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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE APPLICATION)	DOCKET NO.
OF SOUTHWEST GAS CORPORATION FOR)	G-01551A-07-0504
THE ESTABLISHMENT OF JUST AND)	
REASONABLE RATES AND CHARGES)	
DESIGNED TO REALIZE A REASONABLE)	
RATE OF RETURN ON THE FAIR VALUE)	
OF ITS PROPERTIES THROUGHOUT)	
ARIZONA.)	
_____)	OPEN MEETING

At: Phoenix, Arizona
 Date: December 19, 2008
 Filed: **JAN 07 2009**

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AGENDA ITEM NO. U-29

Arizona Corporation Commission
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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard at Open
3 Meeting before the Arizona Corporation Commission, 1200
4 West Washington Street, Phoenix, Arizona, commencing
5 10:00 a.m. on the 19th day of December, 2008.

6

7

BEFORE: MIKE GLEASON, Chairman
8 WILLIAM A. MUNDELL, Commissioner
9 JEFF HATCH-MILLER, Commissioner
KRISTIN K. MAYES, Commissioner
10 GARY PIERCE, Commissioner

10

11 APPEARANCES:

12

For the Arizona Corporation Commission Staff:

13

Ms. Maureen Scott
14 Mr. David Raber
Mr. Frank Radigan
15 Mr. Ralph Smith

16

For Southwest Gas Corporation:

17

Mr. Justin Lee Brown
18 Ms. Karen S. Haller

19

For RUCO:

20

Mr. Daniel Pozefsky

21

For Arizona Investment Council:

23

Mr. Michael Grant

24

25

1 APPEARANCES:

2

For Southwest Energy Efficiency Project:

3

Mr. Jeffrey Schlegel

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1 CHMN. GLEASON: Let's come to order. It is
2 December 19th at 10:00. And we will, by the agenda we
3 will start with Southwest Gas Corporation, Item 29.

4 And I guess, Southwest Gas, do you want to state
5 why you like this thing or you don't like it? And we
6 undoubtedly have some questions for you.

7 MR. BROWN: Appreciate it, Chairman Gleason,
8 Commissioners. I would like to actually address one
9 item that was a carryover from last night.

10 Commissioner Mayes and Mundell had some
11 questions. And I think I am going to take Commissioner
12 Mayes up on her offer to submit it in writing. We have
13 been trying to get the information. We just haven't
14 completely filed it, so if we could submit that to you
15 in writing we would appreciate it.

16 COM. MUNDELL: Just so everyone knows who were
17 not here last night, we were talking to you on another
18 docket that dealt with your company, and it came up.

19 MR. BROWN: Correct. It was an application to
20 increase the low income energy conservation DSM program,
21 the bills assistance component of that program.

22 COM. MUNDELL: And we asked the question as you
23 were standing at the microphone.

24 MR. BROWN: Correct.

25 COM. MUNDELL: Thank you.

1 MR. BROWN: I would also like to, in addition to
2 getting that matter out of the way, I would like to
3 preface my comments this morning by expressing our
4 appreciation for the professionalism and the courtesy
5 provided by the parties during the course of this
6 proceeding, particularly from Staff, RUCO, AIC, SWEEP
7 and Judge Nodes.

8 You know, rate cases are not always the most
9 enjoyable process to go through. Unfortunately, as a
10 utility, that's a necessary part of the business. And
11 when you can go through a process with quality
12 individuals it makes it a little bit easier. And I
13 wanted to express that appreciation.

14 We also understand the position that the
15 Commission is in in terms of utilities coming in with
16 rate applications, trying to balance the interests of
17 having a healthy company as well as the concerns of
18 customers, especially during economic difficulties that
19 we are experiencing now. And as a result, our
20 exceptions primarily focused on four areas. And we
21 spent the majority of the focus on two.

22 We will address a disallowance of what we
23 believe to be used and useful property that was not
24 warranted. Commissioner Pierce's proposed amendment
25 addresses that issue, and we would encourage the

1 Commission to approve that amendment.

2 We also pointed out the need to clarify some
3 items. Primarily it was the items that were raised
4 during the course of the exchange of testimony during
5 that proceeding that were not litigated but were
6 actually uncontested by the parties, specifically
7 Staff's recommendation to modify the last Commission
8 decision and allow 100 percent recovery of the company's
9 TRIMP costs through a surcharge beginning March 2009.
10 We believe some clarification of these uncontested items
11 in the recommended opinion and order would be helpful on
12 a going forward basis.

13 The company did not address revenue requirement
14 items in its exception. The company may not have agreed
15 with some of the items that were set forth in the
16 recommended opinion and order, but at the same time we
17 understand the position of the parties, the need to
18 balance the interests, especially during current
19 economic times, which is I think what was so
20 disheartening about the company's rate design proposal.

21 The company had proposed revenue decoupling and
22 the company believes that this is a significant
23 opportunity for the Commission as well as all
24 stakeholders that might be slipping away. And the
25 reason is because the focus throughout the proceeding

1 has been somewhat misplaced in that it has all been the
2 company and the fact that revenue decoupling will
3 provide improved financial stability and therefore it
4 must be bad. And we have tried through the brief and
5 through the testimonies as well as to the exceptions to
6 point out actually the focus should really be on
7 customers and the fact that, with revenue decoupling,
8 there is a tremendous savings opportunity. And we point
9 out in the exceptions that this savings opportunity is
10 anywhere from 4 to \$23 million.

11 And the reason is because the majority of the
12 commodity costs the customers pay, that \$1.49 per therm
13 amount, 90 cents of it is gas costs. So the
14 disincentive for the company to be, to be concerned
15 about how much throughput is going through the system is
16 removed and they can, instead, get out in front of
17 conservation and focus on how to get customer bills
18 lower. You have 90 cents of every \$1.49 that customers
19 can save as a result of allowing the company to get out
20 in front of conservation.

21 And I think the other part about revenue
22 decoupling is, regardless of what the Commission decides
23 today in terms of the recommended opinion and order,
24 whatever costs the Commission ultimately approves to
25 allow the company to recover through rates, that does

1 not change with revenue decoupling. Revenue decoupling
2 does not increase or add additional costs to what the
3 company can recover through rates. That's not what it
4 does. So really there is no harm to customers at all by
5 approving revenue decoupling. In fact, if you look at
6 it, there is tremendous upside because the company can
7 get out in front of conservation and promote
8 conservation and encourage conservation and encourage
9 customers to use less gas. And, again, you go to the
10 commodity cost, that's 90 cents of every \$1.49
11 associated with the cost of the commodity charge, the
12 per therm rate customers pay.

13 SWEEP and AIC have both supported the company's
14 revenue decoupling proposals in this proceeding. SWEEP
15 had made the comment about, you know, the parties have
16 drawn a line in the sand and said no and decoupling is
17 bad. And the company is saying no, decoupling is good.
18 And SWEEP said let's do it on a pilot basis, short time
19 frame, let's try it, let's study it and see how it
20 actually works and see is it bad, is it good, what
21 changes is the company going to make to promote
22 conservation during this pilot process.

23 As part of the briefing process the company set
24 four specific action items and expressed a willingness
25 to be committed to conservation with revenue decoupling.

1 And at a minimum, the weather normalization is,
2 I think, really a no brainer. Customers are protected
3 during cold spells in the winter from overpaying on
4 margin. It goes back and it says we are only going to
5 use the weather normalized volumes that were used to set
6 rates, nothing more and nothing less.

7 So what is the risk of implementing it? In
8 fact, there are 69 natural gas utilities in 32 states
9 that have some form of weather normalization. And in
10 the 30 years that these, that weather normalization has
11 been in place, no state that has approved it has ever
12 reconsidered and retracted their approval of it. And I
13 think that really demonstrates that there is a customer
14 benefit with it, otherwise, why would, why is it that it
15 has never been retracted?

16 The last item that was part of our exceptions
17 that we addressed, it is a very important aspect to the
18 company. And that is our ability to access the capital
19 markets on competitive terms. And I know over the last
20 two days this Commission has heard a ton on the capital
21 markets so I am not going to get into that. I don't
22 need to get into that. You are all very well aware of
23 the capital markets.

24 But I think the importance is to emphasize that,
25 whether we are in a growth cycle or not in a growth

1 cycle, there is a need to access the capital markets.

2 Company witness Wood testified that, I think it
3 is, through December of 2009 the company will be
4 expending \$880 million on capital expenditures. In
5 addition, over the next six years there is about
6 \$700 million worth of debt, a portion of which needs to
7 be refinanced over the next six years. So, again,
8 accessing capital markets on competitive terms is very
9 important for the company and to the customers because
10 it all flows back down to the customers.

11 The 2008 average authorized return on equity so
12 far this year for natural gas utilities is
13 10.45 percent. That's relative to a 51 percent equity
14 ratio. The proxy groups used by the company, their
15 actual returns, not their authorized but their actual
16 returns, during 2007 were even higher. They were in the
17 12 percent range relative to a 55 percent equity ratio.

18 We ask the Commission to take a step back and
19 say: Does it really make sense that Southwest Gas
20 should receive a 10 percent ROE relative to a
21 43.44 percent equity ratio, and, if investors are
22 evaluating which utility to invest in, are they going to
23 choose Southwest Gas or is Southwest Gas going to be at
24 a disadvantage when they are trying to access the
25 capital markets?

1 That leads to the last component of cost of
2 capital, which is capital structure. And I know there
3 have been some Commissioners longer on the Commission
4 than others and those will probably appreciate this
5 more, but who would ever have thought that Southwest Gas
6 would be standing before the Commission not arguing the
7 use of a hypothetical cap but, instead, pleading to
8 allow us to use the capital structure we have actually
9 obtained as of March of 2008, which was 45 percent
10 instead of the 43 that was in the test year. Why use
11 the test year capital structure when it is not
12 reflective of the existing capital structure or the
13 capital structure on a going forward basis that the
14 company continues to improve on?

15 We ask that the Commission, during their
16 deliberation this morning and during the comments, to
17 strongly consider the company's proposals. I am
18 available for questions as the Commission has them. And
19 thank you for your time.

20 CHMN. GLEASON: Okay. Commissioner Mayes.

21 COM. MAYES: Thanks, Mr. Chairman.

22 Just real quickly, just so everyone is on
23 notice, I would like to, with regard to the two Pierce
24 amendments, have the parties prepare a bill impact
25 analysis of both of them before we vote on them. And --

1 MR. BROWN: If I may, Commissioner Mayes. It is
2 my understanding, I can check on this at a break, but
3 with regard to, I believe, Revised Pierce Proposed
4 Amendment 1, which is dealing with the rate base of Yuma
5 Manors, it is my understanding that that would have zero
6 impact on rates from this rate case. Because the way I
7 understand it works is that right now what the
8 recommended opinion and order is excluding I think is
9 around, I don't have the exact numbers, but it is around
10 500,000.

11 It is the company's position and I think it is
12 the proposed amendment that that amount would still be
13 excluded from rates at this time but only the 320 would
14 be excluded on a permanent basis going forward.

15 COM. MAYES: Okay.

16 MR. BROWN: But the remaining balance --

17 COM. MAYES: That's fine. I don't want to argue
18 the amendment right now. If it is your position it has
19 zero rate impact, that's fine. I suspect, number two, a
20 rather significant rate impact. So at least our
21 analysis of it so far is that it does.

22 But just briefly, I also am disappointed about
23 the lack of resolution on decoupling, but I don't fault
24 the Judge for arriving at the decision that he did. And
25 it just seems to me that the proposals that the company

1 made didn't satisfy the various parties to the case,
2 didn't satisfy the Judge, and didn't fully satisfy me,
3 which isn't to say I am not interested in looking, in
4 potentially adopting some sort of decoupling mechanism
5 that would encourage energy efficiency programs and
6 allow the company to spend more money on energy
7 efficiency as proposed by SWEEP and others.

8 The last rate case we sent the parties back to
9 discuss this issue in a workshop forum. It resulted in,
10 I guess, in the proposals that were made today, but,
11 again, they weren't proposals that were accepted by the
12 various parties.

13 So why couldn't the company come up with a
14 decoupling mechanism that was geared toward recovering
15 conservation efforts or energy efficiency programs and,
16 quote, unquote, lost revenues associated with that in a
17 way that's also fair to ratepayers? I mean it seems
18 like there has got to be a way to tailor this to those
19 efforts and to get this done. And, instead, the company
20 came up with a WNAP and the RDAP. I mean it just, it
21 just didn't work. So what do we have to do to get this
22 done?

23 MR. BROWN: Chairman Gleason, Commissioner
24 Mayes, I think the proposals, and maybe I didn't
25 understand, I guess, your question or your concerns, but

1 let me explain my understanding on why I think the
2 proposals actually do address your issues that you are
3 raising. And, you know, through the group meetings, the
4 collaborations on it, we actually did -- there was some
5 success because SWEEP was kind of lukewarm last time and
6 this time they were on board. And I think their main
7 issue was what you are talking about, which is the
8 separation of weather effects and nonweather effects.
9 And I think --

10 COM. MAYES: Did SWEEP, refresh my recollection,
11 did SWEEP just support the RDAP or did they support both
12 the RDAP and the WNAP?

13 MR. BROWN: I will let --

14 COM. MAYES: And if they did both, then why
15 would they support both?

16 MR. BROWN: Chairman Gleason, Commissioner
17 Mayes, I am not -- I haven't seen Mr. Schlegel here this
18 morning and I will let him address that when he does
19 arrive hopefully. It is my understanding they support
20 both.

21 COM. MAYES: Why would they if they wanted to
22 have that broken out?

23 MR. BROWN: Well, Chairman Gleason, Commissioner
24 Mayes, my understanding is they were concerned about
25 separating them so you could actually see the effects of

1 weather and nonweather.

2 COM. MAYES: Why would they support something
3 that collected the effects of weather?

4 MR. BROWN: Chairman Gleason, Commissioner
5 Mayes, you know, you would have to ask Mr. Schlegel,
6 SWEEP, on why they are not opposed to the WNAP. You
7 know, I know that was one of their concerns from last
8 time, was you just can't have a decoupling mechanism
9 that decouples margin per customer regardless of the
10 effect whether it is weather or nonweather. And that's
11 why the company came back, okay, we have the decoupling
12 mechanism where you can separate and you can actually
13 see the weather effects and you can turn around and you
14 can see the nonweather effects, which we would say
15 really are conservation because, if you have nonweather
16 effects, people are reducing their usage or usage is
17 being reduced from energy efficiency. So if it is not
18 weather, it is some form of conservation regardless of
19 intent. Either they are intending to conserve, it is
20 energy efficiencies, they are buying more energy
21 efficient appliances, or because maybe they are going
22 through some economic difficulties and they want to
23 reduce their bill, well, that's conservation as well.
24 So I think all nonweather related reduction in usage is
25 really some form of conservation.

1 COM. MAYES: But in your exceptions to the ROO
2 didn't you argue for the WNAP over the RDAP? I mean,
3 didn't you argue that the Commission ought to, at the
4 very least, adopt the WNAP, which seems to me really
5 doesn't target at what this Commission is concerned
6 about, which is encouraging energy efficiency programs?

7 MR. BROWN: And, Chairman Gleason, Commissioner
8 Mayes, I wouldn't say that we argued the WNAP over the
9 RDAP. It was, I think, given the track record of the
10 WNAP, the fact it has been around for so long, that we
11 just thought that, you know, we think that both should
12 be approved. We think full revenue decoupling should be
13 approved, you should separate half the WNAP and RDAP.
14 The concern was, other than SWEEP and AIC, no one cared
15 about our proposals, I guess.

16 COM. MAYES: Well, I cared about your proposal.

17 MR. BROWN: So we were looking at it and we were
18 trying again to not focus on financial stability of the
19 company but let's look at the customers. And we look at
20 the WNAP, at a minimum this should be approved. And,
21 you know, again, it is symmetrical, helps the customers
22 and helps the company, and at no additional cost to
23 customers.

24 COM. MAYES: Okay. And I do care about your
25 proposals. And, you know, I have to tell you I came

1 very close to offering an amendment that would have,
2 would have proposed a pilot program for the RDAP.

3 MR. BROWN: Commissioner Mayes, you are breaking
4 my heart as you are saying that.

5 COM. MAYES: Well, you know.

6 MR. GRANT: Me too.

7 COM. MAYES: Mike also, okay. Because --

8 MR. BROWN: She is a heartbreaker.

9 COM. MAYES: Not really.

10 And so I am very serious about looking at that.
11 And I am disappointed that, disappointed that we don't
12 have the opportunity to move forward with that right
13 now. But I am interested in finding some vehicle for
14 moving forward with that. And so does the company have
15 any ideas on that front?

16 I think the order talks about dealing with it in
17 a generic docket, but it just seems to me that's a
18 recipe for this sort of being pushed off, you know, two
19 or more years.

20 MR. BROWN: Chairman Gleason, Commissioner
21 Mayes, I would agree. I would echo your sentiments.

22 You know, there is something that resonated with
23 me at the end of the hearing back in June. And, you
24 know, our vice president, Roger Montgomery, was on the
25 stand and you had asked him some questions. And we were

1 caught a little bit off guard. And I remember he said,
2 you know, the time is now.

3 And, you know, when we went back to the briefs,
4 that's what we did. We tried to put together to
5 demonstrate our commitment to conservation. And you are
6 right, in the recommended opinion and order it talks
7 about this generic docket to study it. And I don't want
8 to take credit for it because I think it may have been
9 SWEEP that suggested this at one time, but it was, in
10 our exceptions we pointed out, you know, the only way
11 that we are going to accomplish anything is to do it on
12 a pilot basis, feed the information from that pilot into
13 the generic docket so you can actually have something to
14 study instead of people speculating about what may or
15 may not happen.

16 COM. MAYES: Well, and I look forward to talking
17 to the Judge about this issue, because I think he has
18 some opinions on it and I value those a great deal. He
19 asked some questions during the case that I thought were
20 really interesting about this question of what has
21 happened in other states. And other states have
22 retrenched on decoupling, on several decoupling
23 proposals, haven't they? I mean, there have been a
24 couple states that did experiment with this and then
25 went back.

1 MR. BROWN: Chairman Gleason, Commissioner
2 Mayes, that's correct. And I know my initial comments
3 were addressing weather normalization. When I said it
4 has been 30 years it has never been retracted, I wanted
5 to make sure everybody was clear on that.

6 With regard to revenue decoupling, the revenue
7 decoupling situations I am aware of where it was
8 actually retracted pertained to electric utilities, not
9 natural gas utilities. And, in fact, I think there was
10 an experience, and it is primarily one experience that I
11 think opponents to decoupling like to focus on, was an
12 experience in Maine, which again was an electric
13 situation. And it was really more of an economic
14 situation that resulted in the withdrawal of the
15 decoupling mechanism.

16 COM. MAYES: Okay. I will talk to the Judge
17 about that a little later. But thank you for your
18 answers.

19 And then I want to ask you about, and I also
20 want to ask Staff at some point, about the -- hang on
21 for a second.

22 The recommended opinion and order on page 13
23 talks about the very troubling incident that occurred in
24 May 2005 in Tucson in which several people were burned
25 after an explosion. Southwest Gas paid \$10 million in a

1 settlement of that incident. What has Southwest Gas
2 done since then to ensure that those kinds of incidents
3 never occur again?

4 MR. BROWN: Chairman Gleason, Commissioner
5 Mayes, I don't have a lot of firsthand knowledge
6 regarding the incident and the facts and circumstances
7 around that. That preexisted my tenure with Southwest
8 Gas. I can check to see if we have a representative
9 here that can provide you additional information on that
10 at the next break.

11 COM. MAYES: I would appreciate that. And I
12 also know that Staff was, our Staff was investigating
13 it. So at some point, whether it is today or at some
14 future date, I would like to have an update for the
15 Commission on the status of that investigation and what
16 happened with it, so...

17 And I will yield for now, Mr. Chairman.

18 CHMN. GLEASON: Mr. Hatch-Miller.

19 COM. HATCH-MILLER: Thank you, Mr. Chairman.

20 Good morning. Mr. Brown?

21 MR. BROWN: Correct. Good morning, Commissioner
22 Hatch-Miller.

23 COM. HATCH-MILLER: My memory served me kind of
24 right on that.

25 MR. BROWN: It was only --

1 COM. HATCH-MILLER: At least Mr. Pierce's did.

2 MR. BROWN: It was only 14 hours ago.

3 COM. HATCH-MILLER: It seems like -- or much
4 shorter, depending on how --

5 You know, I am going to preface this as just a
6 little personal comment. I have always tried to find
7 the house or live in a house that has natural gas. I
8 like heating the house with natural gas and I like
9 cooking with natural gas, always have. I only lived in
10 a couple houses that didn't have natural gas and it was
11 always because the infrastructure wasn't built into that
12 area. It wasn't by choice; it simply wasn't available.

13 And since I have been on the Commission it
14 always seemed reasonable to me to have a system where
15 the basic infrastructure, you know, the pipes and the
16 valves and the pumps are paid for upfront by customers
17 whether or whether they don't use gas. For one reason,
18 one of these days I would love to live in a house and be
19 able to just, you know, just not have to pay for the gas
20 if I am not using it but just make sure that that
21 infrastructure stays solid and is still going to be
22 there. And I might have two houses in fact at some
23 point hopefully. So decoupling has always made sense.

24 The weatherization is kind of a new concept to
25 me. And I am going to be very interested in hearing the

1 presentations. And I would like everyone to attend to
2 the two proposed amendments by Southwest Gas that are in
3 your exceptions. And I have actually prepared them in
4 my own writing for submission if appropriate.

5 So I do have the amendments for decoupling
6 available with me today. And if it is appropriate and
7 if the arguments lead us to that point, I can, I can
8 submit them for consideration of the vote by the
9 Commission.

10 But I just, I would love to have everyone attend
11 to that discussion as fully as possible, including the
12 rate implications, as Commissioner Mayes said earlier as
13 she was asking for it, rate implications.

14 And also I know that, in talking with my Staff,
15 that there may be some -- you know, it is not just as
16 simple as adopting your amendments as you wrote in your
17 exceptions. It is, it has more impacts on the order
18 than that. And, of course, the Judge is going to be the
19 one that is going to have to watch like an eagle for
20 that over me because we can't just adopt an amendment.
21 That requires a lot of other tweaking to the order that
22 we can't do here today.

23 All right. Thank you very much, Mr. Brown.

24 MR. BROWN: Thank you.

25 CHMN. GLEASON: Yes. I was intrigued by your

1 three-year test of the decoupling. Have you, or why
2 can't you conduct a historic analysis of that? Historic
3 analysis is often done on theories that involve the
4 price of securities, but why can't you, instead of --
5 you know, my problem is, with the three-year test, is
6 that when you put a test in like that, they never go
7 away. They just end up there. But why can't you, or
8 why can't you or have you had a study of past records?

9 MR. BROWN: Chairman Gleason, I think I
10 understand your question. And the answer is we have.
11 In fact, we submitted in the rate case exhibits that
12 were sponsored by our rate design expert, Mr. Brooks
13 Congdon that demonstrated the effect. There was
14 testimony in the case that talks about Southwest over
15 the last 20 years had experienced the consistent
16 approximately six to seven therm decline in usage. And
17 we had submitted exhibits and testimony identifying
18 that, assuming there is an additional seven therm
19 decline going forward, what the impact would be on rates
20 and what the surcharge amount was. And my recollection
21 is, I don't have it right here in front of me right now
22 but I can verify, but my recollection is that, assuming
23 average use and a seven therm decline, the annual
24 surcharge amount would be \$3.80, I believe.

25 CHMN. GLEASON: Well --

1 MR. BROWN: I think that's what your question
2 was. And if not, I can clarify further.

3 CHMN. GLEASON: No. What I was saying is, I
4 don't have the acronym, but the weather related changes
5 in the, in your rates.

