

WUTC v. Murrey's Disposal Company, Inc. dba Olympic Disposal

Docket No. TG-230778 - Vol. III

September 9, 2024



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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)
Complainant,)
vs.) DOCKET NO. TG-230778
MURREY'S DISPOSAL COMPANY, INC.)
d/b/a OLYMPIC DISPOSAL,)
Respondent.)
) PAGES 92-219

VIRTUAL EVIDENTIARY HEARING - VOL III
September 9, 2024
BEFORE ADMINISTRATIVE LAW JUDGE
AMY BONFRISCO
VIA ZOOM

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, WA CCR 2731

INDEX OF PROCEEDINGS

1 PROCEEDINGS PAGE
2
3 Proceedings Commence 95
4 Opening Statement by the Company 108
5 EXAMINATION INDEX
6 WITNESS PAGE
7 JOE WONDERLICK
8 Cross-Examination by Attorney Roberson 118
9 Cross-Examination by Attorney Sykes 146
10 Redirect Examination by Attorney Wiley 156
11 MARK GINGRICH
12 Cross-Examination by Attorney Roberson 160
13 Redirect Examination by Attorney Luhrs 181
14 BRANKO TERZIC
15 Cross-Examination by Attorney O'Brien 192
16 Redirect Examination by Attorney Wiley 201
17 BELINDA LOPES
18 Cross-Examination by Attorney O'Brien 203
19 Cross-Examination by Attorney Sykes 210
20 Redirect Examination by Attorney Wiley 212

EXHIBIT INDEX

18 NUMBER PAGE
19 All prefiled stipulated exhibits entered 105
20
21
22
23
24
25

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September 9, 2024

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JUDGE BONFRISCO: -- p.m. And my name is Amy Bonfrisco. I am the administrative law judge with the Utilities and Transportation Commission who will be presiding over this matter today.

We are here for the evidentiary hearing in Docket TG-230778, which is captioned respectively Washington Utilities and Transportation Commission versus Murrey's, doing business as Olympic Disposal.

Please note that if you remain on the virtual hearing, you are deemed as giving consent to participating in the Zoom recording. Do I have any concerns with that before I proceed? Okay. Great.

I'd like to take some short appearances from both parties, and then we'll talk about how we're going to proceed today. So with that, I would like to start with the company.

Mr. Wiley, I can't hear you. Mr. Wiley, I think you might be muted.

MR. GINGRICH: Hi, your Honor. We have the 253 number.

JUDGE BONFRISCO: And were you having some -- were you having problems getting in?

Page 96	Page 98
<p>1 MR. GINGRICH: It currently shows as muted in 2 the room. 3 JUDGE BONFRISCO: Oh, okay. Let me see if my 4 records staff is on with me. Ryan -- 5 UNIDENTIFIED SPEAKER: They'll need to press, 6 I think Star 6 or Star 9 on their dial pad to unmute. 7 Try Star 6. 8 JUDGE BONFRISCO: Is that working? 9 ATTORNEY WILEY: Can you hear me? 10 JUDGE BONFRISCO: I can. 11 ATTORNEY WILEY: Can we try again? 12 JUDGE BONFRISCO: Yes. So is this Mr. Wiley 13 on the phone? 14 ATTORNEY WILEY: It is, your Honor. 15 JUDGE BONFRISCO: Okay. Great. So to just, 16 you know, back up, I was just wanting to take short 17 appearances before, you know, I provided a road map of 18 today's proceeding. 19 But before I do that, were you able to hear 20 me earlier in the call? 21 ATTORNEY WILEY: Yes, I was, your Honor. 22 JUDGE BONFRISCO: Okay. Perfect. So if you 23 could just let me know who's here with you today, with 24 Murrey's counsel? 25 ATTORNEY WILEY: Yes. Good afternoon, your</p>	<p>1 in advance to the order of the presentation of how we'll 2 proceed today. I've tentatively planned for us to take a 3 break around 3:00 p.m. and a morning break tomorrow 4 around 10:30 or as needed. But if we need to modify 5 that, Counsel, just let me know, and we can make tweaks 6 to the schedule. 7 And I just want to remind everybody while 8 they are not speaking, keep your microphone muted just so 9 we can control any kind of background noise, and really 10 use only the video when you're speaking. This just 11 really makes sure we have a good record. 12 If you experience any technical issues or 13 observe that a representative has dropped off the line, 14 just let me know so I can make sure that we address that, 15 or let me know in the chat if that's easier. 16 And I guess with that, as far as just 17 technical issues and the proposed breaks, are there any 18 questions before I proceed? 19 Okay, great. Next -- 20 ATTORNEY O'BRIEN: Pardon me, Judge. 21 Mr. Wiley was trying to speak, I believe. 22 JUDGE BONFRISCO: Mr. Wiley, my apologies. 23 Go ahead. 24 ATTORNEY WILEY: Yeah, my fault. I didn't 25 push the button. I alerted Mr. Roberson to one issue</p>
Page 97	Page 99
<p>1 Honor. Dave Wiley and Christopher Luhrs, attorneys from 2 Williams Kastner and Gibbs, representing respondent 3 Murrey's Disposal, d/b/a Olympic Disposal. 4 JUDGE BONFRISCO: Okay. Thank you. 5 And staff? 6 ATTORNEY ROBERSON: Good afternoon, Judge 7 Bonfrisco. My name is Jeff Roberson. I'm an AAG 8 representing commission staff. And with me at counsel 9 table is my colleague, AAG Colin O'Brien. 10 JUDGE BONFRISCO: Thank you. 11 And public counsel? 12 ATTORNEY SYKES: Yes. Good afternoon, Judge 13 Bonfrisco. My name is Robert Sykes, and I'm here on 14 behalf of public counsel. 15 JUDGE BONFRISCO: Okay. Great. 16 And I don't believe we have any intervenors 17 in this matter. 18 So from here, I'd just like to talk about the 19 hearing. First, you know, we'll address the admission of 20 the prefiled exhibits and testimony, which should be 21 pretty brief. 22 And then I'd like to allow for opening 23 statements, which will be limited to ten minutes for each 24 party before we turn to cross-examination. 25 And I want to thank the parties for agreeing</p>	<p>1 that I wanted to bring to your attention in terms of the 2 logistics today, and that is we were double checking all 3 the confidentiality declarations. I did not find one, 4 and I can't remember if one was filed, for Mr. Gingrich. 5 I don't want there to be difficulty on addressing -- him 6 being crossed on confidentiality documents, so we have 7 prepared, in the abundance of caution, another or 8 original executed agreement, which we can send around now 9 if you would like that. I just don't want this to be 10 cumbersome. 11 And as far as I'm aware, this is the first 12 time we've had a confidential document in a solid waste 13 rate proceeding, so we are all, on our side, sort of 14 dealing with it for the first time. 15 JUDGE BONFRISCO: Well, and I mean, I'm glad 16 you mentioned that because I was, you know, prior to the 17 proceeding, reviewing through all the confidentiality 18 agreements. And, you know, I have everything in the 19 record for, you know, staff and public counsel. 20 But I am not sure I had other confidentiality 21 agreements filed for each of your witnesses. And I know 22 going back in the record, you had originally requested 23 the protective order. And so that was something I wanted 24 to clarify, that as we go through this testimony today, 25 that we ensure that, you know, if -- as we address any</p>

Page 100	Page 102
<p>1 confidential testimony, that anybody who has not signed a 2 confidentiality agreement, we're actually going to send 3 them to a breakout room. 4 And so that was one of the things I wanted to 5 do this morning, is have the parties let me know who's 6 with them that has actually signed the confidentiality 7 agreement so that it can be clear for records staff who 8 should be in the proceeding as we walk through each of 9 those exhibits. 10 And, you know, with that, let's see where I 11 have this. So I have -- you know, I guess I would start 12 first with staff, public counsel. 13 And then, Mr. Wiley, if you could let me know 14 and identify for the record, since this is, you know, 15 addressing a lot of the proprietary information for the 16 company, who, you know, you would be admitting to be part 17 of that proceeding in addressing those exhibits. 18 ATTORNEY WILEY: Yes, that's fine, your 19 Honor. I believe in our chat -- and my secretary 20 unfortunately is on vacation this week -- that we filed 21 confidentiality agreements for Mr. Terzic, for Ms. Lopes, 22 for Dr. Scontrino, and for Mr. Wonderlick. 23 What I didn't find was one for Mr. Gingrich. 24 So you decide. Again, it's mostly the 25 company's data that's confidential. So we are not</p>	<p>1 are on the ALD side of the wall who probably would want 2 to be part of the confidential session who haven't signed 3 the confidentiality agreement. I'm assuming that would 4 be Greg Hammond, Judges Thompson, Brown, Jisong Wu, 5 Stacey Brewster. 6 JUDGE BONFRISCO: Okay. And generally, I 7 don't believe, and correct me if I'm wrong, I don't 8 believe that the internal staff generally signs those 9 separate confidentiality agreements as part of the 10 record. 11 ATTORNEY ROBERSON: So staff appearing as 12 parties do. Staff on the ALD side do not. 13 So from the staff side that are appearing as 14 the parties or as a party, it would be Mr. Young, 15 Mr. Sevall, Mr. Sharbono, and Ms. Roth in order 16 (inaudible). 17 JUDGE BONFRISCO: Thank you for clarifying 18 that. Thank you. 19 And public counsel, I'm not showing that 20 public counsel was planning on submitting testimony today 21 based on what was filed back in May. Is that correct? 22 ATTORNEY SYKES: That is correct, your Honor. 23 JUDGE BONFRISCO: Okay. And with you today 24 -- is there anyone present with you today other than 25 yourself for public counsel?</p>
Page 101	Page 103
<p>1 concerned about Mr. Gingrich being asked about company 2 documents, but at the time this occurs, you can make any 3 statement or ruling when that arises. 4 JUDGE BONFRISCO: And did you mention 5 Mr. Wonderlick? 6 ATTORNEY WILEY: Yes. 7 JUDGE BONFRISCO: Okay. Perfect. 8 ATTORNEY WILEY: I believe -- sorry. 9 JUDGE BONFRISCO: Okay. And I'm just looking 10 really quick. So you're okay with Gingrich, Terzic, 11 Scontrino, and Lopes. 12 And as far as filing that, I don't have a 13 problem with that if you could, you know, just submit 14 that. And we'll get that appended to the record and 15 include Mr. Gingrich. 16 ATTORNEY WILEY: We'll do that this afternoon 17 during the hearing, your Honor. 18 JUDGE BONFRISCO: Okay. Perfect. 19 And for staff, my understanding is it's Jeff 20 Roberson and Colin O'Brien, but are there any other staff 21 present with you today that I should be aware of? 22 ATTORNEY ROBERSON: That have signed the 23 agreements, I know for a fact Mike Young, Scott Sevall, 24 Ben Sharbono, obviously; Jing Roth. 25 There are a number of staff members that</p>	<p>1 ATTORNEY O'BRIEN: No, it's just me from 2 public counsel today. 3 JUDGE BONFRISCO: Okay. Thank you so much, 4 Robert. 5 Let's see. I also show that the parties -- 6 and correct me if I'm wrong on this -- that you 7 stipulated to any of the prefiled exhibits and testimony 8 of the cross-examination; is that correct? 9 ATTORNEY ROBERSON: With one caveat. 10 JUDGE BONFRISCO: Yes. 11 ATTORNEY ROBERSON: Recent practice of the 12 commission has been to designate something as a cross 13 exhibit even if it was already an exhibit. Normally the 14 ALJ's do not admit the exhibit twice. Just to make 15 things easy, I try to do that. I feel like I confuse 16 matters. 17 Staff's preference would be that we not 18 clutter the record with exhibits admitted multiple times. 19 If you're comfortable with that, we'll just refer to the 20 exhibits by their original designations. 21 JUDGE BONFRISCO: No. And I appreciate that, 22 and I know you brought that to my attention earlier this 23 week. And I think that would be easiest to prevent any 24 confusion and did not intend on admitting them twice, but 25 I know per the commission rules, we do have the special</p>

Page 104

1 designation for cross.
 2 So just so everyone's aware, you know, that
 3 basically we'll just refer to the original exhibits as
 4 they were originally admitted in the record for the
 5 direct testimony and other prefiled exhibits.
 6 And did I have any questions or concerns from
 7 counsel?
 8 I'm sorry. Are you muted?
 9 ATTORNEY WILEY: I hope I'm not muted.
 10 JUDGE BONFRISCO: Okay. Okay. Good. Did
 11 you have any concerns with -- any objections to the
 12 prefiled exhibits and testimony being part of the
 13 record?
 14 ATTORNEY WILEY: No, I didn't, your Honor.
 15 Thank you.
 16 JUDGE BONFRISCO: Okay. Perfect. Sorry.
 17 It's never fun with tech issues.
 18 And then let's see. I did want to
 19 clarify, do we need Dr. Lu (phonetic) to sign a
 20 confidentiality agreement?
 21 ATTORNEY ROBERSON: No. As a policy advisor
 22 to the commission, he would be on the ALD side of the
 23 wall.
 24 JUDGE BONFRISCO: Okay. Perfect. Perfect.
 25 All right. So with that -- although, you

Page 105

1 know, I'll just move to have all the prefiled exhibits
 2 that both of the parties, you know, have stipulated to as
 3 part of the record.
 4 Let's see. As far as addressing exhibits, on
 5 August 28, I circulated an updated exhibit list which
 6 reflected the updated and revised testimonies of
 7 company's witnesses Joe Wonderlick and Branko Terzic
 8 based on the errata that counsel had filed. And I just
 9 wanted to make sure that staff didn't have any concerns
 10 with the reliance on the updated testimony that was
 11 incorporated as part of the record based on those errata.
 12 ATTORNEY ROBERSON: None.
 13 JUDGE BONFRISCO: Okay. Wonderful.
 14 So with that, again, I believe I circulated
 15 that updated exhibit list. Were there any questions
 16 about that before we proceed?
 17 ATTORNEY WILEY: (Inaudible) from the
 18 company.
 19 JUDGE BONFRISCO: Okay. And I guess I just
 20 want to confirm with records staff, I know we were kind
 21 of going through the list of all the key people that
 22 would be part of the proceeding if we go into a closed
 23 proceeding. Did you have any questions about who's
 24 permitted in that closed proceeding before we send those
 25 who have not signed a confidentiality agreement to

Page 106

1 another breakout room?
 2 MR. SMITH: Hi, this is Ryan Smith with
 3 records. The only ones that I have a question is the
 4 Kalakahi Consulting, and someone that's joined and listed
 5 as call-in mute, underscore 1.
 6 JUDGE BONFRISCO: If Kalakahi Consulting, if
 7 you could identify -- if we could start with you to
 8 identify yourself?
 9 KALAKIHI CONSULTING: I'm here. Sorry about
 10 that.
 11 JUDGE BONFRISCO: No worries.
 12 KALAKIHI CONSULTING: Turning off the mute
 13 button. I'm here to observe.
 14 JUDGE BONFRISCO: Okay. So basically, just
 15 Ryan, when we have the breakout session, you know, they
 16 have not signed that confidentiality agreement.
 17 And then for the other phone number you
 18 identified, you said it was --
 19 MR. SMITH: It just says -- where did it
 20 go? They might --
 21 JUDGE BONFRISCO: They might have dropped
 22 from the line?
 23 MR. SMITH: I think so.
 24 Oh, and then there's a Lindsay (phonetic) W.
 25 Are they allowed?

Page 107

1 JUDGE BONFRISCO: Lindsay W. I am not
 2 familiar with a Lindsay W. Are either counsel familiar
 3 with a Lindsay W.?
 4 No. So they would not have signed that
 5 either, so if you could move them to that breakout room
 6 as well.
 7 MR. SMITH: Yes.
 8 JUDGE BONFRISCO: Okay. Perfect. Thank you,
 9 everyone, for your patience.
 10 Okay. Since -- oh, go ahead, Ryan.
 11 MR. SMITH: I'm so sorry. If I could, if any
 12 of the parties, after we move people for a breakout
 13 session, confidential stuff is discussed, if you want to
 14 reach out to me in the chat if there's anyone else in
 15 there that you have concerns about, please do so. Thank
 16 you.
 17 JUDGE BONFRISCO: And Mr. Wiley, did you have
 18 something to share?
 19 ATTORNEY WILEY: No, your Honor.
 20 JUDGE BONFRISCO: Okay. Wonderful. All
 21 right. Since -- I appreciate everyone's patience on
 22 figuring that out.
 23 Since staff indicated in advance of today's
 24 hearing that it would be waiving its opening statement
 25 just for time efficiency purposes, what I'd like to do is

Page 108

1 I'd like to start -- I guess I want to clarify with
 2 Mr. Wiley, since I didn't hear back from you on that,
 3 were you planning on proceeding with an opening statement
 4 today?
 5 ATTORNEY WILEY: Yes, your Honor. I'd like
 6 to make a brief opening statement.
 7 JUDGE BONFRISCO: Okay. If you'd like to
 8 proceed.
 9
 10 OPENING STATEMENT BY THE COMPANY
 11 ATTORNEY WILEY: Thank you, your Honor, and I
 12 know this is being recorded and with a court reporter.
 13 I'll try to talk in quickly to get in ten minutes, but I
 14 may exceed it just slightly. Bear with me if you would.
 15 Thank you for the opportunity to briefly
 16 overview this case from the company's perspective.
 17 While this case involves challenges to
 18 several line items in the company's operating expenses
 19 and income statement, at its core, this case concerns the
 20 staff's treatment of a large insurance loss claim.
 21 And in the company's view, this entire
 22 protracted and expensive proceeding was completely
 23 avoidable.
 24 Indeed, the company attempted to head off
 25 this dispute just before it filed its general rate case

Page 109

1 almost a year ago to the day, on September 15, by
 2 preliminarily conferring with staff and asking guidance
 3 on how its imminent general rate case could highlight and
 4 deal with a major insurance loss claim involving a
 5 fatality accident during the proposed test year in
 6 regulated service.
 7 As it responded to an informal data request,
 8 which was IDR-4, which is Exhibit BS-16X in this
 9 proceeding, it discussed the claim with Mike Young of the
 10 staff, who informally advised that the company might take
 11 the expense over five years, meaning normalize the amount
 12 of the claim over an extended interval so as not to
 13 recognize the full effect of the claim in one fell swoop
 14 for the ratepayers.
 15 As Mr. Wonderlick testifies, this has been
 16 the practice in all Waste Connections rate cases for all
 17 of the 13 years-plus he has been involved in UTC rate
 18 filings for the Waste Connections company. And to his
 19 knowledge, there had never been an issue previously.
 20 Thus, that advice, that informal advice, seemed
 21 appropriate and consistent with past auditing experience.
 22 Indeed, Mr. Branko Terzic, a former Wisconsin
 23 public service commissioner, testified in the company's
 24 behalf that that is precisely the appropriate regulatory
 25 accounting treatment, and that in effect, the artificial

Page 110

1 bifurcation of the deductible from an insurance policy is
 2 unprecedented in his long experience with regulated
 3 utilities.
 4 At the end of the normal audit period, which
 5 the company assumed would be the middle of October, they
 6 were started to learn, on October 16, 2023, that this
 7 would not be the treatment afforded this material claim,
 8 and that the entire approximate \$1.9 million claim would
 9 be disallowed and removed by the staff, which was
 10 corroborated the next day in a meeting among
 11 Mr. Wonderlick; his colleague, Mr. Vandenburg, company
 12 management; and Ms. Van Meter; Mr. Sharbono, the auditor;
 13 and Jing Roth, the deputy division chief of staff, all of
 14 whom, for the commission, affirmed the disallowance.
 15 That disallowance is actually featured in
 16 staff -- in the staff workbook, which is Exhibit JW-5C in
 17 this record, and is likely the most detailed
 18 qualification or quantification of staff's position on
 19 the overall rate filing other than Exhibit DS-11C, on
 20 which we have no prefiled testimony supporting the
 21 staff's numbers.
 22 For a company generating 22 -- approximately
 23 \$22 million a year in revenue, the disallowance of an
 24 insurance claim expense amounting to 12 to 10 percent of
 25 its annual revenue is understandably a tremendous

Page 111

1 financial blow, and one that obviously cannot be
 2 sustained, particularly under a rate setting methodology
 3 that generally allows revenue margins or profit in the 4
 4 to 8 percent annual range under Lareto Gallagher
 5 (phonetic).
 6 Along with the other smaller expense
 7 adjustments that are addressed in this case, staff's
 8 position on the revenue requirement, from the best we can
 9 ascertain, that we have been provided, places Olympic at
 10 a very precarious financial position and denies it the
 11 ability to assess fair, just, reasonable, and sufficient
 12 rates as required by Title 81 RCW.
 13 During this hearing, your Honor, you will
 14 hear from numerous witnesses who examine and critique the
 15 rationale for allowing insurance deductible expenses and
 16 the state of the current insurance liability market for
 17 transportation companies.
 18 Indeed, Olympic and Waste Connections lead
 19 broker, Belinda Lopes, describes the recent trends in the
 20 market and the increasing difficulties all trucking and
 21 transportation companies are confronting in obtaining any
 22 liability insurance policies and the unfortunate cost
 23 escalation we all faced in that marketplace. Those
 24 external forces ironically are all exacerbating and
 25 converging on the placement, cost, and coverage

Page 112

1 exclusions and under -- as this issue unexpectedly
2 converged on Olympic's rate filing, and underscores just
3 how difficult any projections about future expense and
4 policy provisions are.
5 But as you will also see and hear, as echoed
6 in the industry publications which are cross exhibits in
7 this proceeding, not only is liability insurance a
8 requirement for lawful operations by any regulated solid
9 waste collection company, accident insurance and
10 insurance claims in the transportation sector are
11 statistically not unusual and are a recurring event.
12 No company that I'm aware of that operates
13 large trucks over public and private roads and generates
14 thousands of miles annually escapes action in the claims.
15 And sadly, some are fatal. And juries nationally are
16 awarding higher and higher damages for these types of
17 claims, as Ms. Lopes and the industry data support.
18 Yet the auditor in this case seeks to defend
19 his arbitrary disallowance of Olympic's claim by
20 asserting that accidents are not typical or normal and do
21 not recur; thus, under regulatory accounting principles,
22 they can be thrown out, since they supposedly are
23 extraordinary and nonrecurring.
24 However, if that were the unlikely case, as
25 Mr. Terzic posits, why would insurance even be necessary

Page 113

1 and required by the commission and the state legislature?
2 The reality is the business -- that insurance
3 premiums and deductibles attached to liability insurance
4 policies are a completely normal, prudent, and mandatory
5 expense for any transportation company, and arguably just
6 as essential to operations as an expense as employee
7 drivers and payroll.
8 Denying recovery of this essential line item
9 of expense is indeed a slippery slope that would
10 ultimately work to the detriment of the public safety if
11 smaller, less capitalized, regulated solid waste
12 companies learn that their overall insurance costs, which
13 yes, includes the premium and the deductible, would
14 possibly not be allowed by a subjective adjustment by an
15 auditor.
16 The untenable consequence of such a decision
17 would steer companies toward bargain basement providers
18 who might not be viable when the time comes for a claim
19 to be paid. Frankly, this is not an unimaginable outcome
20 if the accounting adjustment here were to be ratified by
21 the commission.
22 And this proceeding is the opportunity to
23 draw the line on this type of isolated illogical
24 adjustment, which the evidence of record reflects is,
25 again, an arbitrary and ultimately aberrant denial.

Page 114

1 (Inaudible) I said, insurance claim dispute is the
2 primary focus of this case.
3 In closing, I want to say a few words about
4 some of the other disputed adjustments on which we are
5 hoping to get some commission clarification. Severance
6 or termination pay is one such issue.
7 As the commission oversees a rapidly evolving
8 post-pandemic workplace, both in its own house and in the
9 company it regulates, it's time to reconsider termination
10 pay as an appropriate risk avoidance option that redounds
11 to shareholders' and customers' benefit in limiting
12 liability accruals and in cutting off unproductive
13 management focus and financial exposure.
14 Both Mr. Wonderlick and Dr. Scontrino speak
15 to the advantages and positive effects of addressing
16 employment situations -- separation in situations that
17 allow parties to move on in their lives, and the downside
18 risk to morale and productivity in the finite
19 circumstances where termination pay expense is
20 disqualified as a prudent management tool.
21 Bonuses and incentive pay to frontline hourly
22 workers, including customer service payroll and drivers
23 is another issue meriting reevaluation. These types of
24 expenses are similarly important tools for employers in
25 the modern workplace, and are not only beneficial to

Page 115

1 overall morale, but, as Dr. Scontrino advises based on
2 empirical data, can lead to positive organizational and
3 operational outcomes. They can improve overall job
4 satisfaction and reduce turnover, which directly affects
5 rates by reducing hiring and training expenses. They are
6 also less costly than embedding such stipends and base
7 wages, which is also a significant mitigation of payroll
8 expense.
9 If, as the staff repeatedly says in this
10 case, it wants to see direct benefits to the ratepayers
11 of these programs, it ought to proactively work with the
12 industry to propose templates and metrics that we can all
13 adapt rather than rejecting such programs retroactively
14 citing a lack of data measurement, which staff has never
15 offered to develop by rule or policy articulation or
16 codification.
17 Finally, I wanted to, in addition to the
18 community activity meal expense and other such issues
19 you'll hear about in the testimony on the
20 cross-examination thereon, I wanted to touch on one final
21 issue, which is a late raised denial of certificate
22 defense legal fees by the staff.
23 As the prefiled testimony did and the
24 cross-examination testimony we hope to elicit will show,
25 defense of certificate legal fees should not be in

<p style="text-align: right;">Page 116</p> <p>1 dispute. Both previous staff treatment and commission 2 orders have recognized the value of legal fee defense for 3 certificates, and have fully allowed them over the entire 4 span of the proceeding. They just normalize the cost as 5 simply as Olympic has reasonably proposed here. 6 This eleventh hour opposition by staff is 7 once again arbitrary. They were certainly well aware of 8 Olympic's long successful battle to uphold its right to 9 serve the industrial mills in its exclusive territory, 10 and participated fully in the court appeals filed by the 11 respondent in that case, and which proceeding spanned 12 over 2.5 years and involved appeals to the Thurston 13 County Superior Court, the Washington Court of Appeals, 14 and a final denial of review by the Washington Supreme 15 Court. 16 During that time, there was no pending 17 general rate case by Olympic and no indication by staff 18 that any affirmative measure needed to be undertaken by 19 Olympic to recoup its widely known ongoing legal 20 expenses. 21 Indeed, this is the first occasion Olympic 22 has formally had to ask for recovery. And it did so in 23 this pending rate filing in September 2023, which 24 occurred roughly ten months after the final ruling of the 25 Court of Appeals approximately six months after the</p>	<p style="text-align: right;">Page 118</p> <p>1 JOE WONDERLICK, witness herein, having been duly 2 sworn on oath, testified as 3 follows: 4 5 CROSS-EXAMINATION 6 BY ATTORNEY ROBERSON: 7 Q Good afternoon, Mr. Wonderlick. How are you? 8 A I'm doing well. Thank you. 9 Q Good. So I think my questions are limited to 10 your testimony, your opening testimony, which is JW-1T, 11 and your rebuttal testimony, which I believe is JW-25CT. 12 If you could have copies of those, that would be great. 13 ATTORNEY WILEY: He does. 14 THE WITNESS: I do. 15 Q (By Attorney Roberson) Excellent. Would you 16 please turn to page 9, line 14 through 17 of your 17 rebuttal testimony, which is JW-25CT. 18 A You say page 9? 19 Q Page 9, lines 14 through 17. 20 Are you there? 21 A Yes. 22 Q Okay. There, you kind of introduce a topic 23 that you revisit several times, which is Murrey's belief 24 that staff is intruding on the discretion and 25 prerogatives of Murrey's management, correct?</p>
<p style="text-align: right;">Page 117</p> <p>1 Washington Supreme Court denied review, finally closing 2 the case in 2023. 3 As with the insurance claim deductible 4 denial, this was yet another arbitrary and unanticipated 5 expense rejection by staff, contrary to past dispositions 6 of certificate legal defenses, which we urge be soundly 7 rejected by the commission in this proceeding. 8 Thank you. 9 JUDGE BONFRISCO: Thank you, Mr. Wiley. 10 What I'd like to do next is I'd like to have 11 staff start with the cross of each of the company's 12 witnesses. 13 But before I tender in the first witness, who 14 is Mr. Wonderlick, if you could please turn on your 15 camera and raise your right hand. 16 Mr. Wonderlick? Let me see. There you are. 17 Okay. Perfect. 18 Do you swear or affirm that the testimony you 19 will give today will be the truth, the whole truth, and 20 nothing but the truth? 21 THE WITNESS: I do. 22 JUDGE BONFRISCO: Okay. Staff, if you'd like 23 to proceed. 24 25</p>	<p style="text-align: right;">Page 119</p> <p>1 A Correct. 2 Q And on page 10, there's a blocked quote from 3 Leonard Saul Goodman which effectively says agencies 4 can't substitute their judgment from management absent 5 abuse of discretion, correct? 6 A Correct. 7 Q How does Murrey's define an abuse of 8 discretion? 9 A Let me think on that for a second. 10 So the quote says that unless there's an abuse 11 of discretion. So in my opinion, that would be where 12 staff identifies where a company -- where the company is 13 not working in a reasonable -- not making reasonable 14 decisions based on the information they have before them. 15 Q Okay. Let's -- 16 JUDGE BONFRISCO: And Mr. Roberson, I'm sorry 17 to interrupt here, but I believe this is a confidential 18 exhibit, correct? 19 ATTORNEY ROBERSON: It is, but I do not 20 believe that I'm touching on confidential information at 21 all. 22 JUDGE BONFRISCO: Okay. Go ahead and 23 proceed, but I just would like to know once we -- once 24 you believe we're going in that territory, if you could 25 just please flag that for me so I can make sure we get</p>

7 (Pages 116 to 119)

Page 120

1 anybody who has not signed the confidentiality into a
 2 breakout room.
 3 ATTORNEY ROBERSON: Absolutely. And I firmly
 4 believe that it takes a village to prevent the disclosure
 5 of confidential information. So if anyone thinks that
 6 I'm touching on confidential information, please yell at
 7 me and I will say something.
 8 JUDGE BONFRISCO: Okay. Perfect.
 9 ATTORNEY WILEY: In my mind, it's mostly
 10 where we start talking about numbers where we're going to
 11 get into dicey territory.
 12 It would also be part of your --
 13 JUDGE BONFRISCO: Perfect.
 14 ATTORNEY WILEY: -- (inaudible) Mr. Roberson.
 15 JUDGE BONFRISCO: And I figured that's what
 16 you were doing, Mr. Roberson, but I just wanted to
 17 ensure. So, yes, if you just flag that for me and
 18 Mr. Wiley, we're good.
 19 ATTORNEY ROBERSON: Excellent.
 20 JUDGE BONFRISCO: Thank you.
 21 **Q (By Attorney Roberson) So Mr. Wonderlick, I**
 22 **guess I would like to talk further about that answer.**
 23 **So staff is to detect an abuse of discretion,**
 24 **you think, or Murrey's thinks that staff should be**
 25 **looking at what, exactly?**

Page 121

1 A You're somewhat hypothetical there. I think
 2 where staff senses that the company -- the company
 3 management is doing something, you know, illegal or
 4 unethical.
 5 **Q So I guess in Murrey's view, then, the**
 6 **commission is limited to disallowing costs that are**
 7 **illegal or unethical; is that correct?**
 8 A That covers most of it. Yes.
 9 **Q What else would be an abuse of discretion in**
 10 **your opinion?**
 11 **Like I want the entire universe. We have**
 12 **illegal, unethical. What else?**
 13 A My advice to my children, and I think it
 14 applies here too, it's illegal, unethical, and unsafe.
 15 That is largely the universe.
 16 **Q Is there anything else?**
 17 A Not that I can think of at the moment.
 18 **Q Okay. So is staff looking for results or**
 19 **process?**
 20 **How does it know that it's seeing something**
 21 **illegal, unethical, or unsafe?**
 22 **You know, it's not at Murrey's operations every**
 23 **day. It's not there to look at what's going on. How**
 24 **does it review for those things?**
 25 A You're putting me in the spot of staff.

