

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

Docket No. TG-230778 - Vol. IV

September 10, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
No. TG-230778
v.)
MURREY'S DISPOSAL COMPANY,)
INC., d/b/a OLYMPIC DISPOSAL,)
Respondent.) PAGES 220-387

EVIDENTIARY HEARING - VOL. IV
September 10, 2024
BEFORE ADMINISTRATIVE LAW JUDGE AMY BONFRISCO
VIA ZOOM

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

TRANSCRIBED BY: Andrea L. Clevenger, RPR, CCR #3041

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1 SEPTEMBER 10, 2024
2 -ooo-
3
4 JUDGE BONFRISCO: Let's be on the record.
5 Good morning. It's Tuesday, September 10th. The time
6 is 9:28. My name is Amy Bonfrisco, and -- sorry. My
7 apologies for that.
8 My name is Amy Bonfrisco, and I'm here with the
9 Utilities and Transportation Commission and presiding
10 over this matter. We are here today for the second day
11 in the evidentiary hearing in Docket TG-230778, which is
12 captioned, respectively, Washington Utilities
13 Transportation Commission versus Murrey's Disposal doing
14 business as Olympic Disposal.
15 If you remain on the virtual meeting today,
16 please know that you're deeming your consent to the
17 recording today. To start, I'd like to take appearances
18 on the record from both parties, and then I'll just do
19 kind of a brief roadmap of how we'll proceed this
20 morning.
21 So if I could start with Murrey's counsel.
22 MR. WILEY: Good morning, Your Honor. Dave
23 Wiley and Christopher Luhrs, for the respondent, Olympic
24 Disposal and Murrey's Disposal.
25 JUDGE BONFRISCO: And are you -- are there

<p style="text-align: right;">Page 224</p> <p>1 any other counsel with you here today, Mr. Wiley, or -- 2 MR. WILEY: Yeah. Just Mr. Luhrs and 3 myself. 4 JUDGE BONFRISCO: Okay. Perfect. And for 5 staff? 6 MR. ROBERSON: Good morning, Judge 7 Bonfrisco. Jeff Roberson, Colin O'Brien, AAGs on behalf 8 of staff. 9 JUDGE BONFRISCO: Perfect. And Public 10 Counsel? 11 MR. SYKES: Yes. Robert Sykes, with Public 12 Counsel. 13 JUDGE BONFRISCO: Okay. Thank you. 14 So basically we're going to talk about a 15 tentative plan for this morning. It's my understanding 16 we're going to start with the testimony of 17 Mr. Scontrino. 18 But before we jump into that, just want to 19 remind the parties, similar to yesterday's proceeding, 20 just keep your microphone muted unless you're speaking, 21 and use the videos only for those portions that you'll 22 be presenting. 23 I've reserved the chat for any technical issues 24 that come up, or any questions, and -- hold on one sec. 25 My apologies.</p>	<p style="text-align: right;">Page 226</p> <p>1 go into a closed proceeding when it's time to present 2 any confidential exhibits, what I'm going to do is, I'm 3 going to have the record staff actually transfer anybody 4 who has not signed a confidentiality agreement to a 5 breakout room and then we'll keep the parties who have 6 signed in the room. 7 And so I guess with that, are there any 8 questions about proceeding in that manner? 9 MR. WILEY: None from the company, Your 10 Honor. 11 MR. ROBERSON: I guess I do just have one 12 logistical question, which is, if everyone stays in the 13 main room who signed a confidentiality agreement, is 14 someone going to be monitoring the link to make sure 15 that no new people come in because the main link is the 16 one that was distributed; right? 17 JUDGE BONFRISCO: Yeah. And I think we were 18 trying to figure out the cleanest way to do it. If it's 19 cleaner just to send those to the breakout room, I know 20 record center staff was having some confusion prior, to 21 make sure we got all the right -- you know, to make sure 22 anybody who should not be in that room is not in that 23 room. 24 And so for logistical purposes, I understand 25 your concern that if someone is missed, that could be</p>
<p style="text-align: right;">Page 225</p> <p>1 Just want to check something right here on our 2 recording. Okay. It looks like our recording is in 3 good order. My apologies for that. 4 So I've tentatively planned for a break around 5 10:30 a.m. However, depending on how the testimony goes 6 today, we can change that around. 7 Also, I know we're only scheduled to go until 8 noon today and so am hoping we can, you know, pare back 9 any of that testimony, if need be, and so we can check 10 in. 11 So I'll let the parties kind of guide me with 12 regards to, you know, if we do think we're going to have 13 to go beyond -- and if we could try to wrap that up 14 today. 15 And, you know, as far as exhibits, I think 16 yesterday we already kind of touched upon that, but I do 17 want to just confirm my understanding that the parties 18 have stipulated to all the pre-filed and cross exhibits. 19 Is that understood and correct? Okay. Thank 20 you. 21 MR. WILEY: Yes, Your Honor. 22 JUDGE BONFRISCO: Okay. Thank you. 23 Perfect. 24 And next piece, I -- I'll kind of touch on this 25 again, similar to as I did yesterday. If we do need to</p>	<p style="text-align: right;">Page 227</p> <p>1 problematic. So we can always just kind of revert to 2 the opposite way of actually, you know, sending those 3 who signed the break -- basically those who've signed 4 the confidentiality agreement off to the breakout room, 5 and then, once we're in that room, just confirm with 6 counsel that there isn't anybody in the room that should 7 not be in the room, and if they are, send them back to 8 the main room. 9 Does that make sense? 10 MR. ROBERSON: Yeah. I think staff would 11 prefer that because there's an additional gatekeeping 12 step and just helps make sure that nothing confidential 13 is disclosed. 14 JUDGE BONFRISCO: Perfect. Okay. And I 15 think that's how we normally do it. We just were trying 16 to brainstorm, you know -- I know it's been a little 17 difficult where some of the exhibits are confidential, 18 others are not, but I want to make sure, for any of 19 those confidential portions, that that data is 20 protected. So we'll proceed in that manner. 21 With that said, Stacey, since you're helping 22 out with records, do you have any questions with regards 23 to that? 24 MS. BREWSTER: Double-check. So the 25 confidential session will be in the breakout room as</p>

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1 opposed to --
 2 JUDGE BONFRISCO: Correct. And once we get
 3 into the -- and I believe we have a list, but let's just
 4 go over it briefly. I believe -- maybe it would be best
 5 if counsel just, again, confirms for me who you're
 6 comfortable having transfer to the breakout room. So
 7 I'll start with staff.
 8 MR. ROBERSON: Sorry. Wouldn't be a Zoom
 9 meeting if I didn't start talking on mute.
 10 Mr. Sharbono, Mike Young, Scott Sevall have all
 11 signed confidentiality agreements. I do not know about
 12 Tiffany Van Meter.
 13 Greg Hammond is on the ALD side of the wall, as
 14 is Dr. Wu. Jeanine Leggett I do not believe has signed
 15 a confidentiality agreement, nor has, to my knowledge,
 16 Tanya Bailey.
 17 And, quite honestly, I do not know who Kelsie
 18 Hanson is, so as far as I know, he or she has not signed
 19 a confidentiality agreement.
 20 JUDGE BONFRISCO: Okay. Thank you for
 21 clarifying for staff.
 22 And I -- I thought Tiffany -- I could
 23 double-check if Tiffany signed one.
 24 MS. BREWSTER: Sorry to break in.
 25 Mr. Roberson, could you again identify who

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1 should be in the room? I have Ben Sharbono, Greg
 2 Hammond, Scott Sevall.
 3 MR. ROBERSON: Mike Young.
 4 MS. BREWSTER: Mike Young. Okay.
 5 MR. ROBERSON: Jisong Wu.
 6 MS. BREWSTER: Thank you.
 7 MR. ROBERSON: Oh, and (inaudible) the
 8 second.
 9 JUDGE BONFRISCO: Perfect.
 10 And, Public Counsel?
 11 MR. SYKES: Yes. I am the only one from
 12 Public Counsel here today.
 13 JUDGE BONFRISCO: Okay. Perfect. So,
 14 Stacey, it will just be Mr. Sykes.
 15 And for Murrey's counsel?
 16 MR. WILEY: Yes, Your Honor. I believe all
 17 of our witnesses, some of whom may or may not be on the
 18 line today, would be in the breakout room, and Heather
 19 Garland would be in the breakout room. And that, I
 20 believe, is everybody from our side.
 21 JUDGE BONFRISCO: Okay. Perfect.
 22 So, Stacey, just to confirm, do you have the
 23 full list of who will be sent to the breakout room?
 24 MS. BREWSTER: At this point I have listed
 25 Ben Sharbono, Greg Hammond, Heather Garland, James

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1 Brown, Jeff Roberson, Jisong Wu, Joe Wonderlick, Mark
 2 Gingrich, Mike Young, Peter Scontrino, Robert Sykes,
 3 Scott Sevall, and the phone number that Dave Wiley is
 4 dialed in on is 1 (253) --
 5 MR. WILEY: Excuse me, Your Honor. I was
 6 just reminded that Brian Vandenberg has signed and is in
 7 the hearing room here today, has signed one, and also
 8 Bronco Tersick (phonetic) and Brenda Lopes (phonetic)
 9 have signed them. I don't know if they'll be online
 10 today.
 11 MS. BREWSTER: Okay. And Chris Luhrs is
 12 also part of your team; is that correct?
 13 MR. WILEY: Yes. Yeah. And Colin O'Brien
 14 for the AGs.
 15 MS. BREWSTER: Thank you very much. And
 16 there is one attendee identified as iPhone. Would that
 17 person identify themselves and let me know?
 18 MR. ROBERSON: I've been told that may be
 19 Jing Roth who has signed a confidentiality agreement.
 20 Jing, if that's you on the iPhone, can you
 21 unmute yourself?
 22 Perhaps not. I've also been told that Tiffany
 23 Van Meter and --
 24 MR. LUHRS: (Inaudible.)
 25 MR. ROBERSON: -- signed agreements.

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1 MS. BREWSTER: Tiffany Van Meter has signed
 2 an agreement?
 3 MR. ROBERSON: And Jeanine Leggett.
 4 MS. BREWSTER: Okay.
 5 JUDGE BONFRISCO: And I'm sorry. I thought
 6 I heard something from (253) 414-0345. Is that -- that
 7 caller, could you identify yourself?
 8 MR. WILEY: I think that's the Murrey's
 9 group.
 10 MS. BREWSTER: That is Murrey's counsel.
 11 JUDGE BONFRISCO: Perfect. Okay. Perfect.
 12 I just want to confirm.
 13 Okay. I think we are in good shape. I
 14 appreciate everyone's patience. We just want to make
 15 sure we have this accurate for that stage of the
 16 proceeding.
 17 Okay. So with that -- and it's my
 18 understanding, Mr. Scontrino does not have any
 19 confidential testimony this morning; is that correct?
 20 MR. LUHRS: Your Honor, I believe that is
 21 the case. However, Dr. Scontrino has signed a
 22 confidentiality agreement.
 23 JUDGE BONFRISCO: Okay. I just want to
 24 know, as far as starting the proceeding, at -- I guess
 25 I'll ask the parties to let me know at what stage we're

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1 going to want to stop the recording and be sent to that
 2 breakout room.
 3 So at this juncture, you know, we can go ahead
 4 and start. I know this is the last company witness that
 5 staff is going to be crossing today, and then we're
 6 going to be moving over to the cross of Mr. Sharbono.
 7 So, you know, at this juncture, is counsel
 8 comfortable proceeding on the record with this witness?
 9 MR. ROBERSON: Yes.
 10 JUDGE BONFRISCO: Okay. Perfect. All
 11 right. So with that, Mr. Scontrino, if I could have you
 12 turn your video back on. Thank you. If you could raise
 13 your right hand, I'm going to swear you in.
 14 M. PETER SCONTRINO PH.D., having been first duly sworn
 15 testified as follows:
 16 JUDGE BONFRISCO: Okay. Wonderful. Thank
 17 you.
 18 Mr. Roberson, you may proceed.
 19 CROSS-EXAMINATION
 20 BY MR. ROBERSON:
 21 **Q. Good morning Dr. Scontrino. How are you?**
 22 A. Good morning, Mr. Roberson. Fine. How are
 23 you?
 24 **Q. I'm doing well.**
 25 A. I'm comfortable -- I'm comfortable having you

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1 call me Peter.
 2 **Q. Okay. Good morning, Peter.**
 3 **Would you please turn to Table 1 on your -- of**
 4 **your testimony, which is -- kind of spans Pages 3**
 5 **through 5.**
 6 A. Yes.
 7 **Q. Several of the entries on that table have a**
 8 **saturation field entry of construction, utilities, and**
 9 **agriculture; is that correct?**
 10 A. That -- that's correct.
 11 **Q. Do you know what percentage of the companies in**
 12 **that category are utility companies?**
 13 A. I don't know. I didn't find that in the
 14 information. My guess is, it's a very small percentage.
 15 **Q. Okay. And I guess, background question, are**
 16 **you familiar with kind of the utility business model and**
 17 **how government regulation works of rates and prices?**
 18 A. Yes. I worked for four years with Southern
 19 California Edison.
 20 **Q. Okay. It appears that the construction,**
 21 **utility, agriculture industry group is broken down into**
 22 **subcategories based on the size of companies; correct?**
 23 A. That is correct.
 24 **Q. And there's two that are marked in multiple**
 25 **fields. It's mid size and large size; correct?**

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1 A. That is correct.
 2 **Q. And do you know what the threshold is, to be**
 3 **considered a mid-sized company as the term is used here?**
 4 A. Usually in the hundreds.
 5 **Q. It's in the hundreds.**
 6 **Okay. And so then a larger company would be**
 7 **somewhat bigger than that?**
 8 A. Yes.
 9 **Q. Okay. Do you know how many people Olympic**
 10 **Disposal employs?**
 11 A. A very small number.
 12 **Q. Is it below a hundred?**
 13 A. Yes.
 14 **Q. Okay. In the last entry on the table -- this**
 15 **is on Page 5 -- you know that 39 percent of employers**
 16 **offer severance; correct?**
 17 A. I think that's on Page 6, but yes.
 18 **Q. Anyway, it's a minority of employers; correct?**
 19 A. Well, I wouldn't call 39 percent a minority. I
 20 think that's a -- a significant number.
 21 **Q. How would you define "minority"? Is it not**
 22 **less than 50 percent?**
 23 A. When I'm looking at business practices, if I
 24 see -- if I see over 30 percent doing something, I would
 25 call that common. It's definitely under 50 percent.

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1 It's under 40 percent, but that still says four out of
 2 ten organizations are doing it.
 3 So it would not be atypical to find that in an
 4 organization. I don't want to be argumentative, but
 5 it's still common.
 6 **Q. Okay. And I also don't want to be**
 7 **argumentative, so we can agree on that.**
 8 A. Yeah.
 9 **Q. And that would be across all industries; right?**
 10 **That's -- as I understand this field, that's all**
 11 **employers?**
 12 A. Yes.
 13 **Q. Okay. Do you know what percentage of utility**
 14 **companies pay severance?**
 15 A. The only one that I worked closely with is
 16 Southern California Edison, and they had severance for
 17 virtually all jobs and all positions, but that's a
 18 sample of one.
 19 **Q. In your experience, can you -- I'm just**
 20 **kidding. I'm not going to ask you to draw a**
 21 **statistically valid conclusion. Okay.**
 22 A. Thank you.
 23 **Q. How familiar are you with Murrey's operations?**
 24 A. I'm a customer of a waste company. I'm not
 25 familiar at all with Murrey's operations.

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1 **Q. So did you spend any time at its facilities?**
 2 A. I did not.
 3 **Q. Did you talk to any of its people other than**
 4 **the attorneys who helped you prepare your testimony?**
 5 A. I spoke with -- with Joe. I'm blocking on his
 6 last name.
 7 **Q. Wonderlick perhaps?**
 8 A. Wonderlick. Yeah. Thanks.
 9 **Q. How long was that conversation?**
 10 A. I had, I think, three different conversations,
 11 and they could have been a total of one and a half to
 12 two hours. And he had other managers on the phone
 13 conversations with him.
 14 **Q. Okay. Did you look to see how typical Murrey's**
 15 **practices were of the companies used in the data**
 16 **provided on that table?**
 17 A. Murray did use many of the incentives and
 18 followed many of the practices that cut across the
 19 table.
 20 MR. ROBERSON: Okay. I think that's all I
 21 have. Thank you for your time.
 22 THE WITNESS: Oh, you're welcome. Could I
 23 add one more thing?
 24 MR. ROBERSON: Technically, there's no
 25 question pending, but sure.

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1 **Q. (By Mr. Roberson) What do you got to say?**
 2 A. Okay. One of the things that I was shown was
 3 an employee survey where the Olympic employees scored
 4 extremely high on engagement. And engagement is one of
 5 the things that we industrial psychologists like to
 6 track in organizations because it predicts so many
 7 things.
 8 It predicts low turnover. It predicts morale.
 9 It's linked to high customer satisfaction and other
 10 things that are important to organizations.
 11 And so when I -- when I saw that data about
 12 Olympic, I was very impressed that the management team
 13 had created such a positive work culture, which is just
 14 so important for organization and has payoffs for an
 15 organization to be efficient, effective, and high
 16 customer satisfaction.
 17 **Q. So I guess building on that, though, I do have**
 18 **some follow-ups.**
 19 **Did you look to see kind of what drove the**
 20 **employee satisfaction scores, like, to what the -- the**
 21 **employees attributed their high satisfaction?**
 22 A. The survey had -- I'm reading off of the survey
 23 now -- had things like what they saw about the
 24 environment: freedom to express their opinion,
 25 involvement in goal setting, chance for personal growth,

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1 perception of management support, the recognition they
 2 received, social well-being they received, a sense of
 3 inclusiveness, nondiscrimination, and a sense of
 4 customer service.
 5 And all those things tally up to an overall
 6 score of engagement.
 7 MR. ROBERSON: Excellent. Thank you.
 8 THE WITNESS: You're welcome. Thank you.
 9 Am I dismissed now?
 10 JUDGE BONFRISCO: Not quite yet,
 11 Mr. Scontrino.
 12 I just want to make sure -- first I want to
 13 check with Public Counsel whether you have any questions
 14 for this witness?
 15 MR. SYKES: I have no questions for this
 16 witness.
 17 JUDGE BONFRISCO: Okay. And then I want to
 18 check with the company if they have any redirect of
 19 Mr. Scontrino?
 20 MR. LUHRS: I do have some --
 21 JUDGE BONFRISCO: Chris --
 22 MR. LUHRS: I do have some limited redirect.
 23 JUDGE BONFRISCO: Okay. Mr. Scontrino, if
 24 you could come back on, that would be great.
 25 THE WITNESS: I'm here, Your Honor. Thank

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1 you.
 2 JUDGE BONFRISCO: All right. Thank you.
 3 Mr. Luhrs, feel free to proceed.
 4 MR. LUHRS: Thank you, Your Honor.
 5 REDIRECT EXAMINATION
 6 BY MR. LUHRS:
 7 **Q. Peter, can you hear me okay?**
 8 A. I can hear you fine. Thank you.
 9 **Q. Great. Given the scope of the**
 10 **cross-examination, my questions will be limited, but I**
 11 **do want to ask for you to speak to some of the testimony**
 12 **you just gave in response to Mr. Roberson's questions.**
 13 **And so you were asked about the size of**
 14 **Olympic. Do you recall that?**
 15 A. Yes.
 16 **Q. And you were asked about the table of sources**
 17 **included in your testimony that spanned from Page 3 to**
 18 **5.**
 19 A. Yes.
 20 **Q. And included in those tables were some**
 21 **resources that you consulted; is that correct?**
 22 A. That is correct.
 23 **Q. Based on your review of those materials and**
 24 **your investigation into Olympic, were you able to**
 25 **determine whether those resources, the studies**

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1 **referenced therein, were representative of Olympic's**
 2 **operation?**
 3 A. Yes. Olympic was -- was using many of the
 4 incentives that were common across organizations, in
 5 some cases as high as 90 percent, some cases as low as
 6 39 percent.
 7 **Q. Okay. And you were also asked about the size**
 8 **of Olympic. Do you recall that?**
 9 A. Yes.
 10 **Q. Why did you not just limit your inquiry into**
 11 **Olympic itself? Why did you, in other words, expand**
 12 **your inquiry to things like publications, academic**
 13 **studies, et cetera?**
 14 A. Well, Olympic is a small organization, and when
 15 I -- when I look at a small organization and try to look
 16 at the practices they're following and use that to
 17 predict things like customer satisfaction, it's almost
 18 impossible to do.
 19 That would be like doing an experimental drug
 20 study with a sample size of one. We don't have sample
 21 sizes of one in experimental studies. We have sample
 22 sizes of thousands or tens of thousands.
 23 And so -- so I go to the literature to find out
 24 what best practices are, and since the medium-size and
 25 large-size companies tend to be focused more on -- more

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1 on surveys, I use that information as a backdrop to look
 2 at what an organization is doing.
 3 So if one says, for example, safety incentive
 4 plans, safety incentive plans are quite common in
 5 organizations, particularly in organizations that have
 6 moving equipment.
 7 Now, what does the safety incentive plan
 8 predict? I can't tell you that for Olympic. I can tell
 9 you that, in general, safety plans work well. They
 10 increase morale. They reduce the number of accidents.
 11 They help create a culture of safety.
 12 But just looking at one organization, if you
 13 look at the survey that was done at Olympic, it tells
 14 you they do have a safety culture, but from that, I
 15 don't have any other data to use.
 16 **Q. And would that same concept apply? You just**
 17 **cited safety.**
 18 **Does that apply to the other programs'**
 19 **incentive and otherwise that you analyzed?**
 20 A. Yes. They're common programs across all
 21 industry, but inside Olympic, I cannot make a prediction
 22 of what one particular incentive is -- impact is going
 23 to have on things like customer satisfaction.
 24 **Q. Okay. And bear with me as I look at my notes.**
 25 **So in light of your inquiry, do you believe**

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1 **that the various programs in place at Olympic are**
 2 **reasonably appropriate and representative of the**
 3 **marketplace?**
 4 A. Yes. And that the percentages shown in the
 5 table support that conclusion.
 6 MR. LUHRS: Okay. Thank you very much,
 7 Dr. Scontrino. I don't have anything further for you.
 8 THE WITNESS: You're welcome.
 9 JUDGE BONFRISCO: Thank you, Mr. Scontrino.
 10 The bench does not have any questions. You may be
 11 excused.
 12 THE WITNESS: Thank you, Your Honor.
 13 JUDGE BONFRISCO: Thank you.
 14 MR. WILEY: Have a nice day.
 15 JUDGE BONFRISCO: Now I'd like to move on
 16 and have the company tender the cross of staff witness
 17 Ben Sharbono, but before we do that, I just want to
 18 check with Mr. Wiley.
 19 Would you like to do the breakout rooms now or
 20 would you like to wait until we're further on into the
 21 exhibits?
 22 MR. WILEY: I think let's wait until we're
 23 further on into the exhibits, Your Honor.
 24 And as I mentioned, I'm kind of a newcomer to
 25 the confidentiality exclusion issue, so if you catch me

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1 getting more specific without me having advised, please
 2 remind me, if you would.
 3 JUDGE BONFRISCO: Yeah. And just to kind of
 4 recap, it's primarily, you know, any proprietary
 5 confidential information that we'd be touching upon.
 6 A lot of times -- and I think Mr. Riverson
 7 touched upon it yesterday -- when we get into any of the
 8 mathematical computations or, you know, other protective
 9 data, that we want to ensure that only those parties who
 10 sign the confidentiality agreement that are privy and
 11 allowed to have exposure to that are present, so it's
 12 really for the company's protection.
 13 MR. WILEY: Yes. And I think you make a
 14 good point about the calculations because there will be
 15 some questions specifically about that, so I'll be on
 16 the alert as well.
 17 JUDGE BONFRISCO: Okay. Perfect. All right
 18 then.
 19 With that, Mr. Sharbono, if you could turn on
 20 your camera, and I will swear you in. And -- there you
 21 are. Perfect. If you could raise your right hand.
 22 BEN SHARBONO, having been first duly sworn
 23 testified as follows:
 24 JUDGE BONFRISCO: Okay. Thank you.
 25 Mr. Wiley, you may proceed.

