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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 12, 2008 - 10:05 a.m.
Concord, New Hampshire

NHPUC NOV26'08 PM 2:29

RE: DW 08-073
PENNICHUCK WATER WORKS, INC.:
Notice of Intent to File Rate Schedules.
(Hearing regarding temporary rates)

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

Connie Fillion, Clerk

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

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

Reptg. the City of Nashua:
Justin C. Richardson, Esq. (Upton & Hatfield)

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

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

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

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I N D E X

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 THOMAS C. LEONARD
 JAMES L. LENIHAN
 JAYSON P. LAFLAMME

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1	Petition for Temporary Rates	7
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P R O C E E D I N G S

1
2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll open this hearing in docket DW 08-073.
4 On May 22nd, 2008, Pennichuck Water Works filed a notice
5 of intent to increase rates. And, on June 23, it filed
6 schedules and materials supporting a proposed permanent
7 rate increase of 14.72 percent and a petition for a
8 temporary rate increase of 11.27 percent. We issued an
9 order suspending the tariff and scheduling a prehearing
10 conference on July 23rd, 2008. On August 27, a prehearing
11 conference was held, followed by a secretarial letter on
12 October 16 that approved a procedural schedule and granted
13 the pending Petitions to Intervene. And, we have a
14 Settlement Agreement between Staff and the Company filed
15 in lieu of Staff testimony that was submitted on
16 November 10.

17 Can we take appearances please.

18 MS. KNOWLTON: Good morning, Chairman
19 and Commissioners. Sarah Knowlton, with the law firm of
20 McLane, Graf, Raulerson & Middleton. I'm here today on
21 behalf of Pennichuck Water Works, Inc. And, with me from
22 the Company is Charles Hoepper, Bonalyn Hartley, Donald
23 Ware, Thomas Leonard, and Dawn Deblois.

24 CHAIRMAN GETZ: Good morning.

1 CMSR. MORRISON: Good morning.

2 CMSR. BELOW: Good morning.

3 MR. ALEXANDER: Good morning. John
4 Alexander, with the law firm of Ransmeier & Spellman, on
5 behalf of Anheuser-Busch.

6 CHAIRMAN GETZ: Good morning.

7 CMSR. MORRISON: Good morning.

8 CMSR. BELOW: Good morning.

9 MR. RICHARDSON: Good morning,
10 Commissioners. Justin Richardson, with Upton & Hatfield,
11 here for the City of Nashua.

12 CHAIRMAN GETZ: Good morning.

13 CMSR. MORRISON: Good morning.

14 CMSR. BELOW: Good morning.

15 MS. HOLLENBERG: Good morning. Rorie
16 Hollenberg and Stephen Eckberg, here for the Office of
17 Consumer Advocate.

18 CHAIRMAN GETZ: Good morning.

19 CMSR. MORRISON: Good morning.

20 CMSR. BELOW: Good morning.

21 MS. THUNBERG: Good morning,
22 Commissioners. Marcia Thunberg, on behalf of Staff, and
23 with me today is Mark Naylor, Jim Lenihan, and Jayson
24 LaFlamme. Thank you.

1 CHAIRMAN GETZ: Good morning.

2 CMSR. MORRISON: Good morning.

3 CMSR. BELOW: Good morning.

4 CHAIRMAN GETZ: And, seeing that we have
5 a settlement, what is the proposal for how we're going to
6 proceed?

7 MS. THUNBERG: Staff and the Company
8 propose a panel of witnesses of Jayson LaFlamme, Jim
9 Lenihan, and two witnesses from the Company to present the
10 Stipulation Agreement. Thank you.

11 CHAIRMAN GETZ: Okay. And, there's no
12 other testimony, correct?

13 MS. THUNBERG: Staff is not aware of any
14 other testimony. There is no prefiled testimony and Staff
15 -- we're taking the position that our position is embodied
16 in the Stipulation Agreement.

17 CHAIRMAN GETZ: Okay. Thank you. Is
18 there anything else before we proceed then?

19 MS. KNOWLTON: I have presented an
20 exhibit list with proposed exhibits to mark for
21 identification: Exhibit 1, the Petition for Temporary
22 Rates; Exhibit 2, the Joint Prefiled Testimony of Bonnie
23 Hartley and Bill Patterson, and Mr. Patterson is no longer
24 with the Company, Mr. Leonard is, and he will be adopting

1 Mr. Patterson's testimony; the Settlement Agreement, which
2 has been marked as -- we propose to mark for
3 identification as "Exhibit 3"; and, then, the Company's
4 June 2008 Cost of Service Study that was filed when the
5 case was filed as "Exhibit 4". And, I actually have not
6 had the opportunity to check with parties other than Staff
7 to determine their position on what we propose to mark for
8 identification.

9 CHAIRMAN GETZ: Well, is there any
10 objection to the markings for identification?

11 MS. HOLLENBERG: Not to marking for
12 identification. Thank you.

13 CHAIRMAN GETZ: Okay. We'll mark
14 Exhibits 1 through 4 for identification as described by
15 Ms. Knowlton.

16 (The documents, as described, were
17 herewith marked as **Exhibit 1** through
18 **Exhibit 4**, respectively, for
19 identification.)

20 CHAIRMAN GETZ: Please proceed.

21 MS. KNOWLTON: Ms. Hartley and
22 Mr. Leonard.

23 (Whereupon **Bonalyn J. Hartley, Thomas C.**
24 **Leonard, James L. Lenihan and Jayson P.**

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 **LaFlamme** was duly sworn and cautioned by
2 the Court Reporter.)

3 **BONALYN J. HARTLEY, SWORN**

4 **THOMAS C. LEONARD, SWORN**

5 **JAMES L. LENIHAN, SWORN**

6 **JAYSON P. LaFLAMME, SWORN**

7 **DIRECT EXAMINATION**

8 BY MS. KNOWLTON:

9 Q. I'll start with you, Ms. Hartley. Would you state your
10 full name for the record please.

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

12 Q. By whom are you employed?

13 A. (Hartley) Pennichuck Water Works.

14 Q. In what position?

15 A. (Hartley) I'm Vice President of Administration and
16 Regulatory Affairs.

17 Q. Mr. Leonard, would you state your full name for the
18 record please.

19 A. (Leonard) Thomas C. Leonard.

20 Q. And, by whom are you employed?

21 A. (Leonard) Pennichuck Water Works.

22 Q. In what capacity?

23 A. (Leonard) I'm the Chief Financial Officer.

24 Q. How long have you held that position?

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 A. (Leonard) I have been there since July of 2008.

2 Q. Were you employed prior to that?

3 A. (Leonard) Yes.

4 Q. By whom?

5 A. (Leonard) I worked for a firm called "CRA", and prior
6 to that I was with another consulting firm called
7 "Huron Consulting". But, for the majority of my
8 career, I was with Arthur Andersen, and I was a former
9 audit partner, auditing a number of utilities and other
10 manufacturing businesses.

11 Q. And, what is your educational background?

12 A. (Leonard) I have an accounting degree from the
13 University of Wisconsin, and I'm a Certified Public
14 Accountant.

15 Q. And, in what states are you certified or licensed?

16 A. (Leonard) Currently, I'm certified in Massachusetts.

17 Q. Okay. And, have you testified before this Commission
18 before?

19 A. (Leonard) I believe I filed some testimony here, and
20 some working capital related testimony back in the
21 1990's, but I haven't gone back to dig it all out.

22 MS. KNOWLTON: Okay. Thank you.

23 BY MS. THUNBERG:

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

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 and position for the record.

2 A. (Lenihan) James L. Lenihan. I'm a Utility Analyst with
3 the New Hampshire Public Utilities Commission's Gas and
4 Water Division.

5 Q. And, as a Utility Analyst, what are your job
6 responsibilities?

7 A. (Lenihan) My responsibilities include reviewing rate
8 cases before the Commission, with emphasis on the
9 manner in which the Company proposes to recover the
10 revenues in the proceeding, also to review special
11 contracts between a utility and usually large users.

12 Q. And, Mr. Lenihan, would you consider reviewing
13 allocation and rate design issues to be your area of
14 expertise here at the Commission?

15 A. (Lenihan) Yes.

16 Q. And, have you prior to today testified before this
17 Commission?

18 A. (Lenihan) Yes, I have.

19 Q. And, has that testimony been within your area of
20 expertise?

21 A. (Lenihan) It has.

22 Q. And, Mr. LaFlamme, if I could just have you state your
23 name and position for the record.

24 A. (LaFlamme) Jayson LaFlamme, Utility Analyst with the

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Gas and Water Division of the Public Utilities
2 Commission.