6 MR. BROWN: Oh. Chairman Gleason, to address
7 that issue, again, company witness Congdon had presented
8 an exhibit as part of his rebuttal testimony
9 demonstrating that over a 10-year period the last 10
10 years, the effect of weather was that if we had a
11 weather normalization provision, customers actually
12 would have received a \$5.8 million reduction in their
13 rates. Essentially they overpaid \$5.8 million due to
14 colder than normal weather over the last 10 years.

15 CHMN. GLEASON: Okay. That was my question.
16 Okay, thank you. The board is clear. Thank you for
17 your presentation.

18 MR. BROWN: Thank you.

19 CHMN. GLEASON: AIC, Mr. Grant.

20 MR. GRANT: Mr. Chairman, Commissioners, good
21 morning. It is good to see you again. Mike Grant of
22 Gallagher & Kennedy on behalf of Arizona Investment
23 Council.

24 Commissioner Hatch-Miller, I am encouraged by
25 your comments. So let me spend a little time with RDAP

1 and WNAP in summarizing, I think, where we have been and
2 where we could go and at least what I think is important
3 inside the record.

4 As you probably know, in the company's last rate
5 case, the Commission recognized that Southwest Gas was
6 facing increased financial pressure due to declining
7 usage, close quote. And the facts supporting that
8 finding are as follows. Mr. Brown touched on a couple
9 of them.

10 The big one is from 1986 to 2007 average use per
11 residence dropped 224 therms. And in context that is a
12 40 percent drop in usage over that 20-year period, so
13 about 2 percent a year. Now, the good news is that less
14 gas per capita is being used. We are becoming more
15 efficient and we are impacting the environment at least
16 with that activity less. But the bad news, as the
17 Commission also recognized, is that drop in per capita
18 usage effectively deprives the company of its
19 opportunity to recover its costs, because the majority
20 of fixed costs, about 60 percent of fixed costs that
21 really don't change, you know, are nonetheless assigned
22 for recovery through a commodity which we know and in
23 fact encourage the use of less and less of.

24 So, for example, despite regular rate filings
25 every three years, only once in the past 10 years has

1 the company actually achieved its authorized rate of
2 return. So in the last rate case, the Commission had
3 asked the parties to bring you solutions. The AIC
4 intervened directly in response to that request in
5 joining with the Southwest Energy Efficiency Project as
6 well as the Natural Resources Defense Council and the
7 company.

8 Arizona Investment Council sponsored Dr. Dan
9 Hansen on two solutions, the weather normalization and
10 the revenue decoupling proposal. Dr. Hansen had
11 designed and then evaluated pilot programs for both the
12 Utah and the Oregon commissions. He testified the
13 benefits of WNAP takes advantage of the fact that when
14 the weather makes the company better off the customer is
15 worse off, and vice versa. Weather normalization levels
16 considerably the weather driven extremes of the
17 customers' bills. And as all of you know, I think
18 having been, you know, on the phone and receiving
19 customer complaints, that is a particularly exceptional
20 customer benefit at a time when gas prices are moving
21 five bucks and more in a span of just a few months. And
22 from the company or investor standpoint, the revenue
23 stability that weather normalization brings is becoming
24 increasingly important in these uncertain times.

25 Shifting to revenue decoupling, in your last

1 decision you asked for, quote, rate design alternatives
2 that will truly encourage conservation efforts while at
3 the same time providing benefits to all affected
4 stakeholders.

5 Here is the RDAP advantages. It preserves,
6 potentially increases the customers' incentives to
7 conserve. It removes the powerful disincentive which
8 the company has to support energy efficiency and
9 resulting reductions in revenues. It promotes rate
10 gradualism and reduces rate shock. Six therms per
11 average don't get all lumped together in one rate case
12 every three years for 18 therms of impact; you gradually
13 move to them over time, I think to the benefit of the
14 customer. And it reduces regulatory effort and expense,
15 which benefits the Commission, the company, its
16 customers and other parties.

17 I really have not heard any articulated
18 objection to weather normalization in this proceeding.
19 It just generally gets kind of lumped in with revenue
20 decoupling and then say, well, this is just some sort of
21 shell game to guarantee revenues for the company. And
22 it is not. I mean, as Mr. Brown pointed out, the record
23 evidence shows that if you had WNAP in effect for the
24 last 10 years, customers would have paid \$5.8 million
25 less.

1 And on revenue decoupling, that also is not a
2 guaranteed method of recovering revenues. All it does
3 is focus on test year costs and test year usage, which
4 are the costs you found reasonable, and adjusts for
5 that. If the company, on ongoing costs, is not a good
6 steward, loses control of those costs, the revenues are
7 going to drop, the profits are going to drop, and, you
8 know, the rate of return on equity is going to drop.
9 And RDAP won't do anything at all on that.

10 Both of the proposals, we think, make enormous
11 sense for everybody involved in the process. The
12 company has suggested, I think, the pilot program.
13 That's exactly what Dr. Hansen had done and what Oregon
14 and Utah found very valuable and continued both of them.

15 Going directly to a couple of the questions that
16 I heard from Commissioner Mayes, I agree with Mr. Brown.
17 The only retrenchments that I know of by states on the
18 revenue decoupling were in relation to the electric
19 competition exercises, where the, and I am fairly
20 certain the New York Public Service Commission was one
21 of these when it authorized electric competition, it
22 moved, it moved away from that as a rate design
23 technique. I believe Dr. Hansen testified that New
24 York, having personally now retrenched, had gone back to
25 it. That's my recall of the record on that point.

1 On rate implications, Commissioner, Chairman
2 Gleason, he already mentioned that the record evidence
3 is, for the past 10 years, had weather normalization
4 been in effect, consumers would have paid \$5.8 million
5 less. Dr. Hansen testified that in the case of
6 Northwest Natural Gas, that, after an initial adjustment
7 period, the adjustments to consumer bills were in the
8 vicinity of .2 percent to .5 percent, and, in fact, that
9 is a number which Judge Nodes mentioned in the ROO. So
10 the adjustments as a result of revenue decoupling were
11 quite small as you can see.

12 So certainly on behalf of Arizona Investment
13 Council, we would encourage the Commission to very
14 carefully consider and adopt Exhibit A preferably to the
15 company's exceptions dealing with both WNAP and RDAP,
16 or, at a minimum, certainly Exhibit B, which goes to
17 weather normalization.

18 And I appreciate your time and attention and be
19 happy to answer any questions.

20 CHMN. GLEASON: Commissioner Mayes.

21 COM. MAYES: Thank you.

22 Mr. Grant, I guess, I wanted to ask Mr. Brown
23 about this too, and maybe I will have a chance to go
24 back to him, but my problem with the way the company
25 proposed the RDAP mechanism is that it wasn't clear to

1 me how that would promote energy efficiency and that the
2 company would use the mechanism to do that.

3 In other words, I mean obviously the way it
4 would have worked is it would have increased the basic
5 charge and decreased, I suppose, or lessened the
6 company's reliance on the commodity cost and how
7 specifically was the RDAP tied to energy efficiency.
8 And, if it wasn't, then why should this Commission adopt
9 it if that's what our goal is? I mean I don't think
10 anybody sitting up here is comfortable with adopting a
11 mechanism that is just designed to help the company make
12 more money.

13 MR. GRANT: Sure.

14 COM. MAYES: I mean, you know, I don't think
15 that's, you know, a ratemaking objective. You know,
16 that's not how he set rates, you know, just and
17 reasonable rates, so, for both the company and the
18 consumer. So how is that mechanism directly tied to
19 energy efficiency?

20 MR. GRANT: Mr. Chairman, Commissioner Mayes, I
21 know the company's RDAP, and the company on some of
22 these would be in a much better position than I to
23 respond but I will take a crack at it, is patterned, I
24 believe, precisely after the Questar Gas device.

25 COM. MAYES: In Utah?

1 MR. GRANT: In Utah, which Dr. Hansen was
2 involved with. As I understand it, what it does is
3 slave the commodity charge against changes in average
4 residential, normally average residential use. And as
5 that declines, it then slightly elevates the commodity
6 charge all based on, all compared against test year
7 volumes and prices.

8 Now, I suppose your usage could decline for a
9 reason other than conservation. That's one of the
10 reasons, I think, maybe to differentiate WNAP and keep
11 it somewhat outside, so you can keep those two things
12 separate. But I am hard pressed -- I think the
13 overwhelming majority of that movement will be
14 attributable to energy efficiency, somebody buys a
15 better, you know, stove, furnace, whatever the case,
16 whatever the case may be.

17 And the RDAP keeps the company, well, not only
18 neutral about that, but to a certain extent even
19 enthused from the standpoint people are getting less and
20 less enthused about going to the natural gas buying
21 commodities. So anything you can do to buy less of it
22 makes, you know, everybody happier.

23 And so from that standpoint, as opposed to the
24 system you have got now, the rate design currently in
25 place really says to you, you know, move as much

1 throughput as you can through the thing because
2 60 percent of your fixed costs have to be recovered from
3 selling gas, so go out there and sell your gas. And I
4 think that the RDAP designed and means tested and then
5 evaluated by Dr. Hansen in that context severs that
6 link. And he also testified that in both cases both
7 Commissions saw dramatic changes in attitudes by the
8 companies involved in terms of rolling out new energy
9 efficiency programs and encouraging conservation.

10 COM. MAYES: So you think it would be fair to
11 require a company to implement a certain level of energy
12 efficiency if it were, if the Commission approved a
13 particular revenue decoupling mechanism?

14 MR. GRANT: I do.

15 COM. MAYES: But obviously, I mean, the argument
16 of critics of the revenue decoupling mechanism, and I
17 thought that the retrenchment occurred in a state or two
18 in the northwest, but the Judge can correct me if I am
19 wrong about that --

20 MR. GRANT: And I am sorry if I am in error.
21 The only ones I recall, as I say, had been tied to
22 electric competition.

23 COM. MAYES: I thought it was Washington state
24 or -- but anyway, the argument is that, you know, the
25 people who are not able to adjust to revenue decoupling,

1 who aren't able to conserve, the people who would be hit
2 hardest by an increase in the basic service charge would
3 be those who are poor, correct?

4 MR. GRANT: Mr. Chairman, Commissioner Mayes,
5 temporarily, yes. But I mean --

6 COM. MAYES: What do you mean by that?

7 MR. GRANT: Well, ultimately it will catch up
8 from the standpoint Southwest Gas has been pacing pretty
9 regularly, filing a case every three years. So, you
10 know, your units over which you spread your costs will
11 reduce in that time frame. So every three years you are
12 going to readjust and take into account in the rates,
13 i.e. more rates, higher rates, the fact that you have
14 less per capita sales volume.

15 That's what I was talking about in terms of
16 gradualism, that one, I think one of the key advantages
17 with revenue decoupling is it paces that. You don't
18 have 18 therms of bill impact all at once over a
19 three-year period. You instead move it therm by therm
20 through that three-year period as it occurs. And as
21 Dr. Hansen testified, that was translating to like maybe
22 a .2 percent or a .5 percent change as opposed to if you
23 did a rate case every three, four years, having three,
24 four, five, six, seven, whatever the math would be, on
25 having put that off and only doing it once every three

1 years or four years or however often the rate case is
2 filed.

3 COM. MAYES: Okay. If the pilot program were
4 wildly successful and consumers dramatically decreased
5 their usage, would the company be agnostic to that? In
6 other words, would the company be in here in three years
7 asking for a rate increase to recover some lost revenue
8 or lost margin?

9 MR. GRANT: Mr. Chairman, Commissioner Mayes --

10 COM. MAYES: I mean, just --

11 MR. GRANT: -- I am struggling with it because I
12 suppose it is an infinity in here someplace.

13 COM. MAYES: I guess what is the point at which,
14 if the decoupling and conservation is so successful,
15 that the company would scream that it is actually losing
16 money, and in which case consumers potentially could get
17 hit twice? Do you see what I am saying?

18 MR. GRANT: I do, Mr. Chairman, Commissioner
19 Mayes. I was just trying to think. At least
20 historically we have dropped -- what were the numbers --
21 200, more than 200 therms over 20 years. So it hasn't
22 happened yet.

23 I mean the reason I am struggling with it, but I
24 don't really think it would have anything to do whether
25 you have got an RDAP or not, is it does seem to me at

1 some point in time usage can get down to a level where
2 you just completely oversized your plant. I mean not
3 because of any, you didn't oversize it badly to start
4 out with, it is just as you get more and more efficient
5 there will be smaller and smaller volumes. But I don't
6 see that as a phenomenon being driven one way or another
7 by RDAP. And I think where we all want to go is just
8 try to go more to just being efficient with our energy
9 resources.

10 COM. MAYES: All right. Thank you.

11 CHMN. GLEASON: Yes, I don't -- the question I
12 asked the previous speaker was if the past data, was
13 that Arizona data or was that Utah, Washington data?

14 MR. GRANT: That data was northwest. Could I
15 check something?

16 CHMN. GLEASON: Sure. The reason I am asking is
17 Arizona data is, or Arizona weather is quite different
18 than Utah weather or Washington weather.

19 MR. GRANT: Mr. Chairman, if I could clarify,
20 the 5.8 million savings number was an Arizona number
21 over the past 10 years.

22 CHMN. GLEASON: Okay. That's what I was -- that
23 was Arizona data.

24 MR. GRANT: There is an exhibit in the record
25 which shows that had weather normalization been in

1 effect for the past 10-year period, it might be 1997 to
2 2007, but basically that historic period, that customers
3 would have paid \$5.8 million less than they actually did
4 pay.

5 CHMN. GLEASON: I guess this is an off shot of
6 Commissioner Mayes. Which customers save the most under
7 that system, is it the high usage customer or low usage
8 customer? Again, we have to -- is it the big house or
9 little house?

10 MR. GRANT: Shifting to our RDAP, my
11 assumption --

12 CHMN. GLEASON: I want the weather
13 normalization.

14 MR. GRANT: Oh, on weather normalization?

15 CHMN. GLEASON: Yes.

16 MR. GRANT: Well, big house, I mean just from
17 the standpoint that if someone has a \$100 bill and let's
18 say a weather normalized event is \$75, I mean a \$100
19 bill cold weather normalized would be 75, it is going to
20 be a \$25 dollar savings. If they have only got a 1500
21 square foot house and the bill would be 50, weather
22 normalized would be 40, that's going to be smaller
23 savings, I think.

24 CHMN. GLEASON: Correct me if I am wrong, but
25 what you are, in this you are going to have a greater

1 demand charge and a lesser commodity charge, isn't that
2 correct? In other words --

3 MR. GRANT: Your service charge will remain the
4 same.

5 CHMN. GLEASON: Define service now. In other
6 words, I guess I have got electrical or something, but
7 your demand charge is the constant, in other words, so
8 much -- if I connect, since I am connected to gas, I
9 have to pay so much for that connection whether I use
10 2 therms or 100 therms?

11 MR. GRANT: Right. And that, I believe,
12 basically is around \$10 of rate design.

13 CHMN. GLEASON: It is not important.

14 MR. GRANT: And that doesn't change, you are
15 correct.

16 CHMN. GLEASON: So then the savings would be
17 more on somebody with a large house because your demand
18 charge will go up but your commodity charge will be
19 less.

20 MR. GRANT: Multiplied times more --

21 CHMN. GLEASON: Sure, sure.

22 MR. GRANT: -- yes, more volume.

23 CHMN. GLEASON: So that when you have a
24 greater -- I assume since -- well, we won't be talking
25 about that. But a small house will have the same demand

1 charge as the larger house then.

2 MR. GRANT: It will have the same \$10, if I
3 understand the company's rate design correctly, that's
4 right.

5 CHMN. GLEASON: Well, I assume that these
6 things, as you say, over the years they are going to get
7 adjusted so that the demand charge will go up and the
8 commodity charge comes down.

9 MR. GRANT: That is gradually happening,
10 Commissioner Gleason. In fact that was one of RUCO's
11 points, was they wanted to pull the, as you put it,
12 demand charge up so about 43 percent of fixed costs
13 would be recovered by the demand charge instead of
14 40 percent. The only problem with that approach is that
15 at that rate of progress, you would solve the problem in
16 about 57 years or 19 rate cases if you file one every
17 three years.

18 CHMN. GLEASON: That sounds about right for
19 somebody my age.

20 MR. GRANT: But another way to address this is
21 to put more of the fixed costs on your fixed, or as you
22 are calling it, and appropriately so, demand charge. It
23 is just that the feeling is that doesn't encourage
24 energy efficiency and energy conservation as much.

25 CHMN. GLEASON: Yes. Okay. Thank you.

1 Mr. Hatch-Miller.

2 COM. HATCH-MILLER: Well, I appreciate
3 Commissioner, the Chairman's business like analysis of a
4 prospective program. It always amazes me how broad of
5 knowledge he has of how the numbers work and how
6 reporting is done, you know, how to get to the meat of
7 the problem quickly. And so I am glad that's being
8 done. I wanted to chunk up a little higher for just a
9 second.

10 MR. GRANT: If I could interrupt real quickly, I
11 learned what an azimuth was the other day. I didn't
12 know that before.

13 CHMN. GLEASON: A what?

14 MR. GRANT: Chairman Gleason --

15 COM. HATCH-MILLER: An azimuth.

16 MR. GRANT: -- you were discussing the azimuth
17 of the mirrors on the sun.

18 CHMN. GLEASON: You have never flown an airplane
19 then?

20 MR. GRANT: I have never flown one, no.

21 COM. HATCH-MILLER: It is amazing sometimes, the
22 breadth of knowledge. Anyway, let me jump to a little
23 higher level again, because we got to deal with the
24 details. Obviously a number of issues have come up.

25 Let's start with a premise. We are in a tough

1 time in this state in terms of growth. We are not
2 growing real fast right now. Do you think we have
3 stopped growing? Has Arizona kind of stopped growing?
4 What do you think, subjective impression?

5 MR. GRANT: Mr. Chairman, Commissioner
6 Hatch-Miller, I sincerely doubt it.

7 COM. HATCH-MILLER: So at some point in time --

8 MR. GRANT: We will be rocking and rolling.

9 COM. HATCH-MILLER: Okay. So when you talk
10 about, well, over time there will be less and less usage
11 so we have oversized our system, I don't see it in a
12 growth environment. I see what happens is that you
13 don't have to build your system bigger as fast.

14 MR. GRANT: Mr. Chairman, Commissioner
15 Hatch-Miller, no argument with that. I guess I was, I
16 was trying to go into an infinity, and probably too far
17 on Commissioner Mayes' question. If you got so
18 efficient that you, you could heat an entire house with
19 one therm or something, I was approaching it more of
20 from that standpoint.

21 But certainly in terms of continuing to grow,
22 continuing to have to get the gas out further, those
23 kinds of things, you know, your system is not going to
24 be oversized.

25 COM. HATCH-MILLER: Still be a distribution

1 network increase and some realignment of where the
2 larger pipes are, but it is still going to have to grow.
3 So I don't foresee, at least in Arizona -- I would if I
4 lived in Michigan or someplace --

5 MR. GRANT: Yes.

6 COM. HATCH-MILLER: -- but I don't see foresee
7 you are in danger of having your system currently, it is
8 too big currently, the current system is too big for
9 future needs.

10 So I mean the real question to me, and I
11 understand Staff has some concern that there hasn't been
12 a documentation of the benefits and there is concern
13 about low income people, I think we can protect low
14 income people, we do in almost every other case, but I
15 think the question from me is how are we going to
16 provide an energy infrastructure, in this particular
17 case a gas energy infrastructure, in a state which has
18 very peaky usage annually and which has really quite
19 wide year-to-year variation, with minimum and maximum
20 temperatures, plus the duration of the cold weather or
21 the hot weather.

22 I mean that's really the question. How do you
23 keep rolling out infrastructure, especially in an
24 environment where we are going to keep pushing, along
25 with the industry is going to keep providing more and

1 more conserving appliances, more and more conserving
2 behaviors? And, you know, the next step is, and we are
3 going to be faced with a whole new problem, that is the
4 cost of the amount of CO₂ or the amount of carbon that is
5 in your product. And there is going to be a tax on it.
6 And there is going to be, I believe, a fairly
7 significant drop in usage simply on the basis that
8 people start to adapt to the higher energy prices that
9 that's going to entail. I think they are talking now
10 about \$30 a ton on CO₂. I don't know what that would do
11 to your product's cost, but I think obviously it would
12 raise it.

13 So that's really the problem here. I understand
14 the low income issues. I think some of these things
15 have to be proven. But I am still, as a Commission or
16 as a state, how do we keep you guys building
17 infrastructure if we are going to keep lowering the
18 amount of money you can earn on the basis of selling the
19 product? So I need to attend to how this program is
20 going to allow you to do that.

21 I understand that we have -- that as
22 Commissioner Gleason so aptly proposed, this is a way to
23 make sure that the infrastructure costs get attended to
24 no matter how much gas is being used, is that correct?

25 MR. GRANT: That is correct. And, Mr. Chairman,

1 Commissioner Hatch-Miller, certainly in this context, I
2 think that's why I like so much both the weather
3 normalization and the revenue decoupling provision,
4 because they contribute very much to revenue stability,
5 both of them. And from an investor's standpoint,
6 stability and assuredness, as you know, are very
7 important factors.

8 Over the long haul, we know in Arizona the
9 company would have collected \$5.8 million less over the
10 past 10 years. You normally think that's a bad thing
11 for investors. The revenue stream was much more
12 predictable and much more assured and much more stable
13 over that 10-year period. And potential investors in
14 this and other companies, and you are absolutely right,
15 they have got hundreds of millions of capital needs,
16 like that sort of assuredness.

17 And the same thing goes for revenue decoupling.
18 It moves things gradually. It encourages energy
19 efficiency.

20 And by doing that, it obviously reduces some of
21 the carbon profiles and footprints that we are concerned
22 about from a larger societal standpoint. I think that
23 it helps everybody. And it, they are devices that the
24 markets clearly like.

25 COM. HATCH-MILLER: And, again, the carbon, the

1 cost of carbon is both protecting the environment but to
2 drive down usage patterns. I understand that.

3 The Staff, though, Staff witness came up and
4 said, well, this just transfers all the risk from the
5 ratepayers -- from the company to the ratepayers. And
6 what I didn't understand, I am going to ask Staff as we
7 get to it -- I can understand a risk of the company
8 making buggy whips, that we no longer need buggy whips.
9 I can understand that risk. I can understand the risk
10 that the company fails to manage its business well
11 enough and, you know, it doesn't attend to the details
12 of its budget and runs into the red and then eventually
13 fails. I understand that. But I can't imagine that we
14 are, that we want the customers or the company to be at
15 risk because it is a cold winter or it is a warm winter
16 or at risk because this winter was cold for a long,
17 long, long time but next year it is not cold at all when
18 maybe you have big costs. You know, that kind of risk
19 is not the kind of risk I see as transferrable based
20 upon some unfairness.

21 MR. GRANT: Mr. Chairman, Commissioner
22 Hatch-Miller, I agree with you. I just didn't follow
23 the Staff witness point on that, whether risk is borne
24 equally by both sides. The company is sitting there,
25 you know, praying that it is just the world's most

1 record cold winter. And the customer, I am sitting
2 there praying that it is just going to be real warm.
3 Both of us are at peril. And as Dr. Hansen pointed out,
4 basically WNAP takes advantage of that. And it takes
5 advantage of the fact that when one party is better off,
6 the other party is worse off, and vice versa, and puts
7 them both like this.

8 So I don't understand that it shifts the risk in
9 that. It seems to me that it relieves equally the risk
10 from both customer and company leading to a positive
11 result for both and, as I pointed out, leading to a
12 better financial profile for the company.

13 COM. HATCH-MILLER: Okay. Thank you, Mr. Grant.

14 CHMN. GLEASON: Mr. Pierce.

15 COM. PIERCE: You would recognize, Mr. Grant,
16 that may be not transferring the risk but it lessens the
17 risk to the company and that's why the company would
18 like to see decoupling?

