

REBUTTAL TESTIMONY OF
REVENUE REQUIREMENTS PANEL
CASES 09-E-0588 & 09-G-0589

1 Q. Are you the same David P. Brideau who submitted pre-filed direct testimony in this
2 proceeding as a member of the Revenue Requirements Panel?

3 A. Yes, I am.
4

5 Q. Are you the same Gina M. Smith who submitted pre-filed direct testimony in this
6 proceeding as a member of the Revenue Requirements Panel?

7 A. Yes, I am.
8

9 Q. Are you the same Stanley L. Kardas who submitted pre-filed direct testimony in this
10 proceeding as a member of the Revenue Requirements Panel?

11 A. Yes, I am.
12

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

14 A. The purpose of our rebuttal testimony is to respond to the following revenue
15 requirement adjustments included in the testimony and exhibits of the Staff
16 Accounting Panel: (1) the capping of the employee count to Staff's averaging
17 approach at 843 (2) the use of GDP inflation rates in lieu of known rates of growth
18 for a number of elements of costs (3) the inclusion and level of a productivity
19 adjustment in light of the productivity already baked into Staff's projections (4) the
20 exclusion of the Company's SERP from pension expense (5) the exclusion of
21 escalation rates and taxes from the projection of certain insurance premiums (6) the
22 proposed discontinuation of deferral accounting for the limited portion of the stray
23 voltage program approved by the Commission in the last rate order (7) Staff's

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1 improper reliance on the prior methodology employed to project Uncollectible
2 Accounts expense, a flawed conclusion that the deferral petition granted for gas
3 operations related to 2008 should be recognized to reduce the forward looking
4 projection and the rejection of the Uncollectible Accounts Panel proposal to employ
5 deferral accounting for this element of cost; (8) Staff's adjustments to projected
6 incremental assessments related to Property Taxes and the need for deferral
7 accounting and lastly, (9) we are seeking confirmation from Staff of the required
8 adjustment to average rate base with regard to the Company's response to Staff IR
9 385, which Staff has identified as Staff AP Exhibit__(AP-41).

10
11 1) Proposed Capping of Employee Count Below Actuals

12 Q. What employee level is Staff proposing for the Rate Year?

13 A. Staff is proposing that the employee level for the Rate Year be capped at 843
14 employees.

15
16 Q. What is the basis for Staff's proposal?

17 A. Staff's recommendation is based on a three-year average of employee levels for the
18 twelve months ended June 30, 2007; June 30, 2008 and June 30, 2009.

19
20 Q. Does the Revenue Requirements Panel agree with the averaging approach employed
21 by Staff to determine the appropriate level of staffing for the Rate Year?

22

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1 A. No. This method is flawed in many respects. First, the time period selected by Staff
2 is unique and not representative of the Company's current staffing levels. The time
3 period selected is the term of the Company's three-year Rate Plan pursuant to Cases
4 05-E-0934 and 05-G-0935. It has been well documented that the Company
5 experienced severe financial hardship during the term of this agreement due to an
6 unexpected sales decline that substantially crippled the Company's ability to collect
7 its authorized level of revenues to cover its costs of doing business. The Company
8 had minimal flexibility to manage this problem and carefully managing its employee
9 level was one of the few options available. Once this problem was resolved through
10 filing for new rates, the Company's employee level was restored to normal levels.
11 Secondly, as demonstrated in Rebuttal Exhibit __ (RRP-1R) the Company's
12 employee level since June 2009 has been at or above the level of 860 sought by the
13 Company in these proceedings.

14
15 Q. Does any precedent exist to reject Staff's proposal to cap the employee level?

16 A. Yes. This approach was soundly rejected by the Commission in the Company's last
17 rate filing, Cases 08-E-0887 and 08-G-0888.

18
19 Q. What approach was authorized by the Commission in the Company's last case?

20 A. The Commission properly concluded that the Company's forecasted employee level
21 should be based on the latest known employee count at the time of the Commission's
22 decision. That level was established at 840 employees as of March 2009.

23

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1 Q. What employee level should be used to project labor in these proceedings?

2 A. The latest known employee count at the time of the Commission's decision. The
3 Company's projected employee level of 860 should be used as a placeholder pending
4 the availability of the latest information in March/April 2010 to set rates. As shown
5 in Rebuttal Exhibit __ (RRP-1R), the Company's employee level has been at or
6 above the 860 level since June 2009.

