, page 16
24 of Exhibit 28.

25 Q. And looking at the second paragraph on that

1 page, the Commission recites several factors or
2 options that they considered and how to calculate or
3 address the issue of what portion of the costs of the
4 project would be allowed to be included in rate base;
5 correct?

6 A. Correct.

7 Q. And in about the middle of that paragraph,
8 one of them -- one of the options is stated as
9 disallowing the difference between the project and
10 any lower cost alternative?

11 A. Correct.

12 Q. Is that what the Commission did in this
13 case?

14 A. Yeah, if you look on page 13.

15 Q. Yes.

16 A. If you look about right in the middle,
17 where -- I guess it's the first -- the one, two,
18 three, four, the fifth full paragraph down. It's
19 nice that today you label the -- number the
20 paragraphs, it's easier to refer to. Where it says,
21 The Commission has carefully reviewed.

22 Q. Yes.

23 A. That paragraph. If you look -- and then it
24 says down there, it says, In 1980, there was a
25 forecast need for power, et cetera, and then it goes

1 on to say, Even accepting the alleged errors in the
2 original cost study and making adjustments for them,
3 the Kettle Falls project was still the lowest cost
4 means of meeting the forecasted need. And then, if
5 you look at page 16, that's the level that was put in
6 rates. So basically, the way I read that is the
7 lowest cost alternative was what was rate based.

8 Q. Okay. That was -- you were referring to
9 page 13 in the 1980 study. Could you look at page
10 13, the last sentence on that page? Now, that
11 indicates that as of 1982, the Kettle Falls project
12 was no longer lowest cost alternative; isn't that
13 correct?

14 A. That's because the costs went up between
15 the 1980 study and the '82 study. So that was where
16 the rub was, was at '80, that level, which was
17 ultimately put in rates, that was considered the
18 least cost alternative to meeting the load. By '82,
19 it had gone up, and I think the Commission ruled we
20 should have taken a look at that, and then they
21 disallowed the increment between '80 and '82, and
22 only put in the '80 level, which was judged to be the
23 least cost alternative.

24 Q. And when was this project placed in the
25 company's rate base? Do you know that?

1 A. Would have been right after this order, so
2 I suppose '80 -- I don't know exactly. Probably '80.

3 Q. The date of the order is what?

4 A. Three, yeah, '83.

5 Q. Okay. The service date on it indicates
6 January of 1984, so it would have been in that time
7 frame.

8 A. I'm sorry, '84, yeah.

9 Q. Okay. Now, RCW 80.28.025, you refer to
10 that in your testimony, and you've included a copy as
11 Exhibit 59, for reference?

12 A. Correct.

13 MS. TENNYSON: And Commissioners, this
14 morning we did substitute the correct statute for the
15 one that was originally marked as Exhibit 59, so you
16 should have a Substitute Exhibit 59.

17 JUDGE SCHAER: It should be in front of you
18 on the Bench, Commissioners.

19 MR. MEYER: May I approach the witness?

20 THE WITNESS: Would you give me the cite
21 again, make sure I got the right one?

22 Q. 80.28.025.

23 A. Okay, I have it.

24 MS. TENNYSON: Commissioners, do you have
25 it? I have an extra copy if --

1 COMMISSIONER GILLIS: Yeah.

2 Q. Now, the statute was in place during the
3 construction of Kettle Falls and at the time that
4 that facility was placed into rate base; is that
5 correct?

6 A. I believe so, but I'm trying to recall when
7 it passed. Could you help me out?

8 Q. Well, on the copy, there is a parenthetical
9 at the bottom, it says 1991, Chapter 347, Section 23;
10 then 1980?

11 A. Okay, right. Because I think they changed
12 it to create a 1980 to 1990 window, so yeah, I think
13 that it was in effect, as I recall. I mean -- to the
14 best of my knowledge, it was in effect.

15 CHAIRWOMAN SHOWALTER: I'm just a little
16 confused. Are we looking at this exhibit to show
17 what was in effect on a certain date?

18 MS. TENNYSON: No, actually, I'm going to
19 refer to the particular language in the statute and
20 the -- you know, if the witness would like to check
21 the construction date, what we did is review the
22 legislative history, and the 1991 amendment was to
23 add the subsection two to this statute, so the
24 effective date was 1980.

25 Q. And this was in place, then, prior to 1982,

1 when the company chose to continue on with the Kettle
2 Falls project, instead of proceeding with less
3 expensive alternatives?

4 A. I'll accept that, yes. I'm pretty sure it
5 was, but I hadn't thought that through, so okay.

6 Q. Referring to Exhibit 59, the statute. And
7 it's a little more than halfway down the --
8 unfortunately, they didn't break it up into nice,
9 neat numbered paragraphs for us.

10 A. Okay.

11 Q. I'm looking at the sentence that begins,
12 Measures or projects encouraged under this section
13 are those for which construction or installation is
14 begun after June 12th, 1980, and before January 1,
15 1990. Now, that's the ten-year window you were
16 referring to?

17 A. Right.

18 Q. And continuing on, And which, at the time
19 they are placed in rate base, are reasonably expected
20 to save, produce, or generate energy at a total
21 incremental system cost per unit of energy delivered
22 to end use which is less than or equal to the
23 incremental system cost per unit of energy delivered
24 to end use from similarly available conventional
25 energy resources, and it goes on to refer to nuclear

1 energy and fossil fuels and others. Do you see that?

2 A. Yes, and it goes on to say in the same time
3 period.

4 Q. Okay.

5 A. And I think that's been interpreted to mean
6 that we need a resource of equivalent length. So if
7 you're looking for a 35 resource, 35-year resource,
8 you need to have a 35-year alternative to look at.
9 You can't look at a one-year alternative and compare
10 it to a 35-year alternative.

11 Q. So you're referring to this clause that
12 said, Could acquire to meet energy demand in the same
13 time period?

14 A. Right.

15 Q. So that would include at the time the plant
16 came on line, and you're indicating that you
17 interpret that to mean, also, for the same time
18 period, the energy demand would be there?

19 A. Yes, just so you're doing an apples to
20 apples. I think the Department of Revenue actually
21 looked at that and said that you have to make sure
22 you look at the cost of Kettle, which was a 35-year
23 resource. You can't just compare it to the spot
24 market of electricity or a shorter term resource.
25 You need to compare it to equivalent resources in

1 terms of time, length of time they're available, that
2 meets the demand, and also the size of the resource.

3 So comparing Kettle Falls to Colstrip, for
4 instance, was not legitimate, according to the
5 Department of Revenue, because you were looking at a
6 plant which I think was 15 times bigger than Kettle
7 Falls. So the company wouldn't go out and acquire a
8 500 or 1,000-megawatt resource to meet a 50-megawatt
9 load. So all those things bear on the equivalent --
10 the notion of what's equivalent. Size, time frame,
11 the firmness of the resource, et cetera.

12 Q. Referring at this point to exhibit -- I
13 wrote it as 15. It's one of your exhibits. Let me
14 double check the number we've marked it as.
15 Fifty-six.

16 A. It's my 56?

17 Q. Your Exhibit 56, that's correct.

18 A. Okay.

19 Q. This is a listing of awards, and one of
20 those is for an environmental award for the Kettle
21 Falls plant?

22 A. Yes.

23 Q. And that was in what year?

24 A. Eighty-five.

25 Q. Now, hasn't the company had an electric

1 rate case since 1985 before this one?

2 A. Yes, I think we had one in '87.

3 Q. And at that point, the company didn't ask
4 for this -- for putting this -- applying 80.28.025,
5 did it?

6 A. I don't think we did. No, I don't think we
7 did. To the best of my recollection, I don't think
8 we did.

9 Q. And now you're asking for this, what, some
10 15 years after the plant's been put in rate base?

11 A. Yes.

12 Q. Okay.

13 A. I don't think the law restricted anything
14 in terms of how long afterwards. It only restricted
15 when the start date and completion date was.

16 MS. TENNYSON: Your Honor, at this point, I
17 would -- since we have -- the only reason for
18 offering Exhibit 60 was to include the page that the
19 witness has added as of today, we can withdraw
20 Exhibit 60. I would offer Exhibits 59, 61, 62 and
21 63.

22 JUDGE SCHAER: Would you tell me again why
23 you're offering Exhibit 59? This statute is
24 presently in the code, is it not?

25 MS. TENNYSON: Yes, it is. I don't need to

1 offer it. I did want to have it available to
2 everyone to refer to, rather than just try to have
3 everyone follow along as I read or looked at
4 sections. If you would prefer not to have it as an
5 exhibit, I have no problem. It is subject to
6 judicial notice.

