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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
NORTH SHORE GAS COMPANY,)
) No. 07-0241
Proposed general increase in)
natural gas rates.)
-----)
THE PEOPLES GAS, LIGHT & COKE)
COMPANY,)
) No. 07-0242
Proposed general increase in)
natural gas rates.)

Chicago, Illinois
September 12, 2007

Met pursuant to notice at 9:00 a.m.

BEFORE:
DAVID GILBERT and EVE MORAN,
Administrative Law Judges.

APPEARANCES:

FOLEY & LARDNER, LLP, by
MR. JOHN P. RATNASWAMY
MR. CHRISTOPHER W. ZIBART
321 North Clark Street
Chicago, Illinois 60610
(312) 832-4911

-and-
GONZALEZ, SAGGIO & HARLAN, LLC, by
MR. EMMITT C. HOUSE
MR. TIMOTHY WRIGHT, III
MR. JEROME MROWCA
35 East Wacker Drive, Suite 500
Chicago, Illinois 60601
(312) 236-0475

Appearing for North Shore Gas Company and
The Peoples Gas, Light and Coke Company;

1 APPEARANCES: (CONT'D)

2 FOLEY & LARDER, LLP, by
3 MR. BRADLEY D. JACKSON
4 150 East Gilman Street
5 Madison, Wisconsin 53589
6 (608) 258-4262

7 Appearing for North Shore Gas Company and
8 The Peoples Gas, Light and Coke Company;

9
10
11
12
13
14
15
16
17
18
19
20
21
22
MAYER, BROWN, ROWE & MAW, by
MS. ANGELA D. O'BRIEN
71 South Wacker Drive
Chicago, Illinois 60606

-and-

MR. KOBY BAILEY
2019 Corporate Lane, Suite 159
Naperville, Illinois 60535
(630) 718-2744

Appearing for Nicor Advanced Energy;

MR. JOHN C. FEELEY, MR. CARMEN FOSCO
MR. ARSHIA JAVAHERIAN
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601

Appearing for Staff of the ICC;

MS. JULIE SODERNA
208 South LaSalle Street, Suite 1760
Chicago, Illinois 60602
(312) 263-4282

Appearing for the Citizens Utility Board;

MR. RICHARD C. BALOUGH
53 West Jackson Boulevard, Suite 936
Chicago, Illinois 60602
(312) 834-0400

Appearing for Multiut Corp;

MS. FAITH E. BUGEL
35 East Wacker Drive
Chicago, Illinois
(312) 795-5708

Appearing for the ELPC;

1 APPEARANCES: (CONT'D)

2 LUEDERS, ROBERTSON & KONZEN, by
MR. ERIC ROBERTSON
3 P.O. Box 735
1939 Delmar
4 Granite City, Illinois 62040
(618) 876-8500
5 Appearing for the IIEC;

6 SPIEGEL & McDIARMID, by
MR. SCOTT H. STRAUSS
7 MR. RUBEN D. GOMEZ
1333 New Hampshire Avenue, NW
8 Washington, D.C. 20036
(202) 879-4000
9 Appearing for Local Union 18007;

10 BRACEWELL & GIULIANI, by
MR. RANDALL S. RICH
11 2000 K Street NW, Suite 500
Washington, D.C. 20006
12 (202) 828-5879
Appearing for Constellation New Energy;

13 ROWLAND & MOORE, by
14 MR. STEPHEN J. MOORE
200 West Superior Street, Suite 400
15 Chicago, Illinois 60610
(312) 803-1000
16 Appearing for Retail Gas Suppliers;

17 RONALD D. JOLLY
J. MARK POWELL
18 30 North LaSalle Street, Suite 900
Chicago, Illinois 60602
19 -and-
MR. CONRAD R. REDDICK
20 1015 Crest Street
Wheaton, Illinois 60187
21 Appearing for the City of Chicago.

22 SULLIVAN REPORTING COMPANY, by
Barbara A. Perkovich, CSR

	<u>I N D E X</u>		Re-	Re-	By
<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Examiner</u>
1					
2					
3	JOHN ORONI	771			
4					785
		774	786	790	
5	JAMES GENNETT	791			798
6		797		819	829
7	EUGUENE S. TAKLE	835			853
8		850	860	863	
9	BRIAN MAROZAS	866			930
					933
10					
			885		
11			934	937	
				938	
12	VALERIE H. GRACE	939			
		943			
13		953			
		957			
		968			989
14		1001			1002
		1004			
15	JAMES L. CRIST	1007			1021
16	PAUL MOUL	1028			1056
		1033			
17			1079		
	CHRISTOPHER C. THOMPSON				
18		1084			1106
		1085			
			1115		
19	DIANNA HATHHORN	1120			
		1124			
20		1130			1134
	DANIEL KAHLE				
21		1136			1178
		1138			
		1170			
22					

	<u>E X H I B I T S</u>		
	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
1			
2			
3	CNE		
4	#1.0, 2.0	771	773
5	NS/PGL		
6	#2	776	784
7	#3	779	784
8	#1.0, 2.0 & 3.0	839	869
9	UWA		
10	#1.0, 2.0	790	796
11	NS/PGL		
12	#1.0, 2.0 & 3.0	943	943/1032
13	#6	1124	
14	ICC		
15	#4	944	956
16	#1.0 & 13.0		1121
17	#3.0, 3.0-CORRECTED	1138	1138
18	15.0	1138	1138
19	AG GRACE		
20	#4	987	1002
21	RGS		
22	#1 & 2	1010	
23	CITY CROSS MOUL		
24	#6, 7 & 8	1041	1042
25			
26			
27			
28			
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1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket
3 No. 07-0241 and 07-0242, consolidated. This is
4 North Shore Gas Company and the Peoples Gas Light
5 and Coke Company, it is a proposed general increase
6 in rates for gas service.

7 May we have the appearances for the
8 record, please.

9 MR. JAVAHERIAN: Appearing on behalf of staff
10 witnesses of the Illinois Commerce Commission
11 Arshia Javaherian, Carmen Fosco and John Feeley,
12 160 North LaSalle, Suite C-800, Chicago,
13 Illinois 60601.

14 MR. RICH: On behalf of Constellation New Energy
15 Gas Division, LLC, I'm Randall S. Rich of the Law
16 Firm of Bracewell and Giuliani, LLP, 2000 K Street,
17 Northwest, Washington, DC 20006.

18 MR. HOUSE: On behalf of the Peoples Gas Light
19 and Coke Company and North Shore Gas Company
20 Emmitt House, Timothy W. Wright, the Third, Jerome
21 Mrowca of the law firm of Gonzalez, Saggio and
22 Harlan, 35 East Wacker, Suite 500, Chicago 60601.

1 MR. STRAUSS: On behalf of UWAU, Local 18007, my
2 name is Scott Strauss of the Law Firm of Spiegel
3 and McDiarmid, 1333 New Hampshire Avenue,
4 Northwest, Washington, DC and I'm joined this
5 morning by my colleague Ruben Gomez of the same
6 firm.

7 MR. ZIBART: Also on behalf of the Peoples Gas
8 Light and Coke Company and North Shore Gas,
9 Christopher Zibart, John Ratnaswamy and Bradley
10 Jackson, Foley and Lardner, LLP, 321 North Clark
11 Street, Chicago, Illinois.

12 MR. BALOUGH: Good morning, your Honor.
13 Appearing on behalf of the Multuit Corporation,
14 Richard C. Balough, 53 WEST Jackson Boulevard,
15 Suite 936, Chicago, Illinois 60604.

16 MR. POWELL: Good morning. For the City of
17 Chicago, Ronald Jolly and Mark Powell. Our address
18 is 30 North LaSalle, Suite 900, Chicago
19 Illinois 60602. Also for the City, Conrad Reddick
20 1015 Crest Street, Wheaton, Illinois 60187.

21 MR. ROBERTSON: Eric Robertson, Lueders,
22 Robertson and Konzen, PO Box 735, 1939 Del Mar,

1 Granite City, Illinois 62040 on behalf of the
2 Illinois Industrial Energy Consumers.

3 MR. MOORE: On behalf of the Retail Gas
4 Suppliers, Stephen Moore of the law firm of Rowland
5 and Moore, 200 West Superior Street, Suite 400,
6 Chicago, Illinois 60610.

7 MS. BUGEL: Appearing on behalf of Environmental
8 Law and Policy Center, Faith Bugel, 35 East Wacker
9 Drive, Suite 1300, Chicago, Illinois 60601.

10 MS. LUSSON: On behalf of the People of the State
11 of Illinois, Karen Lusson, 100 West Randolph, 11th
12 Floor, Chicago Illinois 60601.

13 JUDGE MORAN: Are there any other appearances in
14 the room? Hearing none, those are all of the
15 appearances.

16 We will inform the parties at this point
17 that at 10:30 the Commission will start its
18 proceedings and both Judge Gilbert and I have a
19 matter pending that will be before the Commission,
20 so we may be taking a break at about maybe 10:20.

21 Are there any preliminary matters to
22 address?

1 MR. JAVAHERIAN: Your Honor, I just wanted to
2 note for the record, that regarding staff witness
3 Bonnie Pearce, who is scheduled to testify on
4 Friday, September 14th, both CUB and the attorney
5 general's office have noted that they are waiving
6 cross examination. And I also understand that your
7 Honors do not have any questions for Ms. Pearce; is
8 that correct?

9 JUDGE MORAN: Yes.

10 MR. JAVAHERIAN: I want to make note of that for
11 the record, so her testimony will be filed via
12 affidavit.

13 MR. HOUSE: Your Honor, during Mr. Zack's
14 testimony, there were two matters that he accepted
15 subject to check under cross examination by
16 Mr. Rich. And the company -- Mr. Zack accepts both
17 of those figures that Mr. Rich put forth.

18 And in addition to that, Mr. Rich also
19 made an on-the-record data request and the Company
20 will be responding to that today electronically as
21 a data response.

22 MR. RICH: It was the staff.

1 MR. HOUSE: I'm sorry, Mr. Moore. That will be
2 responded to electronically.

3 MR. BALOUGH: Your Honor, one other preliminary
4 matter. There was some discussion off the record
5 yesterday whether any Multuit's witnesses will be
6 called. No one had cross examination for them, we
7 were waiting to find out if the examiners had any
8 questions for them. If not, we would submit their
9 testimony by affidavit.

10 JUDGE MORAN: I don't.

11 JUDGE GILBERT: I'll talk to you about that
12 later.

13 MR. MOORE: If I might raise one preliminary
14 matter. I've talked to CUB about this and the
15 company also, that Mr. Crist would like to get up a
16 little earlier, if he could switch with Mr. Thomas,
17 if any party has no objection, he's got to get out
18 of town earlier this evening.

19 JUDGE MORAN: So you're asking to move Mr. Crist
20 into Mr. Thomas' slot and there is no objection?
21 That will be allowed.

22 MR. JACKSON: Your Honor, I would like to comment

1 on that. Peoples would have no problem with that,
2 as long as we can get Mr. Thomas up and down yet
3 today, because if he were moved to Friday,
4 Mr. Moul, my rate of return expert, is not
5 available on Friday and I prefer to have him here
6 during my cross examination.

7 JUDGE MORAN: Is there a problem with keeping
8 Mr. Thomas as long as he needs to stay?

9 JUDGE GILBERT: Well, are they switching or are
10 we simply moving Mr. Crist up ahead of Mr. Thomas?

11 MR. MOORE: Whichever people prefer.

12 JUDGE GILBERT: If you are just moving Crist up
13 into what would be the 19th position on our list,
14 it means Mr. Thomas will still be number 20.

15 MR. JACKSON: That's fine. I just wanted to make
16 sure people understood that I would like Mr. Thomas
17 to go today.

18 JUDGE MORAN: And is there any problem with any
19 of other witnesses staying late? Hearing none that
20 that will resolve your issue.

21 (Witnesses sworn.)

22

1 (Whereupon, CNE
2 Exhibits Nos. 1.0 and 2.0 were
3 marked for identification
4 as of this date.)

5 MR. RICH: Your Honor, on behalf of Constellation
6 New Energy Gas Division, LLC, I would like to call
7 to the stand Lisa A. Rozumialski and John Orion.

8 LISA A. ROZUMIALSKI and JOHN ORONI,
9 called as a witnesses herein, having been first
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY

13 MR. RICH:

14 Q. Lisa, would you pronounce your name for the
15 court and spell it, please?

16 WITNESS ROZUMIALSKI: Sure. Lisa Rozumialski,
17 R-o-z-u-m-i-a-l-s-k-i.

18 Q. And Mr. Oroni, would be do the same,
19 please?

20 WITNESS ORONI: John Oroni, O-r-o-n-i.

21 Q. And Ms. Rozumialski, we'll start with you.
22 Are you the same Lisa Rozumialski that, along with

1 Mr. Oroni, submitted direct testimony in these
2 proceedings on or about June 29th, 2007?

3 WITNESS ROZUMIALSKI: Yes, I am.

4 Q. And Mr. Oroni, you as well participated in
5 this joint direct testimony on or about June 29th,
6 2007.

7 WITNESS ORONI: Yes, I did.

8 Q. And that testimony consisted of 34 pages
9 and 9 exhibits. And it's been marked CNE Gas
10 Exhibit 1.0.

11 And Ms. Rozumialski, did you also submit
12 rebuttal testimony of Constellation New Energy Gas
13 Division on or about August 21st, 2007 in these
14 proceedings?

15 WITNESS ROZUMIALSKI: Yes, I did.

16 Q. And Mr. Oroni?

17 WITNESS ORONI: Yes, I did.

18 Q. And that testimony consists of 36 pages,
19 there are no exhibits appended. It is marked CNE
20 Gas Exhibit 2.0.

21 Ms. Rozumialski, if I were to ask you
22 today the questions that were asked to you in your

1 direct and rebuttal testimony, would your answers
2 be the same?

3 WITNESS ROZUMIALSKI: Yes, they would.

4 Q. And Mr. Oroni, if I were to ask you today
5 questions in your direct and rebuttal testimony
6 would your answers be the same?

7 WITNESS ORONI: Yes, they would.

8 Q. And neither of you have any changes or
9 typographical errors to the testimony as submitted?

10 WITNESS ROZUMIALSKI: No, I do not.

11 WITNESS ORONI: No, I do not.

12 MR. RICH: Your Honor, with that I would move the
13 testimony into evidence and tender the witnesses
14 for cross examination.

15 JUDGE GILBERT: Okay, are there any objections?
16 CNE 1.0 and 1.8 through 1.9 and 2.0 are all
17 admitted.

18 (Whereupon, CNE
19 Exhibits Nos. 1.0 and 2.0 were
20 admitted into evidence as
21 of this date.)

22 MR. RICH: We tender the witnesses for cross

1 examination.

2 JUDGE MORAN: We understand the Company has
3 cross.

4 MR. MROWCA: We have short cross, your Honor. I
5 have four cross examination exhibits, unfortunately
6 we don't know what the last number was last night.
7 We don't know how to number them.

8 JUDGE MORAN: Then start with Company's cross
9 Oroni/Rozumialski 1, I'll allow you that.

10 JUDGE GILBERT: Mr. Mrowca, I don't know that the
11 Company's presented any cross exhibits thus far, at
12 least I don't have any mentioned in my notes.
13 Would you know, Mr. House?

14 MR. HOUSE: I know we certainly haven't. Should
15 we start with 1 or 2?

16 JUDGE GILBERT: 2.

17 CROSS EXAMINATION

18 BY

19 MR. MROWCA:

20 Q. Good morning. I'll start by addressing my
21 first question to Mr. Oroni. Mr. Oroni, in NIGas'
22 recent rate case, you recommended that the

1 Commission require Nicor Gas to establish intraday
2 nominations cycles; is that correct?

3 WITNESS ORONI: Yes.

4 Q. And in this case you are recommending that
5 Peoples Gas and North Shore be required to do the
6 same; is that correct?

7 WITNESS ORONI: That's correct.

8 Q. In your direct testimony in these cases at
9 Lines 236 to 253, you list a number of local gas
10 distribution companies that accept intraday
11 nominations; is that correct?

12 WITNESS ORONI: Can you repeat the lines, please?

13 Q. 236 to 253.

14 WITNESS ORONI: Yes, that's correct.

15 Q. And Peoples Gas and North Shore are not on
16 that list, are they?

17 WITNESS ORONI: No, that's correct, they are not.

18 Q. In your rebuttal testimony in NIGas' recent
19 rate case, did you testify that Peoples Gas allowed
20 intraday nominations?

21 WITNESS ORONI: I do not recall.

22 Q. I will hand you Peoples Gas North Shore

1 Cross Exhibit No. 2.

2 (Whereupon, NS/PGL

3 Oroni/Rozumialiski Cross

4 Exhibit No. 2 was

5 marked for identification

6 as of this date.)

7 JUDGE MORAN: Do you want to describe what that
8 exhibit is?

9 BY MR. MROWCA:

10 Q. It's Page 14 from your rebuttal testimony
11 in Nicor Gas' recent rate case. And I'll direct
12 your particular attention to Lines 280 to 282.

13 WITNESS ORONI: Can you repeat the question,
14 please?

15 Q. Okay. In your rebuttal testimony in Nicor
16 Gas' recent rate case, did you testify that Peoples
17 Gas allowed intraday nominations?

18 MR. RICH: The question has been asked and
19 answered, but I'm going to object to this exhibit,
20 because it's incomplete. Unless Mr. Mrowca wants
21 to represent that Page 15 of the exhibit -- Page 15
22 of the testimony doesn't list additional LDC's or

1 utilities that aren't listed here, on Line 290,
2 it's cut off in the middle of the sentence.

3 We would be glad to take counsel's
4 representation or if counsel wants to amend the
5 exhibit and provide the second page, Page 15,
6 either one would be acceptable.

7 MR. MROWCA: What was the first one again, the
8 first option? I could provide the second page.

9 MR. RICH: You can either provide the second page
10 or if you represent that there are no other
11 utilities listed on the next page in the
12 continuation of the sentence.

13 MR. MROWCA: I'll provide the next page.

14 MR. RICH: Okay, thank you.

15 BY MR. MROWCA:

16 Q. Are you in a position to respond to my
17 question?

18 WITNESS ORONI: The answer is yes.

19 Q. So your testimony in NIGas' recent rate
20 case was incorrect on this point?

21 WITNESS ORONI: It appears that it was. And my
22 only additional comment would be that I don't see

1 the full context of these questions and the
2 preceding question, so but just from what I'm
3 recalling and seeing in front of me, yes.

4 Q. So it's possible that some of the other
5 local distribution companies listed on your current
6 list of companies allowing intraday nominations
7 don't really do so either? Is it just a
8 possibility?

9 WITNESS ORONI: Well, I believe that's why we
10 even note that we're most familiar with the
11 practices located -- the companies in our area.
12 These are some others that we believe accept
13 intraday nominations.

14 Q. Is it also possible that some of those
15 other local distribution companies allowing
16 intraday nominations don't provide storage and
17 balancing services to transporters?

18 WITNESS ORONI: I guess that's a possibility.

19 Q. In fact, in your response -- let me pass
20 these out, first.

21

22

1 (Whereupon, NS/PGL
2 Oroni/Rozumialiski Cross
3 Exhibit No. 3 was
4 marked for identification
5 as of this date.)

6 JUDGE MORAN: And you may want to have identified
7 what you marked as No. 3.

8 MR. MROWCA: I have marked as Peoples North Shore
9 Gas Cross Exhibit No. 3 the CNE Gas data request
10 response to the Company's request No. 2.18.

11 BY MR. MROWCA:

12 Q. And that data request indicates that you do
13 recognize that all of the utilities listed do not
14 provide storage and balancing services for
15 transporters?

16 WITNESS ORONI: That's correct.

17 JUDGE MORAN: I have a question. This is a
18 response to some data request provided by CNE Gas?

19 MR. MROWCA: No, I'm sorry, these were North
20 Shore Peoples Gas' data requests to CNE Gas.

21 JUDGE MORAN: And this is the response of CNE
22 Gas. Is it the response in this docket? I do not

1 see a docket number in the head note of this
2 response.

3 MR. RICH: Your Honor, we'll represent that this
4 is our response in this docket.

5 JUDGE MORAN: Okay.

6 BY MR. MROWCA:

7 Q. One of the companies on your list of
8 companies allowing intraday nominations is
9 Wisconsin Public Service Corporation; is that
10 correct?

11 WITNESS ORONI: That's correct.

12 Q. But that company only allows intraday
13 nomination changes on a best efforts only, doesn't
14 it?

15 MR. MROWCA: And I am proposing as a cross
16 examination Exhibit No. 4, CNE Gas' --

17 MR. RICH: Mr. Mrowca, Ms. Rozumialski does know
18 the answers to these questions. You are addressing
19 your questions to Mr. Oroni, but our other witness
20 is really the one who knows the answers.

21 WITNESS ROZUMIALSKI: Could you repeat the
22 question, please?

1 BY MR. MROWCA:

2 Q. Sure. WPSR only allows intraday nomination
3 changes on a best efforts only basis?

4 WITNESS ROZUMIALSKI: Yes.

5 Q. And WPSR doesn't allow storage service to
6 its transportation customers, does it?

7 WITNESS ROZUMIALSKI: No, they do not.

8 Q. Does Nicor Gas offer intraday nominations
9 currently?

10 WITNESS ROZUMIALSKI: No, they do not.

11 Q. Does the tariff of Ameren/CIPs provide for
12 intraday nominations?

13 WITNESS ROZUMIALSKI: I cannot recall.

14 Q. Did either of you have an opinion as to
15 whether intraday nomination rights for transporters
16 could affect the gas costs of the LDC offering
17 those rights?

18 WITNESS ORONI: Can you repeat the question?

19 Q. Could intraday nomination rights for
20 transporters affect the gas costs of the LDC
21 offering those rights to transporters?

22 WITNESS ORONI: Yes.

1 **Q.** And a transporter exercising the intraday
2 nomination rights that CNE favors, could exercise
3 them in the direction opposite from how the
4 downstream customers actual consumption is expected
5 to change; is that correct?

6 WITNESS ORONI: I would say unlikely, but it
7 could be possible.

8 **Q.** And this would make it more difficult for
9 the LDC to adjust its own nominations to respond to
10 the transporter's exercise of those rights,
11 wouldn't it?

12 WITNESS ORONI: I guess, again, I would say
13 unlikely, but if that was the case, yes, it would.

14 **Q.** Certainly depending on the volume and the
15 timing. Okay. The maximum pool size for Nicor Gas
16 currently is 150 accounts; is that correct?

17 WITNESS ROZUMIALSKI: Correct.

18 **Q.** And that was an increase from the 50
19 account limit that Nicor had previously to --
20 before its past rate case?

21 WITNESS ROZUMIALSKI: Correct.

22 **Q.** And here Peoples Gas and North Shore,

1 themselves, voluntarily, proposed to increase their
2 pool size limit from the existing 150 to 200
3 accounts; is that correct?

4 WITNESS ROZUMIALSKI: That is correct.

5 Q. So you would agree with me, that while
6 Peoples and North Shore haven't been as responsive
7 on pool size limits as you would have liked, they
8 have responded to your concerns on this issue to
9 some extent?

10 WITNESS ROZUMIALSKI: To some extent, yes.

11 MR. MROWCA: No further questions, your Honor.

12 JUDGE MORAN: And these cross exhibits?

13 MR. MROWCA: I move that the cross examination
14 exhibits be admitted.

15 JUDGE GILBERT: Let me ask you about that. On
16 No. 4, since you got the answer you were looking
17 for, do you really need to offer 4?

18 MR. MROWCA: That's correct, just 2 and 3 are the
19 only ones we need to move into evidence.

20 JUDGE GILBERT: Any objection to the admission of
21 Cross Exhibits 2 and 3?

22 MR. RICH: I'm sorry, excuse me.

1 JUDGE GILBERT: Any objection to the admission.

2 MR. RICH: No, your Honor, no objection.

3 JUDGE GILBERT: NS/PGL Cross Exhibits

4 Oroni/Rozumialski are admitted.

5 (Whereupon, NS/PGL

6 Oroni/Rozumialski Cross

7 Exhibits Nos. 2 and 3 were

8 admitted into evidence as

9 of this date.)

10 MR. MROWCA: Your Honor, to clarify one point, I

11 did agree to provide a second page on one of those

12 two exhibits, which I will do over lunch time and

13 bring back. And I guess we'll just sort that out

14 this afternoon, but there will be a second page.

15 JUDGE GILBERT: And actually, what you passed out

16 to us as No. 4 was never actually offered for

17 identification. So use No. 4 for your next

18 exhibit, we'll just pretend that this was never

19 offered.

20 JUDGE GILBERT: Who is next for cross?

21 MR. RICH: I didn't think there was anybody else.

22 There is nobody else listed.

1 JUDGE GILBERT: Oh, where is our list? Okay.

2 EXAMINATION

3 BY

4 JUDGE GILBERT:

5 Q. To what extent has Mr. Zack's surrebuttal
6 testimony resolve any of your concerns?

7 WITNESS ROZUMIALSKI: It definitely helps resolve
8 the concern of the elimination of the FST rate.
9 Although we have more concerns now on the SST rate.
10 I think that was the main.

11 Q. Let me ask it this way, Mr. Oroni, I do
12 want to hear from you, but on Pages 35 and 36 of
13 your rebuttal, you have seven recommendations, some
14 of which have had -- some of which do have
15 subparts. And maybe the question I should have
16 initially asked would be, to what extent has
17 Mr. Zack's surrebuttal resolved or at least in part
18 has responded to your recommendations on Pages 35
19 and 36?

20 WITNESS ORONI: I believe, for the record, that
21 in Mr. Zack's surrebuttal that not eliminating
22 Rider FST is probably the most positive progress

1 we've made, without reviewing the surrebuttal in
2 front of us right now. I think that's the one that
3 we are most favorable on right now, because that
4 gives the avenue of keeping customers choices
5 greater, rather than reducing choices, so that's
6 positive.

7 Q. So you would not say, at least at the
8 moment, that any of the other recommendations that
9 you propose on Pages 35 and 36 have in fact been
10 embraced by Mr. Zack?

11 WITNESS ORONI: Yeah, I believe that's correct.

12 JUDGE GILBERT: That's all I have.

13 REDIRECT EXAMINATION

14 BY

15 MR. RICH:

16 Q. Just some brief redirect. Mr. Mrowca asked
17 you a question about intraday nominations by
18 shippers affecting the costs of local distribution
19 companies. Could that affect be both a positive or
20 negative affect on LDC costs?

21 WITNESS ORONI: Yes, that could affect the
22 utility positively or negatively.

1 Q. Let me direct your attention, again, to
2 PGL/NS Cross Oroni/Rozumialski Exhibit No. 3. Do
3 some of the utilities listed at Pages 11 through
4 12, Lines 238 through 253 of your testimony,
5 provide storage and balancing services for
6 transporters?

7 WITNESS ROZUMIALSKI: Yes, I believe so.

8 Q. The administrative law judge asked you
9 about Mr. Oroni's -- I apologize, Mr. Zack's
10 surrebuttal and how it affected our position. Did
11 Mr. Zack's proposal in his surrebuttal with respect
12 to Rider SST have a positive or negative impact on
13 that rider, compared to the current Rider SST?

14 WITNESS ROZUMIALSKI: A negative impact.

15 Q. Could you explain why?

16 WITNESS ROZUMIALSKI: Currently the customer has
17 daily delivery allowances up to their MDQ. With
18 the revised rider, the customer is -- can only
19 deliver their usage for the day and a bank
20 injection that is .67 percent of their allowable
21 bank.

22 With that limitation, it greatly

1 decreases the amount that we can deliver to the
2 customer in a given day. And for certain
3 customers, if you follow the industry norm of
4 delivering the same amount during each day of the
5 weekend, it would be very difficult for some Monday
6 through Friday process users to actually inject as
7 much gas as is required.

8 JUDGE GILBERT: Can you explain how that's
9 different from the current SST that's in place
10 right now?

11 WITNESS ROZUMIALSKI: Sure, the current SST, the
12 customer can deliver up to their MDQ on any given
13 day. So they are -- their only restriction on how
14 much gas they can deliver into their storage is as
15 full as their bank is.

16 So they could -- with the new
17 limitations, they have a very small percentage,
18 .67 percent of their allowable bank that they can
19 inject on any given day for a customer who is like
20 a process customer, their usage can swing more than
21 that amount.

22 And then for any additional gas, my

1 understanding of the proposal, that any additional
2 gas that the customer would have wanted to inject
3 into their allowable bank would go into their
4 imbalance account and there would be a 10 cents per
5 therm charge on that gas.

6 JUDGE GILBERT: What is a process customer.

7 WITNESS ROZUMIALSKI: I used a customer who is
8 using gas primarily on a Monday through Friday and
9 mostly for maybe manufacturing and then is using
10 less on a weekend, because they might not be
11 running shifts, kind of to compare them to a
12 customer who is more of a heat loaded customer and
13 so their swings are not just down -- is not
14 consistent to the weekends.

15 MR. RICH: We have no further questions, your
16 Honor.

17 JUDGE GILBERT: Recross?

18 MR. MROWCA: May we have a minute to decide?
19 Thank you.

20 One or two very brief questions.

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RECROSS EXAMINATION

BY

MR. MROWCA:.

Q. You just testified about your perception of the negative affects of Mr. Zack's SST proposals reflected in his surrebuttal; is that correct?

WITNESS ROZUMIALSKI: Correct.

Q. But that wasn't a relative improvement that Mr. Zack's proposal as previously proposed by the Company; is that correct?

WITNESS ROZUMIALSKI: I would need to refresh my memory on the proposal before that one, before I could answer.

MR. MROWCA: Okay, no further questions.

JUDGE GILBERT: Thank you very much.

(Witnesses excused.)

(Whereupon, UWA

Exhibits Nos. 1.0 and 2.0 were marked for identification as of this date.)

(Witness sworn.)

1 JAMES GENNETT,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. GOMEZ:

7 **Q.** Good morning, your Honor. Good,
8 Mr. Gennett. Mr. Gennett, could you state your
9 full name and spell your last name for the record,
10 please?

11 **A.** James Gennett, G-e-n-n-e-t-t.

12 **Q.** What is your business address, Mr. /TKPWE
13 net?

14 **A.** 300 South Ashland, Suite 307, Chicago,
15 Illinois 60607.

16 **Q.** And can you tell us your employer and your
17 job title?

18 **A.** My employer is Peoples Gas Light and Coke,
19 my job title is a gas mechanic 10.

20 **Q.** And what is your position within
21 Local 18007?

22 **A.** I am the president of the local.

1 **Q.** Mr. Gennett, do you have in front of you a
2 document marked as UWA 1.0 titled Direct Testimony
3 of James Gennett, on behalf of Local Union 18007,
4 Utilities Worker Union of America AFL-CIO?

5 **A.** Yes.

6 **Q.** And do you see attached to that document
7 UWA Exhibits 1.01 through 1.05?

8 **A.** Yes.

9 **Q.** And do you also have in front of you a
10 document marked as UWA Exhibit 2.0 titled Rebuttal
11 Testimony of James Gennett, on behalf of Local
12 Union No. 18007, Utilities Worker Union of America
13 AFL-CIO?

14 **A.** Yes.

15 **Q.** And do you see attached to that document
16 Exhibits 2.01 through 2.09?

17 **A.** Yes.

18 **Q.** And were these documents filed on your
19 behalf in this proceeding?

20 **A.** Yes, they were.

21 **Q.** And were these documents prepared by you or
22 under your supervision?

1 **A.** Yes, they were.

2 **Q.** Mr. Gennett, do you have any changes to
3 either your direct or rebuttal testimony?

4 **A.** I have no changes to the text of my
5 testimony, but I would like the opportunity to
6 clarify a few issues that came up on Monday about a
7 one for one proposal that was testified to.

8 **MR. RATNASWAMY:** Your Honor, may I reserve any
9 objections to the clarification if it proves to be
10 more the nature of surrebuttal rather than
11 clarification?

12 **JUDGE GILBERT:** Yeah, I think that's fair.

13 **BY MR. GOMEZ:**

14 **Q.** Please continue.

15 **A.** On Monday our one for one proposal was
16 testified to and I think there was some
17 misunderstandings about what the proposal was.

18 Our proposal is not to hire new people
19 off the street, our proposal was to promote people
20 into senior skilled safety sensitive positions to
21 do the work. It was testified to, I believe,
22 that -- or the assumption was that it was to bring

1 people into the company through new hires, which is
2 not the case.

3 If I can give you an example, if I may,
4 if you have five people doing a job on a Monday,
5 one person retires at the end of that day, on
6 Tuesday there is four people doing the same work of
7 five. We would be looking for a backfill, a
8 promotion into that senior position, skilled
9 position, in order to offset the workload. It
10 would be good -- we believe it would be beneficial,
11 to the Company, because the work would be done and
12 we believe it would provide good public safety for
13 the customer and to keep the customer up and going.

14 I also testified in my testimony that
15 the one for one proposal, we acknowledge the fact
16 that we are not trying to force the Company or look
17 for the Company to promote due to any technological
18 or infrastructure changes. We recognize that, we
19 have recognized that in the past.

20 Also it's a no cost item to the
21 customer, it's a no cost item to the company. We
22 believe by just backfilling that senior position

1 you would be just moving one person up the rung to
2 provide good customer service and provide public
3 safety at its highest level.

4 Q. Mr. Gennett, is that the extent of your
5 clarifications?

6 A. Yes.

7 Q. A final question for you Mr. Gennett, with
8 respect to the answers in your direct testimony, as
9 well as your rebuttal testimony, would you offer
10 the same testimony today if given the opportunity
11 to do so?

12 A. Yes, I would.

13 MR. GOMEZ: Your Honors, I would request to move
14 all of the UWA's exhibits into evidence at this
15 time.

16 JUDGE GILBERT: All right, objection?

17 MR. RATNASWAMY: No objections from us.

18 JUDGE GILBERT: 1.0 and attachments -- I'm sorry,
19 I don't have the attachments in front of me, could
20 you give me the numbering?

21 MR. GOMEZ: The direct testimony is UWA
22 Exhibit 1.0 with attached Exhibits 1.01 through

1 1.05.

2 JUDGE GILBERT: And then there are no attachments
3 to 2.0.

4 MR. GOMEZ: There are. The rebuttal testimony is
5 Exhibit 2.0 with Attachments 2.01 through 2.09.

6 JUDGE GILBERT: All of those are admitted.

7 (Whereupon, UWA
8 Exhibits Nos. 1.0 and 2.0 were
9 admitted into evidence as
10 of this date.)

11 JUDGE GILBERT: Mr. Ratnaswamy, we can do this
12 one of two ways, as I see it. You did not reserve
13 any cross time, but given there has been some new
14 oral testimony, I think it would be fair for you to
15 cross with respect to that oral direct, if you want
16 to. Or you can move now for another written
17 filing. I would prefer you take the first road,
18 but that's up to you. Or you can do nothing. So I
19 guess there is a third opportunity as well.

20 MR. RATNASWAMY: I don't know if you're prepared
21 to answer, were you planning to ask questions?

22 JUDGE GILBERT: Oh, yes, I am.

1 MR. RATNASWAMY: But you would prefer, as to the
2 clarification, for me to go now; is that right?

3 JUDGE GILBERT: You can wait, if you like. Well,
4 you know what, actually as I say that, in some sort
5 of misguided effort to be nice, I'm probably making
6 a mistake, because it will be very difficult to
7 untangle his responses to my questions, which are
8 not going to go to his clarification, to any
9 questions you may have with respect to the
10 clarification itself.

11 So let's go off the record for a moment.

12 (Discussion off the record.)

13 CROSS EXAMINATION

14 BY

15 MR. RATNASWAMY:

16 Q. Good morning, Mr. Gennett, I'm John
17 Ratnaswamy, I'm one of the attorneys for Peoples
18 Gas and North Shore. The point you made in
19 clarification about costs, would you agree that
20 when someone moves from one position to another, it
21 could be any of the permutations, union to union,
22 nonunion and so on, that it might affect how much

1 compensation the person earns?

2 **A.** Yes, that is true.

3 MR. RATNASWAMY: Okay, thank you.

4 EXAMINATION

5 BY

6 JUDGE GILBERT:

7 **Q.** I have a few, which is the reason why you
8 had to come in today. I'll preface this by saying
9 that I'm just going to refer to your entity as the
10 local, so I don't have to keep repeating the
11 number.

12 I want to get a context with respect to
13 whom the local represents and under what terms.

14 **A.** Sure.

15 **Q.** You have a collective bargaining agreement,
16 I assume, with Peoples and with North Shore?

17 **A.** Just Peoples.

18 **Q.** In your bargaining agreement or by some
19 other mechanism, are there certain job titles that
20 are inherently represented by the local within the
21 Peoples structure?

22 **A.** Yes, there are.

1 Q. Is that a long list of job titles?

2 A. We have several departments, so yes, it
3 would be a long list of different job titles.

4 Q. And is it what's called union shop?

5 A. Yes, it is.

6 Q. Which, as I understand it, means that
7 someone either joins the union and pays dues, or
8 pays dues, but they don't necessarily have to be a
9 union member in order to be in the shop?

10 A. That's incorrect. At our locations we have
11 a union body work force as well as a nonunion
12 managerial body work force, such as technicians,
13 supervisors, they are not in the union.

14 In order to be a part of our union there
15 is an initiation process, financially, as well as
16 monthly dues that are paid to the union.

17 Q. Okay. There are certain jobs that are
18 filled by union members, correct?

19 A. Correct, yes.

20 Q. May those jobs also be filled by nonunion
21 personnel?

22 A. No, they may not.

1 **Q.** All right, so, let's go back to my earlier
2 question. There are certain jobs that are
3 always -- I'm sorry, I'm not phrasing this very
4 well. The persons holding those jobs will always
5 be union members?

6 **A.** Correct, it's a negotiated item, the union
7 member will be designated to do a certain task or a
8 job, correct.

9 **Q.** So with respect to the one on one proposal,
10 you're asking that a local member be promoted into
11 a vacant senior position and leave out, for the
12 moment, whether the reason that position is vacant
13 is technological change or any other issues, senior
14 position comes open, you are asking that an already
15 employed union member be promoted into that
16 position?

17 **A.** Through progression of seniority, correct.

18 **Q.** Now, the Company, while not unequivocally
19 opposing that proposal is, I think, unequivocally
20 saying they are not going to implement it by its
21 terms. It may be that they will, in fact, promote
22 someone who is a union member into a senior

1 position. But they are not, I think, committing to
2 implementing the one on one proposal that you have
3 made, on its terms.

4 I'm not understanding how the Company,
5 under the terms of your bargaining agreement, could
6 promote a nonunion worker into that senior position
7 if, in fact, under your agreement, that position
8 must be held by a union worker. So have I
9 misunderstood you?

10 **A.** As an example, if I can give one, we have a
11 senior service specialist number one, who is the
12 top tier pay in our service department. He's
13 progressed his way through the ranks of the union,
14 starting off as the low end of the scale in the
15 department as a helper, let's say, working his way
16 to the most senior position.

17 Historically, in the past, they have
18 never, ever, put a nonunion person randomly into a
19 senior skilled position. It has always been
20 through the line of progression in the union, via
21 seniority and where you are in the pecking order of
22 that seniority list. So if I was to retire

1 tomorrow as the senior person and you were a
2 nonunion person, you would more than likely not get
3 that job, it would go to the next person who is
4 least senior to you for an upgrade to that
5 position.

6 **Q.** Would I not get that job because I would be
7 prohibited from having that job under the terms of
8 your CBA?

9 **A.** Our collective bargaining agreement
10 strictly has no language in it saying that nonunion
11 employees can bid or progress into positions as
12 such.

13 **Q.** It does not have that language?

14 **A.** There is no language that says that,
15 correct.

16 **Q.** So a nonunion employee could be promoted
17 into that position without violating your CBA?

18 **A.** I guess technically they could be, but I
19 have never seen that happen in the history of the
20 local. And I would definitely oppose that, because
21 there is a seniority process that is followed, a
22 historic practice that is followed, for promotion

1 into senior positions and we have never had any
2 nonunion person moved into a position. A union
3 position, when it's vacated, is not posted as
4 nonunion positions are in the company, for a bid
5 process to get into.

6 **Q.** Okay, then, if this has never occurred, why
7 are you offering the one on one proposal?

8 **A.** The reason we're offering the one on one
9 proposal, because we have subsequently, over the
10 past decade or so, have seen our numbers dwindle,
11 customer service has been affected by it, obviously
12 the Commission saw it that way, too by imposing
13 fines for compliance work not getting done. That's
14 due to a lack of, I think Mr. Doerk called it,
15 resources. And the resources I believe he was
16 speaking of was the human element.

17 People are not there, there is a brain
18 drain, as they call it, at the top of of the
19 skilled level position. People would retire and
20 they would just do without and that would,
21 subsequently, increase the workload, subsequently
22 increase customer complaints because there is

1 nobody coming out to perform the job. That's the
2 basis for our one for one proposal is to keep a
3 skilled level, top tiered employee in place where
4 he or she is capable of going out and performing a
5 public service to provide public safety and to get
6 the product done.

7 **Q.** All right. I probably didn't ask the
8 question artfully enough to point you the direction
9 in the way that would be more helpful to me, so I'm
10 going to try it again. I genuinely think it was my
11 fault.

12 On Page 10 of your direct testimony, the
13 paragraph that begins on Line 3, you refer to two
14 job titles, or I assume these are job titles,
15 because they are capitalized. On Line 3 you have
16 crew leader, on Line 7 you have senior service
17 specialist number one.

18 **A.** That is correct. Those are two separate
19 classifications, correct.

20 **Q.** And those are formal job titles at Peoples?

21 **A.** Yes, they are. Two separate titles.

22 **Q.** Under your one for one program or your

1 proposal, I should say, if a crew leader retires,
2 you would expect a senior service specialist number
3 one to be promoted into that position, would that
4 be correct?

5 **A.** No, that is not correct.

6 **Q.** Okay.

7 **A.** To distinguish it, we have two departments,
8 a service department which is where the service
9 specialist number one would work in and the crew
10 leader would work in what we call the distribution
11 department. So if a crew leader was to retire, our
12 proposal would bring the next senior person who is
13 eligible for promotion into that title of crew
14 leader. It's two separate entities.

15 **Q.** Okay. And that might be a senior service
16 specialist number one and it might be someone else?

17 **A.** For the crew leader position?

18 **Q.** Yes.

19 **A.** No. The service department is strictly
20 original to the service department. For example, I
21 know it's kind of hard, I work in the distribution
22 department, I cannot work in the service department

1 and be promoted in the service department. My line
2 of progression would go through strictly the
3 distribution side of the house.

4 Q. Okay. On the distribution side of the
5 house there are no crew leaders?

6 A. There are crew leaders, yes, there are.

7 Q. And are there senior service specialists
8 number one?

9 A. On the distribution side?

10 Q. Yes.

11 A. No, there are not.

12 Q. On the service side, are there crew
13 leaders?

14 A. There are no crew leaders on the service
15 side.

16 Q. What is the highest union classification on
17 the service side?

18 A. Service specialist number one.

19 Q. Service specialist number one on the
20 service side retires?

21 A. Correct.

22 Q. Under your one for one proposal, whom would

1 you expect to take that job?

2 **A.** A service specialist number two.

3 **Q.** Must the senior service specialist number
4 one on the service side be a local member?

5 **A.** Historically, yes.

6 **Q.** Well, historically they have, but must they
7 be under the CBA?

8 **A.** Yes, they are because they are dues paying
9 members in the line of progression.

10 **Q.** So you are telling me they must be a union
11 member or they must pay dues?

12 **A.** They must be a union member, card caring
13 union member.

14 **Q.** So if the Company is unwilling to be pinned
15 down to promoting a union member into that
16 position, is that a violation of the CBA?

17 **A.** If they are unwilling to promote, no, it's
18 not. The Company has management rights clause
19 where they can promote at will as they see fit, as
20 was testified for technological issues,
21 infrastructure issues, when they see fit, if they
22 need to backfill that position, the Company has the

1 right to do that or not to do that, if they see
2 fit.

3 Q. Really all I was trying to do here and
4 maybe I've only muddied things up, was to
5 understand whether either what you were requesting
6 through the one for one program or what the Company
7 is declining to do with respect to the one for one
8 program would violate your CBA. And in either
9 event I was wondering why the Commission might be
10 put in the position of requiring that violation.

11 But I guess what you're telling me, if I
12 understand it, is that your CBA does not preclude
13 the Company from filling that senior service
14 specialist number one position, under the service
15 department, with a nonunion member?

16 A. Correct.

17 Q. And in the distribution department, you do
18 have crew leaders?

19 A. Yes, we do.

20 Q. And the same would apply, your CBA would
21 not preclude the Company from promoting a nonunion
22 member to the crew leader position?

1 **A.** Correct.

2 **Q.** Take a look at Page 9, if you would.

3 **A.** Still in the direct testimony?

4 **Q.** Yes. In fact, I think everything I have is
5 on your direct. Look at the last question and
6 answer on that page, running from Line 16 down to
7 21.

8 **A.** Okay.

9 **Q.** And as I understand you there, you are
10 pointing out that very experienced personnel, as
11 you say there, will be lost to retirement, correct?

12 **A.** Correct.

13 **Q.** Now, you say it definitively, they will be
14 lost to retirement. Is that because there is a
15 mandatory retirement age or are you simply
16 predicting that within 10 years those persons will
17 retire?

18 **A.** There is no mandatory retirement age, we
19 are predicting that they will retire, based on
20 history, that once people reach retirement age they
21 are going, they don't stay at the Company.

