

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

May 26, 2011 - 10:11 a.m.
Concord, New Hampshire

NHPUC JUN07'11 PM12:55

RE: DW 10-091
PENNICHUCK WATER WORKS, INC.:
Notice of Intent to File Rate Schedules.
DW 11-018
PENNICHUCK WATER WORKS, INC.:
Special Contract with Anheuser-Busch, Inc.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. Pennichuck Water Works, Inc.:
Sarah B. Knowlton, Esq. (McLane, Graf...)

Reptg. Anheuser-Busch:
John T. Alexander, Esq. (Ransmeier & Spellman)

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

Reptg. PUC Staff:
Marcia A.B. Thunberg, Esq.
Mark A. Naylor, Director/Gas & Water Division
James L. Lenihan, Gas & Water Division
Jayson P. Laflamme, Gas & Water Division
Douglas W. Brogan, Gas & Water Division

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

ORIGINAL

I N D E X

PAGE NO.

WITNESS PANEL: DONALD L. WARE
 BONALYN J. HARTLEY
 MARK A. NAYLOR
 JAYSON P. LaFLAMME

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
3	PWW Initial Filing (05-07-10)	premarked
4	Prefiled Revised Direct Testimony of Donald L. Ware (05-17-10)	premarked
5	Revised Report on Cost of Service Allocations and Water Rate Design by AUS (February 2011)	premarked
6	Direct Testimony of James L. Lenihan (03-31-11)	premarked
7	Direct Testimony of Jayson P. Laflamme (03-31-11)	premarked
8	Direct Testimony of Mark A. Naylor (03-31-11)	premarked
9	Direct Testimony of Scott J. Rubin (03-31-11)	premarked
10	Direct Testimony of Stephen R. Eckberg (03-31-11)	premarked
11	Direct Testimony of Michael Gorman (03-31-11)	premarked
12	Joint Rebuttal Testimony of Donald L. Ware and Bonalyn J. Hartley (05-18-11)	premarked
13	Settlement Agreement on Permanent Rates (05-19-11)	premarked
14	Rate Design for Settlement by AUS Consultants (May 2011)	premarked

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
15	Proposed Rate Impact on Residential Customer Bill	premarked
16	Report of Proposed Rate Changes	premarked
17	Attachment B to the Settlement Agreement, consisting of Special Contract No. NHPUC 2011-1 (05-20-11)	premarked
18	RESERVED (Record request for a Revised Schedule DW-1)	88
19	Testimony of Donald L. Ware filed in Docket DW 11-018 (05-26-11)	122

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll open the hearing in Dockets DW 10-091 and 11-018. On May 7, 2010, Pennichuck Water Works filed materials supporting a proposed increase in permanent rates and a step rate increase that would result in a 20 percent increase in rates, and also at that time sought approval of a Water Investment and Conservation Adjustment Surcharge and an increase in temporary rates. An order was issued on June 4 suspending the tariffs and scheduling a prehearing conference, which was held on July 14. And, on July 20, a secretarial letter was issued approving a procedural schedule. An order on temporary rates was issued on October 8th. And, subsequently, there was a motion to consolidate Dockets 10-091, the rate case, with Docket 11-018, a special contract with Anheuser-Busch. That motion to consolidate and a revised procedural schedule was approved on February 10. And, we have before us today a Settlement Agreement that was filed on May 19.

So, can we take appearances please.

MS. KNOWLTON: Good morning, Chairman and Commissioners. My name is Sarah Knowlton. I'm with the law firm of McLane, Graf, Raulerson & Middleton. I'm here today for Pennichuck Water Works, Inc. And, with me

1 today from the Company are the Company's two witnesses,
2 Donald Ware and Bonalyn Hartley, and also sitting at
3 counsel's table is Charles Hoepper and Dawn Deblois from
4 the Company.

5 CHAIRMAN GETZ: Good morning.

6 MR. ALEXANDER: Good morning. John
7 Alexander, from the law firm of Ransmeier & Spellman,
8 representing Anheuser-Busch.

9 CHAIRMAN GETZ: Good morning.

10 MS. HOLLENBERG: Good morning. Rorie
11 Hollenberg and Steve Eckberg, here for the Office of
12 Consumer Advocate.

13 CHAIRMAN GETZ: Good morning.

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

18 CHAIRMAN GETZ: Good morning.

19 Ms. Knowlton, you're ready to proceed?

20 MS. THUNBERG: We have some preliminary
21 matters to raise to you today. In particular, we have
22 premarked, among our -- or, by agreement of the parties,
23 exhibits. We have a list before you. With respect to
24 Exhibit 3, it is our intent that what was filed

1 electronically or that appears at Tab 4 of the
2 Commission's electronic docketbook be marked as "Exhibit
3 3". Because that exhibit is so voluminous, we are asking
4 that we not be required to sequentially number the pages
5 of that document. And, that we are asking specifically
6 for a waiver of 203.22, the Commissioners -- or, the
7 Commission's administrative rule requiring sequential
8 numbers. We believe that, because the document is tabbed,
9 has identifying features on the schedules and on other
10 pages, that the intent of the rule is satisfied.

11 CHAIRMAN GETZ: And, you're talking then
12 about the two volumes --

13 MS. THUNBERG: Correct.

14 CHAIRMAN GETZ: -- that were filed?
15 Okay.

16 MS. THUNBERG: Additionally, I need to
17 clarify for the record that, where you three have a
18 physical bound three -- two binders of this exhibit, on
19 our -- on the Commission's docketbook, at Tab 4, some of
20 the material is not electronically uploaded. But it is
21 our intent that even that non-electronic information be
22 part of Exhibit 3. And, I'm talking about annual reports
23 that were bound and required to be filed. And, so, I just
24 want to make sure that that is clear on the record.

1 Also, we were -- at least Staff is
2 requesting that we forgo needing to authenticate the
3 testimony. Staff has submitted testimony that's listed in
4 the exhibit list for Jim Lenihan, Jayson Laflamme, and
5 Mark Naylor. Jim Lenihan is not going to be a witness,
6 but he has no changes or corrections to make to his
7 testimony, and, if asked the same questions, would have
8 the same responses. So, I guess Staff is requesting that
9 it be allowed to forgo authenticating the testimony, just
10 that the exhibit be allowed for identification as is.

11 CHAIRMAN GETZ: Any objection?

12 MS. KNOWLTON: I have none. The Company
13 would have the same request with regard to Mr. Leonard.
14 Ms. Hartley and Mr. Ware are here and can authenticate
15 their testimony, if the Commission so desires.

16 MR. ALEXANDER: And, likewise,
17 Mr. Gorman, who was the expert for Anheuser-Busch, has
18 been excused from the proceeding. And, I will represent
19 that his prefiled testimony remains the same.

20 MS. HOLLENBERG: We are in agreement
21 with the Staff, Company, and Anheuser-Busch with regard to
22 authenticating the testimony. I would just like to point
23 out for the Commission, to the extent that it was not
24 clear, that we are continuing to contest the WICA, and

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 that that would be a separate portion of the hearing
2 today. Thank you.

3 CHAIRMAN GETZ: Thank you. All right.
4 Then, we'll accept the identifications that have been
5 listed in the exhibit list. And, then, we will enter the
6 testimonies into the record. So, anything else?

7 MS. KNOWLTON: The Company calls Donald
8 Ware and Bonalyn Hartley.

9 MS. THUNBERG: And Staff also calls Mark
10 Naylor and Jayson Laflamme to the stand.

11 (Whereupon *Donald L. Ware, Bonalyn J.*
12 *Hartley, Mark A. Naylor, and Jayson P.*
13 *Laflamme* were duly sworn and cautioned
14 by the Court Reporter.)

15 DONALD L. WARE, SWORN

16 BONALYN J. HARTLEY, SWORN

17 MARK A. NAYLOR, SWORN

18 JAYSON P. LAFLAMME, SWORN

19 DIRECT EXAMINATION

20 BY MS. KNOWLTON:

21 Q. Good morning, Mr. Ware. I'll start with you, if I may.
22 Would you please state your full name for the record.

23 A. (Ware) My name is Donald L. Ware.

24 Q. By whom are you employed?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) I'm employed by Pennichuck Water Works.

2 Q. What is your position with the Company?

3 A. (Ware) I am President of the regulated water utilities.

4 Q. And, when you say "the regulated water utilities", is
5 that more than Pennichuck Water Works?

6 A. (Ware) Yes. I am President of Pennichuck Water Works,
7 Pennichuck East Utility, and Pittsfield Aqueduct
8 Company.

9 Q. Would you describe your job responsibilities as
10 President of the regulated utilities?

11 A. (Ware) I'm responsible for the day-to-day operations of
12 the utilities. And, in conjunction with the CFO and
13 Ms. Hartley, responsible for the overall financial
14 performance and customer service of the Company.

15 Q. Ms. Hartley, would you please state your full name for
16 the record.

17 A. (Hartley) Yes. Bonalyn J. Hartley.

18 Q. By whom are you employed?

19 A. (Hartley) Pennichuck Water Works.

20 Q. What is your position with the Company?

21 A. (Hartley) Vice President of Administration and
22 Regulatory Affairs.

23 Q. What are your job duties in that role?

24 A. (Hartley) I'm responsible for the administration --

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 administrative operations for the Company, including
2 information technology, regulatory affairs, human
3 resources, customer service, and the financial
4 performance of the utilities.

5 MS. KNOWLTON: Thank you.

6 BY MS. THUNBERG:

7 Q. Mr. Naylor, if you could please state your name and
8 position with the Commission for the record.

9 A. (Naylor) Yes. My name is Mark Naylor. I'm the
10 Director of the Gas and Water Division here at the PUC.

11 Q. And, can you please describe your responsibilities?

12 A. (Naylor) Yes. As Director of the Gas and Water
13 Division, I'm responsible for the work product of the
14 Staff in that division, as well as that of the Audit
15 Staff.

16 Q. And, what do you consider to be your area of expertise?

17 A. (Naylor) I have an accounting and finance background.

18 Q. And, prior to today, have you testified before this
19 Commission?

20 A. (Naylor) I have.

21 Q. And, do you consider your testimony that you'll be
22 offering today to be within your area of expertise?

23 A. (Naylor) Yes, I do.

24 Q. Mr. Laflamme, if I could just have you state your name

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 and responsibilities -- or, position with the
2 Commission please.

3 A. (Laflamme) Jayson Laflamme. I'm a Utility Analyst in
4 the Gas and Water Division of the Public Utilities
5 Commission.

6 Q. And, as a Utility Analyst, can you please just describe
7 briefly your responsibilities as to how they relate to
8 this docket?

9 A. (Laflamme) Yes. I examine filings that come before the
10 Commission that are filed by water and sewer utilities.
11 My area of expertise is in the accounting and finance
12 area. So, I specifically review filings with regard to
13 the financial and accounting impact that they would
14 have on customer rates, and then I provide
15 recommendations based on my review of those aspects.

16 Q. Thank you. Is the testimony that you will be offering
17 today within your accounting and finance area of
18 expertise?

19 A. (Laflamme) Yes.

20 BY MS. KNOWLTON:

21 Q. Given that the Commission has determined that
22 authentication of the testimony is not necessary, Mr.
23 Ware and Ms. Hartley, I'd ask you to look at what's
24 been marked for identification as "Exhibit 13", which

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 is the Settlement Agreement that is before the
2 Commission today. Do you have that before you?

3 A. (Hartley) Yes.

4 A. (Ware) Yes.

5 Q. Ms. Hartley, are you familiar with the terms of that
6 Settlement Agreement?

7 A. (Hartley) I am.

8 Q. And, did you participate in the development of that
9 Settlement Agreement on behalf of the Company?

10 A. (Hartley) I did.

11 Q. Mr. Ware, did you participate in the development of the
12 Settlement Agreement?

13 A. (Ware) Yes.

14 Q. And, you're familiar with the terms of it?

15 A. (Ware) I am.

16 Q. Ms. Hartley, I'll start with you. If you would look at
17 Section II.A, "Revenue Requirement; Rate Base; Rate of
18 Return; Capital Structure". Can you please describe
19 the revenue requirement that the Company agreed to as
20 part of this Settlement?

21 A. (Hartley) Yes. The total revenue requirement that we
22 agreed to as part of the Settlement is \$26,997,164.

23 Q. What is the -- would you further identify the rate base
24 and the capital structure that has been agreed to by

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 the Settling Parties?

2 A. (Hartley) Yes. This was based on a 2009 test year, and
3 a rate base of \$92,219,994, operating expenses of
4 \$17,209,913, with an overall rate of return of
5 7.98 percent.

6 Q. What is the overall increase that is included in this
7 Section II.A?

8 A. (Hartley) 11.95 percent.

9 Q. And, Ms. Hartley, are you familiar with the fact that
10 the Company applied for a step increase as part of its
11 request for rate relief in this docket?

12 A. (Hartley) Yes, we did.

13 Q. And, what does the Settlement provide with regard to a
14 step increase?

15 A. (Hartley) As part of the Settlement, the Company agreed
16 to forgo its request for the Settlement -- for the step
17 increase. The step increase originally called for a --
18 for a \$900,000 in additional non-revenue-producing
19 capital additions of about \$4.8 million.

20 Q. Mr. Ware, would you just very briefly describe what
21 those capital additions were that were the subject of
22 the step?

23 A. (Ware) Yes. A portion of the capital additions were
24 associated with replacement of water mains and water

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 services. And, there was a portion associated with the
2 construction of several pumping stations and
3 replacement of several pumping stations.

4 Q. And, are those all used and useful as of now?

5 A. (Ware) Yes, they are.

6 Q. Thank you. Ms. Hartley, do you believe that the
7 revenue requirement that's embodied in Section II.A of
8 the Settlement Agreement is a reasonable compromise of
9 all of the revenue requirement issues that were set
10 forth in this case?

11 A. (Hartley) I do.

12 Q. And, how does this level of permanent rate relief
13 that's proposed in the Settlement Agreement compare to
14 temporary rates that were approved by the Commission in
15 this docket?

16 A. (Hartley) Temporary rates were approved in this docket
17 October 8th of 2010 at 10.8 percent. This docket --
18 this Settlement for permanent rate purposes will call
19 for an increase, as stated before, of 11.95 percent,
20 and will be recoupable back to the effective date of
21 June 16th, 2010.

22 BY MS. THUNBERG:

23 Q. Mr. Naylor, are you familiar with the terms of
24 Exhibit 13, the Settlement Agreement?

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) Yes, I am.

2 Q. Did you participate in the creation of this document?

3 A. (Naylor) Yes, I did.

4 Q. And, are you aware of any changes or corrections that
5 you have to this document?

6 A. (Naylor) No.

7 Q. And, Mr. Laflamme, are you familiar with Exhibit 13?

8 A. (Laflamme) Yes.

9 Q. And, did you participate in the creation of this
10 document?

11 A. (Laflamme) Yes, I did.

12 Q. And, are you aware of any corrections or changes to
13 make to this document?

14 A. (Laflamme) No.

15 Q. And, I'd like to turn your attention, Mr. Laflamme, to
16 the revenue requirement that Ms. Hartley just
17 discussed. And, I'd like to have you explain how the
18 Staff came to agree to the increase recommended?

19 A. (Laflamme) Yes. The Staff, along with the other
20 parties, reviewed the filing that was submitted by the
21 Company. Staff and the other parties submitted data
22 requests to the Company. And, based on an analysis of
23 the filing and the subsequent responses by the Company
24 to Staff and OCA and Anheuser-Busch data requests, as

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 well as a review of other information on file here at
2 the Commission, specifically, the 2009 Annual Report,
3 and also an audit was performed by the NHPUC Audit
4 Staff. And, based upon that, the parties settled on
5 the amounts that have been discussed by Ms. Hartley
6 previously.

7 Q. And, in settling on the amount of the revenue
8 requirement, if we were to look for adjustments
9 recommended by Staff, they would appear in the
10 schedules attached to this document, to the Settlement
11 Agreement?

12 A. (Laflamme) Yes.

13 Q. With respect to the items of plant in rate base, do you
14 have an opinion as to the used and usefulness of those
15 items?

16 A. (Laflamme) Based upon Staff's analysis, including the
17 audit report that was submitted as part of discovery in
18 this case, Staff believes that the items in rate base
19 are used and useful.

20 Q. And, Mr. Naylor, do you have an opinion as to the just
21 and reasonableness of this revenue requirement?

22 A. (Naylor) Yes. We believe that the revenue requirement
23 proposed in the Settlement would result in rates that
24 are just and reasonable.

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Mr. Ware, I do have a question for you, this relates to
2 expenses. And, it came up as a question of a public
3 comment when I was perusing the Docketbook. And, it
4 related to the customer inquiring on the compliance
5 status of Pennichuck Water Works, as to DES and EPA.
6 And, I was wondering if you could speak to the question
7 of "what is the status of Pennichuck Water Works'
8 compliance?"

9 A. (Ware) If you're speaking about overall compliance --

10 Q. Uh-huh.

11 A. (Ware) -- with the Safe Drinking Water Act, we are in
12 compliance in all of our -- both the core system and
13 our satellite systems with the requirements of the Safe
14 Drinking Water Act.

15 Q. Is Pennichuck Water Works subject to any letters of
16 deficiency with the Department of Environmental
17 Services?

18 A. (Ware) We happen to have a letter of deficiency on a
19 dam called "Salmon Brook Dam". And, we have been
20 working with the DES to resolve that particular issue.
21 We also have several letters of deficiencies on our
22 other dams related to minor issues, which, again,
23 typically come up. And, we're working with the DES to
24 correct those issues.

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. And, do the letters of deficiency speak to the water
2 quality aspect?

3 A. (Ware) No.

4 Q. Thank you. And, with respect to expenses that are
5 subject to or included in this Settlement Agreement,
6 can you please explain what the Company -- what
7 Pennichuck Water Works practices, as far as using a
8 competitive bid, to keep some of the expenses in check?