7 JUDGE SCHAER: I think I would prefer not
8 to start putting current statutes into our
9 proceedings as exhibits, but I do appreciate having a
10 copy available for the cross.

11 MS. TENNYSON: Okay.

12 JUDGE SCHAER: So is there any objection to
13 the entry of Exhibits 61, 62 or 63?

14 MR. MEYER: No objection.

15 JUDGE SCHAER: Those documents are
16 admitted.

17 MS. TENNYSON: Thank you. I have no
18 further questions for this witness at this time.

19 THE WITNESS: I guess I just would like to
20 point out that that still is an exhibit in my
21 testimony, the one you withdrew.

22 MS. TENNYSON: Yes, yes, the Exhibit 60 was
23 withdrawn because it is duplicative of the exhibit in
24 your testimony, so we don't really need to have it in
25 here twice.

1 THE WITNESS: Okay.

2 JUDGE SCHAER: She had offered it earlier
3 because of the missing page, and you fixed that
4 problem.

5 THE WITNESS: She's not trying to withdraw
6 one of my exhibits.

7 JUDGE SCHAER: No, it would be fun if she
8 tried, but we aren't going to have that much fun
9 today.

10 THE WITNESS: I thought it was pretty easy
11 to do it. It sounded like a neat trick. We should
12 figure this out.

13 JUDGE SCHAER: Mr. ffitch, did you have
14 questions of Mr. Dukich?

15 MR. FFITCH: Yes, Your Honor.

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

17 BY MR. FFITCH:

18 Q. Good morning, Mr. Dukich.

19 A. Good morning.

20 Q. Just a couple of questions. This may well
21 show up in one of the many exhibits that we have, but
22 can you tell us how much the 25 basis point equity
23 kicker translates to in terms of dollars?

24 A. I think it's about \$1,280,000.

25 Q. You testified earlier that, in response to

1 Staff Counsel's questions, that really the dollars
2 are less important than the recognition. Was that
3 basically what you said?

4 A. I probably will live to regret that
5 statement, but that's what I did say, I think. I --

6 Q. Well, and your exhibits reflect that Avista
7 has received a number of awards and commendations
8 from various organizations, did they not?

9 A. Yes.

10 Q. Would Avista be satisfied in this case if
11 the Commission made specific recognition in the order
12 of above-average management activities, if indeed it
13 concluded that that was warranted, rather than to
14 recognize that with the actual equity kicker?

15 A. No, I believe that -- I'm trying to resist
16 some cliché, a little snippy little comment --

17 Q. Go ahead.

18 A. -- about money and mouth and stuff. But I
19 think it's important to recognize that with an actual
20 -- a monetary award, and I think it's at a level that
21 I think there are several of these achievements, I
22 think, that would clearly exceed in value that
23 amount. The hydro relicensing, for instance, I think
24 would probably exceed the value of this monetary
25 award by multiple factors, magnitudes, I would think.

1 So I think it can still be conceived of as a benefit
2 to customers, even though it would be dollar awards.
3 I think the dollar award is important to the company
4 and to management and to, I think, analysts, because
5 they --

6 Q. Well --

7 A. Typically, when -- I don't want to say they
8 dismiss language, but language --

9 Q. Mr. Dukich.

10 A. -- is less important than the actual award.

11 Q. All right, thank you. Let me ask you to
12 look at page seven of your testimony. At the top,
13 lines two and three -- this is Exhibit T-46. There
14 you list some of the benefits, kind of following up
15 on your previous answer, you list some of the
16 benefits that the customers have experienced from the
17 exceptional performance of management, including rate
18 stability. Is that one of the listed items there?

19 A. Yes.

20 Q. Isn't there something ironic about asking
21 for a rate increase in order to reward the company
22 for maintaining rate stability?

23 A. I suppose in some universe, but I don't see
24 that as -- no, I don't.

25 Q. And at the bottom of that page, starting at

1 line 16, you indicate that there is authority under
2 which the Commission can allow such a request; isn't
3 that right?

4 A. Yes.

5 Q. Are you aware of any Commission decision
6 which allows an increase of the specific type that
7 you've requested here?

8 A. No. I might add, though, that I think that
9 in the Centralia case, we talked about the
10 Commission's ability to -- I forgot what the language
11 was -- regulate and broaden appropriate ways. I
12 can't remember the language, but the Supreme Court
13 case which gave the Commission a lot of authority. I
14 would think, in that vein, they certainly could, in
15 addition to what's been done in the past, they seemed
16 to have assessed penalties, and it would make sense
17 to me that it would logically follow that they could
18 also assess the opposite, increases in equity.

19 Q. But your answer is no, the Commission has,
20 to your knowledge, never before allowed an increase
21 of the specific type that you're requesting here?

22 A. We didn't do -- to tell you the truth, I
23 didn't do incredibly exhaustive research, because I
24 felt that as a broader policy issue, what mattered
25 was looking at it now. But in the past, I'm not

1 aware of any that I found.

2 Q. So isn't it true that if the Commission
3 were to consider this request, that there are no, at
4 present, no particular criteria for the Commission to
5 apply and no particular formula or mechanism under
6 which the Commission would determine a specific
7 amount of increased return on equity, that would be
8 triggered by particular types of management
9 performance?

10 A. I suppose you could say that if you look at
11 maybe some of the cost or the service standards that
12 were developed, I think in the Puget Sound case, and
13 maybe in Scottish Power, you could use those as a
14 guideline. And even though there's not specific
15 quantitative data presented here, you could certainly
16 look at us in terms of customer complaints, rates,
17 rate stability, those kinds of things, and see if we
18 -- how we did compared to those benchmarks.

19 But in addition, I presented other things,
20 as well, in terms of customer service and call center
21 availability, et cetera. Some of the criteria that
22 Scottish talked about, I think our call center has
23 achieved already.

24 Q. But the Commission has not yet adopted a
25 framework or a set of criteria for allowing this type

1 of equity kicker and would have to do so in this case
2 if it were going to; is that right?

3 A. I'm talking myself into this. I think in
4 PSE's mechanism, isn't there an opportunity to earn a
5 rate of return kicker if you satisfied certain things
6 within the bandwidth? Am I wrong about that? I
7 think there is, and I guess you could say it's not
8 equity, but it's rate of return, which is the same
9 thing, I mean, ultimately. So yeah, I guess there is
10 a precedent in that.

11 Q. We can go look at that decision and find
12 out if you're right.

13 A. Right.

14 Q. If you were to assume, hypothetically, that
15 the Commission in this case would reject all of the
16 other aspects of the company's rate increase request,
17 other than the equity kicker, would you still
18 recommend that the equity kicker be allowed?

19 A. Could you say that again?

20 Q. Well, let's assume everything else gets
21 rejected by the Commission, the only thing left on
22 the table is your equity kicker. Is the company
23 still -- or would the company still recommend that an
24 equity kicker be allowed?

25 A. I would think so.

1 MR. FFITCH: Your Honor, I don't have any
2 more questions for Mr. Dukich. Thank you, Mr.
3 Dukich. I could, at this point, attend to the matter
4 of the SNAP exhibits, if you would like, or do that
5 at the end of the witness' cross-examination.

6 JUDGE SCHAER: Let's do that now, please.

7 MR. FFITCH: Your Honor, as Mr. Meyer,
8 Counsel for the company is aware, we had a request by
9 SNAP to offer certain data requests for the record,
10 and Public Counsel has agreed to assist SNAP by
11 presenting those today so that representatives of
12 that organization would not have to travel to the
13 hearing room, and we appreciate also the cooperation
14 of and the accommodation of Avista in this regard.

15 The exhibits that I'm referring to are
16 exhibits -- have been marked for identification as
17 Exhibits 64 through 83, and these exhibits constitute
18 responses by the company to SNAP data requests. I
19 have distributed copies of these to all Counsel.
20 It's my understanding that the Bench already has a
21 set of these. It's also my understanding that, from
22 Mr. Meyer, that the company has no objection to these
23 being made a part of the record. So I would like to
24 offer them at this time, Your Honor.

25 JUDGE SCHAER: Okay. Let me indicate that

1 I was contacted last week by Mr. Andre, from SNAP,
2 asking how he could get the company's responses to
3 his data requests made part of the record. And I did
4 recommend that he contact you, Mr. ffitch.

5 And it's my understanding of these
6 exhibits, he had not provided the exhibits by our
7 prehearing conference last Wednesday, and I did
8 require him to provide them to the Commission and to
9 all parties no later than the end of last Thursday.
10 The Commission did receive copies. They are included
11 in the exhibit list. And it's my understanding, let
12 me confirm this with you, Mr. Dukich, that these are
13 data requests that were made to you by SNAP; is that
14 correct?

