

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

April 26, 2011 - 10:06 a.m.  
Concord, New Hampshire

NHPUC MAY11'11 PM 3:56

RE: DW 10-090  
PITTSFIELD AQUEDUCT COMPANY, INC.:  
Notice of Intent to File Rate  
Schedules.  
(Hearing on Permanent Rates)

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

Sandy Deno, Clerk

APPEARANCES: Reptg. Pittsfield Aqueduct Company, Inc.:  
Sarah B. Knowlton, Esq. (McLane, Graf...)

Reptg. the Town of Pittsfield:  
Laura A. Spector, Esq. (Mitchell Muni. Group)

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

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## WITNESS PANEL

BONALYN J. HARTLEY  
 DONALD L. WARE  
 MARK A. NAYLOR  
 JAYSON P. LAFLAMME

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STEPHEN R. ECKBERG

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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 Docket DW 10-090. On May 6, 2010, Pittsfield Aqueduct filed revised tariff pages designed to increase its annual revenues by \$121,328, or 19.98 percent. We issued an order suspending proposed tariffs and scheduling a prehearing conference on June 4. Prehearing conference was held on July 14th, and subsequently a procedural schedule was approved in this docket. An order on temporary rates was subsequently issued. And, on October 8, 2010, we have this morning scheduled the hearing on permanent rates. And, I'll note that a Settlement Agreement between Staff and the Company was filed on April 21st. And, I'll note as well that a letter was filed by the Consumer Advocate stating that it did not intend to oppose the proposed rate design terms of the Settlement Agreement.

So, with that, can we take appearances please.

MS. KNOWLTON: Good morning, Chairman and Commissioners. My name is Sarah Knowlton. I'm with the McLane law firm. I'm here today for Pennichuck -- excuse me, Pittsfield Aqueduct Company. And, with me today are the Company's two witnesses, Donald Ware and

1 Bonnie Hartley. And, also at counsel's table with me is  
2 Charles Hoepper from the Company.

3 CHAIRMAN GETZ: Good morning.

4 MR. WARE: Good morning.

5 MS. SPECTOR: Good morning. Laura  
6 Spector, from the Mitchell Municipal Group, on behalf of  
7 the Town of Pittsfield.

8 CHAIRMAN GETZ: Good morning.

9 MS. HOLLENBERG: Good morning. Rorie  
10 Hollenberg and Stephen Eckberg here for the Office of  
11 Consumer Advocate.

12 CHAIRMAN GETZ: Good morning.

13 MS. THUNBERG: Good morning,  
14 Commissioners. Marcia Thunberg, on behalf of Staff. And,  
15 with me today is Mark Naylor, Jayson LaFlamme, Jim  
16 Lenihan, and Doug Brogan. And, Staff will be offering Mr.  
17 Naylor and Mr. LaFlamme in today's panel for the  
18 Settlement Agreement. Thank you.

19 CHAIRMAN GETZ: Good morning.

20 Ms. Knowlton, are you ready to proceed?

21 MS. KNOWLTON: I am. Two procedural  
22 matters, if I might, before the witnesses are called to  
23 the stand. The first is I've provided the Commissioners  
24 and all the parties and Court Reporter and the Clerk with

1 a proposed exhibit list, which I have shared in advance  
2 with the parties. And, Exhibits 1 and 2 were marked at  
3 the hearing on temporary rates. And, I would propose that  
4 we mark for identification, starting with "Exhibit 3"  
5 through "Exhibit 8", those items that are listed here.  
6 And, I would note that, for Exhibits 3 and 4, the Staff  
7 and the OCA testimony, that there are multiple pieces to  
8 those, and I've designated them all as one. So, for  
9 example, Staff has testimony of Mr. Naylor, Mr. LaFlamme,  
10 and Mr. Lenihan, and those are all lumped in as "Exhibit  
11 3", and similarly for OCA, Mr. Eckberg and Mr. Rubin's  
12 testimony. So, --

13 CHAIRMAN GETZ: Okay. Is there any  
14 problems with the Exhibit List?

15 MS. THUNBERG: Staff would just suggest  
16 that, with respect to Staff's prefiled direct testimony as  
17 "Exhibit 3", that it just appear in the order that it's  
18 already filed in the docketbook. Whoever's testimony,  
19 whether it was LaFlamme, Lenihan, Naylor, whatever order  
20 that was used for the docketbook, that it be used for the  
21 Exhibit 3. And, also, Staff is not anticipating  
22 authenticating the testimony on the witness stand, and is  
23 just offering that it has no corrections to make to the  
24 testimony under Exhibit 3. Thank you.

1 CHAIRMAN GETZ: Well, let me make sure I  
2 understand.

3 MS. THUNBERG: Sure.

4 CHAIRMAN GETZ: So, then, Exhibit 3,  
5 "Staff Prefiled Direct Testimony", would be the March 4,  
6 2011 filing by Staff, with --

7 MS. THUNBERG: Yes. And, the order  
8 would be Mr. Naylor, Mr. LaFlamme, and Mr. Lenihan. And,  
9 if that is acceptable?

10 MS. KNOWLTON: And, I've provided a copy  
11 in that order to the Clerk. And, I have that for the  
12 Commissioners, if they would want that.

13 CHAIRMAN GETZ: Okay. Well, we'll mark  
14 for identification "Exhibits 3" through "8" as described  
15 in the Exhibit List submitted by Ms. Knowlton.

16 (The documents, as described, were  
17 herewith marked as **Exhibit 3** through  
18 **Exhibit 8**, respectively, for  
19 identification.)

20 MS. KNOWLTON: The other matter is that  
21 the Company filed a Motion for Protective Treatment  
22 yesterday regarding two responses of the Company to OCA  
23 Data Requests 2-6, I believe, and 2-15. So, I wanted to  
24 note for the record that that motion has been filed.

1 CHAIRMAN GETZ: Are there any objections  
2 or positions by any of the other parties on that motion  
3 filed yesterday by Pittsfield Aqueduct?

4 MS. SPECTOR: I have no objection.

5 MS. HOLLENBERG: We have no objection as  
6 well. We were provided the copy yesterday and had a  
7 chance to clarify any questions with PAC's counsel  
8 yesterday. Thank you.

9 CHAIRMAN GETZ: Thank you.

10 MS. THUNBERG: And, Staff has no  
11 objection to the motion. Thank you.

12 CMSR. IGNATIUS: I do have a question,  
13 Ms. Knowlton. The motion addresses two data requests and  
14 responses to requests, I understand. I had a question  
15 about Question 2-6 from the Office of Consumer Advocate  
16 that has customer information on it.

17 MS. KNOWLTON: Uh-huh.

18 CMSR. IGNATIUS: And, in your motion,  
19 you describe it as "confidential customer information".  
20 As I look at the exhibit, I'm not sure if all of it really  
21 relates to confidential matters relating to customers. It  
22 seems like, at least in the four identified matters that  
23 the Consumer Advocate's Office was asking about, they have  
24 to do with mistakes on the part of the meter readers or



1 meters themselves and errors that had to be adjusted, as  
2 opposed to customers who were not keeping up with  
3 accounts.

4 MS. KNOWLTON: Uh-huh.

5 CMSR. IGNATIUS: So, I wonder, tell me  
6 what is it that is confidential and needs protection on  
7 that response to Exhibit 2- -- I mean, Data Request 2-6?

8 MS. KNOWLTON: Sure. I'd be glad to.  
9 And, in particular, I would note the column "customer  
10 name" and "customer account number", that's not  
11 information that the Company customarily makes available,  
12 a list of who its customers are. So, for example, and  
13 without going through and disclosing the names of any of  
14 the customers here, but, on that attachment, it does have  
15 individual's names and their account numbers. And, that's  
16 not information that the Company puts out in the public  
17 domain.

18 CMSR. IGNATIUS: And, what does "CID"  
19 stand for?

20 MS. HARTLEY: "Customer identification".

21 CMSR. IGNATIUS: Which is somehow  
22 different from "account number"?

23 MS. HARTLEY: Yes. I can't see it, I'm  
24 sorry.

1 MS. KNOWLTON: So, the CID number  
2 differs from the customer account number, in that the  
3 account number is specific to that particular customer.  
4 The CID number is associated with that particular meter.  
5 So that, if the customer, you know, if a customer moves  
6 out and the name changes, the CID number is going to stay  
7 the same, so the Company has that method of tracking the  
8 account --

9 CMSR. IGNATIUS: All right.

10 MS. KNOWLTON: -- with that location.

11 CMSR. IGNATIUS: Is -- let me start  
12 again. It seems to me that the interest to the public is  
13 that there have been problems in some accounts in bill  
14 reading. And, so, perhaps there's a way to protect the  
15 customer-specific information without making the entire  
16 document confidential?

17 MS. KNOWLTON: Right. And, the Company  
18 had submitted the document in a redacted form, which was  
19 provided with the motion. I don't know if the  
20 Commissioners have that. And, that was what was produced  
21 when the response was produced. And, I apologize if that  
22 did not make it to you. But the redacted version, which  
23 I'd be glad to share with you now?

24 CMSR. IGNATIUS: I can actually see what

1       you've got there.

2                   MS. KNOWLTON:   Okay.

3                   CMSR. IGNATIUS:   So, that's fine.   That  
4       satisfies my concern.   That there's a public version that  
5       shows the information.   I guess I still wonder, though, on  
6       your redacted one, it looks like the bottom section that  
7       explains what's going on may be redacted as well?

8                   MS. KNOWLTON:   Right.   Let me review  
9       this.

10                   (Short pause.)

11                   MS. KNOWLTON:   I think we made the  
12       redactions because the Company typically doesn't release  
13       information about a particular customer's consumption.  
14       For example, under Note -- Note 4 refers to the amounts of  
15       units that were billed on a particular date.   But, if the  
16       Commission, you know, determines that it's not appropriate  
17       to make those redactions in the explanatory notes, the  
18       Company would be glad to revise the public version to  
19       eliminate those redactions.

20                   CMSR. IGNATIUS:   Well, I think that,  
21       certainly, the (1) through (3) would make sense to be  
22       public, but that's sort of the whole point of the data  
23       request, I think.   Number (4), it ends up really being  
24       customer usage, as opposed to a leak, I guess I see your

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 distinction there. And, personally, I wouldn't be  
2 troubled with that being redacted as you have it, but that  
3 the categories (1), (2), and (3) at the bottom should be  
4 public, I think.

5 MS. KNOWLTON: The Company would be  
6 agreeable to that.

7 CMSR. IGNATIUS: Thank you.

8 CHAIRMAN GETZ: Anything further on the  
9 Motion for Confidentiality?

10 (No verbal response)

11 CHAIRMAN GETZ: Ms. Knowlton.

12 MS. KNOWLTON: Thank you. The Company  
13 calls Donald Ware and Bonalyn Hartley as witnesses.

14 MS. THUNBERG: Staff is also adding Mr.  
15 Naylor and Mr. Lenihan to the panel -- I'm sorry,  
16 Mr. LaFlamme. I apologize.

17 (Whereupon *Bonalyn J. Hartley*,  
18 *Donald L. Ware*, *Mark A. Naylor*, and  
19 *Jayson P. LaFlamme* were duly sworn and  
20 cautioned by the Court Reporter.)

21 **BONALYN J. HARTLEY, SWORN**

22 **DONALD L. WARE, SWORN**

23 **MARK A. NAYLOR, SWORN**

24 **JAYSON P. LaFLAMME, SWORN**

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**DIRECT EXAMINATION**

BY MS. KNOWLTON:

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

A. (Hartley) Bonalyn J. Hartley.

Q. By whom are you employed?

A. (Hartley) Pittsfield Aqueduct Company.

Q. What is your position with the Company?

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

Q. What do those -- what are your job duties with that position?

A. (Hartley) I'm responsible for the Company's customer service, IT, human resources, and regulatory matters for the Company.

Q. Mr. Ware, please state your full name for the record.

A. (Ware) Donald L. Ware.

Q. By whom are you employed?

A. (Ware) The Pittsfield Aqueduct Company.

Q. In what capacity?

A. (Ware) I am President of the Company.

Q. What do your job duties entail?

A. (Ware) I'm responsible for the overall operations of the Company and coordinate with Ms. Hartley relative

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 to, again, the overall operations of the Company,  
2 oversee the engineering and operational side, while Ms.  
3 Hartley oversees the administrative side.

4 BY MS. THUNBERG:

5 Q. Mr. Naylor, could you please state your name and  
6 position with the Commission please.

7 A. (Naylor) Yes. Mark Naylor. I'm the Director of the  
8 Gas and Water Division here at the Public Utilities  
9 Commission.

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

11 A. (Naylor) Yes. I'm responsible for management of the  
12 Gas and Water Division, and supervise the Staff in that  
13 division, and responsible for the Staff's work product.

14 Q. Can you please describe your area of expertise?

15 A. (Naylor) Yes. I have an accounting background and  
16 finance experience in utility ratemaking.

17 Q. And, is your testimony today going to be within that  
18 area of expertise?

19 A. (Naylor) Yes.

20 Q. Mr. LaFlamme, could you please just state your name and  
21 position with the Commission.

22 A. (LaFlamme) My name is Jayson LaFlamme. I'm an Analyst  
23 in the Gas and Water Division of the Public Utilities  
24 Commission.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. And, as an Analyst, can you please describe the  
2 responsibilities that you do at the Commission?

3 A. (LaFlamme) Yes. I review various filings that are  
4 submitted to the Commission from water and sewer  
5 utilities, participate in discovery on those filings,  
6 and prepare testimony and recommendations with regard  
7 to the various filings that come before the Commission  
8 from water and sewer utilities.

9 Q. And, can you please describe what you consider to be  
10 your area of expertise?

11 A. (LaFlamme) Accounting and finance.

12 Q. And, is your testimony today going to be within that  
13 area of expertise?

14 A. (LaFlamme) Yes, it is.

15 MS. THUNBERG: Sarah.

16 MS. KNOWLTON: As I indicated, Exhibit  
17 1, which was marked at the hearing on temporary rates,  
18 includes the Company's initial filing, as well as the  
19 prefiled direct testimony of Ms. Hartley and Mr. Ware.  
20 Ms. Hartley testified at the prehearing conference, and  
21 she did authenticate that testimony at that hearing. And,  
22 I'm going to have Mr. Ware do that with regard to his  
23 prefiled direct testimony, if the Commission would like?

24 CHAIRMAN GETZ: Please.

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1 BY MS. KNOWLTON:

2 Q. Mr. Ware, are you familiar with your prefiled direct  
3 testimony that was filed on May 6, 2010 in this case?

4 A. (Ware) Yes.

5 Q. Was that testimony prepared by you or under your  
6 direction?

7 A. (Ware) Yes, it was.

8 Q. Do you have any corrections to that testimony?

9 A. (Ware) No.

10 Q. If I were to ask you the questions that are contained  
11 in it today, would your answers be the same?

12 A. (Ware) Yes.

13 Q. Mr. Ware, have you filed joint rebuttal testimony  
14 that's been marked for identification as "Exhibit 5"?

15 A. (Ware) Yes.

16 Q. And, was that testimony prepared by you or under your  
17 direction?

18 A. (Ware) Yes, it was.

19 Q. And, do you have any corrections to it?

20 A. (Ware) No.

21 Q. If I were to ask you the questions that are contained  
22 therein today, would your answers be the same?

23 A. (Ware) Yes, they would.

24 Q. Ms. Hartley, I'll ask you the same questions regarding



[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 the joint rebuttal testimony. Was that prepared by you  
2 or under your direction?

3 A. (Hartley) Yes, it was.

4 Q. And, to clarify, I mean, Mr. Ware has indicated that it  
5 was prepared by him, but did you assist in the  
6 preparation with Mr. Ware?

7 A. (Hartley) Yes.

8 Q. Do you have any corrections to that testimony?

9 A. (Hartley) No, I do not.

10 Q. If I were to ask you the questions contained in that  
11 testimony today, would your answers be the same?

12 A. (Hartley) Yes, they would.

13 Q. I'll ask you now to look at the document titled  
14 "Settlement Agreement - Permanent Rates" that's been  
15 marked for identification today as "Exhibit 6". Do you  
16 have that before you, Ms. Hartley?

17 A. (Hartley) I do.

18 Q. And, Mr. Ware?

19 A. (Ware) Yes.

20 Q. Ms. Hartley, did you participate in the development of  
21 the Settlement Agreement on behalf of the Company?

22 A. (Hartley) I did.

23 Q. And, Mr. Ware, did you do as well?

24 A. (Ware) Yes, I did.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. Okay. Ms. Hartley, I'll ask you to look at  
2 Section II.A, "Revenue Requirement; Rate Base; Rate of  
3 Return; [and] Capital Structure", which begins on Page  
4 1. Would you describe for the Commission what the  
5 Company has agreed to with regard to those subjects?