9 A. (Ware) Yes. In the operations, and, first of all, all
10 capital work that exceeds \$10,000 or more goes through
11 a competitive bid process, in order to attract the best
12 possible bid. Also, in the operational side, staff,
13 where possible, goes out and seeks competitive bidding
14 and proposals, again, on services that are being
15 provided by outside entities in the amount typically in
16 excess of \$10,000.

17 MS. THUNBERG: Thank you.

18 BY MS. KNOWLTON:

19 Q. Ms. Hartley, if you would turn to Section II.B of the
20 Settlement Agreement, which relates to revenue from the
21 sale of certain cell tower leases.

22 A. (Hartley) Yes.

23 Q. Do you see that in front of you?

24 A. (Hartley) Yes, I do.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Okay. And, if -- Mr. Ware, you know, either one of you
2 may answer these questions, if they're more
3 appropriately directed to you. Can you describe what
4 the status of the cell tower issue was at the time of
5 the filing of this case?

6 A. (Hartley) Yes. The Company, in a prior rate case, the
7 Commission had stated that it would consider the
8 Company -- in the Company's next rate case the
9 appropriate allocation of benefits between ratepayers
10 and shareholders for the sale of certain cell towers
11 that we had had previous in that case. Regarding the
12 proceeds of the sale, the Commission was going to --
13 wanted the parties or desired that there would be a
14 determination as to how those, the value or the
15 revenues received from those leases would be imputed,
16 in terms of ratepayers versus the shareholders at the
17 time.

18 Q. And, as part of that prior order in the prior rate
19 case, had certain amounts of revenues been imputed --

20 A. (Hartley) Yes.

21 Q. -- as result of that order?

22 A. (Hartley) Yes. At the time, the Commissioners and the
23 Commission order determined that it would be
24 appropriate to impute a value of \$52,189 annually for

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 the sale of those leases to be deducted from the
2 revenue requirement at that time.

3 Q. As part of the Settlement, did the Settling Parties
4 come up with a resolution to the allocation of those
5 benefits between the ratepayers and the customers, Mr.
6 Ware?

7 A. (Ware) Yes, they did.

8 Q. And, what is that? What does the Settlement provide in
9 that regard?

10 A. (Ware) The Settlement provides, and Mr. Laflamme
11 provided a calculation to this effect, that it was
12 looked at the amount of revenues that were generated
13 from the sale. From that, it was subtracted -- he
14 subtracted the imputed benefits of the revenue
15 reduction from the previous case. And, then looked at
16 the remaining dollars that were left, and said "well,
17 you know, half of those dollars", Staff believed and we
18 agreed in the Settlement, "belong to the ratepayers."
19 And, so, it was decided that there was -- it's around
20 slightly over \$150,000 of remaining value that would
21 have gone to the customers. And, so, it was decided to
22 continue to run for a three year period the \$52,000 a
23 year in revenue reduction.

24 Q. Ms. Hartley, can you explain the mechanics of how that

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 will work?

2 A. (Hartley) It's my under -- as it states in the
3 Settlement Agreement and it's recommended by Staff,
4 there will be a deferred credit set up of approximately
5 \$157,000 on the Company's books, which also is a
6 reduction to rate base in this case, and will be
7 amortized over three years against the revenue of the
8 Company.

9 Q. Does the Settlement Agreement, Mr. Ware, provide for
10 any further imputation of revenues to the customers'
11 benefit?

12 A. (Ware) Yes. One of the things that came up in
13 settlement was the fact that the Company had hired The
14 Southwood Company to go ahead and package up the leases
15 and go out and sell those leases, monetize their value.
16 And, again, it's not an expertise that we had in-house.
17 So, a commission was paid to The Southwood Company, to
18 The Southwood Company of approximately \$89,000. And,
19 in the Settlement Agreement, we agreed that what we
20 would do is take -- continue for a fourth year the
21 imputation of the revenue reduction of \$52,000 --
22 \$52,189. So, effectively, the commission was shared
23 between the Company and the customers the cost of the
24 commission.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. And, when you say that the "expertise did not exist
2 in-house", are you referring to Pennichuck Water Works?

3 A. (Ware) That is correct.

4 Q. And, by that, do you mean the expertise necessary to
5 put together a transaction of that complexity and
6 identify a purchaser and bring it all the way through
7 closing?

8 A. (Hartley) That is correct. It started with the
9 generation of an RFP, the identification of, you know,
10 potential entities who would be interested in
11 purchasing the value of the leases, evaluating the
12 offers that were made, and then bringing it through a
13 closing and making sure that all the transactions that
14 needed to happen to transfer the leases was done
15 appropriately.

16 Q. And, Mr. Ware, does the provision in Section II.B of
17 the Settlement Agreement, with regard to the cell tower
18 leases, resolve all outstanding issues with regard to
19 those leases?

20 A. (Ware) Yes, it does.

21 BY MS. THUNBERG:

22 Q. Mr. Laflamme, with respect to how you calculated or
23 accounted for the cell tower revenues in your
24 calculations, did Mr. Ware describe them accurately?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Do you have any other explanation to offer?

2 A. (Laflamme) No. I think it was an accurate explanation.
3 Detailed -- that calculation is detailed on Page 17 of
4 the Settlement Agreement, under Adjustment Number 7.

5 Q. And, Mr. Naylor, I have a question for you. I know
6 that the Pennichuck witnesses covered this a little
7 bit, but I would like to have it repeated again. The
8 different -- if you could please describe the
9 differences or the similarities between how the
10 Commission had treated the cell tower revenues in the
11 past and what is being offered for treatment in the
12 Settlement Agreement.

13 A. (Naylor) Well, it's very similar in the prior, at least
14 two or three cases where the issue was dealt with, in
15 terms of the revenues the Company was receiving from
16 the leases, they were shared with customers on a 50/50
17 basis. In this particular case, the Company has sold
18 the leases. And, so, this provision in the Agreement
19 accounts for a sharing of the sale proceeds of the cell
20 tower leases.

21 MS. THUNBERG: Thank you. Sarah.

22 BY MS. KNOWLTON:

23 Q. Mr. Ware, I'd ask you to look at Section II.C of the
24 Settlement Agreement, which relates to the Fourth

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Contract with Anheuser-Busch, which is a special
2 contract. Are you familiar with that contract, which
3 is marked as "Exhibit 17" and is Attachment B to the
4 Settlement Agreement?

5 A. (Ware) Yes, I am.

6 Q. And, would you provide some background on how that
7 issue came to be part of this case?

8 A. (Ware) Yes. As the Commission hopefully is aware, we
9 had a series of long term contracts with
10 Anheuser-Busch. At the time that we began this rate
11 case, we were in what was called "Contract 3".
12 Contract 3 had provisions for Anheuser-Busch to
13 basically take water at various rates based on average
14 day, peak day, and peak hour. When we completed the
15 Cost of Service Study this time around, and we were
16 looking at the allocation of costs that belonged with
17 Anheuser-Busch, the allocation of the associated fixed
18 costs with the water supply facilities that serve
19 Anheuser-Busch, the return on the investment, the
20 property taxes, and the depreciation expense were
21 allocated based on those Contract 3 values; basically,
22 a 2 million gallon a day average day, a 3 million
23 gallon peak day, and a 4 million gallon a day peak
24 rate. That resulted in a substantial increase in what

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 was going to be Anheuser-Busch's rate that they were
2 paying. I will say, at the same time Anheuser-Busch,
3 over the last four or five years, has been in a very
4 aggressive mode of reducing their water consumption.
5 And, so, they were looking at this large increase.

6 And, basically, at that stage, they
7 wrote to us and said "We want to exit out of this
8 contract." Again, for those not familiar with
9 Anheuser-Busch, they have a series of on-site wells
10 that were used back in the 1960s as their source of
11 supply. Water quality needed substantial treatment.
12 And, you know, it had been in their best interest all
13 along to purchase water from the Company because the
14 cost was less. They felt that this tipped the scales,
15 if you will, and said, you know, "We should go back to
16 our own supply."

17 So, we got the letter terminating the
18 Third Contract. That initiated discussions on the
19 Fourth Contract. And, it became evident pretty quickly
20 on that the reality was is that the allocation was
21 based on a usage that Anheuser-Busch no longer needed.
22 In fact, over the previous year Anheuser-Busch had used
23 less than a million gallons a day. And, so, it was
24 decided that we would see if we could negotiate a new

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 contract with a allocation of usage that reflected
2 Anheuser-Busch's current usage patterns. And, so, we
3 went back and looked at that, and that was the genesis
4 of the Fourth Contract that is part of this Settlement
5 Agreement.

6 Q. Would you describe the salient provisions with regard
7 to the rate set forth in the Fourth Contract?

8 A. (Ware) Yes. This is a ten year contract. It requires
9 us to provide Anheuser-Busch with a average day of a
10 million gallons -- up to a million gallons a day of
11 water, a peak day of a million and a half gallons a
12 day, and a peak hour rate of 2 million gallons a day.
13 The rates that Anheuser-Busch will be charged are
14 broken essentially into three buckets: A meter charge,
15 which is our standard 6-inch meter charge; a fixed
16 revenue component, which -- that's the based monthly
17 fixed fee, that is tied to Anheuser-Busch covering,
18 again, the fixed costs of the water supply facilities
19 that serve Anheuser-Busch; and then there is a
20 volumetric rate in the contract. And, that volumetric
21 rate is there associated with paying for the cost of
22 producing the water and their share of the admin. and
23 general cost of operating the Company.

24 Q. Mr. Ware, were there any changes to the Fourth Contract

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 from what was originally filed back in January 20th of
2 this year to what's attached to the Settlement
3 Agreement and marked as "Exhibit 17"?

4 A. (Ware) Yes. In the process of reviewing the contract
5 and looking at the allocations, and the cost of service
6 are very complex, and you want to make sure you have
7 all the proper allocations, it was determined that
8 payroll taxes, which are about \$520,000 a year, had
9 been left out of the allocation to Anheuser-Busch.
10 And, so, that was found out, it's about \$25,000 a year
11 would be their share based on the cost of service
12 allocation, that was found out, and that was -- that
13 allocation or the dollars associated with that
14 allocation were added to the new -- or, adjusted in the
15 contract.

16 Q. So, is the only substantive change to that contract the
17 change in the volumetric rate?

18 A. (Ware) Yes.

19 Q. Do you believe that the Fourth Contract in the form
20 attached to the Settlement Agreement is in the public
21 interest?

22 A. (Ware) Yes, I do.

23 Q. Why is that?

24 A. (Ware) For a number of reasons. It allows the Company

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 to continue to, and its customers, to benefit from a
2 long-term contract with a large user, who does have
3 other supply options. It properly allocates costs to
4 Anheuser-Busch, and ensures that those costs that, if
5 Anheuser-Busch goes away, the associated costs with the
6 dams, the water treatment plant, the storage tank in
7 Nashua still exist. So, it ensures a stream of income
8 on a fixed basis that we can count on. Anheuser-Busch
9 continues to pay their share of the volumetric usage
10 and their share of the admin. and general costs
11 associated with the operation of the Company. And, we
12 believe having a ten year contract that properly
13 allocates costs and ensures that our largest customer
14 remains on line is good for the customers, good for the
15 Company, good for Anheuser-Busch.

16 BY MS. THUNBERG:

17 Q. Mr. Naylor, have you reviewed Exhibit 17?

18 A. (Naylor) Yes, I have.

19 Q. And, I have a very similar question to you that was
20 asked of Don Ware about what the benefits are. And, to
21 the extent that you have additional ones that Mr. Ware
22 did not already articulate, my question is to you to
23 please state them?

24 A. (Naylor) Really nothing different. The Anheuser-Busch

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 contract provides for just about a million dollars
2 annually in revenue. The costs to serve Anheuser-Busch
3 are fully covered under that rate, rates called for in
4 the contract. To lose Anheuser-Busch as a customer
5 would necessarily result in those costs being recovered
6 from other customers, all other customers. So, we
7 believe that what has been presented, in terms of the
8 Fourth Contract and its impact on the Company's rates,
9 is appropriate.

10 BY MS. KNOWLTON:

11 Q. Ms. Hartley, I have some questions that are directed to
12 you with regard to rate design. Mr. Ware referred to a
13 Cost of Service Study that was performed in association
14 with the filing of this case. Are you familiar with
15 that Cost of Service Study?

16 A. (Hartley) I am.

17 Q. And, would you describe, in general terms, what that
18 study recommended.

19 A. (Hartley) The original study recommended a shift,
20 primarily a shift from allocable costs to more to the
21 fixed customer charge. And, since then, as Mr. Ware
22 has just explained, we've revised the study for
23 Anheuser-Busch. And, we've also revised the study that
24 is part of the Settlement to forgo that shift. So, at

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1 this point, there will be no rate design method -- no
2 change in the rate design methodology or a shift in
3 costs from the -- that we had originally recommended to
4 the customer charge from the volumetric charge.

5 Q. When you -- you just referred to the revision to the
6 Cost of Service Study to address the Settlement
7 Agreement. Is that the document that's been marked as
8 "Exhibit 14"?

9 A. (Hartley) Yes, it is.

10 Q. And, did that revised study take into account all of
11 the provisions in the Settlement Agreement?

12 A. (Hartley) It did. The results of that study now, as
13 far as allocations is concerned, allocates
14 85.17 percent to water service revenue, 3.73 percent to
15 private fire, 11.10 percent to municipal fire revenues,
16 total revenues 100 percent at \$26,997,164. In addition
17 to that, there were other adjustments, there were other
18 adjustments that the Company agreed to in part of the
19 revision. And, in addition to the -- forgoing the
20 shift in the allocation to the customer charge, the
21 percentage of the customer charge was limited only to
22 the percentage of the increase in this case, which is
23 11.95 percent. And, the Company also settled on an
24 adjustment to a number of customer accounts for the

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 purpose of the Cost of Service Study to account for
2 customers prior to 2008 and prior who had no activity
3 on their accounts. So, we adjusted the service -- the
4 Cost of Service Study for those.

5 Q. And, may I ask you a question about that? Why would
6 there have been no activity on those accounts?

7 A. (Hartley) We don't know exactly. We just know that the
8 homes are abandoned, there's no activity on the home --
9 at the homes, or the facility, in some cases it was
10 commercial. And, we check it periodically. But
11 there's no activity, no reading on the meters. We
12 can't get in to even pull the meters. It may be due to
13 some of the economic conditions that we've experienced
14 in the last two or three years here in -- nationally,
15 not just in the -- not just in New Hampshire. And,
16 maybe people have just abandoned their homes in place.
17 But we have no information to bill them. So, what we
18 have done is we've written the amounts that were on the
19 accounts off as bad debt, and then we've asked the
20 Staff to consider these particular accounts as having
21 no activity and should be excluded from calculating the
22 cost of service allocation, because, obviously, we're
23 not going to achieve revenue from these accounts for
24 some time into the future.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. And, did all of the Settling Parties, that being the
2 Staff, the Office of Consumer Advocate, Anheuser-Busch,
3 and, of course, the Company agree to that change in the
4 Cost of Service Study?

5 A. (Hartley) Yes, they did. We had more accounts that we
6 had requested. However, as part of settlement, we
7 agreed to those accounts that were 2008 or older with
8 no activity.

9 Q. And, are there other provisions in the Settlement
10 Agreement with regard to rate design?

11 A. (Hartley) Yes. Again, going -- referring to Mr. Ware's
12 testimony, there was a change in the allocation for
13 payroll taxes for Anheuser-Busch, as part of the
14 administrative allocation of costs. And, I believe
15 that would -- that was the summary of the changes to
16 the original Cost of Service Study.

17 BY MS. THUNBERG:

18 Q. Ms. Hartley, I just have a follow-up question on this
19 line of questioning about the change in the number of
20 meters. And, if you were to try to find out where that
21 change is embodied, I'm looking at Exhibit 14, --

22 A. (Hartley) Yes.

23 Q. -- and at Schedule 15, Page 1 of 5, 2 of 5?

24 A. (Hartley) Yes. If you turn to the Cost of Service

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Study, Page 1 of 5, you will note at the bottom of each
2 one of the various classes of customers there's been an
3 adjustment made by Mr. Palko. And, in particular, we
4 can look at the residential section. If you look at
5 the very bottom, it says "Per settlement 5/8 inch less
6 15 meters [or] 180 bills", and then he had made
7 adjustments for "3/4 inch meters less one meter [or] 12
8 bills", and then a "2 inch meter less three meters [or]
9 36 bills." So, that adjustment has been made here.
10 There was also one more adjustment, I believe, for a
11 fire service.

12 Q. If I can interrupt you, --

13 A. (Hartley) Sure.

14 Q. -- I believe it's on Page 4 of 5, asterisk in the
15 middle of the page?

16 A. (Hartley) Four of five. Yes. Thank you. One, in the
17 section entitled "Private Fire Protection", as noted at
18 the bottom of that section, you'll see that "one 8 inch
19 customer [or] 12 bills [were] removed per the
20 Settlement" for a fire protection account.

21 MS. THUNBERG: Thank you.

22 BY MS. KNOWLTON:

23 Q. Ms. Hartley, if you would now turn to recoupment
24 associated with the permanent rates. You testified

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 earlier that I believe that the rates will go back to
2 June 16th, 2010?

3 A. (Hartley) Correct.

4 Q. What is the derivation of that date?

5 A. (Hartley) That was when customers were first noticed in
6 Pennichuck Water Works' core system and its satellites.

7 Q. And, how will recoupment occur in this case?

8 A. (Hartley) What the Company does is we go back to
9 June 16th, they will be prorated on a service rendered
10 basis. And, each individual customer, we actually have
11 a program that will calculate the impact to each
12 individual customer based on their actual usage. And,
13 we will take into account the 11.95 percent. But, in
14 addition to that, we must take into account that we
15 achieved temporary rates effective I believe
16 October 8th of 2010 of 10.8 percent, and that will be
17 taken into effect also in the calculation.

18 Q. And, does the Company -- has the Company agreed to
19 provide a calculation of that recoupment between the
20 temporary and permanent rates to the Commission?

21 A. (Hartley) Yes.

22 Q. And, has the Company agreed that it would also provide
23 the Office of Consumer Advocate with a copy of that
24 same calculation?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Hartley) Yes.