15 THE WITNESS: Correct.

16 JUDGE SCHAER: And that these are your
17 responses to those that were prepared by you or under
18 your supervision?

19 THE WITNESS: Yes.

20 JUDGE SCHAER: And are they true and
21 correct, to the best of your knowledge?

22 THE WITNESS: Yes.

23 JUDGE SCHAER: Okay. Then these documents
24 have been offered. There is no objection, and they
25 will be admitted.

1 MR. FFITCH: Thank you, Your Honor.

2 JUDGE SCHAER: I'm going to suggest that we
3 take our morning recess at this time. So let's take
4 a recess until 10:45 by the clock in this room, and
5 we're off the record.

6 (Recess taken.)

7 JUDGE SCHAER: Let's be back on the record
8 after our morning recess. Ms. Dixon, did you have
9 questions at this time?

10 MS. DIXON: Yes, I did.

11 JUDGE SCHAER: Go ahead, please.

12 MS. DIXON: Thank you.

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

14 BY MS. DIXON:

15 Q. Hi, Mr. Dukich. I'm Danielle Dixon,
16 representing Northwest Energy Coalition. I'd like to
17 refer you to your direct testimony, Exhibit 46.

18 A. Okay.

19 Q. And start at page two, lines nine through
20 11.

21 A. Okay.

22 Q. So in your testimony, you propose an upward
23 adjustment return on equity to, quote, recognize and
24 reward the company for its innovative management and
25 strategic initiatives; is that correct?

1 A. Right.

2 Q. Okay. Included among the accomplishments
3 that you list in your testimony are the DSM tariff
4 rider, innovative DSM programs, fuel switching
5 program and Project Share. You also state in your
6 testimony on page six, lines 22 to 23 --

7 A. Okay.

8 Q. -- that customers are demonstrably better
9 served by these actions; is that correct?

10 A. Correct.

11 Q. Could you please elaborate on why these are
12 good investments from the shareholder perspective?

13 A. What do you mean by these?

14 Q. Investments such as the DSM tariff rider,
15 DSM programs, Project Share, fuel switching programs?

16 A. They're probably more beneficial to
17 customers. In some sense, you could make the case
18 that the DSM tariff rider doesn't allow the company
19 or its shareholders to earn on DSM investments. I
20 mean, there are no DSM investments; it's just an
21 expense. So probably most of the other -- to the
22 extent it makes it a better managed company and it's
23 recognized for that, probably most of the benefits, I
24 think, on the categories you listed go to customers.

25 Q. Okay. Switching gears, also in Exhibit 46,

1 pages eight through ten --

2 A. By the way, I don't mean to imply that a --
3 a benefit to a customer is still a benefit to the
4 company. I don't mean to imply that that there's
5 that distinction. But I took your question to mean
6 that somehow we wanted to assign more relevance to
7 one than the other. I'm sorry, what was the next --

8 Q. Pages eight through ten.

9 A. Okay.

10 Q. You make the case here that the company
11 should receive a higher return on investment for the
12 renewable energy from the Kettle Falls generating
13 plant. And what I'd like to know is what is the
14 origin of the wood waste used to generate electricity
15 out of Kettle Falls?

16 A. I think the waste -- I don't know what the
17 exact miles are, but it comes from the region. And I
18 think originally the plant, as I recall, believe it
19 or not, I think at the time the plant was conceived
20 and built, there were actually still tepee burners
21 where stuff was burned, but I don't know what the
22 mile radius is, but it's certainly the mills around
23 Northeastern Washington, as well as into Canada.

24 Q. And does the company maintain a record or a
25 file somewhere that would actually list out the mills

1 themselves, the individual mills that provide that
2 wood waste?

3 A. I would assume so, yeah. We have fuel
4 contracts with the different providers.

5 Q. And to the best of your knowledge, has
6 Avista encouraged its wood waste providers to
7 implement management and harvest practices that are
8 consistent with the sustainable forestry guidelines
9 issued by the Forest Stewardship Council?

10 A. I can't answer that.

11 Q. Okay. Is that something you'd be able to
12 find out from the company, though?

13 A. Yes.

14 MS. DIXON: Okay. Thank you. That's it
15 for me.

16 THE WITNESS: Okay.

17 JUDGE SCHAER: Did you want to make that
18 Record Requisition Number 13?

19 MS. DIXON: If I could, that would be
20 great.

21 JUDGE SCHAER: Okay. So you could provide
22 the information. Would you want to list the name of
23 the guidelines, again, Ms. Dixon?

24 MS. DIXON: Yes, it was guidelines issued
25 by the Forest Stewardship Council, which is an

1 international organization.

2 JUDGE SCHAER: All right. And you want to
3 know whether the company is following those
4 guidelines; is that correct?

5 MS. DIXON: And as part of that, I'd like
6 to know what the actual individual sources are of the
7 wood waste, and then, for each of those sources, are
8 each of those following those Forest Stewardship
9 Guidelines.

10 JUDGE SCHAER: So it's a two-part request.
11 First you want to know fuel sources, and secondly,
12 for each source, you want to know whether they're
13 following the guidelines; is that correct?

14 MS. DIXON: Exactly.

15 JUDGE SCHAER: Mr. Dukich, you indicated
16 that that information is available somewhere?

17 THE WITNESS: Oh, I have no idea. I
18 suspect it's not, but I don't know for sure.

19 JUDGE SCHAER: But you can find out if it
20 is and let Ms. Dixon know either that you have found
21 out that they comply or that the information is not
22 in your files?

23 THE WITNESS: I don't know how we would
24 know that. I think it goes beyond the scope of what
25 we'd normally do in a contract, but that's just a

1 guess.

2 JUDGE SCHAER: I'm misunderstanding your
3 earlier answer, then. What was it that you said you
4 could find out?

5 THE WITNESS: She asked me whether or not
6 our suppliers follow, as I got, whether they follow
7 these guidelines. And I said I don't know.

8 MS. DIXON: I thought I heard you say that
9 you might be able to find out that information, along
10 with the information about who the actual individual
11 suppliers are?

12 THE WITNESS: We have the fuel contracts,
13 I'm sure, and we know what the provisions of those
14 contracts are to delivery and those kinds of things.
15 I don't know whether there are other provisions. I
16 recall having seen them in the past. I don't think
17 there are other provisions that go beyond having the
18 owner provide wood waste. And the definition of
19 waste is what the owner doesn't -- wants to market to
20 the company.

21 JUDGE SCHAER: I'm going to let you review
22 your answer to Ms. Dixon instead of going back into
23 the transcript now, and ask you, as this record
24 requisition, to provide what you have in response to
25 her queries. And if you don't have something, you

1 don't have it.

2 THE WITNESS: That's what I was assuming,
3 if we couldn't do that. I suspect we don't ask
4 people to sign some sort of pledge that they follow
5 these guidelines, but some of the people may. I
6 don't know.

7 Q. And actually, can I repeat, part of the
8 question was, just to clarify, was whether Avista has
9 encouraged any of its providers to implement these
10 guidelines, to the best of your knowledge?

11 A. I don't know that.

12 Q. Okay. And that's something you'd be able
13 to provide, as well?

14 A. I assume we can, yes.

15 MS. DIXON: Okay. Thank you.

16 JUDGE SCHAER: Commissioners, did you have
17 questions for Mr. Dukich?

18 EXAMINATION

19 BY CHAIRWOMAN SHOWALTER:

20 Q. Yeah, I want to explore a little bit more
21 your proposal for the 25 basis point kicker and how
22 that fits in the context of other incentives that the
23 Commission has or could order.

24 It strikes me that you have -- the
25 Commission has, at its disposal, negative penalties

1 for bad behavior and it has, I think in the past,
2 tried to fashion positive incentives for good
3 behavior. Then there are rewards and punishments for
4 past behavior and rewards and punishments for future
5 behavior, I think is another way to put it.

6 A. Right.

7 Q. And for example, I think one of the
8 theories behind the purchased gas adjustment
9 experiment was that it would be a contemporaneous
10 sharing of rewards. My question on this 25 basis
11 points is whether it is any incentive for future
12 behavior. If you were awarded it in a rate case and
13 then have no need to come in for a new rate case, and
14 we would have no ability, I assume, to change that
15 rate, that increment of the rate, we would have an
16 ability to penalize the company, I think, for various
17 violations, but what kind of incentive for future
18 conduct would that kicker be?