7

8 2) Improper Use of GDP Inflation Rates

9 Q. Please explain the Revenue Requirements Panel assertion that the Staff Accounting
10 Panel improperly used GDP inflation rates in these proceedings for a number of
11 elements of costs.

12 A. There are numerous instances where Staff ignored known or projected escalation
13 rates that were fully supported which exceeded the GDP inflation rate.

14

15 Q. Please identify the elements of costs where the Staff Panel ignored known or
16 projected escalation rates.

17 A. The following elements of costs were affected:

18 1) Other Operating Insurance;

19 2) Injuries and Damages;

20 3) Stray Voltage;

21 4) Right of Way Maintenance-Distribution;

22 5) Property Taxes;

23 6) Regulatory Commission General Assessment; and

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1 7) MGP Gas Site Remediation

2

3 Q. Please provide evidence of your assertion that Staff ignored known or projected rates
4 of escalation that affected the elements of costs that you have identified.

5

6 A. Other Operating Insurance – As later discussed in this testimony, the Company
7 provided Staff via its workpapers and responses to IRs with information that D & O
8 insurance premiums are anticipated to be significantly higher than past levels based
9 on information provided by the Company’s insurance carriers. In addition, the
10 Company indicated that its Employed Lawyers coverage would be significantly
11 increasing due to the number of employees covered under this insurance;

12

13 Injuries & Damages – As discussed later in this testimony, the Company forecasted
14 the level of Excess Liability insurance on the premise that the escalation rate
15 experienced for the latest known premium would apply to the next renewal and that
16 succeeding renewals would escalate at the five-year average of actual premium cost;

17

18 Stray Voltage- As discussed in the rebuttal testimony of Mr. DuBois, the Company
19 provided Staff with copies of the multi-year contracts for the stray voltage program
20 that contained the bid pricing for the various stray voltage activities. These are
21 known rates of escalation that were obtained through a competitive bid process;

22

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1 ROW Maintenance Distribution- As discussed in the rebuttal testimony of Mr.
2 DuBois, the Company has multi-year contracts for the distribution line clearance
3 program in place that were obtained through a competitive bid pricing process;

4
5 Property Taxes – Although the Company based its projection on the application of
6 GDP inflation rates to latest known assessments. It should be noted that during
7 discovery, Staff was provided documentation showing that School Taxes increased
8 by 15% over the prior period and yet Staff did not propose an alternate escalation
9 rate to better align the forward looking Rate Year projection with known
10 circumstances that have significantly changed since the Company’s filing;

11
12 Regulatory Commission General Assessment – The Company proposed a growth
13 rate that reflected the level of annual increases over the last four years;

14
15 MGP Site Remediation - As stated in the rebuttal testimony of Mr. Borchert, actual
16 remediation is now underway and cash expenditures will be much higher than the
17 three-year average used to establish the rate allowance.

18
19 3) Productivity Adjustment

20 Q. Has Staff proposed a productivity adjustment in these proceedings?

21 A. Yes. The Staff Accounting Panel has proposed a 2% productivity adjustment.

22

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1 Q. Does the Revenue Requirement Panel agree that a 2% productivity adjustment is
2 appropriate?

3 A. No. Although Staff provides a historical perspective of the Commission's reliance on
4 imputing a productivity adjustment in its testimonial position, the Revenue
5 Requirements Panel believes that the imputation of a productivity adjustment is
6 inappropriate and has outlived its intended purpose.

7

8 Q. Please elaborate.

9 A. It is the opinion of the Revenue Requirements Panel that a productivity adjustment is
10 intended to capture cost savings not directly reflected in the future Rate Year. The
11 inception and recognition of a productivity adjustment into the development of
12 revenue requirements was implemented prior to the advent of software and other
13 technological tools that has significantly enhanced the ability of an auditor to prepare
14 a through review of the Company's filing. Evidence of this is demonstrated by the
15 detail included in the Company's filing and workpapers and in the content and scope
16 of the hundreds of interrogatories to the Company from Staff which questioned
17 historic and projected forward looking projections. In addition, many of the update
18 provisions for certain elements of costs capture additional savings not reflected in the
19 Company's initial projections.

