

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

)

JOINT APPLICATION OF) Docket No. 05-057-T01

QUESTAR GAS COMPANY,)

THE DIVISION OF PUBLIC) TRANSCRIPT OF

UTILITIES AND UTAH) PROCEEDINGS

CLEAN ENERGY FOR THE)

APPROVAL OF THE)

CONSERVATION ENABLING)

TARIFF ADJUSTMENT)

OPTION AND ACCOUNTING)

ORDERS)

May 17, 2006 * 9:30 a.m.

Location: Public Service Commission

160 East 300 South

Fourth Floor Hearing Room

Salt Lake City, Utah

Richard M. Campbell, Commissioner

Theodore Boyer, Jr., Commissioner

Ron Allen, Commissioner

1 A P P E A R A N C E S

2 FOR QUESTAR CORPORTION:

3 Colleen Larkin Bell, Esq.

4 C. Scott Brown, Esq.

5 QUESTAR GAS COMPANY

6 180 East 100 South

7 Salt Lake City, Utah 84145-0360

8 Tel: 801.324.5556

9

10 and

11

12 Gregory B. Monson, Esq.

13

14 STOEL RIVES, LLP

15 Attorneys at Law

16

17 201 South Main, #1100

18 Salt Lake City, Utah 84111

19

20 Tel: 801.328.3131

21 FOR DIVISION OF PUBLIC UTILITIES:

22

23 Patricia E. Schmid Esq.

24 ATTORNEY GENERAL'S OFFICE

25

26 160 East 300 South, 5th Floor

27 Salt Lake City, Utah 84114

28

29 Tel: 801.366.0353

30 FOR COMMITTEE OF CONSUMER SERVICES:

31

32 Paul H. Proctor, Esq.

33 ATTORNEY GENERAL'S OFFICE

34

35 160 East 300 South, 5th Floor

36 Salt Lake City, Utah 84114

37

38 Tel: 801.366-0353

39 FOR UEA:

40

41 Gary A. Dodge, Esq.

42 HATCH, JAMES & DODGE

43

44 Attorneys at Law

45 10 West Broadway, #400

46

47 Salt Lake City, Utah 84101

48 Tel: 801.363.6363

49

50

51

52

1 ALSO PRESENT:
 2 Roger J. Ball
 1375 Vintry Lane
 3 Salt Lake City, Utah 84121
 Tel: 80.1860.1715

4
 5 I N D E X

6 WITNESSES	PAGE
7 BARRIE L. McKay Direct Examination by Ms. Bell	63
8 MARLIN BARROW Direct Examination by Ms. Schmid	81
9 WILLIAM POWELL 10 Direct Examination by Ms. Schmid	89
11 ERIC ORTON 12 Direct Examination by Mr. Proctor	95
13 Cross-Examination (all witnesses) by Mr. Ball	102
14 JACOB POUS 15 Direct Examination by Mr. Proctor	122

16 E X H I B I T S

17 EXHIBIT NO.	OFFERED	ADMITTED
18 DPU 1 (lines 6-21, 1-144, 259-273 19 586-291)	93	
20 DPU 2.0	93	
DPU 3.0, 3.1, 3.2, 3.3	93	
DPU 4	94	
21 QGC 1 (lines 1-7, 387-532, 555-532, 22 555-558, 570-571)	101	101
QGC 1.1, 1.11 and 1.12	101	101
23 QGC 2	101	101
QGC 3	101	101
24 CCS 1, 1.1 through 1.8	128	128
25 Appendix A	128	128

26

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

2 COMMISSIONER CAMPBELL: Let's go on the
3 record in Docket Number 05-057-T01 In the Matter of
4 the Joint Application of Questar Gas Company and the
5 Division of Public Utilities and Utah Clean Energy
6 for Approval of the Conservation Enabling Tariff
7 Adjustment Option and Accounting Orders.

8 Let's take appearances for the record,
9 please.

10 MS. BELL: Colleen Larkin Bell, C. Scott
11 Brown and Gregory B. Monson for Questar Gas Company.

12 MS. SCHMID: Patricia Schmid with the
13 Attorney General's Office for the Division of Public
14 Utilities.

15 MR. PROCTOR: Paul Proctor on behalf of
16 the Committee of Consumer Services.

17 MR. BALL: Roger Ball on my own behalf.

18 COMMISSIONER CAMPBELL: All right. Thank
19 you.

20 Ms. Bell?

21 MS. BELL: I believe you have before you
22 today, Commissioners, two issues. You have the issue
23 of the interim relief argument, an argument filed by
24 Mr. Ball and a response filed by Questar Gas Company,
25 and then surrebuttal and argument filed.

26

1 This hearing date was originally set for
2 determining that issue. The other issue before you
3 is the rate reduction Stipulation filed by the Joint
4 Applicants and the Committee of Consumer Services and
5 numerous Intervenors, and we are prepared today to be
6 able to support both the Stipulation and respond to
7 Roger Ball if it's requested.

8 COMMISSIONER CAMPBELL: All right. I
9 guess we would turn to Mr. Ball to make his argument
10 and presentation as it relates to interim rates.

11 MR. BALL: Thank you, Mr. Chairman. Good
12 morning, Commissioners.

13 Back in December, Questar Gas Company, the
14 Utah Division of Public Utilities and Utah Clean
15 Energy, came forward with an application which
16 purported to be a request for a fairly simple and
17 straightforward and expedited change to Questar Gas
18 Company's tariff. On examination it became clear, I
19 think to everyone, that the application was not
20 simple and straightforward, and there was no
21 opposition to requests that the process be slowed
22 down a little bit. And in the end the Commission, in
23 fact, approved the bifurcation of the schedule in
24 this particular matter.

25 In part, the bifurcation took place
26

1 because of a request on my part that the Commission
2 grant an interim rate reduction. And it's worth
3 remembering in the original application, the Joint
4 Applicants proposed a \$10.2 million rate reduction.

5 It's also worth bearing in mind that on
6 the day before they filed, Barrie McKay, on behalf of
7 Questar Gas Company, appeared at a public meeting of
8 the Committee of Consumer Services, which Questar has
9 previously represented is a very significant body
10 representing the interests of residential, small
11 business and agricultural users of utility services.

12 Mr. McKay, of course was not under oath.
13 It's not the normal practice of the Committee of
14 Consumer Services to swear those who appear before
15 it. My argument is that in choosing to appear and
16 describe the application before it was filed to the
17 Committee, Mr. McKay was, in fact, appearing before
18 the representatives of some 800,000 of Questar Gas
19 Company's customers and, therefore, any presentations
20 made on behalf of the Company should be afforded
21 considerable weight.

22 In that meeting Mr. McKay repeatedly
23 stated that there were no strings attached to the
24 \$10.2 million rate reduction. Committee Chairman
25 D.J. Hammond specifically questioned Mr. McKay on

26

1 that point and Mr. McKay again reassured the
2 Committee that there were no strings attached to that
3 rate reduction.

4 I, therefore, find it extremely difficult
5 and suggest that the Commission should find it
6 impossible to understand why subsequently Questar Gas
7 Company has represented that, in fact, that \$10.2
8 million rate reduction was contingent upon the
9 approval of the other aspects of the Joint
10 Application.

11 At the same time, the Joint Applicants
12 represented that they wanted to see that rate
13 reduction go into effect swiftly. I believe they
14 wanted it to go into effect backdated to the 1st of
15 January of 2006. I say backdated because, of course,
16 the schedule that originally arose from the
17 application didn't propose any kind of hearings or
18 formal consideration until a week or two after the
19 1st of January. And so it would have had a backward
20 looking effect at some point.

21 If you'll excuse me, I'm finding myself a
22 little dry.

23 As we began to examine the application in
24 a little more detail, what we discovered was that the
25 Joint Applicants were asking for relief which touched
26

1 on numerous aspects of every phase of the general
2 rate case. Their application and their proposal for
3 a rate reduction touched upon numerous aspects of the
4 revenue requirement phase of the general rate case,
5 including issues of costs and revenues including
6 issues of cost of -- not cost, I beg your pardon,
7 cost of capital, their rate of return and so on. It
8 touched upon the rate spread phase, it touched upon
9 the rate design phase. I, therefore, also requested
10 that the Commission convert this case into a general
11 rate case.

12 Questar has subsequently made the argument
13 that -- forgive me, I need to turn this thing off.
14 Questar has subsequently made the argument that there
15 is certain requirements that must be met by someone
16 who wishes to initiate a general rate case. I
17 disagree with some aspects of their arguments.

18 Just because this Commission and its
19 predecessors have not frequently seen individual
20 consumers coming forward asking for general rate
21 cases to be initiated does not mean that it would be
22 inappropriate for one to do so. Just because the
23 normal process is that the Division of Public
24 Utilities on behalf of everyone audits the Company's
25 books and recommends to the Commission that there is
26

1 a prima facie case for a fuller investigation in a
2 rate case docket doesn't mean that that's necessarily
3 the only way that these things ought to be able to go
4 forward.

5 One of the fundamental responsibilities, I
6 suggest to the Commission, is that it needs to look
7 out for the interests of consumers and the
8 fundamental background to that is that consumers, in
9 general, are unable to do that on their own behalf.
10 They're certainly unable to do as the Division does
11 and carry out regular and routine audits of what's
12 going on at the utility companies. The utility
13 companies won't even allow the Committee of Consumer
14 Services to do that outside an open docket. So there
15 is no practical way in which consumers could meet
16 that test if, indeed, the Commission were to think
17 that that test was an appropriate one.

18 Therefore, consumers have to be able to
19 come to the Commission and seek relief when they
20 believe that they are being imposed upon. And that
21 is my position with regard to Questar Gas at the
22 present time, quite apart from this application to
23 which they are Joint Applicants.

24 Questar has represented that I have no
25 authority to seek a general rate case. I think I
26

1 have now dealt with that aspect. But I would like to
2 turn to another aspect as well. I'm not asking for
3 the initiation of a general rate case. I'm pointing
4 to this Joint Application to which Questar was a
5 Joint Applicant and saying they have, in fact, opened
6 the door. They have come forward with a request for
7 relief which touches upon all of these many aspects
8 of a general rate case, and my submission is that
9 it's only within a general rate case format that all
10 of these issues can be properly explored and that the
11 relief that Questar is asking for can be disposed of
12 adequately by this Commission.

13 Questar has also argued that a request for
14 interim rate relief is inappropriate in these
15 circumstances. It's within the context of the
16 request for a general rate case that I am asking for
17 interim rate relief. I think I've explained
18 adequately my point about the general rate case. And
19 in that context I believe that it's appropriate, and
20 in fact it's fairer to Questar for this Commission to
21 order interim rate relief than it would be for this
22 Commission to order what Questar itself asked for, a
23 permanent no strings attached \$10.2 million rate
24 reduction.

25 It's fairer because in the context of a
26

1 general rate case the Commission will have an
2 opportunity to fully consider all aspects of
3 Questar's rates and will have an opportunity to order
4 rate changes that are appropriate for Questar and for
5 consumers.

6 An interim rate change preserves the
7 ability if you order a greater decrease for consumers
8 to benefit from that decrease going back to whatever
9 date you decide is appropriate. I'm suggesting to
10 you the date is the 1st of January, the date that
11 Questar and the other Joint Applicants actually asked
12 you to approve in the first place.

13 So my point is, I'm not suggesting that
14 you do anything with regard to this interim rate
15 reduction that the Joint Applicants didn't ask you to
16 do in the first place. The only thing that's
17 different is that you're doing it on an interim basis
18 rather than a permanent basis and that you leave the
19 door open so that at the end of the general rate case
20 there's an opportunity to adjust the amount in
21 whatever direction it needs to go in an appropriate
22 way.

23 The other side of the coin, of course is
24 that if as a result of that full process you consider
25 that a \$10.2 million number is too high or, indeed,

26

1 that rate should be increased rather than decreased.
2 An outcome, which tongue in cheek I have to say to
3 you that I find it highly unlikely that you will
4 reach, but it's entirely possible that you may. And
5 in that particular case, of course, it's fair to
6 Questar and its stockholders because they have an
7 opportunity to recover the interim rate decrease that
8 they have so far paid for and they have an
9 opportunity to recover going backwards whatever kind
10 of an increase or a lesser decrease you might order.

11 So I see an interim decrease as being an
12 extremely fair way of your disposing of this
13 particular segment of this particular docket.

14 I would like to reemphasize, the Joint
15 Applicants came forward and asked for a \$10.2 million
16 rate reduction. Mr. McKay, on behalf of Questar Gas,
17 repeatedly, publicly before the Utah Committee of
18 Consumer Services, stated that no strings were
19 attached to it. And so based upon the limited
20 evidence that we have been provided in the January
21 direct testimony of the applying parties, the -- we
22 see that Questar Gas Company believed that a \$10.2
23 million rate reduction was reasonable. We see that
24 the Division of Public Utilities investigated those
25 numbers and supported that total number as being

26

1 reasonable -- as being a reasonable amount.

2 Now, if you'll forgive me, I'm feeling a
3 tad bit stressed here. I haven't done anything quite
4 like this before. So I'm going to ask you, if you
5 will, to treat me gently today and perhaps to give me
6 the opportunity, if I discover that I've forgotten
7 something significant as I listen to the others and I
8 reflect on what I myself have said, to maybe add to
9 it at a later stage. For right now I'm done. Thank
10 you very much.

11 COMMISSIONER CAMPBELL: Thank you very
12 much. Ms. Bell?

13 MS. BELL: Greg Monson is available to
14 respond to Mr. Ball.

15 COMMISSIONER CAMPBELL: All right. Mr.
16 Monson?

17 MR. MONSON: I think there's a couple of
18 points that the Commission should be aware of in
19 connection with the request for interim rate relief.

20 The statute that talks about interim rate
21 relief says that interim rate relief can be based on
22 a prima facie case. But prima facie means evidence,
23 it means at least some evidence. It doesn't mean a
24 full-blown thoroughly presented case, but it means at
25 least some evidence.

26

1 And I think the most important point that
2 you need to bear in mind is that Mr. Ball has filed
3 no evidence whatsoever. Therefore, there's no
4 evidence before the Commission in support of interim
5 rate relief. Mr. Ball, in his initial filing, did
6 cite evidence of the Joint Applicants, particularly
7 the testimony of Mr. Powell, Ms. Cleveland and Mr.
8 Bell.

9 But we pointed out in our response that he
10 was selectively taking statements out of context and
11 in his reply he didn't respond to that and,
12 therefore, I assume he acknowledges that he ignored
13 statements in their testimony that made it very clear
14 that they weren't advocating interim rate relief, nor
15 were they saying that the current rates and charges
16 of Questar Gas were unjust or unreasonable. They
17 were simply saying that they were proposing a package
18 deal, and the package deal they were proposing was
19 that the package deal was just and reasonable and
20 that the rate reduction proposed as part of that
21 package deal was just and reasonable. They never
22 said that the current rates and charges were not just
23 and reasonable.

24 We can go through the testimony if we need
25 to, but I think it's obvious that the parties always
26

1 said this was a package. And I guess the point, the
2 overriding point here is that we're not in a general
3 rate case. No one has asked for a general rate case,
4 no one except Mr. Ball has requested that you convert
5 this to a general rate case. So if that's the
6 request, I guess, to start a general rate case. But
7 none of the parties have asked for a general rate
8 case, to the Stipulation have asked for that, and
9 none of them have provided any evidence that there's
10 any reason to start a general rate case. So Mr. Ball
11 acknowledged in his argument that before you can
12 grant interim relief you have to be in a general rate
13 case or you have to be in a pass-through case. He
14 didn't say the pass-through case part of it, but
15 that's something I would add and note.

16 So the question is, then, you know,
17 whether you characterize -- how you would
18 characterize his request for conversion. Whatever,
19 however you characterize it, what he's saying is
20 please start a general rate case. To start a general
21 rate case you have to have evidence, again. You have
22 to have some prima facie showing that there's some
23 reason to have a general rate case. You just don't
24 say, "Oh, let's have a general rate case."

25 And the Division's testimony which was
26

1 filed in this matter says very clearly that they have
2 no basis to seek an order to show cause to start a
3 general rate case. So you've got undisputed evidence
4 that there's no reason to start a general rate case
5 and you've got Mr. Ball on the other hand saying
6 please start one.

7 Mr. Ball stated in his argument today, in
8 his argument and reply that obviously consumers have
9 the opportunity to ask the Commission to start a
10 general rate case. Well, again, being selective,
11 he's ignored part of our argument on that point which
12 is the statute that talks about this subject. And
13 the statute is 54-7-9, and it says specifically in
14 sub part 3, "No request for agency action," and I
15 suppose that can be a request to convert a case to a
16 general rate case or an initial pleading or whatever,
17 "no request for agency action shall be
18 entertained" -- entertained, I think we all
19 understand what that means, considered, reviewed,
20 acted upon -- "by the Commission concerning the
21 reasonableness of any rates or charges of the gas
22 corporation unless the request is signed by," and
23 then go down to (b) and there's two "by's," by the
24 way, which we ought to fix some day, "by not less
25 than 25 consumers."

26

1 We don't have such a request. The
2 Commission cannot entertain Mr. Ball's request that
3 this be converted to a general rate case. And the
4 Commission has no evidence before it suggesting it
5 should consider -- or it should consider opening a
6 general rate case. In fact, the only evidence before
7 the Commission is there's no reason to have a general
8 rate case.

9 Mr. Ball relies principally on what he
10 characterizes as Mr. McKay's statements to the
11 Committee on December 15th. And I hate to waste
12 everyone's time going through this, but when Mr.
13 McKay was talking to the Committee he was aware that
14 the Committee had been involved in discussions about
15 this case.

16 In fact, the reason this case was
17 presented as a Joint Application was because the
18 parties settled the case before they filed it,
19 essentially. That's why it was a Joint Application.
20 There had been these task forces established by the
21 Commission to consider some questions, depreciation,
22 demand-side management, conservation, so forth.

23 These task forces had met for a period of
24 three years. And they, at the conclusion of those
25 meetings, it was time to say, okay, where do we go

26

1 from here? The parties had discussions and they were
2 negotiating what they were going to do. And the
3 Committee was part of those negotiations, at least
4 initially. And as part of that process one of the
5 ideas put forth was, okay, we'll agree to a rate
6 reduction as part of proposing this pilot program,
7 but no one can file a general rate case for a year,
8 some period of time, a stay-out agreement, which the
9 Commission is aware is sometimes made between parties
10 and sometimes the Commission joins in those.

11 That was the string that Mr. Bell was
12 referring to. He knew the Committee was aware of
13 that. Mr. McKay, I'm sorry, that Mr. McKay was
14 referring to. I know another Barry. I'm sorry. His
15 name is Barry Bell. I wasn't referring to you.

16 MS. BELL: Okay.

17 MR. MONSON: Anyway, Mr. McKay was
18 referring to that string. Because the Committee had
19 been aware that there had been a prior proposal that
20 if we do this deal no one can file a rate case for a
21 year. Well, that was a very important issue to the
22 Division, and probably to the Committee. And they
23 said, no, we aren't willing to agree to that. We
24 want to still have the right to come in and bring a
25 rate case. So that string was removed from the deal

26

1 and Questar Gas agreed, okay, take that string away,
2 you can still file a general rate case.

3 And I think that's an important point, not
4 so much because of what Mr. McKay said to the
5 Committee, because that's not on the record and if
6 you need Mr. McKay to explain it he's here. But
7 because -- it's kind of the puzzling aspect of this
8 whole thing. The parties now, in general, have
9 agreed to a Stipulation under which there will be a
10 \$9.7 million permanent rate reduction and Mr. Ball is
11 essentially saying, no, convert this into a general
12 rate case and impose a interim rate reduction.

13 And yet even if you approve the
14 Stipulation, and I don't want to get ahead of the
15 argument, even if you approve the Stipulation, some
16 appropriate party can come in the next day and say,
17 let's have a general rate case. So there's no harm,
18 there's no risk. And that's what Mr. Bell -- Mr.
19 McKay was referring to when he said there was no
20 strings attached. There was no risk to anybody. So
21 if you think there's a need for a general rate case
22 you can still seek one.

