

ALBANY REPORTING CO.
P.O. BOX 5875
ALBANY, N.Y., 12205-0875
(518)382-9789 TEL (518)382-9791 FAX

DATE: 11/21/97

ALBANY REPORTING CO. DELIVERED THE FOLLOWING TRANSCRIPT :

CASE NO.: 96-E-0900

TITLE: ORANGE & ROCKLAND UTILITIES

HEARING DATE: 11/19/97

DELIVERY: OVERNIGHT

PAGES: 1020-1103

*Original
plus 8 copies*

PLUS:

LESS:

REPORTED: 84

PREFILED:

TOTAL: 84

COMMENTS:

DELIVERED TO: PUBLIC SERVICE COMMISSION
3 EMPIRE STATE PLAZA
ALBANY, N.Y., 12223

RECEIVED BY: _____

1997 NOV 21 PM 4:40

RECEIVED
PUBLIC SERVICE
COMMISSION
ALBANY, N.Y.
0503-0371

1 NEW YORK STATE PUBLIC SERVICE COMMISSION

2

3

IN THE MATTER OF

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Case 96-E-0900 - Proceeding in the Matter of Orange
and Rockland Utilities, Inc.'s
plans for electric rate and restructuring pursuant
to Opinion No. 96-12.

MINUTES OF A PUBLIC STATEMENT HEARING held at the
Clarkstown Town Hall, 10 Maple Avenue, New City, New
York, on Wednesday, the 19 of November, 1997,
commencing at 7:30 p.m.

BEFORE: Stewart Boschwitz,
Administrative Law Judge

ORIGINAL

P R O C E E D I N G S

1 JUDGE BOSCHWITZ: Good evening and
2 welcome. Come to order, please. Thank
3 you.

4 My name is Stewart Boschwitz. I'm
5 the Administrative Hearing Officer with
6 the Public Service Commission. We're here
7 this evening to receive comments and
8 statements from members of the public and
9 elected officials concerning the plan
10 proposed by Orange and Rockland for rate
11 and restructuring.

12 At this point I have 11 individuals
13 who have signed up to speak, several of
14 whom are elected public officials. I
15 would like, if there's no objection, to
16 defer to those public officials and allow
17 them to speak early, as they are your
18 representatives. Unless I hear objections
19 to that situation, I would not take them
20 out of turn. Hearing no objection, I
21 would start with Assembly Woman Nancy
22 Calhoun. Sorry, you can't quite sit down.

23 Assembly Woman, do you have a
24 prepared statement you can hand to the

P R O C E E D I N G S

1 reporter?

2 ASSEMBLY WOMAN CALHOUN: No, I do
3 not.

4 I am here and -- I am here for two
5 purposes, and I would like to also mention
6 to everyone here in attendance that I was
7 in contact with Senator Joseph Holland,
8 who is in Albany this evening, and he
9 asked me to -- basically what I will be
10 saying are things that he believes in as
11 well, and I will be reporting back to his
12 office tomorrow morning with details.

13 I am here this evening as a
14 representative who represents the area
15 where the power plants are located in the
16 Town of Stony Point and I also represent
17 areas in Orange County and in Rockland
18 County where many, many of the people who
19 are both employed by Orange and Rockland
20 and certainly customers of Orange and
21 Rockland, as I.

22 My purpose in being here this evening
23 is to give you the opinion that, number
24 one, it is vitally important to the

P R O C E E D I N G S

1 employees, it is vitally important to the
2 towns that we have an agreement that is
3 going to recognize the fact that there are
4 many, many jobs that are vital in this and
5 people who are dedicated employees and
6 have served their community very well will
7 be protected by whatever agreement is
8 arrived at between the Public Service and
9 Orange and Rockland Utilities. It is also
10 vitally important that as we go into
11 divestiture, that we, for the consumers,
12 arrive at a situation that will recognize
13 that we have been paying extremely high
14 rates, and since the goal of divestiture
15 is to provide choice, but to also provide
16 a more equitable structure for rates, that
17 we look to make sure that our consumers
18 get the very best protection with whatever
19 is decided in this regard.

20 Basically those are my two points,
21 and I stand ready to stay here this
22 evening and to learn from everyone who
23 wishes to speak. And I thank you very
24 much for your courtesies.

P R O C E E D I N G S

1 JUDGE BOSCHWITZ: Thank you.

2 The next speaker will be Assembly Man
3 Alex Gromack.

4 ASSEMBLY MAN GROMACK: Thank you.
5 Assembly Man Alex Gromack. I represent
6 the 92nd Assembly District which
7 encompasses the Towns of Clarkstown,
8 Haverstraw and part of Ramapo.

9 We sit here tonight to provide
10 comment on a plan by Orange and Rockland
11 Utilities and the New York State Public
12 Service Commission that most of us know
13 little about.

14 While I have reviewed the newly
15 revised Rate and Restructuring Plan, which
16 calls for the complete divestiture of
17 Orange and Rockland's power generating
18 facilities, I must oppose the plan and the
19 process by which it was devised.

20 First, this new plan, approved by
21 Orange and Rockland's Board of Directors
22 just days ago, has undergone a major
23 change since the first one filed by Orange
24 and Rockland last March. O & R now tells

P R O C E E D I N G S

1 us that they will not set up a subsidiary
2 or compete in any way in the auction of
3 these generating facilities.

4 Therefore, the only hope for
5 stability in the plan for the employees of
6 Orange and Rockland is now gone. These
7 plants will be auctioned off to the
8 highest bidder, with little security for
9 the current highly-skilled employees.
10 While it is all our hopes that the new
11 owners of the power plants will see fit to
12 keep on the current employees, this is not
13 enough for the man or woman who needs to
14 put food on the table and clothes on the
15 backs of their children.

16 The Public Service Commission, as a
17 regulatory agency of the State of New
18 York, must do more than provide "hope".
19 They should require, as the Assembly
20 de-regulation plan known as "Competition
21 Plus" already does, that the employees'
22 futures, their livelihoods, their benefits
23 are adequately safeguarded.

24 Therefore, with less than two months

P R O C E E D I N G S

1 to learn and study the ramifications of
2 the divestiture plan submitted in
3 mid-September, Orange and Rockland and the
4 Public Service Commission now tell us of
5 this monumental change that destroys any
6 fragments of hope that existed in the
7 previous plan.

8 Second, I object to the failure of
9 the Public Service Commission to provide
10 an opportunity for those without financial
11 means to sit at the bargaining table and
12 join in this process, instead of viewing
13 it from the sidelines as bystanders. It
14 is simply outrageous that the people most
15 affected by this divestiture - the
16 employees whose jobs are being
17 jeopardized, the Orange and Rockland
18 ratepayers whose rates could be raised,
19 and the local property taxpayers who may
20 have to carry an even greater tax burden -
21 had to find out about it by reading it in
22 the Journal News in mid-September.

23 The Assembly plan would have
24 guaranteed these parties a place at the

P R O C E E D I N G S

1 bargaining table. Our plan makes room for
2 those without the deep financial pockets
3 to join in the litigation and the
4 settlement process. Unfortunately, the
5 Public Service Commission has neglected
6 these key players during the process,
7 instead holding a handful of public
8 hearings.

9 Finally, I protest the speed at which
10 this whole process has whizzed by us.

11 Competition in the energy industry is
12 inevitable. While both parties have
13 recognized this fact, the paths to which
14 my Assembly colleagues want to get there
15 diverges considerably from the Governor
16 and the Public Service Commission's
17 lightening-fast pace that affords little
18 opportunity for analysis, study or
19 negotiating.

20 The Assembly "Competition Plus" plan
21 calls for an orderly process, which is
22 open to all parties, along a reasonable
23 timetable. Our plan wouldn't rely on
24 back-room negotiations between the Public

P R O C E E D I N G S

1 Service Commission and Orange and
2 Rockland, leaving it up to the rest of us
3 to learn about it in the newspapers.

4 Therefore, I submit today my
5 objections to the Rate and Restructuring
6 Plan because of its failure to address the
7 collateral consequences, most notably the
8 local impact on the employees, the
9 ratepayers, and the property taxpayers.
10 Furthermore, I oppose the closed-door
11 process that has hastened the manner in
12 which this plan was created and evolved.

13 Nothing of this magnitude, affecting
14 the lives and livelihood of so many New
15 Yorkers and calling for such sweeping
16 change in policy, has ever taken place in
17 such a quickened, closed-door,
18 regulatory-driven fashion in this state.
19 That is why I ask the Public Service
20 Commission to slow down and make sure that
21 the long-term effect of this plan on the
22 local economy is evaluated and put before
23 the proper public review.

24 In final summation, I must

P R O C E E D I N G S

1 respectfully request that the Public
2 Service Commission take another look at
3 the Assembly "Competition Plus" plan,
4 especially the parts that have worker
5 protection, I think that's paramount to
6 the safety of the jobs that we want to
7 protect and the safety of the ratepayers
8 who pay these bills and, finally, to the
9 tax base that these plants produce.

10 JUDGE BOSCHWITZ: Could you describe
11 the worker protection provisions that are
12 in the Assembly plan?

13 ASSEMBLY MAN GROMACK: I can get
14 you a copy of the plan. I'd be glad to
15 give it to you.

16 JUDGE BOSCHWITZ: Can you outline
17 them here?

18 ASSEMBLY MAN GROMACK: I don't have
19 them in front of me, so I'd have to get
20 them to you. It's quite an extensive
21 bill.

22 You're trying to tell me the Public
23 Service Commission has not reviewed that
24 plan by the Chairman of the Energy

P R O C E E D I N G S

1 Committee, Paul Tomco?

2 JUDGE BOSCHWITZ: I was simply asking
3 whether you had the provisions here,
4 Mr. Gromack.

5 ASSEMBLY MAN GROMACK: I don't have
6 it in front of me. I can obviously get it
7 to you. I thought that the Public Service
8 Commission had reviewed that with Assembly
9 Man Tomco and had known about the
10 ramifications of the plan, but I'll make
11 sure that Chairman Tomco has that
12 forwarded to you for your consideration.

13 JUDGE BOSCHWITZ: Thank you.

14 You mentioned -- one moment, if you
15 would. You mentioned some concern about
16 the fact that Orange and Rockland cannot
17 on this agreement be a bidder on the
18 facilities that plan to divest. Is that a
19 significant concern of yours?

20 ASSEMBLY MAN GROMACK: It's a
21 significant concern of mine, and I think
22 of the work force that they choose
23 wouldn't -- or under their new plan would
24 not be bidders. I think we feel that with

P R O C E E D I N G S

1 Orange and Rockland there's stability,
2 there's protection of the workers if they
3 were to participate in the bidding process
4 and be part of it. Orange and Rockland
5 and the employees, again, I think feel the
6 security and safety in the current --
7 under the current scenario where they
8 would still have controlling interest.

9 To have an outside concern come in,
10 without some direction from the Public
11 Service Commission as far as worker
12 protection, benefit protection for the
13 workers, I think you're throwing the dice
14 and you don't know what will happen. And
15 we in Rockland County, and I would presume
16 those in Orange County, again, our
17 paramount interest is to have fair rate
18 structure, one that does not simply pass
19 along the largest reduction to the biggest
20 businesses. I think it was something like
21 12 percent of their rate reduction in
22 electric would go to large scale
23 businesses, with one and two percent going
24 to residential and small businesses. So I

P R O C E E D I N G S

1 object to that scenario. In this state
2 small businesses are the majority of
3 businesses, it's not the large
4 businesses. You may hear of the IBMs, but
5 it's the small businesses that really are
6 the foundation, the bedrock of this
7 economy and also the homeowners that need
8 some rate relief. So I think they missed
9 the boat in not giving more of a reduction
10 to those parties. And on the second part,
11 we're very concerned about the employee
12 benefits and the employee security. If an
13 outside interest were to come in and not
14 have the guarantees that the employees
15 would have those jobs, and we're talking
16 about very highly-skilled employees,
17 individuals that have put their heart and
18 soul into this company, their heart and
19 soul into this county, and we have no
20 guarantees from an outside interest that
21 they would maintain that same work force.

22 The Assembly plan does require that
23 there would be some job and worker
24 protection. And, again, I would hope that

P R O C E E D I N G S

1 the Public Service Commission would review
2 that in detail, and I'll make sure that
3 Assembly Man Tomco passes on that report
4 and that bill for your consideration, but
5 we feel that that at least under
6 divestiture offers the workers the
7 security that they need and the stability
8 for our communities.

9 JUDGE BOSCHWITZ: Thank you.

10 ASSEMBLY MAN GROMACK: Thank you.

11 JUDGE BOSCHWITZ: Assembly Man
12 Colman.

13 ASSEMBLY MAN COLMAN: Thank you. I
14 don't have a formal statement. I have
15 some talking points.

16 JUDGE BOSCHWITZ: Fine. Thank you.

17 ASSEMBLY MAN COLMAN: Good evening.
18 Thank you very much for giving me this
19 opportunity to speak. I will speak
20 somewhat informally. I'd like to cover
21 some of the grounds that have been
22 covered. I may not elaborate as much as
23 has been already stated.

24 Obviously, my constituents, the

P R O C E E D I N G S

1 customers of O & R pay 56 percent above
2 the national average for their energy.
3 So, obviously, I am in favor of
4 competition, because I would like to see
5 the skyrocketing energy costs lowered.
6 However, even though I understand that
7 O & R must make themselves more
8 competitive in preparation for energy
9 de-regulation, Public Service Commission
10 should understand all of the dynamics of
11 Orange and Rockland's plan before you
12 approve it.

13 First of all, O & R's customers will
14 not see equal savings across the board.
15 Large industrial companies will save a
16 great deal more than small businesses and
17 residential customers according to the
18 plan that is being presented to you.

19 Another concern of mine is that the
20 proposed plan calls for 10 percent of
21 property tax refunds to go to
22 shareholders. I believe it's totally
23 unfair because all refunds, in my opinion,
24 should go to the ratepayers, it was the

P R O C E E D I N G S

1 ratepayers who overpaid those property
2 taxes, not the shareholders. I do not
3 understand the logic, and this is not the
4 theoretical thing. In the Town of Ramapo,
5 where I live and represent, I understand
6 there was a settlement in favor of Orange
7 and Rockland Utilities where five --
8 Orange and Rockland Utilities gained five
9 million dollars from the municipality and
10 the school district for overpayment of
11 taxes, and \$500,000 of that money went to
12 shareholders. They did not contribute to
13 that overpayment. This was purely the
14 ratepayers who overpaid. Therefore, I
15 fail to see any justification why whatever
16 they recoup from municipality should not
17 go totally to the ratepayers.

18 The other thing I noticed in your
19 plan, in the plan that's being considered,
20 that the proposed plan calls for low
21 income program for residents of Port
22 Jervis, has something to do with energy
23 conservation and energy reduction, things
24 like new refrigerators and things of that

P R O C E E D I N G S

1 nature, and the residents of Spring
2 Valley, Nyack and other low income areas
3 of Rockland County should, in my opinion,
4 have a similar program.

5 Let's talk for a minute about job
6 security. I heard the statement of
7 Mr. Gromack, and I subscribe to it fully.
8 Let me just elaborate somewhat. It's my
9 understanding that there are approximately
10 300 employees working at Orange and
11 Rockland Utility generating plants. It's
12 obvious that they make their living here
13 and they provide for their families, they
14 contribute to our society, they contribute
15 to the stability of Rockland County -- of
16 the society of Rockland County. Under
17 this plan Orange and Rockland proposes to
18 sell its generating plants. I prefer the
19 former plan, which called for separate
20 Orange and Rockland company to own the
21 plants. I believe you should give the
22 generating plants a chance to compete in
23 the new de-regulated place and not to
24 require them to be sold at this time, it

P R O C E E D I N G S

1 would be better for the public, it would
2 be better for the employees, it would be
3 better for municipalities, for the tax
4 structure. I am concerned about the
5 stability of the economy and of the
6 families effected.

7 Let's talk about equitable rate
8 reduction. Energy de-regulation can boost
9 economic development initiative if it is
10 properly planned. Businesses large and
11 small need lower cost power to stay
12 competitive. Orange and Rockland's
13 restructuring plan includes rate
14 reductions and potential savings of up to
15 12 percent for large industrial customers,
16 but they leave small businesses and
17 residential customers out in the cold with
18 the possibility of only one percent a year
19 or two percent for the next two years
20 reduction in energy costs.

21 Also, something that, in my reading
22 of the plan, is missing is there are small
23 businesses with fewer than 100 or 200
24 employees who are large users of

P R O C E E D I N G S

1 electricity for their size. They may not
2 use as much electricity as an IBM or
3 Lederle, but for their size they use a lot
4 of electricity. For instance, Rockland
5 County has a few plastic manufacturers who
6 are small businesses, but they use a lot
7 of energy for their size. These
8 businesses should get a larger rate
9 decrease even though they use less energy
10 than some of the larger firms.

11 My statistics show that eight out of
12 every 10 jobs are created by small
13 businesses and entrepreneurs. If the
14 small businesses who are employing the
15 largest share of New Yorkers, therefore
16 they deserve and should get the larger
17 rate reduction that is called for by this
18 plan. The residential customers should
19 also see a larger rate decrease.
20 Currently our residential utility bills
21 are some of the highest in the nation.
22 It's my understanding that over one
23 and-a-half times the national average.
24 Our homeowners pay one and-a-half times

P R O C E E D I N G S

1 more than the national average for energy
2 costs. Our economy, in my opinion, will
3 be better off and the public will be
4 better served if we can share the savings
5 more equally among small and large
6 businesses, as well as residential
7 customers.

8 Another recommendation I would like
9 to have is as follows: Under the proposed
10 plan initially only large industrial users
11 can benefit from the competitive market,
12 small businesses and consumers will be
13 allowed to buy energy competitively in a
14 few years. And I understand the need to
15 phase it in, but I believe that at a
16 minimum county government, school
17 districts and other municipalities
18 separately or as a consortium should be
19 allowed to participate in the competitive
20 market at the same time as the larger
21 energy users.

22 To summarize, this agreement should
23 not be approved by the Public Service
24 Commission unless several provisions are

P R O C E E D I N G S

1 included in Orange and Rockland's plan.
2 The plan must insure that workers' job
3 security is protected. That's a must.
4 All property tax refunds must go to
5 ratepayers, not to shareholders, it is
6 after all the ratepayers who pay these
7 taxes, not the shareholders. The plan
8 must make sure that rate reduction is
9 shared with smaller businesses and
10 residential customers. Small industrial
11 companies who are heavy users of energy
12 must be protected. Governments, school
13 districts separately or as a consortium
14 should be allowed in the competitive
15 market as early as the industrial users.
16 Low income program given to residents of
17 Port Jervis should be extended to Nyack,
18 Spring Valley and other low income areas
19 in Rockland County. If O & R can't hold
20 up these provisions, then what good is
21 energy de-regulation to my constituents
22 or for that matter, for any average New
23 Yorker. De-regulation should be a
24 positive for consumers, but their current

P R O C E E D I N G S

1 plan, the consumers get little benefit, in
2 my opinion.

3 I recommend that O & R should go back
4 to the conference room and come up with a
5 plan that protects their workers and
6 offers fair across the board savings.

7 Thank you.

8 JUDGE BOSCHWITZ: Thank you,
9 Mr. Assembly Man.

10 ASSEMBLY MAN COLMAN: Questions?

11 JUDGE BOSCHWITZ: Actually, there are
12 some of your questions that deserve some
13 answers, but I'd like to have all the
14 speakers make their presentations first.

15 ASSEMBLY MAN COLMAN: I have to
16 apologize, I won't be able to stay. I
17 will stay for another one or two.

18 JUDGE BOSCHWITZ: You may answer some
19 of these questions.

20 ASSEMBLY MAN COLMAN: Thank you very
21 much.

22 JUDGE BOSCHWITZ: Mr. Citrolo, Robert
23 Citrolo.

24 MR. HURLEY: Excuse me, I'm a public

P R O C E E D I N G S

1 official.

2 JUDGE BOSCHWITZ: I'm sorry, you
3 didn't put that down on the card.

4 MR. HURLEY: Let me start by saying I
5 come tonight and I'm a little concerned as
6 the Town Supervisor for the Town of Stony
7 Point and an individual who received
8 active party status in the negotiations
9 with Orange and Rockland on the
10 Restructuring Plan that's before us
11 tonight.

12 I just want to start by saying that
13 the New York State Public Service
14 Commission should be ashamed not only of
15 the Plan but of the comments made during
16 negotiations and agreements made with
17 municipalities of North Rockland. It was
18 agreed to that a public hearing would be
19 held at the North Rockland High School,
20 and for some unknown reason between the
21 time we agreed and the time the plan was
22 accepted by Orange and Rockland the
23 location of the public hearing was
24 changed. Well, let me remind the Public

P R O C E E D I N G S

1 Service Commission of an old saying, "you
2 can run but you can't hide." And I found
3 you tonight and you must listen to my
4 comments. Don't forget as a Public
5 Service Commission you are there to
6 protect the residents of the State of New
7 York, and this proposal does not do that.

8 Let's stop the foolishness saying you
9 care about the ratepayers, the employees,
10 and the residents, and be honest, this
11 agreement does nothing but benefit anyone
12 but the shareholders of Orange and
13 Rockland.

14 It's time to realize as a Public
15 Service Commission this type of Plan
16 hasn't worked outside the United States in
17 other countries and it will not work here.

18 The fact of the matter was that five
19 or six individuals in Albany sitting
20 around a table believe they have
21 negotiated something good in the last two
22 months without any concern or comment for
23 the ratepayers, the residents of North
24 Rockland, the County of Rockland and

P R O C E E D I N G S

1 without any input from the employees of
2 both the Lovett and the Bowline Plant.

3 The Plan in September that was
4 rejected by the Public Service Commission
5 called for Orange and Rockland to set up a
6 subsidiary and continue running the
7 Plants, but the Public Service Commission,
8 a commission that's supposed to serve the
9 people of New York State and protect
10 residents of this state, said "no". Why?
11 Because they believed the shareholders
12 were not well protected.

13 I say tonight to the Public Service
14 Commission, "the hell with them - protect
15 us." the residents of Rockland County, the
16 employees of Orange and Rockland, protect
17 the taxpayers of the State of New York.
18 That's your job as a Public Service
19 Commission, not to make sure Orange and
20 Rockland gets to make a profit. They are
21 doing that today and they want to stay on
22 as the generator of these facilities, but
23 you, the Public Service Commission, are
24 forcing them to change their plan and to

P R O C E E D I N G S

1 go forward with this proposal.

2 I believe we need to go back and
3 revisit the proposal made by Orange and
4 Rockland of setting up a subsidiary
5 corporation and let them continue running
6 the Plants, but in no way should we accept
7 or be satisfied with this agreement that
8 still has a lot of questions unanswered
9 for us only to hear a reply from either
10 the PSC or from Orange and Rockland is
11 that they need to resolve these unanswered
12 question in the future. Example, Bowline
13 facility, how do you sell a plant that is
14 owned two thirds by Con Edison and one
15 third by Orange and Rockland? No one
16 knows, but they'll figure that out in the
17 future. What do you do with the tax
18 tertiary pending in the North Rockland
19 area? Why should it go back to the
20 shareholders? Why is it not written in
21 the plan that it goes back to the people
22 who paid it already; the ratepayers of
23 Orange and Rockland and consumers? Let's
24 get all these questions answered before we

P R O C E E D I N G S

1 act on any proposed settlement.

2 As the Town Supervisor for the Town
3 of Stony Point I once again, as the Town
4 Board did, call upon the Public Service
5 Commission and ask them to stop this
6 runaway train and bring credibility back
7 to your agency and reject this proposal
8 and incorporate into an agreement the
9 concerns that you'll hear expressed here
10 tonight, the concerns of the employees
11 and the ratepayers of Rockland County.
12 Form a working committee that includes the
13 ratepayers, the people of this county, the
14 people of this state, the employees of
15 Orange and Rockland to see that we can
16 achieve your goal of lower rates. We
17 agree with competition, but the track
18 we're on will not bring what the PSC is
19 looking for.

20 Let me leave you with one question to
21 consider: Does it make much sense to cut
22 the rate of electricity if you have nobody
23 to pay the bill? That is exactly what
24 this agreement is doing, forcing the

P R O C E E D I N G S

1 employees out of this county and the
2 people of this county out, and we cannot
3 allow it to happen and you must protect
4 it.

5 Thank you very much.

6 JUDGE BOSCHWITZ: Thank you.

7 Mr. Phillips.

8 MR. PHILLIPS: Good evening. Thank
9 you for this opportunity. I'm here
10 tonight representing the Town of
11 Haverstraw. I know Deputy Supervisor Tom
12 Lawless, I'm not sure if he's here yet, he
13 asked me to speak on his behalf. Sal
14 Corallo, Town Counselman is here tonight
15 from the Town of Haverstraw, the
16 Superintendent of North Rockland School
17 District called me, Dodge Watkins, asked
18 if I would speak on his behalf as well.

19 I want to reiterate a lot of what has
20 been said tonight by our State
21 representatives, also Supervisor Hurley.

22 For I think close to about almost two
23 hours we were on a telephone conference
24 with a meeting that was taking place in

P R O C E E D I N G S

1 Albany. At that meeting were
2 representatives of PSC, Orange and
3 Rockland, other public corporations that
4 represent private energy producing
5 plants. We listened, we talked, we gave
6 our comments. We were vehemently opposed
7 to any settlement being entered into until
8 we had more public hearings. The fact of
9 the matter is that no public hearings have
10 been held on the divestiture of these two
11 power plants. The sole purpose of the
12 public hearings was to have public comment
13 on de-regulation and the effects of
14 de-regulation. It is almost as if it was
15 a hidden disguise in which to sell to the
16 public a means by which we could say, the
17 PSC could say, we had public hearings.
18 Nobody believes there has been public
19 hearings on this divestiture plan and
20 nobody thinks that this plan should
21 continue.

22 I would like first to give some
23 history, because too often we forget what
24 has happened in the past where these

P R O C E E D I N G S

1 utility companies have come from, how they
2 happened to settle here in Haverstraw and
3 Stony Point. Back in the 1970s Orange and
4 Rockland needed to build two power
5 plants -- well, let's begin with power
6 plant. They looked around. Every single
7 community was turning them down. Nobody
8 wanted a power plant in their backyard.
9 The Town of Haverstraw, they came to the
10 Town, even the Village of Haverstraw
11 administration at the time did not want a
12 power plant, they came to the Town of
13 Haverstraw. Supervisor Rotella, who is
14 still the supervisor, some board members,
15 Deputy Supervisor Mr. Lawless, they
16 accepted the power plant. They knew that
17 there would be some benefits and also some
18 detriments, but with that exceptments came
19 a handshake agreement that the assessment
20 would not be reduced, that Orange and
21 Rockland would continue to work in the
22 community, be an active partner in the
23 community. And there was an excellent
24 working relationship, despite the fact

P R O C E E D I N G S

1 that the residents of both communities in
2 North Rockland have put up with the noise,
3 the soot, the dust, they have been
4 excellent neighbors. Nobody knew what
5 history would bring about. History has
6 brought about competition, but, again, we
7 have to stress, will there be a guarantee
8 from the PSC that competition that they
9 are so willing, so easily willing to
10 approve, will guarantee lower rates for
11 the ratepayer? We have seen the plan. We
12 have read the plan. I don't see a
13 guarantee anywhere. And somebody said to
14 me at the conference on the phone, there
15 are no guarantees in life. Well, this
16 whole plan is being driven by the fact
17 that the PSC believes it's going to
18 produce lower rates. Somebody, if this
19 does not produce lower rates, somebody
20 must be held accountable.

21 And I want to get back, before this
22 plant was approved in Haverstraw, this
23 room would be too small to house the number
24 of people who came in and said, we don't

P R O C E E D I N G S

1 want a power plant in Haverstraw. The
2 Board went with it. Let me get to my
3 point on that. Now, today, Orange and
4 Rockland is into the Town of Haverstraw,
5 to the people of Haverstraw and we feel
6 it's a betrayal. They are telling us, no,
7 we pay too much taxes to Haverstraw, Stony
8 Point, the school district. Well, you
9 know something, back then when nobody
10 wanted them, we took them.

11 Right now the proposal is if this
12 plant sells, that Orange and Rockland be
13 allowed to keep 25 percent of the profit.
14 Orange and Rockland has benefited through
15 our community, they have had the
16 ratepayers pay for the taxes. Those taxes
17 are paid for. They have been paid for.
18 They have also built in a profit in those
19 rates. So Orange and Rockland has
20 recouped their taxes, they have recouped
21 the profit, and now we're being told that
22 they're going to get a 25 percent profit
23 if the plant is sold.

24 We have proposed, and it was proposed

P R O C E E D I N G S

1 in the telephone conference, it was
2 proposed again here tonight, either give
3 it all back to the ratepayers or setup a
4 25 percent fund to offset any tax
5 increase.

6 Also, Orange and Rockland should not
7 benefit if there is going to be a
8 settlement, who should benefit is the
9 future rate -- is the future company and
10 the future ratepayers of this utility
11 company.