22 **Q.** They can stay but your experience is they

1 don't?

2 **A.** They don't stay, correct. They can, but
3 they don't.

4 **Q.** All right. On Page 10, if you take a look
5 at your question and answer beginning on Line 13
6 running to Line 19?

7 **A.** Okay.

8 **Q.** And I want you to look at that clause on
9 Line 16 which you refer to a greater risk to public
10 safety. Now, assume with me for the moment that
11 any work that needs to be done is going to be done,
12 at some point. It may be done today, it may be
13 done a year from now, but it's going to be done.
14 And if it's done appropriately, I assume that would
15 be sufficient for public safety. So what is it,
16 then, that creates the greater risk to public
17 safety?

18 **A.** What I believe creates or what we believe,
19 as a local believe, what creates a greater risk, as
20 it was testified to on Monday, about this temporary
21 repair items that Mr. Doerk was testifying to on
22 Monday.

1 Right now, obviously temporary repairs
2 are used and they pose a public safety risk because
3 there is just no bodies, physical bodies, to get
4 out there and repair these temporary leaks. You
5 need skilled people to go out there and repair any
6 type of gas leak. You just can't send an entry
7 level person in who is hired 6 months or a year
8 with the Company to go do a proper job or a
9 qualified job from what a person who has been doing
10 it for 30 years can do.

11 The public safety risk is, we believe,
12 is that you have people out there that are
13 retiring, they are not being replaced, so your
14 experience is walking out the door. And that poses
15 a greater risk to public safety, because the work
16 might not be getting done in a timely fashion,
17 temporary leaks are made to be left for extended
18 period of time, without being fixed promptly.

19 **Q.** Well, if a temporary repair is performed
20 and it temporarily repairs the problem, it has done
21 what it was intended to do, has it not?

22 **A.** Not in all cases. Because if the temporary

1 repair is made and is left for 24, 48 hours,
2 somebody normally would come out. But we've had
3 temporary repairs left for 2 months. And the
4 material that is used for those temporary repairs
5 deteriorates with the weather, the conditions, the
6 gas leaking from whatever was temporarily repaired
7 and then that creates a leak and that poses a
8 public safety aspect of it.

9 **Q.** Is there a manual, a handbook, anything
10 written that defines a temporary repair and
11 distinguishes that from something that, in your
12 view, is more than a temporary repair?

13 **A.** I think there is. We submitted it for an
14 exhibit, I do believe, with what the manual refers
15 to as a temporary repair.

16 **Q.** And does that also contain an interval by
17 which a temporary repair needs to be converted to a
18 permanent repair?

19 **A.** I believe our manual speaks to 5 days, I
20 believe. It is part of an exhibit, I don't know
21 what exhibit it was, but I do believe our manual
22 refers to as a 5-day window to get that temporary

1 repair fixed.

2 JUDGE GILBERT: Counsel would you know? We
3 didn't get that handbook itself.

4 THE WITNESS: Excuse me, that's not our rules,
5 that's just our collective bargaining agreement.

6 JUDGE GILBERT: What did we get as an exhibit?

7 MR. STRAUSS: You have as an exhibit, your Honor,
8 a section from the Company's field service manual.
9 That's in Exhibit 2.05 to Mr. Gennett's rebuttal
10 and it speaks to the use and timing on temporary
11 repairs.

12 BY JUDGE GILBERT:

13 Q. And that's the one you are referring to,
14 the field service?

15 A. Yes, sir.

16 Q. All right, if you take a look at Page 11,
17 first I would like you to look at the last sentence
18 of your first answer and that would begin on Line 7
19 and run through Line 10.

20 A. Okay.

21 Q. And mainly I'm interested in what you're
22 referring to on Line 9 when you talk about the

1 system, in the context of saying it doesn't take
2 much to throw the system off balance. I don't know
3 what the system is?

4 **A.** I believe the system, what I was referring
5 to, explains to the way work is scheduled, the way
6 work needs to get done, dated appointments. If you
7 don't have the personnel to successfully get there
8 when they are supposed to be there, that throws off
9 everything in the daily routine of doing the job.
10 So I am referring to the system that is work
11 scheduling, repairs.

12 **Q.** I genuinely didn't know how large a system
13 you were talking about, whether you you were saying
14 that the gas distribution system itself would be
15 thrown off balance.

16 **A.** No, I'm not talking about the system as a
17 whole, no, I'm not.

18 **Q.** All right. Same page, if you take a look
19 at your question and answer that begin on Line 11
20 and on Line 18.

21 **A.** Okay.

22 **Q.** In the third sentence, beginning on Line

1 14, you talk about sensitive assignments and those
2 can only be performed by or in the presence of a
3 crew leader or a senior service specialist number
4 one. And I'm trying to relate that to your one for
5 one proposal.

6 Now, whether that's a local member or a
7 nonlocal member, a person who is in fact a crew
8 leader or senior service specialist, will have to
9 have had, have to have met, I'm sorry, the skill
10 requirements for those positions?

11 **A.** Correct.

12 **Q.** Wouldn't that be correct?

13 **A.** Correct, yes.

14 **Q.** I'm sorry, you were already saying yes and
15 I was -- it's my fault. So the problem, as I read
16 it, is not that a position will be filled by an
17 unqualified person, the crew leader is going to be
18 a qualified crew leader?

19 **A.** The crew leader would be federally mandated
20 by the Department of Transportation to be operator
21 qualified every 3 years, along with everyone that
22 handles natural gas.

1 **Q.** And same for the senior service specialist
2 number one and whatever requirements are associated
3 with that job?

4 **A.** With that position, correct.

5 **Q.** So is your point here, that that -- the
6 person performing those sensitive assignments, whom
7 you have said or I think agree with me will meet
8 the qualifications for their position, will have
9 too many jobs assigned to them or is it something
10 else?

11 **A.** There is more jobs than people. In those
12 positions it's not the fact that there is too many
13 jobs assigned to them, there is just more work than
14 bodies.

15 **Q.** How, and by whom, is it decided what jobs
16 need to be done today versus tomorrow or a week
17 from now?

18 **A.** That's a managerial decision.

19 **Q.** Okay. Last question, I think, or group of
20 questions, Page 20.

21 **A.** Okay.

22 **Q.** And I'm looking at Line 4 and the sentence

1 that runs from Lines 4 to 5.

2 **A.** 4 through 5, I'm sorry?

3 **Q.** Yes.

4 **A.** Okay.

5 **Q.** And to me it's a particularly interesting
6 line and you may have chosen the word flexibility
7 quite intentionally there. The Company's objection
8 to the one for one, when it's boiled down, and it
9 doesn't need to be boiled down that much because
10 it's fairly general, is that it's inflexible. And
11 you are saying exactly the opposite, that your one
12 for one program apparently provides even more
13 flexibility than current circumstances?

14 **A.** Correct.

15 **Q.** So in a sense, that is the heart of the
16 case, with respect to the Local versus Peoples Gas.
17 What is the flexibility you are talking about?

18 **A.** I believe what I'm speaking about, when it
19 comes to flexibility is in response to the
20 inflexibility as put on it by the Company.

21 The flexibility, I feel, is that when
22 you have a senior person, let's use an SS number

1 one, as they call it, service specialist number
2 one, they are capable of doing, setting certain
3 types of meters and regulators, say for a building
4 like this. That wouldn't be given to an entry
5 level position. But when that person retires, the
6 person that would work on this building, you are
7 down one less body.

8 By the flexibility, meaning by promoting
9 the next person into that position, you don't lose
10 any step in the action, you keep going. You are
11 still capable of flexibly getting the work done,
12 not losing the experience and you keep a fresh body
13 in there that's capable of doing the job. It would
14 be able to allow the Company, also, to be flexible
15 how they schedule the work, because the more senior
16 people you have, the more skilled work you can get
17 done.

18 **Q.** The one for one proposal, just to make sure
19 I understand it, is about promotion, it's about a
20 person moving from one job to another?

21 **A.** Correct.

22 **Q.** And under your program, the person making

1 that move or receiving that promotion will be
2 defined, exclusively, by their position in the
3 seniority order, correct?

4 **A.** Correct.

5 JUDGE GILBERT: All right, I'm done.

6 MR. RATNASWAMY: Now I do have some questions,
7 and gratuitously, they are just on the last few
8 questions there.

9 RE CROSS EXAMINATION

10 BY

11 MR. RATNASWAMY:

12 **Q.** I hope this basically clarifies. Would you
13 agree the original -- I'm sorry, let me backup.
14 Right now, does management have the discretion,
15 when a position, one of these senior positions,
16 becomes empty, to decide whether to fill it at all?

17 **A.** Yes, they do.

18 **Q.** Would you agree that under the version of
19 the one for one proposal as presented in your
20 direct testimony, management would not have that
21 discretion and they would simply have to fill every
22 one of these positions as it became empty?

1 **A.** I believe that we acknowledge the fact that
2 due to technological changes and infrastructure
3 changes, we do realize and acknowledge that there
4 might not be a need to promote into those
5 positions.

6 **Q.** So -- and you are referring to Page 16 of
7 your rebuttal there, Lines 7 through 11?

8 **A.** I'm sorry, what page again? I'm sorry.

9 **Q.** Page 16.

10 **A.** Yes.

11 **Q.** So is it your proposal that the Commission,
12 in its order, would issue a mandate to management,
13 that it must fill one of these positions if it
14 becomes empty, unless management says it does not
15 want to fill the position due to technological
16 innovations or infrastructure upgrades?

17 **A.** That would be our consideration, yes.

18 **Q.** So would you agree that would then require
19 defining those terms?

20 **A.** The terms of the one for one, is that what
21 you're speaking of?

22 **Q.** Can I call these exceptions, would you be

1 comfortable?

2 **A.** Sure, however you would like.

3 **Q.** If the Commission were going to impose some
4 version of the one for one proposal, with
5 exceptions, then those would have to be defined?

6 **A.** Yes.

7 **Q.** And management would have, once those
8 exceptions are defined, management would have less
9 flexibility, because it could only decline to fill
10 a position if one of those exceptions applied?

11 **A.** Yes.

12 **Q.** And if there was a dispute about whether
13 one of those exceptions applied, and management, in
14 its judgment, concluded that it did, then it would
15 be part of your proposal that the union could
16 dispute management's decision in some form, whether
17 before the ICC or otherwise?

18 **A.** Yes.

19 **Q.** So again, in that respect, management would
20 have less flexibility in terms of making a decision
21 in its discretion about whether to not fill a
22 position?

1 **A.** No. It's always been management's
2 discretion to promote based on technological
3 advantages or infrastructures or workload peaks and
4 valleys. So there has always been a discrepancy
5 there. And we haven't always agreed with some of
6 their choices, but we do acknowledge some of their
7 choices also.

8 **Q.** And what would change, now, though, is
9 under your proposal, if you disagreed there would
10 actually be a Commission order that would speak to
11 that disagreement. And if it couldn't be resolved,
12 then there would be proceedings before the
13 Commission and management could be told to fill a
14 position, even if it didn't want to?

15 **A.** I believe we have an avenue to do that now
16 without going to the Commission, the grievance
17 process that's in your CBA. I believe we can
18 exhaust avenues that way, yes.

19 **Q.** But this would be another mechanism for the
20 union to dispute a management decision not to fill
21 a position?

22 **A.** Yes.

1 MR. RATNASWAMY: Can I have one moment, please?

2 No further questions.

3 JUDGE GILBERT: Redirect, Mr. Strauss and

4 Mr. Gomez?

5 MR. STRAUSS: Can we have a minute?

6 JUDGE MORAN: Sure.

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8 (Change of reporter)

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1 BY MR. GOMEZ:

2 Q. Mr. Gennett, do you recall being asked a
3 bunch of questions about management's flexibility
4 with respect to the one-for-one proposal?

5 A. Yes.

6 Q. And why is the one-for-one proposal needed?

7 A. The one-for-one proposal's needed because
8 we have had skilled positions gone in the Service
9 Specialist No. 1 over the course of several years,
10 and the Company has not moved or promoted into that
11 position in nine years.

12 So we've had a loss of skilled positions
13 without any backfill until the merger came about
14 and then they replaced, I believe, eight people
15 into that position. But subsequent to that, it was
16 nine years before there was any type of movement
17 into that position?

18 Q. And just to be clear, when you say
19 "position," you mean to which position?

20 A. Service Specialist No. 1.

21 Q. Okay. And when you say that there was no
22 movement in nine years, you meant there was no

1 movement in nine years outside of the merger; is
2 that --

3 A. Correct --

4 Q. -- fair?

5 A. -- into that position.

6 Q. You recall being asked some questions about
7 temporary repairs? I'm sorry. You recall -- in
8 the context of management's flexibility, do you
9 recall temporary repairs coming up?

10 A. Yes.

11 Q. And why are temporary repairs an issue if
12 there's a manual?

13 MR. RATNASWAMY: Excuse me. I will object if
14 it's within the scope of redirect as to Judge
15 Gilbert's questions, that's fine. But I didn't ask
16 anything about --

17 MR. GOMEZ: It is. I apologize.

18 It is within the scope of the questions
19 about the temporary repair manual that were being
20 asked before.

21 JUDGE GILBERT: Yeah, I think just the way you
22 phrased it may be the same sense that

1 Mr. Ratnaswamy had that you were attributing that
2 to him.

3 MR. GOMEZ: My mistake. I apologize for that.

4 BY MR. GOMEZ:

5 Q. But do you recall the questions about
6 temporary repairs that your Honor presented
7 earlier?

8 A. Yes.

9 Q. And why is a temporary repair an issue if
10 there's a company manual?

11 A. I feel that there's an issue with the
12 temporary repairs. Our manual speaks to a five-day
13 window. It's been our experience over the course
14 of years that that window well exceeds what the
15 manual calls for.

16 Q. And that means that -- what is the reason
17 for the delay behind that?

18 A. The reason for the delay behind the time is
19 due to the fact that there's just not enough
20 available bodies to get the work done.

21 Q. And when you say "available bodies," you
22 were talking again about --

1 **A.** Service Specialist No. 1. Specialty field,
2 skilled positions.

3 **Q.** And to be clear, why is it an issue if a
4 No. 1 is not present?

5 **A.** A No. 1 is qualified to work on live gas.
6 It's within his scope of training, based on
7 experience in the field and so forth.

8 **Q.** How does the absence of a No. 1 in the
9 field affect the remaining members of the work
10 force?

11 **A.** The absence of a No. 1 would hamper the
12 work force as well as customer service because the
13 person or scheduled work, say, a temporary repair,
14 would not get fixed in a timely fashion because the
15 unavailability of a qualified person to do that
16 work.

17 **Q.** So to be clear, the members -- the members
18 of the work force that are not No. 1s cannot
19 perform certain job functions?

20 **A.** Correct.

21 MR. GOMEZ: May I have just one minute?

22 JUDGE GILBERT: (Nodding.)

1 (Pause.)

2 BY MR. GOMEZ:

3 Q. And one more question for you, Mr. Gennett,
4 one more issue for you.

5 Can the Company fill one of these union
6 positions with a nonunion person?

7 A. No, they cannot because we are the sole
8 collective bargaining agent for the Company.

9 Q. So, as far as filling the No. 1 position
10 you were describing, Senior Service
11 Specialist No. 1, where do those bodies come from?

12 A. They come from the rank and file of our
13 membership.

14 Q. And do you have any say -- does the local
15 have any say in whether those rank and file people
16 are going to move into a No. 1 position?

17 A. No, we do not have any say if they're going
18 to be moved.

19 MR. GOMEZ: That's all, your Honors.

20 JUDGE GILBERT: Okay. Based on the last
21 question you asked, now I'm confused and I thought
22 that we settled this.

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EXAMINATION
BY
JUDGE GILBERT:

Q. I thought, Mr. Gennett, you had said that the Service Specialist 1 could be a nonlocal member?

A. I -- I was confused by the question. It is promoted through the rank and file system, through progressive seniority from a lower classification.

Q. Okay. So it takes me back to kind of the fundamental concern that I began with, which is if one for one would require the promotion of the next senior person under the terms of your CBA into the next available position, more senior position --

A. Hm-hmm.

Q. -- is the resistance to your one-for-one program then a violation of your CBA?

A. No, it's not, because management has management's right clause makes the decision whether or not that body is needed to be moved up to the higher classification.

Q. Okay. Now, that's where I thought we had

1 left it which told me that the sole issue here was
2 who was going to make this call, whether it be made
3 pursuant to the one-for-one program or whether it
4 would be a call left entirely to management
5 discretion. I thought that's where we were.

6 Then I was confused when you said that,
7 no, a Senior Service Specialist -- I'm sorry. Tell
8 me what's the name of that position again. The
9 Service Specialist No. 1 position --

10 **A.** Correct.

11 **Q.** -- would have to be union member, but now
12 I'm hearing that it does not have to be a union
13 member.

14 **A.** No, it does have to be a union member. I
15 misspoke the first time because I was confused by
16 the question. It has to be a union member.

17 **Q.** But management can override that? They
18 have the discretion to override that process and
19 put a nonunion member in that position?

20 **A.** No, they do not. No, they do not.

21 **Q.** Okay. Now, I'm hopelessly confused?

22 **MR. STRAUSS:** We can try it again.

1 JUDGE GILBERT: Let me go to counsel here for a
2 moment.

3 Can you help me with this?

4 MR. STRAUSS: I think I can help you. Let me
5 make a statement. Let me see if Mr. Gennett agrees
6 with the statement.

7 JUDGE GILBERT: Okay.

8 MR. STRAUSS: As I understand it, management can
9 decide whether or not to promote someone to the
10 Senior Service Specialist No. 1 position. If they
11 choose to do so, it must be a union member, but
12 they don't have to so.

13 What Mr. Gennett, I believe, has been
14 raising in his testimony is the concern that under
15 the existing system, people are not being promoted
16 and that's causing the cascading problem, safety
17 problems, and other problems that he testifies to.

18 I believe that's correct, Mr. Gennett?

19 THE WITNESS: It is correct.

20 MR. STRAUSS: Is that correct?

21 THE WITNESS: Yes, sir.

22 JUDGE GILBERT: So the essence of the program is

1 not who will be promoted, but whether a promotion
2 will occur at all?

3 MR. STRAUSS: Exactly.

4 JUDGE GILBERT: All right.

5 MR. STRAUSS: Exactly. That is the essence.

6 JUDGE GILBERT: All right. Did you have any
7 recross?

8 MR. RATNASWAMY: Not now.

9 JUDGE GILBERT: Okay. Thanks.

10 THE WITNESS: Thank you.

11 MR. ZIBART: So are we taking this advertised
12 break or are we going to push on?

13 JUDGE GILBERT: Well, we've got -- next witness
14 is Ms. -- I'm sorry. Dr. Takle?

15 MR. ZIBART: Dr. Takle, right.

16 JUDGE GILBERT: Who is present, I hope?

17 MR. ZIBART: He is.

18 JUDGE GILBERT: Okay. And we have an
19 outstanding motion with respect to some of his
20 testimony and some of Mr. Schott's testimony.

21 MR. ZIBART: That's true.

22 JUDGE GILBERT: All right. The next scheduled

1 witness is Dr. Takle, T-a-k-l-e, who is appearing
2 on behalf of the petitioners.

3 There's now an outstanding motion from
4 the Attorney General to strike a portion of
5 Dr. Takle's rebuttal -- I'm sorry, surrebuttal
6 testimony, which is North Shore/Peoples Gas
7 Exhibit EST-3.0.

8 I'm sorry. I was just thinking about
9 whether to have the witness offer it and then
10 entertain the motion or to do it now. I mean,
11 since it was filed prior to the actual offering of
12 the witness and his testimony for the record, I'll
13 treat it as such and deal with it now.

14 Read the motion and the response from
15 the Companies and the reply.

16 Let me ask counsel for the companies.
17 You said in your response that the contents of the
18 unpublished article which are quoted at Lines 49
19 through 53 are not being offered to establish the
20 truth of the matter asserted in that excerpt from
21 the article and that is your position, I take it?

22 MR. ZIBART: That is our position.

1 JUDGE GILBERT: All right. So that, as the
2 initial decision-makers, the ALJs and then the
3 Commission do not need to take as true, for
4 example, the sentence beginning at Line 49:
5 30-year normals are no longer generally useful for
6 the design planning and decision-making purposes
7 they were intended.

8 We need not take that as true?

9 MR. ZIBART: That's correct, your Honor.

10 JUDGE GILBERT: All right. So the sole purpose
11 of the testimony then would be to establish that
12 there -- there is an opinion among or held by, I
13 should say, certain persons employed by NOAA that
14 questions the use of the 30-year normal in the
15 rate-making process.

16 MR. ZIBART: That's correct, your Honor.

17 JUDGE GILBERT: Okay. All right.

18 With the understanding that that is the
19 sole use of this testimony, the motion is denied.

20 Okay. Okay.

21 MR. ZIBART: We will proceed. I don't believe
22 he's been sworn in.

1 JUDGE GILBERT: Right. And you know what, I
2 don't have all of his testimony in front of me.
3 So.

4 Let me go get it.

5 (Pause.)

6 JUDGE GILBERT: All right. I have -- I have the
7 testimonies in front of me.

8 And I just want to emphasize that the
9 ruling I made on the motions is exactly as I said
10 it. I don't want later to be obligated to look at
11 yet another motion about use of that testimony
12 beyond the scope that I established in that ruling.

13 All right. Go ahead.

14 (Witness sworn.)

15 EUGENE S. TAKLE,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY

20 MR. ZIBART:

21 Q. Would you state and spell your name for the
22 record.

1 **A.** My name is Eugene S. Takle, T-a-k-l-e.

2 **Q.** And, Professor Takle, by whom are you
3 employed?

4 **A.** Employed by Iowa State University.

5 **Q.** And what's your position there?

6 **A.** I'm professor of atmospheric science,
7 professor of agricultural meteorology.

8 **Q.** Professor Takle, has written direct
9 testimony been prepared by you for submission in
10 Commission Docket 07-0241 and 07-0242?

11 **A.** Yes.

12 **Q.** And do you have in front of you a document
13 that's been marked for identification North Shore
14 Exhibit EST-1.0?

15 **A.** Yes.

16 **Q.** And attached to that are six attachments
17 labeled NS Exhibits EST-1.1 through 1.6?

18 **A.** Yes.

19 **Q.** And do you also have a document marked
20 Peoples Gas Exhibit EST-1.0 with Attachments EST
21 1.1 through 1.6?

22 **A.** Yes.

1 **Q.** And are those documents a true and correct
2 copy of your written direct testimony in these two
3 dockets?

4 **A.** Yes.

5 **Q.** Has written rebuttal testimony also been
6 prepared by you for submission in these dockets?

7 **A.** Yes.

8 **Q.** And do you have in front of you a document
9 that's been marked for identification
10 North Shore/Peoples Exhibit EST-2.0?

11 **A.** Yes.

12 **Q.** Has written surrebuttal testimony also been
13 prepared by you for submission in these dockets?

14 **A.** Yes.

15 **Q.** And do you have in front of you a document
16 that's been marked for identification
17 North Shore/Peoples Exhibit EST-3.0?

18 **A.** Yes.

19 **Q.** Do you have any changes or corrections that
20 need to be made to your testimony before it's
21 entered into evidence?

22 **A.** No.

1 **Q.** So if I were to ask you the questions set
2 forth in these documents marked Peoples Exhibit EST
3 1.0, 2.0 and 3.0, would you give the answers set
4 forth in those documents?

5 **A.** Yes.

6 **Q.** And you intend that these four documents
7 will comprise your sworn testimony in this docket?

8 **A.** Yes.

9 MR. ZIBART: Your Honor, I have no further
10 questions on direct and, subject to
11 cross-examination, would move the admission of the
12 North Shore and Peoples Exhibits EST 1.0 through
13 1.6, North Shore and Peoples Exhibit EST 2.0 and
14 EST 3.0.

15 JUDGE GILBERT: Objections?

16 MS. LUSSON: Subject to cross-examination, I
17 have no objection at this point.

18 JUDGE GILBERT: All right. 1.0 through 1.6, 2.0
19 and 3.0 are all admitted.

20

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1 (Whereupon, NS/PGL
2 Exhibit Nos. 1.0, 2.0 and 3.0
3 were admitted into evidence as
4 of this date.)

5 JUDGE GILBERT: Crossing first?

6 MS. LUSSON: Yes.

7 JUDGE GILBERT: Okay.

8 CROSS-EXAMINATION

9 BY

10 MS. LUSSON:

11 Q. Good morning, Dr. Takle.

12 A. Good morning.

13 Q. And it's Takle, correct?

14 A. Yes. Thank you.

15 Q. Thank you.

16 If you could look at Lines 5 through 9
17 of your direct testimony.

18 A. Lines 5?

19 Q. On Page 1 there.

20 A. Yes.

21 Q. You state you're again employed by Iowa
22 State University as a professor with a joint

1 appointment in the department of geological and
2 atmospheric sciences and in the department of the
3 agronomy (phonetic); is that correct?

4 **A.** That's correct.

5 **Q.** And you state also that you're a faculty
6 member and teach online and face-to-face classes,
7 conduct research relating to climate change and
8 present talks on climate change to other
9 professional groups and the general public; is that
10 true?

11 **A.** That's correct.

12 **Q.** And I think you state also in your
13 testimony that you consider yourself a
14 meteorologist based on your experience and
15 education; is that right?

16 **A.** That's correct.

17 **Q.** Now, you -- have you ever been a natural
18 gas delivery company employee?

19 **A.** No.

20 **Q.** And have you, yourself, ever conducted your
21 own HDD forecast for purposes of predicting test
22 year revenues in a natural gas company rate case?

1 **A.** No.

2 **Q.** And so your job at Iowa State does not
3 involve forecasting normal heating degree days for
4 natural gas companies or for purposes of
5 forecasting revenues in the test year; is that
6 right?

7 **A.** Yes.

8 **Q.** If you could turn to Page 31 of your direct
9 testimony. Up at beginning at Line 672, you
10 discuss -- and also the page prior to that, you
11 discuss the Easterling (phonetic) study; is that
12 right?

13 **A.** Yes.

14 **Q.** And now that study was performed in 1990;
15 is that correct?

16 **A.** It was reported in 1990, yes.

17 **Q.** And now, that -- now, the purpose of that
18 study was not to predict HDDs one year into the
19 future, was it, for purposes --

20 **A.** No. No.

21 **Q.** -- for purposes of setting rates in a gas
22 case?

1 **A.** No.

2 **Q.** Now, at Lines -- back to Line 672 through
3 678, you state at Line 674 that the study has not
4 been updated since 1990; is that correct?

5 **A.** That's correct.

6 **Q.** And you also state that you spoke with two
7 of the three authors.

8 And my question is, was that a telephone
9 conversation with each of those two individuals?

10 **A.** Yes.

11 **Q.** And with respect to that telephone
12 discussion, did you send those individuals any
13 materials from Mr. Marozas's heating degree day
14 forecast in this case?

15 **A.** No.

16 **Q.** Turning to your rebuttal testimony.

17 Again, you reference that Easterling
18 study down at the bottom page and you state --

19 MR. ZIBART: I'm sorry, Counsel.

20 What page?

21 MS. LUSSON: I'm sorry. Page 5 of Mr. -- or
22 Dr. Takle's rebuttal.

1 BY MS. LUSSON:

2 Q. And you note that the Easterling study is
3 the type of study on which you've relied upon in
4 forming your opinion in this case; is that true?

5 A. That's true.

6 Q. And then you reference that the study
7 concluded -- made conclusions about predictions for
8 one year out. And is that an attempt or a
9 reference to an examination of heating degree
10 forecasts in a future year?

11 A. Could you repeat the question, please?

12 Q. Sure.

13 You reference at the bottom of Page 5
14 that the study made conclusions with respect for
15 predictions one year out.

16 A. That's correct.

17 Q. Was that one year into the future
18 prediction of -- HDDs one year into the future?

19 A. The study focused on temperature as opposed
20 to HDDs.

21 Q. Okay. And you also -- I think if you turn
22 to page -- and at the bottom of the page, you note

1 that it also included conclusions for five years
2 out. And that's five years into the future, not
3 consecutive years; is that correct?

4 **A.** I'm sorry. What page are you speaking?

5 **Q.** Again, the same page.

6 **A.** Oh, the same page.

7 **Q.** Page 5, and then it goes into Page 6.

8 **A.** Okay.

9 **Q.** So is that for a data point five years into
10 the future or was that for a consecutive five-year
11 period?

12 **A.** That would be for a point five years in the
13 future.

14 **Q.** Okay. Turning to your surrebuttal
15 testimony. Back to the article at the heart of the
16 motion controversy.

17 At the bottom of Page 2, you state the
18 NCDC climatologists at NOAA have begun questioning
19 this application in light of the changing climate
20 now being observed.

21 And, first of all, just to clarify, NOAA
22 refers to the National Oceanic and Atmospheric

1 Administration; is that correct?

2 A. Yes.

3 Q. And the NCDC is the national Climatic Data
4 Center?

5 A. That's correct.

6 Q. Now, with respect to that article, in
7 response to AG Data Request 19.01 -- do you have a
8 copy of that response?

9 A. Yes.

10 Q. You stated that three of the five authors
11 of this article are climatologists at the NOAA,
12 correct?

13 A. That's correct.

14 Q. So two of the authors are not employed by
15 the NOAA; is that right?

16 A. That's correct.

17 Q. You also state that you're not
18 knowledgeable on whether the three NOAA employees
19 listed are authorized to speak on behalf of the
20 NOAA; is that correct?

21 A. That's correct.

22 Q. In response to AG Data Request 19.02 -- do

1 you have that there?

2 You were asked to please provide all
3 studies, publications, analyses, work papers,
4 internal memoranda and any and all other evidence
5 developed by yourself independently of
6 Mr. Marozas -- and Marozas is spelled
7 M-a-r-o-z-a-s -- regarding the use of 10-year
8 weather data versus 30-year weather data in
9 projecting the annual gas sendout of a regulated
10 natural gas utility; is that correct?

11 MR. ZIBART: Is it correct that he was asked
12 that question?

13 MS. LUSSON: Yes.

14 THE WITNESS: Yes, I was asked that question.

15 BY MS. LUSSON:

16 Q. And your response was that, quote, other
17 than the testimony prepared for the Nicor Gas case
18 previously before the Commission, Docket 04-0779,
19 and materials already submitted for the current
20 rate case, I have no other studies, publications,
21 analyses, work papers, internal memoranda or other
22 evidence that I developed independently --

1 independently of Mr. Marozas regarding the use
2 10-year weather data versus 30-year weather data in
3 projecting the annual gas sendout of a regulated
4 natural gas utility; is that true?

5 **A.** That's true.

6 **Q.** And isn't it true that Mr. Marozas, the PGL
7 employee who did forecast HDDs for this case, did
8 not rely upon your testimony for purposes of
9 selecting the 10-year and 30-year time periods at
10 issue, did he?

11 **A.** I have -- that's not a question for me. I
12 have no knowledge that -- would you restate the
13 question so I'm --

14 **Q.** Sure.

15 It's true, isn't it, that Mr. Marozas,
16 the employee who forecasts HDDs for this case, did
17 not rely upon your testimony in this case for
18 purposes of selecting the 10-year and 30-year time
19 periods at issue?

20 In other words, he didn't call you up
21 and say, Should I look at 10 years? Should I look
22 at 30 years?

1 **A.** No. That's correct.

2 **Q.** So his conclusion that a 10-year HDD
3 average for 6,444 HDDs provides an appropriate
4 forecast of normal weather is not based on your
5 testimony, is it?

6 **A.** No.

7 **Q.** Going back to Lines 44 and 45 in your
8 surrebuttal, it's true, isn't it, that the NOAA has
9 not officially adopted a specific new generation of
10 climate normals, has it?

11 **A.** That's correct.

12 **Q.** And there's been no official proclamation
13 that 10 years as a climate normal works better than
14 30 years; is that right?

15 **A.** That's right.

16 **Q.** And is it true that you are not
17 knowledgeable about the procedures within the NCDC,
18 NOAA, nor the U.S. Department of Commerce that
19 determines official views, policy -- policies and
20 options with respect to determining normals?

21 **A.** That's correct.

22 **Q.** And at Line 46 of your surrebuttal

1 testimony, you state you have read a peer-reviewed
2 scholarly article, again, referencing this NOAA --
3 well, I won't call it an NOAA article --
4 referencing this scholarly article.

5 You were not one of the peer reviewers
6 of the article, were you?

7 **A.** That's correct.

8 **Q.** And at Lines 56 and 57 of your surrebuttal,
9 you state, NOAA has been holding meetings with
10 state regulators and utilities to inquire as to
11 whether the 30-year normal is still useful in
12 projecting future gas consumption.

13 Isn't it correct that you have not
14 participated in any meetings or teleconferences on
15 this issue; is that also true?

16 **A.** That's correct.

17 **Q.** Dr. Takle, earlier this year, the Company
18 sent out a bill insert which I showed to
19 Mr. Borgard the other day. It was issued on
20 February 14th, 2007, and it talked about the
21 weather that had been experienced to that point in
22 those two weeks of February as being the coldest

1 weather in 112 years.

2 You're not saying in your -- within the
3 context of your testimony in this docket that the
4 Peoples Gas and North Shore Gas service territories
5 will not ever again experience extreme weather, are
6 you?

7 **A.** I'm not saying that.

8 **Q.** And, in fact, the -- as a climatologist
9 sitting here today, you can't predict, say, in
10 what -- whether or not there will be that kind of
11 extreme weather in the next three to five years,
12 can you?

13 **A.** That's correct.

14 MS. LUSSON: Thanks, Dr. Takle.

15 JUDGE GILBERT: Okay.

16 CROSS-EXAMINATION

17 BY

18 MR. JOLLY:

19 **Q.** Good morning, Dr. Takle. My name is
20 Ron Jolly. I represent the City of Chicago --

21 **A.** Good morning.

22 **Q.** -- in this matter.

1 I, too, want to start at Page 1 of your
2 direct testimony and just briefly understand the
3 purpose of your testimony in this proceeding.

4 My understanding, looking at Lines 12
5 through 15, is you're presenting your expert
6 opinion on whether the best available scientific
7 data and understanding of climatic behavior is
8 consistent with, and you explain why there's
9 downward trend in heating degrees days experienced
10 throughout the area are important; is that correct?

11 **A.** That's correct.

12 **Q.** And going down to your summary of
13 conclusions at the beginning at Line 19, you also
14 state that your conclusion is that a statistical
15 analysis suggests that an average of the last ten
16 years would be more predictive of annual heating
17 degree days over the next several years than more
18 than an average of the last 30 years; is that
19 right?

20 **A.** That's right.

21 **Q.** Okay. How often have you submitted expert
22 testimony in any type of proceeding?

1 **A.** Any type of proceedings? Maybe -- both
2 oral and written?

3 **Q.** Sure.

4 **A.** Maybe 30 times.

5 **Q.** And with those 30 times, did -- was the
6 topic of your testimony climate science?

7 **A.** Most of those.

8 **Q.** Okay. Well, do you consider yourself an
9 expert in regulatory matters?

10 **A.** No.

11 **Q.** And you don't consider yourself an expert
12 in the purpose of this case, which is setting rates
13 for a gas distribution company?

14 **A.** That's correct.

15 **Q.** Now, again, going back to that conclusion I
16 identified at the bottom of Page 1 that you're
17 recommending that an average of the last ten years
18 be used. Because the weather in Northern Illinois
19 is the same for all utilities providing service
20 here, do you believe that a 10-year average should
21 be used for all utilities in setting their rates?

22 **A.** That question goes beyond the scope of my

1 testimony.

2 Q. Okay. I don't know if that's a proper
3 answer or not. It sounds like an objection to me.

4 Do you think it's -- well, to be
5 consistent, do you think if the Commission adopts
6 your proposal in this case -- you use a 10-year
7 average -- do you think the Commission should use a
8 10-year average for other utilities?

9 A. I don't know -- I'm not knowledgeable about
10 the purpose of the -- of how the Commission works
11 with regard to individual utilities.

12 MR. JOLLY: Okay. I have nothing further.

13 JUDGE GILBERT: Thank you, Dr. Takle.

14 THE WITNESS: Thank you.

15 JUDGE GILBERT: I guess, since there aren't any
16 other bids, I'll just go ahead.

17 EXAMINATION

18 BY

19 JUDGE GILBERT:

20 Q. If you take a look at your surrebuttal
21 testimony, last page which would be Page 3. And if
22 you just want to take a look at your answer

1 which -- I'm sorry, question which begins at
2 Line 54 through the end of your answer at Line 60.

3 **A.** Yes. Okay.

4 **Q.** All right. I'm particularly interested in
5 the final sentence in your answer when you referred
6 to -- you referred to an expectation.

7 First of all, whose expectation?

8 **A.** I wrote that as my expectation; but with
9 the -- having observed that the climate scientists
10 are NOAA are intensely discussing this issue, it is
11 my expectation that there will be some outcome from
12 these discussions on the basis of their actions.

13 So I -- I would -- I understand that to
14 be their expectation, too; that they will be
15 devising some alternative to the present normals.

16 **Q.** All right. Well, you told me two things
17 then. You said it's your expectation --

18 **A.** It's my expectation.

19 **Q.** All right. When you say "their
20 expectation," to whom are you referring?

21 **A.** The person who has been charged NOAA with
22 managing this is Anthony Arguez. And I'm not sure

1 I have the spelling on his name, but he is -- has
2 organized meetings and has distributed surveys to
3 gas companies to solicit ideas for improvements in
4 how to improve the specifications of official
5 normals.

6 Q. All right. You're suggesting, I think, a
7 kind of certainty of outcome here. And when I read
8 the paragraph beginning at Line 56 in its entirety,
9 I'm not sure that it's consistent with the
10 certainty that you seem to be expressing now with
11 respect to outcome.

12 Could you respond to that?

13 A. I indicated that it was my expectation and
14 it was my -- I also stated that it was my
15 observation that NOAA climate scientists were
16 initiating activities consistent with my
17 expectation, but I can't speak for their
18 expectations.

19 Q. You cannot speak for their expectations?

20 A. I cannot speak for their expectations.

21 Q. All right. If you'd look at Page 25 of
22 your direct. And if you take a look at that last

1 question on the page beginning at Line 55 and the
2 answer runs over onto the next page.

3 **A.** Yes.

4 **Q.** All right. And forgive me because this may
5 entirely be my own failure to understand the
6 testimony.

7 On Line 559, you're referring to U.S.
8 mean annual temperatures for the last 30 years.
9 And then at Lines 571 through 574, there's another
10 reference there to mean annual U.S. temperatures,
11 and that reference includes both the last 10 and
12 the last 30.

13 Are you referring to the same thing at
14 Line 599 (sic) as you are at Lines 573 to 4?

15 **A.** Line 597 refers to the --

16 **Q.** I don't think you mean 597.

17 **A.** I'm sorry. Didn't you say --

18 **MR. ZIBART:** I think you guys are looking at two
19 different -- he has two direct testimonies.

20 **THE WITNESS:** Oh, I'm sorry. Is it the
21 North Shore or Peoples?

22 **BY JUDGE GILBERT:**

1 Q. I'm looking at Peoples, or I think I am.

2 A. Oh, sorry. Apologize.

3 Q. Let me make sure that I am. Yes.

4 And within Peoples, I'm looking at
5 your -- your numbers there on 559 referring to the
6 last 30 years, and I'm trying to correlate that
7 with what's at Lines 571 through 574, another
8 reference there to 30 years.

9 A. Yes. In Lines 571 to 574, that refers to
10 U.S. annual mean temperatures. And the previous
11 part of 558 and following refers to the O'Hare data
12 only.

13 Q. Okay. And here's probably what threw me
14 and I'm not sure even yet that I understand.

15 558 says, the correlation of annual HDD
16 total at O'Hare with continental U.S. mean annual
17 temperatures.

18 A. Oh. Oh, yes.

19 Q. And then on 571 through 74, I think you're
20 again referring to mean annual U.S. temperatures?

21 A. That's correct.

22 Q. But are you doing two different types of

1 calculations here?

2 **A.** The -- the first reference was a
3 clarification -- or a -- I had spoken about global
4 temperatures and then we had spoken about U.S.
5 temperatures, and then, finally, we speak about
6 O'Hare temperatures and the intent was to show the
7 context for changes at O'Hare.

8 **A.** And so I calculated the U.S. temperature
9 changes. And then in Line 558 and 9, I indicated
10 that with this correlation, being a negative --
11 indicating that they're -- that there is a
12 correlation -- this reports the relationship of the
13 O'Hare data to the U.S. data, and then the later
14 reference is looking specifically at the O'Hare
15 data.

16 **Q.** Well, the later reference that I was
17 talking about was 571 through 74, which doesn't
18 really mention O'Hare.

19 **A.** Oh. Oh, I'm sorry. Yes. Okay.

20 **A.** So that's right. The 571 to 574 is
21 still discussing the U.S. temperatures.

22 **Q.** Okay. Let me ask it differently.

1 Are the mean temperatures that you
2 describe on Lines 571 through 574 the mean
3 temperatures used to make the statements you make
4 on Lines 558 through 59?

5 **A.** In Lines 558 and 559, what I did was I
6 looked at the individual years and made a
7 correlation year by year over that -- over the last
8 30 years of U.S. average temperature with heating
9 degree days at O'Hare, whereas in Lines 571 to 574,
10 we looked at the -- I looked at the mean annual
11 U.S. temperature for the period.

12 So I didn't look year by year, but just
13 the average mean.

14 **Q.** Okay. Can you now make the same
15 calculation that you make on Lines 558 to 59 for
16 the last 10 years rather than the last 30 years?

17 **A.** Yes, that could be done.

18 **Q.** Could you do that for me now or --

19 **A.** Not without some -- I'd have to find those
20 data and make that calculation.

21 **Q.** Okay. Could -- what I'd like is for you to
22 provide that. Let's call it an ALJ Data Request.

1 **A.** Okay.

2 **Q.** ALJ Data Request 1.

3 And if you could just make the same
4 calculation for the last 10 years.

5 **MR. ZIBART:** So it'd be the correlation of
6 annual HDD total at O'Hare with continental U.S.
7 mean and actual temperatures for the last 10 years.

8 **JUDGE GILBERT:** Yes.

9 **BY JUDGE GILBERT:**

10 **Q.** So the only thing you'd be changing is
11 substituting 10 for 30 on Line 559.

12 **A.** Certainly.

13 **JUDGE GILBERT:** Okay. And with that I'm done.

14 Redirect?

15 REDIRECT EXAMINATION

16 BY

17 **MR. ZIBART:**

18 **Q.** Professor Takle, you mentioned a guy named
19 Anthony Arguez.

20 **A.** Yes.

21 **Q.** And you said you couldn't recall how to
22 spell his name.

1 Is there a document I might have that
2 would refresh your recollection?

3 **A.** Yes. He issued a memorandum to the Gas
4 Utility Association with regard to normals, and he
5 signed it or he -- that was from his office.

6 **Q.** And showing a document that I believe has
7 previously been produced to counsel as a work
8 paper?

9 MR. JOLLY: That's fine.

10 MS. LUSSON: Do you have a copy?

11 MR. ZIBART: Would you like another copy?

12 MS. LUSSON: If you're going to use it.

13 MR. ZIBART: I'm not.

14 BY MR. ZIBART:

15 **Q.** Does that refresh your recollection?

16 **A.** Yes.

17 **Q.** And how does he spell his name?

18 **A.** His name is Anthony, and then the last name
19 is A-r-g-u-e-z.

20 **Q.** And what is his position?

21 **A.** He is with NOAA. His -- his title is
22 climate scientist.

1 **Q.** You were asked a question about your
2 surrebuttal testimony, I believe it's something
3 like the last line of it on page -- let's see.
4 Page 3 of your surrebuttal testimony, Line 58 -- or
5 59. And on that -- in that sentence, it refers to
6 the next generation of climate normals?

7 **A.** Hm-hmm.

8 **Q.** And there's quotation marks around "next
9 generation."

10 Are you quoting someone or whose words
11 are those?

12 **A.** I believe those are from the document that
13 Mr. Arguez -- or Dr. Arguez circulated to the
14 gas -- the companies, or the email accompanying
15 that.

16 MR. ZIBART: I have no further questions on
17 redirect.

18 JUDGE GILBERT: Before we proceed with recross,
19 if there is any, and you're probably going to do
20 this anyway, but please distribute what I've
21 playfully entitled ALJ Data Request 1 to all the
22 parties.

1 MR. ZIBART: We will do that.

2 JUDGE GILBERT: Any cross?

3 MS. LUSSON: I might. I just want to check a
4 data request response, if I could.

5 RECROSS-EXAMINATION

6 BY

7 MS. LUSSON:

8 Q. Dr. Takle, with respect to Lines 56 through
9 60, when you say that NOAA has been holding
10 meetings with state regulators and utilities, and
11 then is it your testimony then that this
12 Dr. Arguez, A-r-g-u-e-z, contacted you in
13 association with that meeting?

14 A. No.

15 Q. You're not a state regulator, are you?

16 A. No.

17 Q. And you're not a representative of a
18 utility?

19 A. No.

20 JUDGE GILBERT: Just to be clear to that
21 reference, that was to surrebuttal testimony.

22 MS. LUSSON: Right.

1 Nothing further.

2 Thank you.

3 THE WITNESS: Thank you.

4 JUDGE GILBERT: Thank you, Dr. Takle.

5 THE WITNESS: Thank you.

6 MS. LUSSON: Madam and Mr. Hearing examiner, is
7 it -- if this is an appropriate time --

8 JUDGE GILBERT: There is. That's it. That's
9 it.

10 MS. LUSSON: Your Honors, if this is an
11 appropriate time, would it be possible to take a
12 break?

13 Certain discovery we received from the
14 Company, I think, yesterday and there's some
15 preparation going on back at the office with
16 respect to that and I need to grab something, if I
17 could.