Page 122

1 **Q Well, it's your testimony. I'm curious what**
 2 **you view staff's role is because you testified about what**
 3 **you think staff's role is.**
 4 A I would say that staff's role -- in my years of
 5 experience, the company has -- there are numerous
 6 adjustments that we find back and forth. You know, very
 7 frequently we file for a certain revenue requirement, and
 8 as we go through the audit process, the review process,
 9 we're all human. So some mistakes are made. Some
 10 interpretation differences occur. And we usually work
 11 those out.
 12 And, you know, frankly, we have not had an
 13 adjudicated case in the 13 years I've been part of this
 14 program with the UTC. And I don't think we had an
 15 adjudicated case in the, you know, preceding 12 or 13
 16 years that Waste Connections was in the place because
 17 staff and the company worked things out. And in most
 18 cases, I would say that staff identified things that
 19 maybe the company didn't in its initial pass, and we
 20 worked them out.
 21 So staff plays a role and has had a vital
 22 function over the years with, you know, with their role,
 23 with their oversight role. And in this case, I believe
 24 we've overstepped that. I believe staff has overstepped
 25 that in, you know, basically setting some policy or

Page 123

1 attempting to set policy without the benefit of working
 2 that through.
 3 And what I say by policy, is, you know, in this
 4 case, management, you know, the company -- staff is
 5 saying let's -- we're going to deny all this insurance
 6 deductible program.
 7 So all of a sudden, you know, that, you know, I
 8 guess, you know, staff would say, Well, you don't have to
 9 make any changes at all, company. We're going to deny
 10 those expenses.
 11 But in effect, you're directing us to do things
 12 different, to run our company differently.
 13 With these bonus -- the bonus or the incentive
 14 pay programs, in my testimony I've indicated a number of
 15 times that -- or certainly in interviews, meetings with
 16 staff, you know, times have changed over the years. And
 17 the way we pay employees, the way -- employees in 2024 is
 18 different than maybe the way we paid employees or
 19 compensated employees in 1990. And --
 20 **Q So this might be a good time to break in.**
 21 A So staff is pushing us to do things
 22 differently.
 23 JUDGE BONFRISCO: I'm sorry, Mr. Roberson. Do
 24 you want to transition?
 25 ATTORNEY ROBERSON: I'm just going to ask a

Page 124

1 follow-up.
 2 JUDGE BONFRISCO: Okay.
 3 **Q (By Attorney Roberson) So I guess according to**
 4 **that testimony, anytime staff recommends a disallowance,**
 5 **it's recommending a policy change, correct?**
 6 A No. I mean, occasionally we're correcting
 7 whatever mathematical errors, or we're looking at some
 8 interpretation that could be policy change, I suppose.
 9 But where the company agrees or we compromise on
 10 something, yes. That could be possibly policy change.
 11 But not always.
 12 **Q Okay. So basically, would you then say that**
 13 **staff is unable to recommend a disallowance of a type**
 14 **it's never recommended before because that would be the**
 15 **type of policy change that you believe interferes with**
 16 **Murrey's management prerogatives?**
 17 A I think the preferred path is if staff
 18 encounters some things that are not illegal or unethical
 19 and unsafe, then that veers into potential policy changes
 20 that are more overt and outside of a rate case situation.
 21 So overt isn't the right word. But outside of a rate
 22 case situation.
 23 So there's quarterly meetings between the UTC
 24 and the industry. There are opportunities to bring some
 25 of these sorts of disagreements up and to work our way

Page 125

1 through them.
 2 **Q Okay. Hypothetically, Murrey's decides to buy**
 3 **million dollar Ferraris for all of its employees as a**
 4 **goodwill gesture; not management, just line employees.**
 5 **Does the commission have a role in stepping in and**
 6 **reviewing that expense?**
 7 A I'm sorry. Clarify. Million dollar what?
 8 **Q Ferraris, some expensive gift for the**
 9 **employees.**
 10 A Ferraris.
 11 **Q Not management, the line employees.**
 12 A Well, you're getting into unethical there.
 13 **Q Is that unethical, to treat your employees**
 14 **well?**
 15 ATTORNEY WILEY: Objection to the form of the
 16 question. (Inaudible) Ferrari is really a value judgment
 17 as to treatment of employee. But the --
 18 ATTORNEY ROBERSON: Hypothetically - so just-
 19 (Overlapping speech)
 20 JUDGE BONFRISCO: I'm going to sustain the
 21 objection.
 22 If you could reframe the question, staff, I'd
 23 appreciate that.
 24 ATTORNEY ROBERSON: Absolutely.
 25 **Q (By Attorney Roberson) Is there -- so then I**

Page 126

1 **guess, building on that, is there an expense that is not**
 2 **unethical or illegal, but is unreasonable, that staff can**
 3 **recommend disallowing in your view?**
 4 A Not that I can think of at the moment.
 5 **Q Okay. I'd like to move on, then.**
 6 **This was designated as Cross Exhibit JW-30X.**
 7 **It's Exhibit BS-13.**
 8 A It might take me a minute to get to that one.
 9 **Q Take your time.**
 10 ATTORNEY WILEY: I've got it here in our
 11 responses.
 12 THE WITNESS: So BS-13?
 13 **Q (By Attorney Roberson) Yes.**
 14 A Let me see if I can get there. Okay. Back to
 15 you. Okay. So BS-13.
 16 **Q Do you recognize that document?**
 17 A Let me study it a little closer. Okay. This
 18 is about interim rates.
 19 **Q These are DR answers, correct?**
 20 A Yes.
 21 **Q And would you turn to page 1 of the exhibit;**
 22 **not the cover page, but the first page of the actual**
 23 **exhibit?**
 24 A Okay.
 25 **Q And --**

Page 127

1 A Wait. Right now I'm looking at just one page,
 2 which is maybe the cover. Company management has had
 3 numerous meetings to discuss things, including focus on
 4 current company operations. Yes.
 5 **Q So that's Murrey's answer to Staff DR Number**
 6 **21, correct?**
 7 A Yes.
 8 **Q And at the top, you're listed as one of the**
 9 **people who prepared the response, correct?**
 10 A Yes.
 11 **Q And in that DR, staff asked for company**
 12 **minutes, correct?**
 13 A Yes.
 14 **Q And Murrey's said that it doesn't routinely**
 15 **keep minutes, correct?**
 16 A Not of these kinds of meetings that were
 17 requested, no. No. Not in general, no, there's not a
 18 lot of minutes.
 19 **Q So if Murrey's isn't keeping records of the way**
 20 **that its management is exercising its discretion, how**
 21 **does the commission review the exercise of that**
 22 **discretion?**
 23 A Your auditors have access to our general
 24 ledgers.
 25 **Q So in Murrey's view, they would be looking at**

1 **the results of the decision, not the decision-making**
 2 **process itself?**
 3 A I think when you're examining a test year, that
 4 you are being retrospective in that process, yes.
 5 **Q Okay. Totally changing gears, I'd like to talk**
 6 **about insurance. So your counsel identified the accident**
 7 **at issue here. Has Murrey's ever had an accident with a**
 8 **dollar cost like that one in your experience?**
 9 ATTORNEY WILEY: Your Honor, if I could just
 10 interpose an objection to the form.
 11 When we're talking about Murrey's, we have,
 12 as Mr. Roberson knows, we have Olympic Disposal and we
 13 have the larger Murrey's operation. For instance, at the
 14 interim rate hearing, you heard about Murrey's annual
 15 revenues. Olympic reports its separately.
 16 So I'd like to put the question in context.
 17 Are you talking about Olympic or Murrey's?
 18 So if he could clarify that, I won't have an
 19 objection.
 20 ATTORNEY ROBBERSON: I can rephrase.
 21 JUDGE BONFRISCO: Okay. Perfect. Thank you.
 22 **Q (By Attorney Roberson) Let's take a step back.**
 23 **Mr. Wonderlick, how long have you been at Murrey's,**
 24 **Murrey's itself; not Olympic, just Murrey's?**
 25 A Well, I worked with -- for Waste Connections

1 happen every 12 months, no, thank God, they don't. Do
 2 they happen every 24 months? Not necessarily. They do
 3 happen.
 4 So if you start pulling the universe out from
 5 Olympic to Murrey's to Waste Connections across
 6 Washington, yes, indeed, these things happen and they
 7 have happened.
 8 **Q In terms of Olympic, that accident at issue is**
 9 **at least twice as big as the next biggest one, correct?**
 10 A Yes.
 11 **Q Okay. On -- can we turn to your open**
 12 **testimony, which is JW-1T?**
 13 A Okay. I have it.
 14 **Q And I did not write down the page number, which**
 15 **is unhelpful. Page 34, lines 17 through 19.**
 16 A Okay.
 17 **Q There you're talking about the amortization of**
 18 **rate case expenses, correct?**
 19 A Yes.
 20 **Q And because you're filing on a three-year**
 21 **cycle, you propose amortizing over three years, correct?**
 22 A We do, the rate case expenses.
 23 **Q And then would you turn to page 25 of that same**
 24 **testimony, your opening testimony.**
 25 A Okay.

1 for 23 years. And I guess my involvement as the pricing
 2 manager has been since 2010, so 13 years with Murrey's.
 3 **Q And in those 13 years, have you also been the**
 4 **pricing manager for Olympic Disposal?**
 5 A I guess as the manager, yes. We had other
 6 people focusing on Washington cases earlier in the time.
 7 But yes, I'm familiar.
 8 And are you qualifying it to Olympic Disposal
 9 or to Olympic?
 10 (Overlapping speech)
 11 **Q (By Attorney Roberson) At the request of your**
 12 **counsel, yes, let's qualify it to Olympic Disposal.**
 13 A Okay. So this is the largest incident -- the
 14 claim that is at issue in this case is the largest claim
 15 that Olympic Disposal has had in the 13 years' experience
 16 I've had with the company.
 17 **Q Do you know what the next biggest accident**
 18 **Olympic Disposal -- next biggest claim has been?**
 19 A I think that -- well, it's been about a
 20 million. It was 968, somewhere in that range.
 21 But I think the point of our testimony, of
 22 Mr. Terzik's in particular, is that we are operating a
 23 fleet of heavy equipment, and that companies that operate
 24 fleets of heavy equipment put themselves at risk for
 25 incidents of this size and this magnitude. Do they

1 **Q Line 16 through 18, the direct quote is, it is**
 2 **unlikely -- it being Murrey's -- it is unlikely to**
 3 **experience a claim of this size in the next five years.**
 4 **Did I read that correctly?**
 5 A You did.
 6 **Q And you're recommending amortizing the**
 7 **insurance claim over five years, correct?**
 8 A We used that time period as a reasonable proxy
 9 initially at the advice of staff, yes.
 10 **Q And a shorter amortization period increases the**
 11 **revenue requirement, correct?**
 12 A A shorter amortization period would increase
 13 the revenue requirement, yes.
 14 **Q So --**
 15 A But in my mind, we are doing that in -- you
 16 know, as compromise and advice of staff, original advice
 17 of staff, you know, recovering it over a longer period of
 18 time than our typical rate cycle.
 19 **Q So would, then, Murrey's be amenable to a**
 20 **longer cycle that reflects the actual frequency of these**
 21 **events, something like ten or more years?**
 22 A In my testimony, I responded to the ten year
 23 suggestion, which I think was in Mr. Sharbono -- one of
 24 his alternate scenarios.
 25 I think that ten years is -- it's half a

Page 132

1 generation. It's quite a long way out. It's a long ways
 2 out.
 3 And when you divide it into, you know, ten
 4 years, the incremental -- I think when we went with five,
 5 we were balancing the impact on the customer along with
 6 recovery of rates.
 7 And by the time you go from five to ten, where
 8 yes, it's going to lower the revenue requirement, but at
 9 that point it becomes less impactful for the customer,
 10 and we thought that was a reasonable balance.
 11 **Q Okay. Switching gears again, I'd like to talk**
 12 **about severance. Would you please turn to page 30 of**
 13 **your opening testimony.**
 14 A The opening testimony?
 15 **Q Indeed, JW-1T.**
 16 A Page 30. Okay. I'm on page 30.
 17 **Q And that's your discussion of severance,**
 18 **correct?**
 19 A Yes.
 20 **Q On lines 12 through 14, you describe severance**
 21 **pay as a tool to avoid litigation, correct?**
 22 A I do. That's one reason for severance.
 23 **Q And you note that it plays that role, quote,**
 24 **even when there's no culpability on the part of the**
 25 **company. Did I read that correctly?**

Page 133

1 A That's what the words say.
 2 **Q Does it fulfill that role when there is**
 3 **culpability on the part of the company?**
 4 A Well, we're small. There is no culpability for
 5 me to admit here or anything. But I guess presumably, it
 6 would be a barrier for an employee.
 7 **Q Hypothetically, it could be used to cut off**
 8 **Olympic Disposal's liability for tortious conduct,**
 9 **correct?**
 10 A Hypothetically, yes.
 11 **Q And in the next line, I think it's 14 through**
 12 **18, you talk about awards of attorney fees, correct?**
 13 A Hold on one second. A little bit. That if an
 14 employee retains a single dollar of award, yes. The
 15 context there is there's some culpability, but it's very
 16 small culpability, and then all of a sudden all the legal
 17 fees come pouring in.
 18 **Q But I guess there would be culpability,**
 19 **correct?**
 20 **A litigant could not win a judgment without a**
 21 **finding of fault on the part of the company, right?**
 22 A Presumably.
 23 **Q Okay. I'd like to turn to your rebuttal**
 24 **testimony, which is JW-25CT.**
 25 A Okay.

Page 134

1 **Q And page 25. Line 9 on page 25 through line 2**
 2 **on page 26. Is it fair to say that there you testify**
 3 **that generally staff should not be reviewing general**
 4 **cases of severance payments?**
 5 A One thing I guess I want to say here is
 6 culpability is not an issue here with our insurance or
 7 even the severance thing. But anyway, let me see.
 8 Could you repeat the question, Mr. Roberson?
 9 **Q Well, let's look specifically at lines 9**
 10 **through 11 on page 25. The question is should staff**
 11 **review severance payments. Your answer is no, correct?**
 12 A Yes. Correct.
 13 **Q So do you view Murrey's as required to justify**
 14 **individual severance payments?**
 15 A I believe my testimony goes on to say that a
 16 frequent occurrence of severance payments, where there's
 17 multiple ones or very large ones, may require some staff
 18 intervention and some additional investigation.
 19 I do not think that was the case in the Olympic
 20 example. These were relatively small payments.
 21 **Q So absent a certain frequency of severance**
 22 **payments, staff should just ignore the expenditure?**
 23 A I think "ignore" might be strong, but accept
 24 that severance is a normal cost of business that is
 25 engaged with in many, many, many organizations, both

Page 135

1 governmental and nongovernmental.
 2 And yes, so I guess I'd just say it that way:
 3 That modest amounts in, you know, relatively infrequent
 4 periods are normal business expenses.
 5 **Q Okay. And then at the bottom of page 25, I**
 6 **think it's the last two sentences and then spilling on to**
 7 **page 26, you offer the opinion that staff should**
 8 **basically confine itself to reviewing the procedures used**
 9 **in paying severance, correct?**
 10 A Yes. I'm -- I guess I'm saying if they're
 11 modest and infrequent, that -- that -- yes, it's fair for
 12 staff to ask if employment counsel and human resources
 13 were involved and move on.
 14 **Q Okay. Previously we talked about the keeping**
 15 **of minutes. And your answer was that Murrey's did not**
 16 **routinely keep minutes, correct?**
 17 A Correct.
 18 **Q Would it keep minutes about something like the**
 19 **payments of severance?**
 20 A Not necessarily. I'm not personally involved
 21 with severance meetings and discussions.
 22 **Q Okay. Do you know if Murrey's Olympic Disposal**
 23 **produced any minutes when Mr. Sharbono asked for them**
 24 **with regard to these severance payments?**
 25 A I'm fairly certain we did not produce minutes,

Page 136

1 and I do not think there are minutes for this meeting.
2 **Q Okay.**
3 A Going (inaudible) to this meeting.
4 **Q Okay. I think in those -- in that same area,**
5 **you described that Murrey's basically pays severance**
6 **based on what -- or Olympic Disposal pays severance based**
7 **on what it perceives to be the economic best interest of**
8 **the company; is that correct?**
9 A Correct.
10 **Q Does Murrey's Olympic Disposal -- does Olympic**
11 **Disposal have written procedures that guide that process?**
12 A Around severance payments, we have employment
13 counsel. We have human resources specialists. We have
14 written policies, I don't think we do, necessarily.
15 **Q Do you have set minimum and maximum amounts for**
16 **the payment of severance?**
17 A Not that I'm aware of.
18 **Q And other than minutes, does Murrey's produce**
19 **any kind of report that details the cost-benefit analysis**
20 **that it's performing when it decides to pay severance?**
21 A Not that I'm aware of.
22 **Q Paging back to page 24, so just a page earlier,**
23 **you talk about this payment of severance being correlated**
24 **to a reduction in employee turnover rates, correct?**
25 A I did.

Page 137

1 **Q And that measured the time between the end of**
2 **2022 and spring of 2024, correct?**
3 A Correct.
4 **Q Are you familiar with the phenomenon referred**
5 **to as the great resignation?**
6 A Familiar with the phenomenon, yes.
7 **Q And the end of the great resignation occurred**
8 **pretty much in the middle of that time period, correct?**
9 A You know, that's a big concept. Yes, it's
10 somewhat in that space, I think. Seems --
11 **Q So is it possible that -- sorry. Continue. I**
12 **didn't mean to cut you off.**
13 A You're saying it's possible that this
14 improvement in turnover is related to the great
15 resignation.
16 We -- you know, I think we beg to differ; that
17 a management team was necessary in that location, and we
18 saw -- you know, this turnover change was part of the
19 results of that.
20 **Q And I think this is the crux of the**
21 **disagreement between staff and the company, is what is**
22 **the basis for your belief that the turnover in management**
23 **is responsible. Like, is there any -- did you collect**
24 **any evidence that indicates the payment of severance here**
25 **reduced turnover?**

Page 138

1 A Did we collect evidence. I don't think there's
2 any evidence that we say -- you know, that we could say
3 we collected. But what we saw was as a result of various
4 changes that we made at the district, including a
5 management change, that turnover changed.
6 **Q Okay.**
7 A And I don't think we've entered it into
8 evidence. I have seen some employee surveys that were
9 very positive about the change.
10 **Q Okay. I'd like to switch gears again and talk**
11 **about benefits.**
12 **Page 27 of your rebuttal testimony, on line 3,**
13 **there's a clause here you say, Based on my understanding,**
14 **the preponderance of commission focus in this regard has**
15 **been on executive and managerial bonuses. Did I read**
16 **that correctly?**
17 A That's what the words say, yes.
18 **Q What did you rely on in forming that**
19 **understanding?**
20 A I think that understanding has -- I cannot
21 point to specific commission directives or communications
22 on that. It's the understanding that I've developed
23 through some communication over the years of what bonuses
24 were about.
25 And, you know, I think when a lot of -- we were

Page 139

1 looking at some of the bonus-related commission citations
2 that your folks provided in response to data requests.
3 These things went back 25, 30, 40 years. And going back
4 that far, 25, 30, 40 years, I think the preponderance of
5 incentive and bonus plans were more management, not these
6 frontline bonus plans. I think they've become more
7 prevalent since those rulings were largely made.
8 That's more of a -- I guess an accumulated
9 understanding that I've gotten over the years. I cannot
10 point to specific documents.
11 **Q Okay. Fair enough.**
12 **You used the term "preponderance." You don't**
13 **use the term "exclusive." So is it that you're**
14 **recognizing that commission does have orders dealing with**
15 **nonmanagerial, non-executive bonuses, or something else?**
16 A I'm not certain. So I left some space.
17 **Q That's prudent. Okay. Then we'll move on.**
18 **Rebuttal testimony at page 29, there you**
19 **discuss the problems with quantifying the benefits**
20 **provided by Murrey's incentive programs, correct?**
21 A Yes, the three main barriers.
22 **Q And on lines 10 and 11, you testified that**
23 **Olympic can't compare its performance before and after**
24 **implementation of the programs because they've been in**
25 **place for many years, correct?**

Page 140

1 A Programs of various sorts have been in place
 2 for many years. There has been some potential movement.
 3 To be honest, I have not analyzed the programs
 4 at Olympic and done a detailed when did one start, when
 5 did one stop, where we are, because it's been fairly
 6 fluid. We've had multiple management teams there over
 7 the time.
 8 But Waste Connections, including Olympic, has
 9 put forward incentive programs of various sorts, always
 10 within the themes that are in this rate case; always
 11 within those themes, safety bonuses and customer service
 12 bonuses, collection-type bonuses. The specifics of the
 13 programs have changed slightly over the years. So
 14 finding measurement points is difficult.
 15 **Q Two follow-up questions. The first is did**
 16 **Murrey's ever, way back when, at the dawn of these**
 17 **programs, did it study their effectiveness?**
 18 **Did it look for data about their benefits?**
 19 A I don't think -- I am not aware of any before
 20 and after results that Waste Connections has, per se, on
 21 a particular program.
 22 And when I have researched this multiple times
 23 in the past, what I find is there's always some other
 24 thing that goes on, you know. Maybe the district
 25 automates at the same time we're implementing a program.

Page 141

1 So the automation itself creates productivity improvement
 2 of some sort, and you can't isolate the benefit of a
 3 particular program.
 4 Mr. Gingrich talks extensively about his own
 5 personal observations of what he's seen in terms of the
 6 way people act and react and so forth on the ground with
 7 the drivers.
 8 My struggle with staff here has always been the
 9 ability to document. And we can't document because of
 10 the lack of the before and after because a program begins
 11 and ends. It's difficult to capture those points. It's
 12 difficult because there's variables that are also
 13 introduced. I just mentioned automation. And it's
 14 difficult because at a single district, a single
 15 location, it's difficult to manage the sample size and
 16 get statistically valid results. And I felt that's what
 17 staff was constantly asking for here.
 18 **Q I have a follow-up question --**
 19 A And why -- that's why we've introduced
 20 Dr. Scontrino's testimony, to help resolve the latter two
 21 of those barriers.
 22 **Q So jumping back, second follow-up question for**
 23 **that old question, you're suggesting that the programs**
 24 **are changing over time. Did you look at the before and**
 25 **after with changes, not necessarily from the beginning of**

Page 142

1 **the program, but just to see if modifications to the**
 2 **program provided any benefits?**
 3 ATTORNEY WILEY: Your Honor, could we -- the
 4 form of the question is so broad that I'm not sure he
 5 would, in his response -- can align with Mr. Roberson's
 6 chronology. If we can get a little more specificity or
 7 context on that timing, it would be helpful.
 8 JUDGE BONFRISCO: Okay. I'm going to sustain
 9 that objection.
 10 If you could, you know, kind of hone in
 11 specifically what you're asking the witness to address.
 12 ATTORNEY ROBERSON: Absolutely.
 13 **Q (By Attorney Roberson) So Mr. Wonderlick, I**
 14 **guess picking these incentive programs, you've testified**
 15 **that they're not static. They change over time, correct?**
 16 A To some extent, yes, they do change over time.
 17 **Q Has Murrey's considered just looking at whether**
 18 **or not changes to the program produce any tangible**
 19 **benefits?**
 20 A I believe Murrey's has, but we don't have good
 21 documentation of that.
 22 **Q Okay. Jumping forward, you said you thought**
 23 **staff was looking for statistically valid data. Did**
 24 **Mr. Sharbono ever use the words "statistically valid?"**
 25 A To my knowledge, I guess I do not see those

Page 143

1 words in print.
 2 What I see is prove benefit to ratepayers, or
 3 something similar to that. Management has failed to
 4 prove benefit to ratepayers. And when I say -- when I
 5 read "prove," my inclination is to provide irrefutable
 6 evidence, you know. And that's why we went to
 7 Dr. Scontrino.
 8 **Q Last topic, I'd like to talk about the stranded**
 9 **asset, which you discuss at the end of page 35 and on**
 10 **page 36 of your rebuttal testimony.**
 11 A Okay.
 12 **Q And the stranded asset is an abandoned project,**
 13 **correct?**
 14 A It is a -- yes, currently it's an abandoned
 15 project. The company operates under generally accepted
 16 accounting principles, and we did write off the asset.
 17 **Q And on page 36, around line 6, you testified**
 18 **that, quote, community environmental and cost concerns,**
 19 **end quote, led to the abandonment of the project,**
 20 **correct?**
 21 A Yes.
 22 **Q What were those concerns?**
 23 A Well, I suspect you have not been personally
 24 involved with trying to site a transfer station in
 25 somebody's neighborhood in recent history. It's a

Page 144

1 difficult thing. You know, the neighbors don't usually
 2 -- we're not the most popular people in town, you know,
 3 most of the time when we say we're going to put up a
 4 transfer station. So there was some neighborhood
 5 opposition that came up that way.

6 **Q And that squared with what I thought.**
 7 **I guess my questions were more on the**
 8 **environmental and cost concerns. What were those?**

9 A I would say that I'm not really the expert on
 10 all the details of that. I'm more on the accounting
 11 side. So I cannot speak directly to the environmental
 12 concerns.

13 **Q Okay. A little bit later down, lines 11 to 14,**
 14 **you testified that the company hopes to resuscitate the**
 15 **project at a later date, correct?**

16 A Correct.

17 **Q Is it Murrey's belief that the kind of**
 18 **community environmental and cost concerns that led to the**
 19 **abandonment of the project will have ameliorated in the**
 20 **future?**

21 A Again, I am more the accounting person on this
 22 one, rather than all of the political and ecology related
 23 things.

24 I would say that there are always uphill
 25 battles with these projects, but at different times and

Page 145

1 different places, there are, you know, shifts, either
 2 politically or economically, that can make these things
 3 work in different times and different circumstances.

4 **Q Okay. But you don't know the basis for**
 5 **Murrey's belief that those concerns wouldn't be a barrier**
 6 **to the project at some future date?**

7 A Not -- you know, the future is the future. At
 8 the moment, you know, neighbors are always neighbors.
 9 They're going to be that way. So something would have to
 10 change before we would resuscitate the project.

11 **Q Okay. Last question: Is the risk that a**
 12 **venture might not pan out part of ordinary business risk?**

13 A It often is, but we work under a regulated rate
 14 structure. So, you know, there's -- if we were
 15 completely unregulated, we'd have other options available
 16 to us.

17 **Q So that was a yes, a yes but?**

18 A Yes but.

19 ATTORNEY ROBERSON: I have no further
 20 questions. Thank you for your time.

21 THE WITNESS: Thank you.

22 ATTORNEY WILEY: Your Honor?

23 JUDGE BONFRISCO: Yes, Mr. Wiley?

24 ATTORNEY WILEY: Sorry. Your Honor, did you
 25 want to take your break now, and do you want it to be a

Page 146

1 five- or ten-minute break, or what?

2 ATTORNEY SYKES: Your Honor, I've got about
 3 five minutes of cross for this witness.

4 JUDGE BONFRISCO: Oh, you do. Let's proceed
 5 with public counsel's cross. And then if it works for
 6 the parties, we can take a break after that, like a
 7 ten-minute break. Does that work?

8 ATTORNEY SYKES: Works for me.

9 ATTORNEY WILEY: Excuse me, Mr. Sykes. I
 10 thought your office had said it wasn't going to
 11 participate. Am I wrong on that, that you were always
 12 intending to --

13 ATTORNEY SYKES: We did not --

14 ATTORNEY WILEY: -- questions --

15 ATTORNEY SYKES: -- submit any direct
 16 testimony, but we reserved the right to ask
 17 cross-examination questions should the need arise.

18 ATTORNEY WILEY: Okay. Fair enough, then.

19 JUDGE BONFRISCO: Okay. And then, you know,
 20 if -- so go ahead, public counsel, if you could please
 21 proceed.

22

23 CROSS-EXAMINATION
 24 BY ATTORNEY SYKES:
 25 **Q Good afternoon Mr. Wonderlick.**

Page 147

1 A Good afternoon.

2 **Q My name is Rob Sykes. I'm here for the public**
 3 **counsel of the Washington Attorney General's Office.**
 4 **I've only got a few minutes of questions for you.**
 5 **You were shown page 18, line 15 of your direct**
 6 **testimony.**

7 A This is the 1T?

8 **Q 1T, correct?**

9 A Okay. And page 18.

10 **Q Page 18, line 15.**

11 A Okay. And you say line 16?

12 **Q Line 15.**

13 A Okay.

14 **Q There you describe insurance claims as a**
 15 **recurring risk in the transportation industry; is that**
 16 **right?**

17 A Yes.

18 **Q Okay. And that an insurance claim can arise**
 19 **from employment issues or accidents; is that correct?**

20 A Yes.

21 **Q All right. Do you believe Murrey's and its**
 22 **operating entities is a safe company?**

23 A I do.

24 **Q Okay. And it strives to operate safely; is**
 25 **that right?**

Page 148

1 A Absolutely.

2 **Q Okay. Despite that, accidents happen in the**

3 **transportation industry; is that right?**

4 A Yes, correct.

5 **Q Do you know if Murrey's and its operating**

6 **entities have internal safety procedures for its**

7 **operators?**

8 A Absolutely. Mark Gingrich is the better

9 witness on this. I'm just an accounting guy.

10 But safety 24/7, required reading, tailgates.

11 When we buy companies, we spend quite a bit of

12 money to get -- almost every time to get the other

13 company's trucks up to spec with all the high vis, the

14 lights.

15 We've got driver cameras on every driver that's

16 constantly recording their activities. We've got G-force

17 monitors on most of the trucks now that monitor if it's

18 taking a turn too fast or puts the brakes on too hard.

19 We counsel employees after every incident.

20 It goes on and on. Safety is all over the

21 place here.

