



0000105869

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2

3 IN THE MATTER OF THE APPLICATION )  
 4 OF ARIZONA PUBLIC SERVICE )  
 5 COMPANY FOR A HEARING TO ) DOCKET NO.  
 6 DETERMINE THE FAIR VALUE OF THE ) E-01345A-08-0172  
 7 UTILITY PROPERTY OF THE COMPANY )  
 8 FOR RATEMAKING PURPOSES, TO FIX ) PERMANENT  
 9 A JUST AND REASONABLE RATE OF )  
 10 RETURN THEREON, TO APPROVE RATE )  
 11 SCHEDULES DESIGNED TO DEVELOP )  
 12 SUCH RETURN. ) SPECIAL  
 13 ) OPEN MEETING

10 At: Phoenix, Arizona

11 Date: December 7, 2009

12 Filed: December 8, 2009

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16 AGENDA ITEM NO. U-2

17 VOLUME I

18 (Pages 1 through 159, inclusive.)

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Arizona Corporation Commission  
**DOCKETED**  
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25 Prepared for: By: KATE E. BAUMGARTH, CR No. 50582  
 ACC COLETTE E. ROSS, CR No. 50658

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1 BE IT REMEMBERED that an Open Meeting was held at  
2 the Arizona Corporation Commission, 1200 West Washington  
3 Street, Phoenix, Arizona, commencing at 1:55 p.m. on the  
4 7th day of December, 2009.

5

6 BEFORE: KRISTIN K. MAYES, Chairman  
7 GARY PIERCE, Commissioner  
8 PAUL NEWMAN, Commissioner  
9 SANDRA D. KENNEDY, Commissioner  
10 BOB STUMP, Commissioner

11 SHAYLIN A. BERNAL, Secretary

12

13 IN ATTENDANCE FOR AGENDA ITEM NO. U-2:

14

15 ARIZONA CORPORATION COMMISSION:  
16 Ms. Maureen Scott  
17 Ms. Janet Wagner  
18 Mr. Elijah Abinah

19

20 ARIZONA PUBLIC SERVICE COMPANY:  
21 Mr. Thomas L. Mumaw  
22 Ms. Meghan H. Grabel  
23 Mr. Jeff Guldner  
24 Mr. Jim Hatfield  
25 Mr. Don Robinson

26

27 RESIDENTIAL UTILITY CONSUMER OFFICE:  
28 Mr. Daniel Pozefsky

29

30 ARIZONA INVESTMENT COUNCIL:  
31 Mr. Michael M. Grant

32

33 FREEPORT-MCMORAN AND ARIZONANS FOR ELECTRIC CHOICE &  
34 COMPETITION:

35 Mr. C. Webb Crockett

1 MESQUITE POWER, LLC; SOUTHWESTERN POWER GROUP II,  
2 LLC; AND BOWIE POWER STATION, LLC:  
3 Mr. Lawrence V. Robertson, Jr.

4 INTERVENOR BARBARA WYLLIE-PECORA:  
5 Ms. Barbara Wyllie-Pecora, In Propria Persona

6 WESTERN RESOURCE ADVOCATES, SOUTHWEST ENERGY  
7 EFFICIENCY PROJECT, ARIZONA SCHOOL BOARDS  
8 ASSOCIATION, AND ARIZONA ASSOCIATION OF SCHOOL  
9 BUSINESS OFFICIALS:  
10 Mr. Timothy H. Hogan

11 INTERVENOR CYNTHIA ZWICK:  
12 Ms. Cynthia Zwick, In Propria Persona

13 DEPARTMENT OF DEFENSE:  
14 Ms. Karen S. White

15 IBEW LOCALS 387, 640, AND 769:  
16 Mr. Nicholas J. Enoch

17 KATE E. BAUMGARTH, CR No. 50582  
18 COLETTE E. ROSS, CR No. 50658

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1 (1:58 p.m.)

2

3 CHMN. MAYES: Let's go back on the record.

4 We are still in our open meeting of December 7th,  
5 2009. We are taking up now Item No. 2 on the agenda,  
6 Arizona Public Service Company's application for a hearing  
7 to determine the fair value of the utility property of the  
8 company for ratemaking purposes, to fix a just and  
9 reasonable rate of return thereon, and to approve rate  
10 schedules designed to develop such return.

11 Just so everybody knows kind of where I'm going  
12 with the scheduling and procedure, I thought what we would  
13 do is have Judge Farmer summarize the case. And then what  
14 I want to do is go to public comment. So far we have  
15 three public comment slips. If anyone else would like to  
16 provide public comment, please feel free to fill out a  
17 slip and then I will call your name. And then I'm going  
18 to go to the parties for their reaction to the recommended  
19 order and to any exceptions that have been filed. I think  
20 there is at least one exception, possibly two, that have  
21 been filed at the time.

22 So we will go ahead and begin with Judge Farmer.

23 CALJ FARMER: Thank you, Chairman, Commissioners.

24 Lyn Farmer for the Hearing Division.

25 The Recommended Opinion and Order before you

1 resolves APS's pending rate application, which was  
2 originally filed on March 24, 2008 and then amended on  
3 June 2, 2008.

4 Previously, in response to the Company's request  
5 for interim rates, on December 24, 2008, the Commission  
6 issued Decision No. 70667, which granted APS an emergency  
7 interim base rate surcharge.

8 On May 4th, 2009, a term sheet containing the  
9 major provisions of the parties' proposed Settlement  
10 Agreement was filed, and on June 12th this year the  
11 proposed Settlement Agreement was docketed.

12 On July 15th APS filed its request for approval  
13 of its 2010 Energy Efficiency Implementation Plan as  
14 required by Settlement Agreement.

15 During July of 2009 public notice of the hearing  
16 on the Settlement Agreement was published in the Arizona  
17 Republic and the notice was also included as a bill insert  
18 in customers' monthly bills.

19 Public comment sessions were held in Phoenix,  
20 Flagstaff, Prescott, and in Yuma. Numerous written public  
21 comments were received by the Commission and were filed in  
22 the docket.

23 The hearing on the Settlement Agreement began on  
24 August 19th and continued for 12 days, and testimony was  
25 taken from over 30 witnesses.

1 APS's current base rates were implemented  
2 pursuant to Commission Decision No. 65663 in June of 2007.  
3 Pursuant to the decision I mentioned earlier APS has also  
4 collecting the emergency interim surcharge of 0.00226 per  
5 kWh, which will terminate on issuance of this decision.

6 APS's amended application sought a \$448.2 million  
7 permanent base rate increase, including \$264.3 million in  
8 non-fuel base rates and \$183.9 million in fuel-related  
9 costs. APS also proposed to collect up to \$53 million of  
10 its requested \$79.3 million attrition adjustment through  
11 an impact fee.

12 In direct testimony filed in December of 2008  
13 Staff recommended a base rate increase of approximately  
14 \$307 million; RUCO recommended an increase of  
15 approximately \$157 million; and AECC recommended  
16 adjustments that would result in an increase of about  
17 \$346.7 million.

18 The Settlement Agreement is supported by 22 of  
19 the 24 parties to this proceeding. The Hopi Tribe has  
20 taken no position on the Settlement Agreement, and  
21 Intervenor Ms. Pecora is the only party to oppose a  
22 provision of the Settlement Agreement, Section 10,  
23 Treatment of Schedule 3. According to the witnesses'  
24 testimony and statements of the attorneys, all parties  
25 were invited to attend and participate in the settlement

1 discussions, which occurred over several months.

2           The range of interests represented by the  
3 settling parties is broad. It includes the interests of  
4 residential ratepayers, school business officials and  
5 boards, renewables and energy-efficiency advocates,  
6 agriculture, organized labor, retail electric customers  
7 favoring competition in the electric industry, industrial  
8 and commercial customers, the federal government and large  
9 military bases, merchant power plant owners, Arizona debt  
10 and equity investors, and advocates for low-income  
11 customers.

12           By all accounts the negotiations were intense,  
13 extensive, detailed, time-consuming, and often  
14 contentious. The settling parties believe that the result  
15 is an integrated Settlement Agreement that is a package  
16 deal reflecting the significant give-and-take by all  
17 parties. They describe it as more than just a resolution  
18 of the rate case, and RUCO's attorney stated that the  
19 settlement provides a road map that will move the Company  
20 towards financial health and in return provide ratepayers  
21 with rate stability and comfort in knowing that there is a  
22 comprehensive plan in place to secure Arizona's energy  
23 future.

24           The benefits of the Settlement Agreement  
25 identified by the parties include rate stability,

1 increased transparency in APS's accountability,  
2 establishment of ambitious energy-efficiency measures,  
3 requirement of large-scale renewable resource investments,  
4 protection of APS's most vulnerable customers, creation of  
5 Green Jobs, implementation of correct price signals for  
6 customers, enhancements of APS's financial conditions  
7 through new rates and commitments made by APS, creation of  
8 performance measures for APS, resolution of revenue spread  
9 and rate design issues, and the creation of new rate  
10 design options.

11 The settling parties believe that the Settlement  
12 Agreement results in just and reasonable rates and is in  
13 the public interest, and they recommend your approval of  
14 it.

15 Only one party opposed the Settlement Agreement.  
16 Ms. Pecora is a mortgage and real estate broker and a  
17 vacant landowner who intervened in this case after hearing  
18 that the Commission had removed the 1,000-foot free  
19 electric extension. Ms. Pecora believes that elimination  
20 of the free-footage allowance has had a devastating effect  
21 on rural Arizona, and she requests the Commission to  
22 reinstate the Schedule 3, Revision 8 residential line  
23 extension. Ms. Pecora's argument in support of her  
24 position to require current customers to pay for such new  
25 growth include her belief that others have benefited from

1 the old policy and that it would not cost current  
2 customers very much in the monthly bills.

3           Basically there were two issues concerning  
4 Schedule 3. The first is whether to continue with the  
5 current policy that the Commission adopted in Decision  
6 No. 69663. That was where the Commission found that in  
7 view of the unprecedented growth in APS's service  
8 territory, APS should be granted a variance to Arizona  
9 Administrative Code Rule 14-2-207 as necessary and  
10 appropriate measures to shift the burden of rising  
11 distribution costs away from the current customer base to  
12 growth. This is the issue that concerned Ms. Pecora.

13           The second issue was, should the Commission  
14 approve the temporary treatment of the proceeds from  
15 Schedule 3 as revenues instead of as CIAC?

16           In response to Ms. Pecora's objection, APS argued  
17 that the Settlement Agreement does not change the  
18 fundamental philosophy underlying the policy that has been  
19 adopted by the Commission in several recent decisions,  
20 which is that new applicants for service should pay the  
21 full cost, and also that the Settlement Agreement does not  
22 change the amount of money that applicants for new service  
23 will be required to pay. APS also argued that  
24 Ms. Pecora's evidence focused on the effects of slow  
25 growth, not on the cause.

1 Staff acknowledged that the issue of whether to  
2 provide a free-footage allowance is a policy question that  
3 involves determining whether a social interest or  
4 regulatory policy would warrant a subsidy and pointed out  
5 that recently the Commission has eliminated the  
6 free-footage allowance for many electric service  
7 providers, including TEP, UniSource, Trico, Sulphur  
8 Springs Valley, and Graham County Electric, in order to  
9 more closely assign the cost of growth to those  
10 responsible for the growth. Staff is also concerned that  
11 a reversion to a free-footage policy would have  
12 significant ratemaking consequences, meaning higher rates  
13 to ratepayers from a revenue increase or decline in APS's  
14 financial condition if there is no corresponding revenue  
15 increase.

16 The Commission must weigh the effects on current  
17 customers if it were to readopt a policy that encourages  
18 new customers to access APS's electric service at the  
19 current customers' expense. The order states that the  
20 recent economic downturn has affected all residents, not  
21 just landowners, and many current APS customers struggle  
22 to pay their monthly electric bills today, and to require  
23 them to subsidize landowners' new connections by  
24 increasing their monthly bills could raise certain equity  
25 concerns. The parties to the Settlement Agreement have

1 made it clear that pursuant to the terms of the Settlement  
2 Agreement, a change to Schedule 3 would be material and  
3 would require offsetting revenue impacts to customers.

4 The ROO finds that the Commission's existing  
5 policy that current customers should not be subsidizing  
6 new growth should not be abandoned or modified in this  
7 rate case. The ROO does find that the issue of line  
8 extension policy should be considered in a broader context  
9 and that Staff should open or use an existing generic  
10 docket and conduct workshops to evaluate whether to modify  
11 the policy on line extensions, with the goal of  
12 incorporating that outcome into APS's next general rate  
13 case.

14 Other changes to Schedule 3 are designed to  
15 address inquiries and complaints concerning line  
16 extensions and they include a schedule of charges and a  
17 statement that quotes will be itemized; an allowance for  
18 refunds under specified circumstances; confirmation that  
19 an applicant can provide nonelectrical work such as  
20 trenching, conduit, and backfill; and as related to  
21 electric work, future workshops to determine the  
22 parameters and conditions related to third-party  
23 construction.

24 The ROO finds that the Settlement Agreement's  
25 required revisions to Schedule 3 will address the concerns

1 about gold plating and will provide price transparency and  
2 consistency for customers and allow the Commission to  
3 monitor APS's compliance.

4           Concerning the second issue relating to Schedule  
5 3, the parties emphasize that the revenue projected from  
6 Schedule 3 is a critical component of the Settlement  
7 Agreement, and it is a material provision that if changed  
8 would require other modifications to make such change  
9 revenue neutral.

10           APS identified two benefits to the revenue  
11 treatment of Schedule 3 proceeds. First, it directly  
12 reduces the size of the base rate increase needed from  
13 existing APS customers in this case. And it enables the  
14 Company to agree to a stay-out of two and a half years and  
15 to abide by the other terms of the rate case schedule.

16           According to APS the revenue treatment allowed it  
17 to agree to withdraw its system facilities charge that it  
18 estimated would have added another 6.6- to \$12 million and  
19 an impact fee that would have averaged about \$1500 per  
20 residential applicant and higher for commercial and  
21 industrial.

22           Staff believes that changing the Settlement  
23 Agreement in even a nominal way may undermine the  
24 provisions of the Settlement Agreement that allowed a  
25 settlement to be reached. Staff does not recommend a

1 increase of more than \$344 million and understands that  
2 APS would not have agreed to that amount of a base rate  
3 increase without a mechanism such as treatment of the  
4 Schedule 3 proceeds as revenue.

5 This issue of the accounting treatment of  
6 Schedule 3 proceeds generated significant discussion  
7 during the evidentiary hearing. Staff and other parties  
8 stated that generally the preferred regulatory treatment  
9 of such proceeds is CIAC, but the Settlement Agreement  
10 adopts treatment as revenues. The parties articulated  
11 their reasons for agreeing to the revenue treatment and  
12 they also underscored the nature of this provision. It  
13 was clear that the treatment of the Schedule 3 proceeds as  
14 revenues was a significant concession that allowed the  
15 parties to settle the rate case without additional  
16 increases in the base rates.

17 The ROO finds that the accounting treatment of  
18 Schedule 3 proceeds as revenue for a short period of time  
19 is not unreasonable in the context of this case and the  
20 ongoing economic situation in the country. It will  
21 accommodate the interests of the parties who want to limit  
22 the amount of the increase to base rates and the interest  
23 of APS to enhance revenues during the latter years of its  
24 stay-out period. The treatment was critical to the  
25 parties' ability to settle the case and implement new

1 programs that will produce benefits for APS customers and  
2 for Arizona in the future.

3           The ROO recognizes that some aspects of the  
4 Settlement Agreement, including the treatment of  
5 Schedule 3 revenues, may have a future rate impact but  
6 finds that other aspects of the Settlement Agreement will  
7 result in benefits that can balance that possibility. The  
8 RUCO emphasizes that the decision to allow Schedule 3  
9 proceeds to be recorded as revenues for accounting  
10 purposes is limited to the specific facts of this case and  
11 the unique circumstances presented by the comprehensive  
12 Settlement Agreement. The ROO emphasizes also that APS  
13 should use this unique opportunity to finally address and  
14 resolve its concerns related to its financial metric and  
15 conditions and that the Commission will closely scrutinize  
16 the Company's compliance with the terms of the Settlement  
17 Agreement.

18           The key question when deciding whether to approve  
19 such a Settlement Agreement is whether the end result  
20 resolves the important issues fairly and reasonably when  
21 taken together as a whole and in such a way that will  
22 promote the public interest. The ROO finds that while the  
23 Commission may not have determined or resolved individual  
24 issues the same way if this matter had been litigated,  
25 taken as a whole the Settlement Agreement reasonably

1 resolves the rate application and sets out a plan that  
2 includes the requirements, responsibility, and opportunity  
3 for APS to achieve a financial condition that will bring  
4 long-term benefits to its customers while comprehensively  
5 addressing issues of energy policy affecting APS customers  
6 in the state of Arizona. Accordingly, the ROO finds that  
7 adoption of the Settlement Agreement is in the public  
8 interest.

9           There is one other issue about bill formats, and  
10 the ROO finds that that issue should be included -- what  
11 should be included on the electric bill is industrywide  
12 and should be examined in a proceeding where evidence can  
13 be presented by all parties.

14           AECC filed exceptions; I extend my apologies for  
15 failing to include a summary. I don't know what happened,  
16 but I have prepared an amendment that fixes that error and  
17 also one other typo.

18           Thank you.

19           CHMN. MAYES: Thank you, Your Honor.

20           Now I want to go to public comment, and obviously  
21 the Commissioners will have questions for the Judge and  
22 for the parties after they finish with their opening  
23 statements.

24           But we will start with George Lopez from Local  
25 820.

1 MR. LOPEZ: Good afternoon, Commissioners. I  
2 thank you for this opportunity to come before you this  
3 afternoon.

4 I am George Lopez, president of Local 820 of the  
5 International Union of Security, Police, and Fire  
6 Professionals of America. I represent the nuclear  
7 security officers who protect the Palo Verde Nuclear  
8 Generating Station west of Phoenix, Arizona.

9 The officers are one of three licensing  
10 requirements of the nuclear facility that operates Palo  
11 Verde. Our annual NRC drills are critical to the daily  
12 success of the facility and the protection of the  
13 residents of metropolitan Phoenix and the state of  
14 Arizona.

15 As such Local 820 has developed a positive  
16 working relationship with APS and supports the request  
17 reported to the Commission today. I thank you for this  
18 opportunity to speak to you, and hope that you would grant  
19 their request.

20 CHMN. MAYES: Thank you, Mr. Lopez.

21 Any questions?

22 (No response.)

23 CHMN. MAYES: Okay. Thank you for coming.

24 Sandy Bahr, director of the Sierra Club's Grand  
25 Canyon Chapter.

1 MS. BAHR: Thank you, Chairwoman Mayes and  
2 Commissioners. I appreciate the opportunity to address  
3 you today.

4 The Sierra Club is supportive of the proposed  
5 rate case settlement and wanted to express that on the  
6 record today.

7 As has been noted, the settlement is backed by a  
8 broad coalition of consumer, business, energy-efficiency  
9 advocates, and it includes significant energy-efficiency  
10 goals that we think will expand the utility's current  
11 energy savings programs for their residential, business  
12 customers, schools, low-income residents and others. We  
13 have received hundreds of comments from groups,  
14 individuals, and businesses throughout the APS territory  
15 that support the provisions in the settlement.

16 As I noted we are supporting it because it  
17 includes significant commitment to renewables and energy  
18 efficiency. If adopted it would result in  
19 energy-efficiency savings that represent about  
20 3.75 percent of the APS retail load by the end of 2012.

21 In the agreement APS will implement a  
22 customer-repayment program for certain energy-efficiency  
23 technologies as well as promote efficiencies in homes,  
24 schools, and businesses. And we think it's important,  
25 especially during tough times, that the efficiency

1 provisions are included because obviously those will help  
2 the customers actually reduce their energy bills. That is  
3 an important provision.

4 We support programs that provide rebates and  
5 technical assistance to electric utility customers who  
6 purchase energy-efficient lighting, air conditioners, and  
7 other equipment or invest in measures in their homes,  
8 offices, and buildings. These are the programs that will  
9 result in real reductions in energy use. They are real  
10 effective investments in our future. They provide jobs,  
11 and they provide enormous environmental benefits.

12 We wanted to also -- and I mentioned the  
13 renewable energy provision. This includes a significant  
14 ramp-up in the APS commitment to renewable energy programs  
15 as well.

16 We also wanted to comment on the Schedule 3  
17 issue. That is something that has been of some  
18 controversy during this -- these proceedings, and we  
19 wanted to go on the record in support of the Corporation  
20 Commission's decision in 2007 to end one of the many  
21 subsidies for dispersed development in Arizona and for  
22 insisting that growth begin to pay for itself just a  
23 little bit, and that is in ending the 1,000-foot extension  
24 at no cost.

25 We don't think APS customers, or frankly any

1 other utility customers, should have to pick up the cost  
2 associated with extending distribution lines too far from  
3 dwellings or to the next mansion in the middle of the  
4 forest or the desert. We appreciate the Commission  
5 recognizing that in the past and eliminating it, and we do  
6 not support reinstating that subsidy.

7           These are the types of subsidies that have become  
8 so engrained in our system, and Arizona has basically said  
9 anything goes when it comes to development for so long  
10 that the realtors and the land speculators and developers  
11 see these subsidies as entitlements. They are not  
12 entitlements. They say that the previous system was  
13 working real well. Well, of course, it was working very  
14 well for them, but what about the ratepayers who have had  
15 to pay their way for many years?

16           Some have argued that this isn't a good time for  
17 reinstating -- or this isn't a good time for ending the  
18 subsidies because of the market. And we would argue that  
19 it's way past time to end these kind of subsidies. These  
20 types of things are one of the reasons we are in such a  
21 deep hole relative to real estate.

22           We strongly object to overturning this policy and  
23 would urge the Commission to refrain from reinstating the  
24 subsidy.

25           I just wanted to mention only one other thing,

1 and that is again that we support the provisions in the  
2 settlement that hold harmless low-income customers  
3 relative to APS's rate increase. That along with the  
4 program to help lower bills via efficiency measures, will  
5 help those that are struggling the most in this difficult  
6 economy.

7 Thank you again for the opportunity, and I would  
8 be happy to answer questions.

9 CHMN. MAYES: Okay. Commissioner Pierce has a  
10 question.

11 COM. PIERCE: Hi. Ms. Bahr -- and I appreciate  
12 your comments, and I understand. I think that -- but this  
13 is one, and maybe you can sort it out for me.

14 We do give a subsidy on this issue. We  
15 originally did not and then we created one for Native  
16 American lands, which is a subsidy.