18 JUDGE GILBERT: Do you mean break for lunch?

19 MS. LUSSON: No, no, no. Just a quick --

20 MR. JOLLY: Ten minutes.

21 JUDGE MORAN: A 15-minute break or --

22 MS. LUSSON: I thought you had indicated that

1 you're going to go Commission meeting, that I'd
2 have an --

3 JUDGE MORAN: We already did that.

4 MS. LUSSON: -- ran to the office, so.

5 JUDGE MORAN: We're fast.

6 MS. LUSSON: It's --

7 JUDGE GILBERT: Can the City go ahead with their
8 cross while you're gone? Is there a reason why
9 they could not?

10 MR. REDDICK: It would make more sense if it
11 proceeded in the other order.

12 JUDGE MORAN: Oh.

13 MR. REDDICK: But if we have to, we can.

14 MS. LUSSON: If I could just have a minute.
15 Just a minute.

16 We can proceed.

17 MR. ZIBART: We're ready.

18 JUDGE GILBERT: Yeah.

19 MR. ZIBART: Okay. The Company's next witness
20 is Mr. Marozas.

21 (Witness sworn.)

22

1 BRIAN MAROZAS,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. ZIBART:

7 **Q.** Could you state and spell your name for the
8 record, please.

9 **A.** Brian Marozas. That is B-r-i-a-n,
10 M-a-r-o-z-a-s.

11 **Q.** And, Mr. Marozas, by whom are you employed?

12 **A.** I'm employed by Tegriss (phonetic) Energy.

13 **Q.** And, Mr. Marozas, has written direct
14 testimony been prepared by you for submission in
15 Commission Docket 07-0241 and 07-0242?

16 **A.** Yes.

17 **Q.** And do you have in front of you a document
18 that's been marked for identification North Shore
19 Exhibit BMM 1.0?

20 **A.** Yes.

21 **Q.** You also have a document that's been marked
22 Peoples Gas Exhibit BMM 1.0?

1 **A.** Yes.

2 **Q.** And are those documents true and correct
3 copies of your written direct testimonies in these
4 two dockets?

5 **A.** Yes, they are.

6 **Q.** And has written surrebuttal testimony also
7 been prepared by you for submission in these
8 dockets?

9 **A.** Yes.

10 **Q.** Do you have in front of you a document
11 that's been marked for identification
12 North Shore/Peoples Gas Exhibit BMM 2.0?

13 **A.** Yes.

14 **Q.** And has written surrebuttal testimony also
15 been prepared by you for submission in these
16 dockets?

17 **A.** Yes.

18 **Q.** Do you have in front of you a document
19 that's been marked for identification
20 North Shore/Peoples Gas Exhibit BMM 3.0?

21 **A.** Yes.

22 **Q.** Do you have any changes or corrections that

1 need to be made to your testimony before it is
2 entered into evidence?

3 **A.** No.

4 **Q.** So if I were to ask you the questions set
5 forth in these four documents, would you give the
6 same answers as set forth there?

7 **A.** Yes.

8 **Q.** And do you intend that these four documents
9 will comprise your sworn testimony in this docket?

10 **A.** Yes.

11 **MR. ZIBART:** Your Honor, I have no further
12 questions on direct and we move -- like to move the
13 admission of the four documents. There are no
14 attachments.

15 **JUDGE MORAN:** I just want to clarify that NS/PG
16 BMM Exhibit 2.0 is your rebuttal, not your
17 surrebuttal.

18 **MR. ZIBART:** Right. I misspoke. I'm sorry.

19 **THE WITNESS:** It is my rebuttal.

20 **JUDGE MORAN:** All right. Are there any
21 objections to any of these exhibits going into the
22 record?

1 Hearing none, all the testimonies, the
2 direct in both cases and the rebuttal and
3 surrebuttal for the consolidated matter are
4 admitted.

5 (Whereupon, NS/PGL
6 Exhibit Nos. BMM 1.0, 2.0 and 3.0
7 were admitted into evidence as
8 of this date.)

9 MR. ZIBART: And we are tendering the witness --

10 JUDGE MORAN: And you're tendering the witness.

11 Okay. Thank you.

12 MR. ZIBART: -- for cross.

13 CROSS-EXAMINATION

14 BY

15 MS. LUSSON:

16 **Q.** Good morning, Mr. Marozas. I'm Karen
17 Lusson from the Attorney General's office.

18 **A.** Good morning.

19 **Q.** Mr. Marozas, would you agree that the
20 annual revenues that the Companies can expect to
21 receive are weather-dependent?

22 **A.** Yes.

1 **Q.** And is it correct that the key weather
2 statistic reflecting use of gas for space heating
3 is the heating degree day or HDD?

4 **A.** Yes.

5 **Q.** And weather normalization is a method of
6 determining the expected effect of that key
7 statistic on a utility's revenues and building it
8 into the rates?

9 **A.** Yes.

10 **Q.** And is it also true that the higher the
11 number of HDDs, generally, the lower the revenue
12 forecast for the test year?

13 **A.** I don't think that's correct.

14 **Q.** I mean, the higher -- the higher the number
15 of HDDs -- HDDs, generally, the -- those billing
16 determinants then are placed into the revenue
17 forecast; is that correct?

18 **A.** Are you saying -- are you saying that
19 the -- the colder the weather, the higher the
20 revenue?

21 **Q.** Yes. Well, and the greater the number of
22 HDDs.

1 **A.** Right. The greater the number of HDDs, the
2 greater the revenue. I believe that is true.

3 **Q.** And is it correct then that the lower the
4 number of HDDs, generally, the lower the revenue
5 for the Company?

6 **A.** Correct.

7 **Q.** Just so the record is clear, you're not a
8 climatologist; is that correct?

9 **A.** That is correct.

10 **Q.** And you're not a meteorologist?

11 **A.** Yes, that's correct.

12 **Q.** And as I understand forecasting weather as
13 described by Dr. Takle, nothing in your job
14 responsibilities includes forecasting weather; is
15 that right?

16 **A.** Correct.

17 **Q.** So for purposes of this case, you performed
18 a statistical analysis to predict or forecast
19 normal HDDs; is that correct?

20 **A.** Yes. Correct.

21 **Q.** And was it your intention to forecast,
22 quote unquote, normal HDDs, which I think you state

1 at the beginning of your testimony?

2 **A.** The goal of the utility was to forecast
3 normal weather that is expected to occur.

4 **Q.** And is that normal weather expected to
5 occur for the -- occur for the time that rates are
6 in effect?

7 **A.** Correct.

8 **Q.** And by "normal," do you mean a typical
9 level for purposes of forecasting revenues?

10 **A.** Correct.

11 **Q.** If we could just go through the forecasting
12 method that you used in this case.

13 Looking at Page 3 of your direct
14 testimony --

15 **MR. ZIBART:** This would be the Peoples Gas
16 testimony?

17 **MS. LUSSON:** Yes.

18 **BY MS. LUSSON:**

19 **Q.** And just to be clear, the testimony
20 supplied in North Shore relied upon the same kind
21 of analysis, didn't it?

22 **A.** Yes.

1 Q. The exact same analysis, didn't it?

2 A. Yes.

3 Q. Okay. At Line 46, you state you used the
4 common forecasting technique of using the average
5 of historical outcomes to predict future outcomes;
6 is that correct?

7 A. Yes.

8 Q. And you use the average of historical
9 annual HDD to predict weather one year into the
10 future; is that right?

11 A. Yes.

12 Q. And you tested two alternative means of
13 forecasting normal HDDs, a 30-year average of HDD
14 data ending in 2006 and a 10-year average of HDD
15 data also ending in 2006?

16 A. Yes.

17 Q. And for purposes of these 10- and 30-year
18 periods, at Line 57, you state that the data series
19 from O'Hare Airport weather station begins in 1960.
20 So it was possible to calculate both 10-year and
21 30-year averages for the years ending 1989 through
22 2006; is that right?

1 **A.** Yes.

2 **Q.** And is it correct that you compared a
3 10-year and 30-year historical average for purposes
4 of predicting weather one year into the future for
5 the years 1997 through 2006?

6 **A.** 1990 through 2006.

7 **Q.** Okay. And is it correct that for purposes
8 of predict HDDs in 1997, you looked at the period
9 of 1967 through 1996 or did you look at the NOAA
10 30-year HDD one?

11 **A.** I looked at both.

12 **Q.** And for the 10-year period preceding 1997,
13 is it correct that you looked at 1987 through 1996
14 HDD data?

15 **A.** Is it 1986 to --

16 **Q.** 1987 through 1996.

17 **A.** For 1997, yes, that sounds correct. Yes.

18 **Q.** And you did that for -- and for purposes of
19 looking then, say, at 1998, you repeated the same
20 exercise.

21 So, for example, the 10-year period in
22 that would have been 1998 through -- 1988 through

1 1997?

2 **A.** Correct.

3 **Q.** And --

4 **A.** For the 10-year.

5 **Q.** And the 30-year period again would have
6 been both the NOAA and 1968 through 1997?

7 **A.** Correct.

8 **Q.** Now, are you aware that the Company has
9 adopted or accepted a three-year amortization
10 period for certain expenses in this case?

11 **A.** Yes, I am aware.

12 **Q.** And are you also aware that the Company
13 agreed to accept a five-year amortization of rate
14 case expense in this docket?

15 **A.** Yes.

16 **Q.** Is it fair to say then that in -- the
17 purpose of amortization is to spread out and
18 expense liability over a period of time that rates
19 are expected to be in effect?

20 **A.** I'm guessing that's probably a better
21 question for someone else, but...

22 **Q.** To the extent of your knowledge as a

1 Peoples Gas employee since 1991.

2 **A.** Hm-hmm. Yes.

3 **Q.** Is that -- is that your understanding of
4 it?

5 **A.** Of how it depreciation works?

6 **Q.** Yes.

7 **A.** I'm sorry. Could you ask the question
8 again?

9 **Q.** Or amortization.

10 Sure.

11 And the purpose of amortizing an expense
12 is to spread it out, that expense liability, over a
13 period of time that rates are expected to be in
14 effect?

15 **A.** Yes.

16 **Q.** Now, at Lines 31 through 33 of your
17 surrebuttal testimony, you state -- do you have
18 that?

19 **A.** Yes.

20 **Q.** And you state you expanded your statistical
21 analysis to compare the predictive capabilities of
22 the 10-year HDD average to the 30-year NOAA normal

1 in forecasting weather one to five years into the
2 future; is that right?

3 **A.** Yes.

4 **Q.** Did you look at cumulative -- for purposes
5 of predicting HDD days, did you look at one- to
6 five-year cumulative periods or individual periods
7 within that?

8 **A.** Individual periods.

9 **Q.** So you did not attempt to predict HDD
10 weather for a three-year period?

11 **A.** No, I did not.

12 **Q.** And you did not attempt to predict weather
13 HDD data for a five-year consecutive period?

14 **A.** No, I did not.

15 **Q.** Do you have your response to AG Data
16 Request 20.06?

17 There, you were asked for results from
18 forecasting using a 10-year rolling average and
19 30-year rolling average. And by "rolling average,"
20 just to clarify, we're talking about moving that
21 10- and 30-year period up to the year preceding for
22 the time period that you're attempting to forecast

1 the HDDs; is that right?

2 A. Yes.

3 Q. Similar to what we talked about a few
4 questions ago?

5 A. Yes.

6 Q. Again, so in this data request, you were
7 asked what the results were for forecasting using a
8 10-year rolling average and 30-year rolling average
9 using the one year into the future method for five
10 different time periods, and those were consecutive
11 years from 2004 through 2006, 2001 through 2003,
12 1998 through 2000, 1995 through '97, and 1992
13 through 1994; is that correct?

14 A. Yes.

15 Q. And you state you have not performed the
16 reference calculation and it did not form part of
17 the analysis included in your testimony in this
18 case; is that right?

19 A. That's correct.

20 Q. And, again, is that because --

21 MR. ZIBART: That is not the entire answer. I'm
22 not sure if you meant it to appear that it was the

1 entire answer, but that was not the entire answer
2 to the data request.

3 MS. LUSSON: Oh, I'll be happy to read the next
4 sentence.

5 BY MS. LUSSON:

6 Q. The date -- you then also state, the data
7 to perform the calculation, however, has been
8 previously produced in work papers and/or
9 discovery; is that correct?

10 A. Yes, that's correct.

11 Q. And, again, when you stated before that you
12 looked at the years -- so you said you did not look
13 at 1997 through 2006 for purposes of predicting
14 HDDs?

15 A. Can you repeat the question?

16 Q. You did not look at -- in comparing --
17 isn't it true that in predicting HDDs one year into
18 the future, you used the 10-year and 30-year
19 rolling averages and applied them for the years
20 1997 through 2006, individually?

21 A. Yes.

22 Q. Okay.

1 **A.** I mean, at least that amount of data, yes.

2 **Q.** Okay. And so then, hence, the response
3 that you did not perform those consecutive year
4 calculations for those designated time periods in
5 asking the question?

6 **A.** Right, because I looked at the entire time
7 period when I did my calculation.

8 **Q.** And you looked at predicting weather one
9 year into the future?

10 **A.** Right, over that entire time period.

11 **Q.** In response to AG Data Request 20.09, that
12 referenced your surrebuttal testimony at Lines 19
13 and 20.

14 You were asked in this data request what
15 would the average HDD produced be using each of the
16 following time periods that Mr. Marozas describes
17 as, quote, the three most accurate averaging
18 periods, and the first one is eight years.

19 And is it correct that in your response,
20 the 1999 through 200 eight-year HDD average is
21 6,008 heating degree days?

22 **A.** Correct.

1 **Q.** And the -- in Part B, which asks for 11
2 years, your response is the 1996 through 2006,
3 11-year HDD average is 6,137?

4 **A.** Correct.

5 **Q.** And Part C, which asks for the average HDD
6 produced for 12 years, you stated in the response
7 that the 1995 through 2006 12-year HDD average is
8 6,117 HDDs?

9 **A.** Correct.

10 **Q.** And then Part D, you were asked to produce
11 the average for 20 years. You stated the 1987
12 through 2006 20-year HDD average is 6,198.
13 However, the 20-year HDD is not one of the three
14 most accurate average periods; is that your
15 testimony?

16 **A.** Correct.

17 **Q.** Now, in the response, your eight-year
18 average was 6,008, which produced less HDDs than
19 what you forecasted in this case; isn't that right?

20 **A.** Correct.

21 **Q.** And why is it inappropriate, in your
22 opinion, to use less than ten?

1 **A.** After completing the analysis, there was a
2 clustering around the ten-year period where the
3 root mean squared error was the best, which it was
4 the lowest. For rounding purposes, we thought that
5 the 10-year would be appropriate.

6 As an ancillary benefit, it also would
7 provide some consistency between utilities.
8 Nicor Gas, for instance, is using a 10-year and had
9 it approved in one of its dockets to use a 10-year
10 average.

11 **Q.** And is -- I'm sorry. You weren't finished.

12 **A.** So that's why we chose ten years.

13 **Q.** And was there any consideration to the
14 notion that -- and because eight years is a shorter
15 time period, that the two additional years would
16 have been -- would have removed any outliers, so to
17 speak?

18 **A.** No.

19 **Q.** So it was more in line with the consistency
20 with the Nicor?

21 **A.** It was in -- because there was a clustering
22 of -- of very low reading (phonetic) scored errors

1 around ten.

2 MS. LUSSON: Your Honors, in response to a data
3 request -- well, in AG 18.1, we asked the Company
4 to perform a certain calculation and I received an
5 email yesterday stating that that response would
6 not be completed until Friday.

7 And I had a brief email exchange with
8 Mr. Ratnaswamy and could see if there was an
9 arrangement that we could agree to in terms of
10 putting that data response in the record when it's
11 complete and I'd like to make that request now.

12 MR. RATNASWAMY: If I could clarify.

13 JUDGE MORAN: Do it by stipulation?

14 Yes.

15 MR. RATNASWAMY: I couldn't be definitive.
16 Given that the response doesn't exist yet, I can't
17 really make a fully informed judgment about whether
18 it's appropriate to enter it into record.

19 It seems to me a reasonable thing to
20 talk about; but until it actually exists, I don't
21 know how we can be conclusive.

22 MS. LUSSON: That's fine. I mean, we can take

1 this up on Friday when we get the response.

2 JUDGE MORAN: Or Monday.

3 MS. LUSSON: Sure.

4 JUDGE MORAN: We're still.

5 MR. ZIBART: Right.

6 JUDGE GILBERT: Your concern is just have a
7 vehicle for admitting it --

8 MS. LUSSON: Right.

9 JUDGE GILBERT: -- irrespective of content at
10 this point.

11 MS. LUSSON: Back to Mr. Marozas.

12 MR. ZIBART: Is it directed to Mr. Marozas?

13 MS. LUSSON: It was -- yes, because it asks for
14 the calculation under present -- what would be the
15 effect on base rate revenues under present rates of
16 using the most 30-year -- recent 30-year average
17 heating degree days rather than the 10-year average
18 heating degree days to calculate weather-normalized
19 sales of base rate revenues.

20 MR. RATNASWAMY: From our perspective, that
21 would be directed to Ms. Grace's area.

22 MS. LUSSON: Okay. Well, I guess it's still a

1 problem because Ms. Grace is up today.

2 JUDGE MORAN: And so it's a problem that we can
3 probably talk about.

4 MS. LUSSON: On Friday?

5 JUDGE MORAN: Hm-hmm.

6 MS. LUSSON: Okay.

7 Thank you. I have nothing further for
8 this witness.

9 Thanks, Mr. Marozas.

10 THE WITNESS: Thanks.

11 CROSS-EXAMINATION

12 BY

13 MR. REDDICK:

14 Q. Mr. Marozas, my name is Conrad Reddick and
15 I represent the City of Chicago.

16 A. Pleasure.

17 Q. There is inevitably going to be some
18 overlap of what Ms. Lusson did, but I'll try to
19 minimize it.

20 Am I correct that the HDD forecast that
21 you have proposed in this case was calculated
22 specifically for this proceeding?

1 **A.** Yes.

2 **Q.** And you mentioned in one of your early
3 earlier answers the Nicor 10-year forecast.

4 Is your proposed HDD forecast the same
5 as the one Nicor proposed in its recent case?

6 **A.** Is it the same number of heating degree
7 days or --

8 **Q.** Okay. Is it the same number of heating
9 degree days?

10 **A.** No, it's not.

11 **Q.** Okay. So you didn't adopt the
12 already-approved forecast. You calculated your
13 own?

14 **A.** Right. Yes. Correct.

15 **Q.** Now, whether the Commission chooses to use
16 a 10-year or a 30-year period, wouldn't it make
17 sense that all Illinois utilities in the same
18 climatic area use the same HDD forecast?

19 **A.** I do not know. I think you'd have to be a
20 utility by utility, you know, calculation on which
21 is the most appropriate.

22 **Q.** Do you expect that Peoples Gas customers

1 will experience a different number of heating
2 degree days than Nicor Gas customers?

3 **A.** I do not know.

4 **Q.** So your analysis then was strictly a
5 mathematical one. It wasn't informed by any, quote
6 unquote, real world, circumstances?

7 **A.** Yes, it was more a technical analysis.
8 Yes.

9 **Q.** Strictly mathematical?

10 **A.** Strictly -- yeah, more mathematical. Not
11 fundamental, right.

12 **Q.** Then I suppose you would also agree that
13 it's possible that the utilities that use cooling
14 degree days in their rate-setting processes might
15 use a different forecast as well?

16 **A.** Yes.

17 (Whereupon, there was a
18 change of reporters.)

19

20

21

22

1 **Q.** Extending that logic then, assuming that
2 you did not perform a study for both Peoples Gas
3 and North Shore and the companies used analyses
4 performed by different individuals, employees --
5 one employee of Peoples Gas, one employee of North
6 Shore Gas, it's entirely possible that North Shore
7 Gas and Peoples Gas would have different HDD
8 forecasts?

9 **A.** If two defendant employees chose different
10 methodologies -- if -- I guess if two different
11 employees chose two different methodologies, then,
12 yes, that could have happened.

13 **Q.** And in -- I believe you confirmed in
14 response to Ms. Lusson that your goal -- or the
15 company's goal in this proceeding is forecasting
16 weather conditions during the periods that the
17 proposed rates will be in effect, correct?

18 **A.** Correct.

19 **Q.** Now, if a more accurate forecast is
20 developed, should the Commission use that rather
21 than the one you proposed?

22 **A.** Yes.

1 **Q.** And if there is defined in a Commission
2 order a more accurate forecast, would it be your
3 position that all utilities should use that more
4 accurate forecast?

5 **A.** If there is a more accurate forecast for
6 every utility, yes.

7 **Q.** Is it your expectation that each utility
8 will follow the course set by Nicor and Peoples and
9 North Shore and undertake to develop their own HDD
10 forecast?

11 **A.** I don't know.

12 **Q.** But you will agree that if they do follow
13 that course -- that is, specially developed
14 forecasts for each rate proceeding -- there's a
15 possibility of multiple inconsistent HDDs to
16 determine which -- for utilities serving basically
17 the same area?

18 **A.** It could happen, yes.

19 **Q.** Returning to a point Ms. Lusson raised, the
20 period when rates will be in effect, the current
21 rates for Peoples and North Shore have now been in
22 effect for more than a decade, haven't they?

1 **A.** Correct.

2 **Q.** And you don't expect the rates approved in
3 this proceeding to be in effect only for one year,
4 do you?

5 **A.** No, I -- I stated in my -- as answer to one
6 of my data requests that I expected gross rates to
7 be in effect for a period of one to three years.

8 **Q.** Okay. But your recommendation is based on
9 the data period that you concluded produced the
10 most accurate forecasts for only a single year?

11 **A.** Correct.

12 **Q.** Now, in your analysis, you have told us you
13 looked at a number of alternatives; but you didn't
14 examine every possible analysis, did you?

15 **A.** No.

16 **Q.** So another data period or a different
17 analysis might produce a more accurate forecast?

18 **A.** Using the same data?

19 **Q.** Well, we have to go all the way back to the
20 beginning. Starting with the same series of HD- --
21 annual HDD data at O'Hare, not necessarily the same
22 10-year periods or the same 30-year periods, but

1 the same raw data --

2 **A.** Raw data?

3 **Q.** Yes.

4 With that clarification, what's your
5 answer to the question?

6 **A.** Then, since I did not evaluate every
7 forecast methodology possible, there is a chance
8 that there is another forecast out there that is
9 more accurate, yes.

10 **Q.** Is it also true that the selected data and
11 analysis technique used -- I'm sorry. Let me
12 rephrase that.

13 Isn't it also true that the data and
14 techniques that produced the most accurate forecast
15 of HDD for a single year might not be the best,
16 most accurate forecast for a series of consecutive
17 years?

18 **A.** Yes.

19 **Q.** Likewise, it's also possible that a rolling
20 average of data for a period of years might be more
21 accurate than a static, single period of years --

22 **A.** Correct.

1 Q. -- as the basis for a forecast?

2 A. Correct.

3 Q. And, generally speaking, with respect to
4 data, the more data points we begin with, the less
5 susceptible our conclusions will be to a single
6 anomalous data point?

7 A. Yes.

8 Q. Did I say "anomalous" or "anonymous"?
9 Anomalous. It's a good thing I listen to myself.

10 Now, your analysis was based on the
11 actual annual HDD data from 1993 through 2006?

12 A. Correct. That's my raw data, yes.

13 Q. And -- I think I'm going to have to take a
14 little time here.

15 MR. REDDICK: If I may, your Honor.

16 BY MR. REDDICK:

17 Q. I'm showing the witness a work paper
18 produced by the company. It's titled -- it's
19 NS-PGL Exhibit BMM-3.0 work paper, FYW two-year
20 delay. It is also marked "confidential," but I
21 have spoken with Mr. Ratnaswamy and I believe we
22 established this is okay to use without the

1 confidentiality.

2 I'll give copies to the reporter for --
3 could we mark these for identification as -- I
4 believe it's City Cross Exhibit Marozas --

5 JUDGE MORAN: Exhibit.

6 MR. REDDICK: -- Exhibit 1.

7 (Whereupon, City Cross Marozas Exhibit No. 1 was
8 marked for identification, as of this date.)

9 MR. REDDICK: I have a limited number of extras,
10 but we will send this to everyone electronically.
11 It's just a lot of numbers.

12 JUDGE MORAN: And it's agreed that you can cross
13 on the public record on that document.

14 BY MR. REDDICK:

15 Q. Are you familiar with this document,
16 Mr. Marozas?

17 A. Yes, I am.

18 Q. And is the column headed "actual," the
19 actual HDD numbers for the numbers -- I'm sorry --
20 for the years next to them --

21 A. Yes.

22 Q. -- that you used in your analysis?

1 **A.** Yes. For the fiscal years, yes.

2 **Q.** Okay. Thank you.

3 MR. REDDICK: Your Honor, I'd like to request
4 that this document be admitted as City Cross
5 Marozas Exhibit 1.

6 JUDGE GILBERT: Any objection?

7 MR. ZIBART: No objection.

8 MR. REDDICK: If there's something that you need
9 to check, we can admit it subject to check.

10 THE WITNESS: I'm assuming this is my work
11 paper. So...

12 JUDGE MORAN: If anything is different, then you
13 will -- counsel will inform us after you have an
14 opportunity.

15 MR. REDDICK: And I note again that the
16 confidential legend should be stricken.

17 JUDGE GILBERT: All right. The exhibit is
18 admitted and the confidential legend...
19 (Whereupon, City Cross Marozas Exhibit No. 1 was
20 admitted into evidence.)

21 BY MR. REDDICK:

22 **Q.** Again, returning to a point that Ms. Lusson

1 raised with you, following your surrebuttal
2 testimony, you did receive a series of data
3 requests from the Attorney General that I believe
4 were numbered beginning 20 point -- various
5 numbers.

6 Do you recall those?

7 **A.** Yes.

8 **Q.** And those data requests suggested certain
9 alternative procedures for developing a forecast
10 and asked that you make those computations, didn't
11 they?

12 **A.** Yes.

13 **Q.** And one of the things was a rolling average
14 using a 30-year period of data and a similar
15 rolling average using a 10 period -- 10 years of
16 data?

17 **A.** What the -- in my analysis, I did use a
18 10-year rolling period of data and a 30-year
19 rolling period of data. I believe in the majority
20 of these data requests, they asked you to segment
21 the data into different time periods to analyze
22 separately; whereas my analysis encompassed all

1 data points available.

2 Q. Okay. In 10-year groups, as you discussed
3 with Ms. Lusson --

4 A. Excuse me?

5 Q. In segments of ten years -- moving to
6 10-year periods, as you discussed with Ms. Lusson?

7 A. Correct.

8 Q. You were also asked to conduct an analysis
9 that tested the accuracy of the rolling 10-year
10 versus 30-year -- I'm sorry -- rolling 10-year
11 versus a rolling 30-year average over periods of
12 two consecutive years and three consecutive years.

13 Do you recall that?

14 A. I do recall three consecutive years being
15 part of the data requests response, but it was just
16 for certain years.

17 Q. Okay.

18 A. Only looking at, like, '97 through 2000,
19 for instance; whereas my analysis looked at 19, you
20 know, 90 to 2006.

21 Q. Right. But your analysis was for single
22 years, correct?

1 **A.** Single years as far as a forecasted period.

2 **Q.** Yes.

3 **A.** So I looked at forecasting out one year

4 into the future, two years into the future, three

5 years into the future, four years into the future

6 and five years into the future.

7 **Q.** Would that be alternatively and accurately

8 stated as a single year one year into the future, a

9 single year two years into the future, a single

10 year three years into the future?

11 **A.** Correct.

12 **Q.** You did not --

13 **A.** I didn't average --

14 **Q.** -- check consecutive years?

15 **A.** Correct.

16 **Q.** Okay. And did you conduct that comparison

17 in response to the data requests?

18 **A.** Did I -- could you repeat the question?

19 **Q.** Did you conduct the requested analysis in

20 response to the data requests?

21 **A.** No, I did not.

22 **Q.** Okay. Now, if one wished to perform that

1 comparison, you would start with the list of HDD
2 data points on City Cross Marozas Exhibit 1?

3 **A.** Correct.

4 **Q.** And a rolling 10-year average -- if I am
5 accurate in recounting what you told Ms. Lusson, a
6 rolling 10-year average would be computed for each
7 year after your nine -- because we'd have to get
8 ten years of data -- by taking the average of the
9 HDDs for the preceding nine years and the current
10 year?

11 **A.** Okay. Yes.

12 **Q.** Similarly, the 30-year average would be
13 done for every year after the first 29 because we
14 need 30 years of data and we would average 30
15 years --

16 **A.** You'd average 30 years ending in that
17 fiscal year.

18 **Q.** Correct.

19 **A.** That's a rolling average.

20 **Q.** Okay.

21 **A.** A 30-year rolling average.

22 **Q.** And I believe consistent with the way you

1 did your analysis, the accuracy of the resulting
2 forecast could be determined by looking at the
3 difference between the rolling average forecast
4 result for a particular year with the actual that
5 occurred during that year?

6 **A.** Correct.

7 **Q.** And you're a statisticians and
8 statisticians often square things so they don't
9 have to deal with negative numbers?

10 **A.** Correct. Correct.

11 **Q.** And then for reasons unknown to me, they
12 sometimes take the square root after they've
13 squared it, right?

14 **A.** To calculate the remaining squared, yes.

15 **Q.** Right. And that's the -- this is the one
16 word in the English language I cannot say -- the
17 statistics that you use to verify the accuracy of
18 your forecast?

19 **A.** Correct.

20 **Q.** So using that technique, we could then
21 determine the accuracy of the rolling 10-year and
22 rolling 30-year averages, not just for single year

1 periods, but also for consecutive years?

2 **A.** Yes, you could.

3 **Q.** And in that comparison, the smaller squared
4 error or the smaller group mean squared error would
5 indicate a more accurate forecast?

6 **A.** Yes, it would.

7 **Q.** And the comparison of the two analyses over
8 the years where each period produced a result would
9 give us a comparison -- that's not very clear. Let
10 me try again.

11 **A.** Because we're using 10 years in one case
12 and 30 years in another case, there will be years
13 where one analysis will produce a result and the
14 another one won't?

15 **A.** Right. It's limited by how much data you
16 have available.

17 **Q.** Correct.

18 **A.** I shouldn't say "correct" to the answer.

19 **Q.** But there is a series of years for which
20 both analyses will produce results and if we
21 compare those, we have a relative measure of
22 accuracy?

1 **A.** Correct.

2 **Q.** And if we did that, we might very well find
3 that the accuracy of one method in comparison to
4 the other might be different depending on whether
5 we looked at two consecutive years, three
6 consecutive years, ten consecutive years?

7 **A.** Yeah, it will change based on the math.

8 **Q.** And one factor in that result is that a
9 longer data period contains more information. And
10 in this particular situation, we have years of HDD
11 data.

12 So a longer period would contain more
13 warm years and more cold years than a shorter
14 period?

15 **A.** It would contain more data.

16 **Q.** And I think we said earlier in longer data
17 periods more data tends to be less susceptible to
18 the effects of anomalous data points?

19 **A.** I think we were talking about the number of
20 data points used, for instance, to calculate a root
21 squared error. So we were talking about that use
22 of data.

1 So, for instance --

2 **Q.** I'm just trying to figure out whether
3 that's "yes" or "no."

4 **A.** Sorry. Can you ask the question again
5 then, please?

6 **Q.** Well, would longer data periods then be
7 less susceptible to the effects of a single year
8 that was anomalous?

9 **A.** Yes. Sorry.

10 **MR. REDDICK:** I'm now showing Mr. Marozas a
11 series of calculations on five sheets of paper.
12 These were not prepared by Mr. Marozas. And I'm
13 giving three to the reporter to mark for
14 identification as City Cross Marozas Exhibit 2.

15 **JUDGE MORAN:** How many pages?

16 **MR. REDDICK:** Five.

17 **MR. JOLLY:** It's missing one.

18 **MR. REDDICK:** Are you missing one?

19 **JUDGE GILBERT:** I have five.

20 **JUDGE MORAN:** Okay.

21 **MR. REDDICK:** Judge Moran, do you have that?

22 **JUDGE MORAN:** I've got five, yes.

1 (Whereupon, City Cross Marozas Exhibit No. 2 was
2 marked for identification, as of this date.)

3

4 BY MR. REDDICK:

5 Q. Mr. Marozas, the calculations that I've
6 just shown you are, I believe, the calculations we
7 just went through using the actual data points in
8 City Cross Marozas Exhibit 1, the annual HDD data.

9 MR. REDDICK: And I suppose at this point I'd
10 like to make a proposal that I think will save us
11 all a lot of time and heartache. Rather than slug
12 through this line by line, if your counsel agrees,
13 if you could accept those calculations subject to
14 check or take a moment to go through them, if you
15 wish; but it is my intention to offer this into
16 evidence as a reflection of the calculations that I
17 just described with Mr. Marozas, but I understand
18 that it makes sense if he had an opportunity to
19 check the technique and make sure that Excel did
20 the numbers right.

21 MR. ZIBART: Your Honor, we are going to object
22 to admitting this into evidence.

1 Mr. Marozas has done a number of
2 calculations that support his testimony and they're
3 all set forth in his testimony and they've been
4 provided to everyone as work papers.

5 These are calculations that he
6 specifically says he has not done and that are not
7 part of his analysis. These, apparently, are done
8 by somebody else, presumably a statistician, but I
9 guess we don't know. And we've been through five
10 rounds of testimony back and forth in this case.
11 If the City wanted to put something like this in,
12 they have an expert witness in this area and they
13 could've put it in and they chose not to. And I
14 think trying to put it in on -- you know, putting
15 in substantive evidence like this using someone
16 else's witness, I think, is improper and we do
17 object to it.

18 MR. REDDICK: May I respond?

19 JUDGE GILBERT: Okay.

20 MR. REDDICK: First, it's -- as I indicated
21 earlier, the data requests that were propounded to
22 the company following the surrebuttal for

1 Mr. Marozas were the ones that requested these
2 particular calculations. The calculations were
3 prompted by the surrebuttal testimony where in
4 response to the intervenor's observation that the
5 company failed to consider reasonable alternatives
6 to their desired calculation of the HDD responded
7 on surrebuttal by saying, Oh, here they are, rather
8 than explaining why they had not done so
9 previously.

10 At that point, we had no additional
11 opportunity to submit testimony. We did submit a
12 data request to the company and expected, perhaps,
13 naively that they would be answered. The company
14 refused to conduct the calculations, although
15 they're fairly simple and with a spreadsheet could
16 be done in certainly less than a half-hour, perhaps
17 15 minutes by an expert.

18 At this point in the process where we
19 have no opportunity to file responsive testimony, I
20 think it's appropriate that the record be completed
21 with this information. The witness has also
22 described -- already described his calculations.

1 The technique is in the record. The beginning data
2 is in the record.

3 We could do it, perhaps, in brief, but I
4 think it's more appropriate that we give this
5 expert an opportunity to look at it. If he has
6 objections or has qualifications, I'm perfectly
7 happy to accept them; but I think it would be
8 unfair and inconsistent with the Commission's
9 policy of a complete record to exclude this
10 evidence at this point.

11 MR. ZIBART: Your Honor, Mr. Reddick talks about
12 what's appropriate and what's unfair. The first
13 document, the City Cross Marozas Exhibit 1, is --
14 that was part of Mr. Marozas' work papers that he
15 filed in March of this year. And since then, we've
16 had four more rounds of testimony.

17 There's no surprise. There's no --
18 there's nothing in the surrebuttal testimony that
19 brought up a new subject. The surrebuttal
20 testimony was rebutting Mr. Glahn's rebuttal
21 testimony, which said, You know what would be
22 interesting to see is this, this and this. And so

1 we said, Well, actually, some of those things were
2 already done in the work papers for the direct
3 testimony and Mr. Glahn must have missed them, and
4 the others were ones that Mr. Marozas stated and
5 presented in his surrebuttal testimony.

6 Now, not happy with the results that
7 they got from those, the City has come up with some
8 new statistical test that they'd like to try and I
9 just think it's a little too late in the process
10 for that.

11 JUDGE GILBERT: Mr. Reddick, the process that we
12 have does contemplate that the petitioner files the
13 last round of testimony. Inherent in that is the
14 expectation that opposing parties might find
15 something in that testimony that peaks their
16 interest and they may wish that they had another
17 round of testimony to respond to that. Of course,
18 the proponent of that testimony would have been, We
19 want another round and we'd go on until infinity.

20 Can you offer anything other than the
21 Commission ought to have a complete record, which
22 is a standard to which I could apply what I just

1 said? I mean, there will always be yet something
2 else that could be said to complete the
3 Commission's record.

4 Can you give us anything else beyond
5 that argument in support of the idea that you would
6 get what's essentially another and indeed the last
7 opportunity to present evidence?

8 MR. REDDICK: I think I can. Mr. Marozas has
9 presented an analysis that he offers as the most
10 accurate of the ones that he tested. We identified
11 what we thought were defects in his approach. At
12 the point in his rebuttal where he offered to
13 test -- not offered to, in fact, did test
14 additional mechanisms or additional techniques that
15 he had not previously done, as counsel for the
16 company says, in response to intervenor's
17 observation that he had tested a very, very limited
18 set of options. In surrebuttal he offered
19 additional options. So mine is the more accurate.

20 In response to that, we ask that you do
21 several computations, very simple ones, as I said,
22 perhaps not even expecting the company to answer

1 the data request. They declined to do so. That
2 brings us to today.

3 JUDGE GILBERT: Well, the data --

4 MR. REDDICK: One final point.

5 JUDGE GILBERT: Sure.

6 MR. REDDICK: I appreciate that the company has
7 the burden of proof and traditionally it has the
8 opportunity to speak last on these matters; but it
9 is not unusual, in my experience and Commission
10 practice, that witnesses are -- to use my term from
11 before -- slug through calculations line by line to
12 the chagrin of almost everybody in the room.

13 What I have done is just simply tried to
14 avoid that. Rather than cross-examining a witness
15 at length, we prepared the exhibit offering the
16 opportunity to check it rather than going through a
17 detailed calculation with a series of questions,
18 which I have already started without real numbers.

19 And I think the record would benefit
20 from its inclusion.

21 JUDGE GILBERT: May I ask two things? The data
22 request you're talking about were not from the

1 City?

2 MR. REDDICK: From the AG.

3 JUDGE GILBERT: From the AG?

4 MR. REDDICK: Following surrebuttal.

5 JUDGE GILBERT: Following surrebuttal?

6 MR. REDDICK: Yes.

7 JUDGE GILBERT: And your last point, as I
8 understand it, is that you believe you could have
9 asked the witness, based on your line of
10 questioning, to perform each of these calculations
11 today?

12 MR. REDDICK: I would've asked them with real
13 numbers to perform, perhaps, one or two and gained,
14 I believe, his agreement that the remaining years
15 should be performed in the same manner.

16 JUDGE MORAN: I have a question, who prepared
17 this document?

18 MR. REDDICK: Mr. Glahn.

19 JUDGE MORAN: All five pages of this document?

20 MR. REDDICK: Yes.

21 (Whereupon, a discussion was had off the record.)

22 JUDGE GILBERT: The ALJs have had an extensive

1 conversation about this. We're going to sustain
2 the objection to the admission of City Cross
3 Marozas 2.

4 I would say to Mr. Reddick, you have
5 elicited on cross-examination certain principles
6 about how to use data and make calculations and
7 what the results of those might be. We're willing
8 to permit, if you intend to do so or want to do
9 based on our ruling, to permit you to request a
10 couple of exemplars of how those principles,
11 calculations and methods might work and what the
12 results might be.

13 So that would be as far as we're
14 prepared to let you go on with additional cross,
15 but the exhibit itself will not be admitted.

16 Is the ruling clear?

17 MR. REDDICK: Yes.

18 JUDGE MORAN: Okay.

19 BY MR. REDDICK:

20 Q. Mr. Marozas, looking at City Cross Marozas
21 Exhibit 1, which is the raw HDD data --

22 A. Yes.

1 Q. -- could we take a look at the year 1994.

2 A. Okay.

3 Q. The HDD -- the actual HDD for 1994 is

4 6,701?

5 A. Correct.

6 Q. And if we were going to compare the 10-year

7 rolling average and the 30-year rolling average for

8 that year, 1994 --

9 A. For the one year out or two year out?

10 Q. One year.

11 A. Okay.

12 Q. For the 10-year rolling average, we would

13 use the actual HDDs for the nine years preceding

14 1994 and the HDD figure for 1994 and average the

15 sum -- and average those data points, adding them?

16 A. No, for one year out -- for one year out,

17 you would use the data points from 1993 back ten

18 years.

19 Q. Oh, I'm sorry.

20 You're using 1994 as the next year?

21 A. Right, because that's one year out.

22 Q. Okay. I was doing it as 1994 as the last

1 year. But -- okay. Let's do it that way. Let me
2 make sure we can do it that way.

3 Let's use through 1994 to predict 1995.

4 **A.** Okay.

5 **Q.** So we would use 1994 as the last year of
6 the data period --

7 **A.** Okay.

8 **Q.** -- ten years. We would average that for
9 the 10-year rolling average and for the 30, we
10 would have to go back 30 years for 30 data points
11 and take the average of those?

12 **A.** Correct.

13 **Q.** And if we turn to -- nevermind.

14 When we got those averages, we could
15 then compare it to the actual HDDs in each of those
16 years. And by taking the difference, we would then
17 have a measure of the difference between the
18 forecast and the actual HDD --

19 **A.** Correct.

20 **Q.** -- for each of the two techniques?

21 **A.** Correct.

22 **Q.** And that -- the magnitude of those

1 differences would give us a comparative measure of
2 the accuracy -- relative accuracy of the two
3 techniques?

4 **A.** Correct.

5 **Q.** And if we use those same differences and
6 squared them, the magnitudes of the numbers would
7 change, but the ranking would not; is that correct?

8 **A.** Correct.

9 **Q.** So that if Technique A were the better
10 technique compared to B, based on the simple
11 difference, it would also be the better technique
12 if we looked at the square of the two?

13 **A.** For that one -- for one year?

14 **Q.** Yes.

15 **A.** Correct, for one year.

16 **Q.** Now, if we wanted to consider the accuracy
17 of a forecast for consecutive years, by looking at
18 the comparative magnitude of the errors based on
19 the -- let me make sure I say this right. We're
20 trying to do math with words here.

21 One way to compare the two techniques
22 for a two consecutive year period would be to

1 examine the root mean square error for the averages
2 we've already computed for the two years in that
3 period, correct? We could do it that way?

4 **A.** Can you repeat it? Sorry.

5 **Q.** No board. No algebra.

6 One way to compare the relative accuracy
7 of the 10-year rolling average and the 30-year
8 rolling average for a period of two consecutive
9 years --

10 **A.** Mm-hmm.

11 **Q.** -- would be to examine the root mean square
12 error for the average of the squared differences
13 we've already calculated -- that we would calculate
14 as we previously described?

15 **A.** I don't believe so.

16 **Q.** You don't think so?

17 **A.** No.

18 **Q.** Okay. Tell me why.

19 **A.** I believe what you'd want to do is you'd
20 want to look at -- for instance, looking at the
21 10-year data, you would take 1980 to 1989 to
22 forecast 1990 and 1991.

1 Q. Mm-hmm.

2 A. You would use the 1990 and 1991 average.

3 Q. Well -- I'm sorry. If you want to finish,
4 go ahead.

5 JUDGE MORAN: Yes.

6 THE WITNESS: Okay. You'd start off with --
7 yes. You'd use actual data from 1980 to 1989 to
8 forecast two consecutive years, 1990 to 1991.
9 You'd look at the 1990 and 1991 average and compare
10 that to your forecast. That would be one data
11 point that you would analyze.

12 You'd go to the next step, which would
13 be 1981 to 1990 and see how well that did to
14 predict 1991 and 1992, et cetera. And you'd go
15 through that process until you had all the data
16 available. Only then would you then calculate the
17 root mean square error.

18 BY MR. REDDICK:

19 Q. It sounds to me as though you're using the
20 same data period for two consecutive years; am I
21 correct?

22 A. You would use -- there would be some

1 overlap, yes.

2 Q. Then I misunderstood you.

3 I thought you said 1980 to 1989 --

4 A. To forecast 1990 and 1991.

5 Q. Right.

6 You would use the same data, 1980

7 through 1989, to forecast 1990 and 1991?

8 A. Right. At two consecutive years.

9 Q. Right. My question to you dealt with a
10 rolling 10-year.

11 So that for predicting the next year,

12 1990, we would use 1980 through 1989; for

13 forecasting 1991, we would use 1981 through 1990?

14 A. That's what I did in my analysis, but what
15 you just said describes perfectly what I did in my
16 work papers that are attached to my direct
17 testimony.

18 Q. But unless I misunderstood you, that's not
19 what you said we should do here?

20 A. What you're talking about I think is -- I
21 thought you were suggesting a different type of
22 calculation --

1 Q. No. I --

2 A. -- of two consecutive years.

3 Q. We use two consecutive years, but we use a

4 rolling 10-year average to predict the next year

5 for each of those.

6 A. Okay.

7 Q. So for 1990, we will use the data period

8 1980 through 1989.