19 MR. GRANT: Mr. Chairman, Commissioner Pierce,
20 it lessens the rate design risk.

21 COM. PIERCE: Okay.

22 MR. GRANT: But that's not a financial or an
23 operational risk. That actually is a regulatory risk.

24 COM. PIERCE: Okay. But, and if we do that,
25 though, if we, which is the company's concern, I mean

1 for us, we are concerned about what ratepayers pay and
2 we want to make it equitable, the company is concerned
3 about volatility in that rate design. And so they would
4 like it more, sure. And that's what decoupling does.

5 So corresponding to that, wouldn't it be fair to
6 have a reduction in the cost of equity if we were to
7 have a decoupling formula?

8 MR. GRANT: Mr. Chairman, Commissioner Pierce,
9 that was discussed during the case. And I just want to
10 footnote here that I was not involved in the cost of
11 equity portion, so Mr. Brown would probably be in a
12 better position than me to comment on that.

13 But as I understood it, the proxy group of
14 utilities used to evaluate how high or low the company's
15 cost of equity should be, 90 percent of those had these
16 kinds of revenue decoupling provisions. So, in other
17 words, your comparative group had this, for lack of a
18 better term in this context I would say, security
19 device. And so, and an adjustment to the COE would not
20 be appropriate because the group you were being compared
21 against already had what you just would like to get.

22 Does that make sense?

23 COM. PIERCE: Yes. But I want to move to --
24 yes, that does. I think, I think that you account for
25 the benefits wherever they may flow, wherever we think

1 they may flow. And I would do, and I would do that in a
2 decoupling formula, this, the gradualism that you had a
3 discussion --

4 MR. GRANT: Right.

5 COM. PIERCE: -- about with Commissioner Mayes,
6 I think, and others, and the pilot program. And so it
7 seems to me, because I had a discussion yesterday with
8 one of our incoming Commissioners -- we talked, oh, for
9 a little bit about decoupling and the theories behind
10 and all that -- and I informed him that former

11 Commissioner Spitzer was a big fan of decoupling. I
12 don't know that I have ever gone to anything where he
13 has talked on energy where he hasn't pushed decoupling.

14 But, you know, for those of us who would like to
15 have the company shored up as we do this, but we also
16 want a breakpoint that the customers will react to, how
17 do we do that with a long leash on a program? I mean I
18 think once you go through each season you would almost
19 have to look at how customers are responding to that
20 change in weather or what is going on. So what
21 is -- and I don't know how cumbersome that is but I
22 don't know how secure I would get without really
23 baby-sitting this kind of program for awhile until I am
24 absolutely certain it would work.

25 MR. GRANT: Mr. Chairman, Commissioner Pierce, I

1 guess I would offer two observations. There is, well,
2 Dr. Hansen's experience and testimony is in the record
3 where states newly implemented them, had the same
4 uncertainties you are articulating.

5 COM. PIERCE: Sure.

6 MR. GRANT: They were evaluated. They were
7 fine. And in one case I think they have now been
8 extended for, I think it was, 10 years.

9 The second thing is kind of a companion,
10 parallel point. I think that may be one reason why you
11 authorize a pilot, because you want, you know, you
12 want -- and Southwest Gas certainly can step forward and
13 say we will file regular reports, here is a panoply of
14 energy efficiency ideas, we will feed information back
15 to the group considering these sorts of rate design
16 alternatives.

17 So I think that's, that's one of the ways that
18 you keep this thing on a short leash and pay some pretty
19 close attention to. I think you will like the results.
20 But I mean I understand the insecurity and uncertainty.

21 COM. PIERCE: You know, the Arizona Republic had
22 me off the Commission here in a few days and Mr. Gleason
23 in my stead will be continuing on.

24 But I thought, you know, I probably, you know,
25 decoupling, you might say, well, maybe that's something

1 that I could leave, leave that to a new group. But
2 that's why, because I probably am still going to be
3 here.

4 MR. GRANT: Well, you have my congratulations or
5 condolences, whichever is more appropriate.

6 COM. PIERCE: I would like to, you know, I would
7 like to survive that decision. And that's, it is one I
8 have been thinking about a lot in my little group. It
9 is one we have discussed and tried to grapple with.

10 MR. GRANT: Well, Mr. Chairman, Commissioner
11 Pierce, again, I thought one of the most consoling bits
12 of data that Dr. Hansen passed along, and I think that
13 may be one of the reasons why Judge Nodes put it in the
14 opinion, even though he recommended against
15 implementation, was based upon achieved experience,
16 Dr. Hansen said what we are seeing is .2 percent and .5
17 changes. And, you know, you are going to get a big
18 change if you force this into a rate case every three
19 years or so. So .2, .5, boy, I think there is a lot to
20 be said for that, as opposed to 6 percent and 8 percent
21 and 10 percent at a whack.

22 COM. PIERCE: Well, I hope we don't break your
23 heart today, thank you, at least not bad.

24 CHMN. GLEASON: Okay. The board is clear.

25 MR. GRANT: Thank you very much, Commissioners.

1 CHMN. GLEASON: And we are going to have a
2 10-minute recess.

3 Well, Commissioner Mayes, can you take an extra
4 two minutes?

5 COM. MAYES: Sure, I will take it.

6 CHMN. GLEASON: So we will come back when the
7 bag hand is on the 5.

8 (A recess ensued from 11:11 a.m. to 11:24 a.m.)

9 CHMN. GLEASON: I think the big hand is on 5, so
10 we will -- is SWEEP in the audience?

11 COM. PIERCE: Beth is back there. Make her come
12 up here.

13 CHMN. GLEASON: Joe Banchy is the other
14 intervenor.

15 RUCO, you are up.

16 MR. POZEFSKY: Good morning, Commissioners.
17 Daniel Pozefsky, chief counsel for RUCO.

18 CHMN. GLEASON: Could you say that with more
19 emphasis, please.

20 COM. HATCH-MILLER: I like that.

21 COM. PIERCE: I had a collector that had the
22 name RUCO once.

23 MR. POZEFSKY: Let me make a few comments. I
24 know you have seen enough of me the last couple days,
25 and I want to start my weekend as quick as I can get out

1 of here.

2 CHMN. GLEASON: Good luck.

3 MR. POZEFSKY: I will try to keep my comments
4 short, say a few things which you might find, not
5 surprising, aren't consistent or take the opposing view
6 of what Mr. Grant and company have suggested to you.

7 First of all, I think it goes without saying we
8 support the ROO, another beautifully crafted and well
9 supported recommendation. And I am happy to say that.
10 I don't say that a lot these days. But I want to say a
11 few things about, you know, RUCO's position on
12 deregulation.

13 I don't want it to be interpreted as RUCO is
14 not, would not consider -- is not considerate of
15 decoupling. Excuse me. Of course we are. It is
16 something that we said from the outset. We recognize
17 this company has a declining revenue issue. And we had
18 taken measures that we thought were appropriate in this
19 case to address the declining revenue issue. Of course
20 those measures didn't include the adoption or our
21 recommendation of a decoupling mechanism because we
22 didn't think that the company made a real compelling
23 argument, to be quite frank with you, that a decoupling
24 mechanism is the appropriate thing to do now in Arizona.

25 You know, we are talking about a pretty radical

1 shift in policy here doing a decoupling mechanism. And
2 I know that it has been embraced by other communities in
3 the regulatory community. And I know that it has been
4 talked about. But we are not interested in what, in a
5 wholesale solution to this. We want to see a solution
6 that is adapted to Arizona. We want to see the
7 appropriate time for decoupling. It is like
8 deregulation, you know. That was a wholesale solution
9 and we saw where that got us. So we are interested in
10 seeing a specific here to Arizona.

11 And let me take you back to the last decision
12 that the Commission made. And that was Decision
13 No. 68487. And in that decision, which was only a
14 couple years ago, 2006, you stated that there was
15 conflicting evidence in the record as a cause of
16 declining usage, as to the cause of declining usage, and
17 that neither the law nor public policy supported the
18 company's request that customers provide the company
19 with a guaranteed method of recovering revenues through
20 the use of a decoupling mechanism.

21 You encouraged the parties to continue to pursue
22 rate decline alternatives. The company continued to
23 pursue rate design alternatives. And we met in a series
24 of workshops to consider exactly that, to consider rate
25 design alternatives. And we talked about these

1 decoupling mechanisms.

2 And what we got out of those meetings was that
3 the problem that was being asserted for this declining
4 revenue, which was conservation, really wasn't the
5 problem, that it was a weather related problem, that
6 80 percent of the problem, that's how it was described
7 to us by the company, was the fault of the weather that
8 had to do with the declining revenue.

9 So, again, there wasn't certainly a consensus in
10 those meetings that we knew even what was causing the
11 declining revenues. And I don't think we are really any
12 farther ahead at this point, that we know.

13 I think if you look at this record, there is
14 conflicting evidence. I think the company has retracted
15 the 80 percent and said otherwise. But I think, if you
16 look at this record, that it isn't clear exactly what is
17 causing the company's declining revenues. We certainly
18 would want to get a handle on that. And as I suggested,
19 you know, the place to do that, as well as a more
20 detailed and better discussion on this before we are
21 actually ready to go ahead with B, not in workshops at
22 this point, but in probably a generic docket where not
23 only the parties but the Commission could get involved.

24 Let me get back to why I don't think the company
25 presented a compelling case. I will make that a little

1 shorter than my introduction here. And let's talk about
2 the RDAP proposal.

3 The RDAP proposal works by providing for the
4 recovery of nonweather related differences between the
5 company's actual and authorized non-gas revenue. What
6 the RDAP does is it records the monthly balance and
7 defers it down and recovers the monthly balances
8 annually through a surcharge. Okay?

9 No matter how you look at this, this provides
10 the company a guaranteed method of recovering authorized
11 revenues. It also would require, just like the
12 conservation tracker did in the last case, or it was
13 concluded customers pay for a level of gas utility
14 service that they do not actually use. I mean therein
15 is the problem. The customers are paying for a level of
16 gas service that they don't actually use. Explain to me
17 how that's going to promote conservation. I mean I
18 still don't get it, haven't gotten it, and I don't think
19 it has been thoroughly explained or adequately
20 explained. I know everyone promoting these mechanisms
21 differ with that, but on its face it doesn't make sense.

22 Let's talk a little bit about the WNAP, which,
23 again, is another mechanism just like the RDAP, which
24 will result in a guaranteed amount of guaranteed
25 revenue. I am going to explain to you exactly how it

1 was explained to us in the testimony.

2 The WNAP is going to work, this is right out of
3 the company's direct case, the WNAP volume adjustment
4 will be calculated for each customer for each winter
5 billing cycle to reflect the difference between the
6 customer's actual use and usage assuming normal weather.
7 The WNAP volume adjustment will then be used to
8 calculate a WNAP dollar adjustment to each customer's
9 billed delivery charge.

10 Again, there is no misunderstanding here.
11 Ratepayers will be responsible for paying for a level of
12 gas service that they will not use under the WNAP.

13 Let me tell you something else about this
14 weather adjustment, because I know you have talked about
15 it. Right now there is a 10-year annualization. That's
16 how the company's rate case revenues are currently
17 adjusted. Okay? The company admits that the average
18 effect of weather over the last 10-year period actually
19 increased the average use per customer. According to
20 the company, the effect of the weather over this 10-year
21 period actually offset the underrecovery caused by the
22 other factors. This is in the testimony. It is in the
23 docket.

24 It doesn't even make sense, again, to implement
25 WNAP to offset the effects of weather when the effects

1 of weather for the last 10 years have helped offset the
2 negative effects of the declining usage. Again, this is
3 part of the case that we just don't find compelling.

4 You know, I could go on and on with all the
5 arguments against decoupling. I mean one of them that
6 really sticks out in my mind that's relevant here is,
7 when you talk about weather under a traditional rate
8 design, the effect of weather for the most part is
9 reflected in the company's stock. This is a shareholder
10 risk. Shareholders take the risk of what the weather
11 patterns are going to be.

12 We are talking about shifting over the risk now
13 to ratepayers so now ratepayers would be taking the risk
14 of what the weather will be. If you are going to do
15 that, at least make an adjustment to the cost of equity
16 because you are taking out the risk. That wasn't done
17 in this case, but it was interesting it was done in the
18 last case that the company proposed.

19 Let me just say one other thing. I have talked
20 pretty much about that. I didn't even address the
21 volumetric rate design.

22 I think the evidence was pretty compelling on
23 the volumetric rate design that really what is happening
24 is the expense is going to be, the cost is going to get
25 higher for the low usage consumers and it is going to

1 get less for the high usage consumers. And that's the
2 flaw in it. And that's when you take into the effects
3 of the fuel adjuster mechanism.

4 When you don't take into the effects of the full
5 adjuster mechanism, the costs are actually the same.
6 And that's what the company showed, the average use.
7 And there is a chart in here, an exhibit that shows what
8 the costs would be at various levels of usage, if
9 basically you don't take into the effects of the fuel
10 adjuster. And this is how the company proposed the
11 volumetric rate design. And that chart shows the exact
12 same, exact same costs.

13 Well, again, that doesn't make any sense. Why
14 would you propose volumetric rate design if it is going
15 to cost you the exact same as the traditional rate
16 design? And the reason why is because the chart is
17 flawed. It doesn't take into effect the difference
18 between the cost that the company is going to be passing
19 on to the ratepayers and the cost that it is going to
20 actually cost the company.

21 Finally, with respect to Commissioner Pierce's
22 amendment, I just wanted to -- I asked my people to go
23 back and take a look and see what the effect would be on
24 the gross revenue requirement. And this is what we
25 calculated. I thought that this might be helpful to

1 tell you. And, again, we will do the impact statement
2 that Commissioner Mayes has suggested.

3 But the recommended fair value under the ROO is
4 33,533,843, which would be an 8.40 required percentage
5 increase in revenue under Commissioner Pierce's
6 amendment. That increase in gross revenue requirement
7 would be 35,302,594, which would be an 8.84 percent
8 increase in revenue.

9 And that's all I have.

10 CHMN. GLEASON: Mr. Hatch-Miller.

11 COM. HATCH-MILLER: Thank you, Mr. Chairman.

12 Always a pleasure. Thank you for your
13 participation. And you are, as always, clearly spoken
14 and to the point.

15 MR. POZEFSKY: Thank you.

16 COM. HATCH-MILLER: I hope you have a good
17 Christmas or Hanukah or whatever.

18 I do think that the decoupling is something that
19 we should have. The question becomes one whether my
20 ideas really hold water. I think we want to move to a
21 day in Arizona where the way we build buildings here is
22 such a good envelope, the building envelope, the outside
23 walls and light, that the effects of the weather on the
24 outside become less and less related to what the
25 temperatures are in the inside. They become much more

1 effective conservation tools as a building. And I hope
2 we move to a day where the furnaces that we use, whether
3 that is a hot water heater or a furnace for heating the
4 air, whatever, or the cooking mechanisms, are more and
5 more efficient, more and more effective, that they
6 demand less and less energy.

7 And I believe in the future, and it has been
8 already signaled out of Washington, that there will be
9 some cost to selling a fuel that has carbon in it --
10 don't know how much yet, could be significant -- and
11 that what we want to do there is to try to both have, I
12 don't know what we are going to use the money for, I
13 suppose environment related projects, but also that
14 there is going to be some dampening of the use of fossil
15 fuels as a result.

16 MR. POZEFSKY: We hope.

17 COM. HATCH-MILLER: Let's assume that those are
18 our goals, that's what we are going to be moving
19 towards, that's our wish. It would seem to me that what
20 we are saying to a company like Southwest Gas is we want
21 you to still be building this infrastructure. Maybe we
22 don't. Maybe some people say we don't want fossil
23 fuels, we rather they go away. I don't know what we
24 would use instead, I guess electricity to burn the coal
25 instead. But I think it might be better to just use the

1 actual gas personally.

2 So let's assume we still use natural gas and we
3 want this company, and there are only a few of them, we
4 want these companies to provide natural gas but we don't
5 want to use much natural gas. Okay?

6 My question and why I have always been pushing
7 this: How do we get there? How do we get there if we
8 don't decouple, if we don't separate out, you know, they
9 are making the money off selling more gas from the cost
10 of putting on the they have provided the infrastructure?
11 How do we get to that day, or do we just disregard the
12 effects on the company itself? I don't have an answer
13 to that. That's number one.

14 I will ask, two, and then you can finish the
15 answer, I won't ask any more, the other one is I fully
16 know the amendments contained in the exceptions by
17 themselves don't get us all the way to an order that we
18 can adopt. I am going to need you and everyone else in
19 here to think about, if we did adopt, let's say, the
20 full revenue decoupling process proposed by the company,
21 what are the other components to this order that would
22 have to be adjusted to be able to get us there? I don't
23 know that we can do it.

24 I have already, you know, warned the Judge that,
25 you know, that's his job, watch like an eagle. But I am

1 hoping everybody will watch like an eagle because if we
2 don't have the other components along with this
3 amendment, we don't have a way to change the order.

4 Those are my two questions.

5 MR. POZEFSKY: Yeah, and the second one I
6 probably have to sit down and really talk with people,
7 crunch the numbers and look at those sorts of things to
8 see exactly what else it would affect, assuming that you
9 were to adopt one of the decoupling proposals.

10 On the second one, I am kind of getting the
11 impression what you are talking about is some of the
12 efficiencies that are inherent in here. And I know
13 Commissioner Mayes alluded to it earlier, you know, if
14 we don't do the decoupling mechanisms, how we go to
15 promote the efficiencies. And my response to that would
16 be I think you do it the way you did it with APS.

17 I think we have a way to do it in this state
18 that's actually good. We encourage companies to become
19 more efficient and to reach efficiency goals by actually
20 awarding them, paying them when they do do it. I think
21 that's the decoupling idea in a different sense, but I
22 think that's worked with APS.

23 We at RUCO, we really promote efficiencies if a
24 company is doing efficiencies. There is always going to
25 be a balance but I think here you have got a way that

1 works. And that would be my suggestion.

2 COM. HATCH-MILLER: Thank you.

3 CHMN. GLEASON: Was that both questions?

4 COM. HATCH-MILLER: Yes, for me.

5 CHMN. GLEASON: Okay. Commissioner Mayes.

6 COM. MAYES: Okay. Mr. Pozefsky, picking up on
7 Commissioner Hatch-Miller's questions and your answer,
8 you said do it the way we did it with APS. But even
9 APS, now it would appear, is demanding lost revenues
10 associated with the next generation of its energy
11 efficiency programs. I don't know if you read that. I
12 believe that's in their testimony, or I have heard
13 rumblings about that.

14 And so it would appear what they are saying is,
15 if you want us to go to the next level, you are going to
16 have to allow us to recover the costs associated with
17 losing those sales. And so, and I think that was, that
18 notion was probably embodied in SWEEP's proposal in
19 acquiescence to the company's RDAP and WNAP.

20 So my question is: Is that a potential way to
21 go about decoupling, I mean, or not decoupling, but, you
22 know, implementing energy efficiency at natural gas
23 companies rather than looking at decoupling, looking at
24 lost revenues? And are they -- I mean I think
25 conceptually they are different. But is that one way to

1 do it, or does RUCO believe we don't have to allow the
2 company to recover lost revenues? I mean, is that
3 RUCO's position?

4 MR. POZEFSKY: Before I put my foot in my mouth,
5 let me see what Mr. Ahearn --

6 COM. MAYES: Yes, I don't want you to make any
7 long lasting commitments. But it is an interesting
8 question and something I have been struggling with
9 thinking about in my spare time because I am weird.

10 MR. POZEFSKY: You know, I think our answer is
11 that is something that we would be willing to work
12 through with the electric company. Quite frankly, I
13 think we think that deregulation is probably a better
14 way to start with on the electric side as opposed to the
15 company side.

16 COM. MAYES: You mean, you mean the lost revenue
17 or decoupling?

18 MR. POZEFSKY: Yes.

19 COM. MAYES: Really? I mean, you see on the
20 electric side rather than on gas side?

21 MR. POZEFSKY: We see it as being more
22 appropriate, yes.

23 COM. MAYES: Do you think that the whole notion
24 of energy efficiency programs is more relevant to the
25 electric industry? Is it more efficacious with the

1 electric industry than it is with the natural gas
2 industry?

3 MR. POZEFSKY: I think I would agree with that
4 statement, yes.

5 COM. MAYES: Yes, I have been thinking about
6 that, too. But I do know RUCO is a proponent of energy
7 efficiency. So I guess my follow-up questions are:
8 Does RUCO believe any form of decoupling would be
9 appropriate for Arizona?

10 MR. POZEFSKY: Not at this time, but we are not,
11 we would be willing to consider, we are not going to
12 rule it out.

13 COM. MAYES: Okay. So far RUCO has not seen or
14 come upon any form of decoupling that it finds
15 acceptable?

16 MR. POZEFSKY: Not here, not what has been
17 presented. Again, we --

18 COM. MAYES: Have you seen anything in any other
19 state that you find acceptable?

20 MR. POZEFSKY: I don't think we have done that
21 sort of analysis.

22 COM. MAYES: Okay, fair enough. Does RUCO
23 believe SWEEP's recommended \$12 million in spending on
24 DSM should be adopted regardless of whether decoupling
25 occurs in this case?

1 MR. POZEFSKY: Yes.

2 COM. MAYES: You do? Okay. I think you alluded
3 to it, but what was the sticking point in the
4 collaborative process that was designed to look at this
5 issue prior to the rate case?

6 MR. POZEFSKY: I think the way, and I wasn't
7 there so I am just speaking from what I understood
8 happened, what happened was the first issue that was
9 really discussed is, okay, let's talk about what is
10 really causing the problem, make sure that we come up
11 with a solution that addresses what is causing the
12 problem, which is what I think you need to do here, too,
13 to be quite honest. I don't think that issue has
14 changed. And I think that's kind of what I got out of
15 the last decision.

16 We are talking about solutions and we really
17 aren't sure what the problem is. And we were never
18 convinced that the problem was conservation. And given
19 that we weren't convinced that was a problem, we didn't
20 know, okay, well, then is the solution going to be a
21 decoupling mechanism. We had to get over that. It
22 wasn't that we quarreled with what was presented to us.
23 What was presented to us was clear, 80 percent of the
24 problem --

25 COM. MAYES: Was weather related.

1 MR. POZEFSKY: -- was weather related. So then,
2 well, the question, well, how do you account for the
3 weather? Is that, is it appropriate to use a decoupling
4 mechanism? We were off on whole different things now.

5 COM. MAYES: What process would provide you with
6 comfort about what portion is related to energy
7 efficiency measures or conservation related to energy
8 efficiency measures?

9 I mean, going to the chicken and egg point that
10 the company makes about, well, how are we ever going to
11 prove it to anybody if we don't try it? You are saying,
12 well, we didn't see any evidence that trying it would
13 accomplish anything. So how do you, how do you get the
14 kind of granular proof that you are talking about and in
15 what process?

16 MR. POZEFSKY: I think what I mentioned before
17 we believe. And that is that the mechanism that you are
18 talking about, decoupling mechanism, was tried, you
19 know, around the country on more than just gas
20 companies. It has been tried in the electric industry.
21 We think that there are other players out there,
22 utilities, et cetera, that would definitely be helpful
23 in this.

24 You know, I will go as far as saying that it is
25 possible that it may be the way of the future. Who

1 knows. You know, it surely is being looked at heavily
2 on the national level. I mean we are not ready to say
3 it is the way of the future here in Arizona. We are not
4 even close. But I think that's what a collaborative
5 process would bring out, in more than just one industry,
6 but all the industries. And that's why we thought that
7 a generic docket, one in which all the industries that
8 have an interest and want to say something could get
9 together and do a collaborative process.

10 COM. MAYES: Okay. And I think that's -- I
11 would agree with that. You know, and I just, and I
12 think that's going to be one of my priorities over the
13 next couple of years, is looking at how we advance the
14 ball on energy efficiency, because I think that it is by
15 far one of the cheapest ways to provide power and energy
16 in the State of Arizona.