19 A. First of all, I think there are different
20 ways the Commission could do it. We'd prefer that it
21 be an explicit award, but it certainly can also do it
22 by, you know, bumping the company to the top of the
23 equity range, but I think the danger in that is that
24 it really isn't awarded; it just ends up being kind
25 of garbled, but -- so that I think it can be done and

1 I think it's in the ability of the Commission to do
2 that.

3 In terms of whether the future versus past
4 behavior, I believe, with some foundation, I might
5 add, that rewards usually are premised on the fact
6 that you reward behavior that's already occurred and
7 that increases the probability the behavior will
8 occur in the future.

9 And I can speak from my experience at the
10 company for over 20 years that a notion that the
11 company's behavior could result in higher returns on
12 equity would affect the performance of people at the
13 company. I just think that it would act as an
14 incentive. And because they got it once doesn't mean
15 they would stop; it means they would do it more
16 often, just like all other rewards. That's the
17 principle of how rewards work.

18 One of the problems I've had in the past is
19 that sometimes incentives are awarded without asking
20 the person you're giving them to whether they're an
21 incentive or not an incentive. I guess, in this
22 case, I guess what I'm saying is that they would be
23 an incentive to us, from the basis of experience, and
24 they follow the principles of rewarding, prior
25 behavior increases the probability it will occur in

1 the future.

2 So I don't see that as inconsistent, but I
3 do understand also the other, which might be -- I
4 would rather refer as a specification of
5 contingencies to the future, and that's the benchmark
6 where, if you meet these things, then you get a
7 reward. So either one, I think, is appropriate.

8 Q. Do you agree it's not as tailored to
9 specific behavior as a shared benefit for achieving a
10 lower price, for example, on gas?

11 A. It's not, and as a result of that, it may
12 even be more effective, because it's a general reward
13 for overall management, whereas if you made a reward
14 simply for, you know, having a customer get a live
15 person on the phone within X number of seconds, then
16 maybe everybody would focus just on that. And a more
17 generic -- I don't want to say generic, but a broader
18 scope incentive may actually be more effective in
19 terms of affecting more behaviors for the buck.

20 So -- and on the basis of the experience of
21 the company, I would believe that would actually be
22 true. Then people in the company say, you know, if
23 we do a good job, this is reflected in how much the
24 company earns.

25 Q. Then another way to look at rate-making, I

1 guess, is that the Commission stands as a substitute
2 for the market and your monopoly, but if you weren't,
3 what kind of return would you be getting in a
4 competitive situation, and we're supposed to take
5 that into account.

6 So is there a valid argument that a company
7 that does very well by its customers would earn more?
8 If you imagine yourself in a competitive market doing
9 the things you're doing, does it mean that you would
10 likely get the equivalent of that kicker?

11 A. I think, in a competitive market, you
12 would. If you have the call center of the year and
13 if you have recognition as the outstanding Internet
14 site providing customer kinds of services on the
15 Internet for billing and energy conservation, which I
16 think is recognized with a national award -- by the
17 way, competitors of utilities ten times our size, we
18 were even put in the number one, in the A category.
19 We were supposed to be in the B category with smaller
20 utilities, but even being put in the top category, we
21 won that award for that. So I would think that that
22 would be reflected in higher ability to earn in a
23 competitive environment.

24 Q. Does it amount to saying customers will pay
25 more for better service?

1 A. Yes. I think that's why it's okay for the
2 Commission to do this, because I would view it as
3 compensatory for a level of service that maybe is
4 above what might be called adequate. And it's a
5 fairly small amount. You know, if you did it on a
6 per-customer basis, it would be a pretty small
7 amount. I would think customers would pay 25 cents
8 more a month for better service.

9 Q. Of course, one scenario is customers will
10 pay more for better service, and the other, for
11 example, in the airline industry, is basically
12 they're very cost-driven, and they'll pay less for
13 less service.

14 A. That's true. I suppose we could examine
15 that theory. I think, in terms of utility services,
16 we usually assume that -- well, the saying in the
17 business -- I think, in general, Mr. Turner probably
18 could speak to this better, is that customers want
19 lower prices and better service at the same time. I
20 mean, that's what they really want. So I don't know
21 if they necessarily want to make the tradeoff for one
22 versus the other.

23 But to me, it's like, as a policy, don't
24 you want a policy that somehow recognizes
25 better-managed versus inadequately-managed? And it

1 just seems like that would be a way to encourage
2 better-managed companies.

3 Q. Well, then, another question is how, what
4 the interplay of that type of reward that you're
5 proposing would be with other rewards and incentives
6 that the Commission might order. For example, a PGA.
7 Are we rewarding the company twice for good conduct?

8 A. I didn't have the benchmark on my list as
9 things in my testimony. I would consider that. No,
10 that wasn't put in my -- I don't think so. I think
11 some of the things I talked about are not easily
12 amenable to kind of a benchmark mechanism. They're
13 overall approaches, like, to hydro relicensing. I
14 mean, I think that's one of the best examples. It's
15 unprecedented, and maybe Mr. Anderson can speak to
16 this, as far as I know, the only license that's ever
17 been granted in time in the history of the FERC and
18 written up in the New York Times. So how would you
19 have specified that as a benchmark?

20 Q. Well, the --

21 A. To pre-specified it. It's behavior that
22 comes as a result of a general approach to innovation
23 and trying to do things better and quicker and more
24 creatively.

25 Q. But, then, do you agree that this kicker

1 MR. MEYER: May I approach the witness?

2 JUDGE SCHAEER: Yes, you may.

3 THE WITNESS: Oh, okay. I didn't realize
4 those were -- okay, got it. Thanks.

5 MS. TENNYSON: Do you need a copy to refer
6 to, Mr. Meyer?

7 THE WITNESS: Mr. Meyer's given me a copy,
8 thank you. I know what these are. They're data
9 requests. Got it.

10 Q. Your responses to Staff Data Requests 237,
11 239 and 240.

12 A. Right.

13 Q. Were those prepared by you or under your
14 supervision?

15 A. They were.

16 Q. Now, the Commission, in its Fifth
17 Supplemental Order in U-83-26, which we have offered
18 as Exhibit 28.

19 A. I have that, too.

20 Q. Okay. Now, in that order, the Commission
21 addressed the inclusion of the Kettle Falls project
22 in the company's rate base; correct?

23 A. Yes.

24 Q. And it's also true that the Commission only
25 allowed the company to include a portion of the costs

1 should be reserved for things that are not already
2 recognized in some other incentive mechanism?

3 A. Yeah, I could buy that. I could say
4 otherwise you might be double counting. If there was
5 an incentive mechanism on -- well, I don't know. I
6 guess you'd have to think about what those were. I
7 don't think that the benchmark on gas purchases, it's
8 very specific to a particular issue about the company
9 incurring a lot of risks on gas purchases and how
10 could we maybe earn on that.

11 Q. Well, maybe, at a minimum, before
12 considering the kicker, we would have to take into
13 account other incentives or rewards that we may have
14 ordered.

15 A. Exactly. Let's make a list, first of all,
16 of what the company already has at its disposal. Do
17 you have an earning sharing mechanism like PSE? Is
18 that already available to you -- which they do have,
19 as I recall now. There's a mechanism there to
20 actually increase rate of return, share that with
21 customers. So if that's not available -- but I do
22 think these incentives maybe go beyond that a little
23 bit, though. They are recognition for, I think, as
24 the utility, some innovative and forward looking
25 kinds of activities.

1 CHAIRWOMAN SHOWALTER: Thanks.

2 COMMISSIONER HEMSTAD: I don't have any
3 additional questions.

4 E X A M I N A T I O N
5 BY COMMISSIONER GILLIS:

6 Q. Chairwoman Showalter's talking about the
7 airlines reminded me of a colleague I was traveling
8 with last week, sandwiched between two spring
9 breakers in the middle seat. He reported that he
10 ended up paying \$2,000 for his plane ticket. I don't
11 think he was paying less for less service.

12 CHAIRWOMAN SHOWALTER: I forgot that
13 alternative. More for less.

14 Q. More for less. The Kettle Falls equity
15 incentive, what would be incenting the company to do
16 it if we were to approve that?

17 A. Even though it's delayed, it was a
18 recognition that the company had pursued developing
19 renewable resources and -- in the statute. And the
20 statute allowed for that. And it is, and again, I
21 just -- this is purely an experiential (sic) thing,
22 that when we talk about regulation and incentives,
23 it's frequently mentioned about Kettle, that it was
24 an environmentally desirable alternative, it's won
25 awards, and yet we can't even get the kicker.