22 **Q Now, an accident can happen even if employees**

23 **are following internal safety guidelines?**

24 A Can happen.

25 **Q But in fact, they can also happen if those**

Page 149

1 **safety guidelines are violated; is that correct?**

2 A Yes.

3 **Q Okay. And a victim of a safety violation could**

4 **be a customer of Murrey's; do you agree?**

5 A Could be.

6 **Q Okay. Now, if I'm not mistaken, the large**

7 **insurance claim at issue in this case was mediated to a**

8 **settlement. Is that your understanding?**

9 A Yes.

10 **Q Okay. It didn't have to be that way. It could**

11 **have gone to a jury; is that right?**

12 A It's speculation. I presume so.

13 **Q All right. So if it could have gone to a jury,**

14 **you could have had a judgment against you?**

15 A I presume so. I do know there was no citation.

16 **Q Okay. Do investors --**

17 A I think counsel also responded here that guilt

18 is not -- you know, the absence of a criminal or civil

19 citation does not impact staff's position. I know you're

20 coming from the consumer advocacy side, but staff has

21 responded in that way.

22 **Q Understood.**

23 **Do investors consider business risks to be part**

24 **-- or when choosing to invest in a company?**

25 A Say again? What's the question?

Page 150

1 **Q I'll ask it a different way. Do investors**

2 **consider litigation risk when choosing to invest in a**

3 **company?**

4 ATTORNEY WILEY: Object to the form, your

5 Honor. It's overbroad.

6 Investors? What kind of investors? Are we

7 talking Wall Street, bond underwriters? Let's --

8 ATTORNEY SYKES: I think the question is

9 clear, your Honor.

10 JUDGE BONFRISCO: I'm going to overrule that

11 objection.

12 If you could please answer that,

13 Mr. Wonderlick.

14 THE WITNESS: I don't know what investors

15 incorporate into their decision making.

16 I guess me personally as an investor, rarely

17 do I look at a company's litigation history. Perhaps if

18 it's huge litigation.

19 **Q (By Attorney Sykes) Would an investor consider**

20 **a company's overall business risk when choosing to**

21 **invest, or a company's overall business risk when**

22 **choosing to invest?**

23 A Ask again. I'm sorry.

24 **Q Would an investor consider a company's overall**

25 **business risk when choosing to invest?**

Page 151

1 ATTORNEY WILEY: Objection. Hearsay, your

2 Honor.

3 Again, he's asking about the intent of the

4 mind of an investor. I don't know why we're going down

5 here. Mr. Wonderlick has attested what he would do as an

6 investor, but how is he supposed to speculate as to

7 intentions and goals of investors?

8 JUDGE BONFRISCO: Objection sustained.

9 If you could reframe your line of

10 questioning, Mr. Sykes.

11 **Q (By Mr. Sykes) Tell you what. I'll ask a**

12 **different question here.**

13 **Mr. Wonderlick, would you agree that paying a**

14 **settlement or a judgment, that is a risk to investors?**

15 A I don't know if I would agree to that, that

16 paying a settlement is a risk to investors. I don't know

17 if I would agree to that.

18 **Q How about this: Would you agree that passing a**

19 **settlement on to ratepayers inures to the benefit of the**

20 **investor?**

21 A I think that what we're doing here is managing

22 claims to the best of our abilities with the information

23 we have, and that in this case, the -- and the company's

24 position here is that we are trying to manage costs the

25 best we can and lowering them as much as we can, and both

Page 152

1 investors and shareholders benefit from that.
 2 **Q Okay. So that wasn't quite my question. I**
 3 **appreciate the answer.**
 4 **Do you agree that passing on an insurance**
 5 **deductible or a settlement to a ratepayer inures**
 6 **primarily to the shareholder?**
 7 ATTORNEY WILEY: Object to the form of the
 8 question again, your Honor.
 9 If insurance is an expense that is allowed as
 10 a day-to-day item for a regulated company, I don't know
 11 why this concept of passing on a liability is related to
 12 that overhead expense.
 13 THE WITNESS: I think the cost of doing
 14 business is just like fuel is, really.
 15 (Overlapping speech)
 16 JUDGE BONFRISCO: Mr. Sykes, what were you
 17 going to say?
 18 ATTORNEY SYKES: Your Honor, this goes to the
 19 very core of this issue in the case as to how we're
 20 characterizing a deductible.
 21 JUDGE BONFRISCO: I'm going to allow you to
 22 proceed with your line of questioning.
 23 **Q (By Attorney Sykes) This is my last question.**
 24 **Do you agree -- because I haven't gotten an**
 25 **answer yet, do you agree that passing the deductible on**

Page 153

1 **to ratepayers inures primarily to the investor?**
 2 A I struggle with this. It is just wrong. This
 3 is a cost of doing business that should be an operating
 4 cost of the business.
 5 JUDGE BONFRISCO: And Mr. Sykes, if you could
 6 maybe, just for the record -- you know, I was allowing
 7 the questioning to try to get to the heart of the issue.
 8 But I don't think -- you know, maybe one last time to try
 9 to reframe this. But beyond that, just so it's clear for
 10 the witness, what -- where you're drawing this direct
 11 correlation.
 12 **Q (By Attorney Sykes) Okay. I will ask it maybe**
 13 **a more direct way.**
 14 **Does the ratepayer receive a direct benefit**
 15 **for paying for a company's tort?**
 16 A We're not talking about a tort.
 17 **Q I'm asking about a tort.**
 18 JUDGE BONFRISCO: I'm going to allow the
 19 question. I'm going to allow it.
 20 THE WITNESS: So if there was a tort, your
 21 question is hypothetically, there's a tort?
 22 (Overlapping speech)
 23 **Q (By Attorney Sykes) -- this tort.**
 24 A I think I'm going to stay with staff's opinion
 25 that the liability is a cost to the -- I agree with staff

Page 154

1 that the guilt is not an issue here. It's an operating
 2 cost of the company.
 3 **Q All right. So that still wasn't my question.**
 4 **Does the ratepayer benefit for paying for the**
 5 **company's tort?**
 6 A So if the ratepayer -- if it's passed through
 7 to a ratepayer, the ratepayer will pay more.
 8 So if the shareholder pays -- I don't know.
 9 You've got me all confused now.
 10 The simple math -- you're asking a simple math
 11 question. If it's something -- if something's passed to
 12 the ratepayer, then the shareholder will pay less. But
 13 you're -- the logic here is just wrong.
 14 ATTORNEY SYKES: All right. Okay. I have no
 15 further questions for this witness, your Honor.
 16 JUDGE BONFRISCO: Okay. Thank you,
 17 Mr. Sykes.
 18 And thank you, Mr. Wonderlick. You may --
 19 well, let me ask: Does counsel have any redirect of --
 20 Mr. Wiley?
 21 ATTORNEY WILEY: Yes, your Honor. If we
 22 could take a break now for me to check my notes, I think
 23 it would be more efficient.
 24 JUDGE BONFRISCO: Staff, do you have any
 25 concerns with that?

Page 155

1 ATTORNEY ROBERSON: Staff has no objection.
 2 JUDGE BONFRISCO: Okay. So right now it's
 3 about 3:04 p.m. How about we come back at 3:15? Does
 4 that -- should give us enough time.
 5 And so records, if you could, you know, pause
 6 or stop.
 7 (Recess.)
 8 JUDGE BONFRISCO: Okay.
 9 ATTORNEY WILEY: Okay. Am I on, or am I not?
 10 Okay. Is Mr. Roberson here? Good.
 11 And Mr. Sykes is here, I assume?
 12 JUDGE BONFRISCO: Mr. Roberson, are you with
 13 us? Yes.
 14 And Mr. Sykes?
 15 ATTORNEY SYKES: Yes, your Honor.
 16 JUDGE BONFRISCO: Okay. Perfect. And I
 17 don't -- let me see -- unless you're on another screen.
 18 Oh, there you are. You are on another screen.
 19 Okay. We are good. If you would like to
 20 proceed with your rebut of this witness.
 21 ATTORNEY WILEY: Yes, your Honor, just a few
 22 redirect.
 23
 24
 25

Page 156

1 REDIRECT EXAMINATION
 2 BY ATTORNEY WILEY:
 3 **Q Mr. Wonderlick, you were asked initially by**
 4 **Mr. Roberson about your definition or understanding of**
 5 **abuse of discretion and what the staff of the commission**
 6 **could be looking at under that concept.**
 7 You testified that staff would be looking at --
 8 you know, could look at anything the company was doing
 9 that was illegal, unethical, and you added unsafe. Can
 10 you put some context on that response, please, in terms
 11 of distinguishing the duties of the commission in regard
 12 to what you believe their proper role is?
 13 A Well, I do think that the commission -- and I
 14 -- in my earlier comments, we have conversations about
 15 lots of things and we make adjustments about that.
 16 They have the right to the look at the ledgers.
 17 They have the right to talk to the transactions and that
 18 sort of thing.
 19 But I do think that when we are talking about
 20 things like insurance and making decisions about
 21 insurance programs and insurance policies, there is --
 22 you know, it's a complex world. And if you read Belinda
 23 Lopes' testimony, there's a lot going on there.
 24 And, you know, the decision about policy limits
 25 and sizes and deductibles and that sort of thing, that's

Page 157

1 the management discretion kind of thing that I think
 2 staff is advised to kind of stay away from because
 3 they're not running the company.
 4 **Q And in that regard, you don't question staff's**
 5 **right to inquire into the specifics of the cost of the**
 6 **policy and the choice of the policy and asking about**
 7 **that, do you?**
 8 A No objection to that, no.
 9 **Q And did your testimony address your opinion on**
 10 **whether you think, for instance, staff suggesting you**
 11 **need a lower deductible/higher premium insurance is**
 12 **something that is their primary role?**
 13 A I do not think it's staff's primary role, no.
 14 **Q You were also asked by Mr. Sykes about -- as I**
 15 **understand his question, about whether settlement of a**
 16 **claim, per se, in isolation, inures to the benefit of the**
 17 **shareholders. Is that the only beneficiary of a**
 18 **settlement of claim in your view and in your experience?**
 19 A Based on reflection, I was sort of taken aback
 20 by the question. But in reflection, you know, when
 21 you're settling a claim this sort, you're mitigating
 22 liability. You're mitigating risk. And that inures to
 23 the shareholders, and it also inures to the customers by
 24 limiting that potential liability.
 25 **Q Finally, we mentioned the -- Mr. Roberson asked**

Page 158

1 you about the 1.92 million dollar claim, and asked you to
 2 compare it to the history of claims for Olympic Disposal.
 3 And you testified that the more other recent
 4 one was about half, or 900,000. When you consider the
 5 testimony of Ms. Lopes and the data that's been submitted
 6 into the record, the industry data and other testimony,
 7 is \$1.92 million a modest or significant claim amount in
 8 today's environment?
 9 A It's still some money to me. But I'm afraid
 10 that it's a -- increasingly, this is going to be
 11 happening.
 12 **Q And in today's times with the reference to**
 13 **nuclear verdicts, runaway verdicts, claims against**
 14 **trucking companies that is in the literature that we've**
 15 **submitted, is \$1.92 million a large claim?**
 16 A I think we're going to be seeing much more.
 17 ATTORNEY WILEY: No further questions, your
 18 Honor.
 19 JUDGE BONFRISCO: Thank you, Mr. Wiley.
 20 And Mr. Wonderlick, you're excused. Thank
 21 you so much.
 22 Okay. I am showing that our next witness is
 23 Mark Gingrich. Hopefully, I pronounced your last name
 24 correctly. Mr. Gingrich, could you please turn on your
 25 camera and raise your right hand? I'm going to go ahead

Page 159

1 and swear you in.
 2 Do you swear or affirm the testimony you will
 3 give today will be the whole truth and nothing but the
 4 truth?
 5 THE WITNESS: I do, your Honor.
 6 JUDGE BONFRISCO: Are you muted? Yes. Okay.
 7 THE WITNESS: Can you hear me now?
 8 JUDGE BONFRISCO: Yes, it's weird. It's
 9 showing muted on the screen, but I can actually hear you.
 10 I think we're okay.
 11 Okay. Mr. Roberson.
 12 THE WITNESS: Yeah, I do --
 13 JUDGE BONFRISCO: Sorry. Go ahead,
 14 Mr. Gingrich. My apologies.
 15 THE WITNESS: I do, your Honor.
 16 JUDGE BONFRISCO: Okay. Mr. Roberson, if
 17 you'd like to proceed, it's your witness.
 18 ATTORNEY ROBERSON: Thank you.
 19
 20 MARK GINGRICH, witness herein, having been duly
 21 sworn on oath, testified as
 22 follows:
 23
 24
 25

Page 160

1 CROSS-EXAMINATION
 2 BY ATTORNEY ROBERSON
 3 **Q Good afternoon, Mr. Gingrich. How are you?**
 4 A Doing great. How are you?
 5 **Q Happy to be here, as are we all, I would**
 6 **imagine.**
 7 **Your opening testimony, page 3, at lines 11**
 8 **through 14, you describe the cost effectiveness of**
 9 **Murrey's incentive pay programs as, quote, clear, end**
 10 **quote, correct?**
 11 A The cost effectiveness of incentive pay is
 12 clear.
 13 **Q Did Murrey's perform any kind of**
 14 **company-specific study that would justify that statement?**
 15 A So this talked about the incentive pay kind of
 16 in a bucket with all five programs, I believe. So on an
 17 individual program basis, I could speak more
 18 specifically.
 19 But generally, my experience has been that
 20 these incentive programs, of which in this case I believe
 21 there are five, and they all are -- you know, target
 22 quite different benefits to the ratepayer. But yes, in
 23 my experience in this industry, the variety of roles that
 24 they have tend to be very cost effective.
 25 **Q And I understand that that's your opinion. I**

Page 161

1 **guess my question is, did you do any studies that would**
 2 **justify the statement?**
 3 A So I guess our studies would be, again,
 4 depending on which of the five programs we're discussing.
 5 So for instance, on the accounts receivable
 6 incentive program, where the more reduction of bad debt
 7 that would end up causing the ratepayers have to pay more
 8 cost, as well as the fact that that program incentivized
 9 us collecting dollars earlier in the process which ends
 10 up having less cost to the ratepayers because we're
 11 mailing out less bills, I would say internally that yes,
 12 I would say that I've seen in my internal data that
 13 there's a clear cost effectiveness to that program.
 14 But to answer your question more succinctly, we
 15 did not do formal studies in terms of the overall cost
 16 effectiveness of those programs per se.
 17 **Q When Mr. Sharbono asked for evidence of**
 18 **benefits, did you provide any of these internal**
 19 **studies?**
 20 ATTORNEY LUHRS: Objection. Mischaracterizes
 21 testimony.
 22 **Q (By Attorney Roberson) Mr. Sharbono asked --**
 23 JUDGE BONFRISCO: Oh, I -- go ahead,
 24 Mr. Roberson.
 25 ATTORNEY ROBERSON: Let me rephrase.

Page 162

1 **Q (By Attorney Roberson) When Mr. Sharbono asked**
 2 **for evidence of benefits of these programs, did you**
 3 **provide any data at all?**
 4 THE WITNESS: I believe we provided data in a
 5 few forms, including a little bit of before and after
 6 data for some new acquisitions, the Peninsula Sanitation
 7 company and the Waste Control companies with before and
 8 after statistics.
 9 And then we also had supplied some secret
 10 shopper scores as well.
 11 **Q Fair point.**
 12 **Did you provide anything specific to Olympic**
 13 **Disposal?**
 14 A I don't believe we provided anything specific
 15 to Olympic Disposal that I recall.
 16 **Q Okay. On page 4, it's the second full Q&A on**
 17 **the page, line 16 through (inaudible). You testified**
 18 **that whenever Waste Connections, Murrey's, whatever the**
 19 **parent company is, acquires a corporation, you see an**
 20 **improvement after about two years, correct?**
 21 A Yes, within a year or two, is how I've
 22 testified.
 23 **Q And that comes with a change in management,**
 24 **correct?**
 25 A Not always, no. My -- sometimes it is just our

Page 163

1 focus of empowerment. If employees -- our kind of
 2 philosophy is how we believe districts should be led.
 3 And current management sometimes changes their
 4 view and gets on board with some of those programs. And
 5 so it's not always a change of actual management.
 6 Sometimes the acquisition may be it's the same management
 7 as they were in a private company, but it's a change in
 8 philosophy.
 9 **Q So it's a change in culture at the very least?**
 10 A Yes.
 11 **Q Does it also involve a change in, kind of,**
 12 **business processes?**
 13 A Oh, most certainly, yes.
 14 **Q Okay. Do you have any evidence that**
 15 **demonstrates that a change in the pay structure plays any**
 16 **causal role in the metric improvement that you described?**
 17 A So could you be more specific in terms of a pay
 18 structure?
 19 For which of the individual incentive programs
 20 are you asking about?
 21 **Q For any of them, I guess.**
 22 A So the question was any of the programs with
 23 the pay and the structure. What is the benefit you're
 24 asking about? I'm sorry.
 25 **Q You described kind of a change in -- an**

1 improvement in metrics, correct?

2 A Yes.

3 Q So do you have any evidence that these
4 incentive programs, any of them at Olympic, played a
5 causal role in any kind of improvement of metrics?

6 A Well, for instance, I could speak to the
7 sign-on bonus, for instance. So the turnover rate at
8 Olympic during the test period, I believe, was north of
9 40 percent. It may have even approached 50 percent at
10 one point. The current turnover rate today is half of
11 that.

12 The sign-on bonus, from my experience, did help
13 us attract a much greater quantity and quality of
14 candidates, which allowed us to hire enough folks to help
15 stabilize the district, which a more stable district
16 leads to better internal culture and work flow and, you
17 know, kind of shared work with more folks, helps people
18 feel better about their jobs.

19 I believe, for instance, a sign-on bonus, you
20 could demonstrate a direct correlation of having that
21 attract a large quantity of candidates which allows us to
22 hire the most -- be most likely to hire the most
23 qualified and quality candidates has led to the improved
24 turnover today.

25 Q Were you on the call when Mr. Wonderlick was

1 Q I'm a little curious. You have the cost of the
2 program in a range. Is it that you're unable to quantify
3 the cost of the program?

4 I don't understand why there's a range.

5 A Sure. So the Tooty program is a secret shopper
6 program where the secret shoppers have kind of a list of
7 the types of things we should cover when someone signs up
8 for service or makes a change of service or has a service
9 issue. And those questions cover things like where
10 should you set the garbage to have it collected, what
11 goes in the recycle bin, what time should you have the
12 garbage out and other best practices so that the
13 ratepayer is most educated about how to participate in
14 the garbage program, which allows us to most efficiently
15 and effectively provide the service.

16 And so the reason there's the range is
17 depending on how well the secret -- the independent
18 third-party secret shopper scores the call, they get a
19 certain amount of points. So a customer service rep that
20 consistently does well, they may often get a higher bonus
21 than one who, you know, doesn't always hit all of the
22 points that allow for an educated consumer to participate
23 effectively in the garbage collection program.

24 And so that's why there's that range. An
25 individual rep who does better at, you know,

1 testifying?

2 A Yes.

3 Q Did you hear our discussion about the great
4 resignation?

5 A About -- oh, yes, I did hear that Q & A, yes.

6 Q So the test period basically spans the end of
7 the great resignation, correct, the middle to the end?

8 A I'll kind of defer to you on the timing of what
9 is known as the great resignation is. So I'm not going
10 to argue that you're incorrect on that point.

11 Q Is it possible that you're not seeing the
12 effect of benefit programs so much as just a societal
13 trend towards pure resignations?

14 ATTORNEY LUHRS: Objection. You're calling
15 for just a hypothetical.

16 ATTORNEY ROBERSON: Hypothetically, then.

17 JUDGE BONFRISCO: I'm going to sustain that
18 objection.

19 Mr. Roberson, if you could please reframe
20 that question.

21 Q (By Attorney Roberson) I think I can move on.
22 That's fine.

23 Page 7 of your testimony, you talk about the
24 Tooty training and incentive pay program, correct?

25 A Yes, at the top, yes.

1 communicating on the phone -- and it's not just a script.
2 It's also the soft skills of being a polite individual
3 and using -- you know, engaging well with the customer on
4 the phone.

5 So said succinctly, it's based on how well that
6 individual rep is scored from the independent third-party
7 secret shopper.

8 Q So the cost is 30 cents to \$1.25 per hour per
9 rep then, it's not just --

10 A So what that is is if some representative -- I
11 guess I'm going to do some math here on the fly, right?

12 So if some representative earned about \$2,000,
13 for instance, annually in Tooty bonuses, that equates to
14 about a dollar per hour effectively, whereas if someone
15 only earned about \$600 of annual Tooty bonuses from their
16 performance of the secret shopper, then that equates to
17 about \$.30 per hour.

18 So it's translating kind of these flat rate
19 incentive programs, which are black and white on the
20 piece of paper, that third party as independent says you
21 either, you know, covered what goes in the recycle bin or
22 you didn't, right? So someone that covers that
23 consistently would get a higher (inaudible) payment.

24 And that math is just translating that,
25 comparing that to what that is per hour to show that

1 it's, you know, we believe meaningful enough for the
2 representative to be motivated to always, you know,
3 provide the best service on the phone, both from a soft
4 scope component, but more importantly and just as
5 importantly from an education component so that the
6 ratepayer who participates in the collection allows us to
7 service them efficiently.

8 **Q Fair enough.**

9 **I guess what I'm really curious about is the**
10 **next sentence, where you say that the benefits of the**
11 **program outweigh the nominal cost of the program. I**
12 **guess what is the data on which you're basing that**
13 **cost-benefit analysis?**

14 A Yeah. I understand the question.

15 I guess my first thought on that would be a
16 little bit of common sense. I would believe in the sense
17 that with 16,000 residential customers, and you know,
18 continual people moving in and out, if we didn't
19 prioritize letting people know exactly when to have the
20 garbage out or where to collect it, and now we're driving
21 around and people --- you know, are -- we're less
22 efficient, right, if someone doesn't know to put out the
23 garbage, or we don't tell people what the extra fees are,
24 which is part of the Tooty program script. If you
25 overfill your can, here's how the fees cost. That's

1 many states, I believe qualitatively, without a doubt.
2 But I do agree we do not have a direct study.

3 **Q Okay. Earlier we talked the employee retention**
4 **program. You testify about it on page 9, correct?**
5 **Referral pay, not retention.**

6 A Is this the -- you said pay for referring
7 prospective employees?

8 **Q Yeah. On page 9 you testify about that,**
9 **correct?**

10 A Yes.

11 **Q There's two quotes from HR Morning in there,**
12 **correct, in that last Q&A on the page?**

13 A Correct, yes.

14 **Q Those question and answers are general,**
15 **correct, they're not specific to the company -- sorry,**
16 **the quotes?**

17 A Yes. The HR Morning study is not specific to
18 data from Olympic Disposal specific to referrals.

19 However, you know, our corporation, for which
20 we have many professional recruiters, you know, from the
21 field level to recruiting mid-managers to recruiting
22 managers to recruiting executives, all of them, in their
23 experience and in their, you know, recruiting world
24 strongly have seen across the country that our experience
25 is that referred candidates are retained longer. And we

1 builds also a way too.

2 So I think to me, the direct -- you know, the
3 benefits of this program outweigh the cost is that kind
4 of those economies of scale of having an educated
5 customer base is, I think, very -- helps us be efficient
6 with our service.

7 **Q Is it fair to say you're making a qualitative**
8 **cost-benefit analysis rather than a quantitative one?**

9 A I think that is fair.

10 And then I also wonder, okay, how would I -- I
11 don't know if I would want to measure, okay, let's have
12 half the calls answered where we don't tell people their
13 garbage day or where to put the garbage or what goes in
14 the recycle bin and the other calls we do, and let's see
15 what type of challenges or UTC complaints we face from
16 the customer we don't educate.

17 I'm proud of the fact that with our 16,000
18 residential customers, weekly service, that's 830,000
19 collections a year that we collect. And since 2021,
20 we've had only three UTC complaints, and all of them were
21 company (inaudible) our customer service reps had done an
22 effective job.

23 But to your point, that is more of a -- in my
24 own 22 years of experience as a customer service rep and
25 customer service manager and observing many locations in

1 really do stress those referrals. But this is not
2 specific data to Olympic Disposal.

3 **Q Does Olympic keep data on the number of**
4 **employees hired through the referral program versus**
5 **outside recruitment?**

6 A I don't have that information at the ready in
7 terms of what -- the current roster of 50 some employees,
8 who was a referred candidate and who did not.

9 **Q So is there any -- okay. Fair enough.**

10 **Page 11, there you talk about the safety**
11 **program, correct?**

12 A Yes, the Safety Culture Incentive Program.

13 **Q Lines 16 through 18, you admit that it's**
14 **difficult to quantify the benefits of such a program,**
15 **correct?**

16 A Yes. And the reason I would have said that is
17 because in this program, there's nearly 20 or so
18 different ways, you know, 20 or so different tasks that
19 employees can do that target our culture and our safety.
20 So it is hard to quantify, yes.

21 **Q Did you take any steps to study whether the**
22 **incentive programs were causally linked with better**
23 **performance safety-wise?**

24 A So I'd go back to my experience in working as
25 an operations manager, district manager, and in my

Page 172

1 current support roles that I've done over the last seven
 2 or so years in supporting, you know, districts across,
 3 you know, many western states, and that I have seen these
 4 sites that are newer to Waste Connections where they may
 5 have had just a strict and a black and white safety
 6 bonus, for instance, that is just like, hey, if we have
 7 incidents, there's a not a bonus.
 8 If there's an incident free -- there is, where
 9 when we have turned on a program like a safety culture
 10 incentive program, that really targets kind of the
 11 individual involvement in a variety of ways to help
 12 improve the safety culture as well as develop that
 13 individual with some of their communication skills,
 14 leadership skills, getting peers talking to peers is --
 15 you know, I can stand up in a safety meeting and share
 16 some things, but when a driver's peer steps up in a
 17 safety meeting and shares their views on risky stops or
 18 shares their views on how to back a truck safely, people
 19 tend to listen to that more.
 20 So similar to some of the other answers I've
 21 given on these programs, Olympic Disposal does not have a
 22 direct study to demonstrate specifically the actual
 23 impact of this.
 24 I know one of our folks that will be providing
 25 testimony or has provided testimony talks about the small

Page 173

1 sample size factor, right? So that's always going to be
 2 an issue when we're talking about an individual district,
 3 that small sample size.
 4 But I'll say my experience across a wide
 5 variety of roles with the company, both front line and my
 6 current role, as well as working a variety of geographies
 7 and working at union sites, nonunion sites, regulated
 8 sites, nonregulated sites, I've seen without a doubt that
 9 this type of program that really involves our frontline
 10 employees speaking up and getting involved in our safety
 11 culture undoubtedly provide a benefit to the ratepayer in
 12 the form of fewer -- less risk.
 13 But to answer the question succinctly, I do not
 14 have an Olympic Disposal study that would demonstrate
 15 that, no.
 16 **Q And earlier when we talked about Waste**
 17 **Connections' experience with acquiring other companies,**
 18 **you noted that there were cultural changes and process**
 19 **changes as well, right?**
 20 A Yes.
 21 **Q So when you're talking about safety**
 22 **improvements at these other companies, I guess the**
 23 **question is how do you know that it's the incentive**
 24 **program as opposed to one of those other things?**
 25 **They're all happening at the same time,**

Page 174

1 **correct?**
 2 A Yeah. I understand the question.
 3 I mean, in my mind, you know, running a garbage
 4 company is a complicated endeavor. Trucks, weather,
 5 routes, customers, employees, CDL drivers, there's lots
 6 and lots of variables. And there's a lot going on there.
 7 And so any one -- introducing any one change
 8 within that complex level of variables, I don't believe
 9 in and of itself is easily demonstrated of making a
 10 change on that whole complicated set of variables in
 11 there.
 12 You know, to me the great thing about Waste
 13 Connections is we, you know, emphasize 360 degrees of,
 14 you know, approach to help, you know, our leaders run a
 15 safe and efficient and -- you know, a company that they
 16 can be proud of and employees can be proud of and we can
 17 be proud of.
 18 So there's lots of variables with those changes
 19 and acquisitions; like you say, culture, business
 20 process. And these programs, I think are one of those,
 21 are the 360 degrees of items that we put in place to make
 22 it a great place and a safe place to work.
 23 **Q Last set of questions. Page 2, the first Q &**
 24 **A, the second sentence there, you opine that staff should**
 25 **evaluate, in the context of various things, these**

Page 175

1 **incentive programs, correct?**
 2 A Yes.
 3 **Q Isn't that what Mr. Sharbono tried to do?**
 4 **I mean, he was asking for the costs and the**
 5 **benefits. Isn't that an evaluation?**
 6 A That is an evaluation.
 7 However, I believe the evaluation request
 8 (inaudible) you know, demonstratable, you know, for this
 9 district and this small sample size, and, you know, a
 10 certain period of finite time, it's very challenging to
 11 have that precise of a direct correlation A to B
 12 statistically.
 13 However, in terms of staff evaluating, I
 14 believe, like, for instance, for the Tooty program I was
 15 discussing, I would hope, and I'm optimistic, that staff
 16 could have an evaluation in which they see our intent of
 17 these programs as well as seeing the overall cost of
 18 these programs in the context of what, you know, the
 19 other overall expenses are with running a business; that
 20 these are not windfall bonuses or incentives paid to
 21 folks, that they're just prioritizing key parts of our
 22 business where we want to drive results that do benefit
 23 the ratepayer.
 24 And so I just believe that the staff's
 25 evaluation is too, you know, precise black and white on

1 programs that, again, with those sample sizes and the
2 other complexities that I described in running a garbage
3 business, it may be a very challenging hurdle to meet
4 that style of evaluation where we would be happy to
5 engage with, you know, and do the -- the programs have
6 the ingredients of benefiting the ratepayers through the
7 incentives that the programs incentive.

8 **Q Following up on that, Mr. Sharbono worked with
9 you on ways to show the benefits of these programs,
10 correct?**

11 **He was brainstorming ideas with you?**

12 A From a statistical -- my recollection is
13 brainstorming from a statistical way in which I've
14 described that they are -- those are difficult to show
15 the direct correlation because of the many variables with
16 running a garbage business.

17 **Q Okay. The commission's an economic regulator,
18 correct?**

19 A Yes.

20 **Q Murrey's Olympic's customers effectively have
21 no alternative providers, correct?**

22 A That's correct.

23 **Q So the commission is making judgments about
24 what's appropriate to include in rates for people who
25 have no alternatives, correct?**

1 questioning, Mr. Roberson.

2 THE WITNESS: Okay. The question, please?

3 JUDGE BONFRISCO: Yes.

4 **Q (By Attorney Roberson) What level of
5 objectivity should the commission, as an economic
6 regulator, require in terms of the evidence for costs
7 included in the revenue requirement?**

8 A That's a difficult question. I think I would
9 answer that staff -- you know, we're -- and how we're
10 allowed to -- we set wages based on what we think wages
11 are in the market, you know.

12 We fix trucks. And we believe their trucks
13 need to be fixed, and we buy the parts that we believe
14 are appropriate for the truck.

15 I mentioned we hire the window washing
16 frequency that we feel is the right window washing
17 frequency.

18 And my opinion is that these types of incentive
19 programs to frontline employees that are, you know, in
20 the scope of things, not, you know, excessive in cost;
21 that those -- that the latitude to have a culture that's
22 a great place to work for our employees, have incentives
23 that employees can be proud to pursue and have engagement
24 with peers on programs, we believe that these programs
25 would be -- we'd have similar latitude in running our

1 A I am not the individual that is typically in
2 the weeds with staff on, you know, the various expenses.

3 And so, like, I'm not sure, for instance, if
4 you know, if we had window cleaning twice a year versus
5 once a year, which there's I believe a benefit to have,
6 you know, your offers workers not be looking at a bunch
7 of gunk on the windows, and if staff were to, you know,
8 ask us to prove the benefit of twice a year window
9 washing as compared to once a year window washing, I'm
10 not sure, you know, how that would be staff discretion or
11 not.

