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PLACE: Dobbs Building, Raleigh, North Carolina  
DATE: Monday, May 16, 2022  
DOCKET NO.: W-218, SUB 526A  
TIME: 2:00 p.m. to 3:07 p.m.  
BEFORE: Commissioner ToNola D. Brown-Bland, Presiding  
Chair Charlotte A. Mitchell  
Commissioner Daniel G. Clodfelter  
Commissioner Kimberly W. Duffley  
Commissioner Floyd B. McKissick  
Commissioner Jeffrey A. Hughes

IN THE MATTER OF:

Application by  
Aqua North Carolina, Inc.,  
202 MacKenan Court, Cary, North Carolina 27511  
for Approval of Annual Adjustment to  
Conservation Pilot Program Revenue  
Reconciliation Charge/Credit

VOLUME 1

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A P P E A R A N C E S:

FOR AQUA NORTH CAROLINA, INC:

David Drooz, Esq.

Fox Rothschild LLP

434 Fayetteville Street, Suite 200

Raleigh, North Carolina 27601

FOR THE PUBLIC STAFF:

Megan Jost, Esq.

Public Staff - North Carolina Utilities Commission

4326 Mail Service Center

Raleigh, North Carolina 27699-4300

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PARTICIPANTS:  
FOR AQUA NORTH CAROLINA, INC:  
Shannon Becker  
Dean Gearhart  
  
FOR THE PUBLIC STAFF:  
Chuck Junis

1                   COMMISSIONER BROWN-BLAND: Good afternoon.  
2 Let us come to order and go on the record. I'm ToNola  
3 D. Brown-Bland, the presiding Commissioner for this  
4 hearing, and with me this afternoon are Charlotte A.  
5 Mitchell, Commissioners Daniel G. Clodfelter, Kimberly  
6 W. Duffley, Floyd B. McKissick, Jr, and Karen M.  
7 Kemerait. Commissioner Jeffrey A. Hughes is also with  
8 us by remote conference using the WebEx platform.

9                   I now call for oral argument, Docket Number  
10 W-218, Sub 526A, In the Matter of Application by Aqua  
11 North Carolina, Inc. for Approval of Annual Adjustment  
12 to Conservation Pilot Program Revenue Reconciliation  
13 Charge or Credit.

14                   On February 14th, 2022, Aqua North Carolina,  
15 Inc., hereafter Aqua, filed a Conservation Pilot  
16 Program annual reconciliation request pursuant to the  
17 Commission's Order Approving Partial Settlement  
18 Agreement and Stipulation Deciding Contested Issues  
19 Granting Partial Rate Increase, and Requiring Customer  
20 Notice issued on October 26, 2020 in Docket Number  
21 W-218, Sub 526, hereafter the Sub 526 Rate Case.

22                   On April 1st, 2022, the Public Staff filed  
23 its Notice of its Plan to Present Comments and  
24 Recommendations at the Commission's April 18, 2022

1 Regular Staff Conference.

2 On April 8, 2022, Aqua filed a response to  
3 the Public Staff's Notice and asserted that the  
4 calculations proposed in the Public Staff's Notice are  
5 inconsistent with the Commission's finding in the  
6 Sub 526 Rate Case, that a Revenue Reconciliation  
7 Process as set forth by the Company is integral to the  
8 Pilot Program.

9 In its response, Aqua agreed with the Public  
10 Staff's recommendation that the refund be made a  
11 one-time bill credit to all effective Pilot customers  
12 as opposed to over a period of 9 to 12 months as  
13 originally foreseen by the Company.

14 Aqua asserted that this concession by the  
15 Company mitigates and offsets any need for the  
16 Commission to require the accrual of interest as  
17 recommended by the Public Staff. Aqua requests that  
18 if the Commission imposes an interest charge, it use a  
19 rate of 6.81 percent which is the Company's current  
20 overall rate of return.

21 Finally, Aqua requested that the Commission  
22 rule that any interest imposed in this current  
23 proceeding for the refund be the rate that would be  
24 applied to any future customer surcharges resulting

1 from future revenue under-recoveries.

2 The Public Staff had planned to present this  
3 matter to the Commission at its April 18, 2022 Staff  
4 Conference. However, at the request of the Commission,  
5 this matter was removed from the Staff Conference  
6 agenda to allow both parties to provide verified  
7 written responses to Commission's questions.

8 On May 4th, 2022, the Commission issued an  
9 order directing the parties to file verified responses  
10 to nine specific questions relating to the  
11 Conservation Pilot Program Annual Reconciliation  
12 Request, and this matter was scheduled for oral  
13 argument today, May 16th at 2:00 p.m.

14 On May 11th, both Aqua and the Public Staff  
15 filed responses to the Commission's questions, and on  
16 May 12, 2022, Aqua filed the amended affidavits of  
17 Dean M. Gearhart.

18 On May 11th, the Public Staff filed a motion  
19 requesting that technical experts be allowed to  
20 participate at the oral argument, and on May 12, 2022,  
21 that Commission -- that motion was allowed by  
22 Commission Order.

23 So, today, we are here for oral argument on  
24 the outstanding issues regarding revenue

1 reconciliation as it pertains to the conservation  
2 Pilot Program approved in the 526 Rate Case.

3 In compliance with the State Government  
4 Ethics Act, I remind all Members of the Commission our  
5 duty to avoid conflicts of interest and I inquire, at  
6 this time, as to whether any member has any known  
7 conflict with respect to the matter before us this  
8 afternoon.

9 (No response)

10 COMMISSIONER BROWN-BLAND: Let the record  
11 reflect that no conflicts were identified. I'll now  
12 call upon counsel for appearance.

13 MR. DROOZ: David Drooz, appearing on behalf  
14 of Aqua North Carolina.

15 COMMISSIONER BROWN-BLAND: Good afternoon,  
16 Mr. Drooz.

17 MS. JOST: Megan Jost with the Public Staff.  
18 We represent the Using and Consuming Republic --  
19 Public rather. With me pursuant to the Commission's  
20 Order allowing expert witness participation is Charles  
21 Junis, Director of the Public Staff's Water, Sewer,  
22 and Telephone Division.

23 COMMISSIONER BROWN-BLAND: And good  
24 afternoon to you both. All right. Are there any

1 matters that need to be brought to the Commission's  
2 attention before we begin?

3 MR. DROOZ: I had one question. Assuming  
4 Aqua's the party with the burden of proof, do we get  
5 to go first and last?

6 COMMISSIONER BROWN-BLAND: That's exactly  
7 what I am going to suggest and allow.

8 MR. DROOZ: Thank you.

9 COMMISSIONER BROWN-BLAND: So you were ahead  
10 of me. We will go ahead with the oral arguments. We  
11 will begin with counsel for Aqua. We would ask that  
12 you please be judicious. At this point, the  
13 Commission has read as well as has been briefed on the  
14 filings, so we -- a quick way to say it is we believe  
15 you can cut to the chase, and I think you'll be able  
16 to do it in short order.