17 Do you advocate that we eliminate that subsidy of  
18 free-line extension on Native American lands?

19 MS. BAHR: We didn't take a specific position on  
20 that, but we haven't noted that urban sprawl is a  
21 particular problem on Native American land.

22 I think there are specific special conditions on  
23 the Native American land, some of which were outlined in  
24 the settlement.

25 COM. PIERCE: And the reason we took the position

1 is because of their low-income status. So on one hand you  
2 are looking at low-income, and on the other hand we are  
3 looking at a subsidy. And maybe it's what the subsidy is  
4 for, but it's a subsidy that if they don't have it, it's  
5 terribly difficult with their income status to do  
6 something on the reservation.

7 MS. BAHR: Maybe I should be clear and say we are  
8 fine with that carve-out.

9 COM. PIERCE: You are? Okay. That is good to  
10 know.

11 MS. BAHR: Is that better?

12 COM. PIERCE: Well, that makes it clear that you  
13 are fine with that one. Okay. Thank you.

14 MS. BAHR: There are special conditions for  
15 everything. And there are things that subsidize good  
16 things, and there are things that subsidize particular  
17 things that cause significant environmental harm. We have  
18 been doing a lot of that in Arizona.

19 This particular subsidy lasted for what, 50-some  
20 years. It probably seemed like a real good idea when it  
21 was instituted. It doesn't seem like a very good idea  
22 now.

23 COM. PIERCE: And I think that is a perspective  
24 that you have, and I suspect it would have been the  
25 perspective you would have had when it was created as

1 well.

2 But I think there was a lot of good --

3 MS. BAHR: It's not just my perspective,  
4 Commissioner Pierce -- excuse me. I didn't mean to  
5 interrupt -- but if you ask the public in Arizona if they  
6 think growth should pay for itself, they say, yes, indeed  
7 we do.

8 COM. PIERCE: And that is not what I'm referring  
9 to. I'm referring to what the policy was for when it was  
10 created, which was to create a lot of infrastructure so  
11 that -- and I think that it did that. And it served very  
12 well for a long, long time.

13 I think part of the discussion that we have had  
14 over time is how it was implemented when we changed it,  
15 and how it impacted people. And I think a lot of it is  
16 about how it adversely impacted economically with their  
17 property. Whether it was the right policy to begin with  
18 or not, people are often -- their perspective is driven by  
19 what it is costing them.

20 So I think it's not -- there might -- from an  
21 environmental standpoint I think it would be good not to  
22 have this policy, but we had it. And how you end it and  
23 how you impact people is just as important.

24 MS. BAHR: And I read through the provisions, and  
25 I think it's very, very difficult. In fact, the

1 economists were not able to differentiate the impact of  
2 this policy versus just what has happened to our economy  
3 overall. I mean, you know, it's not a particularly good  
4 time to be a land speculator; for a long time it was. So,  
5 you know, there are all kinds of factors, but perhaps the  
6 global economic downturn being the biggest one.

7 COM. PIERCE: And, you know, we could probably  
8 roll along and spend a lot of time on this, but I think  
9 that my position has been that those who owned beforehand,  
10 have owned property -- and actually there will be an  
11 amendment that I have that really addresses low-income and  
12 how they are impacted in that too, which I will not ask  
13 you to take a position on. But I fully understand, I  
14 think, your position.

15 MS. BAHR: I am an APS ratepayer by the way.

16 COM. PIERCE: I have two of them that are, and I  
17 understand. And one of those places has benefited greatly  
18 by the line extension policy. Somebody did who owned it  
19 before me anyway.

20 CHMN. MAYES: If I could just -- and I know we  
21 will get into Commissioner Pierce's amendments, so I don't  
22 want to get too far down this road right now.

23 But in defense of our decision to carve out  
24 Native American lands, I mean, would you agree with me,  
25 Ms. Bahr, that there are low-income and then there is a

1 class of low-income customers who have been maltreated by  
2 the American government for hundreds of years?

3 MS. BAHR: We have a history.

4 CHMN. MAYES: We have a history of mistreating  
5 these individuals, and the State of Arizona -- the case  
6 law in Arizona, the case law in the United States is that  
7 we are able to set policies that are designed at  
8 recognizing that mistreatment.

9 Would you agree with me?

10 MS. BAHR: I would indeed.

11 CHMN. MAYES: Thank you.

12 Okay. Commissioner Newman.

13 COM. NEWMAN: Yeah, I was actually going to --  
14 well, you rehabilitated that point, but I will make a  
15 comment instead of asking you a question.

16 I was not here for the rulemaking, but there are  
17 significant infrastructure problems still on reservations.  
18 In fact, members of this Commission have been asked to  
19 help tribes with improving them in terms of  
20 telecommunications and even power lines across the  
21 reservations. So there is the need for improvement on the  
22 reservation in general.

23 MS. BAHR: Including more distributed renewable  
24 energy and energy-efficiency measures as well.

25 COM. NEWMAN: Which we hope to work with the

1 tribes with.

2 But I was going to ask you a different kind of  
3 question. You were a member of the settlement  
4 negotiators. You signed off on them; correct?

5 MS. BAHR: We were not a party.

6 COM. NEWMAN: You were not a party?

7 MS. BAHR: That is why I'm talking to you right  
8 now.

9 COM. NEWMAN: Well, then I can talk to you in a  
10 different way.

11 The one thing missing -- I don't belong to your  
12 organization, but I know plenty of people that do -- but I  
13 still talk to a lot of folks about this case, and I am  
14 able to talk to a lot folks about this case about price  
15 increase and the fact that there has been several price  
16 increases, as the Judge explicated over -- in the year  
17 before this last case.

18 And so have you heard from your members regarding  
19 that as well? I mean, explain to the Commissioners how  
20 you can be supporting this perhaps on environmental  
21 grounds but people have made comments about costs, if you  
22 care to do that acrobatic act.

23 MS. BAHR: I don't think it requires an acrobatic  
24 act at all.

25 We see the investments in energy efficiency as

1 being significant and important for not just -- you know,  
2 obviously the rates are going to go up, but people -- what  
3 people really care about is what the electric bill is;  
4 right? And so if you can reduce consumption  
5 significantly, then your bill will be lower and the rate  
6 increase is less of an issue.

7 So we, you know, talked about it and thought  
8 about it and felt that the investment -- and we strongly  
9 support investments in renewable energy -- thought the  
10 investments in energy efficiency and renewables were  
11 significant enough to weigh in and support.

12 COM. NEWMAN: So, in other words, you support the  
13 hypothesis that we are sort of in a new regulation system,  
14 in a sense. If we are trying to change the system to  
15 develop cleaner renewable fuels in order to get at the  
16 greater global climate change issue, that also plays into  
17 making decisions about rate increases that we never had to  
18 take into consideration before.

19 MS. BAHR: Right. The cleanest and the cheapest  
20 energy is that energy that we don't use, the energy  
21 efficiency. It's still the cheapest energy resource that  
22 I know of. And obviously you don't have either greenhouse  
23 gas emissions or other pollutants associated with it; nor  
24 do you have significant water use. So that is also  
25 another factor to look at.

1 COM. NEWMAN: And just a final question I was  
2 going to ask you about, which I was going to ask the Judge  
3 about it as well, and actually probably others, about the  
4 provision of the settlement negotiators of a stay-out of  
5 two and a half years.

6 Depending on who you talk to -- again, I talk to  
7 a lot of people just trying to -- not plaintiffs or  
8 anything, but just people I know about that, you know,  
9 what think they about that, you know. People in general  
10 feel good that there is not going to be another rate  
11 increase, especially because there has been a number of  
12 increases for a couple years.

13 But people always are asking me, you know, two  
14 and a half years, I mean, that is -- we are still -- I'm  
15 still going to be hurting, and God knows what it will be  
16 costing me in two and a half years.

17 Did your group discuss this two-and-a-half-year  
18 provision? If you had your druthers or if you were a  
19 Commissioner, would you think about putting some pressure  
20 back on the utility to come back perhaps later in that  
21 process? Was there any discussion about that?

22 MS. BAHR: Commissioner Newman, our plan is to  
23 continue to pressure the utility to do more, and to do  
24 more relative to energy efficiency and to do more relative  
25 to renewables. I mean, that is it always the plan.

1           It seems that, though, two and a half years is --  
2    considering the rate cases you all have had before you  
3    fairly frequently, as I recall -- two and a half years is  
4    pretty good.

5           I know this was a very hardly negotiated  
6    settlement. I'm sure that no one in this room got  
7    everything they wanted out of it. If it was something I  
8    was going to write, would it look different, yes. But we  
9    think it's a good settlement that will serve APS  
10   ratepayers, like me. It's really good for low-income  
11   people. It's real positive for energy efficiency and  
12   renewables, and those are huge priorities for us.

13           You know, we need to do everything we can now to  
14   begin to reduce greenhouse gas emissions, as we talked  
15   about, and also those other pollutants. And obviously in  
16   our arid climate, save as much water as possible. Those  
17   are things we think will help that.

18           COM. NEWMAN: Thank you.

19           CHMN. MAYES: Commissioner Pierce.

20           COM. PIERCE: Yes, just one last thing.

21           You're right; I didn't get everything I wanted in  
22   this agreement, but this is not -- this is more a  
23   statement to follow up.

24           I supported the Native American land issue giving  
25   the subsidy to those folks, and I continue to support

1 that. That is why you don't see an amendment. Actually I  
2 wrote an amendment about low-income and used that as an  
3 example of what we have done. And I think in order to --  
4 especially from what I understand of Native American  
5 lands, it is especially this issue, the poverty issue, the  
6 amount of land, all of the issues that you and  
7 Commissioner -- Chairman Mayes brought up, I agree with.

8 I wanted to make that clear, but I don't think we  
9 are adverse in that.

10 MS. BAHR: Thank you.

11 CHMN. MAYES: Okay. Thank you, Ms. Bahr. I  
12 appreciate that.

13 And do we have any other public comment?

14 Mr. Schlegel, are you -- you are a party. Okay,  
15 I had a slip, but it's from a prior matter.

16 Okay. Do we have any other public comment this  
17 afternoon?

18 (No comment.)

19 CHMN. MAYES: No? Okay.

20 We will go to the comment of the parties and the  
21 statements of the parties.

22 I do want to just throw a couple things out there  
23 for my colleagues to mull over in the next hour or so.

24 First, I'm pleased to see Mr. Robinson, the CEO  
25 of the company, here, but I would like to have Mr. Brandt

1 available for questions -- both Robinson and Mr. Brandt  
2 available for questions.

3 Mr. Mumaw, do you think that would be possible  
4 sometime before we vote on this matter?

5 MR. MUMAW: Madam Chair, yes, I do. I know  
6 Mr. Brandt was unable to attend today, but I think he will  
7 be -- I believe he will be here tomorrow.

8 CHMN. MAYES: Okay. And then the other  
9 procedural issue that we have -- and I wanted to throw  
10 this out for my colleagues -- is that the Settlement  
11 Agreement calls for the Commission to consider the  
12 Energy-Efficiency Implementation Plan before we vote on  
13 the rate case, or at least that is the way I read the  
14 Settlement Agreement.

15 We also have an energy-efficiency rulemaking in  
16 front of us that I think is a critical tool that will  
17 allow consumers to deal with this rate increase if the  
18 Commission decides to adopt it.

19 So I would like some discussion from the bench  
20 about whether we move forward with a vote on the rate case  
21 before we vote on the implementation plan. My  
22 intention -- my view is that we should not and that we  
23 should take up the matter, the amendments, get as far as  
24 we can this week and vote on the matter, the rate case  
25 next week, but not before we vote on the implementation

1 plan.

2 I'm also not happy that we only have half of the  
3 implementation plan in front of us. I know Staff was not  
4 able to finish the entire plan, but it seems to me we will  
5 be automatically -- or the parties will be automatically  
6 in violation of the Settlement Agreement before we even  
7 vote on it since we only have half of it in front of us.

8 So I just throw that out for my colleagues to  
9 ponder and think about, but it seems to me it's truly  
10 unfair to ratepayers not to vote on the Energy-Efficiency  
11 Implementation Plan and provide them the necessary tools  
12 to deal with this rate increase before we vote on the rate  
13 increase.

14 So with that, I would like to call up first  
15 Cynthia Zwick. I know you have a busy schedule, and you  
16 are probably not being paid a lot of money to be here,  
17 unlike some of the other lawyers, so please come forward.

18 MS. ZWICK: Thank you, Chairman Mayes,  
19 Commissioners. I'm here on my own behalf. I'm speaking  
20 on behalf of low-income customers.

21 CHMN. MAYES: Cynthia, make sure your light is on  
22 there.

23 MS. ZWICK: I'm here to support the Recommended  
24 Opinion and Order and the Settlement Agreement that was  
25 submitted to all of you.

1           As you know, there are several components in here  
2   that do address the needs of low-income families and  
3   low-income customers. They are that the rates would be --  
4   that they would be held harmless from any increase in this  
5   case, including the Demand-Side Management charges. The  
6   shareholders' support of the bill-assistance program is  
7   increasing within the context of this order to \$5 million,  
8   which is a new amount of money to support the notch group  
9   of families who are struggling at between 150 to 200  
10   percent of the federal poverty level. And it would allow  
11   for the waiver of the collection of security deposits for  
12   low-income families, those within the rate, the E3 and E4  
13   rate, who have missed a couple of payments over the  
14   previous 12 months or within that 12 months.

15           So having said that, again, I am in support of  
16   the ROO that is before you.

17           CHMN. MAYES: Thank you, and might you be  
18   available later or do you have to go?

19           MS. ZWICK: No, I'm planning to be here.

20           CHMN. MAYES: Okay. We will go then to  
21   Mr. Mumaw, if you want to start.

22           MR. MUMAW: Do you prefer me there?

23           CHMN. MAYES: Either way.

24           MR. MUMAW: Well, I will stay seated.

25           Thank you, Madam Chairman, Members of the

1 Commission.

2 Obviously the Company supports the Recommended  
3 Opinion and Order, and again, we wish to acknowledge not  
4 only the fair and efficient conduct at the hearing by  
5 Judge Farmer, but the hard work that she put in on the  
6 recommended order. It obviously reflects a thorough  
7 analysis of all the extensive records in this matter.

8 And I think the order recognized the breadth --  
9 excuse me. I think when I did my opening statement in  
10 August I was battling a cold -- it recognized the breadth  
11 of the settlement; it recognizes the depth of the support  
12 of the settlement. I think it does a good job in  
13 describing the many benefits to the settlement, which I  
14 will not recollect at this time. But I think it also  
15 deals with and understands and acknowledges the financial  
16 provisions, which obviously Schedule 3 has kind of been  
17 front and center, of that agreement that were necessary to  
18 obtain the benefits of that settlement.

19 I think it's also incumbent, and because the  
20 recommended order -- the recommended approval of the  
21 settlement was not necessary for it to dwell on the  
22 consequences of not approving the settlement. And again,  
23 I don't repeat the comments I made in my opening  
24 statement, but I would commend them, that you look at  
25 those before you make your final vote. They are on pages

1 58 and 59 of the transcript. And I think it's fair to  
2 state as a summary of those that it would be a disaster  
3 for APS, to its customers, and for the State of Arizona  
4 for this settlement to be rejected.

5 And the reason why I draw your attention to the  
6 consequences of rejection -- and I know we are not going  
7 to get to those now, but I think even at this early stage  
8 that the Commission should be aware that some, not all,  
9 but some of the amendments that have been filed in this  
10 case are tantamount to a rejection of the settlement. And  
11 I think that the Commission needs to be aware of the  
12 consequences of that prior to their consideration of those  
13 amendments. And we look forward at the appropriate time  
14 to discuss those and all the other amendments that have  
15 been filed in this particular docket.

16 As to the exception to date filed by the AECC and  
17 Freeport-McMoRan -- I think I finally got that right --  
18 which is incorporated in one of the hearing officer's  
19 amendments, obviously we support both that exception and  
20 the Hearing Officer's -- the Administrative Law Judge's  
21 amendment on that.

22 CHMN. MAYES: Okay. Thank you.

23 Mr. Pozefsky, would you like to go next?

24 MR. POZEFSKY: I really didn't have a prepared  
25 speech. I know you know most of the benefits, but I did

1 want to share with you some thoughts that I had and that  
2 we at RUCO had as to why we signed on.

3 You know, it was quite a big move for us to sign  
4 on given that we were the ones that recommended a  
5 \$13 million reduction actually on the non-fuel costs. So  
6 to get from there to \$197 million is quite a jump, and we  
7 didn't do that without a lot of insight and a lot of  
8 thought.

9 Let me just step back a little. I'm not going to  
10 detail the historical perspective on this, but I do want  
11 to say a few things on it to help develop why we came  
12 where we did and why we think this is a really a good  
13 plan.

14 We have been in here a multitude of times in the  
15 last four or five years on various requests from the  
16 Company for the Commission to take some sort of action  
17 that would actually help it, and in specific its financial  
18 metrics. And that seems to have been the mantra that we  
19 consistently hear, and that is that we need this  
20 recognition, we need this relief because if we don't have  
21 it, it's going to jeopardize our financial metrics and we  
22 could go to junk status.

23 And it's actually -- it's sort of a paralyzing  
24 argument. I mean, it really is. It's -- I know APS  
25 doesn't want to be in that position, that its earnings are

1 eroding and it's having earnings problems, but the reality  
2 is that it is, and not for nothing. In basketball we have  
3 a saying that the best offense is a good defense. And if  
4 it was actually meant to be an offense, it would be a  
5 brilliant offense because it works.

6 But again, we don't hold APS -- we don't look at  
7 it like APS wants to be that way; it's just the way it is  
8 because it is.

9 So here we are once again deciding what to do  
10 with this sort of anchor that is out there that puts  
11 everyone, including ourselves, back against the wall. And  
12 what was being proposed was the boiler -- the traditional  
13 rate case approach, which is throw some money at the  
14 Company, quite a bit of money, in fact, and in effect what  
15 we would be doing is plugging the dike. We wouldn't  
16 really be completely stopping the bleeding, but we would  
17 be plugging it until we got to the next case.

18 And that is where you would go if you did a  
19 traditional analysis for this. That is where we were at.  
20 We were at, we could come in with a \$16 million decrease,  
21 which is the traditional approach; no post-test-year  
22 plant, no plant deferrals, no depreciation change,  
23 depreciation rate change, all of those things that we  
24 traditionally do in ratemaking, where is that going to get  
25 us?

1           Then you kind of couple that with, well, where  
2   does the Commission want to go? Where do the people in  
3   the state of Arizona want to go? And it's clear that we  
4   all want to go towards a better model as far as energy.  
5   We want to go towards renewables. We want to implement  
6   demand side management programs. We want to do those  
7   things, and the reality of doing these things is it's not  
8   cheap to do these things. It's going to cost money.

9           And how -- we are balancing the cost that is  
10   involved there with the situation APS has been in and  
11   continues to be in, where it's sort of on a marginal  
12   financial metric, and the reality is it's just not going  
13   to work.

14           So what we thought is we want to get something  
15   out of this. There has got to be a quid quo pro for the  
16   ratepayers. In other words, if we are going to give them  
17   money, at least let's get something out; let's shift the  
18   risk here a little bit from the ratepayers shouldering the  
19   balance -- I don't want to say balance because it's not a  
20   balance -- but the ratepayer shouldering the expense to  
21   somehow getting the Company held responsible from a  
22   managerial perspective and also the shareholders having  
23   some risk, too.

24           So with that we kind of focused on, okay, three  
25   things that we really want to see. The first and foremost

1 is we wanted to do something that would move this company  
2 forward financially; in other words, we don't want to hear  
3 this again, the financial metrics. And if we do hear it,  
4 we really want APS to be able to explain it this time. I  
5 mean, we want to give them the tools so that if we don't  
6 see some results, we can really hold their feet to the  
7 fire.

8 So what we thought -- and I mean what we all as a  
9 group thought collectively and what we were thinking at  
10 RUCO, of course, is let's get some equity infusion. We  
11 didn't think that the parent had put enough money into the  
12 Company to get us in a position where we wanted them to  
13 be. So the equity infusion was a big thing for RUCO. We  
14 fought back and forth on that. And we have a provision in  
15 there that we thought was adequate for RUCO to get us to  
16 where we needed to go.

17 The other thing that we thought was we wanted to  
18 do something with that debt/equity ratio, that capital  
19 structure. 57 percent debt was too high. We wanted to  
20 bring that financial metric down. How are we going to do  
21 it? Well, we couldn't really get a commitment out of the  
22 Company as a whole to get it down there, but we at least  
23 got a commitment that they would strive to get the  
24 52 percent debt/equity ratio.

25 And that was good enough for us, because at

1 least, again, we will be watching it. And the way we will  
2 be watching it is through all the financial quarterly and  
3 yearly financial reporting that is going to take place.  
4 So we will be on it as we know the Commission will be on  
5 it. Again, now we are kind of shifting the onus onto the  
6 management, from our perspective, to make sure that this  
7 happens, because it's going to be watched.

8           The other aspect that was important to us was to  
9 reduce the expenses by \$150 million over five years. That  
10 is trimming the Company's expenses. All these things we  
11 thought would improve the Company's appeal to investors,  
12 would improve its credit rating, and provide better  
13 lending terms, which would mean less cost to ratepayers  
14 and better financial strength, results in lower rate  
15 increases in the future.

16           Again, we did all this with the notion that we  
17 are not shifting the risk here. This is a quid pro quo.  
18 It's not going to be just the ratepayers'; it will be the  
19 Company's, the shareholders'; it's going to be management.  
20 The ball is going to be provided there.

21           The second thing that was important to us was  
22 performance measures; in other words, what is going to  
23 happen if, in fact, the Company isn't able to do what it  
24 is supposed to do?

25           As you know the settlement provides for ten

1 identified performance measures, and one of them, which we  
2 felt was necessary, was the one that will actually affect  
3 the Company's ability to pay out executive cash incentive  
4 compensation. We thought this really puts some teeth into  
5 the agreement.

6 And then the last thing is the rate stability,  
7 and that is what I think Commissioner Newman was alluding  
8 to that was very important to RUCO. We wanted to see rate  
9 stability.

10 It is over a period of two and a half years, and,  
11 you know, stability in this economy is a very important  
12 thing. Yeah, there is going to be a rate increase, and  
13 it's going to be offset by the PSA. There has been some  
14 new numbers that have been presented which actually show  
15 that the amount of the rate increase against the offset is  
16 going to be actually significantly less -- not  
17 significantly, but a little less than what we originally  
18 anticipated.