12 I want to get back to one point that
13 Mr. Hurley made. When we were on the
14 telephone conference, and Dodge Watkins
15 was there in Albany at the conference, we
16 were told this that meeting was going to
17 take place up at North Rockland High
18 School. He guaranteed the high school.
19 He said that you're more than welcome.
20 Supervisor Hurley, myself, Deputy
21 Supervisor Tom Lawless, we all agreed. At
22 first we didn't get a phone call, we
23 didn't a letter explaining anything, all
24 we did was receive a letter about this

P R O C E E D I N G S

1 public hearing tonight. It's almost as
2 though the PSC is saying we're buffered
3 from the public. And I want to bring it
4 up again, the PSC is the Public Service
5 Commission. It isn't Orange and Rockland
6 Service Commission, it isn't the Public
7 Private Energy Producing Plants Service
8 Commission, --

9 (A police officer had an off the
10 record discussion with Judge Boschwitz).

11 JUDGE BOSCHWITZ: Sorry about that.

12 MR. PHILLIPS: That's okay.

13 -- it's the Public Service Commission,
14 and this is the public here tonight. I
15 think somebody should come back to us and
16 tell us why did they change it. It's
17 almost -- I'll tell you right now, we
18 believe that it was a group of people at
19 the meeting that decided afterwards, said
20 to the PSC, look, we don't want to go up
21 to North Rockland, they're going to pack
22 the high school and we're going to be
23 yelled and screamed at and everybody's
24 going to holler, but, again, if that was

P R O C E E D I N G S

1 the case, the Public Service Commission is
2 supposed to represent the public. As an
3 elected official from Haverstraw, I
4 represent Haverstraw. As a County
5 Legislator I also, to an extent, represent
6 the County. We have our state elected
7 officials here. We're the ones that are
8 supposed to be heard from the Public
9 Service Commission. If we did not ask the
10 Public Service Commission at that
11 conference for this hearing, this hearing
12 wouldn't be taking place. I don't think
13 that's right. I think that's completely
14 wrong. We had to ask for a public
15 hearing. This process is moving way too
16 fast. The public has not had the
17 opportunity to speak on it.

18 On job protection. I can't see why
19 then if a plan is going to go through, and
20 we hope it's going to be something that
21 can be worked out in the future, but if a
22 plan is going through, job protection for
23 these employees, who are also the
24 ratepayers, should be given. We should

P R O C E E D I N G S

1 have a -- negotiations where a mutually
2 agreed upon plan can be worked out and
3 that where both parties are satisfied.

4 Something happened in Rockland County
5 a few years ago, and the County had to
6 bond millions of dollars for it, and
7 that's when American Home Products came
8 into Orangetown and took over Lederle, and
9 the first thing they did was to refuse to
10 pay their taxes. One of the things that
11 we asked at the conference, and we still
12 do not see addressed, is if a plant is --
13 if it's going to be taken over by a
14 private company, that the plant -- that
15 the agreement call for this company to
16 continue to negotiate in good faith and
17 not withhold paying their taxes. It cost
18 the taxpayers millions of dollars more in
19 interest when the County had to bond,
20 because the County makes the town and
21 villages whole. The school districts had
22 to go out and bond on their own. So we've
23 asked for that. That's a strong -- that
24 should be a strong consideration in this

P R O C E E D I N G S

1 plan, but it's not addressed at all.

2 The Governor --

3 JUDGE BOSCHWITZ: The police officer
4 indicated to me that there's a blue Toyota
5 Avalon, New York tags, in a fire zone and
6 it needs to be moved or it will be towed,
7 it's blocking some emergency vehicles. So
8 if anybody owns that vehicle, I urge them
9 to move it promptly.

10 Sorry.

11 MR. PHILLIPS: -- the Governor has
12 come out last year and said he's extremely
13 concerned with developing the Hudson River
14 and our waterfront. There's been no
15 information given in this plan as to the
16 company that might take it over, will they
17 continue the same type of production, will
18 they change this type of production, will
19 it effect the Hudson River? There is so
20 much information that has not been given.
21 We don't know what changes are going to
22 happen. I bring that up because I was
23 approached in the Town by Columbia Gas,
24 which I guess the PSC has approved a 400

P R O C E E D I N G S

1 million dollar project, they're going to
2 be bringing a natural gasoline down
3 through Great Lakes, through Rockland,
4 under the Hudson River into Westchester.
5 How is that going to effect the
6 environment?

7 Now, what's directly related to that
8 is the fact that we have had Orange and
9 Rockland in our assessment case, our
10 tertiary case, has been telling us the
11 value of this plant is much lower, much,
12 much lower. They're saying half of what
13 it's assessed at. Yet, we pickup the
14 papers and we listen to representatives of
15 Orange and Rockland at a meeting recently
16 tell us that this plant has a great deal
17 of value. We listened on the telephone
18 conference to the PSC and other members
19 from public, private energy producing
20 corporations tell us that this plant has a
21 great deal of value. But, again, the PSC
22 is silent. Why hasn't the PSC come out
23 and said something that, hey, if this --
24 if Orange and Rockland believes that

P R O C E E D I N G S

1 they're going to get a large profit from
2 the selling of this plant, then you can't
3 very well be into the two Towns, with the
4 Towns, the Villages, the School District
5 saying that these plants do not have that
6 type of value. But, again, we don't hear
7 anything from the Public Service
8 Commission. If the Public Service
9 Commission approved a 400 million dollar
10 project on this natural gasoline to come
11 directly through the Bowline Power Plant,
12 then there must be a reason for that,
13 there must be a great deal of value that
14 we are not hearing about from anybody or
15 seeing about from anybody, but the Public
16 Service Commission represents us, the
17 public, and we're asking you, please, get
18 involved in this, guarantee that the
19 taxpayers are not going to be left holding
20 the bag, that they're not going to be left
21 like an American Home Products that won't
22 pay their taxes, that they're not going to
23 be left with Orange and Rockland walking
24 away with 25 percent of the profit when

ALBANY REPORTING CO.

Tel (518) 382-9789 Fax (518) 382-9791

P R O C E E D I N G S

1 they have already recouped their taxes and
2 profit through the ratepayers.

3 We're asking on behalf of the
4 Haverstraw Town Board, myself, as a County
5 Legislator, the Superintendent of North
6 Rockland School District to reject this
7 proposal, to go back to the people and to
8 have more public hearings, public hearings
9 where the peoples' concerns and addresses
10 can be addressed and can be directly
11 related to these questions that we have
12 asked. I would ask you to remember, it
13 has only been a little bit more than a
14 month since we, the people of Rockland
15 County, were informed that these two
16 plants were being sold, only a little bit
17 more than a month. This process is moving
18 too fast.

19 Thank you.

20 JUDGE BOSCHWITZ: Thank you, sir.

21 We'll take Mr. Vanderhoef next.

22 MR. VANDERHOEF: Thank you, your
23 Honor.

24 First, let me provide a disclaimer

P R O C E E D I N G S

1 that I have not talked with persons I'm
2 familiar with on the board about this
3 agreement. I have talked to management of
4 Orange and Rockland about it to understand
5 more about what it means. And I come here
6 representing the residents of Rockland
7 County, which is a major portion of the
8 area served by Orange and Rockland, to ask
9 that you reject this settlement for a
10 number of reasons.

11 First, I don't pretend to understand
12 all the details or the complexities
13 required for de-regulation of the electric
14 industry generally, but I do know that as
15 a utility, under the regulated structure
16 the capitalized cost of any generating
17 plants or major facilities is much upon
18 which is based the rate ultimately that
19 utility is charged. I do know that
20 de-regulation is upon us, that it will
21 provide ultimately for competition, which
22 will be good and will drive electric rates
23 down. I don't think anybody in Rockland
24 County opposes that portion. However, the

P R O C E E D I N G S

1 incentives provided by the Public Service
2 Commission of the State of New York to
3 sell generating plants or to divest I
4 think is misguided and I think in this
5 case will end up in disruption not only of
6 service, but of employees' rights with
7 respect to Orange and Rockland, their
8 future in Orange and Rockland and
9 ultimately the community at large, whether
10 it be through property tax reductions or
11 other failures of service as a result of
12 multiple involvement of multiple parties
13 in the service. Specifically, all of the
14 generating plants, not just Lovett and
15 Bowline that have been suggested for sale,
16 are more than likely to be sold at a rate
17 at a price that's market value; which
18 would be less than, as I understand it,
19 many cases the capitalized value that may
20 be on the books. If that's true, if it's
21 true, then the losses currently proposed
22 would be borne in a disproportionate share
23 by the ratepayers versus the
24 shareholders. On the proposal, as I

P R O C E E D I N G S

1 understand it, the ratepayers would pickup
2 75 percent of the gain but would be
3 responsible for 95 percent of the losses.
4 That's not fair, I don't think, and I
5 think that should be looked at carefully.

6 If ultimately the sites are sold and
7 they are sold at the market value which is
8 less than the current value, we have a
9 property tax hit regardless of the
10 tertiary problems. If we have a purchaser
11 who is now attending or attempting to
12 operate a plant purchased at that price,
13 what happens to the employees? And while
14 there are provisions within the settlement
15 to try to protect employees, my view is
16 that more employees will be disturbed,
17 more dislocated and more severe impacts
18 than I think have been considered under
19 the current plan.

20 So in general, I think Orange and
21 Rockland Utilities deserves credit for
22 trying to reduce rates, which they've
23 done, but under the settlement plan that
24 was proposed once before there was not

P R O C E E D I N G S

1 divestiture and yet the rates were slated
2 to go down in a similar fashion, leaving
3 aside the question of whether residential
4 rates or industrial rates, larger
5 industrial rates, should have a greater
6 differential or should be closer together
7 in terms of the actual percentage
8 reduction. By the way, I would argue that
9 they should be more equitably treated.
10 Leaving that aside, the fact of the matter
11 is we've now come to this point where
12 we're pushing for divestiture of the
13 generating plants. And before the
14 question is asked, I understand this is a
15 decision made by the board and management
16 based on what they view as the competing
17 rules under de-regulation, and my sense is
18 that the Public Service Commission and the
19 State of New York are pushing
20 de-regulation at the potential cost of the
21 community for these kinds of disruption.
22 My view would be that the smarter way to
23 go would be to step back, provide for
24 greater options, particularly for Orange

P R O C E E D I N G S

1 and Rockland Utilities in terms of options
2 available to them in the long-term with
3 respect to all of their generating
4 facilities.

5 I am not an expert enough, your
6 Honor, to tell you how that should be
7 done. On the other hand, what I do see
8 right now is the push which seems to me so
9 much speed that we haven't the opportunity
10 to understand the impact on the
11 community.

12 Since we have essentially a monopoly
13 that's been setup through a process in the
14 State of New York over these many years,
15 it seems to me that it's incumbent upon
16 the Service Commission, I ask you in your
17 position as Administrative Law Judge, to
18 pull back the reins on this particular
19 settlement, ensure the safety of employees
20 who have given much work to Orange and
21 Rockland Utilities, allow Orange and
22 Rockland Utilities different incentives
23 not to have to sell generating plants at
24 the same time as they go through this

P R O C E E D I N G S

1 de-regulation process and thereby perhaps
2 avoid a rather dramatic or drastic effect
3 in Rockland County.

4 I do think ultimately that we all
5 stand ready to help Orange and Rockland
6 Utilities reduce rates and we also think
7 that it's important that there be
8 competition. I think that the concerns
9 about our employees, concerns about how
10 the shareholder treated versus the
11 ratepayers are things that are properly
12 brought before your Honor, and I hope that
13 you consider these issues very carefully,
14 and I have submitted to you a letter which
15 covers briefly these same subjects.

16 JUDGE BOSCHWITZ: Thank you.

17 Mr. Citrolo.

18 MR. CITROLO: Good evening. My name
19 is Robert Citrolo. I'm president of Local
20 Union 503.

21 I'm here pursuant to the New York
22 State Public Service Commission's inviting
23 comments on the proposed settlement
24 agreement issued on November 7th in case

P R O C E E D I N G S

1 96E-0900 in the matter of Orange and
2 Rockland's plan for restructuring.

3 Just a brief history. From the onset
4 of the PSC's competitive opportunities,
5 the company has made every effort to find
6 reasonable solutions for the transition to
7 a competitive market place.

8 After much work with the PSC staff
9 and multiple intervenors an agreement was
10 reached on March 25, 1997. The agreement
11 was to form a holding company and to
12 structurally separate the Genco from the
13 regulated business. The Genco was to
14 compete in the de-regulated market.
15 Chairman O'Mara gave his tacit approval.
16 Orange and Rockland demonstrated it had no
17 market power and was not seeking recovery
18 on NUG contract costs, nuclear plant
19 investments or nuclear plant
20 decommissioning costs.

21 On September 10, 1997, the PSC
22 reneged on the previous agreement and is
23 using every means possible to force the
24 divesting of our generating plants.

P R O C E E D I N G S

1 Mr. Lou Peoples, CEO of Orange and
2 Rockland, said, "they have put a gun to
3 our head." Earlier, the administrative
4 law judge's only substantial comment on
5 the March settlement was that a larger
6 rate reduction should be enacted. The
7 company has agreed. No negative comments
8 were made on the proposed structural
9 separation. The September 10th ruling,
10 in effect, said get out of the generation
11 business. That is a far cry from
12 introducing competition. Is there a
13 reason the PSC does not want utilities in
14 generation?

15 The purpose of the settlement
16 agreement is intended "to improve customer
17 service and customer choice while
18 ameliorating current price levels and
19 introducing competition while promoting
20 jobs and economic development in the
21 region by significantly reducing
22 industrial rates immediately, and continue
23 steps taken in the prior year to reduce
24 rates for all other customers by further

P R O C E E D I N G S

1 reducing their rate in 1997 and 1998."

2 The issue before the Commission
3 should not be characterized as a union
4 issue. I believe that would be a mistake.
5 There are important community, employee
6 and customer issues that must be
7 considered by the PSC in making this
8 decision.

9 I am here to share my views on the
10 divestiture of the generating assets.
11 Although, in my opinion, the much bigger
12 issue is whether Orange and Rockland will
13 continue to exist. The decision on
14 divestiture has been framed as "the
15 Commission wants it done and therefore,
16 there is no choice." If the decision is
17 made on that basis then the next decision
18 as to whether Orange and Rockland remains
19 in the gas merchant function has been
20 made. This issue is currently being
21 considered by the commission. Add to that
22 the potential elimination of metering and
23 billing services from Orange and
24 Rockland's portfolio and what remains?

P R O C E E D I N G S

1 The answer is a company with no
2 critical mass. A company sentenced to
3 corporate death. I believe Orange and
4 Rockland is worth more in total than the
5 value of its individual parts. Let me
6 turn to some specifics.

7 The communities. Divesting of the
8 generating plants will have a devastating
9 impact on the communities where they are
10 located. In addition to the loss of well
11 paying jobs that are the foundation of
12 every communities' economic well being.
13 The real-estate tax revenues will be
14 greatly diminished causing real hardships
15 for the towns and especially for North
16 Rockland Schools. The two plants in the
17 North Rockland District pay over \$35
18 million yearly in taxes. There is
19 another \$2.5 million for the hydro and gas
20 turbine plants at Hillburn, Middletown,
21 Lumberland and Forestburg. New owners
22 will not be taxed on the same basis. In
23 fact, a state sponsored study conducted at
24 SUNY Albany concluded that utilities are

P R O C E E D I N G S

1 paying real estate taxes of approximately
2 \$18,000 per MW of installed capacity,
3 where as IPP's are paying less than a
4 third of that on average.

5 The customers. Orange and Rockland
6 customers have long enjoyed safe and
7 reliable service. This whole theory of
8 de-regulation, and it is only a theory,
9 "promises" lower costs. Our production
10 facilities already are the lowest total
11 cost plants in the state. How are the new
12 owners paying a premium price for the
13 plant and needing higher returns on
14 investment going to provide cheaper energy
15 and capacity?

16 We have already felt the effects of
17 de-regulation during the April 1, 1997
18 storm. While Orange and Rockland was the
19 first to restore power, it was only
20 because of flexibility and productivity
21 issues that were developed and negotiated
22 with the work force. Those storm related
23 productivity issues disappear with
24 divestiture, so expect longer power

P R O C E E D I N G S

1 outages in the state.

2 The employees. The employees are
3 Orange and Rockland's greatest asset.
4 They have proven their worth over and over
5 again. The creativity that has been
6 brought to bear on difficult issues that
7 have faced Orange and Rockland over the
8 years has been nothing short of
9 remarkable.

10 These employees serve the community
11 in many ways: Ball field lighting,
12 construct parks and play grounds, serve as
13 firefighters, serve the communities in
14 many political capacities.

15 Some 265 generating station
16 employee's future is very uncertain. It
17 is very likely a new owner will bring in
18 their own people or at least be under
19 pressure to bust the union, that for over
20 50 years has represented the employees of
21 Orange and Rockland, by lowering wages and
22 benefits. In addition, approximately 150
23 administrative employees will be
24 terminated because without generating

P R O C E E D I N G S

1 plants there will be no purpose for them.
2 The work they do now will be transferred
3 to the new owner's corporate office, most
4 likely out of state, Houston, San
5 Francisco or foreign country. Is this
6 good for New York State? Is this good for
7 Orange County? Is this good for Rockland
8 County? If divestiture is such a good
9 idea, then why is it that Congressmen,
10 Assembly People, Senators, County
11 Executives, Town Supervisors, Mayors,
12 Superintendent of Schools and others do
13 not support divestiture? Even PSC staff
14 supported structural separation in March
15 of 1997.

16 So Chairman O'Mara and two other
17 commissioners have more of a voice than
18 our elected officials, taxpayers and
19 customers. If that is the case, then the
20 democratic process is no longer alive in
21 New York State.

22 In light of the testimony given
23 tonight, if the Commission approves this
24 plan and not the structural separation, I

P R O C E E D I N G S

1 believe the PSC and the state shall be
2 opening the door for a lawsuit.

3 I believe the Commission should
4 approve the March 25, 1997 settlement with
5 increased rate reduction for all classes
6 of customers and open the door for
7 competition on a level playing field. If
8 Orange and Rockland cannot compete in the
9 market place with their generation assets
10 they will be forced out no different than
11 any other business in New York State.

12 I would like to thank the community
13 leaders, customers and employees for their
14 efforts, otherwise this meeting would not
15 have taken place.

16 Thank you.

17 But one other comment that troubled
18 me today, I received a letter, a copy of a
19 letter, that was sent to Bill Larkin,
20 Senator Larkin, and was signed by John
21 O'Mara. I need my glasses. Let me read
22 the first paragraph, because I believe the
23 discussions were still going on and a
24 decision hadn't been made.

P R O C E E D I N G S

1 It says, Dear Senator Larkin, thank
2 you for your letter of October 9th in
3 which you express your concern of several
4 of your constituents on divestiture of
5 Orange and Rockland's generating plant.
6 Currently, the discussions by the parties
7 to the rate restructuring case could lead
8 to loss of property tax revenues,
9 increased utility rates and a loss of
10 jobs. The staff of the Department of
11 Public Service Commission has examined the
12 various complicated issues associated with
13 encouraging the development of competition
14 in the electric industry.

15 It has concluded that in general
16 divestiture of generation plants will best
17 serve the long-term interest of the
18 State's economy.

19 That's signed by the Chairman.
20 Okay. So has he already closed the door
21 on this issue and made up his mind without
22 full disclosure, like some of the other
23 local leaders, community leaders have
24 here? Certainly since September 10th

P R O C E E D I N G S

1 they've moved this onto fast track. If a
2 number of us hadn't intervened in the
3 case, we wouldn't be having these meetings
4 here tonight.

5 Again, I like to thank all the
6 elected officials for responding properly
7 and getting on board, and I thank you for
8 your time.

9 JUDGE BOSCHWITZ: Thank you. Timothy
10 Carey.

11 MR. CAREY: Good evening, Judge
12 Boschwitz, County Executive Vanderhoef,
13 Assembly Men Gromack and Colman, Assembly
14 Woman Calhoun, Supervisor Hurley,
15 concerned citizens and employees of Orange
16 and Rockland. I'm Tim Carey, and I serve
17 as the Chairman and Executive Director of
18 the New York State Consumer Protection
19 Board. I wish to commend the State Public
20 Service Commission for providing this
21 opportunity for Orange and Rockland
22 ratepayers and public officials to express
23 their views on the revised settlement
24 plan. My comments will be directed to the

P R O C E E D I N G S

1 proposal to restructure the utility to
2 allow business and residents in the Orange
3 and Rockland service area to purchase
4 their electricity from other suppliers and
5 the rate plan for residential and small
6 commercial ratepayers.

7 The New York State Consumer
8 Protection Board was created by the New
9 York State Legislature in 1970, as the
10 State's top consumer watchdog.

11 Governor Pataki and I are very
12 concerned about the high electricity rates
13 charged by Orange and Rockland. We are
14 especially concerned about how they effect
15 small businesses, farmers, low and middle
16 income wage earners, as well as seniors
17 and persons with disabilities and others
18 who live on fixed incomes.

19 Both the Governor and I continue to
20 be concerned about the impact of high
21 electricity rates on New York's economy.

22 As a result of these and other
23 concerns, Governor Pataki and the Public
24 Service Commission proposed a plan

P R O C E E D I N G S

1 designed to bring competition to New
2 York's regulated electric utility industry
3 and, most importantly for consumers, to
4 reduce rates.

5 In evaluating the revised settlement,
6 the Commission should consider the
7 specific recommendations we propose as
8 well as the level of Orange and Rockland's
9 rate when compared with other utilities in
10 the United States. New York State's
11 electric rates are the highest -- sixty
12 percent above the national average --
13 among all of the states in the continental
14 United States. These high rate levels
15 impose significant burdens on residential,
16 industrial, commercial and farm
17 ratepayers. While industrial rates have
18 been lowered meaningfully in the revised
19 settlement, rate levels for all other
20 classes of service have not been reduced
21 to competitive levels. We recommend a six
22 percent reduction for all of Orange and
23 Rockland's customers who will not benefit
24 from the industrial rate reduction

P R O C E E D I N G S

1 proposed in the revised settlement.

2 The Consumer Protection Board study
3 that was based on an Edison Electric
4 Institute survey of 201 investor-owned
5 utilities found that the 1995 National
6 weighted average electric rates for
7 residential customers was 8.84 cents per
8 kilowatt hour, while the average
9 residential electric rate for Orange and
10 Rockland, a utility with the seventh
11 highest rates in the continental United
12 States, was 13.1 cents per kilowatt hour
13 or 48 percent above the national average.
14 In 1995, the weighted average costs for
15 industrial and commercial customers per
16 kilowatt hour were 47.4 percent and 54.4
17 above national averages, respectively.
18 Residential rates for Orange and Rockland
19 at 12.78 cents per kilowatt hour in New
20 York State ranked ninth, but Orange and
21 Rockland's rank drops to 36 at 10.8 cents
22 per kilowatt hour in New Jersey and at
23 49th in Pennsylvania at 9.66 cents per
24 kilowatt hour.

P R O C E E D I N G S

1 Regionally, Orange and Rockland's
2 prices for residential, commercial and
3 industrial ratepayers are also
4 substantially above prices for a group of
5 utilities serving New Jersey, Pennsylvania
6 and the six New England states. For
7 residential and commercial consumers,
8 Orange and Rockland's electric prices were
9 17.4 percent and 20.1 percent higher,
10 respectively, than the rest of the
11 Northeast. Interestingly, Orange and
12 Rockland's industrial rates at 7.7 cents
13 per kilowatt hour are relatively
14 competitive with the Northeast average of
15 7.63 cents per kilowatt hour. If the
16 competitive position of this state and of
17 Orange and Rockland, are to be improved,
18 it is critically important that current
19 rate levels be reduced substantially for
20 all classes of customers.

21 Under the Orange and Rockland plan
22 filed on October 1, 1996, Orange and
23 Rockland will not reduce residential and
24 commercial rates significantly. The

P R O C E E D I N G S

1 Consumer Protection Board opposed that
2 plan because it provided inadequate
3 benefits for residential and small
4 commercial ratepayers. When the plan was
5 reviewed by the Commission on
6 September 10, 1997, it was remanded for
7 further negotiations.

8 The parties to those negotiations
9 included the Consumer Protection Board,
10 the Company, the Commission staff, and the
11 Industrial Energy Users Association.
12 Unfortunately, despite significant effort
13 by all of the parties, the revised
14 settlement submitted on November 6, 1997
15 did not satisfy the criteria that we
16 concluded were necessary to ensure that
17 all ratepayers received reasonable
18 benefits. As a consequence, the Consumer
19 Protection Board did not sign the revised
20 settlement and, on November 14, 1997,
21 submitted comments in opposition to the
22 revised settlement. That decision was
23 difficult for the Consumer Protection
24 Board because some of the provisions in

P R O C E E D I N G S

1 the revised settlement are favorable to
2 consumers, such as generation divestiture;
3 a substantial reduction of the competitive
4 transition charge, or CTC; an educational
5 program for consumers, additional rate
6 reduction if generation sales are above
7 book value. Nonetheless, on balance, we
8 concluded that the rate reduction for
9 residential and small commercial customers
10 in the revised settlement were inadequate
11 and must be modified if that agreement is
12 to be approved by the Commission.

13 In my remarks today, I want to
14 highlight our major concerns with the
15 revised settlement and propose
16 constructive suggestions for improvements.
17 While the revised settlement provides for
18 about a 12 percent rate reduction for the
19 26 customers in the SC 9 large industrial
20 class, it did not increase the rate
21 reduction for smaller ratepayers. Rather,
22 it provided for an opportunity of a five
23 percent rate reduction if the price
24 received by Orange and Rockland for the

P R O C E E D I N G S

1 generating units it will sell are above
2 book value. If those higher prices do not
3 materialize, residential and small
4 commercial ratepayers and farms will only
5 realize the same 2.09 percent phased rate
6 reduction provided by the original
7 settlement. This means that
8 approximately 239,000 customers will not
9 see any meaningful reduction in their
10 current rate levels.

11 It is instructive to note that Orange
12 and Rockland's Powerpick Pilot Program was
13 not successful in the residential area due
14 to the low level of reductions in rates it
15 offered. About two percent to three
16 percent. Staff, in its 1997 evaluation of
17 the residential program states that
18 Powerpick was not successful due to the
19 small level of savings. Residential
20 consumers saw no reason to go through the
21 process of searching for and choosing an
22 alternative supplier for so little gain.
23 The settlement also provides inadequate
24 savings for ratepayers and this settlement

P R O C E E D I N G S

1 should be rejected.

2 The Consumer Protection Board has
3 demonstrated that a six percent rate
4 reduction is feasible. It can be achieved
5 by adopting the various proposals
6 advocated by our witnesses, including the
7 one percent gross receipts tax reduction
8 proposed by Governor Pataki and enacted
9 into law by the State Legislature. We
10 have also recommended other reductions,
11 including a \$400,000 reduction in worker's
12 compensation expenses, a lowering of the
13 equity return cap to 10.2 percent, which
14 reduces Orange and Rockland's revenues by
15 \$4.14 million, and a stranded cost
16 adjustment that will reduce annual
17 revenues by \$14.9 million.

18 Let me first discuss the return on
19 equity cap. The return on equity is the
20 profit to shareholders, and the equity cap
21 is designed to ensure that excess earnings
22 will be returned to ratepayers. The
23 revised settlement reduces the return on
24 equity cap from 11.5 percent in the

P R O C E E D I N G S

1 original settlement to 11.4 percent, an
2 inadequate change. The Consumer
3 Protection Board believes that the equity
4 cap should be no more than 10.2 percent.

5 Orange and Rockland's 1996 equity
6 return was actually 11.48 percent, and its
7 most recent annual profit level, as of
8 April 1197, was 11.35 percent, Interest
9 rates have declined recently supporting a
10 reduction in the equity return cap. The
11 30 year treasury bond is now yielding 6.15
12 percent - a decline of about 0.55 percent
13 since the Commission remanded this case.
14 Since equity costs track long-term rates,
15 the return on equity cap should
16 conservatively be reduced to 10.2 percent,
17 as originally recommended by the Consumer
18 Protection Board.

19 All of our recommendations would
20 reduce first year rate levels by \$16.7
21 million, instead of the \$7.01 million
22 reduction in the revised settlement.
23 Over a four year period, current rate
24 levels would be reduced by \$66.8 million

P R O C E E D I N G S

1 rather than the \$36.8 million provided in
2 the revised settlement. We also support a
3 royalty payment by Orange and Rockland's
4 unregulated subsidiaries for the use of
5 the utility's name and reputation.

6 Finally, Judge Boschwitz, in your
7 recommendation decision noted that many of
8 the rate reductions in the revised
9 settlement were derived from expiring
10 surcharges that would have been returned
11 to ratepayers sooner or later. Thus, they
12 are not true rate reductions. He also
13 suggested that about \$15 million from
14 enhanced productivity over the four year
15 term of the settlement would be realized
16 and could be used for rate reduction
17 purposes.