3 Q. And, what are your job responsibilities please?

4 A. (LaFlamme) I review company filings, largely with
5 respect to revenue requirement and also financing
6 issues.

7 Q. And, Mr. LaFlamme, what do you consider to be your area
8 of expertise?

9 A. (LaFlamme) The area of accounting and finance.

10 Q. And, prior to today, have you testified before this
11 Commission?

12 A. (LaFlamme) Yes, I have.

13 Q. And, has that testimony been within your area of
14 expertise?

15 A. (LaFlamme) Yes, it has.

16 MS. THUNBERG: Thank you.

17 BY MS. KNOWLTON:

18 Q. Ms. Hartley, if you would look at the document that's
19 been marked for identification as "Exhibit 2", that's
20 the "Joint Prefiled Direct Testimony Regarding
21 Temporary Rates of William D. Patterson and Bonalyn J.
22 Hartley". Do you have that in front of you?

23 A. (Hartley) Yes, I do.

24 Q. And, was that testimony prepared by you or under your

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 direction?

2 A. (Hartley) Yes, it was.

3 Q. And, to the best of your knowledge, is that testimony
4 true and correct?

5 A. (Hartley) Yes.

6 Q. Mr. Leonard, if you would -- do you have Exhibit 2
7 before you?

8 A. (Leonard) Yes, I do.

9 Q. Are you familiar with this document?

10 A. (Leonard) Yes, I am.

11 Q. And, as I indicated to the Commissioners earlier, Mr.
12 Patterson is no longer with the Company, correct?

13 A. (Leonard) That's correct.

14 Q. And, are you adopting his testimony today as if it were
15 your own?

16 A. (Leonard) Yes. I've reviewed his testimony and I adopt
17 it as my own.

18 Q. And, to the best of your knowledge is it true and
19 correct?

20 A. (Leonard) Yes, it is.

21 Q. Thank you. Ms. Hartley, I'll start with you. Would
22 you please summarize the proposal that the Company has
23 made with regard to the permanent rate increase in this
24 case?

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 A. (Hartley) Yes. First of all, the Company is proposing
2 a permanent increase of 14.72 percent, which would
3 generate an additional revenues, annual revenues, of
4 about \$3.2 million. These are proposed rates based on
5 a test year of December 31st, 2007. We also proposed,
6 as part of that filing, two step increases; one of
7 which would be for a 5.05 percent step increases for
8 capital improvements that were used and useful as of
9 May 31st, 2008, and a second step for 5.51 percent for
10 capital improvements that would be used and useful as
11 of November 30th, 2008.

12 For temporary rates, the Company is
13 proposing -- proposed an 11.27 percent increase,
14 resulting in annual operating revenues of \$2.4 million,
15 with an effective increase of 11.07 percent for the
16 general metered customers. This is based on
17 non-revenue producing assets that were placed in
18 service during 2007 and are now used and useful
19 primarily.

20 The Company also filed a cost of service
21 study in concert with this case, as prescribed by the
22 rules of the Commission.

23 Q. And, Ms. Hartley, if actually I could stop you there
24 for a minute.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 A. (Hartley) Yes.

2 Q. Is that Cost of Service Study the document that's been
3 marked as "Exhibit 4"?

4 A. (Hartley) Yes, it is.

5 Q. Okay.

6 A. (Hartley) And, the recommended results of that, of that
7 study, suggested strongly that private fire protection
8 in particular be increased substantially. As part of
9 this, the filing for temporary rates, we have
10 implemented the recommendations of the AUS study, which
11 would result in increases of, and I can just review
12 these with you, 11.07 percent for the general metered
13 customers, --

14 Q. Ms. Hartley, can I just stop you and ask you what
15 you're looking at? I mean, are you referring --

16 A. (Hartley) Yes. Sure. The Report of Proposed Rate
17 Changes, Pro Forma Schedule 9, in back of the -- right
18 attached to the summary -- to the testimony.

19 Q. Okay. So, you're looking at Exhibit 2?

20 A. (Hartley) Correct.

21 Q. And, this was the Company's temporary rate proposal as
22 filed with the Commission?

23 A. (Hartley) Correct.

24 Q. And, that was also accompanied with a Petition for

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Temporary Rates, and that's been marked for
2 identification as "Exhibit 1", correct?

3 A. (Hartley) Correct.

4 Q. Okay. And, you're looking at the last page of Exhibit
5 2?

6 A. (Hartley) Correct.

7 Q. And, if you would walk through the proposal that the
8 Company made with -- and an impact that that would have
9 on the particular rate classes that are set forth in
10 that schedule?

11 A. (Hartley) Yes. As reflected on this schedule, as I had
12 stated, we had requested 11.27 percent temporary rate
13 increase, resulting in approximately \$2.4 million of
14 annualized additional revenue. As a result of the
15 study, and the recommendations in that study, as I
16 stated, it was recommended that private fire protection
17 be increased, and was not -- and, basically, they were
18 not paying their fair cost of service. So, as a result
19 of that study, we proposed that the general metered
20 customers be increased 11.07 percent; private fire
21 protection would be about 69.72 percent; and,
22 interestingly enough, municipal fire protection or
23 public fire protection would increase about
24 1.11 percent; Anheuser-Busch, which is a special

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 contract that the Company has with Anheuser-Busch,
2 would increase 12.75 percent; another contract, which
3 we have with the Town of Milford, would increase
4 11.99 percent; and a third contract with Hudson would
5 increase 9.13 percent; resulting in an overall increase
6 of 11.27 percent.

7 Q. And, did the Company make a similar proposal, as far as
8 that rate design change, as part of its permanent rate
9 case -- rate increase request?

10 A. (Hartley) Yes, we did.

11 Q. Thank you. Mr. Leonard, would you please explain what
12 has necessitated this rate increase on the part of the
13 Company?

14 A. (Leonard) The Company has been under earning its
15 allowed rate of return of 7.89 percent, which was the
16 last allowed rate of return, and it's been under
17 earning that by -- it under earned it by 125 basis
18 points in the 2007 test year.

19 Q. And, what caused that?

20 A. (Leonard) Primarily, it's a result of the significant
21 capital expenditures that the Company has been in the
22 process of expending the last two years in connection
23 with the water treatment plant.

24 Q. So, there were capital additions -- capital additions

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 that were put into service during the test year?

2 A. (Leonard) There are capital additions that were put
3 into service during the test year. Actually, there
4 have been ongoing capital additions over the last two
5 years. There have been approximately 31 million of
6 capital additions, including additions in the test
7 year, and even the plant has been continuing the
8 overhaul and rehabilitation beyond the end of the 2000
9 [2007?] test year and on into 2008.

10 Q. And, has the Company been booking any AFUDC associated
11 with those capital additions?

12 A. (Leonard) Yes. The Company books AFUDC in connection
13 with those additions. But, as the components of the
14 plant have been put into use, used and useful, the
15 accounting requirement is that the AFUDC is ceased, it
16 stops being recorded. And, for example, under Contract
17 4, which relates to the rebuilding of the filter bed,
18 the first filter bed went into service in the Fall of
19 2007. So, at that point, AFUDC was stopped. And, that
20 filter bed has been in service since the Fall of '07,
21 and there's been no additional AFUDC that's been
22 recorded on that.

23 Q. Has the Company's return eroded since the end of the
24 test year any further?

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 A. (Leonard) Yes, it's continued to erode. And, as of
2 April of '08, it was a little less than 6.5 percent, it
3 was 6.47, it was down 142 basis points through April.
4 And, it's continued to erode since then as well.

5 Q. Has the Company experienced any increase in operating
6 costs during the test year?

7 A. (Leonard) Yes. We've, as you might expect, we've
8 continued to experience operating costs in such things
9 as chemicals, purchased water, and certain other
10 expenses.

11 Q. And, with regard to chemicals, have there been any
12 significant increases associated with the purchase of
13 chemicals after the test year that you're aware of?

14 A. (Leonard) Yes, we have seen the price of chemicals go
15 up substantially in 2008.

16 Q. Do you know why that is?

17 A. (Leonard) I think the price of commodities in general
18 has been very volatile and has been going up. And,
19 that's been a primary cause of it.

20 Q. Okay. Ms. Hartley, if you would turn to Exhibit 3. Do
21 you have that before you? The Settlement Agreement --

22 A. (Hartley) Yes, I do.

23 Q. -- between the Company and the Staff.

24 A. (Hartley) Uh-huh.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. Are you familiar with that document?

2 A. (Hartley) Yes, I am.

3 Q. Did you participate in the negotiation of the
4 Settlement Agreement with the Staff of the Commission?

5 A. (Hartley) I did.

6 Q. What does this Settlement Agreement provide with regard
7 to temporary rates?

8 A. (Hartley) The Settlement Agreement provides for an
9 11 percent increase, and which would result again in
10 about \$2.4 million of annualized revenues over the
11 current rates, would be effective for customers noticed
12 as of July 28, and it also provides for an
13 implementation of the recommended Cost of Service
14 Study, with one change whereby the fire protection
15 charges would be shared equally, the allocated cost for
16 fire protection would be shared equally between the
17 public and fire protection customers until further
18 evaluation.

