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STATE OF NEW HAMPSHIRE

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PUBLIC UTILITIES COMMISSION

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4

September 3, 2008 - 10:08 a.m.  
Concord, New Hampshire

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RE: DW 08-065  
HAMPSTEAD AREA WATER COMPANY:  
Notice of Intent to File Rate Schedules.  
(Prehearing conference)

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PRESENT: Chairman Thomas B. Getz, Presiding  
Commissioner Graham J. Morrison  
Commissioner Clifton C. Below

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Connie Fillion, Clerk

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APPEARANCES: Reptg. Hampstead Area Water Company:  
Robert C. Levine, Esq.

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Reptg. Residential Ratepayers:  
Rorie Hollenberg, Esq.  
Stephen Eckberg  
Office of Consumer Advocate

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Reptg. PUC Staff:  
Marcia A. B. Thunberg, Esq.

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Court Reporter: Steven E. Patnaude, LCR No. 52

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## I N D E X

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STATEMENTS OF PRELIMINARY POSITION BY:

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Mr. Levine

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Ms. Hollenberg

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Ms. Thunberg

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

2 CHAIRMAN GETZ: Okay. Good morning,  
3 everyone. We'll open the prehearing conference in docket  
4 DW 08-065. On April 28, Hampstead Area Water Company  
5 filed a notice of intent to file rate schedules. And, on  
6 June 25, it filed its schedules, along with supporting  
7 testimony, seeking an increase in permanent rates for all  
8 its current franchises. And, the request seeks to  
9 increase annual revenues by 13.77 percent. It asserts  
10 that the increase is needed to finance three projects,  
11 consisting of a hydrology study, a billing software  
12 system, and three vehicles. We issued an order on July 25  
13 suspending the tariff revisions, and establishing the  
14 prehearing conference for this morning. I'll note for the  
15 record that the affidavit of publication has been filed,  
16 and that the Office of Consumer Advocate has filed a  
17 notice of its participation.

18 So, let's take appearances before we  
19 address any of the other issues.

20 MR. LEVINE: Good morning,  
21 Commissioners. Attorney Robert Levine, attorney for  
22 Hampstead Area Water Company. To my right is Stephen St.  
23 Cyr, consultant for the water company; to my far right is  
24 John Sullivan, our Controller. Christine Lewis Morse,

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1 Vice President of the Company, and Harold Morse, President  
2 of the Company are also present, as is Charles Lanza from  
3 our Engineering Department.

4 CHAIRMAN GETZ: Good morning.

5 CMSR. MORRISON: Good morning.

6 CMSR. BELOW: Good morning.

7 MS. HOLLENBERG: Good morning. Rorie  
8 Hollenberg and Stephen Eckberg, here for the Office of  
9 Consumer Advocate.

10 CHAIRMAN GETZ: Good morning.

11 CMSR. MORRISON: Good morning.

12 CMSR. BELOW: Good morning.

13 MS. THUNBERG: Good morning,  
14 Commissioners. Marcia Thunberg, on behalf of Staff, and  
15 with me today is Mark Naylor, Jim Lenihan, Jayson  
16 LaFlamme, and Doug Brogan. Thank you.

17 CMSR. BELOW: Good morning.

18 CMSR. MORRISON: Good morning.

19 CHAIRMAN GETZ: Good morning. Okay.

20 I'll note for the record as well that the Office of  
21 Consumer Advocate filed a Motion to Consolidate the  
22 request for a step increase in a document filed on August  
23 7th, and an objection was filed by the Company on August  
24 15th. So, in stating positions in the case, if you could

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1       also address the Motion to Consolidate.

2                       Is there anything before we need to  
3       address of a procedural matter?

4                       (No verbal response)

5                       CHAIRMAN GETZ:   Okay.   Mr. Levine.

6                       MR. LEVINE:   Thank you, Commissioner.

7       As you stated in the introductory remarks, we filed this  
8       petition for a general rate case.   We're using 2007 for a  
9       test year.   We are requesting a rate increase of  
10      approximately 13.77 percent, based on the information  
11      provided in the filing.   We're asking that the proposed  
12      rate be effective for service rendered commencing July 1,  
13      2008.   We haven't determined yet whether or not to file a  
14      request for temporary rates, but we're reserving the right  
15      to do so.