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1 MR. WILEY: Thank you, Your Honor.
 2 CROSS-EXAMINATION
 3 BY MR. WILEY:
 4 **Q. Good morning, Mr. Sharbono.**
 5 A. Good morning.
 6 **Q. We're scheduled hopefully for less than three**
 7 **hours, but I just wanted to warn you, we might go into**
 8 **the noon hour since it's five of 10:00. And I hope**
 9 **you'll be patient because there was quite a bit of**
 10 **testimony packed into your 40 pages of revised response**
 11 **testimony.**
 12 **So if I appear to jump around topics at times,**
 13 **bear with me, as some of the topics are rather**
 14 **intertwined.**
 15 **The first issue I wanted to touch upon is your**
 16 **experience. You joined the commission in June 2016, I**
 17 **think, and I think I first met you when you were**
 18 **expanding annual report formats sometime in the 2017 to**
 19 **2019 period; correct?**
 20 A. I do not remember when I met you. I did start
 21 with the commission in 2016. I did serve as the interim
 22 reports analyst for at least a year. I think it was
 23 nearly two years.
 24 **Q. At that time of the -- at that time, was your**
 25 **section chief Danny Kermode?**

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1 A. Yes.
 2 **Q. Okay. And is it true that you've been doing**
 3 **rate review and auditing since June of 2019?**
 4 A. Subject to checking, I believe that would be
 5 precise.
 6 **Q. Yeah. This is coming out of your -- your**
 7 **response testimony. I just want to confirm some of**
 8 **these chronologies. I think you'll find that there.**
 9 **What types of regulated company rate filings do**
 10 **you review?**
 11 A. I review water and transportation and solid
 12 waste company filings.
 13 **Q. To whom do you currently report in your**
 14 **section?**
 15 A. I currently report to Mike Young and, by
 16 default, to Jing Roth.
 17 **Q. By "default," what do you mean?**
 18 A. She is my section -- she is the sections
 19 assistant director.
 20 **Q. And during rate reviews, do you consult with**
 21 **her primarily, or with Mr. Young? Who of your**
 22 **higher-ups do you work the issues through on audits?**
 23 A. Primarily with Mike Young. And anything
 24 that's -- is more complex or needs a policy or other
 25 decision, we usually will elevate to Jing Roth.

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1 **Q. Fair enough.**
 2 **By the way, when you became a rate analyst, did**
 3 **you have any training or immersion in the historic**
 4 **transportation or water case decisions of the**
 5 **commission?**
 6 A. Can you explain?
 7 **Q. Yeah. I'm asking, were you entrenched or**
 8 **immersed or instructed in the transportation and water**
 9 **case decisions that the commission has historically**
 10 **made?**
 11 A. Through doing rate cases, we do touch upon
 12 historical documentation. We usually only kept the
 13 orders that were pertinent to the things that we're
 14 immediately working upon.
 15 So I would say both yes and no.
 16 **Q. Okay. And does that mean you have an archive**
 17 **of decisions or not, or are they just coming sort of**
 18 **once -- once an issue arises, are you pulling a case to**
 19 **look for it?**
 20 A. When the need arises, for the most part, we
 21 look for historical documentation on it and -- but we do
 22 have a few items that we do keep in an archive.
 23 **Q. Is that available to the public, that archive?**
 24 A. No.
 25 **Q. Okay. Is there also training in what we might**

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1 **refer to as accounting treatment policies, as opposed to**
 2 **WAC rules in your section when you assume a role as a**
 3 **rate analyst?**
 4 A. Can you repeat the question? You're very
 5 quiet.
 6 **Q. Yes. Is there also training in what we'll call**
 7 **accounting treatment policies as opposed to specific WAC**
 8 **rules of your section when you assumed the position of**
 9 **rate case analyst?**
 10 A. We receive on-the-job training in the
 11 material -- or in the policies and practices of what we
 12 do. There are a few items that have written policies.
 13 Most things are by word of mouth or we refer to
 14 other materials such as some of the texts that we have
 15 at the commission library or we go to additional
 16 training such as the (inaudible) rate school.
 17 **Q. What -- is the (inaudible) rate school the one**
 18 **week session where you look at sample water company, for**
 19 **instance? Is that what you're referring to?**
 20 A. Yes.
 21 **Q. Okay. By the way, are you a licensed CPA?**
 22 A. No.
 23 **Q. Okay. And you've described some of your**
 24 **training. Could you, for example, tell us how you**
 25 **became acquainted with the Lurito Gallagher methodology**

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1 **by which the commission set solid waste commission --**
 2 **company rates?**
 3 A. I became familiar with it through doing general
 4 rate cases for solid waste companies and also in
 5 conversations with Danny Kermode as he was working on
 6 the last version of it.
 7 **Q. Well, that -- there was a policy statement**
 8 **issued by the commission in approximately 2020 that**
 9 **addressed the methodology, but it retained it in place,**
 10 **did it not?**
 11 A. It did retain the model in place. However, it
 12 did make adjustments to it and that will be up for
 13 review next year.
 14 **Q. By "up for review," what do you mean?**
 15 A. It is supposed to be updated on a periodic
 16 basis, and staff, I believe, has instruction to look at
 17 it.
 18 **Q. So you're talking about the data set on which**
 19 **the Lurito methodology is based; correct?**
 20 A. I believe so.
 21 **Q. Okay. And that's the industry data set that**
 22 **hasn't really been updated in decades; correct?**
 23 A. I believe that would be false. Because they
 24 updated recently as part of that last order.
 25 **Q. And you're saying -- is that data on the**

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1 **website?**
 2 A. The Lurito model should be available on the
 3 website. If it's not available on the website, it is
 4 available from staff.
 5 **Q. Including the updated data set that you**
 6 **referred to; correct?**
 7 A. The model that is on the website was the one
 8 that was approved by the commission.
 9 **Q. That's not my question, Mr. Sharbono.**
 10 **My question is: Would what's on the website**
 11 **include the updated data set for Lurito Gallagher**
 12 **methodology? Yes or no? If you don't know, say you**
 13 **don't know.**
 14 A. That would be an I don't know. Because I don't
 15 believe that the information was released to staff.
 16 **Q. Speaking of training, for instance, does your**
 17 **department get training on the differences between**
 18 **GAAP-type accounting and regulatory utility accounting?**
 19 A. Per on-the-job training, yes.
 20 **Q. How do you define "on-the-job training,"**
 21 **please?**
 22 A. On-the-job training is any training that is
 23 done while we are working on cases, through
 24 conversations with our other staff, through guided work,
 25 through cases with our staff.

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1 **Q. So I'm asking about training that might not be**
 2 **on the job but would be anticipatory of on-the-job**
 3 **training; in other words, formal presentations on some**
 4 **of the issues before you might be involved in them in an**
 5 **audit. Is there that kind of training?**
 6 A. We've had that type of training.
 7 **Q. Can you give us some examples and chronology**
 8 **that's associated with that, please? And by**
 9 **"chronology," I mean dates of when it occurred.**
 10 A. I would not be able to give you dates off the
 11 top of my head, but I -- we did have one gentleman come
 12 in that presented for I think it was a full week of
 13 which we were -- I was involved in two days of his
 14 training.
 15 **Q. You don't know when that was?**
 16 A. I don't know the exact dates. I'd have to go
 17 look that up. I don't keep track of exactly what I
 18 am -- I don't keep track in my head of everything that I
 19 do on an everyday basis.
 20 **Q. Well, I'm not asking that. I'm just asking a**
 21 **general indication of when it occurred. Apparently it**
 22 **occurred after you became a rate analyst.**
 23 **Can you give us any specifics on what the**
 24 **topics were?**
 25 A. The topics that were addressed, or at least the

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1 ones that I attended, dealt with handling rate case
 2 costs and particularly doing testimony.
 3 **Q. Okay. Preparing for adjudicated cases, I**
 4 **assume?**
 5 A. Yes. The primary personnel that that was
 6 addressed to was for energy.
 7 **Q. Okay. Not transportation and water?**
 8 A. We very rarely do these types of cases, so no,
 9 in general, not.
 10 **Q. You don't do water cases --**
 11 A. (Inaudible.)
 12 **Q. -- (inaudible)? Is that your testimony?**
 13 A. What was that?
 14 **Q. I said, you don't do adjudicated water cases**
 15 **frequently. Is that your testimony?**
 16 A. We don't do -- we don't do formal cases for
 17 water very frequently.
 18 **Q. Okay. It appears that you were in your rate**
 19 **analyst position for about nine months before COVID hit;**
 20 **correct?**
 21 A. Approximately, yes.
 22 **Q. How did COVID change your department's internal**
 23 **interactions and with the regulated community, if you**
 24 **could briefly describe?**
 25 A. The only major change in the interactions was

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1 the fact that we -- there were times where you would
 2 just walk up to somebody and talk with them.
 3 **Q. So your testimony is the interpersonal**
 4 **interactions obviously didn't occur during COVID;**
 5 **correct?**
 6 A. We still had interpersonal interactions, just
 7 using technology. It was just less common.
 8 **Q. In other words, you relied on remote**
 9 **interactions rather than in-person interactions,**
 10 **correct, like we all did? Is that correct?**
 11 A. Yes.
 12 **Q. Post-COVID, is your department working largely**
 13 **remotely still or do you have mandatory back to the**
 14 **office days?**
 15 A. We are largely remote.
 16 **Q. How many solid rate waste -- solid waste rate**
 17 **cases -- boy, that's a tongue-tie -- have you been the**
 18 **primary or coprimary analyst on, would you say, since**
 19 **you started in June 2019?**
 20 A. I don't remember if I have that in my
 21 testimony, but if I don't, it's going to be north of 50.
 22 **Q. So 50 to 60 possibly?**
 23 A. I'm -- without checking and reviewing, I'm just
 24 going to say north of 50.
 25 **Q. So that could be 1,000 or could be 300;**

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1 **correct?**
 2 A. I have no further answer on (inaudible) --
 3 **Q. (Inaudible.)**
 4 A. -- on the issue.
 5 **Q. Yeah.**
 6 A. I have stated (inaudible).
 7 **Q. I'm just trying to catch some context,**
 8 **Mr. Sharbono, on "north of 50."**
 9 **Can you give us any? Can you hear me?**
 10 A. Yes.
 11 **Q. Okay. What's your answer on --**
 12 A. (Inaudible.)
 13 **Q. -- (inaudible) north of 50? What?**
 14 A. Over 50.
 15 **Q. Okay. By the way, as concerns your**
 16 **department's policy, what is the view on audit sampling**
 17 **at present?**
 18 A. Our view on audit sampling is that we -- we are
 19 reviewers. Therefore, we want to take a look at all of
 20 the documentation involved.
 21 We don't use statistic-based audit sampling
 22 that would normally be used in a CPA audit, nor do we
 23 receive additional training in the audit procedures that
 24 you would find, per se, at the office of the auditor
 25 general or whatever his department is.

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1 We --
 2 **Q. Two (inaudible) --**
 3 A. -- (inaudible) --
 4 **Q. -- (inaudible).**
 5 A. -- necessary to show that the information that
 6 we are provided is accurate and that the information
 7 we're being provided is supporting a request that's
 8 being given.
 9 **Q. Okay. Two questions in follow-up.**
 10 **First of all, that's contrary to Internal**
 11 **Revenue Service audit policy, is it not?**
 12 A. I do not work for the IRS, nor have I reviewed
 13 their policy.
 14 **Q. Okay. Now, Mr. Sharbono, we're going to have**
 15 **some problems if you don't answer my questions**
 16 **specifically. I didn't ask you if you worked for the**
 17 **IRS.**
 18 **I said, isn't that contrary to IRS policy?**
 19 A. I do not work for the --
 20 **Q. (Inaudible) answer?**
 21 A. Do I know their policies? I do not sit down
 22 and read IRS policy, nor is that part of my training.
 23 **Q. So you don't know whether the IRS endorses and**
 24 **utilizes audit sampling?**
 25 A. No, I don't. Because I do not work for them,

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1 nor do I read their policies.
 2 **Q. Okay. And when you worked for Mr. Kermode,**
 3 **audit sampling was the normal approach of rate case**
 4 **analysts, was it not?**
 5 A. No.
 6 **Q. So is it your testimony that, since you've been**
 7 **employed as a rate case analyst at the WUTC, your**
 8 **section has not employed audit sampling in reviewing**
 9 **general rate cases filed by solid waste collection**
 10 **companies?**
 11 A. Could you restate the question, please?
 12 MR. WILEY: Your Honor, could I have that
 13 question read back, please?
 14 JUDGE BONFRISCO: At this juncture, we don't
 15 have a court reporter, but I believe you inquired about
 16 the handle of the audit rate case; is that correct?
 17 MR. WILEY: Yes. And I asked him -- as I
 18 recall, the question was, since his tenure as a rate
 19 case analyst, is it his testimony that his department
 20 did not employ audit sampling as their approach in
 21 review of general rate case filed by solid waste
 22 collection companies.
 23 JUDGE BONFRISCO: Mr. Sharbono, if you could
 24 please answer the question.
 25 A. Staff uses several different methodologies,

1 some of which would be reflective of an audit standard;
2 some of them would be more of a review standard.
3 And some of them are -- we ask for the
4 documentation that is necessary to show that the
5 requests that are being made are fair, just, reasonable,
6 and sufficient.

7 **Q. (By Mr. Wiley) Okay. Mr. Sharbono, that
8 didn't answer my question.**

9 **My question was: Is it your testimony, since
10 you've been employed as a rate analyst, that audit
11 sampling was not a technique used by your section in
12 reviewing general rate solid waste cases? Yes or no?**

13 A. I believe I have answered the question, but we
14 have used portions of audit sampling, as well as review,
15 as well as asking for additional information which may
16 include everything in order to support the rates that
17 are being requested as fair, just, reasonable, and
18 sufficient.

19 **Q. Okay. We're going to shorten this session if
20 you please say yes or no to a question. We're making a
21 record here. Then you can explain.**

22 **What I understand from your last response is
23 that, yes, you do use audit -- audit sampling in
24 selective circumstances; correct?**

25 A. Yes.

1 MR. WILEY: Well, Your Honor, we're talking
2 about a lot of disallowance of expense items, line items
3 of expense here that we're going to explore more deeply,
4 and I just am asking for any foundation in terms of how
5 he approaches those adjustments.

6 JUDGE BONFRISCO: I'm going to overrule the
7 objection and request that you, you know, elaborate on
8 what is -- are the general thresholds examined.

9 A. We don't have a written policy of any
10 particular thresholds. We base it off of, as we review
11 the accounts, what's the most normal in the accounts,
12 what we would expect to see in the accounts.

13 And if we're asking for information on an
14 entire account, which is often the case because we are
15 looking at all of the transactions that are ongoing,
16 which is outside of a standard audit standard, we will
17 oftentimes include amounts that are very low but also
18 include all the amounts that are very high.

19 **Q. (By Mr. Wiley) So that would include your
20 request for backup documents on a \$17 Visa charge
21 potentially; correct?**

22 A. Yes.

23 **Q. Looking to the Olympic case, in -- can you tell
24 us, based on your experience, which you said is north of
25 50 in reviewing solid waste collection cases, how many**

1 **Q. Okay. What are those circumstances, please?**

2 A. Where it appears justified to use those
3 sampling methods.

4 **Q. Well, can you give us a little bit more
5 specific context than just that, please? What do you
6 mean by that?**

7 A. When staff is conducting a review of the case,
8 we look at the information that is presented, and if
9 the -- if we're looking at an account and everything
10 appears to be generally normal, we may ask for a
11 sampling based off of that account.

12 If the account appears to have additional
13 things that we would like more information on, we will
14 ask for more information than an audit sample would
15 normally ask for.

16 **Q. And do you have any standard criteria that you
17 employ in terms of what you might ask for?**

18 **In other words, I've seen some recent data
19 requests from you where you ask for corroboration of \$17
20 Visa charges.**

21 **What kind of standard threshold might a company
22 expect in terms of the audit sampling versus what you're
23 going to ask for? Is there any ability to anticipate
24 that on the part of the company?**

25 MR. ROBERSON: Objection. Relevance.

1 **of those cases would you say insurance expense and
2 insurance deductibles became an adjustment issue or at
3 least was initially disputed as an expense in your
4 review?**

5 A. During the review, I did not state how many of
6 them, but it would be a significant number. However,
7 none of those adjustments are precedential in nature
8 because the final result is always going to be a -- is
9 going to end up being a settlement agreement between
10 staff and the company, which may or may not include a
11 particular adjustment as --

12 MR. WILEY: Your Honor, I'm going to object.
13 He is not answering my question. He's been prepared
14 well about precedential issues obviously, and we're
15 going to ask about that, but that wasn't my question.
16 He's going way beyond the scope of the question.

17 JUDGE BONFRISCO: Mr. Wiley, if you could
18 restate the question.

19 And, Mr. Sharbono, if you could just answer it
20 with a yes or no and then any kind of a brief
21 explanation to address that.

22 **Q. (By Mr. Wiley) Okay. Mr. Sharbono, I thought
23 you'd answered my question, which was, in how many of
24 those north of 50 solid waste rate cases that you've
25 been the primary analyst on -- in how many of those did**

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1 insurance expense and insurance deductibles as a line
 2 item become a contested adjustment issue?
 3 You said many of them; is that correct?
 4 A. That would be correct.
 5 Q. And could you quantify or give any context to
 6 "many"? Since you've talked about north of 50, how many
 7 is north of 50?
 8 A. I would say probably over 50 to 60 percent of
 9 cases we make an -- I've made an adjustment in
 10 insurance.
 11 Q. Okay. We'll explore that.
 12 Okay. I want to ask -- get down to some
 13 specifics. When you were asked in a data request, which
 14 is Exhibit BS-15X in this proceeding, if you (inaudible)
 15 citations of general rate cases since 2022 where
 16 insurance deductibles were normalized by staff, you
 17 responded by saying you hadn't identified any rate case
 18 orders and were aware of no litigated cases over that
 19 period, what you said -- which means that all such cases
 20 were addressed at an open meeting where the commission
 21 approved results-only settlements between the staff and
 22 the company and intervenors.
 23 Do you recall that testimony?
 24 A. Yes.
 25 Q. Okay. You alluded to this in the answer that I

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1 just objected to, so can you tell me what you mean by
 2 "approval of results-only settlements"?
 3 A. When we bring a case before the commission
 4 during the open meeting process, the only things that
 5 the commission are approving is -- and the -- generally
 6 it's not even approving. It's allowing to go through by
 7 operation of law -- that the commission is not looking
 8 at the adjustments in particular.
 9 They are looking at staff's recommendation and
 10 the company's agreement to the revenue requirements and
 11 the rates as fair, just, reasonable, and sufficient.
 12 Q. Is that results-only settlements a legal
 13 concept? I mean, you've referred to adoption by
 14 operation of law.
 15 Is results-only settlements -- a term I'm not
 16 familiar with -- is that a legal concept, to your
 17 understanding?
 18 A. I believe you're asking me a question of law,
 19 and I'm not a lawyer.
 20 However, the commission does prefer that we
 21 come to a settlement agreement, and that is the results
 22 of our work, is that they approve purely a results-only
 23 settlement.
 24 Q. Okay. Mr. Sharbono, I don't need you to
 25 characterize the nature of my question. That's for your

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1 counsel.
 2 I asked for your understanding, as an auditor,
 3 of whether results-only settlements, which you alluded
 4 to, are effective by operation of law is a legal
 5 concept. Yes or no?
 6 MR. ROBERSON: Objection. This is asked and
 7 answered. He said he can't answer it because it's a
 8 legal -- he calls for a legal conclusion.
 9 JUDGE BONFRISCO: I'm going to sustain that
 10 objection.
 11 Mr. Wiley, please re- -- yeah. Please proceed.
 12 MR. WILEY: Yeah. Your Honor, let me ask it
 13 this way, Mr. Sharbono, hopefully to avoid an objection.
 14 Q. (By Mr. Wiley) Where does the term
 15 "results-only settlements" derive?
 16 A. That was from staff's methodology and the
 17 discussions between us on what has been put forward.
 18 It's also been, if I remember correctly -- it is also
 19 something that was stated during an open meeting at some
 20 point.
 21 Q. So it might have been something that -- a
 22 concept that was recognized by the commission is what
 23 you're saying; correct?
 24 A. I believe it's been mentioned by somebody
 25 during one of the open meetings.

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1 Q. Does this mean, in your mind, that the
 2 commission could knowingly approve disparate treatment
 3 of the same expense of one solid waste collection
 4 company proponent over another one at the open meeting?
 5 A. Could you restate the question, please?
 6 Q. Yeah. I'm saying, does your concept of
 7 results-only settlement mean that potentially the
 8 commission could approve disparate treatment of the same
 9 expense at open meetings?
 10 In other words, one solid waste collection
 11 company has its insurance deductible and premium treated
 12 one way, and the next company coming in with the same
 13 deductible and insurance premium cost treated another
 14 way.
 15 A. No.
 16 Q. Okay. If that, in fact, happens, does that
 17 mean that one auditor could find insurance claims should
 18 be allowed and normalized and the next hypothetical
 19 auditor finds just the opposite?
 20 A. No. I would assume that would not be the case.
 21 Q. Okay. And so is it your testimony that that
 22 hasn't ever occurred?
 23 A. For the same expense, I would say that I am
 24 pretty sure that has not occurred.
 25 Q. Okay. So the answer is no?