19 Again, you know, RUCO doesn't usually use that as  
20 an argument, that, you know, we need to take super  
21 consideration of that because in the absence of it it  
22 would have been a rate decrease. But it is important here  
23 because we are talking about rate stability.

24 So we think that these three things -- these  
25 three things were the quid pro quo. They are the things

1 that we needed to see in order to come aboard.

2 I know there has been a lot of talk about  
3 Schedule 3. Let me just address that from RUCO's  
4 perspective a little bit.

5 It's a delicate situation for us. We support the  
6 Settlement Agreement, not only on that but on everything.  
7 Here is a little bit of a different perspective, and I say  
8 this to Commissioner Pierce -- to address some of  
9 Commissioner Pierce's questions, to give you our  
10 perspective.

11 I don't think we ever really thought that it  
12 would be too convincing of an argument to come in here and  
13 say, hey, look, it's better to treat something as revenue  
14 than it is to treat it as CIAC from the ratepayers'  
15 standpoint. But I think that if you view it in isolation,  
16 that is a tough argument.

17 Now, I think it's very difficult argument, but we  
18 never viewed it in isolation. We said we understood it  
19 for what it is. We understood it that that was something  
20 that we needed to have in there to get that revenue  
21 requirement that the Company has actually shown us that it  
22 needed in order to at least have a chance to get these  
23 financial metrics up.

24 So from our standpoint the revenue issue was  
25 something that we accepted with the understanding that in

1 the whole totality of the argument it makes sense. Again,  
2 we are not up here arguing that it's a better approach  
3 than CIAC if we are looking at it alone, because that is  
4 not how we looked at it.

5 And so I think that gives you a little bit of an  
6 idea. I think ratepayers are coming out of here -- as the  
7 Judge said in her opening comments and as I said, this  
8 provides a road map, something that I think ratepayers are  
9 going to come out of with a relatively modest increase  
10 when you consider the offset and actually a lot to look  
11 forward to as far as where we are going; that we actually  
12 have a game plan from this point forward, a true tight  
13 game plan. And it's not going to be just the burden of  
14 the ratepayers here to pull this company and get it  
15 financially healthy; everybody is going to be playing.  
16 And the Company is going to be held accountable.

17 And I think they know it. And we are elated that  
18 the Company is willing to do it. We are elated that all  
19 the other stakeholders here are willing to agree with us  
20 or are willing to go forward with this. And we think what  
21 you have here is something good here and we hope you  
22 approve it. Thank you.

23 CHMN. MAYES: Thank you, Mr. Pozefsky.

24 Mr. Enoch from IBEW.

25 MR. ENOCH: Good morning, Chairman Mayes, Members

1 of the Commission.

2 Like my colleague, Mr. Pozefsky, I also didn't  
3 prepare formal comments, but there was a couple comments  
4 that were made earlier that brought a couple things to  
5 mind.

6 You know, Commissioner Newman asked the woman  
7 from the Sierra Club about the stay-out provision and  
8 whether it was contemplated and how her constituents  
9 looked at it. Maybe it's not self-evident, but let me  
10 tell you how we look at the stay-out provision.

11 This Settlement Agreement is not by any means the  
12 end of the development of my clients' interest in  
13 renewable energy and the like in the state of Arizona.  
14 This is the first step in what we hope to be years and  
15 decades of movement forward.

16 The stay-out provision is going to be our  
17 opportunity to take a look at the settlement, assuming  
18 it's adopted, and to see how it actually works between now  
19 and the next case. There is a reporting requirement in  
20 the Settlement Agreement in Section 13.4(A) dealing with  
21 employee counts at APS in years to come. And you can be  
22 assured that my clients are going to be paying very close  
23 attention to that before the next time that we are down  
24 here for a rate case. And we are optimistic, and we look  
25 forward to being able to come down here and say that this

1 Settlement Agreement that we did back in 2009 was the  
2 first step in helping to develop a growing industry in  
3 Arizona that we could be proud of.

4 You know, one of the first times -- I might be  
5 wrong, Commissioner Pierce -- but I think one of the first  
6 times I appeared before you you made the comment that,  
7 isn't it kind of refreshing to have labor unions come down  
8 and be supportive of the utility? And actually I'm quite  
9 proud that my clients are not the maybe stereotypical  
10 unions where they are sometimes reactionary and you have  
11 this adversarial relationship with the Company.

12 And I remember the example you gave was the auto  
13 industry. And I always use that in my own mind, too; like  
14 here are the unions and the auto companies going hand in  
15 hand in making cars that nobody wants to buy. And by  
16 contrast what we have here is a first demonstrable step to  
17 try to create an industry that we can be proud of.

18 You know, one of my clients in this case has the  
19 apprenticeship program for solar, and they have  
20 contractors that already have people ready to go and do  
21 that kind of work. Another one of the clients, Local 769,  
22 has a forum of wind construction contract. We are excited  
23 to have the opportunity to be at the front end of this,  
24 and we are very excited to be able to have the opportunity  
25 in a couple of years from now to come back and say it went

1 well.

2 But honestly you can be assured that if it  
3 doesn't go well, we will come down here and say that, too,  
4 but it's time to get the 2009 case done with and start the  
5 stay-out period, that we can get to work. Thank you.

6 CHMN. MAYES: Okay. Thank you.

7 Mr. Robertson.

8 MR. ROBERTSON: Thank you, Chairman Mayes,  
9 Members of the Commission.

10 Let me say at the outset that the Mesquite Group  
11 supports both the Settlement Agreement and Judge Farmer's  
12 Recommended Opinion and Order. And in that regard we  
13 would also like to commend Judge Farmer for her approach  
14 and her work and her final product in preparing the ROO.  
15 We believe it does an excellent job in summarizing the  
16 positions in the Settlement Agreement, the positions of  
17 the various parties, and particularly her discussion of  
18 the Schedule 3 issue, which, as you are all aware of, was  
19 perhaps the most contentious issue during the evidentiary  
20 hearing.

21 With regard to the Mesquite Group, on roughly the  
22 bottom half of page 24 and the upper portions of 25 of the  
23 Recommended Opinion and Order, Judge Farmer does an  
24 excellent job of summarizing what our position is in the  
25 case. And I noted with interest as I listened to

1 Mr. Pozefsky a few moments ago that in her discussion of  
2 the specific provisions of the Settlement Agreement that  
3 are important to the Mesquite Group, which appear on the  
4 bottom of page 24 and 25, it was almost like going down a  
5 checklist of various issues and points that were important  
6 to RUCO and other parties as well.

7 And by way of background I wanted to describe to  
8 you the approach that the Mesquite Group took in entering  
9 this proceeding.

10 As Chairman Mayes and as Commissioner Pierce are  
11 aware, because they have been on the Commission as members  
12 longer than the other three of you, the Mesquite Group has  
13 actively participated in every APS permanent rate case and  
14 interim proceeding since 2004.

15 As we approached the 2008 case, which is now the  
16 case before you, we again had a core interest in being  
17 sure that APS had sufficient revenues to enable it to  
18 maintain its current credit rating and to hopefully be  
19 able to improve that. But as Mr. Pozefsky said, we also  
20 did not want to engage in just a  
21 putting-the-finger-in-the-dike approach. We wanted to put  
22 a long-range approach, to put some pressures and some  
23 incentives on APS to do everything within its power to  
24 address the situation so that they would not be back  
25 within another year with another emergency rate increase

1 request or another permanent rate case.

2           So things like equity infusion, the integrity of  
3 the capital structure, developing a financial improvement  
4 plan, performance measures -- including periodic financial  
5 reporting -- and capital expenditure regarding and  
6 including generation expenditures were very important to  
7 the Mesquite Group. And on more than one occasion I found  
8 it interesting that Mr. Pozefsky and Ms. Jerich and I were  
9 working on language that we would present to the  
10 settlement group in an effort to advance our positions  
11 among them and particularly with APS.

12           I make these comments because I think it's  
13 indicative of the fact that this truly is a broadly-based  
14 supportive agreement. It reflects the integration of the  
15 viewpoints, the aspirations, and the needs of a number of  
16 parties, and we believe in a very balanced manner that in  
17 the final result this is in the public interest, and as  
18 Judge Farmer indicated, is what a Settlement Agreement  
19 should be in a final product.

20           If it's appropriate, Madam Chairman, although we  
21 did not file any comments with regard to the exceptions  
22 filed by Mr. Crockett's client, Arizonans for Electric  
23 Choice and Competition, when you want to address that  
24 exception, I do have some comments by way of background  
25 that might be pertinent for your consideration. Thank

1 you.

2 CHMN. MAYES: Thank you, Mr. Robertson.

3 Mr. Crockett.

4 MR. CROCKETT: Thank you. Chairman Mayes,  
5 Members of the Commission, Webb Crockett representing  
6 Freeport-McMoRan Copper and also Arizonans for Electric  
7 Choice and Competition. And because we do have some new  
8 members sitting here on the Commission, I would like to  
9 briefly refer to or tell about who Arizonans for Electric  
10 Choice and Competition represents.

11 In addition to Freeport-McMoRan, we represent  
12 other large industrial users within the state of Arizona;  
13 large commercial users, medium-size businesses. We have  
14 represented the Arizona Association of Industries, which  
15 is made up of many, many small businesses. In the past we  
16 have also represented the school boards and the school  
17 districts, which Mr. Hogan now represents, but we have  
18 represented their interests in the past as well as various  
19 associations.

20 The reason that I point that out is that I think  
21 in general, RUCO represents the residential consumer. I  
22 believe that AECC, as I have referred to them  
23 collectively, I believe basically represents the  
24 commercial -- the industrial/commercial aspect of the  
25 state of Arizona.

1           Now, with that background in mind I would like to  
2 point out that we have always been interested in having a  
3 financially healthy electric utility, and we are  
4 interested in APS being financially healthy as well. And  
5 we have supported them. We supported the interim rate  
6 increase for APS. We have supported the grant of a fairly  
7 sizeable amount in connection with this case.

8           And there is a reason for our doing that, and  
9 that is that we, my clients, have to have a reliable  
10 source of power. A financially-weak utility is not going  
11 to be able to provide a reliable source of power. This  
12 power is used in the manufacturing process in the  
13 operation of these businesses of these clients that I  
14 represent.

15           In addition to the fact that it provides a  
16 livelihood for them, they employ thousands and thousands  
17 of people within the state of Arizona, a lot of the people  
18 who will also be paying these electric bills, these  
19 residential consumers. So we have been interested in  
20 seeing to it that APS is financially solvent so they can  
21 provide reliable electric power as they have done in the  
22 past and that they can continue to do that in the future.

23           I would like to make a comment with reference to  
24 the exceptions. I am probably one of the only parties  
25 that filed exceptions.

1 I want to commend Judge Farmer. I think that  
2 that is a very, very well written Recommended Opinion and  
3 Order, when you stop and consider that there was a 40-page  
4 Settlement Agreement that was negotiated by 22 parties  
5 over a three- to four-month period, and sometimes we met  
6 daily, addressing many, many, contentious issues that were  
7 resolved.

8 And I might point out in that regard that I  
9 believe that even though we spent that amount of time --  
10 and we weren't totally utilizing all of the resources of  
11 the Commission time and resource, although a lot, because  
12 Staff was there with us in that regard -- and then 12 days  
13 of hearings with some 30-some-odd witnesses that  
14 testified, for Judge Farmer to be able to produce a  
15 55-page ROO within a relatively short period of time  
16 captured the essence of the negotiations of the various  
17 parties over that period of time that we negotiated. And  
18 I think that she really addressed -- the only exception  
19 that I had was the fact that through an inadvertent  
20 oversight she left out the position of the clients that I  
21 represent in the discussion section.

22 We have, as she well knows, and everybody else  
23 knows, and I appreciated Tom Mumaw's comments and  
24 Larry Robertson's as well, we have been very supportive of  
25 the Settlement Agreement as a total package. And there

1 are a lot of issues that are involved in that regard.

2 We do believe that the rates are just and  
3 reasonable and in the public interest and we do believe  
4 that there has been a balance reached between the  
5 financial needs of Arizona Public Service and the rates  
6 that the customers in the state of Arizona are going to go  
7 paying.

8 And one last comment, and by the way, the Hearing  
9 Division's proposed amendment does encompass some of the  
10 issues that -- does set out the issues and indicates  
11 AECC's support for the Recommended Opinion and Order.

12 I want to make one comment with reference to the  
13 issue that has been referred to as probably the most  
14 contentious issue, and that has to do with the line -- the  
15 elimination of the 1,000-foot free electric line  
16 extension.

17 As I read through the proposed amendments of  
18 Commissioner Pierce, which I think we will probably have  
19 greater discussion on as well, I thought back over  
20 ratemaking principles, and I thought, you know, there are  
21 a lot of people that are probably paying rates today that  
22 didn't have the advantage of that free extension, but they  
23 are paying the rates for the construction of generation,  
24 construction of transmission facilities, the construction  
25 of distribution facilities, that these people who are now

1 not receiving that 1,000-foot free bill are taking  
2 advantage of and are not being asked to pay a surcharge to  
3 cover some of these costs that have been incurred by other  
4 ratepayers within the state of Arizona.

5           So I think you have to look at a balance.  
6 Obviously there are decisions made by this Commission over  
7 the years involving many, many rate cases, and unlike  
8 Larry Robinson I have been involved in many more cases  
9 involving APS in that regard, but you kind of have to have  
10 a balancing. Some people today -- and this was an issue  
11 during high-inflationary times, and that is, why should  
12 the current ratepayer pay to extend facilities in  
13 high-inflationary times to accommodate new growth? Well,  
14 because that is part of the ratemaking principle because  
15 that is the way it has been built into it. So you might  
16 argue that in a given situation there may be some  
17 inequities for a particular class of customers as opposed  
18 to another, but other existing customers could likewise  
19 make that argument.

20           And so as I read those proposals, I thought, you  
21 know, if you wanted to do it, you would have to have an  
22 individual rate for an individual customer depending upon  
23 when they connected to the system so that they maybe would  
24 pick up --

25           I remember, for instance, during the time that

1 Palo Verde was being constructed, which now is providing  
2 very reasonable rates, APS was before this Commission  
3 seeking higher rates in order to be able to complete the  
4 construction of that facility and seeking a much higher  
5 rate of return than they were asking for in this  
6 particular proceeding. And the ratepayer during that  
7 period of time paid that.

8 They might argue that those people are connecting  
9 to the system now; we ought to reimburse them for some of  
10 those costs because they are now benefiting from that in  
11 those rates.

12 So in any event, I would like to urge the  
13 Commission to approve the Recommended Opinion and Order.  
14 Again, I would like to commend Judge Farmer for doing an  
15 outstanding job in a relatively very, very short period of  
16 time. And I do believe that the proper balance has been  
17 struck among all of the issues and all of the parties.

18 And I might point out that there are some issues  
19 that I don't believe would ever have been resolved without  
20 litigation but for the fact that we entered into that  
21 negotiated settlement.

22 Again, I urge the Commission to approve the  
23 Settlement Agreement -- the Recommended Opinion and Order  
24 as written in its total package, which is recognized by  
25 Judge Farmer in her opinion. Thank you.

1 CHMN. MAYES: Thank you, Mr. Crockett.

2 We will go to Ms. Pecora.

3 MS. WYLLIE-PECORA: Thank you. I didn't know we  
4 were going to do this. This is my first time.

5 Thank you again for letting me participate. My  
6 issue, I had no idea when I came as an intervenor that it  
7 would be this big of a deal. And I, like Commissioner  
8 Pierce said, I didn't get everything I wanted. I didn't  
9 get anything I wanted out of this settlement.

10 So I am still here, and just give it to me and I  
11 will go away.

12 The mansions in the forest, I would like Sandy to  
13 show me that mansion in the forest that she often talks  
14 about.

15 The poor on the reservation -- I wish that all of  
16 the supervisors of the different counties that support  
17 this reinstatement of this 1,000 feet could be here and  
18 talk about the poor in their counties, because there are a  
19 lot of them. And I did give some of the percentages in my  
20 statements.

21 One issue that came out during this hearing was  
22 the gold plating. That was something that I wasn't aware  
23 of, at least to the extent that it did come out.

24 Hopefully that can be taken care of.

25 The tax revenue that is going to decrease as a

1 result of the loss in value in land is -- no one believes  
2 how much it will -- I mean, it's astronomical how it's  
3 going to affect the state of Arizona in the income that  
4 will not be generated as a result of the decrease in land  
5 values. I will state that now, and hopefully I won't have  
6 to say I told you so.

7 I just asked, like I started out, to reverse  
8 this, put it back the way it was, inform every property  
9 owner that we will have meetings and workshops, let them  
10 have input into it. I'm not saying changes aren't in  
11 order. Maybe there are changes that need to be done, but  
12 it needs to be done with everybody represented who wants  
13 to be represented. The people that have come on board  
14 behind me is just unbelievable. This whole state of  
15 Arizona has been affected by this.

16 So I am here to participate in the rest of this  
17 hearing. Thank you.

18 CHMN. MAYES: Thank you very much, and thanks for  
19 being here.

20 Staff, Ms. Scott.

21 MS. SCOTT: Thank you, Chairman Mayes,  
22 Commissioners.

23 Staff would like to begin by saying that it  
24 strongly supports the Recommended Opinion and Order, and  
25 like the other parties, we also want to compliment

1 Judge Farmer on the fine job that she did. She -- I want  
2 to echo some of the comments that have been made by  
3 others. She conducted a very fair proceeding, and she  
4 also ensured that there was an in-depth analysis of the  
5 issues raised by the Settlement Agreement. She ensured  
6 that there was a thorough vetting of all the agreement's  
7 provisions, and the result is a ROO that is extremely well  
8 reasoned and contains a very sound analysis of all the  
9 issues raised.

10 The ROO, of course, finds that the Settlement  
11 Agreement is in the public interest and that the rates  
12 produced are just and reasonable. It also finds that the  
13 Settlement Agreement contains many benefits, and the ROO  
14 also recognizes that some of the agreements reached  
15 through the settlement process are likely to have only  
16 been achieved through a settlement.

17 The way Staff looked at this initially was that  
18 this was the fifth rate case by the Company in six years.  
19 It seemed like a never-ending cycle with the same issues  
20 being raised. And so this agreement was a concerted  
21 effort by all of the parties, and in particular Staff, to  
22 try to break this cycle that it saw.

23 The agreement is designed to put the Company back  
24 on the path to financial stability. It does this through  
25 a rate increase and through some enhancements to the

1 Company's revenue through certain accounting adjustments.

2 While taken alone, Staff may not have agreed to  
3 certain provisions in the agreement, but when they are  
4 included as part of the agreement as a whole, Staff was  
5 able to agree to them and believes that overall the  
6 Settlement Agreement achieves a reasonable result.

7 Some of the most important provisions to the  
8 Staff are the rate stability plan that is provided in the  
9 agreement, the many benefits for low-income customers, the  
10 requirement that the Company must make \$700 million in  
11 equity infusions, the requirement that there must be a  
12 reduction in imputed debt levels which now hover around 56  
13 to 57 percent down to 52 percent -- this is an extremely  
14 important provision in the agreement. The agreement  
15 requires the Company to file a plan detailing all of the  
16 steps that it takes to -- that it intends to take to  
17 improve its financial ratings.

18 The agreement provides for expense reductions  
19 over the life of the plan of \$150 million. The agreement  
20 promotes some very important policies, objectives of the  
21 Commission, including promotion of renewable energy and  
22 energy efficiency. The agreement also contains a  
23 benchmarking study, which should be of value -- of extreme  
24 value to the Commission. It sets up a series of  
25 performance measurements, and it also includes a lot of

1 new recording requirements. It also requires the Company  
2 to offer several new rate design options, which should be  
3 a benefit to customers.

4 There was some concern raised about the  
5 commitments in the agreement and the obligations of the  
6 Company, whether those were truly binding. And as was  
7 borne out in the record of the evidentiary hearing, all of  
8 the parties to this agreement firmly believe that those  
9 commitments contained in this agreement are real, they are  
10 binding, and the Company must abide by them.

11 Chairman Mayes, you had asked us to also address  
12 the exceptions that had been filed and also the Schedule 3  
13 issue. With respect to the exceptions filed by  
14 Freeport-McMoRan, we support those. We believe that the  
15 exceptions filed by the Company recognize some important  
16 benefits that this party found to be important in entering  
17 into the agreement, and we believe that they should be  
18 contained in the ROO.

19 With respect to the Schedule 3 issues, there are,  
20 of course, two issues here. One is the 1,000-foot free  
21 line extension -- one of the issues, of course, that is  
22 near and dear to Ms. Pecora -- and then also the revenue  
23 treatment of the Schedule 3 proceeds, which is, of course,  
24 a change to how we normally handle this issue.

25 I will address the 1,000-free-foot line extension

1 issue first.

2           The agreement supports the Commission's policy,  
3 which was adopted in 2007, and it essentially requires  
4 growth to pay for itself. The Staff believes that the  
5 appropriate place to make a change in this policy would be  
6 in a generic proceeding or workshop process because it's  
7 not only APS's policies that are at issue here; it's all  
8 electric utilities in Arizona where the Commission has put  
9 in place a similar line extension policy.

10           From Staff's perspective a workshop process would  
11 allow, or a generic proceeding, as the ROO recommends,  
12 would allow all of these companies to participate in this  
13 proceeding and perhaps a larger ray of developers or other  
14 parties as well and Ms. Pecora.

15           The record in this proceeding bears out that  
16 there are many alternative approaches to addressing the  
17 question of line extension, and some of those were set  
18 forth by filings by Chairman Mayes, by the Commission  
19 Staff, Mr. Abinah's testimony, and also by APS. These  
20 alternative approaches deserve some further exploration,  
21 and these alternative approaches could be more fully  
22 explored in the context of a generic proceeding, and we  
23 believe that that is appropriate.

24           Ms. Pecora mentioned in her opening statement  
25 that she does not feel that her participation yielded any

1 results; however, I strongly disagree with that. I think  
2 her participation was instrumental in a number of changes  
3 that were included in the Settlement Agreement. And those  
4 include: The Company must include a schedule of charges  
5 now that is approved by the Commission; they must include  
6 itemization of customer quotes. Whenever a customer comes  
7 in in the future and asks for a line extension, they can't  
8 just give the customer a dollar amount of \$10,000; they  
9 have to actually itemize what is included in that quote.

10 The agreement provides for a clarified definition  
11 of local facilities. It provides for refund amounts when  
12 subsequent customers utilize the facilities that one  
13 customer may have paid for. That was a concern noted by  
14 many customers during public comment.