16                      As to the Motion to Consolidate, there  
17      is another filing for an interconnection, which is docket  
18      number 08-088.   That interconnection is being funded by a  
19      loan from the State Revolving Loan Fund administered by  
20      the Department of Environmental Services.   That loan fund,  
21      I'm sure you Commissioners are aware, is a very specific  
22      low interest funding vehicle that provides financing for  
23      the water company that we wouldn't otherwise be able to  
24      avail ourselves of, given the size and revenue stream and

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1 capital structure of the Company. It allows us, in this  
2 case, to connect two core systems, the Hampstead core  
3 system and the Atkinson core system. The funding is very  
4 specific, as is the project. Within that docket, we've  
5 requested a step increase. Again, very specific,  
6 self-contained, for the specific purpose of paying back  
7 the loan.

8 The interconnection and its construction  
9 is for a singular purpose. We feel that the process  
10 itself and the application for the step increase are all  
11 self-contained and very definitely ascertainable, without  
12 the necessity of making the request for the rate increase  
13 for that particular project part of this general rate  
14 case. It's our position that, if those two issues are  
15 consolidated, delays in either case could affect the other  
16 case unduly. Given our cash flow and our capital  
17 structure, that would have an undue burdensome effect on  
18 the Company.

19 Even procedurally, we have already  
20 provided notice to the customers pursuant to the  
21 Commission's orders. As I stated in my motion, it has  
22 cost us over \$1,200 in postage to provide that notice  
23 already, never mind the publication cost with the Union  
24 Leader, photocopying costs, administrative costs, just for

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1 giving the notice. To require us to duplicate that again  
2 just adds to our costs, adds to the case costs, and then  
3 ultimately affects the consumer. We --

4 CHAIRMAN GETZ: I'm sorry. You're  
5 saying that, if we consolidated the step increase portion  
6 of the other proceeding into this proceeding, that would  
7 require you to re-notice everything?

8 MR. LEVINE: Re-notice our customers,  
9 yes. That's my understanding, that that would be a  
10 requirement. The SRF loan is a revolving loan fund, which  
11 comes across every year. We don't have a lot of notice as  
12 to whether or not those loans will be available, because  
13 there are other towns that -- and municipalities and  
14 companies that apply for those funds. Sometimes they  
15 qualify and sometimes they don't, and DES has a ranking in  
16 order to prioritize who gets the money. Each time that  
17 we've applied for it, we were initially told that there  
18 wouldn't be funds available. And, then, after town  
19 meetings, what have you, we get notice that the funds are  
20 available and we have to make application, and then fit  
21 that within our cash flow structure.

22 This is -- We have previously applied,  
23 and the Commission had granted, SRF funding for our tank  
24 project. That included a specific step increase, which

1       was approved. While the OCA notes that "other companies"  
2       have applied without requesting a step increase for  
3       approval of this funding, the companies that I'm aware of,  
4       Pennichuck, public companies have a large capital base and  
5       a much larger cash flow. Our company is privately held,  
6       is smaller, and we do rely on that step increase for us to  
7       be able to pay back that loan in an expeditious manner.

8                       We don't feel that the consumers would  
9       be unduly affected if the step increase is not made part  
10      of the general rate case. And, in fact, would allow us to  
11      operate more efficiently at a lower cost, and to the  
12      benefit of not only ourselves, but to our consumers. So,  
13      we oppose the consolidation.

14                     CHAIRMAN GETZ: When would you expect  
15      that the step increase would take effect? Presumably, it  
16      can't take effect prior to the actions becoming part --  
17      completed, and there's -- we have to make some  
18      determination about whether the interconnection is -- the  
19      property is used and useful. So, what's your timing on  
20      this?