11 (Pages 260 to 263)

1 A. That is correct.
 2 **Q. Is -- should there be an initiative in your**
 3 **department, in your section, for consistency in such**
 4 **adjustment?**
 5 A. Should there be? Yes.
 6 **Q. Is there such consistency in your department,**
 7 **as far as you're aware?**
 8 A. Yes.
 9 **Q. And assuming that there wasn't consistency,**
 10 **that one auditor would treat an insurance premium and**
 11 **deductible one way, and the next auditor treated it a**
 12 **different way, is that -- would that be an indication of**
 13 **the rather pejorative term "auditor lottery"?**
 14 A. If that were the case, yes.
 15 **Q. Okay. You did testify or -- in your -- you did**
 16 **testify that you hadn't conducted any search for general**
 17 **orders on the insurance premium issue -- we decided to**
 18 **look into that on our own -- and not just in orders, but**
 19 **any staff memos or any sort of memorialized indication**
 20 **of how the staff treat insurance premiums and -- and**
 21 **deductibles in general rate cases.**
 22 **So with that noted, isn't it true that you**
 23 **yourself, as recently as last year in the Yakima waste**
 24 **systems case, which was PG-230661 and is a cross exhibit**
 25 **in this hearing, that you authorized insurance claim**

1 that incorrectly?
 2 JUDGE BONFRISCO: I'm showing that as
 3 Exhibit BS-20X.
 4 MR. WILEY: Okay. Why don't, during the
 5 break, we get this sorted out because I'd like to get a
 6 specific answer, but I have a different one. If we
 7 could get to 18, I know that is accurate --
 8 THE WITNESS: (Inaudible.)
 9 MR. WILEY: -- in terms of reference.
 10 A. I have TG-240180 in front of me.
 11 **Q. (By Mr. Wiley) 240180, do you have that in**
 12 **front of you? It's Exhibit BS-18X.**
 13 A. I don't have a number on it.
 14 **Q. Do you have --**
 15 A. I don't have --
 16 **Q. What?**
 17 A. I do have the -- the memo, but I don't have a
 18 number on it because the batch that I received did not
 19 have numbers.
 20 **Q. Okay. You don't have to have the cross exhibit**
 21 **number necessarily if you have TG-240180 in front of**
 22 **you.**
 23 **You have it in front of you?**
 24 A. Yes.
 25 **Q. Okay. And my question is: Isn't it also true**

1 **costs normalization in a general rate case that was**
 2 **approved at an open meeting as your work papers review?**
 3 A. Which cross exhibit was that?
 4 **Q. It was -- let me find it for you. It's cross**
 5 **Exhibit 19.**
 6 A. Was the -- I printed up a lot of the documents.
 7 I don't have numbers on them. I still have them marked
 8 as underscore X, so (inaudible) --
 9 **Q. So right now you can't answer that question; is**
 10 **that correct?**
 11 A. Without looking at the memo, no, I can't.
 12 **Q. We'll give you some time at the break, but I**
 13 **wanted to also ask you: Isn't it also true that, in**
 14 **TG-240180, Harold LeMay Enterprises, which BS --**
 15 **Exhibit BS-18X, that you, as one of two analysts, agreed**
 16 **to normalize insurance claims in that filing, as staff's**
 17 **memo expressly notes?**
 18 JUDGE BONFRISCO: Mr. Wiley, I want to
 19 interject. I'm showing on my exhibit list that the B --
 20 it's BS-19X for the August 15th memo regarding
 21 TG-240180.
 22 MR. WILEY: Yes.
 23 JUDGE BONFRISCO: Was that correct on your
 24 end?
 25 MR. WILEY: 18X I have is 230187. Do I have

1 **that in that proceeding that you, as one of two**
 2 **analysts, agreed to normalize insurance claims at the**
 3 **end of that filing, as your memo expressly notes in that**
 4 **exhibit?**
 5 **If you need time to look at that, I'm happy to**
 6 **have you do that.**
 7 A. In this particular case, I was assigned to the
 8 docket for approximately one week, at which point I
 9 handed it over to Tiffany Van Meter.
 10 I do not know what adjustments were made or
 11 what any of the final agreements were. I was not
 12 involved in those particular conversations.
 13 **Q. Okay. Well, let's go first to the first page.**
 14 **It lists you as a staff member, does it not?**
 15 A. Yes.
 16 **Q. Okay. And you've testified this morning that**
 17 **the staff -- one auditor is not going to take a position**
 18 **on a line item of expense contrary to another auditor's,**
 19 **you believed, until whether or not you were involved in**
 20 **making the decision -- the final decision on -- on the**
 21 **insurance claim, do you agree that the -- that**
 22 **Exhibit BS-18X, which is TG-24180, the memo thereof, do**
 23 **you agree that it says that, "Staff made adjustments to**
 24 **update fuel expense, normalize insurance claims, and**
 25 **adjust assets"? Does it say that?**

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1 A. Yes, it says that.
 2 MR. WILEY: Your Honor, I know you wanted a
 3 break at 10:30. This would be a good time to do that.
 4 I do want to sort out this exhibit reference possibly
 5 with you, me, and Mr. Roberson, but it's up to you.
 6 JUDGE BONFRISCO: We can go ahead and break
 7 just to prevent any further confusion.
 8 I know -- I did send -- just briefly, I did
 9 send an updated version out last week because one of the
 10 exhibits in there was originally missing, so that might
 11 be the disconnect on an older version.
 12 But why don't we go ahead and take the break
 13 and come back at 10:40.
 14 Stacey, if you could stop the recording.
 15 (Pause in the proceedings.)
 16 JUDGE BONFRISCO: Okay. Perfect.
 17 Mr. Wiley, if you would like to resume your questioning
 18 of Mr. Sharbono.
 19 Mr. Sharbono, could you please turn on your
 20 camera? If he's back yet. Okay. Thank you.
 21 THE WITNESS: I'm updating my forms.
 22 JUDGE BONFRISCO: No worries.
 23 MR. WILEY: Okay. Your Honor, while we were
 24 off, I think we resolved -- this was all caused by that
 25 missing exhibit, and my office was using the previous

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1 list before that exhibit was inserted back. So I think
 2 I've got the numbering down, and hopefully --
 3 JUDGE BONFRISCO: Perfect.
 4 MR. WILEY: -- we'll -- won't be confusing.
 5 And the other part of the good news is, the
 6 exhibit that is the cross Exhibit 19 -- no; excuse me --
 7 cross Exhibit 20 that there was some confusion on, I'm
 8 going to move that discussion to the end on legal fees,
 9 so we don't need to belabor that right now.
 10 JUDGE BONFRISCO: Okay. Perfect.
 11 CROSS-EXAMINATION (CONTINUING)
 12 BY MR. WILEY:
 13 **Q. So, Mr. Sharbono, we were talking about the**
 14 **insurance claim allowance and consistency thereof. I**
 15 **wanted to go back to your testimony where you say --**
 16 **when you cite in your testimony a fear that, quote,**
 17 **Allowing Murrey's to recover these costs would establish**
 18 **precedent for other companies. That was at Page 16 of**
 19 **your testimony.**
 20 **Hasn't -- you know, with reference to the**
 21 **BS-19X and the treatment of the Harold LeMay insurance**
 22 **claim, hasn't that horse already left the proverbial**
 23 **bar -- barn? In other words, we've got a case where it**
 24 **was allowed in 2024.**
 25 A. Which exhibit are we discussing really quickly?

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1 And you said which page?
 2 **Q. Okay. So I'm going to try to refer back to the**
 3 **correct exhibit. It was the LeMay -- it's TG-240180,**
 4 **which is BS-19X.**
 5 A. Okay.
 6 **Q. Do you understand my question?**
 7 A. You're asking if I am -- if essentially one
 8 auditor would have done something different than another
 9 auditor?
 10 **Q. Yes.**
 11 A. In the same circumstances, I do not believe
 12 they would have.
 13 **Q. Okay. Well, that wasn't my question. My**
 14 **question wasn't the same circumstances of Olympic.**
 15 **My question goes back to, you know, the**
 16 **hypothetical where one analyst treats insurance premiums**
 17 **and deductibles differently than another.**
 18 **And -- and in Olympic, you've refused to**
 19 **normalize the insurance deductible claim, and in LeMay,**
 20 **apparently, even though you're listed as one of the**
 21 **analysts, you're saying that another analyst allowed**
 22 **that.**
 23 **And I'm saying, isn't your concern about**
 24 **establishing precedent for other companies already an**
 25 **issue?**

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1 A. No. Because these are not precedential or --
 2 **Q. Okay. But you -- they're not precedential**
 3 **orders, but then are you saying that, in results-only**
 4 **settlements, one auditor can treat an expense one way**
 5 **and another auditor can treat an expense another way?**
 6 A. That can potentially happen for a multitude of
 7 reasons, particularly those in the -- in a given case.
 8 We have 15 days to complete our review. In
 9 that time, we have to look at all the accounts. In that
 10 looking at the accounts, we may or may not have enough
 11 time to dig into each individual account in its entirety
 12 or look at all the transactional data in every account.
 13 Therefore, no, I cannot state that the -- the
 14 company is trying to insinuate each company will be
 15 treated identically in every single case will be true.
 16 **Q. Mr. Sharbono, would you please really try to**
 17 **answer questions yes or no.**
 18 **Again, I think you answered my question yes,**
 19 **there is precedent for one analyst treating an expense**
 20 **one way and another one treating it a different way, as**
 21 **we saw in the cross exhibit; isn't that true?**
 22 A. Please define "precedent."
 23 **Q. What?**
 24 A. Please define your definition of "precedent."
 25 **Q. Well, you were using the term in your**

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1 **testimony. I quoted it to you.**
 2 A. Yes. I have a definition, but what is the
 3 definition you are seeking?
 4 **Q. I'm just -- I quoted your testimony about**
 5 **precedent and asked you if, in fact, your fear about**
 6 **precedent hasn't already occurred. Yes or no?**
 7 A. No.
 8 **Q. Did you happen to review Mr. Wonderlick's**
 9 **testimony that, in his many years of experience of**
 10 **general rate case audits for UTC-regulated Waste**
 11 **Connections companies, he is not aware of any previous**
 12 **analyst refusing to allow all insurance deductible**
 13 **expense at least on a normalized basis?**
 14 **That's at JW-1C, Page 23.**
 15 A. Yes. I have read his testimony, and I saw
 16 that.
 17 **Q. Okay. What is your response? Do you contest**
 18 **that?**
 19 A. Yes.
 20 **Q. On what basis, please, Mr. Sharbono?**
 21 A. That we have done that in many of his cases
 22 too.
 23 **Q. Can you give us any proof of that, please,**
 24 **based on his testimony and in his 13 years, he has never**
 25 **seen that?**

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1 A. That we have not allowed an insurance expense?
 2 I would refer you --
 3 **Q. Again --**
 4 A. -- (inaudible).
 5 **Q. So let's -- okay. Please listen to the**
 6 **question so we can make a record.**
 7 **The question said, did you happen to review**
 8 **Mr. Wonderlick's testimony that, in his many years of**
 9 **experience with the UTC-regulated Waste Connections**
 10 **company cases, he's not aware of any previous analyst**
 11 **refusing to allow all insurance deductible expense at**
 12 **least on a normalized basis? Do you contest this?**
 13 A. Yes.
 14 **Q. Okay. And on what basis do you contest it,**
 15 **please?**
 16 A. That, in other Waste Connections cases, we have
 17 made adjustments to remove insurance expense.
 18 **Q. And where is that proof, please?**
 19 A. It is not here right this moment, but if the
 20 Court would like, we can get that information.
 21 **Q. Well -- so right now at this point, you're**
 22 **saying you refute Mr. Wonderlick's testimony?**
 23 A. Yes.
 24 **Q. Okay. Do you have JW-16 handy? I hope that's**
 25 **the correct exhibit.**

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1 MR. WILEY: I think it is, Your Honor.
 2 JUDGE BONFRISCO: W-16. So are you --
 3 you're referring back to Joe Wonderlick's original --
 4 MR. WILEY: Yes.
 5 JUDGE BONFRISCO: -- pre-filed testimony?
 6 MR. WILEY: Yes, I am, Your Honor.
 7 **Q. (By Mr. Wiley) It's -- it's an insurance**
 8 **review exhibit that Mr. Wonderlick prepared; correct,**
 9 **Mr. Sharbono?**
 10 A. Which exhibit is this? BS-16 or is this a
 11 different 16?
 12 **Q. No.**
 13 JUDGE BONFRISCO: It's JW-16C.
 14 THE WITNESS: I don't have that in front of
 15 me.
 16 JUDGE BONFRISCO: Okay.
 17 MR. WILEY: Your Honor, we may be verging a
 18 little bit on confidential information here.
 19 JUDGE BONFRISCO: Yeah. I think -- I think
 20 we are at this juncture.
 21 Would you like us to go ahead and proceed to
 22 doing the breakout session?
 23 MR. WILEY: I think we should. I'm sorry.
 24 We're going to have to alternate back and forth, but
 25 yes.

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1 JUDGE BONFRISCO: Okay. Stacey, if you
 2 could go ahead and start doing the breakout session for
 3 everyone who signed the confidentiality agreement.
 4 MS. BREWSTER: Just doing one last quick
 5 check to make sure it's set, and I'll send you to the
 6 room.
 7 JUDGE BONFRISCO: Perfect.
 8 MR. WILEY: Are we ready?
 9 JUDGE BONFRISCO: It is going to take a
 10 moment for her to send everyone. You should get a thing
 11 on the screen that reroutes you.
 12 MS. BREWSTER: Right. I want to check on
 13 one attendee. A Toni Schumacher (phonetic) had not been
 14 previously moved to the room. Should that -- should
 15 that person join the confidential session?
 16 JUDGE BONFRISCO: I -- I don't believe so,
 17 but --
 18 MR. WILEY: She can join. Apparently I'm
 19 being told it's a Waste Connections employee.
 20 MS. BREWSTER: That was to go ahead and add
 21 Toni Schumacher to the room?
 22 MR. WILEY: Yes.
 23 MS. BREWSTER: Okay. Sending you now.
 24 MR. ROBERSON: Yeah. Before we get started,
 25 the last time we had a breakout room, I believe it was

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1 not recorded. That was at a BAP in this proceeding. I
 2 just want to make sure that someone is recording so
 3 there is a record of this portion of the proceeding.
 4 JUDGE BONFRISCO: And I'm glad you brought
 5 that up because the -- you know, we were trying to
 6 clarify that piece of this. So, Stacey --
 7 MS. BREWSTER: Breakout room won't be
 8 recorded. Zoom doesn't record breakout sessions.
 9 That's why we had originally planned to move folks who
 10 had not signed confidentiality agreement to another
 11 room.
 12 MR. ROBERSON: That is a curve ball. I
 13 guess we're going to have to go back to the original
 14 plan because we do need a record.
 15 MS. BREWSTER: Okay. It will take me a
 16 quick second to change that up and then I'll get you
 17 settled. I'll get back --
 18 MR. WILEY: While she's doing that, you
 19 said -- this is the first time I've ever seen a
 20 commission not have a court re- -- is that a new trend,
 21 that the commission is not having court reporters on all
 22 adjudicated hearings?
 23 JUDGE BONFRISCO: You know, generally, from
 24 my understanding, the -- you know, every time the three
 25 commissioners are presiding, there is a court reporter.

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1 However, when it's an ALJ-only hearing such as
 2 this one, we then have the Zoom recording. We send that
 3 to the transcription company.
 4 So part of this was, you know, unchartered
 5 territory as well because so many of these exhibits are
 6 confidential, and generally, you know, we would stop
 7 recording at that juncture, and so I think this came up
 8 as an internal discussion as well.
 9 So -- but it sounds like the parties would like
 10 to have those confidential sessions recorded as well.
 11 And I know Mr. Roberson is correct. We did not record
 12 those during the BAP to preserve, you know, the nature
 13 of that, since it could be subject to a public records
 14 request at a later point.
 15 MR. WILEY: Thank you for that. I just -- I
 16 want everybody to know that this is cutting into my time
 17 projection, and we're not going to -- I mean, I'm one
 18 hour in, and we are not going to finish by noon. Just a
 19 fair warning to everybody.
 20 MS. BREWSTER: All right. I have the rooms
 21 broken out, so I'm going to get -- send two attendees
 22 that I don't believe should be part of the -- part of
 23 the group.
 24 Once I've broken them out, please do a quick
 25 check of the attendees to make sure you don't -- let me

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1 know if you see somebody who should also be excluded,
 2 and we should be good to go.
 3 I'm going to send you now.
 4 It looks like the attendees have been moved.
 5 Do a quick check of your attendee list to see if anybody
 6 should not be present.
 7 Oh, somebody who has joined -- let me send
 8 them. Then they left. Let's see.
 9 JUDGE BONFRISCO: And, Mr. Roberson, Tiffany
 10 Van Meter has signed a confidentiality agreement;
 11 correct?
 12 MR. ROBERSON: Yes.
 13 JUDGE BONFRISCO: Okay. Perfect. And who
 14 is Kevin Jay?
 15 MS. BREWSTER: I just sent them. I --
 16 JUDGE BONFRISCO: Perfect.
 17 MS. BREWSTER: -- (inaudible) come back.
 18 MR. LUHRS: Kevin Jay, he's an employee of
 19 Waste Connections who signed on late, but he's
 20 authorized.
 21 JUDGE BONFRISCO: Okay.
 22 MS. BREWSTER: (Inaudible) session?
 23 MR. WILEY: He's a regional controller for
 24 Waste Connections, and he's authorized.
 25 MS. BREWSTER: I have moved him back into

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1 the main session.
 2 MR. WILEY: Thank you.
 3 JUDGE BONFRISCO: Okay. Mr. Wonderlick, I
 4 just wanted to confirm with Murrey's counsel. Was there
 5 anyone present still that should be moved?
 6 It looks like we have Kevin back in. We've got
 7 Toni Schumacher. We've got Mr. Wonderlick in, Gingrich,
 8 Luhrs.
 9 Are we in good shape?
 10 MR. WILEY: Yes. Yes.
 11 JUDGE BONFRISCO: Okay. Are you -- can you
 12 hear me, Mr. Wiley? I think you might be on mute.
 13 MR. WILEY: Yes, I can. (Inaudible.)
 14 JUDGE BONFRISCO: Okay. Perfect.
 15 MR. WILEY: Can I go?
 16 JUDGE BONFRISCO: Yep. Go ahead and
 17 proceed.
 18 MR. WILEY: Thank you.
 19 CROSS-EXAMINATION (CONTINUING)
 20 BY MR. WILEY:
 21 **Q. Mr. Sharbono, I hope you had an opportunity to**
 22 **get JW-16 in front of you during that break. Just --**
 23 **A. (Inaudible.)**
 24 **Q. -- to refresh everyone's recollection, this is**
 25 **an exhibit that was sponsored by Mr. Wonderlick in his**

1 testimony, and it depicts how eight other Waste
 2 Connections companies would be impacted if a low
 3 premium, high deductible model that you advocate -- or
 4 excuse me -- that the high pre- -- the low premium/high
 5 deductible -- excuse me -- the high premium/low
 6 deductible -- I switch this all the time -- high
 7 premium/low deductible model that you advocate were to
 8 somehow be obtained and assesses its impact on the
 9 company's expenses.
 10 That exhibit calculates that if that form of
 11 insurance were to be obtained, that monoline policy that
 12 you advocate in your testimony, the insurance line item
 13 expense would increase to 2.3 percent of annual revenues
 14 for an average insurance expense increase per company of
 15 \$448,000.
 16 Subject to check, that amounts to almost
 17 \$3.6 million per year increase. If you then were to
 18 include the other five UTC-regulated WCI companies,
 19 which we didn't in the exhibit, that would increase
 20 insurance expense to about \$5.8 million a year, by
 21 Exhibit JW-16.
 22 It also relies on that sub-quotation --
 23 MR. ROBERSON: Objection.
 24 Q. (By Mr. Wiley) -- in addressing the
 25 monoline --

1 MR. WILEY: Your Honor, I'm sure your
 2 technical skills on that would far surpass mine, so I
 3 prefer you to do it.
 4 JUDGE BONFRISCO: Okay. I am going to try
 5 this right now to see if I can get it to share, but I'm
 6 not showing it's sharing.
 7 Is anybody seeing it yet on their end? Let's
 8 try this one more time. Are you seeing it?
 9 MR. LUHRS: Yes, Your Honor.
 10 JUDGE BONFRISCO: Okay. Perfect.
 11 THE WITNESS: Okay. Yes. I see it now.
 12 Q. (By Mr. Wiley) Okay. Mr. Sharbono, take your
 13 time to look at that, and during the lunch break, if you
 14 would make sure and have Mr. Wonderlick's exhibits with
 15 you, it might save a whole lot of time.
 16 I assume you have all your exhibits, do you
 17 not?
 18 A. Yes.
 19 Q. Have you refreshed your memory as to this
 20 exhibit?
 21 A. Yes, I have.
 22 Q. Okay. Your response testimony didn't address
 23 this analysis. Do you disagree with it?
 24 MR. ROBERSON: Objection. Beyond the scope.
 25 If he doesn't address it in his testimony, it's not

1 MR. ROBERSON: Is there a question?
 2 JUDGE BONFRISCO: Mr. Roberson, yes, I'm
 3 going to sustain that objection.
 4 If you could frame the question, Mr. Wiley.
 5 MR. WILEY: Sure. Yes.
 6 Q. (By Mr. Wiley) First of all, Mr. Sharbono, did
 7 you disagree with how I characterized that exhibit?
 8 A. I don't have the exhibit in front of me still.
 9 I have not been able to get it, so I can't say that you
 10 have characterized it correctly or incorrectly.
 11 I do remember seeing something along those
 12 lines in one of the exhibits that were submitted.
 13 Q. So is it your testimony that you do not have
 14 all the exhibits for this case in -- with you right now?
 15 A. That is correct. I was only informed to
 16 (inaudible) that were provided to me, and those are the
 17 ones that I have printed.
 18 I am trying to find the rest of
 19 Mr. Wonderlick's and the other exhibits. However,
 20 there's -- the search function on the case's site is
 21 definitely not the best.
 22 JUDGE BONFRISCO: Mr. Wiley, do you have the
 23 ability to share that exhibit electronically or would
 24 you like me to share it -- see if I can share it on the
 25 Zoom?