15 And the ROO also provides for a workshop on  
16 third-party construction of electric facilities related to  
17 line extensions. This is another concern that was brought  
18 out during public comment. And the Company has committed  
19 to look at third-party construction of electric facilities  
20 through a workshop process, and the ROO so provides.

21 So in the end we believe that the Settlement  
22 Agreement and the ROO combined give many -- addresses many  
23 of the concerns that have been raised during the public  
24 comment sessions and also concerns that had been raised by  
25 Ms. Pecora as well. In the end we believe that her

1 participation has produced some noticeable improvements  
2 here.

3 The other issue is the revenue treatment of  
4 Schedule 3 proceeds. This is -- this was a provision  
5 which was critical to the parties' ability to settle this  
6 case. And as noted in our brief, the change hits at a  
7 significant point of tension because it allows the base  
8 rate increase to be held at \$344 million, but it also  
9 allows APS's revenues to be enhanced in outlying years.  
10 We agree with the ROO again here. The accounting  
11 treatment of Schedule 3 as revenue for this short period  
12 of time is not unreasonable in the context of this case  
13 and the ongoing economic situation that the Company faces.

14 Chairman, Commissioners, this concludes my  
15 remarks. Thank you.

16 CHMN. MAYES: Thank you, Ms. Scott.

17 And then we also have Mr. Grant and Mr. Hogan and  
18 Mr. Schlegel.

19 MR. GRANT: Chairman Mayes, Commissioners, Good  
20 afternoon. Mike Grant on behalf of Arizona Investment  
21 Council.

22 I certainly would echo a couple themes sounded by  
23 Mr. Pozefsky from RUCO and also Ms. Scott for Staff.

24 I am not suggesting to you it actually occurred  
25 this way, but I think to a certain extent when we started

1 meeting upstairs, we realized that for the past six years  
2 or so we had been getting together regularly with the  
3 Commission as well doing about the same thing and coming  
4 up with the same result. So we were sort of acting out  
5 the crazy syndrome, and I think we mutually joined  
6 together to try to do something different to produce a  
7 different result. And I think -- well, I don't think; I  
8 know that we did.

9 AIC supports this, I think, for the primary  
10 reason that it is a major step towards positioning APS and  
11 Arizona to compete in that nationwide 1.5- to \$2 trillion  
12 dollar capital competition that I mentioned in opening  
13 remarks a number of months ago. And that better  
14 positioning is absolutely critical. Of 141 rated  
15 utilities in the United States, there is only one rated  
16 lower than APS. And it needs, on Arizona's behalf, to do  
17 well in that capital competition. It needs to spend more  
18 than \$15 billion on improvements and additions, including  
19 investment in energy efficiency and renewables by 2025.

20 And we have gotten to the point where we toss  
21 around \$1 billion pretty lightly. Put a billion a year in  
22 some context. APS is more than 100 years old. It has a  
23 fair value rate base now of approximately \$7.6 billion, so  
24 what it has to do on its behalf, on its ratepayers'  
25 behalf, on the State of Arizona's behalf, it has to spend

1 roughly 14 percent of what it matched over 100 years --  
2 more than 100 years each year for the next 15 years. And  
3 this Settlement Agreement, I think, gives it some of the  
4 different tools to try to do that better. You start with  
5 a base rate increase.

6 But equally important, to try to break the cycle  
7 you have this out-year support of Schedule 3 revenues, the  
8 deferrals, and the Palo Verde life extension in addition  
9 to support the out years.

10 You pulled in -- and Staff was very, very  
11 creative and was very helpful on this issue -- you pulled  
12 in 18 months of plant that is already held in rate base  
13 that otherwise would normally have not been recognized.  
14 And so you are not starting as much in the hole as we have  
15 been starting over the past six years.

16 And then certainly on the utility side of this  
17 equation you get \$150 million in expense reductions,  
18 \$30 million a year over the next five years, and equity  
19 investors contributed another \$700 million. It's a  
20 package that I think, I hope, and I trust is going to help  
21 APS and Arizona compete better with the rest of the  
22 country in this capital competition.

23 We very much appreciate the efforts of the  
24 administrative law judge, the attention of the Commission,  
25 and we strongly recommend the ROO to you. Thank you.

1 CHMN. MAYES: Thank you, Mr. Grant.

2 Commissioner, I was hoping we would just hold off  
3 on questions until we get all the parties in.

4 Mr. Hogan.

5 MR. HOGAN: Thank you. Tim Hogan representing  
6 SWEEP, WRA, School Board Association, and School Business  
7 Officials. I will be very short.

8 We -- or like the comments I made back in August,  
9 we participated extensively in the settlement discussions.  
10 We were there for virtually all of them. We  
11 wholeheartedly support the settlement. We, without any  
12 reservations, support the Recommended Opinion and Order,  
13 except, of course, for the Hearing Officer's amendment,  
14 which we support.

15 This is a huge agreement and a step forward in  
16 Arizona for energy efficiency, renewable energy, and  
17 important provisions for public schools.

18 To the point made earlier about stability, I  
19 think I'm referencing Mr. Essigs' testimony, that the  
20 important point for schools particularly is to be able to  
21 plan, and this Settlement Agreement provides the framework  
22 for them to be able to do that over an extended period of  
23 time.

24 So again, as I said, the provisions are  
25 significant, substantial, important, and we support all of

1 them. And I will conclude by saying we support a healthy  
2 APS. Because we are not going to get anywhere on  
3 renewable energy and energy efficiency without a  
4 financially-healthy company to support those efforts.  
5 Thank you.

6 CHMN. MAYES: Thank you, Mr. Hogan.

7 Mr. Schlegel? No. Okay. That was you. Okay.

8 Have I missed anybody? Oh, yes. Captain,  
9 Lieutenant, what is it?

10 MS. WHITE: Retired.

11 CHMN. MAYES: Retired.

12 MS. WHITE: Karen will work for me.

13 Chairman Mayes, Commissioners, I'm glad to be  
14 back to my home state of Arizona, and I bring to you a  
15 little bit of a different perspective. You have heard all  
16 the good things about this agreement.

17 What I think is unique about this agreement --  
18 and I do cases in 16 states, and I can tell you from those  
19 16 states that you all are the only group of people that  
20 is really looking at solving the problem and moving  
21 forward as opposed to just the regular Band-aid rate case.

22 So for that I commend all the parties in the  
23 room. I commend Judge Farmer specifically because of the  
24 ROO and the length of it. The hearing was extensive, and  
25 so from my perspective from working throughout the country

1 this is a unique opportunity in the state of Arizona. So  
2 as a resident of Arizona from a long time ago, and a proud  
3 alum of the University of Arizona, number two in the Pack  
4 10 -- I just have to throw that in there; I'm in  
5 Phoenix -- I commend you all. That is great.

6 As I said, we support the ROO. We supported the  
7 Settlement Agreement and participated in those efforts.

8 We think that the settlement, most importantly  
9 from our perspective, it achieves things that would not  
10 have been achievable in the litigation process. Because  
11 during the negotiations things were thrown on the table  
12 that wouldn't have been part of the litigation. So from  
13 that perspective and representing federal executive  
14 agencies -- the biggest of that group is two significant  
15 military installations in this state -- we look forward to  
16 the new provisions for Demand Side Management and also for  
17 uninterruptible rates. They do good things for federal  
18 customers. Those are your tax dollars at work and my job  
19 is to steward them.

20 So I'm excited to have this opportunity to come  
21 before you and tell you that we think -- federal executive  
22 agencies think this is a great thing, and I'm proud to be  
23 a resident of the state of Arizona as you all go forward  
24 with this matter.

25 Thank you for the opportunity to be here today.

1 CHMN. MAYES: Thank you, and just for the record,  
2 state your name again and who you represent.

3 MS. WHITE: Karen White, federal executive  
4 agencies.

5 CHMN. MAYES: Thank you very much.

6 Have we missed any parties? Okay. And I have  
7 got -- we have gone through the parties.

8 I do have a speaker slip for public comment -- we  
9 will go back to public comment -- from Glen Hamer from the  
10 Arizona Chamber.

11 MR. HAMER: Thank you, Madam Chair and Members of  
12 the Commission.

13 My name is Glen Hamer, and I'm president and CEO  
14 of the Arizona Chamber of Commerce and Industry, and I  
15 appreciate the chance to make some brief comments today.

16 Last week the Arizona Chamber along with the  
17 Greater Phoenix Chamber of Commerce and the Greater  
18 Phoenix Economic Council submitted a letter to the  
19 Commission on the issues surrounding this settlement, and  
20 I don't want to restate the comments made in the letter  
21 but just wanted to personally express on behalf of the  
22 Arizona Chamber our support for the Settlement Agreement  
23 that has been presented to you.

24 We believe the settlement puts Arizona on a firm  
25 course towards greater energy security in the future and

1 will help to ensure that the future of our state remains  
2 bright and will improve Arizona's competitiveness in  
3 renewables and energy efficiency.

4           Businesses are certainly sensitive to the cost of  
5 electricity, but we believe this settlement, which is  
6 supported by representative from all of APS's customer  
7 groups, strikes a more than reasonable balance of ensuring  
8 a financially sound utility that can provide reliable  
9 electric service both today and in the future, along with  
10 programs and policies that will move Arizona forward in  
11 many areas, including energy efficiency and renewable  
12 energy.

13           The settlement will bolster APS's ability to  
14 invest in a sustainable energy future, keep electric rates  
15 affordable, protect low-income electric customers, and  
16 improve Arizona's competitiveness in renewable and energy  
17 efficiencies and for this -- for these reasons we urge the  
18 Arizona Corporation Commission to approve the APS rate  
19 settlement.

20           Thank you for the opportunity to speak this  
21 afternoon.

22           CHMN. MAYES: Thank you for that.

23           Any questions for Mr. Hamer?

24           (No response.)

25           No? Okay. Okay.

1                   What I thought we would do at this point is take  
2 a brief break for our court reporter and come back and  
3 start with questions.

4                   (TIME NOTED: 3:33 p.m.)

5                   (Kate E. Baumgarth, a Certified Reporter, was  
6 excused from the proceedings.)

7                   (A recess was taken.)

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1 (The proceedings resumed at 3:50 p.m., reported  
2 by Colette E. Ross, Certified Reporter.)

3  
4 CHMN. MAYES: We will go ahead and get started  
5 with the discussion of the underlying order. And so  
6 what I would like to do is start with questions about  
7 the underlying order and then we will migrate after that  
8 to the amendments.

9 I would like to begin, if I could, by asking a  
10 question of Mr. Robinson. And then when Mr. Brandt gets  
11 here tomorrow, I will ask him to answer the same  
12 question. And I would like RUCO to answer this question  
13 and Staff to answer this question.

14 We have received, Mr. Robinson, as you know,  
15 hundreds, if not thousands, of letters and e-mails from  
16 Arizonans who are suffering through this economy and who  
17 have told us. In some cases beseeched us. To reject  
18 your rate increase application. And those e-mails and  
19 letters weigh heavily on all the Commissioners as we are  
20 making this decision.

21 The economy was pretty bad during the hearings,  
22 and in Arizona it has only gotten worse from there. Our  
23 unemployment rate has topped 10 percent. Arizonans are  
24 losing their homes at a record pace. Homelessness is  
25 up. The inability to pay utility bills is up.

1           And so what I would like to hear from you is why  
2           it is in the public interest for the Commission to  
3           approve this rate increase at this time in our state's  
4           history. And I would like each of the parties to very  
5           specifically respond to the current economic climate  
6           that we are in.

7           MR. ROBINSON: Okay. First off, Commissioner  
8           Mayes, the rate settlement as proposed results in only a  
9           half a percent or less impact on customers. So there is  
10          not a very significant impact on the public. And I  
11          understand it is difficult times for everyone. And we  
12          are very well aware of that.

13          So, number one, there is not a significant  
14          impact on our customers. Number two, we will stay out  
15          for a period of years. Number three, we provide, the  
16          settlement provides a lot of benefits for low income  
17          people. It provides benefits in the energy efficiency  
18          demand side management area. It provides benefits in  
19          the renewable area. It provides us with a stronger  
20          balance sheet. It puts us in a situation, quite  
21          frankly, that if we don't get this settlement approved  
22          we will get downgraded to junk. So it keeps us in the  
23          ability where we can raise money at reasonable rates  
24          when we have to go out and fulfill our obligation to  
25          meet the needs of our customers.

1           It was a settlement that, as you have heard from  
2   lots, in fact every, virtually all the parties today,  
3   this is a settlement that brings a lot of good things to  
4   the state. And it does so with fortunately a very small  
5   impact on our customers. And I think it is a testament  
6   to all of the hard work by everybody that we were able  
7   to get to that point.

8           CHMN. MAYES: Well, it has that small impact in  
9   2010, Mr. Robinson, but once the credit mechanism is  
10   finished refunding money back to consumers, the rate  
11   increase will be in full force in 2011, as I understand  
12   it. Or at least 2012 there will be -- the credit at  
13   some point will run out. I think it is a year long  
14   process for that to happen. 2011 doesn't look any  
15   better for Arizonans from an economic standpoint.

16           So I guess I am, I am trying to find out, from  
17   you especially, whether APS acknowledges the pain that  
18   its customers are experiencing and the impact that this  
19   could have on them. And I am trying to understand  
20   whether, you know, why it is in the public interest to  
21   enact such a rate increase at this time given the  
22   accelerating decline in our economy.

23           MR. ROBINSON: Well, Commissioner Mayes, if we  
24   don't act on it at this time, we will be even worse  
25   shape, because the company will not maintain its

1 investment grade rating. We will not be able to borrow  
2 money at reasonable rates. We may not have access to  
3 money overall.

4 I acknowledge it is a difficult time for lots of  
5 people. And there is no doubt about that. But it is a  
6 time where, as I said, I mean we are not having a huge  
7 increase. This is not a large impact on customer bills  
8 initially. You are right. I don't know how long this  
9 recession, depression, whatever it is, is going to last,  
10 nor does anybody else. But putting this off and not  
11 dealing with this now will only make the situation worse  
12 because we won't be able to -- if you recall the  
13 testimony that we have gone through many times in the  
14 past, a downgrade in our investment grade rating will  
15 cost an additional \$100 million a year in interest  
16 costs. That in itself is a 3 plus percent rate  
17 increase.

18 CHMN. MAYES: Okay. Thank you for the answer.  
19 And we may come back to you.

20 MR. ROBINSON: Okay.

21 CHMN. MAYES: If my colleagues will indulge me  
22 in asking RUCO the same question and Staff the same  
23 question.

24 Do you want to get a microphone for  
25 Mr. Pozefsky?

1 MR. POZEFSKY: And my response to that,  
2 Commissioner Mayes -- Chairman Mayes and Commissioners,  
3 would be because it is the best scenario of all your  
4 alternatives. I mean that's simply, from the way we see  
5 it, the way it comes down. I mean it is not a rosy  
6 picture.

7 What are your alternatives? We can go and do  
8 the forensic rate study like we did and come up with a  
9 decrease, but we know where that's going to get us. So  
10 this scenario offers, and I am not going to go through  
11 this again, the alternatives, this scenario offers  
12 ratepayers something out of it at, what we see at least,  
13 what temporarily is going to be a minimum amount. I  
14 think the amount we -- the updated sheet showed us on  
15 the average bill it would be, the bill impact would be  
16 85 cents or 1.19 percent.

17 CHMN. MAYES: But eventually that will become a  
18 \$4 increase or 4 percent increase, correct?

19 MR. POZEFSKY: And that is correct, but the  
20 alternative would be a billion dollars in interest  
21 expense related to the debt that it would now cost over  
22 10-year period, or \$100 million per year cost.

23 CHMN. MAYES: Okay. Can I ask you,  
24 Mr. Pozefsky, I mean especially since you represent the  
25 Residential Utility Consumers Office, to respond

1 specifically to my question, which is: Given the  
2 accelerating decline in the Arizona economy and the fact  
3 that we are experiencing this recession in a more acute  
4 way than almost any other state in the country, is it  
5 still in the public interest for the Commission to  
6 approve the settlement agreement?

7 MR. POZEFSKY: And the answer is yes under the  
8 circumstances that we are faced with here and now and  
9 circumstances that Arizona is faced with, yes.

10 CHMN. MAYES: Okay. Ms. Scott or Mr. Abinah.

11 MS. SCOTT: Chairman Mayes, Commissioners, Staff  
12 of course recognizes that this is a rough time for all  
13 consumers and that any rate increase is likely to be  
14 felt hard by the consumer. We recognize that. However,  
15 we believe that the provisions of the settlement  
16 agreement taken as a whole still produce a significant  
17 benefit to the consumer in the end.

18 It does that by holding low income customers  
19 harmless by the contribution of \$5 million for more low  
20 income assistance. The agreement, as you know, contains  
21 rate stability provisions which are designed to prevent  
22 or forestall another rate increase for a certain period  
23 of time.

24 And as several parties have noted, you know, of  
25 critical concern here is the company's financial

1 metrics. And in the last at least four or five cases,  
2 that has been a constant theme that, without a rate  
3 increase, they are going to be downgraded to junk  
4 status. Nobody can predict when that will happen. But  
5 they are, according to the S&P metric, one notch above  
6 junk status now. And we all know, given the last few  
7 cases, that the consequence of a downgrade to junk  
8 status would just be disastrous in terms of the cost to  
9 the company and ultimately the cost to the consumer.

10 CHMN. MAYES: And the dilemma, of course, for us  
11 is that there are a lot of Arizonans out there who have  
12 seen their own personal finances downgraded to junk  
13 status by this economy and we are faced with having to  
14 weigh this a proposed rate increase and APS' financial  
15 condition with the fact that Arizonans are, many  
16 Arizonans are hurting.

17 So I will go to Commissioner Pierce for some  
18 questions now.

19 COM. PIERCE: Thank you, Madam Chair.

20 This is really for RUCO. And I have offered  
21 amendments. And I think that often when someone is not  
22 at the table and doesn't have the privilege of hearing  
23 the dialogue and being involved in the emotion of that  
24 agreement, you end up with amendments. And so I think  
25 it is really the duty of the folks who were party to the

1 agreement to -- and today has been helpful so far -- to  
2 convince strongly those of us who are a little bit leery  
3 about how things got to.

4 But there is something you said that -- and I  
5 have been involved in a lot of agreements. And some of  
6 them, I think a lot of times people that buy  
7 automobiles, and I know a little bit, something about  
8 those things, and the car is great, you know, they  
9 needed a car. But sometimes the deal, how it was  
10 financed, is just horrendous. And I am not saying that  
11 about this. And so, so many people ask me what do you  
12 think about the deal I got. If they love the car, then  
13 the deal was fine with me. And I think that's the best  
14 way for me to stay friends with people; let them find  
15 out on their own some day if the deal was not that good.

16 Basically what I think I heard you say is the  
17 reality in this is no matter what we call it, whatever  
18 the mechanism, whether it is accounting, traditional, no  
19 matter how we get to it, that this is a pot of money and  
20 we are not going to worry about what it gets called,  
21 because if we get caught up in what it is called, none  
22 of us are going to make this deal at the end of the day.  
23 So we have a pot of money. And then if we call it a  
24 accounting, we may actually in the next rate case go  
25 right back, because we are not making a policy call

1 here. We are just arriving at a pot of money. Is that  
2 what I heard you say?

3 MR. POZEFSKY: That's how we looked at it, yes,  
4 it is. We were looking for the most painless way to get  
5 the company to its revenue requirement that we were  
6 convinced that it needed. And this was one way to fill  
7 in the gap that didn't hurt or come out of the cost --  
8 didn't come out of the pocket of the ratepayer.

9 As I understand it is revenue neutral. So that  
10 was, that was a way. Yes, it is nontraditional. And  
11 yes, you know, you know how we feel about nontraditional  
12 rate case or rate treatment. It is not something we  
13 take lightly. A lot of this case is nontraditional  
14 settlement. And we don't look at any of it as being  
15 precedent setting. We don't want it to be precedent  
16 setting. We want it to be applicable to the  
17 circumstances, to the situation that we are faced with  
18 here.

19 So, yes, this is a pot of money, as you said,  
20 that we fulfill that obligation. It is only a temporary  
21 fix. It is not something that we are going to do, we  
22 are going to promote or encourage necessarily the next  
23 time we face this decision. It is a temporary thing.  
24 That's how we saw it.

25 COM. PIERCE: Okay. And just so everyone is

1 aware, that is my -- as I look through the things that I  
2 craft, that's actually my biggest issue, is this  
3 accounting call.

4 And so going to Staff, who -- and I mean we have  
5 had votes on this in the past on this very issue that  
6 APS proposed, and it was, it was five/zip in the past.  
7 So I mean we are right with you, and with Staff, too.

8 So how does Staff, you heard RUCO, how does  
9 Staff look at this for the future? And was it, was this  
10 in fact how you looked at it, as we have, to arrive at  
11 dollars to make this work, and we are just going to pull  
12 them from wherever we can and this is not a precedent?

13 MR. ABINAH: Good afternoon, Madam Chairman,  
14 Commissioners, Commissioner Pierce. Elijah Abinah for  
15 Staff.

16 I believe I agree with RUCO on that assessment.  
17 But also, if you look at the agreement, I believe it is  
18 Section 10.1, the last sentence --

19 COM. PIERCE: Just give us a page number.

20 MR. ABINAH: I am sorry, page 18 of the  
21 agreement, starting from page 17. We all agree that the  
22 revenue be treated as Schedule 3 revenue. But at the  
23 end of the agreement it says thereafter Schedule 3  
24 should be considered CIAC unless otherwise ordered by  
25 the Commission.

1           So temporarily we believe it should be treated  
2     as revenue. In the future we recommend it goes back to  
3     CIAC and goes back at the point that the ALJ recommended  
4     that this issue can be addressed in a workshop.

5           Like RUCO said, we were trying to get APS to a  
6     point to have financial metric that is healthy for the  
7     company, because we don't know what is going to happen,  
8     whether they are going to be downgraded or not. But we  
9     don't want to take that chance of them getting  
10    downgraded, because if APS gets downgraded, the  
11    ratepayer will have to pay. Like Mr. Robinson said, we  
12    are talking about maybe \$100 million that's going to be  
13    passed on to the ratepayers.

14           So in order to get APS a financial metric that's  
15    healthy and for them to reach, reach agreement, we all  
16    agree that the revenues -- the receipt from Schedule 3  
17    should be treated as revenue. So I agree with RUCO.  
18    And I believe if you ask everybody in the room, we all  
19    have the same belief at the table.