17 Commissioner does have a few questions, and  
18 we may come up with some more. The more you talk, the  
19 more questions we may have. All right. So,  
20 hopefully, we can keep time to a minimum number. And  
21 it's our preference that as you proceed with your  
22 arguments, that you do so in a manner that does not  
23 require us to clear the hearing room and/or go off of  
24 the live stream. But if you do need to get into



1 something you feel is confidential, we request that  
2 you bring it to our attention properly so we can deal  
3 appropriately.

4 If there's nothing else, I think I covered  
5 it all. We'll start with -- we'll hear from Aqua. We  
6 do ask, because we are on camera, that anyone who is  
7 speaking, come up to the witness stand position.

8 MR. DROOZ: Mr. Becker will be joining me as  
9 well as Mr. Gearhart on video, so we'll both come up.

10 COMMISSIONER BROWN-BLAND: And just be sure  
11 you bring the mics up as close you can because we want  
12 to make sure that Commissioner Hughes as well as  
13 witness Gearhart can hear. It's mighty tempting to  
14 put you under oath, but that's not why we're here  
15 today, so we won't do that.

16 MR. DROOZ: Commissioners, my name is David  
17 Drooz, again, appearing on behalf of Aqua North  
18 Carolina. I'm going to speak to the revenue  
19 reconciliation issue, primarily from the legal side.  
20 And if there's technical questions, Mr. Becker and  
21 Mr. Gearhart can respond.

22 Upfront, I want to say that, you know, the  
23 Company has undergone a number of corrections in its  
24 calculation from its February 14th filing to its

1 April 18th -- April 8th filing to the May 11th filing,  
2 and a number of those were in response to errors  
3 caught by Public Staff and Commission, which we, in  
4 retrospect, appreciate. I believe with the May 11th  
5 filing, the Company has sorted out the errors and now  
6 has a reasonable recommendation before the Commission.

7           The primary contested issue in this case is  
8 whether to true-up or do the reconciliation based on  
9 average usage perfect customer or on the total revenue  
10 requirement. This arises because the Company did  
11 experience a higher level of revenues from the Pilot  
12 errors -- areas than was anticipated in the Rate Case,  
13 so refund's due.

14           These two reasons why revenues in 2021 were  
15 higher. The first is because the average usage  
16 perfect customer was greater than anticipated, and the  
17 second is because there was customer growth on those  
18 subdivisions or systems. So, as you know, Aqua  
19 proposes the reconciliation based on the average usage  
20 perfect customer and the Public Staff is recommending  
21 a cap on the revenue requirement to hold it to what  
22 was approved in the Rate Case.

23           This issue, in our opinion, was already  
24 decided in the Sub 526 Rate Case Order. In that case,

1 Aqua had witness Thill proposed a reconciliation based  
2 on average per customer usage. That's throughout his  
3 prefiled testimony and in the Commission's Order. If  
4 you want any cites, just let me know, but the Sub 526  
5 Rate Case Order, Finding of Fact Number 44, approved  
6 the reconciliation process quote "as set forth by the  
7 Company" closed quote, and that process was on the  
8 basis of average per customer usage. So that  
9 essentially settled that issue in our mind.

10 The methodology to be used appears in a  
11 couple of places. One, it was in the narrative  
12 testimony prefiled of witness Thill, and that was  
13 copied into the Commission's Order, and it's what we  
14 have inserted in the May 11th filing as well where we  
15 put the dollars next to that description of how the  
16 reconciliation method should work, and that comes out  
17 to the \$102,226 figure that the Company recommends.

18 So, again, the Order concluded that the  
19 method proposed by the Company should be accepted.  
20 There was also Thill Exhibit 4 which has been raised  
21 and discussed at some length by the Public Staff.  
22 That was intended to illustrate particular scenarios,  
23 hypothetical scenarios that might arise under the  
24 methodology. It was not intended to encompass every

1 potential scenario.

2 In fact, if you start contemplating  
3 different amounts of over and under conservation  
4 instead of just the 1 percent in that exhibit, if you  
5 contemplate increases at different levels of customer  
6 growth, which was not an assumption in that exhibit,  
7 you could have thousands of scenarios. The three  
8 scenarios in that exhibit was illustrative, not  
9 comprehensive, and I think that was clear in his  
10 testimony and in the Commission's Order.

11 So the Public Staff did not file any  
12 exceptions to the Commission's Order. They did appeal  
13 the Order with regard to this conservation Pilot  
14 reconciliation method, and to date, they have not  
15 cited any compelling reasons for reconsideration of  
16 that Order.

17 In that circumstance, the Company's belief  
18 that the legal doctrine of issue preclusion applies  
19 here. The Public Staff should be collaterally  
20 estopped from raising, again, an issue they previously  
21 contested and lost in the Rate Case.

22 I would also like to note that the  
23 reconciliation method proposed by the Company is  
24 consistent with North Carolina General Statute

1 62-133.12(a). That statute allows a true-up mechanism  
2 for water and sewer companies based on the average  
3 usage per customer, which is exactly what the Company  
4 has done.

5 In contrast, the Public Staff's position of  
6 capping revenues at the level set in the rate case  
7 would be retroactive ratemaking. There's no rate case  
8 mechanism or statutory authority for a cap on total  
9 revenues in the Pilot areas.

10 Third point I'd like to make here is the  
11 Aqua position is better regulatory policy.  
12 Reconciliation based on the average per customer usage  
13 adjusts for over and under-recovery of revenues  
14 resulting from the difference between the predicted  
15 customer usage in the Rate Case and the actual  
16 customer usage from the conservation rates. It's thus  
17 specific to the conservation Pilot.

18 In contrast, the Public Staff recommendation  
19 would refund revenues from customer growth which is  
20 unrelated to the conservation Pilot, or at least  
21 unrelated to conservation rates.

22 The Public Staff approach would violate the  
23 regulatory principle of matching revenues to expenses.  
24 It would leave Aqua with all the cost of adding new

1 customers, and there is necessarily a cost when you  
2 add customers with none of the revenues from adding  
3 those customers. The Public Staff recommendation is  
4 that effectively, a conservation rate killer -- and I  
5 say that because the mismatch of revenues to expenses  
6 that would result would lower the Company's rate of  
7 return, and no utility that has customer growth is  
8 going to want conservation rates under that method.

9           There are also -- moving on to kind of the  
10 minor issues in this reconciliation, one issue is  
11 whether and how much of an interest rate should be  
12 applied to the refund that Aqua will be paying to  
13 customers. And in its filings, the Company had  
14 proposed zero. And then as a backup plan, had  
15 proposed their authorized rate of return of 6.18  
16 percent.