6 A. (Hartley) Yes. The Company has agreed to, for  
7 permanent rates, \$713,242 revenue requirement, based on  
8 a pro forma test year of 2009. The rate base -- it was  
9 also based on a rate base of \$1.9 million, and  
10 operating expenses of \$376,763. The overall rate of  
11 return is 7.6 percent. And, that's based on a cost of  
12 equity of 9.75 percent and a cost of long-term debt of  
13 7.0 percent, with a capital structure of 49.5 percent  
14 for debt and 50.5 percent equity. Therefore, the  
15 Settling Parties agreed to a revenue increase of  
16 \$105,983, or 17.45 percent, for permanent rates.

17 Q. Is the test year a December 31st, 2009 test year?

18 A. (Hartley) Yes, it is.

19 Q. Ms. Hartley, how does the -- how does the revenue  
20 requirement that's been set compare to what the  
21 Commission approved for temporary rates in this case?

22 A. (Hartley) For temporary rates, the Commission approved  
23 a 10 percent increase. And, this will be a  
24 17.45 percent increase. I believe, for temporary

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 rates, and subject to check, it was around \$60,000 of  
2 additional revenue.

3 BY MS. THUNBERG:

4 Q. Mr. Naylor, I just wanted to ask you, with respect to  
5 Exhibit 6, the Settlement Agreement on Permanent Rates,  
6 did you participate in the creation of that document?

7 A. (Naylor) Yes, I did.

8 Q. And, are you familiar with the terms of that document?

9 A. (Naylor) Yes, I am.

10 Q. Do you have any changes or corrections to make to that  
11 document?

12 A. (Naylor) No.

13 Q. Okay. Mr. LaFlamme, I'd like to ask you if you are  
14 familiar with the Settlement Agreement?

15 A. (LaFlamme) Yes, I am.

16 Q. Did you participate in the creation of that document?

17 A. (LaFlamme) Yes, I did.

18 Q. And, are you aware of any corrections or changes to be  
19 made to that document?

20 A. (LaFlamme) No.

21 Q. And, Mr. LaFlamme, do you have the Settlement Agreement  
22 before you?

23 A. (LaFlamme) Yes, I do.

24 Q. I wanted to turn your attention to Page 1, the "Revenue

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Requirement" section, and ask you how Staff came to  
2 agree to the 17.45 overall -- or, increase in the  
3 revenue requirement?

4 A. (LaFlamme) Basically, Ms. Hartley has covered the  
5 details. The Staff and the Company came to an  
6 agreement on the revenue requirement, based upon the  
7 examination of the discovery that was submitted to the  
8 Company and the Company's responses. And, based upon  
9 that discovery, the Company and Staff made a series of  
10 adjustments to the Company's original filing, resulting  
11 in the permanent rate proposal that's being presented  
12 today.

13 Q. And, Mr. LaFlamme, those adjustments are shown on  
14 Attachment A, should we need to get into any details,  
15 is that correct?

16 A. (LaFlamme) Yes, they are.

17 Q. Okay. Was an audit done of the Company's books and  
18 records for this rate case?

19 A. (LaFlamme) Yes, it was.

20 Q. And, does Staff have an opinion as to the Company's  
21 rate base, whether the items that are included in this  
22 revenue requirement from rate base are prudent, used  
23 and useful?

24 A. (LaFlamme) Yes. Based upon the audit that was

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 performed by the Commission Staff, as well as based  
2 upon the Gas and Water Division's discovery and the  
3 examination of the responses from the Company, Staff  
4 does believe that the rate base is prudent and used and  
5 useful.

6 MS. THUNBERG: Thank you.

7 BY MS. KNOWLTON:

8 Q. Ms. Hartley, does the Settlement Agreement provide for  
9 a step adjustment?

10 A. (Hartley) It does.

11 Q. What is the amount of the step adjustment that the  
12 Company agreed to?

13 A. (Hartley) The amount is \$19,339 of additional revenues,  
14 reflecting a 3.18 percent increase.

15 Q. Mr. Ware, would you please describe what's behind the  
16 step adjustment, what improvements were made that are  
17 included in it?

18 A. (Ware) Yes. The New Hampshire Department of  
19 Environmental Services carries out annual dam  
20 inspections. And, in 2007, I believe was when they  
21 completed an inspection of the Berry Pond Dam. And,  
22 there had been a change in the underlying rules and  
23 regulations governing dam classification. And, as a  
24 result of that, the dam was reclassified, and it was

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1 necessary to make certain changes to the dam, in terms  
2 of spillway capacity and downstream slope of the dam  
3 that required the work that we did during, basically,  
4 2010.

5 Q. Is the dam necessary to provide services to the  
6 Pittsfield Aqueduct customers?

7 A. (Ware) Yes. The dam provides the impoundment for the  
8 water supply for the Town of Pittsfield.

9 Q. And, when you refer to the "Town of Pittsfield", you  
10 mean those customers that are in the Town?

11 A. (Ware) Yes. Those customers that are on the Pittsfield  
12 Aqueduct Company's water system.

13 Q. Is that plant that's associated with the step used and  
14 useful?

15 A. (Ware) Yes, it was. All work was completed before the  
16 end of October 2010.

17 Q. And, has that -- has the step increase been audited by  
18 the Commission Staff?

19 A. (Ware) It's my understanding that the step increase has  
20 been audited. Oh, excuse me. It is in the process of  
21 being audited.

22 Q. Ms. Hartley, is it your understanding then that none of  
23 the step -- excuse me -- the amount of the step  
24 increase is subject to that Final Audit Report?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Hartley) Yes.

2 Q. And, when, Ms. Hartley, when would the step increase  
3 take effect, based on what the Settlement provides?

4 A. (Hartley) The step increase would take effect at the  
5 time permanent rates are approved by this Commission.

6 BY MS. THUNBERG:

7 Q. Mr. LaFlamme, I just wanted to cover a few questions on  
8 the "Step Adjustment" section of the Settlement  
9 Agreement. And, is it Staff's understanding that this  
10 -- the step adjustment was for a project required by  
11 DES?

12 A. (LaFlamme) Yes.

13 Q. And, can you give a -- the language of the Settlement  
14 Agreement says that "the amount is subject to final  
15 audit by Staff." Could you please provide an update of  
16 where the final audit is?

17 A. (LaFlamme) The Audit Staff of the Commission is  
18 currently examining the construction invoices for the  
19 improvements made to the Berry Pond Dam. We expect  
20 that that examination will be completed relatively  
21 quickly. And, at which time a report will be submitted  
22 by the Audit Staff. And, as indicated in the  
23 Settlement Agreement, the amount of the step increase  
24 is subject to that report that will be submitted by the

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Audit Staff.

2 Q. I just want to clarify, because we have a missing link  
3 in our document. We have a -- we're asking the  
4 Commission to approve a number that we don't know  
5 what's final yet. And, the mechanism for getting that  
6 final number on the record is what's going to happen,  
7 if you could please describe, after the Final Audit  
8 Report?

9 A. (LaFlamme) When the Final Audit Report is submitted, I  
10 anticipate that correspondence will be submitted to the  
11 Commission indicating the finalized amount that will be  
12 proposed for the step increase.

13 Q. Thank you for that clarification. I just have a  
14 question. With respect to "prudent, used and useful",  
15 is that issue going to be resolved in the -- or,  
16 addressed by the Final Audit Report?

17 A. (LaFlamme) Yes.

18 Q. And, as far as the step adjustment, is it your  
19 understanding that it's not going to be reconciled as  
20 similar to temporary/permanent rates?

21 A. (LaFlamme) Correct.

22 Q. Were any of the capital additions in the step  
23 adjustment used for the rate base part of the  
24 calculation of the revenue requirement? Were any of

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1 the step components used for the permanent rate  
2 calculation?

3 A. (LaFlamme) No. No, they were not.

4 BY MS. KNOWLTON:

5 Q. Ms. Hartley, if you would now turn to Section II.C on  
6 Page 3, which pertains to "Rate Design". Did the  
7 Company perform a cost of service study in association  
8 with the filing of this rate case?

9 A. (Hartley) Yes, we did.

10 Q. Would you describe generally what that -- what that  
11 study concluded?

12 A. (Hartley) Well, generally, the Company proposed a shift  
13 of revenues from the volumetric rate to the fixed  
14 charge for cost allocation purposes. It was about a  
15 22 percent shift for metered customers. And, we also  
16 proposed that the number of customers taking service  
17 via the 5/8ths meters -- well, no. Sorry. I  
18 apologize. Back up. That was part of the settlement.  
19 And, other than that, the traditional allocation of  
20 costs for the various customer classes was typically  
21 typical of what you would find at the Commission.

22 Q. At the time that temporary rates were set in this  
23 docket, were there any changes to the rate design?

24 A. (Hartley) No. It was agreed on that we would put off

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1 any rate design changes until Staff and others could  
2 have an opportunity to full discovery regarding and  
3 time to look at the merits of the study in relationship  
4 to this case.

5 Q. Does the Settlement Agreement regarding rate design  
6 differ than what the Company had initially proposed  
7 with regard to rate design?

8 A. (Hartley) Yes. For purposes of settlement, the Company  
9 agreed to no change in rate design methodology, in  
10 terms of the shift that we had -- that had been  
11 proposed from the volumetric component to the fixed  
12 component. And, we also agreed that the percentage  
13 increase to the customer charge would be no more than  
14 the overall increase that is being proposed for the  
15 permanent rates, which is 17.45 percent. And, in this  
16 case, the step, if approved, it would be 3.18 percent.

17 Also, we settled on an adjustment to the  
18 number of customers that would be calculated in the  
19 revised cost of service study. The Company had been  
20 experiencing many accounts in Pittsfield, several  
21 accounts in Pittsfield, over 10, about 10 accounts,  
22 that had been deactivated, foreclosed on properties.  
23 And, as of the time of settlement, there was no vision  
24 that these properties would even be sold or be occupied

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1 by residents. So, the Company requested that the  
2 Staff, as part of the settlement, would consider some  
3 revision to the cost of service study to at least  
4 decrease the number of 5/8ths meters by the ten  
5 customers. As an overall comprehensive settlement, we  
6 agreed to a decrease of five. So, basically, when the  
7 cost of service study is revised, it will reflect only  
8 five, five less 5/8ths meters for purposes of  
9 calculating the customer charge.

10 Q. And, is that because the Company does not have a  
11 reasonable expectation that it will receive any revenue  
12 from those accounts?

13 A. (Hartley) That's correct. Many of these homes have  
14 been empty and either foreclosed on, or we're not sure  
15 of what the situation is in the homes, but they are  
16 vacant. And, as of today even, there is no usage on  
17 these meters. We can't get into the homes to even  
18 check the meters, because they're vacant. Nobody's  
19 occupying them. And, we have no vision as to when  
20 these homes will be sold or occupied. So, there was a  
21 compromise made for five, an adjustment of five.

22 Q. For what period of time, I realize it may vary account  
23 by account, but, generally, what period of time have  
24 those accounts been inactive?

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1 A. At least six months, and, in many cases, longer than  
2 that, a year, 18 months. And, the policy now for the  
3 Company is that, if an account has no activity for over  
4 six months, we just stop billing it, because there's no  
5 hope that we're going to receive any usage from it, and  
6 it was best to just stop and then send them to  
7 collection. We have not received any reimbursement on  
8 those -- collections on those accounts either.

9 Q. How do you determine that there's been no usage?

10 A. (Hartley) We read it, we try to read it as we go  
11 through as our normal reading routes are set up. And,  
12 there has been no record of any usage. And,  
13 furthermore, we have even gone to the door, we've  
14 checked the properties to see if anybody would respond,  
15 and there has been no response.

16 Q. You referred to a revised cost of service study. Is  
17 that the document that's been marked for identification  
18 as "Exhibit 8"?

19 A. (Hartley) Yes.

20 Q. Could you explain what that document is?

21 A. (Hartley) That is the revised cost of service study  
22 that was prepared by Mr. Palko, who is our expert  
23 witness for the cost of service. And, that reflects  
24 the adjustment of the 5/8ths meters for purposes of

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1 customer charge, and also reflects the reduction of the  
2 first recommendation, where we had shifted costs from  
3 the volumetric to the fixed. And, this particular cost  
4 of service study is done and comports with what has  
5 been traditionally accepted at this Commission. In  
6 addition to that, it also reflects the increase of the  
7 5/8ths meter customer charge at only 17.45 percent for  
8 the perm, and, if approved, 3.18 percent for the step.

9 Q. You referred to Mr. Palko as the Company's "expert  
10 witness". Just for purposes of clarifying the record,  
11 he's not testifying in this docket on behalf of the  
12 Company, correct?

13 A. (Hartley) No.

14 Q. But he performed the cost of service study?

15 A. (Hartley) Yes. He --

16 Q. -- initially?

17 A. (Hartley) Yes. He had performed the study originally,  
18 but the Company did not see any need to have him  
19 present today as all the parties have agreed or settled  
20 on the revised cost of service study as prepared and as  
21 submitted as an exhibit today.

22 Q. And, to your knowledge, his initial cost of service  
23 study was submitted with the Company's initial filing  
24 in this case, correct?

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1 A. (Hartley) It was.

2 Q. Ms. Hartley, I'd ask you next to look at Section D,  
3 II.D, on Page 3, which covers the rate impact of the  
4 Settlement Agreement. Would you please describe how  
5 the proposed rate increase will flow through to  
6 customers? How it will affect them?

7 A. (Hartley) Yes, I will. The Settling Parties agreed to  
8 an overall increase for the general metered customers  
9 of 15.32 percent. Therefore, for the average  
10 residential customer with a 5/8ths meter, based on an  
11 average monthly usage of 5.93 one hundred cubic feet of  
12 usage, the annual bill is approximately \$674.76.  
13 That's an increase of approximately \$103.61 per year,  
14 or \$8.63 per month.

15 With the step adjustment, there will be  
16 an additional increase of approximately \$18.22 per  
17 year, or \$1.52 per month for the average residential  
18 customer. The increase for fire protection, for  
19 private fire protection services is 8.95 percent, and,  
20 for public, 27.31 percent. Including the step  
21 adjustment, the increase for private fire protection is  
22 11.9 percent, and, for public fire protection services,  
23 30.76 percent.

24 Q. Would you -- you just referenced the impact on the

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1 average residential customer bill, if you would look at  
2 Exhibit 7.

3 A. (Hartley) Yes.

4 Q. Do you have that before you?

5 A. (Hartley) I do.

6 Q. And, is that the basis for those, that that reflects  
7 those numbers that you just referenced?

8 A. (Hartley) It does.

9 Q. And, would you look at -- it's Bates Page 27, it's the  
10 last page of the Settlement Agreement, and particularly  
11 Exhibit 6, labeled "Attachment C".

12 A. (Hartley) Yes.

13 Q. Would you identify what this document is?

14 A. (Hartley) This document shows the combined increase for  
15 both the permanent and the step increase for the  
16 customer classes on the Report of Proposed Rate  
17 Changes. It shows that the increase for the general  
18 metered, combined, is 18.44 percent; for private fire  
19 protection, 11.9 percent; and, for the public hydrant,  
20 30.76 percent, overall increase, including the step and  
21 the perm, of 20.67 percent, or additional revenues of  
22 \$125,470.

23 Q. Continuing on with Section E, which begins on Page 4,  
24 begins and ends on Page 4, which is the "Effective Date

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1 for Permanent Rates and [the] Step Adjustment". Would  
2 you please explain what the Company has agreed to in  
3 that provision?

4 A. (Hartley) Yes. The permanent increase shall be  
5 effective for all services rendered on or after  
6 June 16th, 2010. And, the first effective date of  
7 temporary rates is in accordance with the Order Number  
8 25,154. And, there will be a reconciliation of the  
9 difference between temporary rates and permanent rates  
10 from the period of June 16th, and I believe the order  
11 for temporary rates was October 8th. Then, there will  
12 be a reconciliation between the permanent rates that  
13 were awarded -- are awarded and when temporary rates  
14 were set, on October 8th.

15 Q. How would that be reflected on customer bills?

16 A. (Hartley) That will be reflected as a separate line  
17 item. And, our system will calculate what that  
18 recoupment will be on an individual basis for each  
19 customer, depending on their usage, during the period  
20 -- during this period of time.

21 Q. And, is the step adjustment reconcilable back to that  
22 June 16th date?

23 A. (Hartley) No. The step increase takes effect at the  
24 time this Commission approves permanent rates.

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1 BY MS. THUNBERG:

2 Q. Mr. LaFlamme, I just wanted you to clarify what Staff's  
3 role is with respect to the temporary and permanent  
4 recoupment that's described in the paragraph. What  
5 happens?

6 A. (LaFlamme) Well, we're anticipating, like what's  
7 happened in previous rate proceedings, that the Company  
8 will submit a proposal for temporary rate recoupment,  
9 as well as rate case expenses. That proposal will be  
10 examined by Staff. And, the Staff will then submit a  
11 recommendation to the Commission for their approval.