20           COM. PIERCE: Okay. Thank you. And I thought  
21    it was also interesting, because I have listened to the  
22    Chairwoman a few years ago on this issue of junk bond  
23    status, and I think RUCO is correct, that as soon as  
24    that card is played, we are instantly up against the  
25    wall. And it is how -- I am not saying it is not

1 accurate, but we are instantly kind of in a different  
2 game as we look at -- it is not just a rate case of  
3 revenue requirement and what the company -- it is, we  
4 have got a hazard here starting out. And I agree it  
5 would be nice to not start off with the hazard in the  
6 future, if that's possible.

7 Do you see that as -- that that would put us in  
8 that position? I listen to Ms. Scott; that seems to be  
9 exactly what she was stating.

10 MR. ABINAH: Madam Chair, Commissioner Pierce,  
11 that's correct.

12 COM. PIERCE: Thank you, Madam Chair.

13 CHMN. MAYES: Sure.

14 Commissioner Newman.

15 COM. NEWMAN: May I have Mr. Robinson come up.

16 CHMN. MAYES: Sure.

17 Mr. Robinson, can you come back. You might want  
18 to take a closer seat.

19 COM. PIERCE: Here is to you, Mr. Robinson.

20 COM. NEWMAN: Good afternoon, Mr. Robinson.

21 MR. ROBINSON: Good afternoon, Commissioner.

22 COM. NEWMAN: I raised this question a couple  
23 times about the stay-out provision. And I am going to  
24 get to that place, but I want to ask you a couple  
25 questions before, similar to the Chair's but a little

1 different. I really wanted Mr. Grant really to answer  
2 some of these questions, too, because he brought them to  
3 the highlight.

4 MR. ROBINSON: Trade places with him?

5 COM. NEWMAN: No. I am going to ask you about a  
6 comment that he made earlier in his earlier remarks  
7 about APS stood next to only one other power company at  
8 its level, I suppose, as being the most, and correct me  
9 if I am wrong with this characterization, being the most  
10 in trouble in terms of its balance sheet, perhaps, if  
11 that's what he meant by it. But they were, they are in  
12 trouble according to some list, next to last, sort of  
13 how Arizona is next to Mississippi in per capita student  
14 education funding.

15 MR. ROBINSON: We are on the lowest level of  
16 investment grade bond rating.

17 COM. NEWMAN: Can you explain that a little bit  
18 more for me.

19 MR. ROBINSON: Sure. Bond rating agencies in  
20 New York, rate companies based on their belief that the  
21 company will be able to repay any outstanding debt. And  
22 they rate them starting at AAA and going down. BBB  
23 minus is the lowest of the investment grade ratings.

24 If you are an investment grade company you have  
25 greater access to funds in the market because there are

1 a wider range of companies that can buy your securities.  
2 You also, because you are investment grade, pay less  
3 interest than you otherwise would pay because of the  
4 same security, with AAA being the most secure and they  
5 pay the lowest amount, and so on.

6 Once you drop from investment grade to  
7 non-investment grade, there is a universe that is no  
8 longer able to invest in your securities because they  
9 have covenants that prevent them from investing in junk  
10 bonds. Also, because those who do invest in junk bonds  
11 are less comfortable that they will actually see their  
12 investment repaid, the interest rate they demand for it  
13 is significantly higher.

14 There is a difference between a BBB solid and a  
15 BBB minus, but it is not a, it is not a huge difference.  
16 There is a huge difference between BBB minus and BB  
17 plus. And that's why when you drop below and to that  
18 point there is such a dramatic increase in the cost of  
19 interest expense.

20 COM. NEWMAN: And that's where this \$100 million  
21 figure that's been parlayed around comes from?

22 MR. ROBINSON: It is. It is.

23 COM. NEWMAN: Would you be sort of called in to  
24 come up with the \$100 million if you were dropped any  
25 farther or could that happen even if we say okay to this

1 ruling, let's say?

2 MR. ROBINSON: If you approve this settlement  
3 order, we, by the reaction of everybody in the financial  
4 markets, we will not be downgraded as a result of  
5 getting a settlement approved.

6 COM. NEWMAN: And you have that by, by --

7 MR. ROBINSON: Just by reading the literature  
8 people seem to believe this is a solid settlement. I  
9 haven't had any personal conversations with the rating  
10 agencies. I am guessing our CFO may have. But I see no  
11 reason for them to take an action, because this  
12 settlement actually improves our financial condition.  
13 So we are at BBB minus now; there would be no reason to  
14 take that action.

15 COM. NEWMAN: Okay. And they would also look  
16 favorably upon the cost cutting measures, the  
17 \$150 million equity infusion and other aspects of the  
18 settlement I imagine?

19 MR. ROBINSON: They would look at all the  
20 components, yes.

21 COM. NEWMAN: Which actually I looked at and  
22 seemed like a fairly good way to support your  
23 institution, which is really what we are reviewing as  
24 well as in this settlement, as well as how it impacts  
25 the consumers. We want to make sure that you are

1 financially healthy enough to lead Arizona into this  
2 clean energy age.

3 MR. ROBINSON: As I have said before, I think  
4 this is a good settlement for everyone.

5 COM. NEWMAN: With regard to the, and I was  
6 going to ask this is for both the judge and you, with  
7 regard to the stay-out provision, I mentioned before  
8 that the people on the street, they say, okay, you do  
9 this but make sure this only happens once in a blue  
10 moon. Now, I know blue moons happen once every, once  
11 every year or so. But, you know, they mean more than a  
12 blue moon. They mean a horse of many colors moon, if  
13 you know what I mean, not once in a lifetime experience.  
14 But they would like to take a rest. If we say yes to  
15 this, they would like to take a rest.

16 What do you say to that? And what is the  
17 chronology for the stay-out provision exactly, if you  
18 know?

19 MR. ROBINSON: Well, I will give it a shot. The  
20 stay-out provision says that we are not allowed to file  
21 another rate case until July 1st of 2011.

22 Is that correct?

23 And so we couldn't file it until then. Assuming  
24 that it takes a 12-month period of time to approve the  
25 settlement, you wouldn't have rates go into effect

1 until, at the earliest, the middle 2012.

2 COM. NEWMAN: Okay. I saw something else in the  
3 briefs, and maybe Staff can correct me, but something  
4 about 2014. It confused me. I did see 2014 and I was  
5 going to -- but if that's the -- if that's the  
6 chronology, I will take that for what it is.

7 CHMN. MAYES: Commissioner Newman, 2014 is the  
8 date by which they have to make the \$700 million equity  
9 infusion.

10 COM. NEWMAN: That's the '14 date.

11 MR. ROBINSON: Right.

12 COM. NEWMAN: So it does include many different  
13 points in time all the way to 2014. So it is really the  
14 2011 date, by 2011. We are sitting here basically  
15 January 2010. I can't believe I am saying that, but we  
16 are. So that's technically only an 18-month stay-out  
17 provision, not a multiyear stay-out provision.

18 MR. ROBINSON: Well, it is an 18-month stay-out  
19 before we can file. And by the time rates go into  
20 effect, it would certainly be a two-year or longer  
21 period of time, two and a half in fact, because the  
22 process is within 12 months, which would take us until  
23 July 2012. So you have a stay-out, no rate increase for  
24 base rates from January of 2010 until at the earliest  
25 July of 2012.

1 COM. NEWMAN: But you are including in that the  
2 amount of time that we would either take this under  
3 alternative dispute resolution or another rate review.  
4 You are including that time.

5 MR. ROBINSON: What I am talking about is the  
6 actual period where customers don't see the effect of  
7 any change in base rates.

8 COM. NEWMAN: But what the customers might see  
9 in 18 months is a huge headline saying APS, because of  
10 bad economic times in Arizona -- as the Chair said, we  
11 are second in the nation, at least state budget-wise, in  
12 facing a calamity. Similarly our companies will be  
13 facing similar calamities unfortunately. And I don't  
14 see any national -- not too many economists are saying  
15 we are going to be out of this until 2012. So it could  
16 be that you still can degenerate from an economic  
17 standpoint over the next year and a half.

18 MR. ROBINSON: But if there is a headline, if we  
19 file a rate case in July of 2011 and there is a headline  
20 as you were suggesting, that does not have an effect on  
21 the customer prices and it does not have an effect on  
22 the individual customers. That effect wouldn't come at  
23 least until a year later.

24 COM. NEWMAN: Do you expect that you will be  
25 needing a rate increase in 18 months?

1 MR. ROBINSON: I suspect we will be filing for a  
2 rate increase in 18 months, absolutely, because part of  
3 the settlement that we are filing now is the revenues  
4 that are being set in this case give us an \$80 million  
5 deficiency on today's costs. And that was part of what  
6 we had to give up to get the settlement. So the rates  
7 right now, if you look at cost of equity versus allowed  
8 versus what we will earn, we are giving up \$80 million  
9 effectively during -- effective immediately.

10 COM. NEWMAN: And you are going to have to make  
11 that back some way. And the reason why you are doing  
12 this, you are going to have to make that back some way.

13 MR. ROBINSON: Well, no. What I am going to --  
14 that's just a fact, that with the costs that we are  
15 setting, I am going to earn a rate of return in the 9s  
16 as opposed to the 11.

17 COM. NEWMAN: Okay.

18 MR. ROBINSON: So that's just a loss I am going  
19 to have. You know, I can't make that back. I am not  
20 sure I understand the make it back part unfortunately,  
21 Commissioner.

22 COM. NEWMAN: No. Well, what I -- make it back  
23 was referring to your statement, which I found  
24 interesting. I am just asking questions, having a  
25 man-to-man discussion about this. I found it

1 interesting that you said, you were very quick to say  
2 that there would be another rate increase probably by  
3 that time because of, and then you started citing  
4 statistics, need to make 9 percent interest on your  
5 investment. And that's not as automatic as I would  
6 think it would be. I would think a CEO might have heard  
7 what the Chairwoman said and what I am about to say,  
8 people are hurting all over the world, but certainly in  
9 Arizona. And it is not as if, you know, we are sitting  
10 in third world in Arizona but there are many poor people  
11 in a lot of neighborhoods that will be feeling this in  
12 the very hot summer of 2011.

13 MR. ROBINSON: Sure. And let me expand on that,  
14 if I may, Commissioner. The reason that I know that we  
15 will be filing an increase then is the rates that we  
16 would be setting as a result of this settlement  
17 basically allow us to recover costs that we were  
18 incurring through the 2008 time frame.

19 We are putting in, as you have heard from other  
20 people talking, almost \$1 billion a year of additional  
21 investment in our system to keep the lights on, to keep  
22 the system running and everything. We will have done  
23 that in 2009, we will have done that in 2010. And we  
24 will have done that part way through 2011. That is a  
25 significant investment that we will ultimately have to

1 recover some of our costs. So that's why I can tell you  
2 that we would have a case in 2011.

3 COM. NEWMAN: My last question is: If I were to  
4 consider an amendment, and which I assure you is being  
5 considered, of perhaps expanding the amount of stay-out  
6 time after, after this line of testimony -- I really  
7 wanted to have it in the record exactly what time we are  
8 talking about -- would that be a break dealer?

9 MR. ROBINSON: A deal breaker?

10 COM. NEWMAN: A deal breaker. I said a break  
11 dealer.

12 MR. ROBINSON: From our perspective, that --

13 COM. NEWMAN: A deal breaker.

14 MR. ROBINSON: -- would be a deal breaker.

15 COM. NEWMAN: That would be a deal breaker?

16 MR. ROBINSON: Yes.

17 COM. NEWMAN: You need to come back in 2012 to  
18 keep your company at, on an equilibrium?

19 MR. ROBINSON: I need to have the ability to  
20 come back in 2011 for rates in 2012.

21 COM. NEWMAN: Well, that was a little bit not  
22 what my understanding was of the settlement. My  
23 understanding was that this was a fairly liberal  
24 stay-out provision, that that was one of the reasons why  
25 some people felt good about this. But it is, it is good

1 that you are answering these questions honestly.

2 MR. ROBINSON: And, Commissioner, if you look at  
3 it, I believe it is a very liberal stay-out provision.  
4 If you look at the history that has been talked about  
5 already this morning, we have been in here repeatedly  
6 because of, because of all the issues that we face.

7 COM. NEWMAN: Well, I will have a couple  
8 interesting nights and days thinking about this  
9 provision that I am planning on bringing, I imagine so.

10 CHMN. MAYES: Okay. Commissioner Pierce.

11 COM. PIERCE: Yes. Thank you, Chairwoman.

12 Mr. Robinson, you said a little bit ago that if  
13 we, if the company went to junk bonds status, it was  
14 3 percent hit to ratepayers if you were downgraded to  
15 junk. I think that's what you said.

16 MR. ROBINSON: I was making, I was -- and I --  
17 if my people are correcting me if I am wrong, it is  
18 \$100 million a year additional in interest expense. So  
19 the 3 percent would be 3 percent on top of all of the  
20 other costs that we have.

21 Somebody tells me that I am off to my  
22 calculation.

23 MR. MUMAW: Probably closer to 4.

24 MR. ROBINSON: Okay. My counsel tells me I'm  
25 probably closer to 4.

1 COM. PIERCE: Okay. Well, for as long as you  
2 are in junk bond status.

3 MR. ROBINSON: At least, yes. And if we get  
4 downgraded to junk bond status, just so everybody  
5 understands that, if we went, were downgraded to junk  
6 bond status tomorrow, or whenever the Commission decided  
7 not to do this, we got downgraded, I can stand here and  
8 tell you I am very confident that it would take us a  
9 period of years before we would be able to get out of  
10 junk bond status, because once the rating agencies have  
11 made the determination to lower you into that status,  
12 they are going to require two things for you to get out  
13 of that status.

14 Number one, they are going to require a  
15 significant pattern of improved financial performance.  
16 They are also going to have to see a regulatory pattern  
17 that they believe is sustainable and that they believe  
18 is likely to continue to keep you in that point. So if  
19 you look at the people who have gone to junk bond status  
20 in the past five, seven years, I can think of Nevada  
21 Power, I think it took them four plus years to get out  
22 of that status. So it is a long period once you are in  
23 junk status.

24 COM. PIERCE: Okay. So basically, I want to use  
25 the 3 percent, that 3 percent does nothing for the

1 company other than it costs the company, which then  
2 passes through to the ratepayers, and there is no  
3 benefit to anybody other than that's just interest.

4 MR. ROBINSON: Correct.

5 COM. PIERCE: And so to recover from that, it  
6 would, there would probably need to be some  
7 extraordinary measures by the Commission to pull the  
8 company out, which when I look at extraordinary, I am --  
9 I mean that there would be increases, there would have  
10 to be more revenue, which means the ratepayers are going  
11 to have to fund, too. I am not sure what percentage  
12 that would be required to make the folks who set these  
13 rates, the bond folks --

14 MR. ROBINSON: The rating agencies.

15 COM. PIERCE: -- rating agencies, to make them  
16 happier. Using an example of another company that had  
17 to fight their way, do you know what their increases  
18 ultimately were?

19 MR. ROBINSON: You know, Commissioner, I don't  
20 off the top of my head, but they are significant because  
21 everything you just said is absolutely true, because, in  
22 order to show that improved financial performance, you  
23 have to start where you are today, you add the 3 percent  
24 on top of that. Then you have actually got to improve  
25 all the metrics that have got you into the downgrade

1 status, so whatever it takes on top of that. So you are  
2 talking a lot of money.

3 COM. PIERCE: And some of those things, some are  
4 perhaps borne by the ratepayers, some may be management,  
5 other things that go on that may have helped caused  
6 that. It is not necessarily all money; it could be  
7 business practice improvements as well, correct.

8 MR. ROBINSON: There could be some of that.

9 COM. PIERCE: Okay. All right. Thank you.

10 CHMN. MAYES: Thank you, Commissioner Pierce.  
11 Commissioner Stump.

12 COM. STUMP: Thanks, Madam Chair.

13 And hi, Mr. Robinson. Good to see you again.

14 MR. ROBINSON: Good to see you, Commissioner.

15 COM. STUMP: Thanks.

16 We are obviously well aware of the multitude of  
17 challenges utilities face, whether it be earnings and  
18 cash flow issues, infrastructure, investments, the debt  
19 and equity markets are a mess, rising cost of  
20 commodities, et cetera. And I have a man or woman on  
21 the street question, which I know the ROO has addressed  
22 to some degree. But I wondered if you could further  
23 articulate from the perspective of the long sweep of  
24 history specifically, how did APS get to the point where  
25 it is rated second from last in your opinion in terms

1 of, again, the grand sweep of, well, the long sweep of  
2 history I should say.

3 MR. ROBINSON: We have had a period of time in  
4 Arizona -- Arizona has traditionally had significant  
5 growth, 3 to 5 percent growth. That 3 to 5 percent  
6 growth requires significant capital investment in order  
7 to meet that growth. That significant capital  
8 investment requires significant returns that go along  
9 with it.

10 So if you look over the period of time, quite  
11 frankly, one of the things that is just a fact in the  
12 State of Arizona is we use a historic test year. It  
13 takes us a fair period of time to have rate -- to  
14 process rate increases and get them through. And when  
15 you put that together with the increased amount of  
16 capital and the amount of capital you need, we have seen  
17 a gradual deterioration of our financial condition.

18 Now, what we have done, and the Commission has  
19 been well aware of it because we have been in here a lot  
20 over the period of time, and the Commission's urging and  
21 some of our own, we have done a lot of things to reduce  
22 costs and to reduce the need to come in. But we are in  
23 a situation where just because of the amount of  
24 investment that's required for us to do the business,  
25 that's where we got.

1 CHMN. MAYES: Okay. Thank you. I have some  
2 questions for various parties. Let me first Amanda  
3 Ormond is here in the Interwest Energy Alliance and she  
4 is available for questions, but they don't have any  
5 public statements right now. So she is here and  
6 participated in the settlement agreement.

7 A couple questions for Mr. Mumaw probably  
8 initially. And these are not questions right now  
9 regarding my amendments or the subject of any  
10 amendments. I wanted to talk about Section 12 of the  
11 settlement agreement, which is the section that is  
12 entitled limit on recovery of annual cash incentive  
13 compensation for APS executives. And I understand that  
14 this section is designed to be a Damocles' sword over  
15 the head of the company making them meet various  
16 provisions of the settlement agreement, including  
17 performance measurements, I believe, the renewable  
18 energy requirements, the energy efficiency requirements,  
19 achieving the capital structure with no more than  
20 52 percent debt, achieving the \$700 million in equity  
21 issuance, doing the annual reporting requirements.

22 I guess my question for APS and maybe for any of  
23 the other parties that want to answer this, including  
24 Staff and RUCO, is: Why should the Commission put into  
25 rate base any annual cash incentive compensation for APS

1 executives? Why should we be rate basing any cash  
2 incentives or bonuses for APS executives at a time of  
3 record financial crisis in the State of Arizona for  
4 average Arizona residents?

5 I imagine that the average person on the street  
6 wouldn't particularly approve of this provision in the  
7 settlement agreement. And I haven't drafted an  
8 amendment on it because I understand this is a  
9 triggering mechanism for the other provisions in the  
10 settlement agreement. It is designed to be a Damocles'  
11 sword over the head of the company. But why should the  
12 Commission not knock down at least some of the cash  
13 incentives that would be allowed to go into rate base in  
14 this case, given the economic circumstances?

15 MR. MUMAW: Sorry. Madam Chair, members of the  
16 Commission, first of all, the rate level that's embodied  
17 in the settlement already reflects, at least we believe  
18 it reflects, a 50 percent disallowance of that  
19 compensation as is.

20 CHMN. MAYES: Understood. But why should we  
21 allow 50 percent?

22 MR. MUMAW: And continuing, that was reflective  
23 of, I think, the same resolution of that issue in the  
24 Tucson Electric case.

25 In our last rate case that was decided in 2007,

1 the Commission allowed all of executive -- all of  
2 everyone's cash incentive payments in that last case as  
3 they have in prior cases. For APS at least, and I think  
4 the Commission has historically recognized, that  
5 incentive payment is part of the overall compensation  
6 package. And the board goes to great degrees to have an  
7 independent subcommittee of the board on compensation,  
8 retains their own expert to advise them on executive  
9 compensation. And the goal has always been to have a  
10 package of both base pay and incentive potential that  
11 puts the company at least in the range of competitive  
12 executive salaries for similar companies of a similar  
13 size in the United States. And I think we have  
14 accomplished that. In fact, I am not aware that the  
15 Commission has ever determined that overall executive  
16 compensation for APS, combining base and cash incentive  
17 payments, are in any sense excessive compared to those  
18 paid to other utility executives around the country.

19 So we thought this was a major concession that  
20 it not only would not be recoverable, any additional  
21 amounts recoverable through rates in the future, if we  
22 have not met all of the performance measures, like I  
23 tell you, some of them are, they are real toughies,  
24 let's just put it that way, if we haven't met all of  
25 them, we can't even ask for them.

1 CHMN. MAYES: Well --

2 MR. MUMAW: We can't even make --

3 CHMN. MAYES: Okay. And sorry to interrupt,  
4 Mr. Mumaw, but I am not even sure this is a real  
5 Damocles' sword over your executives' heads because it  
6 strikes me, if you don't meet one of these performance  
7 measures, you know your shareholders could simply pay  
8 for these cash incentives and bonuses anyway. And my  
9 guess is they are going to pay for them anyway.

10 So, you know, so what if you don't meet all of  
11 the performance measurements? Your shareholders will  
12 just pony up anyway, in which case why doesn't it make  
13 sense for the Commission to at least knock this back so  
14 that, you know, it reflects some sensitivity to Arizona  
15 consumers who are suffering so much right now.

16 And I would add to that, and maybe you can  
17 respond to this, it seems to me there are a lot of  
18 executives out there that are foregoing bonuses,  
19 foregoing cash incentives right now in order to reflect  
20 the economic circumstances facing their companies, let  
21 alone their customers. And I don't understand why APS  
22 hasn't already voluntarily done that.

23 MR. MUMAW: I am probably not the best person to  
24 ask the latter one; although, I guess I would note that  
25 some of those other companies where they have foregone

1 bonuses this year, some of them receive compensation  
2 \$60 million last year. So perhaps they thought they  
3 could afford to be generous this year. So...

4 MR. GULDNER: Chairman Mayes, Jeff Guldner for  
5 APS. Let me just try to respond with some background  
6 Mr. Mumaw didn't address and give you at least a  
7 different context to start from.

8 As some of you may know, I came to APS from a  
9 law firm. And Snell & Wilmer was a for profit law firm  
10 and it had a very different compensation model. And a  
11 lot of compensation was just based on how well the firm  
12 did. So at the end of the year, if the firm did pretty  
13 well, then there was a bonus that was paid that  
14 reflected that.