1 really fair to cross him on it.
 2 JUDGE BONFRISCO: I'm going to sustain that
 3 objection.
 4 MR. WILEY: Okay. Your Honor, can I
 5 understand that the basis of your ruling then because --
 6 so you're saying that if it's -- something isn't in his
 7 response testimony, that that's outside the scope of my
 8 cross when it relates to the overall issues in this
 9 proceeding?
 10 JUDGE BONFRISCO: Mr. Wiley, could you
 11 clarify specifically what you were trying to have him
 12 address?
 13 MR. WILEY: I'm trying to have him address
 14 his testimony about a monoline alternative insurance
 15 policy with a low deductible/high premium cost which he
 16 talks at length about in his response testimony.
 17 And I'm now saying that, looking at
 18 Mr. Wonderlick's rendition of that testimony about the
 19 monoline alternative policy, whether he agrees or
 20 disagrees with the conclusion.
 21 JUDGE BONFRISCO: And, Mr. Roberson, just
 22 for the record, could you expound upon your objection?
 23 MR. ROBERSON: His testimony touches on the
 24 policy issues with the insurance policy. I don't -- I
 25 mean, by Mr. Wiley's own question, he doesn't testify

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1 about Mr. Wonderlick's analysis.
 2 Seems like Mr. Wonderlick's analysis is,
 3 therefore, beyond the scope of his direct testimony,
 4 and, therefore, beyond the scope of cross.
 5 MR. WILEY: Your Honor, I'm not talking
 6 about Mr. Wonderlick's analysis completely. I'm tying
 7 it to the testimony on response that addressed the
 8 monoline -- a policy was Mr. Sharbono's alternative
 9 theory, and I'm asking what the consequences of that
 10 alternative theory would be.
 11 Yes. It -- it alludes to an analysis that
 12 Mr. Wonderlick did, but it's all spurred and spawned by
 13 Mr. Sharbono's response testimony and alternate
 14 scenario.
 15 JUDGE BONFRISCO: Okay. That further
 16 explanation does help me.
 17 (Interruption in audio.)
 18 MR. SYKES: I think I just got sent back to
 19 the main room.
 20 MS. BREWSTER: The group should be in the
 21 main room. You accidentally apparently ended up in
 22 another room. I apologize. Let me -- I don't see you
 23 in this room, however. Let me move you -- I don't know
 24 how that happens. My apologies. Oh, Zoom. I'm trying
 25 to --

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1 MR. SYKES: Yeah. That sent me to another
 2 breakout room that doesn't have the full -- the full
 3 group.
 4 JUDGE BONFRISCO: Looks like we are
 5 recording again. I am not sure what happened there.
 6 MS. BREWSTER: My apologies. There was -- I
 7 don't know how that happens. And I still need to get --
 8 I need to -- I'm going to try to reset the rooms, if
 9 you'll bear with me for a moment.
 10 JUDGE BONFRISCO: No worries. And while
 11 we're doing that, I just want to check in with the
 12 parties.
 13 I know with some of the technical delays
 14 today -- how much additional time do you think you'll
 15 need, Mr. Wiley? I know, you know, even kind of going
 16 into this, we were running it a little tight, so what do
 17 you anticipate as far as additional time needed beyond
 18 kind of our twelve o'clock mark today?
 19 MR. WILEY: I'm not liking to tell you this
 20 because it -- I don't think you're going to like -- I've
 21 had about an hour by my clock with the interruptions of
 22 questions, and I think I have two hours more of
 23 questions.
 24 And so -- I mean, he had 40 pages of testimony,
 25 Your Honor, and there's a lot to go over, so I'm sorry

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1 to try everyone's patience, but I'm estimating about two
 2 hours.
 3 JUDGE BONFRISCO: Okay. And real briefly,
 4 you know, at this juncture, I do not personally have an
 5 issue with that, but I want to check with Mr. Sharbono
 6 and I want to check with Mr. Roberson on your calendars
 7 and schedules, if we were to extend it beyond an hour,
 8 basically to one o'clock.
 9 MR. ROBERSON: I shouldn't have an issue,
 10 Judge Bonfrisco.
 11 JUDGE BONFRISCO: Okay. Perfect. Yeah. I
 12 think it would be best to proceed if we can get it
 13 wrapped up today.
 14 MR. WILEY: Agreed. Absolutely.
 15 JUDGE BONFRISCO: Okay.
 16 MR. WILEY: Someone (inaudible) tonight too,
 17 so might want to see that.
 18 Are we back on, Your Honor? I'm kind of --
 19 JUDGE BONFRISCO: I think we're recording.
 20 Stacey, do we have -- let me check if we've got
 21 everybody back. I believe we do from what I'm seeing
 22 for all the parties.
 23 So, Stacey, are you there? I just want to
 24 confirm with you. Do we have everyone back?
 25 MS. BREWSTER: It looks to me like we have

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1 everyone back at this point. I can send one attendee
 2 that is not identified as having permission to be in the
 3 group to a breakout room and then we should be able to
 4 proceed.
 5 JUDGE BONFRISCO: Okay. If you could just
 6 let us know once that's happened.
 7 MS. BREWSTER: I have opened the room, and
 8 that attendee should have joined the other room.
 9 JUDGE BONFRISCO: It looks like we're good.
 10 Any concern from counsel at this point?
 11 MR. WILEY: Not from me.
 12 MR. ROBERSON: No. Looks like the recording
 13 icon is on.
 14 JUDGE BONFRISCO: Okay. Mr. Wiley, if you'd
 15 like to proceed with Mr. Sharbono.
 16 MR. WILEY: Yes.
 17 CROSS-EXAMINATION (CONTINUING)
 18 BY MR. WILEY:
 19 **Q. Mr. Sharbono, in your testimony, you advocated**
 20 **for a lower deductible/higher insurance premium;**
 21 **correct?**
 22 A. Yes.
 23 **Q. Okay. And taking that recommendation and**
 24 **referring to the job quotation that you addressed and**
 25 **Mr. Wonderlick addressed, I'm asking whether you can**

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1 **test the calculations that would show as JW-16X that the**
 2 **cost of a monoline alternative that you advocated would**
 3 **change the percentage of expense from .8 percent to**
 4 **2.3 percent of revenue.**
 5 A. Clarifying, you're asking me if I agree that is
 6 what is shown on this exhibit or if I am agreeing with
 7 his premise?
 8 **Q. Both.**
 9 A. I agree with the calculation shows that. I do
 10 not agree with his premise.
 11 **Q. Okay. And can you explain why you don't agree**
 12 **with his premise, please?**
 13 A. By the company's own statements and through
 14 their testimony, both through Ms. Lopes' and through Joe
 15 Wonderlick's, they have stated that the quotes that were
 16 provided to the commission were likely not to be able to
 17 become reality.
 18 Therefore, the quotes that were provided to the
 19 commission are almost -- almost useless in the fact that
 20 they don't present something that would be attainable by
 21 the company.
 22 A. So --
 23 **Q. Okay. So you really --**
 24 A. (Inaudible) to show that there is -- this is
 25 what the actual final numbers would be.

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1 **Q. So I didn't ask you about your testimony where**
 2 **you said that not -- that not having a found policy was**
 3 **essentially worthless. I asked you that, assuming that**
 4 **Schwab (phonetic) quotation were to apply, do you agree**
 5 **that you -- the percentage of expense on the monoline**
 6 **policy would result in about three times the cost of the**
 7 **current higher deductible -- the lower deductible/higher**
 8 **premium -- excuse me -- higher deductible/lower premium**
 9 **policy?**
 10 A. I do not dispute the math presented by the
 11 company. I dispute the premise.
 12 **Q. Okay. We -- I said, assuming that we -- we**
 13 **understand that you dispute the premise that Schwab**
 14 **didn't bind the policy so you can't rely on it, but if**
 15 **we were to, hypothetically, bind a monoline policy along**
 16 **the lines that Schwab was quoting, do you agree that the**
 17 **percentage expense for insurance under the monoline that**
 18 **you're arguing for would be three times that of the**
 19 **current policy? Yes or no?**
 20 A. Under a hypothetical, which I do not like
 21 (inaudible) --
 22 **Q. No. No. No. Mr. Sharbono, please, yes**
 23 **or no, and then you can explain. We're waiting.**
 24 A. Under the hypothetical, I would agree that his
 25 math is correct.

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1 **Q. And would you agree that the expense would be**
 2 **three times that of the present (inaudible)? That's the**
 3 **part of the question I'm asking.**
 4 A. Under the hypothetical, yes, I would agree. I
 5 disagree --
 6 **Q. Thank you.**
 7 A. -- with the hypothetical.
 8 **Q. We get that, Mr. Sharbono.**
 9 **Okay. That kind of increase that you now term**
 10 **hypothetical would likely have a significant impact on**
 11 **customers, wouldn't it?**
 12 A. Hypothetically, it would have an increase on
 13 customer cost.
 14 **Q. And you do admit, as you've said previously in**
 15 **your testimony at Page 14, that, quote, The cost of**
 16 **insurance, you said, are higher on a continuous basis**
 17 **under the low deductible/higher premium insurance.**
 18 **You said that, did you not?**
 19 A. Yes.
 20 **Q. Okay. And would you agree that under the**
 21 **analysis -- the hypothetical analysis addressed in JW-16**
 22 **that the -- the increase cost per individual regulated**
 23 **Waste Connections company would be quite a steep price**
 24 **to pay for the rate stability trade-off you advocate;**
 25 **correct?**

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1 A. Please repeat the question.
 2 **Q. Yes. But you agree that -- do you agree that**
 3 **under the analysis in JW-16, that you term hypothetical,**
 4 **that -- that the increased cost per Waste Connections**
 5 **company as shown in that exhibit would be a steep price**
 6 **to pay for the rate stability trade-off you advocate**
 7 **for?**
 8 **In other words, you oppose the higher**
 9 **deductible/low insurance premium because of rate**
 10 **stability. That's one of the reasons you oppose it;**
 11 **correct?**
 12 A. That is one of the reasons that I oppose it.
 13 There are others.
 14 **Q. That's what I said, one of the reasons.**
 15 **And would you agree that that's -- that in the**
 16 **interest of rate stability, that's quite a high price to**
 17 **pay as a ratepayer?**
 18 A. No.
 19 **Q. Okay. You -- you -- instead you now appear in**
 20 **your testimony to establish a major incident**
 21 **threshold -- and that's quote -- in your -- in your**
 22 **testimony below -- which you would allow deductible**
 23 **expense; correct?**
 24 **I think that begins at Page 18 of your**
 25 **testimony where you set up these hypotheticals.**

<p style="text-align: right;">Page 292</p> <p>1 Do you recall that? 2 A. What page was that? 3 Q. I believe it's Page 18. I'll look right now 4 too. My recollection of your testimony, Page 18, where 5 you review several scenarios of normalization. 6 Do you recall that now? 7 A. Which line? 8 Q. I said Page 18, where you start to review 9 several scenarios of normalization as alternative 10 recommendations to commission. 11 Do you have that in front of you? 12 A. I have that in front of me. Please give me a 13 minute to read it. 14 Q. By the way, you introduced this chart at the 15 bottom of Page 17 of your testimony, if you want to look 16 back at that for context. 17 Okay. In that chart, or the five scenarios, 18 which is your alternate recommendation to the 19 commission, you appear to establish a major incident 20 threshold below which you would allow deductible 21 expense; correct? 22 A. Yes. 23 Q. Okay. And you posited that as -- as -- 24 \$100,000 as a major incident over which constitutes a 25 major incident at Page 18, did you not?</p>	<p style="text-align: right;">Page 294</p> <p>1 each event in a historical context to determine if the 2 expense differs from transactional records, is there 3 any -- it's data request No. 18, please. 4 A. (Inaudible.) 5 Q. So, again, assuming that was your answer, can 6 you put any context around that in light of your major 7 incident label? 8 In other words, how could a company know what 9 you're going to view as a major incident going into a 10 rate case? 11 A. The staff analyzes -- I would agree with what I 12 wrote. 13 Q. Okay. So the answer is, yes, that's still your 14 position? 15 A. Yes. 16 Q. Okay. In other words, you would have no 17 objective standard for measuring whether something falls 18 outside the normal transactional parameters; correct? 19 A. I would say that the object would be what is 20 normal within the account. 21 Q. Well, again, my question is what's the 22 objective standard, not a subjective standard of what 23 you consider to be normal. 24 What is an objective standard for measuring 25 what's going to be viewed as a major incident?</p>
<p style="text-align: right;">Page 293</p> <p>1 A. Yes. 2 Q. Is this major incident threshold specific to 3 Olympic Disposal, or is this your threshold for all 4 solid waste haulers in the state? 5 A. This was a hypothetical used in order to 6 conduct the analysis. 7 Q. Okay. And kind of like the hypothetical that 8 Mr. Wonderlick proposed in JW-16? 9 A. Yeah. 10 Q. So you were asked in a data request to provide 11 criteria -- criteria-abled metrics or other supporting 12 data to define what constitutes an unusually large event 13 as you referenced on Page 18, but you responded saying 14 that that, quote, Staff reviews each event in a 15 historical context to determine if the expense differs 16 from normal transactional records. 17 Is that still your position? 18 A. Where is that particularly written? I'd like a 19 second to look at it. 20 Q. Excuse me? I didn't -- you faded out. 21 A. Where is that particularly written? I would 22 like to take a look at that before I agree to it. 23 Q. Page -- I've got the data request. We'll find 24 the reference, but you -- assuming, subject to check, 25 that you did so state, if you say you were -- you view</p>	<p style="text-align: right;">Page 295</p> <p>1 A. Historical record. 2 Q. Of whom? 3 A. Of the company. 4 Q. And how can that be determined ahead of time by 5 the company in terms of your view of what constitutes a 6 major incident? 7 A. By looking at their transactional record and 8 looking for anomalies of that transactional record. 9 Q. Again, isn't that your definition of major 10 incident, not the company's? 11 I'm looking for an objective standard, not just 12 one that you interpret, but one that can be applied 13 across the board. 14 Do you have any such standard for what 15 constitutes a major incident? 16 A. We do not have a written standard of what 17 constitutes a major incident. We look at the 18 transactional and historical record. 19 Q. Okay. So in other words, that threshold could 20 vary from auditor to auditor, could it not? 21 A. Potentially, but unlikely. 22 Q. So that's a yes? Got to have a yes or no 23 first. 24 A. If I'm going to go with a potentially, that is 25 a yes and no.</p>

1 MR. WILEY: Okay. Your Honor, I'm hoping
2 you can instruct the witness, to save time, to answer my
3 questions yes or no, and then he can explain, but he
4 continues not to do that, and it's taking a lot of time.

5 JUDGE BONFRISCO: At this junction, I feel
6 like the witness has, you know -- he's qualifying each
7 of his answers and -- however, if -- Mr. Sharbono, if
8 you could, if it is a direct yes or no, address that,
9 and really just only expound on those pieces that might
10 vary your response, you know, if -- if it's going beyond
11 just a strict yes or no.

12 MR. WILEY: Thank you, Your Honor.

13 **Q. (By Mr. Wiley) And, Mr. Sharbono, based on
14 that, I take it your answer was a qualified yes to the
15 last question; correct?**

16 A. Yes.

17 **Q. Okay. Do you, for instance, employ a standard
18 deviation analysis or some other statistical or
19 mathematical analysis to determine what falls under a
20 normal range?**

21 A. Not one that has a defined feature, so no.

22 **Q. Okay. And -- and, again, if a company like
23 Olympic wanted to know in advance, the transaction would
24 fall under your standard you alluded to historical
25 records, et cetera, but don't have a specific objective**

1 A. Yes.

2 **Q. Okay. By -- by including in that the \$100,000
3 as a major incident floor, are you, in fact, proposing a
4 sliding scale approach that Mr. Tersick critiqued?**

5 A. No.

6 **Q. You're not?**

7 A. Not (inaudible) --

8 **Q. Do you agree --**

9 A. -- (inaudible) to this (inaudible).

10 **Q. Excuse me?**

11 A. We are applying that the historical record does
12 not support the company's claim.

13 **Q. That's your conclusion, but my question goes to
14 whether your \$100,000 limit or -- or demarcation point
15 reflects prudent regulatory policy as Mr. Tersick
16 addressed.**

17 JUDGE BONFRISCO: Mr. Wiley, could you
18 please restate the question?

19 MR. WILEY: Yeah.

20 **Q. (By Mr. Wiley) My question, Mr. Sharbono,
21 is -- all stems around the \$100,000 major incident
22 threshold that you said in your analysis.**

23 **Mr. Tersick, the former FERC commissioner and
24 Wisconsin public service commission regulator critiqued
25 that as an evidence of sliding scale approach and said**

1 **standard to provide us; correct?**

2 A. Please restate the question itself.

3 **Q. Maybe we can ask it a different way and save
4 time.**

5 **Let me ask it this way, Mr. Sharbono: If --
6 if -- if, as you acknowledge, the burden of proof is on
7 the company to establish the allowability of an expense,
8 and the company, in response, provides testimony from a
9 Waste Connection accountant, former regulator, a
10 company's insurance broker, and several third-party
11 trade industry articles all establishing that the claim
12 under dispute falls within a normal range for the
13 transportation industry, you'd still reject that claim
14 as abnormal; correct?**

15 A. I still would reject this claim as abnormal.

16 **Q. Okay. What further evidence would a company
17 need to provide to satisfy your judgment or the judgment
18 of any other staff member that may be reviewing a rate
19 filing?**

20 A. We would require that the company show that
21 this is a cost that is normal and recurring.

22 **Q. Okay. And beginning at Page 18 of your
23 testimony, again, those scenarios, those are scenarios
24 that you propose if your disallowance theory is rejected
25 by the commission in this case; correct?**

1 **that's not good regulatory policy because it's
2 subjective and it's not supported.**

3 **Do you disagree with that? I assume you do.**

4 A. I disagree with it.

5 **Q. Okay. Can you explain why?**

6 A. Because we are basing our calculations off of
7 what would be a normal historical reference, also what
8 would be a normal operating expense.

9 This doesn't establish a -- this 100,000 that I
10 used was selected in order to be a reference point in
11 this particular instance to provide the commission
12 evidence of what I'm trying to present.

13 The information whether or not that's a sliding
14 scale, that's not (inaudible) what we do (inaudible).

15 **Q. (Inaudible.) You're fading out.**

16 **Whether or not that was a sliding scale what?**

17 A. I disagree with the fact that he claims that
18 it's a sliding scale when what we are looking at is the
19 historical and transactional record and trying to
20 determine --

21 **Q. (Inaudible) --**

22 A. -- (inaudible) cause is part of a -- what would
23 be a normal operating year.

24 **Q. Okay. And, again, that was based on Olympic
25 Disposal and that's a subjective judgment on your part**

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1 **as to what constitutes a major incident; correct?**
 2 A. I do not believe that it was subjective.
 3 **Q. So that's a universal judgment then,**
 4 **subjective; correct?**
 5 A. Repeat the question.
 6 **Q. Yeah. So if it's not subjective, it has to be**
 7 **objective, does it not?**
 8 A. Considering we are basing it off of the
 9 financial records provided --
 10 **Q. Yes or no. Yes or no. It's not subjective.**
 11 **It has -- if it's not objective -- if it's not**
 12 **subjective, it has to be objective; correct?**
 13 A. Yes.
 14 **Q. Okay. Thank you.**
 15 **What evidence -- by the way, you removed a**
 16 **major incident in your first of five scenarios in that**
 17 **proposal.**
 18 **Can you tell -- aside from the errors in the**
 19 **chart that we pointed out, can you tell us under what**
 20 **rationale you removed major incidents from your first**
 21 **scenario?**
 22 **In other words, you tell the commission in your**
 23 **proposal that, you know, knock out completely any major**
 24 **incident or accident.**
 25 **What was the rationale for that recommendation**

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1 **of the file?**
 2 A. The rationale for that recommendation is that
 3 staff is trying to derive what is a normal operating
 4 year, and those costs would have been abnormal in the
 5 fact that they were excessively high in a short period
 6 of time versus what would be a normal operating period
 7 of time.
 8 **Q. So that just is a reflection of your overall**
 9 **position in this proceeding? Your first scenario just**
 10 **reflects that overall position about not allowing the**
 11 **deductible as part of the overall claim; correct?**
 12 A. Yes.
 13 **Q. Okay. Did you happen to review the -- the**
 14 **articles identified as cross exhibits, I think, 21**
 15 **through 23, which were the trade industry publications**
 16 **on the insurance industry beat?**
 17 A. No.
 18 **Q. Why didn't you?**
 19 A. Because those were provided after the fact, and
 20 I'm basing my statements off of what I review.
 21 **Q. Well, I'm trying to understand that -- that**
 22 **testimony.**
 23 **In other words, when we proposed cross**
 24 **exhibits, you didn't look at any of them?**
 25 A. I looked at the ones that -- were my writing or

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1 others like that, but no, I did not review articles that
 2 were from magazines and were outside sources that were
 3 not pertinent to the case when I was looking at it.
 4 **Q. So is it your testimony that the trade industry**
 5 **publications, which are from the depths of some of the**
 6 **specifics of the reality in the marketplace, are not**
 7 **relevant to your consideration or opinions or judgments?**
 8 A. (Inaudible.)
 9 JUDGE BONFRISCO: Mr. Sharbono, were you
 10 able to hear the question? I know there's quite a bit
 11 of background noise. I'm not sure where that's coming
 12 from.
 13 THE WITNESS: I was unsure of what the
 14 question is. I'm asking him to restate the question.
 15 MR. WILEY: Yeah. This is where I wish that
 16 we had a court reporter here, Your Honor. That does not
 17 make me happy after 45 years of doing this, so -- let me
 18 repeat it.
 19 **Q. (By Mr. Wiley) You said you didn't look at any**
 20 **cross Exhibits 21 through 23; correct?**
 21 A. That is correct.
 22 **Q. And you didn't look at them because they**
 23 **weren't submitted until after the rebuttal testimony.**
 24 **Is that your testimony? Why didn't you look at**
 25 **them?**

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1 A. They were not part of the historical record by
 2 the company, and, therefore, their -- they were not
 3 applicable to what I did.
 4 **Q. So unilaterally, you decided not to read trade**
 5 **industry publications that plumb the depths of what's**
 6 **going on currently in the transportation liability**
 7 **insurance marketplace; correct?**
 8 MR. ROBERSON: Judge Bonfrisco, I think at
 9 this point maybe a foundation objection would help. He
 10 didn't write the things. He didn't review them. I
 11 don't know what productive value is gained by this line
 12 of questioning.
 13 JUDGE BONFRISCO: I'm going to sustain that
 14 objection.
 15 You know, I do believe he's generally asked and
 16 answered the primary questions, and you are requesting
 17 that he respond to -- that that isn't actually his
 18 testimony.
 19 So I'm going to sustain it on that basis.
 20 MR. WILEY: Okay. Let me ask it this way,
 21 Your Honor.
 22 **Q. (By Mr. Wiley) Mr. Sharbono, assuming there is**
 23 **widespread media reports about transportation industry**
 24 **accidents, nuclear verdicts, inflation, and all the**
 25 **other factors that are impacting the market that we**

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1 **heard about yesterday, would you still suggest that a**
 2 **major incident for transportation could be around**
 3 **\$100,000?**
 4 A. I would agree that an incident could be around
 5 \$100,000, yes.
 6 **Q. And that would be major, by your testimony;**
 7 **correct?**
 8 A. No.
 9 **Q. Oh, it wouldn't? So if -- what would you**
 10 **consider a major incident now? An accident that's not**
 11 **\$100,000 or above? Where -- where is that threshold?**
 12 A. I've already stated the threshold would be
 13 based off of the historical and transactional record and
 14 what would be a normal operating cost.
 15 **Q. Okay. So I'm asking you, in the transportation**
 16 **industry at large, could -- is \$100,000 a -- a present**
 17 **realistic assessment of a major incident? Yes or no?**
 18 JUDGE BONFRISCO: Mr. Sharbono, could you
 19 answer the questions, please?
 20 THE WITNESS: I'm thinking about how to
 21 answer it, Judge. I do apologize. It is taking me a
 22 minute because I'm thinking about the different
 23 scenarios in my head.
 24 **Q. (By Mr. Wiley) It is a yes or no question,**
 25 **though, Mr. Sharbono.**