17           At this time, the Company is withdrawing its  
18 zero percent proposal and recommending solely that the  
19 interest rate on refunds be the 6.81 percent  
20 authorized rate of return. That's within the  
21 Commission's authority under 62-130(e), and we believe  
22 it's a fairer and more appropriate rate than the  
23 10 percent suggested by the Public Staff, because the  
24 Company under 6.81 percent is not forced to pay a

1 higher rate on refunds than it is given the  
2 opportunity to earn.

3 Another one of the minor issues raised in  
4 Public Staff's May 11th filing is how many decimal  
5 points to round the excess rate to. The Company had  
6 rounded it 2.7 percent. Public Staff pointed out that  
7 in Thill's exhibit, he rounded out an additional  
8 decimal point. I think this is a rather marginal  
9 issue, but we'll speak to it quickly. Aqua  
10 acknowledges that that is a departure from the exhibit  
11 for -- of witness Thill.

12 Aqua has no objection to changing its round  
13 to 2.7 excess rate to 2.66 percent, as the Public  
14 Staff has suggested would be proper. However, that  
15 would reduce the amount that the Company would be  
16 refunding to customers by about \$1,500 bucks, so we'll  
17 leave that to the Commission's discretion. The  
18 Company don't care either way.

19 Third issue raised in the May 11th filing of  
20 the Public Staff is the departure from Thill's  
21 recommendations of issuing a one-time refund. Witness  
22 Thill had recommended doing a refund over a period of  
23 9 to 12 months. And, yes, that is a departure from  
24 what was proposed in the Rate Case. We think it's

1 reasonable. And there actually was something that was  
2 proposed to the Company by the Public Staff, and we  
3 agreed to it. It gets the money back to the customers  
4 quicker and it's more of an efficient process for Aqua  
5 to follow.

6 I just want to conclude here by saying that  
7 the approach of doing a reconciliation on the average  
8 per customer usage instead of cap and revenue  
9 requirement is appropriate because that methodology  
10 proposed by Aqua is consistent with the Statute  
11 62-133.12(a). It's consistent with the testimony of  
12 witness Thill in the Rate Case. It's consistent with  
13 the Commission's Order in the Sub 526 Rate Case, and  
14 it's consistent with the principle of matching  
15 revenues to expenses. Thank you.

16 COMMISSIONER BROWN-BLAND: Thank you,  
17 Mr. Drooz. Let me be sure. So you indicated if we go  
18 in terms of the interest rate to -- rounding it one  
19 decimal point to the two decimal points, that would be  
20 a reduced amount of refund, and that was in the amount  
21 of \$1,500?

22 MR. DROOZ: Yes. It's \$1,514 and some  
23 cents. 17 cents, something like that.

24 COMMISSIONER BROWN-BLAND: Okay.



1 MR. DROOZ: An insignificant amount of over  
2 7,000 some customers.

3 COMMISSIONER BROWN-BLAND: Thank you. And  
4 in the beginning, you indicated there were two primary  
5 reasons that there was a refund due. And, in addition  
6 to that, does the Company have any information or any  
7 reason to believe that there was not a significant  
8 period of drought during this time period, and that  
9 may have affected the consumption?

10 MR. DROOZ: Yes. I mean that goes to -- and  
11 Mr. Becker may want to speak to that too, but I think  
12 that goes to the average usage per customer, so that  
13 average usage per customer can be affected by a lot of  
14 variables. The conservation rate is the one that was  
15 aimed at, but obviously, drought and that sort of  
16 thing could affect it too, and that's one reason why  
17 it's good to have the Pilot run not just for one year  
18 but over, you know, two or three years.

19 COMMISSIONER BROWN-BLAND: All right. It is  
20 not the primary focus of this inquiry, but I do  
21 believe the Commission is interested to know what  
22 insight we have, at this moment, as to why we're in  
23 the situation where refund is due, you know, with  
24 regard to how well -- any conclusions that can be

1 drawn about how well or not well the conservation  
2 Pilot is operating, at this point.

3 MR. BECKER: Sure. Thank you, Commissioner  
4 Brown-Bland. I don't have -- I didn't look at any  
5 statistics on the drought information as to whether or  
6 not the weather preceded some behavior in consumption.  
7 That's the reason we do an average consumption.  
8 That's why we suggested using an average consumption  
9 per customer to do this true-up, though, is because we  
10 do get those seasonal fluctuations, hurricanes or  
11 whatever. It depends if it happens during irrigation  
12 season, primarily during the summer.

13 I will say we've only had one year of  
14 detailed records under our belt to really look at, so  
15 it's hard to compare. My belief, my personal belief  
16 is that when we had the conservation rates applied, we  
17 did notice the customers. We tried to put advance  
18 notice in so that we could affect their behavior,  
19 right? We wanted them to conserve so that we wouldn't  
20 run into capacity issues and other things, other  
21 operational problems. I don't believe that they saw  
22 the impact in the bills that dictated the behavior to  
23 say I need to start reducing my consumption because  
24 it's costing me money. We did try to send out notices

1 in advance saying here's what would happen, and they  
2 gave a couple examples.

3           On average consumption, if you use this, and  
4 then you use this, here's what the bill would look  
5 like, just to provide that awareness, but that  
6 elasticity we talked about in the last rate case, I  
7 think it was for a 10 percent increase. In the  
8 average cost of a bill, you get about a -- I want to  
9 say a point -- or 3 percent or a .3 percent reduction  
10 in consumption, so we anticipated that there would be  
11 some reduction. But I think that behavior takes a  
12 little bit of time when you see that affect your bill  
13 and your monthly bills. You're not going to  
14 necessarily have the time to correspond and reduce  
15 your consumption to make it reduced, so I just don't  
16 think we've seen it long enough in place.

17           MR. DROOZ: So at the risk of speaking for  
18 the Company without consulting with them, my offer-up  
19 that before the Company recommends making conservation  
20 rates permanent or eliminating them or modifying them,  
21 that it file an analysis of the affect that it has  
22 observed in the Pilot.

23           COMMISSIONER BROWN-BLAND: I think we'll be  
24 expecting that when the time comes. All right.

1 Another question that we have for you is does the  
2 Pilot Program reconciliation process work in the same  
3 manner if the Pilot Program customers had conserved  
4 and used less water, and then factored into the Rate  
5 Case usage revenue? Would there be any difference in  
6 the manner in which Aqua would recommend the surcharge  
7 to customers be calculated?

8 MR. DROOZ: You know, as I look at that  
9 narrative in Thill's testimony and in the rate case  
10 order, I believe it works both ways, whether there's  
11 under or over-conservation. And I don't know if  
12 Mr. Becker --

13 MR. BECKER: And I would confirm that. In  
14 discussion when we're putting this together, we had no  
15 intent of having growth included in these  
16 reconciliations, so it would have gone both ways. If  
17 they under-conserved -- if we over-collected, we're  
18 going to give that credit back. If we  
19 under-collected, we're going to do a surcharge using  
20 the same principles. It was not an absolute total  
21 revenue during the rate case, total revenue collected  
22 as of a certain point in time subtracted to, you know,  
23 the examples that Thill put together, user average  
24 consumption. They'll be no need to put those examples

1 together using the average consumption if all you need  
2 is a total revenue requirement minus total actual  
3 revenues as of a certain date.