12 MS. THUNBERG: Thank you.

13 BY MS. KNOWLTON:

14 Q. Ms. Hartley, if you now turn to Section II.F on Page 4,  
15 "Rate Case Expense Surcharge".

16 A. (Hartley) Uh-huh.

17 Q. Does the Settlement allow for the recovery of rate case  
18 expense?

19 A. (Hartley) It does.

20 Q. What does it provide?

21 A. (Hartley) At this time, the Company's estimating rate  
22 case's expenses around \$55,000. On a per customer  
23 basis, that would be about \$85 over a 12-month period.  
24 We would bill that, a portion of that, each month,

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1 which results in \$7.08 per customer. Again, the number  
2 is not finalized. We understand we have to file the  
3 final results with the Staff, and it has to be approved  
4 by the Commission. It's only an estimate for today's  
5 purposes.

6 Q. What type of expenses are included in the Company's  
7 rate case expense?

8 A. (Hartley) Legal, consulting, some mailing, some  
9 notifications that were ordered by the Commission in  
10 different papers, and some -- I think, just some  
11 miscellaneous expenses of a nature that were relative  
12 to the case.

13 Q. How will the rate case expense appear on the customers'  
14 bills?

15 A. (Hartley) The rate case expense will be a separate line  
16 item also.

17 Q. Mr. Ware, I would ask you to turn now to Section II.G,  
18 starting on Page 5, the "Water Infrastructure and  
19 Conservation Adjustment Charge Pilot Program".

20 A. (Ware) I'm there.

21 Q. Are you familiar with that provision?

22 A. (Ware) Yes.

23 Q. Would you please describe what the Settlement allows  
24 with regard to what we've referred to here as the

1 "WICA".

2 A. (Ware) Yes. The Settlement allows for a pilot program,  
3 and the parameters of the program govern the types of  
4 facilities that would be eligible for a WICA charge,  
5 which, in this case, is the replacement of water mains,  
6 valves, services, and hydrants. And, it limits the  
7 surcharge in any one year to a maximum increase of  
8 5 percent, and then the maximum increase in rates  
9 between full rate cases of seven and a half percent.

10 The plan in Pittsfield, because the  
11 utility is relatively small, is to do projects on a  
12 two-year cycle, rather than an every year cycle. So,  
13 if you were to look at the Aquarion Pilot, there was a  
14 limit of I believe it was two and a half percent per  
15 year. But, again, due to the small nature of  
16 Pittsfield and the fixed cost of doing a project, we  
17 believe that it's better for the customers to go every  
18 two years and do a larger project, in order to avoid,  
19 again, mobilization, demobilization, you know, contract  
20 oversight that doesn't vary with the size of the  
21 contract. And, that's why we propose basically a plan  
22 with a 5 percent cap. That then allows us to do a  
23 program every two years. And, the plan is is to do a  
24 cycle every two years, where we do a certain amount of

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1 the project.

2 And, the plan would involve our  
3 preparing and submitting to the Public Utilities  
4 Commission our plan for the next three project periods.  
5 And, so, we would submit before December of the year  
6 that we would anticipate the first WICA project a  
7 listing of the anticipated projects over the next three  
8 cycles. And, you know, the driver, in the case of  
9 Pittsfield, typically, we try to coordinate with the  
10 communities on their paving schedules. There's  
11 approximately 13,600 feet of unlined cast iron water  
12 main that needs to either be rehabilitated or replaced.  
13 We try to do that in conjunction with the Town, that  
14 helps reduce paving costs. And, so, the schedule would  
15 be to try to coordinate our schedule with the towns,  
16 put together a program that would be submitted both to  
17 the Commission and also to the community, to the Town,  
18 so that people are aware of the program, also notifying  
19 the customers of the intent to do a WICA filing at  
20 least 30 days in advance of the filing.

21 Q. Mr. Ware, does the Settlement provide for the ability  
22 for Staff or a party to, if they have a concern about a  
23 project that's been proposed, to come to the  
24 Commission?

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1 A. (Ware) Yes, it does.

2 Q. Okay. And, if you'd look on Page 6, can you refer to  
3 that provision please?

4 A. (Ware) Provision Number 3 of the proposed pilot says  
5 that "Staff or any party may request a hearing prior to  
6 the Commission's granting approval for a project to  
7 become eligible for cost recovery through the WICA."

8 Q. And, are there any limitations in terms of, I mean,  
9 does the property need to be used and useful before it  
10 could actually go into customer rates through the WICA  
11 mechanism?

12 A. (Ware) Yes.

13 Q. And, does the Settlement provide for the inclusion of  
14 property tax in the calculation of the WICA amount?

15 A. (Ware) Yes, it does.

16 Q. How would that work?

17 A. (Ware) What would happen is is that, we'll take as an  
18 example, for instance, if we were to file for a WICA  
19 project in -- or, a WICA filing at the end of this  
20 year. We have to put our filing in before the end of  
21 the year identifying, in this case, the projects that  
22 are expected in the next three cycles. Assuming that  
23 there were no objections, we would complete that, the  
24 associated projects in 2012, submit those projects to

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1       Audit, to the Staff, at the end of the projects. The  
2       Staff then audits those projects and makes a  
3       determination as to the costs that are allowed in the  
4       WICA charge. And, part of the costs would be the  
5       return on the investment in the WICA project, but also  
6       the associated property tax expense, which would be  
7       calculated based on the value of the project and the  
8       current property tax rate in effect in the community at  
9       the time. And, then, at the end of that year, as it's  
10      noted here, the property tax would be trued up in the  
11      following year to what the actual property taxes were,  
12      in terms of the -- through the WICA charge.

13   Q.   How would the WICA be reflected on customer bills?

14   A.   (Ware) It would be a separate line item that would  
15      indicate "WICA Surcharge".

16   Q.   And, can you, if you look at Page 8, Section or  
17      Paragraph Number 8, would you walk us through how that  
18      would be determined, that actual amount?

19   A.   (Ware) Yes. The WICA Surcharge Amount, again, which  
20      would be a function of the return on the investment and  
21      the property tax expenses and depreciation expenses  
22      associated with the infrastructure that went in, so a  
23      total amount would be calculated in the terms of a  
24      revenue requirement. That would be divided by the

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1 total effective portion of revenues that are impacted,  
2 and then a percentage would come up. Let's say it was,  
3 in this case, it has to be less than five, so let's say  
4 it was 4.8 percent. That 4.8 percent that would be --  
5 then would be applied uniformly against the effective  
6 portion of all of the bills within the Pittsfield  
7 Aqueduct Company.

8 Q. Does the Settlement provide for a termination of the  
9 WICA process?

10 A. (Ware) Yes. In Paragraph 9, it indicates that  
11 "implementation of the WICA is on a pilot basis and may  
12 be modified or discontinued by the Commission."

13 Q. And, if you look at Paragraph 9, on Page 8, it refers  
14 more specifically to when it would terminate, is that  
15 right?

16 A. (Ware) Yes. It says the WICA Pilot "shall  
17 automatically terminate at the time of a final order in  
18 the Company's next general rate case, unless it is  
19 extended by the Commission in such order."

20 BY MS. THUNBERG:

21 Q. Mr. Naylor, I have a few questions about the WICA  
22 Program for you. Are you familiar with the only other  
23 pilot that the Commission has approved for a water  
24 utility?

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Naylor) Yes, I am.

2 Q. And, can you please explain how closely this WICA  
3 Program for Pittsfield Aqueduct Company, how closely  
4 does this model the Aquarion WICA Pilot?

5 A. (Naylor) Very closely. Very closely. I would say the  
6 major exception here, as Mr. Ware indicated, is that  
7 the Company would be completing projects on an  
8 every-over-year basis.

9 Q. Now, from Staff's perspective, can you please identify  
10 what some of the benefits or goals to either customers  
11 or Companies -- or Company Staff's expecting out of  
12 this Pilot?

13 A. (Naylor) Well, I think there are several important  
14 benefits of the program. And, I think we're -- we  
15 still, obviously, have a pilot in place for Aquarion,  
16 we have not evaluated that yet on a total review basis,  
17 that remains to come. But I think the emphasis with  
18 the WICA Programs is on existing infrastructure. It's  
19 emphasizing rehabilitation or replacement of existing  
20 infrastructure. It has the potential, certainly, to  
21 mitigate rate shock, because the Company will be  
22 permitted to implement a surcharge between rate cases,  
23 so that that we certainly hope will mitigate rate shock  
24 going forward into the future. We certainly hope that

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1 it will extend the time between rate cases, and that  
2 certainly can be a benefit. And, I think significantly  
3 as well, it requires the Company to work closely with  
4 the communities in which it provides service, to  
5 coordinate with the communities on, as Mr. Ware  
6 indicated, with respect to projects that the city or  
7 town may be undertaking, whether it's sewer or paving.  
8 And, so, that would be taken into account when the  
9 Company proposes its budget programs going forward.

10 So, I think there's a number of benefits  
11 both to customers and to the Company. Certainly,  
12 purely from the Company's perspective, it does speed up  
13 the cash flows, and hopefully that is an incentive to  
14 increase the rate of infrastructure replacement. And,  
15 if the rate of replacement is sped up over time, then,  
16 certainly, you're going to have a more reliable  
17 distribution system. So, I think there's a number of  
18 benefits that we see with the program. It's been done  
19 in a number of other states. It's ongoing in a number  
20 of other states. And, I think the consensus is, it's  
21 been a very successful program. We want to, from  
22 Staff's perspective, we want to see benefits both to  
23 the Company and the customer, and I believe -- I  
24 believe we will.

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1 Q. Mr. Naylor, I just want to have you, I guess, compare  
2 and contrast a bit this WICA Program as opposed to the  
3 E-22 process that the Commission already has in place.

4 A. (Naylor) The E-22 forms are required by administrative  
5 rule. They are required to be filed based on the total  
6 dollar value anticipated for a particular capital  
7 project, based on a threshold of I believe net plant in  
8 service. So, the E-22 process would continue. It's an  
9 advisory filing, if you will. When a company submits  
10 an E-22, it gives the Staff an opportunity to review  
11 it, understand what project the company is undertaking,  
12 do any review, informal review that we feel is  
13 appropriate, and engage the company in discussions, if  
14 we need to.

15 The WICA Program, on the other hand, is  
16 specifically for existing infrastructure of the system,  
17 particularly a distribution system. There will be a  
18 more extensive review of projects necessarily in the  
19 WICA, because it is established as a formal process,  
20 although a relatively brief process. And, certainly  
21 gives the Staff, the Consumer Advocate's Office, and  
22 the communities in which the Company operates the  
23 opportunity to participate in the discussions about  
24 priority and so forth. So, substantially different

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1 process and different purpose than the E-22 filings.

2 MS. THUNBERG: Thank you.

3 BY MS. KNOWLTON:

4 Q. Ms. Hartley, in your opinion, is the Settlement  
5 Agreement in its totality in the public interest?

6 A. (Hartley) Yes.

7 Q. Why do you think that is?

8 A. (Hartley) Well, I believe it gives the Company a fair  
9 opportunity to earn its return. I believe the rates  
10 are reasonable and just. And, it provides a mechanism  
11 for ongoing system improvements.

12 Q. Mr. Ware, do you have an opinion on that issue?

13 A. (Ware) Yes. I believe for the same reasons that  
14 Ms. Hartley indicated that the Settlement is in the  
15 public interest.

16 MS. KNOWLTON: Thank you.

17 BY MS. THUNBERG:

18 Q. Mr. Naylor, do you have an opinion as to the just and  
19 reasonableness of the rates that are produced by the  
20 Settlement Agreement?

21 A. (Naylor) Yes. I believe they are just and reasonable.

22 Q. Mr. LaFlamme, do you have an opinion as to whether the  
23 Settlement Agreement produces just and reasonable rates  
24 for customers?

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1 A. (LaFlamme) I also believe that the rates that are being  
2 proposed are just and reasonable.

3 MS. THUNBERG: The Staff has no further  
4 questions for the panel.

5 MS. KNOWLTON: And neither does the  
6 Company.

7 CHAIRMAN GETZ: Thank you. Ms. Spector?

8 MS. SPECTOR: I have no questions. And,  
9 just for the Commission's information, the Town is taking  
10 no position on the Settlement Agreement.

11 CHAIRMAN GETZ: Thank you.

12 MS. SPECTOR: Thank you.

13 CHAIRMAN GETZ: Ms. Hollenberg.

14 MS. HOLLENBERG: Thank you. Good  
15 morning.

16 **CROSS-EXAMINATION**

17 BY MS. HOLLENBERG:

18 Q. Mr. Naylor, I'd like to start with some questions for  
19 you. Do you agree that it was Staff's original  
20 position in your testimony in the Aquarion case that  
21 the WICA necessitates a reduction to the return on  
22 equity proposed by the Company?

23 A. (Naylor) That's correct.

24 Q. And, you recommended this because the WICA reduces risk

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1 inherent in the provision of traditional utility  
2 services. Do you agree?

3 A. (Naylor) Yes.

4 Q. And, that was also because the WICA Surcharge provides  
5 greater benefits to the utility than to the customer?

6 A. (Naylor) Yes.

7 Q. And, you testified in this case that the WICA reduces  
8 regulatory lag, speeds up cash flows, and mitigates  
9 litigation risk for the utility. Do you agree?

10 A. (Naylor) Yes, I did.

11 Q. Okay. You suggested that one way to address the  
12 shifting of risks to the customers was to eliminate or  
13 restrict granting step adjustments. Do you recall  
14 that?

15 A. (Naylor) Yes, I do.

16 Q. And, does the Settlement Agreement recommend or  
17 restrict or limit the step adjustment proposed by the  
18 Company in its initial filing?

19 A. (Naylor) No, it does not.

20 Q. And, is there any adjustment in the Settlement  
21 Agreement for the Company's return on equity?

22 A. (Naylor) Adjustment from what the Company requested?

23 Q. Yes.

24 A. (Naylor) There is none.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. Thank you. When you were participating in the Aquarion  
2 case, do you recall testifying that the WICA Surcharge  
3 was a "significant change to the traditional method of  
4 ratemaking"?

5 A. (Naylor) I don't recall that, but I would agree that's  
6 probably what I said.

7 Q. And, it was Staff's opinion at that time that the PUC's  
8 existing framework for setting rates had worked well?

9 A. (Naylor) Yes.

10 Q. In the Aquarion rate case, they proposed review  
11 processes that are similar to those provided in the  
12 Settlement Agreement in this case, do you agree with  
13 that?

14 A. (Naylor) Yes.

15 Q. And, it was Staff's opinion that you did not believe  
16 that the mechanism -- the WICA mechanism provided for  
17 changes to customer rates -- excuse me, one moment  
18 please. And, despite the processes proposed by  
19 Aquarion, you testified that you "did not believe that  
20 mechanisms that provide for changes to customer rates  
21 without a full analysis of all of the utility's costs  
22 are particularly fair to customers." Do you recall  
23 that?

24 A. (Naylor) Yes, I do.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. And, you stated that they "may further upset the  
2 balance of risk in utility ratesetting"?

3 A. (Naylor) Yes.

4 Q. Do you dispute -- I take it from the testimony today,  
5 as well as conversations that we've had in this docket,  
6 do you dispute that the Aquarion WICA was a pilot  
7 program?

8 A. (Naylor) I do not dispute that, no.

9 Q. And, you were concerned in the Aquarion case about that  
10 "the introduction of a mechanism such as the WICA would  
11 open the door to other similar pass-throughs of costs"?

12 A. (Naylor) I don't specifically recall that.

13 Q. Would you accept that subject to check?

14 A. (Naylor) Sure.

15 Q. Okay. Do you recall that the Commission's order  
16 approved the Aquarion WICA on a trial basis?

17 A. (Naylor) Yes.

18 Q. Okay. And, we've just completed the first year of the  
19 Aquarion WICA Pilot, is that correct?

20 A. (Naylor) The Company made a filing for its three year  
21 budget cycle I believe in the Fall of 2009, and in the  
22 Fall of 2010 filed for its first surcharge, and for a  
23 rolling -- and its next rolling three year budget  
24 proposal. So, I guess that would be one full cycle,

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 yes.

2 Q. Okay. Thank you. Do you agree that the parties to the  
3 Aquarion settlement intended the WICA Pilot to be  
4 affirmatively reviewed by the Commission no later than  
5 Aquarion's next rate case?

6 A. (Naylor) Do I agree that -- yes. Yes, I do.

7 Q. Thank you. And, that was when the Commission and the  
8 parties would evaluate the impact of the WICA and its  
9 effectiveness?

10 A. (Naylor) Yes.

11 Q. And, I believe you testified on direct this morning  
12 that there has been no formal review by the Commission  
13 of the effectiveness of the Aquarion WICA Program at  
14 this point?