17 I am not particularly thrilled with the fact
18 that we are ranked 28th in the country for the amount of
19 energy efficiency that we do. I think that's not a
20 particularly stellar record and we can do better. And I
21 think one of the ways we might be able to do that is by
22 setting energy efficiency standards for all of our
23 utilities like we do with renewable energy. So I look
24 forward to working on that issue as well, what you are
25 talking about.

1 MR. POZEFSKY: We will be there with you.

2 COM. MAYES: Thank you.

3 CHMN. GLEASON: Mr. Pierce.

4 COM. PIERCE: Thank you, Mr. Pozefsky. Would
5 you run through those numbers? And I assume you were
6 talking about Pierce Amendment No. 2. And that was a
7 question, but I think --

8 MR. POZEFSKY: Sure.

9 COM. PIERCE: -- it is not just that one. Well,
10 we got that answer but give me those numbers just as you
11 had them.

12 MR. POZEFSKY: Okay.

13 COM. PIERCE: And I won't take the time now but
14 during the amendment time I will talk to it. But I just
15 want those numbers that you gave.

16 MR. POZEFSKY: Actually, Commissioner, we
17 collaborated with the Staff and I think we have actually
18 agreed on a different set of numbers, so there is some
19 updated numbers.

20 COM. PIERCE: Probably those are the numbers I
21 have.

22 MR. POZEFSKY: I hope they are, to be quite
23 frank. If you could just give --

24 COM. PIERCE: Well, I have A team numbers and I
25 thought I might share those since what I have is that

1 the new revenue requirement is going to be 230 and some
2 change, 230,423, and so it would be 33,700 --

3 33,764,267. And that's -- Mr. Ahearn, you are waving
4 your head -- which by the way, in a rate, the ROO --

5 CHMN. GLEASON: Would you read that slower,
6 please.

7 COM. PIERCE: Oh, sure.

8 COM. MAYES: Pierce No. 1?

9 COM. PIERCE: Yes. Actually, this is No. 2.

10 COM. MAYES: Oh, 2.

11 COM. PIERCE: What it does to the -- it raises
12 the rate of return from 7.03 to 7.02, from 7.02, which
13 would produce an additional increase in the company's
14 revenue requirement of \$230,423, resulting in a new
15 revenue requirement of \$33,764,267.

16 And the ROO, just in an individual's rate, let's
17 talk about the rate here, the ROO has a summer rate,
18 offers a summer rate of \$1.50, which is an increase,
19 which is a 4.5 percent increase. And my amendment is
20 \$1.51, or 4.53 percent increase. That's a penny. In
21 the winter, it is a \$3.47 increase in the ROO, which is
22 3.79 percent. And my amendment calls for \$3.48, so one
23 cent increase in the winter, for 3.8 percent. And then
24 I will get into why I think, you know, that's really the
25 impact.

1 And would you agree that's, those are the
2 approximately, approximate impacts?

3 MR. AHEARN: I think so, yes.

4 MR. POZEFSKY: I think so.

5 COM. PIERCE: I will get into the rest of the
6 amendment and why and you can say all kinds of stuff
7 then, later on. And I do welcome that from both sides,
8 let them defend each side of that.

9 Thank you, Mr. Chairman. I just wanted to make
10 sure the numbers were correct.

11 Because you caught me off guard. I didn't write
12 them and I started hearing them and they weren't
13 matching up, and I thought, boy, that is a lot different
14 than what I have.

15 MR. POZEFSKY: I thought I was being helpful
16 but...

17 COM. PIERCE: Well, you were waking me up for
18 sure. Thank you.

19 CHMN. GLEASON: Okay. Thank you, Mr. Pozefsky.

20 MR. POZEFSKY: Thank you, sir.

21 CHMN. GLEASON: Staff, are you both Staff and
22 Hearing or are you just --

23 MS. SCOTT: Just Staff.

24 CHMN. GLEASON: Okay. Well, I was, I was going
25 to get to Hearing later then. I would like to, from

1 Staff, hear about the Yuma line. I think Corky was, had
2 100 percent loss on it. But, anyway, Staff, go ahead
3 and whatever your presentation.

4 MS. SCOTT: Chairman, would you like our general
5 comments first?

6 CHMN. GLEASON: Yes, please.

7 MS. SCOTT: Okay.

8 CHMN. GLEASON: I was just heads up this is what
9 I will ask, and I assume other Commissioners have other
10 questions.

11 MS. SCOTT: Okay. Thank you, Chairman.

12 Chairman, Commissioners, the first thing I would
13 like to say is that Staff strongly supports the ROO in
14 this case and urges you to adopt it. We think it is, as
15 is characteristic of Judge Nodes' orders, we think it is
16 very well reasoned and just an excellent work product.
17 So, in sum, we would urge you to adopt his recommended
18 opinion and order.

19 I will leave the Yuma Manors issue to Mr. Raber
20 and I will address the other items that were raised by
21 Southwest Gas.

22 First of all, we would agree with Mr. Brown that
23 there may be some items, for instance the TRIMP, which
24 the Commission may want to clarify in the order. And if
25 need be, Staff can have language later to address that

1 issue, proposed language.

2 The other issues that were addressed by
3 Mr. Brown related to revenue decoupling and the return
4 on equity. And those are the two issues which I will
5 turn my attention to now.

6 Staff does not support the adoption of any
7 revenue decoupling measures in this case at this time.
8 Typically a revenue decoupling mechanism is used to
9 compensate a company for revenues lost from lower usage
10 related to company sponsored conservation programs. In
11 this case, and with this company, their DSM proposals
12 are relatively new. They have a little bit over a
13 \$4 million budget for DSM and at the time of the hearing
14 they had not met that level yet. Many of their programs
15 are just being ramped up. And there was no evidence in
16 the record at all yet, because these programs are too
17 new, of any purported declines in customer usage that
18 could be tied specifically to the company's DSM
19 programs.

20 For that reason, because it is Staff's
21 perception that the Commission's objective here is to
22 promote energy conservation, this record and the status
23 of the company's programs, there is simply no evidence
24 that there is any tie between what they are proposing
25 with any reductions in their DSM programs. And we

1 believe that to be important. And we believe that that
2 needs to be looked at and needs to be the paramount
3 objective of any pilot program that's instituted by the
4 Commission.

5 Another thing that I would note is that the
6 Commission does have a generic docket coming up in which
7 it will be looking at all of these issues. And we
8 believe that that generic docket is the place to
9 actually look at whether these decoupling proposals
10 would actually be suitable for a company in Arizona and
11 also whether a pilot program might be something that the
12 Commission would want to consider. But consideration
13 and adoption in this case in our opinion is just
14 premature.

15 The other thing, another thing I would note is
16 that the primary basis for these programs that the
17 company is proposing is a purported decline in customer
18 usage. It is not conservation. It is customer usage
19 due to any reason whatsoever. But every rate case that
20 the company files its usage level is trued up. This
21 company routinely files on a three-year basis. So what
22 we are actually talking about is the usage level between
23 rate cases. And the information that they submitted on
24 that really was a chart which showed some decline in
25 usage. But it was far from the normal comprehensive

1 study that would be done to actually demonstrate that
2 these declines in usage are something that is going to
3 be permanent.

4 And when you talk about regulatory lag or the
5 period in between rate cases, you are not only talking
6 about potential declines in usage, which, you know,
7 affect the company adversely, but, on the other hand,
8 you are talking about a lot of things that affect the
9 company in a positive manner. And in this case, there
10 is evidence in the record that there is increased
11 customer growth in this company's territory. The
12 company is growing rapidly and it is going to continue
13 to grow.

14 Now, this is based upon the record evidence.
15 Based on figures in Southwest's 2006 annual report to
16 shareholders and the company's estimated net margin
17 figures, those customers would provide an additional
18 9.9 million in net income. This is 57 percent more than
19 the lost margin due to declining usage.

20 So it is possible that a company could actually
21 over earn in a high growth climate such as it is
22 presently experiencing. So there are a lot of factors
23 that the Commission would need to consider in a
24 comprehensive study to determine the impact of
25 regulatory lag between rate cases for this company. And

1 you simply cannot just accept a chart that the company
2 has proffered to demonstrate that its usage has declined
3 and it needs to be compensated for that. That's only
4 one side of the story.

5 Another item or issue that has come up today is
6 the experience in other states. And Staff addressed
7 that during the course of this proceeding. And we would
8 agree with Commissioner Mayes' statement that there has
9 been retrenchment in other states with respect to
10 revenue decoupling. And I want to note in particular
11 the experience in Maine, because that may be relevant
12 today with our economic conditions being what they are.

13 The experience in Maine was that revenue
14 decoupling mechanisms do not promote fairness to
15 ratepayers. And I am referring to one of our briefs
16 here. There was a sharp economic decline experienced in
17 the 1990s recession. And the decoupling mechanism in
18 place adjusted rates to reflect prerecession target
19 revenues. The view of decoupling that ultimately
20 resulted from that was that it buoyed rates or increased
21 them rather than promoting conservation, and the
22 decoupling mechanism was abandoned after two years.

23 In Washington state, that utility's Commission
24 also discontinued a decoupling program after five years
25 noting that there were rate increases every year and

1 that many events could drive the rate increases.

2 So one of my points would be that these are hard
3 times for consumers. We don't know the impacts of any
4 of these decoupling mechanisms that the company has
5 proposed. We do know that the sole purpose of these
6 mechanisms is to bring the net margin revenues of the
7 company up to the authorized net margin that the
8 Commission approves in the case, or any given case.

9 But, again, that's a big shift of business risk,
10 as Staff has continued to maintain throughout this
11 proceeding, from the company to customers because it is
12 normally the company that bears these business risks
13 associated with declines in customer usage and
14 associated with weather variation. To approve these
15 revenue decoupling mechanisms would be shifting all of
16 that risk now to the customer. And Staff believes that
17 that is unfair.

18 Again, if the Commission considers these
19 programs, they need to be tied to what you are trying to
20 achieve, which is energy conservation and these DSM
21 programs. There is simply no evidence in this record
22 regarding the DSM, any tie between the DSM programs and
23 these mechanisms.

24 One last point I will make with respect to these
25 decoupling mechanisms. Or, I am sorry, I am going to

1 make two points yet. With respect to the programs
2 overall, the company conceded during the hearing in this
3 case that there is no difference between the WNAP, or
4 the weather adjustment, and the RDAP, which is the
5 revenue adjustment mechanism and the conservation energy
6 tracker which they proposed in the last case.

7 What they did is essentially they took the
8 conservation energy tracker and they just divided it
9 into two pieces. One related to weather and one related
10 to declines in usage. So all of the concerns that the
11 Commission had in the last case regarding the
12 conservation energy tracker, those concerns are still
13 here. Those concerns have not been addressed in the
14 record of this proceeding. And those concerns really
15 need to be looked at closely in this generic docket so
16 that the Commission can come to a reasoned decision
17 here.

18 And Mr. Johnson reminds me also that there also
19 was very -- an absence of evidence in the record
20 regarding the impact on low income customers of these
21 programs.

22 If I could then, finally, on this topic, I would
23 just like to turn to the weather adjustment mechanism.
24 Again, one of Staff's primary concerns with this
25 mechanism is that the record, there was a lot of

1 conflicting evidence in the record with respect to this
2 mechanism and what it would achieve.

3 And if I could just, if you would just bear with
4 me for a minute, the company initially cited a loss in
5 revenue as a result of inconsistent weather patterns.
6 But later it claimed that there was, it actually
7 benefited in the amount of 5.8 million. It now claimed,
8 it also claimed that the reason it seeks a WNAP is to
9 reduce volatility in revenues caused by variation in
10 weather. But there was just a lot of uncertainty with
11 respect to the impact of the WNAP.

12 The company today stated that it would actually
13 benefit customers. But there was also testimony in the
14 record that the WNAP would act to equalize revenues over
15 a period of time. And one of the benefits the company
16 claimed the customer would be getting is that it would
17 equalize the company's bills. But they already have an
18 equalizer option, billing option available to customers.
19 So Staff didn't really see a benefit associated with
20 that. And as Mr. Pozefsky pointed out, there is a
21 10-year normalization procedure already that the
22 Commission uses to calculate the volumes in each general
23 rate case that the company files. So they already have
24 a 10-year normalization procedure in place.

25 We also believe that if you implement the WNAP

1 you are going to take away the advantage that ratepayers
2 may occasionally receive from a warmer than normal
3 winter and replace it with a guarantee that the company
4 will receive a set amount of revenue no matter what
5 their weather may be.

6 Finally, I would like to briefly address the
7 return on equity in this case. We support Judge Nodes'
8 order on this. We believe that 10 percent is reasonable
9 for this company.

10 If you look at the company's exceptions, the
11 Commission awarded both UNS Gas and UNS Electric the
12 same amount on equity, 10 percent. And we believe that
13 this amount is appropriate for this case as well.

14 With respect to the capital structure, we
15 believe that the actual capital structure during the
16 test year is appropriate, as Judge Nodes found. Capital
17 structure amounts can fluctuate during the course of
18 over time. The company's 45 percent reflects a snapshot
19 at a particular period of time. So we would urge you to
20 use the 43 percent test year level.

21 Finally, I want to make one more point with
22 respect to Mr. Grant's comment regarding any decrease to
23 return on equity if the Commission would adopt a
24 decoupling proposal. Staff believes that the shift of
25 risk from the company to customers should definitely be

1 reflected in any rate of return on equity and it should
2 be reduced. Really, it is not, the perspective is not
3 to look at the proxy group as the company claims, which
4 it says have all of these decoupling proposals, which is
5 something that would need further discussion. It may be
6 that one of the proxy companies has only a decoupling
7 mechanism, one form of it in one state. They may
8 operate in five states.

9 So first of all, that's not a valid argument.
10 But the second thing I would like to point out, that's
11 not really the perspective, though, you should be
12 operating from. With respect to the risk shifting, you
13 actually look at where the company is now and their rate
14 of return. And you look at then the reduction in risk
15 that would occur as a result of these proposals.

16 So should the Commission entertain any form of
17 revenue decoupling proposal in this case, which we do
18 not recommend, we would definitely urge you to look at
19 reducing the rate of return on equity.

20 That's all I have, Chairman. And I will refer
21 to Mr. Raber if you would like to discuss the Yuma
22 Manors issue.

23 CHMN. GLEASON: Yes. Excuse me. Let's go to
24 Mr. Raber. Then we will -- we have got, I have got a
25 couple questions.

1 MR. RABER: Good morning, Mr. Chairman,
2 Commissioners. David Raber with the Safety Division. I
3 can provide you an overview of that Manors issue. If
4 you have any highly technical questions, I will refer to
5 Corkey Hanson. He is here from the Pipeline Safety as
6 well.

7 Our take on this has all along been that back in
8 January 2006 Southwest Gas had made a decision to
9 replace the anode bed and reinitiate the rectifier to
10 provide cathodic protection to that line down in that
11 infrastructure down in Yuma Manors.

12 At that time they had an opportunity to examine
13 the condition of the pipeline and they found it to be in
14 good condition, enough so that they decided to invest in
15 the upgraded cathodic protection.

16 And unfortunately what happened at that time was
17 that a Southwest Gas employee had reversed polarity on
18 the rectifier, which actually caused very significant
19 accelerated corrosion of a pipeline instead of what
20 cathodic protection is designed to do. And that is to
21 have the anodes be the sacrificial elements that take
22 away the corrosion from the pipeline. And this went on
23 for approximately one year until January of 2007 when
24 there were just catastrophic failures of that pipeline
25 system. There were over 100 leaks that were reported in

1 early January of 2007 and 20 evacuations, or
2 approximately 20 evacuations.

3 So Staff's analysis of this has determined that
4 had there not been the problem with connecting the
5 cathodic protection back in 2006, that this pipeline,
6 even though, granted, it was older infrastructure, it
7 was approximately 50 years old, had more life left in
8 it. And how much more life we couldn't really determine
9 or tell you, whether that be five years or 15 years or
10 20 years or more. But we felt that the ratepayers
11 should not have to bear the cost of early replacement of
12 a system that, in our estimation, would not have had to
13 be replaced for a number of years after that point.

14 We actually, after considering the issue more,
15 are in support of the ROO, which we think takes account
16 for the fact that at some point in the future this
17 pipeline would have needed to be replaced. So we felt
18 that the ROO was fair and reasonable in that it only
19 took approximately half of the cost of the replacement
20 out of the rate base rather than the full cost.

21 And the only other thing I would add, that if
22 the Commission considers the Pierce amendment, which
23 would defer the ability to recoup those costs rather
24 than disallow them, my only question would be why
25 wouldn't the Commission consider deferring the entire

1 amount to a future rate case rather than just a portion
2 of the amount. And that way it would allow Southwest
3 Gas to recoup those costs in the future. But as we have
4 always maintained, those costs shouldn't be borne by the
5 ratepayers now because of an error made on the part of
6 Southwest Gas.

7 CHMN. GLEASON: Thank you.

8 Mr. Hatch-Miller.

9 COM. HATCH-MILLER: Well, was there a follow-up
10 to that, to this? Okay. Let me -- I thought you had
11 something you wanted to know about this particular
12 incident.

13 CHMN. GLEASON: No. I have a question, but I
14 will defer that.

15 But, you know, it is your overview that I
16 wanted. In other words, what you told us is you thought
17 the pipeline was -- I will ask my question now.

18 COM. HATCH-MILLER: Yes.

19 CHMN. GLEASON: Were there leaks in the pipeline
20 before the cathodic protection was erroneously reversed?

21 MR. RABER: Mr. Chairman, I would have to
22 probably fall back on Corky Hanson since he was involved
23 in that investigation, but my recollection is there were
24 few, if any, leaks prior to the reverse polarity and
25 then there were substantial leaks a year after that

1 incorrect installation.

2 CHMN. GLEASON: Okay. I will get that -- my
3 name is not up on the board. So if you could, get that
4 information.

5 But Mr. Hatch-Miller.

6 COM. HATCH-MILLER: Thank you. I did want you
7 to have a chance to follow up because it was your
8 request.

9 And again I want to, I want to thank you for
10 your effort on that pipeline. Mr. Hanson, stand up,
11 will you, Mr. Hanson. I want to thank you.

12 Mr. Hanson serves as my assistant in working on
13 a national United States Department of Transportation
14 pipeline committee. He has briefed me for years now on
15 pipelines. He has reviewed lots of materials that come
16 down from the feds and they are even better than us at
17 coming down with materials. And he has just been a,
18 just a great asset to me and I know to this Commission.

19 And I want to thank you personally. This is one
20 of my last meetings, maybe my last meeting here. You
21 have done a great job, Corky. Thank you.

22 And let me --

23 CHMN. GLEASON: Thank you.

24 COM. HATCH-MILLER: And let me continue with
25 Staff as soon as they can attend.

1 All right. We are back. I am glad to see the
2 Staff is neutral on the issue of decoupling.

3 I had to wait for that one. Actually sounded
4 almost as passionate as I do. And, again, this is a
5 parting shot.

6 I don't know what we will do today. I know that
7 there is a lot of loose ends no matter what we try to
8 do. But I am just real concerned about Staff's focus on
9 that, whatever program that's put in place has to be
10 tied directly to something that Southwest Gas is doing
11 to help their customers conserve energy.

12 We are living in a huge energy conserving
13 environment right now. You know, I will use on the
14 electric side, you cannot buy an air conditioner that is
15 as ineffective as my air conditioner that was built just
16 10 years ago. In fact, the one you are forced to put
17 into your house now uses half the energy. That's not
18 because the APS or SRP or any of the companies; that's
19 just because the way it is, same thing with a water
20 heater, same thing with a house, the construction
21 techniques.

22 Those are not something this company is going to
23 be responsible for in the wildest of our imagination.
24 And yet what we are saying is we can't work with them to
25 deal with the reality that we want. We want to go to a

1 zero energy use environment and we still want them to
2 have pipes in the ground for those days we need it. And
3 I mean it is the days when we need it. Quite frankly, I
4 don't turn on my heating system all the way from about
5 April to November. It is not on at all. I don't use it
6 six months of the year, but I still use it, but I still
7 want that pipe. And I don't know what day it will be
8 but one day it will be cold and I want to turn that
9 puppy back up. So I want that infrastructure there.
10 And, of course, I am happy that some winters are kind of
11 warm, I don't have to pay much for my gas. And another
12 winter I am really mad because the winter is really cold
13 and I am stuck with a big bill. I understand that is my
14 dilemma but I still want those pipes in the ground.

15 So I think we need to think about Energy Star
16 programs and LEAD programs and all of that stuff as a
17 bigger umbrella to what we are trying to do here at the
18 Commission than a specific rate case with this company.
19 We are trying to put our utilities within the envelope
20 of a much bigger synergy that is created by the totality
21 of the programs, many of which are not even related to
22 our Commission. So I am a little concerned about that.

23 And I realize that in Maine, that you say there
24 wasn't fairness. I understand that. I don't know, let
25 me ask the question. Was it unfairness that was created

1 in Maine?

2 MS. SCOTT: Chairman, Commissioner Hatch-Miller,
3 I am going to turn this over, if you don't mind, to our
4 expert in this area, Mr. Frank Radigan, because I
5 believe he is familiar, much more familiar with these
6 other state programs.

7 COM. HATCH-MILLER: How -- I understand it
8 wasn't, it didn't create fairness. Did it create
9 unfairness in Maine?

10 MR. RADIGAN: Commissioner Miller, the issue was
11 that they put into place --

12 CHMN. GLEASON: Would you give your name,
13 please.

14 MR. RADIGAN: I am sorry, Frank Radigan,
15 consultant to the Staff. Sorry, Chairman.

16 CHMN. GLEASON: Thank you.

17 MR. RADIGAN: The issue was that they put a
18 program into place where on the face it was for energy
19 conservation. But the revenue decoupling mechanism took
20 into account many other factors, and one of them was the
21 economics. And the reason that they rejected it was
22 that the IOU that got built up was much larger for
23 economic conditions in Maine than for energy
24 conservation. So then, on balance, the Commission said
25 there has got to be a better way than this and pulled it

1 back.

2 And it was the same similar kind conditions in
3 Washington, where the energy conservation was getting
4 swamped by all of the other factors that were in the
5 program. So it is not do we dislike revenue decoupling.
6 It is the design of that and is it tailored to just the
7 programs you are putting into place or national trends,
8 for instance appliance standards, can we capture those
9 into a program but at the same time exclude things like
10 economic downturns.

11 COM. HATCH-MILLER: And yet, you know, when I
12 think about that -- I don't want today to become like it
13 was the last two days if I can avoid it. This may be my
14 last set of questions unless somebody jumps in and puts
15 the pieces together. And that's fine, but I just might
16 stop here.

17 But I mean the issue is that I know that,
18 because I am working in Washington on these issues, we
19 are putting a lot more onus on this company to spend a
20 lot more money on pipeline integrity. I don't care what
21 the environment is, they are going to spend a lot more
22 money on that integrity management program, whether or
23 not this economy is smooth sailing. And they are going
24 to be stuck with whatever carbon costs whether or not
25 our economy is good.

1 I mean the reality is there isn't necessarily a
2 one-to-one relationship between how the economy is
3 gyrating and the cost to this company. In fact, the
4 company's costs may go up. So I understand the
5 protection. I don't want -- you know, if people are
6 trying to conserve and cut back and they can't do it
7 because of a mechanism we put in place, that's not a
8 good outcome. But if what is in place is a system that
9 works for everybody in the state that does allow people
10 to conserve and save money, then that's a system I am
11 looking for.

12 And I just don't, I just don't want to put
13 utilities -- you know, it is kind of like the boatload,
14 the boat. If I have the concession on the gas, the boat
15 gasoline at Lake Powell, I got a three-month business.
16 And I have to adjust for that, and so I charge, you
17 know, seven bucks for the gas. You know, I always
18 complain. Well, I had to fill up. I hated it. I mean
19 it costs me -- why am I paying three times as much up
20 here? You are paying three times as much for the
21 convenience of having the gas station up there when I
22 want it in the middle of the summer.