15 It is a, it is an eye opening experience to walk  
16 through a utility's design of an incentive program,  
17 which I would confirm for you is dramatically different  
18 from a bonus program.

19 What an incentive program does is allows you to  
20 determine what the key metrics are -- I think  
21 Mr. Froetscher was in the back room -- metrics, utility  
22 window, SAIFI, SAIDI, CAIDI, MAIFI. These are all  
23 interruptibility metrics that reflect the reliability of  
24 our transmission distribution system. Those go in there  
25 with numerical values and then they become performance

1 measures for both the frontline employees and then the  
2 management teams to drive to.

3 And so your incentive program isn't reflective  
4 of bonuses in the sense of Wall Street firms or Lehman  
5 Brothers where you come in and are you rewarded because  
6 the firm is profitable. They were part of the overall  
7 compensation system. And I believe, I am not aware of  
8 any electric utility that doesn't use this type of a  
9 program, which is where different business units -- Palo  
10 Verde is going to be based on their performance, the  
11 fossil units will be based on their performance,  
12 distribution will be based on their performance --  
13 created a system that is intended to drive performance  
14 throughout the organization. And it is at all levels of  
15 management, from the executive level to the management  
16 level to the frontline level that that works.

17 And so if you look around the country, that's  
18 why we believe it is a prudent expense, it is something  
19 that's traditional and I believe is generally included  
20 in other jurisdictions as part of the cost of service,  
21 because it is not reflective of just the bonus because  
22 there was a payment made because the firm was  
23 profitable. It is meant to be earned. And if it is  
24 earned, it then incents people to perform effectively.

25 So there are other portions of the bonus, the

1 long-term incentive, you heard there is SERP, there are  
2 other things that aren't included in the cost of service  
3 that have been disallowed. In my experience incentive  
4 compensation, when structure this way, has been allowed  
5 because of the purpose of that incentive compensation.  
6 And so that's why we believe by doing this it puts the  
7 management team into the position of trying to align  
8 performance under the settlement agreement with what all  
9 the parties agreed to.

10 CHMN. MAYES: I guess my question, Mr. Guldner,  
11 is: Can't you do that with shareholder money? And then  
12 as a follow-up question, then I can go to Commissioner  
13 Kennedy, how many executives receive this cash incentive  
14 compensation?

15 MR. GULDNER: Can you do it with shareholder  
16 money? As we indicated, we are already doing it with  
17 shareholder money in the sense that the test year levels  
18 are at 50 percent. That's where we felt this adds,  
19 again, the recoverability as a measure that helps us,  
20 helps us manage the overall cost.

21 The way this provision was set up is it was to  
22 apply to vice president, vice president and above.  
23 Again, our incentive plan doesn't just apply to the  
24 officer team. The incentive plan applies through the  
25 organization at different levels. So the focus here, I

1 think, was really, from the parties' standpoint, to  
2 whole executive management. I don't know the exact  
3 number of VPs but it is to the vice president level.

4 CHMN. MAYES: And quickly one follow-up  
5 question. If you miss some of these performance  
6 measurements, will the executive team still receive cash  
7 incentives from shareholders.

8 MR. GULDNER: The compensation committee of the  
9 board determines how to do the overall compensation,  
10 whether to award the incentive. So that would still be  
11 there. I think that's an important governance  
12 principle. They need to be comfortable that they can  
13 hire, retain and attract the executives that they  
14 believe are best suited to manage the company. So that  
15 would be there discretion. But the shareholder paying,  
16 if you will, would be that then we could not seek  
17 recovery even if we believed it was prudent, even if we  
18 felt it was like deserving of recovery for that expense  
19 in one of the rate cases that's contemplated.

20 CHMN. MAYES: The answer is the executives, vice  
21 presidents and above, could still receive the incentive  
22 cash compensation even if they missed these metrics.

23 MR. GULDNER: They could if they met the  
24 performance measures or the incentive metrics that were  
25 in the underlying incentive plan.

1 CHMN. MAYES: Commissioner Kennedy.

2 COM. KENNEDY: Thank you, Madam Chairman. Madam  
3 Chairman, I am not sure Mr. Guldner or Mr. Mumaw should  
4 answer the question. I keep hearing the amount is going  
5 to be 50 percent of the test year level but I haven't  
6 heard what the test year level is, or was.

7 MR. MUMAW: Yes. Told to have ultra precision  
8 today. 4.37 \$ million was the test year amount.

9 COM. KENNEDY: 4.374 million?

10 MR. MUMAW: Yes, essentially a little over a  
11 four and a third million.

12 COM. KENNEDY: And Commissioner Mayes asked if  
13 someone could kindly get the number of exact what we are  
14 talking about. I would like to know the number.

15 MR. MUMAW: We can get that number.

16 COM. KENNEDY: I know you are not certain but  
17 that's something we would like.

18 MR. GULDNER: We can get the number. I am  
19 guessing it is in the 18 but I will find it out.

20 MR. MUMAW: It is in the teens. I just don't  
21 know what it is. We will find it out.

22 COM. KENNEDY: Thank you.

23 CHMN. MAYES: While, Commissioner Kennedy, would  
24 it be okay if he went to Commissioner Newman while we  
25 wait for that? Okay.

1 COM. NEWMAN: Yes, I wanted to continue the  
2 conversation, if I could, Madam Chair.

3 I actually caught the same thing that the Chair  
4 did about executive compensation and I am glad she got  
5 into that. I didn't quite know how to even start asking  
6 the questions, because I didn't know even how much money  
7 was involved with it and knew it would take some time.

8 Just so I understand, I am just going to try and  
9 close it and understand that you were saying that it  
10 wouldn't be paid for by ratepayers' money. This would  
11 be paid for by Pinnacle West money or APS shareholder  
12 money? Which entity of APS would be paying this bonus,  
13 if you would?

14 MR. GULDNER: Commissioner Newman, ultimately if  
15 it is not recovered from customers, then it would be  
16 paid by Pinnacle West shareholders. They are the public  
17 shareholders of the company.

18 COM. NEWMAN: I just wanted the record to be  
19 clear about that. And I wanted my mind to be sure that  
20 I heard that and wanted -- so Pinnacle West is on for  
21 that. But they could justify that in saying that the 18  
22 people, whatever other goals they may have achieved,  
23 they may have kept the company from getting worse in  
24 terms of bond status. I mean that's probably what you  
25 think about every day, is trying to keep your company

1 out of a worse rating, is that right?

2 MR. GULDNER: Commissioner Newman, ultimately,  
3 management works for the board of directors. The board  
4 of directors is responsible for selecting the management  
5 team that it thinks is best able to manage the company.  
6 And so from a governance, as we talked about this with  
7 the parties, from a governance perspective, the ability  
8 of the board to say, just name drop, Randy Edington, we  
9 need to go out and obtain a Randy Edington, they need to  
10 be able to develop the compensation package that's  
11 appropriate to attract, in that case, somebody who could  
12 be a nuclear plant turnaround specialist.

13 When that comes down then to a rate case and you  
14 talk about recoverability, we have come in traditionally  
15 and said those expenses are prudent and reasonable  
16 expenses and should be recovered and we try and make our  
17 case. And so if the Commission determines they are  
18 imprudent, then it could disallow it in the rate case,  
19 and we might argue about it. But that's how it flows  
20 through in the ratemaking process.

21 But the management discretion to attract the  
22 management team that the board believes is best suited  
23 to manage the company, that's an important governance  
24 principle that we felt the board needed to retain.

25 COM. NEWMAN: I would agree, having served on

1 boards, that that would be a good thing for the board to  
2 retain.

3 Just a quick question about the financial  
4 condition of the company. We have talked, I think off  
5 record before this case even started, about things like  
6 that. At least I was always concerned about how the  
7 company was doing.

8 How much of a rate of return would this -- the  
9 final numbers would an accountant come up with in this  
10 settlement? What rate of return are we blessing in this  
11 settlement, or we and all the parties who are seemingly  
12 so, so committed to approving this settlement.

13 MR. GULDNER: Commissioner Newman, that was one  
14 of, I would say, the challenges we had in the  
15 negotiation process, is we can talk about an authorized  
16 return on equity and we can set a number, but what  
17 ultimately matters to the financial community is what  
18 happens -- if the authorized number is for 2007 and we  
19 are in 2010, what are you actually earning in 2010?  
20 How, in 2010, can you go out and issue equity or borrow  
21 money given the returns that are being generated from  
22 the rates that have been set. And --

23 COM. NEWMAN: Well, that's my problem. I don't  
24 understand it.

25 MR. GULDNER: So, for example, one of the

1 things, if you look at other states, what they do in  
2 California, there is utilities in California that are on  
3 a three-year rate schedule. They set, it is my  
4 understanding, they set their rate increases for each of  
5 those three years in one proceeding, then have a  
6 separate cost of capital proceeding. So Southern  
7 California Edison may get a \$200 million increase this  
8 year and \$200 million increase next year and  
9 \$200 million the next year. So they come in once every  
10 three years for a rate case but they grant revenues each  
11 year of that three-year period.

12 Other states use future test years where they  
13 come in and say this is 2010, it is the first year in  
14 which you are going to have rates in effect, we will  
15 design the rates to recover your allowed return in that  
16 year. What we tried to do is work within the framework  
17 that's traditionally been used in Arizona, and do other  
18 mechanisms.

19 So your question about the stay-out provision,  
20 couldn't it be longer, the mechanisms such as the  
21 deferrals for half and then more than half of pension  
22 and OPEB costs above test year --

23 COM. NEWMAN: Right.

24 MR. GULDNER: -- incorporation of Palo Verde  
25 life extension depreciation rates, all those are

1 Schedule 3 as revenues. All those are mechanisms that  
2 help us bridge a revenue deficiency.

3 COM. NEWMAN: Or accounting maneuvers.

4 MR. GULDNER: I don't want to call them  
5 accounting maneuvers. They are noncash earnings for the  
6 most part. But from a corporate standpoint, it let us  
7 get the earned return, authorized earn at the 11 rate  
8 but had earned return at 9. And trending down, as we  
9 invest more plant, we had to figure out a way to get the  
10 earned return to a level that could support equity  
11 investments. And if you, if you --

12 COM. NEWMAN: What is the earned return? I, I  
13 love how you got me there. Is there a number?

14 MR. GULDNER: That's the 9 percent.

15 COM. NEWMAN: That's the 9 percent.

16 MR. GULDNER: Our equity in 2010 we expect would  
17 return around 9 percent. I don't have the exact  
18 percent, but it is in that range. And the challenge  
19 was, if you are issuing bonds and you are charging  
20 investors 8 percent on the bonds, to issue equity and be  
21 able to go into the equity market, you have to have a  
22 higher return because equities are riskier investment  
23 than debt.

24 So if I am a bondholder, I would rather take the  
25 8 percent on the bonds and be ahead from a liquidation

1 standpoint, my money is more secure, than to be an  
2 equity investor and have a chance, an upside chance, but  
3 I am behind the bondholder, so we knew in order to  
4 support the equity provisions of the settlement that we  
5 needed to have the earned return more sustainable during  
6 the 3 years, 2010, 2011 and 2012. Absent adjustment  
7 mechanisms, the only way we could figure out how to get  
8 there was through these mechanisms, Schedule 3's  
9 revenue, deferral accounting, and changing the  
10 depreciation lives.

11 COM. NEWMAN: So that's why Mr. Robinson and you  
12 would probably reiterate that a delay of coming back  
13 like I would be proposing would be a deal breaker  
14 because you haven't really come up with the accounting  
15 device yet to counteract that?

16 I would have to talk to somebody on my staff to  
17 figure out what a potential other accounting device or  
18 some other person who might be friendly enough to help  
19 me with that.

20 MR. GULDNER: Commissioner Newman, that's  
21 exactly the challenge. We all -- this was discussed at  
22 length in the proceeding, in the settlement  
23 negotiations, is how can you stay out longer, what  
24 mechanisms could you use. And the mechanism we came up  
25 with, coupled with the period of time we agreed to, was

1 at the lengths to which some parties were able to go.  
2 That's what really drove that period of time.

3 COM. NEWMAN: Now, in the spirit of sort of  
4 openness and interplay with the Commissioners, like I  
5 was calling for this morning in terms of getting our,  
6 talking about our planning together, this is sort of a  
7 question that I am asking you, not as a litigator, sort  
8 of an overseer of potential settlement. Is there --  
9 would you be free to offer with one of my staff that's  
10 not part of the litigation team so they could talk to me  
11 about other factors that the company may have considered  
12 but decided not, if you know what I mean?

13 I mean playing an open game of, I don't mean  
14 this to be a game, but just showing all our cards  
15 statement, as if we are trying to figure out what the  
16 best model is for a rate settlement, would you show all  
17 your cards?

18 MR. GULDNER: Commissioner Newman, under the  
19 terms of the stay-out provision?

20 COM. NEWMAN: Yes.

21 MR. GULDNER: Again, the settlement, the  
22 settlement agreement was, it was -- this was one of the  
23 difficult pieces of that settlement agreement, to get  
24 consensus on. I struggle to see how any of the ideas we  
25 had at the time, I am trying to be careful about not

1 going into the discussions themselves, but how one of  
2 the ideas that we had or other parties had that wasn't  
3 acceptable to other parties could somehow still salvage  
4 or come in as a potential alternative.

5 This was a, this was a provision that was  
6 discussed at length with different alternatives. On  
7 balance I think the parties believe that this was the  
8 right balance of time. We have got the -- Staff will  
9 try to process the case in a year. If it doesn't, there  
10 is a risk then on our side that that may be longer than  
11 middle of 2012. We have some ideas on how we can help  
12 the process along. That is built structurally into the  
13 settlement agreement. But I frankly think it would be  
14 difficult to come up with a mechanism that could extend  
15 it, for example, by a year.

16 COM. NEWMAN: Okay. Well, I am still looking  
17 for it. But I appreciate your candid testimony. And I  
18 want -- I was going to -- I am not going to ask the  
19 judge these questions at this time.

20 Madam Chair, I am -- just point of procedure.  
21 The judge has her order here, her interim order, but we  
22 can still freely talk to the judge at this point?

23 CHMN. MAYES: Yes, absolutely. Questions for  
24 the judge are also in order. That's fine.

25 COM. NEWMAN: And I don't want to take the part

1 of everyone else, but if the judge could take notice of  
2 that conversation and I would like to speak to her about  
3 some of the points that were made. Thank you.

4 CHMN. MAYES: Okay. Maybe we can come back to  
5 that.

6 COM. NEWMAN: Yes. I didn't want to -- I didn't  
7 think -- I thought it would break it up or maybe --

8 CHMN. MAYES: Not yet.

9 COM. NEWMAN: Not yet.

10 CHMN. MAYES: Not yet.

11 COM. NEWMAN: Not yet, okay.

12 CHMN. MAYES: Okay.

13 COM. NEWMAN: It is more of an amendment  
14 question, I suppose.

15 CHMN. MAYES: Mr. Guldner, getting back to the  
16 cash incentive compensation, and then I will turn to  
17 another subject -- well, hang for a second. Let me ask  
18 RUCO this question.

19 Mr. Pozefsky, you argued in your briefs and in  
20 the case that this provision, I will call it the  
21 Damocles' sword provision, was significant, that it  
22 would limit -- I think the order uses the words or  
23 describes your view of it as saying that it limits cash  
24 compensation.

25 My question to you is: Does it really? I mean

1 it sounds to me like the fact is the company could still  
2 use shareholder money to pay off their executives, their  
3 cash compensation, even if they run afoul of some of the  
4 provisions of the settlement agreement. So where is the  
5 real incentive for these executives to meet the  
6 provisions of the settlement agreement? Do you really  
7 think that they are going, that these executives will be  
8 personally incented by the threat of not recovering the  
9 cash incentives in rates? Because it seems to me that  
10 they are going to get their cash incentives one way or  
11 the other.

12 So where is the real incentive here for them to  
13 meet these provisions? And if this is just a faux  
14 incentive, why are we going to allow any of this stuff  
15 into rates? Why not just set up -- why not just say you  
16 know what, you don't meet these provisions, we will fine  
17 you or we will sanction you, which is what we usually  
18 do.

19 MR. POZEFSKY: Well, you know, I think the  
20 question, or the way I would respond to that is I think  
21 that the executives feel pressure from shareholders. I  
22 can understand that or I can see where there is going to  
23 be pressure from the shareholders to produce.

24 So, you know, from the shareholders'  
25 perspective, it is always better if it is something I

1 suspect, especially with incentives that, hey, look, if  
2 we do our thing and the management does it right, they  
3 need to be compensated. This is something that it  
4 shouldn't be just the burden of shareholders. And I am  
5 not taking a position or arguing that it should be all  
6 the burden of ratepayers, because, you know, in the last  
7 rate case, we argued actually that 20 percent of the  
8 incentives should be -- it should be reduced, the cash  
9 incentive, by 20 percent.

10 CHMN. MAYES: 20 percent off of the test year  
11 levels or was it just 20 percent?

12 MR. POZEFSKY: It was 20 percent off of what  
13 they were recommending, which was, as I recall, the test  
14 year levels in the last rate case on the cash -- I have  
15 it right here. There are two aspects to the request,  
16 Madam Chairman. One was the stock based incentives,  
17 which the Commission totally denied.

18 CHMN. MAYES: Right. And there is none of that  
19 case, right?

20 MR. POZEFSKY: Right. And that was 4.8 million.  
21 And SERP is gone, is another thing, on supplemental  
22 executive retirement. So the cash base incentive of  
23 17.8 million, as I recall in the last case, the  
24 Commission allowed all of that 17.8 million. We made  
25 the argument that it should be 20 percent, or 4.563

1 should be -- that's what the adjustment was. And that  
2 kind of fell by the wayside. The Commission didn't buy  
3 our argument.

4 We did think and I think we still do think that  
5 there is some merit to the argument that ratepayers do  
6 get a benefit if in fact, I mean this is a fairness  
7 argument, if in fact the executives do produce and that  
8 ratepayers to some degree, not as much the shareholders  
9 I think or the company thinks, should be responsible for  
10 paying.

11 I know this doesn't directly get to your  
12 question. Your question is exactly what is the, what is  
13 the hold over the company. And I don't know if I could  
14 argue with you that, you know, that maybe the hold isn't  
15 as strong as it is sort of being presented or this sort  
16 of thing. But there is a hold.

17 I do think that there is an incentive here for  
18 the company to, and don't get me -- and I think, in  
19 fairness to your question, the amount that they would  
20 get is still at test year level. They are still going  
21 to get that, the test year level. The 50 percent is, as  
22 Mr. Mumaw referred to, the test year level. It is going  
23 beyond the test year level, what incentive is there to  
24 do that.

25 So I guess my question -- my response to you is

1 the incentive is going to be that the ratepayers, not  
2 the shareholders, would be the ones that would be paying  
3 for it. And it is more palatable.

4 CHMN. MAYES: Okay. Well, I mean the way I read  
5 the settlement agreement, it states that the annual cash  
6 incentive compensation for APS executives paid for 2010,  
7 2011, and 2012 shall not exceed the test year level  
8 unless the company, you know, does all of these things  
9 in the performance section of the agreement.

10 And so that says to me that, and so it is my  
11 understanding, Mr. Guldner, that the test year level  
12 equals 50 percent of what you had asked for. Apparently  
13 we gave you 100 percent of what you asked for during the  
14 last rate case. So my question to you now is: You  
15 know, given -- isn't this an area where you could take a  
16 haircut, given the severe economic crisis facing your  
17 ratepayers in the State of Arizona, if only -- you know,  
18 and I don't think it is just symbolic. I think it would  
19 be more than symbolic. It would be, you know, something  
20 of a small reduction to rates.

21 MR. GULDNER: And, Chairman Mayes, when we  
22 agreed to the settlement, we took out the long-term  
23 incentive and the SERP, which are two components of  
24 compensation. Those are not being recovered from  
25 customers. And at 50 percent of the short term in

1 performance incentives, those were already removed.

2 The idea with this, and it is really going  
3 forward further than just next year, recall rates would  
4 go into effect in two thousand -- the 2010 test year  
5 wouldn't see rates go into effect until at least 2012.  
6 The idea of this provision was let's, I think, let's  
7 think of it differently. Let's align the interests  
8 together. The idea with this provision was let's get  
9 aligned on the same interests so we are thinking about  
10 the same thing, and then in 2012, when we are trying to  
11 seek recovery of those 2010 incentives, if we haven't  
12 met the performance standards, we can't essentially put  
13 that in the case.

14 So the rate impact of that, there has already  
15 been a fair amount taken out in the settlement already  
16 of executive compensation. This incentive piece would  
17 really align more in the 2012 time frame.

18 CHMN. MAYES: All right. And your view is that  
19 there is, that there is an incentive associated with the  
20 pressure put on you by your board of directors to have  
21 this come from ratepayers and not from shareholders?

22 MR. GULDNER: Yes, because you can't recover --  
23 there is no balancing account. I mean this is money  
24 that you are not going to be able to recover in costs.  
25 And we do this with anything that's called below the

1 line.

2 CHMN. MAYES: But on the other hand, you have  
3 stated for the Commission that you and the other  
4 executives may still get your money.

5 MR. GULDNER: If the incentive plan as  
6 designed -- that's part of what, when we work through  
7 our whole management structure, that's the theory what  
8 you do if you achieve the.

9 CHMN. MAYES: No, no, no, no. I mean if you  
10 miss it, if you miss the mark on any of these measures,  
11 you may still get your money if the board of directors  
12 decides to use shareholder monies to pay for your cash  
13 incentives.

14 MR. GULDNER: And, Chairman, if we miss the mark  
15 on one of these performance incentives in the settlement  
16 but nonetheless meet the requirements in the underlying  
17 incentive plan, that's where the board could decide,  
18 well, I still want to do that because the incentive  
19 plan --

20 CHMN. MAYES: Right.

21 MR. GULDNER: -- and meet the objectives on  
22 that.

23 CHMN. MAYES: Okay. I will turn to another  
24 area, I mean unless my colleagues have questions that  
25 they want to ask.

1           And this may be something that the utility may  
2     need to go back and do a little homework on, but,  
3     Mr. Guldner or Mr. Mumaw, page 17 of the recommended  
4     opinion and order discusses the requirement that APS  
5     eliminate annual expense by an average of \$30 million a  
6     year, \$150 million total over the lifetime of the  
7     settlement agreement. This obviously is a continuation  
8     and amplification of the provision that I inserted into  
9     the interim rate case requiring you to reduce costs and  
10    expenses by \$20 million.

11           Can you give us a sense of where the company  
12    sees that first tranche of \$30 million in expense  
13    reductions coming from?