2 Q. If you would now turn to Section II.F, which addresses
3 the rate impact of the Settlement Agreement. Do you
4 have that before you, on Page 6 of the Settlement
5 Agreement?

6 A. (Hartley) Just give me one moment please. Yes, I have
7 it in front of me.

8 Q. You have that in front of you. In Section II.F, the
9 Settlement Agreement indicated that the Company would
10 be updating the Cost of Service Study to take into
11 account the provisions in the Settlement Agreement and
12 providing that to the Commission and the parties to
13 determine what that rate impact would be on customers.
14 Has the Company done that?

15 A. (Hartley) Yes. We've prepared a Report of Proposed
16 Rate Changes. We've also provided a schedule showing
17 what the impact would be on the average residential
18 customer bill with a 5/8ths meter.

19 Q. And, if you would look at Exhibit 16, which is the
20 Report of Proposed Rate Changes, would you walk us
21 through that by customer class?

22 A. (Hartley) Yes. The Report of Proposed Rate Changes
23 shows a total revenue increase of "\$2,880,185". Of
24 that total increase, 200 -- "\$2,446,956" are

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 attributable to the General-Metered customers, or
2 "12.8 percent". For Private Fire Protection,
3 "\$154,695" [\$154,675?] is apportioned to fire
4 protection at "18.15 percent". For the hydrants, the
5 public hydrants, "\$179,781" increase, or
6 "6.38 percent". For the Anheuser-Busch Contract that
7 Mr. Ware has detailed, "\$58,635", or "6.8 percent".
8 And, for the Milford Contract, "\$6,052", or
9 "6.89 percent". And, then, for the Hudson Contract,
10 "\$34,086", or "12.81 percent". Again, totaling
11 "\$2,880,185" increase, or "11.", and, for rounding,
12 came out to be "94", but the Settlement calls for
13 11.95 percent.

14 Q. And, if you would look at the bottom of Exhibit 16,
15 there is a note there at the bottom. Can you explain
16 to us what the purpose of that note is?

17 A. (Hartley) "The proposed rates and the amount of the
18 increase is based on the Cost of Service Study. In the
19 Study, a slight difference is noted in the allocation
20 of the proposed revenue versus the revenue requirement
21 reflected in the rate filing schedules." That's
22 primarily due to the fact that the way the Cost of
23 Service Study is allocated and calculated, it's based
24 on number of bills, it's based on number of meters, and

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 there's always slight differences when they calculate
2 the study versus what the Company has required for a
3 revenue requirement.

4 Q. If you would now look at Exhibit 15, --

5 A. (Hartley) Uh-huh.

6 Q. -- which is the impact of the Settlement on a
7 residential customer. Can you walk us through how the
8 Settlement, if it's approved by the Commission, will
9 impact the Company's residential customers?

10 A. (Hartley) Yes, I will. Currently, before the temporary
11 increase, the customer charge for a 5/8ths meter was
12 \$18, \$18.18 per month. As a result of the temporary
13 increase of 10.8 percent, that was increased to \$20.14
14 per month. An, as a result of the Settlement
15 Agreement, at 11.95 percent, the customer charge will
16 now be \$20.34, if approved by the Commission.

17 Additionally, we have the volumetric
18 charge per hundred cubic feet, originally was \$7.88 --
19 I'm sorry, \$2.90, based on a usage unit of 7.88, and
20 that is consistent throughout the calculation. And, as
21 part -- as for temporary rates was increased to \$3.21,
22 and, as a result of this Settlement, \$3.30. Total
23 volumetric charges to the customers have -- would be
24 \$22.85 before the temporary rate, \$25.29 as a result of

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 the temporary increase, and \$26 as a result of the
2 Settlement. Total monthly bill is estimated for the
3 average residential customer at \$46.34. And, if we
4 look at the very bottom -- and the annualized amount
5 would be about \$556.08. And, if we look at the bottom
6 of the schedule, you will see that the incremental per
7 month for the temporary was \$4.40 per month, \$5.31 as a
8 result of the Settlement. Annualized at the temporary
9 rate was \$52.80. And, now, if the Settlement is
10 approved by the Commission, the average residential
11 customer will see an annualized increase of \$63.72.

12 MS. KNOWLTON: Marcia.

13 BY MS. THUNBERG:

14 Q. Mr. Naylor, I have a question with respect to the
15 recoupment between temporary and permanent rates. And,
16 if you could please describe what will happen, once the
17 Commission approves permanent rates, what is Staff's
18 role in reviewing the recoupment recommendations?

19 A. (Naylor) Staff would review the Company's filing, the
20 Company's analysis of the difference between temporary
21 and permanent rates, and file a report with the
22 Commission with a recommendation with respect to what
23 the Company has filed.

24 MS. THUNBERG: Thank you.

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 BY MS. KNOWLTON:

2 Q. Ms. Hartley, one more question on recoupment. Will the
3 amount that is being recouped from each customer, will
4 that appear as a line item on the customer's bill?

5 A. (Hartley) Yes, it will be a separate line item.

6 Q. Thank you. Does the Settlement Agreement provide for
7 recovery of rate case expense for the Company?

8 A. (Hartley) It does.

9 Q. What does it provide?

10 A. (Hartley) It provides that each customer will be billed
11 on a monthly basis over 12 months with a total cost of
12 the rate case expenses. Again, those rate case
13 expenses, though, must be reviewed by Staff, and the
14 Company has agreed to also submit those same expenses
15 to the OCA.

16 Q. And, does OCA have the right under the Settlement
17 Agreement to submit its position on the recovery of
18 those rate case expenses to the Commission?

19 A. (Hartley) Yes. Yes, they do.

20 Q. And, what types of expenses has the Company incurred,
21 too, as part of this case?

22 A. (Hartley) Legal, consulting, and some administrative
23 expenses, as well as some publications.

24 Q. The Settlement Agreement states that rate case expenses

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 are estimated at approximately \$5.50 per customer. Is
2 that the final figure?

3 A. (Hartley) No, that's not. We haven't received all of
4 the invoices, including some bills for today, for this
5 case. But, once we do, we will submit those to the
6 Commission for their approval.

7 Q. And, when the Settlement refers to "\$5.50", that's the
8 total charge per customer, in that range?

9 A. (Hartley) In that range, we're estimating about \$5.50.
10 We do not have the final number yet, but it should be
11 in that range. And, that would be per customer.

12 Q. And, is that a one-time surcharge?

13 A. (Hartley) We had agreed to do it -- to surcharge the
14 customer over 12 months.

15 Q. And, once the Commission has issued its final order,
16 will the Company make a compliance filing with regard
17 to the rate case expense?

18 A. (Hartley) Yes. We will file that with the Commission.
19 Well, once the Staff and the OCA have reviewed the
20 expenses and approved them, then it will be filed with
21 the Commission.

22 Q. And that will be set forth in the Company's tariff?

23 A. (Hartley) Yes, it will.

24 MS. KNOWLTON: Thank you.

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 BY MS. THUNBERG:

2 Q. Mr. Naylor, with respect to Section G, "Rate Case
3 Expense Surcharge" on the Settlement Agreement, it lays
4 out that Pennichuck will "submit its...expense request
5 to Staff and OCA for a review." And, then, from there,
6 Staff and OCA make a recommendation to the Commission.
7 Can you please just elaborate a little bit more on what
8 Staff does for its review?

9 A. (Naylor) I think there's a couple of objectives in the
10 review of rate case expenses. One is to ensure that
11 the costs a Company is seeking to recover are
12 reasonable, are only related to the rate proceeding,
13 and are direct expenses that are not otherwise
14 recovered by the Company through its existing rates.

15 Q. I'd just like to back up and ask you a general question
16 about the rates that Ms. Hartley described. Does Staff
17 have an opinion as to the just and reasonableness of
18 the permanent rates recommended in the Settlement
19 Agreement?

20 A. (Naylor) Yes, we do. We believe that the revenue
21 requirement called for in the Settlement and the rates
22 that result from that revenue requirement are just and
23 reasonable.

24 BY MS. KNOWLTON:

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Mr. Ware, I would like to address some questions to you
2 with regard to Section II.H of the Settlement
3 Agreement, which describes provisions relating to the
4 Water Infrastructure and Conservation Adjustment
5 Charge, otherwise referred to as the "WICA". Are you
6 familiar with that portion of the Settlement Agreement?

7 A. (Ware) Yes, I am.

8 Q. Can you identify -- well, first of all, which parties
9 have agreed to this provision?

10 A. (Ware) The Company, the Staff, and AB have agreed to
11 the WICA adjustment.

12 Q. Okay. And, would you describe the terms of that WICA
13 adjustment that have been agreed to?

14 A. (Ware) Yes. Effectively, the terms of the WICA that
15 was agreed to was that this would be a pilot program.
16 And, that it would be re-evaluated at the next case.
17 And, either -- at that case, either terminate it or
18 possibly would be to continue it as a pilot or to make
19 it permanent.

20 Q. And, can I stop you there and ask you a question? When
21 you say "the next case", do you mean the next rate case
22 of Pennichuck Water Works?

23 A. (Ware) Yes.

24 Q. Okay. You may continue.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) And, the types of projects that would be
2 eligible were defined as being the replacement of aging
3 infrastructure, water mains, water services, hydrants,
4 and gates. And, in this case, the projects are limited
5 to the core system. And, specifically, why the core
6 system? That's where the aging infrastructure is. The
7 satellite systems are all newer and don't have the
8 aging infrastructure that would fit into the WICA
9 criteria that we have agreed to.

10 Q. And, what do you mean by "aging infrastructure"?

11 A. (Ware) The infrastructure that we are looking at really
12 falls into two major categories, surrounding our cast
13 iron water main that was installed between 1853 and
14 1937. That is the unlined cast iron water main that's
15 in the system. And, then, during and immediately after
16 the war years, steel mains were used that were not
17 lined, and, again, have been subject to the same sort
18 of internal corrosion and the associated problems with
19 that corrosion as the unlined cast iron. So, those are
20 the target facilities.

21 Q. And, how often would the Company conduct WICA projects?

22 A. (Ware) In the case of Pennichuck Water Works, we would
23 plan to do annual projects. We have approximately
24 slightly over 50 miles worth of unlined cast iron and

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 steel water main to replace. Hoping to do, in the
2 WICA, someplace between a little over two miles to
3 upwards of three miles of main a year. The projects
4 right now in the plan has been to continue to partner
5 with the City in their Sewer Separation Project, in
6 order to minimize disruption to the customers, the
7 neighborhood, and help reduce overall cost of traffic
8 control and pavement replacement.

9 Q. How do you coordinate with the City to make that
10 happen?

11 A. (Ware) We, "we", the engineering staff, meets with the
12 City engineering and public works staff numerous times
13 a year. But, typically, in the fall of the year, when
14 you're looking at the following year, sit down and look
15 at, you know, where the City is planning projects.
16 And, again, this is, as I described before, where the
17 sewer is old, the water is old, they went in at the
18 same time. And, so, typically, when the City has
19 identified projects that they are going to do, which
20 are driven by either (a) their paving program or (b)
21 problems with their infrastructure failing, then we
22 partner with them and agree that we'll go out and do
23 work with them in those areas.

24 Q. Does the Settlement contain any restrictions on the

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1 WICA Program?

2 A. (Ware) It limits the amount of WICA projects that we
3 can do. And, the projects that would be done can't
4 result in an overall revenue increase of more than
5 2 percent in any particular year, and sets a cap of
6 7.5 percent increase in total before we would be
7 required to come in for a rate case.

8 Q. Do you believe that the WICA is necessary for the
9 Company?

10 A. (Ware) I think the WICA is very, very important to the
11 Company. And, you know, we're recommending a pilot.
12 But this is a large-scale pilot. We have a lot of
13 aging infrastructure. You know, that's the hue and
14 cry, as we're all aware throughout the industry. And,
15 we're in the process of replacing that. Being able to
16 do it in a timely fashion, and have it recovered in a
17 process where it results in gradualism in rates, keeps
18 us motivated and in the saddle to make these
19 replacements and coordinate with the City, I think are
20 all important aspects of the WICA.

21 Q. Can you explain the logistics of how the WICA Pilot
22 will work in terms of the process that would be
23 implemented by the Company and bringing projects before
24 the Commission?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) Yes. First of all, it is a full reviewed
2 process that involves notification to the customers.
3 The plan is to make the first filing in the fall of
4 this year for projects proposed for 2012, 2013, and
5 2014. And, so, we would identify the projects that we
6 would be looking at and estimate what the cost of those
7 projects were going to be. The reason behind
8 completing those projects, notify, again, our
9 customers, and submit to the interested parties, Staff,
10 OCA, and others, relative to what those projects are
11 and, you know, our plans for them.

12 Then, you know, we would go through the
13 process, say, in 2012 of constructing the first year's
14 worth of WICA projects. At the end of that year or
15 when the projects are complete, submit the cost
16 associated with those projects and improvements to,
17 again, Commission for audit purposes, to ensure, again,
18 that the projects are used and useful, that the project
19 -- and what the final project costs are.

20 Q. And, from a rate perspective, how would the WICA be put
21 in place?

22 A. (Ware) The WICA would be recognized as a separate line
23 item on the bill. It would be shown as a surcharge.
24 And, that surcharge would basically incorporate the

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 cost associated with the return on the investment in
2 the infrastructure, the depreciation expense associated
3 with the infrastructure, and the estimated property
4 taxes associated with the infrastructure.

5 Q. And, must the investment be used and useful prior to
6 implementing the surcharge on the customer bill?

7 A. (Ware) Yes.

8 Q. Does the Settlement provide for any tax -- special tax
9 provisions with regard to the WICA?

10 A. (Ware) Yes. In the first year of the surcharge, you
11 would estimate the increased property taxes, by looking
12 at the value of the new infrastructure, multiplying it
13 by the tax rate in effect, and that would be the tax
14 expense associated with that particular asset. In the
15 second year, once we can see what the actual taxes are
16 on that infrastructure, that amount would be adjusted
17 either up or down to reflect the actual taxes.

18 Q. You indicated that the OCA did not join in the
19 Settlement on the WICA?

20 A. (Ware) That is correct.

21 Q. Did the Company agree in the Settlement Agreement to
22 provide certain information to the OCA as part of the
23 WICA Program?

24 A. (Ware) Yes, it did.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 BY MS. THUNBERG:

2 Q. Mr. Naylor, I'd like to also ask you some questions
3 regarding the WICA section of the Settlement Agreement.
4 And, first, I'd like to ask you to please describe some
5 of the benefits of the WICA Program to customers.

6 A. (Naylor) Certainly. We -- The Commission has heard
7 testimony on the WICA in two prior dockets before this
8 one, the Aquarion docket, in 08-098, and, more
9 recently, the Pittsfield Aqueduct Company, in 10-090.
10 The objectives are the same here. I think what we
11 expect and hope that the WICA will achieve would be, as
12 Mr. Ware indicated, a focused approach to aging -- the
13 issues of aging infrastructure, stretching out the
14 amount of time between rate cases. We certainly hope
15 that will be the case. Significantly, for customers, I
16 think this has the potential to lessen rate shock in
17 the future, as customers would see more gradual changes
18 in their bills over time. And, certainly, if we are
19 able to speed up the replacement of aging
20 infrastructure, then it stands to reason we would see a
21 more reliable distribution system. So, those I think
22 are the major goals for the WICA Program.

23 Q. Mr. Naylor, I'd like to just ask you about, there's a
24 sequence of years described, in year one, projects will

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 be proposed, and, ultimately, in subsequent years, they
2 would be conducted, and then recovery or put into rate
3 base, treatment would be requested. If I can have you
4 compare the process of Staff's review under a WICA,
5 versus the process of Staff's review under a step
6 adjustment to plant, if you could just comment. Does
7 WICA offer Staff more involvement in this capital
8 planning that ultimately will be going into rate base?

9 A. (Naylor) Yes, it certainly does. And, we hope that, in
10 the case of Pennichuck Water Works, the City of Nashua,
11 we certainly hope that they would be a party to the
12 reviews as well. But it does, it gives the Staff and
13 any other parties that wish to participate an
14 opportunity to engage in discussions with respect to
15 priorities with respect to replacement of
16 infrastructure. And, I think, really, that's one of
17 the major benefits with respect to involvement, that we
18 may not always have that level of review, in terms of
19 the planning, where our reviews in rate cases are
20 typically more looking back and ensure the prudence of
21 investments. Then, in this case, Staff and the other
22 parties will be working with the Company and looking
23 forward.

24 MS. THUNBERG: Sarah, I have no more

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 questions.

2 MS. KNOWLTON: I have no further
3 questions for the panel.

4 CHAIRMAN GETZ: Mr. Alexander?

5 MR. ALEXANDER: No questions.

6 CHAIRMAN GETZ: Ms. Hollenberg?

7 MS. HOLLENBERG: Thank you. Just one
8 clarifying question, I guess. To the extent that I have
9 cross-examination on the WICA, I should do that now, even
10 if Mr. Eckberg will be taking the stand at some point --

11 CHAIRMAN GETZ: Yes.

12 MS. HOLLENBERG: -- to be available?

13 Okay. Thank you. Good morning.

14 WITNESS WARE: Good morning.

15 WITNESS NAYLOR: Good morning.

16 **CROSS-EXAMINATION**

17 BY MS. HOLLENBERG:

18 Q. I'd like to start my questions on the Page 3 of the
19 Settlement Agreement, and anyone who would like to
20 answer, either the Company or Staff. Page 3 discusses
21 the cell tower lease revenue resolution. And, I just
22 wanted to clarify that the additional 52,000 that will
23 be imputed in year four is over and above the \$157,256?

24 A. (Ware) Yes. That is correct.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Thank you. And, with regards to, on Page 5, in
2 Paragraph 3. Actually, sorry, Page 4, Paragraph 3,
3 it's at the top of the page. This is the paragraph
4 that talks about the "monthly volumetric charge" for
5 Anheuser-Busch under the Fourth Special Contract. And,
6 it says it's "initially set at 0.9178". You would
7 agree that that number has been revised to "0.9568"?