23 And I just think this Commission, and I hope
24 those to follow, are able to grapple with this situation
25 better than I. But my outcome is to have it where you

1 can build homes that use very little energy, but I still
2 want the pipes in the ground. That's my outcome. And I
3 don't think this order gets us to that.

4 Thank you.

5 CHMN. GLEASON: Commissioner Mundell, do you
6 have many questions?

7 COM. MUNDELL: I can wait until after lunch. I
8 don't have a whole lot of questions.

9 CHMN. GLEASON: Okay, fine. Commissioner Mayes
10 convinced me we need more time.

11 COM. MUNDELL: An extra five minutes?

12 CHMN. GLEASON: Yes. We will, we will come back
13 at 1:30. And I would encourage the Commissioners to be
14 here promptly at 1:30 because there is a little
15 presentation.

16 (A recess ensued from 12:23 p.m. to 2:13 p.m.)

17 CHMN. GLEASON: We will come back into session.
18 We are, good heavens, we are 15 minutes late.

19 Mundell, you are at the top of the list. And
20 who is at the podium?

21 COM. MUNDELL: I think Maureen was at the chair.

22 CHMN. GLEASON: No wonder there wasn't anyone at
23 the podium. Staff was up, though.

24 MS. SCOTT: Yes, Chairman.

25 COM. MUNDELL: Hopefully after all that I can

1 remember what I was going to ask you.

2 Let me ask you, as I was sitting here thinking,
3 this decoupling issue sort of reminds me of when we were
4 debating deregulation and in particular what to do about
5 having, you know, our utilities go out and purchase
6 electricity on a wholesale market. And what I thought
7 about was, you know, we had all these expert witnesses
8 come in, we had the witnesses from APS come in and tell
9 us, no, they could generate electricity cheaper than the
10 merchant plants could provide it. And the merchant
11 plants would have their expert witnesses tell us no, we
12 can provide this cheaper than APS can generate it.

13 And so I think it was actually, it was
14 Commissioner Spitzer as I recall, I need to give him
15 credit for that, or maybe it was the Judge, I don't
16 remember, but we talked about, well, let's, you know,
17 have them actually, you know, go to bid, go out to
18 market and, you know, sort of put -- the proof is in the
19 pudding because we had these two different experts
20 telling us this stuff. So we went out and had the
21 Track B and went out to bid. That was what this sort of
22 reminds me of.

23 Is there a way that we can move the ball forward
24 and still protect, you know, the ratepayers and have a
25 pilot program?

1 I mean I heard what you said about Maine. I
2 thought it was interesting, especially in this day as
3 we, you know, the last two days and this morning earlier
4 where we were talking about turmoil in the financial
5 markets and that we may be going through, and I hate to
6 say this, through a deflationary period.

7 How do we -- why couldn't we have a pilot
8 program or something, I don't know, to try it and hold,
9 let's say it doesn't work, and still hold the customers
10 harmless? I mean the company wants us to do a pilot
11 program, okay, but then I don't want to do a pilot
12 program that, you know, blows up and the customers are
13 hurt. Because we know what we get the way we have been
14 doing it for years. So why couldn't we design some kind
15 of pilot program that, hey, we will try it but, if it
16 doesn't work, then the company has to, you know, be on
17 the hook for the difference?

18 That's what I am trying to think through because
19 then it is reality as opposed to expert witnesses.
20 That's what I was thinking of. I have been thinking of
21 this the last couple days, saying, well, God, we went
22 all through this when we did wholesale deregulation.

23 So, I don't know, that was my thought process.
24 Because we are never going to get there. It seems to me
25 to be to try it and still -- but I want to be able to

1 protect the customers, but I want to give the company an
2 opportunity to have -- you know, they have espoused
3 their position -- and give it a go but not -- you know,
4 I am still worried about all the things that you have
5 talked about and RUCO has talked about.

6 MS. SCOTT: Chairman, Commissioner Mundell, I
7 will give you my opinion. And then our expert,
8 Mr. Radigan, is here, too, and he can speak to the issue
9 as well.

10 I think the fundamental problem we see with a
11 pilot program in this case is that there are just, like
12 the last case, there are just so many unanswered
13 questions in this record that, to try to structure a
14 pilot program around the company's proposals, I don't
15 know if there would be a way to hold the customer
16 harmless or to protect the customer. There are just too
17 many unanswered questions. And then you combine that
18 with the fact of the experience in these other states,
19 especially during economic times like we are having now
20 and the impact that it had on the rates to customers,
21 that is that they escalated, and finally the Commission
22 terminated the programs.

23 COM. MUNDELL: That's why, counsel, I said if
24 there was a way to hold the customer harmless, because
25 the company wants us to go to this brave new world here

1 in areas. I don't know. It occurred in other states so
2 seems to me that the burden would be on the company to
3 say okay, Commission, if you are willing to try this, we
4 are willing to say if it doesn't work the customers are
5 going to be held harmless. And I don't know, I don't
6 know how to do that necessarily. We have been so busy
7 this last two weeks, and I have been trying to think it
8 through. And, you know, Adam and I talked about it, how
9 do you move the ball forward and still protect the
10 customer.

11 MS. SCOTT: Chairman, Commissioner Mundell, and
12 this may not be what you want to hear, but I think from
13 Staff's perspective, and Staff has given this quite a
14 bit of consideration as well, in particular because of
15 this case, we believe that the generic docket, where you
16 have all of the industry participants coming in and
17 sitting down together discussing this issue and the pros
18 and cons, we believe that that would be the best means
19 of trying to structure a pilot program if that is the
20 Commission's desire, and move the ball forward on that
21 basis, because in the generic docket, if it is the
22 Commission's desire to go ahead with the pilot program,
23 we could structure safeguards or protections for the
24 customer.

25 COM. MUNDELL: Okay. That's fair. And maybe

1 moving the ball forward wasn't the right analogy. Maybe
2 it was moving it sideways, but, in any event, I hope not
3 backwards. The generic docket is there. We started --
4 I did? Commissioner Mayes said I started it. Okay,
5 well, I hadn't remembered that. I hadn't remembered I
6 started it. I knew we had one.

7 COM. MAYES: Yes, you did.

8 COM. MUNDELL: Okay. Well, we need to move
9 forward on that.

10 CHMN. GLEASON: Are you through?

11 COM. MUNDELL: Yes, sir.

12 CHMN. GLEASON: Okay. Mr. Pierce.

13 COM. PIERCE: Thank you.

14 I appreciate that Commissioner Mundell has had
15 time to think about decoupling over the last few days.
16 And I have had a chance to talk, as I discussed earlier.

17 But what I wanted to do is look at page 6 and 7
18 and reconcile a couple of numbers, if I could, because
19 it talks about Staff's recommendation to completely, you
20 know -- lost the pipeline safety folks. Oh, there is
21 Dave back there.

22 It says Staff recommendation is to completely
23 disallow the replacement cost of the pipeline. This is
24 on page 6, last paragraph, line 22. In response to the
25 concerns raised by Staff the company agreed to withdraw

1 \$320,779.

2 I want to go to page 7, again the last
3 paragraph, line 23. Staff asserts that at a minimum the
4 Commission should disallow the \$320,079.

5 I just want to reconcile those two numbers. Is
6 there an \$800, \$700 misstatement there?

7 ACALJ NODES: I think it is a typo.

8 COM. PIERCE: Okay, it is a typo. I just wanted
9 to make sure because we were rocking along and talking
10 about the same issue and then I, I just wanted to make
11 sure that was just a typo.

12 CHMN. GLEASON: Commissioner, we have three
13 pages of typos.

14 COM. PIERCE: Is that --

15 ACALJ NODES: That's not one of them
16 unfortunately. I don't know which of the two numbers is
17 correct. But I do believe it is a typo, unless someone
18 thinks differently.

19 COM. PIERCE: I think the 079 is the correct
20 number.

21 ACALJ NODES: I think you are right.

22 COM. PIERCE: I just wanted to make sure we got
23 to that, that we were balancing that. Thank you.

24 CHMN. GLEASON: Let's --

25 COM. PIERCE: Do you want me to elaborate?

1 CHMN. GLEASON: Do you want to direct Staff to
2 change the typo?

3 COM. PIERCE: Well, sure. When we get to my
4 amendment, it was important that I recognize what
5 number. And I was going to recognize the 320,079 and I
6 just wanted to make sure we were all on the same spot
7 with that.

8 ACALJ NODES: And I think when we get to the
9 Hearing Division amendments, as was pointed out, there
10 are quite a few of them, and I can add to that to
11 correct the one number that's on page 6.

12 COM. PIERCE: Sure. And, Mr. Chairman, I would
13 think with that long of a ROO, that there would be a few
14 of those little ones. It is dealing with a lot of
15 numbers.

16 ACALJ NODES: Well, there shouldn't be as many
17 as there are. I apologize.

18 COM. PIERCE: Well, but the trains run on time.

19 CHMN. GLEASON: Okay.

20 COM. PIERCE: Thank you.

21 CHMN. GLEASON: Commissioner Mayes.

22 COM. MAYES: Our ALJ has had a lot of orders to
23 write in the last couple months, so...

24 For Staff, would a DSM program that recovered
25 the costs of the energy efficiency programs contained

1 within it, plus a provision for some sort of margin
2 recovery for the units that are lost as a result either
3 through an adjuster mechanism or in the future rate
4 case, be a substitute for decoupling program?

5 MS. SCOTT: Chairman, Commissioner Mayes, I
6 think I will turn that over to our expert, Mr. Radigan.

7 COM. MAYES: Mr. Radigan, do you understand that
8 question? I know it was --

9 MR. RADIGAN: I do understand the question.
10 Commissioner Mayes, it is the balance between
11 administrative complexity and getting something that is
12 fair to the company. And a lot of the discussion you
13 hear today is going to decoupling, retrenching, going
14 back to decoupling. It is because of that that we don't
15 have a good answer. Regulation is very hard.

16 There was some very good issues brought out in
17 this cases. Decoupling was one of them. The volumetric
18 rate design may have promise in the future. It is that
19 constant trying to get what the right answer is.

20 COM. MAYES: Do you believe that one, that what
21 I described could be a substitute for decoupling?

22 MR. RADIGAN: Yes, it could be. And some states
23 use that. You know, when people talk about decoupling,
24 there is a huge spectrum of different solutions to that.

25 COM. MAYES: Of what that means?

1 MR. RADIGAN: And what that means. And some of
2 it is you implement the programs, we will measure how
3 successful you are, and we will give you the money for
4 those programs individually towards full decoupling,
5 weather normalization, and everything else. It is what
6 trade-offs do you want to make and how important do you
7 find DSM to be implemented.

8 Some, you know, where DSM is being promoted the
9 most is where the rates are the most expensive. So
10 people need to see a large -- you need to do energy
11 conservation, and, if you have very small gas usage, you
12 may not need those administrative complexities. That's
13 part of something to work out in the generic proceeding.

14 COM. MAYES: Okay. And then to Commissioner
15 Mundell's point about getting going, I am wondering,
16 since the Judge --

17 Mike, is it okay if I ask Dwight a question?

18 CHMN. GLEASON: Sure, yes.

19 COM. MAYES: Okay. Judge Nodes, you suggested
20 in your order that we, that we parse this out in a
21 generic docket. And you referenced -- I don't know if
22 you specifically referenced Commissioner Mundell's
23 generic docket that he suggested we open up, and we did
24 on, I am grasping for what we called it, but it is on,
25 it is aligning incentives, basically incentive

1 mechanisms.

2 Is there something more targeted that we could,
3 that we could do either within that generic docket that
4 really, because that sort of generically, incentives
5 generally broadly encompasses a lot of different things,
6 is there something we could do specifically tailored to
7 decoupling or DSM cost recovery?

8 ACALJ NODES: Good afternoon, Mr. Chairman,
9 Commissioners. Dwight Nodes for the Hearing Division.

10 If I -- yes, I think the short answer is yes.
11 Perhaps, and let me suggest, that maybe one solution is
12 to maybe, and I hate to open, suggest another generic
13 docket, but if you had a proceeding that was
14 specifically directed towards decoupling mechanisms for
15 both weather related and declining usage revenue effects
16 that would be open to the other entities in the state as
17 well as all the other various stakeholders to try and
18 come up with a workable solution that would include
19 perhaps conditions that would provide some protections
20 for customers as well as provide the revenue stream that
21 the company is seeking.

22 And I guess in the company's last rate case, I
23 think it was mentioned perhaps by RUCO, there was a
24 directive for the parties to go and seek out a
25 collaborative effort to try to resolve this issue. And

1 I think that was what was intended. I know that there
2 was an attempt to do so, but obviously it was not
3 successful. And it appears that what the company
4 brought back in this case was essentially the same kind
5 of mechanism that was previously projected, just broken
6 into different pieces. But there -- if I can just step
7 back for just a moment.

8 Washington was mentioned earlier as a state
9 where decoupling mechanisms have been adopted. I
10 understand they have at least retrenched in some
11 respects. But there were a couple of gas company
12 ordered decoupling mechanisms approved just in 2007, a
13 little less than two years ago. But at least in one of
14 those cases, the Commission was struggling with some of
15 the same issues that you have before you.

16 They were concerned with risk shifting to
17 consumers, matching violation issues, if you are just
18 adjusting for weather or lower revenues you aren't at
19 the same time considering the other perhaps beneficial
20 effects that may accrue to the company.

21 And there is also built into a decoupling
22 mechanism perhaps an indifference to DSM efforts, which
23 may be a good thing. But on the other hand, if the
24 company is indifferent, if their feet aren't held to the
25 fire, maybe they are not going to pursue those DSM

1 efforts vigorously.

2 So at least in the, at least in one of the
3 Washington cases they got a full buy-in from all the
4 stakeholders, including the consumer advocate, the staff
5 and all the other various parties, and they came up with
6 a mechanism that had a lower ROE to recognize the lower
7 risk that was attendant to the company's position.

8 They had some deferred margin recovery related
9 to weather normalization that meant that over, that
10 those deferments were amortized over a couple of years
11 so there may not be a big hit on consumers all at once.
12 There was specific approved conservation programs that
13 included low income programs. There was an earnings cap
14 that was tied to the lower ROE and penalties for failure
15 to meet the DSM goals.

16 And I guess in looking at this maybe in a more
17 generic sense, those may be examples of the types of
18 conditions that I guess I was hoping from the last case
19 that the parties might be able to come up with to move
20 the ball forward, as Commissioner Mundell suggested, but
21 at the same time providing some conditions that provide
22 protections to all of the various entities.

23 So I, you know, I don't know that we have those
24 here. I think those are some of the concerns that have
25 been expressed by RUCO and Staff. And, you know, if you

1 wanted to put this on a more focused track as opposed to
2 the broader scope of Commissioner Mundell's prior
3 generic docket, which was going to address all incentive
4 mechanisms, perhaps that's one option that you might
5 have available to you to perhaps move the ball forward
6 more quickly than might otherwise be seen.

7 COM. MAYES: Okay. Well, I appreciate that.
8 Maybe we can discuss that up here on the bench, because
9 that does seem to make some sense to me. But we will
10 talk about that a little later.

11 Thank you, Mr. Chairman.

12 CHMN. GLEASON: Yes. My plan -- did you have an
13 answer to my question? Did the Yuma have an abnormal
14 number of leaks before they reversed polarity?

15 MR. RABER: Mr. Chairman, Commissioners, David
16 Raber with the Safety Division.

17 I did have an opportunity to research that
18 during lunchtime. And the answer, Mr. Chairman, is that
19 between 2002 and 2006, there were three leaks reported
20 on that pipeline system. And if you compare that to
21 January of '07, a year after the company had replaced
22 their anode bed and rectifier, the leaks went up to over
23 100 leaks within just the month of January of 2007 and
24 19 evacuations in that area.

25 CHMN. GLEASON: So they did pretty well ruin the

1 pipeline?

2 MR. RABER: Our opinion, Mr. Chairman, opinion
3 of Staff is that the improper connection of that
4 cathodic protection actually severely accelerated the
5 rate of corrosion of the pipeline.

6 CHMN. GLEASON: Okay. Thank you very much.

7 Now, Staff, since my tenure here is measured in
8 hours, I would like to have you explain to me a term.
9 You used a 10-year normalization. Please explain.

10 MS. SCOTT: Chairman, if I can just have a
11 moment.

12 CHMN. GLEASON: Is it that complicated? I had
13 never heard -- I didn't know what that term meant and I
14 hadn't ever heard it before that.

15 MS. SCOTT: If that's all right, Chairman, we
16 have our witness here that has worked on the accounting
17 aspects of this case.

18 CHMN. GLEASON: Sure.

19 MS. SCOTT: Mr. Ralph Smith.

20 MR. SMITH: Chairman Gleason, I think in the
21 context that was brought up it referred to weather
22 normalization.

23 CHMN. GLEASON: Please give your name.

24 MR. SMITH: My name is Ralph Smith. I am one of
25 the consultants to Staff.

1 CHMN. GLEASON: Thank you.

2 MR. SMITH: I believe it was in the context of
3 the weather normalization adjustment. And what it
4 refers to is the sales of gas that Southwest experienced
5 during the test year are compared to what we call normal
6 weather. And there are various ways of determining
7 normal weather. And I think it was two or three cases
8 ago in Southwest Gas they decided to go to a 10-year
9 average. And so they take a 10-year average of heating
10 and cooling degree days and then they compare that
11 against customer usage. And they determine how much of
12 customer usage of gas is sensitive to weather. And then
13 they take the difference between the test year degree
14 days and the normal degree days and they quantify what
15 impact that had on test year sales and they make an
16 adjustment to revenues in the test year.

17 CHMN. GLEASON: Okay. Now, the adjustment is --
18 I understand. Now, what is the adjustment to sales?
19 That's the sales volume, the gas volume that they are
20 selling?

21 MR. SMITH: Yes. And I don't recall in this
22 case if it was an upward or downward adjustment. I
23 could --

24 CHMN. GLEASON: That's -- I just want to --

25 MR. SMITH: They quantify the impact of test

1 year weather versus normal weather. And that's
2 quantified as an adjustment to sales. And then that's
3 multiplied by the existing rates to determine the impact
4 on revenue.

5 CHMN. GLEASON: So that the --

6 MR. SMITH: Essentially the purpose is to state
7 the revenue in the test year as if there were normal
8 weather occurring during that time period.

9 CHMN. GLEASON: Okay. So this, you establish
10 the normal weather use and then the test year is changed
11 either up or down so it fits that normal 10-year normal.
12 Is that the --

13 MR. SMITH: That's exactly right.

14 CHMN. GLEASON: Yes, okay. Fine. And I gather
15 that normal is for the Arizona market. Is that
16 normalized for the Arizona market?

17 MR. SMITH: They usually sample the degree day
18 information from the areas where the customers are
19 located.

20 CHMN. GLEASON: Okay, fine. Thank you. That
21 answers my question.

22 MR. SMITH: It would be Arizona weather data
23 that was used.

24 CHMN. GLEASON: Yes. Okay, thank you.

25 MR. SMITH: You are welcome.

1 CHMN. GLEASON: Okay. Now we are going to go to
2 Hearing Division. Did you -- we might progress to yours
3 since your amendments are somewhat --

4 Dwight, do you have --

5 ACALJ NODES: Somewhat voluminous.

6 CHMN. GLEASON: Do you have any statements?

7 ACALJ NODES: I don't have anything specific.
8 At the appropriate time I know Commissioner Pierce has a
9 couple of amendments, and if you would like my view on
10 those, I would be happy to do it, or on any other
11 questions related to the order.

12 And then I have the three amendments, of which
13 at least there is going to be apparently an additional
14 amendment to one of those amendments.

15 CHMN. GLEASON: Okay. Now is the time for
16 further questions of Hearing. Hatch-Miller.

17 COM. HATCH-MILLER: This isn't for Hearing. I
18 was just going to say, once we are done with that, I
19 still want to hear from Mr. Schlegel, the man from
20 BROOM -- SWEEP, isn't it?

21 CHMN. GLEASON: I have a public comment here
22 when we get done with this.

23 COM. HATCH-MILLER: Great.

24 CHMN. GLEASON: Okay. Let's go to the Hearing
25 amendments. Now, do you want to move, do you want to

1 move article, what, 29?

2 COM. MUNDELL: I will move, yes, Item No. 29,
3 Mr. Chairman, on the agenda.

4 CHMN. GLEASON: Okay. And do you want to move
5 Hearing Division Amendment 1?

6 COM. MUNDELL: Yes, sir, I will move Hearing
7 Division No. 1.

8 CHMN. GLEASON: It is really technical. It is
9 recognizing, recognizing -- they are all technical,
10 right?

11 ACALJ NODES: I apologize. People --

12 CHMN. GLEASON: In Hearing they are all
13 technical?

14 ACALJ NODES: Yes, they are all technical
15 amendments. And yes, that's the way -- on Hearing
16 Division Proposed Amendment No. 1, if we would add the
17 item that was pointed out by Commissioner Pierce, which
18 is on page 6, line 24, to delete 320,779 and insert
19 320,079, make it accurate.

20 MS. SCOTT: Chairman, I am sorry, if I may
21 interrupt. Our expert has checked that number and it is
22 actually the other number that's accurate.

23 ACALJ NODES: Okay. Well, I apologize. So
24 disregard that. Page 7, line 24, delete the 320,079.

25 CHMN. GLEASON: Page 7? You said 6. I wrote

1 down 7.

2 ACALJ NODES: Page 7, line 24, delete 320,079
3 and insert 320,779. It is the opposite of what we, I
4 had stated earlier.

5 CHMN. GLEASON: Okay. Legal, I guess we don't
6 have to amend this thing? That's just --

7 MS. ALWARD: You can just accept that and direct
8 the Hearing Division to make those corrections.

9 CHMN. GLEASON: Okay. But since we have this,
10 would you please move the Hearing Division Amendment
11 No. 1.

12 COM. MUNDELL: Oh, did I not do that? I guess I
13 didn't. I will move Hearing Division No. 1.

14 CHMN. GLEASON: Okay. All in favor of Hearing
15 Division No. 1 say aye.

16 (A chorus of ayes.)

17 CHMN. GLEASON: Okay. Hearing Division 2, there
18 is a bunch of change of numbers. We probably ought to
19 vote on this since there are numbers changed.

20 MS. ALWARD: Chairman, I would think those are
21 technical amendments as well, unless Judge Nodes wants
22 to make a further explanation.

23 ACALJ NODES: Just briefly, this was a situation
24 in just summarizing RUCO's position. It doesn't -- I
25 picked up the wrong number, the wrong column from RUCO's

1 schedules. It doesn't in any way affect the revenue
2 requirement. It was just in summarizing RUCO's
3 position, that's Hearing Division No. 2.

4 COM. MUNDELL: I will move Hearing Division
5 No. 2.

6 CHMN. GLEASON: Okay. All in favor of Hearing
7 Division No. 2. say aye.

8 (A chorus of ayes.)

9 CHMN. GLEASON: You passed Hearing Division.
10 Hearing Division No. 3, that's another series of
11 numbers.

12 ACALJ NODES: And, Mr. Chairman, let me briefly
13 explain. When the A team runs the numbers, they attempt
14 to -- there was apparently about a \$150,000 discrepancy
15 after I had written the order that became known to them.
16 I think they have had discussions with the company as
17 well as the Staff consultants.

18 As of yesterday, these were the correct numbers.
19 I understand there may be a few pennies difference on a
20 couple of the dollar numbers. I don't think -- and I
21 think it is -- let me see.

22 If I can, where it says page 46, line 10,
23 instead of \$1.46, it should be \$1.50. And then on the
24 next page, page 46 --

25 CHMN. GLEASON: Do those materially affect --

1 ACALJ NODES: No, nothing is materially
2 affected. I think as they were working through trying
3 to get the exact number, there is no number that's more
4 than a couple pennies difference, as I understand it, in
5 the summaries of the bill impacts on the customers. But
6 they are, everyone was trying to tweak the numbers to
7 get it exactly right. And I understand there were some
8 differences of opinion. None of them are really
9 substantial. I was just trying to get it right, as
10 accurate as possible.