1 So there's comments like that made. So I
2 think as an incentive, both in terms of the statute,
3 which I think we can argue literal, whether we
4 qualify in those terms, deserved, in quotes, versus
5 just the policy thing. I think it does make a
6 difference, even though it's delayed.

7 Q. Would it result in any additional
8 generation of renewable -- from a renewable resource
9 than would occur otherwise?

10 A. I don't think there's any statutes in the
11 books now to do that, but if there were, it might.

12 Q. Your testimony didn't seem to rely at all
13 on customer preferences for a resource of this type.
14 Is that part of your argument or not, or is it purely
15 relying on the statute?

16 A. It was pretty much relying on the statute.

17 Q. More or less, you just deserve it, from the
18 statute?

19 A. More or less, yes.

20 Q. Well, let me just ask you, then, in a
21 different line, because it doesn't seem to be what
22 your argument is centered on. Do you see the
23 potential of customer preferences for environmental
24 resources?

25 A. I think there's a segment of the customers

1 that do at least profess to have some preference, and
2 whether or not they pay -- the amount of premium they
3 pay may be in question, but there are certain
4 segments of customer base that are like that. I
5 think that's the way the world works, is that there's
6 a product mix, and certain customers have certain
7 preferences and others have others, and you try to
8 address all those in one fashion or another.

9 Q. But what is the justification for asking
10 ratepayers to pay more for a resource of this type
11 when what you're suggesting is all -- there's certain
12 segments that are interested in this resource,
13 certain aren't. It seems to me your MOPS pilot
14 demonstrated that, as well?

15 A. Right.

16 Q. So what's the justification of simply
17 adding a charge on to everybody's bill as a blanket?

18 A. I think the justification at this point is
19 the legislature ruled that it was reasonable to
20 provide incentives to encourage renewables. And they
21 made a whole list that wood waste was only one of
22 those, but there was all sorts of other ones,
23 including DSM, by the way. DSM also has, I think, as
24 I recall, a certain percent equity kicker available
25 on it, as well.

1 So I guess, legislatively, people have
2 ruled that it does provide incentives, and I think it
3 does. It may be even disproportionately to the
4 amount of money that's actually involved. I know
5 that from my experience both in DSM, as well, that
6 the whole issue of DSM incentive, when our DSM
7 programs were first put into place, was a big issue.
8 So I don't think it's -- I don't think we can
9 discount the power of it, the money aside, so what
10 customers pay for it, it may actually be worth it, in
11 terms of what the company develops given the
12 legislative intent. And that's a preamble there, the
13 intent of the legislature to do this.

14 Q. I know you're familiar with the disclosure
15 legislation that passed --

16 A. Right.

17 Q. -- this year. And with that legislation,
18 there is some more opportunity, I suppose, for a
19 green tariff filing. Would that be an option for the
20 company, to file a, for lack of a better term, a
21 green tariff, a tariff that would support, on a
22 customer basis, a higher charge for specific
23 resources that customers may want?

24 A. We kind of evaluated that. I'm trying to
25 recall now that, in the MOPS studies, we did have the

1 option where people could purchase wood waste for a
2 premium. I can't recall off the top of my head the
3 percent that signed up for that versus wind. I think
4 maybe wind was a little more popular, partly maybe
5 because of availability, just understanding of it
6 all. But the word waste, for instance, doesn't have
7 a nice term. It's not very whizzy, from a marketing
8 point of view.

9 But I think our evaluation was that we
10 could offer a green tariff, but we're not sure how
11 much activity there would -- and whether that would
12 provide a premium in that sense. Is that what you
13 mean?

14 Q. Well, yeah. I mean, your basis, at least
15 your label was a Kettle Falls equity incentive, and I
16 suppose the ultimate incentive is whether or not the
17 marketplace would be willing to support the resource
18 itself, the use of the resource, and in an era where
19 that wasn't an option, there was more, I suppose,
20 guesswork in what the market would support in market
21 failure, if you will.

22 But now that you have the opportunity to
23 create a marketplace for given resources, I suspect
24 it's possible to actually have an incentive through
25 appropriate --

1 A. Yeah, probably for the company, maybe a
2 more powerful one would be to the extent that
3 whatever federal deregulation legislation includes
4 certain provisions for renewables, and we certainly
5 would meet that criteria pretty easily for Kettle
6 Falls.

7 Q. Even in the portfolio model, I suppose.

8 A. Right.

9 Q. Oregon didn't necessarily require that?

10 A. My gut feel is that it doesn't provide the
11 kind of incentive we're talking about or that there
12 ought to be both available. I'm not sure why we
13 should be precluded from not being able to avail
14 ourselves of what the legislature made available.
15 But the Commission has to approve it, as well.

16 The Department of Revenue did take a look
17 at it and concluded that we did meet the criteria.
18 They awarded a tax credit for the plant. The
19 legislature, I think in its passing of the bill,
20 talked about a two-sided approach to this. If you
21 get a tax credit and that tax credit is passed on to
22 customers, and it's reflected in this case, but they
23 said if just that happens, then customers are
24 rewarded, in quotes, but the company isn't.

25 So this increase in cost you're talking

1 about as a result of the equity kicker is supposed to
2 be offset by a tax credit, and that's in the
3 discussion of the legislation when it was passed. So
4 the customers really, in a sense, aren't paying more
5 for this, because they got a tax credit, which
6 lowered their rates, and then the company is supposed
7 to get an equity kicker, which balances that off, so
8 everybody's supposed to win on this. So the theory
9 that the customers are paying more for this because
10 it's a renewable plant was supposed to be offset by
11 this tax credit.

12 Q. Well, just to close the loop, then I want
13 to move to a different topic, but taxpayers are
14 customers, too, aren't they? In that the tax -- if
15 there's a tax credit, presumably --

16 A. It's flowed through to customers, yeah,
17 that's the whole point. The tax credit goes to the
18 company, but in rate-making, that's flowed through to
19 the customers. So their rates end up being lower
20 because Kettle Falls is renewable.

21 Q. If there's a tax credit, that means there's
22 less taxes being collected from --

23 A. From customers.

24 Q. Yes.

25 A. Right.

1 Q. But somebody else is paying additional
2 taxes because of that, assuming that --

3 A. Oh, like they made it up from somebody
4 else?

5 Q. No free lunch, in other words?

6 A. I don't recall the legislature talking
7 about that.

8 Q. What I wanted to ask you about, in addition
9 to this, is the 25 percent equity kicker, I guess
10 we've been calling it. Isn't exceptional management
11 rewarded through the capital markets even for
12 regulated companies?

13 A. I don't know if it's totally rewarded, no.
14 I'm not sure that if you look at the peer groups or
15 whatever, however you want to look at this, that the
16 difference between an adequate reward, adequately run
17 company with a certain emphasis and a well-managed
18 company with another kind of emphasis is always
19 reflected in the capital markets. I think that might
20 require, just like maybe difference in the philosophy
21 of an airline, how they appeal to customers, they
22 might be both as profitable, but we might judge one
23 as being a bit more desirable. So I don't think
24 that's totally reflected, no, particularly in a
25 regulated environment.

1 Q. Isn't excellent management something that's
2 considered in credit ratings, or I should say Wall
3 Street ratings? Probably a better term.

4 A. I think so, yes. I think there's some
5 reflection of that. I don't know if it's totally
6 reflected, however. They may have some words there
7 that show that you're -- they like the way you're
8 managed or that you have a DSM tariff rider or
9 whatever, but I'm not sure that's reflected in a
10 one-to-one correspondence with a bond rating or
11 whatever. I think it's a lot more risky to rely on
12 those kinds of evaluations than it would be a
13 specific Commission ruling on the kicker.

14 Q. Isn't another example, companies managed
15 with excellence have an easier time attracting
16 capital from the stock market directly, as opposed to
17 the bond market?

18 A. Well, I think it's a pretty -- if I were
19 dispensing rewards, one thing that's true about
20 rewards is the contingencies need to be nice and
21 clear and sure. If I say, you know, if you practice
22 your piano, you have a probability of .37 of getting
23 a dessert versus a probability of 1.0, I think the
24 1.0 is a lot more powerful incentive than relying on
25 analysts' evaluation of credit rating or whatever. I

1 think that's a more -- the steps, the causal steps
2 between those two things are many, and I think that
3 the relationship degrades when you get far apart,
4 versus a Commission policy that says recognition for
5 well management is X, and it's clear, the probability
6 is 1.0, versus relying on analysts who may be swayed
7 by whatever is happening in the market at the time.