8 A. (Ware) Yes. That is correct.

9 Q. And, that number can be found in Attachment B to the
10 Settlement Agreement, is that correct? Which is the
11 Fourth Special Contract?

12 A. (Ware) Yes.

13 Q. And, if you turn to Attachment B to the Settlement
14 Agreement, which is marked as "Exhibit 17", do you
15 agree that, at Page 5 of 10, in Paragraph 4(c), we
16 would find the revised monthly volumetric charge for
17 AB?

18 A. (Ware) Yes.

19 Q. Thank you. Mr. Ware, you testified earlier about
20 competitive bidding processes that the Company uses.
21 Can you tell me whether or not the Company
22 competitively bids consultants for its rate case
23 expenses?

24 A. (Ware) No, we do not.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Thank you. Why is that?

2 A. (Ware) There's a lot of understanding the Company's
3 history, the process, working relationships with all
4 parties, that, you know, the Company believes it has
5 got consultants, lawyers, who have high integrity and
6 who understand the process and, you know, are very
7 efficient at what they do. Rather than, you know, the
8 bidding process very often results in people, again,
9 who need to be brought up to speed, who need to
10 understand the Company and its mechanisms and how it
11 works. So, in the case of a rate case -- in the rate
12 case example, we have historically used certain
13 consultants and lawyers in order to be what we believe
14 is more efficient in the process overall for the
15 customers.

16 Q. Thank you. Mr. Ware, I believe you testified earlier
17 today about the fact that Pennichuck Water Works did
18 not have the appropriate expertise to sell the cell
19 tower leases. Do you recall that?

20 A. (Ware) Yes.

21 Q. Do you agree that that information was not provided in
22 any of the Company's direct testimony in this case?

23 A. (Ware) We did not address that. That is correct.

24 Q. And, you also agree that that information was not

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 provided in response to any of the data requests in
2 this case?

3 A. (Ware) Subject to check, I would say that that is
4 correct, yes.

5 Q. Okay. Thank you. You also testified about the
6 Anheuser-Busch Fourth Special Contract, and said
7 something to the effect of that "Anheuser-Busch could
8 go back to its own supply", and I also believe you said
9 something to the effect of Anheuser-Busch having "other
10 supply options." Do you recall that, those statements?

11 A. (Ware) Yes.

12 Q. Could you clarify what other options Anheuser-Busch has
13 for a supply of its own water?

14 A. (Ware) Yes. Anheuser-Busch has several on-site gravel
15 wells that are permitted by the DES, have an allotted
16 capacity of several million gallons a day or permitted
17 capacity, and that is their other supply option.

18 Q. Okay. Thank you. Ms. Hartley, you testified earlier
19 today about the adjustment to the number of customers
20 for the purposes of the rate design provisions of the
21 Settlement Agreement. Do you recall that testimony?

22 A. (Hartley) Yes, I do.

23 Q. And, could you tell me why or do you agree that that,
24 the reduction to the number of customers, was not

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 proposed in the Company's initial filing?

2 A. (Hartley) That's correct.

3 Q. Could you tell me why that's the case?

4 A. (Hartley) Well, when the Company prepared its filing in
5 the early part of 2010, on a test year of 2009, as we
6 proceeded through the case and through the year, it
7 became clear to us that what had been maybe a few
8 customers here and there that you might not be so
9 concerned about, in terms of empty homes, or
10 abandonments in this case, became increasingly more
11 problematic to the Company. And, in fact, I believe,
12 for Pennichuck Water Works, at the end of 2010, we
13 wrote off \$100,000 worth of bad debt. A lot of that
14 was due to what we all know now is severe economic
15 conditions, not just here, but nationally. And, some
16 of these people just left their homes or couldn't
17 afford to pay bills or, you know, they were bank-owned
18 or they were foreclosed. We don't know all the
19 reasons. I can't even probably understand to this day,
20 in specific incidents, why some homes were abandoned or
21 not. The problem became so apparent as we proceeded
22 through the case that the Staff -- the Company asked
23 the Staff and the OCA to consider some adjustment to
24 the Cost of Service Study, because we had these built

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 in as potential accounts that we would -- we would be
2 deriving revenue from. And, it became very clear that,
3 not only was this, and we agreed on a 2008 mark, in
4 terms of recognizing those accounts that had no
5 activity, but there are many accounts after that and
6 are still out there that have no activity. And, in
7 fact, these accounts that we've adjusted for still have
8 no activity. We checked it. So, this has become a
9 challenge for the Company, not just in -- not just in
10 this matter, but just in collections in total. So, we
11 were appreciative that the Staff and -- that we could
12 settle on some adjustment to this.

13 Q. To the extent that this issue remains a concern of the
14 Company, would the Company be willing to include a
15 proposal, such as this adjustment to the number of
16 customers, in an initial filing in its next rate case?

17 A. (Hartley) I think we're going to -- this may not be an
18 ongoing problem for the Company. As I said, if it was
19 one or two, we wouldn't be concerned. I think we're
20 going to need to monitor it and see where we're going
21 from here. See how fast the economic recovery is, how
22 fast these homes maybe become occupied and become
23 viable customers. I just don't think I could foresee
24 what's going to happen in the next few years. But,

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 certainly, we'll be looking at it. And, if it's not --
2 if we can see that this problem has rectified itself to
3 some degree and our economy has improved, and,
4 certainly, I hope so, then we probably wouldn't have
5 such a need. But, in the future, we will be looking at
6 this. And, when we file cases in the future, we will
7 present that at our initial filing.

8 Q. Thank you. I have a question about recoupment. And, I
9 guess, Ms. Hartley, this would probably be best
10 directed to you. And, I'll try and ask it in as least
11 confusing way as possible. In prior rate cases, the
12 Company has begun recoupment for temporary rate
13 purposes during the rate case.

14 A. (Hartley) That's correct.

15 Q. And, so, when the rate -- when the temporary rate order
16 has come out, the Company has begun to go back to the
17 effective date for purposes of rates and begun the
18 recoupment?

19 A. (Hartley) That's correct.

20 Q. Can you confirm that that -- did that happen in this
21 case or no?

22 A. (Hartley) No. As part of the temporary rate
23 settlement, the Company agreed that it would not recoup
24 back to the effective rate -- effective date. What we

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 would do is wait till permanent rates, as approved by
2 this Commission, were set. And, at that time, we would
3 go back to the June 16th, 2010 date for recoupment.

4 Q. Okay. Thank you. Exhibit 15 references, it's the
5 "Proposed Rate Impact on [the] Residential Customer
6 Bill", and it references as "average consumption".
7 And, I may have missed this. But could you tell me
8 what that amount is, "average consumption"?

9 A. (Hartley) Yes. It's 7.88 hundred cubic feet.

10 Q. Thank you.

11 A. (Hartley) Based on the test year, just to be clear.

12 Q. Thank you. Mr. Naylor, you testified, I believe it was
13 you, about the Staff's review of rate case expenses,
14 and you listed several criteria that the Staff uses to
15 ascertain whether or not the -- whether or not to
16 approve the rate case expenses requested. And, one of
17 the criteria was that the "costs are reasonable". Can
18 you tell me how the Staff assesses whether or not the
19 costs for the rate case expenses are reasonable?

20 A. (Naylor) Well, it's a judgment call, obviously. We're
21 interested in seeing, for example, what tasks are being
22 billed, these would be legal bills or consultant bills.
23 What tasks were undertaken, ensuring that those are
24 related to the case at hand. You know, it's a judgment

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 call, clearly. But, you know, just making sure, I
2 think, primarily that the billed hours are accurate for
3 the work that was done and billed to the Company.

4 Q. Does the Staff look to filings in other cases to assess
5 whether or not amounts are reasonable or is it
6 generally just case-by-case?

7 A. (Naylor) It really has to be case-by-case. I mean, we
8 certainly have not established any metrics for how much
9 legal is appropriate or, you know, whether there is
10 some limit to what's reasonable, in terms of legal
11 expense or how much time a cost of capital consultant
12 spends on a case. There would be no metrics of that
13 type.

14 Q. Okay. Thank you. Now, turning to the WICA, I believe.
15 And, I'm going to start with you, Mr. Naylor.

16 A. (Naylor) I knew that was going to be the case.

17 Q. We've been here before. And, so, this will not -- my
18 questions will probably not come as much of a surprise
19 to you, and, hopefully, they will be quick and
20 painless. Do you agree that the Aquarion -- one moment
21 please. Do you agree, in the Aquarion rate case, that
22 you testified that "the WICA surcharge was a
23 significant change to the traditional method of
24 ratemaking"?

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) Yes, I did.

2 Q. And, do you agree that you testified, during the
3 Aquarion rate case, that it was "Staff's opinion that
4 the PUC's existing framework for setting rates has
5 worked well"?

6 A. (Naylor) Yes, I did.

7 Q. At that time, Staff "did not believe that mechanisms
8 that provide for changes to customer rates without a
9 full analysis of all of the utility's costs are
10 particularly fair to customers, and may further upset
11 the balance of risk in utility ratesetting." Do you
12 remember that?

13 A. (Naylor) I have always had that concern, yes.

14 Q. Thank you. And, that WICA reduces risk inherent in the
15 provision of traditional utility service?

16 A. (Naylor) Yes.

17 Q. And, that the WICA surcharge provides greater benefits
18 to the utility than to the customer?

19 A. (Naylor) Taken alone, yes.

20 Q. And that, you testified to that effect in both the
21 Aquarion rate case and the PAC rate case?

22 A. (Naylor) I believe that is true, yes.

23 Q. Thank you. And, you testified recently in both,
24 actually, the DW 10-090 PAC rate case and in this rate

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 case, in your written testimony, that "WICA reduces
2 regulatory lag, speeds up cash flows, and mitigates
3 litigation risk for the utility." Do you recall that
4 testimony?

5 A. (Naylor) Yes, I do.

6 Q. You testified in your -- in this case, in written
7 testimony, that "one way to address the...shifting of
8 risk" to customers which occurs with a WICA, is to
9 "eliminate the...step adjustments". Do you recall
10 that?

11 A. (Naylor) Yes.

12 Q. "Or to restrict the step adjustments to very large
13 capital projects impacting service quality"?

14 A. (Naylor) Yes. I think that is an effective way of
15 balancing the introduction of a WICA with respect to
16 customers.

17 Q. How does the elimination or restriction of the step
18 adjustment mechanism address the shifting of risk to
19 customers?

20 A. (Naylor) Well, I think, if you look at what the
21 Commission has done in recent years, and I guess by
22 "recent years", I would say, you know, eight to ten
23 years, perhaps that long. Step adjustments have become
24 a regular feature of water rate cases. I think that's,

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 you know, somewhat understandable, given all of the
2 circumstances that water utilities find themselves in
3 recently, with respect to the requirements that they
4 face from their environmental regulator, and the other
5 issues that they face with respect to the age of the
6 systems. And, this is true throughout New Hampshire,
7 and certainly throughout all of the United States.
8 Many municipal, you know, urban systems are 100 years,
9 150 years old. So, we see large rate increases
10 percentagewise from the water utilities in recent
11 years. So, I think that's, you know, one of the things
12 that we needed to keep in mind when we look at how this
13 Commission is dealing with the issues presented by the
14 water utility.

15 Q. And, the Commission has established, at least through
16 cases, certain parameters. And, I think you refer to
17 them, you know, generally in your testimony that are
18 appropriate for the approval of a step adjustment. Do
19 you agree with that?

20 A. (Naylor) Yes. Yes. The criteria has, for the most
21 part, been limited to the consideration of significant
22 projects, large projects, however you measure "large"
23 in relation to the Company, that take place, you know,
24 in relatively short time after a test year, which, if

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 not recognized in rates, would create an immediate
2 earnings deficiency when that item was placed in rate
3 base.

4 Q. And, do you agree that the Commission has, in at least
5 one rate case in the recent past, rejected a step
6 adjustment because it didn't meet that "large project"
7 criteria?

8 A. (Naylor) You'll have to refresh my memory.

9 Q. Was there a Lakes Region Water case, where there was a
10 -- there was multiple step adjustments proposed, and I
11 believe one of the three, I think it was, --

12 A. (Naylor) That's correct.

13 Q. -- the Commission rejected?

14 A. (Naylor) That's correct. It was DW 08-070, Lakes
15 Region Water Company.

16 Q. And, you would agree that that was a reason for your --
17 that was the reason for your disagreement with the step
18 adjustment proposed in this case, that it didn't meet
19 the "large project" criteria?

20 A. (Naylor) That's correct.

21 Q. I think you characterized the step proposal in this
22 docket as including all or nearly all of PWW's capital
23 spending in the year immediately following the test
24 year. Do you recall that?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) I do.

2 Q. Mr. Naylor, you agree that the Aquarion WICA was
3 proposed in that case and approved as a pilot program?

4 A. (Naylor) Yes, I do.

5 Q. And, that you testified in the Aquarion case that "the
6 introduction of a mechanism, such as WICA, can open the
7 door to other similar pass-through of costs"?

8 A. (Naylor) I have always had that concern, yes.

9 Q. Do you recall that the Commission's order that approved
10 the Aquarion WICA did so on a "trial basis"?

11 A. (Naylor) I believe that's the case, if it's -- as it is
12 similar to language that we're using here is a "pilot
13 program", I think that's correct.

14 Q. Okay. And, you would agree that the Aquarion WICA
15 pilot has only just completed the first full year of
16 that program?

17 A. (Naylor) Yes. They have filed a complete three year
18 budget proposal. And, I believe, you know, five or six
19 months ago the Company filed its first request for a
20 surcharge based on its -- would be 2010 capital
21 spending. So, I would say, yes, that would be one full
22 cycle.

23 Q. Thank you. The parties to the Aquarion Settlement
24 Agreement intended the WICA pilot to be affirmatively

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 reviewed by the Commission. Do you agree with that?

2 A. (Naylor) Yes, I do.

3 Q. And, that was to occur no later than Aquarion's next
4 rate case, is that correct?

5 A. (Naylor) That's correct.

6 Q. That would be the time when the Commission and the
7 parties would evaluate the impact of the WICA and its
8 effectiveness, is that correct?

9 A. (Naylor) Correct.

10 Q. And, you agree that there has been no formal review by
11 the Commission of the effectiveness of the Aquarion
12 WICA Program at this time?

13 A. (Naylor) There has not been yet.

14 Q. Do you agree that one of Staff's objectives in
15 supporting the Aquarion WICA was providing an incentive
16 to increase Aquarion's rate of infrastructure
17 replacement?

18 A. (Naylor) Yes.

19 Q. And, you would -- you testified at the PAC hearing
20 recently that you "don't know if that objective has
21 been met as a result of the Aquarion WICA." Do you
22 recall that?

23 A. (Naylor) I do.

24 Q. And, I think you stated something to the effect that

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 "it's too soon to know that." Do you agree with that?

2 A. (Naylor) I believe that's correct, yes.

3 Q. Thank you. If the Commission approves the PWW WICA,
4 will there be a review of the effectiveness of the
5 pilot at some point in the future?

6 A. (Naylor) Yes.

7 Q. At the next rate case?

8 A. (Naylor) Yes.

9 Q. And, how will that effectiveness be measured?

10 A. (Naylor) Well, I think it's going to have to be
11 measured in a number of ways. Certainly, the rate of
12 infrastructure replacement, whether or not it has
13 achieved objectives of greater time between rate cases,
14 mitigating rate shock, contributing to a more reliable
15 distribution system, all of those types of things.

16 Q. Thank you. Do you -- you do not dispute that the
17 Aquarion WICA was a term in a comprehensive settlement
18 of all the issues in that case?

19 A. (Naylor) I do not dispute that.

20 Q. And, you do not -- or, do you agree that the Aquarion
21 Settlement is not precedent?

22 A. (Naylor) Yes.

23 Q. The parties to the Aquarion Settlement Agreement
24 included municipal customers and residential

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 ratepayers, do you agree with that?

2 A. (Naylor) Yes.

3 Q. All of these -- all of the parties to that Settlement
4 Agreement -- or, all of the parties to that docket,
5 excuse me, either supported or did not oppose the WICA?

6 A. (Naylor) I believe that's correct, yes.

7 Q. Do you remember testifying in the Aquarion -- at the
8 Aquarion hearing that it was helpful to Staff in coming
9 to a settlement that included the WICA that "the active
10 parties to the proceeding viewed [the WICA] favorably"?

11 A. (Naylor) Yes. As I recall, both the Town of Hampton
12 and the Town of North Hampton were supportive of the
13 concept. That each of those communities had their own
14 concerns about aging infrastructure, certainly, with
15 the water utility that serves them, but in their other
16 areas of municipal concern. And, so, we thought that
17 that was very helpful to have them as active
18 participants.

19 Q. And, the OCA was an active participant in that
20 proceeding as well?

21 A. (Naylor) Yes, you were.

22 Q. Do you remember testifying at the Aquarion hearing that
23 you thought it was helpful that the towns were
24 interested in seeing something like a WICA?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) Yes.

2 Q. And, that you testified in that case that "this broad
3 support was among the necessary agreements for Staff's
4 support of the Aquarion WICA", do you recall that?

5 A. (Naylor) I think it was one of the factors, yes.

6 Q. Okay. Thank you. Mr. Naylor, continuing with
7 questions for you. There is some references in the
8 Company's rebuttal testimony about the WICA being an
9 authorized mechanism in other states. Do you have a
10 familiarity with that testimony?

11 A. (Naylor) Yes, I do.

12 Q. Do you agree that the WICA in Connecticut is authorized
13 by statute?

14 A. (Naylor) Yes, I believe that is the case.

15 Q. And, are you familiar with whether or not the WICAs in
16 any other states are authorized by statute or are done
17 without a statutory authorization?

18 A. (Naylor) I don't know. The only one that I'm aware of
19 specifically is Connecticut, because Aquarion is
20 headquartered in Connecticut. And, I believe, in that
21 case, they provided us with a copy of the legislation.

22 Q. Okay. Thank you. Do you agree that there is no WICA
23 or WICA-like mechanism in use in any of the New England
24 states, other than New Hampshire, besides Connecticut?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) I don't specifically know if either of the
2 other four states have one.