19 Q. So, the Settlement Agreement does not propose an
20 across-the-board proportionate increase for all
21 customer classes?

22 A. (Hartley) No.

23 Q. How did the Company go about determining, for purposes
24 of this temporary rate settlement, what the appropriate

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 revenue to generate from the fire protection classes
2 would be?

3 A. (Hartley) As I said, we determined that it would be --
4 the costs allocated, we instructed AUS, which is our
5 consultant that performs these cost of service studies
6 for us, as a result of the settlement with Staff, we
7 went back to AUS and we requested that they share the
8 fire protection allocated costs equally between the two
9 fire protection classes, and that was the only change
10 made. And, as a result of that, attached to the
11 Settlement Agreement is that revised Cost of Service
12 Study to show the implementation of that effect.

13 Q. Okay. If you would turn to Page 7 of Exhibit 3, which
14 is Schedule A, Computation of Revenue Deficiency.

15 A. (Hartley) Yes.

16 Q. And, would you walk us through this schedule please.

17 A. (Hartley) Yes. Presented before you is the test year
18 ending 12/31/07. That's the first column to your left.
19 The second column are pro forma adjustments, primarily
20 for -- the rate base adjustments are primarily for the
21 3.9 million or almost \$4 million for non-revenue
22 producing assets that were used and useful as Mr.
23 Leonard has just discussed regarding the filter beds
24 and other necessary plant improvements during the test

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 year. Resulting in a pro forma test year for a
2 consolidated rate base of about \$76 million, rounding
3 up to 77 million. The Company utilized its last rate
4 of return, which is 7.89 percent, and pro-formed a more
5 recent debt structure, which resulted in 7.81 percent.
6 However, we utilized a 9.75 percent cost of equity for
7 demonstration purposes.

8 Q. And, was that cost of equity from the Company's last
9 rate case here at the Commission?

10 A. (Hartley) Yes. I believe that was 06-083, in the last
11 case, that was the last settled ROE that the Company
12 had been awarded. As a result of applying the rate of
13 return to the consolidated rate base of almost
14 \$77 million, it results in an income required of
15 \$6,008,497. And, then, your net operating income, as
16 adjusted, versus Schedule 1, and that results in an
17 adjusted net operating income of \$4,079,767. And, the
18 deficiency is \$1.9 million. Accounting for the tax
19 factor of 60.39 percent, the revenue deficiency is
20 3.1 million or almost \$3.2 million. And, there is an
21 adjustment you'll see for water revenues, this was a
22 result -- this was to annualize the benefit of a step
23 increase that the Company received in our finalized
24 case of the 2000 -- I think it was an '06 case. As a

{DW 08-073} [Re: Temporary Rates] {11-12-08}

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 result of that, we realized some additional revenues
2 and were awarded those in January. So, we annualized
3 those revenues to reflect that increase. And, that's
4 resulted in a proposed revenue increase of 14.72
5 percent, and the new revenue levels would be
6 \$24,896,859.

7 Now, for a temporary basis, it was
8 agreed by Staff and the Company that we would increase
9 the revenues -- we would increase the proposed revenue
10 increase of only 11 percent, and that formula is
11 calculated over to the far right. Which would cause a
12 revenue deficiency of \$2,387,338, resulting in new
13 revenue levels of \$24,090,406.

14 Q. And, if you would turn the page and look at the Report
15 of Proposed Rate Changes, and explain how that revenue
16 deficiency, that \$2.38 million revenue deficiency is
17 spread across the Company's classes of services for
18 purposes of temporary rates?

19 A. (Hartley) Yes. As I stated, as part of the Settlement
20 Agreement, we are providing a revised Cost of Service
21 Study to allocate the cost for fire protection equally
22 between the private and public fire protection classes
23 of customers. As a result, the increase to the general
24 metered customers is now 10.79 percent, the effective

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 increase; the increase to private fire protection is
2 41.56 percent; to public fire protection, 6.41 percent;
3 Anheuser-Busch, 12.47 percent; Milford contract,
4 11.71 percent; and the Hudson contract at 8.85 percent,
5 resulting in an overall increase of 11 percent,
6 realizing \$2,387,350 of annualized revenue.

7 Q. Did the Company think it was important to make that
8 rate design change for purposes of temporary rates as
9 it relates to fire protection customers?

10 A. (Hartley) Yes. The case, we did have some discussion
11 about the Cost of Service Study, but, obviously, the
12 parties have not had the time to fully perform
13 discovery, ask data requests, *etcetera*, regarding the
14 Cost of Service Study. And, so, this facilitates -- it
15 allows us to mitigate some rate shock to these
16 customers, but, on the other hand, allows the Staff and
17 the parties to evaluate the study further for the final
18 permanent case.

19 Q. Have you performed any calculations that would
20 demonstrate what the impact of this rate increase will
21 be on residential customers on an average bill?

22 A. (Hartley) Yes, I have.

23 Q. What is that impact?

24 A. (Hartley) Well, currently, the average -- monthly

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 residential average customer, with a five-eighths
2 meter, is costing about \$38.24, based on 9.5 units of
3 water per month. The 11 percent temporary increase
4 will result in a \$41 -- \$41.72 monthly bill. That
5 increase is \$3.48 a month for the average single family
6 residential customer.

7 As far as the permanent rates are
8 concerned, if we were to be awarded the 14.72 percent,
9 that would result in a \$43.11 per month bill, or an
10 increase of \$4.88. The overall increase at the end of
11 the case, assuming that all the step increases were
12 awarded as filed, would be \$8.23 per month for the
13 average residential family.

14 Q. Ms. Hartley, you indicated that the Company and the
15 Staff have agreed that rates would take effect -- the
16 temporary rates would take effect as of July 28th,
17 2008, is a correct?

18 A. (Hartley) That's correct.

19 Q. And, are temporary rates reconcilable in this case to
20 permanent rates?

21 A. (Hartley) Yes.

22 Q. And, what does that mean?

23 A. (Hartley) That means, at the time that the final order
24 is issued in this case, whatever the differences are

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 between the permanent rates and the temporary rates
2 would be reconcilable for all of the classes of
3 customers.

4 Q. Ms. Hartley, do you have an opinion whether the
5 temporary rates as proposed in the Settlement Agreement
6 are just and reasonable and consistent with the public
7 interest?

8 A. (Hartley) I believe they are.

9 Q. Mr. Leonard, if the Commission were to approve the
10 proposed Settlement Agreement, what effect would that
11 have on the Company's operating income?

12 A. (Leonard) It will allow us to cover the increases in
13 operating costs that we've experienced and will provide
14 -- and the debt cost that we're incurring, and provide
15 for a small rate -- a small improvement in our rate of
16 return.

17 Q. And, do you have an opinion whether the rates that are
18 proposed in the Settlement Agreement are just and
19 reasonable and consistent with the public interest?

20 A. (Leonard) Yes, I believe they are.

21 MS. KNOWLTON: Thank you. No further
22 questions for Mr. Leonard and Ms. Hartley.

23 MS. THUNBERG: Staff will pick up from
24 here, Commissioners.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 BY MS. THUNBERG:

2 Q. Mr. Lenihan, if I could just have you briefly describe
3 your involvement with this docket, what you've
4 reviewed?

5 A. (Lenihan) Yes. I've reviewed the temporary rate
6 request as submitted by the Company in this proceeding,
7 and participated in a discussion with the Company,
8 leading up to a settlement conference, and I had an
9 opportunity to review the proposed Settlement
10 Agreement, which was completed and submitted to the
11 Commission Monday, I believe.

12 Q. And, you're familiar with the terms of Exhibit 3, the
13 Settlement Agreement in this docket?

14 A. (Lenihan) Yes. Yes, I am.

15 Q. And, Mr. LaFlamme, if I could just have you state for
16 the record your involvement in this docket and what you
17 reviewed?

18 A. (LaFlamme) I reviewed the temporary rate filing that
19 was made by the Company. In conjunction with that, I
20 reviewed the permanent rate filing that was also
21 submitted by the Company. And, there were -- there was
22 discovery, which took place during this temporary rate
23 phase of this docket, which I also reviewed. And,
24 then, based upon all of that, I participated in the

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 formulation of the Settlement Agreement.

2 Q. Thank you. Mr. LaFlamme, with respect to Exhibit 3,
3 this Settlement Agreement, and Staff's recommendation
4 that the Commission approve a temporary rate increase
5 for the Company, can you please explain Staff's
6 reasoning in supporting that request?

7 A. (LaFlamme) In the Company's temporary rate filing, they
8 demonstrated that they were under earning and not
9 achieving their last allowed rate of return. And,
10 Staff's analysis of the Company's -- what the Company
11 submitted, as well as its last annual report, the Staff
12 has confirmed that the Company indeed is not achieving
13 its last allowed rate of return. And, therefore, it is
14 Staff's position that the Company should be granted
15 temporary rates.