14           MR. MUMAW: I am probably not the correct  
15    witness on that because all I could do is repeat to you  
16    what Mr. Hatfield testified to at the hearing, which was  
17    supply chain reform, my term, we could get more  
18    centralization of functions around the company where,  
19    for example, if, let's say if a function is being done  
20    separately by each business unit of the company, maybe  
21    centralizing it so all of it is done by one organization  
22    rather than four, hypothetically, organizations. And I  
23    know from memory that's what, that's what Mr.  
24    Mr. Hatfield testified to at the hearing. I can't --

25           CHMN. MAYES: Well, you have had six months to

1 think about it and prepare a plan. I assume this plan  
2 is going to have to be implemented pretty soon. I would  
3 assume it starts right after the Commission votes on the  
4 rate case. So I mean I am asking for a list today, if  
5 you can provide that to us, unless you don't have a  
6 plan. And if you don't have a plan, then I am a little,  
7 I am a little underwhelmed by this provision. So do we  
8 have a plan yet?

9 MR. GULDNER: The budgeting process is underway.  
10 It is an annual process and so it tends to go through  
11 December of any given calendar year. So there are folks  
12 that right now are working on individual unit budgets.  
13 And included in that are, as Tom mentioned, the supply  
14 chain is a strategic initiative that is looking at what  
15 costing you wring out of the supple chain mechanism,  
16 strategic sourcing, things like that. So that's all  
17 being done in the budget process today so that it can  
18 implemented in 2010. The budget won't get approved  
19 until later this month.

20 CHMN. MAYES: Later this month?

21 MR. GULDNER: Later this month. So it will be  
22 in place for 2010.

23 CHMN. MAYES: Well, is there something you can  
24 come up with later this week?

25 MR. GULDNER: We can come up with where we are

1 with the individuals.

2 CHMN. MAYES: For the Commission.

3 MR. GULDNER: Again, in my organization, at  
4 least, it has been in my organization working through  
5 the process with the understanding what we have been  
6 tasked with doing, and this rolled up.

7 CHMN. MAYES: Okay. Well, it would give me some  
8 level of comfort if we could get at least some color on  
9 what that might look like. When you say supply chain  
10 reform, are you talking about outsourcing? We are going  
11 to get to that obviously.

12 MR. GULDNER: I know we are going to get to  
13 that. It is different than outsourcing.

14 CHMN. MAYES: Okay. Well, do you anticipate  
15 achieving any savings associated within this \$30 million  
16 associated with outsourcing your jobs to India, China,  
17 Ireland or any other country?

18 MR. GULDNER: No, not that I am aware that.

19 CHMN. MAYES: All right. Commissioner Newman.

20 COM. NEWMAN: Along the same lines of trying to  
21 figure out chronology -- could you please come back?

22 On page 11 of the decision, down on lines 27 and  
23 28, and I was, I was reading some things on Sunday, I  
24 came across these benchmarking provisions. Why don't  
25 you, for the record, can you explain a little bit more

1 about this benchmarking process? And basically the  
2 section provides by March 31st 2010 Staff shall select a  
3 benchmarking firm, that's our Staff I guess, to conduct  
4 a benchmarking analysis of APS' operational and cost  
5 performance relative to a peer group of at least 30  
6 other investor owned electric utility companies.

7 MR. GULDNER: Absolutely, Commissioner. This  
8 was important for APS because, as you heard today, we  
9 have already gone into the FFO to debt and some of the  
10 other metrics and the why are we here. And I think what  
11 we thought would be helpful, and I think what the  
12 parties felt would be helpful, you have got to see the  
13 timing of this, in 2010 there is a benchmarking study  
14 prepared that looks at a lot of different metrics and a  
15 peer group that's from around the country, so that you  
16 have before you, when that 2010 rate case is filed, not  
17 just us saying here is where we are and other parties  
18 intervening from different interest groups, but you will  
19 have a report that identifies where the company stands  
20 relative to other relevant companies to help you  
21 evaluate that 2010 rate case.

22 COM. NEWMAN: And who is going to be paying for  
23 that?

24 MR. GULDNER: That's us.

25 COM. NEWMAN: Okay. So the company takes that

1 on as a cost. That's what I thought.

2 And this is important from the standpoint of  
3 ratings and the whole, I mean the whole general subject  
4 of how you rate nationally as well as improving your own  
5 performance.

6 MR. GULDNER: Well, it is meant to be -- there  
7 are performance measures that are driving at the  
8 performance. The benchmarking study was meant to give  
9 some objective information of how the, actually,  
10 management of the company and the performance of the  
11 company compares to a peer group that is a reasonable  
12 peer group, so things like nuclear utilities and so  
13 forth.

14 So instead of just going into the rate case and  
15 we say we are operating well and other parties say,  
16 well, here is what we disagree with, there is a study  
17 that provides an introduction at the time that case is  
18 filed so you can essentially see what you are paying  
19 for.

20 COM. NEWMAN: Okay. And this would, it would be  
21 information for the next rate case or it would be  
22 information from Wall Street?

23 MR. GULDNER: No. This is intended for the  
24 Commission.

25 COM. NEWMAN: For the Commission.

1 MR. GULDNER: Yes.

2 COM. NEWMAN: Okay. Maybe I could ask Staff  
3 about, Staff there for a second, Staff about the same  
4 benchmarking study. Was it a Staff suggestion or how  
5 did this come about?

6 MR. ABINAH: Good afternoon.

7 COM. NEWMAN: Not that it is bad. I just wanted  
8 a little bit more about how it came about.

9 MR. ABINAH: Good afternoon, again,  
10 Mr. Chairman, Commissioner Newman. I agree with what  
11 Guldner said. The benchmark study is just for  
12 information for the Commission at the next rate case.

13 A bit of history. In the past I believe the  
14 company has been before the Commission claiming they  
15 show FFO to debt to debt. And they show downgrade and  
16 how they compare with other companies. And this would  
17 just provide additional information when the company  
18 filed their next rate case to be able to compare APS  
19 with other company, very similar company. So I agree  
20 with Mr. Guldner. It is just information for the  
21 Commission.

22 COM. NEWMAN: Okay.

23 MR. ABINAH: I agree a downgrade would not be a  
24 good idea.

25 COM. NEWMAN: And I am going to just quicken

1 this up. I am glad to receive a benchmarking study.  
2 Was there any other things that Staff -- that we could  
3 ask APS to do since this has, you know, been a very long  
4 rate case? And not that benchmarking shouldn't be one  
5 of the things that we should be doing, but I see that  
6 they are paying for it, that we ask for it but it helps  
7 them and helps us. Are there any other things that  
8 Staff thought about that APS might be able to include in  
9 the study, since we are studying them anyway, besides  
10 just sort of accounting benchmark criteria or fiscal  
11 criteria, if you know what I mean? Because I think this  
12 is more of a fiscal analysis.

13 MR. ABINAH: Commissioner Newman, I am going to  
14 be very careful to answer that question. And I believe  
15 I might defer to Maureen or Janet, because it is a legal  
16 issue. But if you look at the agreement, we listed all  
17 the things we believe is appropriate for the benchmark.

18 COM. NEWMAN: Would be appropriate?

19 MR. ABINAH: That's correct. It is in the  
20 agreement what we believe. Can we come up with  
21 additional information? Yes. But I believe from the  
22 discussion we had, like I said, I have to be very  
23 careful about the legal situation, we believe that the  
24 list is almost all inclusive.

25 COM. NEWMAN: Right. I had to ask those

1 questions because I am thinking about other things I  
2 might want to know about. So that's why I had broached  
3 that question.

4 Does legal want to clarify anything to keep me  
5 from violating the spirit of the settlement agreement?

6 MS. SCOTT: Chairman, Commissioners, the list  
7 that you see set out in the agreement contains more than  
8 just financial metrics. It also contains -- and, excuse  
9 me, I am trying to find the --

10 MR. GULDNER: Page 26.

11 MS. SCOTT: -- the section now.

12 It also contains operational performance  
13 measures, cost performance. And then of course, as we  
14 discussed, there is the financial health of the  
15 companies. And I think it was, it was the opinion of  
16 the parties that after looking at a variety of  
17 statistics that these were the ones that would give the  
18 Commission important information relative to peer, a  
19 group of peer companies.

20 As with any provision of the settlement, this is  
21 more or less a balancing that goes on.

22 The other point that I would make to you, that  
23 if there were additional items that you wanted analyzed,  
24 you know, you would have to look at that from the  
25 perspective of it being is it a material change or not

1 to the agreement. And that would be something that the  
2 parties would have to weigh in on. If it were not a  
3 material change in all of the parties' positions, then  
4 it is, it is essentially up to the Commission. But the  
5 Staff supports the metrics that are in the agreement.

6 COM. NEWMAN: Okay. And now I go to my last  
7 question. If I was looking -- we still have a couple  
8 days, I understand from the Chair, about raising some  
9 amendments. If I were to look at something in this  
10 benchmarking and want as a friendly, you know, a  
11 friendly amendment, wouldn't -- might cost a little bit  
12 more money of course because anytime I add something, it  
13 would cost more money to the bill, but that wouldn't be  
14 a deal breaker to look at some of those calculus, would  
15 it?

16 MR. GULDNER: I would ask you to look at all of  
17 the reporting metrics that are in there, too. I mean is  
18 adding a line item on the benchmarking study going to  
19 change it? I don't know. I mean I don't know what the  
20 line item is. But there is a great deal of reporting.

21 This doesn't preclude the Commission from hiring  
22 whatever consultants it believes is necessary for the  
23 rate case to do whatever work was there. This was meant  
24 to provide an input before that case was filed or  
25 concurrent with the filing of that case for

1 consideration by the Commission.

2 COM. NEWMAN: Okay. Thank you. Thank you,  
3 Madam Chair, for your patience.

4 CHMN. MAYES: No problem. Mr. Guldner, and then  
5 maybe this was a question for Mr. Mr. Hatfield. I see  
6 him hiding in the back of the room.

7 MR. HATFIELD: Obviously not well.

8 CHMN. MAYES: Not well enough. I see him. But  
9 I wanted to talk to you about the top of page 11 of the  
10 order, which refers to, well, I mean it refers to the  
11 periodic evaluation and the performance measurements.  
12 And one of those includes APS' efforts to achieve a  
13 capital structure of no more than 52 percent total debt  
14 as calculated by the credit ratings agencies by  
15 December 31st 2012. I think both Staff and RUCO listed  
16 that as a significant item and a significant concern for  
17 them.

18 I guess I am interested in knowing how APS plans  
19 to do this if not via the equity infusion. Does APS  
20 believe that it can achieve that lowering of its debt to  
21 equity ratio or lowering of its total debt load to  
22 50 percent only with a rate increase in this matter? Is  
23 it some mix of the equity infusion and the rate  
24 increase? And if so, how much of it will be achieved  
25 through the equity issuance? How much of it will be

1 achieved through the rate increase?

2 And can you tell us that? I mean obviously, and  
3 this has been a sore spot for me, I am not particularly  
4 thrilled by giving you as much latitude as we give you  
5 in this order, which is, we let you wait until  
6 potentially 2014 to do, to do any equity issuance  
7 whatsoever. I know that Mr. Hatfield testified that  
8 that's not your plan. You plan, and he said on his  
9 earnings calls that, you know, they plan to do some  
10 equity issuance in 2010. But I am trying to understand  
11 how you think you are going to do this.

12 MR. GULDNER: Chairman Mayes, I will give it a  
13 try. And if he yanks me off...

14 I think certainly an important piece of that  
15 will be equity in meeting this 2012 time frame.

16 CHMN. MAYES: You are just not going to tell me  
17 how much.

18 MR. GULDNER: An important reason why we don't  
19 want to tell you how much is because that's what, of  
20 course, the hedge funds and other folks will begin to  
21 arbitrage then on the street: Okay, when are they going  
22 to do it? How much is it going to be for? Is it just  
23 going to be once or is it going to be twice during the  
24 year? How are they going to roll this out?

25 And for Mr. Hatfield and his team to look for

1 that optimal time to where you can hit the issuance, you  
2 have made the road shows, you have gone through and  
3 built the story, we have got maybe some other positive  
4 announcements to make during the discussion with  
5 potential investors, and you make that issuance at a  
6 time when price to book is high and it is less dilutive.  
7 That's better because that helps that whole metrics.  
8 Certainly the rate increase helps also with funds from  
9 operations. Managing costs helps with funds from  
10 operations. Managing debt levels could help with the  
11 denominator of the equation.

12 So all those are the pieces that have to go in,  
13 but I know equity is a important piece to fall.

14 CHMN. MAYES: So it would be some blend of  
15 equity, rate increase funds, cost savings and debt  
16 control. On that point, I do -- you know, and I  
17 understand the need to control your debt, but we also  
18 have a lot of priorities for you and you have priorities  
19 that require issuance of debt, including for  
20 transmission lines and renewable energy projects. So  
21 can you give us any more color on what you mean by  
22 limitation of debt?

23 MR. GULDNER: I don't know. I just think debt  
24 is a component that you could work with. And, again,  
25 the imputation piece is another piece you can work with,

1 because it is not just debt you are talking about in a  
2 raw level, it is imputed debt as measured by the rating  
3 agencies.

4 MR. HATFIELD: I am going to yank him out. Good  
5 job.

6 Good afternoon, Chairman Mayes.

7 CHMN. MAYES: Can you state your name for the  
8 record.

9 MR. HATFIELD: Yes, Jim Hatfield with APS.

10 On that, I would like to go back a little bit to  
11 the first question on how we get to 52.7 from where we  
12 are today. Certainly if you look at the calculation of  
13 debt to capital, earnings, so the rate increase would be  
14 important. Issuing equity is going to be important.

15 We are looking at things to improve cash flow,  
16 which ultimately will improve our earnings and improve  
17 the cap side of that piece. And we have significant  
18 imputed debt by S&P. And there is really four  
19 components of that.

20 One is the unfunded pension liability, which you  
21 know changes from year to year, but we are looking at  
22 that. You also have the Palo Verde sale leaseback,  
23 which we have to look at. We have significant PPAs,  
24 which we need to bring into account. And we have  
25 several operating leases which also add about

1 200 million of imputed debt. All these things we need  
2 to look at and get behind and realize the way we have  
3 done things in the past is the way we need to do things  
4 going forward, including do we lease or do we buy. Now,  
5 that has operational and other implications, so we need  
6 to look at those things.

7 CHMN. MAYES: So, and something you just said,  
8 Mr. Hatfield, struck me, so you believe that the rate  
9 increase will increase earnings and then you intend to  
10 retain earnings at APS in order to help --

11 MR. HATFIELD: Yes.

12 CHMN. MAYES: I understand you have a dividend,  
13 and I am not going to get into a quarrel with you right  
14 now, but you will retain some earnings in order to  
15 achieve the 52 percent debt level?

16 MR. HATFIELD: That's correct, Chairman. And  
17 the more we retain the better the debt side. The more  
18 we improve cash flow, the better the debt side. All  
19 these go to all points in figuring out the equation.

20 On your second question, which is capital needs  
21 going forward, anything we do, whether it be additional  
22 transmission or renewables or any other projects, we are  
23 going to have to finance with a combination of debt and  
24 equity, because there is no alternative. We have to  
25 maintain the capital structure or we will be downgraded.

1 CHMN. MAYES: And while I have you, let me ask  
2 you a question on this point. I heard you say on your  
3 last earnings call, really jumped out at me, I think you  
4 said -- maybe Mr. Brandt did -- that you no longer  
5 believe that the PPA model is a sustainable one --

6 MR. HATFIELD: Correct.

7 CHMN. MAYES: -- sustainable one for you. And  
8 I, and I assume, and I think you may have even said  
9 this, that that is being driven by the ratings agencies  
10 and their imputation of the debt associated with the  
11 PPAs?

12 MR. HATFIELD: Correct.

13 CHMN. MAYES: And that kind of worries me,  
14 because while I don't mind you guys owning and operating  
15 renewable energy projects, I am, I am worried about sort  
16 of the massive shift to utility ownership away from  
17 PPAs. I mean, are you going to be able to maintain a  
18 mix of both PPAs and utility ownership of renewable  
19 energy projects?

20 MR. HATFIELD: Well, absolutely. And because we  
21 are already committed to projects, say for example the  
22 Solana, my only point is if we continue to have PPAs on  
23 the balance sheet, ultimately it will get to that  
24 tipping point. If so we need look and work with the  
25 stakeholders at this Commissions about what is the right

1 mix and give us an opportunity sometimes to rate base  
2 these projects so it doesn't put us over the tipping  
3 point.

4 CHMN. MAYES: And have you -- and I, I heard  
5 actually from a representative, Mr. Cortright, I heard  
6 him speak in Dallas last week on this issue. And it  
7 sounds like they are looking at, you know, imputing all  
8 this debt from these PPAs.

9 Do you have any visibility into at what point  
10 they impute that debt? I mean, is it a PPA that's  
11 longer than five years, longer than ten years, 20 years?  
12 What are they saying to you guys?

13 MR. HATFIELD: Well, Commissioner, much like  
14 you, they don't give us a lot of transparency either.  
15 We do know if it is a short-term PPA, it is going to  
16 impute debt.

17 CHMN. MAYES: What is that? Five years?

18 MR. HATFIELD: It really depends. It depends  
19 how much PPAs you have in your mix. I think obviously  
20 they compute less to wind than they would to gas. How  
21 you recover it through base rates or fuel is something  
22 they take into account. And, of course, as they do,  
23 they always change the rules at some point in the  
24 future. So we are always trying to figure that out.

25 CHMN. MAYES: Okay. Okay. Thank you for that.

1 Appreciate it.

2 Mr. Guldner, again, just going to the underlying  
3 order and not necessarily any amendments, page 14 of the  
4 order discusses the requirement that APS expeditiously  
5 pursue permitting and authorizations and construction of  
6 a transmission line or lines. Has APS identified which  
7 one of the RTTF lines you will utilize for this  
8 provision?

9 MR. GULDNER: Chairman Mayes, we are putting  
10 together right now, based on the BTA open meeting that  
11 you saw, our RTAP, renewable transmission actions plan,  
12 and working on improving the evidence of renewable.  
13 There was some discussion at that special open meeting  
14 about what would be helpful in the application. So we  
15 will be submitting that plan and get beaten by Ms. Scott  
16 if I say before the end of the year probably, but we  
17 will be submitting that plan relatively soon, like  
18 within a month or so. And it would have, my guess is,  
19 more than one transmission line for the Commission to  
20 consider.

21 CHMN. MAYES: Well, which ones?

22 MR. GULDNER: So the Palo Verde, the Delany to  
23 Palo Verde project we intend to put in that plan. Palo  
24 Verde to North Gila we will put in the filing. And  
25 there is a project that's kind of a combination of lines

1 that at this point isn't -- that we are really more into  
2 let's permit it and be ready to go. So I am not sure it  
3 is as far as this in terms of construction but we would  
4 want to permit potentially a transmission line that  
5 could be in the south, in the Liberty area. Depending  
6 on where a project then develops in that area, we would  
7 move forward with transmission to that site. So those  
8 were the three projects that were, where APS proposed  
9 projects we had identified in the BTA.

10 CHMN. MAYES: Okay. Commissioner Newman.

11 COM. NEWMAN: Yes. According to the force  
12 majeure provision in the settlement, on page 38 --

13 MR. GULDNER: I may punt to a lawyer,  
14 Commissioner Newman, if that's okay.

15 COM. NEWMAN: I am a lawyer. I am not going to  
16 ask you a legal question.

17 CHMN. MAYES: Wait a second. You are a lawyer,  
18 Jeff.

19 MR. GULDNER: I am a recovering lawyer. I don't  
20 live my life in six-minute increments anymore.

21 COM. NEWMAN: The next to last sentence in the  
22 paragraph on the force majeure position says this  
23 provision is not intended to preclude APS from seeking  
24 rate relief pursuant to this section in the event of the  
25 imposition of federal carbon tax or related federal cap

1 and trade system. I have to ask you a question about  
2 this.

3 MR. GULDNER: Sure.

4 COM. NEWMAN: Partly because I am confused how  
5 it fits into the next cycle or whether it is included,  
6 into remains there is an automatic rate increase if a  
7 cap and trade provision should go through Congress or  
8 whether that depends on whether or not Congress has the  
9 effective date sometime into the future beyond. But I  
10 have to ask you about that as well given the other  
11 questions I have been asking about timing and stay-out.  
12 You can answer that question as a layperson and lawyer.

13 MR. GULDNER: Sure, Commissioner Newman. The  
14 provision was here I think modeled after the Tucson  
15 Electric Power settlement which had a similar sentence  
16 in it. So from a lawyer's standpoint, one concern was  
17 if there wasn't the same sentence in here and there was  
18 one in the prior settlement agreement, does that somehow  
19 mean that a cap and trade carbon tax or cap and trade  
20 cost would have been excluded because we all knew it was  
21 in the Tucson settlement but it wasn't put in here.

22 Also, at the time the settlement was negotiated,  
23 there was more uncertainty, I would say, as to whether  
24 it was likely or possible that there could be a cap and  
25 trade cost imposed before the Commission had a chance to

1 address the next rate case, so if in 2011, for example,  
2 they impose a 20 percent increase in costs, that we  
3 would be precluded from seeking recovery of.

4 COM. NEWMAN: Which it sounds like they may be  
5 getting close.

6 MR. GULDNER: And that would be, I guess, an  
7 example of a force majeure position wherein there would  
8 be probably a need for every company exposed to that to  
9 come in and say what do we do about it. We can't  
10 stomach a 20 percent hit for an entire year and just  
11 absorb those losses. That's a cost of providing power  
12 to customers that we need to figure out a way to pass  
13 along. Maybe it is fuel adjuster. There are other ways  
14 to do it. But it was just to make sure that this  
15 position was clear that if a carbon tax or cap and trade  
16 cost was imposed before the next rate case, that we  
17 could come in and seek some type of recovery under this  
18 force majeure position.

19 COM. NEWMAN: Just to make it clear, if it did  
20 pass Congress but had an implementation date of 2014,  
21 then you wouldn't have to have an emergency rate case.

22 MR. GULDNER: That's right. Then in that case  
23 presumably that would be a hot topic of discussions in  
24 the next, in the next case, because I think that would  
25 be a significant area of discussion, how do you want to

1 address those costs.

2 COM. NEWMAN: Okay. Thank you. I just wanted  
3 to clarify. Because I have been asking a series of  
4 questions about the length of the stay-out and that's  
5 part of it as well.