15 A. (Naylor) Correct.

16 Q. Do you dispute that the Aquarion WICA was a term in a  
17 comprehensive settlement of all the issues?

18 A. (Naylor) Yes.

19 Q. You dispute that or do you agree with that?

20 A. (Naylor) Oh, I'm sorry. I agree.

21 Q. Thank you. Do you agree with the characterization that  
22 "the Aquarion WICA was a compromise" -- excuse me, I'll  
23 take that -- I'm sorry, strike that. Do you agree that  
24 the Aquarion settlement is not precedent?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Naylor) Yes, I agree.

2 Q. In fact, the Aquarion Settlement Agreement provided  
3 that "the Commission's acceptance of this Agreement  
4 does not constitute continuing approval of, or  
5 precedent regarding, any particular principle or issue  
6 in this proceeding." Do you recall that?

7 A. (Naylor) Yes.

8 Q. Thank you. Do you agree that the Commission is not  
9 bound by the Aquarion settlement to approve the PAC  
10 WICA?

11 A. (Naylor) I do agree.

12 Q. Thank you. The parties to the Aquarion Settlement  
13 Agreement included municipal customers, as well as  
14 residential ratepayers, is that correct?

15 A. (Naylor) That's correct.

16 Q. Do you recall testifying at the hearing in Aquarion  
17 that it was "helpful to Staff in coming to a settlement  
18 that included the WICA that the active parties to the  
19 proceeding viewed the WICA favorably"?

20 A. (Naylor) Yes.

21 Q. And, you thought it was helpful that the towns were  
22 interested in seeing something like the WICA?

23 A. (Naylor) As I recall, there were a number of proposals  
24 the Company made in that filing. The WICA was one of

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1       them, yes.

2       Q.   And, you agree that you testified that it was "helpful  
3       that they were interested in it"?

4       A.   (Naylor) Certainly.

5       Q.   And, you testified also that "this broad support was  
6       among the necessary agreements for Staff's support of  
7       the Aquarion WICA"?

8       A.   (Naylor) I don't recall that specifically, but I  
9       certainly wouldn't dispute it.

10      Q.   Do you recall in the Aquarion case that you were  
11      interested in seeing whether the WICA provided an  
12      incentive to increase Aquarion's rate of infrastructure  
13      replacement?

14      A.   (Naylor) Certainly, that's one of the objectives, yes.

15      Q.   And, I believe you testified that that was something  
16      that would be a benefit or a possible benefit of the  
17      PAC WICA?

18      A.   (Naylor) Correct.

19      Q.   Has Aquarion increased its rate of infrastructure  
20      replacement?

21      A.   (Naylor) I don't know at this point.  It's too soon to  
22      know that.

23      Q.   Okay.  Do you know or could you explain what the  
24      conservation aspect of the PAC WICA is?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Naylor) The "conservation aspect"?

2 Q. It's the "Water Infrastructure and Conservation  
3 Adjustment".

4 A. (Naylor) Well, I think the name "WICA" comes from  
5 elsewhere. It's not something that the parties in this  
6 case developed. I think the original name derives from  
7 the anticipated improvements to the distribution system  
8 and, you know, eliminating leaks in the system,  
9 improving the integrity of the system, the efficiency,  
10 and the reliability. So, I believe that's, if I recall  
11 from prior reading, that's the reason that that word is  
12 there. This mechanism goes by at least one other name  
13 that I'm aware of in some other states.

14 Q. Do you recall PAC responding to data responses  
15 [requests?] in this case to the effect that lost water  
16 was not a concern in developing the WICA?

17 A. (Naylor) I don't specifically recall that.

18 Q. Could I -- do you have any of the exhibits up at the  
19 table?

20 A. (Naylor) I have the Settlement Agreement. I have  
21 testimony provided in the case.

22 MS. HOLLENBERG: May I approach?

23 BY MS. HOLLENBERG:

24 Q. I'd like to just give you a copy of Exhibit 4, which is

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 the OCA's testimony. And, I believe Mr. Eckberg's  
2 testimony attached the Company's responses as  
3 "Attachment SRE-3" and "SRE-4", the Company's responses  
4 to data requests. And, if I could just direct you to  
5 what's Bates Page 13 of Mr. Eckberg's testimony. And,  
6 that is Attachment SRE-3.

7 A. (Naylor) Yes, I have it.

8 Q. All right. And, do you see there that the question  
9 asks "Please elaborate on the extent of water complaint  
10 [problems]." And, it says "Water quality [problems]  
11 are minimal in Pittsfield." And, if you turn to the  
12 next page, Bates --

13 MS. KNOWLTON: Actually, I would object  
14 to -- I think it says "water quality complaints are  
15 minimal."

16 MS. HOLLENBERG: Okay.

17 BY MS. HOLLENBERG:

18 Q. "Water quality complaints in Pittsfield are minimal due  
19 to low flows and an active flushing program." Do you  
20 see that?

21 A. (Naylor) Yes, I do.

22 Q. Okay. And, then, the next page, Bates Page 14, it asks  
23 to "indicate the extent to which the unaccounted for  
24 water is a consideration in the proposed WICA Program."

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1 A. (Naylor) Yes.

2 Q. And, it says, "As noted in response to Staff 2-6, the  
3 amount of leaks that occur on water mains that would be  
4 considered for replacement under the WICA Program are  
5 very small and at present are not a strong  
6 consideration in identifying where replacements should  
7 occur." Did I read that correctly?

8 A. (Naylor) Yes, you did.

9 Q. Thank you. You mentioned on your direct this morning  
10 that WICA or other types of similar mechanisms are  
11 authorized in other states, is that correct?

12 A. (Naylor) Yes.

13 Q. And, you testified to the -- do you know the other  
14 states where these type of mechanisms are authorized?

15 A. (Naylor) I really couldn't list a lot of them. I know  
16 Connecticut, Pennsylvania, would be two.

17 Q. Okay.

18 A. (Naylor) I'm not sure I could name others at this  
19 point.

20 Q. Do you know whether or not the -- for instance, the  
21 WICA or I think -- I believe the terminology used in  
22 Pennsylvania may be a "DISC", D-I-S-C, something to  
23 that effect. Do you recall or know whether or not  
24 those surcharge mechanisms are statutorily authorized?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Naylor) I don't know about Pennsylvania. I believe  
2 that's the case in Connecticut.

3 Q. And, there is not an express statute in New Hampshire  
4 that authorizes the WICA that you've agreed to in this  
5 case, is that correct?

6 A. (Naylor) There is not.

7 Q. Do you know of any states that allow the WICA without  
8 statutory authorization?

9 A. (Naylor) I couldn't tell you right off the top of my  
10 head.

11 Q. And, can you tell me what the basis of your knowledge  
12 for the testimony this morning about the status of the  
13 WICAs in those cases are?

14 A. (Naylor) About the status of --

15 Q. I believe, and I didn't write exactly what you said,  
16 and I don't want to characterize it, but I believe you  
17 mentioned something to the effect that "the WICAs in  
18 the other states were going along well" or they "seemed  
19 to be going along well", and I just wondered what the  
20 basis of your knowledge was?

21 A. (Naylor) My general knowledge. I've been working on  
22 water utility matters for 20 years and do a lot of  
23 reading in the subject areas, and work with the New  
24 Hampshire utilities, attend a lot of meetings and

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1 conferences in different places over all those years.

2 And, I think it's pretty accepted general knowledge

3 that -- that DSIC charges, DSIC programs or WICA

4 programs have been successful in meeting the objectives

5 that they were originally established for.

6 Q. Have you done any specific research about the status of  
7 the WICAs in the other states before this hearing?

8 A. (Naylor) Perhaps before the Aquarion case. I'm quite  
9 sure, during the Aquarion matter, we looked at some of  
10 the experience in other states, and wanted to  
11 understand, with respect to the review process, what  
12 other states had done, what -- how extensive their  
13 review was of the proposed budgets, how the surcharges  
14 were calculated, how they were applied to bills, what  
15 kind of customer notice was provided before the filings  
16 were done and all these kinds of things, so that we  
17 could make some good recommendations and take advantage  
18 of experiences elsewhere.

19 Q. To the extent, though, that these are functioning  
20 mechanisms in other states, though, what is your  
21 information about how they are functioning?

22 A. (Naylor) I think I just indicated a few moments ago,  
23 it's my general knowledge. I don't think I could give  
24 you particular citations to any particular white paper

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 or anything like that, but --

2 Q. Are you aware of any developments in any of the states  
3 that are disfavoring the WICA as a mechanism these  
4 days?

5 A. (Naylor) I'm sorry, I don't understand that question.

6 Q. Are you aware of any of the jurisdictions that are  
7 using the WICA or have used the WICA in the recent past  
8 that are now -- that is coming out to disfavor it for  
9 any reason?

10 A. (Naylor) Oh, "disfavor". I'm not aware of any, no.

11 Q. The Aquarion WICA, do you agree that it limits  
12 infrastructure replacement to the same size as the  
13 existing main?

14 A. (Naylor) I believe that's correct.

15 Q. Is the PAC WICA similarly limited?

16 A. (Naylor) I don't know the answer to that. I'm not -- I  
17 don't recall if we set a limit on main sizes. I'm sure  
18 Mr. Ware may have a recollection of that.

19 Q. Is it your testimony today that you don't know if Staff  
20 has required a limit to the replacement of mains, in  
21 terms of the sizing?

22 A. (Naylor) To the same size?

23 Q. Yes.

24 A. (Naylor) I don't recall discussions about it, with

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 respect to limits on up-sizing.

2 Q. Uh-huh.

3 A. (Naylor) I think that's what you're referring to.

4 Q. Well, I didn't, I didn't find any language to that  
5 effect in the PAC settlement. But, because you  
6 testified earlier that the Aquarion WICA was very  
7 similar to the PAC WICA, --

8 A. (Naylor) Uh-huh.

9 Q. -- I was wondering if that same limit applies to PAC.  
10 And, what is your opinion of that at this time?

11 A. (Naylor) Oh. Well, if it's not in the agreement, then  
12 I think it should be understood that the replacement  
13 would be the same size.

14 Q. Thank you. In terms of replacements, rehabilitation of  
15 valves and services and hydrants, in Aquarion -- or,  
16 I'm sorry, in this case, can they or do they need to be  
17 connected with the mains that are replaced or can they  
18 be wholly independent of replaced mains? For instance,  
19 could the Company use the WICA to replace a hydrant  
20 that's not associated with a main that it's replacing?

21 A. (Naylor) Oh, I think so. Certainly.

22 Q. You do?

23 A. (Naylor) I believe so. Uh-huh.

24 Q. So, with regard to services and valves, they could also

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 replace services and valves that are not -- not  
2 associated with the mains that they're replacing?

3 A. (Naylor) I believe so, yes.

4 Q. Is that stated anywhere in the Settlement Agreement?

5 A. (Naylor) I think the parameters that we've provided for  
6 projects and what the projects can encompass gives the  
7 Company some latitude to provide us with what they  
8 think should be the priorities. And, then, we have the  
9 opportunity, as Staff and the parties, assuming that  
10 there are other parties to the WICA reviews, can  
11 discuss that with the Company.

12 Q. So, if I can have you just, if you do have the  
13 Settlement Agreement before you, if you could just look  
14 at Page 5, which -- and Paragraph 1. Do you see where  
15 it says "WICA eligible projects are restricted to the  
16 replacement of mains, valves, services and hydrants"?

17 A. (Naylor) Yes, I do.

18 Q. And, I believe you testified a moment ago, when I asked  
19 you about the replacement of mains, that they would  
20 need to be the same size mains. And, you agree now  
21 that that is not express in the Settlement Agreement,  
22 but that's your understanding of the agreement, is that  
23 correct?

24 A. (Naylor) Yes. I think I indicated that.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. But, with regard to the valves, services, and hydrants,  
2 it's anyone's game or whatever the Company comes in and  
3 suggests it's going to be decided later. Is that your  
4 understanding of that?

5 A. (Naylor) Well, that's, I think, one of the ideas behind  
6 establishing this kind of process, is that the company  
7 makes a proposal for improvements to its distribution  
8 system. Staff and the parties have the opportunity to  
9 discuss it with the Company and ask questions and  
10 understand why they're proposing the replacements  
11 they're proposing.

12 Q. You would agree, though, that the Commission, as the  
13 regulatory agency overseeing the Company, could  
14 establish limits to the extent that this replacement  
15 could be accomplished?

16 A. (Naylor) Certainly.

17 Q. So, it's not just up to the Company?

18 A. (Naylor) Oh, I think I indicated that it's --  
19 ultimately, there's a recommendation made based on the  
20 Company's filing.

21 Q. I believe it was Mr. Ware, and I still have questions  
22 for you, Mr. Naylor, but I believe Mr. Ware testified  
23 earlier that the -- about Paragraph 8 -- I'm sorry,  
24 Paragraph 9 on Page 8, about the fact that the WICA

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 "may be modified or discontinued by the Commission",  
2 and that it would "automatically terminate at the time  
3 of a final order of the Company's next general rate  
4 case." Do you recall that testimony?

5 A. (Ware) Are you referring that question to me?

6 Q. I'm sorry, no, Mr. Naylor. No, I'm sorry. I'm asking  
7 if Mr. Naylor recalls your testimony, Mr. Ware.

8 A. (Naylor) I'm sorry. Could you repeat the question?

9 Q. Sure.

10 A. (Naylor) I was finding the place in the Agreement.

11 Q. Sure. No problem. On Page 8, Paragraph 9, Mr. Ware  
12 testified earlier about the WICA being able to be  
13 "modified or discontinued by the Commission" and about  
14 the fact that the WICA would "automatically terminate  
15 at the time of a final order of the Company's general  
16 rate case." And, you see that in this Settlement  
17 Agreement, do you?

18 A. (Naylor) Yes, I do.

19 Q. Okay. And, in the Aquarion WICA, the Company actually  
20 at that hearing testified and acknowledged a number of  
21 times that "the WICA could be terminated or modified at  
22 any time by the Commission." And, I'm wondering if  
23 that's your opinion in this case, that the Commission,  
24 even though it says it's automatically terminating at

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 the next final order, that the Commission could modify  
2 or terminate the WICA at any time before the next  
3 general rate case for this company?

4 A. (Naylor) I think that's what the first sentence of  
5 Paragraph 9 says. "Notwithstanding, the agreement that  
6 implementation of the WICA is on a pilot and may be  
7 modified or discontinued by the Commission."

8 Q. So, is your understanding that that means "at any  
9 time", and it could be before the next general rate  
10 case?

11 A. (Naylor) Yes.

12 Q. Okay. Thank you. In your opinion, Mr. Naylor, does  
13 the PAC Settlement Agreement limit the Commission's  
14 authority to modify or terminate the WICA?

15 A. (Naylor) "Does the PAC Settlement Agreement" -- could  
16 you repeat that please?

17 Q. Sure. Does the PAC Settlement Agreement limit the  
18 Commission's authority to modify or terminate the WICA?

19 A. (Naylor) I don't believe so, no. No.

20 Q. The Company, in its original filing, as well as I  
21 believe this morning, and you may have referenced this  
22 as well, talked about "reducing the frequency of rate  
23 cases." Do you recall that testimony?

24 A. (Naylor) Yes.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. Okay. What is the basis for your belief that this is  
2 going to or this may reduce the frequency of rate  
3 cases?

4 A. (Naylor) Well, I'm hoping it does. I don't know for  
5 sure it's going to. I think one of the reasons that we  
6 have some hope that it will extend the time between  
7 rate cases is that the Company will be putting projects  
8 into service based on the WICA Program and will receive  
9 revenues through a surcharge based on those projects.  
10 So, that speeds up the Company's cash flows, and,  
11 therefore, has a -- at least provides us some  
12 indication that there may be an extension of time  
13 between rate cases. There's lots of reasons that  
14 companies file for rates. A lot of those reasons are  
15 not within the company's control. Certainly, things  
16 like property taxes and other things like that,  
17 increase in costs, drive companies to seek new rates.  
18 But, to the extent the companies may be experiencing an  
19 increase in their cash flows based on WICA surcharges,  
20 it certainly may help.

21 Q. When do you or the Staff expect the Company to come in  
22 for its next rate case, if the WICA is approved?

23 A. (Naylor) I have no idea.

24 Q. Do you recall agreeing in the Aquarion case that it was

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 conceivable that the Company could go eight years until  
2 its next rate case?

3 A. (Naylor) You'll have to provide me with some kind of  
4 citation to that.

5 Q. Okay.

6 A. (Naylor) I don't know what that's based on.

7 Q. Okay.

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

10 (Atty. Hollenberg handing document to  
11 Witness Naylor.)

12 BY MS. HOLLENBERG:

13 Q. Do you agree that this is the transcript from the  
14 July 14th, 2009 hearing, in DW 08-098, which was the  
15 Aquarion rate case?