3 Q. One moment please. You testified at the hearing in DW
4 10-090, regarding PAC, that your understanding of the
5 status of the WICAs or "DSICs", as they're also called
6 in other states, was based on information that you may
7 have obtained in the Aquarion case. Do you recall that
8 testimony?

9 A. (Naylor) Yes.

10 Q. Are you aware that the WICA in California is limited to
11 one utility?

12 A. (Naylor) No, I'm not.

13 Q. Are you aware that the West Virginia Public Service
14 Commission recently rejected, in April 2011, a
15 utility's WICA proposal?

16 A. (Naylor) No, I'm not.

17 Q. Are you aware that in some states utilities are
18 prohibited from filing base rate cases in the same year
19 as filing a request for a WICA?

20 A. (Naylor) No, I'm not.

21 Q. Do you have any sense of what would happen in New
22 Hampshire if the -- if the Commission approves the PWW
23 WICA, for instance, if the Company were to file a base
24 rate case in June of a year, would they file a WICA

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 surcharge filing in December of the same year? Or
2 could they, I guess?

3 A. (Naylor) I believe there's nothing in the Settlement
4 proposal that we're making that would preclude the
5 Company from doing that. I think, from what we've
6 included here, makes it clear that the WICA will be
7 evaluated at the Company's next rate case, and would
8 need to be reauthorized, if you will, in some way in
9 the Commission's final order in that case before it
10 could continue.

11 Q. Could you envision, though, a circumstance where a rate
12 case was pending, and they filed a WICA during that
13 case, such that they would have two, basically, two
14 rate cases pending at the same time?

15 A. (Naylor) Yes.

16 Q. Mr. Naylor, you testified at the recent PAC hearing
17 that the -- that the PAC WICA was limited to
18 infrastructure replacement to the same size as the
19 existing infrastructure. Do you recall that testimony?

20 A. (Naylor) Yes. I reviewed the transcript, and I'm aware
21 that we did not specify specifically treatment of a
22 potential upsizing, and indicated at the hearing that
23 it was my expectation that similar size pipe would be
24 used as a replacement.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Is it your expectation that that would be the same or
2 similar limitation to the PWW WICA?

3 A. (Naylor) Yes, it would. Although, I certainly don't
4 think it's prudent to suggest the Company could never
5 make a proposal for a change in size. They would
6 certainly need to make a case that it was appropriate
7 to do so. But I just don't think it makes a lot of
8 sense for the Commission not to consider it.

9 Q. Would the Commission Staff and the Commission review
10 whether or not an upsizing was revenue-producing, if it
11 was proposed, for purposes of setting a WICA surcharge?

12 A. (Naylor) Yes, I think it's an appropriate thing to
13 consider. Clearly, the focus and the intent of the
14 WICA is replacement of infrastructure that is not
15 revenue-producing.

16 Q. Thank you. You agree that -- you would agree that the
17 Aquarion WICA may be modified in the future by the
18 Commission, either on its own initiative or at the
19 request of Staff or any party?

20 A. (Naylor) I believe the Commission has that power, yes.

21 Q. And, that I believe you testified earlier that, if the
22 WICA is approved in this case, the Commission could
23 modify or terminate the WICA before -- oh, I'm sorry
24 you didn't testify to this. If approved, can the

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Commission modify or terminate the PWW WICA before the
2 next PWW rate case?

3 A. (Naylor) I believe it can. I'm going to have to refer
4 to specifically what we've provided in the Settlement
5 Agreement that's the subject of the hearing this
6 morning. I believe we have language in the document
7 with respect to termination of the WICA. Yes. If you
8 -- Page 10 of the Settlement Agreement, which, in
9 Paragraph 8, contains the language that I'm thinking
10 of. With respect to continuation of the Company's
11 collection of the revenues that it would be receiving
12 through a WICA, I guess this is sort of an expectation
13 of the parties -- the Settling Parties, that the
14 Commission would authorize continuation of the recovery
15 of those revenues through its base rates if the WICA
16 were terminated.

17 Q. But that, that language that you're referring to on
18 Page 10, in Paragraph 8, you interpret that as meaning
19 that the Commission has the authority to modify or
20 discontinue the WICA outside or before the Company's
21 next rate case?

22 A. (Naylor) I believe the Commission has that power, yes.

23 Q. Thank you. There has been some discussion in the
24 filing, as well as in the testimony today, about the

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 reduction in the frequency of general rate cases. And,
2 Mr. Naylor, do you agree that you do not know that the
3 WICA will reduce the frequency of PWW's general rate
4 cases?

5 A. (Naylor) I agree that I do not know that, yes.

6 Q. Thank you. Do you agree that there are a lot of
7 reasons that companies file rate cases that are not
8 within a company's control?

9 A. (Naylor) Yes.

10 Q. And, when do you expect -- does Staff have any
11 expectation at this time when the Company will come in
12 for its next rate case if the WICA is approved?

13 A. (Naylor) I have no idea.

14 Q. Thank you. You would agree that there is no limit in
15 the PWW Settlement on the Company's ability to file a
16 base rate case after the WICA is authorized?

17 A. (Naylor) I do not believe there is any limit on it.

18 Q. And, you would agree that there is no rate case
19 stay-out provided in the Settlement Agreement, is that
20 correct?

21 A. (Naylor) That is correct.

22 Q. Do you also agree that there are no terms that
23 expressly assure the reduction of rate case expenses in
24 the Settlement Agreement?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) There are none.

2 Q. Thank you. Would you agree that the WICA process
3 that's contemplated by the Settling Parties is an
4 adjudicative process?

5 A. (Naylor) As I understand that term, yes.

6 Q. Thank you. Is it Staff's position that the Commission
7 can call PWW, if it does approve the WICA, in for a
8 rate case at any time afterwards?

9 A. (Naylor) Yes.

10 Q. Can you tell me, has the Commission -- has the
11 Commission initiated a water rate case with PWW?

12 A. (Naylor) I don't believe it has in my tenure.

13 Q. Thank you. Mr. Naylor, you would agree that the
14 revenue requirement recommended by the Settlement
15 Agreement does not include any WICA increases?

16 A. (Naylor) It does not.

17 Q. Thank you. And, are you familiar with, I believe you
18 testified a moment ago that you're familiar with
19 Mr. Ware and Ms. Hartley's rebuttal testimony. Do you
20 recall the portion of that testimony where Ms. Hart --
21 where there's a discussion about the pending docket DW
22 11-026?

23 A. (Naylor) Could you point me to that please.

24 Q. Yes, I will. Thank you. The question begins on --

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 well, on Page 2, there's no numbers, but it's the
2 second page, and then continues onto the next page.
3 And, do you see on Page 3 of the rebuttal testimony,
4 starting on Line 3, it says "A potential acquisition by
5 the City of Nashua in DW 11-026 has no relevance to
6 whether a WICA should be granted in this case"?

7 A. (Naylor) I see that.

8 Q. Thank you. Are you participating in the DW 11-026
9 docket?

10 A. (Naylor) Yes.

11 Q. And, is it correct that Ms. Hartley filed testimony in
12 that docket?

13 A. (Naylor) Yes, she did.

14 Q. And, the purpose of her testimony was to present a
15 financial analysis reflecting rates for customers of
16 the Pennichuck utilities under City ownership. Do you
17 agree with that characterization?

18 A. (Naylor) That's pretty close. I wouldn't say it was
19 necessarily a "financial analysis" to determine rates.
20 I think it's a comparison of the revenue requirements
21 on a *pro forma* basis between current ownership and City
22 ownership.

23 Q. Okay. Thank you. And, do you also agree that the
24 conclusion of Ms. Hartley's testimony was that the

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 rates for the customers of PWW, PEU, and PAC would be
2 at or lower than current ownership?

3 A. (Naylor) I believe that the conclusion is that the
4 revenue requirements are very similar on a *pro forma*
5 basis.

6 Q. And, are you familiar with the adjustments that
7 Ms. Hartley made in her testimony in that case?

8 A. (Naylor) Yes, I am.

9 Q. And, do they include reductions of certain expenses
10 associated with the City being the owner, as opposed to
11 Pennichuck being privately owned?

12 A. (Naylor) Yes. Reductions relating to corporate
13 overhead.

14 Q. And, those reductions are in the millions of dollars.
15 Do you agree with that?

16 A. (Naylor) I believe that's correct, yes.

17 Q. Do you agree that there are other testimonies filed in
18 the DW 11-026 docket that state the expectation that
19 the result is premised on the rates being approved in
20 this docket? I'll ask -- if I could ask you a
21 different question. Do you agree that the testimony
22 filed -- other testimony filed in DW 11-026 references
23 the Commission's approval of the rates proposed in this
24 case?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 MS. KNOWLTON: I'm going to object to
2 any further questioning in this regard. I don't see the
3 relevance of the questioning with regard to the Settlement
4 proposal that's before the Commission in this docket and
5 what the testimony in another docket demonstrates, or
6 doesn't demonstrate, for that matter.

7 MS. HOLLENBERG: Sure. Thank you. I
8 believe that the two dockets are related. And, I believe
9 that the Joint Petitioners, including Pennichuck, made
10 them related in their filings in DW 11-026. And, the OCA
11 has concerns about the approval of a WICA surcharge in
12 this docket, in light of the fact that there is a proposed
13 revenue requirement mechanism proposed in that other
14 docket. And, that is why I'm asking about the relation
15 between the dockets, because the rebuttal testimony
16 expressly states that they're not relevant.

17 CHAIRMAN GETZ: I'm going to permit some
18 questioning further on this line.

19 MS. HOLLENBERG: I don't have very many
20 more questions about it. Thank you.

21 BY MS. HOLLENBERG:

22 Q. Mr. Naylor, I believe I had asked if you are familiar
23 -- are you familiar with any other testimonies filed in
24 DW 11-026?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) Yes, I am.

2 Q. Okay. And, are you familiar with Mayor Lozeau's
3 testimony?

4 A. (Naylor) Yes.

5 Q. Would you agree, subject to check, that Mayor Lozeau
6 references the approval of the PWW proposed rates in
7 her testimony?

8 A. (Naylor) Yes.

9 Q. Okay. And, are you familiar with Mr. Patenaude's
10 testimony?

11 A. (Naylor) I am.

12 Q. And, would you agree, subject to check, that
13 Mr. Patenaude also references the Commission's approval
14 of the proposed PWW rates in his testimony?

15 A. (Naylor) Yes, he does.

16 Q. Thank you. Mr. Naylor, do you agree that the rates --
17 PWW's rates will not change if the Commission approves
18 the acquisition in DW 11-026?

19 A. (Naylor) I believe that is the request of the Joint
20 Petitioners.

21 Q. Okay. And, if the rates did not change upon the
22 acquisition approval, do you agree that there -- that
23 the reductions to expenses that are discussed in the
24 Joint Petitioners' testimony will not be reflected in

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 the rates?

2 A. (Naylor) Well, based on my understanding of the
3 proposal in 11-026, that is essentially correct. That
4 the reduction in expenses, which is proposed to take
5 place at the corporate level, would essentially be
6 negated, and that's my opinion, by other costs, which
7 would be essentially assigned to the three utilities.

8 Q. But the rates, as they are set in this case, would not
9 be -- would not be -- the expenses that are included in
10 the rates as set in this case would not be incurred
11 following the acquisition by the City?

12 MS. KNOWLTON: And, I'm going to
13 continue to object to this line of questioning. I don't
14 -- I really don't see the relevance between the proposed
15 Settlement Agreement in this case, and that all of the
16 Settling Parties are coming before the Commission asking
17 to be approved, including a revenue requirement, and what
18 may or may not be included in the rates if the Commission
19 were to approve an acquisition of Pennichuck Corporation
20 by the City of Nashua. That docket is currently ongoing.
21 There has not been any determination in that docket. And,
22 I think this line of questioning does not have any
23 relevance to the consideration here.

24 CHAIRMAN GETZ: Ms. Hollenberg, I

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 interpret your line of questioning to be "whether the WICA
2 is necessary or useful, depending on what happens in that
3 other case." Is that your point?

4 MS. HOLLENBERG: Well, the OCA is
5 concerned about there being a rate mechanism that exists
6 as a result of this rate case, and that having another
7 rate mechanism that could possibly -- that could be
8 created, we think that there is a risk that could be
9 created in the other rate case. And, we think that there
10 is a risk that the Company -- I guess there's two concerns
11 that we have. We have a concern about the fact that the
12 Company is not agreeing to a rate case stay-out, because
13 it says that this is going to reduce rate cases, and we're
14 not seeing any affirmative showing of that. And, then, on
15 the other side --

16 CHAIRMAN GETZ: Okay. That's a
17 different issue unrelated to what's going on in 11-026. I
18 mean, that's an independent issue. But what --

19 MS. HOLLENBERG: Right. And, then, on
20 the other side, our concern is that, with the approval of
21 the WICA, the Company will be able to increase its rates
22 outside of a base rate case, when there could be some
23 significant changes to the way that its rates are -- to
24 the way that its expenses exist and its revenues and

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 things that will change under the City ownership.

2 CHAIRMAN GETZ: So, it's another basis
3 for your argument of why there should be no WICA?

4 MS. HOLLENBERG: Yes.

5 CHAIRMAN GETZ: I'm going to overrule
6 the objection.

7 BY MS. HOLLENBERG:

8 Q. Do you want -- I guess I could try to repeat the
9 question. Do you agree that, I mean, if the Commission
10 approves the acquisition by the City, you were just
11 testifying about the fact that the reduced expenses
12 would be negated by other costs that could be incurred,
13 is that correct? Do you recall that? You just
14 testified a moment ago?

15 MS. THUNBERG: Can I just ask a
16 clarification on this question? And, whether the approval
17 of the acquisition is as proposed in the Joint Petition?
18 Is that how you're phrasing the question?

19 MS. HOLLENBERG: Yes.

20 **BY THE WITNESS:**

21 A. (Naylor) Yes. I think that sort of has to be the
22 working assumption. That, in the questions that you're
23 posing, that the Commission approves the filing as it's
24 presented without modification.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 MS. HOLLENBERG: Uh-huh.

2 **BY THE WITNESS:**

3 A. (Naylor) I think that's a critical understanding.

4 BY MS. HOLLENBERG:

5 Q. So, they'll be reduced -- I'm sorry.

6 A. (Naylor) So, yes. My opinion of the filing that the
7 Joint Petitioners have made, my understanding of it, is
8 that the Joint Petitioners propose that the rates for
9 the three utilities stay in place post merger, because
10 the revenue requirements, in total, under City
11 ownership will remain very close or very similar to the
12 revenue requirements that will exist under current
13 ownership, including, presumably, the rates that
14 Pittsfield Aqueduct and Pennichuck Water Works receive
15 in their pending rate cases.

16 Q. And, I guess, to try and make it as simple as possible,
17 would you agree that the components of the revenue
18 requirements in this case would be different than the
19 components of the revenue requirements under City
20 ownership?

21 A. (Naylor) I believe that is true, yes.

22 Q. Okay. Thank you. Mr. Ware, I'll direct my questions
23 for the Company to you. You agree that the Company
24 contends that the WICA will reduce rate case filings

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 and expenses?

2 A. (Ware) All things being equal, all your other expenses
3 are the same, clearly, getting a return on an
4 investment each year should allow us to extend out rate
5 cases. Again, all other things being equal. No
6 changes relative to other things.

7 Q. Do you have any current expectations for when PWW will
8 file its next rate case?

9 A. (Ware) It is impossible for us to speculate. As an
10 example, our property taxes over the last year went up
11 \$700,000. If you can tell me what's going to happen to
12 property taxes and other expenses that we can't
13 control, I could give you a projection.

14 Q. So, you would agree with Mr. Naylor's statement earlier
15 that there are many things that the Company -- there
16 are many expenses and circumstances that the Company
17 cannot control that would impact the filing of a rate
18 case?

19 A. (Ware) That is correct. And, they would be the same
20 with or without the WICA.

21 Q. Okay. But do you agree that it's -- the Company has
22 postulated that it's an affirmative benefit of the WICA
23 to reduce rate cases?

24 A. (Ware) Yes. I happen to believe that, again, all

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 things being equal, that the implementation of a WICA,
2 if we were going to come in without a WICA, it might
3 be, say, three years. If the expenses and everything
4 else were the same that would have brought us in in
5 three years, I believe the WICA would have allowed us
6 to extend out to a fourth year.

7 Q. Is the Company willing to agree to a rate case stay-out
8 if the Commission approves the WICA?

9 A. (Ware) If you can guarantee what's going to happen with
10 property taxes and all other expenses, we would
11 consider it. But, since nobody can guarantee that,
12 there's absolutely no way that anybody with any
13 business expertise would agree to a rate case stay-out.

14 Q. So, the answer is "no"?

15 A. (Ware) That is correct.

16 Q. Thank you. Do you know when the last time the
17 Commission required PWW to come in for a base rate
18 case?

19 A. (Ware) In my time with the Company, it has not
20 happened.

21 Q. You would agree that, if the Commission does not
22 approve the WICA, that the Company remains legally
23 entitled to seek rate relief for its investment in the
24 system?

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) Yes.

2 Q. And, do you recall that you testified in the PAC docket
3 about your belief that, with the WICA, "at least one
4 rate case would be avoided"?

5 A. (Ware) Yes.

6 Q. You did not offer any such testimony in this case, is
7 that correct?

8 A. (Ware) Subject to check, I'll assume that you've read
9 my testimony and that we didn't say that.

10 Q. How come?

11 A. (Ware) Just left out. As I indicated, I believe very
12 strongly that, if all things being equal, the WICA
13 allows us to recover two percent a year, over a three
14 year period, which has been typically the Company's
15 rate case filing scenario, that it allows us to collect
16 6 percent, should allow us to extend another year, with
17 all other expenses, which they wouldn't vary between
18 the WICA and a non-WICA program.

19 Q. I just wanted to ask you if you could clarify. The
20 original Schedule DW-1 that you filed with the original
21 filing, as well as the revisions to that schedule that
22 were provided in discovery, those include calculations
23 of the annual rate increases contemplated with the
24 WICA, do you agree?