4 COMMISSIONER BROWN-BLAND: All right. Do  
5 any Commissioners have questions for the Company?

6 (No response)

7 COMMISSIONER BROWN-BLAND: Good. We're  
8 moving along. Thank you. Thank you, gentleman.

9 MR. BECKER: Thank you.

10 COMMISSIONER BROWN-BLAND: Excuse me. Did I  
11 look at my colleague? Commissioner Hughes, did you  
12 have any questions?

13 (No response)

14 COMMISSIONER BROWN-BLAND: No questions.  
15 All right. Thank you. Ms. Jost whenever you're  
16 ready.

17 MS. JOST: Thank you. Good afternoon.  
18 Again, I'm Megan Jost with the Public Staff. In the  
19 W-218, Sub 526 Rate Case, the Commission approved a  
20 revenue reconciliation process that was intended to  
21 assure that the Company would receive its full  
22 authorized revenue requirement, no more and no less.  
23 This fundamental purpose of the reconciliation process  
24 appears in Aqua witness Edward Thill's prefiled direct

1 testimony and in the Commission's proposed order. And  
2 it was also -- I'm sorry, the Company's proposed  
3 order, and it was also incorporated into the  
4 Commission's findings of fact in its final rate case  
5 order.

6 We appear before you today because the  
7 Company calculated the reconciliation request it filed  
8 on February 14th in a manner that is inconsistent with  
9 both the Company's stated purpose of the  
10 reconciliation process and with the methodology set  
11 out in witness Thill's revised Direct Exhibit 4 to  
12 achieve that purpose.

13 In its response to the Public Staff's  
14 April 1st, 2022 notice, the Company stated that its  
15 reconciliation request was quote "entirely consistent  
16 with witness Thill's testimony describing the  
17 Company's methodology for calculating the revenue  
18 reconciliation," which is illustrated in Thill revised  
19 Direct Exhibit 4.

20 This is not the case, however. The Company  
21 used different values to calculate the revenue  
22 reconciliation in its reconciliation request and were  
23 use in Thill Revised Direct Exhibit 4. Specifically,  
24 instead of multiplying the revenue requirement by the

1 percentage difference in average bill amount to  
2 produce the revenue deficit or excess, as was done in  
3 witness Thill's exhibit, the Company multiplied the  
4 actual bill count by the difference in average bill  
5 amount. Instead of acknowledging this change in its  
6 responses to the Commission's questions, the Company  
7 characterized this change as a math error.

8 Another inconsistency relates to the basis  
9 for the Company's revenue reconciliation calculation.  
10 In Scenario 1 of witness Thill's Revised Direct  
11 Exhibit 4, the total usage and bill counts remain the  
12 same resulting in a variation between the rate  
13 designed and actual average usage per customer.

14 Even though the rate design and actual  
15 average usage per customer were exactly the same,  
16 Scenario 1 of witness Thill's exhibit shows a  
17 surcharge to reconcile actual revenue, which was lower  
18 due to a shift in usage between rate blocks to the  
19 revenue requirement. This shows that the Company's  
20 revenue reconciliation methodology is not based on  
21 average usage per customer, which the Company claims  
22 it's in agreement with Section 62-133.12(a) of the  
23 North Carolina General Statutes, the testimony of  
24 witness Thill and the Sub 526 Rate Case Order.

1 Rather, it is based on the average revenue per bill as  
2 shown in Thill Revised Direct Exhibit 4 and the  
3 Company's reconciliation request. Yet, another  
4 inconsistency between the Company's reconciliation  
5 request and the methodology advocated in Sub 526 Rate  
6 Case relates to customer growth.

7           Witness Thill testified during the 526 Rate  
8 Case that growth should not be included in the revenue  
9 reconciliation. Further, witness Thill's Revised  
10 Direct Exhibit 4 shows three scenarios in which growth  
11 is not incorporated and the actual revenue is always  
12 reconciled to the revenue requirement thereby  
13 functioning as revenue cap. Contrary to witness  
14 Thill's testimony and exhibit, the Company's  
15 reconciliation request incorporates growth in the  
16 actual bill count. By including growth instead of  
17 reconciling 100 percent of the difference between the  
18 actual revenue and the revenue requirement, the  
19 Company retains a significant portion of that  
20 difference.

21           As I've explained, the Company's  
22 reconciliation request is inconsistent with the  
23 reconciliation process' purpose of assuring that the  
24 Company receives its full, authorized revenue



1 requirement, no more no less. The result of this  
2 inconsistency, which is demonstrated by the Company's  
3 reconciliation request, is that the Company's not only  
4 protected from risk, but is also essentially  
5 guaranteed to collect revenues in excess of the  
6 authorized revenue requirement through the  
7 incorporation of growth. Thus, as implemented by the  
8 Company, the reconciliation process has become a  
9 mechanism to assure that the Company receives no less  
10 than its authorized revenue requirement.

11 By approving the Public Staff's recommended  
12 revenue reconciliation, the Commission would implement  
13 a revenue reconciliation that accomplishes the stated  
14 purpose that the Company be allowed to recover the  
15 full, authorized revenue requirement, no more no less,  
16 and is consistent with the results produced by all  
17 three of scenarios set out in Thill Revised Direct  
18 Exhibit 4. This concludes my statement, but Mr. Junis  
19 and I are available to respond to any questions from  
20 the Commission. Thank you.

21 COMMISSIONER BROWN-BLAND: Any questions  
22 from the Commissioners? Is that a hand, Commissioner  
23 Hughes?

24 COMMISSIONER HUGHES: Yes. Yeah. I just

1 got a quick question, on one of the comments that you  
2 made at the end? Is my audio okay?

3 (No response)

4 COMMISSIONER HUGHES: The comment about the  
5 growth leading to increased revenue requirement from  
6 what was authorized, wouldn't that occur no matter  
7 what, if there was growth, significant growth in the  
8 area? Don't we often see when new requirements go up  
9 from what was authorized? And that's a fundamental  
10 way that we do ratings by using a backward gesture?

11 MS. JOST: I'm going to defer that to  
12 Mr. Junis.

13 MR. JUNIS: So I would say if you're  
14 capturing growth within a rate case, yes. Like, if  
15 it's an end-of-period, you would adjust. And then  
16 a lot of times, that end-of-period adjustment will be  
17 made as a growth factor adjustment that only applies  
18 to the variable expenses. So, usually, it's -- the  
19 DFC has clearly stated, as part of the reports that  
20 were given, that that revenue exceeds the cost. And I  
21 think that here, when dealing with a revenue  
22 reconciliation, is sort of part of the trade-off.