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1 A. You're asking if the -- if the \$100,000 based
 2 off of industry information would be a high number. My
 3 statement --
 4 **Q. It --**
 5 A. -- (inaudible).
 6 **Q. Okay. You're not through with your answer?**
 7 A. No. I'm saying that I'm trying to understand
 8 the question in such a way that I can answer correctly.
 9 **Q. Okay. What -- do you need me to repeat the**
 10 **question again or --**
 11 A. Yes, please.
 12 **Q. As best as I can recall, I asked you if the --**
 13 **under your scenario, whether \$100,000 is still a**
 14 **relevant indicator for a major transportation accident.**
 15 **Yes or no?**
 16 A. Yes. I stand by my testimony as written under
 17 that hypothetical.
 18 **Q. Okay. I don't think you put that in your**
 19 **testimony, but I'll take that as a yes.**
 20 A. (Inaudible.)
 21 **Q. By the way, something that is not in your**
 22 **testimony on those scenarios is what your recommendation**
 23 **is to the commission of the five alternatives that you**
 24 **posit.**
 25 **What scenario are you recommending? Based on**

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1 **you, your review of this entire proceeding, what one are**
 2 **you recommending that the commission should adopt?**
 3 A. My recommendation is the commission remove the
 4 entire cost of this accident, which would be either the
 5 first scenario, or to exclude all costs for accidents --
 6 accident deductibles, period. Those would be my --
 7 **Q. Accidents what? Accidents what?**
 8 A. My recommendations to the commission are to
 9 either exclude all of the deductibles in their entirety;
 10 absent that, to remove the entirety of the deductible
 11 for this incident.
 12 **Q. Okay. I think I understand the answer to my**
 13 **question which Scenario 1 would be your recommendation.**
 14 **If the other -- if the -- your secondary**
 15 **explanation implicated one of your other scenarios, I**
 16 **assume you would have told us; correct?**
 17 A. Under the ones listed, it would be --
 18 Scenario 1 would be the recommendation that I make.
 19 **Q. Thank you.**
 20 **Let's go to the -- your -- the USOA testimony**
 21 **that you offered, and it is on Page 8 of your testimony.**
 22 **Is it correct that you still believe insurance**
 23 **premium and self-insurance expenses under USOA**
 24 **Account 4530 are of the line allowable expenses,**
 25 **whereas, insurance deductible payment are not?**

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1 A. I stand by my testimony.
 2 **Q. So the answer is yes? Is the answer yes?**
 3 A. Yes. I agree with my testimony.
 4 **Q. That's not what I asked you. I just asked you**
 5 **if it was still your testimony. I think the answer is**
 6 **yes.**
 7 **Where in the language of USOA 4530 do you find**
 8 **support for your premise? In your view, are insurance**
 9 **deductibles not, quote, actual liability for claims not**
 10 **covered by commercial insurance for the same class of**
 11 **risk, end quote?**
 12 A. Can you repeat that one more time?
 13 **Q. Yes. Where in the language of the Uniform**
 14 **System of Accounts 4530 do you find support for your**
 15 **premise? My first prong of the question.**
 16 A. In the text of the -- of the USOA.
 17 **Q. And that would be 4530; correct?**
 18 A. Yes.
 19 **Q. In your view, are insurance deductibles, quote,**
 20 **not -- quote, actual liability for claims not covered by**
 21 **commercial insurance for that same class of risk?**
 22 A. Are deductibles not, is what you're asking?
 23 **Q. Yes.**
 24 A. Yes. I agree that they are not.
 25 **Q. So your testimony is, they are not.**

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1 **You didn't -- Mr. Wonderlick's rebuttal at**
2 **Page 21, Line 7 through 10, quote the exact verbiage of**
3 **Account 4530. I want you to -- to listen to it from my**
4 **question.**
5 **It says, quote, This account shall include**
6 **premiums paid -- there's ellipses -- for commercial**
7 **insurance to protect the carrier against liability to be**
8 **charged with the estimated or actual liability for**
9 **claims not covered by commercial insurance for the same**
10 **class of risk.**
11 **My question is: Isn't a deductible a part of**
12 **the claim not covered by insurance -- commercial**
13 **insurance?**
14 A. Staff's understanding of this section differs.
15 **Q. Whose understanding of that section differs?**
16 **Excuse me. I -- you faded out.**
17 JUDGE BONFRISCO: Mr. Sharbono, if you could
18 expound upon why staff's interpretation differs.
19 A. Staff's understanding of this section is that
20 that would apply to self-insurance, not to commercial
21 lines of insurance.
22 **Q. (By Mr. Wiley) So when you say "staff," by the**
23 **way, is that you or is that a formal policy of your**
24 **section that I'm just not aware of?**
25 A. That is the informal practice of the session --

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1 or of the section (inaudible) --
2 **Q. I didn't --**
3 A. -- (inaudible) written policy on them.
4 **Q. What's informal policy -- what's that amount**
5 **to?**
6 A. That is the -- that is based on discussions and
7 material discussed in our section as to what something
8 means.
9 **Q. How is that disseminated to the regulated**
10 **community?**
11 A. Per the USOA.
12 **Q. Well, no. So you're saying that internal staff**
13 **discussions of your section are translated to the**
14 **community -- regulative community through a preexisting**
15 **Uniform System of Accounts definition?**
16 A. Yes.
17 **Q. But isn't it your -- isn't your section the one**
18 **interpreting the 4530 -- and that's what I'm asking**
19 **about -- being disseminated?**
20 **How is your staff interpretation disseminated?**
21 A. (Inaudible) discussions with the companies.
22 **Q. Isn't that after the fact, though?**
23 A. No. Because that could be before the fact as
24 well. We may have discussions before a company files
25 something. We may have discussions after it's already

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1 been filed, so it's --
2 **Q. In the case of Olympic, are you saying that you**
3 **discussed this interpretation 4530 and the treatment of**
4 **how this expense would be handled prior to the audit of**
5 **the case?**
6 A. I am not aware of what was said in any
7 discussion prior to receiving the case.
8 **Q. By the way, did you learn from Mr. Young as you**
9 **responded -- as you saw in a response to informal data**
10 **request No. 4, that there had been a recommendation that**
11 **this insurance expense should be taken over --**
12 **normalized over a five-year period? Were you aware of**
13 **that?**
14 A. I was aware of that once the company informed
15 me of it, and I did discuss it with Mr. Young.
16 **Q. So you -- you disagreed with Mr. Young then;**
17 **right?**
18 A. Yes.
19 **Q. So you took a position as an auditor different**
20 **than informal advice that another auditor had given;**
21 **isn't that true?**
22 A. Yes.
23 **Q. Okay. Your -- at Page 9 of your testimony, you**
24 **say that, Requiring the ratepayers to cover the**
25 **deductible (inaudible) essentially insulates**

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1 **shareholders against all risks from management**
2 **decisions, but utilities cannot expect that ratepayers**
3 **will ensure their operations for normal business risk.**
4 **Do you recall that testimony?**
5 A. Which line is that?
6 **Q. I just said it's Page 9. I'll go to it if you**
7 **need it.**
8 A. I would like to be able to reference the actual
9 page and the line numbers --
10 **Q. Okay.**
11 A. -- (inaudible) my testimony (inaudible) --
12 **Q. I'll do it.**
13 A. -- (inaudible) time.
14 **Q. Okay. It's on -- it begins on Line 14,**
15 **Mr. Sharbono. And then it's down at Line 20 where it**
16 **says, "Requiring the ratepayers to cover the deductible**
17 **essentially insulates shareholders against all financial**
18 **risk from management decisions, but utilities cannot**
19 **expect that ratepayers will insure their operations for**
20 **normal business rates.**
21 **Do you see that?**
22 A. Yes.
23 **Q. Okay. Are motor vehicle accidents for**
24 **land-based transportation companies a normal business**
25 **risk or an isolated nonrecurring risk, in your view?**

1 A. Please repeat the question.
 2 **Q. Yes. Are motor vehicle accidents for**
 3 **land-based transportation companies a normal business**
 4 **risk or an isolated nonrecurring risk, in your view?**
 5 A. In my view, they are isolated. However, the
 6 risk is normal.
 7 **Q. Excuse me. They are isolated but what?**
 8 A. They are isolated incidents, but they are a
 9 normal business risk for a transportation company.
 10 **Q. Okay. So -- so you're now saying that they're**
 11 **isolated, but they're normal; that's correct?**
 12 A. Yes.
 13 JUDGE BONFRISCO: And, Mr. Wiley, I
 14 apologize. I just want to jump in here real quickly.
 15 We still do have a user by the name of
 16 A-D-A-M-B in the waiting room. I believe everybody else
 17 has been brought in except for that one individual.
 18 Are they with you?
 19 MR. WILEY: I don't know that, but I'm
 20 asking our client. I suspect that they're part of the
 21 client (inaudible) oh, they are.
 22 JUDGE BONFRISCO: Okay. So I'm going to go
 23 ahead and let -- can I let them back in at this
 24 juncture?
 25 MR. WILEY: Yes.

1 A. Yes.
 2 **Q. Okay. And -- but your testimony is, if they --**
 3 **there are normal business risks for which you have**
 4 **insurance -- by the way, you're required to have**
 5 **insurance by the commission; correct?**
 6 A. No. You're not required by the commission.
 7 You're required by statute.
 8 **Q. Well, the commission doesn't have rules**
 9 **enforcing that statute?**
 10 A. They do. But the requirement comes from --
 11 **Q. So it is required by the commission, and it's**
 12 **required by the Washington legislature; correct?**
 13 A. Yes.
 14 **Q. So your testimony is that that required**
 15 **insurance should only cover the premium and not the**
 16 **deductible that the company must pay in order to obtain**
 17 **that insurance; is that correct?**
 18 A. Could you restate the question, please, because
 19 I do not understand what's -- what you're asking?
 20 MR. WILEY: Okay. Your Honor, I think it
 21 would be a good -- it's noon. I think it's a good place
 22 to break. I will re-ask the question after the break
 23 and start -- and if you want to have a shorter break,
 24 I'm fine. It's up to you.
 25 JUDGE BONFRISCO: And then after -- if we

1 JUDGE BONFRISCO: Okay. Thank you.
 2 And go ahead and proceed.
 3 **Q. (By Mr. Wiley) Okay. Mr. Sharbono, I think I**
 4 **asked if it was your testimony that motor vehicle**
 5 **accidents are normal but not recurring.**
 6 **Is that essentially what you said?**
 7 A. Yes.
 8 **Q. Okay. And if they're normal risk, are you**
 9 **saying that total insurance expense should not be**
 10 **allowed?**
 11 A. No. I'm saying that the premiums should -- or
 12 the premiums should be allowed, that the deductible
 13 payments shouldn't be based on the fact that it's a
 14 management's decision to set this rate as a level of
 15 risk and then the customers are also being expected to
 16 pay the full amount of all expense. And my testimony is
 17 pretty clear on that point.
 18 **Q. Yeah. It's clear, but you haven't explained**
 19 **it, which is why I'm asking these questions.**
 20 **So let me just go back and say that you're**
 21 **saying that they are normal business risk and that the**
 22 **total cost of insurance paid for by the insured, which**
 23 **you admit includes a deductible -- all insurance**
 24 **policies have a deductible -- and that's what's part of**
 25 **the policy afforded the insured; correct?**

1 take a short recess, then how much time do you think we
 2 need? Another hour going into about 1:00 p.m.? Is that
 3 what you're thinking?
 4 MR. WILEY: Okay. Yeah. At least, yeah. I
 5 mean, there's such long pauses between my question and
 6 answer, it's really extending the session,
 7 unfortunately. I'm not used to those kind of pauses, so
 8 it's harder to estimate.
 9 JUDGE BONFRISCO: Okay. With that, let's --
 10 because I know we want to keep this moving. Let's just
 11 try to keep it to a ten-minute break.
 12 So is that sufficient time?
 13 MR. WILEY: Okay. I'll do whatever you want
 14 to, Your Honor.
 15 JUDGE BONFRISCO: You know, I hadn't planned
 16 a break at this point, but it sounds like you're
 17 requesting a brief recess; is that correct?
 18 MR. WILEY: I think it would be good at the
 19 noon hour, but -- but if other people want to keep
 20 going, I can keep going. Kind of up to you.
 21 JUDGE BONFRISCO: Let me get a feel for the
 22 room.
 23 Mr. Roberson, what's your thoughts?
 24 MR. ROBERSON: I'm fine continuing.
 25 JUDGE BONFRISCO: And, Public Counsel, are

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1 you still with us?
 2 MR. SYKES: Yeah. I'd rather just continue.
 3 JUDGE BONFRISCO: Okay. Are you -- are you
 4 comfortable just proceeding through?
 5 MR. SYKES: Yes.
 6 JUDGE BONFRISCO: Okay. Perfect.
 7 Mr. Wiley, let's try to push through, and then,
 8 you know, if we need a break, we can check in then, but
 9 I think, in the interest of time, if we could try to
 10 wrap this up, that would be great.
 11 MR. WILEY: Okay. Your Honor, I'm trying to
 12 recall the question before the twelve o'clock was noted
 13 by me.
 14 Again, we don't have a reporter, so I may have
 15 to retread that territory. Okay.
 16 JUDGE BONFRISCO: Yeah. And, I believe, you
 17 know, from the notes I have, I think you were asking
 18 him, you know, to kind of restate what he felt was a
 19 normal expense and whether or not that only included the
 20 premium.
 21 So I believe you were restating prior testimony
 22 and trying to get confirmation on that, but go ahead and
 23 kind of recheck your notes.
 24 MR. WILEY: Sure. Thank you, Your Honor.
 25 JUDGE BONFRISCO: Yeah.

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1 **Q. (By Mr. Wiley) Mr. Sharbono, your -- your**
 2 **testimony is that while insurance is a requirement by**
 3 **rule and statute, that the total insurance expense, when**
 4 **there's an accident, should not include the deductible.**
 5 **You've been clear about that.**
 6 **And I'm asking you: Isn't that a disallowance**
 7 **of a normal business expense that you have already**
 8 **testified is a normal risk?**
 9 A. That would be a --
 10 **Q. Insures (inaudible) --**
 11 A. -- (inaudible).
 12 **Q. -- normal risk (inaudible)?**
 13 A. Please go ahead.
 14 **Q. So I was saying, you've testified that you**
 15 **should bifurcate the recovery of the total insurance**
 16 **expense, which the share -- which the policyholder must**
 17 **pay, which includes the deductible and the insured**
 18 **level.**
 19 **You're saying that it can only have -- it can**
 20 **only recover the cost of the layer of insurance that the**
 21 **company -- that the insurance company directly pays and**
 22 **not the deductible that is part of that policy; correct?**
 23 A. Yes. Based on the knowledge and understanding
 24 that I gained through the research that I did as part of
 25 this case.

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1 **Q. Okay. So whether a normal -- an event is**
 2 **normal or nonrecurring, you're suggesting that all**
 3 **insurance costs shouldn't be allowed, and they should**
 4 **all be absorbed by -- all insurance expense, at least**
 5 **the deductible portion, should be absorbed by**
 6 **shareholders; correct?**
 7 A. The deductible portion -- yes.
 8 **Q. Okay. Again, while you referenced in your**
 9 **testimony that you didn't -- and you didn't expressly**
 10 **quote that second paragraph of Account 4530, are you --**
 11 **where it says, "This account shall also be charged with**
 12 **estimated or actual liabilities for (inaudible) not**
 13 **covered by commercial insurance," isn't that -- your --**
 14 **aren't you just saying that that deductible isn't**
 15 **covered by actual insurance?**
 16 **So wouldn't it then under that rationale be put**
 17 **in Account 54 -- 4530?**
 18 A. I would disagree with it being included in
 19 Account 4530. It would be in Account 7600.
 20 **Q. Which is below the line and doesn't -- it's**
 21 **basically a miscellaneous catch-all, but does -- does**
 22 **4530 not suggest to you that all costs of insurance**
 23 **should be allocated to that account?**
 24 A. It does not.
 25 **Q. Referring to Page 6 of your testimony, did**

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1 **you -- do you consider insurance as a whole as an**
 2 **above-the-line cost that makes up the day-to-day**
 3 **operating expenses of a regulated company?**
 4 A. Do I agree that, as a whole, the insurance
 5 costs --
 6 **Q. Yes.**
 7 A. No. The premium is. The deductible is not
 8 part of the normal day-to-day operating cost.
 9 **Q. Is there any authority, other than your**
 10 **interpretation of Account 4530, that supports the**
 11 **premise that you can point us to that explicitly allows**
 12 **for the bifurcation of the expense of premium versus**
 13 **deductible?**
 14 A. Generally, I can't. It's up to the accounting
 15 principles of the United States.
 16 **Q. So you're saying GAAP principles support a**
 17 **bifurcation of prem- -- of insurance premium from**
 18 **insurance deductible in the allowable expenses of a**
 19 **regulated company; is that correct?**
 20 A. I'm saying that, under GAAP principles, the --
 21 yes. Under GAAP principles --
 22 **Q. And --**
 23 A. -- (inaudible) do not include a deductible
 24 under the general operating expenses.
 25 **Q. You didn't cite the GAAP or any other source in**

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1 **your response testimony to support that position, did**
 2 **you?**
 3 A. That would take me some time to read. If you
 4 would give me time to do that, I would go through my
 5 testimony to find any references that I gave, but I did
 6 provide the company, in its data request, information
 7 about that.
 8 **Q. Okay. Subject to check, would you accept that**
 9 **your response testimony cites to -- only to 4530 as**
 10 **supporting the premise upon which your testimony about**
 11 **the bifurcation is based?**
 12 A. Subject to check, yes.
 13 **Q. Okay. Thank you.**
 14 **Apart from the current legal requirement to**
 15 **obtain insurance, if a large casualty loss or traffic**
 16 **accident claim is not a recurring event, why would a**
 17 **company obtain commercial liability insurance?**
 18 A. To protect itself in the event that such an
 19 incident would happen.
 20 **Q. Excuse me?**
 21 A. To protect itself in the instance that such a
 22 situation would happen.
 23 **Q. Okay. So that -- it's insuring itself against**
 24 **business risk, yet you only want to allow a portion of**
 25 **that cost above the line; correct?**

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1 A. Yes.
 2 **Q. Okay. In terms of your testimony that you**
 3 **disallowed this -- this claim as nonrecurring, if -- if**
 4 **Olympic had had back-to-back unfortunate claims like the**
 5 **\$1.92 million claim at issue in the same year or in**
 6 **consecutive years, would you then allow the full cost of**
 7 **that claim and the deductible as constituting recurring**
 8 **losses under your matching principle concept?**
 9 A. Based on my testimony, I'm going to say no
 10 because, even if that were the case, the deductibles, in
 11 my opinion, should not be included and should be below
 12 the line.
 13 **Q. Okay. So your testimony now is, even if it's**
 14 **recurring, happens all the time, because of your belief**
 15 **that deductibles should not be included in insurance**
 16 **costs, you would disallow a deductible always; correct?**
 17 A. Yes.
 18 **Q. Okay. Okay.**
 19 A. (Inaudible) of that, but I can't remember it
 20 off the top of my head.
 21 **Q. Excuse me? What?**
 22 A. I said there is a (inaudible) --
 23 **Q. I didn't know I had --**
 24 A. -- but I -- it slipped out of my mind.
 25 **Q. Okay. Trying to skip a few questions to save**

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1 time here.
 2 **Do you know why -- and -- and, again, it's in**
 3 **BS-19X, which is the LeMay memo that you said you**
 4 **weren't -- even though you're listed as an auditor, you**
 5 **weren't involved in.**
 6 **Do you know why -- and by the way, LeMay is a**
 7 **Waste Connections company; correct?**
 8 A. Yes.
 9 **Q. What would have prompted the staff to allow**
 10 **those insurance claim expenses under the exact same**
 11 **policy to be normalized and Olympic to be denied the**
 12 **same process?**
 13 A. I was not involved in discussions with the
 14 analyst, nor have I addressed the analyst about this
 15 memo, so I cannot state what her reasonings were, nor do
 16 I know what conversations she had with other staff.
 17 **Q. Okay. And, again, do you see a problem in**
 18 **that, that circumstance, in terms of the regulated**
 19 **community knowing how to anticipate the staff's**
 20 **treatment of large items of expense?**
 21 A. Do I see the point that you're trying to make?
 22 Yes.
 23 **Q. No. It's not the point I'm trying -- okay. So**
 24 **the answer is yes, you see a problem with that?**
 25 A. I can see a potential problem with that, yes.