16 A. (Naylor) Yes, I do.

17 Q. And, do you agree that I am showing you Page 53 of that  
18 transcript, and at the top there's an identification  
19 that you're testifying?

20 A. (Naylor) Yes.

21 Q. And, then, do you see the question that says: "Is it  
22 conceivable then that the Company could go like eight  
23 years till the next general rate case?" What is your  
24 answer?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

- 1 A. (Naylor) I see that question. "It's conceivable, yes."  
2 Q. Thank you. Do you agree that the Company could come in  
3 for a general rate case at any time, if the Commission  
4 approves the WICA?  
5 A. (Naylor) Yes.  
6 Q. And, that there's no limit in the Settlement Agreement  
7 on the Company's ability to increase rates through a  
8 general rate case after WICA?  
9 A. (Naylor) There is no limit to the Company's seeking to  
10 increase its rates, that's correct.  
11 Q. Thank you. You and the Company's witnesses reference  
12 the biennial nature of the WICA Program. Do you have  
13 the Settlement Agreement in front of you please?  
14 A. (Naylor) I do.  
15 Q. If you could turn to Page 6 please. And, I'd like to  
16 ask you about Paragraph 2. Do you see that there is a  
17 sentence that begins "Period 1 projects are those  
18 proposed to be constructed in the succeeding twelve  
19 month period"?  
20 A. (Naylor) Yes.  
21 Q. And, the next, the "Period 2 projects are those to be  
22 constructed in the next twenty-four month period", and  
23 the "Period 3 projects are those to be -- are those  
24 proposed to be constructed in the twenty-four months

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1 following Period 2." Do you see that?

2 A. (Naylor) I do.

3 Q. Could you explain why the 12-month period is applicable  
4 there?

5 A. (Naylor) Yes. This anticipates the Company makes a  
6 WICA filing no later than December 31st, and then those  
7 proposed projects in Period 1 would be completed in the  
8 following 12 months.

9 Q. So, it's a 12-month period for Period 1. Is it -- are  
10 there any other periods that are going to be a 12-month  
11 period or are they all going to be 24-month periods?

12 A. (Naylor) Well, Periods 2 and 3 are proposed to be  
13 constructed in the 24-month periods, following the  
14 conclusion of Period 1. So, that would be an "every  
15 other year" basis.

16 Q. And, what happens after Period 3?

17 A. (Naylor) Well, this is the first, this is the first  
18 WICA. This would be going out from the conclusion of  
19 this rate case, I guess that would encompass a total of  
20 five years. And, I think it's, based on what's agreed  
21 to here, the Company would make filings for projects on  
22 an "every other year" basis after that. I think that's  
23 clearly what's anticipated here.

24 Q. Could I have you look at -- thank you. Could I have

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1       you look at Page 7, please Paragraph 5. And, that's  
2       the property tax mechanism, which is really a separate  
3       -- there's a special provision for property taxes, do  
4       you agree?

5       A.   (Naylor) Yes.

6       Q.   Could you walk us through how that will work please.

7       A.   (Naylor) This would be, this part of this WICA Program  
8       would be for the first time a project is proposed for  
9       inclusion in the surcharge. And, the property tax  
10      portion of the costs related to the projects is to be  
11      prorated to reflect the portion of the year that the  
12      Company will actually be assessed for such taxes. The  
13      first time through it's going to be estimated. It has  
14      to be estimated. The next time the Company comes in,  
15      it can request to adjust the property taxes to the  
16      actual. And, when the surcharge presumably is  
17      approved, then the property tax portion would be  
18      adjusted.

19     Q.   So, then, when it's adjusted, it will be based on a  
20     whole year's worth of property tax at a new rate or  
21     will it be -- what rate will be used in the second  
22     year?

23     A.   (Naylor) If you'll see the sentence in Paragraph 5,  
24     it's about six -- begins about five lines down, "In the

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1 second year in which the WICA is in effect for such  
2 projects, the WICA shall be adjusted to reflect a full  
3 twelve months of taxes, based on the most recent actual  
4 tax bill for the relevant property."

5 Q. Okay. Thank you. There are provisions, Mr. Naylor, in  
6 the Settlement Agreement that describe certain review  
7 processes that the Company and the Staff have proposed  
8 for the PAC WICA. And, if you look at Page 6,  
9 Paragraph 2, which we were reviewing before, it refers  
10 to the Company filing "three period projected budgets  
11 of eligible projects." Will the OCA get a copy of that  
12 filing?

13 A. (Naylor) Certainly.

14 Q. And, do you agree that the Aquarion settlement  
15 expressly required the Company to provide the OCA with  
16 a copy of that filing?

17 A. (Naylor) I'll accept that.

18 Q. Subject to check?

19 A. (Naylor) Subject to check.

20 Q. Thank you. And, with regards to the approval of the  
21 annual surcharge, the process that's talked about in  
22 Paragraph 4, would you agree that the OCA would get a  
23 copy of that filing?

24 A. (Naylor) Yes.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. Okay. And, would you accept subject to check that the  
2 Aquarion settlement expressly required the Company to  
3 provide the OCA with a copy of that filing?

4 A. (Naylor) Yes.

5 Q. Thank you. To the extent, I believe you referenced  
6 earlier about the process involving the Office of  
7 Consumer Advocate and other parties, perhaps the Town.  
8 Would you -- you agree, though, that that process would  
9 be something that the OCA would be entitled to  
10 participate in?

11 A. (Naylor) Yes.

12 Q. And, does Staff consider -- you described the process  
13 as a "more formal process than the E-22 process." Does  
14 Staff consider the WICA process adjudicative in nature?  
15 Would it be docketed? Would there be an opportunity  
16 for a hearing, to the extent that a party wished to  
17 have one?

18 A. (Naylor) That's my understanding of the provisions of  
19 the Settlement with respect to the WICA, that the  
20 Company is required to make a filing. Our experience  
21 in the Aquarion case follows that. They made a formal  
22 filing with the Commission. It was docketed, --

23 Q. Okay.

24 A. (Naylor) -- and reviewed, and recommendations was

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1 formulated and sent to the Commission.

2 Q. Thank you. Is it your position or Staff's position  
3 that the Company can call Aquarion in for a rate case  
4 notwithstanding the WICA? If it approved the WICA,  
5 could the Commission call the Company in for a base  
6 rate case at any time?

7 A. (Naylor) I believe that's the case, yes.

8 Q. And, do you agree that the PAC settlement does not  
9 limit the Commission's authority to call PAC in for a  
10 rate case at any time?

11 A. (Naylor) I don't believe it limits the Commission's  
12 authority.

13 Q. You testified this morning about some of the benefits  
14 of the Pilot Program. And, one of the things you  
15 mentioned was "coordination between the Company and the  
16 Town." Do you have any reason to believe that the  
17 Company is not coordinating with the Town at this point  
18 in time before the WICA?

19 A. (Naylor) I have no reason to believe that.

20 Q. And, would you agree that the WICA increases are -- the  
21 amounts of the WICA increases are not a part of the  
22 revenue requirement that this Settlement Agreement is  
23 requesting approval of?

24 A. (Naylor) That's correct.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Q. Mr. Ware and Ms. Hartley, I will -- I'll direct my  
2 questions to the Company, and either one of you can  
3 answer to the extent that you would like. The WICA  
4 processes and filings that I just asked Mr. Naylor  
5 about on Pages -- on Pages 6 and 7, do you agree that  
6 the -- or, would you be willing, would the Company be  
7 willing to provide the OCA with copies of those  
8 filings?

9 A. (Ware) Certainly.

10 Q. And, the Company has contended that the WICA would  
11 reduce rate case filings and expenses. When does the  
12 Company expect to file its next rate case?

13 A. (Ware) Well, if you can tell me what the rate of  
14 inflation is, and many other variables, then I could  
15 tell you when our next rate case is going to be, what  
16 consumption is going to be. We really do not know at  
17 this stage.

18 Q. It could be any time?

19 A. (Ware) It could be any time.

20 Q. Thank you. You did testify in rebuttal, though, that  
21 you believe at least one rate case would be avoided if  
22 the WICA were implemented?

23 A. (Ware) All non-related WICA items outside, yes, we  
24 believe that the process would allow us to avoid a case

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1 that might have been triggered by construction of or  
2 replacement of aging infrastructure.

3 Q. So, your -- so, just to make sure I understand, your  
4 belief that "one rate case would be avoided" is,  
5 basically, all other things stable, the WICA would  
6 avoid a rate case?

7 A. (Ware) That is certainly our hope.

8 Q. Do you agree that your statements in rebuttal  
9 quantifying the Company's expectation for reduced rate  
10 cases were not contained in your direct testimony?

11 A. (Ware) That is correct.

12 Q. And, do you agree that these statements were not in any  
13 responses to discovery in this case?

14 A. (Ware) That is correct.

15 Q. You referenced in your rebuttal the responses to OCA  
16 1-18 and OCA 3-3. Do you recall that?

17 A. (Ware) Yes.

18 Q. And, those questions only asked you about estimates for  
19 your rate cases in this case, did they not?

20 A. (Ware) I would have to review, I do not recall the  
21 exact detail of those, those particular data requests.

22 Q. Would you agree, subject to check, that those questions  
23 did not ask you anything about the WICA?

24 A. (Ware) Which were the data requests?

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1 Q. Sure. I'll show them to you, just to be --

2 (Atty. Hollenberg handing document to  
3 Witness Ware and Witness Hartley.)

4 BY MS. HOLLENBERG:

5 Q. Mr. Ware, I just would like to show you a document,  
6 which was Data Request OCA 1-18. And, actually, this  
7 was a question answered by Ms. Hartley. It asks  
8 "Please provide the most recent estimate of rate case  
9 expenses broken down by the type of service provided  
10 (example, cost of service study, legal). Please update  
11 this monthly throughout the case." So, that question  
12 was directed or was related to rate case expenses in  
13 this case and not about the WICA. Do you agree with  
14 that?

15 A. (Hartley) I agree.

16 Q. And, then, there was a follow-up question, OCA 3-3, and  
17 that was not related to the WICA either. That was  
18 related to OCA 1-18, which was related to rate case  
19 expenses?

20 A. (Hartley) I agree.

21 Q. Thank you. Mr. Ware or Ms. Hartley, in the rebuttal  
22 testimony that was just filed, you referred to 2014 as  
23 the test year for the next rate case?

24 MS. KNOWLTON: Can you give the

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1 witnesses a page reference?

2 BY MS. HOLLENBERG:

3 Q. It's Page 2, Lines 6 to 7. So, it says "If the Company  
4 utilizes 2014 as the test year and files a rate case in  
5 2015", were you just providing an example there?

6 A. (Ware) Yes.

7 Q. Is the Company willing to agree to a rate case stay-out  
8 for any period of time?

9 A. (Hartley) No, we are --

10 Q. If the Commission approves the WICA? I'm sorry.

11 A. (Hartley) No, we are not.

12 Q. Thank you. Mr. Ware or Ms. Hartley, if you could  
13 please look at the rebuttal testimony, Page 2, Lines 19  
14 to 21. The question there is, "Would there be any  
15 regulatory costs associated with the WICA filing?" By  
16 "regulatory costs", do you mean legal expenses  
17 associated with that?

18 A. (Hartley) At this time, I'm not sure exactly what the  
19 expenses would be, but I assume there would be some  
20 legal. Obviously, some publication expenses for  
21 notification to customers, and whatever else the  
22 Commission deems necessary.

23 Q. Thank you. And, the response there is "Yes, there  
24 would be some regulatory expenses associated with the

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1 WICA filing, but that would not be included in the WICA  
2 charges." Did I read that correctly?

3 A. (Hartley) You did.

4 Q. Would the Company oppose the Commission making this  
5 commitment express in an order approving the WICA?

6 A. (Hartley) No, we would not.

7 Q. Thank you. Mr. Ware, on Page 3 of the rebuttal  
8 testimony, starting at Line 7, and continuing to Line  
9 16, you offer here further calculation of water quality  
10 issues. Do you see that?

11 A. (Ware) Yes.

12 Q. Do you agree that the information on these Lines 7 to  
13 16 were not in your direct testimony?

14 A. (Ware) Yes.

15 Q. Do you agree that this information was not provided in  
16 any responses to discovery in this case?

17 A. (Ware) Yes.

18 Q. Do you agree that the Company responded in data  
19 requests that "service quality was not a motivating  
20 factor for the WICA"?

21 A. (Ware) I want to go back. My direct testimony --

22 Q. Excuse me, sir. Excuse me.

23 A. (Ware) I'm answering the question. Please let me, if  
24 you would.

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1 Q. Excuse me. Could you --

2 CHAIRMAN GETZ: Let's hold on.

3 MS. HOLLENBERG: I'm happy to have Mr.  
4 Ware clarify his responses to data requests, but, if he  
5 could answer the question, which was "Was this information  
6 provided in response to data requests?" "Yes" or "no", I  
7 would appreciate that.

8 **BY THE WITNESS:**

9 A. (Ware) No.

10 MS. HOLLENBERG: Thank you.

11 CHAIRMAN GETZ: And, you have an  
12 opportunity to explain.

13 WITNESS WARE: All right.

14 **BY THE WITNESS:**

15 A. (Ware) I just want to clarify. My testimony  
16 specifically talked about one of the problems with  
17 unlined cast iron water main was bacterial regrowth.  
18 Since it was apparent that the -- at least to me, that  
19 the OCA was questioning the issue whether there was  
20 water quality, and I thought it was important to  
21 clarify what "bacterial regrowth" was. You know,  
22 although people in the industry might understand that,  
23 it became clear, through the cross-examination that  
24 came in through data requests, that the OCA did not

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1 understand the importance or the potential problem with  
2 bacterial regrowth. So, I had not clarified what  
3 "bacterial regrowth" was. That was the purpose, in the  
4 rebuttal testimony, was to define what "bacterial  
5 regrowth" was.

6 MS. HOLLENBERG: Thank you. One moment  
7 please.

8 (Short pause.)

9 MS. HOLLENBERG: May I approach the  
10 witness?

11 CHAIRMAN GETZ: Yes.

12 MS. HOLLENBERG: Thank you.

13 BY MS. HOLLENBERG:

14 Q. Mr. Ware, I'd like to show you a question that happened  
15 in discovery in this case. It's Question Staff 2-7.

16 A. (Ware) Uh-huh.

17 Q. And, could you please read the question and the answer  
18 please.

19 A. (Ware) Sure.

20 Q. Thank you.

21 A. (Ware) "Please indicate the extent of water quality  
22 complaints related to unlined cast iron water main in  
23 the Pittsfield system."

24 "Water quality complaints in [the]

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1       Pittsfield [system] are minimal due to low flows and an  
2       active flushing program. The system generally only  
3       experiences dirty water in the unlined cast iron water  
4       mains as a result of large flows created by fire  
5       demands or water main breaks. Normal summer peak flows  
6       do not typically result in dirty water due to the  
7       Company's biannual flushing program."

8   Q.   Thank you. And, you could have provided information  
9       about "dirty water" in that response to that question,  
10      could you not?

11   A.   (Ware) I did respond. The water quality complaint that  
12      was asked for was customers, which respond -- which  
13      relate to "dirty water", which is a different water  
14      quality issue than one the customers would be unaware  
15      of, which is bacterial regrowth.

16   Q.   Could you have -- could you have included this mention  
17      about "bacterial regrowth" in that response to  
18      discovery?

19   A.   (Ware) You did not ask about it. You asked about  
20      "customer complaints". Customer complaints are  
21      relative to "dirty water", not relative to "bacterial  
22      regrowth".

23   Q.   Do you agree that lost water was not a motivating  
24      factor for the WICA?

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1 A. (Ware) That is correct.

2 Q. Thank you.

3 A. (Ware) Can I clarify that please?

4 Q. Sure.

5 A. (Ware) Lost water is not an issue, unless you let the  
6 system deteriorate and it becomes an issue. The goal  
7 of the WICA is to ensure that lost water does not  
8 become a problem by replacing the infrastructure in a  
9 timely fashion in advance of its failure that would  
10 result in lost water.

11 Q. Mr. Ware, if you could look at Page 4 of the rebuttal  
12 testimony please. In this response, you respond to  
13 Mr. Eckberg's statement about the "uniqueness of the  
14 circumstances" in the Aquarion rate case. Do you see  
15 that?

16 A. (Ware) Yes.

17 Q. Are you familiar with the financial circumstances of  
18 Aquarion?

19 A. (Ware) No, I am not.

20 Q. Are you familiar with Aquarion's system?

21 A. (Ware) No, I am not.

22 Q. Are you familiar with Aquarion's capital budgets?

23 A. (Ware) No, I am not.

24 Q. Customers?

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1 A. (Ware) No.