21                     MR. LEVINE: Right. We would anticipate  
22      construction would be completed sometime in 2009, so that  
23      the loan would be able to be paid back during the latter  
24      part of 2009, and the step increase taking effect then.

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1     We don't know, however, given the nature of the  
2     proceedings, whether that is going to happen, whether  
3     there's going to be delays in construction, whether  
4     there's going to be intervention or appeals procedurally  
5     in that case.

6                     CHAIRMAN GETZ:  You mean with respect to  
7     whether the interconnection should take place at all,  
8     given the Petition to Intervene by the Town of Atkinson?

9                     MR. LEVINE:  I'm unaware of a Petition  
10    to Intervene by Atkinson.  I know there was a Petition to  
11    Intervene by two residents of the Town of Atkinson.

12                    CHAIRMAN GETZ:  Okay.  Maybe I'm  
13    misreading that.  Okay, thank you.  That's correct.

14                    MR. LEVINE:  But, in any event, it has  
15    been the protocol with the SRF funding, for not only our  
16    company, but other small water companies, to have the  
17    process be self-contained.  And, we just feel it would be  
18    more efficient and more certain if that protocol was  
19    followed.  The SRF funding is very unique, and the issues  
20    that would concern the OCA otherwise I don't think are  
21    real issues in this particular case.  Thank you.

22                    CHAIRMAN GETZ:  Okay.  Thank you.

23    Ms. Hollenberg.

24                    MS. HOLLENBERG:  Thank you.  Good

1 morning. The Office of Consumer Advocate does not take a  
2 position at this time with regard to the request for a  
3 rate increase in DW 08-065. But I would like to respond  
4 to the Company's response to our Motion to Consolidate.  
5 We believe that the Company's objection misinterprets the  
6 OCA's motion. Our motion seeks only to move the rate  
7 issue from the financing docket to the pending rate case,  
8 and we do not seek to wholly tie these two cases together.  
9 And, we do not see moving the rate issue as doing that.  
10 We recognize the value of the SRF loan and the uniqueness  
11 of the process associated with it. Moreover, we do not  
12 disagree that the one and only issue that must be decided  
13 before DES can grant its approval is the approval of the  
14 terms and use of the financing. This should we believe be  
15 considered in a most timely manner.

16                 Notwithstanding this, the OCA takes the  
17 position that the rate -- request for rate increases  
18 should not be considered in a vacuum of costs alone. The  
19 OCA disagrees that its request to move the rate issue out  
20 of the financing docket and into the rate case poses more  
21 of a risk of delay to the interconnection process than  
22 leaving the dockets as filed.

23                 We think that the Appeal of Eastman  
24 review can occur quickly if the motion is granted. In

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1 recognition of the work that the Company has done already  
2 with DES on its proposed interconnection and the  
3 considerable value of the opportunity to finance this  
4 investment with an SRF loan, we would not oppose the  
5 request for PUC authorization to proceed with financing.  
6 If the rate issue is not removed from the financing  
7 docket, and the issues in that docket are not bifurcated,  
8 the OCA expects that it will seek an opportunity to engage  
9 in discovery concerning the rate increase requested in  
10 that docket, and this will needlessly lengthen the process  
11 needed to resolve the financing docket.

12 Additionally, the OCA wants to point out  
13 that, if the rate piece of the financing docket is  
14 consolidated with the pending rate case, the likely  
15 results of the financing docket, if the Company sustains  
16 its burden, will be an order finding that the terms of the  
17 financing and the use of the financing are in the public  
18 interest. There will not be a risk, therefore, which the  
19 Company suggests this morning, that there could be a  
20 subsequent finding in the rate case when the PUC considers  
21 how to compensate the Company for the costs associated  
22 with the financing of a contrary finding. In other words,  
23 the Company is practically assured that the costs will be  
24 compensated. It's just a question of how those are

1        compensated and the considerations that are taken in terms  
2        of how they are compensated in the rate case.