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1 **Q. Well, we would concur.**
 2 **You testified at Page 16, Line 9, of your**
 3 **testimony that, quote, To ensure costs are removed**
 4 **timely, all rate cases would need to have orders**
 5 **ensuring compliance with cost removal and extensions to**
 6 **the effective date of those filings would need to be**
 7 **reviewed to ensure customers would not be harmed;**
 8 **correct?**
 9 A. Yes.
 10 **Q. And that was one of the reasons you opposed**
 11 **allowing insurance claim expense to be normalized;**
 12 **correct?**
 13 A. That was one of the issues that I address, yes.
 14 **Q. But isn't it true that in other audits you've**
 15 **allowed expenses to be normalized and have sought to**
 16 **address the over-collection risk that you talk about by**
 17 **advocating that be included in a commission order?**
 18 A. Yes. We have in the past.
 19 **Q. Okay. And, in fact, in BS-20X, which we'll**
 20 **talk about in a different context a little later,**
 21 **BS-20X, you, in fact, recommended that an expense -- it**
 22 **was legal fees in that case -- be normalized and that**
 23 **the commission require the company to come back in at**
 24 **the end of the normalization period to prevent**
 25 **over-collection; correct?**

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1 A. In that particular case, yes.
 2 **Q. And so there are occasions in which you've**
 3 **blunted that risk of over-collection by advocating for**
 4 **requiring a company to come back in to remove the**
 5 **normalized expense; correct?**
 6 A. Yes.
 7 **Q. Okay. Why wouldn't that be possible here in**
 8 **Olympic's case, if the insurance claim expense were to**
 9 **be normalized and you would advocate for the company to**
 10 **come back in to remove it at the end of the**
 11 **normalization period?**
 12 A. That would be my recommendation if the
 13 commission decides to allow the expense.
 14 **Q. And you -- did you see Mr. Wonderlick's**
 15 **testimony, that he'd have no objection to doing that?**
 16 A. I would have to review it, but I believe he did
 17 state that.
 18 **Q. Okay. And let me go a little bit to this**
 19 **balance between shareholder and customer that Public**
 20 **Counsel is asking about yesterday and your views on**
 21 **that.**
 22 **Mr. Tersick testified in his opening testimony**
 23 **at Page 6 that your recommendation to allow the**
 24 **insurance premium amount but disallow the recovery of**
 25 **the deductible claim and rates by the company would lead**

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1 **to a total imbalance, a burden, and benefit as concerns**
 2 **investors and customers.**
 3 **Do you understand that? Do you understand that**
 4 **testimony?**
 5 A. I understand Mr. Tersick's testimony.
 6 **Q. In his testimony, he points out that, if the**
 7 **deductible is not amortized or normalized, then the cost**
 8 **falls solely on the investor, meaning the cost and**
 9 **benefits would not be balanced because the customer**
 10 **would receive the benefits of that lower annual premium,**
 11 **and when there's a claim, the investor would absorb the**
 12 **cost of the deductible.**
 13 **Why isn't that, in your view, a one-way street**
 14 **contravening any matching principle or fairness to the**
 15 **company?**
 16 A. The company fails to show how the customers are
 17 sharing any risk. Instead, they are absorbing all risk.
 18 In their testimony, the company states that they want
 19 the customers to pay 100 percent.
 20 In addition, the company also gains a return on
 21 that principle or amount in the expenses, and,
 22 therefore, they are essentially receiving a benefit on
 23 top of the fact that there was the expense and that,
 24 based on an operating ratio, they get a return.
 25 So in that, customers are bearing all the risk

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1 and paying the company to accept that risk on to the
 2 customers.
 3 **Q. Okay. That was a multi-pronged answer, and I**
 4 **want to explore it.**
 5 **First of all, you disagree with the former FERC**
 6 **and Wisconsin PSC commissioner who talked about the**
 7 **imbalance that your recommendation advocates.**
 8 **Do you, as an analyst at the UTC, flatly**
 9 **disagree with that? Correct?**
 10 A. Yes.
 11 **Q. Okay. Did you see Mr. -- you talked about the**
 12 **risk and you -- you testified that Lurito Gallagher is a**
 13 **different type of risk.**
 14 **And you have to admit that insurance is an**
 15 **operational risk, do you not, that the accidents for**
 16 **which insurance insures is an operational risk?**
 17 **Correct?**
 18 A. Can you please restate the question and only
 19 address the one risk?
 20 **Q. Yes. Yes. You segued throughout your long**
 21 **answer into a return, a risk analysis, and Lurito**
 22 **Gallagher.**
 23 **First of all, Lurito Gallagher rewards**
 24 **financial risk, does it not?**
 25 A. It rewards all risks incorporated with the

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1 investment in a company of this nature.
 2 **Q. And investments are financial risks --**
 3 **financial related, are they not?**
 4 A. That is part of the risks that are addressed
 5 because I would also argue that the companies wouldn't
 6 have -- the companies that are referenced within the
 7 materials that were used to create the LG also would
 8 have had to face the potentials of having accidents and
 9 other things that would cause additional risk to the
 10 company.
 11 **Q. Yeah. Well, having been there at the creation**
 12 **of Lurito Gallagher, I can tell you that the types of**
 13 **risk that are involved --**
 14 MR. ROBERSON: Objection.
 15 MR. WILEY: Excuse me?
 16 MR. ROBERSON: Mr. Wiley is testifying.
 17 MR. WILEY: I haven't finished my question,
 18 but --
 19 JUDGE BONFRISCO: Mr. Wiley, if you can get
 20 to the question, I'm going to sustain that objection and
 21 if you can actually get to the heart of the question.
 22 **Q. (By Mr. Wiley) Okay. Mr. Sharbono, I'm trying**
 23 **to plumb your answer -- your multifaceted answer.**
 24 **In terms of Lurito Gallagher, do you agree that**
 25 **its function is to reward financial risk or assess**

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1 financial risk such as the reward of working capitals
 2 and investors supply to the enterprise?
 3 A. Yes.
 4 **Q. Okay. And do you also agree that insurance**
 5 **policies that are purchased by a transportation company**
 6 **insure against operational risk?**
 7 A. Yes, I do.
 8 **Q. And when operational risk expenses are covered**
 9 **above the line, that is a different type of return than**
 10 **the overall Lurito Gallagher analysis for financial**
 11 **reward for working capital; correct?**
 12 A. No. I believe that the -- because the risk is
 13 being incorporated into the return calculated by the LG
 14 (inaudible) that the company is then receiving a
 15 benefit -- the shareholders are receiving a benefit for
 16 the costs that the company is incurring.
 17 Therefore, having a deductible included will be
 18 giving the -- or giving shareholders a return on the
 19 risk.
 20 **Q. Yeah. But isn't the deductible part of the**
 21 **risk for an insured loss?**
 22 A. It is part of the risk for insured loss, yes.
 23 **Q. Okay. And going back to Mr. Tersick's**
 24 **testimony and your analysis, I want to understand what**
 25 **you mean by -- under your recommendation that the**

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1 deductible not -- deductible portion of the insurance
 2 not be amortized or normalized.
 3 That doesn't -- that portion that you would
 4 disallow, doesn't that fall all on the investor?
 5 A. Yes. At the end of the day, it would fall on
 6 the investor -- on the (inaudible).
 7 **Q. And isn't -- and isn't the customer receiving**
 8 **the benefit of the lower annual premiums and higher**
 9 **deductible under the present policy?**
 10 A. I disagree that they are receiving a benefit if
 11 the company is -- has their insurance policy and then
 12 charges the customers 100 percent no matter what happens
 13 and accepts zero risk for their own decisions.
 14 **Q. That's -- my question, though, isn't the**
 15 **customer receiving the benefit of the lower annual**
 16 **premium and the investor absorbing the cost of the**
 17 **deductible?**
 18 A. Under my recommendation, that would be the
 19 scenario, yes.
 20 **Q. Okay. And isn't it true that the ratepayers --**
 21 **again, this is, as you term it, the hypothetical JW-16.**
 22 **Isn't it true that ratepayers have benefited on**
 23 **the lower cost of higher deductible/lower insurance**
 24 **premiums for the Waste Connections company to a**
 25 **significant extent?**

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1 A. Can you restate the question?
 2 **Q. As shown in -- yes.**
 3 **And isn't it true that, in Exhibit JW-16, we**
 4 **demonstrate under the hypothetical that the monoline**
 5 **comparison, the monoline -- that ratepayers benefit**
 6 **about three times as much from the current policy than**
 7 **they would under the monoline policy where there are**
 8 **lower deductibles? Isn't that true?**
 9 A. From the point of premiums, yes, that is true.
 10 However, that does not take into fact that, if the
 11 company is going to pass all costs to customers, meaning
 12 the full deductible every time, the customers would be
 13 better protected by having a lower deductible.
 14 **Q. Is that lower deductible available, to your**
 15 **knowledge, first of all?**
 16 A. To my knowledge, I don't have the burden of
 17 proof.
 18 **Q. To your knowledge, what?**
 19 A. I'm -- to my knowledge, the company has burden
 20 of proof to show that they can't get that or the
 21 policy -- or what their policy could be.
 22 **Q. Okay. So you dispute the availability of that**
 23 **policy on the open market such as Ms. Lopes addressed**
 24 **yesterday; correct? You say that that's available on**
 25 **the market?**

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1 A. That is not what I'm saying at all.
 2 **Q. What? Please speak more clearly.**
 3 A. That is not what I said at all.
 4 **Q. Okay. But do dispute that she said that?**
 5 A. Several facets of what she said, yes.
 6 **Q. Could you be specific?**
 7 A. I believe that Ms. Lopez's testimony, not just
 8 yesterday, but in her written testimony, she does
 9 address that it is unlikely the company would be able to
 10 receive the insurance policy that they proposed.
 11 Therefore, the policies that they proposed were
 12 unreasonable and that they wouldn't be attainable, so --
 13 **Q. Okay. And you also acknowledge that in your**
 14 **testimony, I believe, where you said that the company**
 15 **said they wouldn't likely be able to find that**
 16 **insurance; correct? Didn't you say that in your direct**
 17 **testimony?**
 18 A. Subject to check, I believe I did.
 19 **Q. Okay. Thank you.**
 20 **Let's move on to severance and termination pay.**
 21 **On severance or termination page -- at Page 20 of your**
 22 **testimony, you reject allowing any such expense in**
 23 **rates, suggesting that ratepayers should not pay the**
 24 **cost of cutting off liability for Murrey's torts or**
 25 **otherwise, quote, short-circuiting claims that may have**

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1 **been valid; correct?**
 2 A. What was the lines, please?
 3 **Q. Okay. Subject to check, let's assume you said**
 4 **that so we can save time here, Mr. Sharbono. You can**
 5 **look at Page 20, if you need to.**
 6 A. Well, without the line reference, I'm going
 7 to --
 8 **Q. What?**
 9 A. Without a line reference, I will review what I
 10 wrote.
 11 **Q. Okay. Yeah. I don't always have line**
 12 **references because I expect my witnesses to grab it off**
 13 **the page that I cite, so -- okay.**
 14 **Can we just assume, for the purposes of moving**
 15 **on, that's what you said?**
 16 A. Subject to check, I will agree.
 17 **Q. Okay. That suggests that you assume most or**
 18 **all of the severance payments implicate culpability on**
 19 **Murrey's or Olympic's part; isn't that true?**
 20 A. That's saying that there is a risk that there
 21 could be culpability on the company's part and that they
 22 did not provide documentation supporting their position.
 23 **Q. Okay. That's not what I asked, but I**
 24 **understand your answer.**
 25 **Are you -- aren't you making a qualitative**

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1 **statement then in characterizing a potential claim?**
 2 A. The company has burden of proof to prove that
 3 the claim was necessary and reasonable.
 4 **Q. I understand you think that they didn't make**
 5 **that burden, but that's not my question.**
 6 **I'm saying, aren't you making a qualitative**
 7 **statement in your testimony in characterizing a**
 8 **potential fine?**
 9 A. Yes.
 10 **Q. Okay. On the flip side, though, where**
 11 **disgruntled employees could be going on what's**
 12 **colloquially called a shakedown to recover a deep**
 13 **pocket, should that possibility enter into your thinking**
 14 **on this?**
 15 A. No. Because that would be a hypothetical
 16 potential outcome and not something that is backed by
 17 documentation or evidence.
 18 **Q. Okay. So isn't it hypothetical to claim that**
 19 **it might cut off liability for tort or business actions**
 20 **also?**
 21 A. I would agree that it is a hypothetical.
 22 **Q. Let's assume that the -- possibly the**
 23 **employment claim has merit, but from a cost-benefit**
 24 **standpoint, can you see any value in stopping the**
 25 **bleeding in terms of the defense and legal costs in**

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1 **cutting off the accrual of the expense in general?**
 2 A. If the case had merit, then I would also state
 3 that the company would not be able to recover it for
 4 wrongdoing, so in that --
 5 **Q. The company --**
 6 A. -- (inaudible).
 7 **Q. The company is being sued under that premise,**
 8 **Mr. Sharbono. It's not the other way around.**
 9 A. What was that?
 10 **Q. I said under my premise, it's the company who**
 11 **is being sued. It's not the other way around.**
 12 A. That's what I'm stating. If the company is
 13 being sued and they lose on this stance that there was
 14 merit to the person's case, that cost would not be
 15 recoverable in rates.
 16 Why would a -- why would a fee being paid to
 17 that employee to cut off that potential liability then
 18 also be allowable in rates?
 19 **Q. So you don't see cutting off a liability from**
 20 **the standpoint of the distraction of management or**
 21 **operations or anything as a beneficial development?**
 22 A. The company has burden of proof and did not
 23 provide the proof requested, nor did they show that
 24 there was a --
 25 **Q. I'm asking here -- I'm asking, Mr. Sharbono.**

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1 **You can go back to that mantra. I understand it. But**
 2 **you heard my question.**
 3 **Do you see any benefit in cutting off a claim**
 4 **from a distraction cost standpoint, operationally, time,**
 5 **et cetera? Do you see any benefit to that?**
 6 A. No, I really don't.
 7 **Q. Okay. Did you make any analysis in your audit**
 8 **of the wide prevalence of severance pay in 2024 in the**
 9 **overall economy?**
 10 A. Please repeat. You were very quiet.
 11 **Q. Did you make any analysis of the wide**
 12 **prevalence of severance pay in 2024 in the broader**
 13 **economy?**
 14 A. No.
 15 **Q. Do you happen to know if the State of**
 16 **Washington or even this commission offers severance pay**
 17 **in specific circumstances to avoid further disputes?**
 18 A. I'm unaware of any situation where it is for
 19 further dispute. The situations in which I have seen
 20 severance pay allowed were in energy companies, and
 21 those were specifically for laying off workers because
 22 of a completion of a project.
 23 **Q. Okay. So you have found prior incidents of**
 24 **commission orders approving severance pay in specific**
 25 **circumstances; is that correct?**

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1 A. Yes.
 2 **Q. Did you provide that to the company --**
 3 A. I (inaudible) --
 4 **Q. -- (inaudible) Olympic?**
 5 A. -- provided evidence to that. I do not know
 6 exactly when. I would have to go check.
 7 **Q. So your testimony is, you did provide evidence**
 8 **of severance pay being allowed; correct?**
 9 A. I believe I gave them the case number.
 10 **Q. That -- that wasn't on incentive pay. Rather,**
 11 **it was on -- you're saying it was on severance pay?**
 12 A. There is a reference to severance pay in one of
 13 the links that I told them to look at as a reference to
 14 something out of one of the orders, so I essentially
 15 told them that this is -- the commission --
 16 **Q. Okay.**
 17 A. -- has an order out there on it. Here is the
 18 reference.
 19 **Q. Okay. So --**
 20 A. (Inaudible.)
 21 **Q. -- just to -- just to be clear on what you're**
 22 **saying, in the email that you sent Mr. Vandenberg**
 23 **listing a number of energy cases on the issue of**
 24 **incentive pay, you're saying that, in one of those**
 25 **cases, there was a reference to allowing severance pay;**

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1 **correct?**
 2 A. I am pretty sure there is.
 3 MR. WILEY: Okay. Your Honor, it would be a
 4 good point to take a quick break right here because I'm
 5 going to move on to incentive pay.
 6 THE WITNESS: I'd rather continue
 7 (inaudible).
 8 JUDGE BONFRISCO: As far as -- can we do
 9 five minutes, Mr. Wiley, or --
 10 MR. WILEY: We'll do five.
 11 JUDGE BONFRISCO: Okay. All right. Thank
 12 you. We will be back at 12:40. It's 12:34 right now.
 13 (Pause in the proceedings.)
 14 JUDGE BONFRISCO: 12:42 p.m.
 15 MR. WILEY: Hi there. So, Your Honor, can I
 16 go?
 17 JUDGE BONFRISCO: Yes. You can proceed.
 18 CROSS-EXAMINATION (CONTINUING)
 19 BY MR. WILEY:
 20 **Q. Okay. Mr. Sharbono, we're going to jump around**
 21 **in the interest of time. I've got so much to ask you**
 22 **about, so little time. Let's go to the issue of legal**
 23 **fees and rate case costs.**
 24 **There -- you issued -- I'd asked you about the**
 25 **TG 230187 case, which was the basin disposal case and**

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1 **the (inaudible) disposal case that you were the auditor**
 2 **on.**
 3 **You identified the staff memo, and I'm**
 4 **wondering if you looked --**
 5 MR. WILEY: Excuse me?
 6 JUDGE BONFRISCO: I think we're good.
 7 MR. WILEY: Sorry.
 8 JUDGE BONFRISCO: No worries. I think that
 9 was just a background noise.
 10 **Q. (By Mr. Wiley) Okay. And I wondered if -- I'm**
 11 **wondering if you looked at the order the commission**
 12 **issued in that matter?**
 13 A. 230187? Yes.
 14 **Q. Yes. Okay. So are you familiar with that**
 15 **order?**
 16 A. Yes.
 17 **Q. And in that order, is it correct that the**
 18 **commission had an entire paragraph devoted to the topic**
 19 **of recovery of defense of certificate rate case costs?**
 20 A. Yes.
 21 **Q. And in that order, the commission said as**
 22 **follows: In a regulatory environment, the**
 23 **responsibility to customers includes ensuring that**
 24 **services are rendered at the lowest reasonable cost,**
 25 **part of which is achieved by economies of scale.**

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1 **Defending its territory to prevent the loss of any**
 2 **portion of its customer base reduces per customer cost**
 3 **and thus supports this goal. Accordingly, it's**
 4 **reasonable for the company to recover those costs**
 5 **through rates; correct?**
 6 A. Subject to check, yes.
 7 **Q. Okay. And this is a formal order of the**
 8 **commission.**
 9 **And do you consider this guidance then on**
 10 **commission policy?**
 11 A. My understanding is that these are generically
 12 not precedent holding in their nature because they are
 13 handled at the open meeting. The second component of
 14 that is that staff is considering and has given
 15 (inaudible) discussions with ALD to have that order
 16 readdressed and --
 17 **Q. So are you saying that an order signed by the**
 18 **commissioners is not precedent for discussion within the**
 19 **order?**
 20 A. I would say that meeting -- open meeting orders
 21 hold less precedent than an order completed through a
 22 formal process.
 23 **Q. That isn't my question.**
 24 **Are you saying that the order in this matter is**
 25 **not precedent on the issue of amortization and**

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1 normalization of certificate defense legal fees?
 2 A. No.
 3 **Q. Okay. The commission's -- in -- in 2021, the**
 4 **commission had a single item rate filing regarding the**
 5 **Millhalls (phonetic) that were issue -- that were at**
 6 **issue in the dispute with waste management on which the**
 7 **commission staff participated in court; correct?**
 8 A. Yes.
 9 **Q. Okay. And in -- in that single item filing,**
 10 **there was no reference to the need for recoupment or**
 11 **required demonstration of the ability to recoup legal**
 12 **expenses despite the mandate that -- that single item**
 13 **rate order to suggest a general rate case; correct?**
 14 A. I did not follow that -- totality of that
 15 question.
 16 **Q. Okay. I'm just asking you whether, in the**
 17 **order where Item 260, which was a single item filing for**
 18 **Dropboxes on the Millhall dispute, whether in the order**
 19 **approving those -- the rate adjustment there, there was**
 20 **any reference to recoupment of legal fees in a general**
 21 **rate case.**
 22 A. When I reviewed the case, I did not see one.
 23 **Q. Okay. Thank you.**
 24 **The expense in basin disposal was for -- the**
 25 **amortization was for legal fees; correct?**

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1 A. Yes.
 2 **Q. And there, you recommended that that be**
 3 **amortized over five years; correct?**
 4 A. Yes. However, staff, again, will reiterate
 5 that we are in -- we are discuss --
 6 **Q. That's not my question. I'm going to interrupt**
 7 **you right now.**
 8 **I'm just asking -- I know your position on**
 9 **results only. I'm asking you whether that was your**
 10 **recommendation in the memo.**
 11 A. In the memo, yes. Staff recognizes --
 12 **Q. Okay.**
 13 A. -- that that was wrong.
 14 **Q. Okay. And in that memo, didn't you also**
 15 **reference yet another transportation case in a footnote**
 16 **where, again, defense of certificate legal fees were**
 17 **allowed?**
 18 A. Yes. And I reiterate (inaudible) --
 19 **Q. Well, no. You don't get to.**
 20 A. -- (inaudible) was wrong.
 21 **Q. Why the -- why is the apparent inconsistency**
 22 **here as the analyst in both basin and now the Olympic**
 23 **case?**
 24 **Here, you refuse to amortize defense of**
 25 **certificate legal fee expenses outside a 12-month test**

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1 **period; correct?**
 2 A. Repeat your question, please.
 3 **Q. Yeah. Why the apparent inconsistency? You**
 4 **were the analyst in both the basin case and now the**
 5 **Olympic case, and in the latter, you refused to amortize**
 6 **defense of certificate legal fees defenses outside a**
 7 **12-month period; correct?**
 8 A. Yes. Because --
 9 **Q. Okay.**
 10 A. -- (inaudible) doing something wrong in one
 11 case does not support staff doing something wrong in
 12 future cases.
 13 **Q. Well, I understand you can be as arbitrary as**
 14 **you want, but my question is whether it's an**
 15 **inconsistency.**
 16 **And I think you've said yes; correct?**
 17 A. Mr. Wiley, please define "arbitrary" to me.
 18 **Q. Arbitrary is something that you decide on the**
 19 **spur of the moment without reasonable evidence to**
 20 **support the position, but I get to ask the questions**
 21 **here, Mr. Sharbono. We're working -- running out of**
 22 **time.**
 23 **Isn't it true also --**
 24 A. (Inaudible.)
 25 **Q. Let me continue, please.**

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1 **Isn't it also true that in all of these cases**
 2 **that you've cited in memos and the commission's order in**
 3 **the basin disposal case that the legal fees involved for**
 4 **defending the certificate did not all neatly fit into a**
 5 **12-month test period?**
 6 A. Yes.
 7 **Q. Okay. Whether a case is litigated or not,**
 8 **isn't it fair to expect an individual analyst to be**
 9 **consistent on allowance of defense of certificate legal**
 10 **fees?**
 11 A. Yes.
 12 **Q. Okay. And if, during a period in which defense**
 13 **of certificate legal fees are being incurred, a solid**
 14 **waste collection company has no pending rate case, what**
 15 **are you now proposing the company to do to ensure its**
 16 **ability to recover the fees that it is incurring?**
 17 A. They should be filing an accounting petition to
 18 request that an out-of-period cost can be held over to a
 19 (inaudible) and allowed into a general rate case.
 20 **Q. And was any of that ever done in the previous**
 21 **cases in which legal -- defense of certificate legal**
 22 **fees were allowed?**
 23 A. Under the case that you previously cited to
 24 (inaudible) 187, staff has already admitted that, no, it
 25 was not. However, staff also admits staff was wrong in

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1 allowing that through.
 2 **Q. Where does staff admit that?**
 3 A. I am admitting it now on the stand.
 4 **Q. Okay. You're speaking for your whole section**
 5 **now in making that admission; is that correct?**
 6 A. I am speaking for myself as the analyst on both
 7 cases.
 8 **Q. Okay. And how are you disseminating that**
 9 **position to the industry, please?**
 10 A. Once we have -- I have already stated that
 11 staff is discussing with the ALJs, having that reviewed,
 12 and having that reconsidered, at which point it would be
 13 disseminated to all the companies as an order.
 14 **Q. So your -- are you suggesting that staff is**
 15 **talking to ALD about reopening orders to address a**
 16 **resolved case?**
 17 A. Staff is stating that we are talking to -- we
 18 are asking the commission to reconsider a position on a
 19 case that is in an order as is allowable under WAC.
 20 **Q. Has the staff filed a petition for**
 21 **reconsideration of any orders or in any way notified the**
 22 **industry that this is its initiative?**
 23 A. As yet, we have not filed anything. We are
 24 still discussing the matter.
 25 **Q. Are you making the decision or is it going to**

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1 **be a decision made as a whole by your section?**
 2 A. That would have to be a decision made as a
 3 whole by my section.
 4 **Q. And are you also saying, in terms of**
 5 **inconsistencies, that you will seek to reopen other**
 6 **orders and other records where the treatment of**
 7 **insurance claim expense is disparately treated than what**
 8 **you're recommending in the Olympic case?**
 9 A. I have made no such statements.
 10 **Q. So the answer is no; correct?**
 11 A. That is correct.
 12 **Q. By the way, why was your -- why was this**
 13 **adjustment on defense's certificate legal fees made**
 14 **after your testimony was filed?**
 15 A. (Inaudible.)
 16 MR. ROBERSON: Objection. Relevance.
 17 MR. WILEY: Well, I want to know if it was
 18 discussed with the company ever until after -- he's the
 19 auditor. He's interchanging with the company. I want
 20 to know if it was ever discussed with the company.
 21 MR. ROBERSON: I don't think that's relevant
 22 either. I don't know how that discussion makes the
 23 rates more fair, just, reasonable, or sufficient.
 24 MR. WILEY: Your Honor, it's a question of
 25 due process and notice and opportunity to be heard, and