2 Q. Rates?

3 A. (Ware) No.

4 Q. Service quality issues?

5 A. (Ware) No.

6 Q. Lost water issues?

7 A. (Ware) No.

8 Q. Are you familiar with the factual circumstances of the  
9 Aquarion rate case?

10 A. (Ware) I am not.

11 Q. Are you familiar that -- with when Aquarion's prior  
12 rate case was before the 2008 case?

13 A. (Ware) I am not.

14 Q. Are you familiar with the fact that Aquarion proposed  
15 an increase in operating and maintenance expenses in  
16 its 2008 case of 0.8 percent?

17 A. (Ware) I am not.

18 Q. And, are you familiar with the fact that Aquarion  
19 tracks customer service levels with surveys conducted  
20 by an independent organization?

21 A. (Ware) No.

22 Q. Does PAC do this?

23 A. (Ware) We maintain a customer service log of the  
24 complaints that we have.

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1 Q. Do you have your customer service surveyed by an  
2 independent organization?

3 A. (Ware) We have not.

4 Q. Is PAC willing to do this?

5 A. (Hartley) If the Commission deemed it was necessary,  
6 from my perspective, it's not necessary, because we're  
7 providing excellent service. And, there is not enough  
8 complaints or concerns on the part of the Company to  
9 initiate such a cost for such a small system.

10 Q. Mr. Ware or Ms. Hartley, is it your position that PAC  
11 is similarly situated to Aquarion financially and  
12 otherwise?

13 MS. KNOWLTON: Objection. I don't think  
14 the witness, at least Mr. Ware, could answer that  
15 question, because he's previously testified that he's not  
16 familiar with Aquarion's customer service, capital  
17 program, rates, financial structure.

18 MS. HOLLENBERG: And, I guess I would  
19 just say, I agree that he did testify to that, but he does  
20 criticize the OCA for pointing out the uniqueness of the  
21 Aquarion case and says that the case was "not unique", and  
22 I'm asking whether or not -- what the basis of that  
23 opinion is.

24 CHAIRMAN GETZ: I'll overrule the

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1 objection. Can you answer the question, Mr. Ware?

2 **BY THE WITNESS:**

3 A. (Ware) I am unfamiliar with what the financial  
4 conditions were associated with Aquarion at the time  
5 that the pilot WICA was agreed to.

6 BY MS. HOLLENBERG:

7 Q. So, to the extent that you say that the -- excuse me --  
8 "Aquarion case is not unique", you didn't have a basis  
9 to make that judgment?

10 A. (Ware) The statement is being taken out of context. I  
11 believe I indicated "there is nothing unique about a  
12 proposal being made -- being the product of a  
13 settlement agreement." I guess what we admit there was  
14 is that the WICA/DSIC, which is in use outside of New  
15 Hampshire, in California, Connecticut, Delaware,  
16 Illinois, Mississippi, New York, Ohio, and  
17 Pennsylvania, and recommended and sponsored as a  
18 methodology of ratemaking by NARUC, would make the fact  
19 that the WICA in New Hampshire, while it's unique to  
20 New Hampshire, is not unique to the industry.

21 Q. But you agree that you were responding to Mr. Eckberg's  
22 statement that the Aquarion case presented a "unique  
23 set of circumstances", not to a statement by  
24 Mr. Eckberg that the Aquarion case presented a "unique

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1       circumstance in that it was settled by an agreement",  
2       is that correct?

3   A.   (Ware) I believe the testimony down below supports what  
4       I was -- what I believe we were saying was, is that the  
5       WICA is not unique to the industry, and that the WICA,  
6       as part of a settlement, you know, was not a unique  
7       item.

8   Q.   Did Mr. Eckberg testify that "the WICA was a unique  
9       circumstance to the industry"?

10  A.   (Ware) We all read things differently.

11  Q.   "Yes" or "no", sir? Please, "yes" or "no"?

12                   CHAIRMAN GETZ: I think he's trying to  
13       answer your question --

14                   MS. HOLLENBERG: Okay.

15                   CHAIRMAN GETZ: -- and look at what the  
16       statement was.

17  **BY THE WITNESS:**

18  A.   (Ware) It says -- the statement was "the Aquarion WICA  
19       was a product of a settlement agreement and was  
20       developed as a pilot project." That's the quotes that  
21       are in here, that -- and that it's, oh, excuse me, "the  
22       WICA Program that the Commission approved for the  
23       Aquarion Water Company of New Hampshire was based upon  
24       a unique set of circumstances, and is not a rate

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1 mechanism of [generally applicable] to all water  
2 utilities."

3 MS. HOLLENBERG: The Aquarion WICA.

4 Thank you.

5 BY MS. HOLLENBERG:

6 Q. Turning to the references you just made, and which are  
7 also mentioned in the rebuttal testimony about the  
8 WICAs in California, Connecticut, Delaware, Illinois,  
9 Mississippi, New York, Ohio, and Pennsylvania, those  
10 are not mentioned in your direct testimony, is that  
11 correct?

12 A. (Ware) That is correct.

13 Q. Or in any responses to discovery in this case, is that  
14 correct?

15 A. (Ware) That is correct.

16 Q. And, what's the basis of your statement? What's the  
17 source of this information?

18 A. (Ware) That source of information is by researching the  
19 information that's available throughout each one of the  
20 states where there are regulated utilities.

21 Q. Was Mr. Bingaman's testimony in the Aquarion case a  
22 source for this information?

23 A. (Hartley) Yes, it was.

24 Q. Thank you. And, do you know the extent to which these

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 WICAs in these states, are they authorized by statute  
2 or not?

3 A. (Hartley) I'm unaware whether they are or not.

4 Q. Thank you. The 1999 NARUC resolution, you would agree  
5 that this is not mentioned in your direct testimony?

6 A. (Ware) Yes.

7 Q. And not in any responses to discovery?

8 A. (Ware) Yes.

9 Q. Is this also the source of this information  
10 Mr. Bingaman's 2008 testimony in the Aquarion case?

11 A. (Hartley) Yes, it is.

12 Q. Thank you. Turning to a pending docket, DW 11-026,  
13 which you refer to in rebuttal at Page 5. Do you agree  
14 that the rates proposed in this case are used in the  
15 financial projections in DW 11-026?

16 A. (Hartley) I don't believe I need to address that docket  
17 at this time. We're here, -- excuse me, but I think  
18 we're here on the Pennichuck -- the Pittsfield Aqueduct  
19 docket, not the 11-026 docket.

20 MS. HOLLENBERG: Thank you. Mr.  
21 Chairman, I believe that these questions are appropriate  
22 in this case. The Company contends that there is no  
23 relevance to considering the status of its continued  
24 operations in light of the pending docket relating to the

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1 City's acquisition. And, I believe that these two cases  
2 are very much connected, and that the Joint Petitioners in  
3 DW 11-026 made them very much connected, to the extent  
4 that they tie the acquisition to the approval of the rates  
5 in this case, as well as other factors. And, I would like  
6 to ask that the witnesses some questions about this, and I  
7 would like you to direct them to answer them. Thank you.

8 MS. KNOWLTON: I would like the  
9 opportunity to respond to the OCA's position on that. I  
10 don't think that there's any connection in this case, in  
11 what's before the Commission here today, in terms of the  
12 methodology that's proposed in another docket, expressly  
13 DW 11-026. I don't think that it's proper to engage in  
14 inquiry today about what that methodology is for a rate  
15 mechanism in another docket.

16 CHAIRMAN GETZ: Well, I guess I have to  
17 hear what the questions are and where you're going with  
18 this, before I can make a judgment on whether the  
19 questions are relevant. So, let's --

20 MS. HOLLENBERG: And, if it helps, you  
21 know, to clarify, you know, in light of the pending  
22 acquisition, the OCA thinks it's very risky for the  
23 Commission to approve a mechanism, such as the WICA, which  
24 could enable the Company to stay out, out of a rate case,

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1 for an extended period of time.

2 MS. KNOWLTON: I'm going object,  
3 actually. This is legal argument that counsel can make  
4 during closing. If she has a particular question that she  
5 wants to pose to the witness, I think it would be helpful  
6 to hear what the question is.

7 CHAIRMAN GETZ: Well, I think it's  
8 helpful, I guess, in the nature of an offer of proof of  
9 where she's headed. And, I understand that's your  
10 position. But, I guess, to the extent you have relevant  
11 cross-examination, let's see what your questions are.

12 MS. HOLLENBERG: Okay.

13 BY MS. HOLLENBERG:

14 Q. My question was, are the rates proposed in this case  
15 used in the financial projections in DW 11-026?

16 A. (Hartley) Yes and no. In DW 026 [sic], the rates are  
17 used -- were not approved by the Commission, they are  
18 used only for illustrative purposes. And that, at this  
19 time, we are here today to get these rates approved.  
20 And, once these rates are approved, they may not be  
21 identical to what has been presented in 026, which was  
22 for illustrative purposes.

23 Q. Is the WICA factored into the illustrations in 11-026?

24 A. (Hartley) No.

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1 Q. Thank you. Would the Joint Petitioners in 11-026  
2 proceed if the Commission denied approval of the WICA?  
3 MS. KNOWLTON: Objection. First of all,  
4 the Joint Petitioners are not here. Pittsfield Aqueduct  
5 Company is here today, and the City of Nashua is not here.  
6 And, we are not here to take up what the Joint Petitioners  
7 in another docket might do. I would instruct the witness  
8 to not answer that question.

9 CHAIRMAN GETZ: Can you reformulate?

10 MS. HOLLENBERG: Actually, I'll ask a  
11 question based on a statement in the rebuttal.

12 BY MS. HOLLENBERG:

13 Q. Pages -- Page 5, Lines 9 through 11, states there --  
14 let me know when you've got it please. And, this is  
15 for Mr. Ware or Ms. Hartley please. States there, "The  
16 Company is legally entitled to rate relief, and should  
17 not be denied this right based on an event in the  
18 future which has yet to occur and which bears no  
19 relation to its historical test year underearning."  
20 Did I read that correctly?

21 A. (Hartley) Yes, you did.

22 Q. Okay. If the Commission does not approve the WICA,  
23 does the Company remain legally entitled to seek rate  
24 relief for its investment in the system?

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 A. (Hartley) Yes.

2 Q. Okay. You do not mean by this sentence that the  
3 Company's legal options for seeking rate relief are  
4 limited to the WICA?

5 A. (Hartley) No.

6 Q. You do not mean -- or, you mean that the Company's  
7 options for seeking rate relief are limited to the  
8 WICA? It was a problem with the way I phrased the  
9 question. I'm sorry.

10 CHAIRMAN GETZ: Yes, I think we need to  
11 start over, because now I'm lost.

12 (Court reporter interruption.)

13 MS. HOLLENBERG: Sure. All right.

14 BY MS. HOLLENBERG:

15 Q. Do you mean by this sentence, which I just read,  
16 Page 5, Lines 9 to 11, that the Company's legal options  
17 for seeking rate relief are limited to the WICA?

18 A. (Hartley) The Company -- I'm not going to answer it  
19 "yes" or "no", I'm just going to phrase it the way I  
20 interpret it. The Company can seek relief, rate relief  
21 at any time before this Commission, regardless of a  
22 WICA.

23 Q. Thank you. That was my next question. Even if the  
24 WICA is approved? I'll start with some questions --

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 MS. HOLLENBERG: Oh, one moment please.

2 (Atty. Hollenberg conferring with Mr.  
3 Eckberg.)

4 MS. HOLLENBERG: Okay. I'm nearly done.  
5 I just have a couple more subjects to cover, if that's  
6 what you're looking to get a sense of?

7 CHAIRMAN GETZ: Yes, I am. When you say  
8 "a couple more subjects", can you put it in terms of  
9 minutes?

10 MS. HOLLENBERG: I would say I'd be done  
11 in ten minutes.

12 CHAIRMAN GETZ: Okay. Well, I'll ask  
13 the most question.

14 MR. PATNAUDE: No, that's fine.

15 CHAIRMAN GETZ: You're good? Okay.

16 MS. HOLLENBERG: Thank you.

17 CHAIRMAN GETZ: Please proceed.

18 BY MS. HOLLENBERG:

19 Q. There's a reference to rate case expenses in the  
20 Settlement Agreement, and I can get you the page in a  
21 second. Okay. It's Page 4. And, it says there, "The  
22 Settling Parties agree that Pittsfield should be  
23 allowed to recoup its reasonable and prudent rate case  
24 expenses." Just to clarify, by "Pittsfield", do you

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 mean the Company, not the Town of Pittsfield?

2 A. (Hartley) That is correct.

3 Q. Is the Company willing to provide a copy of its rate  
4 case and recoupment filings to the OCA?

5 A. (Hartley) Yes.

6 Q. Thank you. And, in terms of recoupment and rate case  
7 expense recovery, is this going to be done according to  
8 the new rate design?

9 A. (Hartley) As revised and filed as part of the exhibits  
10 today, yes.

11 Q. Thank you. There was a reference in your prefiled  
12 direct testimony, Ms. Hartley, about merging PAC with  
13 PWW. Can you tell me what the status of that is?

14 A. (Hartley) We determined not to make that part of the  
15 settlement discussions in this case at this time.

16 Q. Is there a possibility that PAC would be merged with  
17 PWW at any point in the near future?

18 A. (Hartley) There's always that possibility.

19 Q. Okay. In the Settlement Agreement, at Page 3, under  
20 Paragraph C, which is the "Rate Design" paragraph, it  
21 talks about reducing the number of customers by five.  
22 What's the number reduced to?

23 A. (Hartley) I'd have to go to the -- to the 5/8ths  
24 meters, from what I can see here, on Page 1 of 3,

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 Schedule SE-2, it's 534 5/8ths meters.

2 Q. Okay. Thank you. And, it also references "property  
3 subject to foreclosure actions" in that paragraph, and  
4 I believe you testified to that this morning. What is  
5 the basis of your knowledge that this property is  
6 subject to foreclosure?

7 A. (Hartley) I think it was a general comment. I have no  
8 direct information that they're subject to foreclosure.  
9 I think it was a general observation, and that we have  
10 experienced in our Customer Service Department, some of  
11 them are bankruptcies also. That should have been  
12 included.

13 Q. Do you know that the five that you're reducing it by  
14 are properties "subject to foreclosure", as it states  
15 in the Settlement Agreement?

16 A. (Hartley) Not specifically, no.

17 Q. Okay. Thank you. Would you agree that the Company's  
18 proposal to reduce the number of customers for purposes  
19 of rate design was not in its prefiled testimony nor in  
20 any discovery responses?

21 A. (Hartley) Yes, I would.

22 Q. Thank you.

23 MS. KNOWLTON: Commissioner, can I note  
24 for the record, my understanding was, from the letter that

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 the OCA filed in this case, that it was not objecting to  
2 the proposed rate design terms of the Settlement  
3 Agreement. I understand that the Consumer Advocate's  
4 Office, if it has clarifying questions, it could ask.  
5 But, based on this line of questioning, it's not clear to  
6 me whether their position is changing.

7 CHAIRMAN GETZ: Well, I think it's an  
8 area where she can inquire. What ultimate position, if  
9 it's different from what they have said in the letter, I  
10 guess we'll deal with that if it comes up. But, if she's  
11 trying to get more information on the record, then I think  
12 she's entitled to do it.

13 MS. HOLLENBERG: Thank you.

14 BY MS. HOLLENBERG:

15 Q. If I could ask a question of Staff at this time. The  
16 step adjustment, the audit, the Staff's audit is still  
17 in progress, is that true?

18 A. (LaFlamme) That is correct.

19 Q. And, is it Staff's position that there will be some  
20 opportunity for involvement by the parties in this case  
21 with regards to the ultimate amount of the step  
22 adjustment recommended?

23 A. (Naylor) I would expect that, once the audit is  
24 complete and the Audit Staff has prepared its report,

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1           that it would be distributed to the parties in the  
2           case, as we have done with the overall audit that was  
3           done, I believe OCA received a copy of that. So, we  
4           would certainly make sure that the parties receive a  
5           copy of the step adjustment audit as well.

6   Q.   Thank you. I believe that, Mr. LaFlamme, you testified  
7           that "the audit report resolved prudence of the  
8           investment" this morning, do you recall that?

9   A.   (LaFlamme) Yes.

10   Q.   How does the audit evaluate prudence?

11   A.   (LaFlamme) The audit, I believe one of the -- one of  
12           the things that the Audit Staff looks at is they  
13           investigate the cost factors involved in the  
14           construction of items. And, I believe that, if the  
15           Audit Staff believes that there are imprudent  
16           expenditures, that they would -- that they would bring  
17           those up in the audit report.

18   Q.   Does the audit -- does the Audit Staff evaluate, for  
19           instance, if I could just give you an example of a pipe  
20           being replaced, and material A versus material B, would  
21           the Audit Staff evaluate the prudence of using one  
22           material over another?