9 A. Okay.

10 Q. And to forecast 1991, we would use 1981

11 through 1990.

12 A. Okay.

13 Q. Okay.

14 A. And then you'd add up all that data to

15 calculate your root mean squared error, you

16 wouldn't look at individual years.

17 Q. Right. Right. We would first add the --

18 A. From 1990 all the way until 2006.

19 Q. Okay. And for the 30-year, we would do the

20 same thing, but with a 30-year data period --

21 A. Correct.

22 Q. -- instead of a 10-year data period?

1 And one could do the same process for a
2 consecutive three-year period; but in that case,
3 instead of forecasting simply 1990, 1991, before we
4 summed and calculated the error, we would go three
5 years before we calculated the error?

6 We would --

7 **A.** I guess I missed your step going from a
8 one-year to a two-year.

9 **Q.** Okay. Let me back up. For one-year
10 ahead --

11 **A.** Mm-hmm.

12 **Q.** -- ten years of data, the next year?

13 **A.** Right.

14 **Q.** For the two-year period, we take ten years
15 of data for the next year and then we take a second
16 10-year period, which is advanced by one-year,
17 which would bring it to the next year for that
18 second data period. Let me use real numbers. I
19 don't want to confuse.

20 For 1980 through 1989 we would use that
21 data to forecast 1990. To forecast 1991, we would
22 use 1981 through 1990. And when we get to the

1 three-year period, we would use 1982 through 1991
2 to forecast the third year?

3 **A.** So, wait. You say that last point that you
4 would use 1982 to 1991 to forecast 1992?

5 **Q.** '93, the third year. Okay. Am I confusing
6 myself? Okay.

7 We started with -- yes, that's right.
8 1992 is the third year.

9 **A.** So you have three data points that you can
10 analyze that have some type of forecast error. And
11 that's exactly what I did in my work papers for my
12 direct testimony. And what I did was, I kept on
13 going until --

14 **Q.** Did you -- I'm sorry.

15 **A.** -- so I kept on going -- from what you've
16 just described, you keep on going until you reach
17 2006 and then you analyze the results of the data.

18 **Q.** But what you're analyzing, if you do that,
19 is a series of one-year forecasts?

20 **A.** You're analyzing just the predicted
21 capability of one year out.

22 **Q.** Yes.

1 My question then is, how would you
2 analyze the predicted capability for two
3 consecutive years, not one year then the next year,
4 but how do I -- is Technique A better at
5 forecasting Year 1 and Year 2 than Technique B is
6 at forecasting Year 1 and Year 2, not how do they
7 compare at Year 1 and how do they compare at Year
8 2, two consecutive years is the objective?

9 **A.** In my surrebuttal, I analyze forecasting
10 out one years (sic), two years, three years, four
11 years and five years. What I think you are
12 suggesting is doing some type of averaging,
13 forecasting one through five years, for instance,
14 or, you know, year two through five or three
15 through five. You can set up -- you can do that,
16 but that's a separate analysis.

17 **Q.** Yes. I understand. That's what I'm trying
18 to do.

19 **A.** But you're not describing the analysis the
20 way I would've done it.

21 **Q.** I understand.

22 **A.** So...

1 **Q.** My question to you was, is this one
2 technique you could use?

3 **A.** No, not that I'm familiar with. The way
4 you were describing it, no.

5 **Q.** And we get back to where we started ten
6 minutes ago, why?

7 **A.** It's based on how you described it. You
8 are segmenting the data in such a way to -- you're
9 excluding certain data points. I believe what you
10 want to do is --

11 **Q.** I'm sorry. What data points are you
12 excluding?

13 **A.** Well, in that particular analysis that you
14 just described, did you stop after 1992 or did you
15 continue going on forward?

16 **Q.** Well, I'm limited by the ALJ's ruling to a
17 few exemplars, a few sample calculations. So we
18 can't do the whole thing that's why I focused on a
19 single year and then I focused on a two-year
20 period.

21 But if you wanted to do the whole thing,
22 we would keep going.

1 **A.** Okay. So you would continue -- you would
2 continue going and that would be exactly identical
3 to what I did in my direct testimony of work
4 papers.

5 **Q.** Being a statistician, let me step into the
6 murky waters and try an analogy here that's based
7 on probabilities.

8 If we're trying to compute the
9 probability of flipping heads with a coin, every
10 time I flipped a coin, I have a 50 percent chance
11 of it coming up heads, correct?

12 **A.** Correct.

13 **Q.** And if I flip it again, I have a 50 percent
14 chance of it coming up heads?

15 **A.** Correct.

16 **Q.** But if I want to determine the probability
17 of flipping two heads in a row, that's a different
18 analysis, isn't it?

19 **A.** Correct.

20 **Q.** And you get a different number?

21 **A.** Correct.

22 **Q.** So in our analysis, we're looking at

1 forecasting one year ahead, then another year
2 ahead.

3 What I'm saying to you is, how would you
4 calculate the accuracy of the forecasting method
5 for two consecutive years, not one year then
6 another year?

7 **A.** And that's what I was trying to describe
8 before. I would take the actual data from 1980 to
9 1989 -- this is a 10-year example here -- I'd take
10 1980 to 1989 and I'd use that same data to forecast
11 1990 and 1991 and see how accurate it is. Then I'd
12 go to -- that would be one data point, one forecast
13 error. And then I'd go to 1991 -- I'm sorry --
14 1981 to 1990 and I'd use that data to forecast 1991
15 and 1992 and look at the forecasts that are
16 associated with that. And I'd continue on with
17 that process until I had all of the data -- once I
18 looked at all of the actuals and all of the
19 forecasts. And then and only then would I
20 calculate a root mean squared error.

21 **Q.** I even see the light or train coming in.

22 You're -- the difference between what

1 you're saying and what I'm saying, if I understand
2 what you just told me, is that you would use the
3 first ten years to forecast the next year and the
4 year after that, then you would use --

5 **A.** Yes, and keep on going down.

6 **Q.** The next ten years, that is, one year
7 further ahead -- ten years when you're further
8 ahead to forecast two years?

9 **A.** Correct.

10 **Q.** What I'm trying to do is use ten years to
11 forecast your one, use a rolling 10-year -- the
12 next ten years to forecast Year 2 and compare that
13 rolling average that way ten years versus 30 years.

14 So what you're describing is slightly
15 different.

16 **A.** What you're --

17 **MR. ZIBART:** First of all, there's no question
18 pending.

19 **BY MR. REDDICK:**

20 **Q.** Am I correct that what you're describing is
21 slightly different?

22 **A.** Yeah, what I'm describing is -- and what I

1 think you helped -- what you were describing is
2 forecasting one year out and forecasting two years
3 out. And, yes, there is a difference. I'm
4 sorry -- yeah, one year out -- see, in my analysis
5 I forecasted one year out and two years out. What
6 you're describing is different.

7 Q. Accepting that difference for the moment,
8 would we then take the error from the first rolling
9 10-year calculation -- that is, the next year using
10 '80 to '89 to stay with the example we were
11 using -- take the error generated by using '81 to
12 '90 for forecasting '91 -- I'm sorry.

13 MR. REDDICK: What is it, Ron?

14 MR. JOLLY: '81 to '90.

15 JUDGE GILBERT: To forecast '91.

16 BY MR. REDDICK:

17 Q. -- and treating that as a set, we would
18 then -- okay.

19 A. Yeah, you don't want to segment -- you
20 don't want to segment your data like that. You
21 want to use all the data. You don't want to just
22 look at those two years.

1 **Q.** In each case we were using ten years,
2 correct?

3 **A.** As your forecasting tool, yes.

4 **Q.** Yes.

5 And each 10-year period forecasts the
6 next year, correct?

7 **A.** In the one year out case, yes.

8 **Q.** I mean, that -- yes, that is what you did
9 in your analysis, correct?

10 **A.** I did one years out, two years out, three
11 years out, four years out and five years out.

12 **Q.** Let's stay with one year.

13 You used ten years of data to forecast
14 the year following the close of that data set, that
15 is, you used '83 to '89 to predict '90?

16 **A.** Sorry. Say that one more time.

17 **Q.** '80 through '89 --

18 **A.** Yes.

19 **Q.** -- to predict '90?

20 **A.** Yes, that would be one --

21 **Q.** Right.

22 **A.** -- one forecast data point and one actual

1 data point.

2 **Q.** Right. And I think that you have agreed
3 previously that forecasting two years out, that is,
4 using '80 through '89 to predict '91 is not the
5 same as using '80 through '89 to predict '90 and
6 '91?

7 **A.** '90, yes. That's the difference between my
8 analysis, yes.

9 **Q.** Okay. I'm not trying to get you to explain
10 what your analysis was.

11 My question to you is simply, if we were
12 trying to use a rolling 10-year period using each
13 10-year period to predict HDD for the next year,
14 the year following the close of the data set, if we
15 did that and did it for two years -- that is, '80
16 through '89 to predict '90, '81 through '90 to
17 predict '91 -- and consider that as one step in our
18 process -- and that is the analysis we want to
19 predict to do -- now, what -- you're perfectly free
20 to say, I wouldn't do it that way --

21 **A.** Right, that's not --

22 **Q.** -- but -- and you've clearly established

1 that. I'm simply trying to get from you --

2 **A.** Right. I wouldn't --

3 **Q.** -- if you were trying to do what I'm
4 describing rather than what you would rather do,
5 how do we do it?

6 **A.** I don't know.

7 **Q.** Okay. That's fine.

8 I have one other question that I
9 wanted -- one area that I wanted to clarify. Let
10 me -- we might come back to it. I just wanted to
11 do this before I forgot about it.

12 You were talking to Ms. Lusson about
13 higher and lower HDDs and what the effect might be.
14 And I just wanted to make sure that we were clear
15 on that. I can't find the note on it. Oh, here it
16 is.

17 So with current rates in place, higher
18 HDDs produce more revenues for the utility?

19 **A.** Correct.

20 **Q.** But in terms of rate setting, lower HDDs
21 produce a higher per unit of consumption rate,
22 correct, that is, there are fewer units of

1 consumption over which to spread the costs?

2 **A.** I believe so.

3 **Q.** Okay. One moment, please. I think I'm
4 done, but maybe not.

5 JUDGE GILBERT: Before you fold your cards --
6 were you about to do that?

7 MR. REDDICK: I was about to ask one final
8 question.

9 JUDGE GILBERT: I'd like to know that I
10 understand what went on.

11 MR. REDDICK: I suspect you're not alone.

12 JUDGE GILBERT: I may truly hate myself in the
13 morning, but I'm going to try just to see if I
14 understand. All right.

15 EXAMINATION

16 BY

17 JUDGE GILBERT:

18 **Q.** Now, I think your method is this -- the
19 method you've used and the method you would use in
20 response to his question as you perceived it -- how
21 do I predict whether -- I'm sorry -- HDD in Year
22 11 -- I'm going to take Years 1 through 10, but if

1 I were told, Predict HDD in both years 11 and 12,
2 Well, I can do that using Years 1 through 10 and
3 we'll see how that works?

4 **A.** Correct.

5 **Q.** All right. I think what he's saying is, to
6 predict HDD and use 11 and 12, to predict Year 11,
7 I'll use 1 through 10; but to predict Year 12, I'll
8 use 2 through 11.

9 Is that what you understood him to be
10 saying?

11 **A.** Yes.

12 **Q.** And then I think Mr. Reddick was saying,
13 Could you compare the results of those two
14 methodologies and you could compare them, could you
15 not?

16 **A.** Yes.

17 **Q.** I mean, you could compare them against
18 actual data and see how they did?

19 **A.** Yes.

20 JUDGE GILBERT: Mr. Reddick, although you're not
21 a witness, did I correctly state what you were
22 trying to illustrate?

1 MR. REDDICK: I will represent to the Court that
2 that is an accurate statement of what I was trying
3 to do.

4 JUDGE GILBERT: Okay. And since it took a lot
5 more time than that, could we basically toss out a
6 lot of what else was said or was there something
7 else in there that was -- okay. Bad question.
8 Nevermind. Go ahead. Too late.

9 BY MR. REDDICK:

10 Q. Since you now have a clear understanding
11 based on Judge Gilbert's explanation, can we agree
12 to call those Technique A and Technique B, the two
13 that he described?

14 A. Sure.

15 Q. Okay.

16 A. Yes.

17 Q. And Technique A -- okay. Technique A being
18 the one where you used Years 1 through 10 to
19 predict all of the future years and Technique B
20 being where you change the 10-year period each
21 year.

22 A. Okay.

1 **Q.** My final question to you is, if you wanted
2 to compare the accuracy of a technique over a
3 three-year period or a four-year period or a
4 five-year period, you would still do the same
5 thing; that is, in Technique A, you would use '80
6 through '89 to predict '90, '91, '92 and '93;
7 whereas in Technique B, you would use '80 through
8 '89 to predict '90; we would use '81 through '90 to
9 predict '91 and so forth, correct?

10 **A.** Correct.

11 MR. REDDICK: Thank you.

12 JUDGE GILBERT: Okay. Redirect?

13 MR. ZIBART: Just a couple questions.

14 JUDGE GILBERT: Okay. While you're doing that,
15 I have one.

16 EXAMINATION

17 BY

18 JUDGE GILBERT:

19 **Q.** You started at Peoples in 1991?

20 **A.** Yes.

21 **Q.** Is that, like, an after-school job or
22 something?

1 **A.** No, fresh out of school. I've got some
2 grays.

3 **Q.** You've got to get some of that gray to
4 spray it.

5 **A.** I'll work on that.

6 REDIRECT EXAMINATION

7 BY

8 MR. ZIBART:

9 **Q.** Mr. Marozas, you were asked some questions
10 about the -- your methodology versus the
11 methodology that Nicor Gas used as approved in
12 their rate case.

13 And I think I heard you say that your
14 forecast and Nicor Gas' forecast are different; is
15 that right?

16 **A.** Yes.

17 **Q.** And could you clarify why that is? Why
18 would they be different if they used the same
19 methodology?

20 MR. REDDICK: Objection. I don't think I asked
21 about methodology. We simply talked about whether
22 the HDD numbers were different.

1 MR. ZIBART: I think that was maybe Ms. Lusson's
2 question.

3 MR. REDDICK: Okay. If that's true, I withdraw
4 my objection.

5 MS. LUSSON: Can you repeat the question,
6 please?

7 MR. ZIBART: As I say, as I heard it, I thought
8 that Mr. Marozas said that Nicor Gas' forecast is
9 different from the forecast that Peoples Gas is
10 proposing in this case and I'm trying to determine
11 why the forecast would be different if the
12 methodologies are the same.

13 MR. REDDICK: And my comment was I only asked
14 about HDD numbers and results.

15 JUDGE GILBERT: Okay. Is there a question?

16 THE WITNESS: Can I answer?

17 BY MR. ZIBART:

18 Q. Yes.

19 A. The reasons they might be different, they
20 might be using a different weather station and they
21 might be proposing -- they might be setting those
22 numbers at a different time period.

1 Q. And when was the Nicor Gas rate case filed,
2 that being Case No. 04-0779?

3 A. I believe that -- Nicor's?

4 Q. Yes.

5 A. Is it in 2002 -- 3 or 2004. I don't know
6 which year.

7 Q. Okay. That's fine.

8 If two utilities use the same
9 methodology, will they necessarily get the same HDD
10 forecast?

11 A. If they use the same methodology, they'll
12 get the same forecast.

13 Q. And what assumptions do you have to make to
14 give that answer?

15 A. That they use the same methodology?

16 Q. Well, what goes into methodology the way
17 you're using it then.

18 A. If they analyze, for instance, the same
19 type of data, rolling averages, to come up with a
20 forecast, then they would produce the same results.

21 Q. Okay. If a utility, say, in far Southern
22 Illinois used the same methodology as one in

1 Northern Illinois, would they necessarily get the
2 same forecast?

3 **A.** They might not because in Southern
4 Illinois, the 15-year might be the best predictor
5 of a future year rather than a 10-year.

6 MR. ZIBART: I have no further questions on
7 redirect.

8 JUDGE GILBERT: Recross within the scope?

9 MS. LUSSON: Just one.

10 RECCROSS-EXAMINATION

11 BY

12 MS. LUSSON:

13 **Q.** I think you indicated that with respect to
14 the question about using the same methodology and
15 getting the same forecasts, the data points would
16 have to be the same, that is, the inputs, wouldn't
17 they?

18 **A.** Correct.

19 **Q.** Okay.

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RECROSS-EXAMINATION

BY

MR. REDDICK:

Q. Mr. Marozas, as a matter of professional judgment, two separate analysts asked to do the same task of forecasting wouldn't necessarily determine that they should use exactly the same technique; is that true?

A. They may not use the same technique.

Q. Okay.

JUDGE GILBERT: Okay. Thank you.

We're off the record.

(Whereupon, a discussion was had off the record.)

JUDGE GILBERT: One hour from now, see you.

(Change of reporter)

1 VALERIE H. GRACE,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. HOUSE:

7 Q. Good afternoon, Ms. Grace.

8 A. Good afternoon.

9 Q. Would you state your name and spell it for
10 the record, please.

11 A. Valerie H. Grace, V-a-l-e-r-i-e, H,
12 G-r-a-c-e.

13 Q. And by whom are you employed, Ms. Grace?

14 A. I'm employed by the Peoples Gas, Light and
15 Coke Company.

16 Q. And are you the same Valerie Grace who
17 submitted direct, rebuttal and surrebuttal
18 testimony, as well as exhibits in this case?

19 A. Yes, I am.

20 Q. Do you have any corrections or additions to
21 your testimony?

22 A. Yes, I do.

1 Q. Can you tell me what those are?

2 A. North Shore Gas, direct testimony, Page 7
3 of 47, Line 141, 48 percent should be 50 percent.

4 JUDGE MORAN: I'm sorry, could you repeat that,
5 please?

6 THE WITNESS: North Shore Gas, direct testimony,
7 Page 7, Line 141, 48 percent should be 50 percent.

8 BY MR. HOUSE:

9 Q. Is there another correction?

10 A. Yes, there is. Peoples direct testimony,
11 Line 181, 42 percent should be 47 percent.

12 Q. Do you have another correction, Ms. Grace?

13 A. Yes. In my surrebuttal testimony, Page 16,
14 Line 339, credits should read adjustments. And
15 line 342, a credit should be lined out and replaced
16 with adjustments.

17 Q. Does that conclude all of your corrections,
18 Ms. Grace?

19 A. Yes.

20 Q. If I were to ask you the same questions
21 today as those --

22 JUDGE MORAN: Mr. House, can I just interrupt for

1 one moment, I don't believe that Judge Gilbert
2 swore in all the witnesses that are testifying
3 today, so I'm not sure that you've been sworn in,
4 so if we could do that.

5 (Witness sworn.)

6 BY MR. HOUSE:

7 Q. Now, Ms. Grace, if I were to ask you the
8 same questions contained in your narrative portion
9 of your filed testimony today, would your answers
10 be the same to those questions?

11 A. Yes.

12 MR. HOUSE: Your Honor, with the corrections that
13 have been noted, I move to enter into evidence the
14 following exhibits, sponsored by Ms. Grace, that
15 would be North Shore Gas VG No. 1.0, revised and
16 Exhibits V 1.1 through 1.18. And PGL Exhibit VG
17 1.0 revised, as well as Exhibits VG 1.1 through
18 1.19, which constitutes Ms. Grace's direct
19 testimony.

20 Also, North Shore PGL Exhibit VG 2.0,
21 along with VG 2.1 through 2.11, which comprises
22 Ms. Grace's rebuttal testimony. And finally, North

1 Shore PGL Exhibit VG 3.0, along with North Shore
2 PGL Exhibit 3.1 through 3.3, which constitute
3 Ms. Grace's surrebuttal testimony.

4 MR. HOUSE: If you would just give me a moment to
5 clarify one thing.

6 JUDGE MORAN: Sure.

7 MR. HOUSE: And I would like to make one
8 correction, Judge. And that is to Exhibit
9 No. North Shore VG 1.0, is actually the second
10 revised version, which was filed on e-docket
11 yesterday.

12 JUDGE MORAN: And that has those corrections that
13 is were indicated today?

14 MR. HOUSE: No, those are additional corrections.

15 JUDGE MORAN: I see, these are additional.

16 MR. HOUSE: To what was filed yesterday.

17 JUDGE MORAN: Okay, that's clear now. Thank you.

18 MR. HOUSE: And I would like to, if I have not
19 already moved, to have those exhibits entered into
20 the record.

21 JUDGE MORAN: And are there any objections to any
22 of those testimonies or those attachments to those

1 testimonies as indicated by Attorney House?
2 Hearing none, they will be admitted subject to
3 cross and you are tendering the witness.

4 (Whereupon, NS VG No. 1.0,
5 PGL VG No. 1.0, NS/PGL VG 2.0 and
6 NS/PGL VG 3.0 were
7 marked for identification
8 and admitted into evidence as of
9 this date.)

10 MR. HOUSE: Thank you, your Honor.

11 JUDGE MORAN: Thank you.

12 CROSS EXAMINATION

13 BY

14 MR. FOSCO:

15 Q. Your Honor, staff can begin. And just for
16 the record, your Honor, since Ms. Grace addresses
17 several staff witnesses, it was going to be both
18 myself and Mr. Javaherian for a couple questions.

19 Good afternoon, Ms. Grace, my name is
20 Carmen Fosco.

21 A. Good afternoon.

22 Q. Your Honor, may I approach the witness?

1 JUDGE MORAN: Sure.

2 (Whereupon, ICC Staff Grace Cross
3 Exhibit No. 4 was
4 marked for identification
5 as of this date.)

6 BY MR. FOSCO:

7 Q. I'm tendering a document that I've marked
8 as ICC Staff Cross Grace 4.

9 Ms. Grace, do you recognize this
10 document which purports to be the Company's
11 response to Staff Data Request No. ML 1.06?

12 A. Yes, I do.

13 Q. And were you the person responsible for
14 preparing that?

15 A. Yes, I was.

16 Q. And you also refer to this data request in
17 your testimony, in your surrebuttal testimony; is
18 that correct?

19 A. Yes.

20 Q. And this is the same document that you're
21 referring to there?

22 A. Yes.

1 **Q.** I just have a few short questions about
2 some numbers in this document and your testimony.
3 Referring to attachment -- the attachment to this
4 document, on Line 9, Column G, would you agree that
5 that indicates that the uncollectible account
6 expense for gas costs for Peoples Gas service
7 classification 1 N customers is \$1,438,296?

8 **A.** The gas cost portion without Rider UBA,
9 yes.

10 **Q.** Thank you for that clarification. And then
11 if you could refer to your direct testimony,
12 Peoples Gas Exhibit VG 1.2, Page 2 of 2 and just
13 let me know when you're there.

14 **A.** I'm there.

15 **Q.** Referring you to Page 2 of 2 of that
16 exhibit, Column D, Line No. 24, would you agree
17 that gas charges --

18 **A.** Column D as in dog?

19 **Q.** Right. And Line No. 24.

20 **A.** Okay.

21 **Q.** Would you agree that that indicates that
22 gas charges to Peoples Gas 1 N customers totalled

1 14,425,000 in the test year?

2 A. What line?

3 Q. Line 24.

4 A. That's not the number that I'm seeing.

5 Column D, Line 24, VG 1.2, Page 2 of 2?

6 Q. Correct. Can I approach the witness,
7 please?

8 JUDGE MORAN: Yes, could you.

9 BY MR. FOSCO:

10 Q. For the record, I think we were referring
11 to different company exhibits, because there are
12 both North Shore and Peoples. And I'm sorry, if I
13 didn't clarify that.

14 A. That's okay, I should have noticed. Okay,
15 yes, I see that.

16 Q. So Column D and Line 24. My question, so
17 we're clear, do you agree that indicates that gas
18 charges to Peoples Gas 1 N customers totalled
19 \$14,425,000 for the test year?

20 A. Yes.

21 Q. And then if we take the two numbers that we
22 just went over in my prior two questions, which is

1 \$1,438,296 in uncollectible gas costs without Rider
2 UBA, and the total gas cost of 14, 425,000, would
3 you agree, subject to check, that that indicates an
4 uncollectible gas cost rate of 9.94 percent,
5 calculated by taking the 1,438,296 divided by
6 14,425,000?

7 **A.** I don't agree with your methodology.

8 **Q.** Okay. But you agree that those -- strike
9 that.

10 And if there is a total amount of gas
11 cost of X and an amount of related uncollectible
12 expense of Y, isn't the ratio of uncollectibles
13 expense the total revenues for that revenue class?

14 **A.** What factors are you using? You're using
15 14,425,000 times the uncollectible expense for
16 Peoples Gas?

17 **Q.** Well, again, we've been only talking about
18 Peoples Gas.

19 **A.** I would agree that that may be the
20 mathematical outcome, but if you're attempting to
21 allocate gas cost uncollectible expense, I would
22 not agree with your methodology.

1 **Q.** But you don't dispute those individual
2 numbers; is that correct? They're from your
3 exhibits, you agree that you presented, in response
4 to a data request, \$1,438,296 in uncollectibles
5 expense for service classification 1 N customers
6 for Peoples Gas, correct?

7 **A.** Yes.

8 **Q.** And you've also presented total gas costs
9 for service classification 1 N customers of
10 14,425,000 in your testimony exhibit that we
11 reviewed, correct?

12 **A.** Yes.

13 **Q.** And then you agree, and I'm not asking you
14 to do anything with it, you agree that the ratio,
15 based on those numbers of uncollectibles expense to
16 total gas charges is approximately 9.94 percent?

17 **A.** I'm coming up with 1.3 percent, if you
18 divide 14,425,000 by total gas costs. That is what
19 you said, correct?

20 **Q.** Well, it would divide 1,438,296 in
21 uncollectibles by 14, 425,000.

22 **A.** I thought you were dividing this by total

1 gas cost, but you are dividing this by the number
2 of this sheet?

3 Q. Right, the gas cost for 1 N customers? /

4 A. The gas costs portion of uncollectible
5 expense?

6 Q. Yeah, dividing that by the total gas
7 charges for that customer classification -- I'm
8 sorry, the total revenues for that.

9 A. So you're dividing it by -- you're dividing
10 14,425,000 by Column F?

11 Q. Well, the one million 438 by the 14.4.

12 A. Using those two numbers, I get 10 percent.

13 Q. Is it correct that an uncollectibles
14 expense rate is usually expressed as a percentage
15 based upon the ratio of uncollectibles expense to
16 the related revenues?

17 A. Well, for the purposes of the cost of
18 service study, you would take your total gas cost
19 divided by your uncollectible expense and allocate
20 it by the appropriate ratio.

21 Q. But what if you wanted to determine the
22 rate specific uncollectibles ratio for a specific

1 rate cost? Would you not take the revenues of that
2 rate class -- take the uncollectibles expense
3 related to that rate class divided by the related
4 revenues for that rate class?

5 **A.** That was not the approach that was used in
6 the Company's cost of revenue studies.

7 **Q.** But isn't that the uncollectibles expense,
8 the ratio for that rate class?

9 **A.** We calculated the uncollectible expense in
10 total and then took that uncollectible expense,
11 looked at historical write-offs for Fiscal 2006 and
12 allocated the historical write-offs by rate class
13 times the total gas costs related uncollectible
14 expense.

15 **MR. FOSCO:** Give me just one second.

16 **BY MR. FOSCO:**

17 **Q.** I'm not finding the reference right now,
18 but I recall, would you agree that you testified
19 that if the Commission does not accept the
20 uncollectibles rider, that it should allocate
21 uncollectibles expense on a rate class basis?

22 **A.** Can you tell me where you found that in my

1 testimony, please?

2 **Q.** I was trying. On Page 14 of 30 and
3 carrying on to Page 15 of 30 of your surrebuttal
4 testimony, you testified, did you not, that as
5 explained in Peoples Gas response --

6 **A.** What line, please?

7 **Q.** Starting at Line 305, as explained in
8 Peoples Gas response to ML 1.06 and North Shore's
9 response to ML 1.07, gas cost related uncollectible
10 accounts expense would be recovered through Rider
11 UBA on a non-rate specific basis per therm, while
12 gas cost related uncollectible account expense,
13 absent Rider UBA would be recovered through base
14 rates based on rate class specific historical
15 write-offs?

16 **A.** That is what I said.

17 **Q.** Referring back to the response to ML 1.06,
18 which was marked as ICC Staff Cross Exhibit Grace
19 4, would you agree that the uncollectible expense
20 rate that you use there for Class 1 N is
21 5.92 percent? And I believe that is contained at
22 Line 9, Column D.

1 **A.** I would agree that the allocation that
2 we've used for Fiscal 2006 is 5.38 percent.

3 **Q.** Well, that's just the percentage of Class 1
4 N uncollectibles expense to all uncollectibles
5 expense, right?

6 **A.** And that was the basis of our write-offs.

7 **Q.** But on Line 9 you apply an uncollectibles
8 expense of 5.92 percent, correct?

9 **A.** No, that is not correct. If you'll look at
10 the response to ML 1.06, it says that Column G is
11 determined by taking Column B times G, Line 16. So
12 the way that 1.4 million was determined was to take
13 the 5.38 percent in Line 9, times the total gas
14 costs related uncollectible expense, which is
15 \$26.7 million. Taking those two numbers, I would
16 derive 1,438,296. So 5.3 times 26.7 million equals
17 \$1.4 million.

18 **Q.** Okay, but you're reporting, are you not, on
19 this exhibit, in Column B, that there were, for
20 Class 1 N for Peoples Gas, that there were
21 \$2,014,399 of uncollectibles expense and revenues
22 of 34,032,000, correct?

1 **A.** Yes.

2 **Q.** And that that relates in a write-off or an
3 uncollectibles rate of 5.92 percent?

4 **A.** If you divide write-offs by revenues, yes.

5 **Q.** Well, isn't that how you got that column?

6 **A.** No.

7 **Q.** You did not get D by dividing Column A by
8 Column C? That's what it says.

9 **A.** D is divided by Column C, the 5.92.

10 **Q.** So I was correct?

11 **A.** In deriving that percentage, yes, you are.

12 MR. FOSCO: I have no further questions.

13 CROSS EXAMINATION

14 BY

15 MR. JAVAHERIAN:

16 **Q.** Good afternoon, Ms. Grace. My name is
17 Arshia Javaherian, I also represent staff of the
18 Commerce Commission. I just have a few questions
19 for you.

20 Could I just direct your attention to
21 Page 49 of your rebuttal testimony. If you would
22 look at Line 1092 where you state Rider VBA is no

1 more complex than the Company's monthly and annual
2 Rider 2, gas charge in Rider 11, adjustment for
3 incremental costs of environmental activities
4 filings. Are you there?

5 **A.** Yes.

6 **Q.** Would you then agree that your statement
7 allows for the possibility that Rider VBA is as
8 complex as the Company's monthly and annual Rider 2
9 gas charge?

10 **A.** Could be more, could be less.

11 **Q.** It could be more?

12 **A.** It could be less.

13 **Q.** It could be less complex. Could you then
14 turn your attention to Page 50 of your rebuttal
15 testimony. And there, beginning at Line 1113 you
16 state, Rider UBA is no more complex than the
17 Company's monthly and annual Rider 2 gas charge and
18 Rider 11 adjustment for incremental costs of
19 environmental activities filings?

20 **A.** It's no more complex. I misspoke earlier.

21 **Q.** Could it be as complex as you state?

22 **A.** It's certainly no more complex.

1 Q. But it could be as complex?

2 A. I don't consider Rider 2 to be complex, so
3 comparatively speaking.

4 Q. Sure. I'm not saying, we're not judging
5 whether Rider 2 is complex, right now, but however
6 complex Rider 2 is, is Rider VBA and then also
7 Rider UBA as complex?

8 A. It's certainly no more complex.

9 Q. But as complex, possibly?

10 A. Possibly.

11 Q. And are you familiar with Docket 01-0707 of
12 the Illinois Commerce Commission, the PGA gas cost
13 reconciliation for Peoples Gas?

14 A. Can you be more specific as to that number?

15 Q. The 2001 purchase gas cost reconciliation
16 docket. You're not familiar with that docket,
17 filed in the Illinois Commerce Commission?

18 A. I don't understand what you mean by being
19 familiar.

20 Q. You're aware of the purchased gas
21 reconciliations that Peoples Gas goes through every
22 year?

1 **A.** I know that it was a docketed proceeding.

2 **Q.** And there was a docket in 2001?

3 **A.** Yes.

4 **Q.** Do you know how long it took for the
5 Commission to settle out the issues that were
6 raised in that docket?

7 **A.** I can't tell you specifically, no.

8 MR. JAVAHERIAN: I have no more questions. Thank
9 you.

10 MR. FOSCO: I guess since staff is finished, I
11 would move to submit ICC Staff Cross Exhibit Grace
12 4.

13 JUDGE MORAN: Mr. House, is there any objection?

14 MR. HOUSE: No.

15 JUDGE MORAN: Hearing no objection, ICC Staff
16 Cross Grace No. 4 is admitted.

17 (Whereupon, ICC Staff Grace Cross
18 Exhibit No. 4 was
19 admitted into evidence as
20 of this date.)

21 JUDGE MORAN: Who wants to go next with questions
22 for Ms. Grace?

1 CROSS EXAMINATION

2 BY

3 MR. POWELL:

4 Q. Good afternoon, Ms. Grace, my name is Mark
5 Powell, I'm one of the attorneys representing the
6 City of Chicago in this matter.

7 A. Good afternoon.

8 Q. I would like to start by just talking about
9 Peoples Gas. In this docket Peoples Gas proposes
10 increasing the monthly customer charge for SC No. 1
11 H, small residential heating customers from \$9 to
12 \$19; is that correct?

13 A. That's correct.

14 Q. And that is an increase of 111 percent;
15 isn't that correct?

16 A. That's correct.

17 Q. Have Peoples Gas' cost of serving small
18 residential heating customers increased by
19 111 percent?

20 A. You are focusing on one component of the
21 customer's bill, so there is two parts to the
22 company's distribution rate. There is a customer

1 charge and there is a distribution charge. So
2 whereas there has been an increase in the customer
3 charge, the Company is also proposing a decrease in
4 the volumetric distribution charge.

5 **Q.** I would like to turn to your revised direct
6 testimony for Peoples Gas. Beginning on Page 11,
7 Line 230, you discuss the reasons that the
8 Company's -- or the Peoples Gas proposed to
9 bifurcate SC No. 1 into heating and nonheating
10 service; is that correct?

11 **A.** Yes.

12 **Q.** And you state that based on the ECOSS
13 prepared for Peoples Gas, the cost of service
14 differences between small residential heating and
15 nonheating customers warrants bifurcation. Is that
16 also correct?

17 **A.** That's correct.

18 **Q.** The ECOSS the Company has presented in this
19 case does not contain an allocation of the
20 utilities by which I mean, Peoples Gas cost of
21 service, using cost distinction between single
22 family and multi family residential customers; is

1 that correct?

2 **A.** I'm not the witness for the Company's cost
3 of service.

4 **Q.** But in designing the rates for Peoples Gas
5 you had -- presumably you relied on --

6 **A.** I relied the cost of service study.

7 **Q.** Correct. And the cost of service study
8 that you relied on did not allocate costs based on
9 whether the customers were small residential
10 customers or single family or multi family
11 customers; is that correct?

12 **A.** That's not true.

13 **Q.** Can you explain?

14 **A.** Rate 1 is for two dwelling units or less.
15 So by my definition, two dwelling units is multi
16 family.

17 **Q.** SC No. 1?

18 **A.** SC No. 1 is for two dwelling units or less.

19 **Q.** Was the distinction that you just
20 identified, two dwelling units versus -- as the
21 dividing line, maintained in bifurcating the class?
22 I mean, does it apply to heating customers as well

1 as the nonheating customers, then?

2 **A.** Yes.

3 **Q.** Turning to your rebuttal testimony at Page
4 37.

5 **A.** Page 37?

6 **Q.** Yes. Lines 803 to 804. You state that,
7 quote, fixed income customers would actually
8 benefit from a rate design which include a higher
9 fixed charge component, close quote. Did I read
10 that correctly?

11 **A.** You did read that correctly, yes.

12 **Q.** Now, fixed charges by definition do not
13 vary based on usage, right?

14 **A.** If you had a bill that was only a fixed
15 charge, I would agree with you, but the Company's
16 service charges are two part rate, the part based
17 on a fixed component and the second part based on
18 the volumetric component.

19 **Q.** And the fixed component does not vary based
20 on usage, so a customer cannot avoid that component
21 of the bill, based on their usage?

22 **A.** Well, you can't look at it in isolation,

1 because the company does not bill the customer a
2 one-part rate. The Company bills the customer a
3 two-part rate, which is a fixed component and the
4 variable component. So you have to look at it in
5 totality, as opposed to separately.

6 Q. Well, if a customer used, say, no gas in a
7 given month, they would still receive a bill based
8 on the fixed charge, correct, the customer charge?

9 A. Well, the Company's cost of service is over
10 90 percent fixed, so the fixed charge that the
11 customer would pay would be reflective of the
12 company's fixed cost nature, so yes.

13 Q. Now, by contrast, volumetric rates vary
14 with consumption; is that right?

15 A. Yes, they do.

16 Q. Do you agree that a customer can reduce the
17 the volumetric component of their bill, that is the
18 distribution charge, by reducing their consumption?

19 A. Yes.

20 Q. And would you agree that an effective
21 energy efficiency program is one way to reduce
22 consumption?

1 MR. HOUSE: Your Honor, I'm not sure if counsel's
2 question is directed towards energy efficiency
3 programs or is simply an attempt to elicit
4 something pertaining to rate design. Could you tie
5 it together, please?

6 JUDGE MORAN: Please clarify.

7 BY MR. POWELL:

8 Q. Ms. Grace, you testified that raising
9 distribution charges falls harder than raising
10 customer charges on certain high use, low income
11 customers; is that correct?

12 A. Yes.

13 Q. And that consumption, the usage and income
14 level are not necessarily positively correlated at
15 all levels?

16 A. Not at all levels, but at some levels, yes.

17 Q. So for high use customers, would you agree
18 that an energy efficiency program, that's
19 effective, might reduce consumption?

20 A. I'm not an expert in any energy efficiency
21 programs.

22 Q. Would you agree that lowering volumetric

1 charges reduces the economic incentive to conserve
2 gas?

3 **A.** If you look at a customer's gas bill, the
4 largest part of that bill is the gas cost portion
5 of that bill. That part of the bill provides the
6 proper price signal for customers to conserve gas.
7 On the other hand, the customer's cost of providing
8 gas is fixed. So the Company's proposed rates are
9 sending the proper price signal to the customer.

10 **Q.** Let's isolate, just for purposes of this
11 question, the volumetric component of the
12 distribution charge -- of the bill, not the gas
13 commodity portion of the bill. Lowering the
14 volumetric charge reduces the economic incentive to
15 conserve gas, it makes the bill lower than it
16 otherwise would be if those volumetric rates were
17 not reduced?

18 **A.** No, I don't agree with you about price
19 signal. The largest portion of that bill, again,
20 is gas costs and gas costs sends the proper signal
21 to customers about reducing their gas consumption.

22 **Q.** Turning to your rebuttal testimony at Page

1 38, beginning on Line 824. You discuss Exhibit VG
2 2.8-PGL, which you state shows usage for small
3 residential heating customers for various income
4 groups; is that correct?

5 A. That's correct.

6 Q. And you add that the exhibit demonstrates
7 that, quote, the lowest income customers consume
8 more gas than the other higher income customer
9 groups, close quote. Did I read that correctly?

10 A. Yes.

11 Q. You performed this study based on average
12 usage and mean household income for heating
13 customer by ZIP code and Peoples Gas service
14 charge; is that correct?

15 A. Yes.

16 Q. Based on how you did this study, then,
17 isn't it more accurate to say that on average
18 heating customers in the ZIP codes with the lowest
19 mean household incomes consume more gas than
20 heating customers residing in ZIP codes with higher
21 household mean incomes?

22 A. I believe that the incomes shown in the

1 exhibit are average incomes by ZIP code. And the
2 way that the data is rained, those in the lower ZIP
3 code in Peoples' service territory, I believe the
4 ZIP code is 60621, the income range there reflects
5 the income as an average and because it reflects an
6 average, presumably, it includes your lowest income
7 customers.

8 Q. Would you agree that because these are
9 average household incomes, as you just indicated,
10 there are customers living in these areas with
11 incomes both above and below the average income for
12 that particular ZIP code?

13 A. Because it is the lowest average, I would
14 surmise that most of the incomes are the lowest
15 incomes.

16 Q. Well, the average would include, you would
17 agree, likely include, customers with incomes --

18 A. Higher and lower, I would agree.

19 Q. So this graph does not reflect the actual
20 usage of customers with incomes less than 32,000,
21 their actual usage, correct? Only to the extent
22 that they are within this average household?

1 **A.** What are you looking at, exactly?

2 **Q.** Your Exhibit VG 2.8-PGL. And this graph,
3 because it's based on household -- mean household
4 income, does not itself reflect the actual usage of
5 customers with incomes less than 32,000; is that
6 correct?

7 **A.** It does reflect the average usage of
8 customers whose income is less than 32,000.

9 **Q.** To the extent that they are included within
10 the mean, is that what you're saying?

11 **A.** These were broken up by the number of
12 customers in these particular income groups. So
13 that lowest income group from 32,000 to \$40,000 is
14 reflective of customers whose income is below 32
15 and over 32, if that's what you're asking.

16 **Q.** But this is -- the 32,000 to \$40,000 a year
17 range is not the lowest income group, it's the
18 lowest income for those ZIP codes, correct?

19 **A.** These are the lowest income ZIP codes.

20 **Q.** One final issue, in designing rates, one of
21 the Company's objectives is to align costs and
22 revenue recovery; is that correct?

1 **A.** Yes.

2 **Q.** And that means recovering costs from the
3 cost causers?

4 **A.** Yes.

5 **Q.** Do the companies have charges that align
6 only to certain individual customers in a class?

7 **A.** Could you be more specific?

8 **Q.** Do the companies have any rates or
9 charges that apply on an individual basis to one
10 customer, but not to the other members of that
11 customer's service classification?

12 **A.** Only our contract services, those are
13 negotiated rate contracts.

14 **Q.** Is Rider 4 an example of a charge that is
15 applied on an individual basis, not to an entire
16 class?

17 **A.** Rider 4 is a rider and not a service class.
18 And Rider 4 -- your question is?

19 **Q.** The charge under that rider is applied on
20 an individual customer basis, not on a class basis,
21 correct?

22 **A.** Yes.

1 **Q.** And in applying those charges -- strike
2 that.

3 Charging a customer on an individual
4 basis under Rider 4 does not, in effect, remove the
5 customer from their applicable service
6 classification; is that correct?

7 **A.** This is a rider that's applicable to 1 N,
8 1 H, 2, 4, 6 and 8 and it has no effect of changing
9 or altering the customer service classification.

10 MR. POWELL: That's all I have, thank you.

11 JUDGE MORAN: The Attorney General's Office, I
12 believe, has some questions. And also RGS.

13 MR. MOORE: I changed -- we have no cross for
14 Ms. Grace.

15 JUDGE MORAN: Okay, thank you.

16 CROSS EXAMINATION

17 BY

18 MS. LUSSON:

19 **Q.** Good afternoon, Ms. Grace.

20 **A.** Good afternoon.

21 **Q.** I'm going to show you what I've marked as
22 AG Cross Exhibit Grace 4 or is it AG Cross

1 Exhibit 4 Grace?

2 JUDGE MORAN: AG is the cross, the witness is
3 Grace and the Exhibit number is 4. So it's AG
4 Cross Grace. And is this the AG's fourth cross
5 exhibit?

6 MS. LUSSON: That is correct.

7 THE WITNESS: Is there a second page to this
8 data request?

9 BY MS. LUSSON:

10 Q. Yeah, I believe it's Exhibit 1, attached
11 already. Ms. Grace, another witness earlier in the
12 proceedings, I believe it was Mr. Borgard referred
13 me to you for purposes of this exhibit. It's my
14 understanding that you would have prepared this
15 exhibit or can you sponsor it?

16 A. This exhibits reflects the number of
17 employees at the Company. I work in the rates
18 department and not in human resources.

19 Q. Yes, you are correct. This has already
20 been introduced, I believe these numbers, and I
21 need to withdraw that exhibit.

22 JUDGE MORAN: Okay, you are withdrawing this.

1 BY MS. LUSSON:

2 Q. Now, with respect to Rider ICR, the Company
3 is now proposing a prudence review in response to
4 concerns expressed by staff, is that correct, that
5 a prudence review be included within Rider ICR?

6 MR. HOUSE: Ms. Lusson, I'm not certain that that
7 isn't something that you should cover in
8 Mr. Schott's testimony and Mr. Schott is up next,
9 depending on where you're going with that. But
10 that particular aspect of the proposal is something
11 that Mr. Schott speaks to having accepted a
12 recommendation from Staff Witness Hatthorn.

13 MS. LUSSON: That's true. And Ms. Grace has made
14 some statements about the relative complexity of
15 the tariffs, so I wanted to explore that line of
16 reason with her.

17 MR. HOUSE: Absolutely.

18 BY MS. LUSSON:

19 Q. So if you know, it's correct, isn't it,
20 that the Company is now proposing a prudence review
21 be included within Rider ICR in response to
22 concerns expressed by staff and other parties?

1 **A.** Are you referring to a particular data
2 request or a statement that was made in testimony?

3 **Q.** I'm just asking do you know. Do you know
4 if that's part of Rider ICR now?