23 If you're going to have this protection,  
24 then you're going to get the revenue requirement, no

1 more no less. The trade-off is that potential  
2 additional revenue.

3 COMMISSIONER HUGHES: Well, following up on  
4 that, when you're talking about, you said, gap, (sic)  
5 does the fact that this is a pilot project, and we all  
6 knew that there was some risks going into it, and sort  
7 of a concept of spreading risk, and how much risk is  
8 fair, did that play at all into you're thinking about  
9 revenue requirements and reconciliation?

10 MR. JUNIS: Yes.

11 COMMISSIONER HUGHES: Just from the  
12 risk-sharing standpoint, being Aqua didn't -- so  
13 that's it.

14 MR. JUNIS: Right. I think if this doesn't  
15 function as a true revenue requirement reconciliation,  
16 that -- then our Pilot becomes actually more lucrative  
17 to the Company than its normal rate structure, and I  
18 don't think there is any consideration of that  
19 potential reduced risk to significant customer base.

20 COMMISSIONER HUGHES: Do you think if this  
21 wasn't a Pilot project and there wasn't a coupling  
22 mechanism approved in the rate order, just out of  
23 normal circumstances something unusual happened, and  
24 there was, you know, a little bit of growth beyond

1 what was expected, but just under normal rate case, we  
2 wouldn't be here, right? I mean, that would be --  
3 there would be no risk, so it seems like Aqua's giving  
4 up some normal potential rate treatment because  
5 they --

6 MR. JUNIS: Yes.

7 COMMISSIONER HUGHES: Because they did a  
8 Pilot project. And, I mean, that's the kind of risk  
9 that we want them to tarry up, to actually give up,  
10 kind of, an essential part of ratemaking?

11 MR. JUNIS: So I think that really goes to  
12 how this mechanism was portrayed. When it was talked  
13 about, the Company consistently said no growth. Well,  
14 we've seen clearly there's growth involved here. And  
15 then the illustrations that they rely on, because it  
16 does not include growth, I think we have all been sort  
17 of portrayed, sort of in non-applicable examples. If  
18 growth was an expected reality, why wasn't growth put  
19 into those exhibits? Why wasn't growth discussed by  
20 Thill?

21 His testimony's clear. Does the revenue  
22 reconciliation include growth? No. That is his  
23 direct testimony. He never refutes that. But, now,  
24 we're talking about 1,500 more bills projecting

1 actually 3,600 more bills? That's about \$170,000 in  
2 terms of additional projected revenues from growth.  
3 You know, if the Company wanted to sort of bank on  
4 balancing that risk and getting the benefit of growth,  
5 then they shouldn't have sought a reconciliation.

6 But they wanted to reduce their risk from  
7 reduced consumption which is the intent of this rate  
8 structure, and I think that was a trade-off.  
9 Otherwise, like I said, this becomes actually a  
10 no-risk proposition and it's most lucrative rate  
11 structure.

12 COMMISSIONER HUGHES: No further questions.  
13 Thanks, Mr. Junis.

14 COMMISSIONER BROWN-BLAND: Chair Mitchell.

15 CHAIR MITCHELL: I have a couple for y'all.  
16 Mr. Junis, I think I heard you say -- and I'll make  
17 sure I heard it correctly. I think I heard you say  
18 just a minute ago in response to Commissioner Hughes,  
19 the Pilot becomes more lucrative than the base rates  
20 under the structure as the Company's proposed it. Did  
21 I hear you say that correctly?

22 MR. JUNIS: Maybe I got a little carried  
23 away with more lucrative, but they are certainly  
24 protected from the risk side.

1 CHAIR MITCHELL: I understand that.

2 MR. JUNIS: So when you're balancing that  
3 proposition, under this current scenario, no, they're  
4 not going to make more than their other customer  
5 bases. But if you do get into the higher tiers, there  
6 is that potential. And, then again, you have reduced  
7 the downside of reduced consumption which has been the  
8 claims and trends of recent rate cases, so I think  
9 that's significant to offset that.

10 CHAIR MITCHELL: Okay. I mean, I follow  
11 your points you're making about the Company's reducing  
12 its risk, and that should go both ways. I think I  
13 understand the point that you're making there. But is  
14 it not premature to say -- I mean, we've only seen a  
15 year's worth of data from this program, from the  
16 implementation of this rate design. So it's going to  
17 go another year or two, and so we'll have more data.  
18 I just wonder is it premature to come to a conclusion  
19 about, you know, whether this rate design is more --  
20 I'm using your words, more lucrative. I understand  
21 you might have gone too far there but --

22 MR. JUNIS: Right. In terms of lucrative,  
23 really getting at the balance of risk, they basically  
24 have zero risk and are now guaranteed a revenue

1 requirement per bill as they have proposed.

2 CHAIR MITCHELL: But -- but --

3 MR. JUNIS: That's extraordinary in  
4 comparison to if consumption trends are going down,  
5 then you would have expected that that was a  
6 significant risk that's being avoided, but, you know,  
7 this is a business model based around growth. And so  
8 it's surprising to have a basis for a decision that  
9 said no growth and now all of a sudden, it be  
10 incorporated and have significant dollar amounts tied  
11 to it, but I don't think you want to make any  
12 conclusions about the conservation rates.

13 I think there is some caution of is it  
14 weather, is it the effectiveness of the conservation  
15 rates. Is it potentially, sort of, this socioeconomic  
16 status of these customers? We are very aware of  
17 systems that Aqua has and others that people don't  
18 care how much they pay. You know they demand that you  
19 provide as much water as they want. If they want to  
20 run their sprinkler 24/7, then you provide that amount  
21 of water at any cost. There are literally systems  
22 that demand an elevated storage tank so then they can  
23 water their yard 24/7.

24 CHAIR MITCHELL: Yeah. Well, I don't -- I

1 guess my question here really is -- you know, goes to  
2 the intent of this rate design, you know. We -- isn't  
3 the intent of the rate design to encourage customer  
4 behavior. And as part of this program, there is the  
5 piece that mitigates risk to the Company of  
6 under-recovery, but ultimately, you know, we're asking  
7 the Company to sell -- you know, to work to sell fewer  
8 gallons of water than it otherwise would. And so --  
9 help me -- explain to me, you know, in light of that,  
10 in light of what may be the intent of the program  
11 here, why is the two-way mitigation unfair?

12 MR. JUNIS: So to that point, if you are not  
13 going to tie back to that revenue requirement, that  
14 revenue requirement was determined in the public  
15 interest. If customers use less, then shouldn't  
16 Aqua's costs have gone down? If the claim is if they  
17 use more and you have more customers, then their costs  
18 are going to go up, well on the flip side, if they use  
19 less, their costs, their variable expenses should go  
20 down, right?