8 Q. But it appears to me that what you're
9 suggesting is, through both, and it's the same
10 question I asked you regarding the Kettle Falls
11 incentive, is that it appears that you're suggesting
12 that it's appropriate for regulators, as a body, to
13 make judgment on what are the appropriate reward
14 incentive, rewards incentives, as opposed to a
15 marketplace making that judgment. Or are you
16 suggesting that the marketplace just simply won't do
17 it? Maybe that's what I hear you saying.

18 A. Well, to me, I'm making the suggestion
19 that, as a matter of policy, the Commission ought to
20 have something in place that recognizes well-managed
21 companies versus adequately managed and not to rely
22 on the market to do that.

23 Q. I guess the question, are you -- then is it
24 your testimony that the market does not reward
25 adequately?

1 A. I don't believe that the market does that
2 in a way that is as powerful as would happen if the
3 Commission did it.

4 Q. Does it at all?

5 A. It must do it to some extent. I would
6 think it does. Because if you look at S&P ratings or
7 something, they may say the company has hydro
8 relicensing, it's gotten high marks in some of our, I
9 think, write-ups, and reduces risk to the future in
10 our plants or relicensing, so it does to some extent.
11 But, again, I think that you can be in an era of
12 financial consequences whether that be a big
13 write-off or whatever that may cause ratings to be
14 very negative, and yet the company could be
15 well-managed in many other ways.

16 So the correlation is just -- the scatter
17 plot is very scattered. You'd have a big scatter
18 plot like this if you relied on analysts with maybe
19 some relationship in there, but if you looked at the
20 Commission activity, it would be a one-to-one nice
21 line with no deviations around the relationship
22 between rewards and behavior.

23 Q. Has the company considered filing an
24 alternative form of regulation request following the
25 rate case, perhaps?

1 A. Yes, we have. I think we've talked about
2 that and we had a discussion about, at this point in
3 time, with this case, because it's been a while since
4 we've been in a lot of issues. It would be cleaner
5 to do it after the revenue requirement was set. So I
6 think that would still be a way to proceed. And if,
7 as a result of that, there was a judgment that that
8 was double rewarding the company, I mean, that's
9 something that could be looked at in the PBR case.

10 Q. What I was going to ask you, wouldn't the
11 issues such as a management incentive or revenue
12 incentive of various types be more appropriately
13 addressed in a proceeding that is focused on
14 different forms of regulations, and there was other
15 parts of your case that I guess appear to me to be
16 essentially incentive-oriented things that I would
17 more typically have thought of in the context of an
18 alternative form of regulation?

19 A. Right.

20 Q. So I guess the more succinct question is
21 why are they here, rather than potentially a future
22 filing?

23 A. It struck me that, as we looked at our
24 company over the last ten years or so, and in
25 addition to rate stability, there were a lot of other

1 things the company had accomplished. I think one of
2 the shortcomings of a PBR approach is it is an
3 approach that basically usually results in cost
4 containment kinds of issues or those kinds of
5 measures.

6 I think it would be difficult to capture
7 some of the things we've accomplished in a PBR
8 mechanism, whether that be hydro relicensing or the
9 best Internet site, or a lineman winning the rescue
10 contest, and some of the other things I've mentioned.

11 So I think that there are -- there is
12 excellence beyond things that are captured in a PBR
13 mechanism. So I think it's appropriate to ask the
14 Commission to maybe decide whether it wants to try to
15 recognize that beyond just a PBR mechanism, which
16 frequently goes to, like I said, these -- there are
17 things that are easier to measure, so since they're
18 easier to measure, they a lot of times don't capture
19 some of the most creative activity.

20 Q. I guess the final question is, as I hear
21 you talk and describe these, both in the context of
22 the Kettle Falls incentive and the equity incentive
23 or whatever it is, it appears what you're asking for
24 is recognition of a past achievement of some sort.
25 In the case of Kettle Falls, it's you invested in a

1 renewable resource in the past and the management one
2 is documented, management excellence, as opposed to
3 at least what I would think of as an incentive, an
4 incentive for future activity. And just to close the
5 loop, maybe if you could respond to that, of how the
6 Commission granting your request here would tie that
7 together, because -- I'm rambling, but I'm really
8 trying to get at the core of this.

9 Are you asking for essentially compensation
10 for what you would, I think, propose as a job well
11 done versus incentive for future actions which may be
12 appropriately identified or addressed to PBR?

13 A. At the risk of rambling, as well, I'll try
14 to be succinct about this. One of the mysteries of
15 rewards and how they worked, when Thorndyke talked
16 about the law of reward, as he called it, was that it
17 seemed to work backwards causally. How can you
18 reward something I did in the past and affect my
19 future performance. That was a thing that bothered
20 people about Pavlov versus Thorndyke.

21 I hate to get too far afield here, but
22 basically the thing about rewards is that they reward
23 behavior that's already occurred, but their effects
24 take effect to the future. By reinforcing past
25 behavior, you invigorate behavior to the future. I

1 think that's true here. And the powerful thing about
2 this is that when people begin to think about what
3 they're going to do in the future, they end up
4 behaving in the way that they behaved in the past,
5 even though the causal link is not I'm dangling a
6 carrot in front of you to go forward; I've rewarded
7 you for what you did.

8 That's the way rewards work. They have
9 classically and they have since. They've always
10 worked that way. Thorndyke was the one who pointed
11 it out, that you don't tell somebody if you practice
12 your piano this way, I'll give you something in the
13 future. What you do is if they practice it this way,
14 it increases their frequency of practice, that's the
15 most effective way. That's just the way they work.
16 And I think, from my experience in the company, I
17 would testify without qualification that I think that
18 something like this would have an impact on the
19 company. I have no doubt about it, from my 20 some
20 years of work in the regulated area.

21 COMMISSIONER GILLIS: Thank you.

22 JUDGE SCHAER: Mr. Dukich, I have just a
23 few questions for you, as well.

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

25 BY JUDGE SCHAER:

1 Q. First of all, looking at page seven of your
2 testimony, lines seven and eight, it appears that you
3 want the Commission to reward the company in order to
4 demonstrate the traditional rate-based regulation is
5 supportive of sound management by actually providing
6 concrete financial outcomes. Is that your testimony
7 here?

8 A. Yes, and I think I've elaborated on that as
9 I've answered my other questions.

10 Q. So my question is, do you continue to see
11 the future for Avista being one of a company
12 operating under traditional rate-based regulation?

13 A. Yeah, I think in one form or another, for
14 the foreseeable future, we don't really anticipate
15 there being -- even with certain kinds of
16 deregulation, I think it would still be enough
17 involved that it would still be relevant.

18 Q. So that you would view that the Commission,
19 in designing mechanisms for regulating this company,
20 should be thinking within the mold of traditional
21 rate-based regulation and how it rewards behavior and
22 how it encourages or incents behavior by providing
23 opportunities?

24 A. I assume we'd still have a distribution
25 system that was prices were set on the basis of

1 investments, so -- and customer service expenses
2 would be collected. So that would be pretty
3 traditional. I don't know of many schemes that
4 propose deregulating the distribution business.

5 Q. So you're viewing that, in the future,
6 there may be regulation just of your distribution
7 business in this matter, but there may be other forms
8 of regulation, as well?

9 A. No, what I'm saying is that incentive
10 mechanism would be relevant under almost any
11 conceivable future regulatory approach.

12 Q. And then, looking at Kettle Falls, I heard
13 you talking with one of the Commissioners just a
14 moment ago, and I believe that the statement you were
15 making was that people ask or people maybe -- I don't
16 want to use the word whining, but people maybe
17 ruminating on how they've been treated by this
18 Commission, in terms of Kettle Falls, have complained
19 to you they didn't even get the kicker. I wrote that
20 down, you said. Did I write that down correctly?

21 A. Yes.

22 Q. And I think it was brought out earlier, but
23 let me just confirm my understanding. Has the
24 company asked in the past for the kicker?

25 A. No, but that's based on, and I don't know

1 how to say this delicately, the perception that there
2 seems to be a high level of interest in showing that
3 they don't -- shouldn't get it. And if you just
4 examined -- if you just take a look at what kind of
5 questions were asked here today, they seem to be
6 aimed more at why we shouldn't get it than why we
7 should.

8 Q. So have you told these people within the
9 company, gosh, we didn't get the kicker because we
10 didn't ask for it yet?

11 A. Yes, I have. That's why we're asking for
12 it now.

13 Q. Okay.

14 A. There were some people who said, Don't
15 bother.

16 Q. I've also been involved in some
17 conversations of people talking about that time
18 period in the company's history, and I've heard some
19 people say we should have gotten the kicker for
20 Kettle Falls and then I heard other people say, Well,
21 gee, if you got that, you should have reopened Public
22 Springs, because you were treated better than any
23 other regulated company.