18 We are also concerned about the
19 amount of direct deferrals that could
20 result in rate increases in the future
21 years. These include losses on the sale
22 of plant; deferral of \$2.985 million of
23 coal expenditures; potential losses from
24 time of use rates; deferral of divestment

P R O C E E D I N G S

1 costs; deferral of \$7.5 million of
2 employee costs; deferral of \$2,6 million
3 of peak activated rate costs; deferral of
4 storm damage costs; deferral of ISO
5 related costs; deferral of environmental
6 costs; deferral of CTC recoveries of
7 stranded generation costs; full collection
8 of NUG costs; and load pocket mitigations
9 costs. Each of these deferrals represents
10 a ratepayer IOU that will be collected at
11 some point and which will generate
12 considerable upward pressure on future
13 rate levels. The Commission should not
14 allow the utility to recover these costs
15 unless our six percent rate reduction plan
16 is adopted.

17 The adoption of our recommendation
18 will reduce rates by approximately the
19 same 10 percent rate that was recently
20 approved by the Commission for
21 Consolidated Edison's residential and
22 small commercial customers. A settlement,
23 I must add, that was signed by
24 Consolidated Edison's union. Orange and

P R O C E E D I N G S

1 Rockland's ratepayers have already
2 received rate reductions of about four
3 percent over the last two years. An
4 additional six percent rate reduction will
5 exactly match Con Edison's. Moreover, if
6 our six percent rate reduction proposal is
7 adopted, Orange and Rockland's ratepayers
8 will enjoy their ten percent rate
9 reduction over a shorter period than Con
10 Edison's customers.

11 We have other concerns with various
12 provisions of the revised settlement,
13 including the CTC mechanism that was
14 originally intended to insure Orange and
15 Rockland against losses if it sells its
16 generating units at a price below book
17 value. In the revised settlement, the CTC
18 would be employed only if generation sales
19 are delayed, through no fault of the
20 Company, between May 1, 1996 and April 30,
21 2000. While a CTC may never be required
22 for Orange and Rockland, it still concerns
23 us. We also oppose any generation
24 divestiture incentive unless rates are

P R O C E E D I N G S

1 reduced by at least six percent.

2 Finally, there should be a \$10
3 million limitation on any generation sale
4 losses that may be passed through to
5 ratepayers.

6 Thank you again for providing this
7 opportunity for the Consumer Protection
8 Board to state its position on the revised
9 settlement.

10 JUDGE BOSCHWITZ: Thank you. Paul
11 Burckard.

12 MR. BURCKARD: Thank you, your
13 Honor. Mr. Paul Burckard here from
14 Sullivan County. Good evening, your
15 Honor. I'm the County Director of Real
16 Property Tax Services for Sullivan County,
17 and our government just became aware of
18 what's going on by a call from a reporter
19 within the last day or so. We weren't
20 even aware that this hearing was going to
21 be held tonight until we saw an article in
22 this morning's paper. So really I'm here
23 to try to find out what's going on, and my
24 comments tonight are strictly off the

P R O C E E D I N G S

1 cuff.

2 Sullivan County has three
3 hydroelectric plants, as well as the dams
4 and support structures to support that all
5 contained within the County. We have
6 numerous questions. What actually will be
7 auctioned off and who can buy them? Can
8 other utility companies come in, such as
9 New York State Gas and Electric or Niagara
10 Mohawk, and buy these plants or will it be
11 individuals or a combination of both?
12 What will they buy; the power plant, the
13 piping that connects the plants to the
14 dams? Will they buy the dams, the lake,
15 the support slates and all the support
16 infrastructure? If the lakes are sold, do
17 they sell the same to -- the same things
18 to the same person? Can one company buy
19 the hydroelectric plant and someone else
20 buy the support structure and the dam and
21 the lake that supports that operation?
22 Will the use of the surface water of the
23 lakes be limited? This can have a very
24 significant effect on the value of these

P R O C E E D I N G S

1 properties from evaluation and assessment
2 standpoint. Will it be only flow
3 developments properties or Orange and
4 Rockland's that are going to be sold off
5 or a combination of both? Will the buyers
6 be required to run them to actually
7 generate electricity? If they don't make
8 money, can they shut them down? If the
9 people are not knowledgeable in running
10 the plants, will the employees who do know
11 be kept, and who also will do the
12 maintenance? Will these people stay with
13 these plants? If the plants close or
14 don't make money, this can have
15 significant possible effects on their
16 value and their assessed value. The State
17 Board of Appeals has ruled in their case
18 law that the RCNOD approach will be used
19 in order to value facilities such as
20 this. If the plants and facilities will
21 now be bought and sold and the market will
22 control their value, how is this going to
23 be reconciled for valuation purposes in
24 the future? The State of New York needs

P R O C E E D I N G S

1 to appraise these properties so that they
2 can in fact determine the level of
3 assessment in assessing jurisdictions and
4 set equalization rates. Equalization
5 rates control state aid for a whole
6 variety of purposes, as well as state aid
7 to school districts, not to say of least
8 is tax apportionments, which can greatly
9 affect the rates people pay and actual tax
10 levies for county and school district
11 purposes. So we have a great concern as
12 to how the valuation and what the value of
13 these facilities is actually going to be.

14 On behalf of Sullivan County and its
15 assessing jurisdictions, five of them are
16 directly effected by what we understand is
17 going to occur here, we ask to be kept
18 informed so we can knowledgeably and
19 intelligently have input to this process.

20 Thank you.

21 JUDGE BOSCHWITZ: Thank you, sir.
22 Sal DiFede, Highland Mills. Mr. DiFede,
23 come forward, sir.

24 MR. DIFEDE: No, sir, I pass.

P R O C E E D I N G S

1 JUDGE BOSCHWITZ: Thank you.

2 Zipporah Fleisher. Good evening,
3 Mrs. Fleisher.

4 MRS. FLEISHER: Good evening, sir.
5 And I must say, I commend the people who
6 had to grab up their information and come
7 here in a hurry. If we're going to give
8 out medals, I think I get one because I've
9 been attending hearings since 1972. I --
10 my first elected hearing was 1975. And
11 the reason I'm asking for a medal for that
12 is I represent the Rockland County
13 Conservation Association, which has just
14 spent its 65th anniversary, and I also
15 represent a local group called the West
16 Branch Conservation Association, it's in
17 the north part of Clarkstown, in Rockland
18 County.

19 We have spent, I think it's 11
20 million dollars, it might be more, but it
21 certainly isn't less, by being coerced
22 into putting up the money for a nuclear
23 plant which Orange and Rockland chose to
24 join a group to build in Northern New York

P R O C E E D I N G S

1 State. That plant never put a shovel in
2 the ground. We still had to spend the
3 costs of getting the whole act together,
4 and we were told there was no bond even
5 for performance, because whoever heard of
6 a nuclear plant that didn't get built once
7 it was started. So that O & R all by
8 itself and against our wishes owes us 11
9 million dollars when it folds, it owes
10 that to the ratepayers. And I believe I'm
11 wrong on the figure, it's more than that.

12 We're told the gas company can put
13 their pipes wherever they wish. They have
14 gone through a residential section of town
15 and built a transfer station, and it's
16 attractive looking, thank goodness,
17 because we fought so to make sure it
18 looked like a home and not a factory. And
19 they put in -- it's 16 inch line now.
20 They put in 30 inch pipe between Route 45
21 and Buena Vista Road, and we asked them
22 why, and they said, well, they had excess
23 supply of 30 inch pipe and they wanted to
24 use it up. Now, of course, the answer to

P R O C E E D I N G S

1 the 30 -- 36 -- I'm sorry, 36 -- inch pipe
2 has come to light, we are going to get a
3 new and additional trench for that 36 inch
4 line and it is to bring gas to White
5 Plains.

6 Now, the other part of that story is
7 that when the Water Company wanted to go
8 around South Mountain, it didn't go up
9 across South Mountain, it didn't blast all
10 that stone, it went around it. And we
11 don't understand why the gas company can't
12 go around the mountain also, but I guess
13 we'll all pay for the cost.

14 I have a little section here in the
15 proposal which says, Orange and Rockland's
16 delivery service rates will be set so that
17 the company is provided a reasonable
18 opportunity to recover from all customers
19 other prudent and verifiable stranded
20 costs associated with depreciable assets
21 used in connection with the metering and
22 billing functions. Now, that certainly
23 seems to me to open the door pretty wide.

24 The other thing about opening the

P R O C E E D I N G S

1 door is they don't listen to folks like
2 us. I mean, we come after the elected
3 officials, we live here. We have been
4 testifying at these hearings, as I said,
5 since the 1970s, and I have failed for my
6 organization to not sign most of the
7 stipulations, yet they go into effect, and
8 we're not the only ones who don't sign
9 them, but as long as the major persons
10 sign them, such as the staff and the PSC,
11 they become law and we never feel anymore
12 that we're represented even by the
13 Consumer Protection Board at times. I'm
14 glad to see that they had the strength to
15 fail to sign this one.

16 Now, I don't think I can add very
17 much. I don't want to bore all of you and
18 keep you listening and all, but we do feel
19 that -- I don't know what the word
20 snuckered means. Is that a dirty word or
21 is that all right to use?

22 JUDGE BOSCHWITZ: You can use it
23 here.

24 MRS. FLEISHER: I worked in a bomber

P R O C E E D I N G S

1 plant during World War Two and I said to
2 my husband, what does blank mean? And he
3 said to me, where have you been all your
4 life. So I don't know if that's the right
5 word or not. I shouldn't have used it.
6 Please forgive me. We feel jipped and
7 rooked because the way this thing is being
8 conducted. And the fact that it may be
9 country wide doesn't interest me one bit.
10 What would happen if some of these
11 companies that are supposed to be
12 supplying us with electricity go broke,
13 where we will get our electricity from?
14 Okay. There's plenty of electricity we're
15 told.

16 I forgot my claim to fame. I have in
17 the past at electric rate hearings
18 suggested that we shut down the generating
19 plants and just buy power from the power
20 pool, which would have been the place to
21 get it in the past, because the rates at
22 the power pool were cheaper than the rates
23 that O & R is generating now. Then I was
24 told that you got to keep the plants going

P R O C E E D I N G S

1 at a certain low boil for the sake of the
2 machinery, so they never could adopt my
3 suggestion, which was to become just a
4 distribution company. I don't look
5 forward to this thing. I think that
6 complaints that I've heard here tonight
7 have been quite fair and reasonable. I
8 wish some of these people had come to life
9 sooner and helped us all along, because I
10 think their pleas might have been listened
11 to more if they had shown the strength to
12 defend the rates of the people sooner.

13 Thank you.

14 JUDGE BOSCHWITZ: Thank you,
15 Mrs. Fleisher.

16 Russel Trojan, Nanuet. Good
17 evening.

18 MR. TROJAN: This is the handout that
19 was available this evening, the Electric
20 Rate and Restructuring Plan.

21 This plan appears to be little change
22 from the one the Public Service Commission
23 rejected. On Page 2 it includes the gross
24 receipts tax reform will result in

P R O C E E D I N G S

1 additional savings. They're using an
2 unrelated State legislation to sell their
3 plan. This is totally improper. The rate
4 reductions should come out of Orange and
5 Rockland irregardless of what the State of
6 New York is doing.

7 On Page 4, first paragraph, it gets
8 into the losses. The losses shall be
9 allocated between shareholders and
10 customers, five percent for shareholders,
11 95 percent of the losses to customers.
12 This is unacceptable. This and other
13 stranded costs are business risk. They
14 should not be dumped on the customer. We
15 didn't -- we don't get the dividend
16 revenue, therefore we shouldn't pay for
17 the losses.

18 I do not see anywhere in this
19 proposal my suggestion to get rid of the
20 \$6.45 monthly basic charge for nothing.
21 This has been hitting us for years. We
22 pay \$6.45 for nothing. The homeowner and
23 apartment dwellers would benefit the
24 higher percentage if Orange and Rockland

P R O C E E D I N G S

1 would start by eliminating this basic
2 charge instead of the pennies that O & R
3 is offering to the homeowners and
4 apartment dwellers by this proposal.

5 And in all this, O & R still
6 maintains a controlling monopoly of the
7 distribution of electric power. We the
8 public are the big losers and it's time to
9 go back to the drawing board.

10 Thank you.

11 JUDGE BOSCHWITZ: Thank you.

12 Frank Leonard.

13 MR. LEONARD: Thank you, your Honor.
14 I'll be brief. As you said, my name is
15 Frank Leonard. I live in Haverstraw, and
16 like Mrs. Fleisher, I'm with the Rockland
17 County Conservation Association.

18 I'm indebted to Mr. Phillips for
19 bringing to mind the history of part of
20 the operation, the part in Haverstraw, the
21 Bowline Plant. And he had a very
22 interesting question, he said, will they
23 change type of production if they come
24 in? And the gentleman from the Union in

P R O C E E D I N G S

1 passing mentioned nuclear plants and
2 Mrs. Fleisher also mentioned nuclear. The
3 word jogged my memory, Your Honor, it's
4 not remembered usually, but the Orange and
5 Rockland plant at Bowline in Haverstraw
6 was first proposed as a nuclear plant.
7 Indeed, they were -- Orange and Rockland
8 was really quite into it. They were on
9 the move prepared to build a nuclear
10 plant, negotiating with the Town.
11 Environmentalists from outside Haverstraw
12 came in and pressured O & R as it were and
13 eventually the plant was not nuclear, as
14 we all know, but it rather disturbs me
15 looking at this and I'm glad, as I say, it
16 was brought up.

17 Not wishing to appear melodramatic, I
18 trust that you will keep guard over what
19 type of operation goes there should the
20 plant eventually change. And certainly if
21 there is any move toward a nuclear plant,
22 people in Rockland County will be very
23 interested to hear this and someone will
24 answer, I'm sure, to the people of this

P R O C E E D I N G S

1 County. What might make people to a
2 degree suspicious is what's been mentioned
3 here before, the rapidity in which these
4 proceedings seem to have gone on and also
5 the shift from the North Rockland location
6 for the public meeting, and I'm sure your
7 Honor will explain that before the evening
8 is over, but in any case, again, your
9 Honor, there is I think some interest in
10 that nuclear aspect.

11 Thank you.

12 JUDGE BOSCHWITZ: Thank you,
13 Mr. Leonard.

14 I have no other cards. Are there
15 other persons who wish to make statements
16 at this time? If not, I would close the
17 formal portion of this proceeding.

18 MR. PHILLIPS: Your Honor, could we
19 ask, if you're going to give comments,
20 would it be possible to keep the public
21 participation open so that after your
22 comments, if there are any other
23 questions, we may be able to address you
24 once again?

P R O C E E D I N G S

1 JUDGE BOSCHWITZ: Well, frankly, sir,
2 I doubt it would be appropriate for me to
3 give comments on the record. I would like
4 to respond to some of the points that have
5 been made. I think there's some
6 information that's missing that might be
7 helpful, other things that might be worth
8 having some dialogue about. So if we can
9 agree to go forward on that basis, I'd be
10 glad to try and be responsive.

11 oOo

12

13

14

15

16

17

18

19

20

21

22

23

24

P R O C E E D I N G S

1

2

S P E A K E R S

3

MS. CALHOUN

1022

4

MR. GROMAK

1024

5

MR. COLMAN

1033

6

MR. HURLEY

1041

7

MR. PHILLIPS

1046 & 1101

8

MR. VANDEROFF

1059

9

MR. CIROLO

1065

10

MR. CAREY

1075

11

MR. BURCKARD

1088

12

MR. DIFEDE

1091

13

MRS. FLEISHER

1092

14

MR. TROJAN

1097

15

MR. LEONARD

1099

16

17

18

19

20

21

22

23

24

ALBANY REPORTING CO.

Tel (518) 382-9789 Fax (518) 382-9791

Pg 979 appears
2x.

1
2 NEW YORK STATE PUBLIC SERVICE COMMISSION3
4 IN THE MATTER OF5 Case 96-E-0900 - Orange & Rockland Utilities, Inc.'s
6 Plans for Electric Rate/
7 Restructuring Pursuant to Opinion 96-12
89 MINUTES OF EVIDENTIARY HEARING held at the Offices of
10 the Commission, Third Floor, Core 4, Swan Street
11 Building, Albany, New York, on Thursday, the 22nd of
12 May, 1997, commencing at 10:00 a.m.
1314 BEFORE: Stewart C. Boschwitz,
15 Administrative Law Judge

16 APPEARANCES:

17 For NEW YORK STATE DEPT. OF PUBLIC SERVICE STAFF:

18 ROBERT GARLIN, Staff Counsel
19 Three Empire Plaza
Albany, New York 1222320 For ORANGE & ROCKLAND UTILITIES, INC.:
21 G.D. CALIENDO, SENIOR VICE-PRESIDENT AND
22 GENERAL COUNSEL,
JOHN L. CARLEY, SENIOR ATTORNEY23 NIXON, HARGRAVE, DEVANS & DOYLE
24 One Key Corp Plaza
Albany, New York 12207

By: ANDREW GANSBERG, Esquire

1 For NEW YORK STATE ELECTRIC & GAS CORP.:
2 HUBER, LAWRENCE & ABELL
3 605 Third Avenue
4 New York, New York 10158
5 By: WILLIAM D. BOOTH, Attorney
6
7 For CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
8 4 IRVING PLACE ROM 1815-5
9 NEW YORK, NEW YORK 10003
10 By: JAMES F. GALLAGHER, Attorney
11
12 For INDUSTRIAL ENERGY USERS ASSOCIATION
13 Birbrower, Montalbano, Condon & Frank, P.C.
14 67 North Main Street
15 New City, New York 10956
16 By: THOMAS A. CONDON, Attorney
17
18 For NEW YORK STATE POWER AUTHORITY
19 1633 BROADWAY
20 NEW YORK, NEW YORK
21 By: Eric J. Schmalzer, Attorney
22
23 For NEW YORK STATE DEPARTMENT OF
24 ECONOMIC DEVELOPMENT:
25 ONE COMMERCE PLAZA
26 ALBANY, NEW YORK 12245
27 By: Gloria Kavanah, Assistant Counsel
28
29 For NEW YORK STATE CONSUMER PROTECTION BOARD
30 TIMOTHY S. CAREY, EXECUTIVE DIRECTOR
31 ANN KUTTER, DEPUTY DIRECTOR
32 5 EMPIRE STATE PLAZA
33 ALBANY, NEW YORK, 12210
34 By: JAMES F. WARDEN, JR.,
35 Intervenor Attorney
36
37 For PACE ENERGY PROJECT:
38 78 N. BROADWAY
39 WHITE PLAINS, NEW YORK
40 MELANIE PIEN, Counsel
41 MOLLIE LAMPI, Attorney-at-Law
42 122 Swan Street
43 Albany, New York 12210
44

1 For PUBLIC UTILITY LAW PROJECT OF NEW YORK, INC.:
2 90 STATE STREET
3 ALBANY, NEW YORK 122 07
4 By: Ben Wiles, of Counsel

5 For INDEPENDENT POWER PRODUCERS OF NEW YORK, INC.
6 ENRON CAPITAL & TRADE RESOURCES:
7 READ & LANIADO
8 25 Eagle Street
9 Albany, New York 12207
10 By: CRAIG M. INDYKE, Esquire
11 SAM LANIADO, Esquire

12 For WHEELED ELECTRIC POWER COMPANY:
13 JOEL BLAU, Esquire
14 32 Windsor Court
15 Delmar, New Yrk 12054

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

JUDGE BOSCHWITZ: We will resume in the case 96-E-0900 concerning Orange & Rockland Utilities restructuring. Are there any additional appearances? Let the record show there is no response.

Are we ready to proceed with the staff panel, Mr. Garlin?

MR. GARLIN: Yes, Your Honor.

JOEL TENENHOLTZ,

NANCY TOURVILLE,

CATHERINE D'ANDREA,

JACK TREIBER,

MARCO PADULA,

Called as witnesses, after first having been duly sworn, were examined and testified as follows:

DIRECT EXAMINATION

BY MR. GARLIN:

Q I will address the preliminary questions to you, Mr. Addepalli. Has the panel prepared twenty-four pages of prefilled testimony?

A (Addepalli) yes.

Q Do you have any changes or corrections to

ALBANY REPORTING CO.

P.O. BOX 5875, ALBANY, N.Y., 12205-0875

TEL (518) 373-8940 FAX (518) 373-8904

1 that testimony?

2 A (Addepalli) no.

3 Q Does the panel adopt this testimony as its
4 testimony in this proceeding?

5 A (Addepalli) Yes.

6 MR. GARLIN: I ask the twenty-four pages of
7 staff testimony be copied into the record as if
8 given here today orally.

9 JUDGE BOSCHWITZ: Motion granted.

10 (The following is the prefiled
11 direct testimony of Public
12 Service Staff panel.)
13
14
15
16
17
18
19
20
21
22
23
24

Case 96-E-0900

STAFF PANEL

1 Q. Please state your names and business addresses.

2 A. Raj Addepalli, Catherine D'Andrea, Marco Padula, Joel
3 Tenenholtz, Nancy Tourville, and Jack Treiber. The business
4 address for witnesses Addepalli, D'Andrea, Padula and
5 Treiber is New York State Department of Public Service,
6 Three Empire State Plaza, Albany, New York 12223-1350. The
7 business address for witnesses Tenenholtz and Tourville is
8 New York State Department of Public Service, One Penn Plaza,
9 New York, New York 10119.

10 Q. Please give your titles and describe your educational and
11 professional backgrounds.

12 A. Please refer to Exhibit ____ (DPS-1).

13 Q. What is the purpose of the Panel's testimony?

14 A. The Panel's testimony is submitted in support of a
15 recommendation to the Public Service Commission that the
16 Settlement Agreement of March 25, 1997 in this proceeding be
17 approved.

18 Q. Please discuss the organization of the Panel's testimony.

19 A. The Commission's decision in Case 94-E-0952 et al.,
20 Competitive Opportunities Regarding Electric Service,
21 Opinion No. 96-12 (issued May 20, 1996), directed Orange and
22 Rockland Utilities, Inc. and four other electric utilities
23 to submit filings addressing six topics, namely, corporate
24 structure, retail access, transitional rate plan, public
policy programs, load pockets, and provision of energy

1 services (including continuation of consumer protections)
2 (id. at mimeo pp. 75-76). The Notice to the Parties of
3 March 11, 1997 stated that "[u]pon the filing of a
4 comprehensive proposed settlement agreement in a case, all
5 parties to that case are reminded, consistent with the
6 settlement guidelines, that the focus for the balance of the
7 proceeding is upon the reasonableness of the proposed
8 settlement agreement and not on the respective utility's
9 October 1, 1996 filing" (id. at 2). Accordingly, this
10 testimony describes how the Settlement Agreement of March
11 25, 1997 addresses the topics set forth in Opinion No. 96-
12 12.

13 CORPORATE STRUCTURE

14 Q. What are the issues pertaining to the topic of corporate
15 structure?

16 A. The Commission directed that consideration be given to
17 short-term and long-term corporate structures, the cost to
18 attain the long-term structure, and the consistency of the
19 structure with the Commission's vision for competitive
20 electric markets.

21 Q. What guidance did the Commission give on these issues?

22 A. The Commission stated that "[i]n a wholesale or retail
23 competitive model, generation and energy service functions
24 should be separated from transmission and distribution
systems in order to prevent the onset of vertical market

1 power." The Commission stated further that "[t]otal
2 divestiture of generation would accomplish this most
3 effectively and is encouraged" (Opinion No. 96-12 at mimeo
4 p. 90).

5 Q. To what end does the Commission appear to favor divestiture?

6 A. The Commission reasoned as follows:

7 "Critical to a movement toward a restructured industry is
8 the need to avoid undue concentration of market power and
9 particularly the use of monopoly power on the distribution
10 side to unduly restrict choice on the generation side.
11 Divestiture of generation and energy services is a clear way
12 to allay concerns about vertical market power and avoid
13 anti-competitive behavior (such as cross-subsidies among
14 affiliates in both competitive and monopoly environments,
15 and favored treatment of affiliates)" (id. at mimeo p. 59).

16 Q. Did the Commission simply require divestiture of generation
17 assets by electric corporations?

18 A. No. The Commission stated that where divestiture of
19 generation is not proposed, effective mechanisms that
20 adequately address resulting market power concerns should be
21 addressed.

22 Q. What does the Settlement Agreement contemplate?

23 A. O&R will reorganize itself into a holding company
24 controlling an independent unregulated generation company
("GENCO"), one or more unregulated Energy Services companies

Case 96-E-0900

STAFF PANEL

1 ("ESCOs"), and a regulated Transmission and Distribution
2 ("Delivery") Company.

3 Q. What is the expected process for implementation of the
4 reorganization?

5 A. Implementation of the reorganization will require several
6 regulatory approvals. In addition, shareholder approval
7 cannot be obtained earlier than April 1998.

8 Q. What safeguards are proposed to address market power
9 concerns that might be raised because divestiture of
10 generation assets is not required?

11 A. First, the agreement establishes extensive standards of
12 competitive conduct (Appendix H), guidelines for affiliate
13 relations (Appendix I), and guidelines for accounting for
14 affiliate transactions (Appendix J). Second, the agreement
15 provides that, upon separation of GENCO from Delivery, there
16 will be no bilateral agreements between the two entities,
17 except as necessary to address load pockets, other
18 reliability issues, or ancillary transmission services.
19 (Delivery may petition for waiver of this provision if
20 necessary to meet any retained responsibility to minimize
21 energy costs.) These safeguards address concerns about
22 "cross-subsidies among affiliates in both competitive and
23 monopoly environments, and favored treatment of affiliates"
24 (Opinion No. 96-12 at mimeo 59).

Q. Please discuss the other expressed concern, about "undue

1 concentration of market power and particularly the use of
2 monopoly power on the distribution side to unduly restrict
3 choice on the generation side" (id.), in the context of this
4 Settlement Agreement.

5 A. There are limited load pocket issues that will be separately
6 addressed. FERC has concluded that O&R does not have a
7 sufficient share of installed and uncommitted generating
8 capacity in any relevant wholesale market to exercise market
9 power (FERC Docket No. ER97-1400-000, Orange and Rockland
10 Utilities, Inc., Order Conditionally Accepting for Filing
11 Proposed Market-Based Rates (issued March 27, 1997), pp. 2-
12 3). In addition, O&R has an open access transmission tariff
13 on file at FERC. Finally, O&R has already opened its
14 distribution system, on a pilot-scale level, to provide
15 direct customer access to electricity producers, and the
16 Settlement Agreement provides for continuing expansion of
17 such access. Thus, there is no necessity for formal,
18 structural means to vitiate generation market power or to
19 preclude the "leveraging" of monopoly delivery facilities.

20 Q. What did the Commission conclude regarding the provision of
21 energy services by affiliated entities and divested
22 entities?

23 A. The Commission's "policy direction" regarding energy
24 services is that "to the extent that divestiture will
provide consumer benefits (lower rates, increased choice,

1 and reduced likelihood of market power abuse), divestiture
2 of this function is encouraged" (Opinion No. 96-12 at mimeo
3 pp. 90-91). But the Commission also stated that "[w]hile
4 divestiture of energy service company operations is
5 encouraged, for now we will allow utilities to continue to
6 provide energy services to their customers either directly
7 or through an affiliate" (id. at mimeo p. 60).

8 Q. What is contemplated by the Settlement Agreement?

9 A. Upon commencement of retail access, Delivery will provide
10 basic energy services, including energy, capacity, ancillary
11 services, metering and billing within its service territory.

12 Q. Is divestiture of energy service company operations required
13 in order to achieve lower rates, increased choice, and
14 reduced likelihood of market power abuse?

15 A. Divestiture does not appear, at this time, to be required as
16 a means to those ends. That is a satisfactory conclusion
17 for the moment, because the Settlement Agreement provides
18 that up to one year after the expiration of the four-year
19 term of the settlement, affiliated ESCOs will be subject to
20 examination by the Commission to determine whether the
21 manner in which they conduct business impedes competition in
22 the energy-related service and product markets within O&R's
23 service territory in which they operate. The Settlement
24 Agreement provides that the Commission may order suitable
remedies if an impediment to competition is found.

Case 96-E-0900

STAFF PANEL

1 Q. Is there any benefit from having Delivery retain ESCO
2 functions?

3 A. Yes. Delivery will be the "provider of last resort" for all
4 customers choosing to continue to purchase "packaged" energy
5 services from it, for those customers who do not choose an
6 energy provider, and for those customers who purchase from
7 other providers but who later return as customers purchasing
8 power from Delivery.

9 Q. What estimate has been provided of the cost of attaining
10 O&R's long-term corporate structure?

11 A. According to Appendix D to the Settlement Agreement, O&R
12 proposes to defer and amortize, over the term of the
13 settlement, up to \$1 million of incremental holding company
14 costs.

15 RETAIL ACCESS

16 Q. What are the issues pertaining to the topic of retail
17 access?

18 A. The Commission required the filing of a schedule for
19 introduction of retail access to all customers, and the
20 filing of unbundled tariffs to support retail access.

21 Q. What guidance did the Commission give on these issues?

22 A. The Commission stated that "[r]etail competition has the
23 potential to benefit all customers by providing greater
24 choice among their electricity providers as well as
increased pricing and reliability options" (Opinion No. 96-

1 12 at mimeo p. 89). The Commission explained that
2 "[d]ifferences among customers make it difficult for a
3 wholesale model to meet the variety of needs under tariff-
4 based options," and that "[c]ustomers acting in their own
5 self-interest, when presented with a variety of market
6 choices, will arrange their consumption to maximize their
7 welfare and save costs" (id. at mimeo p. 37).