23 But the most important point here is we've
24 reviewed your orders on interim rate relief. The
25 Commission has said in the past that it would grant
26

1 an interim rate increase if the utility was suffering
2 serious financial harm and if certain financial
3 indicators showed that. It said it would have a
4 slightly different standard for an interim rate
5 decrease, but that standard was consistent
6 overearning. You don't get into the issues that you
7 get into in the general rate case, if you had one,
8 you just look at some prima facie stuff like that.
9 There's no evidence that Questar Gas is overearning,
10 let alone consistently overearning. And most
11 importantly, Mr. Ball has provided no evidence.
12 Therefore, I submit there's no basis to grant interim
13 rate relief or to convert to a general rate case.

14 Thank you.

15 COMMISSIONER CAMPBELL: Thank you. Ms.
16 Schmid?

17 MS. SCHMID: Mr. Ball, stress even affects
18 those of us that have been here before. It seems to
19 be pervasive.

20 Anyway, on the issue of interim rate
21 relief that was noticed up for today's hearing, the
22 Division offers these comments. Rather than repeat
23 at length the legal arguments presented in the
24 Division's April 28th pleading entitled "Response to
25 the Division of Public Utilities to the Argument of

26

1 Roger Ball in Support of his Request for an Interim
2 Rate Decrease," the testimony of Elizabeth Wolf on
3 behalf of the Salt Lake Community Action Program
4 insofar as it requests an interim rate decrease and
5 comment on status of proceedings, the Division would
6 like you to refer to the legal arguments there and I
7 will just summarize them.

8 An interim rate case -- an interim rate
9 relief is appropriate in the context of a general
10 rate case. There is no such general rate case
11 pending here. Even if there somehow were a general
12 rate case here, if, say, it were somehow converted,
13 the application was somehow converted, Mr. Ball has
14 presented no evidence in support of his request for
15 an interim rate decrease. The prima facie showing
16 required by the Commission in prior orders has not
17 been made. There has not been a showing that the
18 rates are unjust or unreasonable or that Questar Gas
19 is expected to overearn at this point.

20 While the other parties, as Mr. Monson
21 mentioned, are supporting a 9.7 permanent rate
22 decrease, Mr. Ball's request for an interim is
23 inappropriate based on the facts presented above and
24 inconsistent with the law. Additionally, Mr. -- as I
25 understand it, Mr. Ball believes or is implying that

26

1 a general rate case would be precluded by the
2 Stipulation.

3 And again, I don't want to get ahead of
4 myself, but that indeed is not the case. That the no
5 strings attached argument that Mr. Monson referenced,
6 indeed, there was a suggested provision that a
7 stay-out provision be included in the Joint
8 Application and we rejected that. So there is no
9 impediment to a rate case being set forth and
10 prosecuted by an appropriate party.

11 Indeed, the DPU is, as part of its general
12 statutory responsibilities, and as Mr. Ball noted, is
13 doing regular and routine audits of the Company and
14 looks at whether or not Questar Gas will overearn,
15 underearn, or if it is likely that a rate case would
16 result in a rate increase.

17 Thank you.

18 COMMISSIONER CAMPBELL: Thank you.

19 Mr. Proctor?

20 MR. PROCTOR: Thank you, Mr. Chairman and
21 Commissioners.

22 On March 31st of this year, the Committee
23 filed with the Commission a request to amend its
24 initial response to the Joint Application and a
25 supporting memorandum. In that filing the Committee

26

1 addressed the rate decrease that the Committee
2 believed was justified by the evidence before it as
3 well as the legally sanctioned ratemaking procedures
4 that would allow the Commission to enter a rate
5 decrease in that amount, the abbreviated proceeding
6 which we've addressed.

7 That is the Committee's position before
8 the Commission now and we believe that the rates
9 decrease Stipulation which will be heard shortly
10 reflects also that same position with respect to the
11 evidence that is available and the proper procedure
12 by which a rate decrease may be entered. So unless
13 there are questions, Commissioners and Mr. Chairman,
14 that would be the Committee's response to the interim
15 rate relief request.

16 COMMISSIONER CAMPBELL: Thank you.

17 Back to you, Mr. Ball.

18 MR. BALL: Thank you, Mr. Chairman.

19 I have to note that I have ongoing
20 problems with the tendency, in particular of the
21 utility in this case, to make assumptions about what
22 silence means. Mr. Monson talked about my lack of
23 response earlier on in this process to Questar's
24 assertion that I had selectively used evidence.

25 My perception is that all parties

26

1 routinely selectively use evidence from other
2 parties. They point to things that people say and
3 things that people don't say and things that people
4 deny in support of their own position.

5 I think it would be completely wrong for
6 the Commission to give any credence to the notion
7 that my silence, or anybody else's silence, means
8 anything in particular. The way to deal with that, I
9 think, is through specific questions to elucidate
10 exactly what people do think of those things.

11 I think it's completely irrelevant that
12 none of the other parties in this matter have asked
13 for a general rate case or given specific evidence in
14 support of an argument that one is required. I think
15 the fact stands on its own and is plain on its face
16 that in their 23rd of January direct testimony, both
17 the Company and the Division supported an application
18 that clearly requires a general rate case kind of
19 investigation in order to be able to deal with that.

20 I'm quivering a little bit before I get
21 into what I want to say next because I am not expert
22 in the area of what it is from settlement discussions
23 that it's appropriate to disclose and what it isn't,
24 but I'm going to somewhat honor Mr. Monson, I think,
25 by following his example.

26

1 He talked in connection with the string
2 argument about what had gone on prior to this Joint
3 Application being filed. And let me point out, not
4 all of the parties to the task force work, not by any
5 means all of the parties to the task force work to
6 which Mr. Monson referred became Joint Applicants.
7 Only three of the parties became Joint Applicants.
8 So I think that it's important that we be clear in
9 our use of language.

10 The Joint Applicants are a specific
11 discrete group of three; Questar, Division, Clean
12 Energy. Parties means different things depending
13 upon what you're talking about. There's also been a
14 somewhat, I think, nonspecific reference to the
15 parties to the Stipulation.

16 My observation, again, is that the
17 Stipulation that was put before the Commission last
18 week by no means has all of the parties to this
19 docket, the signatories to the Stipulation, and I am
20 not the only party to this docket who is not a
21 signatory to the Stipulation. There are, I believe,
22 two or three others who have also not signed it. So
23 we need to be just a little bit more careful about
24 the way that we refer to these things.

25 My understanding is that the folks who
26

1 reached some kind of accord, I would characterize it
2 slightly differently from Mr. Monson, I don't see it
3 as a settlement, because I really believe that it's
4 misleading to call anything that is less than a
5 settlement before all of the parties is, in fact, a
6 settlement of anything. I think it may be some kind
7 of an agreement between some select group. It may
8 ultimately form the basis of something, a settlement,
9 an order or whatever, but I don't think you've got a
10 settlement until it's settled. And this is not
11 settled and the Joint Application didn't settle
12 anything.

13 But we did have two of the Joint
14 Applicants in written testimony before this
15 Commission, and some of it at least I see is intended
16 to be entered as exhibits at some point during the
17 course of today. So I don't think has been offered
18 yet, but in that testimony those parties indicated
19 that there were numerous factors, at the very least
20 including depreciation expense, including capital
21 expense -- cost of capital. There were references
22 that were not fully developed to a number of other
23 issues, including the pipeline integrity issue,
24 including money for low income programs. There were
25 references to as many as a dozen other aspects that

26

1 were not specifically identified, but it seems to me
2 that there really is no room for doubt that the Joint
3 Applicants intended the Commission to settle multiple
4 issues across all phases of the process that normally
5 constitutes a general rate case.

6 I'm not going to argue with Mr. Monson.
7 It's pretty evident that I am one, I am not 25. So
8 I'm not going to argue at all about the statutory
9 provision for consumers to come in and seek a rate
10 case. But I didn't come in and seek a rate case.
11 The Joint Applicants came in and sought a general
12 rate case under the guise of a tariff adjustment.

13 I may be the only party to have pointed
14 out to the Commission forcibly and repeatedly that
15 this is the case, but the fact that I'm the only
16 party doing it doesn't make in any less the case. It
17 doesn't mean that the Commission should afford it any
18 less attention. What is right, what will lead to
19 just and reasonable rates is what the Commission
20 needs to pay attention to.

21 And I would point out, not that the
22 Commission needs it, but I would point out that Title
23 54, Chapter 4, Section 1, as I mentioned in my 12th
24 of May surrebuttal argument, gives the Commission
25 very broad overarching powers and the fundamental

26

1 responsibility, I suggest, of the Commission is to
2 get to those just and reasonable rates.

3 If you'll tolerate me for just a moment
4 here, please.

5 I disagree with the repeated arguments
6 that there is no evidence. There is evidence. It
7 may not be evidence that I've brought forward. I
8 think I've already addressed the issue of the
9 difficulty that I and other consumers would face in
10 mustering the resources, and even in being able to
11 carry out the kind of audit and investigation that
12 the Division routinely performs.

13 And so it is absolutely accurate to say
14 that I have relied upon the testimony of Company and
15 Division witnesses; I have relied upon Mr. McKay's
16 comments to the Committee of Consumer Services. And
17 perhaps in clarification on that point I would add
18 what I hope is going to be my last thread here.

19 I attended the 15th of December, 2005
20 meeting of the Committee of Consumer Services as the
21 consumer on the street. I walked into the meeting, I
22 sat there through the open part of the meeting, I
23 left when they went into closed session. I don't
24 know what had gone on during the previous 12 months
25 -- well, not the 12 months, the previous 10 months

26

1 now in the private councils of the Committee or in
2 meetings between the Committee and the Company and
3 the Division and others. All I know is what any
4 member of the public would know who had attended that
5 meeting of the Committee.

6 I suspect, given my experience in that
7 area up until 14 months ago, that most of the members
8 of the Committee were about as well informed as I
9 was. I didn't hear anything, I don't recall having
10 heard anything about a two or three-year process. I
11 don't recall "strings" being defined.

12 On the 31st of March in my argument in
13 support of an interim rate decrease I quoted, and Mr.
14 Monson will no doubt say selectively, he would be
15 right, I didn't want to give you a complete
16 transcript of a very lengthy, I think of about an
17 hour's presentation if I recall accurately by Mr.
18 McKay to the Committee on this issue, but I quoted
19 part of it. He said, "Tomorrow we hope to file a
20 Joint Application with the Division of Public
21 Utilities and with Utah Clean Energy. We will be
22 proposing a \$10 million rate decrease in the fixed
23 cost portion of our rates." He said, "We would like
24 it to go into effect as soon as possible for our
25 customers on a permanent basis."

26

1 He said, "The key thing about this, and a
2 lot of people have had concerns, this is with no
3 strings attached, okay?"

4 Later he said, "But there's no strings
5 attached on this." And he said, "And we want this to
6 be a very up front, straightforward open process." A
7 bit later D.J. Hammond asked Mr. McKay, "Okay, key
8 proviso. You mentioned on the earlier draft, quote,
9 'no strings attached.' Is that, in fact, the case,
10 this is no strings attached? There's no other part
11 that hides anything else?" And Mr. McKay replied,
12 "Nothing."

13 Now, I think that Questar's 800,000
14 consumers are entitled to rely upon the
15 representations of a senior officer, official of the
16 Company before the state agency that is statutorily
17 charged with representing their interests in the
18 ratemaking process. And I'm representing to the
19 Commission that it should hold Questar to those
20 representations.

21 Thank you very much.

22 COMMISSIONER CAMPBELL: Thank you.

23 Commissioner Allen.

24 COMMISSIONER ALLEN: Thank you, Mr.

25 Chairman.

26

1 I have a couple of questions as a result
2 of reading and rereading, Mr. Ball, your pre-filed
3 testimony. You assert in your May 12th filing that
4 the Company is overearning.

5 Outside of what we know about the 9.7 or
6 10.2 million question in front of us, do you have
7 specific data or information that indicates that they
8 are overearning?

9 MR. BALL: Thank you, Commissioner Allen.

10 I believe that the Company, again, in
11 fact, provides and provides in a public forum it's
12 website information to indicate that very thing. My
13 assertion is that the Company's overearnings derive
14 from at least three different sources. One of them
15 goes back to the divestiture from the vertically
16 integrated utility years ago of the gas wells that
17 had been drilled, starting as long ago at least as
18 1928, to provide natural gas to consumers here along
19 the Wasatch Front into Wexpro.

20 Now, Wexpro states on its website that
21 under the Wexpro agreement, and this is not an exact
22 quote, you understand, it's very -- it's just as I
23 remember it, Wexpro appears to me to state that it's
24 entitled to earn a 19 percent rate of return. I
25 believe that that 19 percent rate of return should
26

1 properly be imputed back to the utility company. And
2 I believe that if you do that then it takes Questar
3 well over its authorized rate of return.

4 I believe that something very similar
5 applies with regard to Questar Pipeline Company.
6 Again, pipelines that were built initially
7 exclusively to supply natural gas from those wells to
8 the Wasatch Front were built and were paid for in
9 utility rates for decades. Subsequently, with the
10 pulling off of those pipelines into Questar Pipeline
11 Company and its growth into an interstate pipeline
12 company regulated by the Federal Energy regulatory
13 Commission, that nonetheless parts of those pipes, in
14 particular the southern pipe, for many years
15 continued to be paid for entirely by utility
16 consumers.

17 Subsequently those pipes have increasingly
18 been used in the interstate commerce and to have
19 earned revenues for Questar Pipeline Company that
20 that have nothing at all to do with consumers of the
21 utility company, but nonetheless, I believe that on
22 the principals of Wexpro -- I'm talking now about the
23 two cases before the Supreme Court.

24 MS. BELL: Excuse me, Roger, I would
25 object at this point. I would like to clarify or ask
26

1 whether Roger is testifying or this is evidence
2 before the Commission or what capacity this is.

3 COMMISSIONER CAMPBELL: Ms. Bell, you make
4 a good point. If in response to this question you're
5 providing evidence as to -- in the context of making
6 a prime facie case for a rate adjustment we probably
7 do need to swear you in on these suggested
8 adjustments you would make in a rate case. So --

9 MS. BELL: I believe what Roger placed
10 before you was argument, but I'm not sure what this
11 is intended to do. And I would agree that if he is
12 testifying, we would like to have him sworn.

13 COMMISSIONER CAMPBELL: Well, let's let
14 Commissioner Allen have a follow-up question.

15 COMMISSIONER ALLEN: Mr. Ball, if I can
16 just to help clarify, what I really am asking for, do
17 you have a specific set of data or specific
18 information to indicate that their company is
19 overcollecting, outside of your understanding of the
20 historicity of the situation, do you have specific
21 evidence that they're overcollecting at this point?

22 MR. BALL: The only evidence that I'm
23 pointing to is the evidence that exists on Questar's
24 website which is available to the public.

25 COMMISSIONER ALLEN: Thank you.

26

1 I have one more question, if I may,
2 please, for Mr. Ball. In the same testimony you also
3 assert that the Division in this case and in these
4 matters lacks impartiality. Could you please give me
5 an example of why that's the case?

6 MR. BALL: I'm embarrassed not to be able
7 to take you immediately to the cite in the statute,
8 but I have referred to it I believe in this docket
9 and some of the things that I've filed talks about
10 what the responsibility of the Division is to
11 investigate and to bring evidence and recommendations
12 and so forth to the Commission.

13 In this particular instance I think that
14 the Division has placed itself in a difficult
15 position. By entering into this Joint Application it
16 has essentially become -- well, there's no
17 essentially, it has become a party to the Joint
18 Application. And my concern is that in that
19 situation I can't see how it can possibly investigate
20 and bring information and recommendations to the
21 Commission in the way that the Division was created
22 to do.

23 COMMISSIONER CAMPBELL: Mr. Boyer?

24 COMMISSIONER BOYER: Mr. Ball, I have a
25 couple of gentle but hopefully useful questions for
26

1 you.

2 Would you grant Mr. Monson's point that
3 were we to approve this rate reduction Stipulation as
4 requested, that approval would not preclude a
5 subsequent rate case, would it?

6 MR. BALL: I think I've heard both Questar
7 and the Division assure the Commission that that
8 would be the case, and I certainly don't intend to
9 argue their assertions.

10 COMMISSIONER BOYER: Thank you.

11 Do you see any difference between a
12 request for a rate decrease and a rate increase in
13 terms of the diligence, the procedures we should
14 follow?

15 MR. BALL: I don't know whether I can
16 answer that question in the simple terms in which
17 it's being phrased, Commissioner, because I see a
18 number of ramifications to it.

19 COMMISSIONER BOYER: Let me narrow the
20 question a bit. Turning to the Statute,
21 54-7-12(2)(b), the statute appears to make a
22 distinction between the two processes. And it reads,
23 "The Commission shall, after reasonable notice, hold
24 a hearing to determine whether the proposed rate
25 increase or decrease or some other rate increase or

26

1 decrease is just and reasonable." So this standard
2 is just and reasonable.

3 And then it goes on to say, "If a rate
4 decrease is proposed by a public utility," such as
5 the case we have before us, "the Commission may waive
6 the hearing unless it seeks to suspend, alter or
7 modify the rate decrease."

8 So my question is, does the statute treat
9 increases and decreases differently?

10 MR. BALL: It sounds as if it does. And
11 in this particular case I think we perhaps have moved
12 beyond that point because it seems to me that the
13 Commission chose not to approve the proposed
14 increase, but rather to investigate it. I'm not
15 sure, though, if that's what you were trying to get
16 at.

17 COMMISSIONER BOYER: My last area of
18 inquiry regards the request for relief that you had
19 submitted. The Stipulation, the recorded Stipulation
20 as I read it has a provision in there that permits
21 the parties to withdraw from the Stipulation if the
22 Commission alters or modifies the terms of the
23 Stipulation.

24 It would seem to me that if we were to
25 approve an interim decrease, that would be a

26

1 substantial and substantive change in the Stipulation
2 of the parties and, therefore, would at least open
3 the door to the possibility that the parties might
4 withdraw from the Stipulation. Am I correct in that
5 reading?

6 MR. BALL: I think that the difficulty
7 that the Commission runs the risk of entering into is
8 trying to deal with issues that it apparently has not
9 chosen to take before it at this instant in time. My
10 understanding is that the Commission has chosen for
11 this particular period to look at the request for
12 interim relief.

13 One of the great joys of life, of course,
14 is that it's seldom possible to actually limit the
15 number of balls that you have to try and juggle and
16 so I appreciate the difficulty. I would have thought
17 that if the Commission chooses to approve my argument
18 that there should be a conversion to a general rate
19 case and that an interim rate reduction should be
20 implemented, that the issue of the Stipulation
21 becomes moot.

22 Now, I've got some concerns about process
23 if we head in the direction of trying to juggle them
24 both at the same time because I have not addressed
25 the Stipulation and I have some very real issues with
26

1 regard to the Stipulation. But I think those only
2 arise if the Commission decides to deny my requests
3 and move on to deal with the Stipulation itself.

4 COMMISSIONER BOYER: Okay, thank you.

5 I wouldn't mind hearing from counsel of
6 the other parties on that last question or series of
7 questions. If we were to approve a decrease on an
8 interim basis, would we not be changing the terms of
9 the Stipulation and give rise to the opportunity for
10 the parties to withdraw from the Stipulation? Mr.
11 Monson?

12 MR. MONSON: Yes. Yes, you would be. And
13 that's why it's always been clear from the time we
14 filed this application that the two, that the
15 application was a package deal. And if you were to
16 approve an interim rate reduction when no one asked
17 or proposed it in the Joint Application you would not
18 be approving the Stipulation -- or the Joint
19 Application and, therefore, the parties could
20 withdraw.

21 COMMISSIONER BOYER: And indeed we might
22 not have evidence before you. There's been testimony
23 submitted, but not admitted in evidence. The
24 testimony before us is the Stipulation, which in part
25 states that this decrease on a permanent basis, the

26

1 9.7 million, is just and reasonable. Without that we
2 would not have evidence before us, would we?