16 Q. Now, with respect to Page 3 of this Settlement
17 Agreement, and the Paragraph A entitled "Revenue
18 Requirement", I know that Ms. Hartley has also
19 testified to the revenue requirement. But I'd like to,
20 to the extent Staff can add anything, what is Staff's
21 basis for the revenue requirement?

22 A. (LaFlamme) The revenue requirement that has been agreed
23 to between the Company and Staff, it is Staff's
24 position that it allows for the Company to some

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 immediate rate relief, given the fact that it does
2 appear that the Company is currently under earning.
3 And, also, would -- that the level that has been agreed
4 to we believe achieves some gradualism in the ultimate
5 rates that are being requested by the Company,
6 including the step increases that it is requesting, and
7 also would mitigate, to some extent, the rate
8 recoupment that the Company may be ultimately allowed
9 at the conclusion of this rate case.

10 Q. Does Staff have any concern that Pennichuck Water Works
11 will be over earning with this temporary rate?

12 A. (LaFlamme) We do not believe that the Company will be
13 over earning as a result of this proposed temporary
14 rate increase.

15 Q. And, does Staff have any further comments on the rate
16 of return? The Company has already testified a little
17 bit about the rate of return. Do you have any
18 additional comments to make?

19 A. (LaFlamme) No, I don't.

20 Q. And, Mr. Lenihan, I'd like to move on with you please,
21 and with respect to Page 3, Paragraph B, "Rate Design",
22 I'd like to have you turn to that, in Exhibit 3.

23 Mr. Lenihan, are you ready --

24 A. (Lenihan) Yes, I have that before me.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. The Settlement Agreement adopts, to some extent, the
2 recommendations to the Cost of Service Study, is that
3 correct?

4 A. (Lenihan) Yes, that is correct.

5 Q. And, can you please state why Staff believes it is
6 appropriate to adopt some of these recommendations?

7 A. (Lenihan) Yes. Staff has not conducted a thorough
8 examination and review of the Cost of Service Study.
9 But, as presented by the Company, private fire
10 protection, in particular, is shown to have, as a
11 result of the study, shown to have a 69 percent
12 increase in rates. The municipal increase is on the
13 order of 1 percent, 1.1 percent. So, for the purposes
14 of implementing temporary rates, and to afford Staff an
15 opportunity to do a thorough investigation of the
16 underlying reasons for the large increase to the
17 private fire, Staff and the parties agreed to levelize
18 the increase in the fire protection class, so that the
19 impact for temporary rates wouldn't be as significant
20 as 70 percent, it's approximately half of that. And,
21 again, this can all be reconciled at the time the
22 Commission issues an order approving the temporary --
23 the permanent rates at some level. Just so that there
24 wouldn't be a real hit to the private fire protection

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[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 customers for purposes of affording the Company
2 temporary relief, temporary revenue relief.

3 Q. Mr. Lenihan, were you familiar with the Company's last
4 cost of service study?

5 A. (Lenihan) Yes.

6 Q. And, do you recall what date that was?

7 A. (Lenihan) I do not recall when that was.

8 Q. Okay. Subject to check, if I told you it was the 2001
9 Cost of Service Study, based on 2000 data, would that
10 be accurate?

11 A. (Lenihan) It seems to ring a bell, yes.

12 Q. Okay. And, did you also work on the last Pennichuck
13 Water Works rate case that came before this Commission?

14 A. (Lenihan) Yes, I did.

15 Q. And, do you recall in that last rate case whether the
16 Commission approved deviating from that 2001 Cost of
17 Service Study? If you don't recall, you can say that.

18 A. (Lenihan) I don't recall.

19 Q. Mr. Lenihan, do you have an opinion as to whether the
20 old cost of service study that Pennichuck Water Works
21 has done is out of date?

22 A. (Lenihan) I would suspect, yes, because of, obviously,
23 the changes in costs the Company's incurred since 2001.
24 I would think that it would be time for an update, yes.

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[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. And, with your opinion that it is time for an update,
2 does that support why you are willing to accept some of
3 the changes of the present cost of service study?

4 A. (Lenihan) Yes.

5 Q. Okay. Now, if a different rate design is ultimately
6 agreed to in the permanent rate phase, do you know how
7 that would be implemented or reconciled?

8 A. (Lenihan) If the rates approved by the Commission in a
9 permanent -- as a result of the permanent rate
10 proceeding vary or differ from what is being proposed
11 here today, any difference would be reconciled, that is
12 the rates would be trued up to what the Commission
13 approved in the final order in this proceeding.

14 Q. And, can you just explain a little further, with
15 respect to the true-up between temporary and permanent
16 rates, is there a surcharge?

17 A. (Lenihan) Yes. There would be a surcharge or a
18 recoupment or a refund, depending on what the final
19 rates are in the proceeding.

20 Q. And, any refund or surcharge necessitates additional
21 Commission approval, correct?

22 A. (Lenihan) Absolutely. Again, these rates are
23 established for the purposes of temporary rates and to
24 afford the Company cash flow during the course of the

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 investigation of the permanent rate proceeding.

2 Q. And, with respect to the temporary rates, do you have
3 an opinion as to the just and reasonableness of these
4 rates?

5 A. (Lenihan) I believe they are just and reasonable.

6 Q. Okay. Mr. LaFlamme, I just have one last question to
7 you with respect to just and reasonableness of these
8 rates. What is your opinion on these rates?

9 A. (LaFlamme) I believe that the rates being proposed
10 today would result in just and reasonable rates for the
11 customers.

12 MS. THUNBERG: And, Staff has no further
13 questions of the panel either.

14 CHAIRMAN GETZ: Okay. Thank you. Mr.
15 Alexander?

16 MR. ALEXANDER: I have no questions.

17 CHAIRMAN GETZ: Mr. Richardson?

18 MR. RICHARDSON: No questions.

19 CHAIRMAN GETZ: Ms. Hollenberg.

20 MS. HOLLENBERG: Thank you. Good
21 morning.

22 **CROSS-EXAMINATION**

23 BY MS. HOLLENBERG:

24 Q. I'm going to start with Ms. Hartley. I think you

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1 covered in your testimony the difference between the
2 original proposal for the cost of service allocation
3 for temporary rates, compared to the one that's
4 attached to Exhibit 2, the revised proposal. And, the
5 difference I believe you identified was that the
6 increase called for, for private fire protection
7 customers, by the original cost of service study was
8 split between private fire protection customers and
9 municipal fire protection customers?

10 A. (Hartley) That is correct.

11 Q. What would the increase to private fire protection
12 customers be if that increase was not shared with
13 municipal fire protection customers?

14 A. (Hartley) It would be -- I believe it was, I will get
15 to the original one, I believe it was 69, to be exact,
16 69, I want to say 72, but I want to check. Yes,
17 69.72 percent.

18 Q. Thank you.

19 A. (Hartley) Thank you.

20 CHAIRMAN GETZ: I'm sorry. Excuse me,
21 I'm sorry. That's the change in what? Could you --

22 MS. HOLLENBERG: My understanding is
23 that the Company filed an original Cost of Service Study,
24 which included recommendations for how the temporary rates

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 should be allocated. The original allocation was
2 69.72 percent to private fire protection, and the revised
3 Cost of Service Study for temporary rates, which is part
4 of Exhibit 2, splits that 69 percent and gives half to
5 private fire protection and half to municipal fire
6 protection.

7 BY MS. HOLLENBERG:

8 Q. Is that correct, Ms. Hartley?

9 A. (Hartley) That is correct.

10 Q. And, the original Cost of Service Study for temporary
11 rates suggested that municipal fire protection
12 customers not see a rate increase?

13 A. (Hartley) Well, it was very slight, 1.11 percent. But
14 the recommendation would be to just not to increase the
15 rate.

16 Q. Thank you. Under the revised Cost of Service Study and
17 the proposed Settlement Agreement, municipal fire
18 protection customers will pay for a portion of the cost
19 of which the original Cost of Service Study said should
20 be paid for by private fire protection customers?

21 A. (Hartley) That is correct.

22 Q. Could I ask you to look at Exhibit -- or, I'm sorry,
23 Schedule 9 of Exhibit 2 and Exhibit 4?

24 A. (Hartley) Two is the Petition for the Temporary Rates?

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[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. Two would be your prefiled testimony, which I believe

2 --

3 A. (Hartley) Uh-huh. Okay. Yes.

4 Q. Well, I'm sorry, it should be Exhibit 3, Schedule A
5 includes a Schedule 9?

6 A. (Hartley) Yes.

7 Q. And, then, Exhibit 4 also includes a Schedule 9?

8 A. (Hartley) Correct. So, what we're looking at is the
9 filed temporary Schedule 9, as filed originally by the
10 Company for temporary rates, and then the revised
11 Schedule 9 as filed for temporary rates.