8 Q. What is the Commission's expectation regarding the
9 implementation of retail access?

10 A. The Commission stated that "retail competition is expected
11 to begin in early 1998" (id. at mimeo p. 89). The
12 Commission stated further as follows:

13 "If the total load subject to competition needs to be
14 limited at the start for administrative or practical
15 reasons, such limitations may be set as a percentage of load
16 or the full load in a geographical area, but experience in
17 serving all customer classes should still be gained.
18 Efforts to limit participation should be temporary, and such
19 approaches will need to be justified by the utilities
20 proposing them" (id. at mimeo p. 40).

21 Q. Is the Settlement Agreement consistent with this
22 expectation?

23 A. Yes. Retail access actually began, of course, at the
24 conclusion of O&R's last electric rate case (Case 95-E-
0491). The Settlement Agreement provides that the existing

1 PowerPick™ program (choice of purchasing energy from
2 alternate suppliers) will be expanded to all customers by
3 May 1, 1998. For large industrial customers, the PowerPick™
4 program expansion will begin in Summer 1997. Full retail
5 access to a competitive energy and capacity market will be
6 available on May 1, 1999 for all customers.

7 Q. What does the Settlement Agreement provide regarding the
8 filing of unbundled tariffs?

9 A. O&R will file proposed unbundled rates and charges for
10 electric services in August 1997, on the basis of an updated
11 embedded cost of service study for 1996. Expected rates and
12 charges are denominated as Power Supply, Power Delivery,
13 Governmental Tax Surcharges, Systems Benefits Charge, and
14 Competitive Transition Charge. Unbundled tariffs are
15 expected to be effective at least several months prior to
16 the effectiveness of full retail access.

17 Q. Please discuss the unbundling of generation-related costs
18 from delivery-related costs.

19 A. After rates are unbundled, Power Supply costs will not be
20 reflected in Power Delivery charges. Power Delivery
21 customers will see separate charges for power purchased from
22 their suppliers, and for recoverable generation-related
23 strandable costs. (However, the relatively small costs of
24 O&R's hydroelectric and gas turbine generation facilities
will be recovered through Power Delivery charges.)

1 TRANSITIONAL RATE PLAN - RATE REDUCTIONS

2 Q. What are the issues pertaining to the topic of the
3 transitional rate plan?

4 A. The Commission required the filing of "a rate plan to be
5 effective for a significant portion of the transition that
6 incorporates our goal of moving to a competitive market,
7 including mechanisms to reduce rates and address strandable
8 costs" (Opinion No. 96-12 at mimeo p. 76).

9 Q. Please describe how the transitional rate plan supports the
10 goal of moving to a competitive market.

11 A. The agreement contemplates that a flexible rate tariff will
12 be designed, and filed with the Commission, providing for
13 the possibility of rate discounts for commercial and
14 industrial customers who are currently taking service and
15 who are at serious risk of relocating or closing their
16 facilities. This provision facilitates load retention.

17 Q. Please continue.

18 A. The agreement provides for greater choice by phasing out the
19 applicability of some of the company's least popular bundled
20 retail service offerings. No new residential customers will
21 be added to the mandatory time-of-use subclassification, and
22 continuation of mandatory residential time-of-use service
23 will be at issue during consideration of unbundled rate
24 proposal. The involuntary applicability of the peak
activated rate to large general service (SC-9) customers

Case 96-E-0900

STAFF PANEL

1 will be eliminated.

2 Q. What apprehensions have been raised regarding rate
3 reductions that might be proposed or approved in the
4 proceedings ensuing from Case 94-E-0952?

5 A. The Commission observed, in Opinion No. 96-12, that "[s]ome
6 parties have expressed a concern that elimination of cross-
7 subsidies among customer classes or otherwise shifting cost
8 burdens could increase rates for some customer classes in
9 order to benefit others" (Opinion No. 96-12 at mimeo p. 29),
10 or that "[c]ost shifting could occur when common costs are
11 not reduced proportionately as customers choose competitive
alternatives" (id. at mimeo p. 37-38).

13 Q. What did the Commission conclude about this matter?

14 A. The Commission concluded that "[a]ny resultant cost shifting
15 should be limited so that no classes of customers receive
16 sudden increases when retail competition is available," and
17 that "[p]rice caps are one potential mechanism for resolving
18 this matter" (id. at mimeo p. 38).

19 Q. How does the Settlement Agreement address these concerns?

20 A. The settlement covers a four-year period, and during the
21 course of that settlement term rates for all O&R service
22 classifications will continue to be reduced. It should be
23 noted that during the past two years, residential ratepayers
24 experienced rate decreases, on average, of 4%, and
commercial and industrial classes experienced decreases

1 ranging between 4% and 14%. Under the settlement,
2 commercial, small industrial, and residential customers'
3 rates will be reduced in the first year by 1.09%, and one
4 year later by another 1.0%.

5 Q. What is proposed for rates for large industrial customers?

6 A. Large industrial customers have the opportunity to realize
7 an average electric price of six cents per kWh, which is an
8 approximation of the national average price of electricity
9 to industrial customers, beginning with the effective date
10 of the settlement's rate plan. An effective average rate of
11 six cents per kWh implies an average rate reduction of 12%,
12 a reduction that would be comprised of a combination of base
13 rate reductions, temporary credits, and potential PowerPick™
14 savings.

15 Q. Why are large industrial customers receiving a larger
16 percentage reduction, on average, than other customers?

17 A. Such customers take service within a service classification
18 (SC-9) that, on O&R's system, has contributed a net revenue
19 margin well in excess of that classification's proportionate
20 share, using the service classifications' relative rates of
21 return on fully allocated investment as the measure of fair
22 responsibility for contribution. The large reduction, in
23 short, is consistent with cost-of-service indications.

24 Q. Why are large industrial SC-9 customers treated differently
from other SC-9 customers?

Case 96-E-0900

STAFF PANEL

1 A. The settlement's differentiation of customers by end-use
2 characteristics is consistent with the Commission's stated
3 "policy direction" that competition in electricity markets
4 should be pursued for "economic development advantages"
5 (Opinion No. 96-12 at mimeo p. 88). Reasonably soon, all
6 customers will realize the benefits of open retail access
7 and heightened competition. In the transitional period
8 governed by the settlement, there is, in effect, an advance
9 channelling of those benefits to end-users to whom the
10 economic attractiveness of doing business in O&R's service
11 territory is most likely subject to continuous challenge.

12 Q. Please discuss the 11.5% cap on the earned return on common
13 equity.

14 A. For each of the four rate years, if O&R earns more than
15 11.5% on regulated New York electric operations, the excess
16 will be shared between customers (25%) and the company
17 (25%), and 50% would be dedicated to write down generation
18 assets or otherwise inure to the benefit of customers. The
19 company's opportunity to retain any earnings between the
20 10.4% authorized return currently reflected in rates and the
21 11.5% cap recognizes that the company is at risk for
22 increases in costs that were determined in its current rate
23 settlement (from Case 95-E-0491).

24 TRANSITIONAL RATE PLAN - STRANDABLE COST RECOVERY

Q. The Commission has directed that transitional rate plans

1 also "address strandable costs" (Opinion No. 96-12 at mimeo
2 p. 76). Please discuss how this issue is addressed in the
3 Settlement Agreement.

4 A. It is important, at the outset, to define terms. In the
5 Settlement Agreement, "strandable costs of generating
6 assets" refers to the difference between book costs of
7 generation assets and the market value. The agreement also
8 briefly addresses "stranded costs associated with
9 depreciable assets used for metering and billing," a concept
10 that is self-explanatory. "Regulatory assets" consist of
11 various expenses for which the Commission has approved
12 deferred accounting treatment, and of accruals required by
13 Statement of Financial Accounting Standards No. 109 (SFAS
14 109). SFAS 109 accruals reflect the future revenues
15 required to liquidate tax liabilities arising from book/tax
16 timing differences (mostly related to depreciation) not
17 already recognized in rates. "NUG contract costs" consist
18 of contractual commitments to purchase electricity from non-
19 utility generators (NUGs).

20 Q. How would prudent and verifiable stranded costs associated
21 with depreciable assets used for metering and billing be
22 recovered under the Settlement Agreement?

23 A. The agreement contemplates that such costs (which would
24 likely be incurred, if at all, only after retail competition
is in place) will be recoverable in Power Delivery rates.

1 Q. How would regulatory assets be recovered under the
2 Settlement Agreement?

3 A. Such assets would be largely recovered through Power
4 Delivery rates, once retail competition is in place. The
5 one-time valuation of generation assets after expiration of
6 the competitive transition charge (discussed below) will
7 also reflect SFAS 109 accruals.

8 Q. How would the costs of the remaining commitments to purchase
9 power from NUGs be recovered?

10 A. Any margin on wholesale sales earned during the period of
11 time between the implementation of wholesale competition and
12 full retail access will be used to offset NUG purchased
13 power costs. If O&R's costs during such period are fully
14 offset, additional margin will be shared on an 80%
15 customer/20% Company basis. After retail access is begun,
16 actual NUG contract payments, less an estimate of the
17 revenues received from the resale of the NUG purchased
18 power, will be recovered through Power Delivery rates,
19 subject to reconciliation.

20 Q. How would strandable costs of generating assets be recovered
21 under the Settlement Agreement?

22 A. The agreement contemplates recovery through three different
23 mechanisms.

24 Q. Please describe those mechanisms in turn.

A. First, for each of the four rate years the agreement is in

1 effect, earnings on regulated electric operations in New
2 York in excess of 11.5% would be shared, with 50% being used
3 to write down generation assets (or otherwise inure to the
4 benefit of O&R's customers), 25% credited to O&R's
5 customers, and 25% retained by O&R's shareholders.

6 Q. Please describe the second mechanism.

7 A. Once retail access began, a competitive transition charge
8 (CTC) mechanism would operate for four years. Stated
9 simply, the first $\pm 10\%$ variance between (i) market revenues
10 from the sale of production from O&R's generation assets,
11 and (ii) fixed costs of generation, would be collected in
12 full, directly from Delivery customers. Any additional
13 variances beyond the $\pm 10\%$ band would be shared between the
14 company (10%) and its customers (90%).

15 Q. How would "fixed costs of generation" be determined?

16 A. The starting point would be the embedded cost of service
17 study for 1996. The fixed cost of generation would include
18 non-variable operation and maintenance costs, depreciation
19 expense, property taxes, an allocable share of
20 administrative costs, and return and interest cost. The CTC
21 would be recalculated annually, subject to review, but there
22 would be no allowance for the recovery of changes in non-
23 fuel O&M, property tax changes, wage rate changes, or
24 changes in the cost of capital applicable to production.

Q. Please describe the third strandable generation cost

Case 96-E-0900

STAFF PANEL

1 recovery mechanism.

2 A. After the four-year term of the CTC mechanism, the market
3 value of O&R's generation facilities would be determined.
4 Any difference between the market value and the remaining
5 book cost of the facilities would be shared between
6 customers (80%) and the company (20%), whether positive or
7 negative.

8 Q. What incentives for strandable cost mitigation are created
9 by these mechanisms?

10 A. The CTC mechanism would encourage O&R to minimize certain
11 annual carrying costs of generation assets, because the
12 allowance for those costs would be locked in at current
13 levels. The market valuation mechanism would encourage O&R
14 to maximize the market worth of those assets, in order to
15 maximize the retained gain or minimize the absorbed loss.

16 PUBLIC POLICY PROGRAMS

17 Q. What are the issues pertaining to the topic of public policy
18 programs?

19 A. The Commission directed that utilities identify "public
20 policy programs, whose funding is not recoverable in a
21 competitive market, that need special rate treatment and
22 competitively neutral mechanisms to recover such costs"
23 (Opinion No. 96-12 at mimeo p. 76).

24 Q. What guidance has the Commission given on these issues?

A. The Commission stated that it "expect[ed] to see market-

1 based solutions to public policy issues rather than
2 regulatory mandates" (id. at mimeo p. 29). The Commission
3 also stated that "[t]he use of a system benefits charge
4 should be revisited sometime after retail competition has
5 commenced to determine whether the level of these programs
6 is sufficient and whether the continued use of a system
7 benefits charge is required" (id. at mimeo p. 57).

8 Q. What does the Settlement Agreement provide for?

9 A. Funding of public interest programs would be continued
10 through a competitively neutral Systems Benefit Charge.
11 Recoverable expenditures would be for research and
12 development, energy efficiency, environmental protection,
13 and low income programs required or approved for SBC
14 funding. Allowances for such programs currently reflected
15 in O&R's rates would be broken out, upon unbundling, into an
16 SBC. Increases in those annual allowances are not
17 contemplated, but any such increases required by law or
18 Commission Order will be fully recoverable.

19 LOAD POCKETS

20 Q. What are the issues pertaining to the topic of load pockets?

21 A. The Commission directed that utilities examine their
22 particular (unique) load pockets, identify potential market
23 power problems, and propose means for mitigating market
24 power.

Q. What guidance has the Commission given on these issues?

Case 96-E-0900

STAFF PANEL

1 A. The Commission defines a "load pocket" as a condition where,
2 "due to transmission system limitations, some generation
3 must be located within a particular location in order to
4 continue the provision of reliable service" (Opinion No. 96-
5 12 at mimeo p. 60). The Commission directed the utilities
6 to "propose mitigation measures for any part of their
7 service territories where transmission constraints create
8 excessive market power" (id. at mimeo pp. 88-89).

9 Q. Did the Commission identify any potential mitigation
10 measures?

11 A. Yes. Citing the Department of Public Service Staff report
12 of February 21, 1996, the Commission mentioned transmission
13 system reinforcements; new generation (which would not alter
14 the load pocket condition, but would vitiate an incumbent
15 generator's market power); reconfiguration of loads; DSM;
16 contracts for differences (and comparable instruments to
17 limit consumers' net costs); continued regulation; price
18 caps; an increase in the number of owners of generation; and
19 "mitigation of market power through steps taken by the
20 independent system operator" (id. at mimeo p. 62).

21 Q. What did the Commission conclude?

22 A. The Commission concluded that "parties should continue to
23 analyze the mitigation methods that have been identified,
24 along with other potential innovative solutions that protect
ratepayers from monopoly pricing while allowing the benefits

1 of a competitive market" (id. at mimeo pp. 62-63).

2 Q. What does the Settlement Agreement provide for?

3 A. A process will be established in which Staff, O&R and
4 interested parties address different measures for mitigating
5 load pocket conditions. Analyses of measures will be
6 submitted in January 1998.

7 PROVISION OF ENERGY SERVICES

8 Q. What are the issues pertaining to the topic of provision of
9 energy services?

10 A. The Commission directed that utilities submit "a plan for
11 the provision of energy services, including addressing the
12 continued provision of customer protections consistent with
13 an emerging competitive market" (Opinion No. 96-12 at mimeo
14 p. 76).

15 Q. What guidance has the Commission given on the general issue
16 of the provision of energy services?

17 A. The Commission stated that "[t]he relationship of the energy
18 service function to the T&D company should be addressed in
19 individual utility filings" (id. at mimeo p. 91). Pertinent
20 considerations set forth in the Commission's decision
21 include the conclusion that "the need to protect consumers
22 is paramount, and ESCOs should be licensed or certified by a
23 state entity" (id. at mimeo p. 68). The Commission added
24 that "[t]he licensing requirements should provide basic
information but should not be onerous" (id.). The

1 Commission went on as follows:

2 "Because of [HEFPA], any provider serving residential
3 customers, whether it be a transmission and distribution
4 company or an energy service company, is obligated to ensure
5 that these customers continue to get basic statutory
6 protections. During the transition to customer choice,
7 these protections shall continue to apply. An agreement to
8 provide consumer protections could be a condition of
9 licensing or certifying any energy service company serving
10 residential customers" (id. at mimeo p. 69).

11 Q. What does the Settlement Agreement provide for?

12 A. Upon commencement of retail access, Delivery will provide
13 basic energy services, including energy, capacity, ancillary
14 services, metering and billing within its service territory.
15 O&R will be authorized to create an affiliated ESCO that
16 will be subject to the same regulatory requirements
17 applicable to any other comparable ESCO, as well as
18 utility/affiliate standards of conduct and rules governing
19 relations.

20 Q. What has the Commission said about the issue of "provider of
21 last resort?"

22 A. The Commission concluded that "in order to protect all
23 customers, transmission and distribution companies will need
24 to remain obligated to serve all customers, at least in the
short term" (Opinion No. 96-12 at mimeo p. 91). The

Case 96-E-0900

STAFF PANEL

Commission elaborated that "[o]n balance, the T&D company should continue to be the provider of last resort for electric service, at least for the short term while other options are more fully explored and developed by staff and interested parties" (id. at mimeo p. 67).

Q. What does the Settlement Agreement provide for?

A. Delivery will be the provider of last resort for all customers choosing to continue to purchase "packaged" energy services from it, for those customers who do not choose an energy provider, and for those customers who purchase from other providers but who later return as customers purchasing power from Delivery.

Q. What else has the Commission concluded regarding consumer protections?

A. The Commission stated that "in order to maintain system reliability and quality during the transition to competition, current safeguards, such as service quality standards, will need to be continued" (Opinion No. 96-12 at mimeo p. 29).

Q. How has this issue been addressed in the Settlement Agreement?

A. The company will be continuing the Customer Service and Reliability Performance Mechanism (Appendix F) that was agreed to in Case 95-E-0491. The five areas included in the Performance Mechanism consist of three customer service

Case 96-E-0900

STAFF PANEL

standards and two reliability standards. If the Company fails to meet the target levels for these standards, there will be a downward adjustment of five basis points to the return on equity sharing threshold.

OTHER MATTERS

Q. Please describe the two low income programs in the settlement.

A. The first program, developed by parties to Case 95-E-0491, centers on energy efficiency, payment patterns, and/or arrears forgiveness. The top priority for this two-year program will be refrigerator replacement. In the other program, the company will support the development of a pilot program to aggregate low income customers as a single purchasing group. The primary goals of these programs are to provide benefits to low income customers through energy efficiency and to keep the cost of energy as low as possible by uniting those customers. The programs are described in Appendix G to the agreement.

Q. How does the Settlement Agreement address the subject of customer education?

A. Under the settlement, O&R will continue in its role as an educator on competition. Since O&R has been the only energy company most customers have had, they are accustomed to receiving information from the company on energy-related matters. Also, for the foreseeable future, Delivery will be

Case 96-E-0900

STAFF PANEL

1 retaining these customers and will be billing them; as a
2 result, O&R is in a unique position of being able to
3 communicate individually, through the use of bill inserts,
4 with its customers.

5 Q. What does the Settlement Agreement provide for regarding
6 O&R's NUG purchase obligation under the federal Public
7 Utility Regulatory Policies Act?

8 A. Given increased uncertainty in forecasting avoided costs as
9 competition is introduced, O&R's purchase obligation will be
10 limited to as-available purchases, or contracts not
11 exceeding two years where prices are based on avoided cost
projections.

13 Q. Does this conclude the Panel's testimony?

14 A. Yes, at this time.

1 Q Has the panel also prepared a three page
2 exhibit labeled DPS-1?

3 A (Addepalli) Yes.

4 Q Any changes or corrections to the exhibit?

5 A (Addepalli) No.

6 Q Does the panel adopt the exhibit as an
7 exhibit in the proceeding?

8 A (Addepalli) Yes.

9 MR. GARLIN: I ask DPS-1 be marked for
10 identification.

11 JUDGE BOSCHWITZ: Number 20 for
12 identification.

13 (Exhibit 20 marked for
14 identification.)

15 MR. GARLIN: The panel is available for
16 cross-examination.

17 JUDGE BOSCHWITZ: Who will examine the
18 panel first?

19 MR. WILES: I can go first. CROSS
20 EXAMINATION

21 BY MR. WILES:

22 Q I guess for simplicity I will address my
23 questions to Mr. Addepalli. If another can answer I
24 direct the person should do so.

1 A (Addepalli) Okay.

2 Q First I am referring to page 12 of your
3 testimony. The reference at line seven is six cents
4 per kilowatt hour price point and the question I want
5 to ask is where that six cent figure was derived from
6 or if there is another input to the conclusion that
7 that's the appropriate price point other than the
8 reference to the approximation of national average
9 price that exists to industrial customers.

10 JUDGE BOSCHWITZ: Off the record.

11 (Brief recess.)

12 JUDGE BOSCHWITZ: Back on the record.

13 MR. WILES: Do you still have the question?

14 Let me ask it again.

15 Q The reference on page 12 is six cents per
16 kwh price point. Is the basis for the choosing of
17 that particular price solely the reference to the
18 national average price of electricity for industrial
19 customers?

20 A (Addepalli) Primarily, yes.

21 Q What other factors were used?

22 A (Addepalli) National average as well as
23 other averages that we looked at.

24 Q What would the other averages be?

1 A (Addepalli) In the northeast and other
2 states.

3 Q Is there a particular reason why the
4 national average price of electricity for industrial
5 customers is appropriate for choosing a price point
6 for industrial customers in the settlement but the
7 national average price of electricity for residential
8 customers doesn't seem to have factored in here in
9 the development of a price point for residential
10 customers?

11 A (Addepalli) We did look at averages for all
12 classes of customers, national averages. And the
13 focus, as you have pointed out here, is for
14 industrial customers who are the most contestable
15 customers, customers with the most elasticity, and
16 with the opportunity to choose alternate sources of
17 power. Also, as we described in sections after that,
18 some of the cost of service rationale also went into
19 it.

20 Q But in choosing the price they would
21 negotiate and agree to for residential customers,
22 those prices were developed without reference to the
23 national average price of electricity for residential
24 customers; isn't that so?

1 A (Addepalli) As I said before, the focus was
2 on the most contestable customers and industrial
3 customers.

4 Q The focus of my question is on residential
5 customers. And I am asking you to confirm that in
6 developing the price for residential customers, which
7 is subject to this settlement in part, I am asking
8 you to confirm that you did not make reference to the
9 national average price of electricity for residential
10 customers.

11 A (Addepalli) We did not make reference to
12 it, yes.

13 Q And that is different, apparently, from how
14 the developed--the price you agreed to for industrial
15 customers?

16 A (Addepalli) The overall goal is to reduce
17 rates for all classes of customers. But the focus,
18 as you have discussed, is to reducing them faster for
19 one group of customers.

20 Q Now, if we move a little bit further down
21 the page to lines seventeen through twenty-three.
22 First of all, were you a participant or did you
23 participate in case 95-E-0491, which I think is the
24 case number for the previous O&R settlement?

1 A (Addepalli) Yes.

2 Q You are well aware of the settlement in
3 terms of that agreement?

4 A (Addepalli) Yes. q. And as you look at
5 lines seventeen through

6 Twenty-three you make reference to some
7 cost of service considerations which I think your
8 testimony says are applicable to these SC-9
9 customers.

10 As you are describing cost of service
11 considerations in that portion of your testimony are
12 you describing anything that developed since staff
13 agreed to the 0491 settlement?

14 A (Treiber) Maybe you can clarify your
15 question a little bit.

16 Q Sure. Well, if you look at the testimony,
17 talking about the testimony at lines seventeen
18 through twenty-four, and at the portion of that
19 section of the testimony that refers to cost of
20 service indications.

21 Were those cost of service indications,
22 that you are referencing in that testimony, factors
23 which developed since staff agreed and the commission
24 approved the settlement in case 95-E-0491?

1 A (Treiber) Are you asking whether there was
2 a new cost of service study done?

3 Q No. I am saying you are talking about
4 factors. You are calling them cost of service
5 indications. Are those new factors news to the world
6 or were the cost of service indications just as
7 existent when the 0491 settlement was adopted as they
8 are today?

9 A (Treiber) I think we are talking the same
10 study and the same indication.

11 Q So, whereas several months ago, maybe more
12 than a year ago, staff agreed in 0491, apparently
13 agreed, the cost of service indication did not
14 justify a new rate design, now they are agreeing they
15 did?

16 MR. GARLIN: I don't believe there is
17 anything in the prior settlement that says that.
18 Object to the question.

19 Q Did the prior settlement have any--well,
20 the prior settlement speaks for itself.

21 JUDGE BOSCHWITZ: Is that a rhetorical
22 question?

23 MR. WILES: I am withdrawing it. I am
24 seeing if I can make it non-rhetorical. I am

1 not sure I need to.

2 Q Going back to the six cents per kwh price
3 point, is that a price point, in your view, which
4 includes or those who take advantage of it would be
5 paying gross receipts tax and sales tax; is that what
6 your anticipation was?

7 A (Addepalli) Yes.

8 Q And, therefore, if a customer were taking
9 advantage of the power point program in purchasing
10 electricity out of state they would be able to avoid
11 sales tax and gross receipts tax?

12 MR. GARLIN: Object. The question is
13 without foundation.

14 JUDGE BOSCHWITZ: Overruled.

15 MR. GARLIN: May I speak to that, Your
16 Honor. The question speaks to customers
17 avoiding sales and those aren't the liabilities
18 of any customer of any utility in the state.

19 Q They would be able to purchase electricity
20 on which sales tax and gross receipts tax were not
21 assessed or would not be factors in the pricing.

22 MR. GARLIN: Factor in the pricing, Your
23 Honor, I will accept.

24 A (Tenenholtz) What's the question?

1 Q It's the same question I asked before. If
2 a company participated in the power pick program and
3 bought the electricity out of state, they would buy
4 electricity priced as if the state sales tax and the
5 state gross receipts tax were not a factor; isn't
6 that so?

7 A (Tenenholtz) If the transaction were
8 properly constructed I think there would be a
9 possibility of avoiding certain state taxes.

10 Q Under those circumstances they would be
11 able to reach a price point well below six cents per
12 kwh?

13 A (Tenenholtz) I do not know that to be a
14 fact. I suppose it's possible. Six cents is
15 average. That was an average price so it's possible
16 some customers may be able to obtain prices below six
17 cents per kilowatt.

18 Q I am going to page thirteen and focusing on
19 lines eight through eleven, seven through eleven, and
20 the phrase, "in advance channeling of those benefits
21 to end users". In that sense what do those benefits
22 refer to?

23 A (Addepalli) I think we make reference to
24 the benefits in line six of the same page.

1 Q Those would be the benefits of open retail
2 access?

3 A (Addepalli) Yes.

4 Q So, can you refer me to some portion of
5 opinion 96-12 in which the commission has asked that
6 those benefits, which is the benefits of open retail
7 access, are to be afforded customers before retail
8 access itself is available?

9 MR. GARLIN: If you want I have 96-12 open
10 right in front of me. If Mr. Wiles is willing
11 to accept it I will give him the reference.

12 MR. WILES: If Mr. Garlin wants to testify
13 I will cross-examine him.

14 MR. GARLIN: I will hand the opinion to my
15 panel.

16 JUDGE BOSCHWITZ: Do you object?

17 MR. WILES: If the panel thinks they need
18 it they should ask for it. If they don't need
19 it...

20 A (Addepalli) could you repeat the question.

21 MR. GARLIN: Can we go off the record a
22 second.

23 JUDGE BOSCHWITZ: Just a moment. I would
24 like the panel to answer. We had a long hiatus

1 between the question and response. Is it that
2 difficult?

3 MR. GARLIN: It shouldn't be.

4 A (Addepalli) I just want to make sure we are
5 quoting the right stuff. The opinion 96-12, on pages
6 88 and 89, the commission has stated that--if you
7 look under the conclusion, under the first heading
8 "competition," the first bullet. If you want me to
9 read it I could read it.

10 Q You don't have to read it. The first
11 bullet?

12 A That plus page 89 under the heading
13 "wholesale and retail competition", the first two
14 bullets.

15 Q And that's it, in your view?

16 A (Treiber) I think also the commission
17 approval of the power pick retail access program is
18 an example of an advancement of certain elements of
19 competition before it's generally available to the
20 entire territory or the entire customer base. There
21 are elements of competition that are being
22 implemented as available, as appropriate.

23 Q Isn't it true in this settlement that these
24 twenty-nine favored industrial customers are to

1 receive a rate, at least in the beginning of the
2 settlement period, as if power pick were available to
3 them?

4 A (Treiber) As part of the settlement power
5 pick will be available to them and also is to a
6 number of those customers.

7 Q Can I also ask you to look at page ten,
8 briefly.

9 JUDGE BOSCHWITZ: Ten of what?

10 Q I am sorry, the testimony. On page ten, in
11 the middle of the page, you refer to a flexible rate
12 tariff which is to be developed as a result of this
13 settlement and that the provisions of this flexible
14 rate tariff are to facilitate load retention.

15 Is there some element of a flexible rate
16 tariff or wouldn't the flexible rate tariff you are
17 describing be applicable to the twenty-nine customers
18 which are receiving this favorable industrial rate or
19 potentially applicable to them?

20 A (Addepalli) Potentially, yes.

21 Q And I guess the question is: What does the
22 special rate for large industrial customers offer,
23 from an economic development perspective, that the
24 flexible rate tariff does not?

1 A (Addepalli) Not knowing exactly how the
2 flexible rate tariff is going to look like, we are to
3 make assumptions. It's difficult to describe the
4 difference.