20

21 Q. What other factors contribute to the notion that a productivity adjustment is
22 inappropriate?

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1 A. As previously addressed in this rebuttal testimony, the use of GDP inflation factors
2 in lieu of known increases in costs above the rate of inflation has the effect of
3 creating a productivity adjustment. In addition, as demonstrated in Rebuttal Exhibit
4 ____(RRP-2R), approximately 30% of Staff's forward looking projection is based on
5 the application of GDP inflation rates to the historic year values, i.e. Fringe Benefits;
6 Insurance Premiums; Property Taxes; Legal and Special Services, etc. Moreover, in
7 the case of Fringe Benefits, this is not a method of forecasting that the Company
8 endorses, but rather a method that is dictated by this Commission through
9 ratemaking policy that the Company must accept.

10

11 Q. What are the ramifications of this methodology on the forward looking Rate Year?

12 A. This method of forecasting the forward looking Rate Year forces the Company to
13 find savings through technological and operational improvements to fully or partially
14 offset the setting of the rate allowance at the GDP inflation rate.

15

16 Q. Does the continued imputation of a productivity adjustment eventually become an
17 unrealistic expectation?

18 A. Yes. The simple economic concept of the law of diminishing return applies. In other
19 words, the continued inclusion of a productivity imputation implies a never ending
20 recognition and creation of savings. By the laws of attrition, as a corporation
21 achieves greater levels of efficiencies it becomes more problematic if not impossible
22 to achieve the equivalent level of savings year after year over an extended period of
23 time.

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1

2 4) Pension SERP Expense

3 Q. Please describe Staff's proposed adjustment to pension expense relating to SERP

4 A. Staff proposes to remove from pension expense the Company's forecast of
5 Supplemental Executive Retirement Plan (SERP).

6 Q. What is the basis for Staff's adjustment?

7 A. Staff asserts that the removal of SERP from pension expense is warranted because:

8 1) the Company did not provide any data showing how the SERP directly benefits
9 ratepayers; 2) the Company did not make any off-setting adjustments in its filing to
10 reflect the inclusion of this additional benefit; 3) the Company did not show that
11 providing this benefit would impede the Company's ability to attract and retain
12 executives; and, 4) the SERP is more like a "bonus" than a benefit and it would be
13 inappropriate to include SERP in light of current economic conditions.

14 Q. Does the RRP agree with Staff's proposed adjustment relative to SERP?

15 A. No. The reasons cited by Staff for the removal of SERP from pension expense are
16 arbitrary and have no basis in fact.

17 Q. Please continue.

18 A. First of all, the Company has included SERP or a form of SERP in pension expense
19 for many years. This is true for litigated and settlement cases. The RRP is not aware
20 of any case where the Commission excluded recovery of SERP in rates. Second,
21 Staff, in its testimony, has apparently created two new standards for cost recovery: 1)
22 costs must not only be prudent, they must also be shown to directly benefit
23 customers and 2), costs must somehow be "offset" by other unspecified but

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1 presumably related reductions elsewhere. Third, Staff's characterization of a
2 supplemental pension plan as akin to a "bonus" is absurd. Bonuses are typically
3 employee cash incentives for achieving strictly defined goals and objectives whereas
4 pension benefits are received in the future after the employee separates from service.

5 Q. You suggest Staff has created two new standards for cost recovery. Why do you
6 believe these to be inappropriate?

7 A. The RRP believes that ratepayers should bear the prudent, ordinary and necessary
8 costs of providing electric and gas service. There are costs where customers receive
9 obvious direct benefits such as with trimming and equipment maintenance. There
10 are also other costs, ordinary and necessary costs, where ratepayers do not receive
11 direct benefit but are nonetheless obligated to pay. An example is the portion of PSC
12 Staff fringe benefits included in regulatory commission expense. One would be hard
13 pressed to show how these costs directly benefit customers.

14 In addition to the new "direct benefit standard", Staff has also created a new "offsetting
15 standard" where costs it characterizes as "additional" must somehow be offset
16 somewhere else within the Company's cost structure. Staff demonstrated no link
17 between the SERP and any other element of cost and frankly, the RRP is at a loss to
18 identify any element of cost logically connected to the SERP such that if the SERP
19 were increased, another element of cost would necessarily be reduced.⁵⁾ Insurance
20 Premiums

21 Q. Please briefly explain how the Staff Accounting Panel projected Directors and
22 Officers liability insurance, which is included in the element of costs referred to as
23 "Other Operating Insurance."