21 But based on this mechanism, they are  
22 guaranteed a revenue requirement per bill, which I  
23 don't see anything in the order, nor have I seen an  
24 order where the Commission approved a revenue



1 requirement per bill. And I just want to add that  
2 this revenue requirement is just a portion of the  
3 uniform. It's not a cost of service specific to these  
4 customers, so I think that's sort of a factor here  
5 too, that this is an average cost of service.

6 CHAIR MITCHELL: One last question for you.  
7 Walk me through what the Public Staff's motion is here  
8 then. How would you return money to the customers?  
9 How much money would you return to customers? And  
10 justify that.

11 MR. JUNIS: Okay. Our stated position is I  
12 think it's 208,000, and, you know, that includes  
13 32,000 in base facility charge, and I think 175,000 in  
14 usage. That is a strict here's the revenue  
15 requirement, how much did you go over. What's the  
16 difference, return it over, a one-time payment to  
17 end-of-period customers.

18 We are willing, as sort of a concession, and  
19 to be reasonable that Aqua would be allowed to retain  
20 the base facility charge. It's a portion of their  
21 cost of service. We think that -- you know, based on  
22 Thill's exhibit, he did not discuss base facility  
23 charges, so we're willing to do that.

24 I think this is a matter of form versus

1 function. You have a stated purpose. You have  
2 illustrations that show that purpose being  
3 implemented. Now you have the Company wanting to sort  
4 of adhere to the form at the cost of the function or  
5 the purpose of this mechanism at their benefit to  
6 retain that additional revenue.

7 I think the form is -- you know, whatever  
8 the calculation, I mean, clearly they varied in their  
9 application and now have modified that and returned to  
10 a different calculation. The form is less important.  
11 The function is what matters. We believe that the  
12 form that we have suggested properly implements the  
13 purpose of the function here.

14 CHAIR MITCHELL: All right. Thank you,  
15 Mr. Junis. I have nothing further.

16 COMMISSIONER BROWN-BLAND: So, Mr. Junis,  
17 that \$208,130 that the Public Staff says should be  
18 refunded, that comes down to a one-time refund per  
19 customer of 2,948. Is that the number that you have  
20 per customer in the Pilot Program?

21 MR. JUNIS: Yes. We would apply the four  
22 months of interest which I think comes to \$30. Now,  
23 like I said, we're willing to concede here the BFC,  
24 which would then reduce that to 175,000 divided by the

1 7,059 end-of-period customers for a one-time credit.  
2 We still think interest is appropriate. We think  
3 interest in a similar light as the WSIC that that's a  
4 one-way street is also appropriate that that's a  
5 similar situation.

6 COMMISSIONER BROWN-BLAND: And so you heard  
7 the Company indicate they prefer a 6.81 interest rate.  
8 Is that -- Public Staff in agreement?

9 MR. JUNIS: That would be different from the  
10 WSIC. So I think our preference is 10 percent, but we  
11 can understand how the Commission could end up at a  
12 6.81 percent.

13 COMMISSIONER BROWN-BLAND: All right. A  
14 minute ago, you mentioned that if the water usage went  
15 down, it's due to reason that the Company's cost would  
16 go down. Do you have a basis for that?

17 MR. JUNIS: Absolutely. So -- I mean --

18 COMMISSIONER BROWN-BLAND: Well wait. Isn't  
19 it still true that they have the same number of  
20 employees, the system doesn't change, et cetera? So  
21 where is it coming from that it would cost them less,  
22 just in water purchase?

23 MR. JUNIS: So variable expenses. You're  
24 dealing with purchase power, you're dealing with

1 chemicals. And so just the same as the claim is,  
2 additional customers have more costs, you know, less  
3 usage. Well, not only additional customers.  
4 Additional usage has additional costs. The flip side  
5 is true, that if you have less customers or less  
6 usage, the cost is lower.

7 COMMISSIONER BROWN-BLAND: So when we look  
8 at single issue ratemaking, in retroactive ratemaking,  
9 isn't that why we hold all that off and look at that  
10 in a rate case?

11 MR. JUNIS: I think that's appropriate in  
12 light of the reconciliation, right. We don't want to  
13 dive into a detailed what are your actual costs in  
14 comparison to the revenues. We believe that the  
15 purpose is very clearly stated in how this would  
16 function, and that is a strict tie to the revenue  
17 requirement.

18 COMMISSIONER BROWN-BLAND: And then if --  
19 the purpose of this conservation program is to get  
20 ultimately less water usage from the customers.  
21 Doesn't refunding the customer growth revenues play a  
22 role in undercutting that purpose, that the more  
23 that's refunded back to those heavier users, the less  
24 they'll feel the impact of their own behavior?

1 MR. JUNIS: So this is why we actually  
2 thought the one-time credit was more appropriate,  
3 because essentially, you're going to get a huge  
4 difference in two bills, so you're going to get a bill  
5 that has a significant credit.

6 So let say you were normally at a \$60 bill  
7 and then you get a 20 some-odd dollar refund. Okay.  
8 That's noticeable. Then when you get your summary  
9 irrigation, because we were hoping this would be timed  
10 in the May time frame. When you start getting into  
11 summary irrigation, say that June bill, all of a  
12 sudden, that price signal's going to be a little clear  
13 in the difference. But if you're just seeing, you  
14 know, a small percentage increase, I don't think  
15 that's going to, like, click for people that hey, this  
16 is costing me a significant amount more money if I  
17 water my lawn twice a week instead of every other  
18 week.

19 COMMISSIONER BROWN-BLAND: And aside from  
20 signals because the refund would come kind of after  
21 the fact, the end result would be -- the heavier users  
22 would feel less of an impact from their own behavior.  
23 Is that right?

24 MR. JUNIS: Well, I think that's also the

1 benefit of the one-time flat. They're not getting a  
2 similarly proportioned refund. So if you're a high  
3 user that has, you know, \$500 monthly bills, you're  
4 still only getting \$25 refunds, so that's not going to  
5 to be very noticeable in comparison.

6 COMMISSIONER BROWN-BLAND: All right. And  
7 then this is a question to clear up a piece of  
8 discussion from the original rate case, but if the  
9 Pilot Program is capped to the rate case revenue  
10 requirement, does that effectively refund all of the  
11 organic growth revenues within the Pilot Program  
12 service areas or only a portion?

13 MR. JUNIS: It would --

14 COMMISSIONER BROWN-BLAND: I believe you and  
15 I had some discussion about a portion, and that's why  
16 I'm trying to --

17 MR. JUNIS: Yeah. So if consumption is  
18 down, then you could have growth sort of offset, and  
19 you might not need a surcharge. But we did talk  
20 about, sort of, the difficulties of incorporating  
21 growth into a trial or a pilot. That, okay, these new  
22 customers, if they come in, they have a different set  
23 assumptions. They haven't gotten Aqua bills for an  
24 extended period of time that would sort of train them

1 to picking up on this price signal that oh, well last  
2 year, I used that same amount of money and my bill was  
3 only \$60. And now, this month, this year it's 70 or  
4 \$80.