11 CHMN. GLEASON: Okay. Now, I am not sure that
12 would pass muster with my nitpicker Ken right here, but
13 he doesn't vote so...

14 Okay. Would you move, since there is no serious
15 effect here would you move Amendment No. 3.

16 COM. MUNDELL: I will move Hearing Division
17 Amendment No. 3, Mr. Chairman.

18 CHMN. GLEASON: All in favor of Hearing Division
19 No. 3 say aye.

20 (A chorus of ayes.)

21 CHMN. GLEASON: Opposed, no.

22 (No response.)

23 COM. MUNDELL: Did we vote on Hearing 2?

24 CHMN. GLEASON: Yes. You moved it.

25 COM. MUNDELL: I did move it. I don't remember

1 voting on it, but that's okay. It has been a long few
2 days so... I just didn't remember voting on it; I
3 remember moving it.

4 CHMN. GLEASON: You forgot the important part,
5 the vote.

6 COM. MUNDELL: I understand.

7 CHMN. GLEASON: Okay. We have gone around. I
8 have a late filed public comment slip from Mr. Schlegel.

9 MR. SCHLEGEL: Thank you, Mr. Chairman. Jeff
10 Schlegel from SWEEP, or BROOM.

11 Southwest Energy Efficiency Project, as you
12 might expect, SWEEP, supports the increased energy
13 efficiency that we recommended in the docket. We
14 proposed a \$12 million annually. We also support the
15 revenue decoupling, both the RDAP and the WNAP.

16 Now, I have listened carefully to the discussion
17 on my drive up earlier this morning. And there seemed
18 to be four issues that were being discussed. One, you
19 know, where are we going, what is the utility industry
20 of the future; two, revenue decoupling and the various
21 aspects and objectives of that; three, the risks and
22 returns to the utility and the risks and benefits to the
23 customers of the policies that you are considering; and
24 finally, four, energy conservation and efficiency and
25 where does that fit in amongst the other issues that you

1 were discussing.

2 I would urge you on the fourth issue, energy
3 conservation and efficiency, to not just think of energy
4 efficiency as the energy efficiency programs. That's
5 really only one part of what we are trying to do here.

6 Energy efficiency is much more than the
7 programs. It is the other policies. It is the
8 influence of the utility as a corporate and community
9 citizen. It is customer education and information. It
10 is building codes and standards. It is state policy.
11 It is federal policy. And the utilities who are most
12 active in the country in energy efficiency, they
13 routinely have their, for example, their federal
14 lobbyists testify before congress and before the USDOB
15 on energy efficiency policy. Those utilities tend to be
16 utilities that have decoupling mechanisms because it is,
17 it is in the public interest, it is in the customer's
18 interest. The utility doesn't have a disincentive but
19 they understand that it is good to go and do that and
20 they do so.

21 In terms of the specifics of this case, I want
22 to contrast two things, looking back and looking
23 forward. In terms of looking back, much of the analysis
24 in this case was retrospective and historical. There
25 is, I think, large agreement that there is a decline in

1 the revenue per customer. However, there is
2 disagreement over exactly why and what to do about it.

3 In the workshop that was discussed earlier,
4 there was some discussion from some parties that
5 80 percent of the effect was due to weather. In fact,
6 once that analysis was corrected, and it was corrected
7 for Exhibit ABC-1, you will see that it is about
8 70 percent conservation and 30 percent weather. The
9 problem with that old workshop analysis was it was over
10 three years, and they used the actual values for each
11 year, but they used the third year rate case value for
12 all three years instead of using the actual rate case
13 value for each of the years. So once that confounding
14 factor was corrected, and you will see this in ABC-1
15 and the companion exhibits in response to RUCO 8.1 and
16 8.2, you will see it was about 70 percent conservation
17 and 30 percent weather.

18 One other point about looking back, this is a
19 point that I made over and over again in the workshop
20 and tried to make in this docket as well, we would not
21 expect to see the effects of broad and deep energy
22 efficiency programs or policies on the usage and
23 revenues in a historical analysis. Why? Because there
24 were no programs and there was no aggressive energy
25 efficiency policy in the past. So when you look back,

1 you don't really expect to see the effects of that. And
2 that's because, you know, there weren't any programs.
3 There was no significant policy.

4 In terms of looking ahead, and I would really
5 encourage you and urge you to look ahead, what we want
6 to do, what SWEEP wants to do and what I think is good
7 for customers and good for society is to encourage
8 increased energy efficiency and conservation to reduce
9 customer costs and to achieve the other benefits that
10 efficiency provides. To do so we want a utility that's
11 active as a corporate and a community citizen in
12 encouraging and helping and assisting customers to be
13 more energy efficient. And in supporting policies that
14 would increase energy efficiency, again, it is not just
15 about the programs. It is about the other policies as
16 well. And SWEEP has experienced firsthand the support
17 of Southwest Gas at the state legislature on other
18 energy efficiency policies that we have tried to move
19 through that legislative body.

20 So, and one other thing about looking ahead, you
21 would see more energy efficiency and conservation
22 looking ahead than you would in a historical analysis.
23 You would also see, if you adopted decoupling, you would
24 see an increase in the utility enthusiasm and support
25 for energy efficiency and conservation. And you would

1 likely see the kinds of positive effects that Dr. Hansen
2 and I testified in the case in places like Questar and
3 Northwest Natural where the utilities have really turned
4 around from being really not very supportive at all of
5 conservation and becoming a major champion within their
6 communities.

7 So in summary, the record, I agree the record is
8 conflicting. The evidence is conflicting. People could
9 be arguing about this. We have been arguing about it
10 for two rate cases and one workshop. I contend we could
11 argue for another one or two, take your pick.

12 Frankly, some of the strategies in this case
13 have just been to say no, to just attack decoupling and
14 not really try to move forward and solve it. And that's
15 more or less where we are in the case.

16 I would urge you to look ahead. Where are we
17 going with the utility of the future? What is in the
18 best interest of customers? What is in the best
19 interest of the public, the public interest?

20 And I would consider the objectives. In our
21 brief and in my testimony, we highlighted some of the
22 objectives and the conflicts between them. The customer
23 interest is to reduce their gas usage, to reduce their
24 gas bills and to reduce their total energy costs. The
25 public and societal interest is to reduce the usage of

1 natural gas and to help ensure the adequate supply of
2 affordable natural gas in the future.

3 To achieve these objectives the DSM and energy
4 efficiency programs need to reach many more customers
5 than they are now. And support from the utility acting
6 both as a significant member of the energy industry and
7 as an influential community leader and corporate citizen
8 can be very helpful and effective in achieving those
9 objectives. Yet, absent decoupling, the utility
10 interest is to increase gas usage and revenues by
11 selling more natural gas and to discourage energy
12 efficiency. That's the problem, there is a conflict of
13 objectives.

14 And I would urge you that, you know, that we --
15 I would first note that we know how the current system
16 works. That's directly observable. And it doesn't work
17 very well. I would assert that what we wanted to do is
18 better align the utility objectives and their incentives
19 with the public interest. And decoupling in fact does
20 that.

21 The current utility incentives are counter to
22 the public interest. They discourage the utility from
23 supporting energy efficiency. So what should be done?
24 Basically I would have five recommendations for you.

25 One, adopt decoupling, both the RDAP and the

1 WNAP, but do so as a three-year pilot. We have
2 suggested that the experience of pilot implementation
3 will do more to resolve the difference among parties
4 than continued debate in this or a subsequent rate case
5 or a subsequent workshop.

6 Second, have regular reporting from the company.
7 The company should, and I submit will, be very
8 responsive with the strong incentive of the pilot to
9 encourage energy efficiency. And I think you will see
10 the company, as we have seen in Questar, respond very
11 quickly and really increase their support for energy
12 efficiency in the very near term.

13 Three, if you are concerned about the risk, and
14 you have significant concerns about the risk, apply a
15 cap or bandwidth on the RDAP. A cap, for example one
16 type of cap, would be allow the RDAP to never exceed,
17 never allow Southwest Gas to earn more than their
18 authorized return, a cap on the authorized return.
19 Another one would be to put a percentage on it, that it
20 can never be more than, say, 2 percent, so you know what
21 the absolute upside risk is. And I would encourage you
22 to do this for all the reasons that you have learned
23 when you didn't do it on purchased power and fuel
24 adjustment clauses. It is good to have a cap so you
25 know what the limits are.

1 Fourth, I would increase, I would require an
2 increase in the energy efficiency programs and the goals
3 and funding to support those programs and require a
4 revised plan within 90 days. It is not -- decoupling in
5 itself is not enough. You need to have decoupling and
6 energy efficiency to actually build the utility industry
7 of the future and the type of system that's going to
8 benefit customers.

9 And finally, number five, I would require a plan
10 of how the company will encourage and support customers
11 and policies to increase energy efficiency. So number
12 four is the programs. Number five is everything else.
13 And I think you will see that the company can support
14 things like building codes and standards as well as
15 undertake a broad educational campaign to save customers
16 energy and reduce their costs. It is important to set
17 these standards for a utility's performance in
18 conjunction with decoupling.

19 And, finally, if you are going to do a generic
20 docket, I mean I can go to meetings just like anybody
21 else, I would encourage you, if you are going to do a
22 generic docket, instead of the five recommendations I
23 just gave you, I would encourage you to focus it early
24 on decoupling and have a specific focus on it. And,
25 second, I would urge you to set a deadline, because we

1 have been working on decoupling issues and argued about
2 them in various rooms for years and I think we need to
3 move ahead, move the ball forward and not sideways.

4 Thank you.

5 CHMN. GLEASON: Commissioner Mayes.

6 COM. MAYES: Thank you, Mr. Chairman.

7 Mr. Schlegel, I appreciate the recommendations
8 and I certainly look forward to seriously scrutinizing a
9 number of them and considering a number of them. And I
10 share some of your frustration. But on the other hand,
11 you know, the Judge gave specific -- and this Commission
12 really gave specific direction in the last Southwest Gas
13 rate case for the parties to go out, collaborate and
14 come back to us with a plan that was designed to recover
15 the costs, I believe, associated with energy efficiency
16 through a potential decoupling program. What we got was
17 the WNAP and the DNAP. And, you know, obviously, you
18 can tell it is not satisfying what we thought we were
19 going to get.

20 So why didn't you guys come up with a decoupling
21 mechanism that showed a clear nexus between energy
22 efficiency and the actual decoupling mechanism, or is
23 that not possible? I mean, is it not feasible? And if
24 it is not possible, then why shouldn't we look simply at
25 requiring DSM energy efficiency programs and then

1 allowing for some measure of lost, of lost revenue
2 recovery?

3 MR. SCHLEGEL: Mr. Chairman, Commissioner Mayes,
4 on the first question, what happened and why did it
5 happen, I think, I think people made a valiant and
6 forthright effort to work in the workshop together but
7 in the end there were differences of opinion.

8 COM. MAYES: What was the main difference of
9 opinion? What was the sticking point?

10 MR. SCHLEGEL: Well, the, I think, problem --
11 excuse me. Mr. Chairman, Commissioner Mayes, I think
12 the first problem was it wasn't until late in that
13 workshop process that we had this corrected ABC-1.

14 A lot -- the first, not the first workshop but
15 the second and third workshop we had an exhibit from the
16 company that compares actual revenues and rates to a set
17 rate that was, that was applied to three years and it
18 should have been a different number in the other two
19 rows, excuse me, other two columns and it was not. And
20 that created a lot of confusion. And it created this
21 perception that the problem was weather when in fact, at
22 least in my view, the problem was not. But that
23 happened in the next to last workshop.

24 COM. MAYES: Does everybody share that view now
25 that the corrected exhibit is the correct calculation

1 and methodology? It sounded like RUCO was skeptical or
2 somebody was skeptical. I don't know if it was our
3 Staff or RUCO but somebody sounded a little skeptical.
4 And I have got to tell you, sitting here right now, if
5 you are a utility I would say that sounds really fishy.
6 And I guess it was the utility that came up with it. So
7 I got to tell you it sounds a little fishy.

8 MR. SCHLEGEL: Well, Mr. Chairman, Commissioner
9 Mayes, I don't -- I can't speak for the other parties in
10 terms of their view on that, but ABC-1 and the
11 associated exhibits in response to RUCO 8.1 and RUCO
12 8.2, I think, speak for themselves. They are just
13 a factual analysis. In terms of --

14 COM. MAYES: So you stand by it.

15 MR. SCHLEGEL: I do stand by it. And I stand by
16 it for one reason. I am the one who found the error and
17 I am the one who proposed the different approach. And
18 that's why I stand by it.

19 I think it is possible for parties to agree on
20 compromises, including to come up with a compromise for
21 this particular situation. I don't think the interests
22 of the parties align closely enough to support
23 decoupling as a compromise. I mean let's face it, in a
24 time when revenues per customer are going down, there is
25 a certain incentive to not have decoupling. And that

1 incentive applies more strongly to certain parties
2 before you. And the reverse is true for the company on
3 the other side, when revenues are declining there is
4 incentive for the company to push decoupling more than
5 it might when revenues are flat.

6 COM. MAYES: Here is my other problem. I
7 remember this from the hearing. I was here for the
8 hearing, or at least most of it. I remember it was
9 interesting the company was not the one in the hearing
10 pushing energy efficiency programs. They were pushing
11 decoupling. You were pushing energy efficiency.

12 And, in fact, the company only said in its brief
13 that, and this is from the order on page 47, that it is
14 willing to investigate and pursue aggressive promotion
15 of DSM if the Commission grants full revenue decoupling.
16 They weren't even willing to say that they were willing
17 to do your \$12 million of energy efficiency programs,
18 which I think goes to your point that we have to order
19 them to do the energy efficiency, otherwise they will
20 just get their preferred decoupling mechanism and, you
21 know, leave the good stuff behind, the good stuff
22 meaning the good stuff for consumers.

23 MR. SCHLEGEL: Mr. Chairman, Commissioner Mayes,
24 I agree entirely. And SWEEP was the entity that
25 supported both decoupling, because we believe it is good

1 public policy and good for customers, and the energy
2 efficiencies. And we made it clear that before or
3 concurrent with decoupling there should be a requirement
4 for energy efficiency because that is, that is a
5 condition, in our view.

6 COM. MAYES: Commissioner Mundell.

7 COM. MUNDELL: Do you want me to go? And she
8 can go back again I guess.

9 Good afternoon. I guess if you are going to use
10 the word BROOM you are going to have to think what that
11 means. SWEEP means Southwest Energy, et cetera, et
12 cetera. So BROOM, I was sitting up here trying to think
13 what that would stand for.

14 But in any event, you heard my analogy about the
15 debate we had here when we were trying to decide if we
16 should have competition for wholesale generation in the
17 State of Arizona and then we came up with the Track B
18 actually had a bid. You heard my question to Staff.
19 Wouldn't it be -- is there a way to have a pilot program
20 that protects the consumer if it doesn't work the way
21 you are describing it? Because we have got the battle
22 again of the experts. And I am always willing to move
23 forward and to do something like we did with, like I
24 said, with bidding for wholesale generation for our
25 utilities.

1 But when you are changing from what you have
2 done for years to a new paradigm, don't you -- how do we
3 make sure that what you say actually comes out? Because
4 it is not your dollars. I mean you are getting dollars,
5 I mean the people you are advocating for. So how do we
6 protect the ratepayer, and have you thought of that?
7 And how do we do that if it doesn't work the way you
8 describe it?

9 MR. SCHLEGEL: Mr. Chairman, Commissioner
10 Mundell, yes, I have thought of that. And my
11 recommendation has some components of the balance that I
12 am looking for. I think people disagree on both the
13 nature of the risk and how much risk there is.

14 COM. MUNDELL: Well, I know. That's the point,
15 though. That's just the same argument we had. We can
16 generate in house for cheaper than the merchants can
17 generate for us. It is the same argument, I mean just
18 different issue.

19 MR. SCHLEGEL: Mr. Chairman, Commissioner
20 Mundell, I agree. People also disagree about the
21 benefits of decoupling. So what we tried to construct
22 in our recommendations, the five points of our
23 recommendation, is a limit on the risk, an opportunity
24 to move forward on decoupling, because we assert,
25 without decoupling, you won't get as much of the utility

1 enthusiasm and utility support for energy efficiencies
2 and therefore customers won't get the benefits.

3 People disagree on how much will happen there,
4 but with decoupling there is more benefits for
5 customers. To limit the perceived risk of decoupling we
6 had recommended the cap or bandwidth so that, you know,
7 you know the worst that it could get in terms of the
8 bandwidth. If you got no benefits, the cap would limit
9 how much ratepayers would pay essentially for that.

10 What I have tried to do in this is create a very
11 strong incentive for the company and for the company to
12 behave and support energy efficiency both with the pilot
13 and regular reporting and as a requirement for energy
14 efficiency programs that I think you will see
15 significant increase in energy efficiency a significant
16 upside with a limited downside. I assert that there
17 won't be a downside or very much of one but we will
18 limit it with a cap. And I think in terms of the public
19 interest, balancing the public interest, there is more
20 upside in that formula, formula that I have laid out,
21 than there is downside. And the downside is completely
22 constrained, completely limited. You can set the
23 downside limit at whatever you see fit.

24 COM. MUNDELL: Okay. Thank you very much.

25 Thank you, Mr. Chairman.

1 CHMN. GLEASON: Hatch-Miller.

2 COM. HATCH-MILLER: Thank you, Mr. Chairman.

3 I appreciate you coming forward, Mr. Schlegel,
4 here at the late hour. As we have listened today, it
5 just doesn't seem like there is a way to make these
6 things work in terms of the decoupling. I don't see a
7 lot of energy from the bench. And I know there is a lot
8 of details that would have to be put in place. And I
9 just, the lateness of the day, I just don't see us
10 getting it done. I just count it as one of my failures.
11 I have had a few, not too many during my term of office.
12 And I just hope that we continue.

13 I do have another amendment that we will ask
14 Southwest Gas to provide some data on as a basis of
15 going forward that would show what would have happened
16 if we had adopted the decoupling. And then that would
17 be submitted to Commissioner Mayes and Commissioner
18 Pierce and the docket and be able to -- and we are going
19 to open -- did we open already the -- okay. And that
20 way at least we will have something to go.

21 I just don't want to see this language again. I
22 think we could have done it this time but we just didn't
23 have the meat on the bones to make it happen going into
24 today. So, you know, I appreciate all your efforts. I
25 understand your -- well, not only do I understand, I

1 appreciate your energy attitude, your energy
2 perspective. And I join you; I will continue to support
3 you in terms of what I think is the most critical thing,
4 that is we become users of energy and that we can also
5 generate more and bring more to the state. But let's
6 get really good at using the energy we have.

7 Thank you.

8 MR. SCHLEGEL: Thank you, Chairman,
9 Commissioner.

10 COM. MAYES: Just very quickly, Mr. Schlegel, it
11 looks like to me there would have been a \$2.10 increase
12 associated with the DNAP proposal made by the company in
13 the basic monthly charge. And it strikes me that that
14 would have generated a lot more money than just the
15 \$12 million you were looking for for energy efficiency
16 programs. Am I correct in that? Do you believe that to
17 be the case?

18 MR. SCHLEGEL: Mr. Chairman, Commissioner Mayes,
19 I don't have that exhibit in front of me but that could
20 very well be the case. But, remember, I am not looking
21 for a match between the 12 million.

22 COM. MAYES: Well, I might be.

23 MR. SCHLEGEL: You might be, I understand. But
24 it is the other benefits.

25 COM. MAYES: I am definitely looking for a match

1 because it suggests -- it seems to me that if I am right
2 and that generates \$30 million and we only need
3 \$12 million for energy efficiency, what it is is just a
4 big fat revenue generator for the company. And we are
5 selling it to the consumers on the back of energy
6 efficiency but it is really not.

7 I mean it is, that would be a great big hoax in
8 my mind. So we don't want a great big hoax. I mean I
9 think it goes to this issue of a nexus between our
10 mutual goal, which is to promote energy efficiency and
11 take Arizona from 28th in the country in energy
12 efficiency to first in the country in energy efficiency,
13 or maybe second, but why not aim for the top. So do you
14 know what I am saying?

15 And I think, I appreciate what Commissioner
16 Hatch-Miller's amendment is going to do. Must be on the
17 same, we are all on the same wavelength. Maybe it will
18 provide some of the late data that we would have had
19 with the pilot program but we don't have to do the pilot
20 program maybe. But I do look forward to working with
21 you on this and creating something that does what we
22 want it to do.

23 MR. SCHLEGEL: Mr. Chairman, Commissioner Mayes,
24 my, the cap essentially that I proposed is designed to
25 better match things up. That's the point. It is an

1 unbounded -- it is not an unbounded risk in terms -- it
2 is neither an unbounded risk for ratepayers nor --
3 because, remember, decoupling goes both ways depending
4 on what happens with the weather and what happens with
5 sales. Because we have some utility executives in
6 Arizona who haven't been very positive on decoupling,
7 electric utilities, because they could earn more and
8 sell more than the test year. Right? And those utility
9 executives haven't proposed decoupling, well, five years
10 ago they certainly didn't. Now they are thinking about
11 it but they did not five years ago.

12 But in this particular situation we understand
13 there is risk both ways. And what I tried to do is
14 design a cap that would limit it and have the known and
15 knowable benefits better matched, better matched or
16 exceeds, significantly exceeds the known risk by
17 limiting the risk. That's what I was trying to do.

18 COM. MAYES: Why do we need decoupling
19 mechanisms for natural gas companies but we don't have
20 them for electric companies?

21 MR. SCHLEGEL: Mr. Chairman, Commissioner Mayes,
22 my testimony, which I am sure you will read that, was
23 filed at noon or before noon today will have decoupling
24 in there, yes. You will see it.

25 COM. MAYES: They are demanding it now, like I

1 said earlier. Earlier I talked about how I heard
2 rumblings they are going to start demanding it now as we
3 go forward in the second generation of, the next
4 generation of energy efficiency programs. So that rumor
5 is true.

6 MR. SCHLEGEL: Correct, Mr. Chairman,
7 Commissioner Mayes, it is true. I think there is more
8 interest on the electric side now in Arizona than there
9 was two or three years ago. And SWEEP perceives, to
10 answer your second question five minutes ago, SWEEP
11 perceives it as a better policy than loss net revenue
12 recovery.

13 Loss net recovery is only focused on the
14 program, not the full portfolio of energy efficiency
15 policies. And it is limited to those things that you
16 can measure very specifically and deal with in usually a
17 highly contentious case. People argue all the time in
18 these net loss revenue cases and they become narrowly
19 focused on the second and third decimal point, on did
20 you save 10.23 therms or 10.28 therms. And for that
21 reason, we are, we are not in favor of a net loss
22 recovery mechanism or narrow focus on energy efficiency,
23 because it is the broader set of policies that are
24 actually going to benefit customers, including policies
25 that customers don't pay for, standards, codes.

1 COM. MAYES: Yes, that's going to be an
2 interesting debate because we don't have anything to do
3 with standards and codes here at the Commission. We
4 don't set those policies. And I think what you are
5 asking us to do on a policy level is set rates based on
6 something that maybe the legislature or a city council
7 is doing. But that's what I am hearing from you.
8 Interesting policy debate. And I like decimal points.
9 So I mean that's -- we are, you know, we value precision
10 here. So it is going to be an interesting debate and I
11 look forward getting into it next year.

12 CHMN. GLEASON: Thank you very much.

13 The board is clear. Mr. Pierce, I gather you
14 want to move your Second Revised Proposed Amendment
15 No. 1.

16 COM. PIERCE: Yes, Mr. Chairman. I move Second
17 Revised Proposed Amendment No. 1. And just for the
18 record, I used the number on page 6 instead of page 7,
19 as did the company, which is the 320,079 instead of the
20 320,779. So as I go through this amendment, there
21 actually will be, there is five number changes which
22 would be verbals to the amendment.