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1 A. The Staff Panel used the actual June 2009 renewal premium and made an adjustment
2 to recognize a continuity credit based on information supplied to Staff by the
3 Company, CHGE Additional Supplemental Response to Staff IR No. 125, Rebuttal
4 Exhibit__(RRP-3R) pg. 1 of 8, indicating that we will receive a credit with our June
5 2010 renewal to calculate the June 2009 premium. This net premium amount was
6 then escalated by the GDP index to arrive at the Rate Year projection. The projected
7 premium was then allocated 50% to utility operations following the ratemaking
8 treatment used in Cases 08-E-0887 and 08-G-0888.

9

10 Q. Does the Revenue Requirements Panel agree with this approach to project D&O
11 insurance?

12 A. No. First, the Staff Panel completely ignored information supplied in response to
13 Staff IRs 125; 322, Rebuttal Exhibit__(RRP-3R) pg 5 through 8, and informal
14 communications during discovery with Company personnel as to the projected level
15 of increase in premiums anticipated in the future Rate Year. In addition, the
16 calculation of the continuity credit is incorrect. The Staff Panel should have reduced
17 the actual June 2009 premium of \$356,189 by the \$87,834 continuity credit that will
18 be received in June 2010 to arrive at the net June 2009 premium. Instead, the June
19 2009 premium was reduced by \$99,285. Lastly, the Company continues to take issue
20 with the premise that 50% of D&O liability insurance should be disallowed from
21 recovery in rates, which is addressed in the rebuttal testimony of Mr. Mosher.

22

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1 Q. How will the update of information at the Brief on Exceptions alter Staff's
2 recommendation?

3 A. The Company requested that D&O insurance be updated with the most recent actual
4 premiums, which has been agreed to by the Staff Accounting Panel. Actual
5 premiums for the June 2010 through May 2011 period will be known in mid May
6 2010, which can be included in the Rate Year and fully alleviate Staff's concern that
7 the rates of escalation forecasted were speculative.

8

9 Q. Are there any other issues with Staff's calculation of D & O insurance?

10 A. Yes. The Staff Panel relied upon one specific item of "empirical data" to support the
11 allocation of directors and officers insurance 50/50 between ratepayers and
12 shareholders. The Staff Panel relied on the 2007 Towers Perrin Directors and
13 Officers Liability Survey that found 53% of the claims brought against public
14 companies were by shareholders and used this data to support their view that
15 shareholders should bear half the cost of directors and officers insurance. . However,
16 the 2008 Towers Perrin Directors and Officers Liability Survey indicated that only
17 29.2% of the claims experienced in the past ten years against public companies were
18 from shareholders or investors, Rebuttal Exhibit__(RRP-5R), but apparently Staff
19 did not rely upon (or even mention) the more current information in its testimony. In
20 the event that the Commission finds that a sharing of D&O insurance is appropriate,
21 it should be based on the data from the 2008 Towers Perrin Directors and Officers
22 Liability Survey.

23

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1 Q. Are there any other issues with Staff's calculation of Other Operating Insurance?

2 A. Yes. Staff did not include the taxes paid on the actual June 2009 policy purchased for
3 the Employed Lawyer coverage. In addition, the Staff Panel increased the projected
4 cost of the Employed Lawyer coverage by escalating the June 2009 by the GDP rate
5 of inflation. However, in response to Staff IR 326, Rebuttal Exhibit__(RRP-3R) pg.
6 6 of 8, the Company indicated that it will be increasing the number of lawyers
7 covered under this policy from one covered employee during the historic year to four
8 covered employees during the Rate Year, thus increasing the carrier's loss exposure
9 which will increase the premium for the policy well above inflation.

10

11 Q. Turning now to the element of cost labeled "Injuries and Damages," please explain
12 the adjustments made by the Staff Accounting Panel.

13 A. The Staff Panel made adjustments to the premiums forecasted for the carriers that
14 provide excess liability insurance by developing an alternate method of projecting
15 these premiums.

16

17 Q. Please describe the method Staff used to calculate the AEGIS premium for excess
18 liability insurance for the Rate Year.