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1 if it comes in after the fact, after their response case
 2 is initially filed, that's an issue of due process.
 3 MR. ROBERSON: And the company received its
 4 due process. It was allowed to respond to staff's
 5 petition. The matter is settled. The commission
 6 allowed staff to file amended testimony a few days after
 7 it filed its initial testimony.
 8 MR. WILEY: That's true. And I'm probing
 9 the timing of this, Your Honor.
 10 JUDGE BONFRISCO: I am going to allow it,
 11 but just proceed carefully, please.
 12 **Q. (By Mr. Wiley) I think you know the question,**
 13 **Mr. Sharbono. My question was: Why -- why was this**
 14 **adjustment proposed after your original testimony was**
 15 **filed?**
 16 A. Because, while I was writing the initial
 17 testimony, it was something that was identified and not
 18 included in the original testimony, and after looking at
 19 and consideration also by discussions with my director
 20 and managers, that it was deemed that this was something
 21 that I should have made sure was incorporated into the
 22 case.
 23 And it was also something that I didn't --
 24 wasn't able to address in the limited amount of time
 25 that I initially had to review the case, and in the

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1 initial amount of time that I had to review the case
 2 before submitting testimony, not everything that I could
 3 have asked for adjustments on made it into testimony.
 4 **Q. And -- Mr. Sharbono, again, you've expounded**
 5 **way beyond the question, but my question now is: Was**
 6 **that ever communicated in JW5, which is your workbook**
 7 **offer from October 16th, 2023, or at any time did you**
 8 **discuss that with the company prior to filing your**
 9 **testimony?**
 10 A. No.
 11 **Q. Okay. Okay. The last question on legal fees**
 12 **that I want to get straight on is, in light of this**
 13 **stance on defense of certificate legal fees, what is**
 14 **your recommendation to the company and the commission**
 15 **for recouping all that's ongoing rate case costs?**
 16 A. What is my recommendation to the commission on
 17 recuperating the ongoing rate case cost?
 18 **Q. Yes. And as to the company, for that matter.**
 19 A. My recommendation is that the cuts be allowed,
 20 and they be divided out over a period of years.
 21 **Q. You haven't determined a normalization period**
 22 **for that, have you?**
 23 A. I have not made a recommendation to the
 24 commission, nor do I know what the amount is, nor their
 25 filing -- their planned filing schedule, but I would

1 make a recommendation to the commission that it be no
2 longer than maybe five to ten years, based off of the
3 company's current filing record, as well as issuing an
4 order that requires the company to file -- to come in to
5 ensure that the legal (inaudible) --

6 **Q. To remove -- yeah. To remove any chance of**
7 **over-collection. I get that. I guess my question also**
8 **is more mechanical.**

9 **When do you want the commission -- the company**
10 **to submit this to you as the auditor to make**
11 **recommendation to the commission, should this not be a**
12 **part of a compliance filing? Do you have any ideas on**
13 **that?**

14 A. I do not --

15 **Q. Did you say no?**

16 A. No. I didn't say anything. I'm saying I do
17 not know the commission's methodology for that to be
18 added to the cases beyond the fact that my understanding
19 is, companies are allowed to recover legal expenses
20 for -- number one, for (inaudible) for the cost of
21 conducting the rate case.

22 **Q. Okay.**

23 A. However (inaudible) --

24 **Q. I'm just -- fair enough. I'm just asking**
25 **because of our apprehension now about this late issue of**

1 **Q. Thank you. Thank you.**

2 **I just wanted to make clear that your testimony**
3 **doesn't address that, but there's another reason why I'm**
4 **now asking about it.**

5 **Okay. One thing your testimony does address is**
6 **incentive pay. If a -- Mr. Sharbono, if a smaller**
7 **company does not produce individualized anecdotal data**
8 **about incentive pay which enhances workers' performance**
9 **through that -- the production of tailored data, should**
10 **performance bonuses always be disallowed for recovery**
11 **and rates?**

12 A. Based on my understanding of historical
13 records, yes.

14 **Q. Okay. To your knowledge, has staff prepared**
15 **any policy or drafted any template to measure such data?**

16 A. No.

17 **Q. Okay. If not, is that because of a belief that**
18 **additional compensation should be part of base salary or**
19 **regular wages as you suggest at Page 26 of your**
20 **testimony?**

21 A. No.

22 **Q. Okay. One major basis for denying bonuses, you**
23 **testified to, is the lack of effective guardrails to**
24 **ensure their continuity, if rates are to include such**
25 **incentive pay.**

1 **recovery of certificate defense legal fees, we want to**
2 **be very clear on this record how we approach submission**
3 **finalization and approval of rate case costs according**
4 **to your understanding and -- and any other information**
5 **that might be addressed in the order. Okay?**

6 A. I understand your question. I cannot answer --

7 **Q. Yeah. And --**

8 A. -- (inaudible) question. That is something
9 that would have to be answered by the ALD or by policy.

10 **Q. Okay. And you do have -- you have recommended**
11 **that they be allowed, I understand; correct?**

12 A. I don't know if I explicitly said in my
13 testimony that they should be allowed. I do know that I
14 addressed the fuel expense, which is required by WAC to
15 be updated to the most recent 12 months.

16 I do believe -- I don't know if there was a WAC
17 that says that rate case costs will be allowable, but I
18 do know that, in practice and in every case that I have
19 thus far encountered, the rate case expense costs have
20 been allowed.

21 They may have been amortized over a period of
22 years, but that is the best that I can state without
23 Judge Bonfrisco -- I don't know what your side of the
24 department would want to do in regards to that, and I do
25 believe that it (inaudible).

1 **But couldn't the commission, by order of,**
2 **direct that any change in the amount or criteria for**
3 **awarding them also be subject to a general rate or**
4 **single item rate case filing in the future?**

5 A. The commission has freedom to order whatever it
6 likes within the purview of its authority, and I would
7 also caveat that with, we generally don't (inaudible)
8 single item ratemaking.

9 **Q. I'm certainly aware of the rules under**
10 **WAC 480-07-505 for single rate filing, but I'm just**
11 **asking you: Isn't the ability to -- of the commission**
12 **by order to -- to direct a regulated company to come**
13 **back in for any change in a compensation program it's**
14 **allowing rates for -- isn't that sufficient?**

15 A. Can you please restate the question because I'm
16 not sure about how you meant the end?

17 **Q. Let me ask it this way: If -- if incentive pay**
18 **is normalized, for instance, over a five-year period as**
19 **Mr. Wonderlick suggests in his rebuttal, can't that**
20 **mitigate your concerns if management discontinues or**
21 **diminishes an incentive program, if the company is**
22 **required to either report any changes or file a general**
23 **rate case to reflect those changes?**

24 A. That would be a mechanism that would give staff
25 (inaudible).

1 **Q. Excuse me. That would be a staff?**
 2 A. That would be something that would give staff
 3 more comfort in how the bonuses are handled.
 4 **Q. Okay. And so if the company accedes to that**
 5 **sentiment, you wouldn't have an objection to that, I**
 6 **assume?**
 7 A. To that particular thing, I would not have an
 8 objection.
 9 **Q. Based on your experience in auditing Waste**
 10 **Connections companies, have you ever seen proof that a**
 11 **bonus program was rescinded?**
 12 A. Yes.
 13 **Q. Okay. And what company was that and what was**
 14 **the program, please?**
 15 A. Olympic Disposal because they provided several
 16 days' worth of data, showing that they went through
 17 several programs.
 18 **Q. Well, my question was really whether they**
 19 **cancelled a program.**
 20 **Is that what you're saying that they did?**
 21 A. If closing one program and having other
 22 programs at the same time, yes, they cancelled a
 23 program. They may have started another at the same time
 24 or (inaudible) --
 25 **Q. Yeah.**

1 **of Trudy?**
 2 A. No, I would not recommend that the company do
 3 that. I recommended the company provide documentation
 4 and support the position that they are requesting.
 5 **Q. And it did provide documentation, but you**
 6 **didn't think it was sufficient; is that correct?**
 7 A. That is a mischaracterization of my testimony.
 8 **Q. Okay. Well, what is the correct**
 9 **characterization, please?**
 10 A. In my testimony, I believe I address how they
 11 provided documentation regarding that program and that,
 12 in that instance, would have been supporting the
 13 request.
 14 **Q. So you would --**
 15 A. (Inaudible.)
 16 **Q. You would allow that --**
 17 A. Yes.
 18 **Q. Yes or no?**
 19 **Okay. For instance, on these accounts**
 20 **receivable incentive, to prove the existence of benefit**
 21 **to the ratepayers, do you propose that the company cease**
 22 **the program that it's been effected and has generated**
 23 **low bad debt figures, which, as you know, reducing bad**
 24 **debt works to the benefit of ratepayers, to show that**
 25 **the program has been working?**

1 A. -- but they (inaudible).
 2 **Q. Yeah. My question was: Did they cancel a**
 3 **program and not start another one in its place? And I**
 4 **think the answer is no, is it not?**
 5 A. I would have to go back and double-check. So
 6 subject to check, I would agree.
 7 **Q. Okay. Thank you.**
 8 **For the Trudy (phonetic) secret shopper program**
 9 **that we heard a lot about in your testimony and**
 10 **yesterday, isn't the existence of the program, in**
 11 **itself, a benefit to the customers, in that the program**
 12 **assures that new customers are educated on things such**
 13 **as where to set out their garbage can, what to put in**
 14 **the recycling bin, and what size cans are available?**
 15 A. I'm sorry. I got lost in the --
 16 **Q. I'm asking you whether, in the Trudy program,**
 17 **there's a benefit to the customers, in that new**
 18 **customers under that program are educated on things such**
 19 **as where to set their garbage out, what to put in the**
 20 **recycling bin, what size cans are available, et cetera?**
 21 **Is that a benefit to the customers?**
 22 A. Yes, it is.
 23 **Q. Okay. Would you propose that the company stop**
 24 **monitoring their calls to measure the impact of not**
 25 **incentivizing customer education to prove the benefits**

1 A. I'm not making a recommendation that a
 2 company -- on whether or not they have a program.
 3 **Q. But you're asking for specific evidence of**
 4 **metrics showing improvement, are you not?**
 5 A. No.
 6 **Q. So with bad debt, if the company shows that**
 7 **under its account receivable program incentive program,**
 8 **that bad debts -- debts have been substantially reduced,**
 9 **you would allow that expense because it benefits the**
 10 **ratepayers; is that correct?**
 11 A. If the company provided the burden of proof,
 12 showing that there was a benefit to ratepayers, it would
 13 be allowable.
 14 **Q. Okay. In that case, when you reduce bad debt**
 15 **from a certain level to a reduced level, isn't that**
 16 **proof quantitatively that the program works?**
 17 A. If the company provides documentation for the
 18 company showing that information, I would agree that
 19 would be proof.
 20 **Q. And are you saying they didn't do that on the**
 21 **bad debt, or what are you saying?**
 22 A. The first time that I saw the bad debt was in
 23 the inclusion in their initial filing for the formal
 24 docket. That was all addressed at the (inaudible).
 25 **Q. I'm sorry. I'm having trouble hearing you.**

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1 **Could you speak a little closer to the microphone?**
 2 **So, Mr. Sharbono, I'm trying to jump around**
 3 **here.**
 4 **By the way, is it true that your testimony does**
 5 **not support a current revenue requirement pro forma**
 6 **statement of operations that you're advancing to the**
 7 **commission for adoption?**
 8 A. I would have to review my testimony. I do not
 9 believe that I put a revenue number into my testimony.
 10 I did submit as an exhibit a model that showed where
 11 staff was at for a number.
 12 **Q. Okay. That was going to be my next question.**
 13 **On July 11th, for the interim rate hearing, you**
 14 **submitted BS-11C, correct, your workbook? I hope it's**
 15 **BS-11C.**
 16 A. (Inaudible.) I will have to say yes.
 17 **Q. Okay. And in that workbook, you -- you've come**
 18 **to a bottom-line revenue requirement, do you not?**
 19 A. In that workbook, yes. Would have been
 20 (inaudible) --
 21 **Q. Okay. And would you contest that --**
 22 JUDGE BONFRISCO: Mr. Wiley, my apologies.
 23 I just want to make sure -- I believe we might have one
 24 or two people back on the line, and it's -- we might be
 25 going into confidential testimony again.

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1 MR. WILEY: Yeah. We probably are.
 2 JUDGE BONFRISCO: So let me -- let me just
 3 make sure we route anybody back out on anything
 4 confidential.
 5 Give me one moment, please.
 6 MR. WILEY: Sure.
 7 JUDGE BONFRISCO: Ryan, are you there?
 8 MR. WILEY: Okay.
 9 RYAN: Yes. I'm here. I think I've got
 10 everyone moved out.
 11 JUDGE BONFRISCO: Okay. Perfect. Can we
 12 resume?
 13 RYAN: Yeah, I think so.
 14 JUDGE BONFRISCO: Okay. Perfect.
 15 Go ahead, Mr. Wiley.
 16 **Q. (By Mr. Wiley) Okay. I think I remember where**
 17 **we were.**
 18 **I -- I had asked you whether that workbook,**
 19 **which I believe is Exhibit BS-11, was the first**
 20 **indication of the overall revenue requirement**
 21 **recommendation that you were making to the commission in**
 22 **this case; correct?**
 23 A. Subject to check, I would agree.
 24 **Q. Okay. And in that workbook, did you make any**
 25 **adjustments to expenses which had not been previously**

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1 **discussed or argued with the company?**
 2 A. Yes.
 3 **Q. Yeah. And what were those expenses to,**
 4 **particularly ones that reduced the allowed expense? Do**
 5 **you recall?**
 6 A. Without looking at my documents, I cannot
 7 recall, but I addressed all of the ones in my testimony,
 8 which were the ones that were in this agreement.
 9 **Q. Well, isn't it true that you made adjustments**
 10 **to payroll that were not addressed in your testimony?**
 11 A. (Inaudible.)
 12 **Q. Testimony was -- was on June 28th, and yet the**
 13 **workbook wasn't until July 11th, so you couldn't have**
 14 **addressed payroll adjustments in your testimony;**
 15 **correct?**
 16 A. If that one included payroll adjustments, those
 17 should have been removed.
 18 **Q. Okay. So the reduction -- so just so I**
 19 **understand your testimony, so the reductions that are**
 20 **shown in payroll in your workbook, which is BS-11,**
 21 **should be removed? In other words, you are not**
 22 **insisting upon those at this time; is that correct?**
 23 A. That is correct.
 24 **Q. Thank you.**
 25 **There are some accounting technical issues**

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1 **that -- that I wanted to ask you about. I'm going to**
 2 **shorten them up because of the time allotment, but one**
 3 **of the things that I did have concerns about that I**
 4 **wanted to know how you could explain on the record was,**
 5 **for instance, on the sale of assets calculations.**
 6 **Just near the end of your response testimony,**
 7 **you normalized that expense at \$115,776, which is --**
 8 **which is -- although it's normalized at Page 33 of your**
 9 **testimony, it's more than double the amount Olympic is**
 10 **seeking to recover in that expense, which in its**
 11 **workbook, which I believe is JW-7, is -- that expense is**
 12 **\$49,618.**
 13 **Did you adjust for this or otherwise factor**
 14 **their position on sale of assets in, in your calculation**
 15 **of \$115,776?**
 16 A. Did I factor that adjustment in? No. My
 17 adjustment --
 18 **Q. So at --**
 19 A. -- (inaudible) was specifically to remove the
 20 entire amount for the account would then be handled by
 21 the model that the company had provided allocating
 22 between regulated and nonregulated.
 23 **Q. But had that model been superseded by the**
 24 **March 19th testimony, I mean, there was the offer -- the**
 25 **workbook from earlier in the fall, but had that been**

1 superseded by their March 19th testimony or not, as far
2 as you know?

3 A. My understanding is yes. And staff did make an
4 error because I was instructed initially to restart the
5 case from the original filing and was not informed I
6 needed to work from these company submission during the
7 formal process only.

8 So I was not aware that I should have been
9 working from their workbook and making adjustments to
10 the numbers they had then proposed. I went off of the
11 numbers in the original case, and the adjustment that I
12 made removed the entirety of the amount for a stranded
13 asset.

14 Q. Okay. I appreciate that clarification because
15 we were having problems on figuring out the discrepancy
16 there.

17 Another example of that -- and maybe it's
18 explained by the fact that you were working off their
19 original workbook rather than the revised one in their
20 opening testimony -- was the community activity
21 adjustment because you advocate adjusting, in your
22 response testimony, \$48,870, whereas, Olympic, in its
23 testimony, had proposed a 50 percent contribution in its
24 testimony of March 19th, of \$33,810, which is obviously
25 ceded by your \$48,870 figure.

1 For instance, you talk about disallowing
2 \$37,500 for severance, which is the aggregate severance
3 pay, and we talk about 12,500, which is a third being
4 normalized over three years.

5 Is that in the end not important, based on your
6 adjustment, or can we talk apples and apples here?

7 A. We can talk apples to apples. However, I don't
8 have the model in front of me, so I won't be able to
9 reference the numbers directly.

10 I do understand that the company was asking to
11 have that amortized over three years. And so may I
12 finish addressing that particular adjustment?

13 Q. As far as I'm concerned, yeah. It's up to the
14 judge if she thinks it's responsive, but I'm fine.

15 JUDGE BONFRISCO: Yes. Ben, please proceed
16 with answering that on the adjustment.

17 A. So that particular adjustment, again, because
18 staff is recommending the absolute removal of it, we
19 made an adjustment to the booked amount, which would
20 remove the entirety of the amount.

21 The net effect between the staff's original
22 adjustment and the company's original adjustment, if I
23 was using their workbook, I would have removed the
24 12,500 as that is what they were proposing and
25 recommending into rates.

1 Can you explain that discrepancy? Is that the
2 same issue?

3 A. That would be the same issue. However, staff
4 doesn't support the splitting of costs between the
5 company and (inaudible) on that because the cost --

6 Q. (Inaudible.)

7 A. -- (inaudible) necessary for operations.

8 Q. Okay. That's your position on the topic. I
9 just want to make sure the pro formas, when we get to
10 the final order and compliance filing, include the
11 figures that -- that you are -- that we propose versus
12 what you are adjusting.

13 In this case you're saying that doesn't matter
14 because you want to eliminate all (inaudible)?

15 A. Real quick, so you're asking at this point math
16 questions?

17 Q. Yes, I am.

18 A. Okay. Thank you.

19 Q. Okay. And that may not be one of my strengths,
20 but I want to make sure we just can reconcile these
21 differences so that the order is going to be accurate
22 hopefully on what we quantify.

23 By the way, do you -- what is your response to
24 the testimony by the company that -- that, you know, we
25 sometimes talk apples and oranges.

1 My adjustment, again, was on the booked value,
2 which is then disseminated out through the company's
3 allocation methodology, which would have resulted in the
4 share -- or the customers receiving a portion of
5 whatever the allocation was.

6 So my net effect would be to zero that account.

7 Q. (By Mr. Wiley) Thank you for that.

8 I -- does that also explain -- I mean, the
9 consistency issue is a concern when we look, for
10 instance, at those five scenarios that you propose on
11 beginning of Page 18 of your testimony.

12 Those, for instance, are regulated revenue
13 numbers, not companywide, is that correct, as you
14 recall?

15 Do you need to look at it? Again, I'm trying
16 to just make sure we're on the same page when we get to
17 the reconciliation stage.

18 A. I don't need to look at that one again. I do
19 know what you're referencing.

20 No. That is actually for the full
21 transactional amounts that were recorded by the company.

22 Q. So that includes the nonregulated and regulated
23 revenues; is that correct?

24 A. Let me -- let me double-check. I do want to
25 check that because I --

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1 **Q. (Inaudible) go to Page (inaudible)?**
 2 A. It actually split the amount in that instance.
 3 No. Okay. Apples to apples, this insurance adjustment
 4 that I recommend is regulated operations only.
 5 **Q. That's my understanding. Thank you.**
 6 MR. WILEY: I'm going to -- to everyone's
 7 delight, I'm going to cut out the community and safety
 8 expense issues. We'll address those in post-hearing
 9 briefing.
 10 **Q. (By Mr. Wiley) But, Mr. Sharbono, I need to**
 11 **ask you just briefly about fuel adjustment reference**
 12 **that you made in your testimony.**
 13 **And you addressed that fuel adjustment. It is**
 14 **required by -- by WAC, but you didn't happen to respond**
 15 **to some points touched upon in Mr. Wonderlick's**
 16 **testimony regarding the appropriate fuel adjustment**
 17 **here.**
 18 **And the question is: In that context, can you**
 19 **tell us whether you would support substituting**
 20 **prevailing market prices in that fuel adjustment**
 21 **calculation in the test here for the fuel pricing that**
 22 **the company was under at that time?**
 23 A. I don't wish to be a bad witness, but I can't
 24 make a recommendation one way or the other on that
 25 without looking at the materials again.