3 MR. MONSON: At this point you wouldn't.
4 And I think I wanted to make a comment on something,
5 on Commissioner Allen's question because I think the
6 record needs to be clarified. I think Commissioner
7 Allen's question was, in your pre-filed testimony,
8 Mr. Ball, unless I misheard what he said, but I think
9 everyone should be clear, Mr. Ball has filed no
10 testimony, he has filed an argument.

11 COMMISSIONER BOYER: Ms. Schmid or Mr.
12 Proctor?

13 MS. SCHMID: The Division would like to
14 respond. The Division believes that approving an
15 interim rate decrease would be a departure from the
16 Joint Application. The Division notes, however, that
17 certain parties, including the Committee of Consumer
18 Services, have raised questions as to the
19 appropriateness of that paragraph in the Stipulation.

20 COMMISSIONER BOYER: Thank you.

21 Mr. Proctor?

22 MR. PROCTOR: Thank you, Commissioner
23 Boyer.

24 In our February 2nd filing on page 13, we
25 address paragraph 40, which is the paragraph you're

26

1 speaking about in the context of withdrawing from an
2 application to the Commission following a final
3 order, and the implications of paragraph 40 to the
4 authority of the Commission. I'll let the arguments
5 that we made in that pleading stand.

6 I think it's important to remember,
7 though, now that it's not necessary to get to that
8 point because the problematic phase of this case is
9 the decoupling mechanism that has true implications
10 much broader than the three individual rate decrease
11 elements that are being addressed in the Stipulation.
12 And that's been segregated into a separate proceeding
13 that will be resolved on its own merits stand-alone.

14 So I don't know that granting Mr. Ball
15 relief on an interim basis would necessarily imply
16 that the company can then withdraw and grant and give
17 no relief whatsoever because the only way you can
18 actually, in the Committee's judgment, get to Mr.
19 Ball's relief is if you do, indeed, convert this to a
20 general rate case. The general rate case will
21 contain the same elements of rate increases or
22 decreases, interim or permanent, as does his present
23 request and as does the Stipulation. More
24 importantly, the decoupling mechanism would then be
25 addressed in a general rate case.

26

1 So I think the process goes on. The key,
2 however, is that in another forum appropriately
3 raised with the appropriate evidence is where that
4 general rate case and interim relief could be
5 addressed, not this case. This case involves the
6 Joint Application, narrow elements of rate decreases
7 or rate changes, and the decoupling mechanism, and
8 that is all that is there. That's all the evidence
9 you have.

10 COMMISSIONER BOYER: And were that to be
11 the case, Mr. Proctor, would there be any increase to
12 the ratepayer, the customer, in terms of the delay in
13 making effective the rate decrease?

14 MR. PROCTOR: You mean in adopting the
15 Stipulation?

16 COMMISSIONER BOYER: If we were to convert
17 this to a general rate case. I guess we could grant
18 the interim relief and have that immediate, is that
19 what you're saying?

20 MR. PROCTOR: I think -- well, I think you
21 could if you grant many other assumptions as being
22 valid and evidence, you could do that. And you could
23 do it even on the basis of a \$9.7 million interim
24 rate reduction. You would have to limit it, of
25 course, to the rate change for which there is

26

1 substantial evidence and you still have to have a
2 just and reasonable rate.

3 So I don't believe that it would deprive
4 the consumer of a rate decrease if you were to grant
5 an interim relief under a general rate case. The
6 Committee's concern, however, is that it is interim
7 and it does lose the effectiveness of the Stipulation
8 and the \$9.7 million decrease into a much larger case
9 that may result in a greater rate increase, for
10 example.

11 So I don't believe that necessarily it's
12 going to harm the consumer, but obviously the
13 greatest benefit will be to deal with the Joint
14 Application on its merits in both phases, adopt the
15 Stipulation, and then hear the matter of the
16 ratemaking mechanism later.

17 COMMISSIONER BOYER: Thank you very much.

18 MR. BALL: Mr. Chairman, I fear I might
19 have misheard Commissioner Boyer's question. The
20 question that I heard had to do with the interim rate
21 decrease and the Stipulation which I took to be the
22 \$9.7 million permanent rate decrease Stipulation
23 filed last week. The responses that I've heard from
24 Mr. Monson, Ms. Schmid and Mr. Proctor have had to do
25 rather with the Joint Application and the interim

26

1 rate decrease.

2 Could I first ask Commissioner Boyer to
3 clarify, was he asking me about the Joint Application
4 or the Stipulation?

5 COMMISSIONER BOYER: My -- I guess I'm not
6 used to being cross-examined. But my question was,
7 were we to modify the terms of the Stipulation before
8 us, would not that give rise to an opportunity for
9 the parties to withdraw from the Stipulation, thereby
10 depriving us of evidence on which we could base your
11 request for relief?

12 MR. BALL: That's what I thought I heard,
13 Chairman. And the word you used was "Stipulation."
14 These guys have responded regarding the Joint
15 Application of the 16th of December. I responded
16 regarding the Stipulation of last week. My answer
17 might be different if you were asking me about the
18 Joint Application.

19 MS. BELL: Commissioner Boyer, to the
20 extent there's any confusion at all on this issue,
21 Questar's position would be if the Commission were to
22 modify the Stipulation -- I'm sorry, would deem that
23 as a change and we would withdraw from the
24 Stipulation.

25 COMMISSIONER BOYER: I think I understand

26

1 that.

2 MR. BALL: My response, Chairman, if the
3 question had been about the Joint Application my
4 response would be rather different.

5 COMMISSIONER CAMPBELL: And it wasn't so
6 we're not going to. Let me ask this question and I
7 think I'm going to start with the line of questioning
8 we were just going down.

9 When the Commission gets evidence today on
10 the Stipulation about depreciation and about cost of
11 capital, why can that not be used as prima facie
12 evidence that the Company would be overearning
13 otherwise? It's all in the same docket.

14 Mr. Monson?

15 MR. MONSON: The way I would respond to
16 that question is this. If the Commission -- when the
17 Commission receives the evidence that it's going to
18 receive in support of the Stipulation, I don't
19 believe it's going to receive evidence that the
20 Company is currently overearning. Because, for
21 example, in the case of depreciation, we haven't
22 changed our depreciation expense and can't change our
23 depreciation expense until the Commission issues an
24 order approving new depreciation rates.

25 COMMISSIONER CAMPBELL: Let me ask the
26

1 Division, since you're the one that monitors the
2 Company's earnings and we would look to you to
3 initiate a rate decrease. We asked this issue be
4 studied, we've hired a consultant. Your consultant
5 says your depreciation expense is overstated and it
6 ought to be reduced by \$8 million. If you look at 10
7 point, whatever their earnings are right now, does
8 not the 8 million push them into an overearning
9 situation that you would come in and say, we need a
10 rate case to lower rates?

11 MS. SCHMID: We are continuing to pursue
12 our investigation. The Company has filed its 2005
13 Results of Operation in response to our request, it's
14 made available in data responses forecasted 2006
15 results, we're sending further data requests on these
16 filings. Of course, to get the picture of the
17 Company completely, in many ways you need to look at
18 usage and usage per customer and so you would need to
19 perhaps take that into account if you were doing an
20 overearning analysis.

21 COMMISSIONER CAMPBELL: I mean, just on
22 the face of this, everybody has agreed to a \$9.7
23 million rate reduction and people are saying, we
24 don't need a general rate case? It's just we're
25 going to just do this \$9.7 million, it's just out
26

1 there?

2 MS. SCHMID: We are saying, let's take the
3 9.7 now, and once that's in the hands we will
4 continue to look at whether or not a general rate
5 case is appropriate. But we can get the immediate
6 benefit now.

7 COMMISSIONER CAMPBELL: Let me ask this
8 question, let me ask it this way. We got a filing
9 from Mr. Reeder in the PCAM docket where he spent a
10 lot of time talking about our ratemaking authority
11 and I spent a lot of time reading the wage case last
12 night because it was Questar and the Division that
13 were involved in that case, and it seems to me we're
14 going down the same path.

15 Now, tell me under what provision, under
16 what ratemaking process that this Commission follows,
17 pass-through, general or abbreviated proceeding, are
18 you proposing this \$9.7 million Stipulation fall
19 under?

20 MR. MONSON: Can I answer?

21 COMMISSIONER CAMPBELL: Please.

22 MR. MONSON: Commissioner Boyer earlier
23 called attention to the fact that when a rate
24 decrease is proposed the Commission doesn't even need
25 to have a hearing. We're under a stipulated proposal

26

1 for a rate decrease. That's the provision under
2 which we're acting.

3 COMMISSIONER CAMPBELL: And if you read
4 that statute carefully it requires rates be just and
5 reasonable. And as you look at the just and
6 reasonable standard under the wage case and under the
7 other cases, it seems for me like that just and
8 reasonable standard requires the balancing of all
9 revenues, all expenses, capital. I mean, it just
10 smacks of another single item rate case proposal.

11 MR. MONSON: Well --

12 COMMISSIONER CAMPBELL: I mean, we got in
13 big trouble on the MCI case for this very I think,
14 for the utility company proposing a decrease and the
15 Division agreeing, and the Court saying, you didn't
16 look at it like you should have. I guess I'm really
17 trying to understand under what process. I mean, you
18 can suspend the hearing, but you still have to have a
19 process and follow, at least under Mr. Reeder's
20 analysis, one of the three general processes for
21 setting rates; general, pass through, or abbreviated.

22 MR. MONSON: Mr. Chairman, the statute
23 contemplates that a utility can come in and offer a
24 rate decrease and as long as there's no bar to a
25 further rate case to examine whether the rates are
26

1 just and reasonable it would be absurd for the
2 Commission to reject a utility-offered rate decrease.
3 The parties are going to present evidence that that
4 rate decrease is just and reasonable, okay? They
5 haven't done that yet, but they're going to. And the
6 problem in the MCI case was that the utility was
7 overearning consistently and substantially. There is
8 no evidence that Questar Gas is overearning. In
9 fact, the evidence is exactly the contrary, it is not
10 overearning.

11 COMMISSIONER CAMPBELL: When we do an
12 overearning calculation -- and I don't mean to be
13 worked up about this, I just feel like everybody is
14 ganging up on one guy here and I just maybe in a
15 sense of fairness want to make sure we get all sides
16 heard.

17 MS. SCHMID: Sure.

18 COMMISSIONER CAMPBELL: Let me ask you
19 this. In the case of overearning, overearning is not
20 necessarily a calculation based on the last RUE, is
21 it?

22 MR. MONSON: Yes.

23 COMMISSIONER CAMPBELL: I mean, if the
24 Division in their mind believes that the current rate
25 of return ought to be 10.5, that's the basis on which
26

1 they make an overearnings decision, not based on a
2 historically set amount. So if they believe it's
3 10.5 and they've got a consultant that says
4 depreciation expense is 8.5 million or whatever
5 overstated, how is that not a prima facie case that
6 there's overearning going on?

7 MR. MONSON: You're an accountant so
8 you'll appreciate this, I think. Just because
9 depreciation expense is overstated doesn't mean --
10 and if you change it doesn't mean there's overearning
11 because depreciation affects several factors. It
12 affects expense, it affects rate base, it affects
13 income taxes, deferred taxes. It may very well be
14 that after implementing the rate change that the
15 parties are advocating today that Questar Gas will be
16 earning less than more. That's why you can't just
17 look at these things in isolation if you're
18 considering a general rate case.

19 COMMISSIONER CAMPBELL: No, I understand
20 that.

21 MS. SCHMID: Chair Campbell? The Division
22 requests that Dr. William Powell be sworn in and be
23 allowed to answer this question. He can probably
24 give the best answer on behalf of the Division.

25 COMMISSIONER CAMPBELL: Is that all right
26

1 with the parties if we do that?

2 All right, Dr. Powell.

3 COMMISSIONER CAMPBELL: Do you swear that
4 the testimony you're about to give in this proceeding
5 is the truth, the whole truth, and nothing but the
6 truth, so help you God?

7 THE WITNESS: I do.

8 DR. POWELL: Thank you.

9 Commissioner, you do raise an interesting
10 point that the Division has debated internally and,
11 that is, if I could just outline it a little bit, the
12 Company's rate of return, authorized rate of return
13 right now is about 11.2, if I remember correctly. In
14 the Joint Application we indicated that part of that
15 \$10.2 million reduction was based on a voluntary
16 reduction and the rate of return that was used to
17 calculate the revenue requirements go down to 10.5.
18 I believe I also indicated in testimony that, which
19 is not before you at this time, but the argument is
20 is that the Division may argue for even something
21 less than the 10.5 if we were to go forward with a
22 rate case.

23 And so that presents a dilemma to the
24 Division and that's what we have debated. If the
25 company is earning 10.7, for example, and we believe
26

1 that 11.2 is too high, we think that it's something
2 less or south of the 10.5, does that mean the Company
3 is overearning? We have never come to a resolution
4 of that debate itself, but it is an important
5 question, I think, that we continue to struggle with.

6 MS. SCHMID: And investigate.

7 DR. POWELL: And investigate. Mr.
8 Monson's statement right there at the end I think is
9 appropriate. When we think about depreciation, it
10 does affect several categories, expenses, revenues,
11 taxes and rate base.

12 We requested some time ago that the
13 Company provide us with a forecast of the '06 Results
14 of Operation adjusted for the regulatory orders and
15 adjustments that have come from the Commission. We
16 received that. We then asked the Company if they
17 would overlay the Stipulation rate reduction of the
18 9.7 on that so that we could understand how that
19 would affect their earnings, and we found that that
20 greatly reduces their earnings over the next year.

21 COMMISSIONER CAMPBELL: Well, of course it
22 does. And my point is, what is the effect before the
23 9.7? Let's say we do nothing in this proceeding, we
24 do absolutely nothing, and six months from now the
25 Company is overearning?

26

1 MR. POWELL: Well, if they're overearning
2 in six months from now then the Division can call
3 them in for a rate case. I think that was indicated
4 earlier, that the Stipulation doesn't bar us from
5 that. We are in the process of auditing both the
6 2005 Results of Operation and the Forecasted Results
7 of Operation that the Company has provided for us.
8 So we will continue to do that. Depending on the
9 outcome of the CET portion of this case we will
10 continue to monitor the effects that that has on the
11 earnings of the Company, too, as part of that
12 program.

13 I think, again, when we looked at the 2005
14 Results of Operation, our analysis and audit so far
15 indicate that the Company is not overearning. If you
16 overlay the depreciation change that's being
17 requested on top of that or on top of the '06 Results
18 of Operation, the Company is not overearning. In
19 fact, it goes the other way.

20 COMMISSIONER CAMPBELL: Let me ask the
21 Company, then. If you're not overearning and this
22 isn't tied to anything, why are you voluntarily
23 reducing your rate by \$10 million?

24 Should we swear Mr. McKay?

25 MS. BELL: Yes, I would like to have him
26

1 sworn.

2 COMMISSIONER CAMPBELL: Please stand. Do
3 you swear that the testimony you're about to give in
4 this proceeding is the truth, the whole truth, and
5 nothing but the truth, so help you God?

6 MR. MCKAY: Yes.

7 Your question is, why are we voluntarily
8 offering, and you said \$10 million --

9 COMMISSIONER CAMPBELL: 9.7. I should be
10 precise, I'm sorry.

11 MR. MCKAY: I just want to make sure --

12 COMMISSIONER CAMPBELL: What I'm hearing
13 is you're not overearning, you're going to offer a
14 \$9.7 million reduction and there's no strings
15 attached. Why are you doing that?

16 MR. MCKAY: We are able to do that as
17 specifically outlined, and we're kind of moving
18 towards the Stipulation so I don't know where we want
19 all of this to land and stay.

20 COMMISSIONER CAMPBELL: I'm going to come
21 back to the Stipulation because I'm not satisfied
22 with the answer.

23 MR. MCKAY: Yes, and I'm just recognizing
24 that's where I'm going. But we are able to do this
25 because, and I'll say currently, at the end of '05,

26

1 at the end of April, we were authorized to, and we
2 were following previous Commission orders on what our
3 depreciation rates were incurring, and we followed
4 that according to the previous Commission orders.

5 Coming out of our last general rate case
6 we had agreed to do a depreciation study. We had
7 never done one before, and we went forward and we did
8 that. You'll find as we talk later today that we've
9 had opportunities to bring the experts in, being able
10 to come and participate and review that, and we have
11 come to a settlement that is within the ranges of
12 what the experts felt depreciation rates could be
13 changed to with a Commission order. We can't change
14 these without an Accounting Order because of GAAP
15 accounting. So we need that.

16 And once we have that then we can then
17 with that change in our rates, we would apply that to
18 our depreciation and our expenses would change, our
19 rate base would change, as well as our deferred taxes
20 would change. The net result of that specific number
21 is about \$8.5 million. But we need that because of a
22 -- and we need the Commission order for us to be able
23 to do that.

24 Barring the Commission order we would
25 continue to depreciate the way we had previously been
26

1 allowed and ordered in our last general rate case.
2 Coming out of that rate case we had agreed to do the
3 depreciation study. That is the main or the material
4 impact an order of the \$9.7 million. Additionally --
5 I don't know if you want me to go through every
6 point.

7 COMMISSIONER CAMPBELL: No, that isn't
8 necessary.

9 But isn't that a timing issue? Okay,
10 we'll give you the order tomorrow.

11 MR. MCKAY: Sure.

12 COMMISSIONER CAMPBELL: Now what? If we
13 do an order tomorrow then are you --

14 MR. MCKAY: We would go into our
15 accounting records and we would change our
16 depreciation rates. The change in those depreciation
17 rates would result in different expenses as well as,
18 and this is the key things you're observing, the
19 timing of that, we need to reflect all of the plant
20 prior to that as if it had been depreciated at those
21 rates.

22 We do that. It comes up with a given pot
23 or an amount. The parties have agreed in the
24 Stipulation that that pot or amount should be
25 amortized over a given period of time, which is

26

1 reflected in the attached adjustment, and the timing
2 of that is we go back to the customers in the form of
3 a rate reduction and you'll amortize that over a
4 ten-year period. And so that's what we're able to do
5 with your Accounting Order that we're requesting.

6 COMMISSIONER CAMPBELL: Well, let me go
7 back to Mr. Monson. Are you suggesting, then, that
8 this Commission has four ways to separate? We have
9 general rate cases, we have pass-through and
10 abbreviated proceedings, and now we're going to
11 create a utility-proposed rate decrease proceeding
12 that's separate from those other three packages?

13 MR. MONSON: I think you have more than
14 four ways. I think your ratemaking authority is
15 extremely broad and I think you have a variety of
16 ways you can set rates. They always have to be found
17 to be just and reasonable, I think that's the key.
18 But yes, I think that a utility-proposed decrease or
19 a stipulated decrease is in addition to the ways you
20 mentioned.

21 COMMISSIONER CAMPBELL: And as far as a
22 just and reasonable standard, what's required for
23 that?

24 MR. MONSON: Some kind of at least prima
25 facie evidence that it's reasonable. I mean, think

26

1 about it for a minute --

2 COMMISSIONER CAMPBELL: So the Court
3 doesn't limit us as far as analyzing all expenses and
4 revenues to come up to that? I mean, doesn't it feel
5 like a single item rate case or three item rate case?

6 MR. MONSON: It could except there's no
7 logic to the position that you should have to because
8 you can still do that. In other words, if after this
9 \$9.7 million rate reduction you believe that the
10 rates are not just and reasonable, you can do
11 whatever you want. The point is, the utility has
12 proffered a \$9.7 million rate reduction which has
13 been stipulated to by every other party except Mr.
14 Ball. And so why would anybody have a problem with
15 that?

16 COMMISSIONER CAMPBELL: Did US Mag sign
17 the Stipulation? I didn't see it on my copy.

18 MR. MONSON: (Indicating affirmatively.)

19 COMMISSIONER CAMPBELL: So Ms. Schmid, Mr.
20 Proctor, how many ways and means and methods can this
21 Commission set rates?

22 MS. SCHMID: I agree that the Commission's
23 power is broad and that the touchstone is that the
24 rates that result must be just and reasonable, and I
25 think that there are likely many ways to get there.