5 **A.** Well, Mr. Schott has agreed to an alternate
6 Rider ICR. So if you have any questions about the
7 Rider ICR that the Company is now proposing, you
8 would need to address your questions to him.

9 **Q.** Okay. But you are aware that that is part
10 of the proposal?

11 **A.** I'm not familiar with the revised Rider
12 ICR.

13 **Q.** Okay. Are you sponsoring the tariffs in
14 this proceeding?

15 **A.** I sponsored an initial tariff for Rider
16 ICR.

17 **Q.** And in fact you also examined the proposed
18 fallback Rider QIP; is that correct?

19 **A.** I sponsored a proposed fallback Rider QIP
20 and in my surrebuttal testimony I indicated that
21 Mr. Schott would address the Company's comments.

22 **Q.** And is it correct that the Company's

1 purchase gas adjustment cause tariff includes an
2 annual prudence review?

3 **A.** That's correct.

4 **Q.** Would it be fair to say that in the recent
5 past the prudence of Peoples and North Shore's gas
6 commodity expenditures have been a source of
7 controversy?

8 **A.** Could you be more specific?

9 **Q.** Well, in fact last year a \$100 million
10 settlement was reached that involved 4 years worth
11 of PGA reconciliation proceedings; is that correct?

12 **MR. HOUSE:** The problem I'm having with counsel's
13 line of questioning is, there was indeed a
14 settlement, which was, by its nature, I don't know
15 if there were any specific findings, legal
16 findings, whether Peoples' conduct was specifically
17 related to the kind of review that might be at
18 issue in the ICR. I mean, I'm not sure where
19 you're going with this, but I think the Company
20 would stipulate that there is a settlement that
21 pertained to the gas charge where prudence was an
22 issue.

1 BY MS. LUSSON:

2 Q. And in fact, that settlement, you are aware
3 of that settlement, Ms. Grace?

4 A. I don't think any of the issues had
5 anything to do with the workings of Rider 2 --

6 Q. Well, that wasn't my question. I'm asking,
7 are you aware that there was a settlement in the
8 purchased gas adjustment cost proceedings for the
9 years 2000 through 2004?

10 A. Again, the settlement had nothing to do
11 with the mechanics of Rider 2.

12 MS. LUSSON: Your Honor, I'm just asking her is
13 she aware of it. She makes such statements in her
14 testimony --

15 THE WITNESS: Yes.

16 JUDGE MORAN: But she doesn't testify about it so
17 that's why I'm having this problem here, too.

18 MS. LUSSON: She is testifying about the relative
19 complexity of tariffs.

20 JUDGE MORAN: Well, you can ask what she means by
21 complexity. Why don't you deal with the words that
22 are in the testimony and, thus far, that term has

1 not been defined.

2 BY MS. LUSSON:

3 Q. At Page 49 of your testimony, you state,
4 for example, Rider VBA --

5 A. Direct?

6 Q. No, this is your rebuttal testimony. Rider
7 VBA is no more complex than the Company's
8 adjustment for incremental costs of environmental
9 activities filings, do you see that?

10 A. Yes, I do.

11 Q. What is -- how do you define complex,
12 Ms. Grace?

13 A. First of all, I would like to offer that
14 Rider VBA is four pages, Rider 2 is eight pages and
15 Rider 11 is five pages. So there is no more
16 complexity in the Company's proposed Rider VBA than
17 the riders that apparently have more provisions by
18 virtue that they have more pages to describe how
19 various charges on the riders would be determined.

20 Q. So you determine the complexity of proposed
21 riders or existing riders by the number of pages
22 contained in the tariff?

1 **A.** Apparently there is more language to
2 describe how the charges in the riders would be
3 determined.

4 **Q.** Do you have an opinion as to whether or not
5 a prudency review adds complexity to a rider?

6 MR. HOUSE: Your Honor, the witness is not a
7 lawyer and is not necessarily knowledgeable of --

8 JUDGE MORAN: I understand your objection. I
9 believe that Ms. Lusson can ask if she has
10 familiarity with prudency reviews. Wouldn't that
11 clarify it?

12 MS. LUSSON: Could I have the question read back,
13 please?

14 BY MS. LUSSON: .

15 **Q.** Would you agree that no matter how many
16 pages there are in the tariff, that a prudency
17 review adds a certain degree of complexity to a
18 tariff?

19 **A.** I would agree that it adds another
20 dimension, I wouldn't characterize it as
21 complexity.

22 **Q.** For purposes of adjusting customer bills,

1 would you agree that a prudency review adds a
2 degree of complexity to the calculations?

3 **A.** Again, I believe that it adds another
4 dimension, but I don't believe that it is complex.

5 **Q.** It's true, isn't it, that the Peoples Gas
6 PGA reconciliation settlement that was referenced
7 earlier by both Mr. Javaherian and myself, involved
8 reconciliation of purchase gas adjustment clauses
9 from the years 2000 through 2004? Would it help to
10 see the document?

11 **A.** Is there a question in that?

12 **Q.** I'll show you the settlement order.

13 **MR. HOUSE:** What is your question, Counsel?

14 **BY MS. LUSSON:**

15 **Q.** Isn't it true that the \$100 million
16 settlement that occurred in that docket involved
17 purchase gas reconciliation proceedings from 2000,
18 2001, 2002, 2003 and 2004?

19 **MR. HOUSE:** Your Honor, I would like to object.
20 I don't mean to be tedious, but the subject of this
21 proceeding is the Company's proposed rate
22 increases. Ms. Grace is testifying to the

1 Company's rate design.

2 She does make some comments about the
3 complexity of the various rate proposals and that
4 is certainly fair game. However, the elements of a
5 settlement in another case and particularly details
6 such as the years covered by it, are public record.
7 I don't understand why Ms. Grace should have to
8 take the settlement agreement and begin to make
9 opinions derived from contents of the settlement
10 agreement, that just seems so far afield of what
11 we're here for.

12 MS. LUSSON: Well, again, Ms. Grace makes
13 statements in her testimony about the relative
14 complexity of tariffs. And my point in discussing
15 the PGA settlement was to ask her to acknowledge
16 and get her to acknowledge that a prudence review,
17 which was the subject of those -- that settlement,
18 adds a degree of complexity to a tariff.

19 JUDGE MORAN: Well, number one --

20 MS. LUSSON: If she doesn't know, she can say
21 that.

22 JUDGE MORAN: Number one, that may not be

1 representative of all prudence reviews and you are
2 only referring to one piece and you're referring to
3 a piece that this witness has not testified to.
4 And the point is you want to explore what the
5 witness means by complexity, you might have to
6 describe what a prudence review is, because this
7 witness may or may not, and I don't know at this
8 stage, whether she is familiar with prudency
9 reviews and what it details. You can go bit by bit
10 what a prudency review details and then ask the
11 witness, is that an additional complexity. Are you
12 getting my point?

13 MS. LUSSON: Um-hmm, yes, your Honor.

14 JUDGE MORAN: Go generic, don't go specific,
15 because this witness has not testified about
16 specifics.

17 BY MS. LUSSON:

18 Q. Ms. Grace, do you know what a prudency
19 review is?

20 A. Yes, I do.

21 Q. And did you testify in the 2001 Peoples Gas
22 purchase gas reconciliation hearing?

1 **A.** Yes.

2 **Q.** And is it correct that the settlement that
3 was reached in that case occurred some 6 years
4 after the initial -- or let's go to the case that
5 you testified in, 2001. Did you testify in the
6 2000 reconciliation case?

7 **A.** I testified in a few reconciliation cases.
8 I believe I may have testified in the 2000
9 reconciliation case.

10 **Q.** Assuming that, for the moment, that you
11 did, would you agree, then, that settlement of
12 those prudency review cases occurred some 6 years
13 after the initial 2000 filing?

14 **A.** I don't believe the 2000 did.

15 **Q.** You don't believe the 2000 what?

16 **A.** The 2000 case, I don't believe it did.

17 JUDGE MORAN: Ms. Lusson, you're not following my
18 ruling. And I don't think -- I think you're
19 putting -- trying to put into the record something
20 that is not -- as if you're testifying. Do you
21 understand? I understand what you're trying to get
22 at it, but you're not getting at it in the right

1 way and in an above board way, that's the way I see
2 it. You can certainly ask this witness how
3 involved a prudence proceeding is, because the only
4 thing you're trying to really respond to or to get
5 information on or to explore is this testimony.

6 MS. LUSSON: Thank you, your Honor.

7 BY MS. LUSSON:

8 Q. So you have testified that you do know what
9 a prudency review is; is that right?

10 A. Yes.

11 Q. Would you agree that when you add a
12 prudency review to a tariff, that the complexity of
13 the tariff increases by virtue of the fact that
14 judgments must be made both before and after
15 investments are made by the Company?

16 A. Again, I see it as another dimension to the
17 tariff, I do not see it as adding complexity to the
18 tariff.

19 Q. Now, to the extent that the Rider QIP which
20 was attached as the marked up rider that was
21 reviewed by the Company was attached to
22 Ms. Hatthorn's rebuttal testimony, are you familiar

1 with that marked up tariff?

2 MR. HOUSE: Could you specify? Was that an
3 exhibit to Ms. Hatthorn's testimony.

4 MS. LUSSON: Yes, it was it was Attachment B.

5 MR. HOUSE: Just a moment, please.

6 BY MS. LUSSON:

7 Q. Taking a look at that tariff, are you
8 familiar with that Rider QIP tariff?

9 A. Not intimately, but somewhat.

10 Q. Now, you sponsored in your direct testimony
11 Rider ICR; is that right?

12 A. Yes.

13 Q. And to the extent that the staff proposed
14 adjustments to Rider ICR, should the Commission
15 desire implementation of some form of Rider ICR, a
16 tariff was presented by the Company that indicated
17 changes it would make to Ms. Hatthorn's proposals;
18 is that right?

19 A. Yeah, Mr. Schott addressed the Company's
20 comments in his testimony.

21 Q. So you are not sponsoring any kind of Rider
22 QIP?

1 **A.** No.

2 **Q.** You are sponsoring the original Rider ICR,
3 though. Should the Commission want to approve
4 Rider ICR, is it the Company's position that they
5 should do so in the format that you propose in your
6 direct testimony?

7 **A.** Mr. Schott agreed to the proposed language
8 sponsored by Ms. Hatthorn with some revisions
9 proposed by the Company.

10 **Q.** So you have no opinions, then, about Rider
11 ICR or whether it should be adopted by this
12 Commission as Rider QIP, Rider ICR or otherwise?

13 **A.** I believe that the Company's proposal
14 should be adopted. But again, Mr. Schott addresses
15 the specifics of this rider.

16 **Q.** And so he would be sponsoring that tariff
17 portion of it?

18 **A.** Yes.

19 MR. HOUSE: I just might add that Mr. Schott has
20 not sponsored a particular tariff, but that
21 Mr. Schott does cover the issue in his testimony.
22 So any questions you might have concerning the

1 tariff --

2 JUDGE GILBERT: Just so I understand that, I'm
3 looking at Mr. Schott's surrebuttal right now and
4 he said on Page 9, Line 179, quote, Ms. Grace has
5 included in her surrebuttal testimony new proposed
6 Rider ICR tariff sheets, which reflect deletion of
7 Peoples Gas' revisions to Ms. Hatthorn's criteria
8 addressing such matters as facilities that are worn
9 out, deteriorated, obsolete, dead ends and
10 relocations as discussed by Mr. Brosch on Pages 34
11 to 35 of his rebuttal testimony, close quote.

12 MR. HOUSE: Yes, your Honor, you are absolutely
13 correct that the filed version of Mr. Schott's
14 surrebuttal testimony contained that language, but
15 there was a revision to the testimony filed
16 yesterday that deleted that particular language
17 because there was no tariff included in Ms. Grace's
18 testimony.

19 JUDGE GILBERT: Is that perhaps sent out to the
20 ALJ's?

21 MR. HOUSE: It should have been filed on e-docket
22 yesterday.

1 JUDGE GILBERT: Filed is one thing and that's not
2 my question, was it sent out to the ALJ's?

3 MR. HOUSE: Your Honor, at this point we are
4 unable to determine whether an effort was or was
5 not made to get you a copy, but I apologize,
6 profusely, that you did not receive one. And we'll
7 make every effort to get you one as quickly as
8 possible.

9 JUDGE GILBERT: Well, Mr. Schott is the next
10 witness up, I believe, after Ms. Grace.

11 MR. HOUSE: We'll be certain that you get one
12 before Mr. Schott takes the stand.

13 JUDGE GILBERT: Yeah, or he can go back to the
14 office and come back on Friday.

15 MS. LUSSON: So just to clarify, is Mr. Schott --
16 is that going to be attached to his surrebuttal
17 testimony, the latest Rider QIP?

18 MR. HOUSE: No.

19 MS. LUSSON: It's just any changes or
20 modifications would be verbally as presented in the
21 testimony?

22 MR. HOUSE: That's correct.

1 MS. LUSSON: Your Honor, with your indulgence, I
2 would like to re-present that cross exhibit for
3 Ms. Grace and indicate that one attachment is still
4 coming. Due to an oversight, the wrong attachment
5 was attached.

6 BY MS. LUSSON:

7 Q. Right now, Ms. Grace, what I'm handing you,
8 I'll leave the cover page that you have and this is
9 the North Shore Gas customer numbers --

10 JUDGE MORAN: I'm sorry, Ms. Lussion, you are
11 showing Ms. Grace what?

12 MS. LUSSON: This is back on AG Grace Cross
13 Exhibit 4.

14 JUDGE MORAN: I thought you were not doing this
15 Cross Exhibit 4?

16 MS. LUSSON: Well, I'm going to reintroduce it.

17 JUDGE MORAN: This again?

18 MS. LUSSON: With the cover, with the corrected
19 attachment.

20 JUDGE MORAN: This would be the third sheet?

21 MS. LUSSON: This would be the second sheet and
22 the third sheet is on its way.

1 JUDGE MORAN: Tell me what to do.

2 MS. LUSSON: I'm reintroducing AG Cross Grace
3 Exhibit No. 4, removing the attachment and
4 replacing it.

5 JUDGE MORAN: Removing the second sheet.

6 MS. LUSSON: Yes and replacing it with the new
7 page.

8 JUDGE MORAN: And then adding this page instead?

9 MS. LUSSON: That's correct.

10 MS. LUSSON: And with your Honor's indulgence,
11 the third page is coming, which is the customer
12 numbers, year end customer counts for Peoples Gas.

13 JUDGE MORAN: So you are actually go to introduce
14 a 3-page cross exhibit?

15 MS. LUSSON: Correct.

16 JUDGE MORAN: We have two pages now and the third
17 page on the way?

18 MS. LUSSON: Correct.

19 MR. HOUSE: Your Honor, I would just like to
20 clarify, with switching the pages, are you
21 suggesting that the coverage page, the first page,
22 which is entitled ICC Docket Nos. 07-0241 and

1 07-0242, Peoples Gas Light and Coke Company and
2 North Shore's response to People of the State of
3 Illinois data request AG 5.01 through 5.31 should
4 be the cover to this response?

5 MS. LUSSON: Yes, that's correct.

6 (Whereupon, AG Grace Cross
7 Exhibit No. 4 was
8 marked for identification
9 as of this date.)

10 MR. HOUSE: We are going to have to at least be
11 given an opportunity to insure that all those
12 things match, because the witness is not certain
13 that that was the case, nor am I.

14 MS. LUSSON: Please, accept it subject to check,
15 whatever you need to do to review it.

16 I was told by Mr. Borgard that Ms. Grace
17 was the witness that could sponsor customer
18 numbers.

19 JUDGE MORAN: Ms. Lusson, how long before we get
20 that page?

21 MS. LUSSON: Hopefully, momentarily.

22 My understanding is counsel for Peoples

1 want to double check and make sure this attachment,
2 the cover sheet referenced the responses to AG 5.12
3 and 5.21. AG 5.12 provided customer numbers for
4 Peoples Gas and 5.21 provided customer numbers for
5 North Shore. And counsel for Peoples would like to
6 see if there was a cover page to those separate
7 responses.

8 MR. HOUSE: There were, there was definitely a
9 cover page. And counsel for the People of the
10 State is using only one exhibit to a response to
11 append to another response that wasn't supposed to
12 be a part of it. In other words, there is a
13 missing coverage page.

14 JUDGE MORAN: And I understand and that provides
15 some clarification?

16 MR. HOUSE: It could. It could modify what was
17 in an exhibit or otherwise speak to it. So we are
18 looking for the completed response.

19 MS. LUSSON: My purpose was to construct an
20 exhibit, it obviously didn't go well, my purpose
21 was to construct an exhibit which had the
22 identifying question and then the attachment

1 limited to just the customer numbers.

2 JUDGE MORAN: I have an idea, why don't I do my
3 questions, so we don't lose time.

4 (Change of reporter)

5 EXAMINATION

6 BY

7 JUDGE MORAN:

8 Q. Okay. Ms. Grace?

9 A. Yes.

10 Q. I'm going to ask you some questions. I
11 don't have your revised surrebuttal. So if
12 something has changed that I should be aware of
13 during my questioning, please let me know.

14 When City was doing their
15 cross-examination of you, they referred to one of
16 your exhibits that showed lower -- excuse me, your
17 testimony introducing an attachment that showed
18 lower income -- consumers -- low-income customers
19 consume more gas than higher customers?

20 A. Yes.

21 Q. Is that correct?

22 A. That's correct.

1 **Q.** Is there -- or do you know if lower income
2 customers contribute more to uncollectibles, or has
3 that analysis been done?

4 **A.** I haven't done any analysis along those
5 lines.

6 **Q.** Okay. Thank you. Just the idea came in my
7 head.

8 Now, if I -- I understand if I
9 understand your testimony correctly, you present
10 both rate design based on Mr. Amen's embedded cost
11 of service study?

12 **A.** Yes.

13 **Q.** And you also testify in your direct and
14 explain what the methodology for the volume
15 balancing adjustment, which we refer to as VBA,
16 right?

17 **A.** Yes.

18 **Q.** And then, in further parts of your
19 testimony, I think it probably comes in in your
20 rebuttal, you explain the methodology for
21 Rider WNA, which is the weather normalization
22 adjustment, if I have that correct?

1 **A.** Yes.

2 **Q.** Okay. Is your rate design proposal -- and
3 I mean that's all the -- all elements of it,
4 affected in any way if Rider VBA is adopted or
5 non- -- or not adopted, or it really stands alone?
6 Your rate design stands alone from the riders or
7 does it -- does it?

8 **A.** My primary rate design stands --

9 **Q.** Yeah.

10 **A.** -- alone.

11 I made a comment in my surrebuttal
12 testimony that if Rider VBA is adopted or Rider UBA
13 is not adopted and the Commission orders that we
14 recover separate distribution -- different
15 distribution charges for sales and transportation
16 customers, then that credit should be made on a
17 per-customer basis as opposed to a per-therm basis
18 just to simplify the mechanics of Rider VBA.

19 **Q.** Okay. That's if VB- -- VBA is adopted and
20 the uncollectibles --

21 **A.** Is not adopted.

22 **Q.** -- is not adopted?

1 **A.** Yes.

2 **Q.** Okay. Now, Mr. Feingold, who we haven't
3 crossed yet, but who testified on the Rider VBA
4 itself, if I recall correctly, indicated that this
5 mechanism has been used in a lot of -- or been
6 adopted by a number of state commissions, and you
7 developed the methodology for that mechanism.

8 I wonder if your methodology is the same
9 or substantially the same as the methodologies
10 adopted in those other jurisdictions.

11 **A.** The --

12 **Q.** In other words, did you look at other
13 jurisdictions to see how they do the methodology
14 for the VBA and did you pattern your methodology on
15 that or how did you maybe arrive at it?

16 **A.** The methodology was developed to be -- to
17 be as simple as possible. As a matter of fact, if
18 I could check a moment to go to my direct
19 testimony.

20 **Q.** Sure. Sure.

21 **A.** Okay. If you go to Page 46 of my direct
22 testimony, basically, when we developed Rider VBA,

1 there were several principles that guided the
2 development of the mechanism itself and adjustments
3 that would be derived from the mechanism.

4 We wanted to make sure that it would
5 only result in recovery of approved volumetric
6 distribution margin; no more, no less.

7 **Q.** Hm-hmm.

8 **A.** That would be fair, symmetrical, and that
9 it would avoid any overlap with weather,
10 conservation-related -- weather-related volume
11 variations, not be impacted by changes in the
12 number of customers and accurately compute margin
13 impacts by using a margin-per-customer approach
14 rather than a single rate or rate that's derived
15 from subjective weighting of the Company's blocked
16 rates.

17 That being said, one of the
18 methodologies that's employed by some utilities who
19 have these type of methodologies is based on a
20 margin-per-customer basis. And that particular
21 approach is best when you have blocked rates
22 because you're only trying to recover the actual

1 distribution -- volumetric distribution margin
2 that's affected by this particular type of
3 mechanism.

4 We believe that is the simplest of the
5 approaches that may be out there. I'm not familiar
6 with all of them --

7 **Q.** Hm-hmm.

8 **A.** -- but this one is very simple to
9 administer and to understand.

10 **Q.** Okay. Thank you.

11 Can you -- can you outline for me or --
12 again, it's sometimes difficult for me to remember
13 what Mr. Feingold said and what you said, but can
14 you outline for me maybe the basic differences in
15 methodology between the volume balancing adjustment
16 and the weather normalization adjustment?

17 **A.** Sure.

18 **Q.** Oh, great. Thank you.

19 **A.** The volume balancing adjustment is to
20 account for any differences in customer's usage, be
21 it weather or any other usage variations. That's
22 why I take the difference in actual margin per

1 customer versus rate case margin per customer, and
2 that rate case margin per customer would be based
3 on approved margins approved in this proceeding,
4 whereas the weather normalization adjustment would
5 only account for the weather component of a
6 customer's bill and no other volume variations
7 caused by other reasons.

8 The VBA would be applied on a rate
9 class-specific basis using the margins for the
10 particular rate classes, whereas Rider WNA would be
11 based on a rate class-specific basis with
12 parameters, but it would be based on -- I'm going
13 to try to be not really complicated with this.

14 It would be based on the difference
15 between your normal weather and your actual weather
16 for the particular billing cycle where a customer
17 is being billed.

18 **Q.** Okay. And then the adjustments are made in
19 the next month? When are the adjustments --

20 **A.** In terms of the VBA, VBA is determined --
21 you have to wait until you get-- until you have
22 certain actual booked revenue for VBA.

1 So, for instance, in the month of
2 October --

3 **Q.** Hm-hmm.

4 **A.** -- to the extent -- you would determine
5 your actual margin per customer in October and you
6 would compare that with your rate case margin per
7 customer for October, and that would show up on
8 customer's bill, the adjustment, two months later.

9 **Q.** Okay. Two months?

10 **A.** Right. With WNA, it's designed to be
11 what's termed real time, and it would be based on
12 the parameters that's in the Company's proposed
13 Rider NA -- WNA. And I've been saying WNUA. I
14 think I --

15 **Q.** I know?

16 **A.** I think I like that music station, but I do
17 it a lot. It would be based on the WNA and it
18 would be based on the particular cycle that a
19 customer is billed.

20 So that is as real time as you can get,
21 whereas there's a two-month lag for the VBA because
22 you need to get the actual data that's booked two

1 months prior.

2 Q. I'm going to ask you for something,
3 Ms. Grace. I'm going to ask you to do -- to
4 transpose your descriptions, both today and in your
5 testimony, on both of these mechanisms, the WVA
6 (sic) and the WNA, into a visual, a schematic that
7 shows the inputs, how the mechanism works, when it
8 works, when the adjustments are made.

9 JUDGE MORAN: That'll be ALJ Data Request No. 2.
10 That'll be, of course, served on the administrative
11 law judges in this case as well as all the parties
12 on the service list.

13 BY JUDGE MORAN:

14 Q. Another thing that I want to ask you about
15 is in your rebuttal testimony. And it's on
16 Page 56. And let's go to Line 1228.

17 A. Hm-hmm.

18 Q. Got it?

19 A. Yes.

20 Q. And that testimony tells me that the
21 Company had applied for a WNA rider in these
22 dockets. What was the outcome of these dockets?

1 **A.** The Company filed a special petition for
2 these riders.

3 **Q.** Okay.

4 **A.** And --

5 **Q.** Is it resolved?

6 **A.** No, the Commission denied it and
7 recommended that the Company file for this type of
8 rider within the context of a rate case --

9 **Q.** Of a rate case?

10 **A.** -- proceeding.

11 **Q.** Okay. Okay. All right.

12 And you've done that, so...

13 Also, there is a bill impact analysis in
14 your rebuttal testimony at Page 24. Well, the
15 actual analysis isn't there, but you make reference
16 to it at Page 24, and you refer to certain exhibits
17 that, in fact, contain that analysis, correct?

18 **A.** Yes.

19 **Q.** And you also say that the staff and
20 intervenor witnesses didn't do a bill impact
21 analysis, certainly not at that point in time with
22 you wrote this testimony?

1 **A.** I haven't received any bill impact
2 analysis.

3 **Q.** Okay. Well, that was my question.

4 Have they done or have you received
5 anything subsequent to that from any witness?

6 **A.** No, your Honor.

7 **Q.** So, in other words, your bill impact
8 analysis is the only one that's in the record?

9 **A.** Yes.

10 **JUDGE MORAN:** Okay. Thank you.

11 I think those are all the questions I
12 have, Ms. Grace. Thank you.

13 I will turn it back to Ms. Lusson, if
14 you're ready.

15 Did we find that exhibit?

16 **MR. HOUSE:** We did find a cover for the exhibit,
17 your Honor. It did not seem to modify or otherwise
18 amend what was contained on the exhibit.

19 **JUDGE MORAN:** Okay. Great.

20 **MS. LUSSON:** And this doesn't include the
21 North Shore, so you're accepting the previous --

22 **MR. HOUSE:** We will, subject to check.

1 MS. LUSSON: Okay. So I will then mark this --
2 the other one was marked as AG Cross Exhibit Grace
3 No. 4. I will mark this as AG Cross Exhibit No. 5.

4 Your Honors, can I confer a moment with
5 counsel for Peoples?

6 (Discussion off the record.)

7 MS. LUSSON: Your Honors, AG Cross
8 Exhibit No. 4, Grace, has a cover page, Peoples Gas
9 customer accounts, year-end customers accounts,
10 North Shore customer -- year-end customer accounts
11 and a revised response to AG 5.12, which has
12 updated year-end customer accounts for Peoples Gas.

13 So I would add this to AG Cross
14 Exhibit No. 4, which is the revised Peoples Gas
15 customer numbers.

16 JUDGE MORAN: So you're adding a fourth page.

17 MS. LUSSON: It now has four pages.

18 JUDGE MORAN: Okay.

19 MS. LUSSON: Yes. I'll get some more copies.

20 My understanding that the --

21 JUDGE MORAN: Excuse me, but what you gave me is
22 already here, is it not? It looks like the same

1 thing as Page 3 already here.

2 CROSS-EXAMINATION (CONT'D)

3 BY

4 MS. LUSSON:

5 Q. So AG Cross Exhibit No. 4, Grace, contains
6 a cover page and two attachments, one with revised
7 Peoples Gas customer numbers and North Shore Gas
8 customer numbers.

9 Do you recognize these responses,
10 Ms. Grace.

11 A. Yes, I do.

12 Q. And are those true and correct customer
13 numbers for the Company?

14 A. For year-ended September, yes.

15 MS. LUSSON: And I would move for the admission
16 of AG Cross Exhibit No. 4, Grace.

17 JUDGE MORAN: Okay. Is there any objection?

18 MR. HOUSE: Your Honor, I would only reserve the
19 right to make certain that one of the cover pages
20 that we've not been able to verify is -- does not
21 modify anything, but we would do that subject to
22 check, and I spoke to counsel for the attorney

1 general and she agrees.

2 JUDGE MORAN: Okay. Then that's fine.

3 And this is -- this AG Grace --

4 AG Cross, Grace, Exhibit No. 4, three pages is

5 accepted, admitted into the record subject to check

6 (Whereupon, AG Cross Grace

7 Exhibit No. 4 was

8 admitted into evidence as

9 of this date.)

10 MR. HOUSE: Yes, your Honor.

11 JUDGE MORAN: Thank you.

12 MS. LUSSON: Thank you for your patience.

13 JUDGE MORAN: That's okay.

14 MS. LUSSON: Thank you, Ms. Grace.

15 JUDGE MORAN: I just have one more question.

16 Not a follow-up. Something I forgot to ask.

17 FURTHER EXAMINATION

18 BY

19 JUDGE MORAN:

20 Q. Ms. Grace, in terms of those two -- two

21 mechanisms -- or no. Well, the two proposals, the

22 WNA and the VBA, are you able to tell me today what

1 the Company's preference is between those two or
2 does the Company have a preference?

3 **A.** Yes. The Company filed VBA as its primary
4 proposal --

5 **Q.** Right.

6 **A.** -- and believes VBA is the most appropriate
7 mechanism.

8 **Q.** Okay. And I'm only concerned because I
9 think in later term -- later on in the testimony,
10 and, admittedly so, there was more discussion of
11 the WNA, but that's because it was new at that
12 point, but it never -- I'm wondering if your
13 revised surrebuttal contains anything on that?

14 **A.** Mr. Borgard addressed this issue in his
15 testimony. So he stated Company's position on VBA
16 and WNA in his testimony.

17 **Q.** Okay. And so the last word is in his
18 testimony?

19 **A.** Yes.

20 JUDGE MORAN: Thank you.

21 All right. Are there any other
22 questions for Ms. Grace?

1 MR. FOSCO: Actually, could I have one follow-up
2 to your question?

3 JUDGE MORAN: Sure.

4 RECROSS-EXAMINATION

5 BY

6 MR. FOSCO:

7 Q. The Administrative Law Judge Moran asked if
8 there were any other updates to bill impacts and
9 you indicated that there weren't by staff or
10 intervenors, but isn't it true that staff sent a
11 data request to the Company asking the Company to
12 provide an updated bill impact analysis?

13 A. I believe that Judge Moran asked if staff
14 or intervenors had produced bill impacts and my
15 response to her was accurate. I had said no.

16 Q. That wasn't my question to you, though.

17 I was asking a follow-up to that. Did
18 staff ask the Company to provide to staff an
19 updated bill impacts analysis?

20 A. Yes.

21 Q. And the Company objected to that on
22 timeliness concerns; is that correct?

1 **A.** I don't remember the exact wording of the
2 objection, but there was an objection.

3 MR. FOSCO: Okay. Thank you.

4 JUDGE MORAN: Okay. Any other cross for
5 Ms. Grace?

6 MR. HOUSE: Just a second, your Honor.

7 JUDGE MORAN: Then we'll go to redirect, okay?

8 (Pause.)

9 MR. HOUSE: Nothing further, your Honor.

10 JUDGE MORAN: Okay.

11 MR. RATNASWAMY: One moment.

12 (Pause.)

13 MR. HOUSE: Your Honor, there is just a matter
14 that I might to simply state for the record, and I
15 don't necessarily believe that it requires a
16 redirect of Ms. Grace, but she mentioned that
17 Mr. Borgard's surrebuttal contains the Company's
18 final word on the matter and I believe it's in
19 Mr. Borgard's rebuttal testimony as opposed to
20 surrebuttal.

21 JUDGE MORAN: Okay. That's just a point of
22 clarification.

1 MR. HOUSE: Yes.

2 JUDGE MORAN: I guess that's it then for
3 Ms. Grace, and thank you for coming in.

4 The next witness -- now, I know we have
5 a witness that has to -- that has to be put on
6 today. That's Mr. Crist.

7 Where is he?

8 JUDGE GILBERT: I think he's in the main hearing
9 room.

10 (Discussion off the record.)

11 JUDGE MORAN: Everybody raise your right hand
12 that's going to testify.

13 (Witnesses sworn.)

14 JUDGE MORAN: Great.

15 MR. ROBERTSON: Your Honor, in cases we've just
16 identified the exhibits without going through the
17 all the other stuff absent an objection from any of
18 the parties. Then the record will show what the
19 exhibit numbers are and you don't have to go
20 through all that stuff, did you prepare it, is it
21 true and correct and all of that.

22 JUDGE MORAN: Yes. All right.

1 (Recess taken.)

2 JUDGE GILBERT: All right.

3 Go ahead, Mr. Moore.

4 JAMES L. CRIST,

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

7 DIRECT EXAMINATION

8 BY

9 MR. MOORE:

10 Q. Could you please state your name.

11 A. James Crist, C-r-i-s-t.

12 Q. And I show you what has been marked for
13 identification as RGS Exhibit 1.0 containing --
14 entitled the Testimony of James R. -- James L.
15 Crist containing 46 pages of testimony and two
16 attachments.

17 Is this your testimony?

18 A. Yes, it is.

19 Q. And if asked the same questions, you would
20 give the same answers today?

21 A. Yes, I would.

22 Q. Do you have any corrections to Exhibit 1.0,

1 RGS?

2 **A.** Yes, I do.

3 On Page 15, Line 15, I'm going to
4 replace the word "attenuate" with the word
5 "corresponding."

6 On Page 19, Line 3, the correct docket
7 number 01-0470.

8 Page 23, Line 9, I'm changing the word
9 "we" to the word "is." So that'll read,
10 "recallable means that if a supplier is not using
11 the capacity."

12 Page 30, Line 14, the end of the line,
13 we're changing the word "if" to "it." So it reads,
14 "is an improvement over the current situation
15 because it results in more equitable recovery of
16 costs from cost causers."

17 And Page 34, Line 16, the Senate Bill is
18 Senate Bill 1299, and that's the bill that directs
19 the electric utilities can --

20 JUDGE GILBERT: Okay. We have it.

21 THE WITNESS: Oh, okay.

22 BY MR. MOORE:

1 Q. Now, are there any other changes to your
2 testimony?

3 A. Not to the direct.

4 Q. Okay. Now, I show you what has been marked
5 for identification as RGS Exhibit 2.0, the rebuttal
6 testimony of James L. Crist, and this contains 29
7 pages of testimony and one exhibit?

8 A. Two exhibits.

9 Q. Two exhibits.

10 Is this your rebuttal testimony?

11 A. Yes, it is.

12 Q. And if asked these questions, you'd give
13 the same answers today?

14 A. Yes, I would.

15 Q. And do you have any corrections to your
16 rebuttal testimony?

17 A. Yes, I have two.

18 On Page 19, Line 17, I'm going to
19 correctly spell Ms. Pischevar's name.

20 P-i-s-h-e-v-a-r. She sent me an email on that.

21 Page 24, Line 29. And, here, I'm going
22 to replace where it says, "NAA (sic) Witness

1 Pishevar." Strike "NAA Witness Pishevar." That is
2 Mr. Zack. It should be Mr. Zack.

3 Q. Okay. And do you have any other changes to
4 your testimony?

5 A. No, I do not.

6 MR. MOORE: At this time, I move into evidence
7 RGS Exhibit 1 and RGS Exhibit 2.

8 JUDGE MORAN: Any objections?

9 Admitted.

10 (Whereupon, RGS
11 Exhibit Nos. 1 and 2 were
12 admitted into evidence as
13 of this date.)

14 JUDGE MORAN: Who okay who has cross for?

15 MR. MROWCA: The Company does.

16 JUDGE MORAN: Please.

17 MR. MROWCA: My name is Jerome Mrowca, spelled
18 M-r-o-w-c-a. I'm counsel for North Shore and
19 Peoples Gas. And, Mr. Crist, I have a few
20 questions for you.

21

22

1 CROSS-EXAMINATION

2 BY

3 MR. MROWCA:

4 Q. When did you begin working with Peoples Gas
5 and North Shore on your problems with their Choices
6 CFY program?

7 A. We had discussions with them. I'm not sure
8 if I can pinpoint the month and the day, but it's
9 been over a year.

10 In advance -- in advance of their merger
11 with WPS. I said we've had discussions for over a
12 year beginning in advance of their merger with WPS.

13 Q. Okay. And it is fair to say that the
14 utilities -- and I'll just try to use the word
15 "utilities" to refer to both companies -- they
16 haven't agreed to all your CFY proposals over the
17 time, have they?

18 A. It's fair to say. It's accurate that they
19 not agreed to of all of my proposals.

20 Q. Okay. But they have accepted some of your
21 proposals over time, haven't they?

22 A. Yes, we've reached agreement on a few of

1 the proposals.

2 Q. For example, they recently eliminated a
3 requirement for a CFY supplier cap customer meter
4 number before the supplier could enroll a customer
5 in CFY program, didn't they?

6 A. Yes, they did.

7 Q. Okay. And they also eliminated the minimum
8 pool size of 50; is that correct?

9 A. They -- yes, they did.

10 Q. Okay. And in this case, they proposed to
11 increase their month-end tolerance from two percent
12 to five percent?

13 A. Yes, they're bringing that in line with the
14 existing tolerance that's in the Nicor tariff.

15 Q. But it is a 150 increase from the current
16 monthly tolerance?

17 A. It's a three-percent increase from the
18 existing tolerance, two percent to five percent.

19 Q. At your suggestion, they also moved the
20 ABG -- ABGC charge billing from the supplier to the
21 customer; is that correct?

22 A. That is correct.

1 **Q.** Okay. And they're also increasing the --
2 proposing to increase the Rider P pool size limit
3 from 150 to 200; is that correct?

4 **A.** Can you repeat that? Which one?

5 **Q.** They're proposing to increase the rider
6 pool size limit from 150 accounts to 200 accounts?

7 **A.** I'm not sure if that was one of my issues.

8 **Q.** Okay. We'll move on.

9 They are proposing to allow intraday end
10 user reallocation of confirmed gas deliveries; is
11 that correct?

12 **A.** Again, not my issue. I don't know.

13 **Q.** Okay. How about they -- they've also
14 proposed to drop the \$10 enrollment charge?

15 **A.** That is correct.

16 **Q.** Okay. And they're also proposing to
17 provide a credit for working capital for the CFY
18 aggregation charge?

19 **A.** Yes -- yes. Credit for working capital.
20 That is correct.

21 **Q.** Okay. Thank you.

22 You want the utilities to be obligated

1 to supply your members with customer payment data
2 including a late payment data; is that correct?

3 **A.** Yes, I want the utilities to provide the
4 members with data which the customers have
5 authorized concerning gas consumption history,
6 billing history and payment history.

7 **Q.** Okay. But your members aren't willing to
8 indemnify the companies against any customers
9 claims that the disclosure of that data to your
10 members was not authorized or otherwise
11 inappropriate?

12 **A.** We haven't had discussions on the
13 indemnification issue. So the short answer is no.

14 We haven't agreed to indemnify the
15 Company of providing data -- of results of
16 providing data to the RGS members.

17 **Q.** Okay. You claim that Peoples doesn't
18 assign a proportionate share of all of its
19 stored assets to CFY customers; is that correct?

20 **A.** Right.

21 That actually is my major claim in this
22 case is that we don't have appropriate equitable

1 shares of the storage or the rights to move gas in
2 and out of storage commensurate with the Company's
3 rights.

4 **Q.** Okay. Well, do any of the RGS members
5 assign any aggregate -- a hundred percent of all of
6 their legal rights under their supply assets to
7 their customers?

8 **A.** I would have no knowledge of that.

9 **Q.** At Page 43, Lines 15 to 18 of your direct
10 testimony, you stated that making all of the
11 changes that you're proposing to the CFY program
12 would reduce the utility's risk by shifting the
13 risk and responsibility of managing gas deliveries
14 and storage operations to CFY suppliers?

15 **A.** Correct.

16 **Q.** Okay. Do you have any documents, studies
17 or analysis that supports that assertion?

18 **A.** No analyses that support that.

19 The shift of managing gas supply, the
20 responsibility and the risk of doing that, would be
21 with the supplier so that the shift of moving the
22 gas supply management responsibility to the

1 suppliers. It then follows that the risk of
2 managing that goes with the suppliers.

3 **Q.** Okay. But you're not suggesting that the
4 CFY suppliers would assume physical operational
5 responsibility and control for managing the
6 utility's gas deliveries in storage, are you?

7 **A.** No, I've not suggested that CFY suppliers
8 physically go in and manage any of the utility
9 operations.

10 **Q.** Okay. Let's go on to Page 24 of your
11 rebuttal testimony, please.

12 Looking at Lines 21 to 23, you're
13 suggesting that the Company should rely on the
14 standard contract language to assume that the CFY
15 supplier has a customer consent to provide payment
16 history information; is that fair to say?

17 **A.** Yes.

18 **Q.** Okay. If -- if one of your customers
19 scratches out the standard language, how would the
20 companies know about that?

21 **A.** If -- now, keep in mind the retail
22 suppliers deal with mass market customers. So

1 we're talking residential and small commercial.

2 If a customer disagreed with some of the
3 language, specifically the language that we're
4 talking about which empowers the Company to get
5 billing histories, gas consumption history and
6 payment history, then that would be an account
7 where the retail gas supplier would not request
8 such history from the Company.

9 Now, the practicality is they need the
10 gas supply history of that customer. So I can't
11 envision and I'm not aware of an example where a
12 customer has scratched out that language in your
13 hypothetical example.

14 **Q.** Okay. Let's look at Lines 23 to 25 on the
15 same page. The language proposes that the
16 utilities make such information available
17 immediately. Is this like within 60 seconds or...

18 **A.** No, the -- the immediacy requirement is
19 within a reasonable turn around time so that the
20 Company can have that billing and payment history,
21 and then based on that history, make a judgment as
22 to if this customer's current with their bill or

1 not, and then forego the time and the expense of
2 going to an outside credit rating agency to get a
3 credit rating on the customer.

4 Mr. Zack agreed to provide that
5 information. He just says we'll provide the
6 information after the gas is flowing to the
7 customer. Well, that's a little too late to be
8 useful for the gas supplier to make a judgment.

9 So I'm not talking about I'm not
10 providing information. He just says he'll do it.
11 We just need it in time to make a --

12 MR. MROWCA: Object. It's way beyond the scope
13 of what I asked him for.

14 MR. MOORE: Not at all. He asked what's
15 reasonable and he can hear the definition of
16 reasonable is prior to the delivery of gas.

17 MR. MROWCA: I didn't ask reasonable. I asked
18 what immediately meant.

19 JUDGE GILBERT: All right. From the point where
20 he said, "we are not talking about," strike that
21 and any things after it. Everything before stays
22 in.

1 Next question.

2 BY MR. MROWCA:

3 **Q.** Thank you.

4 Looking at Lines 25 to 27, providing
5 data for a period, the greater of the time period
6 that the customer has been receiving service from
7 the Company for 36 months.

8 If the customer's only been supplying --
9 being supplied by the Company for a year, would you
10 agree the Company's only going to have one year of
11 payment data?

12 **A.** Yes, they would have one year of payment
13 data, and this definition would say that they would
14 provide that one year of data.

15 **Q.** Well, it says the greater of the time
16 period the customer's been receiving service for 36
17 months.

18 **A.** They would have no data, for example, from
19 Month 13 to Month 36 to provide. But in the
20 event -- the reason I wrote that this way is in the
21 event they've been with the Company five years, all
22 I'm saying is --

1 Q. 36 months?

2 A. 36 months.

3 Q. May I suggest that "greater" should
4 probably be "lesser"?

5 A. I'd go with that.

6 Q. Okay. You'd have to admit that the receipt
7 of payment history from the companies themselves is
8 not the only way for a supplier to determine if a
9 customer's a poor credit risk, wouldn't you?

10 A. That's correct. Right now, they go outside
11 and pay for credit reports.

12 Q. Okay.

13 A. It's an expense that we're talking about.

14 Q. There are other ways obtaining payment
15 history. That was going to be my next question.
16 Okay.

17 And there are independent commercial
18 services that provide this service and, in fact,
19 some of your members use these services now?

20 A. That's true. And the issue is merely
21 around the expense of doing so.

22 Q. If I understand your proposal about the

1 assignment of storage capacity correctly, you are
2 proposing that during a withdrawal period, a
3 supplier could withdraw up to 2.2 percent times the
4 group's storage inventory as of November 1 on any
5 day that is not a critical supply shortage day?

6 **A.** Correct.

7 **Q.** Okay. So under that hypothetical, the
8 supplier would be able to withdraw 2.2 times --
9 there's 30 days in November, right? Be able to
10 withdraw 66 percent of its group storage inventory
11 as of the close of November 30th?

12 **A.** Correct.

13 **MR. MROWCA:** No further questions.

14 **JUDGE GILBERT:** No one else?

15 All right. Mr. Crist, I have a question
16 about your proposal to have the companies purchase
17 bad debt from your clients.

18 EXAMINATION

19 BY

20 JUDGE GILBERT:

21 **Q.** I don't actually understand how that works.
22 I'm looking at Page 31 of your direct.

1 Let's take an example of a customer that
2 simply paying pays nothing on the bill.

3 **A.** Okay.

4 **Q.** At what point in time would that be --
5 would that debt be transferred to the utility?

6 **A.** And I'm basing my program on other programs
7 I've seen.

8 So what usually happens is a utility
9 renders the bill to the customer. And when that
10 bill becomes due is when the utility pays the
11 supplier that bill amount, whether or not the
12 utility has received payment from the customer.

13 So, in other words, the supplier's
14 whole. The utility's holding the receivable and
15 then has the responsibility to pursue that
16 collection of the receivable.

17 **Q.** Okay.

18 **A.** So it's when the bill's due.

19 **Q.** And would that be a regular date?

20 **A.** A normal utility bill is due, say, 20 days
21 after being rendered, and a supplier bill, which
22 the utility does bill -- you know, we bill for the

1 suppliers in this case. So it's due at the same
2 time, 20 days after the bill rendered is customary.