3                    I don't want to spend too much time on  
4        the Company's claim of established precedent, as the PUC  
5        orders are not entitled to be treated as mandatory  
6        precedent. I will note in response, however, that while  
7        there are instances of the PUC granting step increases  
8        within financing dockets, there are numerous other  
9        instances of when the PUC granted authority for SRF  
10       financing that did not contemporaneously grant or even  
11       consider a request a rate or a step increase.

12                   In addition to Order Number 24,844,  
13        which the OCA cited in its motion, and which the  
14        Department of Environmental Services' representative,  
15        Mr. Rick Skarinka, cited to the OCA and the Company and  
16        Staff in saying that that would be appropriate approval  
17        that was needed before they could proceed with the SRF  
18        loan. The PUC took this course of action in Orders Number  
19        24,739, 24,548, 24,375, 23,992, 23,459, 22,959. And,  
20        although these cases concern Pennichuck affiliates, the  
21        fact remains that the legal standard applicable to request  
22        for rate increases is just and reasonable. And, the OCA  
23        disagrees that the Company can sustain its burden of  
24        meeting this standard with only information about the

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1 costs associated with financing one capital project.

2 Assuming for the sake of argument that  
3 re-noticing would be required, as the Company contends,  
4 the OCA applauds the Company's concerns about costs, for  
5 example, postage of re-noticing these proceedings. But,  
6 to be clear, these are costs that will be paid by the  
7 Company's ratepayers, and not the Company. Whether the  
8 costs of re-noticing these proceedings exceeds the costs  
9 that could be borne by the Company's customers, if the  
10 Company is permitted to increase its rate on the basis of  
11 the cost of financing the SRF loan alone remains to be  
12 seen. It is possible, though, that without considering  
13 other ratemaking issues in combination with these costs,  
14 the Company could over-earn until its next general rate  
15 case.

16 Moreover, the Company has indicated this  
17 morning that it's still undecided as to whether or not it  
18 will seek temporary rates. And, such a decision, if it  
19 does decide to do so, would require additional notice.  
20 The Company could re-notice at the same time with regard  
21 to this other issue.

22 The OCA wants to assure the Commission  
23 that we are not opposed to the Company's efforts to  
24 improve its service to customers. We do not oppose quick

1 resolution of the only issue DES needs to be resolved,  
2 whether the Company can borrow the money. We only seek  
3 that the Company be compensated at no greater level than  
4 its authorized rate of return, as determined according to  
5 the process that considers the totality of circumstances  
6 facing the Company. And, given the fact that there is a  
7 pending rate case, we think that's the appropriate context  
8 to do that. Thank you.

9 CHAIRMAN GETZ: Ms. Hollenberg, could  
10 you go back to one part I lost you on, I think. When you  
11 were talking about "if something was bifurcated"?

12 MS. HOLLENBERG: Uh-huh.

13 CHAIRMAN GETZ: Could you get back to  
14 that part?

15 MS. HOLLENBERG: Sure. I mean, if the  
16 financing -- if the Commission were to decide that the  
17 rate increase request remain within the financing docket,  
18 and that issue was not -- was not bifurcated from the  
19 approval of the financing terms, which is the other side  
20 of the Appeal of Eastman review process, that could delay  
21 the approval of the financing terms, which is what DES  
22 needs to proceed, because the OCA is going to seek an  
23 opportunity to engage in discovery on the rate issue, if  
24 it occurs in that other docket. So, without taking that

1 docket out or separating those two issues in that docket,  
2 which I'm certainly not suggesting happen, that that could  
3 cause a delay. That was my intention.

4 CHAIRMAN GETZ: Okay. Thank you.

5 MS. HOLLENBERG: Uh-huh.

6 CMSR. BELOW: Also a clarification.

7 MS. HOLLENBERG: Yes.

8 CMSR. BELOW: You refer to perhaps other  
9 ratemaking concerns. Are you suggesting you might want to  
10 look at rate design issues or tax implications or things  
11 of that nature, with regard to the rate increase related  
12 to the SRF funding?