5 (Treiber) The flexible rate
6 tariff, of course, which has not
7 been fully developed just yet,
8 would be geared toward customers
9 who had a serious risk of
10 relocating or closing their
11 facilities. Of course the new
12 industrial rate applies to all
13 customers for the usage all the
14 time. The flex rate tariff would
15 be applicable to serious
16 situations whereas the other rate
17 would be available throughout.

18 Q Situations would also be available to
19 situations which are not serious; is that right?

20 A Well, situations something less than
21 serious risk of reloading or closing their
22 facilities.

23 Q Well, on page thirteen when you are talking
24 about end users, on line eleven, most likely subject

1 to continuous challenge, aren't you trying to
2 describe a serious situation there? Aren't you just
3 using different words for the same concept?

4 A (Treiber) In a sense we are talking about
5 continuous challenge, but there are degrees of
6 challenge. And a flex rate is meant to deal with the
7 most serious challenges and give the company
8 flexibility in dealing with those challenges, but
9 industrial customers are--there is continuous
10 challenge situations in terms of the competitiveness
11 of electric rates for those industrial customers and
12 decisions they need to make as to whether the next
13 production run is going to be made, if there is
14 facilities in New York and other states. There are
15 continuous challenges short of making a decision as
16 to whether to relocate or not.

17 Q Do you have specific examples in the
18 twenty-nine customers in the Orange & Rockland
19 customer territory for whom you are designing the
20 particular tariff?

21 A (Treiber) If I can quote from the Times
22 Herald Record, Thursday, May 15, at a public
23 statement hearing, a representative of a large
24 industrial customer referring to the industrial rate

1 reductions is quoted in the paper as saying, "These
2 costs become a major factor when determining where
3 production will take place and which facilities will
4 be used to accommodate new production", Greenholtz
5 said. One customer's example.

6 Q That's it? That's all you have?

7 A That's what is referred to in the papers.

8 Q Is that it? Is that all the examples you
9 can give us?

10 A (Treiber) I suspect there are lots of
11 examples. That's the only one I am aware of.

12 Q Then does anybody else on the panel have
13 any example?

14 A (Addepalli) I think when we make reference
15 to twenty-six customers our data indicates based on
16 the records that were supplied by the company the
17 twenty-six customers account for about fourteen
18 percent of the sales of the company and account for
19 about nine percent of the revenues.

20 And for some of them the understanding, not
21 for the whole population of the twenty-six but for
22 some of them energy is a major expense in operating
23 expenses. It's a critical decision in determining to
24 expand facilities or production.

1 We also understand for some of the
2 twenty-six customers the employment levels are about
3 seven thousand jobs that these entities provide.
4 Three hundred million dollar payroll. So, this is an
5 important group of customers for whom electric rates
6 are very important in making a decision to stay here
7 or move.

8 Q I am sure they are. But, first of all,
9 that was information you got from the company, there
10 is no independent--you didn't attempt to verify it?
11 You didn't attempt to form your own conclusion as to
12 the bona fides of those claims by customers; is that
13 right?

14 A (Addepalli) Some of the data actually came
15 from the customers, themselves.

16 Q Directly to you?

17 A Through their representatives, yes.

18 Q And for the customers you just referred to,
19 is it your testimony today that flex rates, the
20 existing flex rate or the one that's going to be
21 pursuant to the settlement, would not be sufficient
22 to allow the company to meet whatever competitive
23 threat was posed by the continuous challenges in
24 economic attractiveness?

1 A (Tenenholtz) Which companies are you
2 referring to?

3 Q The same ones the witness referred to, the
4 ones from which he received specific information from
5 the company and the ones to which O&R referred when
6 they characterized I think he said ten percent of the
7 revenues.

8 A (Tenenholtz) I am having difficulty
9 following the line of thought. I think the
10 settlement goes a substantial distance to fulfill the
11 needs of the electric companies to reduce costs and
12 stay in the service territory. As a side line, many
13 companies' individual plants are competing to remain
14 open. This will help plants to establish their
15 efficiency and remain in the service territory.

16 I think the purpose of flex rate is
17 flexibility. The flex rate will afford flexibility
18 if the current settlement may not be sufficient for
19 the needs or the circumstances that may arise in the
20 future as far as competitiveness.

21 A (Treiber) If I could add to that: I think
22 I would like to avoid a situation where customers are
23 pushed to the brink, where they have to look at other
24 locations, other states, other opportunities. I

1 think we would like to avoid them being pushed that
2 far. By making the rates more competitive I think we
3 avoid that serious risk to jobs and to the economy
4 and the territory.

5 Q Serious risks there being pushing them to
6 the brink; is that the serious risk you are
7 apprehensive about?

8 A (Treiber) I am talking about making the
9 electric rates more competitive and therefore putting
10 these companies in a better competitive position so
11 as to avoid, to the degree possible, them being
12 pushed to the brink of looking to relocate, looking
13 to leave and take the jobs with them.

14 Q Isn't it also true if the company is not
15 obliged to seek a flex rate they are also not obliged
16 to make employment commitments or investment
17 commitments in the community?

18 A (Addepalli) There is a presupposition there
19 is a discount that's being given to the customers.

20 Q We can talk about that in a moment. Are
21 you responding to the question?

22 A (Treiber) Could you repeat the question,
23 please.

24 (Record read by reporter.)

1 A (Treiber) That would generally be true for
2 the standard rates, although I believe there is an
3 economic development rate available that may have
4 some requirements associated with them.

5 Q The rate you are proposing for these
6 twenty-six favored industrial customers, that doesn't
7 have any requirements attached to it, does it?

8 A (Treiber) No.

9 Q Just a clarification. It's on page twenty.
10 Is there some testimony about the unregulated ESCO
11 that would be created by Orange & Rockland and could
12 be created by Orange & Rockland?

13 And I would like to ask for clarification
14 that were Orange & Rockland to do that in accordance
15 with the settlement agreement and create an
16 unregulated ESCO, whether it's--I am looking for a
17 statement from staff as to whether or not if Orange &
18 Rockland were to do that would they avoid or be able
19 to avoid, because this is going to be an approved
20 settlement, licensing requirements which would
21 otherwise be imposed on ESCOs.

22 MR. GARLIN: I would like the record to
23 reflect this is going to call for a legal
24 conclusion from a panel of witnesses not legally

1 trained.

2 Q I am asking only for their understanding of
3 the settlement.

4 A (Addepalli) My understanding of the
5 settlement is the ESCO that would be created would be
6 subject to any of the commission requirements that
7 all the ESCOs would have.

8 Q Good. I am looking at the settlement
9 agreement on page seventeen and, again, I am not
10 asking for a legal conclusion. The first bullet
11 towards the top of the page begins with the phrase,
12 "institute non-discriminatory procedures". Talks
13 about requiring an applicant to provide reasonable
14 proof. What is the intent of that language with
15 respect to what reasonable proof is?

16 A (Addepalli) I believe this whole paragraph
17 gives the company an opportunity to come to the
18 commission and ask for certain waivers to enable it
19 to institute these procedures.

20 Q Well, then--

21 A (Addepalli) At that time the company would
22 have to specify what it is they would want to use.

23 MR. WILES: Well, there is a threshold
24 question I didn't anticipate then. Mr. Garlin,

1 I have read this language up to now and even in
2 earlier discussion as being in effect a waiver
3 itself.

4 MR. GARLIN: I am aware of that, Mr.
5 Wiles, because your statement in opposition to
6 the settlement misquoted the language in the
7 settlement agreement.

8 MR. WILES: If that's an error. Had I
9 correctly quoted it--

10 MR. GARLIN: You can read what's in front
11 of you.

12 MR. WILES: It says the phrase, above the
13 point I just had, "should be waived". Certain
14 things should be waived. And if the commission
15 approves this settlement as it's written I would
16 have interpreted that as a waiver.

17 JUDGE BOSCHWITZ: I don't think we need a
18 dialog between you and Mr. Garlin.

19 Q Taking it as an application which is
20 anticipated to be made with respect to the reasonable
21 proof that be required as a condition of service,
22 what does the phrase "reasonable proof" in that
23 context mean?

24 A (Addepalli) When the company does file

1 something with the commission asking for permission
2 then we will examine it. It's difficult for me to
3 explain right here what is reasonable proof. We will
4 decide at the time of the application.

5 Q Well, are you or any other member of the
6 panel familiar now with the procedures Orange &
7 Rockland uses to provide or to accept and approve an
8 application for service from a potential residential
9 customer?

10 A (Addepalli) Our understanding is they abide
11 by the rules and regulations described in Part 11.

12 Q And do they take oral applications?

13 A (Addepalli) Yes, they do.

14 Q Are they required to do that by HEFPA and
15 the related regulations?

16 A (Addepalli) Under certain circumstances;
17 yes.

18 Q Would the provision of reasonable proof be
19 an additional requirement to receive service under
20 those conditions?

21 A (Addepalli) Could you repeat the questions,

22 Q Would an additional requirement which they
23 might wish to impose, which would be a requirement to
24 provide reasonable proof in order to receive service,

1 would that be a requirement that they would impose in
2 addition to those which they have now?

3 A (Addepalli) It's not clear to me at this
4 time whether it would necessarily entail additional
5 requirements.

6 JUDGE BOSCHWITZ: What's the purpose of
7 this provision, Mr. Addepalli?

8 A (Addepalli) I think, Your Honor, the
9 companies, many of them, including Orange & Rockland,
10 asked for some flexibility in their operations to
11 minimize their cost of uncollectibles, and to that
12 effect, with that as the end goal, reduce
13 uncollectibles. They wanted to make sure they are
14 providing service to customers. Still subject to the
15 regulations but in a more streamline fashion.

16 And they asked for some permission to seek
17 additional waivers from the commission if needed.
18 And this language simply allows them to seek
19 additional permission as to what procedures they
20 would use to screen applicants.

21 JUDGE BOSCHWITZ: Is this provision
22 consistent with the notion of the company will
23 be the provider of last resort?

24 A (Addepalli) Yes, it is. According to the

1 settlement, if approved, the company, the
2 transmission distribution company, would still be the
3 provider of last resort.

4 JUDGE BOSCHWITZ: Will this apply to the
5 ESCO?

6 A (Addepalli) No. This provision is meant
7 for the transmission and distribution company. The
8 ESCO will be subject to what the commission would put
9 out in the ESCO order. Has put out in fact.

10 JUDGE BOSCHWITZ: Well, I suppose, then, I
11 wonder why we have this particular provision
12 applicable to a regulated entity. What is the
13 purpose of the regulated entity streamlining
14 itself?

15 A (Addepalli) There is particular regulations
16 in place and there are procedures the companies adopt
17 to implement the regulations. To the extent they
18 want more flexibility in implementing the regulations
19 as they see fit to reduce the costs, this gives them
20 an option to ask the commission.

21 It gets into real semantics. I am not
22 necessarily working on this subgroup dealing with the
23 issue right now. It is going to be examined in other
24 proceedings as well as to modifications to the rules

1 and procedures dealing with this issue.

2 JUDGE BOSCHWITZ: Just so staff is clear, I
3 can't for the life of me understand why the
4 regulated utility requires a unique provision in
5 the settlement to enable it to streamline its
6 operations. And I am not saying they should be
7 able to streamline the operation. Seems to me
8 they are able to petition the commission any
9 time for change in requirements associated with
10 taking service.

11 And if we are being--if the commission is
12 asked to approve the settlement that contains
13 the clause I am interested to know what the real
14 purpose of it is. I don't right now.

15 MR. GARLIN: The person who signed the
16 settlement agreement would offer enlightenment
17 either now or on brief.

18 JUDGE BOSCHWITZ: Good.

19 MR. GARLIN: Would you prefer now or on
20 brief?

21 JUDGE BOSCHWITZ: Not now.

22 MR. GARLIN: Thank you, Your Honor.

23 JUDGE BOSCHWITZ: Go ahead, Mr. Wiles.

24 BY MR. WILES:

1 Q On page sixteen of the settlement
2 agreement, the previous page, there is a reference
3 under D to the company's ability to propose de
4 minimis rate changes. And I am asking for--I want to
5 understand better what the settlement agreement means
6 by the word "de minimis". How will we know one?

7 A (Treiber) I think what the settlement is
8 talking about are minor rate changes, housekeeping
9 changes, with regard to the tariffs. No additional
10 rate decreases or certainly anything else, but just
11 the rate change that may accompany some minor
12 modifications in the tariff that might become
13 necessary over the next few years, but nothing that
14 will be noticeable on somebody's bill. Talking about
15 something very, very minor.

16 Q Well, in the event that securitization
17 legislation were enacted I would assume that the
18 benefits of that would be available in rate relief
19 and the company would have to make an application to
20 do that?

21 A (Addepalli) That's provided for in the
22 settlement on page twenty under item K,
23 securitization. Even on page sixteen. These rate
24 changes, to the extent the company plans to make,

1 they would have to file something with the commission
2 for its approval.

3 A (Treiber) No tariff change can take place
4 without a commission approval with notice to parties
5 and opportunity for comment.

6 Q But this is a rate cap plan, the extent of
7 which is to not have changes in rates?

8 A (Treiber) That is right.

9 Q This is an exception which provides the
10 opportunity for de minimis rate changes?

11 A (Treiber) Again, only for the purpose of
12 minor housekeeping changes that may become necessary
13 over the next few years. Not for any noticeable rate
14 impact.

15 Q If we look at I think it's page
16 twenty-three of the testimony, just lines twelve and
17 thirteen, talking about another program here. Does
18 this other program exist today?

19 A (Addepalli) It's a concept at this time
20 that has been proposed by some parties in the generic
21 case. And here the company has agreed to support
22 development of such a pilot.

23 Q And is this intended to be the development
24 of a program to aggregate low income customers in

1 advance of the time when residential customers in
2 general have retail access?

3 A (Addepalli) It could be as part of their
4 power pick program at this time. They could take
5 advantage of that.

6 Q Well, when you have used the phrase, "the
7 company will support the development", what would the
8 company do to support the development?

9 A (Addepalli) The company knows its customers
10 best, knows its operation system the best, and to the
11 extent it can put its weight behind and help the
12 other parties in framing the program it would do the
13 best. It could make sure this becomes operational.
14 Exactly what functions it would perform is something
15 that could be discussed as this unfolds.

16 Q Should we be looking to some actual rate
17 advantage, some savings to low income customers from
18 this company's support?

19 A (Addepalli) I think if you aggregate
20 customers and they can purchase from alternate
21 suppliers, they potentially could save money, as the
22 power pick experience has shown to date. Many of the
23 customers are saving money, different degrees of
24 dollars, so they could, as a group, purchase from

1 alternate suppliers and reduce their bills.

2 Q And is there an understanding between staff
3 and the company or some documentation as to what the
4 extent of savings are anticipated to be for low
5 income customers as a result of this commitment?

6 A (Addepalli) I don't have any definite
7 estimates of what the savings potential is.

8 MR. WILES: I have no further questions,
9 Your Honor.

10 JUDGE BOSCHWITZ: Other questions of the
11 panel? Ms. Pien.

12 CROSS EXAMINATION

13 BY MS. PIEN:

14 Q On page eighteen the panel discusses what
15 the settlement provides for in terms of a system
16 benefits charge?

17 A (Addepalli) Yes.

18 Q In the settlement agreement, Appendix D
19 shows that some of the sources of the price
20 reductions that are in the settlement agreement come
21 from reductions in DSM programs?

22 A (Addepalli) yes.

23 Q Did staff investigate the impact of what
24 reducing DSM would have on the economy prior to

1 entering such an agreement?

2 A (Addepalli) Could you be more specific on
3 the economy.

4 Q Did you look at whether there would be any
5 impact on jobs since DSM helps to create jobs?

6 A (Addepalli) Many of the programs that are
7 implemented at DSM have to pass certain cost
8 effectiveness tests. And to the extent the benefits
9 and costs that are accounted for in those tests
10 include what you just said, that's accounted for as
11 part of the cost effectiveness test.

12 Q You didn't look at anything independently
13 of that. Did you look at the impact that reduced DSM
14 spending would have on the environment?

15 A (Addepalli) My understanding is the
16 environmental impacts are being addressed on a
17 generic basis by other staff members, not necessarily
18 our staff members.

19 Q You didn't have any basis for a
20 determination of the environmental impact that this
21 would have when you made the decision to agree to
22 this?

23 A (Addepalli) We did not. This panel did
24 not.

1 Q When I asked you about whether you looked
2 at the impact on jobs you said that jobs were
3 included within the cost benefit analysis under the
4 programs. Does that mean that the programs that you
5 chose to discontinue are programs that you determined
6 weren't cost effective or have you determined--go
7 ahead and answer that question, I am sorry.

8 A (Addepalli) All I was simply saying is that
9 all the DSM programs that are being implemented are
10 supposed to be cost effective based on the commission
11 standards.

12 MS. PIEN: Thank you. No further
13 questions.

14 JUDGE BOSCHWITZ: Are there other questions
15 of the staff panel?

16 BY JUDGE BOSCHWITZ:

17 Q Clarify just one or two points for me
18 quickly. At page twenty it indicated that various
19 parties will address different measures for
20 mitigating load pocket conditions and analysis of
21 those measures will be submitted in January of 1998.
22 Is that to the commission?

23 A (Addepalli) Our intent was that the company
24 already stated in its October filing a proposed plan

1 Q When I asked you about whether you looked
2 at the impact on jobs you said that jobs were
3 included within the cost benefit analysis under the
4 programs. Does that mean that the programs that you
5 chose to discontinue are programs that you determined
6 weren't cost effective or have you determined--go
7 ahead and answer that question, I am sorry.

8 A (Addepalli) All I was simply saying is that
9 all the DSM programs that are being implemented are
10 supposed to be cost effective based on the commission
11 standards.

12 MS. PIEN: Thank you. No further
13 questions.

14 JUDGE BOSCHWITZ: Are there other questions
15 of the staff panel?

16 BY JUDGE BOSCHWITZ:

17 Q Clarify just one or two points for me
18 quickly. At page twenty it indicated that various
19 parties will address different measures for
20 mitigating load pocket conditions and analysis of
21 those measures will be submitted in January of 1998.
22 Is that to the commission?

23 A (Addepalli) Our intent was that the company
24 already stated in its October filing a proposed plan

1 for mitigating load pockets. And we felt and some
2 other parties felt that may not be a comprehensive
3 list of alternate solutions and may not be the best
4 recommendation.

5 The intent of this is the company and other
6 parties could commit their own alternate measures and
7 proposed recommendation in January 1998 and then the
8 process would start analyzing the different
9 alternatives and coming up with a recommendation for
10 the commission. So this is the starting point.

11 Q January 1998 would be the starting point
12 for the working group to access the measures that
13 were submitted by the various parties and come up
14 with a solution or recommended solution?

15 A (Addepalli) That is correct.

16 Q Is there a time table for submission to the
17 commission?

18 A (Addepalli) We would like this to be done
19 before the implementation of wholesale in May if
20 possible, few months' time period. I don't think we
21 specified an end date. The intention is to do it in
22 a few months.

23 Q Are there any mechanistics in place to
24 insure that outcome is likely or does it depend upon

1 the cooperation of the parties?

2 A (Addepalli) I think in the filing the
3 expectation is that the company would file. They
4 would also file a default recommendation that if
5 parties cannot agree that would go to the commission
6 by certain date. So that would go to the commission
7 if the parties cannot agree to something, but our
8 expectation is that there would be collaboration and
9 agreement on this. Unlike something in some of
10 utilities, the load pockets' situation in Orange &
11 Rockland is not extensive.

12 Q Are you familiar with the default mechanism
13 and what it entails?

14 A The default mechanism the company indicated
15 would be what is proposed in its October filing
16 before.

17 Q Page ten, at the bottom of the page there
18 is a statement that, "No new residential customers
19 will be added to the mandatory time-of-use
20 subclassification, and continuation of mandatory
21 residential time-of-use service will be at issue
22 during consideration of unbundled rate proposal".

23 Can somebody expand on that statement and
24 tell me what the term "at issue" means.

1 A (Addepalli) Whether the mandatory
2 time-of-use rate would be continued for the existing
3 customers would be decided in that phase. One
4 decision has been made here that there would be no
5 addition of new customers into this rate, but the
6 decision as to what to do with the existing customers
7 who are on will be decided in the unbundling
8 procedure.

9 Q When is that proposal to be filed?

10 A August '97.

11 Q Is that determination to be made by the
12 company itself or in consultation with other parties?

13 A The latter. Ultimately the commission has
14 to decide.

15 Q But the filing will be by the company?

16 A That is correct. The unbundling filing
17 would be by the company.

18 Q So, it possesses a veto power in the sense
19 so far as the determination is concerned?

20 A (Addepalli) I think the company probably
21 has a proposal in mind as to what to do with the
22 existing customers and they would file that in August
23 '97. All the parties would review that.

24 JUDGE BOSCHWITZ: Any redirect, Mr.

1 Garlin?

2 MR. GARLIN: May I have a moment to confer.

3 JUDGE BOSCHWITZ: Yes. Take a brief
4 recess.

5 (Recess taken.)

6 JUDGE BOSCHWITZ: Mr. Garlin.

7 REDIRECT EXAMINATION

8 BY MR. GARLIN:

9 Q In the cross-examination by Mr. Wiles there
10 was some discussion about the reference on page
11 thirteen to customers realizing the benefits of open
12 retail access and the fact that the rate reductions
13 proposed in the settlement are as stated in page
14 thirteen, an advance challenging of the benefits. Do
15 you recall that, panel?

16 A (Addepalli) Yes.

17 Q Do you recall Mr. Wiles then asking if you
18 could give him a reference to opinion 96-12
19 concerning that issue?

20 A (Addepalli) Yes.

21 Q If you would, please, turn to page ten of
22 your prefiled direct testimony, lines four through
23 eight. And after reviewing lines four through eight
24 please tell me whether or not that also sets forth an

1 excerpt from the opinion that is relevant to this
2 issue.

3 A (Addepalli) Yes, it does.

4 Q Mr. Treiber, in being cross-examined by Mr.
5 Wiles you gave a quote from a Mr. Greenholtz. Could
6 you please identify for the record who Mr. Greenholtz
7 is.

8 A (Treiber) Yes. Mr. Greenholtz is president
9 of the Industrial Energy Users Association as well as
10 associate director of utility providing for
11 Wyeth-Ayerst Laboratories in Pearl River which is
12 associated with Lederle labs.

13 Q And the last time you heard, Mr. Treiber,
14 how many members did IEUA have?

15 A (Treiber) My understanding is that IEUA has
16 fourteen members within the twenty-six member
17 industrial classes.

18 Q And finally, Mr. Addepalli, I will direct
19 this to you. On cross-examination from Ms. Pien you
20 were asked if the panel had assessed the impact of
21 reduced DSM on the environment. Please tell me if
22 there is any other evidence on the record in this
23 proceeding concerning the impact of reduced DSM on
24 the environment.

1 A (Addepalli) Yes. My understanding is
2 Exhibit 2 deals with the environmental assessment
3 impact on the environment as a result of this. And
4 that has been filed by the company.

5 MR. GARLIN: I have no further redirect,
6 Your Honor.

7 JUDGE BOSCHWITZ: Is there any additional
8 cross?

9 MR. WILES: No, Your Honor.

10 JUDGE BOSCHWITZ: Ms. Pien?

11 MS. PIEN: No, Your Honor.

12 JUDGE BOSCHWITZ: Panel will be excused.
13 Thank you.

14 Ms. Pien, at this time you may offer that
15 affidavit on behalf of Mr. Gupta concerning the
16 prepared testimony.

17 MS. PIEN: Thank you, Your Honor. I would
18 like to ask Mr. Gupta's testimony in this matter
19 be received into the record. Testimony is
20 accompanied by an affidavit. The document was
21 prepared under his direction.

22 JUDGE BOSCHWITZ: The affidavit will be
23 marked as Exhibit 21 for identification.

24 (Exhibit 21 marked for

1 identification.)

2 JUDGE BOSCHWITZ: Consistent with our
3 proceedings the testimony of Mr. Gupta will be
4 incorporated into the record as if given orally.
5 Were there any corrections to the testimony?

6 MS. PIEN: No, there were not.

7 (The following is the prefiled
8 testimony of Ashok Gupta.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

**BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION**

In the Matter of

- | | |
|-----------------------|---|
| CASE 96-E-0909 | In the Matter of Central Hudson Gas and electric Corporation's Plans for Electric Rate/Restructuring pursuant to Opinion No. 96-12 |
| CASE 96-E-0897 | In the Matter of Consolidated Edison Company of New York, Inc.'s Plans for (1) Electric Rate/Restructuring Pursuant to Opinion No. 96-12; and (2) the Formation of a Holding Company Pursuant to PSL, Sections 70, 108 and 110, and Certain Related Transactions |
| CASE 96-E-0891 | In the Matter of New York State Electric and Gas Corporation's Plans for Electric Rate/Restructuring Pursuant to Opinion No. 96-12. |
| CASE 96-E-0900 | In the Matter of Orange and Rockland Utilities, Inc.'s Plans for Electric Rate/Restructuring Pursuant to Opinion No. 96-12. |
| CASE 96-E-0898 | In the Matter of Rochester Gas and Electric Corporation's Plans for Electric Rate/Restructuring Pursuant to Opinion No. 96-12. |
-

**GENERIC TESTIMONY
of
ASHOK GUPTA**

Submitted on Behalf of

**PUBLIC INTEREST INTERVENORS*
by
PACE ENERGY PROJECT**

Filed March 7, 1997

*The Adirondack Council, American Lung Association, American Wind Energy Association, Association for Energy Affordability, Association for Protection of the Adirondacks, Citizen Action, Citizens Advisory Panel, Citizen's Campaign for the Environment, Environmental Planning Lobby, Hudson Riverkeeper, Hudson River Sloop Clearwater, Natural Resources Defense Council, The New York Energy Efficiency Council, New York Public Interest Research Group, New York Rivers United, Pace Energy Project, Scenic Hudson, Sierra Club-Atlantic Chapter.

Ashok Gupta

1 I. WITNESS INTRODUCTION AND QUALIFICATIONS.

2 Q: Please state your name and business address.

3 A: My name is Ashok Gupta. My business address is 40 W. 20th
4 St., New York, NY 10011.

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

7 A: I am employed as a Senior Energy Economist with the Natural
8 Resources Defense Council ("NRDC"), a national, private, not-
9 for-profit environmental organization with over 360,000
10 members, including approximately 30,000 members in New York
11 State.

12 Q: Could you please summarize your educational background and
13 professional experience?
14

15 A: I received my Bachelor's Degree in Physics and Math from
16 Georgetown University and a Master's Degree in economics from
17 American University. I have been with NRDC since September,
18 1991, where I am responsible for working on energy policy and
19 related issues, including utility restructuring, energy taxes,
20 energy efficiency, renewables and low income service. Prior
21 to joining NRDC, I was employed by the New York City
22 Department of Telecommunications and Energy, and by the Public
23 Utility Law Project of New York.

24 Q: Have you previously testified before the New York Public
25 Service Commission?

26 A: Yes. I have previously testified in Orange and Rockland
27 Utilities' most recent rate proceeding (Case 95-E-0491 et.
28 al.).
29

Ashok Gupta

1 II. PURPOSE OF TESTIMONY.

2 Q. What is the purpose of your testimony?

3 A. My testimony covers three areas. First, I propose a means of
4 implementing the Commission's goal of funding certain public
5 policy initiatives through a competitively neutral, non-
6 bypassable system benefits charge. In this testimony, I
7 describe a market-compatible mechanism for supporting the
8 commercialization of new energy efficiency technologies,
9 public benefits research and development (including clean
10 power alternatives), and low income affordability efforts.
11 Second, I propose a mechanism that will assist customers in
12 making reasoned choices between energy service options in the
13 newly emerging retail electric marketplace. Specifically, I am
14 requesting that the Commission open an investigation for the
15 purpose of developing a protocol for environmental disclosure.
16 Third, I will discuss several mechanisms that hold market
17 participants to comparable environmental standards. I propose
18 that these mechanisms be adopted to redress the disparate
19 regulatory treatment between older and newer generation, and
20 the attendant environmental impact as markets are opened up to
21 competition.

Ashok Gupta

1 III. SYSTEM BENEFITS CHARGE

2 Q: Has the Commission recently addressed public benefits
3 initiatives?4 A: Yes. In its *Competitive Opportunities* decision (Opinion 96-12,
5 hereinafter "Order" or "Competitive Opportunities Order"),
6 issued and made effective on May 20, 1996, the Commission
7 established a new mechanism to implement its statutory
8 responsibility to ensure the safe, clean and efficient
9 provision of electricity to all New Yorkers. The Commission
10 declared that this responsibility would entail - at least
11 during the transition and potentially over the long-term - the
12 preservation of energy efficiency and research and development
13 programs, environmental protections, and low income programs
14 beyond what competitive markets may provide.15 The Commission directed that funding for these activities be
16 through a system benefits charge. As contemplated by the
17 Commission, the system benefits charge "would be designed to
18 ensure that the cost of carrying out these public policy
19 initiatives was fairly allocated across most, if not all,
20 users of the power distribution system, and recovered in a
21 competitively neutral manner." (Order at 61)22 The Commission also justified system benefits charge funding
23 for energy efficiency investment, and research and development
24 in environmental and renewable resource areas as a means of
25 mitigating air quality impacts associated with industry
26 restructuring. (Order at 84-5)

Ashok Gupta

1 Q: Hasn't this issue been set for resolution on a separate
2 procedural track?

3 A: While the Commission has established a separate proceeding to
4 address system benefits charge-related issues, issues
5 litigated in these utility-specific proceedings may well be
6 determinative of the outcome of that proceeding. There are at
7 least two reasons for this conclusion.