3 Q. Okay. Is your proposal limited to the
4 situation in which the utility is billing for the
5 supplier?

6 A. Yes.

7 Q. On Page 32 at Line 20 -- actually, Line 19,
8 if you take a look at that last sentence there.

9 And -- well, it's a single sentence.
10 So, to provide some courtroom drama, I can read it.
11 POR (phonetic) program allows suppliers to offer
12 their products to all customers regardless of their
13 credit history.

14 All right. Now, if you take a look at
15 Page 38 of your direct. Take a look at the
16 question and answer that there that starts on
17 Line 9 and runs through the Line 16.

18 A. Okay.

19 Q. Okay. So in support of your recommendation
20 that customer data be released by the utility to
21 the supplier --

22 A. Hm-hmm.

1 **Q.** -- you say that this will, quote, enable
2 the -- well, the word enable is not there. I'm
3 sorry.

4 It will enable, quote, so that suppliers
5 may go about their business of evaluating potential
6 customer's creditworthiness.

7 All right. So you want information --
8 close quote. So you want information in order to
9 evaluate creditworthiness. But on the due date of
10 the bill, if it's not paid, that becomes the
11 responsibility of the utility?

12 **A.** Let me explain the apparent perhaps
13 contradiction.

14 If you have purchaser receivables, then
15 the marketers don't need to evaluate
16 creditworthiness because all customers -- they can
17 approach all customers without concern about credit
18 because the Company retains the responsibility for
19 collections.

20 Right now, we don't have purchase
21 receivables. So the marketers have to concern
22 themselves with creditworthiness, and that's why

1 they would need this data, for example, to do a
2 credit assessment and to decide whether to take a
3 customer or not take a customer.

4 So if purchase of receivables is
5 implemented as a result of this case, then they
6 don't need the billing and payment history data.
7 If purchase of receivables is, unfortunately, not a
8 result of this case, then they do need that billing
9 and payment data to better evaluate the
10 creditworthiness.

11 **Q.** Now, I ask this just because over the time
12 I've been here, I've handled, let's say, consumer
13 complaint cases in which consumers have, for
14 whatever reason, established a record of nonpayment
15 with their utility. Maybe a gas utility. Maybe an
16 electric utility. Maybe telcom.

17 In any event, I'm assuming, because of
18 your sentence on 32, which we discussed from Lines
19 19 to 21, that customer, even if that customer had
20 a repeated bad debt, uncollected bad debt with the
21 companies involved here, would still be served by
22 the supplier and the receivable would still -- or

1 responsibility for the receivable would still pass
2 to the utility?

3 **A.** You've raised a good point. You're getting
4 into a level of detail that I really didn't
5 describe here; but in those cases, oftentimes,
6 utility programs tag a customer as this is a
7 consistent, you know, bad debt customer and they
8 don't allow them to participate in choice programs.
9 Because why move told them to a supplier knowing
10 they're only going to bad debt with a supplier and
11 then have to move them back.

12 **Q.** You're not recommending that there be a
13 discount associated with the receivables, are you?

14 **A.** In -- I offered up two examples of
15 programs, and the one that I recommended was a zero
16 discount program because we're in a base rate
17 proceeding right now. So we can do the forecast
18 and put it into the expected bad debt, correct.

19 JUDGE GILBERT: That's all I've got.

20 Redirect?

21 MR. MOORE: We have no redirect.

22 JUDGE GILBERT: Okay.

1 MR. MROWCA: Your Honor, I'd like to follow up
2 on the purchase of receivables, since you raised
3 it -- raise a couple questions.

4 JUDGE GILBERT: No, we're going to move on.
5 Sorry. There's no recross if there's no redirect.

6 Okay. Mr. Moul.

7 JUDGE MORAN: Okay. The next witness is Paul?

8 MR. JACKSON: Moul.

9 THE WITNESS: Moul.

10 JUDGE MORAN: Moul.

11 Okay. And he is a witness for the
12 companies.

13 MR. JACKSON: That's correct.

14 JUDGE MORAN: And this is attorney?

15 MR. JACKSON: Brad Jackson.

16 JUDGE MORAN: Okay. Mr. Jackson, you ready to
17 put your witness on?

18

19

20

21

22

1 PAUL MOUL,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. JACKSON:

7 **Q.** Please state your name for the record.

8 **A.** Yes. My name is Paul Moul. That's spelled
9 M-o-u-l, and my pronunciation of it rhymes with the
10 word owl.

11 JUDGE MORAN: How nice. That's so easy.

12 BY MR. JACKSON:

13 **Q.** Mr. Moul, let's start with your direct.

14 You prepared two pieces of direct, one
15 for each company. NS or North Shore Exhibit PRM
16 1.0 revised; is that correct?

17 **A.** Yes, that's correct.

18 **Q.** And PGL or Peoples Gas Exhibit PRM 1.0
19 revised; is that correct?

20 **A.** Yes, that's also correct.

21 **Q.** Do you have any corrections to either piece
22 of direct testimony?

1 **A.** To the revised testimony, none that I'm
2 aware of at this time.

3 **Q.** And in connection with your direct
4 testimony, did you also prepare the exhibits which
5 have been marked North Shore PRM 1.1 through 113?

6 **A.** Yes, that's also correct.

7 **Q.** And 1.13 includes Subparts A through H; is
8 that correct?

9 **A.** Yes, that's correct.

10 **Q.** And you have a similar set of exhibits in
11 connection with your Peoples Gas direct testimony,
12 that is, Peoples Gas Exhibit PRM 1.1 through 1.13?

13 **A.** Yes, that's also correct.

14 **Q.** Any corrections to the exhibits?

15 **A.** None that I'm aware of at this time.

16 **Q.** You also -- did you also prepare for this
17 proceeding joint company rebuttal testimony which
18 has been marked NS PGL Exhibit PRM 2.0?

19 **A.** Yes, that's correct.

20 **Q.** Do you have corrections to that piece of
21 testimony?

22 **A.** Yes, I do, and it's essentially one

1 correction that needs to be made nine -- nine times
2 at the beginning in the first couple pages of the
3 testimony.

4 JUDGE GILBERT: I'm sorry. Let me stop you. Is
5 this to rebuttal or surrebuttal?

6 MR. JACKSON: Rebuttal.

7 THE WITNESS: Rebuttal.

8 JUDGE MORAN: Rebuttal.

9 THE WITNESS: And the correction that I have
10 there is to the --

11 JUDGE GILBERT: Let me ask you to wait. I've
12 apparently grabbed Mr. Feingold's testimony instead
13 yours on rebuttal. I'll be right back.

14 (Pause.)

15 THE WITNESS: Your Honor, it's the same
16 correction that needs to be made nine times in the
17 first couple of pages of the testimony and it has
18 to do with the spelling of Ms. Kight-Garlisich's
19 name. And I feel terrible about this correction
20 here. I know what it feels like to have their name
21 misspelled. It happens to me often.

22 There's an extra "s" in it, and I'll

1 just run through the nine different occurrences at
2 the beginning of the testimony where that was made.

3 It was on line 13. You see there's an
4 extra "s" in the fourth letter, needs to be
5 removed. The same thing occurs on Line 24,
6 Line 27, Line 35, Line 38, Line 41, Line 52, Line
7 60 and finally at Line 114. And, afterwards, the
8 spelling clears up in the balance of the document.
9 I really do apologize for that error on my part.

10 BY MR. JACKSON:

11 **Q.** In connection with that rebuttal testimony,
12 did you also prepare the exhibits which have been
13 marked North Shore/Peoples Gas Exhibit PRM 2.1
14 through 2.4?

15 **A.** Yes, I did.

16 **Q.** And, finally, did you prepare the
17 surrebuttal testimony which has been marked
18 North Shore/Peoples Gas PRM 3.0?

19 **A.** Yes, I did that as well.

20 **Q.** Do you have any corrections to that piece
21 of testimony?

22 **A.** None that I'm aware of at this time.

1 MR. JACKSON: Your Honors, I'd seek the
2 admission of Mr. Moul's exhibits as identified and
3 with the corrections to his rebuttal testimony.

4 JUDGE GILBERT: I had stepped out. And I when I
5 returned, I heard the word "revised." Can you
6 explain to me what that refers to?

7 MR. JACKSON: His direct testimony was revised.
8 There is an errata issued shortly after it was
9 originally filed. We more recently filed a revised
10 version of his direct to incorporated those
11 corrections.

12 JUDGE GILBERT: Okay. Would you have a copy of
13 that with you that I can retain?

14 JUDGE MORAN: Are there any objections to the
15 admissions of the testimony as presented?

16 Hearing none, it is admitted.

17 (Whereupon, NS/PGL
18 Exhibit Nos. PRM 1.0, 2.0 and 3.0
19 were admitted into evidence as
20 of this date.)

21 MR. JACKSON: And the witness is tendered for
22 cross-examination.

1 JUDGE MORAN: Thank you.

2 And who wishes to start?

3 MR. REDDICK: I'll start.

4 JUDGE MORAN: Hello.

5 CROSS-EXAMINATION

6 BY

7 MR. REDDICK:

8 Q. Mr. Moul, my name is Conrad Reddick. I
9 represent the City of Chicago in this proceeding.

10 A. Good afternoon.

11 Q. Let me show you first three responses to
12 data requests that have been marked for
13 identification as City Cross Moul Exhibits 3, 4,
14 and 5.

15 (Whereupon, City Cross Moul
16 Exhibit Nos. 3, 4 and 5 were
17 marked for identification
18 as of this date.)

19 BY MR. REDDICK:

20 Q. The one that's been labeled 3 is a Request
21 No. CUB/City 4.08. 4 is a Request No. CUB/City
22 4.12, and 5 is Request No. CUB/City 4.13.

1 Have you had a chance to take a look at
2 those?

3 **A.** I have.

4 **Q.** Do you recognize them?

5 **A.** I do.

6 **Q.** And were those responses prepared by you or
7 under your supervision?

8 **A.** They were.

9 MR. REDDICK: Okay. Given the time, we can move
10 right along.

11 I request that these three exhibits be
12 admitted and we can skip over these questions.

13 MR. JACKSON: No objection.

14 JUDGE MORAN: Is there any objection?

15 MR. JACKSON: No.

16 JUDGE MORAN: Okay. Then please give me those
17 exhibits again, numbers.

18 MR. REDDICK: 4.13. I'm sorry.

19 JUDGE MORAN: No.

20 MR. REDDICK: 4.08.

21 JUDGE MORAN: Exhibit numbers.

22 MR. REDDICK: 3, 4 and 5.

1 JUDGE MORAN: Thank you.

2 MR. REDDICK: Okay. Did you need me to do the
3 correlation?

4 JUDGE GILBERT: I do. I'm sorry.

5 MR. REDDICK: 4.08, 3; 4.12, 4; 4.13 is No. 5.

6 BY MR. REDDICK:

7 Q. Okay. Mr. Moul, turning to your testimony,
8 would you define for us "investor expectations" as
9 you use that term in your testimony?

10 A. In which --

11 Q. Investor expectations.

12 A. I heard you.

13 Which of the testimonies?

14 Q. Any one.

15 A. Well, investor expectations has to do with
16 what investors could reasonably expect as an
17 outcome of an event or an occurrence. For
18 instance, what they might expect is the outcome of
19 a rate case adjudication. I mean, that might be
20 one expectation.

21 Another might have to be -- have to do
22 with the expectations insofar as sales or earnings

1 or dividends. I mean, investors have expectations
2 on all sorts of things.

3 **Q.** Well, with respect to the return on equity,
4 would you -- would you discuss the term "investor
5 expectations" in that specific context?

6 **A.** Again, it impacts or it relates to a lot of
7 different factors that investors would think about
8 or consider when they're deciding to take a
9 position in a particular security or to sell a
10 security, for that matter.

11 They might look at the expected earnings
12 of a company as revealed by annual forecasts. They
13 might look at expected earned returns. Here, I'm
14 talking about the ROE on a company. They might
15 have expectations concerning how rate cases are
16 decided. They might have expectations on how
17 dividend policy is going to be applied going
18 forward. There's a whole host of elements about a
19 company that investors form expectations about.

20 **Q.** Okay. And one of the things you mentioned
21 was that investor expectations with respect to a
22 particular utility's ROE might be based on what

1 investors expect this Commission to do, for
2 example, in this case in determining the
3 appropriate ROE?

4 **A.** Sure. That would be one of the things they
5 would consider. There'd be lots of things, too.

6 I mean, the sales of -- I mean,
7 obviously, what the Commission does have a big
8 impact on that; but, you know, what the company
9 sales are and customer growth and all sorts of
10 factors.

11 **Q.** So you're not using this term as a term of
12 art, meaning an estimate of a required return on
13 equity based on, mainly, objective market data?

14 **A.** It could be used in that -- in that sense
15 as well, but I'm not restricting it to that.

16 **Q.** How are you using it?

17 **A.** I'm using it in a variety of ways.

18 I'm not saying that you couldn't use it
19 in that context because, indeed, you could.

20 **Q.** So --

21 **A.** I'm sorry.

22 **Q.** I'm sorry. Finish your answer.

1 **A.** But you can use it in a lot of other
2 contexts as well.

3 **Q.** Okay. In your testimony, do you use it
4 consistently with one meaning or do you use it with
5 various meanings?

6 **A.** Various meanings.

7 **Q.** And could you tell us -- gee, is there an
8 easy way for you to describe to us where you used
9 which meaning for this term?

10 **A.** We just have to go through the testimony
11 and identify instance by instance. I can't give
12 you a generic or rule of thumb that you could apply
13 throughout the testimony.

14 **Q.** So in some instances, we might be talking
15 about something that's fairly subjective; and in
16 other instances, you would be talking about
17 something that's based on objective market
18 information or data or quantitative data of some
19 sort.

20 **A.** That's correct.

21 **Q.** And in your testimony, you didn't attempt
22 to distinguish in particular instances how you were

1 using that term?

2 **A.** Oh, I think I did.

3 I mean, when I -- I tried to organize
4 the testimony in a logical fashion where I would
5 talk about growth rates in one section of the
6 testimony or dividend yields in another or risk
7 premiums in another. And I tried to be consistent
8 within that context of what investor expectations
9 would be, like earnings growth rates. I mean, I
10 was consistent there in defining, I think, what I
11 meant by earnings -- investor expectations insofar
12 as earnings growth rates go.

13 **Q.** Well, let's take that one as an example,
14 earnings growth rates.

15 Investor expectations, as you use it in
16 your testimony with respect to earnings growth
17 rates, is what?

18 The subjective meaning? The objective
19 meaning? Something in between?

20 **A.** I would say something in between.

21 Obviously, it's based on -- there's some
22 hard data out there. Forecasts that analysts

1 produce as revealed by the Value Line pages or the
2 IBUS (phonetic) consensus growth rates or the
3 Zack's consensus growth rates or the Reuters
4 consensus growth. There's hard data on that, but
5 that also is just somebody's judgment of what they
6 think earnings are going to be.

7 But it affects investor's expectations
8 because investors have knowledge and access to this
9 information and they can use that in making
10 judgments as to whether to buy, hold or sell a
11 security.

12 **Q.** Hm-hmm. Now, from the definition you've
13 given us, it seems to me that it's entirely
14 possible that an investor would, looking at the
15 kinds of things you're looking at, have an
16 expectation of a certain return on equity from an
17 investment; but at the same time, that expectation
18 might not be the same as the market-required return
19 on equity?

20 **A.** That's right because investors are
21 disappointed all the time. Investors may have
22 expectations of certain outcomes and they don't

1 come to pass.

2 Q. And I believe that's my point, that
3 investor expectations is a concept that is not
4 always equal to the required rate -- I'm sorry.
5 Been a long day -- required return on equity for a
6 particular security?

7 A. That's correct.

8 Q. Okay. I have three additional responses to
9 data requests to show you and I believe these have
10 been marked 7 -- no, 6, 7 and 8.

11 (Whereupon, City Cross Moul
12 Exhibit Nos. 6, 7 and 8 were
13 marked for identification
14 as of this date.)

15 BY MR. REDDICK:

16 Q. And No. 6 should be the response to
17 CUB/City 4.02. No. 7 should be the response to
18 CUB/City 4.03, and No. 8 should be the response to
19 CUB/City 4.04.

20 And are these data request responses
21 that you recognize, Mr. Moul?

22 A. I do.

1 **Q.** And these two were prepared by you in
2 response to the data requests by the City and CUB?

3 **A.** They were.

4 MR. REDDICK: I move the admission of City Cross
5 Moul Exhibits 6, 7 and 8.

6 JUDGE GILBERT: Any objection?

7 MR. JACKSON: No.

8 JUDGE GILBERT: Okay. They're admitted.

9 (Whereupon, City/CUB Cross
10 Exhibit Nos. 6, 7 and 8 were
11 admitted into evidence as
12 of this date.)

13 BY MR. REDDICK:

14 **Q.** Staying with investor expectation for a
15 moment, it seems to me, and correct me if I'm
16 wrong, that the more subjective piece of investor
17 expectations could be based on something like the
18 orders of Commissions in other states for ROE for
19 other utilities.

20 That might give an investor a subjective
21 expectation that this Commission, for example,
22 would follow that or try to come close to that. Is

1 that a possibility?

2 **A.** Certainly, it is, because those types of
3 decisions in rate cases are being rendered within a
4 regulatory framework that is very similar from
5 state to state to state, unless you're in
6 performance based rates or some alternative rate
7 setting regime.

8 And since the overall framework of rate
9 base, rate of return regulation is common across
10 most of the states -- not all, but most of the
11 states, when rate case decisions come out, they get
12 widely publicized and they have an influence on
13 what investors expect from companies operating in
14 that industry.

15 **Q.** Okay. But with respect to any one of those
16 particular utilities in that universe -- covered by
17 that universe of decision, with respect to any one
18 of those utilities, there is a required return on
19 equity that investors will demand based on the
20 riskiness of that particular enterprise; am I
21 correct?

22 **A.** I don't think I understand your question.

1 In the context of the rate case
2 decision?

3 **Q.** No.

4 **A.** Oh, I misunderstood your question.

5 **Q.** I'm talking about investor expectations.

6 **A.** Oh, okay.

7 **Q.** Okay. So looking at investor expectations,
8 it seems to me that investors looking at decisions
9 like the ones you described could have an
10 expectation that is different from what is required
11 by the market to invest in an enterprise as risky
12 as any one of the particular utilities?

13 If you're confused --

14 **A.** I don't -- I don't believe so, because
15 investors are sophisticated enough to realize that
16 regulators are going to grant the returns necessary
17 to attract capital and provide returns that are
18 commensurate with the returns available on other
19 investments of corresponding risks. And I think
20 they know that those are the parameters that
21 establish how rate cases are decided insofar as
22 rate of return goes.

1 **Q.** Okay. So we can agree then that that's
2 what regulators should award as the authorized
3 return on equity as you just --

4 **A.** Sure.

5 **Q.** -- described?

6 But you acknowledge that utility
7 regulators don't always get it right?

8 **A.** We all make mistakes --

9 **Q.** Yes.

10 **A.** -- as it were.

11 **Q.** Okay.

12 **A.** Sure. They may not always get it right and
13 there's other things that can enter into the
14 decision-making process -- and I don't know if we
15 covered it in one of these interrogatory responses
16 or not.

17 There's incentives that regulators
18 provide to the utilities, recognition of management
19 performance sometime is reflected in rate case
20 decision outcomes.

21 There are other things go into the mix.
22 I agree with you there.

1 **Q.** Right.

2 And some of the things you mentioned
3 like rate incentives awarded by a Commission or
4 various other nonquantitative factors that may go
5 into a Commission's award of a return on equity
6 would affect -- you look like you're about to
7 answer something.

8 **A.** Well --

9 **Q.** I'm not even sure what the end of this
10 question is, so why don't I start over. You
11 distracted me there.

12 Well, some of the things that you
13 mentioned as affecting Commission decisions do
14 affect the amount of revenue a utility gets or the
15 riskiness of the utility?

16 **A.** Sure. And they become part of the
17 investor's expectations.

18 Look what's going on, say, for instance,
19 at the FERC with all the incentives they're giving
20 to building out the transmission system. I mean,
21 those are so widely discussed now that they become
22 part of investor expectations.

1 Investors expect that utilities -- we're
2 talking electrics now, not gases. That when it
3 comes to building out the electric transmission
4 network, there's going to be some sort of
5 incentives built in to the kinds of returns that
6 regulators are granting.

7 I'm a little far afield of your
8 question, but those types of things become embedded
9 investor expectations.

10 **Q.** And that may be the problem. Let me see if
11 I can make this as blunt as possible.

12 Given a choice between meeting the
13 expectations of investors who are looking at other
14 Commission decision, who are looking at the weather
15 forecasts, who are looking at the management
16 changes; given a choice between trying to match
17 those expectations and trying to determine
18 objectively what is the required return on equity
19 to maintain reasonable access to markets, which way
20 should the Commission go?

21 **A.** You need to consider both, because what has
22 to happen is that the return that comes out of a

1 rate case decision has to be competitive with
2 returns that can be obtained elsewhere or the
3 capital's going to go elsewhere.

4 You can't create disincentives for
5 either the utility or the investor in a rate case
6 outcome, because then the capital is just going to
7 be attracted to alternatives.

8 **Q.** Let me skinny that question down.

9 If the Commission that had a decision
10 between meeting investors' expectations or
11 authorizing a number that would maintain access to
12 the capital markets at a reasonable cost, which of
13 the two gets the Commission's priority?

14 **A.** I -- I maintain they have to consider both.
15 I don't think you can separate the two. I don't
16 think it's an either/or choice.

17 **Q.** You mentioned disappointed investors
18 before.

19 If the Commission disappointed investors
20 by authorizing an ROE that was less than their
21 expectations, you're not predicting that every
22 utility investor is going to flee the jurisdiction?

1 **A.** I'm not saying that.

2 But what I will say is that when
3 regulatory decisions occur that seem, for whatever
4 reason and by whatever standards apply, to be
5 punitive, investors take note, rating agencies take
6 note and it becomes more difficult to attract
7 capital in the same terms that they did beforehand.
8 And I'm not talking that maybe the capital's not
9 available, but there might be more stringent terms
10 or conditions attached to it -- to lending capital
11 to a utility.

12 There are consequences of the types of
13 things we're talking about here.

14 **Q.** But if the authorized return before the
15 Commission decision was too high, the fact that
16 there may be some incremental diminution in access
17 to markets may not be a bad thing if it gets closer
18 to the true cost of capital, correct?

19 **A.** Well, I'm not so sure I understand what you
20 by high.

21 **Q.** Too high. Higher than the required return
22 on equity to maintain access to the capital

1 markets.

2 We've talked about Commissions making
3 mistakes. Let's assume that the Commission made a
4 mistake, authorized return on equity that was too
5 high. Now, should they correct it or should they
6 just keep it up there because someone has an
7 expectation of it?

8 **A.** No, I think -- I think they have to look at
9 their decision in the context of what is going on
10 contemporaneously in the regulatory arena.

11 I mean, if a regulator for whatever
12 reason -- I don't know why, but for whatever reason
13 thought he was going to give a utility 15, let's
14 say, and everybody's else is getting 11, well, I
15 would apply the same standard there as to the
16 alternative, whether it was too low.

17 **Q.** Is this a determination you would -- is
18 this an assessment that you would make here, taking
19 account of what else is going on in the world,
20 without looking at objective market data on what's
21 required to get investment in an enterprise of the
22 risk level of the particular utility?

1 **A.** I'm not saying -- and maybe I've gotten too
2 far afield here.

3 I'm not saying that we should divorce
4 ourselves from the market evidence. I think it
5 provides a critical guide to where we need to be as
6 an outcome of a regulatory proceeding.

7 What I'm saying is that once we've
8 assembled all that market data and taken a look at
9 it -- and, typically, you have ranges based upon
10 different positions of the parties -- it's then up
11 to the regulator to exercise his or her discretion
12 to determine a return from that evidence that fits
13 expectations of investors as to what reasonable
14 regulatory outcomes ought to be. I'm --

15 **Q.** If you --

16 **A.** You and I sitting here aren't the
17 decision-makers. I mean, we're merely setting
18 forth, you know -- providing the tools or the
19 guidance to the decision-makers on where the
20 outcome ought to be.

21 (Whereupon, there was a
22 change of reporters.)

1 **Q.** And I think we're about at the end of this.

2 If I grasp what you're trying to say, if
3 we had established an objective market databased
4 estimate of the required return on equity, your
5 position is that the Commission should nonetheless
6 take account of the subjective expectations that
7 are abroad in the land in determining the
8 authorized return?

9 **A.** Yes, in selecting the point in the range as
10 a reasonable outcome in a rate case decision.

11 **Q.** All right. Let's move on to your rebuttal
12 testimony. I don't think you need to refer to it,
13 but I can give you a reference if you need.

14 You assert that if the Commission
15 rejects PGL's proposed revenue assurance riders,
16 that your ROE recommendation should be adjusted
17 upward; is that correct?

18 **A.** I'm sorry. I wasn't paying attention.
19 Which rider?

20 **Q.** Okay.

21 **A.** One or all of them?

22 **Q.** The revenue assurance riders, that would be

1 VBA --

2 **A.** VBA, UBA, those types of things. Yes,
3 because the broad base of companies I looked at --

4 **Q.** Excuse me. I just asked if that was
5 correct.

6 **A.** Yes.

7 **Q.** Did you present a quantitative analysis in
8 your testimony to quantify what that upward
9 adjustment should be?

10 **A.** No.

11 **Q.** In your -- I'm sorry. In your rebuttal
12 testimony -- and here I will give a reference.
13 It's Line 748 -- in talking about the proposed bad
14 debt and decoupling of riders, you assert that --
15 and I quote -- Investors generally expect gas
16 utilities to have regulatory mechanisms to deal
17 with these issues, end quote.

18 Did I read that correctly?

19 **A.** Yes.

20 **Q.** Was the basis for this statement the fact
21 that 9 of 50 states have approved decoupling
22 mechanisms as you report in your direct at Line

1 588?

2 All of my questions are Peoples Gas
3 questions.

4 **A.** Yeah. I'm sorry. I can't find your
5 reference on Line 588.

6 **MR. JOLLY:** Of the direct.

7 **THE WITNESS:** Oh, of the direct. I'm sorry.
8 I'm sorry.

9 **BY MR. REDDICK:**

10 **Q.** I may have the wrong reference myself.

11 **A.** I'm still not finding it. Let's try North
12 Shore.

13 **Q.** Okay. Let's see.

14 **A.** I'm trying to crawl with you, but I don't
15 even think I suggested how many states had those.

16 **Q.** Nope?

17 **A.** I don't recall citing that statistic. I
18 might be wrong on that, but I don't really remember
19 doing that.

20 **Q.** Well, I'll check and if I am, we may be
21 done sooner than we expected.

22 **MR. JAVAHERIAN:** I think it's in Feingold's.

1 BY MR. REDDICK:

2 Q. I may have confused you.

3 MR. JAVAHERIAN: It's right around Line 588 of
4 his testimony.

5 JUDGE MORAN: Oh, you are --

6 MR. REDDICK: Where is it?

7 JUDGE MORAN: You're referring to Feingold's.

8 MR. JAVAHERIAN: I think it's around 588 of
9 Mr. Feingold's.

10 BY MR. REDDICK:

11 Q. Well, let me ask you then, what is the
12 basis for your statement that investors generally
13 expect gas utilities to have regulatory mechanisms
14 to deal with things like bad debt and decoupling?

15 A. Because of my proxy group, which consisted
16 of nine companies. Eight of the nine had such
17 mechanisms.

18 Q. And how did you select your proxy?

19 A. I had six criteria.

20 Should I read them?

21 Q. Well, let me see if I can shortcut this.

22 Generally speaking, did you select

1 companies for your proxy group that had
2 approximately the same level of risk as the
3 companies in this case?

4 **A.** That was the intention.

5 **Q.** And the level of risk that those companies
6 and this company have are effected by whether they
7 have revenue assurance riders, aren't they?

8 **A.** Yeah, but that was not a criteria.

9 **Q.** Okay.

10 **A.** That was not one of the six criteria to be
11 a member of the group.

12 **Q.** That's fine.

13 **MR. REDDICK:** No more questions.

14 **JUDGE GILBERT:** There's one other bit, I
15 believe, by the AG.

16 **MS. DALE:** No cross.

17 **JUDGE GILBERT:** Mr. Moul, I guess I'm the next
18 one.

19 **EXAMINATION**

20 **BY**

21 **JUDGE GILBERT:**

22 **Q.** I'm going to direct -- would you take a

1 look at Page 17, please.

2 **A.** I have that, your Honor.

3 **MR. JACKSON:** Your Honor, is this the Peoples
4 Gas direct?

5 **JUDGE GILBERT:** Yes. And unless I indicate
6 otherwise, just assume I'm talking about Peoples.

7 **BY JUDGE GILBERT:**

8 **Q.** Would you take a look at the paragraph that
9 starts there at Line 375 and runs on to the next
10 page.

11 **A.** Yes, sir.

12 **Q.** There's a kind of growth process or
13 evolution of growth that you describe there.

14 Are you saying that this applies to gas
15 utilities in the same way that it would apply to
16 any other enterprise?

17 **A.** In the long run, I would say, yes. The gas
18 utilities are faced with the exact same types of
19 changes in their business profile that would run
20 them through these different changes.

21 **Q.** Can you quantify the long run as you've
22 just indicated.

1 **A.** Yes. The long run would be the third or
2 steady stage where you have a mature company, which
3 is expected to have stable earnings and payout
4 ratios and so forth.

5 **Q.** All right. And would you characterize
6 Peoples as a steady state stage enterprise?

7 **A.** Yes, with a qualification. Utilities
8 generally are put into that third stage because
9 they are in a mature industry often with steady and
10 predictable earnings and payouts. But as I said in
11 the following sentence, these stages do repeat
12 themselves over time. And we could leave the third
13 stage and start the cycle all over again.

14 But as of today, I would put them in the
15 third stage, yes.

16 **Q.** Okay. And would you have the same opinion
17 with respect to North Shore?

18 **A.** Yes.

19 **Q.** I want to point you to two things and maybe
20 you can help me understand how they work together.

21 Look at Page 6 of your direct and if you
22 take a look starting at Line 135, actually, it

1 would be the last line on the page, the sentence
2 beginning there and running through to Line 0160.
3 Wait a minute. I'm sorry. I don't mean 160. I
4 mean 137.

5 **A.** Yes, I have that.

6 **Q.** Okay. And there you're saying -- and I'll
7 summarize this so I could move on to the
8 comparison -- that a beneficial -- the beneficial
9 impacts of the proposed riders will at least
10 directly manifest at the credit quality level,
11 meaning cost of debt, rather than cost of equity.

12 Have I fairly summarized you there
13 before we move on?

14 **A.** Yes, your Honor, you have.

15 **Q.** Okay. Then if you look at Page 9, again of
16 your direct, look at Line 188 and toward the right
17 there you'll see a sentence beginning with the word
18 "so" and if you just take a look down through that
19 paragraph.

20 **A.** Yes, I see that.

21 **Q.** Okay. So here you seem to be placing more
22 weight on the impact on cost of equity rather than

1 cost of debt.

2 And am I -- am I putting two things
3 together that I should not be putting together?
4 Would you just want to expand on what you said
5 there?

6 **A.** No, I think you see a linkage there; but
7 what I think I'm trying to say is that the fact
8 there's an impact credit quality or credit risk are
9 revealed most directly in the ratings and yields
10 and the bonds and you can see that from the actions
11 of the rating agencies, but it is also a
12 building -- a building block upon which the equity
13 return is developed because equity return requires
14 additional compensation because of the additional
15 risk and last in line and so forth and so on as
16 opposed to the lender's position.

17 **Q.** And as you're looking for that balance of
18 impact, on the one hand, bond quality and on the
19 other hand, cost of equity, is there a way to
20 quantify that?

21 **A.** Well, I do. It's one of my models, the
22 risk premium approach where I build the cost of

1 equity on top of the yield of public utility bond.

2 I mean, that is one of my methods.

3 But at the same time, when we got back
4 to the earlier passage of testimony, what you see
5 as a reaction to some of these riders is manifested
6 mostly in the statements by the credit rating
7 agencies and what they're expecting insofar as, for
8 lack of a better term, a revenue stabilization
9 mechanism.

10 I mean, that's what rating agencies are
11 expecting today. It's all across the industry.
12 And if you don't have it and everybody else does,
13 they're going to put a strike against you.

14 **Q.** Okay. And primarily -- say more than half
15 if you were to quantify that -- that does go to
16 cost of debt rather than cost of equity, does it
17 not?

18 **A.** Yes. I think that's where it shows up.
19 Most, it's the most prevalent place that that shows
20 up.

21 As I said, the credit rating agencies
22 really expect LDCs to have these kind of

1 mechanisms. And if you don't have it, it's a
2 strike against you, in their mind.

3 **Q.** Take a look at Page 8 of your direct, Line
4 171. And you're saying there that the potential
5 return on capital represents the primary focus of
6 investors.

7 If I'm the investor and I'm purchasing
8 an equity, part of how I measure my return would be
9 a change in stock price, hopefully upward.

10 Is that part of what you're talking
11 about here or are you only talking about dividend?

12 **A.** No, absolutely. It's the total return.
13 It's the income you receive during your holding
14 period as well as what you hope to sell the
15 security for eventually.

16 **Q.** Do the models that you used, either the DCF
17 or the CAPM, the C-A-P-M, include an element for
18 appreciation of stock price?

19 **A.** Yes, DCF does. That's the growth component
20 because what you're really saying is, Well, we look
21 at earnings growth, but what we're really saying
22 is -- in the model -- what the model is saying to

1 us is that with a constant price earnings multiple,
2 the share price will go up at the same rate as the
3 earnings growth. So that when you decide to sell,
4 whether it's next week, next year, 20 years from
5 now, in the long run, the share has appreciated in
6 the same rate as the earnings growth and then
7 you'll be able to realize your growth in the sale
8 price of the stock.

9 Q. Okay. So earnings growth becomes the proxy
10 in your model for share price appreciation?

11 A. Correct.

12 Q. All right. And so you assume that those
13 two things will move in lock step?

14 A. Yes, because one of the tenants of DCF is a
15 constant price earnings multiple. So with the
16 constant price earnings multiple, the share value
17 will increase at the same price as earnings will.

18 Q. Okay. Let's take a look at your rebuttal.
19 Let's start on Page 30. And this is a question
20 really that I have for all of the witnesses who are
21 utilizing the DCF and CAPM models.

22 What is the "M" in CAPM, is that model?

1 **A.** Mm-hmm. Yes.

2 **Q.** So you've seen the CAPM or the DCF.

3 Well, let me point you to something.

4 Line 667 on Page 30, the second sentence, CAPM is a
5 valid measure of cost of equity. All right. Let's
6 compare that with the top of Page 32, Line 669, the
7 traditional CAPM has a tendency to understate the
8 required return for companies with betas less than
9 1.0.

10 **A.** I'm sorry. Your Honor, I lost you.

11 **Q.** Page 32.

12 MR. JACKSON: Of the direct.

13 THE WITNESS: Yes.

14 JUDGE MORAN: No. No. No. I shouldn't have
15 said that. No, 32 of the rebuttal.

16 THE WITNESS: 32 of the rebuttal and 30 or the
17 rebuttal?

18 BY JUDGE GILBERT:

19 **Q.** Oh, did I say 30 of the direct? I
20 apologize.

21 **A.** No. No. No. You said 30 of the rebuttal,
22 what I got lost was the 32 part of it.

1 **Q.** Okay. So we're comparing a couple of
2 things on Pages 30 and 32 of your rebuttal
3 testimony.

4 **A.** Oh, there you go. I'm with you now.

5 **Q.** Okay.

6 **A.** You're on Line 700.

7 **Q.** Yes. Actually, starting on Line 699 and
8 going over to 700.

9 **A.** Sure.

10 **Q.** Okay. So, on one hand, we have a model
11 that is a valid measure of cost of equity. On the
12 other hand, we have a model that at least in one
13 respect tends to underestimate a required return.

14 We can add the fact that the CAPM has
15 produced a result that is, I think, dramatically
16 different than the DCF at least as utilized by
17 certain witnesses in the case.

18 What good then is the CAPM model?

19 **A.** Let me address the first part -- or the
20 first observation you made.

21 The shortcoming of the model I cite at
22 the top of 32 manifests itself directly for

1 utilities having betas less than one, which are
2 typically utility betas, because under the
3 condition I describe on Page 32, the CAPM produces
4 a return lower than what investors really require.

5 And why is that? There's a potential
6 for misspecification of the model. The
7 intercept -- maybe I can draw this. It works a lot
8 better when it's drawn. A picture is always worth
9 a thousand words.

10 **Q.** Just so the record captures it, you have
11 created a small graph on a piece of legal paper?

12 **A.** That's right.

13 JUDGE MORAN: You can mark that and put it in --

14 JUDGE GILBERT: I don't know if we're going to
15 need it.

16 THE WITNESS: The scale is really lousy with
17 what I did here, but anyway. I'm sort of
18 embarrassed by what I just did.

19 What I'm trying to describe here --
20 there's solid line and -- believe it or not that's
21 a dotted line, the empirical market line of the
22 CAPM with a risk-free rate of return has a lower

1 intercept and a much steeper slope than the
2 empirical mar- -- empirical market line -- I'll get
3 it out -- of the CAPM, which is sometimes called
4 the zero beta form of the model. There's this gap
5 here which caused --

6 MR. JACKSON: When you say "here," what are you
7 pointing to?

8 THE WITNESS: Oh, the gap between the RF and the
9 RZ.

10 There's this gap that shifts the pitch
11 of the line. And that's what I'm trying to
12 describe over here. So for all the stocks with
13 betas less than one, which are the utilities, the
14 CAPM is producing a return too low.

15 Now, there's a couple ways you can deal
16 with that. One of the ways you can deal with it is
17 go to a zero form of the CAPM. And I've seen
18 witnesses do that. It's not real popular in rate
19 cases, but it's submitted once in a while. So
20 there are remedies ways to remedy that shortcoming;
21 but I don't think that if you recognize this, it at
22 all invalidates the usefulness of the CAPM in a

1 regulatory proceeding. It's just something you
2 have to be mindful of when you go through the
3 exercise.

4 BY JUDGE GILBERT:

5 Q. Okay.

6 JUDGE MORAN: So you said it does not invalidate
7 it?

8 THE WITNESS: Invalidate it.

9 JUDGE MORAN: Okay.

10 BY JUDGE GILBERT:

11 Q. In that sentence that we read on Line 699,
12 as I listen to you kind of restate it orally, I
13 realized that there was a key word in your written
14 testimony and that's the word "required" and -- as
15 it appears on 699.

16 And there when you say, Understate the
17 required return -- and I assume this relates back
18 to your conversation with Mr. Reddick, you're
19 talking about investor expectation there or
20 required an order to attract someone to buy your
21 stock or your paper or which?

22 A. Required return here I'm using in the sense

1 that here we have a model trying to come up with a
2 number and because of a specific misspecifications
3 or an omission within the parameters or the model,
4 you can come up with a result, especially for betas
5 less than one of a return lower than what's really
6 required if you make this adjustment.

7 Q. Is that adjustment that you've just
8 described an adjustment you've made in your
9 testimony?

10 A. No.

11 Q. I didn't think it was; but I thought,
12 perhaps, you used a different descriptor and I
13 wouldn't know that.

14 Okay. Okay. Let's look at Page 34,
15 again, of your rebuttal, the sentence starting on
16 Line 751 and going over to 752.

17 All right. When you refer there to the
18 other market factors that may offset decreased risk
19 associated with the riders, I assume you're
20 speaking in the abstract and you're not -- you're
21 not asserting that under the circumstances of this
22 case that this, in fact, will happen?

1 **A.** Can I have a second, your Honor? I want to
2 read what my whole response was.

3 **Q.** Sure.

4 **A.** Can I have that question read back to me,
5 please?

6 JUDGE MORAN: Would you read the question back?

7 JUDGE GILBERT: I can just restate it, maybe it
8 will save some time.

9 BY JUDGE GILBERT:

10 **Q.** You're using there a subjunctive, you're
11 saying it may offset.

12 Are you saying -- or, for that matter,
13 is it your belief that the other market factors you
14 refer to there are, in fact, offsetting decreased
15 risks associated with the riders in this case or in
16 the two cases that we have here?

17 **A.** I don't think I'm saying that. I'm not
18 sure that the sentence is particularly well-worded.
19 I'm trying to convey what I was attempting to
20 there. I'm talking about market factors aside from
21 these riders.

22 **Q.** Well, right, I understand that.

1 **A.** Oh, okay. I'm sorry.

2 **Q.** Yeah.

3 **A.** But then I guess I still don't understand
4 your question.

5 **Q.** Well, you're not asserting that those other
6 market factors in this particular case are, in
7 fact, offsetting the decreased risks associated
8 with the riders being a proposed in this case?

9 **A.** No, because we don't know.

10 **Q.** Okay. So this is just a generic count?

11 **A.** Yes.

12 **Q.** Okay. Do you have a way of quantifying
13 that, by the way, the -- how those other market
14 factors might offset decreased risk?

15 **A.** No, because in the many years that I've
16 been doing these types of studies, other than for a
17 very few factors, such as leverage, size, maybe one
18 or two others, it's almost impossible to apply
19 these models and try to isolate how much any
20 particular change in the company's fundamental
21 would impact the cost of equity. It's not that
22 much of a science, what we're doing here.

1 Now, for some factors, it does lend
2 itself to quantifications, like, size -- impact on
3 cost rate relative to size can be measured. I
4 mean, that's pretty well accepted. Financial
5 average can; but these other factors, I wouldn't
6 even know how to begin to do that.

7 **Q.** All right. Moving on to surrebuttal,
8 Page 7. And as I see this, I wish I would have
9 brought this up before in connection with the
10 previous question; but if you look at the sentence
11 beginning on Line 157 on Page 7 -- all right. And
12 you're acknowledging there that the DCF results can
13 be close to or for that matter below the cost of
14 debt?

15 **A.** No, I'm not suggesting that at all.

16 **Q.** I mean, that cannot happen?

17 **A.** I did not intend to convey that at all.

18 **Q.** Okay. So when you say, quote, When the DCF
19 results are close to or even below the cost of
20 debt, closed quote, that can't happen? You're
21 saying that does not happen?

22 **A.** I'm not saying that the DCF can't produce a

1 result that shows that. What I'm saying is that
2 when you detect that to occur, that those results
3 have no meaning because the cost of equity can't be
4 equal to or less than the cost of debt. It just
5 can't be.

6 **Q.** And --

7 **A.** But I'm not saying that DCF couldn't
8 produce numbers like that because we've seen it in
9 this case.

10 **Q.** Exactly.

11 **A.** But when you encounter those numbers, when
12 you run into those numbers, I mean, you can't rely
13 on them because it just doesn't make any sense.

14 **Q.** Okay. And you refer to those as obviously
15 unrealistic results and that they must be removed.

16 I guess I'm just going to repeat what I
17 said before, what -- what reliability can we then
18 assign to the DCF?

19 **A.** In this market, it's producing some very
20 odd -- odd outcomes. I mean, there's no getting
21 around it. The mechanics of DCF can produce the
22 kind of numbers we're seeing. The question then

1 becomes -- and I used this word in my surrebuttal.
2 I'll use it again -- do they pass the stiff test?
3 I mean, when the DCF is producing a number that's
4 less than the cost of debt, to me, it's useless,
5 that number.

6 Q. Well, you know, I mean, I will say I had
7 hoped that a side benefit of having this job is I
8 learned something on how to make a few bucks in the
9 market and your model is not doing that.

10 A. If I knew how to do that, I'd be doing that
11 myself.

12 Q. You wouldn't be here.

13 A. Yeah.

14 Q. Okay. Let me take you to Page 12 of your
15 surrebuttal. All right. And, actually, I think
16 the fair thing is to start you off at the bottom of
17 Page 11 on Line 251 and have you read that sentence
18 in its entirety before I ask you anything.

19 A. Okay.

20 Q. All right. And you're talking there about
21 having a return that's comparable with the returns
22 approved for other gas utilities?

1 **A.** That's right.

2 **Q.** And the necessity of having that
3 comparability in order to attract capital?

4 **A.** Correct.

5 **Q.** Okay. There's a kind of chicken and egg
6 content to that -- "content" is not the right word.

7 It's a kind of chicken and egg process.

8 I mean, someone sets somewhere a cost of equity and
9 then by this principle, which I think makes sense,
10 by the way, but by this principle then everyone
11 else has to march in lock step?

12 **A.** It produces circularity, you're exactly
13 right. Chicken and egg, circularity, however you
14 want to describe it. But in the same -- and for
15 that reason I wouldn't use this as the way to get
16 to the answer because you do have a choice of
17 evidence that's been presented. Every party has
18 their various positions. And it just seems to me
19 that how you balance that and come out with a
20 reasonable outcome has to fit within this
21 parameter. And there is -- I agree with you, there
22 is a certain amount of circularity to that.

1 But it doesn't alter the fact that if
2 the utilities wind up with a return that isn't --
3 doesn't fit this criteria, investors are going to
4 be upset and direct their capital to the
5 alternatives that do produce that.

6 **Q.** Well --

7 **A.** Those returns, I mean.

8 **Q.** Okay. Well, I thought about the
9 circularity and I thought about what would enable
10 you to break it. And I'm assuming risk would be
11 part of that, that if you could say a given
12 enterprise has less risk or more risk, you could
13 break out of that circularity?

14 **A.** You could do that.

15 **Q.** Are there any other elements you could use?