13 MS. HOLLENBERG: Well, certainly, we  
14 would want to look at this issue in the context of the  
15 other rate requests and the other analysis of the  
16 Company's revenues and costs that would occur in the rate  
17 case. But I could just give you one example. In the  
18 situation where they are seeking to do an interconnection,  
19 they're not only -- there is not only the possibility that  
20 there are these increased costs as a result of the  
21 financing, but they are specifically seeking the ability  
22 to serve additional customers. So, without considering  
23 the possibility of additional revenues, in addition to the  
24 increased costs associated with the financing, we think

1       that that would be an inaccurate or an inappropriate way  
2       to proceed. So, that's just one example, but there may be  
3       others.

4                       CMSR. BELOW: Okay. Thank you.

5                       MS. HOLLENBERG: You're welcome.

6                       CHAIRMAN GETZ: Ms. Thunberg.

7                       MS. THUNBERG: Thank you, Commissioners.

8       With respect to the general rate case that we have before  
9       us, Staff will be reviewing the permanent rate proposed  
10      rate increase of 13.77 percent. It will be conducting  
11      discovery and we'll be doing a complete audit of the  
12      Company's books and records, as it normally does in rate  
13      cases.

14                      In this case, the Company has proposed  
15      to raise its general metered rate. It has not proposed to  
16      raise its fire protection rate. It doesn't have a cost of  
17      service study. But it is just a company of 2,800  
18      customers, we don't think that, because there is no cost  
19      of service study, that that is going to be a problem with  
20      our review. Staff believes that during the discovery and  
21      the evidence that will be produced, there will be plenty  
22      of evidence to determine whether the allocation between  
23      fire protection and general metered customers is going to  
24      be just and reasonable.

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1                   The Company has made a number of  
2     proforma adjustments to its test year. And, Staff will be  
3     looking at those to make sure that the test year  
4     accurately reflects the Company's future financial  
5     picture. The Company has also included in its testimony  
6     some brief testimony on cost of equity and rate of return,  
7     and Staff will be reviewing that and providing its  
8     testimony at a later point in this proceeding.

9                   With respect to the Motion to  
10    Consolidate, Staff understands OCA's concern about  
11    functionally consolidating the two dockets. But Staff  
12    thinks, in practice, we are going to have some overlap,  
13    and that the functional consolidation is not necessary.  
14    As the case today, we have consolidated, for the  
15    convenience of the parties, having a prehearing on the  
16    same day. And, we will continue to look at those  
17    procedural schedules in the dockets, to make sure that  
18    there are some efficiencies that can be gained.

19                  With respect to the time delay, Staff  
20    does not -- thinks it is a significant concern. It's not  
21    inconsequential that, if you remove approval or approval  
22    of a mechanism of a step increase in the financing docket,  
23    that is not going to cause delay. It is -- it may  
24    jeopardize the funding. The practice before DES, even

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1       though it's tough to pin Rick Skarinka down, has been for  
2       the small water companies, and I emphasize "small water  
3       companies", that DES has liked to link the funding to some  
4       reasonable assurance that there's going to be a  
5       collection, an ability to pay that sum in the future.  
6       And, the Commission's answer to that need has been to  
7       approve the financing and have a mechanism for the Company  
8       to file for a step. That has been enough of a signal to  
9       DES to make them feel comfortable that this is a  
10      financially sound company. I am not -- I don't have the  
11      orders memorized exactly with what OCA had just listed  
12      today, but I suspect that the orders where the Commission  
13      has not meshed approval of the financing and a step  
14      adjustment has been with the larger, more financially  
15      sound companies, that DES would not have a concern about  
16      lending to or having the grant funding go to.