12 But I do understand staff's role in the process
13 and protecting the consumer, certainly.

14 **Q I guess my question is what level of
15 objectivity do you think the commission should require in
16 order to include a cost in their rates?**

17 ATTORNEY LUHRS: Objection to the extent that
18 you're seeking some sort of legal basis or -- if you're
19 asking the witness to comment on the scope of the staff's
20 inquiry, I think that's inappropriate, your Honor.

21 ATTORNEY ROBERSON: He's opened the door to
22 it. He testifies about what staff should be doing in
23 terms of an evaluation.

24 JUDGE BONFRISCO: I'm going to overrule the
25 objection and allow you to proceed with your line of

1 business just the way that we're allowed to choose our
2 window washing frequently or what parts we should buy for
3 trucks.

4 **Q I thought I was done, but that raises, I guess,
5 a follow-up question.**

6 **So you say excessive. Excessive in terms of
7 just the dollar amounts at issue, or --**

8 A I said I do not believe these were excessive in
9 terms of the dollar amount, correct.

10 **Q So then do you believe that staff should be
11 evaluating costs on a sliding scale with more scrutiny
12 for objectively what is a more excessive cost?**

13 A I don't know the answer to that question.

14 As Mr. Wonderlick, I believe, just -- staff has
15 access to all of our invoices and ledgers and things like
16 that. And so I don't know the answer to that question.

17 ATTORNEY ROBERSON: Fair enough. I have no
18 further questions. Thank you for your time.

19 JUDGE BONFRISCO: Thank you, Mr. Roberson.

20 THE WITNESS: Thank you.

21 JUDGE BONFRISCO: Mr. Gingrich, just hold
22 tight.

23 I want to check. Do we have any
24 redirect? Mr. Luhrs?

25 ATTORNEY LUHRS: I anticipate limited

<p style="text-align: right;">Page 180</p> <p>1 redirect. And I'd appreciate the opportunity to just 2 take a couple notes to just make it as efficient as 3 possible. 4 JUDGE BONFRISCO: Okay. Perfect. 5 When you are ready, you can proceed with the 6 witness. 7 ATTORNEY LUHRS: Okay. 8 JUDGE BONFRISCO: Thank you. 9 ATTORNEY LUHRS: Your Honor, to clarify, is 10 Mr. Sykes going to ask any cross before I perform the 11 redirect? 12 JUDGE BONFRISCO: I'm not aware of that. 13 But Mr. Sykes, if you could let us know 14 whether you were planning on providing any cross of 15 Mr. Gingrich? 16 ATTORNEY SYKES: I have no cross for this 17 witness. 18 JUDGE BONFRISCO: Okay. Perfect. Thank you. 19 ATTORNEY LUHRS: Okay. I'm going to take a 20 couple minutes and then proceed with my questions. Thank 21 you. 22 (Pause in proceedings) 23 JUDGE BONFRISCO: Okay. Thank you for your 24 patience, Mr. Gingrich. 25 So Mr. Luhrs, are we ready?</p>	<p style="text-align: right;">Page 182</p> <p>1 the Murrey's -- actually, the Murrey's in Fife company 2 for several years, and then was promoted to operations 3 manager of that district and then ultimately assistant 4 manager of that district, and then ultimately assistant 5 district manager of that district, district manager of 6 that district; and then relocated to Alaska, where I was 7 a division vice president for a dozen or 13 locations in 8 Alaska. I was there for about 2.5 years. 9 And then I moved to Bend, Oregon for about two 10 years, where I supported a large number of districts 11 across five western states that had different garbage 12 companies. 13 And then just over two years, I moved back here 14 to Washington state where I support 17 locations in what 15 we call our Rainier Division as division vice president. 16 Q And so roughly how many years is that -- I'm 17 asking you to repeat yourself, so for that I apologize. 18 But about how many years of management experience do you 19 have? 20 A I'd guess maybe (inaudible) 18, 19 years. I'd 21 have to look, more than that, maybe. 22 Q That's fine. 23 Has the amount of compensation, the rate that 24 folks earn on the front lines, has that changed over that 25 period?</p>
<p style="text-align: right;">Page 181</p> <p>1 ATTORNEY LUHRS: I think we are, your Honor. 2 Thank you. 3 JUDGE BONFRISCO: Okay. Thank you. Please 4 proceed. 5 6 REDIRECT EXAMINATION 7 BY ATTORNEY LUHRS: 8 Q Mr. Gingrich, I'm going to ask you some 9 questions. It's called redirect examination. And I 10 might bounce around a little bit, so forgive me for that. 11 You testified that you have been in the 12 industry for -- and correct me if you've actually been 13 something different -- for about 22 years; is that right? 14 A Correct. 15 Q And you mentioned some of your experience in 16 customer service and other aspects. Could you just 17 provide just a brief summary of those 22 years? 18 A Sure. I started as a customer service temp 22 19 years ago and then became a customer service manager; 20 ultimately got my CDL, and did an operations supervisor 21 job, dispatch job. 22 Went to Iowa for a little bit as an operations 23 manager. 24 I came back to Washington, into Washington 25 state as -- I was the administrative office manager for</p>	<p style="text-align: right;">Page 183</p> <p>1 A Yes. 2 Q And in which direction has it trended? 3 A Upward. 4 Q Okay. And have incentive programs changed over 5 that period of time as well? 6 A The incentive programs that I've seen have 7 crossed a variety of garbage companies throughout the 8 western units. Maybe some of the details within the 9 incentive programs often change, depending on the 10 priorities that we're looking to improve in an individual 11 district. 12 And as I've seen new companies become part of 13 Waste Connections family of companies, you know, we've 14 added those programs as part of our, you know, 15 ingredients to make them a safe and a great place to 16 work. So they have certainly evolved and become a lot 17 more commonplace, yes. 18 Q And are there more just incentive programs 19 broadly now than, say, 20, 18 years ago? 20 A Certainly, yes. 21 Q Okay. And do the employees that you hire, 22 (inaudible) do they expect more incentives than they did 23 18 years ago? 24 ATTORNEY ROBERSON: Objection. This is 25 beyond the scope of my cross.</p>

23 (Pages 180 to 183)

1 ATTORNEY LUHRS: Well, you did ask about
2 incentive programs. And I'm trying to get a flavor for
3 their reasonableness. That's the crux of a lot of
4 Mr. Gingrich's testimony.

5 JUDGE BONFRISCO: Thank you for stating, each
6 of you, thank you for stating your concerns.

7 I am going to overrule that objection and
8 allow the questioning to continue.

9 THE WITNESS: Could you please re-ask the
10 question?

11 **Q (By Attorney Luhrs) I'm happy to.**
12 **Do employees expect nowadays for the company to**
13 **have incentive programs?**

14 A I think what I would say about nowadays is it's
15 a much more challenging, competitive, and difficult
16 environment in which to hire the type of candidates that
17 we need to run our garbage companies.

18 CDL drivers are more difficult to find; diesel
19 mechanics, certainly diesel mechanics that want to
20 operate underneath garbage trucks that are kind of
21 stinky, et cetera.

22 And so I think there's a more challenging labor
23 pool to pull from, from which the type of skilled folks
24 we need to run our business.

25 And so the fact that incentive programs we see

1 A I would -- I believe I have the breadth of
2 experience, not just from a calendar standpoint of years
3 of experience, but also having been fortunate enough to
4 work in a variety of different roles and industry from an
5 entry level customer service representative to where I'm
6 fortunate to be in a role today as a division vice
7 president, and also having had the opportunity to work
8 and support districts across varied geographies as well
9 as districts, as I mentioned earlier, that are both
10 union, nonunion, regulated, nonregulated.

11 So I feel that I've without a doubt seen the,
12 you know, bulk of these programs deliver and then the
13 benefits of them, yeah.

14 **Q And you spoke to referral bonuses, sign-on --**
15 **excuse me; incentives, sign-on and referral incentives,**
16 **correct?**

17 A Yes.

18 **Q And are you familiar with any data, any metric**
19 **-- maybe they weren't called a study -- but any data that**
20 **speaks to their effectiveness?**

21 A Well, as I mentioned earlier in our Olympic
22 Disposal specifically, I know our turnover rate today is
23 about half of what it was a couple years ago.

24 **Q Okay. And over that period of time, these**
25 **incentive programs were in place, correct?**

1 are a key ingredient to retain those folks. It does help
2 with attracting those folks. And then once folks come on
3 board and engage with that program, you know, certainly
4 they do come to expect, you know, programs like that.

5 And so I think for us, it's been -- we've seen
6 the results these programs bring, which is why we've
7 introduced them.

8 But they also play a role in helping us attract
9 and obtain talent in this challenging environment, at
10 least for our industry and the types of skills and
11 individuals that we need.

12 **Q Thank you.**
13 **And Mr. Roberson asked you about the**
14 **performance of studies to evaluate some of these**
15 **incentives. Do you recall that?**

16 A Yes.

17 **Q And I believe your testimony was something to**
18 **the effect that, you know, you don't know, quote/unquote,**
19 **studies are performed, but you were able to offer**
20 **commentary because of your experience; is that a fair**
21 **characterization?**

22 A Correct, yes.

23 **Q Okay. And so you are in a position to provide**
24 **commentary on the effectiveness of those incentives just**
25 **given your role; is that right?**

1 A Correct.

2 **Q Which incentive programs were in place over**
3 **that time period?**

4 A I would say specifically the sign-on bonus was
5 a key component of that in terms of attracting quantity
6 of applications for positions, which allows our recruiter
7 to really find a quality skilled candidate for that
8 position.

9 The referral bonus also, you know, kind of has
10 two ways in which that, you know, benefits filling those
11 open spots. One is we're more, you know -- it's -- our
12 employees are doing the on-the-ground recruiting for us.

13 And two, the data that our recruiting managers
14 from -- as I mentioned earlier, kind of from the
15 frontline recruiters all the way up to executive
16 recruiters, they all, you know, feel very strongly, based
17 on acts and data that they've seen, that referred
18 candidates tend to have much better retention rates than
19 nonreferred candidates.

20 **Q Okay. And outside recruitment companies cost**
21 **money, correct?**

22 A Yes.

23 **Q And whereas the referral from an internal**
24 **employee does not cost the company money; is that right?**

25 A Outside of the referral incentive pay to the

Page 188

1 employee who made the referral, yes.
 2 **Q Of course. Of course. And thank you for that**
 3 **clarification.**
 4 **You were asked by Mr. Roberson about the**
 5 **article you cited, I believe an HR Morning article. Do**
 6 **you recall that testimony?**
 7 A Yes.
 8 **Q And you explained that it does not study**
 9 **Olympic, correct?**
 10 A Correct.
 11 **Q Do you believe that some of the contents apply**
 12 **to Olympic that were cited or explained, discussed in**
 13 **that article?**
 14 A 100 percent, yes.
 15 **Q Okay. And what are some of those concepts?**
 16 **I think we just discussed them, correct?**
 17 A Yes.
 18 **Q Okay. Things like referrals?**
 19 A Yes, primarily the double benefit of the
 20 referral bonus, which is you have more resources engaged
 21 in trying to find candidates, and statistically referred
 22 candidates tend to have better retention.
 23 I guess a third nugget I would add in there is
 24 that when an employee refers someone to our company, that
 25 referred candidates is going to get the actual straight

Page 189

1 true story of what the job is; whereas the recruiter, you
 2 know, explaining to a person on the phone what driving a
 3 garbage truck is like in Clallam and Jefferson County,
 4 Washington, whereas a referred candidate hears directly
 5 from a driver who's doing that job and helps them make
 6 the decision if that's going to be a good career choice
 7 for them or not, which I suspect is one of the many
 8 reasons why a referred candidate does better than those
 9 that just reply to an Indeed.com ad or something.
 10 **Q Understood.**
 11 **And finally, you offered testimony when**
 12 **responding to a question from Mr. Roberson about the**
 13 **Tooty program; do you recall that?**
 14 A I do recall being asked, or at least speaking
 15 to Tooty a couple times. But I'm not sure which Tooty
 16 feature you're referring to.
 17 **Q Sure. Sure. So I'm referring to the secret**
 18 **shopper element of Tooty.**
 19 A Okay.
 20 **Q And that is an evaluation of customer**
 21 **experience; is that fair?**
 22 A Evaluation of customer experience from how
 23 they're generally treated by the representative, but then
 24 also the customer experience in that they're getting, you
 25 know, the proper information which will allow them to,

Page 190

1 you know, be educated participants in the garbage
 2 collection system.
 3 JUDGE LUHRS: Okay. Thanks. I don't have
 4 anything further. Thanks for your time.
 5 JUDGE BONFRISCO: Thank you, Mr. Luhrs.
 6 And thank you, Mr. Gingrich.
 7 And the bench does not have any questions.
 8 So I just want to do a quick time check.
 9 We're at about 4:08 p.m. I think we can proceed with
 10 Branko Terzic. But beyond that, I'm not sure. He might
 11 be our last witness, depending on how much time that
 12 takes today. But I just want to check in with
 13 Mr. Roberson and Mr. Luhrs on that.
 14 ATTORNEY ROBERSON: Actually, my colleague,
 15 Mr. O'Brien will be handling the cross of the last two
 16 witnesses.
 17 JUDGE BONFRISCO: Oh, he will. Thank you.
 18 So Mr. O'Brien, do you think we'll be able to
 19 get to both Ms. Lopes and Branko Terzic today, or do you
 20 think, you know, really, kind of as I'm foreseeing, just
 21 Branko only and then redirect?
 22 ATTORNEY O'BRIEN: I would say it's certainly
 23 possible we can get to both today. But I think it is
 24 more likely that we only get to Branko Terzic today.
 25 JUDGE BONFRISCO: Okay. So at this point,

Page 191

1 Mr. Terzic, if you could turn on your camera --
 2 ATTORNEY WILEY: Your Honor, I'm sorry to
 3 interrupt. Just because I have Ms. Lopes standing by,
 4 can we dismiss her for the day and move her to tomorrow
 5 morning, or do you want her to hold? It's kind of up to
 6 you.
 7 JUDGE BONFRISCO: I know Mr. O'Brien and
 8 Mr. Roberson indicated about 20 minutes; is that correct,
 9 for questioning Mr. Terzic?
 10 ATTORNEY O'BRIEN: Yeah, about 20 minutes or
 11 maybe a little bit less, your Honor.
 12 JUDGE BONFRISCO: Honestly, if we can keep
 13 the redirect short, we could probably fit her in today.
 14 But let's see. Let's proceed and see how far we get at
 15 this point.
 16 ATTORNEY WILEY: Okay. I see Ms. Lopes on
 17 the screen. So if she can be patient with us.
 18 I'm sorry, Ms. Lopes. I'll let you know --
 19 JUDGE BONFRISCO: If it is easier, Mr. Wiley,
 20 just to have her -- I know we want to start tomorrow with
 21 Mr. Scontrino because he's got limited time.
 22 So if it's easier for Mrs. Lopes that you
 23 prefer to excuse her, I don't see a problem with that. I
 24 know we're getting tight on time.
 25 MS. LOPES: I don't mind holding. I'm fine.

Page 192

1 If that works out. Yeah, I don't mind.
 2 JUDGE BONFRISCO: Okay. Thank you,
 3 Ms. Lopes.
 4 MS. LOPES: Absolutely.
 5 JUDGE BONFRISCO: All right. So Mr. Terzic,
 6 if you could just raise your right hand, I'm going to
 7 swear you in. Do you swear or affirm the testimony will
 8 be the truth, the whole truth, and nothing but the truth?
 9 THE WITNESS: Yes, I do.
 10 And this is Bron-ko Terzic, thank you.
 11 JUDGE BONFRISCO: Bron-ko. My apologies. I
 12 was worried I'd mispronounce it.
 13 THE WITNESS: That's quite all right.
 14 JUDGE BONFRISCO: Thank you Branko.
 15 Mr. O'Brien, the witness is yours. Please
 16 proceed.
 17
 18 BRANKO TERZIC, witness herein, having been duly
 19 sworn on oath, testified as follows:
 20
 21 CROSS-EXAMINATION
 22 BY ATTORNEY O'BRIEN:
 23 **Q All right. Good afternoon, Mr. Terzic. I've**
 24 **got just a couple of questions for you.**
 25 **So in your testimony, on page 13 of your direct**

Page 193

1 **testimony, 1T, you say that severance is a way to provide**
 2 **certainly as to cost of timing of the resolution of labor**
 3 **disputes and to cordon off and cap liability. Is that a**
 4 **correct recitation of that -- of your testimony, page --**
 5 A Which lines are you referring to, counsel?
 6 **Q I'm looking at line 7. Sorry. On line 7.**
 7 A That's correct.
 8 **Q All right. So my question is should ratepayers**
 9 **be responsible for a company's employment torts or**
 10 **claims?**
 11 A I'm not an attorney. So I don't know the legal
 12 responsibility or what you're referring to.
 13 Generally, the severance, I consider that part
 14 of overall labor cost of the company. And just like any
 15 other, it's part of the overall labor cost, direct
 16 salaries and severance.
 17 Severance can occur for a variety of reasons,
 18 including downsizing, lack of -- employee lack of skills,
 19 other things that would not necessarily lead to
 20 litigation. And so I think it is part of a total labor
 21 compensation.
 22 The regulators look at the total labor
 23 compensation from year to year and company to company,
 24 and that is their check.
 25 **Q Mr. Terzic, in your direct testimony, do you**

Page 194

1 **offer any reasons for severance other than resolution of**
 2 **labor disputes?**
 3 A I did not cover that, but in my experience as a
 4 CEO of a utility, there are other reasons for severance
 5 as well.
 6 **Q And do you offer any other reasons in your**
 7 **rebuttal testimony for severance?**
 8 A I don't believe so.
 9 **Q And do you agree with some of the other reasons**
 10 **that the company has proffered that severance could be**
 11 **useful for ethical treatment of employees or increasing**
 12 **productivity or morale?**
 13 A I believe that was the testimony, but I don't
 14 have independent assessment of this particular company
 15 and their particular rationale. If that was their
 16 testimony, so it was.
 17 **Q I'm asking if in your experience, do you**
 18 **support those rationales as rationales for severance?**
 19 A Would you repeat those again?
 20 **Q That would be the ensuring ethical treatment of**
 21 **employees and increasing productivity and morale of**
 22 **employees?**
 23 A It could be one of the outcomes of severance
 24 payments, yes.
 25 **Q But would you consider it a primary reason for**

Page 195

1 **severance?**
 2 A Every severance case is going to be unique
 3 based on the facts and circumstances. So I don't know.
 4 In some cases it may be the primary reason it was done;
 5 in other cases, other reasons for severance.
 6 **Q And just circling back a little bit again, in**
 7 **instances where employees are -- have -- are given**
 8 **severance or are paid severance due to potential**
 9 **liability claims, would you say that a ratepayer would be**
 10 **or should be responsible for a tort claim or an**
 11 **employment claim from a ratemaking perspective?**
 12 **Would you say a ratepayer should be responsible**
 13 **for those sorts of claims?**
 14 A Yes. I believe I've testified that severance
 15 is reasonable within the cost of service, yes.
 16 **Q I'm not talking about severance at this point.**
 17 **I'm talking about if an employment claim or a tort claim**
 18 **were to go to a judgment and a company were ruled**
 19 **against, would you say that that is a reasonable cost of**
 20 **business that a ratepayer should pay?**
 21 A Let me make sure I understand your
 22 hypothetical. There is a case that goes to a court and a
 23 court makes a decision?
 24 **Q Yes.**
 25 A The commission could look at that decision and

Page 196

1 make its determination whether it needed to do anything
 2 or nothing.
 3 **Q But that would be on a case-by-case basis,**
 4 **then?**
 5 A Absolutely.
 6 **Q All right. I'm going to move on a bit.**
 7 **On page 13 of your direct testimony, you state**
 8 **that severance -- and I'm looking at line 18 in**
 9 **particular -- you state that severance is a known and**
 10 **measurable cost, correct?**
 11 **(Overlapping speech)**
 12 ATTORNEY WILEY: Objection, your Honor.
 13 THE WITNESS: Which page, please?
 14 ATTORNEY WILEY: Form of the question.
 15 JUDGE BONFRISCO: I'm sorry. Mr. Wiley,
 16 please clarify the basis of your objection.
 17 ATTORNEY WILEY: Yes. The question -- the
 18 testimony that I'm seeing doesn't say severance per se.
 19 It says severance normalization. Am I looking at the
 20 wrong line?
 21 THE WITNESS: That's where I'm having a
 22 problem.
 23 JUDGE BONFRISCO: Mr. O'Brien, if you could
 24 please clarify specifically where in the record you were
 25 cross referencing?

Page 197

1 ATTORNEY O'BRIEN: Mr. Wiley is correct. The
 2 exact line is severance normalization is known and
 3 measurable.
 4 JUDGE BONFRISCO: Okay. Let the record
 5 reflect that's the correct wording in the testimony.
 6 If you would like to proceed with your
 7 questioning, Mr. O'Brien, and maybe restate that for the
 8 witness?
 9 **Q (By O'Brien) So the question was severance --**
 10 **you state in your testimony that severance normalization**
 11 **is a known and measurable expense, correct?**
 12 A Yes. Once the severance has been established,
 13 the normalization would be known and measurable.
 14 **Q So severance itself, however, would be a**
 15 **variable expense based on the employee -- on the**
 16 **individual employee's case, typically, yes?**
 17 A Case by case, yes.
 18 **Q And in that instance, you would typically, for**
 19 **a -- pardon. For a commission to determine whether a**
 20 **severance payment was in need of normalization, they**
 21 **would probably look to policies and procedures that the**
 22 **company had in place, yes?**
 23 A The regulator would look at the regulator's own
 24 practice. And the company would apply, maybe for
 25 normalization, maybe not, and the regulator would then

Page 198

1 have to approve the normalization before it could occur.
 2 **Q And in looking at whether normalization was**
 3 **appropriate, though, the regulator would likely look**
 4 **towards the incidences of severance that have occurred**
 5 **for the company in the past, as well as the company's**
 6 **practices and procedures that it has delineated for how**
 7 **severance should be paid, yes?**
 8 A It would look at a variety of factors,
 9 including the size of the severance, the frequency of
 10 occurrence and other things.
 11 But you may have a situation where you never
 12 before had severance, at which point the regulator would
 13 be looking ahead as to how to handle it, whether it could
 14 be included completely in the test year, whether it could
 15 be amortized, over what period it would be amortized.
 16 That would be the regulatory lead followed by the
 17 company.
 18 **Q And if the company had only one or two**
 19 **severance payments in the past, and had no policies or**
 20 **procedures or documentation for how it pays severance in**
 21 **the future, would you say that that becomes a very**
 22 **difficult cost to become known and measurable for**
 23 **normalization?**
 24 A Well, no, because if you have severance in a
 25 test year, you know what that number is. And the only

Page 199

1 thing you can amortize is a number that you know.
 2 So you apply for a rate case. You have a
 3 revenue requirement. You have a severance amount that
 4 you want to collect, either totally in rates in the total
 5 ratemaking, or you'll want to amortize it over the period
 6 of time. And that will depend upon what the commission's
 7 practices are.
 8 Probably the size of the severance, whether --
 9 the recurrence is less of a problem because amortization
 10 has a limited number of years. So if you amortize over
 11 three years, that fourth year is no longer included in
 12 the calculation; and therefore, it goes away. Every
 13 three, five years, the commission has -- generally in
 14 these cases, will have a rate case and they'll reset the
 15 clock.
 16 **Q But in your testimony, you're not talking**
 17 **necessarily about amortization, but normalization?**
 18 A It's the same thing. It's a distinction
 19 without a difference.
 20 Normalization generally re-- talks about
 21 recurring, where you have an unusual test year, and that
 22 -- an unusual year, and you normalize the test year for
 23 average weather, average conditions, likely things. So
 24 the normalization and the amortization are similar.
 25 Amortization has a fixed time period.

1 Normalization necessarily does not.
 2 But because companies are in regularly for rate
 3 cases, even normalization ends up having a fixed time
 4 period. Doesn't go on forever.
 5 **Q Would you, in evaluating a utility coming in**
 6 **for amortization normalization, have greater concern if**
 7 **the amortized amount -- or if the company did not have an**
 8 **order in the final order requiring them to come back in**
 9 **within the amortization period or at the end of the**
 10 **amortization period to remove those amortized rates?**
 11 A No, I wouldn't have a concern, because the
 12 commission can bring in a company at any time it wants.
 13 It can bring in a company one year after a rate
 14 case if it believes it's overearning. The customers can
 15 petition to have a rate proceeding. Large industrial
 16 customers do that.
 17 So I don't think that's -- to me, that's not a
 18 concern that -- and plus the regulators at the end of
 19 every year are obligated to look at the reported
 20 earnings, the reported expenses, and staff, I believe, is
 21 obligated to tell the commissioners, Hey, this utility is
 22 overearning and we ought to take a look at them. That
 23 doesn't mean they'll bring them in for a rate case; for
 24 example, they may be overearning because of unusually
 25 beneficial weather under normalized rates. Next year

1 **insurance premium issue, was it not?**
 2 A Yes.
 3 **Q And you weren't propounded any questions by the**
 4 **staff in this cross-examination of that testimony, were**
 5 **you?**
 6 A No.
 7 ATTORNEY WILEY: No further questions, your
 8 Honor.
 9 JUDGE BONFRISCO: Okay. Thank you,
 10 Mr. Wiley.
 11 I want to thank you, Mr. Terzic. And just
 12 before I let you go, I just want to confirm, I don't
 13 believe public counsel has any questions. Public
 14 counsel, if you could just confirm that?
 15 ATTORNEY SYKES: Yes, I have no questions.
 16 JUDGE BONFRISCO: Okay. Perfect. Thank you.
 17 THE WITNESS: Thank you, your Honor.
 18 JUDGE BONFRISCO: Appreciate your time.
 19 Thank you. And with that -- sorry, Mr. Wiley?
 20 ATTORNEY WILEY: I was thanking the witness,
 21 your Honor. Sorry.
 22 JUDGE BONFRISCO: Oh, okay.
 23 So Ms. Lopes, I want to thank you for being
 24 patient. So Ms. Lopes will be our last witness for
 25 today. So Ms. Lopes, thank you for turning on your

1 will not be as good as this year.
 2 And I've had this happen to me, where we've had
 3 a particularly bad year and went to the staff and they
 4 said you had a really bad year, but under normalized
 5 rates, next year will be average weather and you'll be
 6 fine, so don't come in for a rate increase.
 7 Same thing would happen if we were overearning.
 8 The staff would look at us. I'd tell the staff, Look,
 9 I'm overearning because it's particularly beneficial
 10 weather. In my case it was a gas company. But if next
 11 year is a normal year, the rates you've approved should
 12 not allow me to overearn.
 13 ATTORNEY O'BRIEN: All right. Thank you,
 14 Mr. Terzic.
 15 I'm done with my questions, your Honor.
 16 JUDGE BONFRISCO: Thank you, Mr. O'Brien.
 17 Any redirect for Mr. Terzic?
 18 ATTORNEY WILEY: Yes, just briefly, your
 19 Honor.
 20
 21 REDIRECT EXAMINATION
 22 BY ATTORNEY WILEY:
 23 **Q Mr. Terzic, in looking at your rebuttal and**
 24 **opening testimony, I would say that about 90 percent of**
 25 **that testimony was directed to the insurance deductible**

1 screen. If you could just raise your right hand, I will
 2 swear you in.
 3 Do you swear or affirm the testimony you give
 4 today is the truth, the whole truth, and nothing but the
 5 truth?
 6 THE WITNESS: Yes, your Honor.
 7 JUDGE BONFRISCO: Perfect. Thank you.
 8 Mr. O'Brien, if you'd like to proceed with
 9 the witness.
 10 ATTORNEY O'BRIEN: Thank you, your Honor.
 11
 12 BELINDA LOPES, witness herein, having been duly
 13 sworn on oath, testified as follows:
 14
 15 CROSS-EXAMINATION
 16 BY ATTORNEY O'BRIEN:
 17 **Q Just to make sure I'm pronouncing your name**
 18 **right, is it Ms. Lopes?**
 19 A Yes.
 20 **Q All right. Thank you.**
 21 A You're welcome.
 22 **Q So Ms. Lopes, you talked quite a bit about --**
 23 **in your testimony, you talked quite a bit about how**
 24 **Murrey's arrived at its current insurance plan. Can you**
 25 **tell me if you know how long has Murrey's had its current**

Page 204

1 **deductible limit?**
 2 A Since 2000- --
 3 ATTORNEY O'BRIEN: I'll try very hard to stay
 4 away from confidential testimony, but if we drift into
 5 that...
 6 JUDGE BONFRISCO: Well, real quick on that,
 7 Mr. O'Brien, I know early on I was anticipating potential
 8 on Mr. Wonderlick's testimony. But so far we haven't
 9 kind of treaded in that category.
 10 If we do need to do a breakout room, though,
 11 I definitely want you to let me know so we can proceed
 12 accordingly.
 13 ATTORNEY O'BRIEN: I don't anticipate this
 14 going into anything confidential as long as we don't go
 15 into the specific numbers, which I don't see a need to.
 16 JUDGE BONFRISCO: Okay. Yes. So I
 17 anticipate probably tomorrow when we have Mr. Sharbono,
 18 correct? Okay. Perfect.
 19 ATTORNEY O'BRIEN: (Inaudible).
 20 JUDGE BONFRISCO: So go ahead and proceed,
 21 Mr. O'Brien.
 22 **Q (By Attorney O'Brien) So Ms. Lopes, without us**
 23 **talking about specific numbers, how long has Murrey's had**
 24 **its current deductible?**
 25 A Since August 1, 2019.