12 Q. Yes. Thank you.

13 A. (Hartley) You're very welcome.

14 Q. I just have a question. I didn't understand why, in
15 the first half of the page, there are a couple of
16 columns. One says "Present Rates", and there are two
17 columns under that, "\$" and "%". And, then, there's a
18 "Cost of Service" column, with two subcolumns, "\$" and
19 "%". Could you tell me why that's the same in both of
20 those schedules, even though the result of the cost --
21 the resulting recommendation of these two studies is
22 different?

23 A. (Hartley) Well, let's start with the pro forma present
24 rates. And, this is the data that we provide to the

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

- 1 consultant. And, based on, and we'll start with the --
2 we'll just talk about the general metered, and we'll
3 talk about what was filed with the consultant. The
4 general metered customers, the pro forma present rates,
5 based on an average of 24,787 customers, was
6 \$17.2 million.
- 7 Q. And, Ms. Hartley, just let me make sure everyone's on
8 the same page. I'm talking about Schedule 9 for
9 temporary rates from the original filing, and compared
10 to Schedule 9 Temp., 11 percent.
- 11 A. (Hartley) Yes.
- 12 Q. And, I think you probably understand that, but I just
13 want to make sure everybody else does.
- 14 A. (Hartley) Okay. And, then, based on the allocation of
15 costs, which is performed by the study, the proposed
16 rates, you'll see that there's a column for
17 \$19.1 million for the general metered customers under
18 proposed rates.
- 19 Q. Uh-huh.
- 20 A. (Hartley) Those rates are allocated, those dollars are
21 allocated to the various customer classes by the
22 consultant, based on his study and his expertise, and
23 all of the known factors that the Company also
24 provides. And, what he is suggesting is that the

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 amount now that would be allocable for the \$2.4 million
2 increase, at the bottom, --

3 Q. Uh-huh.

4 A. (Hartley) -- would be \$1.9 million, or 11.07 percent,
5 this is for the -- as we filed it originally.

6 Q. Uh-huh.

7 A. (Hartley) Would be the allocable amount for the general
8 metered customers. And, that would follow for each one
9 of the classes of customers.

10 Q. Uh-huh.

11 A. (Hartley) He takes the total, total revenue
12 requirement, and he allocates it back amongst the
13 various customer classes based on data that I'm not an
14 expert to testify on, but he would be available for the
15 permanent rates or settlement to discuss that more
16 fully with the OCA and other parties.

17 Q. And, just for the record, the percentage
18 recommendations in both the original and the revised
19 Cost of Service Study for temporary rates, under the
20 "Cost of Service" column, are the same; 86.2 percent
21 for water service, 3.68 percent for private fire
22 revenue, 10.12 percent for municipal fire revenue, am I
23 correct?

24 A. (Hartley) Subject to check. This is not, as I said,

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1 this is an expert that provides us the data, and I
2 would have to review that more fully. But, subject to
3 check, yes.

4 Q. And, you would agree, Ms. Hartley, I guess subject to
5 check, that this revised Cost of Service Study was
6 circulated after discovery occurred for temporary rate
7 purposes in this case?

8 A. (Hartley) Yes.

9 Q. And, the parties have not had a chance to ask any
10 questions of the Company about this revised Cost of
11 Service Study?

12 A. (Hartley) That's correct.

13 Q. I'm going to actually turn to Staff for a moment, and I
14 will have a question to turn back to the Company.
15 Mr. Lenihan, could you explain the reason that Staff
16 supports shifting the costs, which are attributable to
17 private fire customers, to municipal fire customers
18 under the Settlement Agreement?

19 A. (Lenihan) Yes, I would be happy to. During the
20 investigation of this temporary rate request, Staff
21 noticed that there was a significant increase to the
22 private fire protection rates, almost 70 percent, and
23 that there was a very minimal amount of an increase to
24 the municipal fire protection. Staff hasn't conducted

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 a full investigation of the underlying reasons for the
2 increases in the private fire protection. So, in lieu
3 of adopting the recommended allocations to the private
4 fire and municipal fire, the parties agreed to temper
5 the increase to the private fire protection customers
6 and raise the rates to the municipal customers. This
7 is only for purposes of implementing temporary rates.
8 And, until such time that there is a thorough
9 investigation as to the underlying factors which
10 resulted in the large increase to the private fire, and
11 the less than significant increase to the municipals,
12 and just for the purposes of the temporary rate
13 recoupment or the rate revenue, the parties -- the
14 Company and Staff agreed to shift some of the revenue
15 within the fire protection class.

16 Q. Would you agree that some would say that would be
17 subsidization?

18 A. (Lenihan) I guess one could make that statement.

19 Q. And, in addition to not thoroughly investigating the
20 Company's proposed Cost of Service Studies, has the
21 Staff performed an independent analysis of the cost of
22 service for the Company?

23 A. (Lenihan) Staff has not.

24 Q. And, in a recent case involving an affiliate of PWW,

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 specifically the PAC rate case, customers in that case
2 were faced with, particularly the customers categorized
3 by the Company as "North Country customers", were faced
4 with a 179 percent increase, yet the Staff did not make
5 a recommendation that that increase be mitigated by
6 sharing the costs with the Pittsfield customers. And,
7 I'm just wondering if you could explain to me why that
8 is?

9 A. (Lenihan) The case you referenced, the Pittsfield
10 Aqueduct case, we recently -- is still before the
11 Commission, we recently had a temporary rate hearing,
12 is a completely different case than this one. There
13 are four systems in the PAC, the Pittsfield Aqueduct
14 Company. There were four independent systems. And,
15 what Staff had proposed in that, in that proceeding,
16 was completely different than what is being proposed
17 here. There are many -- And, there are issues,
18 significant issues, in the Pittsfield Aqueduct Company,
19 which are not involved in this particular case, which
20 is why Staff took a different position in that
21 particular case.

22 Q. Sorry. And, when you say they were "independent", and
23 I don't want to get too far into it, but I'm curious,
24 because you describe them as "independents", you mean

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 "physically independent"?

2 A. (Lenihan) Yes.

3 Q. Okay. Because they are generally operated by the same
4 management in that case?

5 A. (Lenihan) That's correct.

6 Q. And, there are some physically independent systems that
7 PWW has, isn't that correct?

8 A. (Lenihan) That is also correct.

9 Q. Okay. Ms. Hartley, I wondered if you could just
10 explain, if the effective date of the temporary rates
11 as proposed in the Settlement Agreement, which is
12 July 28th, is approved, what are the bills that are
13 issued today going back to? What date do they go back
14 to?

15 A. (Hartley) They would go back -- well, it will be for
16 service rendered, first of all, to correct that. It's
17 not bills rendered, it's service rendered as of July
18 28th. So, therefore, all of the customers, depending
19 on their bill today, would be prorated based on that
20 July 28th date. So, in other words, any rate -- any
21 usage prior to July 28th would be at the old rate, any
22 usage subsequent to July 28th to their current bill
23 would be at the new rate.

24 Q. Okay. And, how does the Company accomplish that?

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1 A. (Hartley) We have a automated computer system that is
2 very effective in accomplishing that.

3 Q. Okay. And, to the extent that there are any bills that
4 go out after the Commission, if they were to approve
5 the proposal, and they were for service after the
6 effective date of the temporary rates, how would the
7 Company calculate the difference? How would the
8 Company calculate the charges, when it's doing
9 recoupment at the end? So, let me just give you an
10 example. If, for instance, and I don't know if this is
11 true, but if, for instance, a bill went out today, and
12 included service starting August 1st, how would the
13 Company -- I presume the Company would collect the
14 charges for July 28th to July 31st through recoupment?

15 A. (Hartley) Correct.

16 Q. And, how would you calculate the amount of recoupment
17 to be collected for that period of time?

18 A. (Hartley) Basically, it would be the difference, as I
19 said, for service rendered, and it would be the
20 difference between the old rate and the new rate, and
21 it would be a discrete amount, whatever it would be, it
22 could be different for -- it will be different because
23 we bill certain portions of city weekly, now weekly,
24 because we're billing monthly, and some were billed

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 quarterly back then, so it will be a little
2 challenging, but our computer system can do it. And,
3 what will happen is is the customer will be surcharged
4 whatever, and it will say "surcharge" on the bottom of
5 the bill, whatever that difference would be between the
6 date of July 28th, in this case, to say August 1st.

7 Q. And, it's based on the individual customer's usage?

8 A. (Hartley) Absolutely.

9 MS. HOLLENBERG: Thank you. If I could
10 have a moment please.

11 (Short pause.)

12 BY MS. HOLLENBERG:

13 Q. Mr. LaFlamme, you mentioned when you were asked on
14 direct of the things that you reviewed for purposes of
15 participating in this case and coming up with the
16 proposed Settlement Agreement, and the items that you
17 listed were "temporary rate filing, permanent rate
18 filing, the discovery, which took place during the
19 temporary rate phase." But, then, later you actually
20 mentioned the "last annual report". And, I just want
21 to ask for a confirmation that you did review the
22 annual report on file for the Company in coming up with
23 your decision in this case?