17                   MS. HOLLENBERG: I'm going to have to  
18      interject at this point.

19                   CHAIRMAN GETZ: Well, let's let her  
20      finish, you'll get an opportunity to address this issue,  
21      because it looks like we've got two differences of opinion  
22      about what a party who's not here might do, but --

23                   MS. THUNBERG: And, just lastly, Staff  
24      would just like to emphasize that, even though the issues

1       are somewhat similar, these dockets are proceeding or will  
2       be proceeding along lines that, if you were to put the  
3       procedural schedules together in one docket, it's not  
4       exactly going to mesh. There is no duplication, if we  
5       were to continue the investigation in the rate case and  
6       continue with the investigation in the financing docket,  
7       there's no duplication that's happening. I know that that  
8       was something that OCA had mentioned in their motion, that  
9       the Commission can consolidate when there's going to be  
10      duplication of the proceedings. Staff doesn't see enough  
11      duplication to or enough overlap in the procedural  
12      schedules that we will be developing that we will have any  
13      duplication.

14                       So, with that, Staff just likes to --  
15      would like to conclude that we look forward to working  
16      with the Company and the intervenors in devising efficient  
17      procedural schedules in this docket and the one that we  
18      will be holding a prehearing conference later. Thank you.

19                       CHAIRMAN GETZ: Thank you.  
20      Ms. Hollenberg.

21                       MS. HOLLENBERG: Thank you. I take  
22      exception and wholly object to Staff's representation,  
23      factual representations this morning as to what DES would  
24      and needs to consider with regard to proceeding with the

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1       SRF financing. Ms. Thunberg was not a participant in a  
2       telephone call that we had recently with Mr. Skarinka,  
3       which Mr. Naylor did participate and representatives of  
4       the Company did participate, as well as Mr. Eckberg. We  
5       did file an affidavit which attests to the facts of that  
6       conversation. And, Mr. Skarinka stated in that  
7       conversation that the only approval that was required was  
8       the approval granted in the Pennichuck order, that PEU  
9       order that I mentioned in my motion. And, I object to Ms.  
10      Thunberg's characterization that they do require approval  
11      of step increases, because I don't think that's factually  
12      accurate.

13                   CHAIRMAN GETZ: Well, I took  
14      Ms. Thunberg to be commenting on past practice. Maybe  
15      what we're going to need is get Mr. Skarinka here to talk  
16      for himself. Do you have any response to any of these  
17      issues, Mr. Levine?

18                   MR. LEVINE: The only thing I would say  
19      is that it was our understanding filing this that that was  
20      a DES requirement. That they like to see that the step  
21      increase funding was there as part of the financing  
22      proceeding. Our concern is that, if the two issues are  
23      bifurcated, and even if we get approval for a step  
24      increase, there may be delays significant -- of a

1       significant enough nature that would cause us to lose our  
2       turn in the prioritization with the SRF funding. And, it  
3       would be kind of a pyrrhic victory to be able to pay for a  
4       loan that we're no longer eligible for. This is why we  
5       prefer to keep things in a streamlined process, where  
6       everything is on the same page, as far as the step  
7       increase, as far as the loan approval, and as far as the  
8       reasons for the loan request. In that way, we know what  
9       we're doing, DES knows what we're doing, and things get  
10      accomplished. I think the mechanism benefits not only the  
11      Company, but its customers.

12                   CHAIRMAN GETZ: Okay. Thank you.  
13      Because I think what we may do here is we have another  
14      prehearing conference at 11:00, I have a couple of serious  
15      concerns about two of these issues. What's necessary to  
16      get the SRF funding and whether a step increase should go  
17      ahead independently in this case or it should be merged  
18      with the rate case?

19                   But let's -- I think what we should do  
20      is adjourn now, come back at 11:00 for the other  
21      prehearing conference, and we may take up this issue  
22      further. So, is there anything else at this point?

23                   (No verbal response)

24                   CHAIRMAN GETZ: Okay. Then, hearing

{DW 08-065} [Prehearing conference] (09-03-08)

1       nothing, we'll close the prehearing conference and take  
2       the matter under advisement.

3                       (Whereupon the prehearing conference  
4                       ended at 10:34 a.m.)

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{DW 08-065} [Prehearing conference] (09-03-08)