24 Do you recall whether, at the same time
25 Kettle Falls was going on, there were other cases

1 going on where actually the Washington Water Power
2 Company received much better treatment than other
3 related companies before the Commission?

4 A. I'm a little thrown by that question, but
5 I'm trying to think about it a little bit. No, I
6 don't -- I don't believe that being rewarded or
7 ending up better off, which I'm not sure we did, all
8 things considered, as a result of some prior
9 testimony I've given here, which you may remember,
10 that that necessarily cancels the ability to get an
11 incentive for being well-managed around Kettle. That
12 doesn't seem related to me.

13 Q. I guess I'm just looking for whether you
14 feel like the Commission maybe has, in instances in
15 the past, recognized a different management position
16 for the Washington Water Power Company and perhaps
17 treated them in ways that did not cut off expense --

18 A. Yes.

19 Q. -- costs or layers -- in other words, this
20 Commission has treated you fairly in the past in
21 other circumstances?

22 A. Yes, this is not meant to be a whining
23 about being treated unfairly. Again, I think that my
24 approach, my question I'm asking is, number one, does
25 the Commission wish to make a distinction between a

1 well-managed and an adequately-managed company with
2 some award of -- either explicit award with equity or
3 putting you at the high end of the band. And number
4 two, if they do, do we qualify. So it's not a
5 whining thing, I hope.

6 Q. Okay. Looking at your discussion of the
7 Department of Revenue, you talked about a decision
8 that that agency made regarding whether or not you
9 qualified for a tax credit for Kettle Falls. Can you
10 give us the date of that decision or is that in one
11 of your exhibits today?

12 A. I think it's in my exhibit.

13 Q. Okay.

14 A. At least -- I'm sorry, I think it's in my
15 testimony, excuse me.

16 Q. Your testimony says --

17 A. Page nine.

18 Q. -- in February of 1991. And what I'm
19 wanting to get is is there a docket number or some
20 identifying --

21 A. Yes, I do have that.

22 Q. -- information so that if the Commission
23 wanted to look at that decision, we'd be able to find
24 it?

25 A. Right. The thing I have, and I think this

1 was provided as the result of a data response to a
2 data request, but I don't recall off the top of my
3 head which one it was, but --

4 Q. You understand the Bench doesn't get
5 responses to data requests.

6 A. Right. The determination -- now, it's
7 called determination in the copy I have, number
8 91-047, 91-047. And underneath that, it has a
9 registration number. I assume that's our tax number.
10 You want that, too?

11 Q. Well, I'm just wondering if you know. I
12 know that many of the documents the Department of
13 Revenue issues to taxpayers are protected by
14 confidentiality rules and that the Commission might
15 not be able to find that document or obtain that
16 document directly from Department of Revenue, so do
17 you know whether or not this document is one that
18 would be treated as one that they could not release
19 due to their confidentiality statutes?

20 A. I'm 90 percent, 95 percent sure it is not
21 confidential, and we can also provide that as part of
22 a bench request or something.

23 MR. MEYER: We have provided a copy of the
24 Department of Revenue ruling in response to a Staff
25 request, and it is not confidential. We'd be happy

1 to make copies of that for you and --

2 JUDGE SCHAER: Okay. As Bench Request
3 Number One, would you provide the Bench with a copy
4 of that, please.

5 MS. TENNYSON: Mr. Meyer, just for my
6 reference, can you give me which Staff DR number that
7 was?

8 MR. MEYER: 238.

9 MS. TENNYSON: Thank you.

10 MR. MEYER: And Mr. Folsom, a later
11 witness, was the preparer of this, although Mr.
12 Dukich is the designated witness.

13 JUDGE SCHAER: I don't really want to ask
14 questions about it as much as I just want to see it,
15 see what they did.

16 Q. In your 20 years, plus, with Water
17 Power/Avista --

18 A. Yes.

19 Q. -- you've been in your present job in some
20 title or another for how long?

21 A. Probably about 18 or 19 years.

22 Q. Okay. So is it part of your job to be
23 aware of what Commissions say in their orders and
24 kind of try to keep your company in line and
25 following through on what those orders say?

1 A. It's part of my job to keep track of what
2 they say and what they do.

3 Q. Okay. I passed out over the break a copy
4 of the Commission's First Supplemental Order in
5 Docket Number U-88-23-63-P. I don't propose to make
6 this an exhibit, but I want to ask you some questions
7 about it, so I felt like it was more fair to give
8 copies of it to you, and I've actually provided
9 copies for Counsel so they can follow along, as well.

10 Is this a decision of the Commission that
11 you recognize or remember?

12 A. The denial of the power cost adjustment?

13 Q. Yes.

14 A. Yes.

15 Q. Okay.

16 A. Well, I don't recall the specific language,
17 but I do recall the denial of our power cost
18 adjustment.

19 Q. Okay. I want you to look at page nine, the
20 bottom of paragraph three. And I'm asking you these
21 questions first because I think you have the history
22 on the issue, but also because you are the company
23 witness who's talking about equity kickers and a
24 couple of things, and I'm wondering why you did not
25 sponsor any kind of an equity -- I'm trying to think

1 of the antonym for kicker.

2 A. Anti-kicker.

3 Q. -- anti-kicker to recognize that there's a
4 PCA proposal in your rate case?

5 A. Good question, because it was an issue
6 discussed. Mr. Avera will speak to this, if you ask
7 him. The reason that is is because the peer groups,
8 the comparable groups that are used to determine our
9 return on equity either currently have or had before
10 mergers of some kind either fuel cost adjustment or
11 some power supply adjustment to reflect changes in
12 cost. So any reduction in risk or equity is already
13 reflected in Mr. Avera's numbers.

14 It would be double counting to decrease our
15 ROE because we have a PCA because the comparables
16 already have a PCA. So you would double deduct us if
17 you did that.

18 Q. Is that specifically discussed in his
19 testimony at some point you can refer me to?

20 A. I don't remember.

21 Q. So looking at the --

22 A. But we've discussed it and we are -- we are
23 aware of that, in terms of our proposal. That's why
24 we, when we put together a proposal, we talked about
25 the reduction in risk in this case and why this case

1 maybe didn't go where it needed to go, why we didn't
2 get it approved. And as we talked about it, we
3 thought, Well, it doesn't make sense because the
4 comparable groups already have PCAs and fuel cost
5 adjustments of some sort. That would just be double
6 hitting the company.

7 Q. And as I recall, Mr. -- is it Avery?

8 A. Avera.

9 Q. -- Avera proposes a hypothetical capital
10 structure of the company?

11 A. Yes.

12 Q. And I note that this paragraph three that I
13 referred you to indicates that Mr. Eliassen of then
14 Washington Water Power Company, and I understand from
15 Mr. Matthews' testimony yesterday that he's still in
16 this position in Avista, testified that a PCA would
17 result eventually in a company not needing as much
18 equity in its capital structure.

19 Do you know if that has been taken into
20 account in the company's proposal for a hypothetical
21 capital structure?

22 A. I don't know that, no. I don't know.

23 Q. Okay.

24 A. I do know that the hypothetical structure
25 is one that the other companies have and -- like

1 Puget has a hypothetical, and so that's what I do
2 know, in terms of the extent they've had power cost
3 adjustments in the past of various sorts. I don't
4 want to compare ourselves to theirs, necessarily. We
5 think ours is better, but --

6 Q. And you do understand that, since the
7 merger, they do not have one; is that correct?

8 A. Right, I do understand. But in the past
9 they have, and their cap structure was set, I think
10 in the past, in a hypothetical way. We're asking for
11 the same kind of treatment. But the specifics of how
12 that number was arrived at would be best addressed to
13 Mr. Avera or maybe even Mr. Falkner.

14 Q. Okay. I wanted to start with you, because
15 --

16 A. Sure, that's fine.

17 Q. -- you seem to me you could tell me who
18 else to talk to.

19 A. I'll opine on anything, yes.

20 JUDGE SCHAER: Okay. That's all I had. Is
21 there any redirect for this witness?

22 MR. MEYER: Yes, I do.

23 JUDGE SCHAER: Go ahead, please.

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

25 BY MR. MEYER:

1 Q. Returning to the subject of the equity
2 adder, you were asked earlier in the day about
3 Commission precedent or something such as an explicit
4 recognition of a 25 basis point adder. Do you recall
5 that?

6 A. Yes.

7 Q. Now, are you aware of various commissions
8 which have, in the past, moved in their orders the
9 company toward the higher end of the range of
10 reasonable returns on equity in order to recognize,
11 if you will, sound management practices?