23 But this amendment, you are going to recognize
24 it as one the company proposed in its exceptions. But
25 it is motivated by my view that the ROO's disallowance

1 of the 546,224, Yuma Manors, I applied was overly
2 punitive. And I was preparing this amendment to limit
3 the disallowance to 320,779 when I saw the company's
4 exceptions, see.

5 And the company is going to get, is going to
6 have to explain the fairness of this because the company
7 proposed amendment is interesting because it disallows
8 546,224 for purposes of this rate case but allows the
9 company to pick up an additional 226,145, which is now
10 225,445 for this amendment, in the next rate case.
11 That's in the next rate case. So I thought to myself I
12 am certainly not going to offer an amendment that is
13 more favorable to the company than its own proposed
14 amendment.

15 So with that, I will leave it to the company to
16 explain its fairness to this amendment. So if there is
17 someone, you know, if that would be you, Mr. Brown, or
18 who, otherwise we can just leave it the way it is I
19 suppose.

20 MR. BROWN: Chairman Gleason, Commissioner
21 Pierce, I would be happy, more than happy to address it.
22 I guess just for clarification, when you are referring
23 to fairness, are you referring to the different number?

24 COM. PIERCE: Right.

25 MR. BROWN: Yes. I think it was an inadvertent

1 typographical error on our part that must have been
2 carried over to your amendment in terms of the 320,779.

3 COM. PIERCE: I am talking about the fairness of
4 this amendment versus the number in the ROO.

5 MR. BROWN: Okay. Yes, and the issue, and as
6 you heard from Staff earlier, I mean, and I would like
7 to point out a couple things with regard to the Yuma
8 Manors, the fact is that distribution system had been in
9 place for over 50 years. The average useful life of
10 steel pipe in the State of Arizona is 43 years. And the
11 fact is customers had received this benefit of this
12 extended life on this pipe.

13 Another important fact is this pipe that had
14 been in the ground for over 50 years, the first half of
15 its life it did not have cathodic protection. It wasn't
16 required. It wasn't until later that a cathodic
17 protection system was actually put on the system.

18 And so it is the company's position that, you
19 know, we dispute some specifics regarding what actually
20 caused it, but let's, for sake of argument, we have
21 always said if one concludes that an employee mistake
22 caused the acceleration of the deterioration of the
23 pipe, that's fine, but it is still a timing issue. The
24 pipe was going to be replaced in the near term, and now
25 you have a better system. There is betterment

1 associated with it. It is going to last for 40 years.
2 And it is a timing issue. It shouldn't be permanently
3 disallowed.

4 And, in fact, the company had voluntarily
5 offered up in its rebuttal testimony to go ahead and
6 keep out the \$320,000 amount because that was the cost
7 associated with the exigent circumstances of being out
8 there over time, getting it done. And the company said,
9 you know, that's fine if it was caused by an employee
10 mistake, we will eat those costs because those costs
11 would not have been incurred over the natural course,
12 but the remaining costs shouldn't be permanently
13 disallowed, because that pipe was going to be replaced
14 sooner or later.

15 COM. PIERCE: I guess my -- but my point is that
16 you had agreed to for the next rate case the lesser
17 amount, which we know was zero impact in this rate case.
18 And I was looking at this as I read through it, and I am
19 looking at the math and I thought, you know, it didn't
20 seem to be equitable. I thought this number I proposed
21 was more equitable. But the company has agreed to a
22 lesser number. And that's what I guess I want you to --
23 you know, roughly \$95,000 less. Why should we think
24 that my number is fairer when you are agreeing to a
25 different number?

1 MR. BROWN: Chairman Gleason, Commissioner
2 Pierce, I guess I am a little confused on the 95,000
3 number.

4 COM. PIERCE: I am looking at --

5 MR. BROWN: Maybe we are talking past each
6 other.

7 COM. PIERCE: Let me make sure I am right. You
8 are agreeing, it says 226,145, but you are agreeing to
9 pass that into the next rate case.

10 MR. BROWN: Chairman Gleason, Commissioner
11 Pierce, you know, the idea was this is a timing issue.
12 And so I think the recommended opinion and order
13 suggested a permanent disallowance of the 540,000
14 number. And it was our position that of that 540, we
15 have already agreed to permanently disallow 320 of it.
16 So that is that two hundred plus thousand dollar
17 difference that we believe should not be permanently
18 disallowed, but instead, at most, it should just be
19 delayed until the next rate case to when the company
20 could then include that as part of its rate base because
21 then it syncs up with the timing issue, that the pipe
22 was going to have to be replaced anyway.

23 COM. PIERCE: And I am agreeing with that part.
24 All I am saying is that, when you went through that, you
25 came up, you know, with a number less than what I did.

1 I went ahead and ran this, not on your number that you
2 thought ought to be passed through, I ran through a
3 higher number. I am giving you an opportunity to say
4 yes, I like your higher number. But tell us why that
5 would be fairer than the number you proposed.

6 MR. BROWN: Chairman Gleason, Commissioner
7 Pierce, again, I think if there is a difference in the
8 numbers, it is a result of an inadvertent typographical
9 error.

10 COM. PIERCE: All right. We ran, we ran your --
11 with the typographical errors out we are basically
12 running your number then. I guess I am beating all
13 around this, but that's correct. Other than the errors
14 in math, we are now running roughly, we are running the
15 same number in the amendment. Because I was, I think I
16 was thinking that your 225,445, I was thinking that was
17 your number, but that's the number that came out of the
18 ROO?

19 MR. BROWN: I believe that's correct,
20 Commissioner Pierce.

21 COM. PIERCE: And --

22 MR. BROWN: And I guess maybe --

23 COM. PIERCE: -- I guess the bottom line is,
24 when I pulled out and I wondered, I look at the natural
25 life of this pipe, and, boy, do I know probably better

1 than anybody where Yuma Manors is in Yuma. And it is an
2 old area, you know, just, just north of the country club
3 but not the country club. And, but I mean bread and
4 butter folks.

5 But the point is it is an area that has been
6 around for awhile, Kofa High School folks. And it is
7 great, a great example of an aging infrastructure. So I
8 knew. And I looked at that, that would have to be
9 replaced within a certain amount of time, what is the
10 fair thing to do.

11 And that's why I looked at that, looked at your
12 numbers and I tried to make those work. And it seems to
13 me it is a fair thing. You know what? I offered to
14 make it to show why it was fair. And I think you have
15 kind of explained the fact that over time this had to
16 have been done and you tried to calculate, yes, probably
17 not appropriate in this rate case but down the road it
18 ought to be recovered, maybe not dollar for dollar based
19 on this error, but if there is a fairer calculation,
20 this is it.

21 MR. BROWN: Chairman Gleason, Commissioner
22 Pierce, I agree. Maybe we were talking past each other
23 a little bit, but I think the rationale is the same. I
24 think we just maybe ended up with different numbers and
25 that's what was confusing me.

1 COM. PIERCE: Two ships passing.

2 When the time comes, Mr. Chairman, if it seems
3 like when it is appropriate, I would make those number
4 changes, because we used the numbers on page 6 that we
5 just corrected in the verbal.

6 CHMN. GLEASON: Yes, when we are done discussing
7 this in the end.

8 COM. PIERCE: Okay, thank you.

9 CHMN. GLEASON: You are in agreement with what
10 our Pipeline Safety folks say, that before your employee
11 reversed the connections on this, that the pipeline was
12 in good condition, there were essentially no leaks.

13 MR. BROWN: Chairman Gleason, yes, for the most
14 part other than the very first part, which is, from a
15 chronology standpoint, the company went out and
16 installed the anode bed and, prior to that, you are
17 right, the condition of the pipes based on leak survey.
18 And at that point in time, there was very minimal leaks.
19 And I wouldn't dispute the number that Mr. Raber
20 provided. I think that's an accurate number. That
21 sounded correct.

22 After the anode bed was installed, the leak
23 survey result indicated that there was an increased leak
24 in a specific area within Yuma Manors. And when the
25 company went out, they determined, given the age of the

1 pipe and the system as well as numerous other
2 conditions, that the most efficient way would be to
3 replace the entire system given all the facts and
4 circumstances surrounding the pipe.

5 When the company did that, then they
6 installed --

7 CHMN. GLEASON: Wait a minute, now. I am trying
8 to save time here.

9 MR. BROWN: Sure.

10 CHMN. GLEASON: You admit your employee made the
11 mistake.

12 MR. BROWN: Chairman Gleason, that was the part
13 I was just getting to. And that is --

14 CHMN. GLEASON: Either yes or no.

15 MR. BROWN: Well, it is not determinative. And
16 that's the --

17 CHMN. GLEASON: You --

18 MR. BROWN: -- problem.

19 CHMN. GLEASON: You mean you question whether
20 your employee made the wrong connection, right?

21 MR. BROWN: Chairman Gleason, yes. And if could
22 have 30 seconds longer, you will probably understand
23 why.

24 CHMN. GLEASON: Okay.

25 MR. BROWN: When they installed the anode bed

1 and reconnected the cathodic protection system, then it
2 was a year later the leaks increased. When they went
3 back out and installed the new system, when they went to
4 hook up the cathodic protection for the new system, they
5 discovered that the wires had been crossed, the polarity
6 was crossed.

7 Who did it we don't know. We have always just
8 taken the position that you know what, it is our system,
9 we will take responsibility for it. But it is not
10 determinative, and I guess that was my point.

11 CHMN. GLEASON: Well, but it was your system,
12 you were supposed to maintain it, right?

13 MR. BROWN: Chairman Gleason, that's correct.

14 CHMN. GLEASON: Okay. So that this 50-year life
15 of pipeline, where is that determined? What area is
16 that?

17 MR. BROWN: Chairman Gleason, are you referring
18 to the average useful life of steel pipe in Arizona?

19 CHMN. GLEASON: Yes -- no. Is that, is that
20 Arizona or is that national?

21 MR. BROWN: Chairman Gleason, that's testimony
22 from our company representative. And the information we
23 have it is Southwest Gas' system. In the State of
24 Arizona, the steel pipe, the average useful life is
25 43 years.

1 CHMN. GLEASON: Where did the data come from?

2 MR. BROWN: Chairman Gleason, it is the
3 information that we monitor and track for monitoring and
4 maintaining our system and the replacement of our
5 system.

6 CHMN. GLEASON: Yes. But we are familiar, I am
7 familiar with steel pipe across the country. And what
8 you are, what you are saying is that the 45, 50 year is
9 steel pipe that is nationally, that's the national
10 number.

11 MR. BROWN: Chairman Gleason, I am referring to
12 the testimony from our witness. And it was Arizona
13 specific.

14 CHMN. GLEASON: I know your witnesses. I have
15 very little faith in your witness for your pipe. But
16 what I am pointing out here is Yuma is a very dry area
17 and pipe in the ground there would last longer than the
18 national average. Isn't that true?

19 MR. BROWN: Chairman Gleason, I have no
20 knowledge of that. And I don't believe there was any
21 testimony in the case regarding that. And, in fact, the
22 testimony in the case was that in this Yuma Manors
23 subdivision, again, with regard to the cathodic
24 protection, there was actually irrigation systems for
25 the homes in the neighborhood and --

1 CHMN. GLEASON: How deep was the pipe then?

2 MR. BROWN: Chairman Gleason, I do not know
3 that.

4 CHMN. GLEASON: You don't know. Well, how deep
5 is the irrigation, does a homeowner irrigate? It is
6 about a foot. I can give you that.

7 MR. BROWN: I can tell you that the majority of
8 the leaks were on the service lines, which is why I
9 brought up the irrigation issue.

10 CHMN. GLEASON: Yes. Dwight, do you want to
11 contest this number or do you want to have Staff do it?

12 ACALJ NODES: Mr. Chairman.

13 CHMN. GLEASON: Do you know? We are getting two
14 stories here.

15 ACALJ NODES: Okay, Mr. Chairman. The testimony
16 in the record is that there is an Arizona specific
17 43-year useful life for steel pipe. This type, I think
18 it is undisputed, is in the 50-year, maybe a little bit
19 longer, or was in that range of age. But the testimony
20 from the Staff witness was there was no reason to
21 believe that this pipe could not have been fully useful
22 for another, perhaps, 10 or 20 years.

23 I mean there was very little leakage, at least
24 until this incident at the Yuma, the specific section of
25 the Yuma Manors subdivision.

1 And let me just say, while I have the
2 opportunity, kind of what my thinking was on why I wrote
3 the order this way.

4 You had the two extreme positions. I thought
5 Staff's position was way too extreme given that there
6 clearly was a betterment in the sense that these
7 customers received the benefit of new pipe when at some
8 point in the somewhat near future that pipe would have
9 to be replaced.

10 On the other hand, the company, and today is the
11 first time that I heard that the company is now saying,
12 well, we don't know who switched the wires. All during
13 the hearing they never made that claim. And in any
14 event, the company is responsible for its own system.
15 So if the company's system, through whoever's deeds,
16 switched the wires, the company is ultimately
17 responsible.

18 In making the assessment, I agreed with Staff
19 and the company was never penalized for that action or
20 inaction by the company's employees. And so in viewing
21 this, I thought the company's concession of 320,000 was
22 a movement in the right direction because that was
23 purely related to expediting costs that would not
24 otherwise have been incurred with installation of the
25 pipe, but at the same time recognizing that it was

1 somewhat their error that caused it. Weighing that
2 against the betterment, it seemed to me that a 50/50
3 sharing was a reasonable amount.

4 Now, all that being said, Commissioner Pierce's
5 amendment, I think, is supportable by the record. And
6 if it is the Commission's desire, I think that is also a
7 reasonable result. What I don't think is a reasonable
8 result is no disallowance or a total disallowance. I
9 guess I will leave it at that.

10 CHMN. GLEASON: Okay. Commissioner Mundell.

11 COM. MUNDELL: Well, I was a little confused by
12 the company's answer on what caused the problem. Are
13 you saying there is no smoking gun? Are you saying that
14 sabotage -- are you saying it was an independent
15 contractor? What are you saying? I mean we know that
16 it existed, correct? So start from that premise.
17 Correct?

18 MR. BROWN: Chairman Gleason, Commissioner
19 Mundell, that's correct. And --

20 COM. MUNDELL: Did you present evidence to -- as
21 the Judge said, he said this is the first time he has
22 heard the argument that you are not agreeing that it is
23 your responsibility.

24 MR. BROWN: Commissioner Mundell, I think there
25 was a misunderstanding of what I said, or maybe I

1 misspoke and wasn't entirely clear. I said that we
2 would accept responsibility because it is our system.
3 However, we never disputed and we never challenged it
4 because to us it wasn't an issue of did our employee
5 make a mistake and it actually occurred. But there was
6 nothing conclusive about that point. That was the only
7 point I was trying to make. That was never a conclusion
8 that was ultimately reached. It was something that was
9 never disputed because it is our system and we take
10 responsibility for it.

11 COM. MUNDELL: So then it is sort of a red
12 herring who caused the problem. We start from the
13 premise the problem exists, now how do we allocate
14 responsibility, in this case meaning money, right? And
15 so that's what I am just trying to make sure I
16 understand what you said earlier.

17 So I think I understand now. So now we go to
18 the next part of the discussion which is, okay, we know
19 it occurred, we know it is your system. You are not
20 disputing that it was sabotage or somebody else's
21 responsibility so now we get to the dollars.

22 So, Commissioner Pierce, it has been a long
23 couple weeks here, and my head is a little cloudy.
24 Okay? So your amendment would lessen the disallowance?

25 COM. PIERCE: Mr. Chairman and Commissioner

1 Mundell, that is correct, it lessens the allowance.

2 COM. MUNDELL: Disallowance.

3 COM. PIERCE: Or disallowance. But it puts it,
4 you know, if you think about it, it just proactively
5 puts it off to a future rate case instead of -- which
6 gives them some assurance that it actually will be
7 included in the next rate case. If we didn't do this,
8 we would probably see a proposal in the next rate case,
9 which I think, you know, because I don't know that they
10 would, especially with new Commissioners, that they
11 would necessarily think it would be disallowed.

12 I do know, whether you are guessing about flood
13 irrigation or not, there is a lot of flood irrigation in
14 that area. And I don't know that pipe, if they did a
15 study just in the Yuma area, if it is flood irrigation,
16 if they would find that pipe would have lasted as long,
17 or anyplace where there is a lot of flood irrigation.

18 But that's one of -- this is, this is just
19 trying to find, go through what I thought was a fairer
20 number and allow it to be put into a future rate case as
21 opposed to having them have to fight over that in a
22 hearing down the road.

23 COM. MUNDELL: No, I am listening to the
24 arguments and I am not -- I think I agree, it is not
25 fair to never allow them to ask for it in rate base

1 because at some point in time, you know, pipe is going,
2 would have had to have been replaced because of age. So
3 then the question is when should that occur. And I
4 guess you are saying leave it for another fight in
5 another case.

6 COM. PIERCE: No. I am saying if we amend it,
7 then it will be.

8 COM. MUNDELL: Okay. Well --

9 COM. PIERCE: Because --

10 COM. MUNDELL: I am sorry, I didn't mean to
11 interrupt you.

12 COM. PIERCE: That's okay. I think you have got
13 it. One way is, one way puts, I think, a permanency to
14 it that this is going to happen in a future rate case.
15 The other way the company has got to fight their way
16 through it. That's kind of how -- though the Judge has
17 his finger up. Maybe I ought to --

18 COM. MUNDELL: Go ahead and then maybe I will
19 ask a follow-up with the Judge.

20 ACALJ NODES: As I understand it, first of all,
21 the ROO would permanently disallow the \$546,000. What
22 Commissioner Pierce's amendment is proposing is that in
23 this particular case the 546 would still be disallowed,
24 however, in the next case there would be an automatic
25 inclusion of the difference between the 546 and the 320,

1 which is roughly \$225,000. So the company would just
2 simply say, per the last order, we request inclusion of
3 this \$225,000 difference in rate base. And presumably,
4 given that the Commission made this statement in this
5 order, that would be accepted in the next case. So
6 there wouldn't be a battle of essentially the company
7 saying, oh, please give it to us and ignore the last
8 order. The order would be fairly clear here that was
9 something that is includable in the rate case, in the
10 next rate case.

11 COM. MUNDELL: I think they ought to be able to
12 recover at some point in time. I guess the question is
13 when. They have to replace it anyway. You are saying
14 the way it is drafted it is pretty much --

15 ACALJ NODES: Well, they still get half of the
16 replacement but it is just that, half, that they, half
17 the amount they used, or what it costs them to replace
18 the system would be permanently disallowed under the
19 order. Under Commissioner Pierce's amendment it would
20 be disallowed in this order but in the next order they
21 would get half of the half.

22 COM. MUNDELL: I got that. I am, I don't think
23 it should be permanently disallowed but I am also not
24 sure it should be allowed in the next rate case if the
25 useful life was going to be longer than the next rate

1 case.

2 I have gotten past -- I agree with, I think they
3 should get something at some point in the future, but I
4 am not sure it is in the next rate case if that's not
5 when the useful life would have ended, but maybe. So
6 that's, that was what I was thinking. I got everything
7 else I think. Okay.

8 CHMN. GLEASON: Do you have anything else?

9 COM. PIERCE: Yes. Thank you, Mr. Chairman.

10 The bottom --

11 CHMN. GLEASON: Wait a minute. We are about to
12 take a 10-minute break here.

13 COM. PIERCE: That's fine.

14 CHMN. GLEASON: Okay, fine. We will come back
15 at 10 minutes until 4:00.

16 (A recess ensued from 3:36 p.m. to 3:48 p.m.)

17 CHMN. GLEASON: It is 10 minutes till. Let's
18 get going. We have a quorum.

19 Commissioner Mayes, you are on the board.

20 COM. PIERCE: Excuse me.

21 CHMN. GLEASON: Wait a minute. You were up
22 there.

23 COM. PIERCE: Yes, I was. You must have removed
24 me right off of there. Would you put your name.

25 COM. MAYES: Yes.

1 COM. PIERCE: Mr. Chairman, and I wish
2 Commissioner Mundell were here so... I heard his
3 comments.

4 And so I guess the concern I have is there is a
5 lot of finality in the ROO on this issue. And what I
6 would like to do is, if you would look at the amendment,
7 going all the way almost to the bottom, to the page 8,
8 line 12, that part of it, insert the following sentence
9 before we, and then it says the remaining -- and by the
10 way, the number will be 225,548 -- will be potentially,
11 this is the verbal I make, potentially included in rate
12 base in the company's next general rate case.

13 And what I am thinking there is it gives them an
14 opportunity to make the argument look at what the -- do
15 that in the next rate case. That was a verbal I would
16 like to make. Because I sometimes, if you listen, you
17 realize your amendment can really be improved. And that
18 was really kind of what I wanted; if I couldn't get it
19 now, then really I wanted -- because really doing it now
20 puts it in and maybe there is argument one way or the
21 other that needs to be made. And so this way let's do
22 it next time and Commissioner Mayes or at least --

23 COM. MAYES: Well, you will.

24 COM. PIERCE: -- I will be able to discuss that.
25 So that's what -- but, you know, our compadres aren't

1 here so that's something I would like to make and let
2 them know, because I am ready to get on with this whole
3 thing.

4 CHMN. GLEASON: We are -- I would suggest,
5 Mr. Pierce, which of these numbers do you want to
6 change?

7 COM. PIERCE: Let me go ahead and make the
8 verbals. The verbal amendments are, we are going to
9 start with in the middle of the page on the amendment
10 where it says insert the costs for expediting the Yuma
11 Manors pipeline replacement and we are going to make
12 that the 320,779 instead of 320,079.

13 CHMN. GLEASON: Okay.

14 COM. PIERCE: Moving down to, down a couple
15 lines under, it says the remaining 226,145, that number
16 has to change. It is now 225,445.

17 CHMN. GLEASON: Okay.

18 COM. PIERCE: All right? And then --

19 ACALJ NODES: 48.

20 COM. PIERCE: I am sorry, 48? I said 225,445.
21 Is that not correct?

22 ACALJ NODES: Okay.

23 COM. PIERCE: That's correct. Okay. And then
24 the very last line, the number 320,079 is 320,779.
25 Those three number changes. And I am going to do the

1 numbers first and then come back to that other line.

2 And then turning the page, there is another
3 320,079. That number in the second, under the second
4 strike and insert, it should be 320,779. And then where
5 it says page 60, line 10, it says insert 320,079, that
6 should be 320,779.

7 And, Commissioner Mundell, I spoke before you
8 got in. On page 1 of the amendment, under the third,
9 well, about the third line from the bottom, it says the
10 remaining 225,445, which is my number now, will be
11 potentially included in rate base in the company's next
12 general rate case. That way it can be debated and
13 discussed then and the company has an opportunity to
14 make their case.

15 That's the verbal to my amendment, verbal
16 amendment to my amendment. Oh, and then I propose,
17 after will, put in potentially be included. Those are
18 the six changes to my amendment.

19 ACALJ NODES: Mr. Chairman, if I could be
20 recognized just very briefly.

21 CHMN. GLEASON: Sure.

22 ACALJ NODES: Regarding the footnote, and I know
23 you took this from the company's proposal, but given the
24 fact that the 546,224 is being disallowed in this case,
25 I think that footnote should remain as written with

1 respect to the depreciation and property tax expense
2 effects will need to flow through in this order. Now,
3 in the next order, it would be different based on
4 whatever the Commission allows. And if somebody
5 disagrees with that, please correct me, but I think that
6 footnote should remain as written.

7 COM. PIERCE: Because we are not --

8 ACALJ NODES: Not doing it in this case.

9 COM. PIERCE: Right, I agree.

10 CHMN. GLEASON: Okay.

11 COM. MAYES: Mr. Chairman.

12 CHMN. GLEASON: Yes. I was going to see if I
13 could get this amendment straightened out --

14 COM. MAYES: Okay.

15 CHMN. GLEASON: -- first.

16 Do you want to move these changes to your
17 amendment?

18 COM. PIERCE: Yes, I would.

19 CHMN. GLEASON: Have you moved your amendment?

20 COM. PIERCE: I moved the amendment and I move
21 the verbal to my amendment.

22 CHMN. GLEASON: Okay. And --

23 COM. PIERCE: Oh, and I want to do an additional
24 verbal to strike, yes, additional verbal to leave, under
25 page 8, footnote 2, leave the 546,224 and not add the

1 320,779.