Page 205

1 **Q And has Murrey's ever hit its deductible limit**
 2 **under the current deductible?**
 3 A Current program? No.
 4 **Q And when Murrey's was arriving at this number,**
 5 **did they calculate what the likelihood is of reaching the**
 6 **maximum deductible?**
 7 A Yes.
 8 **Q And was that likely?**
 9 A Yes. Could be, yeah. Depends. It depends on
 10 a lot of different factors, but yes, they could.
 11 **Q And does Murrey's foresee that deductible limit**
 12 **increasing in the near future?**
 13 A Yes.
 14 **Q So under Murrey's current proposal, under the**
 15 **company's current proposal for how deductibles and**
 16 **premiums are allocated, 100 percent of premiums and**
 17 **deductibles will be attributable to the ratepayers,**
 18 **correct?**
 19 A That I don't know. I'm not involved in that
 20 process.
 21 **Q So under Murrey's -- assuming that is the case,**
 22 **what is Murrey's incentive for mitigating or even**
 23 **considering the risk of different insurance deductibles**
 24 **that it chooses?**
 25 A To keep the premiums in line. Right now the

Page 206

1 market is not well. And so in order to save through
 2 premium dollars, we then decide to take on risk.
 3 **Q Murrey's, the company -- currently ratepayers**
 4 **are paying all of the premiums for the company, so --**
 5 ATTORNEY WILEY: Objection. This witness's
 6 testimony is not related to ratepayer contributions.
 7 It's about insurance types, policies, and the market.
 8 JUDGE BONFRISCO: I'm going to sustain the
 9 objection.
 10 Mr. O'Brien, if you could reframe your line
 11 of questioning.
 12 ATTORNEY O'BRIEN: I can move on, your Honor.
 13 **Q (By Attorney O'Brien) So in your testimony,**
 14 **Ms. Lopes, you discuss the fact that your current**
 15 **insurance package, for lack of a better term, is bundled**
 16 **with some more lucrative types of insurance, Workers'**
 17 **Compensation, that sort of thing, and that your premiums**
 18 **are lower as a result.**
 19 **But you also state that under a monoline plan,**
 20 **you wouldn't get that benefit. What prevents the company**
 21 **from obtaining a high premium/low deductible insurance**
 22 **rate with the package benefits?**
 23 A What prevents them, or what -- your question is
 24 a little gray there. I'm sorry.
 25 **Q I understand. The testimony didn't go into why**

Page 207

1 **the package benefit is only available under the current**
 2 **insurance plan. Why is that the case?**
 3 A Well, again, it's all about the premiums. So
 4 you're going to look at the lines of coverage that are
 5 more difficult where the losses are occurring, not just
 6 for us, but throughout the market, which is auto.
 7 And some carriers will not take just the
 8 adverse risk. They also want the coverages that have
 9 better loss ratios that help offset some of the claims
 10 and expense. So the comp with the auto and the GL are
 11 generally packaged for this type of organization.
 12 **Q I guess my question, though, is why would you**
 13 **not be able to obtain that sort of packaged program for a**
 14 **different set of auto liability insurance?**
 15 **You haven't -- your insurance doesn't go into**
 16 **why that package program isn't available for other levels**
 17 **of deductible premium,**
 18 A Again, that does not -- it's not a clear
 19 question. It's not available to who? I don't understand
 20 what you're saying. I'm sorry.
 21 ATTORNEY WILEY: Your Honor, I would have
 22 difficulty with the framing of the question as well. I
 23 think it was compound, and it also didn't -- I didn't
 24 know to what it was referring in terms of the policy
 25 type.

Page 208

1 THE WITNESS: Yeah.
 2 JUDGE BONFRISCO: So Mr. O'Brien, you talked
 3 about a packaged program. Maybe for clarity for the
 4 witness, if you could kind of specify what alternative
 5 you're asking her to speak upon, you know, because you're
 6 kind of trying to couch it as a different package, and
 7 maybe clarify the specific components so it's clear for
 8 her.
 9 ATTORNEY O'BRIEN: Right.
 10 **Q (By Attorney O'Brien) Yes. So what I'm trying**
 11 **to get at is your insurance looks at -- your testimony;**
 12 **apologies. Your testimony looks at two scenarios.**
 13 **You've got your package deal with the high deductible and**
 14 **low premium. You've got a monoline insurance for just**
 15 **auto liability that has a high premium and low**
 16 **deductible.**
 17 **I'm asking about why -- I don't see the**
 18 **reasoning why you can't have the high deductible or the**
 19 **-- apologies. I don't see the reason why you can't have**
 20 **that lower deductible option packaged in with everything**
 21 **else the way that you currently have your high deductible**
 22 **insurance.**
 23 A It's all about the insurance market. So you
 24 have the adverse risk for this portfolio is the auto. So
 25 if I go to an insurance company, plenty of insurance

Page 209

1 companies will just take the Workers' Comp on a
 2 standalone basis. It's got great experience, it's easy
 3 to manage.
 4 The auto is a huge industry challenge right now
 5 because of the claims, the amount of verdicts that are
 6 being awarded, and the size of those verdicts. Many of
 7 those insurance companies will not do my auto on a
 8 standalone basis. They want the comp and the GL together
 9 to offset the expense should we have the loss.
 10 We can't charge enough premium to cover some of
 11 these losses that occur. So that's why we use different
 12 lines of coverage to help, you know, strategize and,
 13 again, keep premiums as low as we can.
 14 You can go monoline, but you may not find the
 15 same coverage, the premiums will be exorbitant, and
 16 again, most carriers will decline to offer you a quote.
 17 And that's for this size fleet. So I'm being specific to
 18 Olympic's fleet size is considered large in our industry.
 19 ATTORNEY O'BRIEN: All right, your Honor. I
 20 believe that that's all my questions, your Honor.
 21 JUDGE BONFRISCO: Thank you so much,
 22 Mr. O'Brien.
 23 Public counsel, before I move on for any
 24 redirect, just want to confirm whether or not you have
 25 any questions for Ms. Lopes?

Page 210

1 ATTORNEY SYKES: Yes, your Honor. I have two
 2 or three, if that's all right.
 3 JUDGE BONFRISCO: Okay. Go ahead and
 4 proceed.
 5 ATTORNEY SYKES: I'll turn my camera on.
 6
 7 CROSS-EXAMINATION
 8 BY ATTORNEY SYKES:
 9 **Q Good afternoon, Ms. Lopes. My name is Rob**
 10 **Sykes. I'm here with the attorney general's public**
 11 **counsel unit.**
 12 A Yes.
 13 **Q I've only got a few questions for you.**
 14 **If -- so in your experience, does the insured**
 15 **ever forego making a claim if their exposure is less than**
 16 **the amount of their deductible?**
 17 A Well, two things there. The policies require
 18 -- they have reporting requirements; whether it pierces
 19 my deductible or not, you are required to notify the
 20 insurance company of certain types of losses, and also,
 21 when they meet a certain financial threshold within that
 22 deductible.
 23 Anything that's really minor, they'll receive
 24 through a loss run. But they still want to see all of my
 25 losses ground up, first dollar, all the way up. I have

Page 211

1 to provide that to them.
 2 **Q If an insured makes a payment directly that is**
 3 **within the deductible amount, as opposed to seeking**
 4 **reimbursement, does that count against the deductible?**
 5 A If they make a payment -- it depends again.
 6 Are you talking about expenses or indemnity?
 7 **Q Either.**
 8 A Sometimes it does, sometimes it doesn't.
 9 So the current program we have for this year
 10 we're discussing, yes, any payments we made are applied
 11 toward a deductible. But it's a per occurrence
 12 deductible.
 13 ATTORNEY SYKES: Got it. That's all I have.
 14 THE WITNESS: But yeah, for the auto.
 15 ATTORNEY SYKES: Okay.
 16 THE WITNESS: It's aggregated for general
 17 liability. The auto, it's per occurrence.
 18 ATTORNEY SYKES: Got it. That's all I have.
 19 JUDGE BONFRISCO: Okay. Thank you so much,
 20 Mr. Sykes.
 21 THE WITNESS: Thank you.
 22 JUDGE BONFRISCO: Mr. Wiley, if you have any
 23 redirect.
 24 ATTORNEY WILEY: Yes. And while we've got
 25 Ms. Lopes here, there are a couple technical questions

Page 212

1 based on the cross that I'd like to ask her about.
 2
 3 **REDIRECT EXAMINATION**
 4 **BY ATTORNEY WILEY:**
 5 **Q Ms. Lopes, you paint a pretty dismal picture**
 6 **for the auto liability insurance market currently for**
 7 **trucking and solid waste companies. Could you**
 8 **characterize it, particularly looking forward?**
 9 **I mean, we have rate years which look one year**
 10 **into the future. What's the market looking like right**
 11 **now, and how optimistic should we be that being able to**
 12 **acquire policies is going to be land office business?**
 13 **A** Well, I hate to tell you it's going to continue
 14 to be dismal.
 15 The marketplace right now is very challenged.
 16 We are losing insurance companies that want to insure any
 17 heavy vehicle. It's no longer trucking. It's any heavy
 18 vehicle.
 19 The marketplace we just went through a renewal
 20 is telling us that they are considering \$100 verdicts a
 21 working layer; in better words, claims being paid out at
 22 that amount is now frequent. It's no longer infrequent.
 23 Through this renewal for Waste Connections we
 24 just went through, we were also told that we were no
 25 longer being delineated, our businesses, between

Page 213

1 transportation, trucking, and then just a business with a
 2 large fleet. They are throwing it all together because
 3 we're all having the same types of claims and are subject
 4 to the same plaintiff's bar that we're all working with
 5 these days. The legal climate is not good at all.
 6 Inflation is attacking many different facets of
 7 the claims management process. Capacity, meaning
 8 carriers who were giving us big limits, 5 million, 20
 9 million, 25 million, that's gone. If I can get 5 million
 10 from one insurance company for this fleet, I'm lucky.
 11 usually it's (inaudible) small little slivers.
 12 And so the entire process, the medical side of
 13 these claims, we all know the inflation with medical
 14 bills. So it is not getting any better.
 15 And we are now just having to be much more
 16 strategic, thoughtful, and creative in how we are
 17 consistently viewing our program design to be able to
 18 keep the insurance in place, which is a statutory
 19 requirement.
 20 **Q And does this dismal trend affect premiums and**
 21 **deductibles that you're seeing in the marketplace?**
 22 **A** Yes. The marketplace is now dictating to us
 23 what our deductibles will be. It's no longer us having
 24 the option to say I'm going to take more risk because I'm
 25 going to take the risk on myself versus paying a premium.

Page 214

1 And then we had a great year, you keep the premium, I
 2 lose. That's gone out the window.
 3 Right now the market is dictating where they
 4 will attach and how much they're going to give us.
 5 **Q Speaking of --**
 6 **A** So it's going to continue to be very difficult.
 7 **Q Sounds like it is.**
 8 **Speaking of the marketplace, Mr. O'Brien was**
 9 **trying to relate a premise of a monoline, low**
 10 **deductible/higher insurance premium for Olympic.**
 11 **Based on your testimony about what's going on**
 12 **in the marketplace, what sort of prospects would the**
 13 **company have to even find a low deductible/higher premium**
 14 **monoline product?**
 15 **A** You know, it's all subjective when you say low
 16 deductible. A million, two million, three million, we're
 17 still getting in those high seven-digit figures when
 18 we're looking for a deductible.
 19 But less than we have right now, it's pretty
 20 dismal. I'd say maybe less than 20 percent, 15 percent.
 21 It's just not available right now.
 22 **Q And when you said "right now," you meant the \$5**
 23 **million deductible that's at issue, correct?**
 24 **A** Yes. Yes, yes, sir.
 25 **Q Okay. And there was testimony earlier this**

Page 215

1 **afternoon about the size of the insurance claim that's in**
 2 **hot dispute in this case. And it was -- it's pretty much**
 3 **agreed that it was 1.92 million or thereabouts. And that**
 4 **was characterized as a large claim for Olympic.**
 5 **In the annals of your recent experience with**
 6 **verdicts and risks, is 1.92 million a large claim against**
 7 **a trucking transportation company?**
 8 **A** Not any longer. It's a large claim against a
 9 trucking company, but the market now, the loss -- the
 10 working layer, where they say they're having so many
 11 claims, I mean, the market is just telling us now they're
 12 consider up to 100 million a working layer with the
 13 verdicts when you decide to go to trial. They're just
 14 not good.
 15 **Q And we presented some cross-examination**
 16 **exhibits into the record in this case which talked about**
 17 **last year having an average \$30 million or so verdict.**
 18 **Is that the kind of range we're talking about?**
 19 **A** This year, it's gone up a little bit more.
 20 When we did this, we weren't quite through the renewal.
 21 Right now the average verdict we're hearing, 50
 22 million is just kind of an average number for a large
 23 loss.
 24 **Q 5-0 million, correct?**
 25 **A** Yes. 5-0. 50.

Page 216

1 ATTORNEY WILEY: Okay. Your Honor, I don't
 2 believe I have any more questions.
 3 And Ms. Lopes, thank you for your testimony.
 4 THE WITNESS: Thank you.
 5 JUDGE BONFRISCO: Thank you so much,
 6 Ms. Lopes. Appreciate all your time.
 7 THE WITNESS: Thank you as well. Have a good
 8 evening.
 9 JUDGE BONFRISCO: You too.
 10 I think at this juncture, based on prior
 11 communications, my understanding is we're going to start
 12 tomorrow with Mr. Scontrino; is that correct? Mr. Wiley?
 13 ATTORNEY WILEY: Yes, your Honor, that's
 14 correct. Dr. Scontrino is flying to Scotland tomorrow
 15 afternoon, so I think he wants to be at the start of the
 16 hearing, as far as I know.
 17 JUDGE BONFRISCO: And staff, do you have any
 18 objection at this point if we just go ahead and kick off
 19 with him first?
 20 ATTORNEY ROBERSON: None at all.
 21 JUDGE BONFRISCO: And then basically after
 22 that, I know we have Mr. Sharbono scheduled for cross.
 23 Mr. Wiley, do you anticipate the full three,
 24 or do you think it's going to actually go to the 3.5
 25 hours?

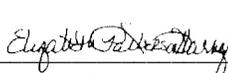
Page 217

1 ATTORNEY WILEY: I think we can -- I'm going
 2 to be optimistic and say I was being conservative, and I
 3 think it will be three max, I think, at the most.
 4 And by the way, your Honor, I've been
 5 pronouncing his name Shar-bono. Have I been
 6 mispronouncing that all along?
 7 JUDGE BONFRISCO: You're probably pronouncing
 8 it correct. I might be mispronouncing because I am newer
 9 to the utility.
 10 (Overlapping speech)
 11 ATTORNEY WILEY: Which is why I'm asking --
 12 ATTORNEY ROBERSON: No, you pronounced it
 13 correct, Judge.
 14 JUDGE BONFRISCO: Thank you. Perfect.
 15 ATTORNEY WILEY: I (inaudible) that.
 16 ATTORNEY ROBERSON: Shar-bo-neau. It's
 17 French.
 18 ATTORNEY WILEY: Okay.
 19 JUDGE BONFRISCO: Okay. So yes, Sharbono is
 20 the correct pronunciation on that.
 21 So with that, give us the 15 minutes gift of
 22 time, and we will start tomorrow morning at 9:30.
 23 Again, I will just ask, I know we didn't end
 24 up needing to break out into the confidential session
 25 today. But if you could please flag that for me once we

Page 218

1 get to Mr. Sharbono's testimony, I'd greatly appreciate
 2 that.
 3 ATTORNEY WILEY: Thank you. If I
 4 mispronounce tomorrow, correct me. I apologize.
 5 JUDGE BONFRISCO: All right.
 6 Thank you, everyone. We are now off the
 7 record. Appreciate your time.
 8 (Proceedings adjourned at 4:45 p.m.)
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Page 219

1 CERTIFICATE
 2 STATE OF WASHINGTON)
 3) ss
 4 COUNTY OF KING)
 5
 6 I, Elizabeth Patterson Harvey, a Certified
 7 Court Reporter and Registered Professional Reporter
 8 within and for the State of Washington, do hereby
 9 certify under penalty of perjury that the foregoing legal
 10 recordings were transcribed under my direction; that I
 11 received the electronic recording in the proprietary
 12 format; that I am not a relative or employee of any
 13 attorney or counsel employed by the parties hereto, nor
 14 financially interested in its outcome.
 15 IN WITNESS WHEREOF, I have hereunto set my
 16 hand this 16th day of September, 2024.
 17
 18
 19
 20
 21 
 22 Elizabeth Patterson Harvey, CCR 2731
 23
 24
 25



A				
AAG 97:7,9	acquisition 163:6	208:24	204:20 210:3	amounting 110:24
aback 157:19	acquisitions 162:6	advice 109:20,20	216:18	amounts 135:3
abandoned 143:12	174:19	121:13 131:9,16	Alaska 182:6,8	136:15 179:7
143:14	act 141:6	131:16	ALD 102:1,12	Amy 92:14 95:4
abandonment	action 112:14	advised 109:10	104:22	analysis 136:19
143:19 144:19	activities 148:16	157:2	alerted 98:25	168:13 169:8
aberrant 113:25	activity 115:18	advises 115:1	align 142:5	analyzed 140:3
abilities 151:22	acts 187:17	advisor 104:21	ALJ's 103:14	annals 215:5
ability 111:11	actual 126:22	advocacy 149:20	allocated 205:16	annual 110:25
141:9	131:20 163:5	affect 213:20	allow 97:22 114:17	111:4 128:14
able 96:19 185:19	172:22 188:25	affirm 117:18	152:21 153:18,19	167:15
190:18 207:13	ad 189:9	159:2 192:7 203:3	166:22 177:25	annually 112:14
212:11 213:17	adapt 115:13	affirmative 116:18	184:8 189:25	167:13
absence 149:18	add 188:23	affirmed 110:14	201:12	answer 120:22
absent 119:4	added 156:9 183:14	afforded 110:7	allowed 106:25	127:5 134:11
134:21	addition 115:17	afraid 158:9	113:14 116:3	135:15 150:12
Absolutely 120:3	additional 134:18	afternoon 96:25	152:9 164:14	152:3,25 161:14
125:24 142:12	address 97:19	97:6,12 101:16	178:10 179:1	173:13 178:9
148:1,8 192:4	98:14 99:25	118:7 146:25	allowing 111:15	179:13,16
196:5	142:11 157:9	147:1 160:3	153:6	answered 169:12
abundance 99:7	addressed 111:7	192:23 210:9	allows 111:3	answers 126:19
abuse 119:5,7,10	addressing 99:5	215:1 216:15	164:21 166:14	170:14 172:20
120:23 121:9	100:15,17 105:4	agencies 119:3	168:6 187:6	anticipate 179:25
156:5	114:15	aggregated 211:16	alternate 131:24	204:13,17 216:23
accept 134:23	adjourned 218:8	ago 109:1 181:19	alternative 176:21	anticipating 204:7
accepted 143:15	adjudicated 122:13	183:19,23 186:23	208:4	anybody 100:1
access 127:23	122:15	agree 149:4 151:13	alternatives 176:25	120:1
179:15	adjustment 113:14	151:15,17,18	ameliorated 144:19	anytime 124:4
accident 109:5	113:20,24	152:4,24,25	amenable 131:19	anyway 134:7
112:9 128:6,7	adjustments 111:7	153:25 170:2	amortization	apologies 98:22
129:17 130:8	114:4 122:6	194:9	130:17 131:10,12	159:14 192:11
148:22	156:15	agreed 215:3	199:9,17,24,25	208:12,19
accidents 112:20	administrative	agreeing 97:25	200:6,9,10	apologize 182:17
147:19 148:2	92:13 95:5 181:25	agreement 99:8	amortize 199:1,5	218:4
accounting 109:25	admission 97:19	100:2,7 102:3	199:10	appeals 116:10,12
112:21 113:20	admit 103:14 133:5	104:20 105:25	amortized 198:15	116:13,25
143:16 144:10,21	171:13	106:16	198:15 200:7,10	appearances 95:16
148:9	admitted 103:18	agreements 99:18	amortizing 130:21	96:17
accounts 161:5	104:4	99:21 100:21	131:6	appearing 102:11
accruals 114:12	admitting 100:16	101:23 102:9	amount 109:11	102:13
accumulated 139:8	103:24	agrees 124:9	158:7 166:19	appended 101:14
acquire 212:12	advance 98:1	ahead 98:23 107:10	179:9 182:23	applications 187:6
acquires 162:19	107:23	119:22 146:20	199:3 200:7 209:5	applied 211:10
acquiring 173:17	advantages 114:15	158:25 159:13	210:16 211:3	applies 121:14
	adverse 207:8	161:23 198:13	212:22	apply 188:11

197:24 199:2	asserting 112:20	160:2 161:20,22	214:21	basement 113:17
appreciate 103:21	assess 111:11	161:25 162:1	Avenue 93:12	basically 104:3
107:21 125:23	assessment 194:14	165:14,16,21	average 199:23,23	106:14 122:25
152:3 180:1	asset 143:9,12,16	177:17,21 178:4	201:5 215:17,21	124:12 135:8
202:18 216:6	assistant 182:3,4	179:17,25 180:7,9	215:22	136:5 165:6
218:1,7	assume 155:11	180:16,19 181:1,7	avoid 132:21	216:21
approach 174:14	assumed 110:5	183:24 184:1,11	avoidable 108:23	basing 168:12
approached 164:9	assuming 102:3	190:14,22 191:2	avoidance 114:10	basis 137:22 145:4
appropriate 109:21	205:21	191:10,16 192:22	award 133:14	160:17 177:18
109:24 114:10	attach 214:4	193:11 196:12,14	awarded 209:6	196:3,16 209:2,8
176:24 178:14	attached 113:3	196:17 197:1	awarding 112:16	battle 116:8
198:3	attacking 213:6	201:13,18,22	awards 133:12	battles 144:25
approve 198:1	attempted 108:24	202:7,15,20	aware 99:11 101:21	Bear 108:14
approved 201:11	attempting 123:1	203:10,16 204:3	104:2 112:12	beg 137:16
approximate 110:8	attention 99:1	204:13,19,22	116:7 136:17,21	beginning 141:25
approximately	103:22	206:5,12,13	140:19 180:12	begins 141:10
110:22 116:25	attested 151:5	207:21 208:9,10		behalf 97:14
arbitrary 112:19	attorney 93:5,11	209:19 210:1,5,8	B	109:24
113:25 116:7	94:8,9,9,11,11,13	210:10 211:13,15	B 94:17 175:11	belief 118:23
117:4	94:13,15,15,16	211:18,24 212:4	back 96:16 99:22	137:22 144:17
area 136:4	96:9,11,14,21,25	216:1,13,20 217:1	102:21 108:2	145:5
arguably 113:5	97:6,12 98:20,24	217:11,12,15,16	122:6 126:14	believe 97:16 98:21
argue 165:10	100:18 101:6,8,16	217:18 218:3	128:22 136:22	100:19 101:8
arises 101:3	101:22 102:11,22	219:13	139:3,3 140:16	102:7,8 105:14
arrived 203:24	103:1,9,11 104:9	attorneys 97:1	141:22 155:3	118:11 119:17,20
arriving 205:4	104:14,21 105:12	attract 164:13,21	171:24 172:18	119:24 120:4
article 188:5,5,13	105:17 107:19	185:8	181:24 182:13	122:23,24 124:15
articulation 115:15	108:5,11 118:6,13	attracting 185:2	195:6 200:8	134:15 142:20
artificial 109:25	118:15 119:19	187:5	background 98:9	147:21 156:12
ascertain 111:9	120:3,9,14,19,21	attributable 205:17	bad 161:6 201:3,4	160:16,20 162:4
asked 101:1 127:11	123:25 124:3	audit 110:4 122:8	balance 132:10	162:14 163:2
135:23 156:3	125:15,18,24,25	auditing 109:21	balancing 132:5	164:8,19 168:1,16
157:14,25 158:1	126:10,13 128:9	auditor 110:12	bar 213:4	170:1 174:8 175:7
161:17,22 162:1	128:20,22 129:11	112:18 113:15	bargain 113:17	175:14,24 177:5
185:13 188:4	133:12 142:3,12	auditors 127:23	barrier 133:6 145:5	178:12,13,24
189:14	142:13 145:19,22	August 105:5	barriers 139:21	179:8,10,14
asking 109:2	145:24 146:2,8,9	204:25	141:21	185:17 186:1
141:17 142:11	146:13,14,15,18	auto 207:6,10,14	base 115:6 169:5	188:5,11 194:8,13
151:3 153:17	146:24 147:3	208:15,24 209:4,7	based 102:21 105:8	195:14 200:20
154:10 157:6	150:4,8,19 151:1	211:14,17 212:6	105:11 115:1	202:13 209:20
163:20,24 175:4	152:7,18,23	automates 140:25	119:14 136:6,6	216:2
177:19 182:17	153:12,23 154:14	automation 141:1	138:13 157:19	believes 200:14
194:17 208:5,17	154:21 155:1,9,15	141:13	167:5 178:10	Belinda 94:14
217:11	155:21 156:2	available 145:15	187:16 195:3	111:19 156:22
aspects 181:16	158:17 159:18	207:1,16,19	197:15 212:1	203:12
			214:11 216:10	

Ben 101:24	148:11 162:5	204:6,16,20 206:8	broadly 183:19	candidates 164:14
bench 190:7	168:16 181:10,22	208:2 209:21	broker 111:19	164:21,23 170:25
Bend 182:9	191:11 195:6	210:3 211:19,22	Bron-ko 192:10,11	184:16 187:18,19
beneficial 114:25	196:6 203:22,23	216:5,9,17,21	brought 103:22	188:21,22,25
200:25 201:9	215:19	217:7,14,19 218:5	Brown 102:4	cap 193:3
beneficiary 157:17	black 167:19 172:5	bonus 123:13,13	BS-13 126:7,12,15	Capacity 213:7
benefit 114:11	175:25	139:5,6 164:7,12	BS-16X 109:8	capitalized 113:11
123:1 141:2 143:2	blocked 119:2	164:19 166:20	bucket 160:16	captioned 95:9
143:4 151:19	blow 111:1	172:6,7 187:4,9	building 126:1	capture 141:11
152:1 153:14	board 163:4 185:3	188:20	builds 169:1	career 189:6
154:4 157:16	bond 150:7	bonus-related	bulk 186:12	carriers 207:7
163:23 165:12	Bonfrisco 92:14	139:1	bunch 177:6	209:16 213:8
173:11 175:22	95:4,5,24 96:3,8	bonuses 114:21	bundled 206:15	case 108:16,17,19
177:5,8 188:19	96:10,12,15,22	138:15,23 139:15	business 95:11	108:25 109:3
206:20 207:1	97:4,7,10,13,15	140:11,12,12	113:2 134:24	111:7 112:18,24
benefiting 176:6	98:22 99:15 101:4	167:13,15 175:20	135:4 145:12	114:2 115:10
benefits 115:10	101:7,9,18 102:6	186:14	149:23 150:20,21	116:11,17 117:2
138:11 139:19	102:17,23 103:3	bottom 135:5	150:25 152:14	122:13,15,23
140:18 142:2,19	103:10,21 104:10	bounce 181:10	153:3,4 163:12	123:4 124:20,22
160:22 161:18	104:16,24 105:13	Box 93:6	174:19 175:19,22	129:14 130:18,22
162:2 168:10	105:19 106:6,11	brainstorming	176:3,16 179:1	134:19 140:10
169:3 171:14	106:14,21 107:1,8	176:11,13	184:24 195:20	149:7 151:23
175:5 176:9	107:17,20 108:7	brakes 148:18	212:12 213:1	152:19 160:20
186:13 187:10	117:9,22 119:16	Branko 94:12	businesses 212:25	195:2,22 197:16
206:22	119:22 120:8,13	105:7 109:22	button 98:25	197:17,17 199:2
best 111:8 136:7	120:15,20 123:23	190:10,19,21,24	106:13	199:14 200:14,23
151:22,25 166:12	124:2 125:20	192:14,18	buy 125:2 148:11	201:10 205:21
168:3	128:21 142:8	breadth 186:1	178:13 179:2	207:2 215:2,16
better 148:8 164:16	145:23 146:4,19	break 98:3,3		case-by-case 196:3
164:18 166:25	150:10 151:8	123:20 145:25	C	cases 109:16
171:22 187:18	152:16,21 153:5	146:1,6,7 154:22	C 93:1 94:1 219:1,1	122:18 129:6
188:22 189:8	153:18 154:16,24	217:24	calculate 205:5	134:4 195:4,5
206:15 207:9	155:2,8,12,16	breakout 100:3	calculation 199:12	199:14 200:3
212:21 213:14	158:19 159:6,8,13	106:1,15 107:5,12	calendar 186:2	category 204:9
beyond 153:9	159:16 161:23	120:2 204:10	call 96:20 164:25	causal 163:16
183:25 190:10	165:17 177:24	breaks 98:17	166:18 182:15	164:5
bifurcation 110:1	178:3 179:19,21	Brewster 102:5	call-in 106:5	causally 171:22
big 130:9 137:9	180:4,8,12,18,23	brief 97:21 108:6	called 181:9 186:19	causing 161:7
213:8	181:3 184:5 190:5	181:17	calling 165:14	caution 99:7
biggest 129:17,18	190:17,25 191:7	briefly 108:15	calls 169:12,14	caveat 103:9
130:9	191:12,19 192:2,5	201:18	camera 117:15	CCR 92:24 219:22
bills 161:11 213:14	192:11,14 196:15	bring 99:1 124:24	158:25 191:1	CDL 174:5 181:20
bin 166:11 167:21	196:23 197:4	185:6 200:12,13	210:5	184:18
169:14	201:16 202:9,16	200:23	cameras 148:15	cents 167:8
bit 133:13 144:13	202:18,22 203:7	broad 142:4	candidate 171:8	CEO 194:4
			187:7 189:4,8	

certain 122:7 134:21 135:25 139:16 166:19 175:10 210:20,21	characterizing 152:20 charge 209:10 chat 98:15 100:19 107:14 check 154:22 179:23 190:8,12 193:24 checking 99:2 chief 110:13 children 121:13 choice 157:6 189:6 choose 179:1 chooses 205:24 choosing 149:24 150:2,20,22,25 Christopher 93:17 97:1 chronology 142:6 circling 195:6 circulated 105:5,14 circumstances 114:19 145:3 195:3 citation 149:15,19 citations 139:1 cited 188:5,12 citing 115:14 civil 149:18 claim 108:20 109:4 109:9,12,13 110:7 110:8,24 112:19 113:18 114:1 117:3 129:14,14 129:18 131:3,7 147:18 149:7 157:16,18,21 158:1,7,15 195:10 195:11,17,17 210:15 215:1,4,6 215:8 claims 112:10,14 112:17 147:14 151:22 158:2,13 193:10 195:9,13	207:9 209:5 212:21 213:3,7,13 215:11 Clallam 189:3 clarification 114:5 188:3 clarify 99:24 104:19 108:1 125:7 128:18 180:9 196:16,24 208:7 clarifying 102:17 clarity 208:3 clause 138:13 cleaning 177:4 clear 100:7 150:9 153:9 160:9,12 161:13 207:18 208:7 climate 213:5 clock 199:15 closed 105:22,24 closer 126:17 closing 114:3 117:1 Cluhrs@william... 93:17 clutter 103:18 codification 115:16 Colin 93:4 97:9 101:20 colin.obrien@atg... 93:5 colleague 97:9 110:11 190:14 collect 137:23 138:1 168:20 169:19 199:4 collected 138:3 166:10 collecting 161:9 collection 112:9 166:23 168:6 190:2 collection-type 140:12	collections 169:19 come 133:17 155:3 185:2,4 200:8 201:6 comes 113:18 162:23 comfortable 103:19 coming 149:20 200:5 Commence 94:3 comment 177:19 commentary 185:20,24 comments 156:14 commission 92:2,4 92:17 93:2 95:6 95:10 97:8 103:12 103:25 104:22 110:14 113:1,21 114:5,7 116:1 117:7 121:6 125:5 127:21 138:14,21 139:1,14 156:5,11 156:13 176:23 177:15 178:5 195:25 197:19 199:13 200:12 commission's 176:17 199:6 commissioner 109:23 commissioners 200:21 common 168:16 commonplace 183:17 communicating 167:1 communication 138:23 172:13 communications 138:21 216:11 community 115:18 143:18 144:18 comp 207:10 209:1	209:8 companies 111:17 111:21 113:12,17 129:23 148:11 158:14 162:7 173:17,22 182:12 183:7,12,13 184:17 187:20 200:2 209:1,7 212:7,16 company 92:7 94:4 95:19 100:16 101:1 105:18 108:10,24 109:10 109:18 110:5,11 110:22 112:9,12 113:5 114:9 119:12,12 121:2,2 122:5,17,19 123:4 123:9,12 124:9 127:2,4,11 129:16 132:25 133:3,21 136:8 137:21 143:15 144:14 147:22 149:24 150:3 152:10 154:2 156:8 157:3 162:7,19 163:7 169:21 170:15 173:5 174:4,15 182:1 184:12 187:24 188:24 193:14,23,23 194:10,14 195:18 197:22,24 198:5 198:17,18 200:7 200:12,13 201:10 206:3,4,20 208:25 210:20 213:10 214:13 215:7,9 company's 100:25 105:7 108:16,18 108:21 109:23 117:11 148:13 150:17,20,21,24
--	---	--	---	---