23   A.   (LaFlamme) Not usually.

24   Q.   Okay. And, so, if there were costs associated with the

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 different types of pipes, the Audit Staff wouldn't say  
2 "yes, this was a prudent investment because you used  
3 material A." They would evaluate the overheads, is  
4 that what you're -- you're saying, the factors that are  
5 applied to costs?

6 A. (LaFlamme) Yes.

7 Q. And, the Audit Staff reviews mathematical, you know,  
8 they review it from a mathematical perspective, as  
9 opposed to an engineering perspective, would you agree  
10 with that?

11 A. (LaFlamme) Yes.

12 Q. Thank you. And, I just have a couple questions on  
13 Exhibit 6 and 7 to the Settlement Agreement. I just  
14 wanted to just get a little clarification of why the  
15 numbers are different. And, I guess I'll open it to  
16 whoever wants to respond to this question. But, for  
17 instance, if you look at the first line --

18 CMSR. IGNATIUS: I'm sorry, which  
19 document are you referring to?

20 MS. HOLLENBERG: Exhibit 6 to the  
21 Settlement Agreement -- or, I'm sorry, it's Exhibit C,  
22 Attachment C to the Settlement Agreement, which is  
23 Exhibit 6, and Exhibit 7, which was distributed this  
24 morning.

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 WITNESS HARTLEY: I'm just trying to  
2 find C here.

3 MS. HOLLENBERG: It's the last page of  
4 the Settlement Agreement.

5 WITNESS HARTLEY: Oh. Okay. All right.

6 MS. HOLLENBERG: Page 3 of 3.

7 BY MS. HOLLENBERG:

8 Q. So, it looks like, you know, my first question is, on  
9 Page 3 of 3 of Attachment C to Exhibit 6, for  
10 "General-Metered" class, the last column has the  
11 percentage of "18.44", and then Exhibit 7 has a total  
12 of "20.64" for the "Combined", with the step, and a  
13 "Permanent Increase" of "17.45". Could you just  
14 explain why the numbers are different please.

15 A. (Hartley) Well, there would be a difference for the  
16 number of customers, because we reduced the -- I  
17 believe we were not -- I really -- I'd have to go back  
18 and review this.

19 Q. Okay.

20 A. (Hartley) I'm not sure what the differences are at this  
21 point.

22 MS. HOLLENBERG: Okay. Is that  
23 something, Commissioner, --

24 WITNESS HARTLEY: Well, I think --

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 MS. HOLLENBERG: Okay.

2 MS. KNOWLTON: We may be able to, if we  
3 took a short break, the Company could confer and come back  
4 and answer that question.

5 CHAIRMAN GETZ: Yes. What I would  
6 suggest on that issue is, we're going to have a few  
7 questions, and then I think we're going to need to take a  
8 break, and then maybe on redirect we can address that.

9 MS. HOLLENBERG: Okay. Thank you. I  
10 don't have any other questions at this time. Thank you.

11 CHAIRMAN GETZ: Thank you. Commissioner  
12 Below.

13 BY CMSR. BELOW:

14 Q. Mr. Naylor, on Page 7 of the Settlement Agreement,  
15 Exhibit 6, could you tell me the import of the  
16 statement "no project shall be included for recovery in  
17 the WICA unless the project is used and useful and  
18 providing service to customers or will be used and  
19 useful by the effective date of the WICA"?

20 A. (Naylor) And, your question specifically about this  
21 was?

22 Q. What's the import of it? The significance of it? What  
23 does it do?

24 A. (Naylor) Okay. Well, I think it's to ensure that any

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 projects completed under the WICA Program are in  
2 service, used and useful, before they -- the costs of  
3 that project are included in rates, which, in this  
4 case, would be the WICA Surcharge. So, we need to make  
5 sure that the projects are completed, the documentation  
6 has been provided to us, it's been reviewed, and we're  
7 -- we have certainty that the project is in service,  
8 before customers are charged for it, under the  
9 Anti-CWIP statute.

10 Q. So, that's to conform to state law, in part?

11 A. (Naylor) Correct.

12 Q. And, would it also apply -- would it have particular  
13 application in the event the Company -- there was a  
14 need to upgrade a service or a main, and it's sized to  
15 meet the needs of customers, would this potentially  
16 allow something that was needed and used and useful, in  
17 terms of a main replacement or service replacement, to  
18 either be included if it met this criteria, or not  
19 included if, for instance, they upgraded a pipe size  
20 and that was not used and useful to provide service to  
21 customers?

22 A. (Naylor) I suppose that could be -- that could be an  
23 outcome. Recall that the way this WICA is proposed to  
24 operate, the Commission will have ruled on the projects

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 the year before. No projects will be submitted for  
2 recovery through a surcharge that have not been  
3 approved in the prior year through the review of the  
4 budgets. So, what the Commission is going to be asked  
5 for in the very first year is to approve final approval  
6 for the WICA projects to come in the next 12 months.  
7 And, that approval that will be sought will be  
8 specific, what projects. The numbers may vary, in  
9 terms of the Company seeks to complete replacement of,  
10 you know, 5,000 feet of main, they may only complete  
11 4,500 for a certain circumstance, whatever. But the  
12 idea is that this a program of improvements scheduled  
13 for this year, that that program has to be approved in  
14 advance.

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

17 CHAIRMAN GETZ: Commissioner Ignatius?

18 CMSR. IGNATIUS: No questions. Thank  
19 you.

20 CHAIRMAN GETZ: Okay. I think, at this  
21 point, we need to take a recess. We're going to have at  
22 least one question on redirect. Is there some other  
23 redirect possible? Well, let's give you an opportunity to  
24 prepare redirect. But let's go off the record for a

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1 second.

2 (Brief off-the-record discussion  
3 ensued.)

4 CHAIRMAN GETZ: Okay. Let's take 15  
5 minutes, and then we'll return with redirect.

6 (Whereupon a recess was taken at 12:18  
7 p.m. and the hearing reconvened at 12:38  
8 p.m.)

9 CHAIRMAN GETZ: Okay. We're back on the  
10 record and opportunity for redirect. Ms. Knowlton.

11 MS. KNOWLTON: Thank you.

12 **REDIRECT EXAMINATION**

13 BY MS. KNOWLTON:

14 Q. Ms. Hartley, on cross-examination the Office of  
15 Consumer Advocate asked you a question with regard to  
16 the difference in the percentage increase in rates  
17 that's reflected on the last page of Exhibit 6, which  
18 is the Settlement Agreement, versus what's reflected on  
19 Exhibit 7, which is the Company's calculation of the  
20 proposed rate impact on residential customers. Can you  
21 explain what the difference is between the -- for  
22 general-metered customers, the "18.44 percent" that's  
23 reflected on the Settlement Agreement, Page 27, versus  
24 the "17.45 percent permanent increase" that's reflected

[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 on Exhibit 7?

2 A. (Hartley) Yes, I can. The exhibit on Page 27, which is  
3 the "Report of Proposed Rate Changes" for the combined  
4 step and the permanent, reflects the allocation to the  
5 entire class of customers. So, when we're looking at  
6 the "General-Metered Customers" on the schedule, and I  
7 want to -- Schedule C, what we're looking at is all of  
8 the general-metered customers, not just the 5/8ths  
9 customers, but we have other customers who use 1-inch,  
10 2-inch meters. In addition to that, we are looking at  
11 the blend of the volumetric rate and the customer  
12 charge.

13 When we go over to this exhibit, this  
14 represents what the Commission typically likes to see.  
15 "What would be the impact on the average residential  
16 bill?" So, this only takes into effect the 5/8ths  
17 meter, and it also reflects the overall proposed  
18 increase at the top of the schedule. So, what we're  
19 looking at here is, in the cost of service study, the  
20 monthly charge for a 5/8ths meter for permanent rates  
21 is recommended to be "\$21.91" per month. And, again,  
22 to comport with our settlement, we agreed to raise the  
23 fixed charge only by the "17.45 percent", which is what  
24 we've done here. And, then, you have the step increase

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[WITNESS PANEL: Hartley~Ware~Naylor~LaFlamme]

1 of "3.18 percent". But, if you -- you can't really  
2 relate this exhibit to the Exhibit C, because Exhibit C  
3 is the total class of customers, and the total within  
4 that class of customers are other groups of customers  
5 who not necessarily have a 5/8ths meter.

6 Q. And, when you refer to "this exhibit", you mean  
7 "Exhibit 7"?

8 A. (Hartley) Yes.

9 MS. KNOWLTON: Thank you. I have  
10 nothing further for the panel.

11 CHAIRMAN GETZ: Ms. Hollenberg, anything  
12 further on that?

13 MS. HOLLENBERG: No thank you. That was  
14 very helpful.

15 CHAIRMAN GETZ: Anything further for the  
16 panel? Hearing nothing --

17 MS. THUNBERG: Can Staff have a --

18 CHAIRMAN GETZ: Oh.

19 MS. THUNBERG: One question. Thank you.

20 BY MS. THUNBERG:

21 Q. Mr. LaFlamme, I just wanted to revisit, there was a  
22 quick banter back and forth, question and answer about  
23 the prudence issue that the Final Audit Report reviews.  
24 And, I just wanted to make sure, because I think it was

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1 left that it's a simple characterization or the  
2 characterization of the Audit Staff's review of  
3 prudence is that it's purely mathematical. And, I just  
4 want to clarify, is that correct?

5 A. (LaFlamme) No. And, I guess I apologize for my initial  
6 agreement with the characterization that the Audit  
7 Staff's review is simply a math -- they review  
8 mathematical prudence. It actually goes beyond that.  
9 I guess a better term would be "transactional  
10 prudence", which includes, and the mathematical -- the  
11 mathematical prudence would be one facet of that, but  
12 they also look into whether the -- whether transactions  
13 are recorded correctly in accordance with Generally  
14 Accepted Accounting Principles. They also compare the  
15 various costs that are recorded with any contracts that  
16 are on record. And, so, there's a gamut of things that  
17 the Audit Staff reviews. So, I just didn't want to  
18 leave it it's just simply checking the mathematics.  
19 There's a number of things that the Audit Staff  
20 reviews.

21 MS. THUNBERG: Staff has no further  
22 questions. Thank you.

23 CHAIRMAN GETZ: Anything further?

24 (No verbal response)

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[WITNESS: Eckberg]

1 CHAIRMAN GETZ: Hearing nothing, then  
2 you're excused. Thank you, everyone. Ms. Hollenberg.

3 MS. HOLLENBERG: Thank you. The Office  
4 of Consumer Advocate would like to call Stephen Eckberg to  
5 the stand please.

6 (Whereupon **Stephen R. Eckberg** was duly  
7 sworn and cautioned by the Court  
8 Reporter.)

9 **STEPHEN R. ECKBERG, SWORN**

10 **DIRECT EXAMINATION**

11 BY MS. HOLLENBERG:

12 Q. Good afternoon, Mr. Eckberg.

13 A. Good afternoon.

14 Q. Could you please state your full name and spell your  
15 last name for the record.

16 A. My name is Stephen R. Eckberg, E-c-k-b-e-r-g.

17 Q. Did you file testimony in this case?

18 A. Yes, I did.

19 Q. And, would you agree that the testimony that is dated  
20 March 4th, 2011 and has been premarked as "Exhibit 4"  
21 is your testimony in this case?

22 A. I would agree with that, yes.

23 Q. Was this testimony prepared by you or under your  
24 direction?

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[WITNESS: Eckberg]

1 A. Yes, it was.

2 Q. And, do you have any corrections or additions to your  
3 testimony at this time?

4 A. No, I do not have any corrections or additions at this  
5 time.

6 Q. If you were asked the questions contained in your  
7 testimony today, would your answers be the same?

8 A. Yes, they would.

9 MS. HOLLENBERG: Thank you.

10 Commissioners, I defer to you. I presume that you've read  
11 the testimony. And, would you like Mr. Eckberg to  
12 summarize it or would you care for me to just go to  
13 cross-examination?

14 CHAIRMAN GETZ: I think we can do  
15 without a summary.

16 MS. HOLLENBERG: Okay. Then, the  
17 witness is available for cross-examination.

18 CHAIRMAN GETZ: Thank you.

19 MS. HOLLENBERG: Thank you.

20 CHAIRMAN GETZ: Ms. Spector?

21 MS. SPECTOR: No thank you.

22 CHAIRMAN GETZ: Ms. Thunberg?

23 MS. THUNBERG: Staff has no questions.

24 CHAIRMAN GETZ: Ms. Knowlton?

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[WITNESS: Eckberg]

1 MS. KNOWLTON: The Company has no  
2 questions.

3 CHAIRMAN GETZ: Commissioner Below?  
4 And, Commissioner Ignatius? I did have one.

5 BY CHAIRMAN GETZ:

6 Q. If we go to Page 5 of your testimony, Mr. Eckberg, on  
7 Line 15, and talking about the OCA's opposition to a  
8 WICA. You state, "In addition, the Company has not  
9 established a basis for finding that any need exists to  
10 require the Commission to look outside existing  
11 ratemaking mechanisms for the recovery of its capital  
12 investment." I want to make sure I understand. Is it  
13 your position then that the test for approving a WICA  
14 of any form, there has to be some kind of need  
15 demonstrated? And, I guess, if that's the case, what  
16 would be the circumstances that you would say or what  
17 type of need would justify this type of adjustment  
18 clause?

19 A. Well, first, I offer the comment on the language here  
20 that I included in my testimony that "the Company has  
21 not established a basis for finding that any need  
22 exists to require the Commission to look outside  
23 existing ratemaking mechanisms." I think that's really  
24 -- my statement there is intended to be a summary of

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[WITNESS: Eckberg]

1 the points I've made before that, which is that the  
2 existing ratemaking mechanisms are, I believe, the OCA  
3 believes are sufficient in this case, given the  
4 totality of the circumstances, to allow the Company to  
5 recover for capital investments, and that there is no  
6 need for a WICA.

7 As to your specific question about "do I  
8 believe" -- I think you're asking me if I believe there  
9 are specific conditions that might be necessary where a  
10 WICA would be more acceptable than other circumstances?  
11 Do I understand that question correctly?

12 Q. I think that's fair.

13 A. I think there probably are certain circumstances when  
14 it would be more acceptable than in other  
15 circumstances. In the situation that applies to  
16 Aquarion Water Company of New Hampshire, that WICA was  
17 really the result of, as we've described it here in my  
18 testimony, as I've described it, it was the result of  
19 an overall settlement, which included a lot of  
20 different issues. So, it's a little difficult to  
21 pinpoint any one specific or several specific  
22 conditions.

23 I think, realistically, I think perhaps  
24 that the Company's statement that small water

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[WITNESS: Eckberg]

1 companies, such as Pittsfield, might be more -- might  
2 be more applicable to apply a WICA to smaller  
3 companies, which have limited capital, might be a  
4 criteria that would be worth considering. However,  
5 Pittsfield Aqueduct Company is part of a much bigger  
6 company, which does have access to capital. And, so,  
7 it has the ability to fund projects and perhaps wait  
8 just a little bit longer before recovering the costs on  
9 those, though, of course, that does have an impact on  
10 the Company's earnings.

11 Q. One thing I was trying to get a feel for from reading  
12 the language, whether you looked at it as a  
13 retrospective enterprise, that a company would need to  
14 have shown some need that -- or some problem that this  
15 type of adjustment would address, or could it be in a  
16 -- or could it be a prospective enterprise, which I  
17 think is some of what the proposal here is. "If we had  
18 this type of adjustment, we wouldn't have the need to  
19 come in for rate cases so often." So, that's some of  
20 what I was trying to get, in terms of retrospective  
21 versus prospective, and if you had any particular  
22 position on --

23 A. Well, I think that both of those issues, both the  
24 retrospective look at the Company's situation and the

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[WITNESS: Eckberg]

1 parameters under which it operates, as well as  
2 prospective or forward-looking considerations, I think  
3 those are all part of the totality of the situations.  
4 And, I think that, as I mentioned in testimony,  
5 prospectively, looking at the situation that this  
6 company faces going forward, that's an issue of concern  
7 to the OCA. I will not belabor that point, but I'm  
8 referring to issues related to the acquisition and  
9 costs and expenses that may change going forward. We  
10 don't know that they will change, but, looking forward  
11 in this case, that is an issue that raises some concern  
12 to the OCA.

13 Q. Because?

14 A. Because expenses for the Company may change, overall  
15 expenses for the Companies may change, while the WICA  
16 would give the Company the ability to raise its rates  
17 based solely on expenses incurred for a particular  
18 capital investment. Whereas, the WICA only looks at  
19 those expenses related to that capital investment. It  
20 does not look at the totality of expenses and costs for  
21 the utility as a whole. It only looks at that  
22 particular investment.