8 First, at least one draft settlement agreement incorporates
9 recommended SBC funding levels, eligible programs and
10 timeframes. If the Commission is going to entertain SBC issues
11 in the context of this settlement, it should be aware that
12 there are competing proposals for how SBC funding and
13 administration should go forward.

14 Second, the establishment of appropriate rate designs and
15 revenue requirements are among the matters at issue in these
16 utility-specific cases. Appropriate revenue levels and rate
17 design are based, in part, on assumed levels of spending on
18 energy efficiency, public benefits research and development,
19 low income programs and environmental initiatives - in short,
20 the items covered by the SBC. I am concerned that rates set
21 in the utility-specific proceedings not act as an explicit or
22 implicit limitation on the funding levels for these
23 initiatives.

Ashok Gupta

1 Q: Please summarize your proposal for funding and administration
2 of the system benefits charge?

3
4 A: My proposal for the system benefits charge assures the
5 continued delivery of cost-effective investments that have
6 become integral to the provision of high quality electric
7 service. Consistent with the Commission's specification for
8 a system benefits charge, my recommendation has the following
9 salient features:

- 10 • **the system benefits fund will be administered in a**
11 **market-compatible fashion:** My recommendation is that the
12 Commission open to competition the design and delivery of
13 energy efficiency, research and development and low
14 income affordability programs, funded through a system
15 benefits charge. An independent administrator would
16 oversee the fund, and make decisions following an open,
17 competitive and streamlined solicitation processes.
18 Utilities would no longer administer energy efficiency,
19 RD&D and low income programs pursued through the SBC but
20 could compete to deliver future programs.
- 21 • **the charge is non-bypassable:** My recommendation is
22 consistent with the Commission's desire that the system
23 benefits charge will be allocated fairly across most, if
24 not all, users of the power distribution system, to the
25 extent that sales are under the Commission's
26 jurisdiction. My proposal would require contributions

Ashok Gupta

1 from the vast majority of customers who are connected to
2 the power grid.

3 • the charge is competitively neutral: Competition is most
4 prevalent in the generation and energy service functions.
5 By contrast, the "wires" will remain a monopoly service
6 for the foreseeable future. By assessing the system
7 benefits charge as a component of the monopoly wires
8 service, the SBC will not influence consumers as to their
9 choice of energy supplier.

10 Q: Under your proposal, what types of investments would not
11 qualify for funding under the system benefits charge?
12

13 A: In general, those activities which are expected to be
14 undertaken by private markets and regulated entities in a
15 restructured electric industry should not qualify for funding,
16 under the system benefits charge.

17 Q: What is the relationship between private investment in energy
18 efficiency and the system benefits charge.
19

20 A: There will continue to be large opportunities to reduce total
21 energy consumption and customer costs by improving the
22 efficiency with which consumers use electricity. This
23 efficiency gap is largely the result of market failures
24 related to: 1) the nature of the information involved in
25 evaluating energy efficiency investments; 2) consumers'
26 limited human and financial resources; and 3) non-internalized
27 environmental risks. As a result, initiatives designed to

Ashok Gupta

1 accelerate the commercialization of new energy-efficient
2 technologies will be essential in pulling new efficient
3 technologies from the laboratory into widespread commercial
4 acceptance and eventual inclusion in codes and standards.

5 The Commission has held out the hope that energy service
6 companies will develop innovative energy conservation
7 programs. (Order at 61) At the same time, the Commission has
8 recognized that market participants, acting in their own
9 economic interest, will not exhaust the full range of economic
10 and environmentally-justified opportunities in these
11 investments. (See Order at 61)

12 The system benefits charge should be used in ways which
13 complement, rather than compete with market-delivered energy
14 efficiency. The fund should promote the establishment of an
15 expanded and self-sustaining trade in energy efficiency
16 products and cleaner forms of generation. At the same time,
17 the Commission should recognize that market barriers will
18 continue to limit market driven energy efficiency after the
19 transition, so that there may well be a role for SBC funded
20 energy efficiency programs beyond the transition to full
21 competition.

22 Q: Please explain the relationship between the system benefits
23 charge and energy efficiency undertaken by regulated entities.
24

25 A: There are several areas subject to regulation where energy
26 efficiency and renewable technologies should continue to play

Ashok Gupta

1 a prominent role. These include:

- 2 • energy efficiency and load management used in mitigation
- 3 of market power or load-pocket situations;
- 4 • cost-effective energy efficiency, renewable energy or
- 5 distributed generation that are commercially available as
- 6 alternatives to transmission and distribution system
- 7 replacement, expansion, or upgrade.

8 While I wholeheartedly endorse the full utilization of energy
9 efficiency and renewables in these situations, funding should
10 be through mechanisms other than the system benefits charge.

11 Q: Given the respective roles of market participants and
12 regulated entities in capturing energy efficiency potential,
13 what do you see as the funding priorities for the sytem
14 benefits charge?

15
16 A: Efficiency programs funded through a SBC should be directed
17 towards achieving market transformations, capturing lost-
18 opportunities, and making energy services more affordable to
19 low income customers. Performance based contracts should be
20 directed towards traditionally under-served customers.

21 Q: Who would administer the fund?

22
23 A: My recommendation is for independent fund administration by an
24 existing state agency. Based on its experience in effectively
25 managing and implementing many energy efficiency,
26 environmental protection and research and development
27 initiatives, NYSERDA would be my first choice as fund
28 administrator.

Ashok Gupta

1 The focus areas, directions, and priorities of the program
2 should be established with an open process that invites input
3 from all affected sectors, including periodic review and
4 guidance by representatives of relevant State agencies,
5 electric utilities, energy organizations, environmental groups
6 and other stakeholders.

7 Q: How do you envision that program priorities will be
8 determined?
9

10 A: Program priorities will be set by the fund administrator, with
11 the input of an advisory committee comprised of
12 representatives from each customer class, and other
13 individuals having expertise in energy efficiency and
14 environmental protection. In general, individuals serving on
15 the advisory committee should have no direct financial
16 interest in the allocation of system benefits funds.

17 Q: On what basis will expenditures be made?
18

19 A: Expenditures will be made upon the basis of RFPs, standard
20 offer contracts and financing for activities consistent with
21 the purposes of the SBC.

22 Expenditures for energy conservation and efficiency will
23 generally be within the respective service territory in which
24 the funds were raised, except that the system benefits fund
25 administrator may reserve a portion of the funds for state-
26 wide market transformation programs which provide benefits to
27 customers throughout the state.

Ashok Gupta

1 SBC funds will be used to support SBC Administrator staff and
2 expenses only to the extent needed to support competitive
3 delivery of activity in support of the SBC objectives and to
4 carry out research needed to properly assess market conditions
5 and to direct funds in the public interest.

6 The fund administrator should also establish evaluation and
7 verification protocols to facilitate a review of the success
8 of fund expenditure. This should be another input guiding the
9 general direction, as well as future spending levels, of the
10 system benefits fund.

11 Q: Who will be eligible to compete for funds?

12
13 A: The competition should be open to all types of providers,
14 including: product manufacturers, vendors, industry
15 associations, and energy service companies, as well as
16 utilities. Individual consumers would also be eligible.

17
18 Q: Should utilities be precluded from managing funds collected in
19 its service territory?

20
21 A: Yes.

22 Q: Why shouldn't utilities continue to control funds for energy
23 efficiency and other public benefit initiatives?

24
25 A: For at least two reasons.

26 First, insofar as the regulated transmission and distribution
27 company has an affiliated ESCO providing energy efficiency
28 services within its service territory, there will be serious,
29 and I believe insurmountable, conflicts of interest. Under

Ashok Gupta

1 these circumstances, the utility is not an impartial third-
2 party which can be expected to objectively evaluate bids its
3 affiliate may proffer as against those submitted by other
4 market participants.

5 Second, absent some mechanism which decouples sales from
6 earnings such as the price cap plus approach recommended by
7 PII witness David Schoengold, there will be a strong bias
8 favoring increased throughput on the distribution system, and
9 a corresponding disincentive to pursue cost-effective energy
10 efficiency. There should be no question as to whether the SBC
11 administrator is motivated to zealously pursue the objectives
12 of the system benefits fund.

13 Q: Initially, at what level should the charge be set?

14 A: I recommend that the system benefits charge be set at
15 15/100ths of a cent (1.5 mills) per kilowatt-hour delivered.
16 Based on 1995 electric sales for the five utilities covered in
17 this proceeding, this charge will generate annual revenues
18 totalling \$92.2 million. If a charge at the 1.5 mill level is
19 applied to Niagara Mohawk and LILCO, revenues generated
20 statewide would total \$155.1 million annually.

21 Q: How do you arrive at this contribution?

22 A. The Commission's Competitive Opportunities Order anticipated
23 "current" level funding for the enumerated public policy
24 initiatives. (Order at 61). A reasonable interpretation of the

Ashok Gupta

1 Commission's order, and my recommendation here, is that funds
2 be set at 1995 annual levels.

3 First, it is important to understand that, notwithstanding the
4 significant benefits that accrue, funding for public policy
5 initiatives has been in rapid and continuous decline in recent
6 years. What the Commission chooses as a reference point --
7 i.e., what is defined as "current" expenditures -- will thus
8 have an important bearing on the amount of funds available for
9 investment at the outset of the system benefits fund. In my
10 view, 1995 represents a reasonable mid-point in the continuum
11 between peak level spending and today's levels.

12 For example, statewide utility investment in energy efficiency
13 peaked in 1993 at \$279 million. Even at this historically
14 high level of spending, the 1994 State Energy Plan found that
15 utilities were leaving behind much of the cost-beneficial
16 potential in energy efficiency, and formally recommended that
17 the state's investor owned utilities establish more ambitious
18 energy savings goals. (See New York State Energy Plan, Volume
19 II: Issues Reports, Issue #1: Economic Competitiveness,
20 Finding 7, p. 36.)

21 Release of the SEP in 1994 coincided with the release of
22 another influential document, the California Blue Book, which
23 has helped to precipitate the current push for electric
24 industry restructuring across the country. Utility managers,

Ashok Gupta

1 anticipating that they will soon be plunged into a competitive
2 arena dominated by short-term price considerations, have began
3 to scale back their energy efficiency portfolio.

4 Thus, rather than redouble energy efficiency efforts, as
5 prescribed by the SEP, utility spending on energy efficiency
6 has fallen precipitously in the years 1994 through 1996.

7 Second, spending on public policy initiatives should be
8 pegged to the level existing in the year nearest the date
9 of the Commission's Order, i.e., 1995.

10 Third, this interpretation balances various considerations
11 alluded to in the Commission's order including the desire to:
12 1) see energy efficiency flourish in the new environment (pp.
13 61-2); 2) avoid adverse environmental impacts (p.85); and 3)
14 minimize rate impacts (p. 61).

15 Q: How do you reconcile volumetric recovery with the Commission's
16 goal of non-bypassability?
17

18 A: While volumetric recovery does open the possibility of
19 consumers disconnecting from the grid, and thereby avoiding
20 the system benefits charge, I see this potential as fairly
21 limited. As with stranded cost recovery, mechanisms can be
22 implemented to limit the potential for bypass of SBC charges.

23 Q: How long should the system benefits charge outlined in
24 your testimony remain in place?
25

26 A: The charge should be fixed for five years. The charge can be
27 adjusted thereafter following a full evaluation, utilizing

Ashok Gupta

1 neutral criteria collaboratively developed, including among
2 other things, whether the market is adequately providing these
3 public benefits. There should be no presumption at the outset
4 that the charge should be decreased (or increased) over time.
5

6 **IV. ENVIRONMENTAL DISCLOSURE**

7 **Q. What do you mean by environmental disclosure?**

8 A. By environmental disclosure, I mean an objective statement
9 about resources used to supply power by a particular company
10 or under a particular brand name. I am recommending that
11 customers receive information on bills and in marketing
12 materials which reveals the fuel mix and emissions
13 characteristics of their energy supply.

14 **Q. Why is environmental disclosure important?**

15 A. The Commission envisions a future electric industry in New
16 York State in which customers have new and enhanced choices.
17 The Commission views the ability of customers to choose among
18 alternative providers and service options not only as a
19 desired end unto itself, but also as a means of achieving
20 other important objectives such as lower cost service,
21 innovation and economic growth. (Opinion 96-12, *Opinion and*
22 *Order Regarding Competitive Opportunities for Electric*
23 *Service*, New York Public Service Commission, issued and
24 effective May 20, 1996, p. 30) The Commission is also
25 cognizant, however, that "ample and accurate information for

1 customers to use in making informed decisions" is essential to
2 the effective operation of the competitive retail market.
3 (Ibid., p. 27)

4 The Commission anticipates that customer demand will play an
5 ever-increasing role in achieving social objectives such as
6 greater utilization of energy efficiency, and enhanced
7 environmental quality. (Ibid., p. 61) It is axiomatic,
8 however, that for customers to give full expression to their
9 preference for clean power options, they must be provided
10 basic, unbiased, and easily understood information and a
11 reliable means of assessing the environmental characteristics
12 of supply alternatives.

13 Q. Are customers really concerned about the environmental
14 characteristics of their electric service?

15 Yes. This is demonstrated by extensive market research data
16 which indicates that customers are willing to pay extra for
17 "green" power:

- 18 1) West Texas Utilities' recently released customer
19 preference survey shows that renewables (wind,
20 solar) and energy efficiency were the preferred
21 options (35 % and 31%, respectively) of customers;
22
- 23 2) A recent survey of 1,000 registered voters
24 indicates that over 75% would be willing to pay up
25 to 2% or more per month extra for renewables; and
26 over 50% would support paying up to 5% or more.
27 (Research/Strategy/Management, Inc. survey,
28 conducted December 1-10, 1995, for the Sustainable
29 Energy Budget Coalition, Takoma Park, MD);
30
- 31 3) In developing its Green Pricing option, Niagara Mohawk
32 determined that 1/3 of their customers would be willing
33 to pay up to 15% extra to add renewable power to the

Ashok Gupta

1 utility's resource mix;
2

- 3 4) Within weeks of initiating its green tariff option,
4 Traverse City Power & Light (Michigan) received
5 more requests to participate than it could
6 accommodate. Under the program, customers pay a
7 23% price premium on electricity use to support a
8 local wind farm;
9
- 10 5) Under the Sacramento Municipal Utility District's
11 (SMUD) PV Pioneers program, participating
12 residential customers agree to pay \$6 per month (a
13 15% premium) and to provide the roof area to
14 install a photovoltaic (PV) system. SMUD reports
15 that "a very low level of public information
16 effort" including media, resulted in several
17 thousand customers contacting the utility with
18 interest in participating; and
19
- 20 6) In September 1995, Detroit Edison began offering
21 SolarCurrents in which customers are given an
22 opportunity to buy a share of capacity of a 28kW
23 photovoltaic system. Detroit Edison fully-
24 subscribed the project by February 1996, with a
25 cross-section of over 200 customers participating.
26

27 (See generally Holt, *Green Pricing Experience and Lessons*
28 *Learned*, Proceedings of the 1996 ACEEE Summer Study, Volume 9,
29 p. 133, Pacific Grove, California, August 25-31, 1996)
30

31 These programs represent the first attempts to understand and
32 capture the green power market. I would expect interest in
33 green power options to increase over time as consumers develop
34 an awareness of the environmental impacts of electric service;
35 as more green power options are offered by both utilities and
36 unregulated providers; and as consumers express their
37 preference for environmentally benign resources with their
38 pocketbooks.
39
40
41

Ashok Gupta

1 Q. If demand for clean power is so great, won't some retailers
2 position themselves to serve this niche?

3 A. Undoubtedly. However, if New England's experimentation with
4 retail access serves as any guide, there is a reasonable
5 likelihood that many providers will make environmental claims
6 that are vague, dubious or misleading. For example, Northfield
7 Mountain Energy (a subsidiary of nuclear-based Connecticut
8 Light and Power) asserts that it utilizes 100 percent
9 hydropower (pumped storage), but fails to disclose what type
10 of power is used to pump the water to the top of the
11 mountain in the first instance. (See Attachment I) Others
12 make opaque references about their environmentally-friendly
13 track record. Still others offer environmental perks that are
14 unrelated to their power supply. (See Attachment II)
15 Unfortunately, customers are not well-positioned to
16 dissimilate the various representations made by those seeking to
17 capture the green market.

18 Q. Won't truth-in-advertising laws deter suppliers from making
19 false or misleading claims?
20

21 A. Yes. However, these laws will only affect those suppliers
22 that make an affirmative decision to market to the
23 environmentally-conscious consumer. These laws will not
24 enhance consumers' understanding of the environmental
25 characteristics of the many suppliers who, for obvious
26 reasons, say nothing about the environmental profile of their
27 supply. Nor do these laws provide a common yardstick by which

Ashok Gupta

1 to evaluate the environmental impact of competing service
2 providers who do make environmental claims.

3 Truth-in-advertising laws should be seen as complements to --
4 rather than substitutes for -- strict disclosure requirements.
5 In this respect at least, electricity should be seen as no
6 different from the many markets -- cars, appliances, food
7 products -- which depend on labeling to facilitate informed
8 consumer choice.

9 Q. Are other states addressing environmental disclosure?

10 A. Yes. Several states are requiring environmental disclosure as
11 they move to open up their retail electric markets. Thus,
12 Vermont's Public Service Board is requiring, as part of the
13 retailer certification process, disclosure of the types of
14 sources of the electricity the retailer is selling in Vermont,
15 and the environmental impacts associated with that generation.
16 (*Order, Investigation into the Restructuring of the Electric*
17 *Industry in Vermont*, Vermont Public Service Board, Docket No.
18 5854, p. 108)

19 Similarly, in an effort "to support consumers' ability to make
20 informed decisions", the Massachusetts Department of Public
21 Utilities "intends to require that when suppliers register,
22 they provide information on the sources and environmental
23 impacts of power that they propose to sell to consumers" in
24 the state. (*Order, Electric Industry Restructuring Plan: Model*
25 *Rules and Legislative Proposal*, Massachusetts Department of

Ashok Gupta

1 Public Utilities, D.P.U. 96-100, p. 162) Noting the
2 particular usefulness of this information to consumers who
3 seek to purchase electricity from low-emission generating
4 sources, the D.P.U. will require all suppliers to report, on
5 a quarterly basis, information related to fuel sources and
6 emissions characteristics. (Ibid., p. 163.) Maine has adopted
7 a similar requirement for disclosure of resource mix (see
8 Order, Electric Utility Industry Restructuring Report and
9 Recommendation Plan, Maine Public Utilities Commission,
10 December 31, 1996, pp. 88-89).

11 At its most recent Annual Meeting, NARUC passed the
12 "Resolution in Support of Customer 'Right-to-Know' and Product
13 Labeling Standards for the Retail Marketing of Electricity",
14 supporting environmental disclosure initiatives like those
15 underway in New England. (Attachment III) Specifically, the
16 resolution calls for "States adopting retail direct access
17 programs to include enforceable standards for disclosure and
18 labeling that would allow retail customers to easily compare
19 the price, price variability, resource mix and environmental
20 characteristics of their purchases." (NARUC Resolution,
21 Adopted November 20, 1996, San Francisco, Calif.)

22 Q. Aren't there technical barriers that preclude implementation
23 of environmental disclosure?
24

25 A. No, so long as it is kept in mind that the relevant exercise
26 is to track the flow of consumer dollars that support supply

Ashok Gupta

1 alternatives, not the flow of electrons. As with other
2 elements in the restructuring of wholesale electric industry,
3 access generally, there are certainly complicated technical
4 issues to be worked through. I do not, however, see these
5 issues as intractable.

6 Q. What are you recommending?

7 A. I recommend that the Commission support informed customer
8 choice and environmental improvement by: 1) endorsing the
9 principle of environmental disclosure; and 2) convening a
10 separate investigation to determine the precise form and
11 content of environmental disclosure requirements. I recommend
12 that this investigation be conducted as a collaborative
13 process to draw on the expertise and experience of power
14 producers, retail marketers, environmentalists, consumer
15 groups and others, all of whom have a stake in, and spent
16 considerable time addressing, the future structure of the
17 retail market in New York State.

18 Q. Do you have an opinion on the value of providing customers
19 with information on other characteristics of energy supply
20 options?

21
22 A. I am generally in favor of providing customers with
23 information that will facilitate meaningful choice. Although
24 my testimony does not explicitly cover disclosure of other
25 attributes of energy service options that customers may find
26 useful in comparison shopping - for example, price and risk
27 terms - many of the arguments I make for environmental

Ashok Gupta

1 disclosure would apply equally to these attributes of energy
2 service.

3
4 V. ENVIRONMENTAL COMPARABILITY

5 Q: As competition is introduced into the generation sector, are
6 there steps the Commission should take to create a level
7 playing field among generators in regard to environmental
8 control requirements?

9
10 A: Many older fossil fuel-fired power plants are exempt from
11 federal New Source Performance Standards (NSPS) that are
12 applicable to relatively new generating facilities. The
13 exemption was based on the assumption that older units would
14 retire after 30 years of service, to be replaced by newer
15 units that meet the NSPS. This anticipated retirement has, by
16 and large, not occurred. The result is a disparate treatment
17 of "new" and "old" generation in regard to air pollution
18 control requirements. This creates an unintended competitive
19 advantage for older generation. If unremedied, this will act
20 to distort the bulk power market and inhibit entry into the
21 market of cleaner generation. It could also lead to an in
22 crease in emissions from older, highly polluting power
23 plants located in New York and in other states whose emissions
24 degrade air quality in New York. The reasons for this are
25 discussed in more detail in the testimony of David Schoengold.
26 The problem is especially acute in New York, where emissions
27 from facilities in upwind states cause acid deposition, smog

Ashok Gupta

1 and fine particle pollution in New York and impair New York's
2 ability to meet health-based air quality standards. The
3 existence of substantial amounts of imported air pollution has
4 required greater control of emissions from industrial and
5 utility sources in New York.

6 States have the authority to impose more stringent
7 requirements on stationary sources of air pollution than are
8 required by the federal Clean Air Act. There are actions the
9 Commission should take in the context of industry
10 restructuring to create a fully competitive generation market
11 and to mitigate potential adverse environmental impacts of
12 retail access.

13 Q: What method do you propose to ensure that power plants selling
14 power in New York State are subject to comparable
15 environmental controls?
16

17 A: The Commission can ensure the establishment of a level playing
18 field for all power providers by requiring that all companies
19 providing retail electric service in the state meet a minimum
20 emissions portfolio standard (EPS). Under an emissions
21 portfolio standard, all retail service providers, as a
22 condition of engaging in retail electric sales in New York,
23 would be required to demonstrate that their portfolio of
24 electricity resources meets a uniform emissions standard,
25 expressed as pounds per megawatt hour. For example, if a
26 retailer had a portfolio that was weighted heavily toward
27 relatively high emitting coal generation, that retailer would

Ashok Gupta

1 need to add enough renewable energy resources or relatively
2 clean natural gas power to reduce the average emissions of the
3 entire portfolio to a number that does not the EPS. The
4 retailer should also be allowed to comply by purchasing
5 credits from another retailer whose generation mix is cleaner
6 than the EPS. The EPS should be equivalent to the level of
7 controls required on new sources located in New York. In this
8 manner, the Commission could eliminate the competitive
9 disadvantage that more expensive but relatively clean power
10 plants will suffer in the competitive generation market.

11 In addition to meeting an emissions portfolio standard, retail
12 electric providers could be required to include a small amount
13 of renewable energy resources in their supply portfolio.
14 Purchasing of emissions credits in lieu of cleaner generation
15 or renewables could be permitted. Vermont recently adopted an
16 EPS, requiring each retailer doing business in Vermont to meet
17 a Vermont-based environmental profile. (*Order, Investigation*
18 *into Restructuring of the Electric Industry in Vermont,*
19 *Vermont Public Service Board, Docket No. 5854, pp. 110-111.*)

20 Q: Are there other steps the Commission should take?

21 A: Yes. There are at least two other ways the Commission can
22 mitigate the environmental consequences of an unlevel playing
23 field. First, as I have discussed above the Commission can
24 empower customers to select clean power alternatives by
25 supporting environmental disclosure. Second, as already

Ashok Gupta

1 recognized by the Commission, a system benefits charge to
2 support energy efficiency investment and research and
3 development into new technology can mitigate environmental
4 impacts.

5
6 VI. CONCLUSION

7 Q. Does this conclude your testimony?

8 A. Yes, it does.
9

1 JUDGE BOSCHWITZ: I would also note for the
2 record that Mr. Indyke has distributed a copy of
3 a document for which we have received exhibit
4 number 19 for identification and the document
5 will be so marked at this time.

6 (Exhibit 19 marked for
7 identification.)

8 JUDGE BOSCHWITZ: Is there any other
9 business that we need to discuss at this time?

10 MR. GANSBERG: The settlement contemplates
11 an August 1997 unbundling filing by the company.
12 That was based on the expectation that the
13 commission would render its decision in this
14 case sometime in mid 1997.

15 We have discussed the date with the staff
16 counsel. He understands our concerns. I think
17 that perhaps the signatories to the agreement
18 might try to get together and work out some
19 alternative language that provides for some
20 limited period of time after the commission's
21 ultimate decision in which to file the
22 unbundling proposal.

23 JUDGE BOSCHWITZ: Just so I am clear, then,
24 the nature of that unbundling filing depends

1 upon the nature of the commission's
2 determination?

3 MR. GANSBERG: Yes. The rate levels
4 especially for each class in particular. It's
5 not that we can't continue the ongoing 1996 cost
6 of service study that we are in the process of
7 performing right now, it's simply that the
8 ultimate filing requires some of the information
9 that will be provided to us by the commission's
10 ultimate decision.

11 JUDGE BOSCHWITZ: For the cost of service
12 study?

13 MR. GANSBERG: For the proposed unbundled
14 rates.

15 JUDGE BOSCHWITZ: But not for the cost of
16 service study.

17 MR. GANSBERG: Well, the cost of service
18 study will be based on 1996 but adjusted to rate
19 levels ultimately determined by the commission.

20 JUDGE BOSCHWITZ: Just so I am clear, then,
21 you could, in fact, prepare an unbundled rate
22 proposal based on the settlement itself and the
23 1996 cost of service study that is now being
24 undertaken by Orange & Rockland?

1 MR. GANSBERG: That is correct. If we knew
2 today that the settlement would be approved we
3 could prepare and file the unbundled proposal,
4 the unbundled rate proposal.

5 JUDGE BOSCHWITZ: Thank you, Mr. Gansberg.
6 We will take your question under advisement.
7 When will the parties advise the record of what
8 the procedures they propose to adopt will be?

9 MR. GANSBERG: I would imagine we could do
10 it on the same day the brief is due.

11 MR. GARLIN: I believe so, Your Honor, yes.

12 JUDGE BOSCHWITZ: That will be fine. Thank
13 you.

14 Before we receive the exhibits in evidence,
15 are there any other comments? Other business?

16 MR. INDYKE: I have one request. During
17 the cross-examination by Mr. Wiles of the
18 Department of Economic Development witness there
19 was a colloquy regarding information he
20 requested. And I would ask if that information
21 had been provided to him it also be provided to
22 myself as well.

23 JUDGE BOSCHWITZ: Is there a representative
24 of the department here today?

1 MR. SCHNUR: That would be fine, yes.

2 JUDGE BOSCHWITZ: Are there any objections
3 to the receipt of any of the twenty-one exhibits
4 that have been marked for identification?

5 MR. WILES: There was one which I have a
6 concern about, which is number two. When the
7 company's panel first took the stand, I think
8 the first witness took the stand, the company
9 introduced the testimony and then added as an
10 additional exhibit their statement, which took
11 me a little bit by surprise, and then offered
12 that as apparently sponsored by all the
13 witnesses.

14 None of the witnesses provided any
15 testimony with respect to the statement. And it
16 seems to me either the statement is completely
17 cumulative of their testimony, in this case it's
18 not necessary, or if there is something in the
19 statement that is actually in addition it's
20 probably improper, but at least we should know
21 what it is so when I am doing my brief I know
22 what it is they are using the statement for.

23 I didn't have the time when they put it on
24 the table in the way they did to go through it

1 carefully and compare it with the testimony,
2 which I thought the subject of cross-examination
3 was going to be focused on, and try and figure
4 out in the few minutes what exactly might be
5 different or in addition to the testimony the
6 company provided, but in the absence of some
7 reasonable description of what it is in that
8 statement that makes it something more than
9 cumulative I don't think it should be admitted
10 as an exhibit.

11 JUDGE BOSCHWITZ: Mr. Carley.

12 MR. CARLEY: I see no reason why it
13 shouldn't be admitted, particularly the material
14 in the back regarding the environmental
15 assessment. Mr. Wiles had the document in
16 plenty of time before the hearings. We didn't
17 pull it out of our back pocket and he saw it
18 first that day. To the extent it's cumulative I
19 see no reason that presents a problem. I
20 frankly haven't compared it line by line with
21 the testimony of the various witnesses. It
22 offers additional material to you and to the
23 commission that might be of value.