26

1 I think it is important to realize that this is a
2 rate decrease, that there is the prima facie evidence
3 to support the reduction, and I hope that you grant
4 the immediate and permanent rate decrease.

5 COMMISSIONER CAMPBELL: You argued for an
6 abbreviated proceeding. And as I read the wage case,
7 it seemed to me I didn't see much difference between
8 what the Court suggested there and a general rate
9 case as far as looking at revenues and expenses and
10 the cost of capital. What do you have in mind?

11 MR. PROCTOR: Well, in the context of the
12 wage case you're correct because that was a case
13 where the Court found it wasn't the extraordinary
14 unpredictable change in operational expenses or
15 revenues that one could deal with on a single basis.
16 What the facts before that Court were that you had a
17 labor agreement and that changed wages and presumably
18 benefits, and that had an impact company-wide, and
19 you couldn't make a determination as to rates just
20 due to wages without affecting all other expenses and
21 all other revenues.

22 But the Court there, and in one other
23 opinion, discussed the fact that there are three
24 methods that you have mentioned. An abbreviated case
25 can be other than the extraordinary unpredicted rate

26

1 change -- or requirement for a rate change. It can
2 be a single item that can be precisely measured
3 against a particular standard with evidence that's
4 readily available that you don't need to recalculate
5 other revenues or cost of service or expenses in
6 order to reach a number which can be implemented in
7 rates. And that's what we're dealing with here.

8 Now, the pipeline integrity costs, of
9 course, already are subject to a Commission order and
10 we're merely accelerating the date when those will go
11 into rates by I think it's seven months.

12 The refinancing cost has a definitive
13 number at the bottom based upon a change in the
14 equity and debt structure. That can be changed
15 without inquiring into -- in this docket without
16 inquiring into rate of return, for example. The same
17 with the depreciation.

18 Now, the depreciation is an art and so you
19 have a number of different views as to what the
20 depreciation expense should be by how much it should
21 be reduced. But they're range numbers. In this case
22 there will be evidence that there is a particular
23 number that is rational based upon the evidence of
24 the new depreciation study.

25 So that, too, can be precisely determined
26

1 through readily available scrutinizable evidence, and
2 you can implement that as a rate change without
3 changing other parts of the revenue requirement or
4 expenses, the matching issue.

5 Now, in the event that with the rate
6 reduction the Commission concludes that for that
7 reason and other reasons instead of an 11.2 allowed
8 rate of return, the allowed rate of return ought to
9 be less, which I think is the issue that you're
10 referring to, Chairman Campbell, the Commission can
11 institute a general rate case to inquire what should
12 the rate of return be.

13 But according to the information and the
14 evidence we have, even with the \$9.7 million
15 reduction they will not be earning more than 11.2.
16 And as Dr. Powell has testified, that's also looking
17 at their forecast results. So I think that it's an
18 abbreviated proceeding. That's been the Committee's
19 position certainly since the March 31st following.

20 COMMISSIONER CAMPBELL: Well, my follow-up
21 to you, and I appreciate that description because my
22 understanding is that as well as I've read through
23 the cases. As far as an abbreviated proceeding, what
24 level does it take for an expense to be
25 extraordinary? And I understand that you have a

26

1 depreciation study that you have never done before
2 that comes up with 8 million extraordinary, but a
3 cost of capital of 3 million. I mean, in my mind,
4 doesn't something like that just sort out in a rate
5 case? I mean, do you have a level in your mind as
6 far as how many million dollars something becomes
7 extraordinary that fits into this exception that
8 allows us to look at single items?

9 MR. PROCTOR: I don't know that it's a
10 volume as much as whether from a timing standpoint
11 and from the availability of information that it's
12 appropriate to do. Now, I mean, you could ask for an
13 abbreviated rate case -- or abbreviated rate change,
14 arguably, for any sum but there are practical
15 implications to that because of the resources that
16 are required to calculate that amount and then, of
17 course, the hearing process and the scrutiny that
18 takes place.

19 In this case the timing combined several
20 items. The depreciation study was available, it had
21 a certain conclusion to it. The refinancing I think
22 took place one or two days prior to the filing of the
23 Joint Application. It obviously had been anticipated
24 for some time. The pipeline integrity costs were
25 known, and for legitimate reasons they wanted to

26

1 begin and accelerate the time when they would be
2 placed into rates.

3 There were other issues that were part of
4 the general -- or of the Joint Application that
5 weren't appropriate for the abbreviated proceeding,
6 such as the GSS rate elimination and incorporating
7 those communities into GS-1. So I think it's a
8 matter of the timing and then a combined amount which
9 justifies the work and effort that is required to
10 actually implement a rate decrease.

11 COMMISSIONER CAMPBELL: All right. Thank
12 you very much. Let's go ahead and we're going to
13 take a recess. We'll take about a ten-minute recess.

14 (Recess taken.)

15 COMMISSIONER CAMPBELL: Let's go back on
16 the record. Are we ready to move into the
17 Stipulation now?

18 MS. SCHMID: Yes.

19 COMMISSIONER CAMPBELL: Shall we start
20 with Ms. Bell? Mr. McKay has already been sworn.

21 Are there any other parties to the
22 Stipulation that want to join us?

23 Mr. Dodge, you're comfortable back there?
24 We certainly welcome any parties that are parties to
25 the Stipulation or parties to the case if they want

26

1 to come forward and be part of this discussion,
2 they're certainly welcome.

3 MR. DODGE: I'll come forward. I don't
4 know that I have much to add.

5 COMMISSIONER CAMPBELL: Mr. Dodge, why
6 don't you make an appearance for our record.

7 MR. DODGE: Thank you. Gary Dodge on
8 behalf of the UAE.

9 COMMISSIONER CAMPBELL: All right. Thank
10 you.

11 Ms. Bell?

12 BARRIE L. MCKAY,
13 called as a witness, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MS. BELL:

17 Q. Mr. McKay, please state your name and
18 title for the record.

19 MR. BALL: Chairman, before we go there,
20 you have in fact before you a motion to simply
21 dismiss this on the grounds that it's so far
22 improper. You have no motion before the Commission
23 whatsoever with regard to this Stipulation, just the
24 bald Stipulation itself.

25 COMMISSIONER CAMPBELL: Would you like to
26

1 make a motion?

2 MS. BELL: I move that the Commission
3 consider the Stipulation that has been filed before
4 them and that notice to all the parties has been
5 given of the Stipulation.

6 COMMISSIONER CAMPBELL: All right. Thank
7 you.

8 MR. BALL: And I'm going to object,
9 Chairman, on the grounds of timing. The people who
10 were working towards this Stipulation represented
11 weeks ago that it was imminent. In fact, it was only
12 filed on the 10th of May, and I think that's
13 completely inadequate notice for anybody who wants to
14 have anything at all to say about it.

15 During that period the process of
16 negotiations led through many iterations of the draft
17 Stipulation. So it's pretty much impossible to keep
18 track of what was going on and meetings were taking
19 place. I don't know how, because they certainly
20 weren't being noticed even to the parties who were
21 involved in the early stages of the negotiations.

22 COMMISSIONER CAMPBELL: Ms. Bell, do you
23 wish to respond?

24 MS. BELL: Yes. Just one more point of
25 clarification. Mr. Ball did refer to the Stipulation

26

1 in his surrebuttal argument. It appears he is
2 familiar with it.

3 MR. BALL: I disagree with that
4 representation. That's not accurate at all. I
5 referred to it and to its existence, not to any of
6 the details of its content.

7 COMMISSIONER CAMPBELL: Go ahead, Ms.
8 Schmid.

9 MS. SCHMID: The Division would like to
10 respond that the Stipulation was filed with the
11 Commission on May 10th, and it was served on the
12 parties and it has been available on the Commission's
13 website as well.

14 COMMISSIONER CAMPBELL: All right. Just a
15 minute.

16 All right. We'll take that discussion
17 under advisement and we'll rule on everything when we
18 provide our order.

19 Q. (BY MS. BELL) Mr. McKay, what is the
20 purpose of your testimony today?

21 A. I didn't get to say my name and title yet
22 so, you know, I feel like I need to do that.

23 I am Barrie L. McKay and I am the Manager
24 of State Regulatory Affairs for Questar Gas Company.

25 Q. I apologize, Mr. McKay. I thought we had
26

1 done that. What is the purpose of your testimony
2 today?

3 A. To explain why the rate reduction
4 Stipulation filed in this docket is just and
5 reasonable and in the public interest.

6 Q. Do you have any corrections you need to
7 make to the Stipulation filed with this Commission?

8 A. Yes. There is one typo. And if people
9 have the Stipulation in front of them, I learned this
10 from talking with some of the Division of Public
11 Utility personnel. But if you'll turn to page 7,
12 paragraph 18 (c), the docket referenced there should
13 read 04-057-03.

14 COMMISSIONER CAMPBELL: Okay, I'm lost.
15 I'm on page 7.

16 COMMISSIONER BOYER: This part right here.

17 COMMISSIONER CAMPBELL: I've got both of
18 you pointing to different numbers so I think we're
19 confused.

20 THE WITNESS: There's actually two places.

21 COMMISSIONER CAMPBELL: Oh, got it.

22 THE WITNESS: There's two places in that
23 paragraph. We just had a typo, it should be 057.

24 COMMISSIONER CAMPBELL: Got it.

25 Q. (BY MS. BELL) Would you please provide a
26

1 brief summary of the application filed in this
2 docket?

3 A. Yes. On December 16, 2005, the Utah
4 Division of Public Utilities, Questar Gas Company and
5 Utah Clean Energy filed a Joint Application to change
6 the Company's tariff to reduce rates \$10.2 million
7 and implement the conservation enabling tariff, or
8 CET, and demand-side management program. The CET and
9 the demand-side management program is what the Joint
10 Applicants refer to as a pilot program.

11 And this was a culmination of a three-year
12 process where the Company worked with the Division
13 and the Committee and other interested stakeholders
14 in various task forces. The Joint Application
15 requested approval of the pilot program and an
16 associated \$10.2 million rate reduction and issuance
17 of related accounting orders. The primary purposes
18 of the Joint Application were to align the interests
19 of the Company, its customers, regulators and other
20 interested persons in promoting effective energy
21 efficiency programs to save energy and to reduce
22 customers' gas costs, and to allow customers to
23 realize a modest rate decrease.

24 Q. Were there workshops and technical
25 conferences held in this docket?

26

1 A. Yes. On January the 12th of '06, in
2 response to questions from the Committee and other
3 interested persons, a workshop on the matters
4 addressed in the Joint Application was held. In
5 addition, technical conferences were held on January
6 13th on demand-side management, and on January 20th
7 on the conservation enabling tariff and other aspects
8 of the Joint Application.

9 Q. Was testimony filed in this docket?

10 A. Yes. The Joint Applicants filed testimony
11 on January 23rd. I filed testimony explaining the
12 Joint Applicants' proposal. Dr. Artie Powell filed
13 testimony indicating the Division did not have
14 evidence that would support a show cause order for a
15 rate case and that the rate reduction proposed in the
16 Joint Application would not be just and reasonable
17 either on a permanent or interim basis without
18 adopting the other aspects of the Joint Application.
19 Dr. Powell's testimony also supported other aspects
20 of the Joint Application.

21 Mary Cleveland and Dave Thomas also filed
22 testimony to support the Joint Application. George
23 Compton filed testimony to support why decoupling was
24 the preferred mechanism to address declines in
25 customer usage. Additionally, Howard Gellar from

26

1 SWEEP filed testimony, and the Company also filed a
2 depreciation study.

3 On March 31st of '06 the Committee filed
4 the testimony of Jacob Pous responding to the
5 Company's depreciation study, and the Salt Lake
6 Community Action Program filed the testimony of Betsy
7 Wolf making policy arguments in favor of a rate
8 reduction.

9 On April 27th the Division filed the
10 testimony of Charles Keen regarding the deferred
11 methodologies and ranges.

12 Q. Earlier in this proceeding there were
13 discussions about the 2005 Results of Operations and
14 the 2006 Forecasted Results of Operation. Could you
15 please go into a little detail about those?

16 A. Yes. The 2005 Results of Operation was
17 filed with this Commission on April 6th. That was in
18 compliance with the previous Commission orders and
19 rate cases. I think that the rate case that that was
20 ordered actually was back in 1993.

21 The Division on its own accord, actually
22 outside of this docket in doing their work, had asked
23 us to put together a similar report for 2006 with the
24 same Commission-ordered adjustments of what's allowed
25 on a regulatory basis. We had never done this before

26

1 and we said we would be happy to put that together in
2 response to that request.

3 So I think it was about a week later on
4 April 11th that we responded to that request, of
5 which the Committee had found out about the request
6 at that time and we provided to them a Forecasted
7 2006 Results of Operations, which we have available
8 here for parties who would like a copy of it, as well
9 as to be part of the record today.

10 Q. What did the 2006 Results of Operations
11 report indicate with regard to the Company, whether
12 it was overearning or underearning?

13 A. It showed, using current Commission
14 ordered adjustments as well as the current Commission
15 ordered depreciation rates, which are approved in the
16 last 2002 general rate case, that it was forecasted
17 that the company would earn a 10.67 return on equity
18 for '06.

19 Q. Were there settlement discussions that
20 were held as a result of the technical conferences,
21 Joint Application and filed testimony and numerous
22 data requests?

23 A. Yes. Numerous settlement discussions were
24 held among the parties and subgroups of the parties
25 at various stages in this matter. In fact, even

26

1 prior to the filing of the application the parties
2 had settlement discussions in which they attempted to
3 reach agreement on an approach to the conservation
4 enabling tariff and demand-side management pilot
5 program at the conclusion of the task force's work.
6 The reason the application was filed as a Joint
7 Application rather than as an application and
8 Stipulation was that Questar Gas, the Division and
9 Utah Clean Energy had reached agreement on the
10 approach to the filing of the application.

11 Q. Did Questar also meet with the Committee
12 regarding these issues?

13 A. Yes. I met with the Committee
14 representatives several times and the Committee
15 members in their official meetings on December 15th,
16 2005 and January 31st, 2006.

17 Q. Please describe the settlement
18 discussions.

19 A. Settlement discussions were conducted in
20 good faith and at arm's length with each party
21 representing its interests vigorously. In addition
22 to the expertise provided by the staffs of the
23 Division and the Committee and various company
24 employees, the parties also relied heavily on the
25 expertise of three depreciation experts hired by the

26

1 Company, the Committee and the Division.

2 Q. What crucial compromise allowed the
3 parties to reach agreement?

4 A. From the outset of discussions, even
5 before the Joint Application was filed, the Joint
6 Applicants had agreed that the adoption of the pilot
7 program would be linked to the voluntary rate
8 reduction. However, after the Joint Application was
9 filed, the Committee and other parties insisted that
10 a rate reduction be provided without adoption of the
11 pilot program.

12 After arguing these points, both privately
13 and publicly, the parties reached a compromise under
14 which it was agreed that the significant parts of the
15 rate reduction would be implemented without approval
16 of the pilot program, and that in return the pilot
17 program would be heard on its merits. This
18 compromise allowed the parties to reach the
19 Stipulation.

20 Q. As a result of the settlement discussions,
21 did all the parties to this case sign the rate
22 reduction Stipulation?

23 A. No. All parties signed with the exception
24 of Roger Ball.

25 Q. Would you please describe the rate
26

1 reduction Stipulation.

2 A. Yes. The parties agreed to implement a
3 rate reduction of \$9.7 million on a permanent basis
4 separate from the pilot program effective June 1,
5 2006.

6 Q. What are the components of the rate
7 reduction Stipulation?

8 A. The rate reduction Stipulation is made up
9 of new depreciation rates based on the study
10 performed by the Company's consultant and based on
11 review of the study by the Committee and Division's
12 depreciation consultants, completion of the Company's
13 financing transactions, and inclusion of pipeline
14 integrity costs.

15 Q. Would you please explain each item in a
16 little bit more detail starting with depreciation?

17 A. As I previously explained, in the 2002
18 rate case the Company agreed to perform a
19 depreciation study. The Company hired the consulting
20 firm of Gannett Fleming to perform this study. As a
21 result of this study the Company proposed that it
22 could move forward with reducing depreciation
23 expenses \$4.2 million. I'm sorry, 4.8. The Division
24 and the Committee also hired depreciation experts to
25 determine an appropriate level of depreciation

26

1 expense.

2 The Committee's witness recommended a
3 decrease in depreciation expenses of about 7.8 to
4 9.7 million. The Division's witness recommended a
5 decrease in the range of 4.8 to 10.1 million.
6 Ultimately, the parties to the Stipulation agreed to
7 a reduction in the depreciation rate of 8.5 million
8 which is within the ranges recommended by the
9 Committee and the Division witnesses.

10 Q. Does the Stipulation call for another
11 depreciation study in the future?

12 A. Yes. The Company agreed as part of this
13 Stipulation to perform another depreciation study
14 using 2007 year-end data and filing the study by the
15 end of 2008 with this Commission.

16 Q. Assuming that the Commission approve the
17 Stipulation, would the Company need an Accounting
18 Order from the Commission to change the depreciation
19 rate?

20 A. Yes. The Commission must enter an
21 accounting order allowing the Company to adopt the
22 depreciation rate and methodologies proposed in the
23 Stipulation.

24 Q. Please explain the pipeline integrity cost
25 component of the Stipulation.

26

1 A. In Docket 04-057-03, the Company applied
2 for an Accounting Order authorizing the Company to
3 establish a deferred account for incremental expenses
4 that the Company would incur in the future to meet
5 the requirements of the Pipeline Safety Act. The
6 Application also requested that the Company be
7 allowed to amortize the deferred costs beginning the
8 earlier of 2007 or the next general rate case. This
9 request was granted. And now, rather than waiting
10 until 2007 to begin amortizing the balances as
11 directed in the order, the parties have agreed the
12 Commission should allow the Company to begin
13 amortizing the balance on June 1, 2006.

14 The parties agreed that \$2 million per
15 year of pipeline integrity costs consisting of about
16 600,000 amortization of the previous balance and --
17 of the previous balance in the deferred Accounting
18 Order, I should say, and then also 1.4 million of
19 ongoing expenses should be included in rates. To the
20 extent that actual ongoing expense are greater than
21 1.4 million, the difference will be debited in the
22 deferred account. To the extent that actual ongoing
23 expenses are less than 1.4 million the difference
24 will be credited into the deferred account. And the
25 parties agree that interest will be accrued on any
26

1 debit or credit balance in the deferred account at
2 the rate currently approved by the Commission in the
3 191 account that's been described in the Utah Tariff,
4 Section 2.10.

5 Q. Have you reviewed the Commission's memo
6 that was filed in this action?

7 A. Yes. The Commission raised the issue for
8 review and investigation by the Division regarding
9 whether the allocation factor based on the high
10 consequence area mileage ratio appropriately
11 reflected the cost that Questar Gas Company incurred
12 in complying with the rule.

13 Q. Did the Division and the Committee meet
14 with the Company regarding these allocation issues?

15 A. Yes. On May 8th of this month, members of
16 the Division and the Committee met with Questar Gas
17 representatives responsible for pipeline integrity
18 work and reviewed the common costs allocated between
19 Questar Pipeline and Questar Gas Company. The
20 parties learned that the common costs incurred in '04
21 and '05 were associated with the development of the
22 plan to monitor the high consequence areas.

23 Common costs were not associated with the
24 reviewing of all of Questar Pipeline's entire system
25 and those costs would be directly assigned to
26

1 pipeline. But the parties also learned that
2 beginning in 2006 the Questar Pipeline and Questar
3 Gas pipeline integrity function has been separated
4 and the unique costs will be directly assigned in the
5 future. Only costs such as the mapping and the
6 support for the high consequence area will be
7 allocated.

8 So based on this review, the parties felt
9 that the amortization proposed in this Stipulation
10 are reasonable and the parties request the Commission
11 enter an accounting order to implement the treatment
12 of the pipeline integrity costs.