19 A. The projected June 2010 renewal premium was calculated by inflating the actual
20 June 2009 premium by 1.3% and then the calendar year 2010 premium was
21 developed by adding 5 months of the actual June 2009 premium and 7 months of the
22 projected June 2010 premium. The Rate Year premium was calculated by inflating
23 the projected calendar year 2010 premium by 0.90%.

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1

2 Q. Does the Revenue Requirements Panel agree with the methodology employed by the
3 Staff Panel to project the AEGIS premium?

4 A. No. Staff's reliance on the GDP inflation rates to project the increase in premiums
5 the Company can expect in June 2010 and June 2011 is at odds with the actual
6 increases the Company has received over the past five years, which is in excess of
7 13%.

8

9 Q. Please elaborate on the actual percentage increase in premiums the Company has
10 received over the past five years from AEGIS for excess liability insurance.

11 A. The actual percentage increases for excess liability insurance from AEGIS for the
12 period June 2005 through June 2009 are as follows: 2005 –12.8%; 2006 – 5.3%; 2007
13 – 11.6%; 2008 – 9.2% and 28.8 % in June 2009.

14

15 Q. Please explain how this information was used by the Company to develop the
16 projection of AEGIS premiums.

17 A. The Company developed a more realistic projection of the likely increase in the
18 forward looking Rate Year by assuming that the premium increase in June 2010 will
19 be equivalent to the actual increase realized in June 2009 and the projected increase
20 in the June 2011 premium will be equivalent to the average increase received from
21 2005 through 2009.

22

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1 Q. Did the Company include a provision for a continuity credit in the forecast of the
2 AEGIS premium in the Rate Year?

3 A. No. The Company has been informed by its carrier that there will not be any credits
4 in June 2010 or the foreseeable future, which was communicated to Staff in response
5 to Staff IR 323, Rebuttal Exhibit__(RRP-3R) pg. 7 of 8.
6

7 Q. Did Staff include a continuity credit in its forecast of the AEGIS premium during the
8 Rate Year?

9 A. In response to CH IR 98, Rebuttal Exhibit__(RRP-3R) pg. 8 of 8, the Staff
10 Accounting Panel indicated they did not include a continuity credit in the forecast of
11 Excess Liability insurance. However, the Staff Panel's workpaper is at odds with this
12 response and the Company has submitted a subsequent interrogatory seeking
13 confirmation or clarification to the following Company interpretation of the inputs
14 included in Staff's workpaper:

	<u>June 2008 Renewal</u>	<u>June 2009 Renewal</u>	
15			
16	AEGIS Premium Excluding Taxes	\$ 725,064	\$ 932,706
17	Continuity Credit	<u>(75,395)</u>	<u>(67,127)</u>
18	Net Premium	<u>\$ 649,669</u>	<u>\$ 865,579</u>

19

20 In the event that Staff's premium amount for the June 2008 and June 2009 does in
21 fact include a continuity credit, these credits should be removed to be consistent with
22 the Staff Accounting Panel's response to CH IR 98.
23

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1 Q. Does the Revenue Requirements Panel have any other issues with Staff's calculation
2 of excess liability insurance?

3 A. Yes. The Staff Panel did not include the taxes paid on the actual June 2008 and June
4 2009 policies purchased from AEGIS in their calculation. In addition, the Staff
5 Panel used the historic year ended March 31, 2009 expenditures and applied the
6 GDP inflation rates to arrive at the Rate Year projections for the premiums related to
7 Energy Insurance Mutual (EIM) and Premises General Liability. Regarding the EIM
8 premium , the actual premium paid in June 2009 was known and should have been
9 used as the basis to project the going forward premium level in the Rate Year.
10 Regarding the Premises General Liability premium, the Staff Panel applied the GDP
11 inflation rates to the historic year level of expense, which only recognized three
12 months of the annual 2009 premium. The actual premium paid in 2009 should have
13 served as the basis to project the going forward premium level during the Rate Year.

14

15 6) Stray Voltage Deferral Accounting

16 Q. Please briefly explain the recommendation set for the by the Staff Accounting Panel
17 related to the Company's request that deferral accounting continue for Stray Voltage.

18 A. The Staff Panel is recommending the discontinuation of deferral accounting
19 treatment for Stray Voltage expenditures approved by the Commission in the last
20 rate order on the basis that it's no longer necessary or appropriate in their view.