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1 JUDGE BONFRISCO: And I just want to
 2 intervene here. I know that the bench is going to be
 3 issuing some written bench requests to staff regarding
 4 some of these topics, and so -- to get clarification on
 5 that for the final accounting, so that, you know, you
 6 have the opportunity to address that in response to
 7 those bench requests.
 8 MR. WILEY: That's a great suggestion, Your
 9 Honor. And I -- with that, I can move on to my final
 10 questions.
 11 **Q. (By Mr. Wiley) Okay. Mr. Sharbono, I did want**
 12 **to ask you briefly about safety programs.**
 13 **Am I correct that generally staff allows the**
 14 **expense of incentive pay in the context of**
 15 **safety-dedicated events related to the enhancement or**
 16 **emphasis on safety within a regulated company?**
 17 A. I believe you were addressing two different
 18 items in that question.
 19 **Q. Do you want me to clarify? I -- I -- what I'm**
 20 **asking about is whether it's general staff policy to**
 21 **allow the expense of -- incentive pay in the context of**
 22 **furthering safety is what I'm saying, if that was**
 23 **confusing.**
 24 **So is it true that you allow both expenses**
 25 **which are directed to enhancing safety generally in**

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1 **regulated companies' expenses?**
 2 A. Yes. Where the company has supporting
 3 documents showing that the -- there is a benefit to
 4 customers in that program.
 5 **Q. And I understand that your testimony is**
 6 **generally always about the benefits to the customer you**
 7 **want to see, but at Page 33 of your testimony, you**
 8 **remove all of the four plus thousand dollar expense for**
 9 **the cost of a safety event, which you also acknowledge**
 10 **on Page 33, quote, may provide benefit to employees**
 11 **motivated by competition to perform better.**
 12 **Is that your testimony? Line 8 of Page 33.**
 13 A. Yes. Thank you. And yes.
 14 **Q. That is your testimony.**
 15 **Isn't improved safety of operations, though,**
 16 **something that works to the benefit of employee drivers,**
 17 **their customers, property, and the community as a whole?**
 18 A. Sorry, Mr. Wiley. I'll ask to ask you to say
 19 that again because that seemed like a statement.
 20 **Q. Isn't -- my question to you is: Isn't the**
 21 **improved safety of operations through something that**
 22 **works to the benefit of employee drivers, their**
 23 **customers, property, and the community?**
 24 A. Yes.
 25 **Q. Okay. And, finally, isn't the promotion and**

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1 **strengthening of safety through training and/or the**
 2 **competitive operation event that you referenced**
 3 **something to be encouraged?**
 4 A. Yes. However, I do not believe that the costs
 5 should be borne only by the customers, in that this is
 6 going beyond just incentive pay. This is moving or
 7 sending people across the country to participate in
 8 events that are (inaudible) --
 9 **Q. (Inaudible.)**
 10 A. -- (inaudible).
 11 **Q. This is incentive to the extent that it seeks**
 12 **to further safety orientation a commitment, is it not?**
 13 A. I would presume so.
 14 **Q. Excuse me?**
 15 A. You would have to assume so. I did not receive
 16 document proving that.
 17 **Q. Well, it's -- you -- safety programs, in**
 18 **general, are being asked about here.**
 19 **And could it be considered a reasonable cost**
 20 **for the overall sufficiency and maintenance of regulated**
 21 **operations?**
 22 A. It could be, but it's not a necessary cost to
 23 providing the service.
 24 **Q. But, again, my question isn't the basic**
 25 **provision of service but the enhancement and maintenance**

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1 **of service.**
 2 A. It could potentially.
 3 **Q. But it --**
 4 A. (Inaudible) did not provide documentation
 5 showing that it did, and additionally, it is -- again,
 6 it's an unnecessary expense, so why should ratepayers
 7 have to pay for something additional that's not
 8 necessary?
 9 **Q. Okay. So even though you said that events like**
 10 **this at Page 33 of your testimony may provide benefits**
 11 **to employees motivated by competition to perform better,**
 12 **you still wouldn't allow this expense; is that correct?**
 13 A. I stand by my testimony, and that's what I
 14 state.
 15 MR. WILEY: Thank you. Your Honor, I think
 16 I am done at this time. (Inaudible) --
 17 JUDGE BONFRISCO: Okay.
 18 MR. WILEY: -- checking of notes. I think
 19 I'm done.
 20 JUDGE BONFRISCO: And at this point I am
 21 going to ask if Mr. Roberson has any redirect.
 22 And before I do that, Mr. Roberson, do you
 23 believe confidential testimony will continue?
 24 MR. ROBERSON: I do not.
 25 JUDGE BONFRISCO: (Inaudible.)

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1 Okay. Ryan, you can let those other
 2 individuals back in the room?
 3 And I just want to confirm, Public Counsel, you
 4 don't have any follow-up, before I turn to Mr. Roberson,
 5 do you?
 6 MR. SYKES: I have no follow-up.
 7 JUDGE BONFRISCO: Perfect. Okay.
 8 Mr. Roberson, please proceed.
 9 MR. ROBERSON: I will try to be brief, but
 10 there is much to cover.
 11 REDIRECT EXAMINATION
 12 BY MR. ROBERSON:
 13 **Q. Mr. Sharbono, do you remember all the way back**
 14 **at the beginning of your testimony, Mr. Wiley was asking**
 15 **you about staff immersion and commission orders, I**
 16 **believe, and you mentioned an archive.**
 17 **What was that?**
 18 A. That is a training archive that staff has
 19 for -- we have materials that we use to teach staff how
 20 to do their jobs. Some additional materials include
 21 some orders that came from cases that were significant
 22 in their impact.
 23 However, they're not -- we don't keep all the
 24 orders there. In fact, we keep only, like, a couple of
 25 water orders and a couple other orders related to that.

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1 Everything else is held in the cases
 2 recovered -- or repository, and that's where we usually
 3 search for document regarding most things anyways.
 4 Honestly, I think I'm probably the only person that uses
 5 the training library.
 6 **Q. So it's -- it's just a training library? It's**
 7 **not used for research?**
 8 A. No.
 9 **Q. Okay. Skipping forward in time, we had the**
 10 **discussion at -- of the \$17 Visa charge, and I believe**
 11 **Mr. Wiley was asking you about thresholds for auditing.**
 12 **Why does staff ask for information about**
 13 **cost -- cost incurred by a carrier or a utility?**
 14 A. Staff -- staff asks for information about the
 15 costs so that the company can show that the numbers they
 16 are -- or the recovery that they are requesting is to
 17 the benefit of the customers and necessary for the
 18 operation of the company.
 19 If it is -- even minor costs, if you have lots
 20 of them, can add up to be significant costs and,
 21 therefore, checking minor costs sometimes is actually
 22 beneficial.
 23 It just comes down to staff needs to be able to
 24 document why we're saying that these are the best
 25 options forward, and the company needs to bear the

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1 burden of the -- proving that their costs are necessary
 2 and reasonable.
 3 **Q. So given all that, should staff have a cost**
 4 **threshold when it performs an audit of costs that will**
 5 **look at or will not look at?**
 6 A. No. Staff should be able to look at any and
 7 all expenses and any and all accounts as necessary.
 8 **Q. Skipping forward again, there was much**
 9 **discussion about what happens at the open meeting.**
 10 **Mr. Wiley was asking you about questions -- about**
 11 **results-only orders, results-only decisions.**
 12 **In days past, were those referred to as black**
 13 **box orders, black box settlements?**
 14 A. I believe that the term that we've decided on
 15 was opaque box, but yes.
 16 **Q. When the commission is approving, say, a solid**
 17 **waste -- when it's allowing a tariff to go into effect**
 18 **by operation of law for solid waste company at the open**
 19 **meeting, what exactly is it weighing in on?**
 20 A. The commission is weighing in on the final
 21 revenue number, the final revenue requirements, and that
 22 the rates that are (inaudible).
 23 **Q. So do you find, when you read those orders,**
 24 **discussion of original adjustments or the treatment of**
 25 **individual items?**

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1 A. In the rare instances where they do, it is not
 2 about the -- it's not about the actual adjustment so
 3 much as the premise for why they are allowing or
 4 rejecting an overarching -- an overarching adjustment.
 5 **Q. So if there is no discussion like that in an**
 6 **order, is it staff's understanding that the commission**
 7 **is approving any of the individual adjustments or the**
 8 **treatment of any individual item?**
 9 A. No.
 10 **Q. The term "precedent" came up. Does staff make**
 11 **precedent?**
 12 A. No.
 13 **Q. Who does?**
 14 A. Only the judges and commissioners can set
 15 precedent through the writing of an order. And
 16 generically speaking is my understanding, the most
 17 precedential of those is if they write them in a formal
 18 environment because usually, if it's addressed in an
 19 open meeting order, it's addressing an individual
 20 scenario at -- for individual company.
 21 **Q. And what was staff's -- what was one of staff's**
 22 **goals with this litigation? Was it to get precedent**
 23 **from the commission on many of these items, many of**
 24 **these topics?**
 25 A. Yes.

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1 **Q. Mr. Wiley was asking you about the ways that,**
 2 **like, individual staff analysts could arrive at**
 3 **different conclusions in different cases.**
 4 **Staff is reviewing those cases based on the**
 5 **facts in them; correct?**
 6 A. Yes.
 7 **Q. So with different facts, staff might treat**
 8 **issues differently; correct?**
 9 A. Yes.
 10 **Q. Skipping ahead again, still in the insurance**
 11 **discussion, Mr. Wiley was asking you about major**
 12 **incidents, and he was asking you about industry-wide**
 13 **trends.**
 14 **For solid waste collection companies, does the**
 15 **commission set rates based on the industry or for**
 16 **individual companies?**
 17 A. The commission sets rates based on the
 18 individual companies and their -- their expenses and
 19 historical costs and what that individual company does,
 20 not what the industry is doing.
 21 **Q. But for the commission and for staff, what**
 22 **would matter would be less the industry experience as**
 23 **opposed to the actual company experience; correct?**
 24 A. That is correct. And that would be reflective
 25 of several companies that touch each other's borders and

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1 the rates being different between the two company's
 2 operations.
 3 If we were looking at the industry as a whole,
 4 we wouldn't be looking at trying to normalize the rates
 5 between those two companies so that customers with one
 6 company pay similarly to the customers of the other
 7 company, regardless of what the expenses of those
 8 companies were.
 9 **Q. So skipping ahead again, still in insurance,**
 10 **there was discussion about the Uniform System of**
 11 **Accounts, and you were asked about the text of I believe**
 12 **it's Account 4530. And you were asked about bifurcating**
 13 **costs under that provision.**
 14 **And I guess my first question is: Does that**
 15 **provision set forth the treatment for premiums?**
 16 A. (Inaudible) find that (inaudible) please and --
 17 I'm sorry.
 18 Does Mr. Wiley happen to remember the reference
 19 page?
 20 MR. WILEY: It's on page -- it's on
 21 Mr. Wonderlick's testimony at Page 21.
 22 A. Here it is. Okay. Can you repeat the
 23 question?
 24 **Q. (By Mr. Roberson) Does the text of that**
 25 **provision set forth the treatment for premiums?**

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1 A. That staff's understanding of that, yes.
 2 **Q. And what is that treatment?**
 3 A. Premiums should be recorded in that account.
 4 **Q. Does it make any -- I'm sorry. Continue.**
 5 A. They should be recorded in that account as they
 6 are operational costs that are normal -- normal,
 7 recurring, and necessary for the company to have
 8 insurance since the company's general operations
 9 expenses, so yes.
 10 **Q. Does the provision set forth any treatment for**
 11 **deductibles?**
 12 A. I would say no by my understanding of it
 13 (inaudible) is no, it does not.
 14 **Q. So does staff believe that this provision**
 15 **requires a bifurcation of the recording of premiums and**
 16 **deductibles?**
 17 A. Yes.
 18 MR. WILEY: Your Honor, I'm going to object
 19 to form of the question to the extent that he's asking
 20 for staff. I need to know if that's the individual
 21 staff member auditor here or staff as a whole. I think
 22 the question is misleading the way it broadly refers to
 23 staff.
 24 MR. ROBERSON: I can rephrase.
 25 JUDGE BONFRISCO: Yeah. If you could

1 rephrase, Mr. Roberson, and then I'll allow it.
 2 **Q. (By Mr. Roberson) So, Mr. Sharbono, do you**
 3 **understand this provision to bifurcate where premiums**
 4 **and deductibles are recorded in a common carrier's**
 5 **books?**
 6 A. Yes.
 7 **Q. And what is your understanding of where**
 8 **deductibles are properly recorded?**
 9 A. Deductibles should be recorded as either under
 10 account 7500 or Account 7600 if -- off the USOA, which
 11 is supported by GAAP accounting basis where the
 12 deductibles would be below the line as they would skew
 13 or otherwise affect the operation costs of a company.
 14 In the account USOA, Account 7600 specifically
 15 says that it's for items that are extraordinary,
 16 nonrecurring, which would be a very apt description of
 17 a -- specifically a significant deductible payment.
 18 **Q. Okay. Skipping ahead to severance, there was**
 19 **some discussion about -- it was a hypothetical -- if**
 20 **there was a valid claim and severance was paid in order**
 21 **to kind of preclude a judgment or litigation cost, what**
 22 **is your view on whether those costs are properly**
 23 **chargeable to ratepayers?**
 24 A. My stance is that they would not be chargeable
 25 to ratepayers, in that if -- if there was suit brought

1 **remember.**
 2 **Do you believe that it is arbitrary to try to**
 3 **correct an error?**
 4 A. It is not arbitrary to correct an error because
 5 the decision is based on reason.
 6 **Q. Okay. You were asked about recovering**
 7 **out-of-period costs. One option was an accounting**
 8 **petition.**
 9 **Are there others?**
 10 A. Accounting petition is the one that I know. I
 11 would -- I believe there are other ways to do petitions,
 12 but as far as I'm aware, I cannot state for the record
 13 that there are because my knowledge and research hasn't
 14 exactly touched upon that.
 15 **Q. Does the company control generally when it**
 16 **files a rate case?**
 17 A. Yes.
 18 **Q. Could it file a rate case that would capture,**
 19 **within the test period, those costs?**
 20 A. Yes.
 21 MR. ROBERSON: I'm sorry? What was that?
 22 THE WITNESS: That was something --
 23 JUDGE BONFRISCO: Mr. Wiley, did you have
 24 something to say or was that --
 25 MR. WILEY: I was trying to jump to say

1 against the company and the company were to lose that
 2 suit, we wouldn't allow those costs into rates
 3 regardless. So why would we allow them for mediating a
 4 risk we wouldn't allow the end result of either?
 5 **Q. And does that same analysis apply to the types**
 6 **of incidental benefits that Mr. Wiley was asking you**
 7 **about, like managerial distraction and that sort of**
 8 **thing?**
 9 A. The principle is the same, yes.
 10 **Q. Moving on to legal fees, I guess the question**
 11 **here is: Do you believe that staff should be**
 12 **consistently wrong?**
 13 A. No. If the staff is making an error, staff
 14 needs to correct said error.
 15 **Q. And is this case an attempt at correcting that**
 16 **error?**
 17 A. Yes.
 18 **Q. And if staff believes that it was wrong or that**
 19 **the commission wrongly decided something based on**
 20 **staff's recommendation, is this a vehicle for getting a**
 21 **change, asking the commission to issue an order**
 22 **repudiating its prior analysis?**
 23 A. Yes. This would be a mechanism to do that.
 24 **Q. Okay. Mr. Wiley asked you about staff being**
 25 **arbitrary. He may have used "staff" as you. I can't**

1 objection, leading, but I didn't get the button hit in
 2 time.
 3 **Q. (By Mr. Roberson) You were asked about**
 4 **reopening other cases for what Mr. Wiley characterized**
 5 **as disparate treatment of insurance.**
 6 **The cases he's talking about were open meeting**
 7 **cases as we previously discussed; right?**
 8 A. Yes.
 9 **Q. So did the commission treat insurance in any of**
 10 **those cases?**
 11 A. No. The commission continued to authorize or
 12 take no action upon items that were for the revenue
 13 requirement and the rates only.
 14 **Q. So would there -- would there be any need to**
 15 **revisit those cases?**
 16 A. No.
 17 **Q. Near the very end of your testimony, you were**
 18 **discussing incentive programs, and Mr. Wiley was asking**
 19 **you whether the existence of some of these programs**
 20 **themselves is beneficial.**
 21 **Do you remember that?**
 22 A. Yes.
 23 **Q. When you're looking at ratemaking, are you only**
 24 **looking at the benefit side of the equation?**
 25 A. No.

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1 MR. WILEY: Objection to the form of the --
 2 I don't understand the question. It seems so broad that
 3 I'm not tracking it.
 4 JUDGE BONFRISCO: I'm going to -- I'm going
 5 to overrule that objection, but if you could kind of
 6 hone it down, Mr. Roberson, just kind of drill in with
 7 more specificity, that would help.
 8 MR. ROBERSON: I'm happy to.
 9 **Q. (By Mr. Roberson) Do you compare costs and**
 10 **benefits?**
 11 A. Yes.
 12 **Q. And so simply knowing that the existence of a**
 13 **program had some kind of benefit wouldn't necessarily be**
 14 **enough to justify the program; correct?**
 15 A. That is correct.
 16 MR. WILEY: Objection. Leading.
 17 **Q. (By Mr. Roberson) Would you consider a**
 18 **program --**
 19 JUDGE BONFRISCO: And real quick, I just
 20 want to -- I'm going to overrule that objection.
 21 You can proceed, Mr. Roberson.
 22 MR. ROBERSON: I don't honestly remember
 23 what the question on the table was, but I can rephrase.
 24 **Q. (By Mr. Roberson) When you're reviewing the**
 25 **prudence of management decisions, does the simple fact**

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1 **that a program exists and provides benefits suffice to**
 2 **justify the prudence?**
 3 A. No. There needs to be a benefit for the
 4 customers, yes. However, there is also a balance
 5 between beneficial to the customer and beneficial to the
 6 company that needs to be addressed, as well as if the
 7 costs are supported as reasonable.
 8 **Q. And so at the very end of your cross, Mr. Wiley**
 9 **was asking about a safety program, which was**
 10 **characterized as having a small cost.**
 11 **Do you remember that?**
 12 A. Yes.
 13 **Q. In a vacuum, does the fact that something has a**
 14 **small cost make it prudent?**
 15 A. No.
 16 **Q. Why not?**
 17 A. Again, small -- we look at the accounts as a
 18 total, so when we're looking through everything, small
 19 amounts do add up to big amounts, and a lot of small
 20 numbers that are imprudent -- or I shouldn't say
 21 imprudent because I will not judge the companies'
 22 prudence on their decision, but they shouldn't be
 23 allowable in rates because they don't, directly or
 24 indirectly, benefit customers in a way that the company
 25 is showing that they are necessary for customers to pay

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1 those costs.
 2 MR. ROBERSON: And I am done. Thank you for
 3 your time.
 4 JUDGE BONFRISCO: Okay. Well, thank you,
 5 Mr. Roberson.
 6 At this point there are going to be several
 7 different bench requests that we'll go ahead and issue
 8 out to staff, but in the interest of time, you know,
 9 we'll submit those in writing.
 10 So that brings us to the end of
 11 cross-examinations, but before we adjourn, I have a few
 12 housekeeping matters.
 13 I'm showing, based on the prior schedule, that
 14 post-hearing briefs are due on October 2nd. And I don't
 15 expect that we're going to need up to the 60 pages, but
 16 do you believe each of you can brief this in let's say
 17 40 pages or so?
 18 MR. ROBERSON: Scout's honor.
 19 MR. WILEY: Can I (inaudible)?
 20 JUDGE BONFRISCO: I'm sorry, Mr. Wiley?
 21 MR. WILEY: Can I take the Fifth on this
 22 one?
 23 I will really try, Your Honor. We didn't get
 24 to all the questions from Mr. Sharbono, so I'm a little
 25 hesitant, but I will really try.

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1 JUDGE BONFRISCO: Okay. And then I also --
 2 I'm showing in the original procedural schedule that
 3 reply briefs were waived and my understanding is just
 4 because we're nearing the suspension date. So it's
 5 rapidly coming up, I believe, on November 1st.
 6 So, you know, I guess at this juncture, I just
 7 want to confirm that that was, in fact, the case when
 8 that procedural schedule was set I believe back in March
 9 of last year.
 10 MR. ROBERSON: Embarrassingly, I can't
 11 remember, but staff is happy to waive its reply brief if
 12 that makes things work.
 13 JUDGE BONFRISCO: I think our concern is
 14 just we're getting so close to that suspension date,
 15 which is really just -- is going to make it challenging
 16 just to get everything out in the time frame.
 17 So I guess with that said, are there any
 18 questions or concerns?
 19 MR. WILEY: Your Honor, my concern, because
 20 the suspension date is fast approaching, as much as I'd
 21 love to file a reply brief in view of the denial of
 22 interim rates and the pendency of this case, I really am
 23 concerned about any further delays to the company
 24 financially.
 25 So I think we probably have to live with no

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1 replies unless you feel some other schedule could be
 2 accommodating with that suspension date.
 3 JUDGE BONFRISCO: I mean, at this point I --
 4 I believe it should be able to get it addressed in the
 5 post-hearing briefs.
 6 And also, just for clarification, this Zoom
 7 recording will be sent over for a transcript by the
 8 Buell transcription company and usually that takes a few
 9 weeks to get out.
 10 I can check to see if we can get anything
 11 sooner on that, but that will be available. Just we
 12 didn't actually have a court reporter here when it's an
 13 ALJ presiding, so I just wanted to clarify that for you,
 14 Mr. Wiley.
 15 MR. WILEY: And the order that will be
 16 issued will not be an initial order? It will be a final
 17 order of the commissioners; correct?
 18 JUDGE BONFRISCO: That is my understanding.
 19 MR. WILEY: Do you know if it -- you ordered
 20 an expedited transcript, hopefully the commission would
 21 pay that additional fee.
 22 Do you know how soon that could be produced?
 23 JUDGE BONFRISCO: You know, let me -- I'm
 24 not sure on that. I know they've been a little delayed.
 25 I don't know if we still have Stacey on line.

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1 My understanding is, it's a few weeks, but, you
 2 know, that's something I'd have to look into.
 3 Let me see. I'm looking here if I have any
 4 notes on this, but I will let you know if that's an
 5 option.
 6 We can check, and we can get back on that, you
 7 know, as far as the expedited and the timeline and that.
 8 I could send a follow-up email addressing that.
 9 MR. WILEY: It might be that you would allow
 10 a few extra days than October 2nd if we can't get the
 11 transcript in a fairly timely fashion. Is that
 12 possible?
 13 JUDGE BONFRISCO: I hate to push it out much
 14 further because it's already on a pretty tight timeline.
 15 So, I mean, I'd like to keep it at the October 2nd date,
 16 but in the event if we do have a problem -- you know,
 17 unless the parties are willing to agree to spending --
 18 to extending out that suspension date, I guess that's
 19 something that hasn't been explored before, but I'm
 20 seeing the shaking of heads no.
 21 MR. WILEY: I'm (inaudible) across the table
 22 (inaudible).
 23 JUDGE BONFRISCO: Yeah. I mean, and that
 24 really kind of dictates for us and the commission, and
 25 so I hate to push out the post brief hearing past

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1 October 2nd just, you know, given all the different
 2 issues being raised in this matter and wanting to make
 3 sure all that gets thoroughly addressed.
 4 So I guess with that, is there anything else
 5 you'd like to address today before we adjourn? No?
 6 Okay. And I'll -- once I get a response on the
 7 transcript, I'll send a follow-up to all the parties.
 8 MR. WILEY: Thank you.
 9 JUDGE BONFRISCO: All right. Thank you.
 10 And we're adjourned for the day, and I hope everybody
 11 has a wonderful day. Thank you. All right.
 12 MR. WILEY: Bye-bye.
 13 JUDGE BONFRISCO: Bye.
 14 (End of recording.)
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C E R T I F I C A T E

1
 2
 3 I, ANDREA L. CLEVENGER, a Certified Stenographic
 4 Court Reporter, of the State of Washington, do hereby
 5 certify that the foregoing proceedings were recorded and
 6 that I was not present at the proceedings; that I was
 7 requested to transcribe the recorded proceedings; that the
 8 recording was transcribed stenographically and reduced to
 9 typewriting under my direction.
 10 I further certify that the foregoing transcript of
 11 the recorded proceedings, consisting of Pages 220 through
 12 387, is, to the best of my ability, a full, true, and
 13 accurate transcript of all discernible and audible remarks.
 14 Dated and signed this 16th day of September, 2024.
 15
 16
 17
 18  
 19 Andrea L. Clevenger, CCR No. 3041
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