13 Q. Would you please explain the change in
14 financing that is a component of this rate reduction?

15 A. Yes. On December 15, 2005, the Company
16 completed a financing transaction that increased the
17 long-term debt by \$50 million. This resulted in a
18 higher percentage of debt and a lower percentage of
19 equity in the Company's capital structure. This
20 reduces the Company's overall cost of capital. The
21 parties have agreed to reflect a 3.2 million
22 reduction in customers' rates.

23 Q. How and when will the \$9.7 million rate
24 reduction be implemented?

25 A. The parties have agreed that it will be
26

1 implemented by a uniform percentage decrease to each
2 rate class effective on June 1.

3 Q. Does the Company have proposed tariff
4 sheets to implement this rate reduction?

5 A. Yes. I have proposed tariff sheets and
6 will offer them at the end of my testimony.

7 Q. How was the issue concerning expansion
8 area rates that was also part of the Joint
9 Application addressed in the Stipulation?

10 A. The parties have agreed in the Stipulation
11 to recommend that the Commission appoint a task force
12 to further review the best course of action in regard
13 to the existing expansion rates and to develop new
14 tariff language to address future requests by
15 communities for expansion of our system. The parties
16 propose that this task force begin immediately
17 following the Commission's final order in this docket
18 and issue a final report with the recommended course
19 of action to the Commission within 90 days. There's
20 also other elements that have been identified in the
21 application that would be handled in the next portion
22 of this case.

23 Q. Is approval of the Stipulation in the
24 public interest?

25 A. Yes. The Stipulation provides a permanent
26

1 rate reduction in the amount of \$9.7 million to
2 ratepayers effective June 1 of '06. If the rate
3 reduction were withheld pending conclusion of a
4 general rate case, it is not likely that it would be
5 effective before eight to nine months from now.

6 Thus, as a result of the agreement of the
7 parties, and the Company's willingness to implement
8 this rate reduction without the necessity of a
9 general rate case or without being tied to the pilot
10 program, the rate reduction will benefit customers
11 much sooner.

12 The rate reduction comprises three
13 elements. First, it is based on new depreciation
14 rates that the parties and its depreciation experts
15 agree fall within a reasonable range. Second, it
16 includes the -- in rates the amortization of pipeline
17 safety costs, as well as coverage for ongoing
18 pipeline safety costs. And third, it reflects in
19 rates the net benefit the new debt financing now
20 rather than waiting for the outcome of a general rate
21 case.

22 Finally, it allows the parties to focus on
23 the pilot program and have it heard on its merits.
24 For all of these reasons, approval of the rate
25 reduction Stipulation is in the public interest and
26

1 rates resulting from it are just and reasonable.

2 Q. One final question, Mr. McKay. Earlier in
3 this proceeding, and I'm probably going to
4 paraphrase, Chairman Campbell asked why the Company
5 was motivated on bringing forward this voluntary
6 reduction. Can you respond to that question?

7 A. Well, this all along has been a package
8 deal. I know there's been some debate over that and
9 I don't feel like we need to be drug through that
10 issue again. It's been properly described.

11 But this has been a package deal. We had
12 offered in the Joint Application that we would be
13 willing to reduce our prices and have a pilot program
14 that consisted of conservation enabling tariff and
15 the Company aggressively pursuing the same. After
16 the filing of that application, through negotiations
17 and what is now before you as a Stipulation, we have
18 agreed that we would voluntarily reduce our rates,
19 the \$9.7 million and in return have an opportunity
20 for this pilot program to be heard on its merits.

21 Q. Does this conclude your testimony?

22 A. Yes.

23 COMMISSIONER CAMPBELL: All right. Thank
24 you. I think what we'll do is hear from the Division
25 and Committee witnesses and then ask questions. Are

26

1 those the three parties that are supporting the
2 Stipulation of witnesses?

3 MS. SCHMID: Yes.

4 MR. PROCTOR: Yes.

5 COMMISSIONER CAMPBELL: We'll ask their
6 questions and see if any others want to provide
7 testimony contrary to the Stipulation and we'll
8 withhold our questions until we hear from all the
9 witnesses. So shall we swear Mr. Barrow in?

10 MS. SCHMID: Yes.

11 COMMISSIONER CAMPBELL: Please stand.

12 Do you swear that the testimony you're
13 about to give in this proceeding is the truth, the
14 whole truth, and nothing but the truth, so help you
15 God?

16 MR. BARROW: Yes.

17 COMMISSIONER CAMPBELL: Ms. Schmid.

18 MARLIN BARROW,
19 called as a witness, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. Could you please state your name for the
24 record?

25 A. My name is Marlin Barrow.

26

1 Q. By whom are you employed and in what
2 capacity?

3 A. I am employed by the Division of Public
4 Utilities as a utility analyst.

5 Q. Have you been involved on behalf of the
6 Division of Public Utilities in this docket?

7 A. Yes, I have.

8 Q. I have passed out a document that I would
9 like to mark for identification as DPU Exhibit 4. I
10 will, at the end of all the DPU witnesses, I will
11 move for admission of their testimony in order, if
12 that's all right.

13 COMMISSIONER CAMPBELL: That's fine.
14 Thank you.

15 MR. BALL: Mr. Chairman, before Ms. Schmid
16 gets going, would it be appropriate for me to have a
17 copy of that document, please?

18 MR. BARROW: I thought I gave you a copy
19 of that. I didn't give Gary one, though.

20 MR. BALL: I'm sorry. I do have it,
21 Chairman.

22 Q. (BY MS. SCHMID) Mr. Barrow, does the
23 document that I handed out and that you handed out as
24 well, marked for identification as DPU Exhibit 4,
25 pertain to a statement that you would like to give?

26

1 A. Yes, it does. It's just to help clarify
2 some of the numbers I'll be going through on my
3 statement.

4 Q. Would you like to present your statement
5 at this time?

6 A. Yes, I will.

7 Q. Please proceed.

8 A. This rate reduction Stipulation, if
9 approved by this Commission, provides agreement for
10 a permanent revenue reduction to Questar Gas
11 Company's authorized revenue requirement in the
12 amount of \$9.7 million with an effective date of June
13 1, 2006.

14 This revenue reduction will be implemented
15 by a uniform percentage change to each rate class's
16 distribution non-gas, or DNG block rate. The
17 Division believes that this Stipulation is in the
18 public interest and supports its approval by the
19 Commission.

20 There are three components that make up
21 this rate reduction. First, a change in depreciation
22 rates; second, a change attributable to long-term
23 debt financing, both of which reduce the revenue
24 requirement. These are offset by, third, an increase
25 associated with a federally mandated pipeline
26

1 inspection program. I will briefly discuss each one
2 of these separately.

3 The first and by far the largest component
4 dollarwise is reduction in depreciation rates. This
5 reduction is a result of a depreciation study
6 recently completed by Questar Gas. 8.5 million of
7 the total 9.7 million revenue reduction in this
8 Stipulation is attributed to lower rates which
9 resulted from the depreciation study. The Division
10 retained the services of Mr. Charles King, of the
11 firm Snavelly, King, Majoros, O'Conner & Lee, to
12 review the results of the depreciation study
13 completed on behalf of Questar Gas and to file expert
14 testimony with this Commission pertaining to that
15 study. Mr. King filed that testimony on April 28,
16 2006 and will be available by phone at 1:30 p.m.
17 today to respond to any questions the Commission may
18 have concerning the depreciation study or the
19 recommended reduction in the amount of \$8.5 million.

20 The second component of this revenue
21 reduction pertains to Questar Gas financing, a
22 transaction which occurred in December 2005 resulting
23 in an increase in long-term debt of \$50 million.
24 This increase in debt resulted in a higher percentage
25 of debt and lower percentage of equity in the

26

1 Company's capital structure which reduced the overall
2 cost of capital. This reduction in the cost of
3 capital results in a lower revenue requirement of
4 \$3.2 million. The combination of these two
5 components reduces the revenue requirement by \$11.7
6 million. Offsetting this reduction is a \$2 million
7 increase for pipeline integrity costs. These
8 pipeline integrity costs have been deferred through
9 an Accounting Order issued by the Commission in
10 Docket Number 04-057-03 and were to begin being
11 amortized by the Company by January 1, 2007, or the
12 next general rate case, whichever one occurs sooner.

13 I have prepared a schedule which was just
14 handed out to help follow through the next part of
15 this discussion. The Company reports that during the
16 years 2004 and 2005, \$3.1 million have been deferred
17 into this account. In this Stipulation it has been
18 agreed by the parties that the \$3.1 million may begin
19 to be to be amortized over a five-year period
20 beginning June 1, 2006 instead of January 1, 2007.
21 This amounts to \$600,000 roughly rounded to the
22 nearest 1,000, or \$50,000 a month for the next 60
23 months. It also has been agreed that an additional
24 estimated amount of \$1.4 million per year of ongoing
25 pipeline integrity costs may be expensed in rates

26

1 with any actual true-up of spending over or below
2 this amount either be debited or credited to the
3 deferred account.

4 The Stipulation also provides that the
5 Company may begin accruing interest on the under or
6 overcollected amount in the deferred amount at 6
7 percent simple interest per year as provided for in
8 191 account of the Company's Tariff Section 2.10.
9 The allowance for interest approval on the deferred
10 Accounting Order was a request the Company failed to
11 make in their original application, but is usually
12 granted for deferred accounting orders.

13 In the original request by the Company for
14 that deferred Accounting Order in Docket Number
15 04-057-03, the Company stated that any allocation of
16 shared costs between Questar Gas and Questar Pipeline
17 that could not be directly assigned would be
18 allocated on the basis of pipeline mileage within
19 each company's high consequence area, or HCA.

20 The Commission in a memo dated May 1st,
21 2006, rightfully raised an issue regarding whether
22 the allocation of shared integrity costs between
23 Questar Gas and Questar Pipeline Company using a
24 factor based only on a high consequence area mileage
25 ratio was appropriate and requested that the Division

26

1 undertake an investigation into this matter. The
2 Division, along with a staff member of the Committee,
3 began its investigation in this matter by meeting
4 with the Company personnel to discuss the details
5 behind the process involved in the program.

6 As part of this investigation the Division
7 learned that beginning January 1st, 2006, the only
8 costs that will continue to be allocated between the
9 two companies is the amortization of software
10 purchased for the program. This is estimated to be
11 about \$200,000 per year, of which Questar Gas is
12 expected to pay \$170,000 based on the current
13 allocation process. Each company will be responsible
14 for developing and maintaining their separate plans
15 and on the going forward basis the other direct costs
16 will be directly assigned to each company. This is
17 due to a reorganization within Questar Corporation
18 that has separated the management of Questar Gas and
19 Questar Pipeline Company.

20 For the years 2004 and 2005 a total of
21 \$1.284 million in common costs were incurred. Of the
22 \$1,284,000, \$557,000 occurred in 2004, and \$724,000
23 in 2005. In 2004 Questar Gas received an allocation
24 of \$430,000, or about 77 percent of the \$557,000, and
25 in 2005 an allocation of \$619,000, or about 85

26

1 percent of the 1,049,000. Of the total \$3.1 million
2 in deferred costs, 34 percent are common allocated
3 costs. These allocated costs were incurred in the
4 Pipeline Integrity Inspection Program for plan
5 development and plan implementation. These costs
6 were incurred in order to devise plans that were
7 focused on determining where the HCAs are located
8 within each company's pipeline systems.

9 Even though data is collected and
10 maintained on an entire pipeline system, in the
11 process of determining where the HCAs may be, if the
12 purpose of collecting that data is to determine where
13 the HCAs are located and then to develop a plan to
14 inspect those HCAs as determined by the collection of
15 data for the entire pipeline, then it seemed
16 appropriate to use the mileage within those HCAs to
17 allocate the common costs associated with development
18 and implementation of those plans. Of the \$600,000
19 per year required to amortize the \$3.1 million,
20 \$202,000 per year is for common allocated costs and
21 398 is for direct cost amortization. The additional
22 \$1.4 million is for future direct costs of which any
23 over or under expenditure will either be accrued in
24 the deferred account and adjusted in the next general
25 rate case or proceeding of Questar Gas.

26

1 In conclusion, the Division would like to
2 note that the Division is currently reviewing Questar
3 Gas's projected 2006 Results of Operations which the
4 Company provided to the Division on April 11, 2006.
5 The Division would like to emphasize that the
6 approval of this Stipulation does not preclude the
7 Division, nor any other party from requesting the
8 Commission to open a docket for a general rate case
9 proceeding based upon supportable evidence.

10 Once again, the Division believes that
11 this Stipulation is in the public interest and
12 recommends to the Commission that it approve it on
13 its merits.

14 Thank you.

15 COMMISSIONER CAMPBELL: Thank you.

16 Mr. Proctor? Oh, go ahead, Ms. Schmid.

17 MS. SCHMID: We have additional witnesses,
18 actually. If Dr. Powell could come forward. He has
19 previously been sworn in earlier this morning.

20 COMMISSIONER CAMPBELL: Come forward.

21 WILLIAM POWELL,
22 called as a witness, was examined and testified as
23 follows:

24 DIRECT EXAMINATION

25 BY MS. SCHMID:

26

1 Q. Could you please state your name for the
2 record.

3 A. My name is Artie Powell.

4 Q. And Dr. William Powell, have you been
5 previously sworn in this docket?

6 A. Yes, I have.

7 Q. And do you have a statement that you would
8 like to give -- or pardon me. By whom are you
9 employed and in what capacity?

10 A. The Division of Public Utilities. I'm the
11 Manager for the Energy Section.

12 Q. You have been involved on behalf of the
13 Division in this docket?

14 A. Yes.

15 Q. Did you file testimony that was previously
16 filed in this docket?

17 A. Yes, I did.

18 Q. Do you have any corrections that you would
19 like to make to that testimony?

20 A. Yes, I do. If you notice in several spots
21 the docket number is referenced. In many of those
22 spots, for instance, on the front page it may say
23 06-057-T01. It should be 05. On the second page in
24 the title there, the same change. And then in the
25 header on subsequent pages where the docket number is

26

1 referenced you'll see the same typo. Time flies when
2 you're having fun.

3 Q. If you were asked the same questions as
4 set forth in your pre-filed testimony, would your
5 answers, as corrected today, be the same as those
6 presented?

7 A. Yes, they would.

8 Q. Thank you.

9 Do you have a statement that you would
10 like to give today?

11 A. Yes. One moment, please.

12 The portions of my testimony, which
13 counsel will explain later which portions we're
14 referring to, anyway, the testimony which was filed
15 on January 23rd, 2006, being admitted or asked to be
16 admitted today, deals with the rate decrease proposed
17 as part of the Joint Application and the Division's
18 audit supporting the rate decrease.

19 The rate decrease consisted of several
20 adjustments, which netted together amount to
21 approximately \$10.2 million. The major drivers
22 underlying the decrease are a change in the
23 depreciation, debt refinancing, pipeline integrity
24 costs, and a voluntary reduction in rates. Except
25 for the voluntary rate reduction these major drivers

26

1 are captured by the Stipulation.

2 As I explained in testimony, while the
3 outcome of a rate case is uncertain, given the
4 information available at the time the Joint
5 Application was filed, the Division believed that a
6 rate case could have led to a rate increase. As Mr.
7 Barrow has explained, the Division requested that
8 along with its 2005 Results of Operation, the Company
9 provide the Division with its Forecasted Results of
10 Operations for 2006. The Company provided the
11 forecast shortly after filing its 2005 results with
12 the Commission. The Division is in the process of
13 analyzing this data and information and will continue
14 to weigh its options going forward.

15 In the Division's view, however, a
16 preliminary review of that information supports our
17 earlier conclusions. That is, the Company, for
18 reasons not at issue in this hearing, would likely
19 seek a rate increase in a rate case. However, given
20 the Company's willingness to enter into the
21 Stipulation and the limited scope of the adjustments
22 captured by the Stipulation, the Division believes
23 the Stipulation before the Commission is in the
24 public interest. And that concludes my response at
25 this time. Thank you.

26

1 MS. SCHMID: Thank you.

2 At this time the Division would also like
3 to proffer the testimony of Ms. Mary Cleveland, who
4 is in Oregon on Division business, and also which has
5 been premarked as Exhibit 2.0. Dr. Powell's
6 testimony has been premarked as 1.0, and we would
7 also like to offer the testimony of Mr. Charles King
8 and Mr. Barrow's testimony.

9 With regard to Exhibit premarked for
10 identification 1.0, the testimony of Dr. Powell, the
11 Division would like to offer lines 6 through 21, 1
12 through 44, 259 through 273, and 286 through 291
13 beginning with "as I mentioned" and ending with
14 "11.2." The reason that only specific portions of
15 Dr. Powell's testimony are being offered at this time
16 is because the other portions deal with the
17 conservation enabling tariff and decoupling and they
18 will be presented at that point.

19 The pre-filed direct testimony of Mary H.
20 Cleveland has been marked as DPU Exhibit 2.0 and it
21 was filed on January 23rd, 2006, as was Dr. Powell's.
22 The DPU would like to offer the direct testimony of
23 Charles King, premarked for identification as DPU
24 Exhibit 3.0, with 3.1 as Exhibit A, 3.2 Exhibit B,
25 and 3.3 as Exhibit C. Mr. King will be available at
26

1 1:30. Ms. Cleveland would be available by phone if
2 needed. And we would also like to offer at this time
3 the schedule presented and supported by Mr. Marlin
4 Barrow and premarked for identification as Exhibit
5 4.0

6 COMMISSIONER CAMPBELL: All right. Are
7 there any objections to the admission?

8 MR. PROCTOR: Only a clarification from
9 the Committee. I believe Ms. Schmid misspoke and I
10 believe the lines are 144 to 218 that she asked be
11 admitted by Dr. Powell. I think she misspoke and
12 said 1 to 44.

13 MS. SCHMID: That is what I intended.
14 Thank you for the correction, Mr. Proctor.

15 MR. PROCTOR: With that change there will
16 be no objection.

17 COMMISSIONER CAMPBELL: Any objection?

18 MS. BELL: No objection.

19 MR. DODGE: No objection.

20 MR. BALL: Chairman, I don't have an
21 objection, but I wonder if I could request a copy of
22 Mr. King's testimony.

23 COMMISSIONER CAMPBELL: As a party to this
24 docket, I'm surprised you don't have a copy of it.
25 But we can certainly provide a copy of that.

26

1 DR. POWELL: We'll do that.

2 MR. BALL: It would be helpful for me if
3 that could possibly be sooner than later.

4 MS. SCHMID: It will be.

5 COMMISSIONER CAMPBELL: Thank you.

6 I'm debating whether to ask my question of
7 Dr. Powell now. I'm trying to figure out how we're
8 going to be able to fit you all up at the podium
9 there.

10 MS. SCHMID: We'll bring an extra chair.

11 COMMISSIONER CAMPBELL: I'll wait.

12 Mr. Proctor?

13 MR. PROCTOR: Thank you, Mr. Chairman.

14 The Committee's witness is Eric Orton.

15 COMMISSIONER CAMPBELL: Please stand. Do
16 you swear that the testimony you're about to give in
17 this proceeding is the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 MR. ORTON: Yes, sir.

20 COMMISSIONER CAMPBELL: Thank you. Mr.
21 Proctor.

22 ERIC ORTON,
23 called as a witness, was examined and testified as
24 follows:

25 /

26

1 DIRECT EXAMINATION

2 BY MR. PROCTOR:

3 Q. Would you state your name, please?

4 A. Eric Orton.

5 Q. By whom and in what capacity are you
6 employed?

7 A. I'm a utility analyst for the Committee of
8 Consumer Services.

9 Q. Do you have primary responsibilities in
10 that position as a utility analyst?

11 A. I do. My focus is natural gas utility.

12 Q. Have you prepared a statement to provide
13 to the Commission and parties at this time?

14 A. I have.

15 Q. Would you please proceed?

16 A. Certainly. I have been involved in this
17 docket since its inception in December 2005
18 representing the Committee. I have read all the data
19 requests and their responses, all pleadings, memos,
20 arguments and testimony. I was the Committee's
21 analyst participating in all natural gas issues,
22 including the task force as mentioned in the
23 Stipulation. I have studied, examined and discussed
24 the issues in this filing with our outside experts,
25 Company personnel, Division personnel, the Committee

26

1 staff and the Committee itself.