5 And so we talked about the difficulty of  
6 would you, sort of, keep those customers separate.  
7 Could you argue that new customers should have just  
8 been charged the uniform rates and being exceptions to  
9 the Pilot because they could, to some degree, muddy  
10 the results of the study group.

11 COMMISSIONER BROWN-BLAND: So you would  
12 argue here today that all the growth be refunded or a  
13 portion?

14 MR. JUNIS: As it stands, yes. We are  
15 advocating for a strict reconciliation to the revenue  
16 requirement.

17 COMMISSIONER BROWN-BLAND: And the question  
18 that I ask the Company -- the method that you advocate  
19 for would be the same? Would it work the same way and  
20 be applied the same way? Should there be  
21 under-recovery?

22 MR. JUNIS: So yes. If there's  
23 under-recovery either by decreases in consumption or  
24 loss of customers, we would be tying back to that

1 revenue requirement, and that's sort of the piece that  
2 isn't a fair balancing. If you were trying to prevent  
3 the risk of losing customers to the risk or  
4 probability of gaining customers, those are not equal.  
5 It is very, very unlikely that they would lose  
6 customers on these systems while it was -- seems  
7 pretty likely or very likely that they were going to  
8 see some level of growth.

9 COMMISSIONER BROWN-BLAND: Finally, under  
10 what you advocate for in terms of how the  
11 reconciliation should go, do you understand, the same  
12 way as the Company, that that would encourage or  
13 discourage conservation?

14 MR. JUNIS: I don't think it discourages. I  
15 think they were talking about it from the utility  
16 perspective.

17 COMMISSIONER BROWN-BLAND: Exactly. I was  
18 going to --

19 MR. JUNIS: And --

20 COMMISSIONER BROWN-BLAND: Same thing. Do  
21 you see it from that business perspective as a killer  
22 to conservation programs?

23 MR. JUNIS: This is a pilot. It is a  
24 limited scope, limited time frame, and it is an



1 experiment, so I don't think it is determinative one  
2 way or the other.

3 COMMISSIONER BROWN-BLAND: All right. Thank  
4 you for that. Chair Mitchell.

5 CHAIR MITCHELL: I just want to make sure  
6 I'm clear. So the Public Staff is advocating for a  
7 refund of the difference between the anticipated and  
8 the actual collections. But you -- so in your  
9 filings, the Public Staff has indicated a refund of  
10 about 200,000 -- 208,000. Is that right? But then I  
11 heard you say today you-all would support or be okay  
12 with the Company's keeping the basic facilities  
13 charge, the revenue attributable to the basic  
14 facilities charge. Is that right? I just want to  
15 make sure I understand what the Public Staff's  
16 position is.

17 MR. JUNIS: That's correct. So it's about  
18 \$32,000 that is tied to those additional customers.

19 CHAIR MITCHELL: And that's the basic  
20 facilities charge for those additional customers --  
21 for the new customers?

22 MR. JUNIS: That's correct.

23 CHAIR MITCHELL: Help me understand why.  
24 What's your basis there?

1 MR. JUNIS: I mean, in all reality, I would  
2 rather it be the 208,000 but, you know, we're trying  
3 to come from, sort of, a point of concession or  
4 consensus building, and so we are willing to recognize  
5 that additional customers take additional bills. But,  
6 again, if this were a rate case and you were adding  
7 customers, sort of, as an end-of-period update, you're  
8 not going to do a full cost of service study  
9 necessarily. You are probably looking at a growth  
10 factor adjustment that is only going to apply to the  
11 variable expenses.

12 And I think we've heard the Utilities say,  
13 time and time again, typically more customers  
14 equals a, sort of, greater economies of scale. And so  
15 if you were to determine a revenue requirement per  
16 bill, I think you'd want to consider that as a factor  
17 instead of just saying well, it's generally the  
18 revenue requirement divided by the number of bills and  
19 not consider additional customers being added,  
20 especially if it's likely.

21 CHAIR MITCHELL: Just explain that last  
22 sentence to me, because hasn't the Company included  
23 additional customers when they're doing their  
24 calculation? Help me -- I'm not sure I understood

1 your last point there.

2 MR. JUNIS: So they use a revenue  
3 requirement per bill, which is just generally the  
4 revenue requirement divided by the number of bills  
5 issued. But if you were really going to consider  
6 customer growth, then there should be, especially in  
7 an organic growth to a system like this, economies of  
8 scale gained, and so that revenue requirement per bill  
9 would actually go down, but that's not happening here.

10 COMMISSIONER BROWN-BLAND: All right.  
11 Commissioner Hughes.

12 COMMISSIONER HUGHES: Just a quick follow-up  
13 on what I think I heard you say in response. That  
14 it's highly likely under, you know, I guess, current  
15 circumstances or just maybe in your experience, that  
16 water utilities are seeing customer growth and it's, I  
17 think you said, much less or unlikely if they would  
18 not see growth? Is that, sort of, your assessment on  
19 just, kind of, circumstances in North Carolina with  
20 water utilities in a rate case? You know, are they  
21 almost always going to have growth after a rate case  
22 or highly likely to have growth after a rate case?

23 MR. JUNIS: I think we are definitely seeing  
24 growth. I can't comment on every single utility or

1 every situation, but it is certainly the sort of  
2 regulated utility model to have growth, especially  
3 after a rate case. You know, ideally, they would add  
4 as much growth as possible after a rate case because  
5 they recognize that is a way that they can make more  
6 money, especially in terms of organic growth. There's  
7 less customers to spread the cost of service across,  
8 if they're not included. And so, yes, they want to  
9 grow.

10 COMMISSIONER HUGHES: So we've got strong,  
11 extended than that, expectation, just -- I mean, pilot  
12 projects in general, this is a Pilot project to try  
13 something new and innovative. We have a lot of things  
14 and a lot of different utilities we've talked about  
15 being innovative. There was a comment about  
16 encouraging versus discouraging pilots, you know, if  
17 we put out a call and said bring us your interesting  
18 ideas in the public good. But at the cost of doing a  
19 pilot project, you're going to have to forego revenue  
20 that would be dealing with customer growth. Do you  
21 think that sends a pretty strong signal not to stick  
22 your hand out and say we want to do a lot of different  
23 pilot projects?

24 MR. JUNIS: So I don't want this to be

1 indicative of, sort of, future pilots or experiments.  
2 To be clear, the Public Staff was against this Pilot.  
3 I mean, that was our stated position in the Rate Case.  
4 We didn't think that it was well thought-out, we  
5 didn't think it was a representative sample, we didn't  
6 think there was enough data being captured. I mean to  
7 my point, the socioeconomic factors is important.