21

22 Q. Does the Revenue Requirements Panel agree?

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1 A. No. The Staff Panel recommendation is premised on an interpretation of
2 Commission's intent that deferral accounting treatment was only necessary for one
3 testing cycle, however, that intention was conditioned on an underlying assumption
4 that better estimates would be possible to more accurately project costs in a forward
5 looking Rate Year.

6

7 Q. Is the Company currently of the opinion that an accurate projection can be made?

8 A. No. As fully explained in the rebuttal testimony of Mr. DuBois there still exist a high
9 degree of uncertainty as to the scope of work and total costs to meet the new
10 standards established by the Commission, particularly in relation to the scope and
11 costs for mitigation down to 1 volt. As such, providing for the continuation of
12 deferral accounting will align the interests of customers; shareholders and the general
13 public by ensuring that a well defined stray voltage program is both fully
14 implemented and fully funded.

15

16 7) Uncollectible Accounts

17 Q. Please briefly explain the recommendation set forth by the Staff Accounting Panel
18 related to projecting Uncollectible Accounts expense.

19 A. The Staff Accounting Panel proposes that the rate allowance for uncollectible
20 accounts expense be based on the most recent twelve months of data available at
21 brief on exceptions of the net charge-off amount as a percentage of total revenues
22 subject to bad debt applied to the projected delivery revenues subject to bad debt. In
23 addition, the Panel recommends that the rate allowance be adjusted downward for

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1 the deferral granted in Case 09-M-0140 related to incremental gas net write-off of
2 \$541,000 for the twelve months ended December 31, 2008. Lastly, the Panel
3 proposes that the allocation between electric and gas operations be based on the
4 latest available data of actual net write-offs.

5
6 Q. Does the Revenue Requirements Panel agree with the Staff Accounting Panel
7 recommendations?

8 A. No. First, the Staff Panel mischaracterizes the Company's proposal. The projected
9 amounts shown on Exhibit __ (RRP-1) and Exhibit __ (RRP-2) for electric and gas
10 respectively were developed based on the net charge-off amount as a percentage of
11 revenues subject to bad debt for the historic year. However, as stated on page 19,
12 lines 13 through 15, of the Revenue Requirements Panel testimony these amounts
13 represented a placeholder to be updated with the projections developed by the
14 Company's Uncollectible Accounts Panel. Secondly, the downward adjustment that
15 the Staff Panel is suggesting is illogical and without merit. The Staff Accounting
16 panel has misunderstood the significance of the approval of the deferral request.
17 That approval has the effect of repairing a significant understatement of the rate
18 allowance as compared to actual experience. The Rate Year is a forward looking
19 projection, while the deferral referred to in the Staff Panel's testimony relates to a
20 circumstance in the past. If the Staff Panel's recommendation were to be adopted, it
21 would require that the Company assuredly collect \$541,000 of uncollectible accounts
22 expense in the Rate Year via a deferral petition to make the Staff forecast valid. The
23 Company's Rate Year projection of uncollectible accounts is not overstated, it

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1 represents a projection of actual costs into a future period. Lastly, the Company is
2 indifferent to the Staff Panel's allocation proposal so long as the total percentages
3 between electric and gas add to 100%.

4
5 Q. Did the Staff Accounting Panel respond to the Company's request that uncollectible
6 accounts expense be subject to deferral and reconciliation for both the delivery and
7 commodity components?

8 A. Yes. The Staff Panel is proposing that the Company's proposal for deferral and full
9 reconciliation be rejected. The Company's rebuttal testimony on this subject is
10 addressed by the Uncollectible Accounts Panel.

11
12 8) Property Taxes

13 Q. Please briefly explain how the Company developed the property tax projections in
14 these proceedings.

15 A. The Company's property tax projection was developed by applying GDP inflation
16 factors to the latest known property tax assessments, which, at the time the filing was
17 developed, was the time period of July 2008 through June 2009 for School and
18 Village Taxes and 2009 for Town and County Taxes. In addition, the Company's
19 projections included incremental tax assessments related to significant capital
20 additions based on a review of the capital expenditure plan sponsored by Mr.
21 Haering.

22

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1 Q. Did the Staff Accounting Panel propose any adjustments to the property tax
2 projections?