2 The Committee and the Division have
3 described the components of the rate decrease
4 provided by the Stipulation. It's a description with
5 which the Committee agrees. So I won't go through
6 those at this time, but I do need to address briefly
7 if I can the pipeline integrity costs.

8 I was involved in the 2003 case which
9 resulted in the Commission issuing an Accounting
10 Order authorizing a regulatory asset to be
11 established so that compliance costs be deferred
12 until January 1, 2007 or until the next general rate
13 case. Since the filing of this case, I reviewed
14 Questar's records pertaining to the pipeline
15 integrity account that was established as a result of
16 the order in 2003. The Company has incurred about
17 \$3 million in pipeline integrity expenses in the last
18 two years. If these \$3 million are authorized over
19 the five years, the annual expense is \$600,000.

20 Last year's expenses in the pipeline
21 integrity account were over \$2 million. This
22 \$2 million number is on the low side of a reasonable
23 estimation of going forward costs. Therefore, at
24 least \$2 million is properly allocated to the retail
25 customers to cover these expenses and, thus, it is

26

1 appropriate to include these pipeline integrity costs
2 in the Stipulation.

3 The Joint Applicants propose that the
4 collection of these costs begin with the order in
5 this current case when it becomes effective. The
6 result of the Stipulation is that it allows the
7 January 1, 2007 date to be moved up seven months to
8 June 1, 2003 (sic). The Committee concluded that
9 residential and small commercial customers are better
10 served by the certainty of a permanent rate reduction
11 totaling \$9.7 million, particularly as the Committee
12 or any other party is not precluded from or
13 prejudiced in other documents from scrutinizing
14 Questar's rates and ratemaking methods.

15 The Committee concluded that residential
16 and small commercial customers are better served by
17 including in their rate change only those components
18 that can be accurately determined by economic and
19 statistical analysis of readily available records and
20 that are separately calculable outside of the general
21 rate case. The Committee believes that the
22 components of the \$9.7 million rate decrease are
23 appropriate for this abbreviated proceeding and
24 result in just and reasonable rates.

25 Finally, the Committee is convinced that
26

1 standing alone the rate reduction that results from
2 the Stipulation is in the public interest. And it is
3 in the public interest that the full sales and
4 revenue decoupling proposal is disconnected from the
5 rate relief and independently determined on its
6 merits.

7 That concludes my statement. Thank you.

8 MR. PROCTOR: Mr. Chairman, if I may ask a
9 clarifying question?

10 COMMISSIONER CAMPBELL: Please, go ahead.

11 Q. (BY MR. PROCTOR) In your statement, Mr.
12 Orton, you mentioned that the Committee and Division
13 witnesses --

14 A. I'm sorry, I meant the Company. Thanks.

15 Q. Thank you very much.

16 COMMISSIONER CAMPBELL: Thank you.

17 I think in the confusion asking for the
18 depreciation testimony I failed to formally admit
19 DPU Exhibit 1, 2, 3, with 3.1, 3.2, 3.3 and 3.4, and
20 I want to do that now. So the evidence is admitted.

21 MS. SCHMID: Thank you.

22 And if I may, the Division is currently
23 providing Mr. Ball with a copy today of the
24 depreciation study. He should have been served with
25 it when it was filed on 4-28, and I will make sure

26

1 that he was on the Certificate of Service, I believe
2 that he was. And also, I like to make note that the
3 depreciation expert testimony was available through
4 the Commission website. We have not been depriving
5 him of that.

6 COMMISSIONER CAMPBELL: All right. Thank
7 you.

8 MS. BELL: Chairman Campbell, we would
9 also like to move for some evidence to be admitted.
10 The tariff sheets that Mr. McKay referred to, we
11 would like to have those admitted into evidence as
12 well as the 2006 Results of Operations and excerpts
13 of his testimony that have been filed in this docket.

14 COMMISSIONER CAMPBELL: Okay. We don't
15 have that. We need to get that to be able to --

16 MS. BELL: We have it available and I can
17 certainly provide that to all the parties.

18 COMMISSIONER CAMPBELL: Why don't we go
19 ahead and do that now. Let's go off the record.

20 (Off the record.)

21 COMMISSIONER CAMPBELL: Let's go back on
22 the record. How would you like to mark these various
23 exhibits?

24 MS. BELL: Mr. McKay's was marked as QGC
25 Exhibit 1, but I'm offering certain portions of it.

26

1 And those portions are lines 1 through 7, 387 through
2 532, 555 through 558.

3 COMMISSIONER CAMPBELL: Okay. I can't
4 write that fast. Through 38 --

5 MS. BELL: 387 through 532; 555 through
6 558; 570 to 571, and exhibits attached to his
7 pre-filed testimony, 1.1, which are his
8 qualifications, 1.2, 1.11, and 1.12.

9 COMMISSIONER CAMPBELL: All right. And
10 that's QGC Exhibit 1.

11 MS. BELL: Yes. And then we would mark
12 the tariff sheets as QGC Exhibit 2, and the Results
13 of Operations for 2006 as QGC Exhibit 3.

14 COMMISSIONER CAMPBELL: All right. You
15 offered their admission. Are there any objections?

16 MR. PROCTOR: No objections.

17 MS. SCHMID: No objection.

18 MR. BALL: (Indicating negatively.)

19 COMMISSIONER CAMPBELL: All right.
20 They're admitted.

21 MR. PROCTOR: Mr. Chairman, I assumed that
22 we would hear from Jack Pous this afternoon and we
23 can enter his testimony on the record at that time.

24 COMMISSIONER CAMPBELL: We can do that.

25 MR. PROCTOR: Thank you very much.

26

1 COMMISSIONER CAMPBELL: Let's move to
2 cross-examination first of all. Do you have any
3 questions for any of these witnesses?

4 MS. BELL: No.

5 COMMISSIONER CAMPBELL: Ms. Schmid, any
6 questions?

7 MS. SCHMID: No questions.

8 COMMISSIONER CAMPBELL: Any questions?

9 MR. PROCTOR: No questions.

10 COMMISSIONER CAMPBELL: Mr. Dodge?

11 MR. DODGE: No questions.

12 COMMISSIONER CAMPBELL: Mr. Ball, go
13 ahead.

14 MR. BALL: Yes, Mr. Chairman. Thank you.
15 Maybe I could begin with Mr. McKay if that's okay.

16 CROSS-EXAMINATION

17 BY MR. BALL:

18 Q. Mr. McKay, we've talked a little bit this
19 morning about your appearance before the Committee of
20 Consumer Services on the 15th of December last. Was
21 it your understanding when you went to speak to the
22 Committee about the impending filing of the Joint
23 Application that the \$10.2 million proposed rate
24 reduction was contingent upon the approval by the
25 Commission of the remainder of the application?

26

1 MR. MCKAY: It was my understanding that
2 the rate reduction and the pilot program that I've
3 referred to were linked just as my testimony
4 described which we filed the next day. In the
5 application, I should say. My testimony actually
6 wasn't filed until the 23rd of January.

7 MR. BALL: You've used the word "linked."
8 Would you be kind enough to expand on that word?

9 MR. MCKAY: We can refer to the
10 application or we can refer to my testimony, but what
11 we presented to the Commission was a request that
12 they would approve a \$10.2 million rate reduction
13 that is explained, and approve a conservation
14 enabling tariff, and enter an accounting order for
15 DSM in which we would aggressively pursue demand-side
16 management.

17 MR. BALL: In your mind, how would you
18 distinguish "linked" and "no strings attached"?

19 MR. MCKAY: Let's provide for this record,
20 since we need to go through it one more time, what I
21 understand to have said as well as answering what
22 you're asking me at this time.

23 Mr. Monson has described I think
24 accurately portrays what occurred prior to our filing
25 of this application, which was basically a give and
26

1 take in negotiations and discussions on what we could
2 agree to.

3 In this period of time we did talk about,
4 quote, "the strings," if you will, of not being able
5 to file a general rate case on our part for a
6 one-year period, not being able to call the Company
7 in for a one-year period on the part of the Division
8 and others, as well as them being able to be
9 concerned about things that related to our level of
10 earnings. Just like we couldn't worry about our
11 level of earnings and be able to file for that
12 general rate case in the one-year period.

13 My reference on the 15th, which
14 unfortunately, and I will clearly observe for the
15 record that I think Mr. Ball understood this
16 differently, and it appears that Mr. Hammond also did
17 understand my reference to "no strings attached"
18 being for something different, which is obviously
19 what you, Mr. Ball, keep trying to split apart. But
20 it did, in fact, refer to the string of not being
21 able to come in and ask for a general rate case for a
22 one-year period.

23 What amazes me is the very meeting that
24 we're talking about on the 15th, the Committee had
25 again on January 31st, and I appeared at that meeting

26

1 and at that meeting did a one-hour presentation. And
2 at that meeting actually, and I think there a
3 recorder was working, apologized if Mr. Hammond had
4 understood differently, but made very clear at that
5 moment to that group that the voluntary rate
6 reduction and the conservation enabling tariff and
7 the aggressively pursuing of DSM were linked and they
8 were tied together.

9 I'm sorry that they have, and you, still
10 seem to want to hang on to something that was
11 misunderstood. But I hope the record clearly sees
12 now that they were linked and have been in this
13 application, and that there was misunderstanding on
14 the parts of individuals that heard something
15 different.

16 MR. BALL: Back in 2000, I believe it was,
17 either you or another official from Questar Gas
18 Company holding the same or similar position
19 represented in supporting a Stipulation on gas
20 processing costs to the Public Service Commission of
21 Utah that that Stipulation would also result in just
22 and reasonable rates and would be in the public
23 interest. That Stipulation, the Commission's
24 approval of that Stipulation was subsequently
25 regarded less than favorably by the Supreme Court of
26

1 Utah. Here today you appear to represent on behalf
2 of the Company that this Stipulation is just and
3 reasonable and in the public interest.

4 MS. BELL: I'm going to object.

5 MR. BALL: Would you be kind enough --

6 MS. BELL: Objection.

7 MR. BALL: -- to explain to us how this is
8 any different from that previous occurrence?

9 MS. BELL: Objection, please. I don't
10 think this line of questioning is relevant and it's
11 also argumentative. It's not this case, it's not
12 what's relevant today. The CO2 case and the
13 settlement is a different issue, a different case
14 than the case before you today.

15 MR. BALL: Of course it is, Chairman, but
16 the question is whether or not the Commission can
17 rely upon assertions by the parties appearing before
18 it today, that this particular Stipulation is any
19 more just and reasonable or in the public interest
20 than previous ones.

21 COMMISSIONER CAMPBELL: I'm going to
22 sustain the objection and have you go to your next
23 question. Certainly every time the Court -- I mean,
24 every time the Commission determines something is
25 just and reasonable and the Court remands it, I think

26

1 we understand that process.

2 MR. BALL: My next question is for Mr.
3 Barrow. Mr. Barrow, thank you very much for
4 providing me with a copy of Mr. King's testimony here
5 this morning. I have, I must say, no -- I don't
6 really understand why I don't have it. I have a
7 pretty comprehensive copy of the file here, Chairman.

8 COMMISSIONER CAMPBELL: You don't have a
9 copy of what?

10 MR. BALL: No, no. I'm thanking Mr.
11 Barrow for providing a copy of Dr. King's testimony.
12 I don't know why I didn't have it previously. I
13 think I've got everything else. But when I went
14 looking I couldn't find it. I certainly wasn't sent
15 a mailed copy. Otherwise, I would for sure have it
16 here.

17 MS. SCHMID: The Division will
18 double-check the Certificate of Service and e-mail.
19 Certain documents have been served by e-mail. And we
20 would like to note for the record that Mr. King's
21 testimony was available on the published list for
22 this docket as of April 28th, 2006. So we do believe
23 that appropriate time was available for Mr. Ball to
24 review it.

25 COMMISSIONER CAMPBELL: Thank you. This

26

1 issue has now been discussed twice and let's put that
2 one to rest.

3 MR. BALL: I would appreciate it, Mr.
4 Barrow, if you could point out to me where in Mr.
5 King's testimony the range of, I believe it's 4.8 to
6 10.1 million, is identified.

7 MS. SCHMID: And I would like to object at
8 this point. Mr. King will be available at 1:30 this
9 afternoon and it seems that he would be the
10 appropriate witness of which to ask these questions.

11 COMMISSIONER CAMPBELL: That's typically
12 our process to ask the witness about his own
13 testimony.

14 MR. BALL: Okay. In that case, I'll
15 address the question, the same question to Mr. McKay,
16 please, who actually testified to that being the
17 Division's range this morning.

18 MS. SCHMID: Pardon me. Dr. Powell has
19 just informed me that he has testified with respect
20 to those numbers and he is available at this moment.

21 COMMISSIONER CAMPBELL: If you could
22 identify where they're located that would be great.

23 DR. POWELL: I believe the upper end of
24 the range is the number that Mr. King or Dr. King
25 submitted with his testimony. And like counsel said,
26

1 he can answer those questions with that regard this
2 afternoon when he's available. The 4.8 was the
3 bottom range that the Division proposed, which is the
4 range if you took the Company's expert witness's
5 recommendation, that was the number that came out
6 of -- Garrett Fleming?

7 MS. BELL: Gannett.

8 DR. POWELL: -- the Gannett Fleming study.

9 MR. BALL: Chairman, I --

10 COMMISSIONER CAMPBELL: We're not ignoring
11 your question. I don't know how critical it is that
12 he answer it at the moment. You will get your
13 citation as far as where the numbers came from.

14 MR. BALL: I have kind of a procedural
15 problem, Chairman. When Ms. Bell let me know that it
16 was intended to extend the proceedings today to
17 include the Stipulation and that the expert witnesses
18 wouldn't be available until this afternoon, I did in
19 fact point out to her that I would not be available,
20 I had a previous commitment. The Legislative Public
21 Utilities and Technology Interim Committee is meeting
22 at two o'clock this afternoon and so I'm going to be
23 -- I'm going to find it difficult to be here to talk
24 to Mr. King at 1:30 and to be at that interim
25 committee for two o'clock.

26

1 So again, I reinstate my concerns about
2 the process, about the haste with which this
3 Stipulation has been scheduled for hearing. And
4 since I appear to be the only party who has any
5 concern about the Stipulation, I think that's a
6 significant issue.

7 COMMISSIONER CAMPBELL: We understand.
8 And I guess we believe that clearly the hearing was
9 duly noticed. I'm not going to get in an argument
10 with you. Go ahead.

11 MR. BALL: I'm sorry, I didn't --

12 COMMISSIONER CAMPBELL: We'll address your
13 issue about the haste of the hearing and our order if
14 we need to. Go ahead and continue with your
15 questions.

16 MR. BALL: Well, I guess what I'm asking
17 you to do, since nobody can answer my question this
18 morning, is I'm asking you to reschedule this
19 afternoon's continuation for another time when I can
20 be present, please.

21 MS. SCHMID: If I may say something?

22 COMMISSIONER CAMPBELL: Go ahead.

23 MS. SCHMID: I believe that proper notice
24 was given. It is now quarter after 12:00. Mr. Ball
25 is now just beginning his questions with regard to
26

1 Mr. King. Often hearings have a lunch break of an
2 hour or so. If we had that, that would bring us to
3 quarter after 1:00. And so I do not believe that we
4 are unduly burdening Mr. Ball by having the witnesses
5 available at the time they are available. Plus, I
6 believe that, as in any case, we all must make our
7 personal decisions as to where we want to be at what
8 time and ascribe the appropriate priority to those.

9 COMMISSIONER CAMPBELL: That's understood.
10 For those witnesses that referenced Mr. King's
11 numbers, can you not identify where you got those
12 from?

13 DR. POWELL: If we took a short recess we
14 probably could.

15 COMMISSIONER CAMPBELL: Okay. Well, we
16 will identify them in the course of this hearing. Is
17 the identifying of that location crucial to your next
18 question?

19 MR. BALL: Yes.

20 COMMISSIONER CAMPBELL: Go ahead and ask
21 your next question so we can understand how.

22 MR. BALL: I prefer not to.

23 MS. SCHMID: And if I may, I would also
24 like to note that Mr. Ball did not request, at least
25 of the Division or with the Commission, a delay of
26

1 the proceedings to address the Stipulation today.

2 This is the first that I have heard of it.

3 COMMISSIONER CAMPBELL: Mr. Proctor.

4 MR. PROCTOR: Mr. Proctor, may I have 30
5 seconds to speak with Division's counsel? I think we
6 may be able to clear this up.

7 COMMISSIONER CAMPBELL: All right. Let's
8 go off the record.

9 (Off the record discussion.)

10 MS. SCHMID: I have a comment, if I may,
11 that I think will allow us to proceed.

12 MR. PROCTOR: We need to go back on the
13 record.

14 COMMISSIONER CAMPBELL: Let's go back on
15 the record.

16 Ms. Schmid.

17 MS. SCHMID: Thank you.

18 After consultation with others, I have
19 been informed that Mr. King did not have the specific
20 numbers referenced by Mr. Ball in his testimony, but
21 those numbers came out of settlement discussions with
22 the parties. And it is Mr. King's -- and that's all.

23 COMMISSIONER CAMPBELL: All right. Thank
24 you.

25 MR. BALL: Thank you very much.

26

1 Just so that we can be sure that I'm clear
2 about what you just said, what I understood Ms.
3 Schmid to say, Chairman, is that the \$10.1 million
4 top end of the Division's range identified by Dr.
5 King is not specifically stated in his testimony. Is
6 that accurate?

7 MS. SCHMID: I believe that is accurate.

8 MR. BALL: Okay. Thank you.

9 Then this question, too, is for Mr.
10 Barrow, please. Is it not in fact the case, Mr.
11 Barrow, that when Dr. King first shared his, I'll
12 characterize it as number, with other parties in this
13 docket, the number he shared was in fact considerably
14 higher than \$10.1 million?

15 MS. SCHMID: A question? Could you
16 please --

17 MS. BELL: I would object to that line of
18 questioning. That was in a confidential settlement
19 discussion with parties and they were aware of the
20 confidential nature of those discussions.

21 MR. BALL: Chairman, it's been represented
22 that the Division's range testified to by Mr. King
23 was up to \$10.1 million. I believe that that was not
24 an accurate representation, and my effort here is to
25 show the Commission that it was not in fact an

26

1 accurate representation.

2 MS. SCHMID: I believe the Commission will
3 find that Mr. King's testimony speaks for itself and
4 they can address the issue as they go through the
5 evidence presented.

6 MR. BALL: And again, that would be fine
7 if I were able to be here to participate in that part
8 of the proceeding.

9 COMMISSIONER CAMPBELL: Do you have any
10 questions for anybody else besides Mr. King?

11 MR. BALL: Might I take a moment?

12 COMMISSIONER CAMPBELL: Go ahead.

13 MR. BALL: Yes. I have a question for Dr.
14 Powell. Dr. Powell, in 2000, you or someone holding
15 your position or one similar to it, testified to this
16 Commission in support of a gas processing cost
17 Stipulation, that it would be just and reasonable
18 rates and be in the public interest, did he not?

19 MS. SCHMID: Again, I would object. I
20 would object to this line of questioning for the
21 reasons set forth by Ms. Bell earlier.

22 COMMISSIONER CAMPBELL: We will sustain
23 the objection based on the previous reason stated.

24 MR. BALL: I'm done for now, Chairman.
25 Thank you.

26

1 COMMISSIONER CAMPBELL: Thank you.

2 Dr. Powell, I have a question for you. I
3 thought when you did your presentation you made the
4 comment that absent the Stipulation that you felt the
5 Company could or would ask for a rate increase?

6 DR. POWELL: Yes.

7 COMMISSIONER CAMPBELL: And what was the
8 basis of that?

9 DR. POWELL: As I've indicated, it was
10 based on issues that are not before the Commission at
11 this particular point in the proceedings. But if the
12 other parties don't object, I will elaborate a little
13 bit on your question and explain a little bit of my
14 reasoning.