24 A. (LaFlamme) Yes.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. And, did you look at any other reports that the Company
2 had on file, such as reports about capital investment
3 or anything like that?

4 A. (LaFlamme) Other than the Company's annual reports to
5 stockholders,

6 Q. Uh-huh.

7 A. (LaFlamme) -- and which was included in the Company's
8 filing.

9 Q. Okay. And, Mr. Lenihan, did you review any of the
10 annual reports or anything else besides the temporary
11 rate request in coming up with your recommendation?

12 A. (Lenihan) No, it would be the results of the last
13 annual report, as well as reviewing the temporary rate
14 testimony in this proceeding was the basis.

15 MS. HOLLENBERG: Okay. Thank you. I
16 don't have any other questions. Thank you.

17 CMSR. BELOW: Yes.

18 BY CMSR. BELOW:

19 Q. Private fire protection is primarily sprinkler systems,
20 is that correct?

21 A. (Hartley) That is correct.

22 Q. And, they're primarily commercial, though there might
23 be some residential, correct?

24 A. (Hartley) That's correct.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

- 1 Q. Okay. I'm a little bit confused by the statement on
2 Page 3 of the Settlement Agreement, under B, it says
3 "the increase in fire protection rates will be shared
4 equally among municipal and private fire protection
5 customers." And that, when I turn to Schedule 9, and
6 look at the two lines for "Private Fire Protection" and
7 "Fire Protection - Hydrants", the amount of the
8 increase are not equal numbers, and the percent
9 increase for private fire protection, 41.56 percent, is
10 more than half the original proposal of 69.72. So,
11 just is that statement perhaps incorrect that it's
12 "equal", or can you walk me through what the "equal"
13 means?
- 14 A. (Hartley) Again, I'm not an expert, but I believe what
15 we're talking about here is that the allocation of
16 costs was equally -- that would be attributable to fire
17 protection was equally allocated to the various
18 classes, which would be, in this case, the fire,
19 private and the public. You're dealing with two
20 different, if you will, two different rate structures.
21 As you can see there, the proposed rates for the
22 private fire protection would be 699,000 and the fire
23 protection for hydrants is 2.6 million. It doesn't
24 follow that, just because we're going to share them

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[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 50/50, that the allocation would result in 50/50,
2 because of the underlying, if you will, the underlying
3 components of the study and also the rates that are in
4 place already. So, and, again, I'm not an expert, and
5 I would be glad to get a further explanation for you
6 that would be more -- that would describe it more
7 fully. But, to the best of my knowledge, that is what
8 is going on here.

9 Q. But just to be clear, the numbers under the column
10 entitled "Amount", which is under another heading
11 "Proposed Change", on "Pro Forma Schedule 9 Temporary",
12 attached to Exhibit -- well, the Settlement Agreement,
13 those amounts are the amount of the increase, --

14 A. (Hartley) Correct.

15 Q. -- and those two amounts are not equal for "private
16 fire protection" and "fire protection - hydrants",
17 which hydrants is the municipal fire protection.

18 A. (Hartley) And, I see what you're saying here, and I
19 really would have to, subject to check, look into that
20 further. I would expect it is based on some component
21 of the study that -- and that's the part the expert had
22 calculated.

23 Q. And, just to be clear, these are both fixed -- fixed
24 rates, there's nothing volumetric about fire

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 protection?

2 A. (Hartley) There's no volumetric.

3 Q. Right. Okay. I think sometime in the past few weeks,
4 the Company, and perhaps the parent company, issued a
5 press release concerning its third quarter 2008
6 earnings. And, observed that, in the Nashua area, the
7 rainfall in the third quarter was a record level
8 rainfall, resulting apparently in less consumption of
9 water for landscaping purposes and such. And, that
10 attributed -- contributed to a decline in earnings,
11 because a lot of that incremental sales would have gone
12 to the bottom line. Can you tell me if the pro forma
13 year, in this case 2007, what was the summer rainfall
14 or consumption like? Was it a fairly normal year or
15 was it above or below normal?

16 A. (Leonard) Want me to address that?

17 A. (Hartley) Yes.

18 A. (Leonard) The 2007 test year I would say was a fairly
19 normal test year. It was a little wetter in June and
20 July, and then dried out in August, and we had a very
21 dry September. But, when you looked at it overall, I
22 would say it was -- when we looked at it overall, it
23 was probably slightly drier than the long-term average,
24 but you're talking about plus or minus a couple of

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[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 percentage points. And, the dryness was primarily in
2 September in that, in 2007.

3 Q. Okay. So, when we look at the prefiled testimony and
4 what's happened to the actual return on investment
5 versus the authorized return on investment, that graph
6 ended in April '08, so that was not impacted by this
7 sort of low rainfall issue. But the third quarter of
8 '08 was perhaps disproportionately impacted by that
9 weather event, is that correct?

10 A. (Leonard) Yes. I mean, the continued capital additions
11 and other expense increases would have continued, but
12 the third quarter would have been additionally impacted
13 by the very wet conditions --

14 Q. Right.

15 A. (Leonard) -- that we experienced.

16 CMSR. BELOW: Okay. That's all. Thank
17 you.

18 BY CHAIRMAN GETZ:

19 Q. I had a couple of questions to follow up on this, on
20 the fire protection, private fire protection issue.
21 Ms. Hartley, starting with you, if I'm doing my math
22 correctly, it looks like, on Exhibit 2, in the Petition
23 for Temporary Rates, in the prefiled testimony, that
24 the current rate, current average rate for private fire

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 protection would be roughly \$600 per customer annually,
2 is that a --

3 A. (Hartley) We actually have it here. There are three
4 rates for the private fire protection. There's a
5 4-inch, a 6-inch, and an 8-inch rate. And, based on
6 the revised proposal, the quarterly amount -- or, the
7 monthly amount, for the 4-inch, would be \$48.01; for
8 the 6-inch, it would be \$80.57 with the increase; and,
9 for the 8-inch, \$118.62. Those are fixed charges. So,
10 we needed to multiply those times 12. So, you have
11 like three different rates, depending on the size of
12 the private fire protection.

13 Q. Yes, I understand that. But I was just trying to do
14 some rough math justice. And, if I'm looking at your
15 exhibit, there's 780 private fire protection customers,
16 --

17 A. (Hartley) Correct.

18 Q. -- and \$494,186 in pro forma present rates. So, I was
19 just doing that calculation, and I assume that's the
20 right calculation,

21 A. (Hartley) That's correct.

22 Q. -- and it's in the neighborhood of \$600 annually?

23 A. (Hartley) Well, depending again on the size.

24 Q. I understand.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 A. (Hartley) So, yes.

2 Q. And, I am just trying to stick with rough justice.

3 A. (Hartley) Sure. That's fine.

4 Q. And, originally, you were talking about a 69.72 percent
5 increase --

6 A. (Hartley) Correct.

7 Q. -- that would get you in the neighborhood of a thousand
8 dollars a year?

9 A. (Hartley) Correct.

10 Q. Okay. And, the Settlement Agreement has reduced the
11 proposed increase to 41.56 percent?

12 A. (Hartley) Correct.

13 Q. Which then would get you an annual rate in the
14 neighborhood of \$850?

15 A. (Hartley) Yes.

16 Q. Okay. Mr. Lenihan, so I wanted to follow up on the
17 questions from Ms. Hollenberg. So, basically, her
18 question got to the point of Staff was agreeing to a
19 graduated approach by agreeing to the 40 percent
20 increase, as opposed to the 70 percent increase?

21 A. (Lenihan) Yes.

22 Q. And, on that basis, you I guess were taking a graduated
23 approach to implementing a redesign/reallocation of the
24 costs, is that a fair statement?

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1 A. (Lenihan) That's correct.

2 Q. Okay. In the reconciliation process, to the extent
3 that whatever we conclude on for permanent rates, will
4 that make customers whole between fire protection
5 customers and municipal customers, if we adopt a
6 different rate?

7 A. (Lenihan) That's my understanding, is that the Company
8 would be made whole revenue-wise, and the customers
9 would be made whole at the end of the proceeding, so
10 that the customers would be paying what the Commission
11 approved in the final -- in the final rate
12 determination. And, they would be -- some may be
13 refunded, if -- depending on what the final rate is,
14 some may see a refund, some may see a surcharge.

15 Q. Well, I guess my --

16 A. (Lenihan) But, for the purposes of this proceeding, the
17 70 percent increase Staff thought was pretty
18 significant to apply to a class of customers without
19 doing a little more investigation. So, it was an
20 attempt to gradually make it to the 70 percent, if, in
21 fact, that is what is going to be recommended in the
22 final rate.