151:23 153:15 154:5 193:9 198:5 205:15 company-specific 160:14 compare 139:23 158:2 compared 177:9 comparing 167:25 compensated 123:19 compensation 182:23 193:21,23 206:17 competitive 184:15 Complainant 92:5 complaints 169:15 169:20 completely 108:22 113:4 145:15 198:14 complex 156:22 174:8 complexities 176:2 complicated 174:4 174:10 component 168:4,5 187:5 components 208:7 compound 207:23 compromise 124:9 131:16 concept 137:9 152:11 156:6 concepts 188:15 concern 200:6,11 200:18 concerned 101:1 concerns 95:15 104:6,11 105:9 107:15 108:19 143:18,22 144:8 144:12,18 145:5 154:25 184:6 conditions 199:23	conduct 133:8 conferring 109:2 confidential 99:12 100:1,25 102:2 107:13 119:17,20 120:5,6 204:4,14 217:24 confidentiality 99:3,6,17,20 100:2,6,21 102:3 102:9 104:20 105:25 106:16 120:1 confine 135:8 confirm 105:20 202:12,14 209:24 confronting 111:21 confuse 103:15 confused 154:9 confusion 103:24 Connections 109:16,18 111:18 122:16 128:25 130:5 140:8,20 162:18 172:4 174:13 183:13 212:23 Connections' 173:17 consent 95:13 consequence 113:16 conservative 217:2 consider 149:23 150:2,19,24 158:4 193:13 194:25 215:12 considered 142:17 209:18 considering 205:23 212:20 consistent 109:21 consistently 166:20 167:23 213:17 constantly 141:17	148:16 Consulting 106:4,6 106:9,12 consumer 149:20 166:22 177:13 contents 188:11 context 128:16 133:15 142:7 156:10 174:25 175:18 continual 168:18 continue 137:11 184:8 212:13 214:6 contrary 117:5 contributions 206:6 control 98:9 162:7 converged 112:2 converging 111:25 conversations 156:14 copies 118:12 cordon 193:3 core 108:19 152:19 corporation 162:19 170:19 correct 102:7,21,22 103:6,8 118:25 119:1,5,6,18 121:7 124:5 126:19 127:6,9,12 127:15 130:9,18 130:21 131:7,11 132:18,21 133:9 133:12,19 134:11 134:12 135:9,16 135:17 136:8,9,24 137:2,3,8 139:20 139:25 142:15 143:13,20 144:15 144:16 147:8,19 148:4 149:1 160:10 162:20,24 164:1 165:7,24	170:4,9,12,13,15 171:11,15 174:1 175:1 176:10,18 176:21,22,25 179:9 181:12,14 185:22 186:16,25 187:1,21 188:9,10 188:16 191:8 193:4,7 196:10 197:1,5,11 204:18 205:18 214:23 215:24 216:12,14 217:8,13,20 218:4 correcting 124:6 correctly 131:4 132:25 138:16 158:24 correlated 136:23 correlation 153:11 164:20 175:11 176:15 corroborated 110:10 cost 111:22,25 116:4 128:8 134:24 143:18 144:8,18 152:13 153:3,4,25 154:2 157:5 160:8,11,24 161:8,10,13,15 166:1,3 167:8 168:11,25 169:3 175:17 177:16 178:20 179:12 187:20,24 193:2 193:14,15 195:15 195:19 196:10 198:22 cost-benefit 136:19 168:13 169:8 costly 115:6 costs 113:12 121:6 151:24 175:4 178:6 179:11 couch 208:6	counsel 93:9,11 96:24 97:8,11,14 98:5 99:19 100:12 102:19,20,25 103:2 104:7 105:8 107:2 128:6 129:12 135:12 136:13 146:20 147:3 148:19 149:17 154:19 193:5 202:13,14 209:23 210:11 219:13 counsel's 146:5 count 211:4 country 170:24 County 116:13 189:3 219:4 couple 180:2,20 186:23 189:15 192:24 211:25 course 188:2,2 court 108:12 116:10,13,13,15 116:25 117:1 195:22,23 219:7 cover 126:22 127:2 166:7,9 194:3 209:10 coverage 111:25 207:4 209:12,15 coverages 207:8 covered 167:21 covers 121:8 167:22 creates 141:1 creative 213:16 criminal 149:18 critique 111:14 cross 103:12 104:1 112:6 117:11 126:6 146:3,5 180:10,14,16 183:25 190:15 196:25 212:1
---	---	--	---	--

216:22	cut 133:7 137:12	117:3 123:6 152:5	166:17 183:9	209:11 213:6
cross-examination	cutting 114:12	152:20,25 201:25	190:11	differently 123:12
94:8,9,11,13,15	cycle 130:21 131:18	204:1,24 205:1,2	depends 205:9,9	123:22
94:15 97:24 103:8	131:20	205:6,11 206:21	211:5	difficult 112:3
115:20,24 118:5	D	207:17 208:13,16	deputy 110:13	140:14 141:11,12
146:17,23 160:1	D 93:10 94:1,1,17	208:18,20,21	describe 132:20	141:14,15 144:1
192:21 202:4	d/b/a 92:8 97:3	210:16,19,22	147:14 160:8	171:14 176:14
203:15 210:7	damages 112:16	211:3,4,11,12	described 136:5	178:8 184:15,18
215:15	data 100:25 109:7	214:16,18,23	163:16,25 176:2	198:22 207:5
crossed 99:6 183:7	112:17 115:2,14	deductible/higher	176:14	214:6
crux 137:20 184:3	139:2 140:18	157:11 214:10,13	describes 111:19	difficulties 111:20
culpability 132:24	142:23 158:5,6	deductibles 113:3	design 213:17	difficulty 99:5
133:3,4,15,16,18	161:12 162:3,4,6	156:25 205:15,17	designate 103:12	207:22
134:6	168:12 170:18	205:23 213:21,23	designated 126:6	direct 104:5 115:10
cultural 173:18	171:2,3 186:18,19	deemed 95:13	designation 104:1	131:1 146:15
culture 163:9	187:13,17	defend 112:18	designations	147:5 153:10,13
164:16 171:12,19	date 144:15 145:6	defense 115:22,25	103:20	153:14 164:20
172:9,12 173:11	Dave 97:1	116:2	Despite 148:2	169:2 170:2
174:19 178:21	David 93:16	defenses 117:6	detailed 110:17	172:22 175:11
cumbersome 99:10	dawn 140:16	defer 165:8	140:4	176:15 192:25
curious 122:1	day 109:1 110:10	define 119:7	details 136:19	193:15,25 196:7
166:1 168:9	121:23 169:13	definitely 204:11	144:10 183:8	directed 201:25
current 111:16	191:4 219:16	definition 156:4	detect 120:23	directing 123:11
127:4 163:3	day-to-day 152:10	degrees 174:13,21	determination	direction 183:2
164:10 171:7	days 213:5	delineated 198:6	196:1	219:10
172:1 173:6	deal 109:4 208:13	212:25	determine 197:19	directives 138:21
203:24,25 204:24	dealing 99:14	deliver 186:12	detriment 113:10	directly 115:4
205:2,3,14,15	139:14	demonstratable	develop 115:15	144:11 189:4
206:14 207:1	debt 161:6	175:8	172:12	211:2
211:9	decide 100:24	demonstrate	developed 138:22	disagreement
currently 96:1	206:2 215:13	164:20 172:22	dial 96:6	137:21
143:14 206:3	decides 125:2	173:14	dicey 120:11	disagreements
208:21 212:6	136:20	demonstrated	dictating 213:22	124:25
customer 114:22	decision 113:16	174:9	214:3	disallowance
132:5,9 140:11	128:1 150:15	demonstrates	diesel 184:18,19	110:14,15,23
149:4 166:19	156:24 189:6	163:15	differ 137:16	112:19 124:4,13
167:3 169:5,16,21	195:23,25	denial 113:25	difference 199:19	disallowed 110:9
169:24,25 181:16	decision-making	115:21 116:14	differences 122:10	disallowing 121:6
181:18,19 186:5	128:1	117:4	different 123:12,18	126:3
189:20,22,24	decisions 119:14	denied 117:1	144:25 145:1,3,3	disclosure 120:4
customers 157:23	156:20	denies 111:10	150:1 151:12	discretion 118:24
168:17 169:18	declarations 99:3	deny 123:5,9	160:22 171:18,18	119:5,8,11 120:23
174:5 176:20	decline 209:16	Denying 113:8	181:13 182:11	121:9 127:20,22
200:14,16	deductible 110:1	depend 199:6	186:4 205:10,23	156:5 157:1
customers' 114:11	111:15 113:13	depending 161:4	207:14 208:6	177:10

discuss 127:3 139:19 143:9 206:14	182:15 186:6 Docket 92:6 95:9 document 99:12 126:16 141:9,9	106:21 DS-11C 110:19 due 195:8	140:17 160:8,11 161:13,16 185:24 186:20	empowerment 163:1
discussed 107:13 109:9 188:12,16	documentation 142:21 198:20	duly 118:1 159:20 192:18 203:12	effects 114:15 efficiency 107:25	encounters 124:18
discussing 161:4 175:15 211:10	documents 99:6 101:2 139:10	duties 156:11	efficient 154:23 168:22 169:5	endeavor 174:4
discussion 132:17 165:3	doing 95:11 118:8 120:16 121:3	dwiley@williams... 93:16	174:15 180:2 efficiently 166:14 168:7	ends 141:11 161:9 200:3
discussions 135:21	131:15 151:21 152:13 153:3	E	either 107:2,5 145:1 167:21	engage 176:5 185:3
dismal 212:5,14 213:20 214:20	156:8 160:4 177:22 187:12	E 93:1,1 94:1,1,1 94:17,17 219:1,1	199:4 211:7	engaged 134:25 188:20
dismiss 191:4	dollar 125:3,7 128:8 133:14	earlier 96:20 103:22 129:6	electronic 219:11	engagement 178:23
dispatch 181:21	158:1 167:14 179:7,9 210:25	136:22 156:14 161:9 170:3	element 189:18	engaging 167:3
Disposal 92:7,8 95:11 97:3,3	dollars 161:9 206:2	173:16 186:9,21 187:14 214:25	eleventh 116:6	ensure 99:25 120:17
128:12 129:4,8,12	door 177:21	early 204:7	elicit 115:24	ensuring 194:20
129:15,18 135:22	double 99:2 188:19	earn 182:24	Elizabeth 92:24 219:6,22	entered 94:19 138:7
136:6,10,11 158:2	doubt 170:1 173:8 186:11	earned 167:12,15	embedding 115:6	entire 108:21 110:8 116:3 121:11
162:13,15 170:18	downside 114:17	easier 98:15 191:19 191:22	emphasize 174:13	213:12
171:2 172:21	downsizing 193:18	easiest 103:23	empirical 115:2	entities 147:22 148:6
173:14 186:22	dozen 182:7	easily 174:9	employed 219:13	entry 186:5
Disposal's 133:8	Dr 100:22 104:19 114:14 115:1	easy 103:15 209:2	employee 113:6 125:17 133:6,14	environment 158:8 184:16 185:9
dispositions 117:5	126:19 127:5,11 141:20 143:7	echoed 112:5	employee's 197:16	environmental 143:18 144:8,11
dispute 108:25 114:1 116:1 215:2	216:14	ecology 144:22	employees 123:17 123:17,18,19	144:18
disputed 114:4	draw 113:23	economic 136:7 176:17 178:5	125:3,4,9,11,13 148:19,22 163:1	equates 167:13,16
disputes 193:3 194:2	drawing 153:10	economically 145:2	170:3 187:24 188:1,24 193:18	equipment 129:23 129:24
disqualified 114:20	drive 175:22	economies 169:4	197:15 219:12	errata 105:8,11
distinction 199:18	driver 148:15,15 189:5	educate 169:16	employee's 197:16	errors 124:7
distinguishing 156:11	driver's 172:16	educated 166:13,22 169:4 190:1	employees 123:17 123:17,18,19	escalation 111:23
district 138:4 140:24 141:14	drivers 113:7 114:22 141:7	education 168:5	148:19,22 163:1 170:7 171:4,7,19	escapes 112:14
164:15,15 171:25	174:5 184:18	effect 109:13,25 123:11 165:12	173:10 174:5,16 178:19,22,23	essential 113:6,8
173:2 175:9 182:3	driving 168:20 189:2	185:18	183:21 184:12 187:12 194:11,21	established 197:12
182:4,5,5,5,6	dropped 98:13	effective 160:24 169:22	194:22 195:7	et 184:21
183:11		effectively 119:3 166:15,23 167:14	employers 114:24	ethical 194:11,20
districts 163:2 172:2 182:10		176:20	employment 114:16 135:12	evaluate 174:25 185:14
186:8,9		effectiveness	136:12 147:19 193:9 195:11,17	evaluating 175:13 179:11 200:5
divide 132:3				evaluation 175:5,6 175:7,16,25 176:4
division 93:6 110:13 182:7,15				177:23 189:20,22

evening 216:8	exhibit 103:13,13	explained 188:8,12	featured 110:15	182:22 191:25
event 112:11	103:14 105:5,15	explaining 189:2	fee 116:2	201:6
events 131:21	109:8 110:16,19	exposure 114:13	feel 103:15 164:18	finite 114:18
everybody 98:7	119:18 126:6,7,21	210:15	178:16 186:11	175:10
everyone's 104:2	126:23	extended 109:12	187:16	firmly 120:3
107:21	exhibits 94:19	extensively 141:4	fees 115:22,25	first 97:19 99:11,14
evidence 113:24	97:20 100:9,17	extent 142:16	133:12,17 168:23	100:12 116:21
137:24 138:1,2,8	103:7,18,20 104:3	177:17	168:25	117:13 126:22
143:6 161:17	104:5,12 105:1,4	external 111:24	fell 109:13	140:15 168:15
162:2 163:14	112:6 215:16	extra 168:23	felt 141:16	174:23 210:25
164:3 178:6	exorbitant 209:15	extraordinary	Ferrari 125:16	216:19
evidentiary 92:11	expect 183:22	112:23	Ferraris 125:3,8,10	fit 191:13
95:8	184:12 185:4		fewer 173:12	five 109:11 131:3,7
evolved 183:16	expenditure 134:22	F	field 170:21	132:4,7 146:3
evolving 114:7	expense 109:11	F 94:1 219:1	Fife 182:1	160:16,21 161:4
exacerbating	110:24 111:6	face 169:15	Fifth 93:12	182:11 199:13
111:24	112:3 113:5,6,9	faced 111:23	figured 120:15	five- 146:1
exact 197:2	114:19 115:8,18	facets 213:6	figures 214:17	fix 178:12
exactly 120:25	117:5 125:6 126:1	fact 101:23 148:25	figuring 107:22	fixed 178:13 199:25
168:19	152:9,12 197:11	161:8 169:17	file 122:7	200:3
examination 94:6,9	197:15 207:10	184:25 206:14	filed 99:4,21	flag 119:25 120:17
94:11,13,16 156:1	209:9	factor 173:1	100:20 102:21	217:25
181:6,9 201:21	expenses 108:18	factors 198:8	105:8 108:25	flat 167:18
212:3	111:15 114:24	205:10	116:10	flavor 184:2
examine 111:14	115:5 116:20	facts 195:3	filing 101:12	fleet 129:23 209:17
examining 128:3	123:10 130:18,22	failed 143:3	110:19 112:2	209:18 213:2,10
example 134:20	135:4 175:19	fair 111:11 134:2	116:23 130:20	fleets 129:24
200:24	177:2 200:20	135:11 139:11	filings 109:18	flow 164:16
exceed 108:14	211:6	146:18 162:11	filling 187:10	fluid 140:6
Excellent 118:15	expensive 108:22	168:8 169:7,9	final 115:20 116:14	fly 167:11
120:19	125:8	171:9 179:17	116:24 200:8	flying 216:14
excessive 178:20	experience 98:12	185:20 189:21	finally 115:17	focus 114:2,13
179:6,6,8,12	109:21 110:2	fairly 135:25 140:5	117:1 157:25	127:3 138:14
exclusions 112:1	122:5 128:8	familiar 107:2,2	189:11	163:1
exclusive 116:9	129:15 131:3	129:7 137:4,6	financial 111:1,10	focusing 129:6
139:13	157:18 160:19,23	186:18	114:13 210:21	folks 139:2 164:14
excuse 146:9	164:12 169:24	family 183:13	financially 219:14	164:17 172:24
186:15 191:23	170:23,24 171:24	far 98:16 99:11	find 99:3 100:23	175:21 182:24
excused 158:20	173:4,17 181:15	101:12 105:4	122:6 140:23	184:23 185:1,2,2
executed 99:8	182:18 185:20	139:4 191:14	184:18 187:7	follow-up 124:1
executive 138:15	186:2,3 189:21,22	204:8 216:16	188:21 209:14	140:15 141:18,22
187:15	189:24 194:3,17	fast 148:18	214:13	179:5
executives 170:22	209:2 210:14	fatal 112:15	finding 133:21	followed 198:16
exercise 127:21	215:5	fatality 109:5	140:14	following 148:23
exercising 127:20	expert 144:9	fault 98:24 133:21	fine 100:18 165:22	176:8
		feature 189:16		

follows 118:3 159:22 192:19 203:13	fun 104:17	191:24 213:14	136:3 139:3 142:8	210:25
forces 111:24	function 122:22	214:17	144:3 145:9	guess 98:16 100:11
forego 210:15	further 120:22	Gibbs 93:18 97:2	146:10 150:10	105:19 108:1
foregoing 219:9	145:19 154:15	gift 125:8 217:21	151:4 152:17,21	120:22 121:5
foresee 205:11	158:17 179:18	Gingrich 94:10	153:18,19,24	123:8 124:3 126:1
foreseeing 190:20	190:4 202:7	95:22 96:1 99:4	156:23 158:10,16	129:1,5 133:5,18
forever 200:4	future 112:3	100:23 101:1,10	158:25 165:9,17	134:5 135:2,10
forgive 181:10	144:20 145:6,7,7	101:15 141:4	167:11 173:1	139:8 142:14,25
form 125:15 128:10	198:21 205:12	148:8 158:23,24	174:6 177:24	144:7 150:16
142:4 150:4 152:7	212:10	159:14,20 160:3	180:10,19 181:8	161:1,3 163:21
173:12 196:14	G	179:21 180:15,24	184:7 188:25	167:11 168:9,12
formal 161:15	G 94:1	181:8 190:6	189:6 192:6 195:2	168:15 173:22
formally 116:22	G-force 148:16	Gingrich's 184:4	196:6 204:14	177:14 179:4
format 219:12	Gallagher 111:4	give 117:19 155:4	206:8 207:4	182:20 188:23
former 109:22	garbage 166:10,12	159:3 203:3 214:4	212:12,13 213:24	207:12
forming 138:18	166:14,23 168:20	217:21	213:25 214:4,6,11	guidance 109:2
forms 162:5	168:23 169:13,13	given 172:21	216:11,24 217:1	guide 136:11
forth 122:6 141:6	174:3 176:2,16	185:25 195:7	good 96:25 97:6,12	guidelines 148:23
fortunate 186:3,6	182:11 183:7	giving 95:13 213:8	98:11 104:10	149:1
forward 140:9	184:17,20 189:3	GL 207:10 209:8	118:7,9 120:18	guilt 149:17 154:1
142:22 212:8	190:1	glad 99:15	123:20 142:20	gunk 177:7
fourth 199:11	gas 201:10	go 98:23 99:24	146:25 147:1	guy 148:9
framing 207:22	gears 128:5 132:11	105:22 106:20	155:10,19 160:3	H
frankly 113:19	138:10	107:10 119:22	189:6 192:23	H 94:17
122:12	general 93:5,11	122:8 132:7	201:1 210:9 213:5	half 131:25 158:4
free 172:8	108:25 109:3	146:20 158:25	215:14 216:7	164:10 169:12
French 217:17	116:17 127:17,23	159:13 161:23	Goodman 119:3	186:23
frequency 131:20	134:3 170:14	171:24 195:18	goodwill 125:4	Hammond 102:4
134:21 178:16,17	211:16	200:4 202:12	gotten 139:9	hand 117:15
198:9	general's 147:3	204:14,20 206:25	152:24	158:25 192:6
frequent 134:16	210:10	207:15 208:25	governmental	203:1 219:16
212:22	generally 102:6,8	209:14 210:3	135:1	handle 198:13
frequently 122:7	111:3 134:3	215:13 216:18,24	gray 206:24	handling 190:15
179:2	143:15 160:19	goals 151:7	great 95:15 96:15	happen 130:1,2,3,6
front 173:5 182:24	189:23 193:13	God 130:1	97:15 98:19	148:2,22,24,25
frontline 114:21	199:13,20 207:11	goes 134:15 140:24	118:12 137:5,7,14	201:2,7
139:6 173:9	generates 112:13	148:20 152:18	160:4 165:3,7,9	happened 130:7
178:19 187:15	generating 110:22	166:11 167:21	174:12,22 178:22	happening 158:11
fuel 152:14	generation 132:1	169:13 195:22	183:15 209:2	173:25
fulfill 133:2	geographies 173:6	199:12	214:1	happy 160:5 176:4
full 109:13 162:16	186:8	going 95:17 99:22	greater 164:13	184:11
216:23	gesture 125:4	100:2 105:21	200:6	hard 148:18 171:20
fully 116:3,10	getting 95:25	119:24 120:10	greatly 218:1	204:3
	125:12 172:14	121:23 123:5,9,25	Greg 102:4	Harvey 92:24
	173:10 189:24	125:20 132:8	ground 141:6	219:6,22

hate 212:13	holding 191:25	I	incentify 176:7	158:10
head 108:24	hone 142:10	ideas 176:11	incentive 114:21	incremental 132:4
hear 95:20 96:9,19	honest 140:3	identified 106:18	123:13 139:5,20	Indeed.com 189:9
108:2 111:14	Honestly 191:12	122:18 128:6	140:9 142:14	indemnity 211:6
112:5 115:19	Honor 95:22 96:14	identifies 119:12	160:9,11,15,20	independent
159:7,9 165:3,5	96:21 97:1 100:19	identify 100:14	161:6 163:19	166:17 167:6,20
heard 128:14	101:17 102:22	106:7,8	164:4 165:24	194:14
hearing 92:11 95:8	104:14 107:19	IDR-4 109:8	167:19 171:12,22	INDEX 94:6
95:13 97:19	108:5,11 111:13	ignore 134:22,23	172:10 173:23	indicated 107:23
101:17 107:24	128:9 142:3	III 92:11	175:1 178:18	123:14 191:8
111:13 128:14	145:22,24 146:2	illegal 121:3,7,12	183:4,6,9,18	indicates 137:24
215:21 216:16	150:5,9 151:2	121:14,21 124:18	184:2,13,25	indication 116:17
hears 189:4	152:8,18 154:15	126:2 156:9	186:25 187:2,25	individual 134:14
Hearsay 151:1	154:21 155:15,21	illogical 113:23	205:22	160:17 163:19
heart 153:7	158:18 159:5,15	imagine 160:6	incentives 175:20	166:25 167:2,6
heavy 129:23,24	177:20 180:9	imminent 109:3	176:7 178:22	172:11,13 173:2
212:17,17	181:1 191:2,11	impact 132:5	183:22 185:15,24	177:1 183:10
help 141:20 164:12	196:12 201:15,19	149:19 172:23	186:15,15	197:16
164:14 172:11	202:8,17,21 203:6	impactful 132:9	incentivized 161:8	individuals 185:11
174:14 185:1	203:10 206:12	implementation	incidences 198:4	industrial 116:9
207:9 209:12	207:21 209:19,20	139:24	incident 129:13	200:15
helpful 142:7	210:1 216:1,13	implementing	148:19 172:8	industry 112:6,17
helping 185:8	217:4	140:25	incidents 129:25	115:12 124:24
helps 164:17 169:5	hope 104:9 115:24	important 114:24	172:7	147:15 148:3
189:5	175:15	importantly 168:4	inclination 143:5	158:6 160:23
hereto 219:13	Hopefully 158:23	168:5	include 101:15	181:12 185:10
hereunto 219:15	hopes 144:14	improve 115:3	176:24 177:16	186:4 209:4,18
hey 172:6 200:21	hoping 114:5	172:12 183:10	included 178:7	inflation 213:6,13
Hi 95:22 106:2	hot 215:2	improved 164:23	198:14 199:11	informal 109:7,20
high 148:13 206:21	hour 116:6 167:8	improvement	includes 113:13	informally 109:10
208:13,15,18,21	167:14,17,25	137:14 141:1	including 114:22	information 100:15
214:17	hourly 114:21	162:20 163:16	127:3 138:4 140:8	119:14,20 120:5,6
higher 112:16,16	hours 216:25	164:1,5	162:5 193:18	151:22 171:6
166:20 167:23	house 114:8	improvements	198:9	189:25
highlight 109:3	HR 170:11,17	173:22	income 108:19	infrequent 135:3
hire 164:14,22,22	188:5	inappropriate	incorporate 150:15	135:11 212:22
178:15 183:21	huge 150:18 209:4	177:20	incorporated	ingredient 185:1
184:16	human 122:9	inaudible 102:16	105:11	ingredients 176:6
hired 171:4	135:12 136:13	105:17 114:1	incorrect 165:10	183:15
hiring 115:5	hurdle 176:3	120:14 125:16	increase 131:12	initial 122:19
history 143:25	hypothetical 121:1	136:3 162:17	201:6	initially 131:9
150:17 158:2	165:15 195:22	167:23 169:21	increases 131:10	156:3
hit 166:21 205:1	hypothetically	175:8 182:20	increasing 111:20	inquire 157:5
hold 133:13 179:21	125:2,18 133:7,10	183:22 204:19	194:11,21 205:12	inquiry 177:20
191:5	153:21 165:16	213:11 217:15	increasingly	instance 128:13

157:10 161:5 164:6,7,19 167:13 172:6 175:14 177:3 197:18 instances 195:7 insurance 108:20 109:4 110:1,24 111:15,16,22 112:7,9,10,25 113:2,3,12 114:1 117:3 123:5 128:6 131:7 134:6 147:14,18 149:7 152:4,9 156:20,21 156:21 157:11 201:25 202:1 203:24 205:23 206:7,15,16,21 207:2,14,15 208:11,14,22,23 208:25,25 209:7 210:20 212:6,16 213:10,18 214:10 215:1 insure 212:16 insured 210:14 211:2 intend 103:24 intending 146:12 intent 151:3 175:16 intentions 151:7 interest 136:7 interested 219:14 interferes 124:15 interim 126:18 128:14 internal 102:8 148:6,23 161:12 161:18 164:16 187:23 internally 161:11 interpose 128:10 interpretation 122:10 124:8 interrupt 119:17	191:3 interval 109:12 intervenor 97:16 intervention 134:18 interviews 123:15 introduce 118:22 introduced 141:13 141:19 185:7 introducing 174:7 intruding 118:24 inures 151:19 152:5 153:1 157:16,22,23 invest 149:24 150:2 150:21,22,25 investigation 134:18 investor 150:16,19 150:24 151:4,6,20 153:1 investors 149:16,23 150:1,6,6,14 151:7,14,16 152:1 invoices 179:15 involve 163:11 involved 109:17 116:12 135:13,20 143:24 173:10 205:19 involvement 129:1 172:11 involves 108:17 173:9 involving 109:4 Iowa 181:22 ironically 111:24 irrefutable 143:5 isolate 141:2 isolated 113:23 isolation 157:16 issue 98:25 109:19 112:1 114:6,23 115:21 128:7 129:14 130:8	134:6 149:7 152:19 153:7 154:1 166:9 173:2 179:7 202:1 214:23 issues 98:12,17 104:17 115:18 147:19 item 113:8 152:10 items 108:18 174:21 <hr/> J <hr/> Jeff 93:3 97:7 101:19 jeff.roberson@ut... 93:4 Jefferson 189:3 Jing 101:24 110:13 Jisong 102:4 job 115:3 169:22 181:21,21 189:1,5 jobs 164:18 Joe 94:8 105:7 118:1 joined 106:4 judge 92:13 95:4,5 95:24 96:3,8,10 96:12,15,22 97:4 97:6,10,12,15 98:20,22 99:15 101:4,7,9,18 102:6,17,23 103:3 103:10,21 104:10 104:16,24 105:13 105:19 106:6,11 106:14,21 107:1,8 107:17,20 108:7 117:9,22 119:16 119:22 120:8,13 120:15,20 123:23 124:2 125:20 128:21 142:8 145:23 146:4,19 150:10 151:8 152:16,21 153:5	153:18 154:16,24 155:2,8,12,16 158:19 159:6,8,13 159:16 161:23 165:17 177:24 178:3 179:19,21 180:4,8,12,18,23 181:3 184:5 190:3 190:5,17,25 191:7 191:12,19 192:2,5 192:11,14 196:15 196:23 197:4 201:16 202:9,16 202:18,22 203:7 204:6,16,20 206:8 208:2 209:21 210:3 211:19,22 216:5,9,17,21 217:7,13,14,19 218:5 Judges 102:4 judgment 119:4 125:16 133:20 149:14 151:14 195:18 judgments 176:23 jumping 141:22 142:22 juncture 216:10 juries 112:15 jury 149:11,13 just- 125:18 justify 134:13 160:14 161:2 JW-1T 118:10 130:12 132:15 JW-25CT 118:11 118:17 133:24 JW-30X 126:6 JW-5C 110:16 <hr/> K <hr/> Kalakihi 106:4,6,9 106:12 Kastner 93:18 97:2 keep 98:8 127:15	135:16,18 171:3 191:12 205:25 209:13 213:18 214:1 keeping 127:19 135:14 key 105:21 175:21 185:1 187:5 kick 216:18 kind 98:9 105:20 118:22 136:19 142:10 144:17 150:6 157:1,2 160:13,15 163:1 163:11,25 164:5 164:17 165:8 166:6 167:18 169:3 172:10 184:20 187:9,14 190:20 191:5 204:9 208:4,6 215:18,22 kinds 127:16 KING 219:4 know 96:16,17,23 97:19 98:5,14,15 99:16,18,19,21,25 100:5,10,11,13,14 100:16 101:13,23 103:22,25 104:2 105:1,2,20 106:15 108:12 119:23 121:3,20,22 122:6 122:12,15,22,25 123:3,4,7,7,8,16 129:17 131:16,17 132:3 135:3,22 137:9,16,18 138:2 138:25 140:24 142:10 143:6 144:1,2 145:1,4,7 145:8,14 146:19 148:5 149:15,18 149:19 150:14 151:4,15,16
--	---	---	---	--