24 JUDGE BOSCHWITZ: Aside from the attachment

1 to the environmental assessment form settlement
2 agreement, consisting of nine pages, the rest of
3 the document is cumulative, Mr. Carley?

4 MR. CARLEY: To be honest with you, I am
5 not sure. As I said: This is the first time
6 Mr. Wiles raised the issue and I haven't had the
7 opportunity to read it against the various
8 testimony of the witnesses.

9 MR. WILES: With respect to the assessment
10 form, I have no objection to that.

11 MR. GARLIN: May staff be heard on this?

12 JUDGE BOSCHWITZ: For what limited purpose,
13 Mr. Garlin?

14 MR. GARLIN: Referring to the notice of the
15 parties of March 20th, and under the milestone
16 for this case, it clearly contemplated that
17 there could be statements and prefiled testimony
18 responsive to the proponent's statements and
19 testimony. So, it wouldn't simply be a question
20 of whether the statement in support of the
21 settlement marked as Exhibit 2 is cumulative and
22 repeats matters discussed in the prefiled, but
23 also a question of going through the entire
24 record to see whether any of the testimony and

1 statements in opposition to the statement
2 prepared by the company are either in the record
3 as prefiled testimony or how they are going to
4 be treated or what aspects of the record they
5 are going to be in.

6 To the extent that you have someone
7 nuancing their prefiled opposing testimony based
8 on what they said in the statement, that it
9 would lead to something of an incomplete record
10 if you suddenly were to create a vacuum. I
11 think the erring on the side of inclusion rather
12 than exclusion would be called for here.

13 JUDGE BOSCHWITZ: Let me deal with the
14 matter. I think all of the parties were invited
15 to file statements with regard to this
16 proceeding. Some are supported by testimony,
17 some are not. There is some redundancy in
18 including the statements in the evidentiary
19 record. They are on file with the commission.
20 They are a part of the record.

21 Therefore, I shall limit Exhibit 2 in
22 evidence to the attachment to the environmental
23 assessment form for the settlement agreement and
24 exclude the remainder of Exhibit 2 from the

1 evidentiary portion of the record.

2 MR. CARLEY: If I might be heard: At a
3 minimum you should include the material on page
4 12 of the statement in support of which deals
5 directly with the environmental assessment form.

6 JUDGE BOSCHWITZ: Is that in any way
7 repetitious of what's contained in the
8 settlement agreement, Mr. Carley?

9 MR. CARLEY: I don't believe so, no.

10 JUDGE BOSCHWITZ: In that case we will
11 include that page as well.

12 MR. CARLEY: Thank you.

13 JUDGE BOSCHWITZ: In all other respects the
14 exhibits introduced for identification will be
15 marked as evidence in the proceeding.

16 (Exhibits 1 through 21 received
17 in evidence.)

18 JUDGE BOSCHWITZ: If there is nothing else
19 from the parties, these hearings are closed.
20 Thank you. I will remind the parties the briefs
21 are due on May 30th.

22 Hearing adjourned at 11:40 a.m.

23

24

1

2

INDEX OF WITNESSES

3

DIRECT

CROSS

REDIRECT

4

PSC Staff

924

983

By: Mr. Wiles

950

5

By: Ms. Pien

977

6

Ashok Gupta

987

7

8

9

10

INDEX OF EXHIBITS

11

19

Letter dated 9/20/96 to Hon. Lois Cashell
and attachments.

12

20

Background and qualifications of Department
of Public Service Staff Witness.

13

14

21

Affidavit o Ashok Gupta

15

16

17

18

19

20

21

22

23

24

ALBANY REPORTING CO.

P.O. BOX 5875, ALBANY, N.Y., 12205-0875

TEL (518)373-8940 FAX (518)373-8904

&

&	A	B	C
& 921/5, 921/20, 921/22, 922/1, 922/2, 922/8, 923/4, 924/3, 962/18, 967/11, 967/12, 967/14, 967/17, 970/6, 971/9, 981/10, 1012/24 '97 982/10, 982/23	a.m. 921/12, 1018/22 ABELL 922/2 abide 970/10 ability 974/3 absence 1015/6 accept 956/23, 958/11, 970/7 access 958/2, 958/7, 958/8, 959/17, 976/2, 980/12, 983/12 accommodate 963/4 accompanied 985/20 accompany 974/11 account 963/17, 963/18 accounted 978/9, 978/10 add 965/21 added 981/19, 1014/9 Addepalli 924/23, 925/2, 925/5, 950/3, 950/5, 950/8, 951/1, 951/20, 951/22, 952/1, 952/11, 953/1, 953/11, 953/16, 954/1, 954/4, 956/7, 957/23, 958/3, 958/20, 959/4, 960/20, 961/1, 963/14, 964/14, 966/18, 968/4, 968/16, 968/21, 969/24, 970/10, 970/13, 970/16, 970/21, 971/3, 971/8, 971/24, 972/6, 972/15, 974/21, 975/19, 976/3, 976/9, 976/19, 977/6, 977/17, 977/22, 978/2, 978/6, 978/15, 978/23, 979/8, 979/23, 980/15, 980/18, 981/2, 982/1, 982/20, 983/16, 983/20, 984/3, 985/1 address 924/20, 950/22, 979/19 addressed 978/16 adjourned 1018/22 adjusted 1012/18 Administrative 921/14 admitted 1015/9, 1015/13 adopt 925/3, 950/6, 972/16, 1013/8 adopted 955/7 advance 957/20, 976/1, 983/14 advancement 959/18 advantage 956/4, 956/9, 976/5, 976/17 advise 1013/7 advisement 1013/6 affidavit 985/15, 985/20, 985/22 afford 965/17 afforded 958/7 aggregate 975/24, 976/19 agree 952/21, 978/21, 981/5, 981/7 agreed 953/14, 954/13, 954/23, 955/12, 955/13, 975/21 agreeing 955/14 agreement 954/3, 967/15, 968/9, 969/7, 973/16, 974/2, 974/5, 977/18, 977/20, 978/1, 981/9, 1011/17, 1016/2, 1017/23, 1018/8 Albany 921/11, 921/19, 921/23, 922/14, 922/18, 922/23, 923/2, 923/5 allow 964/22 allows 971/18 alternate 952/16, 976/20, 977/1, 980/3, 980/6 alternative 1011/19 alternatives 980/9 analysis 979/3, 979/20 analyzing 980/8 ANDREW 921/24 ANN 922/17 answer 950/23, 958/24, 979/7 anticipate 968/24 anticipated 969/20, 977/14 anticipation 956/6 any--well 955/19 APPEARANCES 921/16, 924/5 Appendix 977/18 applicable 954/8, 960/17, 960/19, 961/15, 972/12 applicant 968/13 applicants 971/20 application 969/19, 970/4, 970/8, 974/19 applications 970/12 applies 961/12 apply 972/4 apprehensive 966/7 appropriate 951/7, 952/5, 959/22	approve 970/7, 973/12 approved 954/24, 967/19, 972/1, 1013/2 approves 969/15 approximation 951/8 are--there 962/9 arise 965/19 Ashok 986/8 aspects 1017/4 assessed 956/21, 984/20 assessment 985/2, 1015/15, 1016/1, 1016/9, 1017/23, 1018/5 Assistant 922/15 associate 984/10 associated 967/4, 973/9, 984/12 ASSOCIATION 922/7, 984/9 assumptions 961/3 attached 967/7 attachment 1015/24, 1017/22 attempt 964/10, 964/11 ATTORNEY 921/21, 922/3, 922/6, 922/9, 922/12, 922/19 Attorney-at-Law 922/22 attractiveness 964/24 August 982/10, 982/22, 1011/11 AUTHORITY 922/10 available 950/15, 958/8, 959/19, 959/22, 960/2, 960/5, 961/17, 961/18, 967/3, 974/18 Avenue 922/2 average 951/8, 951/18, 951/22, 952/4, 952/7, 952/23, 953/9, 957/15 averages 951/23, 951/24, 952/11, 952/12 avoid 956/10, 965/22, 966/1, 966/3, 966/11, 967/18, 967/19 avoiding 956/17, 957/9	CALIENDO 921/20 call 967/23 came 964/14 cap 975/6 CAPITAL 923/4 carefully 1015/1 CAREY 922/16 CARLEY 921/21 Case 921/5, 924/3, 953/23, 953/24, 954/24, 975/21, 1011/14, 1014/17, 1016/16, 1018/10 CATHERINE 924/12 cent 951/5 cents 951/3, 951/15, 956/2, 957/11, 957/14, 957/17 challenge 962/1, 962/5, 962/6, 962/10 challenges 962/7, 962/8, 962/15, 964/23 challenging 983/14 change 973/9, 974/11, 975/3 changes 924/24, 950/4, 974/4, 974/8, 974/9, 974/24, 975/7, 975/10, 975/12 channelling 957/20 characterized 965/6 charge 977/16 choose 952/16 choosing 951/16, 952/5, 952/20 chose 979/5 circumstances 957/10, 965/19, 970/16 City 922/9 claims 964/12 clarification 967/9, 967/13 clarify 954/14, 979/17 class 1012/4 classes 952/12, 953/17, 984/17 clause 973/13 clear 971/3, 973/2, 1011/23, 1012/20 clearly 1016/16 closed 1018/19 closing 961/10, 961/21 collaboration 981/8 colloquy 1013/19 commencing 921/12 comment 975/5 comments 1013/15 COMMERCE 922/14 COMMISSION 921/2, 921/10, 954/23, 958/5, 959/6, 959/16, 968/6, 968/18, 969/14, 970/1, 971/17, 972/8, 972/20, 973/8, 973/11, 975/1, 975/4, 979/10, 979/22, 980/10, 980/17, 981/5, 981/6, 982/13, 1011/13, 1012/19, 1015/23, 1017/19 commission's 1011/20, 1012/1, 1012/9 commit 980/6 commitment 977/5 commitments 966/16, 966/17 community companies 965/1, 965/11, 966/10, 971/9, 972/16 companies? 965/13 COMPANY 922/4, 923/7, 957/2, 962/7, 963/16, 963/18, 964/9, 964/22, 965/5, 966/14, 968/17, 968/21, 969/24, 971/22, 972/1, 972/2, 972/7, 974/19, 974/24, 975/21, 976/7, 976/8, 976/9, 977/3, 979/23, 980/5, 981/3, 981/14, 982/12, 982/15, 982/17, 982/20, 985/4, 1011/11, 1014/8, 1015/6, 1017/2 company's 974/3, 976/18, 1014/7 compare 1015/1 compared 1015/20 competing 965/13 competition 959/8, 959/13, 959/19, 959/21 competitive 964/22, 966/2, 966/9, 966/10 competitiveness 962/10, 965/20 comprehensive 980/2 concept 962/3, 975/19
1 1 1018/16 10003 922/5 10158 922/3 10956 922/9 10:00 921/12 11 970/11 11:40 1018/22 12 951/2, 951/15, 1018/4 12054 923/9 122 922/22, 923/2 12207 921/23, 923/5 12210 922/18, 922/23 12223 921/19 12245 922/14 15 962/22 1633 922/11 1815-5 922/5 19 1011/4, 1011/6 1996 1012/5, 1012/18, 1012/23 1997 921/12, 1011/11, 1011/14 1998 979/21, 980/7, 980/11	2 2 985/2, 1016/21, 1017/21, 1017/24 20 950/11, 950/13 20th 1016/15 21 985/23, 985/24, 1018/16 22nd 921/11 25 923/5	B base 959/20 based 963/15, 979/10, 1011/12, 1012/18, 1012/22, 1017/7 basis 951/16, 978/17, 978/19 being--if 973/11 Ben 923/2 benefit 979/3 benefits 957/20, 957/21, 957/24, 958/1, 958/6, 974/18, 977/16, 978/8, 983/11, 983/14 bill 974/14 bills 977/1 Birbrower 922/8 bit 953/20, 954/15, 1014/11 BLAU 923/8 BOARD 922/16 bona 964/12 BOOTH 922/3 Boschwitz 921/14, 924/2, 925/9, 950/11, 950/17, 951/10, 951/12, 955/21, 956/14, 958/16, 958/23, 960/9, 969/17, 971/6, 971/21, 972/4, 972/10, 973/2, 973/18, 973/21, 973/23, 977/10, 979/14, 979/16, 982/24, 983/3, 983/6, 985/7, 985/10, 985/12, 985/22, 986/2, 1011/1, 1011/8, 1011/23, 1012/11, 1012/15, 1012/20, 1013/5, 1013/12, 1013/23, 1014/2, 1015/11, 1015/24, 1016/12, 1017/13, 1018/6, 1018/10, 1018/13, 1018/18 bottom 981/17 bought 957/3 Brief 951/11, 973/17, 973/20, 983/3, 1013/10, 1014/21 briefs 1018/20 brink 965/23, 966/6, 966/12 BROADWAY 922/11, 922/20 Building 921/11 bullet 959/8, 959/11, 968/10 bullets 959/14 business 1011/9, 1013/15 buy 957/3	class 1012/4 classes 952/12, 953/17, 984/17 clause 973/13 clear 971/3, 973/2, 1011/23, 1012/20 clearly 1016/16 closed 1018/19 closing 961/10, 961/21 collaboration 981/8 colloquy 1013/19 commencing 921/12 comment 975/5 comments 1013/15 COMMERCE 922/14 COMMISSION 921/2, 921/10, 954/23, 958/5, 959/6, 959/16, 968/6, 968/18, 969/14, 970/1, 971/17, 972/8, 972/20, 973/8, 973/11, 975/1, 975/4, 979/10, 979/22, 980/10, 980/17, 981/5, 981/6, 982/13, 1011/13, 1012/19, 1015/23, 1017/19 commission's 1011/20, 1012/1, 1012/9 commit 980/6 commitment 977/5 commitments 966/16, 966/17 community companies 965/1, 965/11, 966/10, 971/9, 972/16 companies? 965/13 COMPANY 922/4, 923/7, 957/2, 962/7, 963/16, 963/18, 964/9, 964/22, 965/5, 966/14, 968/17, 968/21, 969/24, 971/22, 972/1, 972/2, 972/7, 974/19, 974/24, 975/21, 976/7, 976/8, 976/9, 977/3, 979/23, 980/5, 981/3, 981/14, 982/12, 982/15, 982/17, 982/20, 985/4, 1011/11, 1014/8, 1015/6, 1017/2 company's 974/3, 976/18, 1014/7 compare 1015/1 compared 1015/20 competing 965/13 competition 959/8, 959/13, 959/19, 959/21 competitive 964/22, 966/2, 966/9, 966/10 competitiveness 962/10, 965/20 comprehensive 980/2 concept 962/3, 975/19
3 30th 1018/21 32 923/8	3 agreeing 955/14 agreement 954/3, 967/15, 968/9, 969/7, 973/16, 974/2, 974/5, 977/18, 977/20, 978/1, 981/9, 1011/17, 1016/2, 1017/23, 1018/8 Albany 921/11, 921/19, 921/23, 922/14, 922/18, 922/23, 923/2, 923/5 allow 964/22 allows 971/18 alternate 952/16, 976/20, 977/1, 980/3, 980/6 alternative 1011/19 alternatives 980/9 analysis 979/3, 979/20 analyzing 980/8 ANDREW 921/24 ANN 922/17 answer 950/23, 958/24, 979/7 anticipate 968/24 anticipated 969/20, 977/14 anticipation 956/6 any--well 955/19 APPEARANCES 921/16, 924/5 Appendix 977/18 applicable 954/8, 960/17, 960/19, 961/15, 972/12 applicant 968/13 applicants 971/20 application 969/19, 970/4, 970/8, 974/19 applications 970/12 applies 961/12 apply 972/4 apprehensive 966/7 appropriate 951/7, 952/5, 959/22	B base 959/20 based 963/15, 979/10, 1011/12, 1012/18, 1012/22, 1017/7 basis 951/16, 978/17, 978/19 being--if 973/11 Ben 923/2 benefit 979/3 benefits 957/20, 957/21, 957/24, 958/1, 958/6, 974/18, 977/16, 978/8, 983/11, 983/14 bill 974/14 bills 977/1 Birbrower 922/8 bit 953/20, 954/15, 1014/11 BLAU 923/8 BOARD 922/16 bona 964/12 BOOTH 922/3 Boschwitz 921/14, 924/2, 925/9, 950/11, 950/17, 951/10, 951/12, 955/21, 956/14, 958/16, 958/23, 960/9, 969/17, 971/6, 971/21, 972/4, 972/10, 973/2, 973/18, 973/21, 973/23, 977/10, 979/14, 979/16, 982/24, 983/3, 983/6, 985/7, 985/10, 985/12, 985/22, 986/2, 1011/1, 1011/8, 1011/23, 1012/11, 1012/15, 1012/20, 1013/5, 1013/12, 1013/23, 1014/2, 1015/11, 1015/24, 1016/12, 1017/13, 1018/6, 1018/10, 1018/13, 1018/18 bottom 981/17 bought 957/3 Brief 951/11, 973/17, 973/20, 983/3, 1013/10, 1014/21 briefs 1018/20 brink 965/23, 966/6, 966/12 BROADWAY 922/11, 922/20 Building 921/11 bullet 959/8, 959/11, 968/10 bullets 959/14 business 1011/9, 1013/15 buy 957/3	class 1012/4 classes 952/12, 953/17, 984/17 clause 973/13 clear 971/3, 973/2, 1011/23, 1012/20 clearly 1016/16 closed 1018/19 closing 961/10, 961/21 collaboration 981/8 colloquy 1013/19 commencing 921/12 comment 975/5 comments 1013/15 COMMERCE 922/14 COMMISSION 921/2, 921/10, 954/23, 958/5, 959/6, 959/16, 968/6, 968/18, 969/14, 970/1, 971/17, 972/8, 972/20, 973/8, 973/11, 975/1, 975/4, 979/10, 979/22, 980/10, 980/17, 981/5, 981/6, 982/13, 1011/13, 1012/19, 1015/23, 1017/19 commission's 1011/20, 1012/1, 1012/9 commit 980/6 commitment 977/5 commitments 966/16, 966/17 community companies 965/1, 965/11, 966/10, 971/9, 972/16 companies? 965/13 COMPANY 922/4, 923/7, 957/2, 962/7, 963/16, 963/18, 964/9, 964/22, 965/5, 966/14, 968/17, 968/21, 969/24, 971/22, 972/1, 972/2, 972/7, 974/19, 974/24, 975/21, 976/7, 976/8, 976/9, 977/3, 979/23, 980/5, 981/3, 981/14, 982/12, 982/15, 982/17, 982/20, 985/4, 1011/11, 1014/8, 1015/6, 1017/2 company's 974/3, 976/18, 1014/7 compare 1015/1 compared 1015/20 competing 965/13 competition 959/8, 959/13, 959/19, 959/21 competitive 964/22, 966/2, 966/9, 966/10 competitiveness 962/10, 965/20 comprehensive 980/2 concept 962/3, 975/19
4 4 921/10, 922/5	4 Albany 921/11, 921/19, 921/23, 922/14, 922/18, 922/23, 923/2, 923/5 allow 964/22 allows 971/18 alternate 952/16, 976/20, 977/1, 980/3, 980/6 alternative 1011/19 alternatives 980/9 analysis 979/3, 979/20 analyzing 980/8 ANDREW 921/24 ANN 922/17 answer 950/23, 958/24, 979/7 anticipate 968/24 anticipated 969/20, 977/14 anticipation 956/6 any--well 955/19 APPEARANCES 921/16, 924/5 Appendix 977/18 applicable 954/8, 960/17, 960/19, 961/15, 972/12 applicant 968/13 applicants 971/20 application 969/19, 970/4, 970/8, 974/19 applications 970/12 applies 961/12 apply 972/4 apprehensive 966/7 appropriate 951/7, 952/5, 959/22	B base 959/20 based 963/15, 979/10, 1011/12, 1012/18, 1012/22, 1017/7 basis 951/16, 978/17, 978/19 being--if 973/11 Ben 923/2 benefit 979/3 benefits 957/20, 957/21, 957/24, 958/1, 958/6, 974/18, 977/16, 978/8, 983/11, 983/14 bill 974/14 bills 977/1 Birbrower 922/8 bit 953/20, 954/15, 1014/11 BLAU 923/8 BOARD 922/16 bona 964/12 BOOTH 922/3 Boschwitz 921/14, 924/2, 925/9, 950/11, 950/17, 951/10, 951/12, 955/21, 956/14, 958/16, 958/23, 960/9, 969/17, 971/6, 971/21, 972/4, 972/10, 973/2, 973/18, 973/21, 973/23, 977/10, 979/14, 979/16, 982/24, 983/3, 983/6, 985/7, 985/10, 985/12, 985/22, 986/2, 1011/1, 1011/8, 1011/23, 1012/11, 1012/15, 1012/20, 1013/5, 1013/12, 1013/23, 1014/2, 1015/11, 1015/24, 1016/12, 1017/13, 1018/6, 1018/10, 1018/13, 1018/18 bottom 981/17 bought 957/3 Brief 951/11, 973/17, 973/20, 983/3, 1013/10, 1014/21 briefs 1018/20 brink 965/23, 966/6, 966/12 BROADWAY 922/11, 922/20 Building 921/11 bullet 959/8, 959/11, 968/10 bullets 959/14 business 1011/9, 1013/15 buy 957/3	class 1012/4 classes 952/12, 953/17, 984/17 clause 973/13 clear 971/3, 973/2, 1011/23, 1012/20 clearly 1016/16 closed 1018/19 closing 961/10, 961/21 collaboration 981/8 colloquy 1013/19 commencing 921/12 comment 975/5 comments 1013/15 COMMERCE 922/14 COMMISSION 921/2, 921/10, 954/23, 958/5, 959/6, 959/16, 968/6, 968/18, 969/14, 970/1, 971/17, 972/8, 972/20, 973/8, 973/11, 975/1, 975/4, 979/10, 979/22, 980/10, 980/17, 981/5, 981/6, 982/13, 1011/13, 1012/19, 1015/23, 1017/19 commission's 1011/20, 1012/1, 1012/9 commit 980/6 commitment 977/5 commitments 966/16, 966/17 community companies 965/1, 965/11, 966/10, 971/9, 972/16 companies? 965/13 COMPANY 922/4, 923/7, 957/2, 962/7, 963/16, 963/18, 964/9, 964/22, 965/5, 966/14, 968/17, 968/21, 969/24,

concerned 982/19
concerns 1011/16
conclusion 951/6, 959/7, 964/11,
967/24, 968/10
condition 969/21
conditions 970/20, 979/20
Condon 922/8, 922/9
confer 983/2
confirm 953/5, 953/8
consideration 981/22
considerations 954/7, 954/11
consistent 971/22, 986/2
CONSOLIDATED 922/4
constructed 957/8
consultation 982/12
CONSUMER 922/16
contained 1018/7
contains 973/12
contemplated 1016/16
contemplates 1011/10
contestable 952/14, 953/2
context 969/23
continuation 981/20
continue 1012/5
continued 982/2
continuous 962/1, 962/5, 962/9,
962/15, 964/23
cooperation 981/1
copied 925/7
copy 1011/2
Core 921/10
correct 980/15, 982/16, 1013/1
corrections 924/24, 950/4, 986/5
correctly 969/9
cost 952/18, 954/7, 954/10, 954/19,
954/21, 955/2, 955/4, 955/6, 955/13,
971/11, 978/7, 978/11, 979/3, 979/6,
979/10, 1012/5, 1012/11, 1012/15,
1012/17, 1012/23
costs 963/2, 965/11, 972/19, 978/9
Counsel 921/18, 921/21, 922/15,
922/21, 923/2, 1011/16
course 961/6, 961/11
Court 923/8
CRAIG 923/6
create 967/15, 978/5, 1017/10
created 967/11, 967/12, 968/5
critical 963/23
CROSS 950/19, 977/12, 985/8,
1019/3
cross-examination 950/16, 983/9,
984/19, 1013/17, 1015/2
cross-examine 958/13
cross-examined 984/4
cumulative 1014/17, 1015/9,
1015/18, 1016/3, 1016/21
customer 956/8, 956/18, 959/20,
962/19, 962/24, 970/9
customer's 963/5
customers 951/9, 951/19, 952/5,
952/6, 952/8, 952/10, 952/12, 952/14,
952/15, 952/21, 952/24, 953/2, 953/3,
953/5, 953/6, 953/10, 953/15, 953/17,
953/19, 954/9, 956/16, 957/16, 958/7,
959/24, 960/6, 960/17, 960/22, 961/8,
961/13, 962/9, 962/11, 962/18,
963/15, 963/17, 964/2, 964/5, 964/12,
964/15, 964/18, 965/22, 966/19,
967/6, 971/14, 975/24, 976/1, 976/9,
976/17, 976/20, 976/23, 977/15,
981/18, 982/3, 982/5, 982/6, 982/22,
983/11

D

D'ANDREA 924/12
data 963/15, 964/14
date 976/22, 980/21, 981/6, 1011/15
day 1013/10, 1015/18
de 974/3, 974/6, 975/10
deal 962/6, 1017/13
dealing 962/8, 972/22, 973/1
deals 985/2, 981/8
decide 970/4, 982/14
decided 982/3, 982/7
decision 962/15, 963/23, 964/6,
978/21, 982/4, 982/6, 1011/13,

decisions 962/12
decreases 974/10
default 981/4, 981/12, 981/14
degree 966/11
degrees 962/5, 976/23
Delmar 923/9
DEPARTMENT 922/13, 1013/18,
1013/24
depend 980/24
depends 1011/24
DEPT 921/17
DEPUTY 922/17
derived 951/5
describe 961/3, 962/2
described 952/17, 970/11
describing 954/10, 954/12, 960/17
description 1015/7
design 955/14
designing 962/19
determination 978/20, 982/11,
982/19, 1012/2
determined 979/5, 1012/19
determined-go 979/6
determining 963/2, 963/23
DEVANS 921/22
developed 952/22, 954/12, 954/23,
960/12, 961/7
developed-the 953/14
developing 953/6
DEVELOPMENT 922/13, 952/9,
960/23, 967/3, 975/22, 975/23, 976/7,
976/8, 1013/18
dialog 969/18
difference 961/4
difficult 959/2, 961/3, 970/2
difficulty 965/8
DIRECT 924/18, 925/11, 950/24,
983/22, 984/18, 1019/3
direction 985/21
DIRECTOR 922/16, 922/17, 984/10
discontinue 979/5
discount 966/19
discuss 1011/9
discussed 953/18, 976/15, 1011/15,
1016/22
discusses 977/14
discussion 969/2, 983/10
distance 965/10
distributed 1011/2
distribution 972/2, 972/7
document 985/20, 1011/3, 1011/4,
1015/15, 1016/3
documentation 977/3
doesn't 952/8, 967/6
dollar 964/4
dollars 976/24
DOYLE 921/22
DPS-1 950/2, 950/9
DSM 977/21, 977/24, 978/5, 978/7,
978/13, 979/9, 984/21, 984/23
during 981/22, 1013/16

E

Eagle 923/5
ECONOMIC 922/13, 960/23,
964/24, 967/3, 1013/18
economy 966/3, 977/24, 978/3
EDISON 922/4
effect 969/2, 971/12
effective 979/6, 979/10
effectiveness 978/8, 978/11
efficiency 965/15
eight 957/19, 983/23
eighteen 977/14
elasticity 952/15
Electric 921/5, 922/1, 923/7,
962/11, 964/5, 965/11, 966/9
electricity 951/18, 952/4, 952/7,
952/23, 953/9, 956/10, 956/19, 957/3,
957/4
element 960/15
elements 959/18, 959/21
eleven 957/19, 961/24
Empire 921/18, 922/17
employment 964/2, 966/16
enacted 974/17

ENERGY 922/7, 922/20, 963/22,
984/9
enlightenment 973/16
ENRON 923/4
entail 971/4
entails 981/13
entering 978/1
entities 964/3
entity 972/12, 972/13
environment 978/14, 984/21,
984/24, 985/3
environmental 978/16, 978/20,
985/2, 1015/14, 1016/1, 1017/22,
1018/5
Eric 922/12
erring 1017/11
error 969/8
ESCO 967/10, 967/16, 968/5,
972/5, 972/8, 972/9
ESCOs 967/21, 968/7
Esquire 921/24, 923/6, 923/8
establish 965/14
estimates 977/7
event 974/16
evidence 984/22, 1013/14, 1017/22,
1018/15, 1018/17
EVIDENTIARY 921/9, 1017/18,
1018/1
EXAMINATION 924/18, 950/20,
977/12, 983/7
examine 950/17, 970/2
examined 924/16, 972/23
exception 975/9
excerpt 984/1
exclude 1017/24
exclusion 1017/12
excused 985/12
EXECUTIVE 922/16
exhibit 950/2, 950/4, 950/6, 950/7,
950/13, 985/2, 985/23, 985/24,
1011/3, 1011/6, 1014/10, 1015/10,
1016/21, 1017/21, 1017/24
exhibits 1013/14, 1014/3, 1018/14,
1018/16
exist 975/18
existent 955/7
existing 964/20, 982/2, 982/6,
982/22
exists 951/9
expand 963/24, 981/23
expectation 981/3, 981/8, 1011/12
expense 963/22
expenses 963/23
experience 976/22