3 A. Yes.

4

5 Q. Please explain the adjustments made by the Staff Accounting Panel as it relates to
6 property taxes.

7 A. The Staff Accounting Panel made adjustments to the projected incremental
8 assessments that the Company forecasted into the Rate Year based on an update of
9 School Taxes for the July 2009 through June 2010 time period that was provided to
10 Staff. Based on a review of the Staff workpapers, the Company assumes that Staff
11 was attempting to remove incremental assessments that were included in the update
12 of School Taxes.

13

14 Q. Does the Company agree with the proposed adjustments?

15 A. Not in its entirety. Based upon the review of these workpapers, the Company
16 believes that Staff erroneously removed some of the projected incremental capital
17 improvements and that certain incremental capital improvements were not accounted
18 for correctly in the Rate Year. In addition, since School taxes are on the same cycle
19 as the projected Rate Year, the Company believes that Staff incorrectly reflected
20 only one half of the School Taxes for certain incremental capital improvements.

21

22 Q. Has the Company quantified the amount of Staff's adjustments that should be added
23 back to the Company's original Rate Year projection?

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1 A. Yes. The Company believes that \$315,675 of electric incremental property taxes
2 should be added back to the Rate Year projection.

3

4 Q. Does the Revenue Requirements Panel have any other comments with regard to
5 Property Taxes?

6 A. Yes. The Company is very concerned about the levels of increased property taxes
7 recently experienced for School Taxes during the Fall of 2009 and the anticipated
8 increase in Town & County taxes that will be incurred in January 2010 and the
9 potential financial impacts in the Rate Year.

10

11 Q. Please elaborate.

12 A. The update provision provided for in these proceedings does not cover the projected
13 Rate Year. The update of School Taxes covers the period July 2009 through 2010,
14 which is a full twelve months prior to the Rate Year. The update of Town & County
15 taxes will be reflected for only one half of the Rate Year. Absent a significant upturn
16 in the New York State economy, it is highly probable that the rates of escalation in
17 Property Taxes recently experienced will be duplicated and more than likely
18 increased even further. As shown in Rebuttal Exhibit ____(RRP-4R), this assessment is
19 fully supported by newspaper articles that have circulated recently.

20

21 Q. Why is this a concern in the context of a one year litigated case, where the
22 Commission has stated its expectation that companies should be able to manage their
23 cost of doing business?

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1 A. Proper ratemaking calls for the alignment of rate allowances based on a forward
2 looking Rate Year. An expectation that the Company should be able to manage a
3 15% increase in School Taxes and an anticipated 14% increase in real estate taxes is
4 unrealistic and quite frankly poor public policy.

5

6 Q. What regulatory course of action should the Commission consider under these
7 extraordinary circumstances?

8 A. The Company believes that deferral accounting should be implemented for Property
9 Taxes in the context of this case.

10

11

12 9) Non-Interest Bearing CWIP

13 Q. Please explain the outstanding issue as it relates to non-interest bearing construction
14 work in progress (CWIP).

15 A. In response to Staff IR 385, which has been identified as Staff Accounting Panel
16 Exhibit __ (AP-41), the Company indicated that errors were discovered in the
17 Company's presentation of average non-interest bearing CWIP and that
18 corresponding changes to average rate base were required that increased average rate
19 base by \$2.726 million and \$4 thousand for electric and gas, respectively.

20

21 Q. Did Staff incorporate these changes into their development of electric and gas
22 revenue requirements?

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1 A. No. Staff's testimonial position was due November 17, 2009 and the Company's
2 response to Staff IR 385 was provided on November 10, 2009. Understandably, the
3 Staff Accounting indicated that they did not have enough time to completely review
4 the Company's response and supporting workpapers to determine if they were in
5 agreement with the Company's adjustment.

6

7 Q. Did Staff indicate when their review would be completed?

8 A. Yes. Staff indicated that they would provide a report of their review at the time of
9 hearings.

10

11 Q. Does the Company agree with Staff's proposal?

12 A. No. The Company believes that ample time has passed that allowed Staff to review
13 the response and determine if they were in agreement with the Company's
14 adjustment. The Company is of the opinion that this issue should be addressed by
15 Staff prior to hearings to allow the Company time to prepare for cross examination
16 during hearings should there be a difference of opinion.

17

18 Q. Does this conclude the rebuttal testimony of the Revenue Requirements Panel?

19 A. Yes, it does.