8           If the people don't care how much they're  
9 spending on their water bill, then they're not going  
10 to change their usage patterns. And so we're trying  
11 to fix this so then it's not basically a money maker  
12 for the utility. We just want it to be fair and  
13 execute the purpose that was stated, the full  
14 authorized revenue requirement, no more and no less.

15           COMMISSIONER HUGHES: And I appreciate that,  
16 and you've made your case, but I am really curious  
17 about fostering innovation. You know, is giving up  
18 growth, you know, dampening someone's innovation?

19           MR. JUNIS: I think it just depends on what  
20 the goal is. I think it is dependent on what is that  
21 innovation and what are the likelihoods of the  
22 benefits to customers and the utility. I think in  
23 this case, how much benefit is there to the customers?  
24 We try to sort of coal out or pull out information of,

1 you know, what is a, sort of, plus one cost of service  
2 of what are the increments of additional usage that  
3 would prompt additional infrastructure spending. You  
4 know, what could be prevented if customers reduce  
5 their consumption to some threshold.

6 Tell the customers what the benefit's going  
7 to be. That, okay, if you guys can cut your  
8 consumption by 100 gallons a month, then the Company  
9 won't have to invest a million dollars on your plant,  
10 and then that'll save you X dollars a month in a bill.  
11 None of that was presented. There was no cost  
12 benefit. This was a pilot with sort of a very limited  
13 development on what was actually going to happen in  
14 terms of benefits to both the customers and the  
15 utility. Sorry. I probably said too much and now  
16 I've gone over my time.

17 COMMISSIONER HUGHES: No, no, no. I  
18 appreciate that. I don't want you to hurt your head  
19 with turning your neck too much anymore.

20 MR. JUNIS: Well, here, I'll turn this way  
21 now if you have more questions.

22 COMMISSIONER HUGHES: We'll end it here.  
23 Thank you. I appreciate your responses. No further  
24 questions on my side. Thanks.

1           COMMISSIONER BROWN-BLAND: All right.  
2 Commissioner Kemerait.

3           COMMISSIONER KEMERAIT: Commissioner Hughes  
4 just answered my questions.

5           COMMISSIONER BROWN-BLAND: Oh. He's  
6 clairvoyant there. All right. There's no further  
7 questions for the Public Staff, so --

8           MR. JUNIS: All right. I just want to make  
9 sure because --

10          COMMISSIONER BROWN-BLAND: No further  
11 questions.

12          MR. JUNIS: -- Commissioner Mitchell was  
13 very clear the more I talk, the more questions I get,  
14 so --

15          COMMISSIONER BROWN-BLAND: I think I said  
16 that, and I think it is borne true.

17          COMMISSIONER McKISSICK: That has become  
18 true.

19          COMMISSIONER BROWN-BLAND: Mr. Drooz, would  
20 the Company like brief rebuttal at the moment?

21          MR. DROOZ: Yes, please.

22          COMMISSIONER BROWN-BLAND: Return to the  
23 witness stand. And you may begin when you're ready.

24          MR. DROOZ: I'll try to be brief but it's

1 after lunch. This isn't the best time to get into  
2 technical discussion.

3 COMMISSIONER BROWN-BLAND: And stay near the  
4 mic, please.

5 MR. DROOZ: Is that better? So I think a  
6 lot of the Public Staff's argument hangs finding of  
7 fact number 33 which talks about, you know, the  
8 Company should receive through this reconciliation its  
9 authorized revenue requirement, no more no less. That  
10 needs to be put in context. It is very much a  
11 distortion when you read that sentence by itself. You  
12 know, if you're looking at statutes that are related,  
13 you do them in pari materia. If you look at  
14 transactional documents, you look at all four corners.  
15 Same with a Commission order. You need to look at  
16 all parts of it.

17 And it's very clear in the Order that what  
18 is meant by receiving the revenue requirement here is  
19 on the average usage per customer. That's in the  
20 testimony and it's in finding of fact 44. I would  
21 particularly direct your attention to page 123 of the  
22 Rate Case Order where it says -- towards the bottom of  
23 that page, there's an explanation of the reason behind  
24 this reconciliation process. It says quote, "As a



1 general matter of fairness, there must be a settlement  
2 process to ensure that neither the Pilot customer  
3 group as a whole nor the Company is unduly harmed or  
4 enriched by this program. This program is the  
5 conservation pilot. It is not the customer growth."  
6 Then the very next sentence is, "The intent of the  
7 revenue reconciliation is that the Company should  
8 receive its full authorized revenue requirement, no  
9 more no less."

10 So you have to read those together to get a  
11 fair interpretation of the Commission's Order, and  
12 that's why, you know, I appreciate the Public Staff's  
13 candor in saying they oppose this Pilot in the Rate  
14 Case. Well, I think today, we're hearing a  
15 relitigation of an issue that was settled in the Rate  
16 Case Order. There was some talk about lower risk.  
17 Obviously, if the Company's financial risk is lower,  
18 that's addressed in rate of return, not through a  
19 true-up mechanism, but I don't believe it is a lowered  
20 risk for a couple reasons.

21 One, this reconciliation operates both ways.  
22 It's designed to protect customers and the Company.  
23 The second is, whether you do it average usage per  
24 customer or whether you do it in a total revenue

1 requirement, either way, that true-up is on  
2 revenues, it's not on cost. And the Company's cost  
3 growing, you know, if you do it on total revenue  
4 requirement, you definitely get that mismatch. That  
5 is the hit on a company's rate of return because  
6 they're not allowed to recover the revenues that match  
7 with the increased cost, and that is why the Public  
8 Staff method would be a significant disincentive to  
9 doing conservation rates, and that's really all I have  
10 here. Thank you.

11 COMMISSIONER BROWN-BLAND: All right. Any  
12 questions from the Commissioners?

13 (No response)

14 COMMISSIONER BROWN-BLAND: All right. Thank  
15 you, Gentleman. Well, I believe Mr. Gearhart is free  
16 to resume his -- to enjoy his time away. And, also,  
17 at this point, I would ask that proposed orders be  
18 submitted by both sides two weeks from the day after  
19 the transcript is available. If there's no objection  
20 to that, that would be so ordered. Is there anything  
21 else pertaining to this matter that the Commission  
22 needs to hear at this moment?

23 MR. DROOZ: None from the Company.

24 MS. JOST: And none from the Public Staff.

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COMMISSIONER BROWN-BLAND: All right. So  
thank you-all and we will be adjourned.

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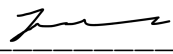
(The proceedings were adjourned)

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C E R T I F I C A T E

I, TONJA VINES, DO HEREBY CERTIFY that the Proceedings in the above-captioned matter were taken before me, that I did report in stenographic shorthand the Proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

  
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Tonja Vines