2 Correct, Judge?

3 CHMN. GLEASON: So on page 2 you want to --

4 COM. PIERCE: I am sorry. That's page 8,
5 footnote 2.

6 CHMN. GLEASON: Yes. You want to eliminate that
7 whole --

8 COM. PIERCE: Right, strike what I --
9 completely.

10 CHMN. GLEASON: Yes. Page 8, footnote 2, you
11 don't even want to mention it.

12 COM. PIERCE: Correct.

13 CHMN. GLEASON: Okay. Dwight, do you have these
14 changes?

15 ACALJ NODES: Yes, I do, Mr. Chairman.

16 CHMN. GLEASON: Okay, fine. Why don't you just
17 move your verbals to your amendment.

18 COM. PIERCE: Okay. Do the whole thing again?

19 CHMN. GLEASON: No, no.

20 COM. PIERCE: Okay. I move the verbals we made
21 to the Pierce Proposed Amendment No. 1.

22 CHMN. GLEASON: Okay. All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. GLEASON: Okay. You have moved the
25 verbals. Now --

1 COM. PIERCE: Mr. Chairman, I move the Second
2 Revised Pierce Proposed Amendment as amended.

3 CHMN. GLEASON: Wait a minute. Let's go to
4 Mayes first.

5 COM. MAYES: Well, Mr. Chairman, I was just
6 going to say I believe that what Commissioner Pierce
7 did, adding the word potentially, assuages my concerns,
8 which is that I thought it was, it was prejudging a
9 future rate case on a particular issue.

10 But if I am correct, Judge Nodes, that would
11 leave it open for discussion in the future rate case.

12 ACALJ NODES: Commissioner Mayes, I think that
13 adding potentially as Commissioner Pierce suggested does
14 allow the issue to be debated in a future rate case.
15 And so it would remove the finality of just automatic
16 inclusion in the next case.

17 CHMN. GLEASON: Did you take your name off?

18 COM. MUNDELL: No.

19 COM. MAYES: I did.

20 COM. MUNDELL: When you took mine off, see, what
21 happens is you --

22 CHMN. GLEASON: She took her own and then I
23 took -- yes.

24 COM. MUNDELL: Yes, I mean I think that's fair.
25 I thought the other way wasn't fair because it

1 automatically excluded it. But this allows them to
2 argue about this in the future, so I support the
3 amendment.

4 CHMN. GLEASON: Okay. You have moved your -- do
5 you want to move --

6 COM. PIERCE: I moved it as amended.

7 CHMN. GLEASON: You moved it as amended?

8 COM. PIERCE: I did.

9 CHMN. GLEASON: Oh, okay. Fine. Then all in
10 favor of Pierce's revised, Second Revised Pierce
11 Proposed Amendment No. 1 say aye.

12 (A chorus of ayes.)

13 CHMN. GLEASON: Opposed, no.

14 (No response.)

15 CHMN. GLEASON: You have passed Pierce Revised
16 Amendment No. 1. Let's go to Pierce's 2.

17 COM. PIERCE: Ah, yes. All right. Now, this is
18 one, do you remember the Chaparral case? That's all.
19 And I am going to tell you, I won't offer this amendment
20 if there is a strong objection from the company or from
21 RUCO.

22 As you may have gathered, I didn't intend this
23 amendment to change the outcome of this particular
24 case -- I gave you the numbers a little bit ago -- as
25 much as I intended to send a message, if not from the

1 Commission from at least this Commissioner, but what I
2 think of the notion that the Commission should or must
3 provide a rate of return on what the parties in this
4 case have referred to as a fair value rate base
5 increment. And I am going read this because I want this
6 for the record.

7 We debated this issue exhaustively in the
8 Chaparral City remand case. And what stuck out to me in
9 that case was Chaparral City's brazen admission in its
10 legal briefs that the rate making treatment it was
11 advocating would inject more risk into the regulatory
12 framework than the original cost approach and the
13 weighted average cost of capital.

14 The statement that Chaparral City seemed to be
15 saying to the Commission was we know that we are
16 asking -- what we are asking for is bad public policy,
17 but too bad, it cuts in our favor this time and the
18 Arizona constitution contains the term, quote, fair
19 value so the Commission is constitutionally barred from
20 using the original cost methodology.

21 Well, I refuse to believe that the Commission
22 can be boxed into bad policy so easily. While the
23 constitution clearly says the Commission must consider
24 fair value when setting rates, the Commission has
25 complete authority to separate each component of the

1 company's capital structure and assign an appropriate
2 rate of return to each component.

3 Given that authority, I believe the Commission
4 should turn the tables on utilities like Chaparral City
5 who try to opportunistically box us into bad public
6 policy by assigning a small but negative rate of return
7 to the fair value rate base increment. Doing so would
8 penalize instead of reward companies for pushing us off
9 of original cost numbers. And it is justifiable because
10 the fair value rate base increment acts as a cushion, a
11 cushion to share shoulders' investments and therefore
12 lessens shareholders' risk. In essence, a negative
13 return on the fair value rate base increment works as a
14 downward adjustment to the company's cost of equity to
15 account for the reduction in shareholder risk associated
16 with the appreciation of the company's assets.

17 I gave you the impacts of the amendment. They
18 were offered by the A team. The amendment would raise
19 the company's rate of return to 7.03 percent, up from
20 7.02 percent in the ROO. This would produce an
21 additional increase in the company's revenue requirement
22 of 230,423, resulting in a new revenue requirement of
23 33,464,267. And I gave those other numbers. Everything
24 goes up a penny from the ROO, both in summer and in
25 winter.

1 That's -- I leave it to the -- if, and like I
2 said, I would, unless there is strong objection -- if
3 there is strong objection, I would just as soon pull it.
4 So, Mr. Chairman, I leave that to RUCO and to the
5 company to decide that. Because this could go very
6 fast.

7 CHMN. GLEASON: RUCO.

8 COM. PIERCE: Commissioner Mayes may like this,
9 though, too.

10 COM. MAYES: I may or may not. But...

11 MR. POZEFSKY: You know, this is Dan Pozefsky
12 for RUCO. This is a tough one. We didn't file our
13 position here after the Chaparral case came out. It was
14 filed before. So, you know, with the benefit of
15 hindsight we probably would have done it a different
16 way. But I think that's the same point everybody has
17 here.

18 Let me tell you why we would oppose it. I don't
19 know how strongly we would oppose it, but let me say
20 this, we appreciate what you are trying to do,
21 Commissioner Pierce. And actually, when you get to the
22 bottom of this, as far as its impact, we are still
23 working it out, I think, with Staff but we are pretty
24 close to being there. And as you suggested when I,
25 well, when I read the wrong numbers to you, the impact

1 is de minimis. It is minimal. It is a slight increase.
2 And so that isn't our issue with it.

3 Our issue with it is more what Staff was saying
4 when it addressed it, is the precedent that you would be
5 setting by setting a 10.9 percent cost of equity, just
6 in general. I mean, again, you know, one of our mantras
7 is you do something for one company and everyone else
8 falls in line.

9 This is a cost of equity that's higher than the
10 generous cost of equity you gave to APS in its last rate
11 case. I think this is about as high as it has gone.
12 And we, too, look at the UniSource Electric case or Gas
13 case, I believe the other one mentioned, as being 10.0.
14 Even though we recommended a lower cost of equity, we
15 can live with 10.0 percent cost of equity. But 10.9, I
16 know the reason you are trying to do it for, but it is
17 still going to be out there as 10.9 percent, and those
18 reasons that you are trying for are going to be
19 oblivious to everyone else looking at it except the
20 folks in this case.

21 So that's the reason we oppose it. Again, the
22 impact on the numbers is not significant. We don't have
23 a problem with that. It is just the precedent.

24 COM. PIERCE: I don't know if I can respond,
25 Mr. Chairman. Well, I mean he was -- there was -- I

1 think the point of this is to make any status quo in
2 this, I had to do something there.

3 MR. POZEFSKY: Sure.

4 COM. PIERCE: And I understand. Okay, thank
5 you.

6 MR. POZEFSKY: Thank you.

7 CHMN. GLEASON: Commissioner Mayes.

8 COM. MAYES: Mr. Chairman.

9 And I appreciate the complexity of the amendment
10 and the intellectual thought, that's probably a
11 redundancy, but the thought that went into it. But I
12 had the same concern, because basically what you are
13 doing, as I tried to think through it, is you are
14 bumping up the cost of equity and you are taking down
15 the fair value rate case increment to achieve a null
16 result.

17 COM. PIERCE: Status quo.

18 COM. MAYES: Status quo, right. But what it
19 does by bumping that cost of equity, you are putting
20 that number out there. And the experts in the case --
21 it is a number that's higher than even the highest range
22 that any of the experts testifying on cost of equity
23 came up with.

24 I mean RUCO's expert testified in favor of a
25 range that, you know, was -- well, Staff's expert

1 testified, if I could find it here, you know, the
2 highest of the ranges was, I think, 10, you know, 10.75,
3 maybe 10.8. But that was the highest for both Staff and
4 the company's experts. And the 10.9 number is higher
5 than any of those. And I can just see every other
6 utility in Arizona frothing at the mouth over this idea.
7 So I am not -- I would worry about that element of it.
8 So that's all I have to say.

9 CHMN. GLEASON: Commissioner Pierce.

10 COM. PIERCE: Yes. For the company, what is
11 your, what is your opinion of it?

12 MR. BROWN: Chairman Gleason, Commissioner
13 Pierce, you know, obviously the 10.9 return on equity is
14 attractive to the company and the company thinks it is
15 in line with the information I provided earlier. So in
16 a way it is kind of like snatching victory from the jaws
17 of defeat, if you will, because you get a high return on
18 equity and it actually increases the revenue
19 requirement. But, quite honestly, we have concerns
20 about the approach as well just because of the lack of
21 record. You know, where does the negative -- I mean I
22 know how you got there, but the concern is there is
23 nothing in the record to support it.

24 And the other concern is that, when your
25 replacement construction new depreciated rate base is at

1 a premium over your original cost, it makes me wonder
2 how could there be a value, fair value increment
3 assigned to it when it is at a premium.

4 So there are several concerns that the company
5 has with it. And, you know, we --

6 COM. PIERCE: Well, you have your arguments and
7 I have mine. What would it do, what would this do for
8 your credit rating?

9 MR. BROWN: Chairman Gleason, Commissioner
10 Pierce, you know, that's a very interesting question.
11 Because I think, as Commissioner Mayes pointed out, you
12 know, it may be perceived as the ROE is 10.9, you know.

13 I do know from a rating agency standpoint
14 another thing that they are very concerned about in
15 Arizona is the rate design decoupling stuff we have been
16 talking about all day. And, you know, that's a very
17 good question that I don't have an answer to.

18 COM. PIERCE: Okay. Thank you.

19 MS. SCOTT: Chairman.

20 CHMN. GLEASON: Yes.

21 MS. SCOTT: Commissioner Pierce, would it be
22 helpful to hear from our expert on that point as well?

23 COM. PIERCE: Mr. Chairman, I am just going to
24 pull the amendment. Thank you.

25 CHMN. GLEASON: Okay, thank you.

1 Okay. Looks like we are --

2 COM. HATCH-MILLER: Wait, wait, wait, wait. I
3 am on the --

4 COM. MUNDELL: Commissioner Hatch-Miller, were
5 you going to present something?

6 COM. HATCH-MILLER: I am on the board.

7 COM. MUNDELL: Thank you.

8 COM. HATCH-MILLER: I would propose, it says
9 Hatch-Miller Proposed Amendment No. 3. That's just for
10 a title. It was No. 3 but I guess it is the only one I
11 am doing. It is on white paper. It is on this side.

12 And basically what it does is it asks
13 retrospectively, consistent with the Chairman's request,
14 to do some computations. And they are enumerated 1
15 through 11. And then of course they are ordered 1
16 through 11 as well. But the computations are the amount
17 that, based upon the actuals of those time periods, the
18 amount of the monthly bill for the average residential
19 customer in each month with the full revenue decoupling
20 proposals as compared to the actual bill with the rates
21 approved in this decision. And it goes through a series
22 of computations that compare what is actual in those
23 times with what would have occurred if, and there are a
24 number of scenarios. There are 11 different scenarios.

25 Again, Mr. Olea and I worked on this so Mr. Olea

1 can serve as a reference on this as well. But the
2 concept is to do it through this year.

3 I would propose that the company has offered the
4 opportunity in this amendment to also include your own
5 computations for other variables. And I would suppose
6 that you would like to do the weatherization by itself
7 as well. So that might be another set of computations
8 that, by the date April 3rd, 2009, would be submitted to
9 the Commission, placed in the docket and available for
10 the Commission at that time to review in preparation for
11 the next case.

12 CHMN. GLEASON: Okay. The board is clear. Just
13 the question, what you are going to do is use the
14 historical period 2003 to 2008, and they work this, work
15 the numbers to get this?

16 COM. HATCH-MILLER: That's correct,
17 Mr. Chairman. And I took that from your, you know, your
18 thoughtful comments early on, much earlier in the day
19 where you said can't you just look at things in the
20 past.

21 CHMN. GLEASON: Yes, okay. Comments?

22 MR. BROWN: Chairman Gleason, I really don't
23 have any.

24 COM. MUNDELL: Doesn't this -- am I up,
25 Mr. Gleason?

1 CHMN. GLEASON: Well, I didn't hear your answer.

2 MR. BROWN: I am sorry, Chairman Gleason. At
3 this point, I don't have any comments regarding it. I
4 am still looking at it.

5 CHMN. GLEASON: It is possible?

6 MR. BROWN: If I could have just a moment, I
7 will caucus with my client and find out.

8 CHMN. GLEASON: Okay, fine.

9 Do you have a question?

10 COM. MUNDELL: No. I think that's fair. I mean
11 we just got it and I was going to facetiously say, boy,
12 somebody was working hard here and then Commissioner
13 Hatch-Miller let us know that Mr. Olea helped him.

14 COM. HATCH-MILLER: Yes. Mr. Olea and Amber
15 worked on it as an alternative if we didn't do the
16 decoupling in this case. I want to move the ball
17 forward in some meaningful way.

18 COM. MUNDELL: No, I know that. I do, too.
19 That's what I said.

20 COM. HATCH-MILLER: And Mr. Olea is the secret
21 weapon.

22 COM. MUNDELL: That's what I was getting at.

23 MR. BROWN: Chairman Gleason, Commissioners,
24 trying to look at this quickly, I mean I can say from
25 the company's perspective we are more than happy to try

1 and provide what the intent is of this amendment. You
2 know, I mean to go through the specific details and say
3 whether we have the capability to do certain items or
4 not, I mean we will definitely make a good faith effort
5 to comply with the intent what the document is
6 purporting to --

7 CHMN. GLEASON: Well, Commissioner Hatch-Miller,
8 is that sufficient?

9 COM. HATCH-MILLER: That's sufficient. That's
10 exactly -- I just want to, I just wanted --

11 CHMN. GLEASON: Good. If you, if you try to
12 get -- it is in the record we have a good faith effort.
13 And, you know, if you can't, you can't.

14 Well, let's go on. You will make a good faith
15 effort to do this?

16 MR. BROWN: Chairman Gleason, absolutely.

17 CHMN. GLEASON: Okay.

18 COM. MUNDELL: You are hereby ordered to make a
19 good faith effort to do this. As I said earlier, I
20 think the analogy that I talked about wholesale
21 electricity, I think this is a good amendment. I am
22 glad that they worked on it and came up with it. I
23 think this, it will establish, help establish whether or
24 not this is a good idea going forward.

25 I mean we just don't say no, we are never going

1 to do it. We are saying we want to have data because we
2 have, as I always call it, the battle of the experts.
3 And everyone would agree with that.

4 So this hopefully will, from your perspective,
5 provide the data for the Commission to move forward on
6 your request. So I appreciate the hard work by Amber
7 and Commissioner Hatch-Miller and the all-purpose
8 infielder, Mr. Olea.

9 CHMN. GLEASON: Okay. Board is clear. Let's --

10 COM. HATCH-MILLER: And I did move it. I will
11 move again Hatch-Miller Proposed Amendment No. 3.

12 CHMN. GLEASON: I don't think there is any
13 reason for roll call vote. But we will see. All in
14 favor of Hatch-Miller No. 3 say aye.

15 (A chorus of ayes.)

16 CHMN. GLEASON: Opposed, no.

17 (No response.)

18 CHMN. GLEASON: Naa.

19 COM. MUNDELL: So does that mean you like it,
20 Mr. Chairman?

21 CHMN. GLEASON: No, it means I was right. I
22 didn't have to --

23 COM. PIERCE: Well, give a guy one for the road,
24 you know. I mean jeeze.

25 CHMN. GLEASON: Okay. Now we must be through

1 with amendments, is that right? Would you move -- what
2 do we --

3 COM. MUNDELL: 29.

4 CHMN. GLEASON: -- 29 as amended.

5 COM. MUNDELL: I will move U-29 as amended,
6 Mr. Chairman.

7 CHMN. GLEASON: Okay. Then please call the
8 roll.

9 SECRETARY HOGAN: Commissioner Pierce.

10 COM. PIERCE: Well, I appreciate the longevity
11 of everyone on this, and especially Judge Nodes for his
12 efforts in this. And I appreciate how he quickly
13 maneuvers to make things, to help me with the things I
14 need to have help with.

15 Anyway, I vote aye.

16 SECRETARY HOGAN: Commissioner Mayes.

17 COM. MAYES: Briefly. I appreciate everyone's
18 work on this case and Judge Nodes' efforts. He has once
19 again written a very colorful order. I forgot to
20 mention his mention of Greek methodology in the case.
21 He referenced Tantalus who, I guess, is a Greek figure
22 and represents something about things that are just out
23 of our reach in this. So I appreciate, I always love
24 reading his orders and looking for the literary
25 reference that is, you know, embedded like a secret code

1 in the order. So it is a well written order.

2 I also want to say publicly that I appreciate
3 the restraint of Southwest Gas in bringing a limited
4 number of rate cases and modest rate increase proposals
5 as opposed to some other utilities that we have seen,
6 for instance yesterday with the state's largest electric
7 utility company. I think it is important for this
8 Commission to recognize companies that show restraint
9 and modesty and respect for their customers as well as
10 respect for this Commission and our time and our Staff's
11 time. So I thank them for that.

12 There is a modest increase contained within this
13 order, which will be, which is going to be tough for a
14 lot of folks to deal with in this time when rates are
15 going up. But I think the order also, and the record
16 evidence also demonstrates that this is a company that
17 is running, relative to the utility I just mentioned, a
18 fairly lean operation.

19 The record shows this company paid a wage
20 increase of, general wage increase of 3 percent, whereas
21 APS paid a wage increase of 4 percent. This company's
22 management compensation is below the management
23 compensation of other utilities in Arizona and across
24 the country.

25 So, you know, I think it is important to

1 recognize that there are some companies that are, that
2 are able to hold down costs and it is possible to hold
3 down costs in this environment we are living in.

4 I also appreciate the discussion in the order.
5 We didn't get to this, but the order requires Southwest
6 Gas to file a report within, I think, 180 days on the
7 feasibility of extending its service territory to Payson
8 to potentially take over that system up there that we
9 are having so much trouble with, the Sunstream's propane
10 system, or take over that service territory and help
11 bring down costs for natural gas up in that area. And
12 we will see what the report says and we will see whether
13 that is a feasible idea. So I am looking forward to
14 reading that.

15 And I also appreciate, while we didn't come to
16 conclusion on the issue of decoupling, I appreciate the
17 fulsome discussion of that issue in this case. And I
18 think that with the Hatch-Miller amendment and the
19 Mundell docket that, and the work of Commissioner Pierce
20 and I in the future, we will come to a good conclusion
21 on that issue soon.

22 So I vote aye.

23 SECRETARY HOGAN: Commissioner Hatch-Miller.

24 COM. HATCH-MILLER: Well, I look forward to
25 reading of the ACC's successful activities in moving

1 Arizona towards the number one spot in energy
2 conservation. I believe the decoupling mechanism will
3 be a part of that. And I believe I will probably read
4 about that as well in the near future, not the near
5 future but soon enough. And I wish you well on that.

6 And I vote aye.

7 SECRETARY HOGAN: Commissioner Mundell.

8 COM. MUNDELL: Thank you, Mr. Chairman.

9 The only thing I would say, as always, as
10 Commissioner Mayes said, the Administrative Law Judge
11 did a great job. I wasn't sure. I was asking Adam, I
12 said who is Ohio State playing and what bowl are they
13 playing in. And I hope whoever they are playing they
14 are not out of reach of victory there.

15 So, Dwight, it is -- again, thank you for an
16 excellent order. And as I said earlier, I have enjoyed
17 working with you over the last few years. You are a
18 great asset to the Hearing Division and the Commission
19 with your intellect and humor.

20 I, too, want to thank the company, their
21 executives, their lawyers, you know, for being cognizant
22 of hardships that Arizonans are facing in these tough
23 economic times.

24 There is another article in today's business
25 section talking about the price of homes. And, again,

1 they have gone down again. I mean we are, you know,
2 this is uncharted waters for all of us that didn't live,
3 you know, through the depression.

4 And so we need, as I said yesterday, mutual
5 sacrifice from everyone to get through this. So I want
6 to thank them publicly for that.

7 And then I think -- I don't think all the
8 executives were here last night, but Jose was, and I am
9 not sure, I don't remember who else was with him, but,
10 Mr. Brown was there, too. That's right, Mr. Brown,
11 because I said earlier, you know, you were at the podium
12 when you asked Commissioner Mayes and I those questions.
13 But all I was -- I suggested that maybe there is a way
14 to protect the company with what I called a deposit lien
15 and then also allow customers that either get behind on
16 their payments or, you know, make them late and still
17 not be disconnected, i.e. deposit lien, like a
18 mechanic's lien or contractor lien where you would file
19 it and it would be, you know, you get your money when
20 the house was sold plus interest. That may not work in
21 an upside down real estate market, but it is something
22 to think about it. I thought about it as I was sitting
23 up here, going, well, maybe there was a way to protect
24 the company on the one hand and on the other hand in
25 these economic times help out the customer. And

1 certainly for those people that have equity in their
2 home, that would work for everyone. So it is just a
3 thought. It would obviously require, I think,
4 legislative action.

5 But in any event, I vote aye.

6 SECRETARY HOGAN: Chairman Gleason.

7 CHMN. GLEASON: Yes, I like the Hatch-Miller
8 amendment. I have been concerned for years that the gas
9 company really needs to sell gas in order to make money,
10 that they should be able to make money on their, return
11 on their equity, which involves their pipes and
12 infrastructure, so that I think they should go more in
13 that way. And I think that's what the Hatch-Miller
14 amendment will show.

15 And it is intriguing to say that the weather
16 factor should affect my bill. When it is a cold year, I
17 am willing to take that risk. If it is a warm, if it is
18 a warm year, fine. All the people that say we are going
19 into a warm spell should be fine with that then. But I
20 think those are intriguing things. And I don't -- I
21 agree with Staff. I think there is too many problems
22 right now to go that way. But that's why we need to
23 work on that principle and find out where the answer
24 lies so that we can get off of this principle of the gas
25 company having to sell gas to make money.

1 And so with that, I vote aye.

2 By a vote of five ayes and zero noes, you have
3 passed Item 29.

4 (The Certified Reporter was excused.)

5 (TIME NOTED: 4:24 p.m.)

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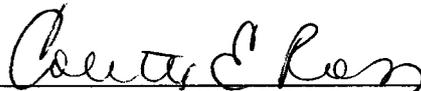
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I, COLETTE E. ROSS, Certified Reporter No. 50658 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 29th day of December, 2008.



 COLETTE E. ROSS
 Certified Reporter
 Certificate No. 50658