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) It provides an estimate of those that we might
2 expect, yes.

3 Q. And, do you have a sense of what the change to those
4 increases is as a result of the Settlement Agreement
5 with the new revenue requirement, because I believe
6 they're a percentage of the revenue requirement?

7 MS. KNOWLTON: Ms. Hollenberg, can you,
8 actually, Mr. Ware, before you answer, can you -- can we
9 have one before us and have Mr. Ware look at that?

10 MS. HOLLENBERG: Sure. It's in his
11 testimony.

12 MS. KNOWLTON: Okay. Could you show him
13 the page that you're referring to?

14 MS. HOLLENBERG: It's Schedule DW-1,
15 it's the schedules.

16 MS. KNOWLTON: Okay. But I just want to
17 make sure that we all have the same page before us. So,
18 do you want to tell us which page it is in the filing?

19 MS. HOLLENBERG: I can do that. Sure.

20 BY MS. HOLLENBERG:

21 Q. Do you have that page before you, Mr. Ware?

22 A. (Ware) Yes, I do.

23 Q. Maybe you could tell us what page it is?

24 A. (Ware) It is the -- one of the last pages of my

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 testimony. There's a spreadsheet with the proposed
2 mains and streets. And, it's the first schedule there.

3 Q. Do you have a sense of what the change is to the
4 increases that will be expected now that the revenue
5 requirement has been revised?

6 A. (Ware) Well, you'd have to take, if we went to that
7 program, first of all, the meters would come out of the
8 program, because they're no longer in. So, that would
9 reduce it by about 20,000. You know, as that was laid
10 out, which was the generic program of 14,850 feet a
11 year of pipe based on a certain breakdown of cleaning
12 and lining and replacing, it's going to be something,
13 you know, probably again around that 1.6, 1.7 percent,
14 because you're at a 27 million range. The maximum
15 allowed at 27 million, you would have to take that
16 2 percent, which would be \$540,000. And, you'd have to
17 look at the \$430,000 over 540. And, that's a
18 calculation I'm not going to do in my head. Thank you.

19 MS. HOLLENBERG: I wasn't asking you to
20 do it in your head. Perhaps that would be something that
21 the Company can provide in response to a record request.
22 I'm basically asking for an update to the schedule, the
23 WICA related schedules attached to Mr. Ware, so that the
24 parties and the Commission has a sense -- have a sense of

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 the amount that -- the amount of additional revenues that
2 will be collected if the WICA is approved.

3 CHAIRMAN GETZ: Okay. Let's reserve
4 Exhibit 18 for that record response.

5 **(Exhibit 18 reserved)**

6 MS. THUNBERG: I have a clarifying
7 question regarding this exhibit. Mr. Ware, is it the
8 schedule that would be attached to Exhibit 4 of the May
9 17th, 2010 revised Donald Ware testimony?

10 WITNESS WARE: I believe that it is. In
11 other words, I'm looking at my testimony, which I believe
12 is Exhibit 4. And, at the back side of it, my testimony
13 refers to Schedule DW-1, and that has a calculation based
14 on our filing of projected revenues after the granting
15 essentially what we asked for, including the step, which
16 at the time was \$28,802,000. And, so, basically, we would
17 revise this to reflect the \$26,997,000 and change for the
18 proposed increase, and the limitation would be 2 percent
19 of that. So, effectively, it would drop from \$576,000 a
20 year to a maximum of just under \$540,000 a year.

21 MS. HOLLENBERG: Thank you. For the
22 record, there's no page number on it, which is part of the
23 problem for my not being able to give it earlier, I
24 apologize.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 BY MS. HOLLENBERG:

2 Q. Do you have a sense, Mr. Ware, of at what point in
3 time, based on current capital expenditure plans, the
4 Company will reach the 7.5 percent WICA max?

5 A. (Ware) It would typically be, at this rate, in the
6 fourth year, if we hit about one and a half percent a
7 year. It would be 6 percent after four years. If
8 you're at a full 2 percent, it would, obviously, be 8.
9 But, you know, this is about what we anticipate. So,
10 we're -- actually, it would be in the fifth year that
11 we would hit that maximum.

12 Q. Okay. Thank you. And, to confirm, the WICA is only
13 for the core system?

14 A. (Ware) That is correct.

15 Q. Do you agree that you testified -- or, I'm sorry, do
16 you -- would you agree that the age and type of water
17 mains and services in the community water systems for
18 PWW will not require consideration for replacement for
19 another 40 to 60 years?

20 A. (Ware) Depends upon the particular systems. Some of
21 the systems that were installed by developers in the
22 late '70s/early '80s were, unfortunately, done with
23 substandard materials and not properly installed, and
24 experience a good degree of breakage that might -- then

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 it might make sense to look and say "we should replace
2 this", rather than continue to do, you know, 20 or 30
3 repairs a year, as a for instance.

4 Q. Did you make this statement in --

5 MS. HOLLENBERG: Well, may I approach
6 the witness please? Thank you.

7 BY MS. HOLLENBERG:

8 Q. I'd like to show you your response to Staff 2-2.

9 A. (Ware) Yes.

10 Q. Okay. And, in response to Staff 2-2, you were asked
11 "Is the proposed WICA anticipated to target only the
12 Company's core system and not the community systems?
13 Please confirm or explain." And, your response was
14 "Yes, at present the Company is only planning WICA
15 projects in the Company's core water system. The age
16 and type of water mains and services in the community
17 water systems will not require consideration for
18 replacement for another 40 to 60 years and thus one not
19 necessary to include." So, a WICA is not necessary to
20 include.

21 A. (Ware) We are not asking for a WICA for the community
22 water systems.

23 Q. And, I read that correctly?

24 A. (Ware) Yes.

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Thank you. Do you agree that PWW has no need for step
2 adjustments if the WICA is approved?

3 A. (Ware) There are certain SDWA compliance issues that
4 might warrant a step. We would no longer need steps,
5 obviously, associated with the large water main
6 projects. And, typically, they constitute the majority
7 of the large projects we're talking about. But, again,
8 if we had an SDWA compliance issue that came up, and it
9 was completed during or the year following a test year,
10 we would like to think that we would be able to get
11 consideration for that compliance project. But, other
12 than those types of projects, typically, the WICA is or
13 replaces the types of projects we would typically ask
14 for in a step. Another example might be a large
15 storage tank replacement, again, with a significant
16 cost.

17 MS. HOLLENBERG: May I approach the
18 witness please? Thank you.

19 BY MS. HOLLENBERG:

20 Q. Mr. Ware, I'd like you to look at what's your response
21 to Staff 3-2 please. Would you agree that the last
22 sentence of this response states "The Company would
23 further note that if a WICA is granted, the need for
24 step increases as part of a rate case filing [would] be

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 obviated." Did I read that correctly?

2 A. (Ware) That's what it says. And, like I said, on
3 further reflection as we think about these, and we all
4 know there's a lot going on, I think there are times,
5 although they're going to be rare, associated with Safe
6 Drinking Water Act, for large infrastructure projects.
7 And, again, we're talking about aging infrastructure,
8 so a tank would fall into that. But we've limited --
9 by the way, when this was written, there was currently
10 no limit to the aging infrastructure that would have,
11 say, precluded tanks or, for that matter, a large
12 treatment system replacement.

13 Q. You did not update this response, though, did you?

14 A. (Ware) No, I did not.

15 Q. Thank you. Do you agree that the Settlement Agreement
16 allows the Company to file for recovery of WICA costs
17 of projects that are not yet complete?

18 A. (Ware) No.

19 Q. Okay. Could you please look at the Settlement
20 Agreement at Page 9. And, I'm looking at the second
21 part of Paragraph 4, which begins on Page 8. And, the
22 last sentence of that paragraph says "No project shall
23 be included for recovery in WICA unless the project is
24 used and useful in providing service to customers or

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 will be used and useful by the effective date of the
2 WICA." So, the Company can file for recovery of costs
3 of projects that are not yet complete?

4 A. (Ware) Well, you're -- effectively, the filing would
5 include, you know, projects that are ongoing. We've
6 talked about this. But they will not be -- the only
7 way they would become part of or allowed in the WICA is
8 if there are fully used and useful before the WICA
9 surcharge goes into place.

10 Q. Okay. And, my question was, "the Settlement allows the
11 Company to file for recovery of the cost of projects
12 that are not yet complete?"

13 A. (Ware) And, this -- the insinuation there, it allows
14 for us to file for a WICA that will be allowed for
15 projects that are fully used and useful at the time the
16 WICA becomes effective.

17 Q. But are not complete at the time of filing, is what you
18 just said?

19 A. (Ware) Yes.

20 Q. Okay. And, so, how will the Company -- I'm sorry, how
21 will the Commission, the Staff, and any other
22 interested parties review the actual costs associated
23 with projects that are not yet complete at the time of
24 filing?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) The same way they do on a step right now. They
2 would, before the rate would go into effect, all the
3 associated costs that we were desiring to get in that
4 WICA would be submitted, go through the normal review
5 and approval process.

6 Q. When would the Company provide the actual information,
7 the actual cost information, if it was a project that
8 was ongoing at the time of filing?

9 A. (Ware) So, the filing that we're talking about is a
10 filing that happens effectively by December 31st?

11 Q. Uh-huh.

12 A. (Ware) We would give the current information from the
13 work order at that time. Typically, these projects are
14 going to essentially be completed. But the reason this
15 was put in here, very often you get a bill after
16 December 31st for work that was completed prior to
17 December 31st. So, we would submit the bills as they
18 came in. WICA projects typically don't occur in the
19 winter, you can't pave in the winter. But there is
20 work that could and may run right up to the date and
21 slightly over the date in terms of getting the project
22 complete.

23 Q. So, with a WICA that's effective April 1st, could you
24 envision that you would provide information as late as

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1 March?

2 A. (Ware) I would not see any reason why that would be.

3 We would be willing to say we would submit it on or

4 before -- any documentation on or before January 31st.

5 Q. Thank you. Ms. Hartley, I believe that, in the

6 rebuttal testimony that you filed with Mr. Ware in the

7 DW 10-090 PAC case, you made an express commitment, and

8 I'll direct you to the page in just a second, not to

9 recover the expenses associated with the WICA? Do you

10 recall that? And, I'm happy to direct you to the page,

11 if you need it. It's on Page 2, Lines 19 to 21, of

12 your PAC testimony. I can -- I actually have a copy

13 here for you, if you need it?

14 A. (Hartley) Oh, PAC testimony.

15 Q. Yes. Sorry.

16 A. (Hartley) I'm sorry, I don't have that testimony.

17 (Atty. Hollenberg handing document to

18 Witness Hartley.)

19 BY MS. HOLLENBERG:

20 Q. So, just to repeat, the page reference was Page 2.

21 MS. KNOWLTON: Is that the rebuttal?

22 MS. HOLLENBERG: Yes.

23 MS. KNOWLTON: You gave me the

24 transcript.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 MS. HOLLENBERG: Oh, shoot. Actually, I
2 can give you a reference in the transcript.

3 BY MS. HOLLENBERG:

4 Q. Page 73 of the transcript, at Line 12. Sorry about
5 that. There's a discussion about it. And, if you --
6 so, at Line 12 of the transcript, I ask you to look at
7 your rebuttal, Page 2, Lines 19 to 21, the question
8 there is "Would there be any regulatory costs
9 associated with the WICA?" And, you -- at that time I
10 asked about what "regulatory costs" meant. And, if you
11 continue down to Line 23, the response is "Yes. There
12 would be some regulatory expenses associated with the
13 WICA filing", onto Page 74, Line 1, "but that would not
14 be included in the WICA charges." And, I asked if I
15 read that correctly, and you stated "You did." Do you
16 see that?

17 A. (Hartley) Yes, I do.

18 Q. Could you tell me, this commitment to not recover
19 regulatory expenses associated with the WICA is not
20 mentioned in your PWW rebuttal, can you tell me why
21 that's the case?

22 A. (Hartley) It wasn't thought of at the time. And, at
23 this time, the Company would make the same commitment
24 we made in the PAC case.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. Okay. And, I asked at the PAC hearing if "the Company
2 would not oppose the Commission making the commitment
3 express in an order approving a WICA for PWW", and, you
4 know, you agreed to that. It's actually Page 74 of the
5 transcript. You said "No, we would not." And, "no, we
6 would not oppose that." Would you agree with that also
7 for PWW?

8 A. (Hartley) Yes, I would, or the Company would.

9 Q. Thank you. Mr. Ware or Ms. Hartley, you, in your
10 rebuttal testimony, you disagreed with Mr. Eckberg's
11 assertion that the approval of the Aquarion WICA was
12 "based on a unique set of circumstances." Do you
13 recall that?

14 A. (Ware) Yes.

15 Q. Do you disagree that the factual circumstances of
16 Aquarion -- of the Aquarion case were unique to
17 Aquarion?

18 A. (Ware) Every case would be, in many respects, unique to
19 a particular utility.

20 Q. So, you're not, by disagreeing with Mr. Eckberg's
21 assertion that "the Aquarion WICA was based on unique
22 circumstances", you're not asserting that the PAC
23 circumstances are similar to the Aquarion
24 circumstances, are you? I'm sorry, to PWW.

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1 A. (Ware) No. Aquarion -- I mean, PAC/PWW have their own
2 set of unique circumstances.

3 Q. And, Mr. Eckberg did not testify that the WICA was
4 "unique to the industry", did he?

5 A. (Hartley) I do not have his testimony in front of me,
6 but I would say that his discussions was the uniqueness
7 to the Aquarion case. We went over that in the PAC
8 case.

9 Q. Thank you. In the rebuttal that the Company filed,
10 there is a reference at Page 2, Lines 12 to 14, about
11 the WICAs in a number of states, including Connecticut.
12 Do you recall that?

13 A. (Ware) Yes.

14 Q. Do you agree that this information was not provided in
15 your direct testimony?

16 A. (Ware) Yes.

17 Q. And, that it was not mentioned in any responses by the
18 Company to discovery?

19 A. (Ware) Yes.

20 Q. Thank you. And, the reference to the 1999 NARUC
21 resolution, that also was not mentioned in your direct
22 testimony, is that correct?

23 A. (Ware) That is correct.

24 Q. And, that was not mentioned in any responses to

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1 discovery in this case, is that correct?

2 A. (Ware) Yes.

3 CMSR. IGNATIUS: Ms. Hollenberg, can I
4 ask you a clarifying question? Of those last two
5 questions, to ask the witness to confirm that the answers
6 weren't contained in responses to discovery, suggest that
7 there was a question that called for those answers and the
8 witness was not forthcoming. That's what I take from that
9 question, since I don't have the discovery. Is that your
10 assertion, that the Company withheld information that was
11 asked for in a discovery request?

12 MS. HOLLENBERG: I wouldn't say that I'm
13 asserting that the Company -- I guess what, you know, our
14 position is that we are facing, in rate case expenses --
15 I'm sorry, rate cases where the case seems to continually
16 develop through the case. And, this case is no -- I mean,
17 there are a number of instances in this case where factual
18 assertions are made after discovery is done. So, I guess
19 I'm not asserting that. I don't know off the top of my
20 head if there was a question that could have been
21 interpreted as directly asking for that information. But
22 the Company was asked questions about the WICA, and it's
23 information that was never offered in support of its
24 request for a WICA, in terms of justifying its request,

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1 until the rebuttal testimony, which, at that point in
2 time, was too late for us to do any discovery on or to
3 respond to in our own testimony.

4 CMSR. IGNATIUS: Thank you.

5 MS. HOLLENBERG: You're welcome.

6 WITNESS WARE: I would like to answer
7 relative to the testimony. We did specifically reference
8 the Aquarion Water Company case, the fact that we were
9 looking to that and looking to do something similar.
10 Obviously, as you're well aware, this information was
11 included in Mr. Bingaman's testimony, was included also in
12 the overall testimony in the case. So, we certainly
13 believe you were aware of it, that that was part of the
14 reasoning. It certainly has been part of our reasoning
15 all along. And, if -- I'm not sure that it changes your
16 line of questioning at all.

17 BY MS. HOLLENBERG:

18 Q. Well, and you would agree that I'm aware of it as a
19 result of a different case than this?

20 A. (Ware) Yes.

21 Q. Thank you. You attached to your rebuttal testimony a
22 NARUC resolution. I will get you the page number in
23 just a second. It's Exhibit BJH/DLW-R1. It's the last
24 page of the testimony. It's not Bates stamped, but --

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1 A. (Ware) Yes.

2 Q. And, you would agree that, in the second paragraph of
3 this resolution, that it references an "automatic
4 adjustment charge"?

5 A. (Ware) Yes. It says "automatic adjustment".

6 Q. Thank you.

7 MS. HOLLENBERG: May I approach the
8 witness please? Thank you.

9 BY MS. HOLLENBERG:

10 Q. I'd like to show you a document that has at the top
11 left corner "National Association of State Utility
12 Advocates". And, it goes -- the second line says
13 "National Association of State Utility Consumer
14 Advocates, and the third line says "Resolution"?

15 A. (Hartley) Uh-huh.

16 Q. And, if you turn the page, it says it's "Approved by
17 NASUCA" on "June" -- in "June, 1999". Your NARUC
18 resolution was adopted in February 24th, 1999, is that
19 correct?

20 A. (Ware) Yes.

21 Q. And, I just would like to ask you a little bit about
22 this NASUCA resolution. The fourth paragraph, I guess,
23 it's the first "whereas" paragraph, states "certain
24 regulated water companies have recently proposed

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1 mechanisms for automatically increasing water rates,
2 prior to regulatory review, based upon isolated items
3 of expense related to infrastructure projects." Did I
4 read that correctly?

5 A. (Ware) Trying to find the particular note. Yes, I see
6 it. Yes.

7 Q. And, then, it continues "Whereas, the National
8 Association of State Utility Consumer Advocates
9 (NASUCA) believes that public interest is still best
10 served by rate of return regulation of investor-owned
11 water companies and that such automatic adjustment
12 mechanisms contradict several sound rate of return
13 ratemaking principles, including the matching
14 principle, because increases [of] items of rate base
15 are recognized far outside of the test year from which
16 all other rate base, as well as revenues, expenses, and
17 cost of capital items that are used when calculating
18 rates, allowing "piecemeal ratemaking" and preventing
19 the recognition of any [simultaneously] offsetting
20 reductions in other items." Did I read that correctly?