152:10 153:6,8	large 108:20	186:5	literature 158:14	Lopes 94:14 100:21
154:8 155:5 156:8	112:13 134:17	levels 207:16	litigant 133:20	101:11 111:19
156:22,24 157:20	149:6 158:15	liability 111:16,22	litigation 132:21	112:17 158:5
160:21 164:17	164:21 182:10	112:7 113:3	150:2,17,18	190:19 191:3,16
166:21,25 167:3	200:15 209:18	114:12 133:8	193:20	191:18,22,25
167:21 168:1,2,17	213:2 215:4,6,8	152:11 153:25	little 126:17 133:13	192:3,4 202:23,24
168:19,21,22	215:22	157:22,24 193:3	142:6 144:13	202:25 203:12,18
169:2,11 170:19	largely 121:15	195:9 207:14	162:5 166:1	203:22 204:22
170:20,23 171:18	139:7	208:15 211:17	168:16 181:10,22	206:14 209:25
172:2,3,15,24	larger 128:13	212:6	191:11 195:6	210:9 211:25
173:23 174:3,12	largest 129:13,14	lights 148:14	206:24 213:11	212:5 216:3,6
174:13,14,14,15	late 115:21	likelihood 205:5	215:19	Lopes' 156:23
175:8,8,9,18,25	latitude 178:21,25	limit 204:1 205:1	lives 114:17	lose 214:2
176:5 177:2,4,6,7	law 92:13 95:5	205:11	location 137:17	losing 212:16
177:10 178:9,11	lawful 112:8	limited 97:23 118:9	141:15	loss 108:20 109:4
178:19,20 179:13	layer 212:21	121:6 179:25	locations 169:25	207:9 209:9
179:16 180:13	215:10,12	191:21 199:10	182:7,14	210:24 215:9,23
183:13,14 185:3,4	lead 111:18 115:2	limiting 114:11	logic 154:13	losses 207:5 209:11
185:18,18 186:12	193:19 198:16	157:24	logistics 99:2	210:20,25
186:22 187:9,10	leaders 174:14	limits 156:24 213:8	long 110:2 116:8	lot 100:15 127:18
187:11,16 189:2	leadership 172:14	Lindsay 106:24	128:23 132:1,1	138:25 156:23
189:25 190:1,20	leads 164:16	107:1,2,3	203:25 204:14,23	174:6 183:16
191:7,18,20,24	learn 110:6 113:12	line 98:13 106:22	longer 131:17,20	184:3 205:10
193:11 195:3	led 143:19 144:18	108:18 113:8,23	170:25 199:11	lots 156:15 174:5,6
198:25 199:1	163:2 164:23	118:16 125:4,11	212:17,22,25	174:18
203:25 204:7,11	ledgers 127:24	131:1 133:11	213:23 215:8	low 208:14,15
205:19 207:24	156:16 179:15	134:1,1 138:12	look 121:23 134:9	209:13 214:9,13
208:5 209:12	left 139:16	143:17 147:5,10	140:18 141:24	214:15
213:13 214:15	legal 115:22,25	147:11,12 151:9	150:17 156:8,16	lower 132:8 157:11
216:16,22 217:23	116:2,19 117:6	152:22 162:17	182:21 193:22	206:18 208:20
knowledge 109:19	133:16 177:18	173:5 177:25	195:25 197:21,23	lowering 151:25
142:25	193:11 213:5	193:6,6 196:8,20	198:3,8 200:19,22	Lu 104:19
known 116:19	219:9	197:2 205:25	201:8,8 207:4	lucky 213:10
165:9 196:9 197:2	legislature 113:1	206:10	212:9	lucrative 206:16
197:11,13 198:22	Leonard 119:3	lines 118:19 130:15	looking 101:9	Luhrs 93:17 94:11
knows 128:12	let's 100:10 103:5	132:20 134:9	120:25 121:18	97:1 161:20
	104:18 105:4	139:22 144:13	124:7 127:1,25	165:14 177:17
L	119:15 123:5	160:7 171:13	139:1 142:17,23	179:24,25 180:7,9
labor 184:22 193:2	128:22 129:12	182:24 193:5	156:6,7 177:6	180:19,25 181:1,7
193:14,15,20,22	134:9 146:4 150:7	207:4 209:12	183:10 193:6	184:1,11 190:3,5
194:2	169:11,14 191:14	linked 171:22	196:8,19 198:2,13	190:13
Lacey 92:18	191:14	list 105:5,15,21	201:23 212:8,10	
lack 115:14 141:10	letting 168:19	166:6	214:18	M
193:18,18 206:15	level 170:21 174:8	listed 106:4 127:8	looks 208:11,12	magnitude 129:25
land 212:12	177:14 178:4	listen 172:19	Loop 92:17	mailing 161:11
Lareto 111:4				main 139:21

major 109:4	matter 95:7 97:17	microphone 98:8	moment 121:17	162:18 176:20
making 119:13	matters 103:16	mid-managers	126:4 145:8	182:1,1 203:24,25
150:15 156:20	max 217:3	170:21	money 148:12	204:23 205:1,4,11
169:7 174:9	maximum 136:15	middle 110:5 137:8	158:9 187:21,24	205:14,21,22
176:23 210:15	205:6	165:7	monitor 148:17	206:3
manage 141:15	meal 115:18	Mike 101:23 109:9	monitors 148:17	mute 106:5,12
151:24 209:3	mean 99:15 124:6	miles 112:14	monoline 206:19	muted 95:21 96:1
management	137:12 174:3	million 110:8,23	208:14 209:14	98:8 104:8,9
110:12 114:13,20	175:4 200:23	125:3,7 129:20	214:9,14	159:6,9
118:25 119:4	212:9 215:11	158:1,7,15 213:8	months 116:24,25	
121:3 123:4	meaning 109:11	213:9,9,9 214:16	130:1,2	N
124:16 125:4,11	213:7	214:16,16,23	morale 114:18	N 93:1 94:1,1,17
127:2,20 137:17	meaningful 168:1	215:3,6,12,17,22	115:1 194:12,21	name 95:4 97:7,13
137:22 138:5	meant 214:22	215:24	morning 98:3	147:2 158:23
139:5 140:6 143:3	measurable 196:10	mills 116:9	100:5 170:11,17	203:17 210:9
157:1 162:23	197:3,11,13	mind 120:9 131:15	188:5 191:5	217:5
163:3,5,6 182:18	198:22	151:4 174:3	217:22	nationally 112:15
213:7	measure 116:18	191:25 192:1	motivated 168:2	near 205:12
manager 129:2,4,5	169:11	minimum 136:15	move 105:1 107:5	nearly 171:17
169:25 171:25,25	measured 137:1	minor 210:23	107:12 114:17	necessarily 130:2
181:19,23,25	measurement	minute 126:8	126:5 135:13	135:20 136:14
182:3,4,5,5	115:14 140:14	minutes 97:23	139:17 165:21	141:25 193:19
managerial 138:15	mechanics 184:19	108:13 127:12,15	191:4 196:6	199:17 200:1
managers 170:22	184:19	127:18 135:15,16	206:12 209:23	necessary 112:25
187:13	mediated 149:7	135:18,23,25	moved 182:9,13	137:17
managing 151:21	medical 213:12,13	136:1,18 146:3	movement 140:2	need 96:5 98:4
mandatory 113:4	meet 176:3 210:21	147:4 180:20	moving 168:18	104:19 146:17
map 96:17	meeting 110:10	191:8,10 217:21	multiple 103:18	157:11 178:13
margins 111:3	136:1,3 172:15,17	Mischaracterizes	134:17 140:6,22	184:17,24 185:11
Mark 94:10 148:8	meetings 123:15	161:20	Murrey's 92:7	197:20 204:10,15
158:23 159:20	124:23 127:3,16	mispronounce	95:11 96:24 97:3	needed 98:4 116:18
market 111:16,20	135:21	192:12 218:4	118:23,25 119:7	196:1
178:11 206:1,7	members 101:25	mispronouncing	120:24 121:5,22	needing 217:24
207:6 208:23	mention 101:4	217:6,8	124:16 125:2	neighborhood
212:6,10 214:3	mentioned 99:16	mistaken 149:6	127:5,14,19,25	143:25 144:4
215:9,11	141:13 157:25	mistakes 122:9	128:7,11,13,14,17	neighbors 144:1
marketplace	178:15 181:15	mitigating 157:21	128:23,24,24	145:8,8
111:23 212:15,19	186:9,21 187:14	157:22 205:22	129:2 130:5 131:2	never 104:17
213:21,22 214:8	meriting 114:23	mitigation 115:7	131:19 134:13	109:19 115:14
214:12	Meter 110:12	modern 114:25	135:15,22 136:5	124:14 198:11
material 110:7	methodology 111:2	modest 135:3,11	136:10,18 139:20	new 162:6 183:12
math 154:10,10	metric 163:16	158:7	140:16 142:17,20	newer 172:4 217:8
167:11,24	186:18	modifications	144:17 145:5	noise 98:9
mathematical	metrics 115:12	142:1	147:21 148:5	nominal 168:11
124:7	164:1,5	modify 98:4	149:4 160:9,13	non-executive
				139:15

<p>nongovernmental 135:1</p> <p>nonmanagerial 139:15</p> <p>nonrecurring 112:23</p> <p>nonreferred 187:19</p> <p>nonregulated 173:8 186:10</p> <p>nonunion 173:7 186:10</p> <p>normal 110:4 112:20 113:4 134:24 135:4 201:11</p> <p>normalization 196:19 197:2,10 197:13,20,25 198:1,2,23 199:17 199:20,24 200:1,3 200:6</p> <p>normalize 109:11 116:4 199:22</p> <p>normalized 200:25 201:4</p> <p>Normally 103:13</p> <p>north 164:8</p> <p>note 95:12 132:23</p> <p>noted 173:18</p> <p>notes 154:22 180:2</p> <p>notify 210:19</p> <p>nowadays 184:12 184:14</p> <p>nuclear 158:13</p> <p>nugget 188:23</p> <p>number 94:18 95:23 101:25 106:17 123:14 127:5 130:14 171:3 182:10 198:25 199:1,10 205:4 215:22</p> <p>numbers 110:21 120:10 204:15,23</p>	<p>numerous 111:14 122:5 127:3</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O 94:1,1</p> <p>O'Brien 93:4 94:13 94:15 97:9 98:20 101:20 103:1 190:15,18,22 191:7,10 192:15 192:22 196:23 197:1,7,9 201:13 201:16 203:8,10 203:16 204:3,7,13 204:19,21,22 206:10,12,13 208:2,9,10 209:19 209:22 214:8</p> <p>o0o- 95:2</p> <p>oath 118:2 159:21 192:19 203:13</p> <p>Object 150:4 152:7</p> <p>objection 125:15 125:21 128:10,19 142:9 150:11 151:1,8 155:1 157:8 161:20 165:14,18 177:17 177:25 183:24 184:7 196:12,16 206:5,9 216:18</p> <p>objections 104:11</p> <p>objectively 179:12</p> <p>objectivity 177:15 178:5</p> <p>obligated 200:19 200:21</p> <p>observations 141:5</p> <p>observe 98:13 106:13</p> <p>observing 169:25</p> <p>obtain 185:9 207:13</p> <p>obtaining 111:21 206:21</p> <p>obviously 101:24</p>	<p>111:1</p> <p>occasion 116:21</p> <p>occasionally 124:6</p> <p>occur 122:10 193:17 198:1 209:11</p> <p>occurred 116:24 137:7 198:4</p> <p>occurrence 134:16 198:10 211:11,17</p> <p>occurring 207:5</p> <p>occurs 101:2</p> <p>October 110:5,6</p> <p>offer 135:7 185:19 194:1,6 209:16</p> <p>offered 115:15 189:11</p> <p>offers 177:6</p> <p>office 93:5 146:10 147:3 181:25 212:12</p> <p>offset 207:9 209:9</p> <p>oh 96:3 106:24 107:10 146:4 155:18 161:23 163:13 165:5 190:17 202:22</p> <p>okay 95:15 96:3,15 96:22 97:4,15 98:19 101:7,9,10 101:18 102:6,23 103:3 104:10,10 104:16,24 105:13 105:19 106:14 107:8,10,20 108:7 117:17,22 118:22 119:15,22 120:8 121:18 124:2,12 125:2 126:5,14,15 126:17,24 128:5 128:21 129:13 130:11,13,16,25 132:11,16 133:23 133:25 135:5,14 135:22 136:2,4</p>	<p>138:6,10 139:11 139:17 142:8,22 143:11 144:13 145:4,11 146:18 146:19 147:9,11 147:13,18,24 148:2 149:3,6,10 149:16 152:2 153:12 154:14,16 155:2,8,9,10,16 155:19 158:22 159:6,10,11,16 162:16 163:14 169:10,11 170:3 171:9 176:17 178:2 180:4,7,18 180:19,23 181:3 183:4,21 185:23 186:24 187:20 188:15,18 189:19 190:3,25 191:16 192:2 197:4 202:9 202:16,22 204:16 204:18 210:3 211:15,19 214:25 216:1 217:18,19</p> <p>old 141:23</p> <p>Olympia 93:7</p> <p>Olympic 92:8 95:11 97:3 111:9 111:18 116:5,17 116:19,21 128:12 128:15,17,24 129:4,8,9,12,15 129:18 130:5,8 133:8 134:19 135:22 136:6,10 136:10 139:23 140:4,8 158:2 162:12,15 164:4,8 170:18 171:2,3 172:21 173:14 186:21 188:9,12 214:10 215:4</p> <p>Olympic's 112:2,19</p>	<p>116:8 176:20 209:18</p> <p>on-the-ground 187:12</p> <p>once 116:7 119:23 119:23 177:5,9 185:2 197:12 217:25</p> <p>ones 106:3 134:17 134:17</p> <p>ongoing 116:19</p> <p>open 130:11 187:11</p> <p>opened 177:21</p> <p>opening 94:4 97:22 107:24 108:3,6,10 118:10 130:24 132:13,14 160:7 201:24</p> <p>operate 129:23 147:24 184:20</p> <p>operates 112:12 143:15</p> <p>operating 108:18 129:22 147:22 148:5 153:3 154:1</p> <p>operation 128:13</p> <p>operational 115:3</p> <p>operations 112:8 113:6 121:22 127:4 171:25 181:20,22 182:2</p> <p>operators 148:7</p> <p>opine 174:24</p> <p>opinion 119:11 121:10 135:7 153:24 157:9 160:25 178:18</p> <p>opportunities 124:24</p> <p>opportunity 108:15 113:22 180:1 186:7</p> <p>opposed 173:24 211:3</p> <p>opposition 116:6</p>
---	---	--	--	---

144:5	overhead 152:12	pardon 98:20	123:14,17 132:21	203:7 204:18
optimistic 175:15	Overlapping	197:19	136:20 154:7,12	217:14
212:11 217:2	125:19 129:10	parent 162:19	160:9,11,15 161:7	perform 160:13
option 114:10	152:15 153:22	part 100:16 102:2,9	163:15,17,23	180:10
208:20 213:24	196:11 217:10	104:12 105:3,11	165:24 170:5,6	performance
options 145:15	overrule 150:10	105:22 120:12	187:25 195:20	139:23 167:16
order 98:1 99:23	177:24 184:7	122:13 132:24	paying 135:9	171:23 185:14
102:15 177:16	oversees 114:7	133:3,21 137:18	151:13,16 153:15	performed 185:19
200:8,8 206:1	oversight 122:23	145:12 149:23	154:4 206:4	performing 136:20
orders 116:2	overstepped	168:24 183:12,14	213:25	period 110:4 131:8
139:14	122:24,24	193:13,15,20	payment 136:16,23	131:10,12,17
ordinary 145:12	overt 124:20,21	participants 190:1	137:24 167:23	137:8 164:8 165:6
Oregon 182:9	overview 108:16	participate 146:11	197:20 211:2,5	175:10 182:25
organization		166:13,22	payments 134:4,11	183:5 186:24
207:11	P	participated	134:14,16,20,22	187:3 198:15
organizational	P 93:1,1 94:1	116:10	135:19,24 136:12	199:5,25 200:4,9
115:2	p.m 95:4 98:3	participates 168:6	194:24 198:19	200:10
organizations	155:3 190:9 218:8	participating 95:14	211:10	periods 135:4
134:25	package 206:15,22	particular 129:22	payroll 113:7	perjury 219:9
original 99:8	207:1,16 208:6,13	140:21 141:3	114:22 115:7	permitted 105:24
103:20 104:3	packaged 207:11	194:14,15 196:9	pays 136:5,6 154:8	person 144:21
131:16	207:13 208:3,20	particularly 111:2	198:20	189:2
originally 99:22	pad 96:6	201:3,9 212:8	peer 172:16	personal 141:5
104:4	page 94:2,7,18	parties 95:17 97:25	peers 172:14,14	personally 135:20
ought 115:11	118:16,18,19	100:5 102:12,14	178:24	143:23 150:16
200:22	119:2 126:21,22	103:5 105:2	penalty 219:9	perspective 108:16
outcome 113:19	126:22 127:1	107:12 114:17	pending 116:16,23	195:11
219:14	130:14,15,23	146:6 219:13	Peninsula 162:6	petition 200:15
outcomes 115:3	132:12,16,16	parts 175:21	people 105:21	phenomenon 137:4
194:23	134:1,1,2,10	178:13 179:2	107:12 127:9	137:6
outside 124:20,21	135:5,7 136:22,22	party 97:24 102:14	129:6 141:6 144:2	philosophy 163:2,8
171:5 187:20,25	138:12 139:18	167:20	164:17 168:18,19	phone 96:13 106:17
outweigh 168:11	143:9,10,17 147:5	pass 122:19	168:21,23 169:12	167:1,4 168:3
169:3	147:9,10 160:7	passed 154:6,11	172:18 176:24	189:2
overall 110:19	162:16,17 165:23	passing 151:18	perceives 136:7	phonetic 104:19
113:12 115:1,3	170:4,8,12 171:10	152:4,11,25	percent 110:24	106:24 111:5
150:20,21,24	174:23 192:25	path 124:17	111:4 164:9,9	picking 142:14
161:15 175:17,19	193:4 196:7,13	patience 107:9,21	188:14 201:24	picture 212:5
193:14,15	PAGES 92:9	180:24	205:16 214:20,20	piece 167:20
overbroad 150:5	Paging 136:22	patient 191:17	Perfect 96:22 101:7	pierces 210:18
overearn 201:12	paid 113:19 123:18	202:24	101:18 104:16,24	place 122:16
overearning	175:20 195:8	Patterson 92:24	104:24 107:8	139:25 140:1
200:14,22,24	198:7 212:21	219:6,22	117:17 120:8,13	148:21 174:21,22
201:7,9	paint 212:5	pause 155:5 180:22	128:21 155:16	174:22 178:22
overfill 168:25	pan 145:12	pay 114:6,10,19,21	180:4,18 202:16	183:15 186:25
	paper 167:20			

187:2 197:22 213:18 placement 111:25 places 111:9 145:1 plaintiff's 213:4 plan 203:24 206:19 207:2 planned 98:2 planning 102:20 108:3 180:14 plans 139:5,6 play 185:8 played 164:4 plays 122:21 132:23 163:15 please 95:12 107:15 117:14 118:16 119:25 120:6 132:12 146:20 150:12 156:10 158:24 165:19 178:2 181:3 184:9 192:15 196:13,16 196:24 217:25 plenty 208:25 PLLC 93:18 plus 200:18 PO 93:6 point 129:21 132:9 138:21 139:10 162:11 164:10 165:10 169:23 190:25 191:15 195:16 198:12 216:18 points 140:14 141:11 166:19,22 policies 111:22 113:4 136:14 156:21 197:21 198:19 206:7 210:17 212:12 policy 104:21 110:1 112:4 115:15 122:25 123:1,3	124:5,8,10,15,19 156:24 157:6,6 207:24 polite 167:2 political 144:22 politically 145:2 pool 184:23 popular 144:2 portfolio 208:24 position 110:18 111:8,10 149:19 151:24 185:23 187:8 positions 187:6 positive 114:15 115:2 138:9 posits 112:25 possible 137:11,13 165:11 180:3 190:23 possibly 113:14 124:10 post-pandemic 114:8 potential 124:19 140:2 157:24 195:8 204:7 pouring 133:17 practice 103:11 109:16 197:24 practices 166:12 198:6 199:7 precarious 111:10 preceding 122:15 precise 175:11,25 precisely 109:24 prefer 191:23 preference 103:17 preferred 124:17 prefiled 94:19 97:20 103:7 104:5 104:12 105:1 110:20 115:23 preliminarily 109:2	premise 214:9 premium 113:13 157:11 202:1 206:2 207:17 208:14,15 209:10 213:25 214:1,10 214:13 premium/low 206:21 premiums 113:3 205:16,16,25 206:4,17 207:3 209:13,15 213:20 prepared 99:7 127:9 preponderance 138:14 139:4,12 prerogatives 118:25 124:16 present 101:21 102:24 presentation 98:1 presented 215:15 president 182:7,15 186:7 presiding 95:7 press 96:5 presumably 133:5 133:22 presume 149:12,15 pretty 97:21 137:8 212:5 214:19 215:2 prevalent 139:7 prevent 103:23 120:4 prevents 206:20,23 previous 116:1 previously 109:19 135:14 pricing 129:1,4 primarily 152:6 153:1 188:19 primary 114:2 157:12,13 194:25	195:4 principles 112:21 143:16 print 143:1 prior 99:16 216:10 priorities 183:10 prioritize 168:19 prioritizing 175:21 private 112:13 163:7 proactively 115:11 probably 102:1 191:13 197:21 199:8 204:17 217:7 problem 101:13 191:23 196:22 199:9 problems 95:25 139:19 procedures 135:8 136:11 148:6 197:21 198:6,20 proceed 95:15,18 98:2,18 105:16 108:8 117:23 119:23 146:4,21 152:22 155:20 159:17 177:25 180:5,20 181:4 190:9 191:14 192:16 197:6 203:8 204:11,20 210:4 proceeding 96:18 99:13,17 100:8,17 105:22,23,24 108:3,22 109:9 112:7 113:22 116:4,11 117:7 200:15 proceedings 94:2,3 180:22 218:8 process 121:19 122:8,8 128:2,4	136:11 161:9 173:18 174:20 177:12 205:20 213:7,12 processes 163:12 produce 135:25 136:18 142:18 produced 135:23 product 214:14 productivity 114:18 141:1 194:12,21 professional 170:20 219:7 proffered 194:10 profit 111:3 program 122:14 123:6 140:21,25 141:3,10 142:1,2 142:18 160:17 161:6,8,13 165:24 166:2,3,5,6,14,23 168:11,11,24 169:3 170:4 171:4 171:11,12,14,17 172:9,10 173:9,24 175:14 185:3 189:13 205:3 207:13,16 208:3 211:9 213:17 programs 115:11 115:13 123:14 139:20,24 140:1,3 140:9,13,17 141:23 142:14 156:21 160:9,16 160:20 161:4,16 162:2 163:4,19,22 164:4 165:12 167:19 171:22 172:21 174:20 175:1,17,18 176:1 176:5,7,9 178:19 178:24,24 183:4,6 183:9,14,18 184:2
--	--	--	---	--

184:13,25 185:4,6 186:12,25 187:2 project 143:12,15 143:19 144:15,19 145:6,10 projections 112:3 projects 144:25 promoted 182:2 pronounced 158:23 217:12 pronouncing 203:17 217:5,7 pronunciation 217:20 proper 156:12 189:25 proposal 205:14,15 propose 115:12 130:21 proposed 98:17 109:5 116:5 propounded 202:3 proprietary 100:15 219:11 prospective 170:7 prospects 214:12 protecting 177:13 protective 99:23 protracted 108:22 proud 169:17 174:16,16,17 178:23 prove 143:2,4,5 177:8 provide 143:5 161:18 162:3,12 166:15 168:3 173:11 181:17 185:23 193:1 211:1 provided 96:17 111:9 139:2,20 142:2 162:4,14 172:25 providers 113:17	176:21 providing 172:24 180:14 provisions 112:4 proxy 131:8 prudent 113:4 114:20 139:17 public 93:9,11 97:11,14 99:19 100:12 102:19,20 102:25 103:2 109:23 112:13 113:10 146:5,20 147:2 202:13,13 209:23 210:10 publications 112:6 pull 184:23 pulling 130:4 pure 165:13 purposes 107:25 pursue 178:23 push 98:25 pushing 123:21 put 128:16 129:24 140:9 144:3 156:10 168:22 169:13 174:21 puts 148:18 putting 121:25	quantifying 139:19 quantitative 169:8 quantity 164:13,21 187:5 quarterly 124:23 question 106:3 125:16,22 128:16 134:8,10 141:18 141:22,23 142:4 145:11 149:25 150:8 151:12 152:2,8,23 153:19 153:21 154:3,11 157:4,15,20 161:1 161:14 163:22 165:20 168:14 170:14 173:13,23 174:2 177:14 178:2,8 179:5,13 179:16 184:10 189:12 193:8 196:14,17 197:9 206:23 207:12,19 207:22 questioning 151:10 152:22 153:7 178:1 184:8 191:9 197:7 206:11 questions 98:18 104:6 105:15,23 118:9 140:15 144:7 145:20 146:14,17 147:4 154:15 158:17 166:9 174:23 179:18 180:20 181:9 190:7 192:24 201:15 202:3,7,13,15 209:20,25 210:13 211:25 216:2 quick 101:10 190:8 204:6 quickly 108:13 quite 132:1 148:11	152:2 160:22 192:13 203:22,23 215:20 quote 119:2,10 131:1 132:23 143:18,19 160:9 160:10 209:16 quote/unquote 185:18 quotes 170:11,16	<hr/> R <hr/> R 93:1 94:1 219:1 Rainier 182:15 raise 117:15 158:25 192:6 203:1 raised 115:21 raises 179:4 range 111:4 129:20 166:2,4,16,24 215:18 rapidly 114:7 rarely 150:16 rate 99:13 108:25 109:3,16,17 110:19 111:2 112:2 116:17,23 124:20,21 128:14 130:18,22 131:18 140:10 145:13 164:7,10 167:18 182:23 186:22 199:2,14 200:2,13 200:15,23 201:6 206:22 212:9 ratemaking 195:11 199:5 ratepayer 152:5 153:14 154:4,6,7 154:7,12 160:22 166:13 168:6 173:11 175:23 195:9,12,20 206:6 ratepayers 109:14 115:10 143:2,4 151:19 153:1	161:7,10 176:6 193:8 205:17 206:3 rates 111:12 115:5 126:18 132:6 136:24 176:24 177:16 187:18 199:4 200:10,25 201:5,11 ratified 113:20 rationale 111:15 194:15 rationales 194:18 194:18 ratios 207:9 RCW 111:12 re-- 199:20 re-ask 184:9 reach 107:14 reaching 205:5 react 141:6 read 131:4 132:25 138:15 143:5 156:22 reading 148:10 ready 171:6 180:5 180:25 real 204:6 reality 113:2 really 98:9,11 101:10 125:16 144:9 152:14 168:9 171:1 172:10 173:9 187:7 190:20 201:4 210:23 reason 132:22 166:16 171:16 194:25 195:4 208:19 reasonable 111:11 119:13,13 131:8 132:10 195:15,19 reasonableness 184:3
--	---	---	--	---	--

reasonably 116:5	records 96:4 100:7	referrals 170:18	144:22 152:11	148:10 210:19
reasoning 208:18	105:20 106:3	171:1 188:18	206:6	requirement 111:8
reasons 189:8	127:19 155:5	referred 137:4	relative 219:12	112:8 122:7
193:17 194:1,4,6	recoup 116:19	170:25 171:8	relatively 134:20	131:11,13 132:8
194:9 195:5	recovering 131:17	187:17 188:21,25	135:3	178:7 199:3
rebut 155:20	recovery 113:8	189:4,8	reliance 105:10	213:19
rebuttal 118:11,17	116:22 132:6	referring 170:6	relocated 182:6	requirements
133:23 138:12	recruiter 187:6	189:16,17 193:5	rely 138:18	210:18
139:18 143:10	189:1	193:12 207:24	remain 95:12	requiring 200:8
194:7 201:23	recruiters 170:20	refers 188:24	remember 99:4	researched 140:22
recall 162:15	187:15,16	reflect 197:5	remind 98:7	reserved 146:16
185:15 188:6	recruiting 170:21	reflected 105:6	remove 200:10	reset 199:14
189:13,14	170:21,22,23	reflection 157:19	removed 110:9	residential 168:17
receivable 161:5	187:12,13	157:20	renewal 212:19,23	169:18
receive 153:14	recruitment 171:5	reflects 113:24	215:20	resignation 137:5,7
210:23	187:20	131:20	rep 166:19,25	137:15 165:4,7,9
received 219:11	recur 112:21	reframe 125:22	167:6,9 169:24	resignations
Recess 155:7	recurrence 199:9	151:9 153:9	repeat 134:8	165:13
recitation 193:4	recurring 112:11	165:19 206:10	182:17 194:19	resolution 193:2
recognize 109:13	147:15 199:21	regard 135:24	repeatedly 115:9	194:1
126:16	recycle 166:11	138:14 156:11	rephrase 128:20	resolve 141:20
recognized 116:2	167:21 169:14	157:4	161:25	resources 135:12
recognizing 139:14	redirect 94:9,11,13	Registered 219:7	reply 189:9	136:13 188:20
recollection 176:12	94:16 154:19	regularly 200:2	report 136:19	respectively 95:9
recommend 124:13	155:22 156:1	regulated 109:6	reported 200:19,20	responded 109:7
126:3	179:24 180:1,11	110:2 112:8	reporter 108:12	131:22 149:17,21
recommended	181:6,9 190:21	113:11 145:13	219:7,7	respondent 92:9
124:14	191:13 201:17,21	152:10 173:7	reporting 210:18	93:15 97:2 116:11
recommending	209:24 211:23	186:10	reports 128:15	responding 189:12
124:5 131:6	212:3	regulates 114:9	representative	response 127:9
recommends 124:4	redounds 114:10	regulator 176:17	98:13 167:10,12	139:2 142:5
reconsider 114:9	reduce 115:4	178:6 197:23,25	168:2 186:5	156:10
record 98:11 99:19	reduced 137:25	198:3,12	189:23	responses 126:11
99:22 100:14	reducing 115:5	regulator's 197:23	representing 97:2,8	responsibility
101:14 102:10	reduction 136:24	regulators 193:22	reps 169:21	193:12
103:18 104:4,13	161:6	200:18	request 109:7	responsible 137:23
105:3,11 110:17	reevaluation	regulatory 109:24	129:11 175:7	193:9 195:10,12
113:24 153:6	114:23	112:21 198:16	requested 99:22	restate 197:7
158:6 196:24	refer 103:19 104:3	reimbursement	127:17	result 138:3 206:18
197:4 215:16	reference 158:12	211:4	requests 139:2	results 121:18
218:7	referencing 196:25	rejected 117:7	require 134:17	128:1 137:19
recorded 108:12	referral 170:5	rejecting 115:13	177:15 178:6	140:20 141:16
recording 95:14	171:4 186:14,15	rejection 117:5	210:17	175:22 185:6
148:16 219:11	187:9,23,25 188:1	relate 214:9	required 111:12	resuscitate 144:14
recordings 219:10	188:20	related 137:14	113:1 134:13	145:10