23 Q. And, then, also on Page 8 and 9, on Line 18, you  
24 recommend that we deny the request. But, on Line 23,

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[WITNESS: Eckberg]

1 and then carrying onto the next page, you say "At a  
2 minimum, the OCA believes that any WICA approved by the  
3 Commission should:", and then it lists eight things,  
4 which I believe many of those items are reflected in  
5 the Settlement Agreement. Are there any of these eight  
6 items that you think are not reflected or would be  
7 imperative be reflected in a WICA?

8 A. Well, I believe that you're correct, Mr. Chairman, that  
9 most of these eight items are reflected in the current  
10 settlement regarding the WICA. However, as I stated in  
11 my testimony, the overall totality of the circumstances  
12 is different with this company in its request for a  
13 WICA Pilot Program than the totality of the  
14 circumstances were for Aquarion. So, I didn't -- I  
15 certainly didn't mean to say that "these are the only  
16 eight considerations that one should take into account  
17 in thinking about approving a WICA", for this company  
18 or for any company. And, further, as I did describe in  
19 my testimony, the OCA understood that the Pilot Program  
20 would have some evaluation before another pilot or  
21 before a WICA would be approved, either an extension of  
22 the existing WICA for Aquarion or for a new WICA for  
23 another water utility.

24 And, so, I don't believe that in my list

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[WITNESS: Eckberg]

1 of eight things here I probably said something about  
2 "explicit opportunity for evaluation", but that's part  
3 of what the OCA believes should occur related to the  
4 Pilot Program.

5 CHAIRMAN GETZ: Okay. Any redirect?

6 MS. HOLLENBERG: Yes, please. I just  
7 have a couple of questions.

8 **REDIRECT EXAMINATION**

9 BY MS. HOLLENBERG:

10 Q. You just mentioned the "evaluation of a pilot program".  
11 Is it correct that that would be the Aquarion Pilot  
12 Program that the OCA expected would be reviewed before  
13 another pilot was extended to another water utility?

14 A. That's what I was referring to, yes.

15 Q. Okay. Thank you. And, do you agree with the statement  
16 that, "when expenses are reduced between rate cases,  
17 the Company and the shareholders or the shareholders of  
18 the Company enjoy -- wholly enjoy the benefit of those  
19 reduced expenses"?

20 A. Yes, I would agree with that statement.

21 MS. HOLLENBERG: Thank you. Nothing  
22 further.

23 CHAIRMAN GETZ: Okay. Anything further?

24 (No verbal response)

1 CHAIRMAN GETZ: Hearing nothing, then  
2 you're excused. Thank you. Is there any objection to  
3 striking the identifications and admitting the exhibits  
4 into evidence?

5 (No verbal response)

6 CHAIRMAN GETZ: Hearing no objection,  
7 they will be admitted into evidence.

8 Anything else before we provide an  
9 opportunity for closing statements?

10 (No verbal response)

11 CHAIRMAN GETZ: Hearing nothing, then  
12 we'll begin with Ms. Spector.

13 MS. SPECTOR: The Town appreciates the  
14 effort that was made in resolving these issues in this  
15 case. And, it takes no position on the Settlement  
16 Agreement. It again expresses some frustration with rate  
17 increase fatigue, but understands the need for these cases  
18 and the right of the Company to make a reasonable rate of  
19 return. So, thank you.

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

22 MS. HOLLENBERG: Thank you. The Office  
23 of Consumer Advocate is not taking a position on the  
24 revenue requirement that is proposed. We didn't take a

1 position in our testimony, and we're not taking a position  
2 now, other than just merely asking that the Commission  
3 require that the filing that is made for the Staff be  
4 provided to the OCA, and that an opportunity for the  
5 Office of Consumer Advocate to participate in that process  
6 occur.

7 With regard to the rate design terms, we  
8 do not oppose the results of those terms for rate design.  
9 And, as a result of that, we did not ask Mr. Rubin to  
10 testify today.

11 With regard to the rate case and  
12 recoupment, we would also ask that we be provided with or  
13 that the Commission require that copies be provided to the  
14 OCA, and that we are able to participate in that process.

15 As you can tell, we do oppose the WICA.  
16 I think, you know, the reasons for our position are  
17 related to the fact that we had every expectation in the  
18 Aquarion case, when we settled that case, that the WICA  
19 mechanism would be evaluated before it was extended to  
20 other utilities. That was our intention in framing it as  
21 a "pilot". And, so, it's inconsistent for us to agree  
22 with extending the pilot before the evaluation occurs at  
23 this time.

24 The other issues that we've raised in



1 Mr. Eckberg's testimony related to our opinion that the  
2 Company did not sustain it's burden of showing a necessity  
3 for the WICA, I believe speak for themselves. We also  
4 believe that the -- due to the circumstances with the  
5 Nashua acquisition, that we are not in a position to favor  
6 or support a mechanism that could enable the Company to  
7 stay out during a period of time when their expenses are,  
8 according to their own testimony, the Joint Petitioners'  
9 testimony in that case, the expenses are expected to be  
10 reduced by more than a million dollars at this time. So,  
11 we are not in a position to agree to any kind of mechanism  
12 that would enable a single-issue rate case, basically,  
13 with the WICA, without evaluation of the other components  
14 of traditional ratemaking.

15 I believe that Mr. Eckberg testified  
16 today, and it was in his direct testimony, that the  
17 Aquarion WICA was the result of a comprehensive settlement  
18 in that case. And, you know, that was another reason that  
19 we viewed -- we're not a part of a comprehensive  
20 settlement in this case, and we -- there was a  
21 give-and-take on all the issues in that case that enabled  
22 us to support the WICA.

23 We don't believe there is any objective  
24 evidence that the WICA will result in less frequent rate

1 cases. We think that there's contradictory evidence that  
2 the WICA will improve service quality. The Company's  
3 original filing in this case provided very little  
4 information about their expectations of the parameters of  
5 the proposed WICA, merely suggesting that it be similar to  
6 the Aquarion WICA. And, some of the terms of the PAC  
7 settlement regarding the WICA are not even in the -- are  
8 not in the Aquarion settlement and are not in the prefiled  
9 testimony. I should say, "some of the terms" -- excuse  
10 me, "some of the terms in the Aquarion settlement are not  
11 in the PAC settlement."

12 And, I need to correct something that I  
13 said. I believe I may have stated something to the effect  
14 that "the PAC expenses would be reduced by a million  
15 dollars", and that was an incorrect statement. The  
16 expenses expected for all three utilities, I believe  
17 there's an estimate of 1.7 million or something to that  
18 effect, but I'll let the testimony in the DW 11-026 speak  
19 for itself.

20 We respectfully ask that you deny the  
21 request to approve the WICA. We think that this is not  
22 the right time for this mechanism to be approved for  
23 Aquarion -- for PAC. And, we think that we will know in  
24 very short -- a short period of time, by the end of this

1 year, whether or not the acquisition will proceed. And,  
2 you know, it's possible to reevaluate whether it's  
3 appropriate after that time. Thank you.

4 CMSR. IGNATIUS: Thank you.

5 Mr. Hollenberg, I want to ask you something about and  
6 follow up a little bit on something you just said a moment  
7 ago. You said that your understanding from the Aquarion  
8 case was that the WICA in that case would be completed and  
9 evaluated before it would be considered for other  
10 utilities?

11 MS. HOLLENBERG: Yes.

12 CMSR. IGNATIUS: Perhaps I'm  
13 misremembering. I seem to remember the Office of Consumer  
14 Advocate advocating the use of a WICA, or something very  
15 much like it, in another proceeding, in the last year or  
16 so.

17 MS. HOLLENBERG: Okay.

18 CMSR. IGNATIUS: But I can't remember  
19 specifics.

20 MS. HOLLENBERG: In the last year? We  
21 did testify in the Aquarion case in support of a WICA as a  
22 pilot. Hmm. I don't -- I don't recall testifying in  
23 support of another water WICA.

24 CMSR. IGNATIUS: And, I don't know if it

1 was a water case.

2 MS. HOLLENBERG: Okay.

3 CMSR. IGNATIUS: And, perhaps I'm  
4 misremembering. But I came to the Commission after the  
5 Aquarion case was over, had never heard the word "WICA".  
6 And, my recollection is the first time I ever heard it, it  
7 was something that the OCA advocated.

8 MS. HOLLENBERG: I think, you know, and  
9 I think what you may be remembering, and I'm happy to try  
10 and confirm what we've done recently, but I do recall,  
11 maybe in the PSNH rate case, that we may have described  
12 part of the long-term rate plan as being "WICA-like". But  
13 it would have been in the context, and to the extent that  
14 it -- I believe it would have been in the context of a  
15 long-term rate plan, which we don't have here. But I can  
16 -- if you remember, I can look also and see, to the extent  
17 that we made that representation.

18 CMSR. IGNATIUS: Well, it's probably not  
19 material to a decision in this case. But I just wanted to  
20 understand your position to be sure that I was getting it  
21 right. So, thank you.

22 MS. HOLLENBERG: Sure.

23 CHAIRMAN GETZ: Ms. Thunberg.

24 MS. THUNBERG: Thank you. Staff

1 respectfully requests that the Commission approve the  
2 Settlement Agreement proposed today, including the WICA.  
3 Staff just wants to make a couple of comments about the  
4 WICA proposal.

5           The Commission's approval of the  
6 mechanism and the Settlement Agreement is not the end-all.  
7 This is just a forum for looking at, in the future,  
8 proposed projects. Rate increases are not automatic. We  
9 still have hearings that would have -- or, a review that  
10 would have to occur, and there's an opportunity for  
11 hearing. I'm just revisiting the Settlement Agreement, on  
12 Page 6, in Paragraph 3, where it talks about that "any  
13 party may request a hearing". It does not foreclose the  
14 OCA from asking the Commission to hold a hearing. So, I  
15 know that there's a fear that this is almost a runaway  
16 train that's going to have rate increases in the future or  
17 it's going to remove issues out of consideration by  
18 extending the period within the period of time between  
19 rate cases, but this is just a mechanism. There are  
20 opportunities for OCA to receive information, to  
21 participate. So, I'd like to put their fears that have  
22 been expressed today in context.

23           Staff, for the reasons that were offered  
24 by Mr. Naylor, also explained by Witness Don Ware, as to

1 system reliability, if we go through and have a successful  
2 program, including mitigation of rate shock, that these  
3 are benefits that I think are worth allowing this program  
4 to go forward, seeing if we can achieve those. But,  
5 again, if the program is not working, if it's becoming too  
6 single-issue ratemaking, there are mechanisms for dealing  
7 with that.

8 So, again, we respectfully request that  
9 you approve the Settlement Agreement and the terms as  
10 proposed. Thank you.

11 CHAIRMAN GETZ: Thank you.

12 Ms. Knowlton.

13 MS. KNOWLTON: Thank you. First, the  
14 Company would like to thank the Staff, the Office of  
15 Consumer Advocate, and the Town for working through the  
16 issues in this case. In particular, the Company  
17 appreciates the Town's ongoing participation in all of its  
18 cases. I think it's helpful that the Town does come and  
19 participate, and we certainly are glad that they do.

20 The Settlement Agreement that is before  
21 you today is the product of hard work of the parties, and  
22 that's also something that the Company appreciates. The  
23 Company is very aware that these are tough times for its  
24 customers, and the Company has actively worked to manage

1 its costs in running its system.

2                   However, as Ms. Hartley's testimony  
3 demonstrates, the Company has been significantly  
4 underearning. The Commission's authorized return for the  
5 Company is 8.07 percent. But, at the end of the test  
6 year, December 31st, 2009, the Company was earning only  
7 4.12 percent. As set forth in Ms. Hartley's direct filed  
8 testimony in this case, the Company's return on its  
9 investment further eroded to 3.86 percent as of  
10 February 2010 -- I'm sorry, 2.95 percent at the end of  
11 February 2010.

12                   And, the Company's, as the testimony has  
13 shown, its return has eroded due to a variety of different  
14 factors; a shortfall in water revenues, increase in  
15 property taxes, liability insurance, and maintenance  
16 expense. The Company has also made investments to meet  
17 regulatory requirements, as Mr. Ware described, in its  
18 upgrades to the Berry Pond Dam that were mandated by the  
19 DES.

20                   We believe that the Settlement Agreement  
21 strikes a fair compromise between the interests of the  
22 customers and those of the Company's shareholders, in  
23 obtaining a reasonable return on the investment, that at  
24 the same time will result in reasonable rates under the

1 circumstances.

2 The Settlement Agreement also reflects  
3 compromise by the parties. The Company came in with a  
4 cost of service study that did recommend a shift in the  
5 way that rates were made, and that was something that the  
6 Company put off for consideration for another day.

7 The Settlement Agreement has another  
8 important provision, which the Company believes strongly  
9 is in the public interest, and that's the WICA mechanism.  
10 We believe that the WICA mechanism will provide the  
11 opportunity for the Company to make important investments  
12 in its system to replace aging infrastructure on an "every  
13 other year" basis. Under the WICA mechanism, the Company,  
14 and that's described in the Settlement Agreement, the  
15 Company can make certain types of investments that it will  
16 bring to the parties for their consideration before  
17 they're made, and for which it can then receive, if  
18 approved, a timely rate relief, without the need to bring  
19 a full rate case. Mr. Ware's testimony does describe, his  
20 prefiled direct testimony, does describe the need for  
21 these types of improvements in the Company's system, which  
22 is aging.

23 We believe that the WICA mechanism is  
24 both reasonable and in the public interest. As the



1 Commission is aware, the customer base in this company has  
2 decreased as a result of the last rate case, when the  
3 North Country systems were transferred to its sister  
4 utility, Pennichuck East Utility. Right now, there are  
5 approximately 643 customers in this company. That means  
6 that there are fewer customers across which to spread  
7 expenses. And, while it is correct that at any time the  
8 Company can file a rate case, the Company is interested in  
9 having this mechanism in place because it allows a very  
10 cost-effective way to come to the Commission and to get  
11 approval for recovery of those investments without the  
12 initiation of a full rate case. And, I think that  
13 benefits the Company's customers in a big way,  
14 particularly where you're talking about a much smaller  
15 customer base.

16 The OCA has taken the position in this  
17 case that the Aquarion WICA has no precedential value.  
18 But then they have attempted to show, through  
19 cross-examination and argument, various differences  
20 between the proposed PAC WICA and the Aquarion WICA. If  
21 the Aquarion WICA has no precedential value, I don't  
22 really know what the relevance of that WICA is in this  
23 case. And, I think the Company's rebuttal testimony  
24 points out that we think that there's value in having

1 another pilot. It's not the same utility, the  
2 circumstances are different. There are a lot of  
3 similarities in terms of the way that it's structured.  
4 But, I think, having another pilot would be highly  
5 beneficial to the Commission and the Staff and the OCA and  
6 others in understanding, you know, what a WICA -- what  
7 benefits a WICA can bring.

8 OCA asks that the Commission strike the  
9 WICA mechanism from the Settlement Agreement, arguing that  
10 "now is not the time to implement the WICA, given the  
11 proposed acquisition of the Company's parent, Pennichuck  
12 Corporation, by the City of Nashua." I'm asking that you  
13 reject OCA's proposed request.

14 The acquisition is currently pending  
15 before the Commission and the discovery is ongoing. None  
16 of the parties, including the OCA, have taken a position  
17 yet in that acquisition docket. So, we don't know yet  
18 where they stand.

19 To now deny the Company the opportunity  
20 to have a mechanism in place that allows and encourages  
21 investment in its aging infrastructure, based on an event  
22 that has not occurred yet, and we don't know whether it  
23 will occur, is not a sound basis for making a decision.

24 As the Staff has pointed out in its

1 closing argument, there are multiple opportunities for  
2 this Commission to address any concerns that it might have  
3 about a WICA in the particulars. And, that's at the time  
4 that the proposed projects are filed, at the time that  
5 they're reviewed. And, I would posit, further in the  
6 acquisition docket. If the Commission were to have  
7 concerns about the WICA and the rates under the ownership  
8 of the three utilities by the City of Nashua, and directly  
9 through their ownership of Pennichuck Corporation, that  
10 would be the time and the venue to take up those concerns,  
11 not here.

12 So, for those reasons, I would ask that  
13 the Commission approve the Settlement Agreement in its  
14 entirety and find that it's in the public interest. And,  
15 I thank you very much for your time today and to all the  
16 parties.

17 MS. HOLLENBERG: Excuse me,  
18 Commissioners. I just wanted to respond again to  
19 Commissioner Ignatius. I just looked up the transcript  
20 from DE -- it's the rate case in PSNH, DE 09-035. And, it  
21 looks like we did refer to a "WICA process" in that case.  
22 But that case also, with regard to that settlement, was in  
23 the context of a long-term rate plan.

24 So, if there are others, I'm happy to

1 respond otherwise.

2 CMSR. IGNATIUS: Thank you.

3 CHAIRMAN GETZ: Okay. With that, we  
4 will close the hearing and take the matter under  
5 advisement. Thank you, everyone.

6 (Whereupon the hearing ended at 1:11  
7 p.m.)

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