16 **A.** The incentives or penalties that sometimes
17 come out of these types of proceedings.

18 **Q.** Which, in a sense, are a part of risk, I
19 guess?

20 **A.** Yeah, they become part of -- it goes back
21 to my earlier conversation about the incentives on
22 the electric transmission side; but they almost

1 become imbedded as part of the expectation, too.

2 **Q.** Okay. At the top of 14, again, on your
3 surrebuttal starting there on Line 297 and the
4 sentence that begins with "Mr. Thomas," if you just
5 want to read from there through the end of the
6 paragraph.

7 **A.** Okay.

8 **Q.** All right. I'm wondering if there's not
9 another circularity here and respond as you will.
10 I'll put out -- I'll put that out as a proposition
11 and respond as you want to.

12 The whole point of the riders is to take
13 these unsystematic risk factors and make them
14 systematic, isn't it?

15 **A.** No, because the statistics or the math
16 behind betas would never get you there because
17 it's -- I forget what the formula is. It's the
18 variance over the covariance or the other way
19 around, whatever the math is.

20 Mathematically, it's the way the stock
21 price moves relative to the rest of the market.

22 **Q.** Mm-hmm.

1 **A.** And that's a measure of systematic risk.
2 And these riders, VBA, UBA, whatever they are,
3 they're company specific so they're unsystematic
4 and you would never find that reflected in any
5 calculation beta. I mean, the math just doesn't --
6 I mean, it's just not there.

7 **Q.** Right. And the classic definition of beta
8 with respect to systematic elements has to do with
9 the movement of the market as a whole?

10 **A.** Correct. It's how your stock moves with
11 the rest of the market.

12 **Q.** Okay. All right.

13 JUDGE GILBERT: I'm good.

14 Redirect?

15 MR. JACKSON: May I have a moment.

16 JUDGE GILBERT: Sure.

17 (Whereupon, a discussion was had off the record.)

18 MR. JACKSON: I just have a couple of questions
19 on redirect.

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REDIRECT EXAMINATION

BY

MR. JACKSON:

Q. Mr. Moul, in your discussion with Mr. Reddick about -- on one hand, I think he was using the term "objective market model results" versus "more subjective investor expectations." I wanted to kind of get -- return to the end of that discussion. And I heard you say that -- why don't you say in your own words -- tell us how they fit together.

How do the -- in your view, how do the investor expectations affect or be taken into account along with the market model results?

A. Well, the market model results produce sets of figures. And I think any cost of equity witness would be quick to tell you that there's a certain amount of subjective in applying any of the models; but, nonetheless, all of them produce an answer. Some of them produce answers that are more or less, you know, within certain acceptable parameters, talking about the DCFs less the cost of debt. I

1 mean, I don't know what that tells you.

2 But when you establish the parameters
3 from the market models, yes, then there's some
4 subjectivity as to where you pick the point in the
5 range from -- I'll call it the hard evidence, the
6 application of the models that we do in these kind
7 of cases. And there's just no getting around the
8 fact that subjectivity comes into play. And it's
9 the classic and form judgment that the decision
10 maker has to make to come up with a return that
11 fits the established standards of what investors
12 expect as an outcome within certain parameters.

13 **Q.** And by "parameters," you mean the
14 results --

15 **A.** Of the market models.

16 **Q.** -- of the market models?

17 **A.** Correct.

18 **Q.** So your approach would not call for
19 applying the subjective factors to take the
20 authorized rate or return out of the range that
21 were developed through the market models?

22 **A.** No. I would establish the range with the

1 outcomes of the market models and then apply some
2 informed judgment as to where you place the
3 utilities within that range.

4 **Q.** Judge Gilbert asked you some questions
5 about the validity of the DCF and CAPM models.

6 Would it be fair to say that each of
7 those models has its issues?

8 **A.** Yes. Every model of the cost of equity --
9 since you can't measure the cost of equity
10 directly, you can't pick up this morning's paper
11 and look up what the cost of equity is for any
12 particular company, models have been developed,
13 simplifying models that focus on certain elements
14 of return, whether it's yield and growth or
15 systematic risk or what have you. All the models
16 have limitations. They're all imperfect. There's
17 a whole host of elements that the models don't
18 address and weren't really intended to address.

19 So that's the reason you use more than
20 one model because of the infirmities that are
21 inherent in all the models is the reason that you
22 want to use more than one. You don't want to tie

1 yourself into one model because there's infirmities
2 in each.

3 Q. Is that another reason to also look to the
4 collection of factors that you're referring to as
5 the investor expectations?

6 A. Exactly. That's why you need to set up the
7 range and then look at investor expectations.
8 That's, you know, how rate cases are typically
9 decided.

10 Q. Would that also be another reason to reject
11 Mr. Thomas' position that you look only at the
12 financial models?

13 A. That's right, because that's not what
14 regulators do, that's not what investors expect.

15 MR. JACKSON: That's all I have. Thank you.

16 JUDGE MORAN: Recross?

17 MR. REDDICK: I'm -- I was sitting here
18 contemplating a motion to strike, but I don't
19 believe Mr. Thomas' testimony was discussed either
20 by me or by you. I'm checking my memory.

21 JUDGE GILBERT: If we bear in mind that I think
22 he said the same thing in his testimony anyway,

1 does it really matter?

2 Anything else?

3 MR. JACKSON: Nothing else.

4 JUDGE GILBERT: Okay. Thank you, Mr. Moul.

5 JUDGE MORAN: Thank you.

6 (Whereupon, a discussion was had off the record.)

7 MR. JOLLY: The Citizens Utility Board and the
8 City are going to call their next witness,
9 Christopher C. Thomas.

10 Mr. Thomas has prepared two pieces of
11 testimony for this proceeding. His direct
12 testimony consists of a cover page, a table of
13 contents, a list of exhibits, 81 pages of text and
14 five exhibits.

15 (Whereupon, CUB/City Exhibit Nos. 1.0 and 2.0
16 were marked for identification, as of this date.)

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1 CHRISTOPHER C. THOMAS,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. JOLLY:

7 Q. Mr. Thomas, do you have any corrections,
8 changes, additions you'd like to make to your
9 testimony at this time?

10 A. I don't.

11 Q. And if I were to ask you the questions set
12 forth in what has been marked as CUB/City Exhibit
13 1.0 today, would your answers be the same?

14 A. They would.

15 MR. JOLLY: And Mr. Thomas has also prepared
16 rebuttal testimony, which consists of a title page,
17 a table of contents and an exhibit list, 29 pages
18 of text and three exhibits.

19 BY MR. JOLLY:

20 Q. And do you have any changes, additions or
21 modifications you'd like to make to your rebuttal
22 testimony at this time?

1 **A.** I don't.

2 **Q.** And if I were to ask you the questions set
3 forth in CUB/City Exhibit 2.0 today, would your
4 answers be the same?

5 **A.** They would.

6 **MR. JOLLY:** I move for the admission of CUB/City
7 Exhibit 1.0 and the attached five exhibits and
8 CUB/City Exhibit 2.0 and the attached three
9 exhibits.

10 And I tender the witness for
11 cross-examination.

12 **JUDGE GILBERT:** Objection?

13 **MR. JACKSON:** No objection.

14 **JUDGE MORAN:** Admitted.

15 (Whereupon, CUB/City Exhibit Nos. 1.0 and 2.0 were
16 admitted into evidence.)

17 **JUDGE GILBERT:** Go.

18 **MR. JACKSON:** I have some cross-examination.

19 CROSS-EXAMINATION

20 BY

21 **MR. JACKSON:**

22 **Q.** Good evening, Mr. Thomas.

1 **A.** Good evening.

2 **Q.** You testified in the Nicor Gas rate case;
3 is that correct?

4 **A.** That's correct.

5 **Q.** And the Commission order states that you
6 argued in that case that a three-month average
7 stock price is the most supportable approach to
8 incorporate stock price into a DCF analysis since
9 evidence on the efficient market hypotheses seems
10 contradictory.

11 Is that a fair characterization of your
12 argument in that case?

13 **A.** That is.

14 **Q.** Okay. And your order also states that you
15 use that three-month average stock price in order
16 to balance the view that markets are efficient with
17 the growing body of evidence that suggests that
18 markets may not price securities appropriately in
19 the short-term.

20 Does that also fairly characterize your
21 argument in that case?

22 **A.** It does.

1 **Q.** Can you identify the growing body of
2 evidence that you were referring to in that case?

3 **A.** As I sit here, I can't because I --
4 obviously I didn't testify to those issues in this
5 proceeding. I kind of brushed over them and I
6 didn't place a lot of weight -- or a lot of
7 research right now in this case on those issues,
8 but...

9 **Q.** Was the evidence you're referring in that
10 case similar to the types of evidence you've used
11 in this case, for example, academic published
12 articles, analyst's analysis? Can you at least
13 characterize those types of evidence?

14 **A.** Absolutely. Those two categories would
15 have been the primary sources of evidence as well
16 as market data, you know, would have been such as
17 the technology bubble that burst in the late '90s
18 when stocks were grossly overvalued. I think
19 that's one example of some of the optimism that's
20 existed in the stock market or asset pricing.

21 **Q.** Have you continued to look at that issue
22 since you testified in the Nicor case?

1 **A.** I haven't spent much time with that
2 specific issue. My focus has been on other issues,
3 as described in my testimony.

4 **Q.** I would take it then that you would agree
5 with Mr. Moul at least with respect to the point
6 that using a spot stock price from a single day is
7 problematic?

8 **A.** Yes. And I believe I said that in my
9 responses to Mr. Moul in one of my appendices.

10 **Q.** Okay. Would you agree with him that
11 investors use a long-term perspective and consider
12 both historical and forecast of stock performance
13 data?

14 **A.** In some respect, yes. I think that forms
15 part of their global expectations. Yeah, I would
16 agree with that.

17 **Q.** Would you agree that the use of a single
18 day spot price results in a data point that's
19 quickly out of date?

20 **A.** With respect to stock prices, yes.

21 **Q.** Now, Mr. Moul in, I believe, his
22 surrebuttal talks about the concept that if you're

1 going to use a single day spot stock price to
2 determine an authorized return, you ought to at
3 least update that spot price date close to when
4 you're making that determination or when the
5 Commission's making that determination.

6 Do you have a -- or do you agree with
7 that approach?

8 **A.** That is problematic, I think, from a
9 process standpoint. It's difficult, especially for
10 the judges, I mean, in cases like this when you've
11 got so many issues to make a decision when you
12 don't really set a cutoff point for when you start
13 to collect data.

14 So I don't really have a good answer to
15 that. I know in my experience it's been typically
16 the data that was filed with the direct testimony
17 unless there was a substantive update.

18 **Q.** Okay. Let's put aside, though, for a
19 second the process of practical problems and how
20 you do it in the context of a contested rated
21 proceeding; but conceptionally from an analyst
22 point of view, if you're relying on a single day

1 stock price to set or at least as a factor to set
2 an authorized rate of return, wouldn't you want
3 that -- the day of that data point to be as close
4 to when you're setting the authorized rate of
5 return as possible?

6 **A.** If you accept the premise that that is an
7 accurate measure of the investor's expectations
8 imbedded with the stock price, then I think that's
9 fair.

10 **Q.** And in this case, you agreed with
11 Mr. Moul's use of a six-month average stock and --
12 use of six-month average stock and dividend data,
13 correct?

14 **A.** I did. I don't know if there's a real
15 substantive difference between the three-month and
16 the six-month.

17 **Q.** And you did that -- I'm looking at your
18 Exhibit 2.1. You did that to ensure that the
19 prices used in the DCF reflect all available
20 information contained within the stock price,
21 correct?

22 **A.** That's correct.

1 **Q.** I want to ask you some questions about your
2 position with respect to utility market-to-book
3 ratios.

4 And as I understand your opinion, if the
5 utility's market-to-book ratio is greater than one,
6 that would be a sign that the Regulatory Commission
7 has granted returns in excess of the utility's cost
8 of capital, correct?

9 **A.** Possibly. That's a sign that the utilities
10 earned returns in excess of the cost of capital.
11 One of the factors for that could be the rates set
12 by the Regulatory Commission.

13 **Q.** Fair enough. Do you agree that
14 market-to-book ratios combine the discounted value
15 of future cash flows as the numerator with
16 historical book value as the denominator?

17 **A.** Expectations for the share price being the
18 numerator and denominator being the book value,
19 yes.

20 **Q.** Historical book value?

21 **A.** Yes. Yes.

22 **Q.** So you would recognize, would you not, that

1 the market-to-book ratio inherently is comparing
2 data from two different time frames?

3 **A.** That's correct.

4 **Q.** One's forward-looking, one's
5 backward-looking?

6 **A.** That's correct.

7 **Q.** Do you agree the Utility Commission
8 rate-making practices, including those with respect
9 to deferred taxes and depreciation, can result in a
10 utility's market value exceeding book value?

11 **A.** That's absolutely possible.

12 **Q.** And if that were the case, then the
13 utility's authorized return on equity would not
14 necessarily be higher than the cost of equity,
15 would it, again, assuming that a utility with a
16 market-to-book ratio over one?

17 **A.** That's correct.

18 **Q.** And you would agree with Ms. Kay Karelish
19 (phonetic) then that the authorized return is not
20 the only factor affecting the utility's earnings?

21 **A.** That's true.

22 **Q.** Mr. Moul on this issue also pointed out

1 that the utility's market value can be affected by
2 factors other than its authorized return on equity,
3 such as general market sentiment, expectations
4 regarding business combinations, market value of
5 the utility's assets and changes in interest rates.

6 Do you agree with that?

7 **A.** As well as the inefficiencies we discussed
8 previously, yes, potential inefficiencies.

9 **Q.** And do you recognize, as Mr. Moul does,
10 that when the Commission authorizes a rate of
11 return, many times they aren't looking solely at
12 the financial models, but other things like
13 incentives to build infrastructure, penalties to
14 punish mismanagement, rewards to reward excellent
15 management, those sorts of things?

16 **A.** Commissions have looked at those kinds of
17 things.

18 **Q.** Now, I'd like to ask you some questions
19 regarding the financial leverage adjustment that
20 Mr. Moul makes to his DCF model as well as the beta
21 in his CAPM. And, obviously, you disagree with
22 that adjustment from a theoretical perspective.

1 Would you agree, however, that DCF
2 results are based on the market price of the stock
3 of the companies included in the analysis?

4 **A.** They are.

5 **Q.** And, yet, the results that you get from the
6 DCF model absent such an adjustment -- well, I
7 guess even with the adjustment, those results are
8 applied to the utility's book value and capital
9 structure, correct?

10 **A.** That's true. That's the nature of the rate
11 setting process.

12 **Q.** And do you agree with Mr. Moul that the
13 market value of capitalization of the sample group
14 that you both used reflects more equity and less
15 debt than their book value capitalization?

16 **A.** Market book ratios for utilities have been
17 greater than one, yes.

18 **Q.** And all other things equal, the more equity
19 in a capital structure, the less financial risk,
20 correct?

21 **A.** Could you ask me that one more time?

22 **Q.** All other things equal, the more equity in

1 a capital structure, the less financial risk?

2 **A.** All other things equal, yes.

3 **Q.** All other things equal?

4 **A.** Yes.

5 **Q.** So when you apply a market base DCF result
6 to a utility's book value capitalization, you're
7 applying a return that reflects a capitalization
8 that has more equity and less risk to a
9 capitalization that has less equity and more risk,
10 correct?

11 **A.** All other things equal, yes.

12 **Q.** And do you agree with the Digliany
13 (phonetic) and Miller theorem that as the borrowing
14 of a firm increases, the required return on
15 stockholders' equity also increases?

16 **A.** Yeah, that's a well-established tenant of
17 utility -- or corporate finance in general.

18 **Q.** I think I just have one more area.

19 I want to ask you about the use of the
20 Peoples Energy Corporations, whether insurance
21 policies as a proxy for the value of the -- at
22 least Rider VBA. I don't recall whether UBA was

1 involved or not.

2 You acknowledge, don't you, that Rider
3 VBA would effect the utilities' risk in two ways;
4 that is if the weather's warmer than normal, the
5 rider would protect the utilities from nonrecovery
6 of their fixed costs, correct?

7 **A.** That's correct.

8 **Q.** But if the weather is colder than normal,
9 the rider would protect the utilities' customers
10 from overpaying their fixed costs, correct?

11 **A.** That's how it's been characterized.

12 **Q.** Okay. Well, do you have any reason to
13 doubt that?

14 **A.** I think that Mr. Brocsh talks pretty
15 extensively about that, though, breaking the
16 linkages between the way rates have traditionally
17 been set and the way that costs have been recovered
18 in a traditional manner. And I think that that is
19 a fundamental change that may result in higher
20 rates for customers over the life of the riders.
21 And I think Mr. Lozara talked about some of those
22 issues.

1 **Q.** Okay. But in terms of your application of
2 the insurance, whether insurance policies to the
3 riders -- you do recognize, though, don't you, that
4 there are two directions to the riders?

5 **A.** Oh, yeah. Yes. Yes. The riders actually
6 function as a collar that the companies could have
7 gone to either the insurance market or the
8 financial derivatives market to construct.

9 **Q.** And by "collar," you mean a situation where
10 they might be exposed to additional risk or
11 additional cost if weather is colder than normal?

12 **A.** That's correct. That's correct. It would
13 be a symmetric mechanism.

14 **Q.** Symmetric, that's what I probably should
15 have said.

16 **A.** I'm not sure if the cost would be
17 symmetric, but it would be symmetrically aligned.

18 **Q.** Okay. Now, do you have your Exhibit 1.05?

19 **A.** Yes.

20 **Q.** Okay. A point of contention between you
21 and Mr. Moul is whether or not you took into
22 account in this analysis any collar aspect of the

1 insurance policy in question.

2 Could you explain to me how the collar
3 that was in that insurance policy was taken into
4 account in your Exhibit 1.05.

5 **A.** Yes, absolutely. This value that I've
6 calculated for the insurance policy is only a proxy
7 for the near certain payout of the riders, VBA and
8 actually UBA kind of plays in a little bit
9 similarly. So that proxy is based on the benefit
10 that shareholders would've derived from this policy
11 had it paid out. Okay.

12 Now, that's significantly less than the
13 value of the certainty that's really provided to
14 shareholders because if you look on this same
15 exhibit and go down to the backcast Rider VBA
16 margins, you can see that the smallest pretax
17 return that utility investors would've received had
18 the riders been in place during the previous five
19 years would have been a \$22 million receipt. Here,
20 we've imputed a value of \$7.4 million.

21 **Q.** I'm sorry --

22 **A.** And that weather insurance -- now, this

1 is -- we're venturing into confidential territory,
2 too, Mr. Jackson, and I don't want to reveal
3 anything that your company is going to feel is
4 sensitive.

5 Q. Well, I think the --

6 A. And the things that I discussed in my
7 rebuttal testimony as well. They are incorporated
8 into the premium paid on this policy and thus the
9 value of its payout.

10 Q. I think --

11 JUDGE MORAN: Do we need to go in camera?

12 MR. JACKSON: No, I think I can do this without
13 doing that.

14 BY MR. JACKSON:

15 Q. What I see portrayed on Exhibit 1.05 is the
16 maximum payout from the policy meaning that in the
17 event that the weather was much warmer than
18 expected and the utility's revenues went into the
19 tank and the insurance policy was triggered, they'd
20 get a payout of \$10 million in that situation?

21 A. They would get a net benefit of 7.4 million
22 because they already paid the premium for the

1 policy.

2 Q. Right. And the policy they paid -- or I'm
3 sorry -- the premium they paid for that potential
4 maximum payout is the two and a half million or so?

5 A. That's correct.

6 Q. So the net benefit is 7.4.

7 What I'm not seeing in this document,
8 though, is a consideration of if it went the other
9 way, if the weather was much colder than expected
10 and a collar mechanism went into play, i.e.,
11 additional cost. I don't see that scenario
12 reflected this in exhibit.

13 A. That's implicit in the use of the insurance
14 payout as a proxy for the certainty provided by
15 Riders VBA and UBA.

16 Q. But -- so they're not --

17 A. So it's implicit in the value --

18 Q. I understand.

19 A. --- of the proxy.

20 Q. And I would grant you that one fact -- one
21 aspect of the rider is that there is, in effect, an
22 automatic payout, if you will, if weather is warmer

1 than normal.

2 But I thought you also agreed with me
3 earlier that if weather is colder than normal,
4 there's an automatic payout, if you will, to rate
5 payers?

6 **A.** That's correct. And had the company gone
7 to the financial markets for that second automatic
8 payout, it would have been very, very expensive.

9 **Q.** But no such scenario is depicted in
10 Exhibit 1.05, is it?

11 **A.** The value of the premium paid by the
12 company reflects -- and, once again, we're getting
13 into the confidential territory -- a relatively
14 wide collar that existed in this previously
15 purchased insurance.

16 **Q.** But it doesn't include any additional
17 premium that the company might have paid in the
18 event of a collar mechanism?

19 **A.** It does not.

20 **Q.** Okay. Oh, I had one more item with respect
21 to that same issue.

22 You took issue of Mr. Schott's

1 characterization of your calculation here
2 indicating an increase in the ROE associated with
3 the annual premium as well as a decrease in the ROE
4 associated with the payout, correct?

5 **A.** That's correct.

6 **Q.** Okay. Let me show you a document --

7 **MR. JACKSON:** And I -- I don't know whether I've
8 marked this right or not. PGL-NS Cross Thomas.

9 **JUDGE MORAN:** Mm-hmm.

10 **MR. JOLLY:** I don't know the number, though.

11 **MR. RATNASWAMY:** 4.

12 **MR. JACKSON:** 4.

13 **JUDGE GILBERT:** Just to be entirely technical
14 about it, is it PGL and NS?

15 **MR. JACKSON:** Yes.

16 **JUDGE GILBERT:** Okay.

17 **JUDGE MORAN:** Three for the court reporter.

18 **MR. JACKSON:** I'm sorry?

19 **JUDGE MORAN:** Three for the court reporter.

20 (Whereupon, PGL-NS Cross Thomas Exhibit No. 4 was
21 marked for identification, as of this date.)

22 **BY MR. JACKSON:**

1 **Q.** Okay. Mr. Thomas, I have shown you a small
2 table here that I think you'll recognize shows the
3 same calculation of the net policy benefit shown on
4 your Exhibit 1.05 as 7.4 million and then we've
5 converted that to the Peoples Gas share.

6 Do you see that in Column 2?

7 **A.** Yes. Yes.

8 **Q.** Subject to check, would you accept that
9 calculation?

10 **A.** Subject to check, yeah.

11 **Q.** Okay. So we've taken Peoples Gas share of
12 the payout minus Peoples Gas share of the premium
13 to get to Peoples Gas share of the net benefit.

14 Now, I'd like to show you a document
15 that I've marked for identification as Peoples
16 North Shore Cross Thomas 5.

17 (Whereupon, PGL-NS Cross Thomas Exhibit No. 5 was
18 marked for identification, as of this date.)

19 BY MR. JACKSON:

20 **Q.** And on this one I'll represent to you that
21 we've calculated using your approach the -- how are
22 we impacted from Peoples Gas from its share of

1 those parameters.

2 Subject to check, would you accept those
3 calculations?

4 **A.** I'll accept your representation.

5 **Q.** Thank you.

6 So here it shows that the maximum payout
7 would have an ROE impact on Peoples Gas of almost
8 94 bases points, but the payment of annual premium
9 would have an ROE impact of positive 24 bases
10 points to get to the negative of about 70 bases
11 points, correct?

12 **A.** Correct. What I would call the net
13 benefits --

14 **Q.** Correct.

15 **A.** -- of a policy. It's labeled here "maximum
16 benefit," but I think it's a net benefit --

17 **Q.** Okay.

18 **A.** -- in the example that I used.

19 **Q.** But do you -- does this help you understand
20 Mr. Schott's point, though, that included in this
21 analysis is the assumption that the annual premium
22 paid has a positive impact on return on equity that

1 nets against the negative -- total negative impact
2 from a maximum payout?

3 **A.** If you look at each piece individually,
4 that is a true statement; but my analysis looked
5 only at the net benefits from the insurance. And
6 the calculations that follow in my testimony were
7 just to explain how net benefits were derived.

8 Now, the only piece of that analysis
9 that's really applied to shareholder returns is the
10 net benefits from the policy, Peoples and North
11 Shore.

12 **Q.** Okay. So it would be fair to say that,
13 perhaps, you were talking past each other in terms
14 of -- he's pointing out one component, you wanted
15 to focus solely on the net effect?

16 **A.** Absolutely.

17 **MR. JACKSON:** I'd move the admission of those
18 cross exhibits 4 and 5.

19 **JUDGE GILBERT:** Objections?

20 **MR. JOLLY:** None.

21 **JUDGE GILBERT:** All right. 4 and 5 are
22 admitted.

1 (Whereupon, PGL-NS Cross Thomas Exhibit Nos. 4 and
2 5 were admitted into evidence.)

3 MR. JACKSON: Thank you. That's all I have.

4 JUDGE MORAN: Okay.

5 MR. JACKSON: Thank you, Mr. Thomas.

6 THE WITNESS: Thank you.

7 JUDGE GILBERT: I have a bit for you,
8 Mr. Thomas.

9 EXAMINATION

10 BY

11 JUDGE GILBERT:

12 Q. Let's start with a simple one. If you go
13 to Page 66 of your direct --

14 A. My direct?

15 Q. Yes.

16 All right. And I'm picking right up on
17 your discussion with Mr. Jackson regarding weather
18 insurance.

19 Implicit or, actually, even explicit in
20 your testimony, let's say from Line 1609 to Line
21 1612, is a search and fact that the companies have,
22 in fact, chosen not to purchase weather insurance

1 again.

2 Is that, in fact, so? Do you know that?

3 **A.** The discovery we got from the companies
4 identifying the weather insurance policies that
5 have been purchased in the past included up to the
6 policy that I identified in my testimony.

7 **Q.** Okay.

8 **A.** And there was not one identified in effect
9 currently or past the end of 2005, I believe, was
10 when the last policy -- if you can hang on just a
11 second, I'll point you to discovery.

12 **Q.** Would that discovery be part of the
13 evidentiary record already?

14 **A.** Yes, absolutely.

15 Yeah, we asked -- this is actually
16 CUB/City Exhibit 1.04. We asked, Have Peoples Gas,
17 North Shore and any of their affiliates purchased
18 weather insurance since January of '94? And the
19 data that I got shows that the -- we asked since
20 January of '94 in 2005. And September 30th of 2005
21 was when the last policy expired.

22 **MR. JACKSON:** Your Honor, I can stipulate that

1 no further policies have been purchased since then.

2 JUDGE GILBERT: Thank you.

3 THE WITNESS: And also, Judge, just to expound
4 on that a little bit, it looks like the value of
5 the policies increased significantly and the
6 companies have taken a different tactic to search
7 out insurance, which is to come to the Commission
8 and ask for an insurance policy from their
9 customers essentially in the form of Rider VBA.

10 BY JUDGE GILBERT:

11 Q. All right. Look at Page 53.

12 A. Direct?

13 Q. Yes.

14 On Line 1287 you refer to survivorship
15 bias. What is that?

16 A. Survivorship bias is a bias that exists.
17 And in this context it's stock market data because
18 if you look at a long time period of returns, you
19 may have some companies that didn't survive the
20 whole time period.

21 So survivorship bias is meant to reflect
22 -- or the idea that some of these companies

1 actually went out of business during the time you
2 looked up.

3 So there's typically an adjustment. As
4 you can see here, they subtracted one to two
5 percent of survivorship bias from the data to
6 recognize that some companies may have gone out of
7 business or, in fact, did go out of business.

8 **Q.** Does that mean that's an attribute of
9 strength on the part of the survivors --

10 **A.** Yes.

11 **Q.** -- due to economic structures?

12 **A.** Absolutely. So your returns are biased or
13 the returns you observe are biased upwards because
14 it only reflects those who survived in the
15 marketplace.

16 **Q.** All right. Let's go to Page 20 of your
17 direct, the question and answer starting on Line
18 457 and ending at 466.

19 **A.** Yes.

20 **Q.** All right. I confess I understood
21 virtually none of this. All right. Let's focus on
22 the second sentence.

1 **A.** Okay.

2 **Q.** All right. In such a situation -- and that
3 refers to situations when the dividend payout ratio
4 is expected to change?

5 **A.** That's correct.

6 **Q.** Neither the dividend growth rate nor the
7 earnings growth rate will correctly measure the
8 sustainable growth that investors actually expect.

9 I'm not even sure where to begin. Okay.
10 What do you mean by "sustainable"? Let's take it
11 piece by piece.

12 **A.** Growth that could be sustained into the
13 indefinite future.

14 Now, it may help, Judge, if we go back
15 to Page 11 where we can look at the DCF model.

16 **Q.** Okay.

17 **A.** Now, there are two components of that
18 model. The first, the long string of dividend
19 times one plus the growth rate divided by the
20 price, that's the dividend yield. Well, in
21 addition to that you add the earnings growth rate,
22 which represents the earnings growth rate.

1 But if you look at the form of the
2 equation, we're using the same measure of growth
3 for both the dividend yield and the earnings
4 growth. So if the dividend payout ratio is
5 actually declining and you use the measure of
6 growth for earnings, you're reflecting growth and
7 dividends that are actually higher than the growth
8 and dividends that the company can expect to
9 achieve. So you're using an inconsistent measure
10 of growth.

11 Now, because we only used one major
12 growth in the DCF formula -- that's why I chose to
13 go ahead and do the internal growth method that's
14 then described in the testimony -- that better
15 reflects the change in the dividend payout and
16 payout ratio.

17 You look confused.

18 **Q.** Yes. So my face is reflecting my state of
19 mind?

20 **A.** In the DCF format formula model, growth is
21 a function of growth from two sources of capital,
22 okay, from the dividends the investors receive, the

1 money in their hands, and then the value that they
2 perceive in the stocks continued -- or the
3 company's continued ability to grow earnings and
4 thus their increasing value of their stock.

5 So they get a dividend and they see this
6 increasing value. So the DCF formula is intended
7 to reflect both the value of the dividends they
8 expect to receive and the value of that growth.

9 So when you use just the earnings growth
10 rate in the DCF model, you're reflecting earnings
11 growth when, in fact, dividend growth is declining.
12 So you've got a mismatch.

13 Now, what we've done is we've
14 substituted a different major growth that reflects
15 that decline in major or decline in dividend payoff
16 ratio that the company is expected to pay out
17 smaller dividends in the future.

18 **Q.** I guess I don't understand why if there's a
19 quantification of dividend payout, whether it's up
20 or down, and a quantification of earnings growth,
21 whether it's up or down.

22 As long as there's a quantification, why

1 is that an incorrect measurement?

2 **A.** The traditional form of the constant growth
3 cash flow model uses one major growth. So we have
4 these two observed different majors of growth. And
5 when you do it as Mr. Mole has, you're using one
6 expected major of growth, which is an expected
7 major of earnings growth that doesn't reflect that
8 decline in dividend payout issue.

9 **Q.** Okay.

10 **A.** It's one of the many problems that I think
11 you got on earlier in your discussion with Mr. Moul
12 with these models. So we create work-arounds to
13 try to solve the problem. Mr. Moul and Ms. Kay
14 Karelsh, you use the analyst expected rate of
15 growth. And I went ahead and created -- calculated
16 the internal growth rate.

17 **Q.** Okay. Rather than hold us all hostage
18 while I wait for the light to go on, I'll move on.
19 I still don't understand it and hopefully it will
20 come to me.

21 If you look at Page 18, let's look at
22 Line 406 running through Line 409.

1 **A.** Sure.

2 **Q.** Yeah. This is a significant question, but
3 you're talking about counting expectations twice
4 and you don't literally mean twice, do you?

5 **A.** Well, it's reflected twice in the number
6 that Mr. Moul chose.

7 **Q.** Okay. Let me interrupt.

8 If you're going to mean twice in the
9 sense of double, you mean that some expectations
10 are repeated?

11 **A.** That's correct. We're not actually going
12 out and identifying each of the individual
13 expectations. It's just in those two numbers, one
14 of the numbers is already reflected in the other
15 number.

16 And so by using both numbers, you're
17 calculating or capturing the effect of some
18 expectations that were already there.

19 **Q.** Okay. I just meant that this could be read
20 to suggest that expectation one is then being
21 literally doubled and that's not what you mean?

22 **A.** Not at all. No. You're correct.

1 Q. Okay. All right.

2 JUDGE GILBERT: I'm done.

3 MR. JOLLY: Could we have a couple minutes?

4 (Whereupon, a discussion was.

5 Had off the record.)

6 (Change of reporter.)

7 REDIRECT EXAMINATION

8 BY

9 MR. JOLLY:

10 Q. Mr. Thomas, Mr. Jackson asked you some
11 questions regarding the academic research you
12 reviewed in the Nicor case you testified in and the
13 academic research you reviewed for your testimony
14 in this case. What is the difference between the
15 research you reviewed here and that that you
16 reviewed in the Nicor case?

17 A. The academic research that I reviewed in
18 the Nicor case was pretty limited in scope and
19 scale to the issues that Mr. Jackson identified.

20 Now, since that time, and I think if you
21 went back and looked at the entirety of the order
22 that Mr. Jackson was reading from, you would notice

1 that there are a lot of inconsistencies between
2 what I said in that case, with the exception of
3 that issue, and what I'm saying in this case.

4 And I think that that's important and I
5 want to make that point, I think to you, Judges,
6 right now, that my prior testimony was based on
7 past Commission decisions and past Commission
8 orders and --

9 MR. JACKSON: I want to interrupt right there. I
10 move to strike or at least put an end to this
11 aspect of the testimony. I asked him about what
12 research he did with respect to one particular
13 issue in the Nicor case, which was whether or not
14 the spot market stock prices are appropriate factor
15 in this analysis. And now he's talking about other
16 positions he may have taken in that case that are
17 inconsistent in this case. I don't even know what
18 those are. I didn't ask him about those.

19 MR. JOLLY: Well, I guess he opened the door when
20 asking him about his testimony in the prior case
21 and I think Mr. Thomas should have been opportunity
22 to explain.

1 MR. JACKSON: No one is accusing him of being
2 inconsistent on any issue.

3 JUDGE GILBERT: I'll sustain it, because I agree
4 with Mr. Jackson there is really not an accusation
5 in the air there.

6

7 BY MR. JOLLY:

8 Q. I believe at some point during your cross
9 examination you used the term investor
10 expectations. What do you mean by that?

11 A. In the instances that I used it during
12 cross examination it was referencing investors,
13 what I would term, subjective expectations.

14 Now, the way I think some of the
15 differences in the way that Mr. Moul and I have
16 used the term expectations. When he's used it,
17 I've gotten the impression he's talking mostly
18 about subjective expectations. And what I feel is
19 relevant in this proceeding is the required rate of
20 return, which is what the Commission needs to say.
21 And I think that could be very different than
22 investors subjective expectations.

1 **Q.** Mr. Jackson also asked you some questions
2 about your use of People Energy Corporations
3 weather insurance policy, as a proxy for the impact
4 of Riders VBA and UBA on the appropriate return on
5 equity in this case. Who purchased the insurance
6 policies?

7 **A.** The holding company. So Peoples Energy
8 actually purchased the insurance policies.

9 **Q.** And who paid the premium for the policy?

10 **A.** Peoples Energy and presumably shareholders.

11 **Q.** And Mr. Jackson noted that under Rider VBA
12 or Rider WNA, that when the weather is colder, if
13 those riders were approved, when the weather is
14 colder, there would be a payout to sales customers.
15 Do you recall that?

16 **A.** Yes.

17 **Q.** When the insurance policies were in place,
18 when the weather was colder, was there a payout to
19 sales customers at that time?

20 **A.** There was not.

21 **Q.** And what was the impact on Peoples Gas' and
22 North Shore Gas' revenues when weather was colder?

1 **A.** Below the certain level of the collar
2 that's described in the confidential section of my
3 testimony, there was no limit and that was a
4 substantial collar. I mean the collar that was
5 contained within the insurance policy was quite a
6 bit wider than the collar the companies are
7 intending to put on ratepayers through this.

8 MR. JOLLY: That's all I have.

9 JUDGE GILBERT: Any recross?

10 MR. JACKSON: No.

11 JUDGE GILBERT: Thank you, Mr. Thomas.

12 (Witness excused.)

13 (Witness sworn.)

14 DIANNA HATHHORN,

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

17 MR. FOSCO: Your Honor, staff would present
18 Ms. Dianna Hathhorn, D-i-a-n-n-a, H-a-t-h-h-o-r-n.
19 And your Honors, I'll follow what I believe are our
20 expedited procedures that we're following today.

21 Ms. Hathhorn has prepared testimony
22 which rebuttal -- direct and rebuttal testimony

1 that has been filed on e-docket. Her direct
2 testimony was marked as ICC Staff Exhibit 1.0,
3 consisting of a cover page, a table of contents and
4 29 pages of questions and answers, including
5 Schedules 1.1 through 1.14, P and N, P referring to
6 Peoples Gas and N referring to North Shore, as well
7 as the Attachments A through D.

8 Ms. Hathhorn also prepared and filed
9 rebuttal testimony marked as ICC Staff
10 Exhibit 13.0, again consisting of a cover page,
11 table of contents and 22 pages of questions and
12 answers, Schedules 13.1, through 13.9, P and N and
13 attachments A and B.

14 DIRECT EXAMINATION

15 BY

16 MR. FOSCO:

17 Q. And I'll ask Ms. Hathhorn a single
18 question. If I were to ask you the questions set
19 forth in the testimony and exhibits that I've just
20 described, would your answers and attachments and
21 responses be the same?

22 A. Yes, they would.

1 MR. FOSCO: Your Honor, with that I would move
2 for admission of the documents I just described and
3 tender Ms. Hathhorn for cross examination.

4 JUDGE MORAN: Is there any objection? Hearing
5 none, all the exhibits as described are admitted.

6 (Whereupon, ICC Staff Exhibits
7 Nos. 1.0 and 13.0 were
8 marked for identification
9 and admitted into evidence as of
10 this date.)

11 JUDGE MORAN: And who wishes to cross?

12 MS. SODERNA: I just have a couple minutes.

13 CROSS EXAMINATION

14 BY

15 MS. SODERNA:

16 Q. Good evening, sadly. Ms. Hathhorn, my name
17 is Julie Soderna, I'm with the Citizens Utility
18 Board. I just have a couple of questions on the
19 pro forma invested capital tax. So I'll first
20 refer you to your North Shore Exhibit 13.1 N, which
21 is accompanying your rebuttal testimony.

22 A. Okay.

1 **Q.** To calculate your position, you start with
2 the North Shore position in Column B and then make
3 adjustments to that; is that correct?

4 **A.** Yes, that's correct.

5 **Q.** And the north shore pro forma taxes, other
6 than income, in Column B, include the effect of a
7 pro forma adjustment to the tax on invested
8 capital; is that correct?

9 **A.** Yes.

10 **Q.** And that pro forma adjustment is based on
11 the North Shore requested rate increase; isn't that
12 right?

13 **A.** It's based on the North Shore rebuttal
14 position request.

15 **Q.** And staff in this case is recommending a
16 rate decrease for North Shore of 1.4 million shown
17 in Column I; isn't that right?

18 **A.** Yes, that's correct.

19 **Q.** Shouldn't the staff pro forma proposed
20 position in Column I incorporate a reduction to the
21 invested capital tax to eliminate the North Shore
22 pro forma increase and also recognize the effect of

1 the proposed rate reduction on North Shore's
2 income?

3 **A.** When I prepared this exhibit, I wasn't as
4 clear as I am today how the invested capital tax is
5 a derivative adjustment and since that time have
6 had discussions and discovery with the Company on
7 that subject. And I believe the Company has
8 provided in cross exhibits how they agree that the
9 invested capital tax for both companies should be
10 adjusted based on the final Commission decisions in
11 this case.

12 So while it would have been more
13 accurate to show that downward adjustment for staff
14 position on this exhibit, it won't have an effect
15 in the end, because the numbers will be run again
16 with the final Commission decisions.

17 **Q.** And you said that was in a cross exhibit?

18 **A.** I believe that was entered when
19 Mr. Fiorello was on the stand.

20 MS. SODERNA: Okay, that's all I have, thank you.

21

22

1 (Whereupon, NS/PGL Hathhorn Cross
2 Exhibit No. 6 was
3 marked for identification
4 as of this date.)

5 CROSS EXAMINATION

6 BY

7 MR. RATNASWAMY:

8 Q. Good evening. I'm John Ratnaswamy, one of
9 the counsel for Peoples Gas and North Shore. I
10 believe you already have a copy of the Company's
11 response to DOH 23.01. If I could direct your
12 attention to Page 9 of your rebuttal testimony,
13 there are two references there to response to staff
14 data request DOH 23.01. That isn't really my
15 point, but I think is the first one an incorrect
16 reference?

17 A. Where is the first one?

18 Q. The first one is in Line 185 and it refers
19 to certain data which is provided in a response,
20 and I don't see that data in this response.

21 A. I think that's supposed to be 23.02.

22 Q. And then would you agree there is a second

1 reference to 23.01, which is, in fact, a reference
2 to 23.01 that starts on Page 9, Line 193 and goes
3 to Page 10?

4 **A.** Yes.

5 **Q.** And would you agree there you characterize
6 certain aspects of the response?

7 **A.** I discussed the response.

8 **Q.** Would you agree that the response concerns
9 reasons that collection agency fees were lower than
10 normal in 2006 and 2007?

11 **A.** Well, the question only asks about 2007,
12 but then the response went beyond 2007 to also
13 discuss prior years.

14 **Q.** And would you agree, in your testimony, you
15 discussed some parts of the response, but not
16 others?

17 **A.** That's correct.

18 **Q.** And am I correct that you did not attach
19 the response to your testimony?

20 **A.** Yes.

21 **Q.** But you did rely on it at least in part?

22 **A.** Yes.

1 MR. RATNASWAMY: I would move the admission of
2 North Shore Peoples Gas Cross Hathhorn 6.

3 MR. FOSCO: No objection, your Honor.

4 JUDGE MORAN: Hearing no objection, it's
5 admitted.

6 BY MR. RATNASWAMY:

7 Q. And then if you could turn to Page 16 of
8 your rebuttal. There is a Q and A that begins on
9 Line 337 and continues through line 360. Do you
10 see that?

11 A. Yes.

12 Q. And am I correct that you are not intending
13 there to offer a legal opinion?

14 A. You are correct.

15 Q. And would I be correct to go even beyond
16 that and say you are not intending to offer any
17 opinion in that Q and A?

18 MR. FOSCO: About that opinion or are you asking
19 in the whole Q and A?

20 MR. RATNASWAMY: The witness' question emphasizes
21 that she's not offering a legal opinion and then
22 she sites, in quotes, at some length, a Supreme

1 Court opinion. So it's not a legal opinion, I
2 guess, I'm trying to understand is there any
3 opinion that is being offered in that Q and A.

4 THE WITNESS: Well, the Q and A, the answer is
5 just to put this section of the court ruling into
6 my testimony to highlight that this is an issue. I
7 say that I'm not an attorney and that I'm not
8 offering a legal opinion, because I don't elaborate
9 on it, I just put it there as the court said it.

10 Q. And I'm, for understandable reasons, I
11 hope, I'm trying to speed this up. How many
12 Illinois rate cases have you testified in, do you
13 know?

14 A. Maybe a dozen.

15 Q. And are you familiar to varying degrees
16 with other Illinois Commerce Commission instances
17 in the cases where you did not testify?

18 A. I have general knowledge of them, yes.

19 Q. Would you agree that it is common in
20 Illinois rate cases to make ratemaking adjustments
21 to test your data that are not pro forma
22 adjustments?

1 **A.** There can be non-pro forma adjustments.

2 **Q.** And so an example could be in the case of
3 an electric utility normalizing variable storm
4 damage repair expenses?

5 **A.** Yes, that could happen.

6 **Q.** And would you agree those could be normal
7 in either direction, in the sense that the result
8 of normalization could be higher or lower than the
9 test year value?

10 **A.** Yes.

11 **Q.** And would the same be true, for example, of
12 uncollectibles expenses in some cases?

13 **A.** Yes, I've seen that done.

14 **Q.** And in -- would you also agree that there
15 are circumstances in which the Commission has
16 authorized the amortization of operating expenses?

17 **A.** I see that most commonly in rate case
18 expense.

19 **Q.** Would you agree there are other examples
20 such as in water rate cases tank painting expenses?

21 **A.** Yes.

22 **Q.** And are you familiar, as you sit here right

1 now, with other examples?

2 **A.** Other examples would probably be kind of
3 rare, maybe a management audit, a fee, a amortized
4 over a number of years, but those are probably the
5 most common.

6 **Q.** And would you, I'm hoping this is the last
7 question, would you agree that it is the case that
8 if the amortization is not completed as of the next
9 rate case, that the rates set in the next rate case
10 include the amounts that are the unamortized
11 balance?

12 **A.** I've seen that get requested, sometimes,
13 depending on exactly how it gets requested, it can
14 become a thorny issue, but I mean it just depends
15 on what the company asks for.

16 **Q.** Have you seen that approved by the
17 Commission with regard to rate case expenses, for
18 example?

19 **A.** Yes, I have.

20 **Q.** And would you agree that it happens at
21 least some of the time with other types of
22 operating expenses that have been amortized?

1 **A.** It can. The cases happen so often, though,
2 it's pretty rare.