15 MS. SCHMID: It's responsive.

16 COMMISSIONER CAMPBELL: I would like you
17 to respond because --

18 DR. POWELL: Okay. In entering into the
19 Joint Application, the Division weighed, and we
20 discussed this a little bit earlier to some extent,
21 options that the Division would have. One of those
22 options would be to simply call the Company in for a
23 rate case.

24 One of the things that we have debated for
25 a number of months now is the rate of return issue.

26

1 And as I indicated earlier, it would be likely that,
2 given past experience, that whatever position we take
3 on rate of return, it would be somewhat lower than
4 what the Company was asking for.

5 During the process of a rate case, the
6 outcome, what the Commission would actually order on
7 rate of return would of course be uncertain, we don't
8 know. And at the time of the application itself, we
9 had an indication of what we thought might be a
10 reasonable allowed rate of return and we thought the
11 Joint Application addressed that. In other words,
12 what I'm saying is that the rate reduction proposed
13 in the Joint Application was a fair trade for the
14 uncertain outcome of a rate case.

15 Given the information that we have today,
16 what position we would take on rate of return six
17 months from now if there was a rate case, I'm not
18 going to speculate on now. Circumstances have
19 changed somewhat since that particular filing was
20 made.

21 To continue just for a moment, if we were
22 to call the Company in for a rate case, then the
23 Company would likely project out over 20 months what
24 they thought their revenue requirement would be.
25 That projection would include things like declining

26

1 usage per customer. And given the experience that
2 we've had in the past, that's what I'm saying, is
3 that the Company would likely be asking for a rate
4 increase as opposed to a rate decrease based on this
5 other information that's not before us right now.

6 COMMISSIONER CAMPBELL: Even taking into
7 account an \$8 million decline in depreciation?

8 DR. POWELL: I believe so. As we
9 indicated earlier, and this is something that I have
10 learned over the last couple of months myself in
11 talking about depreciation, and that is that
12 depreciation isn't an expense. It does affect
13 revenues, it affects taxes, it affects rates. And
14 the implementation of this particular change in
15 depreciation expense has the effect, if I understand
16 the evidence correctly, that the rate base would
17 increase and, therefore, the rate of return or what
18 they're actually earning would decline.

19 And so yes, given that information and
20 given the usage per customer, it's likely that the
21 Company would be asking for a rate increase.

22 COMMISSIONER CAMPBELL: Do you know how
23 that nets out, what the net number is?

24 DR. POWELL: I don't know that off the top
25 of my head, no. We are studying that right now.

26

1 COMMISSIONER CAMPBELL: So your testimony
2 is that absent this Stipulation, the Company would
3 come in for a rate increase?

4 DR. POWELL: Yes.

5 COMMISSIONER CAMPBELL: Why did the
6 Company agree to this Stipulation? What's in their
7 interest to do this?

8 DR. POWELL: That's a question I think you
9 would have to ask the Company.

10 COMMISSIONER CAMPBELL: I have.

11 DR. POWELL: Yes, I know. Again, from the
12 Division's point of view, what we're weighing is our
13 options. In the absence of the Stipulation, we could
14 set aside the Joint Application. So we could call
15 the Company in for a rate case. It's unclear what
16 evidence we would base that on today, but the outcome
17 of that rate case is highly uncertain. I don't know
18 if the Commission would order a rate decrease or a
19 rate increase. But given the Company's willingness,
20 for whatever reason to offer at this time a rate
21 decrease, and given our position on other issues or
22 what likely would be our position on other issues, we
23 think that this is a reasonable settlement of that
24 range of possibilities.

25 COMMISSIONER CAMPBELL: All right. Thank

26

1 you.

2 Mr. Ball, did you intend to provide
3 testimony today?

4 MR. BALL: No, sir. I do, however, if I
5 may, have one question that I omitted to ask Mr.
6 McKay earlier.

7 COMMISSIONER CAMPBELL: Go ahead.

8 MR. BALL: Thank you very much.

9 Mr. McKay, do you have a copy of the rate
10 reduction Stipulation in front of you, please?

11 MR. MCKAY: Yes, I do.

12 MR. BALL: Am I correct in understanding
13 that Utah Clean Energy is a Joint Applicant and,
14 therefore, a party in this docket?

15 MR. MCKAY: Yes, they are.

16 MR. BALL: Could you point out to me where
17 Utah Clean Energy has signed as a party to the
18 Stipulation, please?

19 MR. MCKAY: They have not. And I observed
20 earlier that they had, that all parties had, and they
21 have indeed also not. Although our understanding is
22 they do not oppose this.

23 MR. BALL: Thank you, Mr. Chairman. I
24 think we're finally to an accurate position because I
25 think what I represented earlier on was inaccurate

26

1 too. Thank you.

2 COMMISSIONER CAMPBELL: Thank you.

3 Okay. We're going to adjourn until 1:30.

4 (Noon recess taken.)

5 --ooOoo--

6 COMMISSIONER CAMPBELL: Let's go back on
7 the record. At this stage in the proceeding we're
8 going to now hear from the three depreciation
9 witnesses. Ms. Bell, do you want to identify your
10 witness?

11 MS. BELL: Yes. On behalf of Questar Gas
12 Company, we have John Wiedmayer on the phone.

13 MS. SCHMID: The Division has Mr. Charles
14 King.

15 COMMISSIONER CAMPBELL: All right.

16 DR. POWELL: And the Committee's witness
17 is Jacob Pous.

18 COMMISSIONER CAMPBELL: Okay. Why don't
19 we at this time swear you three gentlemen in. So if
20 you would just raise your right arm to the square.
21 Do you solemnly square that you will -- just a
22 minute.

23 All right. We'll do you all together. I
24 guess we've done that before in panels. Do you swear
25 that the testimony you're about to give in this
26

1 proceeding is the truth, the whole truth, and nothing
2 but the truth, so help you God?

3 MALE SPEAKER: I do.

4 THE REPORTER: Who was that?

5 COMMISSIONER CAMPBELL: Who just said "I
6 do"?

7 MR. POUS: Jack Pous.

8 COMMISSIONER CAMPBELL: Thank you.

9 Can we hear a similar statement from the
10 other two witnesses?

11 MALE SPEAKER: I'm sorry? What was the
12 question?

13 COMMISSIONER CAMPBELL: Maybe we need to
14 start over again. I was attempting to swear you in
15 over the phone.

16 MALE SPEAKER: Oh, I'm sorry. I was not
17 paying attention.

18 COMMISSIONER CAMPBELL: Let's start again.
19 And who am I talking with? Is this Mr. King?

20 MR. KING: Yes.

21 COMMISSIONER CAMPBELL: Okay. Mr. King,
22 would you put your right arm to the square? Do you
23 solemnly swear that the testimony you're about to
24 give in this proceeding is the truth, the whole
25 truth, and nothing but the truth, so help you God?

26

1 MR. KING: I do.

2 COMMISSIONER CAMPBELL: And then, Mr.
3 Wiedmayer?

4 MR. WIEDMAYER: Yes.

5 COMMISSIONER CAMPBELL: Do I need to swear
6 you in separately or can you say "I do" as well?

7 MR. WIEDMAYER: I'm sorry. I didn't hear
8 you.

9 COMMISSIONER CAMPBELL: Okay. Mr.
10 Wiedmayer, do you swear that the testimony you're
11 about to give in this proceeding is the truth, the
12 whole truth, and nothing but the truth, so help you
13 God?

14 MR. WIEDMAYER: I do, yes.

15 COMMISSIONER CAMPBELL: Okay. We've got
16 three sworn witnesses. We don't have any written
17 testimony. We've already admitted Mr. King's
18 testimony earlier today. So why don't we go ahead,
19 Mr. Proctor, to you.

20 JACOB POUS,
21 called as a witness, was examined and testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. PROCTOR:

25 Q. Thank you. Mr. Pous, this is Paul
26

1 Proctor. Can you hear me?

2 A. Yes, I can.

3 Q. Mr. Pous, on March 31st, 2006, did you
4 file with the Utah Public Service Commission Direct
5 Testimony of Jacob Pous on behalf of the Utah
6 Committee of Consumer Services?

7 A. Yes, I did.

8 Q. And did that testimony consist of an
9 Appendix, which is your qualifications, and Exhibits
10 1.1 through and including 1.8? Mr. Pous?

11 A. Yes, I'm looking. I don't have -- my
12 exhibits are not numbered in that manner so I'm --
13 mine went JP1 through JP5. When you say 1 through 8
14 I'm a little bit at a loss.

15 MR. PROCTOR: Mr. Chairman, in order to
16 comply with the Commission's standard procedures, the
17 Committee had redesignated the exhibits as J. Pous
18 Exhibit 1.1 to Exhibit 1.8. And that is the exhibit
19 list that was before you when you reentered the
20 chamber. It may be appropriate that we, for the
21 record, designate the direct testimony as CCS Exhibit
22 1, the Appendix A as CCS Appendix A, and then the
23 balance of the exhibit, CCS Exhibits 1.1 through 1.8.
24 I apologize for the error in the listing. But if we
25 could do that that would be appreciated.

26

1 COMMISSIONER CAMPBELL: Okay. We'll so
2 mark it.

3 Q. (BY MR. PROCTOR) Mr. Pous, do you have
4 any corrections to make to your testimony at this
5 time?

6 A. No, I do not.

7 Q. Have you prepared a brief summary of the
8 testimony?

9 A. Yes.

10 Q. Would you provide that, please?

11 COMMISSIONER CAMPBELL: Before you do
12 that, one of our witnesses inadvertently dropped
13 their phone call. And since this isn't a bridge it's
14 more of a conferencing method that we use. We're
15 going to need to ask the two of you on the phone to
16 call back. If you would hang up and call right back
17 we'll bring all three of you back into the hearing.

18 (Off the record.)

19 COMMISSIONER CAMPBELL: Let's go back on
20 the record.

21 Mr. Proctor.

22 Q. (BY MR. PROCTOR) Mr. Pous, during the
23 interim here we realized that we may have misnumbered
24 your exhibits. With the testimony that was filed on
25 March 31st, were there five exhibits attached?

26

1 A. Yes.

2 Q. And --

3 A. They consisted of eight pages.

4 Q. Total, okay.

5 With that clarification, Mr. Chairman, if
6 we could renumber the Exhibits as CCS 1.1 through
7 1.5.

8 COMMISSIONER CAMPBELL: All right. And
9 those will correspond to where it has JP1 and so
10 forth?

11 MR. PROCTOR: Yes, it would. Exhibit 1 is
12 three pages, Exhibit 2 is one page, one page for
13 Exhibit 5, two pages for Exhibit -- or excuse me,
14 Exhibit 4 is two pages, Exhibit 3 is one page,
15 Exhibit 4 is two pages, and then finally is a
16 one-page document, Exhibit 1.5.

17 Q. (BY MR. PROCTOR) Mr. Pous, you were about
18 to provide a brief summary of your testimony.

19 A. Okay. Basically I reviewed the Company's
20 2004 depreciation study and found it's not to be well
21 documented or supported. Based on the limited review
22 that I performed posed three recommendations. The
23 first one was two alternatives to net salvage for
24 distribution mains and services.

25 Distribution mains and services comprise

26

1 the vast majority of the investment and depreciation
2 expense at issue in this proceeding. The result of
3 my two recommendations for modifying the net salvage
4 level for those two accounts resulted in
5 approximately a 7.9 to a \$9.8 million reduction to
6 the Company's existing depreciation rates.

7 The second area of recommendation had to
8 do with the Company's proposal from switching to --
9 from a depreciation accounting basis to a
10 depreciation amortization basis for general client
11 accounts. In that area I recommended extension of
12 amortization periods for a few accounts which
13 resulted in a further reduction of \$138,000.

14 And then the last recommendation was, due
15 to the inadequate support and documentation and
16 justification for the Company's proposed depreciation
17 rate, that the Commission order the Company to
18 provide a complete, thorough and well-documented
19 depreciation study in its next rate filing.

20 Q. Mr. Pous, did you participate with the
21 parties and other depreciation experts on April 26th
22 in a discussion of your testimony and that of the
23 other experts?

24 A. Yes, I did.

25 Q. And are you familiar with the rate
26

1 reduction Stipulation that parties have signed and
2 that is before the Commission today?

3 A. I have reviewed it.

4 Q. In particular, could you address the
5 depreciation rate adjustment -- or rate adjustment
6 due to the depreciation totaling \$8.5 million in
7 particular with respect to ratepayer interests and
8 the just and reasonable character of that rate
9 reduction?

10 A. Yes. The discussions resulted in the
11 Company reducing its negative net salvage for account
12 376 from a negative 45 to a negative 40 percent and
13 reducing its proposed negative 90 percent net salvage
14 for account 380, distribution services, from negative
15 90 down to a negative 75. The Company also updated
16 the analysis through the end of 2005 compared to the
17 depreciation study which was based on the 2004 test
18 period.

19 The net result of changing those two net
20 salvage values, updating the test period to the end
21 of 2005 resulted in approximately an \$8.5 million
22 annual reduction to depreciation expense when the
23 difference between the actual book reserve and the
24 theoretical reserve is amortized over a ten-year
25 period. That result falls within the range of values

26

1 I had proposed and appears to be a reasonable and
2 acceptable level for purposes of acceptance for
3 ratemaking purposes in this proceeding.

4 Q. Does that conclude your summary, Mr. Pous?

5 A. Yes, it does.

6 MR. PROCTOR: The Committee would offer
7 the CCS Exhibit 1, the Appendix, and the five
8 Exhibits that have been attached.

9 COMMISSIONER CAMPBELL: Are there any
10 objections?

11 MS. SCHMID: No objection.

12 MS. BELL: No objection.

13 COMMISSIONER CAMPBELL: Mr. Dodge?

14 MR. DODGE: (Indicating negatively.)

15 COMMISSIONER CAMPBELL: All right. We'll
16 admit it.

17 MR. PROCTOR: Mr. Pous will be available
18 for examination if you wish.

19 COMMISSIONER CAMPBELL: All right. And
20 it's my understanding that Mr. King and Mr. Wiedmayer
21 are here to answer questions as well, but do not
22 intend to provide any summary. Is that correct?

23 MALE SPEAKER: Yes, that's my impression.

24 THE REPORTER: I can't tell who is
25 speaking.

26

1 COMMISSIONER CAMPBELL: Okay.

2 MALE SPEAKER: I did not get the question.

3 I can provide a summary if you would like, but I

4 hadn't planned on it.

5 COMMISSIONER CAMPBELL: Who is speaking?

6 We need you to identify yourself before you talk on

7 the phone.

8 MR. KING: I'm sorry, Charles King.

9 COMMISSIONER CAMPBELL: Okay. We'll

10 proceed with some questions.

11 COMMISSIONER ALLEN: I just have a

12 question, I have a question for the Company on

13 testimony provided from Mr. Pous. He talks about the

14 lack of average service life calculations in your

15 salvage or lack of salvage analysis. Did that

16 analysis not get into this documentation or does it

17 not exist? Do you not have salvage analysis? I'm

18 not clear.

19 MR. POUS: If the question was directed to

20 me it was very faint, so if somebody could speak up.

21 COMMISSIONER ALLEN: It's a question for

22 the Company, but you may be able to help out, and

23 that has to do with the lack of salvage analysis.

24 Did it just not get into your documentation or does

25 the Company not perform salvage analysis so that we

26

1 can come up with average class lives using that type
2 of analysis?

3 MS. BELL: I think it would help if Mr.
4 Wiedmayer would answer that question.

5 John, did you hear that question that
6 Commissioner Allen just asked?

7 MR. WIEDMAYER: Yes. The salvage
8 analysis, they were performed. They were not a part
9 of the depreciation report that was submitted in
10 January, but they were submitted upon request to
11 certain data requests from the consumer advocate --
12 CCS or it even might have been the Division. I can't
13 recall which, but there was a full-blown salvage
14 analyses for each plan account was there, as were the
15 life tables and charts that are a part of the
16 technical appendices that we include in our studies.
17 They were submitted as part of a data response, data
18 request response.

19 COMMISSIONER ALLEN: Thank you.

20 COMMISSIONER CAMPBELL: Mr. King and Mr.
21 Wiedmayer, could you both comment? Let's start with
22 Mr. King. Would you comment on the 8.5 million?

23 MR. KING: Well, we had originally
24 conducted an independent analysis of the lives and
25 salvage factors for all of the major accounts. We

26

1 had three different service lives, a somewhat shorter
2 life for mains, 60 years as opposed to 62, longer
3 service life for the services, 52 years in lieu of
4 47. And then I believe for meters we had recommended
5 36 years instead of 28 years.

6 We had also done a revision of the salvage
7 analysis on the grounds that the methodology employed
8 by Gannett Fleming overstates future salvage costs
9 because it, in effect, projects past inflation into
10 the future. And there's a general consensus that
11 prospectively inflation will not be anywhere near as
12 great as it was back in the 1970s. So we restated
13 the salvage analysis as though inflation had always
14 been approximately 3 percent and got a somewhat lower
15 net salvage figure, specifically 32 percent for mains
16 as opposed to 45 percent, and for services 73 percent
17 in lieu of 90.

18 Now, what we have now I think is a
19 reasonable compromise between that position and the
20 original position of the Company. The Company has
21 retained the service lives that it originally had
22 proposed, but it has reduced the salvage ratios for
23 both mains and services. The salvage ratio now for
24 mains is 40 percent in lieu of 45 percent, and for
25 services I believe it is 80 percent in lieu of 90

26

1 percent. These salvage, negative salvage, or cost of
2 removal is what they are, factors have an enormous
3 impact upon the overall cost of depreciation. And
4 the consequence of these modifications is to derive
5 an 8.5 percent reduction in depreciation charges
6 based on year-end 2005 balances.

7 COMMISSIONER CAMPBELL: Did you mean \$8.5
8 million?

9 MR. KING: \$8.5 million. I hope you can
10 hear me.

11 COMMISSIONER CAMPBELL: Yeah. I thought I
12 heard you say percent reduction instead of the dollar
13 figures.

14 MR. KING: Not percent, it was \$8.5
15 million in the annual depreciation accrual. And of
16 course that's based on a fixed amount of plant, that
17 plant being year-end 2005. And so I support the
18 Stipulation. I think it's the most reasonable
19 compromise between the very strongly differing views
20 of myself and Mr. Pous on the one hand and the
21 Company's witness on the other.

22 COMMISSIONER CAMPBELL: Thank you.

23 Mr. Wiedmayer, would you comment on the
24 reasonableness of the \$8.5 million depreciation
25 reduction?

26

1 MR. WIEDMAYER: Yes. When I conducted the
2 depreciation study for Questar, I had reviewed the
3 Company's specific retirement and net salvage history
4 that they've experienced over the past 14 years,
5 starting with 1990 and up through and inclusive of
6 the year 2003. And from that period I was able to
7 conduct what the average service life -- I was able
8 to determine what the average service lives and net
9 salvage percent were from a historical basis. And I
10 held discussions with the Company's engineering group
11 to review the reasonableness of what the Company had
12 experienced from a historical basis and to determine
13 whether or not that historical basis was a good tool
14 to forecast what future average service lives would
15 be for the plant as well as the net salvage ratio.

16 So from an analysis of past company
17 experience data, along with input from the Company's
18 Engineering Department, I was able to determine an
19 average service life estimate for each of the plant
20 accounts as well as a net salvage percent for each of
21 the gas plant accounts. And with those parameters I
22 was able to calculate new depreciation accrual rates.

23 Seeing that this is the first depreciation
24 study that the Company has embarked upon, I saw this
25 as a significant improvement to their existing rates
26

1 that they were currently using, their existing
2 depreciation rates, and had provided those new
3 depreciation accrual rates at the plant account
4 level, as well as I had determined how past accruals
5 were either overdepreciated or underdepreciated, and
6 my findings had determined that the Company's past
7 level of depreciation expense was too high.