retain 185:1	151:16 157:22	185:8,25 186:6	Sanitation 162:6	see 96:3 100:10
retained 170:25	173:12 205:23	roles 160:23 172:1	satisfaction 115:4	103:5 104:18
retains 133:14	206:2 207:8	173:5 186:4	Saul 119:3	105:4 112:5
retention 170:3,5	208:24 213:24,25	room 96:2 100:3	save 206:1	115:10 117:16
187:18 188:22	risks 149:23 215:6	106:1 107:5 120:2	saw 137:18 138:3	126:14 134:7
retroactively	risky 172:17	204:10	saying 123:5	142:1,25 143:2
115:13	road 96:17	roster 171:7	135:10 137:13	155:17 162:19
retrospective 128:4	roads 112:13	Roth 101:24 102:15	207:20	169:14 175:16
revenue 110:23,25	Rob 147:2 210:9	110:13	says 106:19 115:9	184:25 191:14,14
111:3,8 122:7	Roberson 93:3 94:8	roughly 116:24	119:3,10 167:20	191:16,23 204:15
131:11,13 132:8	94:11 97:6,7	182:16	196:19	208:17,19 210:24
178:7 199:3	98:25 101:20,22	routes 174:5	scale 169:4 179:11	seeing 121:20
revenues 128:15	102:11 103:9,11	routinely 127:14	208:12	158:16 165:11
review 116:14	104:21 105:12	135:16	scenarios 131:24	175:17 196:18
117:1 121:24	118:6,15 119:16	rule 115:15	208:12	213:21
122:8 127:21	119:19 120:3,14	ruled 195:18	schedule 98:6	seeking 177:18
134:11	120:16,19,21	rules 103:25	scheduled 216:22	211:3
reviewing 99:17	123:23,25 124:3	ruling 101:3 116:24	Scontrino 100:22	seeks 112:18
125:6 134:3 135:8	125:18,24,25	rulings 139:7	101:11 114:14	seen 138:8 141:5
revised 105:6	126:13 128:12,20	run 123:12 174:14	115:1 143:7	161:12 170:24
revisit 118:23	128:22 129:11	184:17,24 210:24	191:21 216:12,14	172:3 173:8 183:6
right 104:25 107:21	134:8 142:12,13	runaway 158:13	Scontrino's 141:20	183:12 185:5
116:8 117:15	145:19 155:1,10	running 157:3	scope 168:4 177:19	186:11 187:17
124:21 127:1	155:12 156:4	174:3 175:19	178:20 183:25	send 99:8 100:2
133:21 146:16	157:25 159:11,16	176:2,16 178:25	scored 167:6	105:24
147:16,21,25	159:18 160:2	Ryan 96:4 106:2,15	scores 162:10	sense 168:16,16
148:3 149:11,13	161:22,24,25	107:10	166:18	senses 121:2
154:3,14 155:2	162:1 165:16,19		Scotland 216:14	sentence 168:10
156:16,17 157:5	165:21 177:21	S	Scott 101:23	174:24
158:25 167:11,22	178:1,4 179:17,19	S 93:1 94:1	screen 155:17,18	sentences 135:6
168:22 173:1,19	183:24 185:13	sadly 112:15	159:9 191:17	separate 102:9
178:16 181:13	188:4 189:12	safe 147:22 174:15	203:1	separately 128:15
185:25 187:24	190:13,14 191:8	174:22 183:15	script 167:1 168:24	separation 114:16
192:5,6,13,23	216:20 217:12,16	safely 147:24	scrutiny 179:11	September 92:12
193:8 196:6	Roberson's 142:5	172:18	se 92:17 140:20	95:1 109:1 116:23
201:13 203:1,18	Robert 93:10 97:13	safety 113:10	157:16 161:16	219:16
203:20 205:25	103:4	140:11 148:6,10	196:18	serve 116:9
208:9 209:4,19	robert.sykes@at...	148:20,23 149:1,3	Seattle 93:12,19	service 109:6,23
210:2 212:10,15	93:10	171:10,12,19	second 119:9	114:22 140:11
214:3,19,21,22	role 122:2,3,4,21	172:5,9,12,15,17	133:13 141:22	166:8,8,8,15,19
215:21 218:5	122:22,23 125:5	173:10,21	162:16 174:24	168:3,7 169:6,18
risk 114:10,18	132:23 133:2	safety-wise 171:23	secret 162:9 166:5	169:21,24,25
129:24 145:11,12	156:12 157:12,13	salaries 193:16	166:6,17,18 167:7	181:16,18,19
147:15 150:2,20	163:16 164:5	sample 141:15	167:16 189:17	186:5 195:15
150:21,25 151:14	173:6 177:12	173:1,3 175:9	secretary 100:19	session 102:2
		176:1	sector 112:10	

106:15 107:13 217:24 set 123:1 136:15 166:10 174:10,23 178:10 207:14 219:15 setting 111:2 122:25 settlement 149:8 151:14,16,19 152:5 157:15,18 settling 157:21 Sevall 101:23 102:15 seven 172:1 seven-digit 214:17 severance 114:5 132:12,17,20,22 134:4,7,11,14,16 134:21,24 135:9 135:19,21,24 136:5,6,12,16,20 136:23 137:24 193:1,13,16,17 194:1,4,7,10,18 194:23 195:1,2,5 195:8,8,14,16 196:8,9,18,19 197:2,9,10,12,14 197:20 198:4,7,9 198:12,19,20,24 199:3,8 Shar-bo-neau 217:16 Shar-bono 217:5 Sharbono 101:24 102:15 110:12 131:23 135:23 142:24 161:17,22 162:1 175:3 176:8 204:17 216:22 217:19 Sharbono's 218:1 share 107:18 172:15	shared 164:17 shareholder 152:6 154:8,12 shareholders 152:1 157:17,23 shareholders' 114:11 shares 172:17,18 shifts 145:1 shopper 162:10 166:5,18 167:7,16 189:18 shoppers 166:6 short 95:16 96:16 191:13 shorter 131:10,12 show 103:5 115:24 167:25 176:9,14 showing 102:19 158:22 159:9 shown 147:5 shows 96:1 side 99:13 102:1,12 102:13 104:22 144:11 149:20 213:12 sign 104:19 sign-on 164:7,12,19 186:14,15 187:4 signed 100:1,6 101:22 102:2 105:25 106:16 107:4 120:1 significant 115:7 158:7 signs 102:8 166:7 similar 143:3 172:20 178:25 199:24 similarly 114:24 simple 154:10,10 simply 116:5 single 133:14 141:14,14 sir 214:24	site 143:24 sites 172:4 173:7,7 173:8,8 situation 124:20,22 198:11 situations 114:16 114:16 six 116:25 size 129:25 131:3 141:15 173:1,3 175:9 198:9 199:8 209:6,17,18 215:1 sizes 156:25 176:1 skilled 184:23 187:7 skills 167:2 172:13 172:14 185:10 193:18 sliding 179:11 slightly 108:14 140:13 slippery 113:9 slivers 213:11 slope 113:9 small 133:4,16 134:20 172:25 173:3 175:9 213:11 smaller 111:6 113:11 Smith 106:2,2,19 106:23 107:7,11 societal 165:12 soft 167:2 168:3 solid 99:12 112:8 113:11 212:7 somebody's 143:25 something's 154:11 somewhat 121:1 137:10 sorry 101:8 104:8 104:16 106:9 107:11 119:16 123:23 125:7 137:11 145:24	150:23 159:13 163:24 170:15 191:2,18 193:6 196:15 202:19,21 206:24 207:20 sort 99:13 141:2 156:18,25 157:19 157:21 177:18 206:17 207:13 214:12 sorts 124:25 140:1 140:9 195:13 soundly 117:6 Sounds 214:7 space 137:10 139:16 span 116:4 spanned 116:11 spans 165:6 speak 98:21 114:14 144:11 160:17 164:6 208:5 SPEAKER 96:5 speaking 98:8,10 173:10 189:14 214:5,8 speaks 186:20 spec 148:13 special 103:25 specialists 136:13 specific 138:21 139:10 162:12,14 163:17 170:15,17 170:18 171:2 204:15,23 208:7 209:17 specifically 134:9 142:11 160:18 172:22 186:22 187:4 196:24 specificity 142:6 specifics 140:12 157:5 specify 208:4 speculate 151:6	speculation 149:12 speech 125:19 129:10 152:15 153:22 196:11 217:10 spend 148:11 spilling 135:6 spoke 186:14 spot 121:25 spots 187:11 spring 137:2 Square 92:17 squared 144:6 ss 219:3 stabilize 164:15 stable 164:15 Stacey 102:5 staff 93:2 96:4 97:5 97:8 99:19 100:7 100:12 101:19,20 101:25 102:8,11 102:12,13 105:9 105:20 107:23 109:2,10 110:9,13 110:16,16 115:9 115:14,22 116:1,6 116:17 117:5,11 117:22 118:24 119:12 120:23,24 121:2,18,25 122:17,18,21,24 123:4,8,16,21 124:4,13,17 125:22 126:2 127:5,11 131:9,16 131:17 134:3,10 134:17,22 135:7 135:12 137:21 141:8,17 142:23 149:20 153:25 154:24 155:1 156:5,7 157:2,10 174:24 175:13,15 177:2,7,10,22 178:9 179:10,14
---	---	---	--	--

200:20 201:3,8,8 202:4 216:17 staff's 103:17 108:20 110:18,21 111:7 122:2,3,4 149:19 153:24 157:4,13 175:24 177:12,19 stand 172:15 standalone 209:2,8 standing 191:3 standpoint 186:2 Star 96:6,6,7 start 95:18 100:11 106:7 108:1 117:11 120:10 130:4 140:4 191:20 216:11,15 217:22 started 181:18 startled 110:6 state 111:16 113:1 181:25 182:14 196:7,9 197:10 206:19 219:2,8 statement 94:4 101:3 107:24 108:3,6,10,19 160:14 161:2 statements 97:23 states 170:1 172:3 182:11 static 142:15 stating 184:5,6 station 143:24 144:4 statistical 176:12 176:13 statistically 112:11 141:16 142:23,24 175:12 188:21 statistics 162:8 statutory 213:18 stay 153:24 157:2 204:3	steer 113:17 step 128:22 stepping 125:5 steps 171:21 172:16 stinky 184:21 stipends 115:6 stipulated 94:19 103:7 105:2 stop 140:5 155:6 stops 172:17 story 189:1 straight 188:25 stranded 143:8,12 strategic 213:16 strategize 209:12 Street 93:18 150:7 stress 171:1 strict 172:5 strives 147:24 strong 134:23 strongly 170:24 187:16 structure 145:14 163:15,18,23 struggle 141:8 153:2 studies 161:1,3,15 161:19 185:14,19 study 126:17 140:17 160:14 170:2,17 171:21 172:22 173:14 186:19 188:8 stuff 107:13 style 176:4 subject 213:3 subjective 113:14 214:15 submit 101:13 146:15 submitted 158:5,15 submitting 102:20 substitute 119:4 successful 116:8 succinctly 161:14	167:5 173:13 sudden 123:7 133:16 sufficient 111:11 suggesting 141:23 157:10 suggestion 131:23 Suite 93:12,18 summary 181:17 Superior 116:13 supervisor 181:20 supplied 162:9 support 112:17 172:1 182:14 186:8 194:18 supported 182:10 supporting 110:20 172:2 suppose 124:8 supposed 151:6 supposedly 112:22 Supreme 116:14 117:1 sure 98:11,14 99:20 105:9 119:25 142:4 166:5 177:3 177:10 181:18 189:15,17,17 190:10 195:21 203:17 surveys 138:8 suspect 143:23 189:7 sustain 125:20 142:8 165:17 206:8 sustained 111:2 151:8 swear 117:18 159:1 159:2 192:7,7 203:2,3 switch 138:10 Switching 132:11 swoop 109:13 sworn 118:2 159:21	192:19 203:13 Sykes 93:10 94:9 94:15 97:12,13 102:22 146:2,8,9 146:13,15,24 147:2 150:8,19 151:10,11 152:16 152:18,23 153:5 153:12,23 154:14 154:17 155:11,14 155:15 157:14 180:10,13,16 202:15 210:1,5,8 210:10 211:13,15 211:18,20 system 190:2 <hr/> T <hr/> T 94:17 219:1,1 table 97:9 tailgates 148:10 take 95:16 96:16 98:2 109:10 126:8 126:9 128:22 145:25 146:6 154:22 171:21 180:2,19 200:22 206:2 207:7 209:1 213:24,25 taken 157:19 takes 120:4 190:12 talent 185:9 talk 95:17 97:18 108:13 120:22 128:5 132:11 133:12 136:23 138:10 143:8 156:17 165:23 171:10 talked 135:14 160:15 170:3 173:16 203:22,23 208:2 215:16 talking 120:10 128:11,17 130:17 150:7 153:16	156:19 172:14 173:2,21 195:16 195:17 199:16 204:23 211:6 215:18 talks 141:4 172:25 199:20 tangible 142:18 target 160:21 171:19 targets 172:10 tasks 171:18 team 137:17 teams 140:6 tech 104:17 technical 98:12,17 211:25 tell 151:11 168:23 169:12 200:21 201:8 203:25 212:13 telling 212:20 215:11 temp 181:18 templates 115:12 ten 97:23 108:13 116:24 131:21,22 131:25 132:3,7 ten-minute 146:1,7 tend 160:24 172:19 187:18 188:22 tender 117:13 tentatively 98:2 term 139:12,13 206:15 termination 114:6 114:9,19 terms 99:1 130:8 141:5 156:10 161:15 163:17 171:7 175:13 177:23 178:6 179:6,9 187:5 207:24 territory 116:9
---	--	--	---	--

119:24 120:11 Terzic 94:12 100:21 101:10 105:7 109:22 112:25 190:10,19 190:24 191:1,9 192:5,10,18,23 193:25 201:14,17 201:23 202:11 Terzik's 129:22 test 109:5 128:3 164:8 165:6 198:14,25 199:21 199:22 testified 109:23 118:2 122:2 139:22 142:14 143:17 144:14 156:7 158:3 159:21 162:17,22 181:11 192:19 195:14 203:13 testifies 109:15 177:22 testify 134:2 170:4 170:8 testifying 165:1 testimonies 105:6 testimony 97:20 99:24 100:1 102:20 103:7 104:5,12 105:10 110:20 115:19,23 115:24 117:18 118:10,10,11,17 122:1 123:14 124:4 129:21 130:12,24,24 131:22 132:13,14 133:24 134:15 138:12 139:18 141:20 143:10 146:16 147:6 156:23 157:9 158:5,6 159:2	160:7 161:21 165:23 172:25,25 184:4 185:17 188:6 189:11 192:7,25 193:1,4 193:25 194:7,13 194:16 196:7,18 197:5,10 199:16 201:24,25 202:4 203:3,23 204:4,8 206:6,13,25 208:11,12 214:11 214:25 216:3 218:1 TG-230778 92:6 95:9 thank 97:4,10,25 102:17,18 103:3 104:15 107:8,15 108:11,15 117:8,9 118:8 120:20 128:21 130:1 145:20,21 154:16 154:18 158:19,20 159:18 179:18,19 179:20 180:8,18 180:20,23 181:2,3 184:5,6 185:12 188:2 190:5,6,17 192:2,10,14 201:13,16 202:9 202:11,16,17,19 202:23,25 203:7 203:10,20 209:21 211:19,21 216:3,4 216:5,7 217:14 218:3,6 thanking 202:20 Thanks 190:3,4 themes 140:10,11 thereabouts 215:3 thereon 115:20 thing 134:5,7 140:24 144:1 156:18,25 157:1	174:12 199:1,18 201:7 206:17 things 100:4 103:15 121:24 122:17,18 123:11,21 124:18 127:3 130:6 139:3 144:23 145:2 156:15,20 166:7,9 172:16 173:24 174:25 178:20 179:15 188:18 193:19 198:10 199:23 210:17 think 95:21 96:6 103:23 106:23 118:9 119:9 120:24 121:1,13 121:17 122:3,14 124:17 126:4 128:3 129:19,21 131:23,25 132:4 133:11 134:19,23 135:6 136:1,4,14 137:10,16,20 138:1,7,20,25 139:4,6 140:19 149:17 150:8 151:21 152:13 153:8,24 154:22 156:13,19 157:1 157:10,13 158:16 159:10 165:21 169:2,5,9 174:20 177:15,20 178:8 178:10 181:1 184:14,22 185:5 188:16 190:9,18 190:20,23 193:20 200:17 207:23 216:10,15,24 217:1,3,3 thinks 120:5,24 third 167:20 188:23 third-party 166:18	167:6 Thompson 102:4 thought 132:10 142:22 144:6 146:10 168:15 179:4 thoughtful 213:16 thousands 112:14 three 130:21 139:21 169:20 199:11,13 210:2 214:16 216:23 217:3 three-year 130:20 threshold 210:21 throwing 213:2 thrown 112:22 Thurston 116:12 tight 179:22 191:24 time 99:12,14 101:2 107:25 113:18 114:9 116:16 123:20 126:9 129:6 131:8,18 132:7 137:1,8 140:7,25 141:24 142:15,16 144:3 145:20 148:12 153:8 155:4 166:11 173:25 175:10 179:18 183:5 186:24 187:3 190:4,8,11 191:21,24 199:6 199:25 200:3,12 202:18 216:6 217:22 218:7 times 103:18 118:23 123:15,16 140:22 144:25 145:3 158:12 189:15 timing 142:7 165:8 193:2 Title 111:12	today 95:7,18 96:23 98:2 99:2 99:24 101:21 102:20,23,24 103:2 108:4 117:19 159:3 164:10,24 186:6 186:22 190:12,19 190:23,24 191:13 202:25 203:4 217:25 today's 96:18 107:23 158:8,12 told 212:24 tomorrow 98:3 191:4,20 204:17 216:12,14 217:22 218:4 tool 114:20 132:21 tools 114:24 Tooty 165:24 166:5 167:13,15 168:24 175:14 189:13,15 189:15,18 top 127:8 165:25 topic 118:22 143:8 tort 153:15,16,17 153:20,21,23 154:5 195:10,17 tortious 133:8 torts 193:9 total 193:20,22 199:4 totally 128:5 199:4 touch 115:20 touching 119:20 120:6 town 144:2 training 115:5 165:24 transactions 156:17 transcribed 92:24 219:10 transfer 143:24
--	---	---	--	--

144:4	118:16 126:21	underscores 112:2	126:2	140:1,9 174:25
transition 123:24	130:11,23 132:12	understand 157:15	unregulated	177:2
translating 167:18	133:23 148:18	160:25 166:4	145:15	veers 124:19
167:24	158:24 191:1	168:14 174:2	unsafe 121:14,21	vehicle 212:17,18
transportation	210:5	177:12 195:21	124:19 156:9	venture 145:12
92:2,4,17 93:6	turned 172:9	206:25 207:19	untenable 113:16	verdict 215:17,21
95:6,10 111:17,21	turning 106:12	understandably	unusual 112:11	verdicts 158:13,13
112:10 113:5	202:25	110:25	199:21,22	209:5,6 212:20
147:15 148:3	turnover 115:4	understanding	unusually 200:24	215:6,13
213:1 215:7	136:24 137:14,18	101:19 138:13,19	updated 105:5,6,10	versus 95:10 171:4
treaded 204:9	137:22,25 138:5	138:20,22 139:9	105:15	177:4 213:25
treat 125:13	164:7,10,24	149:8 156:4	uphill 144:24	viable 113:18
treated 189:23	186:22	216:11	uphold 116:8	vice 182:7,15 186:6
treatment 108:20	tweaks 98:5	Understood 149:22	Upward 183:3	victim 149:3
109:25 110:7	twice 103:14,24	189:10	urge 117:6	video 98:10
116:1 125:17	130:9 177:4,8	undertaken 116:18	use 98:10 139:13	view 108:21 121:5
194:11,20	two 135:6 140:15	underwriters 150:7	142:24 209:11	122:2 126:3
tremendous 110:25	141:20 162:20,21	undoubtedly	useful 194:11	127:25 134:13
trend 165:13	170:11 182:9,13	173:11	usually 122:10	157:18 163:4
213:20	187:10,13 190:15	unethical 121:4,7	144:1 213:11	viewing 213:17
trended 183:2	198:18 208:12	121:12,14,21	UTC 109:17 122:14	views 172:17,18
trends 111:19	210:1,17 214:16	124:18 125:12,13	124:23 169:15,20	village 120:4
trial 215:13	type 113:23 124:13	126:2 156:9	utilities 92:2,4,17	violated 149:1
tried 175:3	124:15 169:15	unexpectedly 112:1	93:6 95:6,10	violation 149:3
truck 172:18	173:9 184:16,23	unfortunate 111:22	110:3	virtual 92:11 95:12
178:14 189:3	207:11,25	unfortunately	utility 194:4 200:5	vis 148:13
trucking 111:20	types 112:16	100:20	200:21 217:9	vital 122:21
158:14 212:7,17	114:23 166:7	unhelpful 130:15		VOL 92:11
213:1 215:7,9	178:18 185:10	UNIDENTIFIED	V	vs 92:6
trucks 112:13	206:7,16 210:20	96:5	vacation 100:20	
148:13,17 174:4	213:3	unimaginable	valid 141:16 142:23	W
178:12,12 179:3	typical 112:20	113:19	142:24	W 93:16 106:24
184:20	131:18	union 93:18 173:7	value 116:2 125:16	107:1,2,3
true 189:1	typically 177:1	186:10	Van 110:12	WA 92:24
truth 117:19,19,20	197:16,18	unique 195:2	Vandenburg	wages 115:7 178:10
159:3,4 192:8,8,8		unit 93:11 210:11	110:11	178:10
203:4,4,5	U	units 183:8	variable 197:15	Wait 127:1
try 96:7,11 103:15	ultimately 113:10	universe 121:11,15	variables 141:12	waiving 107:24
108:13 153:7,8	113:25 181:20	130:4	174:6,8,10,18	walk 100:8
204:3	182:3,4	unmute 96:6	176:15	wall 102:1 104:23
trying 98:21 143:24	unable 124:13	unprecedented	varied 186:8	150:7
151:24 184:2	166:2	110:2	variety 160:23	want 97:25 98:7
188:21 208:6,10	unanticipated	unproductive	172:11 173:5,6	99:5,9 102:1
214:9	117:4	114:12	183:7 186:4	104:18 105:20
turn 97:24 117:14	underneath 184:20	unreasonable	193:17 198:8	107:13 108:1
	underscore 106:5		various 138:3	114:3 121:11

123:24 134:5	ways 132:1 171:18	WHEREOF	126:12 142:11	115:11 122:10
145:25,25 169:11	172:11 176:9	219:15	145:21 146:3	124:25 145:3,13
175:22 179:23	187:10	white 167:19 172:5	148:9 150:14	146:7 164:16,17
184:19 190:8,12	we'll 95:17 97:19	175:25	152:13 153:10,20	174:22 178:22
191:5,20 199:4,5	98:1 101:14,16	wide 173:4	154:15 155:20	183:16 186:4,7
202:11,12,23	103:19 104:3	widely 116:19	158:22 159:5,7,12	workbook 110:16
204:11 207:8	139:17 190:18	Wiley 93:16 94:9	159:15,17,20	worked 122:17,20
209:8,24 210:24	we're 95:17 100:2	94:13,16 95:20,20	162:4 177:19	128:25 176:8
212:16	119:24 120:10,18	96:9,11,12,14,21	178:2 179:20	workers 114:22
wanted 99:1,23	122:9 123:5,9	96:25 97:1 98:21	180:6,17 184:9	177:6
100:4 105:9	124:6,7 128:11	98:22,24 100:13	190:11 192:9,13	Workers' 206:16
115:17,20 120:16	133:4 140:25	100:18 101:6,8,16	192:15,18 196:13	209:1
wanting 96:16	144:2,3 151:4,21	104:9,14 105:17	196:21 197:8	working 96:8
wants 115:10	152:19 153:16	107:17,19 108:2,5	202:17,20,24	119:13 123:1
200:12 216:15	158:16 159:10	108:11 117:9	203:6,9,12 208:1	171:24 173:6,7
washing 177:9,9	161:4,10 168:20	118:13 120:9,14	208:4 211:14,16	212:21 213:4
178:15,16 179:2	168:21 173:2	120:18 125:15	211:21 216:4,7	215:10,12
Washington 92:1,4	178:9,9 179:1	126:10 128:9	219:15	workplace 114:8
92:17,18 93:7,11	183:10 187:11	142:3 145:22,23	witness's 206:5	114:25
93:12,19 95:10	190:9 191:24	145:24 146:9,14	witnesses 99:21	works 146:5,8
116:13,14 117:1	211:10 213:3,4	146:18 150:4	105:7 111:14	192:1
129:6 130:6 147:3	214:16,18 215:18	151:1 152:7	117:12 190:16	world 156:22
181:24,24 182:14	215:21 216:11	154:20,21 155:9	wonder 169:10	170:23
189:4 219:2,8	we've 99:12 122:24	155:21 156:2	Wonderful 105:13	worried 192:12
wasn't 146:10	138:7 140:6	158:17,19 191:2	107:20	worries 106:11
152:2 154:3	141:19 148:15,16	191:16,19 196:12	Wonderlick 94:8	wouldn't 145:5
waste 99:12 109:16	158:14 169:20	196:14,15,17	100:22 101:5	200:11 206:20
109:18 111:18	183:13 185:5,6	197:1 201:18,22	105:7 109:15	write 130:14
112:9 113:11	201:2 211:24	202:7,10,19,20	110:11 114:14	143:16
122:16 128:25	weather 174:4	206:5 207:21	117:14,16 118:1,7	written 136:11,14
130:5 140:8,20	199:23 200:25	211:22,24 212:4	120:21 128:23	wrong 102:7 103:6
162:7,18 172:4	201:5,10	216:1,12,13,23	142:13 146:25	146:11 153:2
173:16 174:12	weeds 177:2	217:1,11,15,18	150:13 151:5,13	154:13 196:20
183:13 212:7,23	week 100:20	218:3	154:18 156:3	Wu 102:4
way 123:17,17,18	103:23	Williams 93:18	158:20 164:25	
124:25 127:19	weekly 169:18	97:2	179:14	<hr/> X <hr/>
132:1 135:2	weird 159:8	win 133:20	Wonderlick's	X 94:1,17,17
140:16 141:6	welcome 203:21	windfall 175:20	204:8	<hr/> Y <hr/>
144:5 145:9	went 132:4 139:3	window 177:4,8,9	Woodland 92:17	yeah 98:24 159:12
149:10,21 150:1	143:6 181:22	178:15,16 179:2	word 124:21	168:14 170:8
153:13 169:1	201:3 212:19,24	214:2	wording 197:5	174:2 186:13
176:13 179:1	weren't 186:19	windows 177:7	words 114:3 133:1	191:10 192:1
187:15 193:1	202:3 215:20	Wisconsin 109:22	138:17 142:24	205:9 208:1
208:21 210:25	western 172:3	witness 94:7 117:13	143:1 212:21	211:14
217:4	182:11 183:8	117:21 118:1,14	work 113:10	year 109:1,5

110:23 128:3 131:22 162:21 169:19 177:4,5,8 177:9 193:23,23 198:14,25 199:11 199:21,22,22 200:13,19,25 201:1,3,4,5,11,11 211:9 212:9 214:1 215:17,19 years 109:11 116:12 122:4,13 122:16,22 123:16 129:1,2,3 130:21 131:3,7,21,25 132:4 138:23 139:3,4,9,25 140:2,13 162:20 169:24 172:2 181:13,17,19 182:2,8,10,13,16 182:18,20 183:19 183:23 186:2,23 199:10,11,13 212:9 years' 129:15 years-plus 109:17 yell 120:6 Young 101:23 102:14 109:9	100 188:14 205:16 212:20 215:12 105 94:19 108 94:4 11 134:10 139:22 144:13 160:7 171:10 118 94:8 12 110:24 122:15 130:1 132:20 13 109:17 122:13 122:15 129:2,3,15 182:7 192:25 196:7 14 118:16,19 132:20 133:11 144:13 160:8 146 94:9 15 109:1 147:5,10 147:12 214:20 217:21 156 94:9 16 110:6 131:1 147:11 162:17 171:13 16,000 168:17 169:17 160 94:11 16th 219:16 17 118:16,19 130:15 182:14 18 131:1 133:12 147:5,9,10 171:13 182:20 183:19,23 196:8 181 94:11 19 130:15 182:20 192 94:13 1990 123:19 1T 147:7,8 193:1	183:19 191:8,10 213:8 214:20 2000 93:12 2000- 204:2 201 94:13 2010 129:2 2019 204:25 2021 169:19 2022 137:2 2023 110:6 116:23 117:2 2024 92:12 95:1 123:17 137:2 219:16 203 94:15 206.464.7740 93:13 206.628.6600 93:19 21 127:6 210 94:15 212 94:16 22 110:22,23 169:24 181:13,17 181:18 23 129:1 24 130:2 136:22 24/7 148:10 25 130:23 134:1,1 134:10 135:5 139:3,4 213:9 253 95:23 26 134:2 135:7 27 138:12 2731 92:24 219:22 28 105:5 29 139:18	35 143:9 36 143:10,17 360 174:13,21 360.664.1188 93:7 <hr/> 4 <hr/> 4 111:3 162:16 4:08 190:9 4:45 218:8 40 139:3,4 164:9 40128 93:6 4100 93:18 <hr/> 5 <hr/> 5 213:8,9 214:22 5-0 215:24,25 50 164:9 171:7 215:21,25 <hr/> 6 <hr/> 6 96:6,7 143:17 600 167:15 601 93:18 621 92:17 <hr/> 7 <hr/> 7 165:23 193:6,6 <hr/> 8 <hr/> 8 111:4 800 93:12 81 111:12 830,000 169:18 <hr/> 9 <hr/> 9 92:12 95:1 96:6 118:16,18,19 134:1,9 170:4,8 9:30 217:22 90 201:24 900,000 158:4 92-219 92:9 95 94:3 968 129:20 98101 93:19 98104 93:12 98504 92:18 93:7
<hr/> Z <hr/> Zoom 92:15 95:14 <hr/> 0 <hr/> <hr/> 1 <hr/> 1 106:5 126:21 204:25 1.25 167:8 1.9 110:8 1.92 158:1,7,15 215:3,6 10 110:24 119:2 139:22 10:30 98:4	<hr/> 2 <hr/> 2 134:1 174:23 2,000 167:12 2.5 116:12 182:8 20 171:17,18	<hr/> 3 <hr/> 3 138:12 160:7 3.5 216:24 3:00 98:3 3:04 155:3 3:15 155:3 30 132:12,16,16 139:3,4 167:8,17 215:17 34 130:15	