3 MR. RATNASWAMY: I have no further questions.

4 JUDGE MORAN: The attorney general, Karen Lusson.

5

6

7

8 CROSS EXAMINATION

9 BY

10 MS. LUSSON:

11 **Q.** Ms. Hathhorn, in response -- with respect
12 to the adjustments Mr. Ratnaswamy was just
13 mentioning, is it correct that absent a statute or
14 an ICC rule with respect to those kind of
15 extraordinary ratemaking adjustments, that it would
16 be the utilities burden to show some sort of
17 extraordinary circumstance to justify that unusual
18 ratemaking treatment?

19 **A.** Yes, the utility would have that burden.

20 **Q.** At Page 19 of your testimony?

21 MR. FOSCO: Rebuttal?

22 MS. LUSSON: I'm sorry, rebuttal testimony.

1 BY MS. LUSSON:

2 Q. With respect to your proposed modifications
3 to Rider ICR, you state at Line 399, first I want
4 to reiterate that staff's primary position remains
5 that the Commission should reject rider QIP and my
6 testimony provided additional concerns in the event
7 the Commission decided to accept the Company's
8 proposal for Rider QIP.

9 Does this, in your mind, for lack of a
10 better term, an attempt to make a silk purse out of
11 a sow's ear, as the old saying goes? In other
12 words, what you're telling the ICC don't do it but
13 if you do here is how to make it slightly less
14 unattractive from a ratemaking perspective?

15 A. Well, my experience has been that the
16 Commission does not appreciate being placed in a
17 box, and has expressed a lot of frustration when it
18 has no options, 100 or 0 and has nothing I know
19 between. So in my world, we can't just go down one
20 path and put the Commission in a box.

21 Q. And is that also your opinion with respect
22 to your proposed modifications to Rider WNA, with

1 respect to your proposal to modify Factor O?

2 **A.** It's the same position for all the riders.

3 **Q.** And with respect to that proposal for the
4 fallback Rider QIP, do you propose additional
5 criteria to the Rider ICR, qualifying plant
6 categories that include the requirement that the
7 plant in the four listed accounts must be plants
8 that are non revenue producing, replacement of
9 existing plant items, replacements of the CIDI main
10 and ancillary infrastructure; is that correct?

11 **A.** Yes, that's correct.

12 **Q.** Would you agree that what qualifies as
13 replacement or non revenue producing or ancillary
14 infrastructure, can be subject to considerable
15 judgment on the Company's part?

16 **A.** Seeing as they've never had a rider like
17 this before, I can imagine we could get into
18 disagreements about that.

19 **Q.** That was going to be my -- but my question,
20 can you see there being an a lot of room for
21 judgment calls on the Company's part as to what
22 constitutes ancillary equipment, replacement and

1 non revenue producing? It's sort of within the
2 discretion of the Company, at least for purposes of
3 this Rider QIP, is that right, at least until the
4 reconciliation?

5 **A.** They are the ones doing the work,
6 maintaining the accounting records, so they are the
7 ones making the call, what category to put the
8 money in, so it's at their discretion.

9 **Q.** And if I heard you correctly, you would
10 agree, then, that what qualifies as replacement or
11 non revenue producing or ancillary infrastructure
12 could be subject to considerable disagreement
13 between staff and the Company about what
14 constitutes those terms, that is replacement, non
15 revenue producing or ancillary; is that right?

16 **A.** It could happen.

17 **MS. LUSSON:** No further questions, thank you
18 **Ms. Hathhorn.**

19 **JUDGE GILBERT:** Is that everyone with cross?

20 **MR. FOSCO:** I believe so.

21 **EXAMINATION**

22 **BY**

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JUDGE GILBERT:

Q. I just had one question. During the cross examination of Ms. Grace, I came to understand that she had not produced a new tariff sheet reflecting some revisions to modifications to the proposed ICR that you had made. Do you know where in the record I would now find a tariff that reflected your, I guess, unrevised changes to ICR?

A. My direct testimony has my original proposal. Attached to my rebuttal testimony is the Company's response, which reflects two substantive things, adding a few more categories, which then I believe an intervenor objected to, so they said we'll take it out. The second change is their objection to the refund provision of Rider QIP, so they struck out all that language. I'm not aware of an actual tariff in the record that puts all those pieces together, attached to anyone's surrebuttal.

JUDGE GILBERT: Mr. Ratnaswamy, would you know an answer to that?

MR. RATNASWAMY: I believe that's correct, that

1 there's not.

2 MR. HOUSE: Excuse me, your Honor, may I speak to
3 that? The Company would be willing, for your
4 Honor's elucidation, to put together a set of -- a
5 tariff sheet that reflects all of the
6 recommendations to date that have been accepted, if
7 that would be okay with you.

8 JUDGE GILBERT: Yeah, I think that would be
9 helpful. I mean otherwise, really my question to
10 Ms. Hathhorn where do I look to find something.

11 MR. HOUSE: I understand your question and I
12 understood Ms. Hathhorn's response, which I think
13 is an accurate response, and I just think it would
14 be helpful to all of us to have a tariff sheet that
15 shows you what happened. And we'll produce that
16 before Mr. Schotts, we'll try and have it ready
17 long before his testimony.

18 JUDGE GILBERT: Can you make -- do you want to
19 make it an attachment or exhibit to his
20 surrebuttal? Would that be the way to do it?

21 MR. HOUSE: Yes, unless you want to sooner, we
22 can just make it a response.

1 MR. RATNASWAMY: Make it the third ALJ data
2 request.

3 MR. HOUSE: Why don't we do that then we can make
4 it available sooner than Mr. Schotts' testimony.
5 We can do that.

6 MR. FOSCO: No redirect, your Honor.

7 JUDGE MORAN: The next witness.

8 MR. FEELEY: Staff would call its next witness,
9 Daniel G. Kahle.

10 (Witness sworn.)

11 DANIEL KAHLE,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. FEELEY:

17 Q. Mr. Kahle, have you prepared or had
18 prepared under your direction, supervision and
19 control a document marked the Direct Testimony of
20 Daniel G. Kahle, which consists of narrative text
21 marked for identification as ICC Staff Exhibit 3.0
22 and has attached schedules 3.1 N to 3.3 N and 3.1 P

1 to 3.4 P?

2 **A.** Yes, I have.

3 **Q.** Did you also prepare a document entitled
4 the Corrected Supplemental Direct of Daniel G.
5 Kahle marked for identification as ICC Staff
6 Exhibit 3.0-Supplemental Corrected, which consists
7 of narrative text and schedules 3.5 N and 3.6 N and
8 3.5 P and 3.6 P?

9 **A.** Yes.

10 **Q.** Did you also prepare a document entitled
11 the Corrected Rebuttal Testimony of Daniel G. Kahle
12 which consists of narrative text marked for
13 identification as Staff Exhibit 15.0 Corrected, has
14 Attachments A and B and Schedules 15.1 N to 15.3 N
15 and 15.1 p.m. to 15.3 P?

16 **A.** Yes.

17 **Q.** Do you have any additions, corrections or
18 modifications to make to those documents?

19 **A.** No.

20 **Q.** If I were to ask you today the same series
21 of questions set forth in those documents, would
22 your answers be the same?

1 **A.** Yes, they would.

2 MR. FEELEY: At this time staff would move to
3 admit direct testimony of Daniel G. Kahle, the
4 corrected supplemental direct testimony and the
5 corrected rebuttal testimony and all attached
6 schedules and attachments into evidence.

7 JUDGE MORAN: Is there any objection? Hearing
8 none, all of those will be admitted.

9 (Whereupon, ICC Staff Exhibits
10 Nos. 3.0, 3.0-Corrected and 15.0
11 were marked for identification
12 and admitted into evidence as of
13 this date.)

14 MR. FEELEY: Mr. Kahle is available for cross
15 examination.

16 JUDGE MORAN: Thank you, and who wishes to start?

17 CROSS EXAMINATION

18 BY

19 MS. PASULKA-BROWN:

20 **Q.** Good evening, Mr. Kahle, my name is Kathy
21 Pasulka-Brown and I represent Peoples and North
22 Shore in this case. And I would like to begin by

1 verifying your understanding of Mr. Adams'
2 testimony regarding the methodology for calculating
3 the CWC requirement of the companies and by that I
4 mean cash working capital requirements.

5 And let me step back just a moment and
6 confirm that you have reviewed all of Mr. Adams'
7 testimony that has been admitted in this
8 proceeding, correct?

9 **A.** Yep.

10 **Q.** So you understand that Mr. Adams' is
11 indifferent to the methodology, specifically the
12 gross LAG methodology or the net LAG methodology,
13 that the Commission directs the parties to utilize
14 in this case to calculate the CWC requirements of
15 the companies, correct?

16 **A.** Yes.

17 **Q.** So based on Mr. Adams' rebuttal and
18 surrebuttal testimony, you also understand that he
19 did not recalculate the Companies initial
20 determinations of their cash working capital
21 requirements, because he believed that any such
22 recalculation should wait until the final

1 determinations by the Commission on the disputed
2 issues in this case that impact the CWC
3 requirements, right?

4 **A.** Yes.

5 **Q.** So you would agree, wouldn't you,
6 Mr. Kahle, that the issue of which methodology the
7 Company should use to calculate the CWC
8 requirements of the Companies is now essentially a
9 moot point, right?

10 **A.** No, I still believe the gross LAG method is
11 the better method.

12 **Q.** But you understand there is no dispute
13 about which method should be used, correct?

14 **A.** Well, I would --

15 **Q.** You have a preference?

16 **A.** Yes.

17 **Q.** But we would accept that and you understand
18 that we would accept that methodology?

19 **A.** Yes.

20 **Q.** Thank you. Now I want to turn to what you
21 describe as your consideration of cash flows,
22 versus what Mr. Adams' considers and you

1 characterize that as his consideration of revenues
2 and expenses.

3 In your corrected rebuttal testimony, at
4 Page 5, I don't know that you need to refer to it,
5 I'll give you the line numbers, they are 97 to 98.
6 In that testimony, you indicate that the reason you
7 prefer your consideration of cash flows to
8 Mr. Adams' consideration of revenues and expenses,
9 is because revenues and expenses may include
10 accruals, deferrals and noncash transactions. Do
11 you see that?

12 **A.** Yes.

13 **Q.** Now, you do know, based on Mr. Adams'
14 surrebuttal testimony, that Mr. Adams' calculations
15 don't include accruals, deferrals or noncash
16 transactions, right?

17 **A.** Well, on his calculation of gross LAG
18 method, one of the factors that he included was net
19 income. And my understanding is that net income is
20 calculated using accruals and deferrals.

21 **Q.** But turning to his testimony, because he
22 and you differ on the definition of net income, if

1 you look at his surrebuttal testimony, at Page 7, I
2 believe it starts on Line 137?

3 **A.** Line 137?

4 **Q.** Yes. Actually I think it's the wrong
5 reference number, it's a little bit before that on
6 the top of the page. And the question appears on
7 6.

8 And in his answer he says that you imply
9 through your statement that there are accruals,
10 deferrals and noncash items in his analysis, but he
11 says that he didn't include any such items in his
12 analysis. And I think that derives from your
13 differences in the definition of net income. Do
14 you see where he says that he doesn't include any
15 of those items?

16 **A.** What line does he say it on, I don't see
17 it?

18 **Q.** Line 132, continuing to 133, the sentence,
19 and I'll just read it, quote, Staff Witness
20 Mr. Kahle implies through his statement that there
21 are accruals, deferrals or noncash items in my
22 analysis, which there are not. Do you see that?

1 **A.** Oh, yes, I do see that.

2 **Q.** So regardless of your understanding, you
3 see in his testimony that he said that his analysis
4 doesn't include those things that he mentioned?

5 **A.** Yes, I see what he says, yes.

6 **Q.** And when revenues and expenses don't
7 include the accruals, deferrals or noncash
8 transactions, those the things that you said might
9 make it less appropriate to consider revenues and
10 expenses, in that case revenues and expenses would
11 be the same as cash flows, correct?

12 **MR. FEELEY:** You know, I object to the question.
13 Can you break that down or restate it again?

14 **MS. PASULKA-BROWN:** Sure, Mr. Kahle's hesitancy
15 and caution with respect to the consideration of
16 revenues and expenses, relates to his belief that
17 revenues and expenses may include accruals,
18 deferrals or noncash transactions.

19 So in the instance where revenues and
20 expenses do not include accruals, deferrals or
21 noncash transactions, he has no further problem
22 with the consideration of revenues and expenses,

1 because that's the only problem he identified.

2 MR. FEELEY: I think I'll object to the question.
3 I don't think that is a fair characterization of
4 his testimony, he's talking about net income.

5 MS. PASUKLA-BROWN: No, we started this with his
6 reference on Page 5 of his rebuttal testimony in 97
7 and 98, where he says, and I'll quote, my approach
8 compares cash flows in and out and is not driven by
9 revenues and expenses, which may include accruals,
10 deferrals or noncash transactions, end quote. He's
11 not talking about net income there, I'm talking
12 about exactly what he's referring to there, which
13 is the fact that he thinks revenues and expenses
14 are inappropriately considered because they may
15 include some of those things, accruals, deferrals
16 and noncash transactions.

17 MR. FEELEY: Then he answered one of your
18 questions by stating that Mr. Adams made an
19 adjustment for net income which included accruals
20 and deferrals.

21 MS. PASULKA-BROWN: That's what he said and I'm
22 showing you in Mr. Adams' testimony where Mr. Adams

1 said he didn't make such an adjustment and his
2 analysis, per the testimony that I just cited in
3 Mr. Adams' rebuttal, doesn't include accruals,
4 deferrals or noncash transactions.

5 JUDGE MORAN: Well, why don't you put a clear
6 question to the witness.

7

8 BY MS. PASULKA-BROWN:

9 Q. If revenues and expenses don't include
10 accruals, deferral or noncash transactions, then
11 you don't take further issue with the consideration
12 of revenues and expenses, correct, because there is
13 no other problem that you identified in your
14 testimony, correct?

15 MR. FEELEY: I guess object to the question, it's
16 improper foundation. His adjustment is based upon
17 net income, which includes deferrals and
18 amortization and you're changing -- that's not in
19 your question.

20 MS. PASULKA-BROWN: That's because that's not my
21 question. My question is about Mr. Kahle's
22 statement that the reason he objects or takes

1 exception to Mr. Adams' consideration of revenues,
2 and expenses is because Mr. Mr. Kahle assumed that
3 revenues and expenses may include the accruals,
4 deferrals and noncash transactions that Mr. Kahle
5 identifies in his testimony.

6 Mr. Adams' responded in his surrebuttal
7 to that assumption of Mr. Kahle's and said,
8 regardless of what you think, my analysis does not
9 include accruals, deferrals and noncash
10 transactions. Now, Mr. Mr. Kahle may not believe
11 that surrebuttal, but that's not my question. My
12 question is, if you assume that revenues and
13 expenses do not, as Mr. Adams' testified, do not
14 include accruals, deferrals or noncash
15 transactions, then you have no further caution or
16 hesitancy in the consideration of revenues and
17 expenses, correct?

18 THE WITNESS: If you mean by revenue and
19 expenses, only cash transactions.

20 BY MS. PASULKA-BROWN:

21 Q. The revenues and expenses that you refer to
22 in your testimony.

1 **A.** Again, if revenue and expenses were only
2 cash transactions, I wouldn't have a problem with
3 it.

4 **Q.** Okay, let's move on.

5 The next topic I want to turn to are
6 some other general aspects of your cash working
7 capital testimony. And you would agree, in
8 general, the Company's cash working capital
9 requirement is intended to account for just timing
10 differences between the Company's receipt of
11 revenues, what you call cash inflows and its
12 payment of expenses, what you refer in your
13 testimony to as cash outflows, correct?

14 **A.** Yes.

15 **Q.** And you also would agree that neither
16 Mr. Adams' CWC calculations, nor your own, are
17 intended to be a means by which the Company can
18 recover expenses, right?

19 **A.** Yes.

20 **Q.** Because the expenses are recovered through
21 the revenue requirement, right?

22 **A.** Yes.

1 **Q.** So Mr. Kahle, in your corrected
2 supplemental direct testimony, you state on Page 4,
3 starts in the middle of Line 64, and I'm quoting,
4 the CWC, quote, adjust rate base, to provide the
5 cash a company needs to keep on hand to meet it's
6 cash operating outlies, after taking into account
7 it's cash inflows. Do you see that portion of your
8 testimony?

9 **A.** Yes.

10 **Q.** So based on that definition of CWC, a
11 company's CWC requirement constitutes the total
12 amount that the company must have, again, including
13 it's cash inflows or revenues, to pay its cash
14 operating outlays, which are operating expenses,
15 right?

16 **A.** Well, the cash working capital is to
17 account for the affect of financing the LAG and
18 allow it to keep efficient cash on hand as an
19 investment to pay it's outflows, yes.

20 **Q.** So the answer to my question is yes?

21 **A.** Yes.

22 **Q.** So you would agree that if a company's cash

1 inflows, its revenues, are less than its operating
2 expenses, in that instance, the company's CWC
3 requirement is going to be greater than the amount
4 of its cash inflows or revenues, right?

5 **A.** Well, it would depend on the timing.

6 **Q.** Why would that depend on the timing?

7 **A.** Well, it could be that the outflows are
8 sufficiently delayed that there wouldn't be cash on
9 hand.

10 **Q.** I'm not talking about cash on hand right
11 now, I'm just talking about just the cash inflows,
12 okay. So in the instance where a company's cash
13 inflows are less than its operating expenses, then
14 the capital -- the cash working capital requirement
15 would be higher than those inflows, because in this
16 question we're assuming that the cash inflows were
17 less than the operating expenses.

18 **A.** I'm not sure I can answer that without a
19 more specific example.

20 **Q.** Well, let me try it this way: It is true
21 that cash inflows or revenues are separate and
22 apart from cash on hand, correct?

1 **A.** Yes.

2 **Q.** Because cash on hand is an asset that would
3 be reflected on a company's balance sheet, right?

4 **A.** Yes.

5 **Q.** And cash inflows or revenues would be
6 reflected on a company's income statement, right?

7 **A.** Well, again, the income statement revenues
8 might have accruals on it, so we wouldn't associate
9 cash on the income statement.

10 **Q.** Regardless of whether it has accruals in it
11 or not, the revenues are reflected on an income
12 statement, not a balance sheet, right?

13 **A.** Yes.

14 **Q.** And cash on hand is reflected in the
15 balance statement, correct?

16 **A.** Yes.

17 **Q.** And the two, again, cash on hand, on the
18 one hand and cash inflows that you consider in your
19 analysis or revenues, are two different things,
20 correct?

21 **A.** Yes.

22 **Q.** And as alluded to in some of the questions

1 already, your analyses are based on your
2 consideration of cash in flows and cash outflows,
3 right?

4 **A.** Yes.

5 **Q.** And cash outflows, at least to the extent
6 that they constitute operating expenses, are
7 recorded on the income statement, right, because
8 they are operating expenses, right?

9 **MR. FEELEY:** Do you have a reference to this
10 testimony that you're pointing to?

11 **MS. PASULKA-BROWN:** No, I'm just asking him about
12 his consideration in general.

13 **MR. FEELEY:** I'm sorry, can you restate the
14 question?

15 **BY MR. PASULKA-BROWN:**

16 **Q.** Mr. Mr. Kahle, do you need it restated, did
17 you understand that question?

18 **A.** Restate it again, please.

19 **Q.** The cash flows, to the extent that they
20 constitute operating expenses -- let me backup so
21 you can maybe follow me even more clearly.

22 In part of your testimony, and I don't

1 have a reference for this, you identified the fact
2 that an expense, a cash outflow, can be either
3 expensed or capitalized or allocated to both. Do
4 you recall that?

5 **A.** Yes.

6 **Q.** So cash outflows, to the extent that they
7 are operating expenses, are recorded on the
8 company's income statement as operating expenses,
9 correct?

10 **A.** Expenses could still have accruals in them
11 so there could be cash outflows that satisfy a
12 payable, so I would say that's an incorrect
13 statement.

14 **Q.** Well, subject to check, since Mr. Adams'
15 has explicitly testified that his analysis does not
16 include any accruals or deferrals or noncash
17 transactions, if that statement by Mr. Adams' is
18 true, then the cash outflows, to the extent that
19 they constitute operating expenses, are reflected
20 on a company's income statement?

21 **MR. FEELEY:** Objection, the question is improper
22 question. He's already stated that there are

1 accruals and deferrals in Mr. Adams' testimony.
2 And he's not willing to take that subject to check,
3 because he's testified that he makes an adjustment
4 for net income.

5 MS. PASULKA-BROWN: Who has testified that he
6 makes an adjustment for net income?

7 MR. FEELEY: Mr. Kahle has testified that
8 Mr. Adams makes an adjustment for net income, which
9 includes accruals and deferrals. So you are asking
10 him to totally ignore his testimony on that subject
11 and put that aside and say, well, do you agree with
12 him and that's an improper question.

13 MS. PASULKA-BROWN: No, that's actually not what
14 I'm asking.

15 MR. FEELEY: That's exactly what you're asking
16 him to do.

17 MS. PASULKA-BROWN: I'm leaving net income aside
18 and going specifically by Mr. Mr. Kahle's
19 testimony, which specifically states my approach,
20 and I'm quoting again from his corrected rebuttal
21 testimony at Page 5, Line 96, my approach,
22 Mr. Kahle's approach, compares cash inflows in and

1 out and is not driven by revenues and expenses,
2 which may include accruals, deferrals or noncash
3 transactions. End quote.

4 BY MS. PASULKA-BROWN:

5 Q. Mr. Kahle, did you identify any instances
6 in which Mr. Adams' testimony does specifically and
7 in fact include accruals, deferrals or noncash
8 transactions?

9 A. In Schedule V8, Page 2 he deducts -- it's
10 labeled withdrawn equity, but he deducts net
11 income. You can see the figure is the same figure
12 as net income on the Company's Schedule D. And you
13 can see on Schedule D that there are accruals and
14 deferrals to arrive at that net income figure.

15 Q. And you are aware that Mr. Adams, in his
16 surrebuttal testimony, stated that his analysis
17 didn't include accruals, deferrals or noncash
18 transactions, correct?

19 MR. FEELEY: I think you've asked this question,
20 he's answered it numerous times and he disagrees
21 with it.

22 MS. PASULKA-BROWN: He doesn't disagree with what

1 I just said because all I asked him is whether the
2 testimony says that and it does say that. I could
3 read it again it does say that. He doesn't agree
4 that it's true.

5 JUDGE GILBERT: Let's stop. A pause there, deep
6 breath, everyone. Adams is saying that he is not
7 including those three elements. You believe he is,
8 inherently, in net income; is that correct?

9 THE WITNESS: Yes.

10 JUDGE GILBERT: So when he says in his rebuttal
11 testimony in the passage, as counsel has repeatedly
12 cited to you, that he is not in fact including
13 those elements, do you believe him or do you not
14 believe him?

15 THE WITNESS: I do not.

16 MS. PASULKA-BROWN:

17 Q. And I understand that you don't believe
18 him, that's why I asked you just to answer the
19 question as a hypothetical, because that's what he
20 said and I'm pretty sure he knows that he didn't
21 include those.

22 What I understand is that you differ in

1 your definition of net income. Do you agree that,
2 that there may be a difference in your definition
3 of net income that is causing the confusion?

4 **A.** I don't know that I know Mr. Adams'
5 definition of net income.

6 **Q.** What is yours?

7 **A.** On a GAP basis it's revenues less expenses.

8 **Q.** So going back to your analysis, which again
9 considers cash inflows and outflows, I want to draw
10 your attention to your consideration of payroll and
11 payroll related items. Do you recall that
12 testimony?

13 **A.** Yes.

14 **Q.** And you included those sorts of capitalized
15 expenses, specifically payroll and payroll related
16 items, in your analysis of cash outflows, right?

17 **A.** Yes.

18 **Q.** And you would agree that there are other
19 capitalized expenses that you did not include in
20 your consideration of cash outflows; isn't that
21 true?

22 **A.** Yes.

1 **Q.** So you would also agree, wouldn't you, that
2 you have not included all cash outflows in your
3 analysis, right?

4 **A.** Right.

5 **Q.** And the only cash outflows that you
6 considered, then, were the operating expenses that
7 are reflected on the income statement and the
8 capitalized payroll and payroll related expenses,
9 right?

10 **A.** Well, with the exception of saying expenses
11 on the income statement, but I would say cash
12 outflows operating -- the intent was to consider
13 cash outflows that reflect the day-to-day
14 operations.

15 **Q.** Operating expenses, right?

16 **A.** Day-to-day operations.

17 **Q.** Is there a distinction between those two
18 that you are drawing?

19 **A.** Yes. I would consider the Company's
20 payroll a day-to-day operation of the Company.

21 **Q.** But you did already state that the portion
22 you included in your analysis was the capitalized

1 portion, correct, of payroll and payroll related
2 expenses?

3 **A.** I included all payroll.

4 **Q.** So that includes the capitalized portion,
5 right?

6 **A.** Yes.

7 **Q.** So the outflows that you consider in your
8 analysis, which is based on cash inflows and
9 outflows, the outflows are the operating expenses,
10 and the payroll and payroll related expenses, both
11 the operating expense portion of payroll and the
12 capitalized expense portion of payroll, right?

13 **A.** Yes.

14 **Q.** Now, I want to turn to your corrected
15 supplemental direct testimony. Page 4. Starting
16 at around Line 72 continuing through about 81. At
17 that point in your testimony you quote from the
18 Commission's decision in the prior Illinois Power
19 case where the Commission found, quote, that
20 staff's adjustment pertains only to the inventory
21 portion of materials and supplies, not to the
22 expense portion. Therefore, staff's adjustment is

1 not already reflected in the cash working capital
2 allowance and does not result in double accounting
3 of accounts payable. Accordingly, staff's
4 adjustment is reasonable and is approved, end
5 quote. Do you see that?

6 **A.** Yes.

7 **Q.** And I read that correctly?

8 **A.** Yes.

9 **Q.** So the inventory portion of materials and
10 supplies that's referred to in the Commission's
11 holding, that inventory portion of materials and
12 supplies is a capital expense, right?

13 **A.** Yes.

14 **Q.** So the Commission approves staff proposed
15 adjustment to the inventory portion of materials
16 and supplies because that proposed adjustment did
17 not impact the expense portion of materials and
18 supplies, right?

19 **A.** I'm not sure I understood your question.

20 **Q.** Well, the Commission said that staff's
21 adjustment is not already reflected in the cash
22 working capital allowance and does not result in

1 double accounting of accounts payable and why is
2 that, because --

3 JUDGE GILBERT: Please don't read it any more,
4 it's been read, it's there, it's evidence, go
5 ahead.

6 BY MS. PASULKA-BROWN:

7 Q. Can you answer the question now or did you
8 need the question again?

9 A. Just the question again.

10 Q. The Commission approves staff's proposed
11 adjustment to the inventory portion of materials
12 and supplies because the proposed adjustment did
13 not impact the expense portion of materials and
14 supplies, correct?

15 A. Yes.

16 Q. And the ICC expressly found the fact that
17 the proposed adjustment did not impact the expense
18 portion of materials and supplies meant that the
19 proposed adjustment was not already reflected in
20 the CWC allowance, right?

21 A. Yes.

22 Q. So, Mr. Kahle, the ICC indicated that the

1 adjustment proposed in the Illinois Power case
2 would not have been appropriate, if it had impacted
3 the expense portion of the materials and supplies,
4 because it would then result in what they refer to
5 as double accounting, right?

6 **A.** They didn't say that.

7 **Q.** Are you looking at Lines 77 to 81 of the
8 quote?

9 **A.** I believe their decision was that it was
10 appropriate to deduct the amount of accounts
11 payable from the value of inventory.

12 **Q.** Right. And my question was, it was
13 appropriate, as found by the Commission, because it
14 didn't result in double accounting and wasn't
15 already accounted for in the cash working capital
16 requirement. Do you see that?

17 **A.** Yes.

18 **Q.** And you would agree, wouldn't you, that the
19 inventory portion of material and supplies, as we
20 already discussed, is a capitalized expense and I
21 think you testified earlier yes, right?

22 **A.** Yes.

1 **Q.** So since the inventory portion of materials
2 and supplies is a capitalized expense and
3 consistent with at least the decision in the
4 Illinois Power case, it is -- and that is a
5 capitalized expense is not properly considered when
6 calculating a CWC requirement because it would
7 result in that double accounting, right?

8 **MR. FEELEY:** I'm going to object to the form of
9 the question. I don't think it's understandable.

10 **BY MS. PASULKA-BROWN:**

11 **Q.** Then I'll rephrase it, sorry. We have
12 already established that the inventory portion of
13 materials and supplies is a capitalized expense,
14 right?

15 **A.** Yes.

16 **Q.** And the reason the adjustment that was
17 proposed in the Illinois Power case, that the
18 Commission refers to in the quoted portion of your
19 testimony, the reason that adjustment was
20 appropriate, was because it didn't touch on the
21 expense that was already reflected in the CWC
22 allowance, right?

1 **A.** Yes, because it's an account payable, there
2 has been no cash outlay.

3 **Q.** And because it is an account payable it's
4 on the balance sheet, it's not on the income
5 statement where the outflows are, correct?

6 **A.** If it's been accrued as a payable, it will
7 be on the income statement as an expense.

8 **Q.** It will be an operating expense?

9 **A.** Well, an accounts -- well, generically and
10 accounts payable could be for a capitalized item or
11 for an expense.

12 **Q.** Right. And in this case the accounts
13 payable was not within the expense portion, it was
14 within the capitalized expense and that's why there
15 was no double accounting?

16 **A.** Yes.

17 **Q.** And now, I want to address the last topic
18 that I wanted to cover with you, which was the
19 taxes, your reference and testimony regarding the
20 pass through taxes and the real estate taxes.

21 The first thing is at Line 11 of your
22 corrected rebuttal. You probably don't need to

1 refer to it, it's just where you identify the pass
2 through taxes that you are talking about, you
3 identified gross receipts, municipal utility taxes,
4 City of Chicago use taxes and energy assistance
5 charges. Do you recall that?

6 **A.** Where is that?

7 **Q.** Page 11.

8 **A.** Yes.

9 **Q.** And with respect to those pass through
10 taxes that you identified, you agree, don't you,
11 that there is a timing difference between the date
12 the companies remit the taxes that have been
13 assessed and the date that they collect from their
14 customers the monies to pay those taxes, right?

15 **A.** Yes. My understanding is they collect the
16 taxes and then pay them, so there is a timing
17 difference.

18 **Q.** And you would agree that because there is
19 that timing difference, it should be considered in
20 a CWC calculation, correct, because that's what the
21 CWC requirement does is reflect --

22 **MR. FEELEY:** I'm sorry, what is the question? I

1 think we have a compound question. You asked one
2 question and then you followed up, which question
3 do you want him to answer?

4 BY MS. PASULKA-BROWN:.

5 Q. I could just rephrase it. You would agree
6 that the pass through taxes have to be considered
7 in a CWC requirement calculation because a CWC
8 requirement calculation is meant to reflect those
9 sorts of timing differences that you just
10 described, right?

11 A. No. In fact, Mr. Adams didn't include them
12 in his calculation of CWC either.

13 Q. The expense lead times, he included it in
14 that, didn't he?

15 A. The lead times, yeah, but not the taxes.

16 Q. We're just talking about the calculation as
17 a whole, which includes the determination of the
18 lead times, right?

19 MR. FEELEY: What is your question? You followed
20 up one question with three clarifying questions and
21 I don't know what question you're posing.

22 JUDGE GILBERT: I'm sorry, what is your

1 objection, Mr. Feeley?

2 MR. FEELEY: There is no question pending. She
3 asked a question, he doesn't give an answer and
4 then she follows up with another question.

5 JUDGE GILBERT: Excuse me, I'm speaking, so
6 you're not speaking. She asked a question and
7 before he could respond, you said she had asked
8 three questions. She had only asked one question.
9 I think you may have lost a bit of perspective
10 here.

11 BY MS. PASULKA-BROWN:

12 Q. Do you want me to just ask you again?

13 A. Yes, please.

14 Q. You would agree that the pass through taxes
15 that you just testified relate and reflect a timing
16 difference, would have to be included in a CWC
17 analysis because a CWC analysis and calculation is
18 meant to reflect those types of timing differences
19 between incoming cash and outgoing cash, correct?

20 A. If the cash was included, you could make a
21 cast of including the pass through taxes in the
22 calculation of lead days.

1 Q. Are you finished?

2 A. Well, if you look at the calculation of
3 lead days, there is \$224 million of taxes, which
4 include pass through taxes. But the taxes, the
5 other income taxes that are included in the working
6 capital calculation are only \$17.6 million, and I'm
7 talking about Peoples now. So I think including
8 the other, what must have been some \$204,000,000 in
9 pass through taxes in the lead -- in the lead days
10 calculation, would skew the results of the lead
11 days.

12 Q. Okay. I understood your testimony in that
13 way. So let's move on to the last point, which
14 relates to your separation of the real estate
15 taxes. Do you recall that testimony?

16 A. Yes.

17 Q. You itemized the real estate taxes
18 separately from the other non income taxes because
19 of what you described as the longer lead time with
20 respect to real estate taxes. Do you recall that?

21 A. Yes.

22 Q. And as a result of your treatment of the

1 real estate taxes, those are the only taxes that
2 you separated out, so your treatment of all of the
3 taxes, other than income taxes, is not consistent
4 for that reason, right?

5 **A.** Yes, I separated real estate taxes, it was
6 the, I call it the outlier of the group.

7 **Q.** And did you suggest separating out any
8 taxes that have short lead times?

9 **A.** No.

10 **Q.** But there are such taxes that have short
11 lead times, such FICA, right?

12 **A.** Yes, FICA has a relatively shorter lead
13 time.

14 **Q.** But you don't propose separating that out,
15 correct?

16 **A.** I did not.

17 **Q.** And if you did separate it out, the cash
18 working capital requirement, because of the shorter
19 lead time and the greater expense of FICA, as
20 opposed to the real estate taxes, then the CWC
21 would go up, right?

22 **A.** I couldn't answer that question without

1 doing the calculation.

2 Q. Even though you've testified that it has a
3 relatively short lead time and it's a much larger
4 expense than real estate taxes?

5 JUDGE GILBERT: When did he say it was a much
6 larger expense than real estate taxes?

7 MS. PASULKA-BROWN: I said that in my question,
8 if it's a much larger expense than real estate
9 taxes and has a much shorter lead time.

10 JUDGE GILBERT: What you said to him was he said
11 that and he did not say that.

12 BY MS. PASULKA-BROWN:

13 Q. I'm sorry. If it has a much greater
14 expense and a shorter lead time, it would lead to a
15 higher CWC, correct?

16 A. Sitting here now I would rather not answer
17 that question without doing the calculation.

18 MS. PASULKA-BROWN: Okay, I have no further
19 questions.

20 JUDGE MORAN: Ms. Soderna.

21

22

1 CROSS EXAMINATION

2 BY

3 MS. SODERNA:

4 Q. Good evening, Mr. Kahle, my name is Julie
5 Soderna, I'm with the Citizens Utility Board. I'll
6 be asking you some questions on depreciation
7 reserve, but I'm just going to start -- I'm going
8 to start with some of your testimony on the pro
9 forma adjustment for plant additions and I'll refer
10 you to your rebuttal testimony at Page 15, Lines
11 290 to 295. And I'll try not to quote directly,
12 just summarize.

13 You state that you would agree with
14 Mr. Effron that the Company's original pro forma
15 adjustment for plant additions was not appropriate,
16 correct?

17 A. You know, I didn't find the right page.

18 Q. Oh, sorry. Page 15.

19 JUDGE GILBERT: You said line 295 on that page.

20 MS. SODERNA: 302 to 303.

21 THE WITNESS: Yes, to answer your question.

22 BY MS. SODERNA:

1 **Q.** And you further state that your proposed
2 adjustment to plant additions corrected
3 Mr. Efron's pro forma adjustment to only allow
4 known and measurable plant additions, correct?

5 **A.** Yes.

6 **Q.** And isn't it true that your rebuttal
7 adjustment accepts the Company's actual capital
8 spending from October 2006 to July 2007, as well as
9 projected expenditures for August and
10 September 2007, right?

11 **A.** Yes.

12 **Q.** And that's because you considered these
13 expenditures to be known and measurable, correct?

14 **A.** Yes.

15 **Q.** I will now direct you to Line 346 of your
16 rebuttal where you address Mr. Efron's proposed
17 adjustment to the accumulated depreciation reserve.

18 **A.** Okay.

19 **Q.** And you disagree with Mr. Efron's
20 adjustment to add a full year of depreciation
21 expense to accumulated depreciation and
22 amortization, correct?

1 **A.** Yes.

2 **Q.** And you disagree with Mr. Effron's
3 adjustment because it did not meet your criteria
4 for making adjustments only for known and
5 measurable changes to the historic test year 2006;
6 is that correct?

7 **A.** Yes.

8 **Q.** But you don't disagree, do you, that the
9 accumulated depreciation will be growing in fiscal
10 2007, do you?

11 **A.** No, I believe it will.

12 **Q.** And you don't disagree that the fiscal 2007
13 depreciation expense will be credited to the
14 accumulated depreciation, do you?

15 **A.** Did you ask if I disagree with that?

16 **Q.** You don't disagree, that the fiscal --

17 **A.** I agree.

18 **Q.** And at Lines 354 to 355 of your rebuttal
19 testimony, you further testify that you disagree
20 with Mr. Effron's adjustment to accumulated
21 depreciation, because you believe that his proposed
22 adjustment, quote, would make fiscal year 2007 the

1 test year for accumulated depreciation only,
2 unquote, correct?

3 **A.** Yes.

4 **Q.** Isn't it also true, using your logic, that
5 the Company's adjustment to rate base, for plant
6 additions in fiscal 2007, causes 2006 not to be the
7 test year for purposes of plant in service?

8 **A.** Well, I don't believe so. When I refer to
9 Administrative Code 287.4, my interpretation was
10 that the plant additions met the criteria and I
11 also, as I recall, there was indeed an adjustment,
12 a pro forma adjustment, for depreciation expense
13 and cumulative depreciation in the Company's
14 filing.

15 **Q.** Can you say that last part again, I'm
16 sorry?

17 **A.** I believe that there was a pro forma
18 adjustment for the additional plants, related to
19 depreciation expense and the cumulative
20 depreciation for 2007.

21 **Q.** You don't consider that -- you consider
22 that adjustment to be something outside of fiscal

1 2007?

2 **A.** That adjustment?

3 **Q.** I'm sorry, maybe I should clarify. You're
4 saying that because the pro forma adjustment of the
5 Company meets the criteria in the administrative
6 rules, that that's the reason that you disagree
7 with my premise that it makes fiscal 2007 the test
8 year for the purposes of the depreciation reserve?

9 **A.** I'm saying that -- I would have to look,
10 but I think the company, in the pro forma
11 adjustments, had an adjustment related to
12 additional plant for depreciation expense and a
13 cumulative depreciation.

14 **Q.** So it's your understanding that that was
15 already considered in the Company's filing?

16 **A.** Yes.

17 **Q.** You don't disagree, then, that the
18 Commission can and, in fact, has on several
19 occasions adopted accumulated depreciation beyond
20 the test year?

21 **A.** I know it's been done, I don't know the
22 number of times.

1 Q. Did you review Mr. Effron's rebuttal
2 testimony?

3 A. Yes.

4 Q. Specifically Mr. Effron discusses two
5 Commission cases where the Commission did, in fact,
6 adopt adjustments to accumulated depreciation
7 beyond the test year on Page 4 of his testimony,
8 his rebuttal testimony. Do you recall that?

9 A. Yes, I have it in front of me.

10 Q. Are you familiar with those cases?

11 A. Not particularly.

12 Q. But do you have any reason to disagree with
13 his characterization that the Commission actually
14 did adopt adjustments to accumulated depreciation?

15 MR. FEELEY: He said he's not familiar with those
16 orders, so I don't think he's in a position to
17 agree or disagree.

18 BY MS. SODERNA:

19 Q. When you say you're not familiar, does that
20 mean you have never reviewed them?

21 A. I did look at the order for CIPs 03-0008.
22 I don't have it in front of me, but I recall the

1 Commission's rationale being that the acceptance of
2 that adjustment was related to the Company's net
3 plant decreasing, rather than increasing. And I'm
4 sorry, I can't say any more than that.

5 Q. That's okay. But you, just to clarify, had
6 you looked at the 01-0432, the Illinois Power case,
7 or the 03-0009 Union Electric case?

8 A. I don't recall looking at the 01-0403, but
9 I think the 03-0009 was consolidated, so I think
10 they had the same logic.

11 Q. But you're not familiar enough to say?

12 A. My confidence is waning.

13 Q. So you're not confident enough in your
14 knowledge of those cases to say whether you agree
15 with Mr. Effron's characterization that the
16 Commission accepted to recognize post test year
17 growth in the accumulated reserve depreciation?

18 A. Well, I believe that they accepted
19 adjustment, but I'm not comfortable with the
20 premise that relates to this case.

21 Q. And you are proposing an adjustment to
22 increase Peoples rate base by approximately 76

1 million for post test year plant additions, which
2 takes into account related depreciation and
3 deferred taxes, correct?

4 **A.** Yes.

5 **Q.** And I can give you a cite, but do you agree
6 with Mr. Effron, that the Company's plant, net of
7 depreciation and deferred taxes, increased by about
8 95 million from 1996 to 2006?

9 **A.** Sitting here right now, I don't recall that
10 I checked his math. I know they increased.

11 **Q.** Subject to check, would you accept that?

12 **A.** Yes.

13 **Q.** Do you think the pro forma adjustment to
14 rate base to recognize test net post test year
15 plant growth of 76 million, when the growth in rate
16 base over a 10-year period was 95 million, is
17 reasonable?

18 **A.** Well, I didn't base it on prior years, I
19 based it on -- basically on the response to a data
20 request showing the 10 months spending and 2 months
21 projected.

22 **Q.** Right. I'm not asking you what you based

1 it on, I'm just asking if you think, in your expert
2 opinion, that that's reasonable?

3 **A.** I didn't do an analysis to make an opinion.

4 MS. SODERNA: That's all I have.

5 JUDGE GILBERT: Is that everyone with cross?

6 JUDGE MORAN: I think so, yes.

7 EXAMINATION

8 BY

9 JUDGE GILBERT:

10 **Q.** I have a couple of what I hope will be very
11 quick things. If you look at the bottom of Page 11
12 of your rebuttal testimony?

13 **A.** Okay.

14 **Q.** Starting on Line 233, with the sentence
15 that begins with the word lead times and continue
16 up into Page 12, I think by the end of Line 243
17 you'll probably have all you need.

18 MR. FEELEY: There is a -- could you give more
19 than lead times, there is a couple places where
20 that appears around that line.

21 JUDGE GILBERT: Really?

22 MR. FEELEY: On 232 and 234, I don't see it on

1 233.

2 JUDGE GILBERT: I have rebuttal testimony. This
3 was revised, wasn't it.

4 MR. FEELEY: Corrected. Could you give the first
5 line?

6 JUDGE GILBERT: I'll quote it, lead times for
7 real estate taxes were weighted too low.

8 THE WITNESS: Yes, I have it.

9 BY JUDGE GILBERT:

10 Q. Why don't you take that sentence and maybe
11 a couple more sentences in that paragraph.

12 A. Okay.

13 Q. Is your concern that the taxes in
14 Mr. Adams' -- well, bad start.

15 Is your concern that real estate taxes,
16 because you believe they were incorrectly weighted
17 have, in a sense, spoiled the basket and therefore
18 could be corrected with respect to weighting? Or
19 do you believe they must be separated out and
20 treated as a separate item from the basket?

21 A. I believe they were unfairly weighted.
22 That because of all the pass through taxes that

1 were in the calculation of lead days, I believe
2 that the lead day calculation was lower than it
3 should have been or could have been. And I took
4 real estate taxes out to help cure that.

5 **Q.** Could the real estate taxes be left in and
6 reweighted?

7 **A.** If the taxes, the population of taxes that
8 was in the calculation to weight the lead days was
9 the same as the population to calculate the cash
10 working capital, you wouldn't need to pull them
11 out.

12 **Q.** Okay. It was a clear answer, but I wasn't
13 sure what you meant by population of taxes.

14 **A.** If only non-pass through taxes were
15 considered in calculating the lead days, then I
16 don't think it would be necessary to pull anything
17 out, because you have an apples to apples
18 comparison of lead days to the taxes you paid.

19 **Q.** Without a specific citation, hopefully, an
20 essential disagreement between yourself and
21 Mr. Adams appears to be your view of the proper use
22 of capitalized items in the cash working capital

1 analysis and you don't believe capitalized items
2 belong in that analysis, correct -- I'm sorry, you
3 believe that they do belong in that analysis,
4 correct?

5 **A.** The ones that I believe to be a day-to-day
6 operating item, yes.

7 **Q.** My impression from listening to Mr. Adams
8 is that what you have done is rather unorthodox
9 among those who calculate cash working capital for
10 utility ratemaking purposes. Do you regard what
11 you've done as unorthodox?

12 **A.** No, because I found the same treatment in
13 prior cases.

14 **Q.** And those are the ones you've cited?

15 **A.** Yes.

16 JUDGE GILBERT: Okay. Redirect?

17 MR. FEELEY: Can I have a few minutes?

18 JUDGE GILBERT: Yes.

19 (Break taken.)

20 JUDGE GILBERT: Mr. Feeley.

21 MR. FEELEY: Staff has no redirect.

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(Whereupon the above-entitled
matter was continued to September
14th, 2007 at 9:00 o'clock a.m.)