6 CHMN. MAYES: Mr. Guldner, page 17 of the --  
7 this may be for Mr. Hatfield as well. Actually, I am  
8 sorry, not page 17, page 19 of the order discusses  
9 Mr. Hatfield's testimony, that if the Commission  
10 approves the settlement agreement, he is confident that  
11 APS will be able to improve its financial health.

12 Can you give us a sense of the degree to which  
13 you believe the company will be able to improve its  
14 financial health? And specifically, do you think that  
15 this settlement agreement will be, will allow you to dig  
16 out of BBB minus or just remain at BBB minus.

17 And I ask you this just having listened to a  
18 speech by Richard Cortright in Dallas in which he  
19 basically declared the entire electric industry a BBB  
20 industry and said that it was going to be virtually  
21 impossible for electric utilities to dig out of BBB. So  
22 I mean it was very depressing frankly. They always  
23 depress me, those rating agencies. But I think I  
24 depressed him, too, in my speech, but...

25 Is this -- do you see this -- do you see you

1 guys, do you see yourselves climbing out of BBB minus or  
2 just remaining at that level?

3 MR. HATFIELD: Chairman Mayes, my belief is this  
4 settlement and the metrics that fall out of this  
5 settlement solidify our rating BBB minus. I believe, my  
6 personal belief is another great step toward what the  
7 agencies view as the problem in Arizona. In their  
8 words, historic test year, lots of growth, and a longer  
9 time frame -- if we are able to process the case in 12  
10 months, I think that's another incremental step -- I  
11 think both of those will continue to solidify the rating  
12 where we are right now and our metrics will support that  
13 BBB minus. It is going to take a couple of those cycles  
14 in my opinion to get back to BBB. And that's just my  
15 personal opinion I have not talked to them about that.

16 CHMN. MAYES: Okay. Do you know what your FFO  
17 to debt ratio is today, I mean as we speak?

18 MR. HATFIELD: I think the last one we filed  
19 with the Commission was like 18 six. Is that right? 18  
20 six. And a lot of that this year is driven by two  
21 factors, well, really three factors.

22 You know, there has been the reversal of fuel.  
23 That's one item. They continue with the bonus  
24 depreciation, 2009, and that helped depreciation. That,  
25 by the way, is also going to be there for 2010 now.

1 They just passed that. And then we have had significant  
2 tax, federal income tax timing issues of deferred tax,  
3 which accelerated cash recovery into 2009. Of course,  
4 those were timing only and those will turn around at  
5 some point in the future, but we will take the cash  
6 today.

7 CHMN. MAYES: Okay. Thank you.

8 Commissioner Kennedy.

9 COM. KENNEDY: Thank you, Madam Chairman.

10 Mr. Mumaw, I guess we are going to go back to  
11 you. On page 13, talking about the renewable energy and  
12 renewable energy projects and potential projects, my  
13 question really is: Are you referring to the Starwood  
14 project?

15 MR. MUMAW: We are talking about the new utility  
16 scale renewable project?

17 COM. KENNEDY: Yes. In your testimony you  
18 testified to the Starwood project. And I am just trying  
19 to get clarification if this is what you are referring  
20 to in this section here.

21 MR. MUMAW: No. This would be a new project.  
22 This would be neither Starwood, which as we all know is  
23 defunct, or Solana. This would be a new project.

24 COM. KENNEDY: A brand new project.

25 MR. MUMAW: Yes, ma'am.

1 COM. KENNEDY: Okay. Thank you.

2 CHMN. MAYES: To that point, would this PV  
3 project be one of the projects you anticipate bringing  
4 forth to the Commission under your Arizona Sun proposal?

5 MR. MUMAW: Madam Chairman, I think it certainly  
6 could be, but the decision, as I recall, and I think  
7 there was testimony to that effect during the hearing,  
8 we haven't made a determination as to whether that would  
9 be an APS owned project, which is essentially the  
10 Arizona Sun, or whether this would be a project like  
11 Solana that would be the subject to a PPA. But it  
12 certainly could be within the scope of that program.

13 CHMN. MAYES: Okay. Well, if it is, why should  
14 the Commission consider this a benefit of the settlement  
15 agreement? You basically filed the Arizona Sun program  
16 after Starwood collapsed. Why should we consider this  
17 provision a benefit if you are filing it under the  
18 auspices of another application?

19 MR. GULDNER: Chairman Mayes, Jeff Guldner. I  
20 think the RES mechanism, I think of it as a funding  
21 mechanism. So if we move forward with a renewable  
22 project and one of the provisions in the settlement  
23 agreement -- there are different ways that you can move  
24 forward with that. You can seek RES funding just  
25 through the RES mechanism. We can seek -- if it is an

1 APS constructed project. So we weren't thinking of the  
2 Arizona Sun program when we agreed to this provision but  
3 if that fits within it, and if that's the project that  
4 makes sense to move forward with, that's just the  
5 mechanism that could fund that project. So I think the  
6 commitment is that we would go ahead and do that and  
7 move down that course.

8 But I don't know if the decision -- yes, by a  
9 specified time frame, but it is not, I don't think it  
10 has been our decision that that's the project that would  
11 meet that specific settlement clause.

12 CHMN. MAYES: Okay. Well, I mean that's an  
13 interesting answer. I just have a few more.

14 COM. KENNEDY: Madam Chairman, while you are  
15 looking --

16 CHMN. MAYES: Sure.

17 COM. KENNEDY: -- on page 18 talks about  
18 creation of rural jobs. But as I look at the number,  
19 425, it is awfully small. I am not sure what type of  
20 jobs you are talking about, why so few.

21 MS. GRABEL: Commissioner Kennedy, if I may  
22 respond, those are the jobs related specifically to two  
23 projects, the photovoltaic solar facility and the in  
24 state wind project. The vast majority are related to  
25 the PV project in excess of 400, I believe -- I would

1 have to go back and check -- because that type of  
2 project creates the most jobs. Wind creates fewer  
3 permanent jobs by contrast.

4 However, as you also note, Section 15.1 of the  
5 agreement requires us to meet a large amount of  
6 renewable resources within the scope of the settlement  
7 terms. So it is very likely that additional green jobs  
8 will be created far in excess of what you see spelled  
9 out there. That's just what we could actually quantify  
10 based on the projects articulated in the agreement, but  
11 there is the potential for far greater.

12 COM. KENNEDY: Thank you.

13 CHMN. MAYES: Mr. Guldner or Mr. Mumaw or  
14 Ms. Grabel, whoever wanted to field this one, page 15 of  
15 the order discusses the company's demand response  
16 programs. And obviously I have a couple of amendments  
17 on DR.

18 I was not impressed with the number of customers  
19 that you anticipate signing up for your pilot critical  
20 peak pricing program. You -- the order says that APS  
21 must make a good faith effort to obtain at least 200  
22 customers to participate out of a million. This section  
23 provides that APS will implement a residential critical  
24 peak pricing pilot program and, again, make a good faith  
25 effort to obtain at least 300 residential customers.

1           So 200 commercial customers, I assume, and then  
2   300 residential customers. Why so few? I mean, really,  
3   it seems very unambitious.

4           MR. GULDNER: Chairman, just in the sense this  
5   was proposing a pilot, what we hope to obtain from a  
6   pilot is a sample size that's large enough that we can  
7   determine how the program works, what the customer  
8   response is, what, if any, changes need to be made, what  
9   technology works for the program with the, I think, hope  
10   that you would then expand the program beyond the pilot.

11           So in the size, in the calculation of what size  
12   works, you are looking for a statistically valid sample  
13   size that will give you enough data to move beyond the  
14   pilot stage into implementation. So that was why we  
15   picked those sizes. What we didn't want to do was get  
16   into if you get a larger scale pilot and then either the  
17   plan doesn't work or the program doesn't work and it is  
18   either you lose costs or you lose the investment or you  
19   have to go and unwind a larger program.

20           CHMN. MAYES: Well, okay. And I understand  
21   that. My concern is if you decide you just don't like  
22   doing this or you don't like the program, is this  
23   Commission, and I will be long gone by then, but is this  
24   Commission going to have to wait until 2012 before we  
25   ask you to do more with it or to move forward? I mean

1 it seems to me that you could do this for a year and  
2 just, you know, wash your hands and there is nothing the  
3 Commission could do.

4 COM. NEWMAN: That goes to my amendment.

5 CHMN. MAYES: So you sign up your 200 customers,  
6 you sign up your 300 customers. Somebody at APS decides  
7 that you don't like the program. And, you know, it  
8 isn't until 2012 that the Commissioners know that you  
9 have abandoned it.

10 MR. GULDNER: The requirement does, settlement  
11 provision does include the summary requirement. I can  
12 tell you it is not our intent to roll out a pilot  
13 project and then abandon if it is an effective mechanism  
14 what demand response can do.

15 CHMN. MAYES: But that's my other beef with  
16 this. Then you get two years before you even have to  
17 docket the study with the Commission, which is then we  
18 are at the next rate case.

19 So it strikes me that this should have been done  
20 two years ago, the whole study should have been done two  
21 years ago. But we are where we are. So I may have, you  
22 know, some orange paper on this tomorrow because I just  
23 think it is very unambitious given, and we are going to  
24 talk about your rollout of smart meters, given the fact  
25 and the information you provided in your letter to me --

1 I appreciate that information -- but given the fact that  
2 your ratepayers are already paying tens of millions of  
3 dollars for smart meters and it could be years before  
4 they even see a tariff that helps them use those smart  
5 meters.

6 MR. GULDNER: And, Chairman, we will respond. I  
7 know we have seen the draft amendment on that. I know  
8 we have got something. And we want to talk about that  
9 or give our take on it. And we may have some of our  
10 program folks on that.

11 But I want to communicate the size here was  
12 developed because they are thinking through that  
13 long-term process of how do I move with a lot changing  
14 technology, a lot of things in play right now, generally  
15 how do we make sure we make that right decision so we  
16 can move it forward.

17 CHMN. MAYES: When did you start rolling out  
18 smart meters, your AIM?

19 MR. GULDNER: The metering began, I believe, in  
20 2006. The meters were being selected in the 2004, 2005  
21 time frame.

22 CHMN. MAYES: Why did you not bring us a  
23 critical peak pricing program before now?

24 MR. GULDNER: We filed, the critical piece  
25 pricing program we filed in the rate case in 2008, which

1 was, as we started ramping up the meter deployment, we  
2 had talked about putting a critical peak pricing program  
3 in the rate case we filed. We have to come through a  
4 rate proceeding to do that, or at least I think that was  
5 our thought.

6 CHMN. MAYES: Well, I am not sure about that,  
7 but okay.

8 MR. GULDNER: But I mean we will have our folks  
9 who can address our deployment or the timing of that if  
10 you would like.

11 CHMN. MAYES: Okay. Commissioner Newman.

12 COM. NEWMAN: Yes, splicing out the questions.  
13 I am referring to page 12 of the decision, and the  
14 section is rate increase, and 3.6, paragraph 3.6. I  
15 will ask Mr. Mumaw this question. We haven't had a  
16 chance to colloquy much. Seems right up his alley. And  
17 maybe the executives from the company can listen too.

18 The paragraph 3.6 states that in addition, under  
19 this agreement, APS is allowed to recover an increase in  
20 base fuel costs of \$137.2 million for a total rate  
21 increase of \$344.7 million.

22 So, now, that is right, that the total increase  
23 is around approximately \$340 million? Is that right,  
24 Mr. Mumaw?

25 MR. MUMAW: Madam Chair, Commissioner Newman,

1 that's correct. But you have to understand that's also  
2 inclusive of the interim increase that was granted last  
3 year. So I just don't want to leave the flavor it is  
4 all new money. It is also inclusive of a large sum of  
5 fuel costs that are currently being recovered through  
6 the PSA mechanism but which will now be rolled into base  
7 rates.

8 So as we put it this way, they will, they will  
9 have a different line item on the bill but there won't  
10 actually be an increase. The, that's why we asked  
11 people to kind of focus on the 196 -- if you look at  
12 3.4, that 196.3 million --

13 COM. NEWMAN: Yes.

14 MR. MUMAW: Plus look up the next paragraph,  
15 11.2 --

16 COM. NEWMAN: Right.

17 MR. MUMAW: -- which is essentially the new  
18 fuel, the sum of those which is 207.5. If I am doing my  
19 math real quickly, that represents the increase that  
20 isn't just relocating fuel from one part of the bill to  
21 another part of the bill. And, again, 67.2, if my  
22 memory serves my right, 67.2 of that 207 was actually  
23 granted last year. -- 65.2, sorry, was granted as part  
24 of the interim increase last year. So the all new part  
25 of that would be 207 minus 62, which 145 and some

1 change.

2 COM. NEWMAN: So the new part under this  
3 agreement of the rate increase that the ratepayers are  
4 going to have to pick up is approximately 145 million,  
5 not the total 344 million.

6 MR. MUMAW: And that 145 million would be  
7 virtually entirely offset by the reduction in the PSA.  
8 Yes, all but \$9 million of that is offset by the  
9 reduction in the PSA. That's why people have talked  
10 about these like less than half of a percent increase  
11 numbers that you probably heard thrown around the room.

12 COM. NEWMAN: Right. No, I have. And so when I  
13 read a paragraph that says APS is allowed to recover on  
14 its face almost \$140 million in fuel costs, it is hard  
15 for me to puzzle it out.

16 MR. MUMAW: Well, it is difficult, Commissioner  
17 Newman. And sometimes I think we, and this I am kind of  
18 including all of us in the room, we are all our own  
19 worse enemies. This is portrayed the way it would be  
20 customarily have been portrayed had this gone to a  
21 litigated decision. In my opinion it does seem like we  
22 go out of way to make the increase look as large as  
23 possible. But the belief of the parties was we are  
24 going to state this in the traditional manner, which  
25 means it is inclusive of the interim, it is inclusive of

1 adjusters that are now being folded into base rates, et  
2 cetera, et cetera, et cetera. And I agree that it  
3 honors convention but it does confuse. And not  
4 just -- it confuses customers to think, believe that the  
5 increase is much, much larger than in fact it is going  
6 to be.

7 COM. NEWMAN: Correct. And, well, that is the  
8 reason why I am asking the question, because the man on  
9 the street question, they read this settlement just like  
10 I did. And I am committed to a higher standard of  
11 knowledge and I still didn't get it. It still seems to  
12 me a device that is allowing \$140 million in fuel  
13 recovery, notwithstanding all those other explanations  
14 that you had, to cut it down to just a couple percent.  
15 It -- boy.

16 MR. MUMAW: Commissioner Newman, let me explain  
17 this way. The 137.2 is just the increase in the base  
18 fuel amount which was set based on quite long ago fuel  
19 cost.

20 COM. NEWMAN: Okay.

21 MR. MUMAW: Okay? And although full costs have  
22 gone down recently, they have still not reached kind of  
23 historic lows.

24 COM. NEWMAN: So when you gentlemen and ladies  
25 were in that room settling things, I don't want to get

1 passed the wall of settling the things, this was  
2 discussed under terms of how much -- I mean it must have  
3 been discussed in some detail, how to get to these  
4 different numbers in order for you to sort of give an  
5 equity payout on the back side with all this stuff going  
6 in on the front side.

7 But in the end, it is going to be the  
8 Commissioners who are going to have to explain to the  
9 folks in the service territory, service territory, that,  
10 yeah, you know, we got this formula by 140 million in  
11 base fuel costs.

12 And so are we to tell them that's because costs  
13 of fuel went up? Is that the real reason why this is  
14 happening, this rate increase, or isn't the real reason  
15 the rate increase is happening is to keep APS from  
16 falling lower than B, CCC, B -- BBB minus rather.

17 MR. MUMAW: Let me say this, Commissioner. For  
18 once, and we have had several cases, both interim and  
19 permanent, in which clearly fuel was the dominant issue,  
20 for once, I am not saying better or worse but different,  
21 fuel was not the dominant issue in this case.

22 The dominant issue in this case was the  
23 additional capital investment that the company had made  
24 since the prior test year, that it resulted in the  
25 decision in the summer of 2007, which was basically,

1 with some adjustments, a 2005 test period. And  
2 subsequent to that period, there had been very  
3 significant additional capital expenditures by the  
4 company. And that was the primary driver in this case.  
5 And I think the parties recognize that, I am not saying,  
6 again, it was better or worse than being fuel, but it  
7 was a different issue and it required a different  
8 response. And I think this settlement addresses that  
9 response.

10 I am also reminded that I should probably  
11 respond to your question about the offset on the fuel,  
12 address a comment that I think, or a question that had  
13 been earlier raised, I believe by the Chairman,  
14 indicating how long would that fortunate circumstance  
15 obtain. And currently it will be for all of 2010 and  
16 the first month of 2011.

17 Part of that offset is due to what they call, I  
18 don't want to get too technical, what they call the  
19 historical component of the PSA, which is essentially a  
20 reconciliation of how much you collected in a prior year  
21 versus how much you were supposed to collect in that  
22 prior year. That will be negative for 2010. And  
23 assuming our forecast is correct, that would not reoccur  
24 in 2011. It could reoccur, but if it reoccurs it is  
25 because of some forecast inaccuracy for whatever reason,

1 usually weather.

2 The forward component, which is the dominant  
3 part of the reset benefit, it depends on whether fuel  
4 prices remain low into 2011.

5 I believe in response to one of the  
6 Commissioners' inquiries, and I think perhaps it might  
7 have been yours, Commissioner Newman, we provided you a  
8 forecast what we believe for the next three years of  
9 future fuel costs and so forth. And as you can see from  
10 that forecast, we show a range of forecasts that would  
11 either keep that forward element negative or have it  
12 switch back to a small positive. But, again, that's  
13 just a forecast. And as we all found out, to our  
14 sorrow, in 2006, you are just one hurricane away from a  
15 price blowout. But our current projection is that until  
16 the economy recovers, you are probably going to see low  
17 fuel costs.

18 CHMN. MAYES: Commissioner Newman, I don't mean  
19 to interrupt.

20 COM. NEWMAN: No, no. That was all the  
21 questions. He explained it very well.

22 CHMN. MAYES: No, and I appreciate the line of  
23 questioning. And I think we will continue with it  
24 tomorrow morning. We do need to -- I think we will call  
25 it quits for the night because our court reporter is

1 probably really getting tired.

2 Just before we go, though, Mr. Mumaw, in  
3 response to my letter, you stated you did provide the  
4 bill impact assessment that I asked for. I appreciate  
5 that. You also stated, and this was interesting,  
6 Attachments A and B reflect the most recent power supply  
7 adjustment estimates for 2010 which have further reduced  
8 the overall bill impact, which suggests to me that gas  
9 prices went down even after the hearing, is that  
10 correct?

11 And what -- can you or Mr. Rumolo tell us what  
12 that amount is?

13 MR. MUMAW: We can tell you the dollar amount.  
14 I would have to ask somebody what was the reason for  
15 that; although, I can suspect part of it was, and  
16 probably comes to no surprise to anyone, our sales in  
17 the third quarter were pretty high. Anybody who  
18 survived July probably is aware of it.

19 So part of that, I think, is probably just sales  
20 for '09 being higher than anticipated and therefore  
21 collections higher than anticipated. But there is  
22 probably also some pricing aspects of that as well. And  
23 I will come briefed tomorrow or somebody will come  
24 briefed tomorrow with an explanation as to why there is  
25 a difference.

1           As I think Mr. Pozefsky says, it is not, it is  
2 not a big one. I mean you are going from a point, my  
3 recollection, like a .9 percent increase down to a  
4 little bit less than .5 percent increase. But certainly  
5 it is half a percent and it is in the right direction.

6           CHMN. MAYES: Okay. And then real quickly  
7 before we leave, because I am going to be sort of  
8 reading this tonight and I know my colleagues are going  
9 to be interested in the bill impact, just for a frame of  
10 reference, this is the letter they sent us, colleagues,  
11 on December 3rd. There is like ten sheets attached to  
12 this letter. Can you just point us to the -- and there  
13 are several assessments for the residential rate E-12,  
14 which I think is the most common ratepayers. Which ones  
15 ought we be looking at?

16           MR. MUMAW: I would suggest if you are  
17 interested, we picked, we showed it for all rate  
18 schedules, but. I will tell you that E-12 is obviously,  
19 it is the only available non-time of use rate. So I  
20 guess it is by definition the most popular non-time of  
21 use rate because it is the only one. But, in fact, our  
22 second most popular rate, and the ET-1 I believe shown  
23 there, that is the most popular time of use rate.

24           CHMN. MAYES: Time of use, okay.

25           MR. MUMAW: And also, if you want to, there

1 should be a summary page on there where we show it for  
2 all the eligible rate schedules all on one convenient  
3 page.

4 CHMN. MAYES: Yes. I see it.

5 MR. MUMAW: But I will tell you those are the  
6 two most popular rates and certainly the overwhelming  
7 majority of your residential customers are on that;  
8 although, I would be remiss if I did not tell you that  
9 what I call the two series, ET-2 and ET-2R, EC-2, 12:00  
10 to 7:00 time of use rate is coming up fast on the  
11 outside, so to speak, in popularity.

12 CHMN. MAYES: Oh. Does the summary page reflect  
13 all adjuster mechanisms and the base rate increase and  
14 the PSA credit?

15 MR. MUMAW: I am told it is; although, it is  
16 all, all adjusters, either as they will be affected by  
17 this settlement, which would be the PSA, the demand-side  
18 management adjuster, and the RES adjuster, there is some  
19 that are just shown at their current level, like the  
20 transmission cost adjuster, because they are not  
21 impacted one way or the other by the decision you are  
22 making.

23 CHMN. MAYES: Okay. Thank you. All right. We  
24 are in recess until 9:00 a.m. tomorrow morning.

25 (The proceeding recessed at 5:55 p.m.)

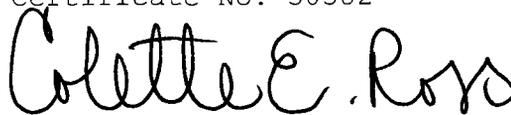
1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF MARICOPA )

4  
5  
6  
7 We, KATE E. BAUMGARTH, Certified Reporter No.  
8 50582, and COLETTE E. ROSS, Certified Reporter No. 50658  
9 for the State of Arizona, do hereby certify that the  
10 foregoing printed pages constitute a full, true and  
11 accurate transcript of the proceedings had in the  
12 foregoing matter, all done to the best of my skill and  
13 ability.

14  
15 WITNESS my hand this 8th day of December,  
16 2009.

17  
18 

19  
20 KATE E. BAUMGARTH  
21 Certified Reporter  
22 Certificate No. 50582

23 

24 COLETTE E. ROSS  
25 Certified Reporter  
Certificate No. 50658