F

facilitate 960/14
facilities 961/11, 961/22, 962/14,
963/3, 963/24
fact 957/14, 972/9, 983/12, 1012/21
Factor 956/22, 957/5, 963/2
factored 952/8
factors 951/21, 954/22, 955/4,
955/5, 956/21
fashion 971/15
faster 953/18
favorable 960/18
favored 959/24, 967/6
fides 964/12
figure 951/5, 1015/3
file 969/24, 975/1, 981/3, 981/4,
982/22, 1011/21, 1013/3, 1017/15,
1017/19
filed 982/9, 985/4
filing 979/24, 981/2, 981/15,
982/15, 982/16, 1011/11, 1011/24,
1012/8
fine 1013/12, 1014/1
fit 972/19
flex 961/14, 962/6, 964/19, 964/20,
965/16, 965/17, 966/15
flexibility 962/8, 965/17, 971/10,
972/18
flexible 960/11, 960/13, 960/15,
960/16, 960/24, 961/2, 961/5
Floor 921/10

focused 1015/3
focusing 957/18
follows 924/17
for-I 974/4
form 964/11, 1016/1, 1016/10,
1017/23, 1018/5
foundation 956/13
four 983/22, 983/23
fourteen 963/17, 984/16
framing 976/12
Frank 922/8
front 958/10, 969/10
fulfill 965/10
functions 976/14
future 965/20

G

G.D 921/20
GALLAGHER 922/6
GANSBERG 921/24
GARLIN 921/18, 983/1
GAS 922/1
geared 961/8
generic 975/20, 978/17
Gloria 922/15
goal 953/16, 971/12
granted 925/9
Greenholtz 963/4
gross 956/5, 956/11, 956/20, 957/5
group 953/19, 964/5, 976/24, 980/12
guess 950/22, 960/21
Gupta 986/8

H

hand 958/14
HARGRAVE 921/22
heading 959/7, 959/12
hearings 1015/16, 1018/19
HEFPA 970/14
held 921/9
help 965/14, 976/11
helps 978/5
Herald 962/22
hiatus 958/24
honest 1016/4
Honor 924/9, 956/16, 956/23,
971/8, 973/22, 977/9, 985/6, 985/9,
985/11, 985/17, 1013/11
hour 951/4
housekeeping 974/8, 975/12
HUBER 922/2
hundred 964/4

I

identification 950/10, 950/12,
950/14, 985/23, 986/1, 1011/4,
1011/7, 1014/4, 1018/14
identify 984/6
IEUA 984/14, 984/15
imagine 1013/9
impact 975/14, 977/23, 978/5,
978/13, 978/20, 979/2, 984/20,
984/23, 985/3
impacts 978/16
implement 972/17
implementation 980/19
implemented 959/22, 978/7, 979/9
implementing 972/18
impose 970/23, 971/1
imposed 967/21
improper 1014/20
Inc.'s 921/5
inclusion 1017/11
income 975/24, 976/17, 977/5
incomplete 1017/9
incorporated 986/4
INDEPENDENT 923/3
independent-you 964/10
independently 978/12
INDEX 1019/2
indicated 979/18, 981/14
indicates 963/15
indication 955/10, 955/13
indications 955/10, 955/13

955/6 INDUSTRIAL 922/7, 951/9, 951/18, 952/4, 952/6, 952/14, 953/2, 953/14, 959/24, 960/18, 960/22, 961/12, 962/9, 962/11, 962/24, 967/6, 984/9, 984/17 INDYKE 923/6 information 964/9, 965/4, 1012/8, 1013/19, 1013/20 input 951/6 institute 968/12, 968/19 insure 980/24 intent 968/14, 979/23, 980/5 intention 980/21 interpreted 969/16 Intervenor 922/19 introduced 1014/9, 1018/14 investigate 977/23 investment 966/16 invited 1017/14 IRVING 922/5 issue 972/23, 973/1, 981/21, 981/24, 983/19, 984/2, 1016/6 it's-I 967/16 item 974/22	list 980/3 little 953/20, 954/15, 1014/11 load 960/14, 979/20, 980/1, 981/10 locations 965/24 low 975/24, 976/17, 977/4	N NANCY 924/11 national 951/8, 951/18, 951/22, 952/4, 952/7, 952/12, 952/23, 953/9 nature 1011/24, 1012/1 necessary 974/13, 975/12, 1014/18 need 956/1, 958/17, 958/18, 962/12, 969/17, 1011/9 needed 971/17 needs 965/11, 965/19 negotiate 952/21 NEW 921/2, 921/11, 921/17, 921/19, 921/23, 922/1, 922/3, 922/4, 922/5, 922/9, 922/10, 922/11, 922/13, 922/14, 922/16, 922/18, 922/21, 922/23, 923/1, 923/2, 923/3, 923/5, 923/9, 955/2, 955/5, 955/14, 961/11, 962/14, 963/4, 981/18, 982/5 news 955/5 nine 963/19, 1016/2 NIXON 921/22 non-discriminatory 968/12 non-rhetorical 955/24 North 922/8 northeast 952/1 note 1011/1 notice 975/4, 1016/14 noticeable 974/14, 975/13 notion 971/22 nuancing 1017/7 Number 950/11, 953/24, 960/6, 1011/4, 1014/6	participant 953/22 participate 953/23 participated 957/2 parties 975/4, 975/20, 976/12, 979/19, 980/2, 980/6, 980/13, 981/1, 981/5, 981/7, 982/12, 982/23, 1013/7, 1016/15, 1017/14, 1018/19, 1018/20 pass 978/7 paying 956/5 payroll 964/4 Pearl 984/11 perform 976/14 performing 1012/7 period 960/2, 980/20, 1011/20 permission 970/1, 971/16, 971/19 perspective 960/23 petition 973/8 phase 982/3 phrase 957/20, 968/11, 969/12, 969/22, 976/6 pick 957/2, 959/17, 960/2, 960/5, 976/4, 976/22 PIEN 922/21 pilot 975/22 PLACE 922/5, 963/3, 972/16, 975/3, 980/23 PLAINS 922/21 plan 975/6, 979/24 Plans 921/5, 974/24 plants 965/13, 965/14 Plaza 921/18, 921/23, 922/14, 922/17 plenty 1015/16 plus 959/12 pocket 979/20, 1015/17 pockets 980/1 pockets' 981/10 point 951/4, 951/7, 951/16, 952/5, 952/9, 956/3, 956/9, 957/11, 969/13, 980/10, 980/11 pointed 952/13 points 979/17 population 963/21 portion 954/11, 954/18, 958/4, 1018/1 posed 964/23 position 966/10 possesses 982/18 possibility 957/9 possible 957/14, 957/15, 966/11, 980/20 potential 970/8, 977/7 POWER 922/10, 923/3, 923/7, 952/17, 956/9, 957/2, 959/17, 960/2, 960/4, 976/4, 976/22, 982/18 prefer 973/19 prefiled 924/22, 925/10, 983/22, 986/7, 1016/17, 1016/22, 1017/3, 1017/7 preliminary 924/20 prepare 1012/21, 1013/3 prepared 924/21, 950/1, 985/16, 985/21, 1017/2 presents 1015/19 president 984/8 presupposition 966/18 price 951/4, 951/7, 951/9, 951/16, 951/17, 951/18, 952/4, 952/5, 952/7, 952/9, 952/20, 952/23, 953/6, 953/9, 953/14, 956/2, 956/3, 957/11, 957/15, 977/19 priced 957/4 prices 952/22, 957/16 pricing 956/21, 956/22 problem 1015/19 procedure 982/8 procedures 968/12, 968/19, 970/6, 971/19, 972/16, 973/1, 1013/8 proceed 924/7 proceeding 925/4, 950/7, 984/23, 1017/16, 1018/15 proceedings 972/24, 986/3 process 980/8, 1012/6 PRODUCERS 923/3 production 962/13, 963/3, 963/4, 963/24 program 956/9, 957/2, 959/17, 975/17, 975/18, 975/24, 976/4, 976/12 programs 977/1, 976/1, 976/1
J JACK 924/13 JAMES 922/6, 922/18 January 979/21, 980/7, 980/11 jobs 964/3, 966/3, 966/13, 978/5, 979/2 JOEL 923/8, 924/10 JOHN 921/21 Judge 921/14, 924/2, 925/9, 950/11, 950/17, 951/10, 951/12, 955/21, 956/14, 958/16, 958/23, 960/9, 969/17, 971/6, 971/21, 972/4, 972/10, 973/2, 973/18, 973/21, 973/23, 977/10, 979/14, 979/16, 982/24, 983/3, 983/6, 985/7, 985/10, 985/12, 985/22, 986/2, 1011/1, 1011/8, 1011/23, 1012/11, 1012/15, 1012/20, 1013/5, 1013/12, 1013/23, 1014/2, 1015/11, 1015/24, 1016/12, 1017/13, 1018/6, 1018/10, 1018/13, 1018/18 justify 955/14	M Main 922/8 major 963/2, 963/22 mandatory 981/19, 981/20, 982/1 March 1016/15 MARCO 924/14 marked 950/9, 950/13, 985/23, 985/24, 1011/5, 1011/6, 1014/4, 1016/21, 1018/15 material 1015/13, 1015/22, 1018/3 MATTER 921/4, 985/18, 1017/14 matters 1016/22 measures 979/19, 979/21, 980/6, 980/12 mechanism 981/12, 981/14 mechanistics 980/23 meet 964/22 MELANIE 922/21 member 970/5, 984/16 members 978/17, 978/18, 984/14, 984/16 mid 1011/14 middle 960/11 milestone 1016/15 million 964/4 mind 982/21 minimis 974/4, 974/6, 975/10 minimize 971/11 minimum 1018/3 minor 974/8, 974/11, 974/15, 975/12 MINUTES 921/9, 1015/4 misquoted 969/6 mitigating 979/20, 980/1 modifications 972/24, 974/12 MOLLIE 922/22 moment 958/23, 966/20, 983/2 money 976/21, 976/23 Montalbano 922/8 months 955/11, 980/22 months' 980/20 Motion 925/9 move 953/20, 964/7 Mr. Gansberg 1013/5 Mr. Garlin 968/24 Mr. Addepalli 924/21, 950/23, 971/7, 984/18 Mr. Carley 1015/11, 1015/12, 1016/3, 1016/4, 1018/2, 1018/8, 1018/9, 1018/12 MR. GANSBERG 1011/10, 1012/3, 1012/13, 1012/17, 1013/1, 1013/9 Mr. Garlin 924/8, 924/9, 924/19, 925/6, 950/9, 950/15, 955/16, 956/12, 956/15, 956/22, 958/9, 958/12, 958/14, 958/21, 959/3, 967/22, 969/4, 969/10, 969/18, 973/15, 973/19, 973/22, 983/2, 983/6, 983/8, 985/5, 1013/11, 1016/11, 1016/13, 1016/14 Mr. Greenholtz 984/5, 984/6, 984/8 Mr. Gupta 985/15, 986/3 Mr. Gupta's 985/18 Mr. Indyke 1011/2, 1013/16 MR. SCHNUR 1014/1 Mr. Treiber 984/4, 984/13 MR. WILES 950/19, 950/21, 951/13, 955/23, 958/10, 958/12, 958/17, 968/23, 969/8, 969/12, 973/23, 973/24, 977/8, 983/9, 983/17, 985/9, 1013/17, 1014/5, 1015/15, 1016/6, 1016/9 Ms. Pien 977/11, 977/13, 979/12, 984/19, 985/10, 985/11, 985/14, 985/17, 986/6	O O&R 953/24, 965/5 Object 955/18, 956/12, 958/16 objection 1016/10 objections 1014/2 obliged 966/15 obtain 957/16 October 979/24, 981/15 offer 960/22, 973/16, 985/14 offered 1014/11 offers 1015/22 Offices 921/9 open 958/1, 958/6, 958/9, 965/14, 983/11 operating 963/22 operation 973/7, 976/10 operational 976/13 operations 971/10, 973/6 Opinion 921/6, 958/5, 958/14, 959/5, 983/18, 984/1 opportunities 965/24 opportunity 952/16, 968/17, 975/5, 975/10, 1016/7 opposing 1017/7 opposition 969/5, 1017/1 option 972/20 oral 970/12 orally 925/8, 986/4 Orange 921/5, 921/20, 924/3, 962/18, 967/11, 967/12, 967/14, 967/17, 970/6, 971/9, 981/10, 1012/24 order 970/24, 972/9 outcome 980/24 Overruled 956/14	priced 957/4 prices 952/22, 957/16 pricing 956/21, 956/22 problem 1015/19 procedure 982/8 procedures 968/12, 968/19, 970/6, 971/19, 972/16, 973/1, 1013/8 proceed 924/7 proceeding 925/4, 950/7, 984/23, 1017/16, 1018/15 proceedings 972/24, 986/3 process 980/8, 1012/6 PRODUCERS 923/3 production 962/13, 963/3, 963/4, 963/24 program 956/9, 957/2, 959/17, 975/17, 975/18, 975/24, 976/4, 976/12 programs 977/1, 976/1, 976/1
K Kavanah. 922/15 Key 921/23 kilowatt 951/4, 957/17 knows 976/9, 976/10 KUTTER 922/17 kwh 951/16, 956/2, 957/12	L labeled 950/2 Laboratories 984/11 labs 984/12 LAMPI 922/22 language 968/14, 969/1, 969/6, 971/18, 1011/19 LANIADO 923/4, 923/6 large 960/22, 962/23 Law 921/14, 923/1 LAWRENCE 922/2 lead 1017/9 leave 966/13 Lederle 984/12 legal 967/23, 968/10 legally 967/24 legislation 974/17 levels 964/2, 1012/3, 1012/19 liabilities 956/17 licensing 967/20 life 973/3 limit 1017/23 limited 1012/20, 1016/12 line 951/3, 957/24, 961/24, 965/9, 965/12, 1015/20 lines 953/21, 954/5, 954/17, 957/19, 975/16, 982/12, 982/12	P P.C 922/8 PACE 922/20 PADULA 924/14 pages 924/22, 925/6, 959/5, 1016/2 panel 924/8, 924/21, 925/3, 925/12, 950/1, 950/6, 950/15, 950/18, 958/15, 958/17, 958/24, 963/12, 967/24, 970/6, 977/11, 977/14, 978/23, 979/15, 983/15, 984/20, 985/12, 1014/7 paper 963/1 papers 963/7 paragraph 968/16 part 953/7, 960/4, 970/11, 976/3, 978/11, 1017/7 P.C 922/8 PACE 922/20 PADULA 924/14 pages 924/22, 925/6, 959/5, 1016/2 panel 924/8, 924/21, 925/3, 925/12, 950/1, 950/6, 950/15, 950/18, 958/15, 958/17, 958/24, 963/12, 967/24, 970/6, 977/11, 977/14, 978/23, 979/15, 983/15, 984/20, 985/12, 1014/7 paper 963/1 papers 963/7 paragraph 968/16 part 953/7, 960/4, 970/11, 976/3, 978/11, 1017/7	priced 957/4 prices 952/22, 957/16 pricing 956/21, 956/22 problem 1015/19 procedure 982/8 procedures 968/12, 968/19, 970/6, 971/19, 972/16, 973/1, 1013/8 proceed 924/7 proceeding 925/4, 950/7, 984/23, 1017/16, 1018/15 proceedings 972/24, 986/3 process 980/8, 1012/6 PRODUCERS 923/3 production 962/13, 963/3, 963/4, 963/24 program 956/9, 957/2, 959/17, 975/17, 975/18, 975/24, 976/4, 976/12 programs 977/1, 976/1, 976/1

979/5, 979/9
PROJECT 922/20, 923/1
proof 968/14, 968/15, 969/21,
969/22, 970/3, 970/18, 970/24
proponent's 1016/18
proposal 981/22, 982/9, 982/21,
1011/22, 1012/22, 1013/3, 1013/4
propose 974/3, 1013/8
proposed 975/20, 979/24, 980/7,
981/15, 983/13, 1012/13
proposing 967/5
PROTECTION 922/16
provide 964/3, 968/13, 970/7,
970/24
provider 971/23, 972/3
provides 975/9, 977/15, 1011/19
provision 970/18, 971/7, 971/21,
972/6, 972/11, 973/4
provisions 960/13
PSC 1019/3
PUBLIC 921/2, 921/17, 923/1,
925/11, 962/22
pull 1015/17
purchase 956/19, 976/20, 976/24
purchasing 956/9
purpose 965/16, 971/6, 972/13,
973/14, 975/11, 1016/12
pushed 965/23, 966/1, 966/12
pushing 966/5
put 972/8, 972/9, 976/11, 1014/23
putting 966/9

Q

question 951/4, 951/13, 953/4,
954/15, 955/18, 955/22, 956/12,
956/16, 956/24, 957/1, 958/20, 959/1,
960/21, 966/21, 966/22, 968/24,
979/7, 1013/6, 1016/19, 1016/23
questions 924/20, 950/23, 970/21,
977/8, 977/10, 979/13, 979/14
quote 962/21, 984/5
quoted 963/1, 969/9
quoting 959/5

R

raised 1016/6
Rate 921/5, 955/14, 960/1, 960/11,
960/14, 960/15, 960/16, 960/18,
960/22, 960/24, 961/2, 961/5, 961/12,
961/14, 961/16, 962/6, 962/24,
964/20, 965/16, 965/17, 966/15,
967/3, 967/5, 974/4, 974/8, 974/10,
974/11, 974/18, 974/23, 975/6,
975/10, 975/13, 976/16, 981/22,
982/2, 982/5, 983/12, 1012/3,
1012/18, 1012/21, 1013/4
rates 953/17, 962/11, 964/5, 964/19,
966/2, 966/9, 967/2, 975/7, 1012/14
rationale 952/18
reach 957/11
READ 923/4, 959/9, 959/10,
966/24, 969/1, 969/10, 1016/7
reason 952/3, 1015/12, 1015/19
reasonable 968/13, 968/15, 969/20,
969/22, 970/3, 970/18, 970/24, 1015/7
recall 983/15, 983/17
receipt 1014/3
receipts 956/5, 956/11, 956/20,
957/5
receive 960/1, 970/19, 970/24,
1013/14
received 965/4, 985/19, 1011/3,
1018/16
receiving 960/18
recess 951/11, 983/4, 983/5
recommendation 980/4, 980/7,
980/9, 981/4
recommended 980/14
record 924/5, 925/7, 951/10,
951/12, 958/21, 962/22, 966/24,
967/22, 984/6, 984/22, 985/19, 986/4,
1011/2, 1013/7, 1016/24, 1017/2,
1017/4, 1017/9, 1017/19, 1017/20,
1018/1
records 963/16

1019/3
reduce 953/16, 965/11, 971/12,
972/19, 977/1
reduced 978/13, 984/21, 984/23
reducing 953/18, 977/24
reductions 963/1, 977/20, 977/21,
983/12
redundancy 1017/17
reference 951/3, 951/8, 951/15,
951/17, 952/22, 953/8, 953/11, 954/6,
957/23, 958/11, 963/14, 974/2,
983/10, 983/18
referencing 954/22
reflect 967/23
regulated 972/12, 972/13, 973/4
regulations 970/11, 970/15, 971/15,
972/15, 972/17, 972/18
related 970/15
relief 974/18
reloading 961/21
relocate 962/16, 966/12
relocating 961/10
remain 965/13, 965/15
remainder 1017/24
remind 1018/20
render 1011/13
repeat 958/20, 966/22, 970/21
repeats 1016/22
repetitious 1018/7
reporter 966/24
representative 962/23, 1013/23
representatives 964/17
request 1013/16
requested 1013/20
required 969/21, 970/14
requirement 970/19, 970/22,
970/23, 971/1
requirements 967/4, 967/7,
967/20, 968/6, 971/5, 973/9
requires 973/4, 1012/8
requiring 968/13
residential 952/7, 952/9, 952/21,
952/23, 953/4, 953/6, 953/9, 970/8,
976/1, 981/18, 981/21
resort 971/23, 972/3
RESOURCES 923/4
respect 968/15, 969/20, 1014/15,
1016/9
respects 1018/13
responding 966/21
response 924/6, 959/1
responsive 1016/18
rest 1016/2
Restructuring 921/6, 924/4
result 960/12, 977/5, 985/3
resume 924/2
retail 958/1, 958/6, 958/7, 959/13,
959/17, 976/2, 983/12
retention 960/14
revenues 963/19, 965/7
review 982/23
reviewing 983/23
rhetorical 955/21
risk 961/9, 961/21, 966/3, 966/6
risks 966/5
River 984/11
ROBERT 921/18
Rockland 921/5, 921/20, 924/3,
962/18, 967/11, 967/12, 967/14,
967/18, 970/7, 971/9, 981/11, 1012/24
ROM 922/5
rules 970/11, 972/24
run 962/13

S

sales 956/5, 956/11, 956/17, 956/20,
957/4, 963/18
SAM 923/6
save 976/21
saving 976/23
savings 976/17, 977/4, 977/7
saw 1015/17
SC-9 954/8
Schmaler 922/12
screen 971/20
second 958/22

sections 952/17
securitization 974/16, 974/23
seek 966/15, 971/16, 971/18
semantics 972/21
SENIOR 921/20, 921/21
sense 957/21, 962/4, 982/18
serious 961/9, 961/15, 961/19,
961/21, 962/2, 962/7, 966/3, 966/5,
966/6
SERVICE 921/2, 921/17, 925/12,
952/18, 954/7, 954/10, 954/20,
954/21, 955/2, 955/4, 955/6, 955/13,
965/12, 965/15, 969/21, 970/8,
970/19, 970/24, 971/14, 973/10,
981/21, 1012/6, 1012/11, 1012/16,
1012/17, 1012/23
sets 983/24
settlement 952/6, 953/7, 953/24,
954/2, 954/13, 954/24, 955/7, 955/17,
955/19, 955/20, 959/23, 960/2, 960/4,
960/13, 964/21, 965/10, 965/18,
967/15, 967/20, 968/3, 968/5, 968/8,
969/6, 969/7, 969/15, 972/1, 973/5,
973/12, 973/16, 974/1, 974/5, 974/7,
974/22, 977/15, 977/18, 977/20,
983/13, 1011/10, 1012/22, 1013/2,
1016/1, 1016/21, 1017/23, 1018/8
seven 951/3, 957/19, 964/3
seventeen 953/21, 954/5, 954/17,
968/9
short 962/15
show 924/5
shows 977/19
side 965/12, 1017/11
signatories 1011/17
signed 973/15
simplicity 950/22
situation 962/2, 965/22, 981/10
situations 961/16, 961/18, 961/19,
961/20, 962/10
six 951/3, 951/5, 951/15, 956/2,
957/11, 957/14, 957/16, 957/24
sixteen 974/1, 974/23
solution 980/14
solutions 980/3
sources 952/16, 977/19
specified 980/21
specify 968/22
pending 978/14
sponsored 1014/12
STAFF 921/17, 921/18, 924/7,
925/7, 925/12, 954/12, 954/23,
955/12, 967/17, 973/2, 977/2, 977/23,
978/17, 978/18, 979/15, 1011/15,
1016/11, 1019/3
stand 1014/7, 1014/8
standard 967/2
standards 979/11
start 980/8
starting 980/10, 980/11
STATE 921/2, 921/17, 922/1,
922/10, 922/13, 922/16, 922/17,
923/1, 956/10, 956/18, 957/3, 957/4,
957/5, 957/9
statement 962/23, 967/17, 969/5,
981/18, 981/23, 1014/10, 1014/15,
1014/16, 1014/19, 1014/22, 1015/8,
1016/20, 1017/1, 1017/8, 1018/4
statements 1016/17, 1016/18,
1017/1, 1017/15, 1017/18
states 952/2, 962/14, 965/24
stay 964/6, 965/12
Stewart 921/14
streamline 971/15, 973/5, 973/7
streamlining 972/13
Street 921/10, 922/8, 922/22, 923/1,
923/5
study 955/2, 955/10, 1012/6,
1012/12, 1012/16, 1012/18, 1012/23
stuff 959/5
subclassification 981/20
subgroup 972/22
subject 953/7, 961/24, 968/6,
971/14, 972/8, 1015/2
submission 980/16
submitted 979/21, 980/13
sufficient 964/21, 965/18
unrelated 963/16

suppliers 976/21, 977/1
support 975/21, 976/7, 976/8,
976/18, 1016/20, 1018/4
supported 1017/16
surprise 1014/11
suspect 963/10
Swan 921/10, 922/22
sworn 924/16
system 976/10, 977/15

T

table 980/16, 1014/24
talk 966/20
talking 954/17, 955/3, 955/9,
961/23, 962/4, 966/8, 974/8, 974/14,
975/17
Talks 968/12
tariff 960/12, 960/14, 960/16,
960/24, 961/2, 961/6, 961/14, 962/20,
974/12, 975/3
tariffs 974/9
tax 956/5, 956/11, 956/20, 957/4,
957/5
taxes 957/9
ten 960/7, 960/9, 960/10, 965/6,
981/17, 983/21
TENENHOLTZ 924/10, 956/24,
957/7, 957/13, 965/1, 965/8
term 981/24
terms 954/3, 962/10, 977/15
territory 959/20, 962/19, 965/12,
965/15, 966/4
test 978/11
testified 924/16
testify 958/12
testimony 924/22, 925/1, 925/3,
925/4, 925/7, 925/11, 951/3, 954/8,
954/11, 954/16, 954/17, 954/19,
954/22, 960/10, 964/19, 967/10,
975/16, 983/22, 985/16, 985/18,
985/19, 986/3, 986/5, 986/8, 1014/9,
1014/15, 1014/17, 1015/1, 1015/5,
1015/21, 1016/8, 1016/17, 1016/19,
1016/24, 1017/3, 1017/7, 1017/16
tests 978/8, 978/9
Thank 973/22, 979/12, 985/13,
985/17, 1013/5, 1013/12, 1018/12,
1018/20
that—if 959/6
Third 921/10, 922/2
thirteen 957/18, 961/23, 975/17,
983/11, 983/14
THOMAS 922/9
thousand 964/3
threat 964/23
Three 921/18, 950/1, 964/4
threshold 968/23
Thursday 921/11, 962/22
time 961/14, 968/21, 970/4, 971/4,
973/9, 975/19, 976/1, 976/4, 980/16,
980/20, 984/13, 985/14, 1011/5,
1011/9, 1011/20, 1014/23, 1015/16,
1016/5
time-of-use 981/19, 981/21, 982/2
Times 962/21
TIMOTHY 922/16
top 968/11
TOURVILLE 924/11
TRADE 923/4
trained 968/1
transaction 957/7
transmission 972/2, 972/7
treated 1017/4
TREIBER 924/13, 954/14, 955/1,
955/9, 959/16, 960/4, 961/5, 962/4,
962/21, 963/10, 965/21, 966/8,
966/22, 967/1, 967/8, 974/7, 975/3,
975/8, 975/11, 984/8, 984/15
true 959/23, 966/14, 967/1
turn 983/21
twelve 975/16
twenty 967/9, 974/22, 979/18
twenty-four 924/22, 925/6, 954/18
twenty-nine 959/24, 960/17, 962/18
twenty-one 1014/3
twenty-six 963/15, 963/17, 963/21,

twenty-three 953/21, 954/6, 975/16
two 959/13, 979/17, 1014/6

U

unbundled 981/22, 1012/13,
1012/21, 1013/3, 1013/4
unbundling 982/7, 982/16,
1011/11, 1011/22, 1011/24
uncollectibles 971/11, 971/13
undertaken 1012/24
unfolds 976/15
Unlike 981/9
unregulated 967/10, 967/16
usage 961/13
USERS 922/7, 957/21, 961/24, 984/9
Utilities 921/5, 921/20, 924/4,
981/10
UTILITY 923/1, 956/18, 973/4,
984/10

V

vacuum 1017/10
value 1015/23
verify 964/10
veto 982/18
VICE-PRESIDENT 921/20
view 956/3, 959/15

W

waived 969/13, 969/14
waiver 969/2, 969/16
waivers 968/18, 971/17
WARDEN 922/18
weight 976/11
WHEELED 923/7
WHITE 922/21
wholesale 959/13, 980/19
Wiles 923/2, 969/5, 984/5
WILLIAM 922/3
willing 958/10
Windsor 923/8
wish 970/23
withdrawing 955/23
witness 965/3, 1013/18, 1014/8
witnesses 924/15, 967/24, 1014/13,
1014/14, 1015/21, 1016/8, 1019/2
wonder 972/11
word 974/6
words 962/3
work 1011/18
working 972/22, 980/12
world 955/5
written 969/15
Wyeth-Ayerst 984/11

Y

year 955/12
years 974/13, 975/13
YORK 921/2, 921/11, 921/17,
921/19, 921/23, 922/1, 922/3, 922/4,
922/5, 922/9, 922/10, 922/11, 922/13,
922/14, 922/16, 922/18, 922/21,
922/23, 923/1, 923/2, 923/3, 923/5,
962/14
Yrk 923/9