21 A. (Ware) Yes.

22 Q. Thank you. And, the third "whereas" paragraph states,
23 "whereas, automatic adjustment mechanisms further
24 create bad public policy by eliminating the built-in

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1 regulatory incentive to control costs between rate
2 cases, and generates incentives to increase spending in
3 order to avoid reduction of the surcharge which occurs
4 if the water company's authorized return is reached."

5 Did I read that correctly?

6 A. (Ware) Yes.

7 Q. Thank you. And, the next "whereas" paragraph states,
8 "whereas, when an automatic adjustment clause is
9 adopted, rate stability is reduced and proper price
10 signals are distorted by frequent rate increases, and
11 no convincing evidence has been shown to support the
12 claim that frequency of rate case [expenses] is reduced
13 by such clauses." Did I read that correctly?

14 A. (Ware) Yes.

15 MS. THUNBERG: Mr. Chairman, I have a
16 question regarding relevance of -- I hear the line of
17 questioning about "automatic adjustments", but I'd like to
18 have some linkage between the statements from NASUCA about
19 automatic adjustments and the WICA that's proposed with
20 the Settlement Agreement. I'm not -- the WICA, under the
21 Settlement Agreement, is not an automatic adjustment. So,
22 I'd like to have some linkage from OCA on how this line of
23 questioning is relevant.

24 MS. HOLLENBERG: Well, actually, it

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1 would be appropriate, I guess, for the Company to provide
2 the linkage, because they provided it in their rebuttal
3 testimony.

4 WITNESS WARE: We didn't refer to
5 NASUCA.

6 MS. HOLLENBERG: So, to the extent --

7 CHAIRMAN GETZ: Well, let's hold on.
8 So, your position is that you're disputing the
9 introduction of the NARUC resolution, in answer to the
10 relevance of the NASUCA resolution? I'm not sure I
11 understood your response to Ms. Thunberg's question.

12 MS. HOLLENBERG: I'm actually not
13 disputing -- the Company provided the NARUC resolution
14 attached to their rebuttal. It says what it says. There
15 was a NASUCA resolution that was issued shortly after this
16 resolution. So, to the extent that you have information
17 about the NARUC resolution, it's appropriate for you to
18 have information about the NASUCA resolution.

19 CHAIRMAN GETZ: Okay. That answer I
20 understand. I didn't understand the previous one.

21 MS. KNOWLTON: I mean, it just seemed to
22 me that she's just trying to get Mr. Ware to read this
23 into the record. That there's no question for him about
24 this, except for, you know, "is she reading this

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 correctly?"

2 MS. HOLLENBERG: I'm happy to give it as
3 an exhibit, if you'd prefer.

4 CHAIRMAN GETZ: Well, I think it's fine
5 to introduce it the way it was introduced. I think the
6 only point that's being established is there is another
7 resolution that takes a different position than the
8 resolution that's been introduced. So, let's move on.

9 MS. HOLLENBERG: Thank you.

10 CHAIRMAN GETZ: Ms. Hollenberg, do you
11 have a sense of how much more cross? Because, I think, at
12 a minimum, we're going to have to give Mr. Patnaude a
13 rest.

14 MS. HOLLENBERG: Ten minutes.

15 BY MS. HOLLENBERG:

16 Q. Mr. Ware, if you could look at the fifth "whereas"
17 paragraph. It states "Whereas, special incentives are
18 not needed in order -- in order ensure adequate water
19 quality, pressure, and a proper reduction of service
20 interruptions." Did I read that correctly?

21 A. (Ware) Yes.

22 Q. Thank you. And, the next "whereas" paragraph states
23 "Whereas, automatic adjustment mechanisms can
24 inappropriately reward water companies that have

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 imprudently fallen behind in infrastructure
2 improvements." Have I read that correctly?

3 A. (Ware) Yes.

4 Q. Thank you. And, the next "whereas" paragraph states,
5 "Whereas, it is inappropriate to tilt the regulatory
6 balance against consumers and shift business risk away
7 from water companies simply for the purpose of creating
8 an incentive for these companies to fulfill their basic
9 obligation to provide safe and adequate service." Did
10 I read that correctly?

11 A. (Ware) Yes. And, I want to clarify that my re --
12 stating "yes" does not mean that I agree with what
13 you're reading.

14 Q. That's fine. Thank you. And, the next paragraph
15 states, "Therefore, be it resolved, that NASUCA
16 strongly recommends state legislatures and state public
17 utility commissions avoid the implementation of
18 automatic adjustment charges for water company
19 infrastructure costs." Did I read that correctly?

20 A. (Ware) Yes.

21 Q. Thank you. Mr. Ware or Ms. Hartley, in your rebuttal
22 you discussed the current -- the pending litigation
23 involving the proposed acquisition by Nashua of
24 Pennichuck Corporation. Do you recall that testimony?

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1 A. (Hartley) Yes.

2 A. (Ware) Yes.

3 Q. I can direct you. It's Page 2 of your testimony. I'm
4 sorry. Page 3. And, at Line 10, you state "Given that
5 the Commission would have to approve any WICA
6 surcharge, it will have ample opportunity to address
7 any concerns it might later have should the acquisition
8 of Pennichuck Corporation be approved in DW 11-026."
9 Did I read that correctly?

10 A. (Ware) Yes.

11 Q. Thank you. When will the Commission have ample
12 opportunity to address the WICA?

13 A. (Ware) I believe that Mr. Naylor indicated that the
14 Settlement Agreement gives the Commission the right to
15 terminate the WICA adjustment, if they don't see it as
16 appropriate. And, I think there was a line of
17 questioning to Mr. Naylor about that. And, my
18 understanding is that the Commission would have the
19 right at any point to terminate the filing. And, so,
20 if the acquisition were to go through, and there was a
21 determination made that the revenue requirement being
22 generated by a WICA was unnecessary, I would expect
23 that the Commission indeed would seek to terminate the
24 WICA at that stage.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. And, your expectation that the Commission would
2 initiate a proceeding is based on what?

3 A. (Ware) Based on the fact that they have a right to
4 evaluate, you know, the revenues and the need for the
5 revenues if an annual report is filed.

6 Q. And, the Settlement Agreement talks about, I'll get you
7 the page, the multiyear proposals that will be filed
8 with the WICA, if you look at Page 8 of the Settlement
9 Agreement, for instance, Paragraph 2, talks about the
10 filing of a three year capital budget for proposed WICA
11 projects. I just want to try and see if I understand,
12 and I would welcome any comments that Staff has about
13 this as well.

14 But, in terms of the provision on Page
15 10 that says "Notwithstanding the Parties' agreement
16 that the Commission" -- you know, that "the WICA is a
17 pilot", and that "the Commission can modify or
18 discontinue [it]". You know, the projects that have
19 been included in the WICA will continue to be
20 recovered, basically. Can you -- I just want to try
21 and understand how that would work. So, if the Company
22 filed in the fall of this year their three year
23 projected capital budget for the next three years, when
24 -- what projects would remain to be recovered if the

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1 Commission discontinued? So, for instance, if the
2 Commission --

3 A. (Ware) The only projects that would be recovered or
4 remain or continue to be recovered are those that are
5 actually completed. Each year, you're making a
6 submission for the following three years. Any project
7 that isn't completed obviously has no cost, hasn't been
8 recovered yet. And, therefore, you wouldn't have any
9 mechanism to recover or any expectation to recover.

10 Q. Okay. Mr. Naylor, just a couple more questions about
11 the WICA. This is the third WICA pilot that the Staff
12 is proposing. Are other water utilities eligible for
13 WICA pilots?

14 A. (Naylor) I believe so.

15 Q. What criteria do water utilities -- other water
16 utilities need to meet in order to get a WICA pilot?

17 A. (Naylor) Well, I think, I mean, are you asking an
18 opinion of Staff with respect to what we might support
19 in the future with respect to other utilities in the
20 state? Is that the question?

21 Q. Well, my question is that, you know, it seems as though
22 the pilot -- there continues to be new pilots being
23 proposed. And, I just wondered what the parameters and
24 requirements are for a WICA pilot, if they are going to

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1 be available to other utilities?

2 A. (Naylor) It has to be evaluated on a case-by-case
3 basis, I would say. I'm sure you're aware, there's
4 nothing in the statutes about WICA. There's nothing in
5 our administrative rules about WICA. So, we have to --
6 we have to react to the requests from the utilities as
7 they are made, and make our best recommendations with
8 respect to those requests.

9 Q. Are there -- will there ever be too many pilots?

10 A. (Naylor) That's kind of an absurd question, isn't it?

11 Q. How many pilots will the Commission approve?

12 A. (Naylor) I would ask the Commission. I don't know. I
13 just gave you the answer. I mean, we're trying to come
14 up with ways to address some of the problems and some
15 of the issues that we see with the water utilities. I
16 mean, it's a fact that the Pennichuck companies, and
17 Aquarion, and a number of other utilities are here
18 every two to three years with double digit percent
19 increases. We hear from customers and the Commission
20 hears from customers all the time about those
21 percentage increases and what the impact is, even as
22 the economy has been so bad. So, I think, you know,
23 certainly, we, on the staff level, and I think in
24 general, the Commission needs to look at everything

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1 that we do and what we're -- what our process is, and
2 try to move the ball ahead a little bit at times. And,
3 I think it's clear from our support of the WICA Program
4 for Aquarion and for the two Pennichuck companies that
5 the Commission has heard testimony on recently, it's --
6 we think it has merit to perhaps mitigate some of the
7 rate shock that customers are seeing, to try to move
8 ahead on more reliable infrastructure, more reliable
9 distribution systems. There are clear benefits to
10 customers and clear benefits to the utility. I think
11 the WICA proposals have an opportunity to demonstrate a
12 very good balancing of the interests. And, that's why
13 Staff is supportive of them.

14 Q. Would it be helpful to Staff if the Commission
15 established rules that set out the parameters and
16 requirements of the WICA Program?

17 A. (Naylor) I don't think it would hurt. I think,
18 certainly, we have made recommendations in the three
19 dockets so far that the WICA has been requested,
20 providing, you know, what we think are appropriate
21 parameters for evaluation of the proposals, for what
22 those proposals should look like, what projects are
23 eligible, how we implement the surcharge, what customer
24 notification is, what the bill presentation is, what

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1 the Company's responsibilities are with respect to
2 noticing customers ahead of time and being prepared to
3 answer the questions.

4 So, I think we've done a good job with
5 what we've proposed so far. The Commission has
6 approved the WICA in Aquarion, and the Pittsfield
7 Aqueduct case is pending, as this one will be as well.
8 So, we'll see. But I think the WICAs have merit, in
9 this day and age of substantial rate increases for
10 water utilities that result from all of the issues that
11 the water utilities face.

12 Q. Thank you. One other, just one more question. You
13 mentioned in your testimony earlier on direct that
14 there were certain objectives or major goals with
15 regard to the WICA. And, one of them was, you know, or
16 that you had an expectation that there probably would
17 be an increased reliability associated with the
18 infrastructure replacement. Do you recall that
19 testimony?

20 A. (Naylor) Yes. Yes.

21 Q. Do you agree that, in order for reliability to be
22 increased, that the rate of infrastructure replacement
23 or repair needs to be increased?

24 A. (Naylor) Well, we certainly hope that's the case.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. But, I guess, do you agree that it's a matter of common
2 sense that you don't get increased reliability if the
3 infrastructure replacement stays the same or it could
4 happen?

5 A. (Naylor) I can't disagree with the premise of your
6 question.

7 Q. Okay.

8 A. (Naylor) I think it follows that an increased rate of
9 replacement certainly should advance the objective of
10 more reliable systems. It's going to depend on the
11 individual systems; the age, the soils, all kinds of
12 things, the original materials. I mean, these are
13 things that the Company has testified on I believe in
14 its original case.

15 Q. Okay. Thank you.

16 A. (Naylor) And, a number of different factors to take
17 into consideration.

18 MS. HOLLENBERG: Thank you. No further
19 questions. Thank you.

20 CHAIRMAN GETZ: Commissioner Below.

21 CMSR. BELOW: Yes. Thank you.

22 BY CMSR. BELOW:

23 Q. Mr. Ware, this morning you were referring to the City
24 of Nashua's ongoing work to replace sewer lines. I

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 think, in your direct testimony, you also referred to
2 some of the work being related to the CSO or Combined
3 Sewer Overflow Separation projects that the City might
4 be undertaking, and looking at the opportunity to do
5 water line replacement in conjunction with the work of
6 the City. Do you have a sense of how much, over the
7 next two or three years, you anticipate would be a
8 result of CSO projects, versus just a sewer line
9 replacement project?

10 A. (Ware) The sewer line replacements that the City have
11 been doing have typically been upon failure. The CSO
12 is a planned program driven by EPA regulations to
13 separate combined sewer/storm water. One of the
14 challenges has been is that the City's program has
15 been, pardon the pun, fairly fluid. And, so, you know,
16 we've reacted, we typically have held a budget line to
17 try to give us enough budget to react to what they do.
18 They outline programs, like this year, was about 50/50,
19 in terms of 50 percent sewer replacement, 50 percent
20 storm water replacement.

21 Q. Does the City have a significant amount of CSO work in
22 its long-term plan?

23 A. (Ware) They are still negotiating, is my understanding,
24 with the EPA regarding, you know, the final amount of

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 separation versus possibly now some of the movement is
2 afoot to potentially treat -- try to not separate
3 everything, since the next concern for water quality in
4 the environment is non-point source discharges. And,
5 after you separate all the storm water, the storm water
6 contain certain contaminants that are now disposed of
7 at various locations, rather than going through a
8 treatment process.

9 Q. On Page 10 of the Settlement Agreement, there's some
10 conditions. And, I'm just trying to understand how
11 this would work. It says "The Company, Staff, and
12 Anheuser-Busch condition their support of the Agreement
13 upon the Commission's acceptance of all the provisions,
14 without change or condition. The OCA expressly
15 conditions its support...upon the Commission's
16 acceptance of [everything] except the WICA proposal."
17 And, then, it says, "If the Commission does not accept
18 the provisions in their entirety,...any party hereto,
19 at its sole option..., may withdraw from the Agreement,
20 in which [the Agreement becomes] null and void." So,
21 does that mean that, if the Commission were to not
22 approve the proposed WICA, that the Company or AB could
23 withdraw from the Agreement and deem it null and void?
24 A. (Ware) Yes.

{DW 10-091 & DW 11-018} {05-26-11}

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. But the vice versa is not necessarily true. If we
2 approve it with the WICA, that doesn't give the OCA the
3 option to withdraw from the Agreement?

4 MS. HOLLENBERG: That is correct.

5 CMSR. BELOW: Okay.

6 BY CMSR. BELOW:

7 Q. How does the -- could you just elaborate a little bit
8 on how the charge that's described in Paragraph 8 would
9 work? It's described as a "percentage applied to the
10 total bill excepting miscellaneous charges". So,
11 that's the tariffed rates that are the volumetric rate
12 and the connection/meter size rate?

13 A. (Hartley) That's correct.

14 Q. And, so, there would be a uniform percentage for all
15 customers? Is that the way it would be
16 equiproportional to all classes of customers, or is
17 there some proportioning to the classes first?

18 A. (Hartley) We looked -- We interpreted this as
19 across-the-board increase to all customers, except for
20 the miscellaneous charges as noted.

21 Q. So, if it was a 1.5 percent increase that was approved,
22 it would be 1.5 percent on all volumetric and meter --
23 fixed meter charges?

24 A. (Hartley) Yes.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 CMSR. BELOW: That's all.

2 CHAIRMAN GETZ: Commissioner Ignatius.

3 **BY THE WITNESS:**

4 A. (Hartley) Commissioner Below, one exception. I believe
5 that you could not -- there are certain contracts, such
6 as AB, that have a fixed portion that we cannot agree
7 --

8 BY CMSR. BELOW:

9 Q. Actually, that was my other part of the question. AB,
10 as well as, what, the Town of Milford, --

11 A. (Hartley) Right.

12 Q. -- for instance, they have special contracts?

13 A. (Hartley) Correct.

14 Q. But this would apply for their meter part and their
15 volumetric, but not some of the other special
16 arrangements in those contracts?

17 A. (Hartley) That's correct.

18 CMSR. BELOW: Okay. Thank you.

19 CMSR. IGNATIUS: Thank you.

20 BY CMSR. IGNATIUS:

21 Q. Ms. Hartley, while we're talking about rate impacts, a
22 couple of quick questions. The first, Exhibit 15 and
23 16, the Proposed Rate Impact on Residential Bills and
24 the Report of Proposed Rate Changes, the top of those

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 both refer to "the Twelve Months Ended December 31st,
2 2009". Is that --

3 A. (Hartley) Correct.

4 Q. And, is that because that was your test year?

5 A. (Hartley) That's correct.

6 Q. All right. The temporary rates that were imposed were
7 -- excuse me, that were approved were 10.8, correct?

8 A. (Hartley) Correct.

9 Q. Was that applied equally across the board?

10 A. (Hartley) Yes, it was. Except, again, for those
11 portions of the contracts that were not -- that were
12 separated for a fixed portion, but the meter charges or
13 volumetric charges that were contained in those
14 contracts, those also received the 10.8 percent
15 increase.

16 Q. So, if we look at Exhibit 16 that has the percentages,
17 if the Settlement Agreement were approved, they range
18 -- the increases range from 6.38 percent to
19 18.15 percent?

20 A. (Hartley) Correct.

21 Q. And, some of that increase has already been absorbed
22 through the temporary rates, correct?

23 A. (Hartley) That's correct.

24 Q. Will there be some classes of customers that will

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 receive a reduction in their surcharge, that's not
2 quite the right word, as everything gets reconciled
3 back to the June 16th, 2010 --

4 A. (Hartley) That is correct. And, in fact, the way we
5 calculate the recoupment, there could actually be some
6 G-M customers that get a refund, if they had used less
7 than what we were anticipating for an increase.