23 Q. Well, I guess my concern was, it seemed that the
24 discussion was going down the path that Staff, by

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 agreeing to reduce the temporary increase from private
2 fire protection customers from 70 percent to
3 40 percent, was shifting costs to municipal ratepayers,
4 and that this somehow, and I know it's a very loaded
5 word, constituted a subsidy in that process. And, I
6 guess I was understanding you to say that the change
7 was an attempt to have a graduated approach to the
8 reallocation process. And, what I wanted to understand
9 was, in the reconciliation process, that whatever our
10 conclusion is on the appropriate allocation of costs
11 between municipal and private fire protection
12 customers, that the appropriate groups of customers
13 will essentially be held harmless?

14 A. (Lenihan) That is correct.

15 Q. Okay.

16 A. (Lenihan) Any subsidy, if there was a subsidy, you want
17 to use that term, would be adjusted back to where there
18 would be no subsidy in a permanent rate --
19 permanent/temporary rate reconciliation.

20 CHAIRMAN GETZ: Okay. Any redirect?

21 MS. KNOWLTON: Yes. Just a few
22 questions for Ms. Hartley.

23 **REDIRECT EXAMINATION**

24 BY MS. KNOWLTON:

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 Q. Ms. Hartley, regarding the revised Cost of Service
2 Study that is attached to the proposed Settlement
3 Agreement in this case, --

4 A. (Hartley) Yes.

5 Q. -- can you explain why that was developed by Mr. Palko?

6 A. (Hartley) The revised Cost of Service Study?

7 Q. Correct, what's attached to the Settlement Agreement.
8 Why was that developed?

9 A. (Hartley) That was developed as the result of the
10 settlement discussions we had on temporary rates with
11 Staff, to allocate the fire protection classes as we
12 had talked about, in a shared pro rata basis.

13 Q. And, that was --

14 A. (Hartley) That's the only --

15 Q. Once you received that study from Mr. Palko, you were
16 then able to create the Report of Proposed Rate
17 Changes, because you had the numbers from that report,
18 correct?

19 A. (Hartley) That is exactly correct, yes.

20 Q. And, that was the sole purpose of his revised study,
21 correct?

22 A. (Hartley) That was the purpose. That was the only
23 change we made to the study.

24 Q. And, if the change -- if this change in allocation of

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 revenues was not made as part of temporary rates, would
2 other customer classes bear a higher percentage
3 increase than what the Company and Staff have agreed
4 to?

5 A. (Hartley) Yes.

6 Q. And, which customer classes would those be?

7 A. (Hartley) Most likely, the bulk of it would come from
8 the general metered customers.

9 Q. And, those are residential customers, correct?

10 A. (Hartley) Yes. They would have to absorb, at this
11 time, I mean, if we were to a -- what you're talking
12 about is an across-the-board increase?

13 Q. That's correct.

14 A. (Hartley) Yes. They would absorb a substantial amount
15 of that cost that should be allocated to fire
16 protection.

17 MS. KNOWLTON: Thank you. I have no
18 further questions for Ms. Hartley or Mr. Leonard.

19 MS. THUNBERG: And, Staff just has a
20 couple follow-ups for Mr. Lenihan.

21 BY MS. THUNBERG:

22 Q. Mr. Lenihan, OCA asked you a question about a
23 Pittsfield Aqueduct Company temporary rate position
24 Staff had taken, and I just want to revisit that. And,

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 I think the gist of the question was "why did Staff
2 feel the need to temper the rate increase for temporary
3 rates in this proceeding, and not so in the PAC
4 proceeding?" I believe was the gist of the question.
5 So, my follow-up is, where there any distinguishing
6 factors, such as capital additions, that would justify
7 Staff's position in each of these cases?

8 A. (Lenihan) Yes, there would be.

9 Q. And, can you explain?

10 A. (Lenihan) In the PAC case, there was, in one of the --
11 for the North Country customers, there was -- the
12 Company had expended a significant amount of capital in
13 those systems, versus in this particular case.

14 Q. Thank you. And, just one other further question about
15 the information Staff reviewed for the Cost of Service
16 Study. Does Staff feel that its reliance on the most
17 recent reports allowed it to have the most reliable
18 cost of service data available to it for this case?

19 A. (Hartley) Could you repeat that question?

20 Q. My question goes to access to reliable data. And,
21 would you consider the Company's most recent
22 submissions in this docket pertaining to cost of
23 service to be more reliable than the data it had prior
24 to this case, and that old data would be the former

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 cost of service study?

2 A. (Hartley) Oh, absolutely. Sure.

3 MS. THUNBERG: Thank you. Those are the
4 only questions Staff had. Thank you.

5 MS. HOLLENBERG: I guess I'm going to
6 have to ask one question.

7 **REXCROSS-EXAMINATION**

8 BY MS. HOLLENBERG:

9 Q. Mr. Lenihan, how do you come to that conclusion, having
10 not analyzed the new Cost of Service Study?

11 A. (Lenihan) Which conclusion is that?

12 Q. The conclusion that you just stated, which is that "the
13 new Cost of Service Study is more reliable than the old
14 one."

15 A. (Lenihan) Oh. Well, simply because the basis of the
16 information in the newer study, subject to check, would
17 reflect more up-to-date figures, up-to-date
18 information. I'm thinking in terms of the information
19 that was in a study that's almost eight years old,
20 versus something that's been updated to reflect more
21 current costs.

22 Q. But you don't know if that study contains any errors,
23 is that correct?

24 A. (Lenihan) Subject to check, that is correct.

[WITNESS PANEL: Leonard|Hartley|Lenihan|LaFlamme]

1 MS. HOLLENBERG: Thank you.

2 CHAIRMAN GETZ: Anything further for
3 these witnesses?

4 MS. KNOWLTON: Nothing further.

5 CHAIRMAN GETZ: Hearing nothing, then
6 you're excused. Thank you. Is there any objection to
7 striking identification and admitting the exhibits into
8 evidence?

9 MS. THUNBERG: None.

10 CHAIRMAN GETZ: Hearing no objection,
11 they will be admitted into evidence. Is there anything
12 else we need to address, before we provide the opportunity
13 for closing statements?

14 (No verbal response)

15 CHAIRMAN GETZ: Hearing nothing, then we
16 will begin with Mr. Alexander.

17 MR. ALEXANDER: I have no statement.

18 CHAIRMAN GETZ: Mr. Richardson?

19 MR. RICHARDSON: Nashua offers no
20 statement.

21 CHAIRMAN GETZ: And, Ms. Hollenberg.

22 MS. HOLLENBERG: Thank you. The Office
23 of Consumer Advocate takes basically a legal or policy
24 position in this case that's similar to one that we've

1 taken in recent cases, where a company has come in and
2 proposed, for temporary rates purposes, that a change be
3 made to the way that rates are allocated. We believe that
4 the statute is very clear in that it requires a review by
5 the Commission to determine a reasonable amount, based on
6 the books and records on file of the Company, for the
7 Company to recover in the interim, while the permanent
8 rate proposal is being fully investigated.

9 I've said before in other cases that the
10 court has recognized that this review is an expedited and
11 cursory review, and it's not one upon which the Commission
12 or the parties should be expected to review and make
13 determinations as to changes to the way that the Company's
14 rates are collected.

15 I would say that we take the position
16 that the Company's revised Cost of Service Study, while it
17 has been admitted as an exhibit, is not fairly
18 characterized as a book and record, full record, under RSA
19 378:27. Rather, we see these types of documents that fall
20 under this category as those including the Company's
21 annual report and other reports to the Public Utilities
22 Commission as are required by its rules, including those
23 that discuss the capital investments that are made between
24 rate cases.

1 Even if the Commission were to disagree
2 with this, and deem that the revised Cost of Service Study
3 is a -- qualifies as a book or record under the statute,
4 we don't believe that the Commission should give this
5 particular study any weight, as it was only provided to
6 the non-signatory parties less than a week ago, after the
7 period of discovery for temporary rates had closed, and
8 the Company did not make the author or its expert for this
9 study available at this, for cross-examination at this
10 hearing. And, I think you heard Ms. Hartley say a couple
11 of times that she was not the expert, and she was not able
12 to answer specific questions about the Cost of Service
13 Study that's before the Commission for approval today --
14 for the settlement approval.

15 Additionally, the Staff has not -- has
16 acknowledged that it has not thoroughly analyzed it. One
17 moment please.

18 (Short pause.)

19 MS. HOLLENBERG: We believe that the
20 plain language of the statute allows the Commission, as I
21 said, to set reasonable -- a reasonable amount for
22 temporary rates. And, as I think the Company will
23 probably point out, but I'll point out now, that OCA does
24 not take a position opposing the amount requested for the

1 purposes of the temporary revenue increase. And, we do
2 acknowledge that, if the Company's proposed revised
3 allocation were not approved, that that might result in
4 increases to other customers, including residential
5 customers. And, despite this, we do take a position that
6 the law and the policy of the Commission should be to not
7 make these changes on a temporary basis. We believe that
8 this is a determination that should be made only after
9 full and fair investigation of the proposed permanent
10 rates, and that, as the parties and Commission have
11 pointed out, that the reconciliation mechanism in the
12 statute will protect the customers who are -- who may be
13 harmed by or temporarily harmed by setting the temporary
14 rates as the current rates are designed.