12 A. Yes, I think the Commissions have moved
13 companies up in the range toward the top and also
14 down. And in fact, I think in one of the cases I
15 cite a water company, the Commission moved the
16 company down.

17 Q. Well, I believe you also testified earlier
18 that while that may be an option, the preferred
19 option, from the company's perspective, is a more
20 explicit 25 basis point adder?

21 A. I definitely believe that. I think that
22 otherwise it has the chance of getting lost, and it
23 doesn't maybe reflect the kind of signals that I
24 would like to see the Commission send. It would be
25 better to be explicit, explicit, not just as

1 discussion of where the number falls in the range.

2 Q. Now, if an equity adder is approved by this
3 Commission and if the company is not back before this
4 Commission for a number of years with a rate case
5 filing, is it possible that the fact that it isn't
6 possible, that the fact that it isn't back before the
7 Commission some indication of sound management
8 practices and a drive toward cost control on a
9 continuing basis?

10 A. I think that's perfectly acceptable, in the
11 sense that many of the things that were listed have a
12 long-term, ongoing impact. Hydro relicensing is the
13 best example, or DSM. I think that many of these
14 have lives that would extend well beyond any
15 conceivable rate freeze period. Plants are licensed
16 for 50 years. It would be nice to stay out, but --
17 so I think that clearly the benefits would last for
18 the long-term.

19 Q. Even with those best efforts and superior
20 management practices, there are, from time to time,
21 cost increases that do justify subsequent rate cases;
22 correct?

23 A. Oh, sure.

24 MR. MEYER: I'll leave it there. Thank
25 you.

1 JUDGE SCHAER: Okay. Is there anything
2 further for this witness?

3 MS. TENNYSON: I do. I have, hopefully,
4 just one additional question.

5 JUDGE SCHAER: Go ahead, please.

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

7 BY MS. TENNYSON:

8 Q. Referring once again to the Kettle Falls
9 project, and what I'd like to ask you is what
10 incentive would providing the kicker for Kettle Falls
11 now provide to the company for an action that it took
12 over 15 years ago?

13 A. I think both in terms that it avails us to
14 what I think the statutes allow us to have and what
15 the legislature intended, and I think that that's
16 number one. Number two, it does, like I've discussed
17 before, indicate that the Commission is willing to
18 provide incentives for what's been reflected in the
19 legislative language, and that has an invigorating
20 effect on how the company performs.

21 MS. TENNYSON: I have nothing further.

22 JUDGE SCHAER: Mr. ffitch.

23 MR. FFITCH: I just have one clarifying
24 question.

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

1 BY MR. FFITCH:

2 Q. Mr. Dukich, if the Commission establishes a
3 -- or once it establishes a range for return on
4 equity, are you suggesting that the 25 basis point
5 equity kicker would appropriately place the return on
6 equity above that range, in the company's view? In
7 other words, you see two alternatives. The
8 Commission could establish a range and then put you
9 in the higher range or -- and this is really my
10 question -- is the company suggesting that, even
11 better, the Commission could say, well, that's the
12 range, we're going to set ROE maybe somewhere on the
13 top of that range, and on top of that we're going to
14 add 25 basis points and kick them above the range
15 that's otherwise established by the evidence.

16 A. The latter would kick us above the range.

17 JUDGE SCHAER: Anything else?

18 MR. FFITCH: That's all.

19 JUDGE SCHAER: Ms. Dixon.

20 MS. DIXON: No.

21 JUDGE SCHAER: Is there anything further
22 for this witness?

23 MR. MEYER: There is nothing.

24 JUDGE SCHAER: Thank you for your
25 testimony. Let's break for just a moment. Off the

1 record.

2 (Discussion off the record.)

3 CHAIRWOMAN SHOWALTER: I just want to tell
4 the parties and the witnesses that I will not be
5 available this afternoon. I have to meet with the
6 Governor on pipeline issues, but I will read all of
7 the transcript, and I know I have another opportunity
8 at a later part of the hearings to ask you more
9 questions. Thank you.

10 JUDGE SCHAER: Do you want to call your
11 witness? We're back on the record.

12 MR. MEYER: For the record, Mr. Bruce
13 Folsom.

14 JUDGE SCHAER: Are there any additional
15 items that need to be distributed for Mr. Folsom
16 before we proceed?

17 MR. MEYER: There are.

18 JUDGE SCHAER: Go ahead, please. I was
19 kind of aiming that at other Counsel, other than you.
20 Does anyone else have anything in addition for Mr.
21 Folsom? Mr. Trautman.

22 MR. TRAUTMAN: Yes. Do we have any
23 additional exhibits?

24 JUDGE SCHAER: Do you have anything more
25 that you want to have in the record regarding Mr.

1 Folsom?

2 MR. TRAUTMAN: No, not beyond what we've
3 already put in the record, or marked.

4 JUDGE SCHAER: Thank you. The following
5 exhibits have been marked in conjunction with Mr.
6 Folsom's testimony. Exhibit T-315, Direct Testimony
7 of Bruce W. Folsom. Exhibit 316, Energy Efficiency
8 Program Analysis. Exhibit 317, Energy Efficient
9 Analytical Methodology. Exhibit 318, WWP Application
10 for DSM Tariff Revisions. Exhibit 319, Response to
11 Staff Data Request Number 210.

12 Exhibit 320, Response to Staff Data
13 Request Number 212. Exhibit 321, Response to Public
14 Counsel Data Request Number 18. Exhibit 322,
15 Response to Staff Data Request Number 215. Exhibit
16 323, 12/12/94 Letter of Understanding. Exhibit 324,
17 Avista Response to Public Counsel Data Request Number
18 Nine. Exhibit 325, Avista Response to Public Counsel
19 Data Request Number 20.

20 Whereupon,

21 BRUCE W. FOLSOM,
22 having been first duly sworn, was called as a witness
23 herein and was examined and testified as follows:

24 JUDGE SCHAER: Your witness is sworn, Mr.
25 Meyer.

1 MR. MEYER: Thank you.

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

3 BY MR. MEYER:

4 Q. For the record, would you please state your
5 name and your employer?

6 A. My name is Bruce W. Folsom. I am employed
7 by the Avista Corporation.

8 Q. And have you prepared direct testimony,
9 marked as Exhibit T-315?

10 A. Yes, I have.

11 Q. Do you have any corrections to make to that
12 beyond the changes indicated in the errata sheets?

13 A. Yes, I have one correction on page two.

14 Q. Would you go ahead and make that? Let's
15 make sure everyone can get there first. Why don't
16 you go ahead.

17 A. At line ten, the docket number should
18 reflect UE-961309. Again, the docket number should
19 be 961309 at line ten.

20 Q. So with those changes having been made, if
21 I were to ask you the questions that appear in your
22 prefiled direct, would your answers be the same?

23 A. Yes, they would.

24 Q. Now, you also had distributed a revised
25 exhibit sheet. Page three of three, I just noticed

1 was marked at the lower right-hand corner Exhibit
2 Number 35. In fact, that's Exhibit 316?

3 A. Yes, it is.

4 Q. So that the single sheet with numbers that
5 I passed around, that really is 316, if you'll make
6 marks to that effect.

7 A. Yes.

8 Q. Now, would you explain very briefly how
9 this changes the prior page three of three?

10 A. Yes. The calculation formula on the
11 spreadsheet did not pick up the correct bottom line
12 numbers, because there were some blanks on data, so
13 the bottom line under customers is higher and some of
14 the expenditures are slightly higher. It's simply a
15 calculation correction.

16 Q. All right. Do you have any other changes
17 or corrections to make to either Exhibit 316 or
18 Exhibit 317?

19 A. No.

20 Q. So is the information contained within
21 those two exhibits true and correct?

22 A. Yes, they are.

23 Q. And those exhibits were prepared by you or
24 under your direction and supervision?

25 A. Yes, they were.

1 MR. MEYER: With that, Your Honor, I move
2 for the admission of Exhibits T-315, 316, and 317.

3 JUDGE SCHAER: Any objections?

4 MR. TRAUTMAN: No.

5 JUDGE SCHAER: Those documents are
6 admitted.

7 MR. MEYER: And the witness is available
8 for cross.

9 JUDGE SCHAER: Okay. I think what I'll do
10 at this time is break for lunch and begin questioning
11 Mr. Folsom at 1:30. Let's take a lunch break from
12 now till 1:30, and please everyone be back by 1:20,
13 1:25, so if there's anything we need to talk about,
14 we have a moment to do so, so we do not waste any
15 hearing time. We're off the record.

16 (Lunch recess taken.)

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