8 Q. All right. And, you stated before, I just want to be
9 sure I understood, the temporary rates were authorized
10 in October 2011.

11 A. (Naylor) '10.

12 Q. I'm sorry. October 2010. But, not -- although the
13 effective date in the order allowed you to have them
14 effective as of June 16th, 2010, you chose not to do
15 that, is that correct?

16 A. (Hartley) It was part of a settlement on temporary
17 rates, in terms of that the Staff, and I believe mostly
18 the OCA, recommended that we would not recoup back to
19 the date of the customers' notice for temporary rate
20 purposes. However, the parties did agree that, once
21 permanent rates were awarded, we would be allowed to
22 recoup back to 6/16/2010. It wasn't like we just said
23 "no, we won't do this." It was part of a settlement
24 agreement.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 Q. And, I apologize for forgetting that there was a
2 Settlement Agreement in that temporary phase. Mr.
3 Naylor, the calculations that will be necessary are a
4 little more complex than you often see with temporary
5 and permanent rates, is that right?

6 A. (Naylor) Right. There's different proposed increases
7 for the different customer classes, based on the
8 results of the Cost of Service Study. So, it will be a
9 little more challenging to review the Company's
10 proposal for recoupment or refund, depending on the
11 circumstances.

12 Q. But you're confident that you'll be able to sort out
13 how the calculations are being done and work with the
14 Company to get clarity?

15 A. (Naylor) Yes.

16 Q. The provision for rate case expenses in the Settlement
17 Agreement, on Page 6, Ms. Hartley, is there any
18 inclusion in the rate case expenses to be filed for the
19 eminent domain proceedings?

20 A. (Hartley) No.

21 Q. In follow-up to the question that Commissioner Below
22 asked about, the Company's ability to withdraw the
23 Settlement, if the Commission were not to approve the
24 WICA, and you stated that -- or, you or Mr. Ware, I

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 forget, stated that "the Company had the right to
2 withdraw, if that were to happen." Do you have a
3 position as to whether, in fact, you would withdraw
4 from the Settlement Agreement if that were to happen?

5 A. (Hartley) At this time, we do not. We would have to,
6 obviously, consider what implication that might mean
7 for the Company at that time. Agree?

8 A. (Ware) Yes.

9 CMSR. IGNATIUS: And, one last thing,
10 and this -- I maybe have just not seen it. There is
11 prefiled testimony that, Mr. Ware, in the special contract
12 case, January 21st, 2011, that I don't see in the exhibit
13 list. And, maybe your counsel, after you're excused, may
14 want to explain that, if that's either in here and I'm not
15 seeing it or doesn't need to be here.

16 MS. KNOWLTON: No, that was -- it's not
17 on the list. That is an inadvertent omission.

18 MS. THUNBERG: Can we request at this
19 time that that testimony be marked for identification as
20 "Exhibit 20", assuming that Exhibit 19 is going to be
21 reserved for the NASUCA exhibit.

22 CHAIRMAN GETZ: I don't think there was
23 any request, and I don't think there's any need for the
24 NASUCA resolution to be an exhibit, since it's been

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 apparently read in its entirety into the record. So,
2 let's have Exhibit 19 be the special contract legislation
3 -- or "legislation" -- testimony.

4 MS. HOLLENBERG: Mr. Chairman, just to
5 clarify, I didn't read the entire NASUCA resolution. If
6 you want it, I'm happy to have it. But I just read
7 selected portions of it to clarify.

8 CHAIRMAN GETZ: Okay. Thank you.
9 (The document, as described, was
10 herewith marked as **Exhibit 19** for
11 identification.)

12 CMSR. IGNATIUS: Nothing else. Thank
13 you.

14 CHAIRMAN GETZ: Any redirect?

15 MS. KNOWLTON: I have none.

16 MS. THUNBERG: Yes. Staff has just a
17 few.

18 **REDIRECT EXAMINATION**

19 BY MS. THUNBERG:

20 Q. Mr. Naylor, I had asked you a question about whether
21 you had any changes or corrections to make to the
22 Settlement Agreement, and OCA pointed out a correction.
23 I'm just trying to find it, so I can make sure that --

24 CMSR. BELOW: Page 4.

[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 MS. THUNBERG: Thank you.

2 BY MS. THUNBERG:

3 Q. -- that Staff is in agreement with this, the correction
4 to change if "0.9178" to read "0.9568"?

5 A. (Naylor) Well, the way I read this, we have a clause
6 following that that indicates that the volumetric
7 charge shall be revised to include "AB's proportionate
8 share of the Company's payroll taxes" described in
9 Section II.D of the Agreement. And, referencing that
10 does provide the updated volumetric charge. So, that's
11 why we did not offer a correction for that volumetric
12 rate.

13 Q. Thank you for that clarification. I'm just, I guess,
14 being too exact here. The question about, in
15 cross-examination, it was directed to you, about
16 sequencing of rate cases and WICA recoveries. And, I
17 just want to ask you a question of, if the WICA is
18 allowed to continue, and we have this water company
19 coming in for periodic rate cases, is it true that WICA
20 items that would be used and useful and would otherwise
21 be sought for recovery in the WICA Program, if they
22 were in a test year in a rate case, they would be --
23 they would go into rates through the rate case
24 mechanism, rather than the WICA, is that correct?

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Naylor) Yes, certainly. You would have to make
2 adjustments, under the scenario that was constructed
3 for consideration, you would have to take into account
4 the fixed assets that would be associated with the
5 pending WICA in the rate case, and certainly take into
6 account the revenues, associated revenues as well. So,
7 those adjustments would have to be made in order to
8 avoid any kind of double counting and in consideration
9 of the permanent rate case.

10 Q. Thank you. My last question goes to you, Mr. Ware.
11 And, you were asked to provide Exhibit 18, it was a
12 record request, and it was an update of your Schedule
13 DW-1. And, it was brought to my attention during that
14 cross that you have updated it already in response to
15 Staff 1-5. And, I just want to -- and I can show you
16 this, if you need to refresh your recollection?

17 A. (Ware) I'm familiar that we had updated it. I'm afraid
18 to say I don't remember why we updated it. But there
19 was a request and there was something that needed to be
20 changed in the original schedule.

21 Q. I guess what I -- I'll leave it that, because, if it's
22 not updated, we don't have it marked as an exhibit
23 Staff 1-5. But I just wanted to bring that to your
24 attention in your preparation of Exhibit 18.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 A. (Ware) So, I guess the question I have is, I'm to
2 update the revised, the one that was submitted as a
3 result of Staff 1-, whatever it was, the data request?

4 MS. HOLLENBERG: May I respond to that
5 please?

6 CHAIRMAN GETZ: Well, let's ask, Ms.
7 Hollenberg, what was the intent?

8 MS. HOLLENBERG: Thank you. Thank you.
9 Actually, just to be fully clear, you updated your
10 schedules twice. And, I can just find it, just to let you
11 know for your information, you updated in response to 1-5
12 and 2-1. But it's my understanding that at that time you
13 wouldn't have contemplated not including the step
14 increase, which was my reason for asking for a revision.
15 And, actually, if I could have both DW-1 and DW-2,
16 revisions to those to reflect the new revenue requirement
17 under the Settlement Agreement.

18 MS. THUNBERG: So, that's what we're
19 asking to be marked -- reserved for record request,
20 Exhibit 18, is that correct, OCA?

21 MS. HOLLENBERG: Yes, it is.

22 CHAIRMAN GETZ: Do you understand what
23 you're supposed to do, Mr. Ware?

24 WITNESS WARE: I believe so, yes.

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[WITNESSES: Ware ~ Hartley ~ Naylor ~ Laflamme]

1 MS. HOLLENBERG: Thank you.

2 MS. THUNBERG: And, Staff has no further
3 redirect.

4 CHAIRMAN GETZ: Okay. And, there
5 appears to be nothing further for the panel. So, you're
6 excused. Thank you.

7 And, we'll take about fifteen minutes,
8 and then resume with Mr. Eckberg.

9 MS. HOLLENBERG: Thank you.

10 (Recess taken at 1:04 p.m. and the
11 hearing reconvened at 1:24 p.m.)

12 CHAIRMAN GETZ: Okay. We're back on the
13 record now. Ms. Hollenberg.

14 MS. HOLLENBERG: Sure. I just wanted to
15 clarify. Are there questions for Mr. Eckberg? Because,
16 if there are not, I won't ask him to take the stand, but
17 --

18 MS. THUNBERG: Staff is not going to
19 have any questions.

20 MS. KNOWLTON: I have no questions.

21 MR. ALEXANDER: None.

22 CHAIRMAN GETZ: Appears to be no
23 questions for Mr. Eckberg.

24 MS. HOLLENBERG: Thank you. So, then,

1 with the understanding that his testimony has been
2 admitted for purposes of admission, then that's -- and
3 Mr. Rubin's as well. Thank you so much.

4 CHAIRMAN GETZ: Okay.

5 MS. HOLLENBERG: And, if I could just
6 clarify that, in fact, for the reserved Exhibit 18, I only
7 want a revision to DW-1, instead of both DW-1 and DW-2.
8 Thank you.

9 CHAIRMAN GETZ: Thank you. Then, is
10 there any objection to striking the identifications and
11 admitting the exhibits into evidence?

12 (No verbal response)

13 CHAIRMAN GETZ: Hearing no objection,
14 they're admitted into evidence. Anything further before
15 opportunity for closings?

16 (No verbal response)

17 CHAIRMAN GETZ: Hearing nothing, then
18 let's start, Mr. Alexander, any closing statement?

19 MR. ALEXANDER: I really have no closing
20 statement.

21 CHAIRMAN GETZ: Thank you
22 Ms. Hollenberg.

23 MS. HOLLENBERG: Thank you. The OCA
24 came to an agreement on many of the issues in this case

1 for purposes of facilitating the Commission's
2 determination in this matter and resolving those issues.
3 We, however, as you can tell, do not agree with the terms
4 in the Settlement Agreement regarding the WICA.

5 Really, it's our position that the
6 Aquarion WICA was something that the Office of Consumer
7 Advocate agreed to within the context of a comprehensive
8 settlement agreement. And, it was our understanding at
9 that time, and our intention in supporting the WICA, that
10 agreeing to the WICA was based on the belief that the
11 program would be formally evaluated by the Commission
12 before it was applied to the other water utilities in New
13 Hampshire.

14 We're not making the argument that the
15 WICA is not in place in some jurisdictions in the United
16 States. I would urge the Commission, to the extent that
17 you can, to learn of the status of the WICAs or DSICs in
18 other jurisdictions. I think that it's a mechanism that
19 has some support, and I think there are some opposition to
20 it on, not only at the Consumer Advocate level, but also
21 at the Commission level. And, recently, in April, the
22 West Virginia Public Service Commission, in a litigated
23 docket, ruled against a WICA proposal of a water utility.

24 As the Commission is aware, no formal

1 review of the Aquarion WICA has occurred at this time.
2 And, so, it's our position that the Commission should not
3 approve another WICA pilot until that review takes place
4 for the Aquarion WICA. It's also our belief that the
5 Company has not sustained its burden in supporting the
6 fact -- or, in supporting the assertion that there will be
7 benefits that flow to customers in the form of reduced
8 rate case expenses. We don't believe there is any
9 objective evidence in the record that the WICA will result
10 in less frequent rate cases and reduced rate costs to
11 customers. Perhaps, had there been some assurance of
12 that, that might have been something that we could have
13 considered in exchange for support of the WICA, but it's
14 not something that has been offered.

15 The Company can really come in at any
16 time for a rate increase. And, you know, with that, we
17 believe that the benefit of the reduced -- the assertion
18 that there will be a benefit of reduced rate cases and
19 expenses is really elusive.

20 In the alternative, and due to the
21 circumstances in the pending docket DW 11-026, involving
22 the acquisition by the City of Nashua of Pennichuck
23 Corporation and its subsidiaries, we would take the
24 position that it's not the right time for the WICA for

1 PWW. The City's proposed acquisition and ratemaking
2 structures, if they're approved, there will be significant
3 changes to the PWW expenses, as well as the way that PWW
4 rates will be set in the future. There is a possibility
5 that expenses under City ownership will be significantly
6 less than expenses under private, for-profit corporate
7 ownership. This is, in fact, one of the benefits that the
8 City itself bases its position that the proposed
9 acquisition is consistent with the public good.

10 According to PWW, a primary purpose of
11 the proposed WICA is to reduce the frequency of rate
12 cases. And, if this does play out as true, the proposed
13 WICA could enable PWW to increase rates annually without a
14 full rate case for an extended period of time after the
15 City's indirect acquisition of PWW. The WICA could make
16 it possible for the Company, under indirect City
17 ownership, to avoid reflecting reduced expenses in rates
18 for an extended period of time. And, the Company would
19 like you to think that the pending acquisition docket is
20 not relevant to this rate case, but the Company itself
21 expressly tied these two cases together in its prefiled
22 testimony in the acquisition docket. The Commission
23 should not change the way that it sets PWW's rates at this
24 time, when the Company's circumstances are in flux.

1 And, lastly, what I would say is, to the
2 extent that the Commission intends to approve the WICA in
3 this case, you know, I would really -- the OCA would
4 support the Commission looking at the WICA through a
5 rulemaking and making -- setting the requirements and
6 parameters of the WICA. If it is indeed going to be a
7 generally applicable rate mechanism, then it should be set
8 through rules, as opposed to a case-by-case -- doing on a
9 case-by-case basis.

10 And, in closing, just thanking the Staff
11 and the Company for working with us to resolve the issues
12 that we were able to resolve. Thank you.

13 CHAIRMAN GETZ: Thank you.

14 MS. HOLLENBERG: And AB. Sorry.

15 CHAIRMAN GETZ: Ms. Thunberg.

16 MS. THUNBERG: Thank you, Commissioners.
17 Staff requests that the Commission approve the special
18 contract in Docket DW 11-018 that was attached as
19 Attachment B to the rate case Settlement Agreement. Staff
20 also respectfully requests that the Commission approve the
21 Settlement Agreement offered in Docket DW 10-091. We
22 believe that the Company has demonstrated that it is in
23 need of a rate increase. Staff's position is that the
24 revenue requirement is reasonable, and that the rates

1 resulting from there are just and reasonable.

2 And, with respect to the arguments for
3 and against the WICA, Staff has nothing further to add,
4 other than the WICA discussions that were in the testimony
5 offered by Staff. And, thank you. That's it.

6 CHAIRMAN GETZ: Thank you.
7 Ms. Knowlton.

8 MS. KNOWLTON: Thank you. I also would
9 like to thank the Staff, the OCA, and AB for all their
10 hard work in this docket. The Company is very pleased to
11 be presenting to the Commission today a Settlement
12 Agreement that encompasses all of the parties in the
13 docket, and that's not always the case. And, so, we're
14 very pleased about that. And, we think that's a
15 significant accomplishment in and of itself. Obviously,
16 we're disappointed that the OCA has not joined in on the
17 settlement on the WICA. But I do think that there has
18 been testimony, both prefiled and testimony today at the
19 hearing, that supports the Settlement that is proposed.
20 All of the witnesses have testified, I believe, that the
21 revenue requirement that's been proposed will result in
22 just and reasonable rates. That retaining Anheuser-Busch
23 as a customer of the Company is a very important
24 objective, and that the special contract that's proposed

1 would achieve that result.

2 With regard -- and that, generally, the
3 Settlement Agreement is a reasonable compromise of all of
4 the issues. As with any settlement, each party has to
5 consider, you know, what its willing to do to reach a
6 settlement. And, the Company has undertaken and made very
7 significant concessions in this docket in order to reach a
8 settlement. As Ms. Hartley and Mr. Ware testified, the
9 Company has approximately \$900,000 in revenue requirement
10 associated with capital additions that are currently now
11 used and useful and that are not revenue-producing that it
12 had sought a step increase for, that it essentially
13 forwent recovery at this time in order to reach a
14 settlement in this docket. And, so, we think it is
15 important to acknowledge that there have been significant
16 concessions made.

17 You know, I would ask the Commission to
18 think about, when it's reviewing the Settlement Agreement,
19 "what are the possibilities here if it were to not grant
20 the Settlement Agreement in its entirety as proposed?"

21 I think, first, with regard to the WICA,
22 the OCA is asking that the Commission not approve the
23 WICA, because there is an acquisition docket that's
24 pending before this Commission. We don't know, sitting

1 here today, what the outcome of that docket is. We just
2 don't. And, I think it is very speculative and premature
3 if the Commission were to deny the WICA on the basis that
4 this, you know, that there may be an acquisition in the
5 future. If that acquisition were not approved, the
6 Company has \$900,000 of revenue requirement that's, you
7 know, currently associated with assets that are used and
8 useful. Mr. Ware has testified that there's pipe that's
9 been in the ground since 1853 that needs to be replaced
10 and will be replaced. And, I think a very likely outcome
11 is that this company is going to be back in on a rate --
12 you know, in here seeking a rate request, you know, which
13 is not necessarily on a full rate case to the benefit of
14 the customers. I think that is a real possibility.

15 I would also ask the Commission to think
16 about what the possibility is if it does not approve the
17 Settlement Agreement as it's proposed in its entirety.
18 The Company certainly does have the ability to walk away
19 from the Settlement, and we would be back before the
20 Commission litigating a full rate case. Which, you know,
21 as Ms. Hartley testified, we don't know that that's the
22 Company's decision. They will have to take that back to
23 its Board to consider. But I think that is a real
24 possibility, and, you know, that comes at customer expense

1 as well.

2 So, I think there have been -- there has
3 been ample testimony in support of why WICA is necessary,
4 how it's going to benefit customers. And, so, I would ask
5 that the Commission find that the entire Settlement
6 Agreement is in the public interest and approve it. Thank
7 you.

8 CHAIRMAN GETZ: Okay. Thank you. Then,
9 we'll close this hearing and take the matter under
10 advisement.

11 (Whereupon the hearing ended at 1:35
12 p.m.)