8 We set upon a policy or a mechanism to
9 amortize that reserve excess, meaning that past
10 depreciation levels were too high and we are
11 recognizing that and setting up an annual
12 amortization to reduce depreciation expense by
13 roughly, you know, \$8.9 million a year for this past
14 overaccrual of depreciation. And that process is
15 what, you know, I would recommend that the Company
16 implement going forward in the sense that I've
17 provided to them annual depreciation accrual rates
18 and I've also provided them with amortization,
19 reserve variance amortization amounts that they
20 should use to reduce depreciation expense on a go
21 forward basis up until the time of the next study
22 when we will recalculate what that reserve variance
23 is and come up with new amortization amounts for
24 depreciation expense.

25 So the overall reduction to depreciation

26

1 expense for Utah customers is \$8.5 million.

2 COMMISSIONER CAMPBELL: And you find that
3 reasonable?

4 MR. WIEDMAYER: Yes, I find that
5 reasonable.

6 COMMISSIONER CAMPBELL: All right. I have
7 one final question. Earlier in our discussion this
8 morning the issue came up as far as when you change
9 depreciation expense there's other moving parts such
10 as accumulated depreciation and how that affects rate
11 base as well as tax implications of those changes.

12 Is there in the industry a rule of thumb,
13 like when you're changing depreciation expense \$10
14 million, how much of that is offset by rate base
15 calculation and taxes?

16 MALE SPEAKER: Who is that question
17 directed to?

18 COMMISSIONER CAMPBELL: Any one of you
19 three. Anyone who wants to answer that.

20 COMMISSIONER CAMPBELL: Please identify
21 yourself before you speak.

22 MR. POUS: This is Jack Pous. There is a
23 impact in future rate proceedings in establishing
24 this rate, the expenses set forth at the \$8.5 million
25 reduction. That will have an impact, let's say,

26

1 three years down the line. We will have less
2 depreciation accumulated in that three-year period
3 which will leave rate base a little bit higher than
4 it would have been otherwise.

5 And the deferred taxes associated with
6 that will also change because the difference between
7 the book and the tax depreciation will be probably
8 increased, which will give you slightly more deferred
9 taxes three years from now than what you would have
10 had otherwise. The difference is depreciation
11 expense is a dollar per dollar expense to customers,
12 while the accumulated provision for depreciation and
13 the corresponding accumulated deferred income taxes
14 are a rate-based item and, therefore, would have a
15 probably somewhere in the range of let's say 12 or 13
16 cent impact compared to a dollar-for-dollar impact on
17 expenses.

18 COMMISSIONER CAMPBELL: All right. That's
19 what I was looking for. Thank you.

20 Any final questions or any redirect?

21 MS. BELL: I have a final question for Mr.
22 Wiedmayer. Mr. Wiedmayer, this is Colleen Bell with
23 the Company.

24 Could you please, for the Commission's
25 benefit, explain how you did the depreciation study

26

1 for the Company and the methodology you used, just
2 very briefly?

3 MR. WIEDMAYER: Could we ask that question
4 stated a little nearer the microphone?

5 COMMISSIONER CAMPBELL: All right. We'll
6 go again.

7 MS. BELL: This is a question for Mr.
8 Wiedmayer. Mr. Wiedmayer, could you please explain
9 how you performed the depreciation study for the
10 Company?

11 MR. WIEDMAYER: Yes. The Company
12 assembled the basic data that's required for a
13 depreciation study, and that basic data includes
14 property additions, retirements, transfers by account
15 and by vintage. They assemble the database for the
16 accounting years 1990 through 2003, which the
17 retirements were age, meaning that they had an
18 indication as to how old property was at the time of
19 retirement. And I analyzed that data to come up with
20 preliminary life indications for each of the gas
21 plant accounts. You know, once I had the historical
22 indications, I tested the reasonableness of those
23 historical indications by comparing them with other
24 gas utilities that I have performed studies with as
25 well as, you know, I know what typical industry

26

1 ranges are for each of these plant categories,
2 depreciable categories.

3 So I tested the reasonableness, spoke with
4 engineering to also get their opinion and outlook
5 with respect to their expectations of service life
6 for the various assets, which would incorporate the
7 Company's own maintenance practices and policies, and
8 determined an average service life estimate and that
9 salvage percent for each of the accounts, used those
10 parameters to calculate depreciation accrual rates
11 which I have set forth on Table A. And on Table B of
12 my schedules I have prepared the theoretical reserve
13 by account, which we then compared the Company's book
14 accumulated depreciation with the theoretical
15 reserve, determined that the Company's depreciation,
16 past depreciation accruals were too high, and the
17 Company has set forth on a policy to reduce the
18 depreciation expense by \$8.9 million as an
19 amortization of the reserve variance.

20 So the overall impact, the overall
21 reduction to the Company's current depreciation
22 levels is \$8.5 million. In addition to holding
23 discussions with the Company's engineering group, I
24 also scheduled a field trip to visit some of the
25 above-ground representative gas property that I could

26

1 visit, such as various metering and regulation
2 stations, the Company's service centers, office
3 buildings, just to get a general assessment of the
4 condition and maintenance of the gas plant assets in
5 comparison with what I have seen at other gas
6 utilities that I have also visited throughout the
7 country.

8 COMMISSIONER CAMPBELL: Thank you very
9 much.

10 MR. WIEDMAYER: You're welcome.

11 COMMISSIONER CAMPBELL: Does anybody have
12 any additional questions for these witnesses?

13 MR. PROCTOR: None.

14 MS. SCHMID: None.

15 COMMISSIONER CAMPBELL: All right. Thank
16 you very much, gentlemen.

17 Mr. Monson, over the lunch hour I tried to
18 figure out why there was a little emotion in my voice
19 in my first couple of questions and I think I figured
20 out why. And it has to do with early on in my
21 utility business, Mr. Ball, who was the
22 administrative secretary at the time and I was the
23 director of the Division, had to deal with the MCI
24 remand case. And this felt a lot like that as far as
25 the facts and circumstances. And so I'm going to ask
26

1 you to distinguish for me how you see this as
2 different than that case.

3 I think in my mind I've come to the
4 conclusion that there are distinctions between the
5 wage case insofar as this is a rate decrease proposed
6 by the utilities compared to the facts in the wage
7 case. But as far as the MCI case, as I think back to
8 that stressful and difficult negotiation that
9 happened once that was remanded from the Court, could
10 you go through and perhaps draw distinctions for me
11 between the facts of the MCI case and what's being
12 proposed here?

13 MR. MONSON: Yes, I would be happy to.

14 The MCI case arose out of an overearning
15 situation that US West was experiencing in the late
16 '80s. And during that time period, as you may
17 recall, there was an Act passed by Congress called
18 the Tax Reform Act, and commissions throughout the
19 country were looking at the impact of that Act on
20 their utilities and were taking various kinds of
21 steps. The Commission in Utah sent a letter to all
22 three utilities and they said, we want you to project
23 for us what the results of the Tax Reform Act are
24 going to be on your earnings and on your rates. And
25 each company responded in whatever manner they chose.

26

1 US West's response indicated that while
2 the tax expense they would experience -- and by the
3 way, the Tax Act was very complicated. It wasn't
4 just a simple cut in rate, it was a cut in rate over
5 a period of years and it was also a change in some
6 other factors that increased tax expense. And so
7 there were some offsetting factors.

8 US West's response was that, while on
9 balance it's going to reduce our tax expense, we
10 think that the effect of that will be that we won't
11 have to increase rates in the future. In other
12 words, it will be a factor that will dampen the need
13 to increase rates.

14 At the same time the Division was, as it
15 always is, was studying the reports filed by the
16 Company and was seeing a trending up in their
17 earnings relative to their authorized rate of return.
18 So they started meetings with the Company to make
19 sure they understood in auditing those records and
20 doing the things that the Division does.

21 And in the course of those meetings, the
22 Division and the Company agreed upon a rate
23 reduction, I think it was \$9 million. It might have
24 been seven, 7 or \$9 million, and they agreed to put
25 that in effect. Then even with that rate reduction

26

1 the Company's earnings continued to increase, their
2 rate of return continued to increase. And that was
3 happening as reports were filed.

4 At the time as all this was going on, the
5 FCC changed its separations procedure which caused a
6 delay in the Company's filing. At that time US West
7 was filing monthly reports. I don't want to
8 encourage that, but they were filing monthly reports
9 of earnings with the Commission and so there was some
10 delay in the filing of those reports.

11 As all of those things came together the
12 Division requested a rate case in about the middle of
13 1988. The \$9 million rate decrease had gone into
14 effect at the end of '97 -- or '87, and then in '88
15 the Division requested the start of a rate case based
16 on the fact that they believed the Company was
17 overearning.

18 During the course of that rate case there
19 were a number of rate reductions. There were some
20 interim reductions that the Company agreed to, there
21 was actually two interim reductions and then there
22 was a final reduction. The total of those reductions
23 was quite a bit of money, like \$56 million or
24 something like that.

25 So then during the course of that case a
26

1 group, actually initially led by former Commissioner
2 Irvine, filed a claim that the Company was
3 overearning and that it ought to refund its
4 overearnings to its customers. And that's what
5 became the MCI case. And when the case went up on
6 appeal to the Supreme Court, the parties that were --
7 well, I should give you the other background.

8 The Commission argued -- the Commission
9 agreed with the Company that that would be
10 retroactive ratemaking and, therefore, denied the
11 request for a refund. Then it went up on appeal.
12 And on appeal the appellants came up with an argument
13 that they hadn't made below and, that was, you know,
14 the Company probably misled the Division in
15 connection with that \$9 million rate reduction, and
16 probably misled them in connection with the impact of
17 the Tax Reform Act, and probably misled about other
18 things. And that's why they argued you could have
19 the Company making these rate decreases and yet still
20 overearning.

21 And so the key facts, as I read the MCI
22 decision, that affected the Court's decision were
23 that the Company was overearning by large amounts. I
24 mean, they were getting rate of returns in the
25 neighborhood of 18 percent. They were overearning by
26

1 large amounts and there was an allegation that they
2 had misled regulators, both with respect to the
3 \$9 million rate reduction and the impact of the
4 Tax Reform Act. So the combination of those three
5 factors I think led to the result, the MCI result
6 which, by the way, created new law in this state.
7 You know the axiom, "Bad facts make bad law." That's
8 what I believe happened.

9 But anyway, none of those factors are
10 present here. We haven't had a Tax Reform Act or
11 something like that that's had some effect. Everyone
12 knows there's going to be an effect, but we don't
13 know exactly what it is and we don't know how to
14 predict it. We haven't had anything like that.

15 We don't have a situation where the
16 Company and the Division have gone off and negotiated
17 a deal. We have a situation where all parties to the
18 proceeding except -- and Mr. Ball was involved in
19 negotiations, he just chose not to join in the
20 Stipulation. And Utah Clean Energy simply did not
21 participate in the Stipulation because they aren't
22 interested in this part of the case, they're
23 interested in the conservation part of the case.

24 All the parties went off, had experts on
25 depreciation, did a thorough study, as you've heard
26

1 now, and analyzed the issues and came to an agreement
2 on what the amount of the rate reduction would be
3 contingent on.

4 And why did the Company enter into the
5 agreement? Because the Company wanted to go ahead
6 with the CET part of the case and the parties agreed
7 that it could be heard on its merits. That was the
8 concession the Company got. So it's just the facts
9 are totally different. I don't think there was even
10 an -- you know, there was some statements in the MCI
11 decision about stipulations and other things. I
12 think those statements were first of all dicta, but
13 secondly, the statute has been changed. The
14 legislature clearly, even then, supported
15 stipulations, but now even does so. And so I think
16 the courts had to accept that.

17 COMMISSIONER CAMPBELL: At the time of the
18 MCI case, was the Division, when they were looking at
19 overearnings, were they using historical test year
20 data or are they using forecasted test year
21 projections?

22 MR. MONSON: Both. They were using both.
23 The \$9 million rate reduction was based upon an
24 analysis -- what it was was an analysis of 1987 with
25 adjustments made for the Tax Reform Act. So it was
26

1 kind of a historical test year that was still in
2 progress and it was based upon a -- but adjusting
3 that test year for known and measurable changes.

4 COMMISSIONER CAMPBELL: But earlier in
5 this proceeding when you talked about the Division
6 bringing a claim of overearnings, that they had to be
7 able to see a consistent pattern of overearnings.
8 And I guess I'm sitting here and through the
9 questions to the Division, it seems to me like that's
10 a problem. Because how do you do that now with
11 forecasted test years? And wasn't that the problem
12 in the MCI, that with these projections and you're
13 looking at the Company's projections. How does the
14 Division -- I mean, I understand how they do it on a
15 historical basis, and if it's a historical test year
16 they can look at the numbers and so forth. But now
17 as we're moving to this forecast and looking at
18 forecasts to determine whether we bring rate cases,
19 let me ask the Division, how do you do your job? I
20 mean, when the Company is giving you forecasts -- I
21 mean, if I were an employee of the Company, I
22 guarantee you I could give you a forecast every time
23 that shows I'm not overearning. So how do you intend
24 to do that in the future as far as make that sort of
25 a determination?

26

1 DR. POWELL: The joys of future test
2 years. I don't know if you recall, we had in one of
3 the technical conferences, we had a short exchange on
4 this very topic. The essence of it was is that I
5 said because of some statements that had been made in
6 the technical conference, I said that we didn't have
7 any evidence at hand to call the Company in for a
8 rate case or to support a rate case. And that was
9 because at that point in time the only thing that we
10 had was historical data. But under the statutes now
11 the Company, utilities can ask for a future test year
12 going out 20 months.

13 And so there's a discrepancy in the
14 information that we have at hand and what we really
15 need to determine the basis of what a rate case might
16 look like. As was indicated earlier today, we have
17 asked the Company, and they have provided it for us
18 now, a forecast of their '06 Results of Operation on
19 an adjusted basis and we're in the process of
20 analyzing that, auditing that, and to see if it's
21 reasonable. We have the historical information and
22 we'll approach it the same way I think we would a
23 rate case , and that is, we'll look at the base, the
24 historical information and see if it's reasonable and
25 then see how to go from the base case out to the

26

1 future and see if we agree with the escalation
2 factors or projections that they're making and then
3 make a determination as to whether we think the
4 forecasted results are accurate in some sense.

5 We also indicated at that time that, in
6 that short exchange that we had, that we were
7 contemplating approaching the Commission at some time
8 in the future and somehow asking for the companies to
9 do that type of filing on a regular basis because the
10 Division does believe that we're going to need that
11 information under the new statutes to be able to do
12 our job.

13 COMMISSIONER CAMPBELL: All right. Thank
14 you.

15 DR. POWELL: I guess I should point out
16 they're not asking at this point because it does
17 involve more than just Questar, it would be for
18 PacifiCorp as well. And so we'll have to figure out
19 how we should proceed with that type of request.

20 MR. MONSON: Chairman, could I offer a
21 comment? I think my answer this morning may have
22 created the impression that we were saying that the
23 Division couldn't institute a general rate case
24 unless we were overearning and I didn't mean to imply
25 that. The Division can, if it determines factors

26

1 have changed and they have a basis to say there ought
2 to be a change in rates and it's a good faith basis
3 based on evidence, they can seek to institute a
4 general rate case.

5 What I was saying was that the standards
6 for interim relief that have been established by the
7 Commission are that even if you're in a general rate
8 case you don't grant interim relief, an interim rate
9 decrease unless the Company is consistently
10 overearning. And that's based on the prior -- on the
11 rate of return that's in effect currently. And you
12 don't redo that. You don't say, well, let's have a
13 mini hearing on cost of capital. You just use the
14 prior planning and if they're overearning, and
15 consistently overearning, then maybe an interim
16 decrease is justified then. And I was trying to say,
17 there's no evidence for that in this case.

18 COMMISSIONER CAMPBELL: Okay. Thanks for
19 that. Anybody else want to comment?

20 MR. DODGE: Mr. Chairman, first of all, it
21 hasn't yet been determined by the Commission --

22 COMMISSIONER CAMPBELL: Could you turn
23 your microphone on?

24 MR. DODGE: It hasn't yet been determined
25 whether we are moving to projected test year. So I

26

1 just want to keep that notion out there. That's
2 still an option.

3 COMMISSIONER CAMPBELL: No, we understand.
4 We understand the range of choices before us.

5 MR. DODGE: And then I guess on the other
6 hand, my only comment on the MCI, and in the struggle
7 I heard you this morning and are currently having,
8 which I understand, the struggle is understandable in
9 light of those Supreme Court orders that are,
10 frankly, somewhat confusing. But if you simply go
11 back to the statutory precedent or the statutory
12 requirements, I don't think you have to necessarily
13 call this anything. Under 54-7-12 it says, "If a
14 utility proposes to decrease rates and file
15 schedules, and after appropriate notice, after
16 appropriate notice and a hearing the Commission
17 determines whether the change in schedules," which
18 can include a decrease, "should be approved as just
19 and reasonable and in the public interest." And if
20 it's a decrease you don't even have to hold a
21 hearing.

22 To me that suggests a common sense
23 approach, that the nature of what's before you
24 dictates the level of analysis, review, et cetera,
25 that has to go into it. When it's a rate decrease
26

1 and the party accepting it, the party that will be
2 suffering as a result of it, stipulating to it, the
3 scrutiny is just and reasonable rates is very low.
4 If they were opposing it then I think there would be
5 a real issue about cramming down a rate decrease over
6 their objection without a full-blown hearing.

7 But where you have got the party hurt
8 stipulating to it, then, again, you go back to the
9 statute, you've heard a hearing, and you now
10 determine based on what you've heard that the
11 decrease is just and reasonable, I think you can do
12 that. I think you have every right to initiate a
13 general rate case if you still believe on what was
14 produced today that there was overearning. But I
15 think whether you do that or not, you have the ample
16 power to say, let's investigate and start a rate
17 proceedings, or at least an investigation if you
18 think there's enough evidence for it. But that
19 aside, I think you have ample authority to grant a
20 decrease by Stipulation.

21 COMMISSIONER CAMPBELL: So what I hear you
22 saying is we don't need to label the process and put
23 it in one of the three buckets that we had in the
24 PCAM argument?

25 MR. DODGE: To the extent it has to be
26

1 labeled, I would say it's a general rate case. It's
2 a regular rate case proceeding. I wouldn't use the
3 word "general" because to me it's a business statute.
4 But the 54-7-12 statute talks about if the utility
5 wants to increase or decrease rates or schedules it
6 makes its filing, and 30 days later they go into
7 effect if it's a decrease. You hold a hearing to
8 determine whether it's appropriate or not. It's
9 almost that simple.

10 So I don't think you need to try and
11 squeeze it into the interim or abbreviated procedure
12 or as a pass through. It's the other category and I
13 think you've met all the statutory requirements for
14 that category. And I would like to believe that our
15 Supreme Court would understand that it's different,
16 as Mr. Monson pointed out, in a case where you don't
17 have all the aggravating factors of MCI, that the
18 Commission under its ample authority to set rates and
19 procedures can decide this is enough to, A, assure
20 due process and, B, ensure a just and reasonable
21 rate.

22 COMMISSIONER CAMPBELL: Thank you, that's
23 helpful.

24 Any other comments?

25 MR. MONSON: I have one other comment if I

26

1 could.

2 COMMISSIONER CAMPBELL: Go ahead.

3 MR. MONSON: Based on your questions and
4 concerns -- by the way, the Company fully supports
5 the Stipulation and hopes it will be approved. But
6 if the Commission believes it doesn't have authority
7 to do what the Stipulation asks it to do, the Company
8 would request that the Commission notify the parties.
9 Because the parties in that light might take
10 different positions.

11 COMMISSIONER CAMPBELL: Okay. Anything
12 else?

13 All right. We'll take the matter under
14 advisement. Thank you.

15 (The taking of the hearing was
16 concluded at 2:30 p.m.)

17

18

19

20

21

22

23

24

25

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

I, LANETTE SHINDURLING, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of Utah, residing at Salt Lake City, Utah hereby certify;

That the foregoing proceeding was taken before me at the time and place herein set forth, and was taken down by me in stenotype and thereafter transcribed into typewriting;

That pages 1 through 154, contain a full, true and correct transcription of my stenotype notes so taken.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 22nd day of May, 2006.

LANETTE SHINDURLING, RPR, CRR
Utah License No. 103865-7801