15 And, the OCA takes no other position on
16 any of the other terms of the Settlement Agreement. Thank
17 you.

18 CHAIRMAN GETZ: Thank you.
19 Ms. Thunberg.

20 MS. THUNBERG: Yes, Mr. Chairman. Staff
21 respectfully requests the Commission approve the
22 Settlement Agreement that was presented by Staff and the
23 Company. Staff has essentially agreed to the Company's
24 proposal for temporary rates, which was filed months ago,

1 and which we've all had discovery. And, also, I note that
2 the parties to this docket had an opportunity to comment
3 on that temporary rate proposal in the prehearing
4 conference and also offering testimony, which was due on
5 Monday.

6 I would like to note, with respect to
7 the Cost of Service Study, Staff and the Company in the
8 last rate case, which was docket 06-073, along with Office
9 of Consumer Advocate, took the position that that last
10 cost of service study was out of date, and recommended the
11 Commission deviate from that cost of service study. And,
12 Staff sees no difference or distinguishing characteristics
13 as to this or Staff's request to deviate from that cost of
14 service study with respect to temporary rates for this
15 case.

16 The only last point Staff requests is
17 that there were positions that are new to Staff and to the
18 Company that were offered by OCA today. And, we would
19 like to ask for an opportunity to respond in writing
20 within 14 days of this hearing. That way we'll have a
21 chance to review the transcript of that position, which I
22 understand will be supplied to the Commission in ten days.
23 Thank you.

24 CHAIRMAN GETZ: I'm really not following

1 that. With respect to the closing statement, is that what
2 you're --

3 MS. THUNBERG: Yes. There were
4 arguments made that are new, that could have been
5 presented either in the prehearing conference or through
6 testimony. And, they -- Staff would like an opportunity
7 to respond to them.

8 MS. HOLLENBERG: And, I'd like to
9 respond. You know, Ms. Thunberg, Staff made this
10 representation in another hearing recently about the fact
11 that the OCA hadn't included the information that it
12 presented in its closing in testimony. And, I really
13 believe that the information that I stated today was
14 legally -- was a legal argument, based on the facts that
15 are in the record. And, I would also say that, because of
16 the incident that happened in a recent hearing, I actually
17 e-mailed both Staff and the Company and told them what my
18 issue was for this hearing.

19 CHAIRMAN GETZ: Well, let's not get into
20 other hearings.

21 MS. HOLLENBERG: Okay.

22 CHAIRMAN GETZ: What I'm trying to
23 understand is precisely the issue that we're dealing with
24 here. Is that, Ms. Thunberg, you're saying you would like

1 an opportunity to respond to Ms. Hollenberg's position
2 that RSA 378:27, with respect to books and records, would
3 -- an interpretation of that would preclude us relying on
4 the Cost of Service Study, is that the issue?

5 MS. THUNBERG: I think that's pretty
6 much distilled down to a single point, yes. Yes, because
7 --

8 CHAIRMAN GETZ: Did I characterize your
9 issue correctly, Ms. Hollenberg?

10 MS. HOLLENBERG: That was one of the
11 bases for not considering it.

12 CHAIRMAN GETZ: Well, that was your
13 legal argument.

14 MS. HOLLENBERG: My legal argument was
15 that -- that it wasn't fairly characterized as a book or
16 record, yes.

17 CHAIRMAN GETZ: And, that's the issue --

18 MS. HOLLENBERG: But, additionally, I
19 argued that it shouldn't be given any weight, because of
20 certain factual circumstances.

21 CHAIRMAN GETZ: Well, yes, I just wanted
22 to -- I'm trying to restrict this to the legal argument.

23 MS. HOLLENBERG: Sure.

24 CHAIRMAN GETZ: And, that's what I was

1 taking, Ms. Thunberg, that you wanted to respond to that
2 specific legal argument?

3 MS. THUNBERG: I would like to reserve
4 the right to look at the transcript again. I mean, I made
5 quick notes as to what the new issues and new positions
6 that OCA was taking today. I think we've hit upon two of
7 them. And, for the completeness of the record, Staff
8 would like an opportunity to respond to those. Again, I
9 cite that we've got a process in place, where parties have
10 a position, that they announce it and not do an end run or
11 ambush parties in the eleventh hour. And, this is what is
12 happening here. And, I think, for the due process rights
13 of the Company and the orderly conduct of this proceeding,
14 that, if we're going to fully explore issues, that there
15 be an ample give-and-take. And, I'm only asking for a
16 right to respond in writing, after I have a chance to look
17 at the transcript.

18 CHAIRMAN GETZ: Okay. Well, for now,
19 let me hear from the Company, a closing statement.

20 MS. KNOWLTON: Closing statement?

21 CHAIRMAN GETZ: And, if you want to
22 address either of the statements by Ms. Hollenberg and
23 Ms. Thunberg.

24 MS. KNOWLTON: Okay. Thank you,

1 Chairman. The Company has presented testimony today that
2 the continuation of the Company's current rates would be
3 confiscatory. The Company is significantly under earning
4 currently as a result of capital improvements that it's
5 made to its water treatment plant that are used and
6 useful, and because of additional increases in operating
7 expenses that the Company has incurred during the test
8 year.

9 All of the capital, as Ms. Hartley
10 indicated, all of the capital expenditures that have been
11 made during the test year that are part of this rate case
12 are currently used and useful. And, we've heard no
13 opposition from anyone here today regarding the revenue
14 requirement that's being proposed for purposes of
15 temporary rates. There is testimony that the rates, as
16 proposed, are just and reasonable and consistent with the
17 public interest.

18 Ms. Hartley also testified that the
19 change in the rate design is important, given that the
20 fire protection customers are not currently paying their
21 fair share. And, Mr. Lenihan testified that it's
22 important to make such a shift at this time to effectuate
23 principles of gradualism in the rates. The Cost of
24 Service Study that the Company is relying on and was

1 marked as an exhibit in this case was filed back in June
2 of 2008, when the Company made its rate case filing. And,
3 that Cost of Service Study was provided as pursuant to the
4 Commission's rules and pursuant to the Settlement
5 Agreement that the Company entered into in its last rate
6 case in DW 06-073.

7 You know, we've also heard testimony
8 that temporary rates are fully reconcilable, and so
9 customers will be made whole at the conclusion of this
10 case wherever the rate design ends up. So, I don't think
11 that there's any particular harm that is going to be
12 caused if this rate design change is made at this point.
13 I am not aware of any law or any policy position that this
14 Commission has taken that would not allow it to make a
15 rate design change for purposes of temporary rates.
16 Ms. Hollenberg did not cite to anything specific with
17 regard to that point. To the extent that there may have
18 been settlement agreements in other cases where rate
19 design changes were not made during temporary rates, I
20 don't think that that constitutes any precedent, policy,
21 law, or otherwise that this Commission is deemed to
22 follow.

23 We do look forward to the opportunity to
24 talk further about rate design, to have discovery taken on

1 rate design issues in this case. But, I think to
2 characterize the revised Cost of Service Study that was
3 marked as an exhibit to the Settlement Agreement as some
4 "new document", you know, is really not fair. Ms. Hartley
5 testified that the sole purpose of that document was to
6 take the Settlement Agreement that was agreed to by the
7 Staff and by the Company and to determine the amount of
8 revenue that was necessary to come from each customer
9 class, so the Company could, you know, could determine
10 what the rates would be were the Commission to approve the
11 Settlement Agreement. So, it's not -- it's not truly a
12 new Cost of Service study, it's just taking the Settlement
13 Agreement and figuring out "how do we distribute the
14 revenues?" And, that was distributed to all the parties
15 on the service list in advance of the hearing, with the
16 draft of the Settlement Agreement that was circulated for
17 all to consider and determine whether they wanted to join
18 in or not.

19 So, in sum, I would ask that the
20 Commission approve the Settlement Agreement as proposed.
21 And, I do believe that it results in rates that are just
22 and reasonable and in the public interest. And, would ask
23 that the Commission act promptly on this request. Thank
24 you.

1 (Chairman and Commissioners conferring.)
2 CHAIRMAN GETZ: Okay. Let me -- I guess
3 the outstanding issue is whether, with respect to
4 Ms. Hollenberg's argument about whether, pursuant to
5 378:27, we can or should rely to any extent on conclusions
6 that could be drawn from the Cost of Service Study, and,
7 Ms. Thunberg, your request to respond in writing. I think
8 we understand the arguments, I don't think there's -- and
9 all the legal and policy issues that are implicated, and
10 we don't find any need for further writings in this case
11 to pursue those issues.

12 So, with that, we will close this
13 hearing and take the matter under advisement. Thank you.

14 (Whereupon the hearing ended at 11:34
15 a.m.)

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