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STATE OF MAINE
SPECIAL LEGISLATIVE COMMITTEE TO
INVESTIGATE PUBLIC UTILITIES

Re: Investigation)
of Public Utilities)

HEARING

October 11, 1984
2:35 P.M.

State House
Augusta, Maine

Reporter: Erin M. Durkin, RPR

REPORTING
ASSOCIATES

JUN 13 1985

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STATE OF MAINE
LEGISLATIVE COMMITTEE
TO INVESTIGATE
PUBLIC UTILITIES

EXAMINATION-BY

====> PAGE 7 LINE 9

9 EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LIBBY:

====> PAGE 12 LINE 12

12 EXAMINATION-BY ATTY. FLAHERTY OF MR. LIBBY:

====> PAGE 16 LINE 25

25 EXAMINATION-BY MR. ASCH OF MR. LIBBY:

====> PAGE 21 LINE 16

16 EXAMINATION-BY ATTY. LINNELL OF MR. LIBBY:

====> PAGE 27 LINE 21

21 EXAMINATION-BY MR. ASCH OF MR. LIBBY:

====> PAGE 29 LINE 5

5 EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LARKIN:

====> PAGE 41 LINE 3

3 EXAMINATION-BY MR. SPROUL OF MR. LIBBY:

====> PAGE 42 LINE 1

1 EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LARKIN:

====> PAGE 45 LINE 2

2 EXAMINATION-BY ATTY. LINNELL OF MR. LARKIN:

==> PAGE 58 LINE 23

23 EXAMINATION-BY ATTY. FLAHERTY OF MR. LARKIN:

EXAMINATION-BY
PAGE 66 LINE 17

==>

17

EXAMINATION-BY ATTY. ASCH OF MR. LARKIN:

==>

PAGE 68 LINE 9

9

EXAMINATION-BY ATTY. FLAHERTY OF MR. LARKIN:

===>

PAGE 69 LINE 21

21

EXAMINATION-BY MR. ASCH OF MR. LARKIN:

EWING & PETERS

1 CHAIRMAN BALDACCI: This is a meeting of the Joint
2 Select Committee to Investigate Public Utilities that was
3 recessed until today. There would be members coming in and
4 out that are on this committee that we have been unable to
5 get in contact with. Today, we have the state auditors. Do
6 you have a prepared statement that you would like to give us
7 please?

8 MR. LIBBY: I believe I have. Where do you want me?

9 CHAIRMAN BALDACCI: Right up here. If you would
10 both stand up and raise your right hand.

11 GALEN C. LIBBY, having been duly sworn by the Chairman, was
12 examined and testified as follows:

13 CHAIRMAN BALDACCI: Do you have a statement that
14 has been prepared? Has it been circulated to the committee.

15 MR. ASCH: It has been supplied to the committee.
16 She is running off copies.

17 CHAIRMAN BALDACCI: Why don't you start.

18 THE WITNESS: We have reviewed material relating to
19 political activity reporting of employees of Central Maine
20 Power Company during the calendar years 1980 through 1983.
21 In New England Telephone Company for the period September 1,
22 1982 through August 31, 1983.

23 The review of Central Maine Power Company revealed
24 that detail records were maintained for travel expenses of
25 senior officers as they related to various activities.

1 Detail records relating to the actual amount of time
2 allocated by a senior officer to any particular activity were
3 not required to be maintained. Individual senior officers
4 estimated on a percentage basis the amount of their time
5 applicable to various activities. These estimates were
6 reported to the payroll section so that a constant rate for
7 salary cost distribution could be applied at the end of each
8 payroll period. Any exceptions to these constant rates were
9 reported by the effective officers at the end of the payroll
10 period for appropriate adjustment.

11 Our review did include a review of daily calendars
12 kept by various secretaries and company officials. These
13 calendars in many instances only gave the time of various
14 meetings but not the duration of the meetings or who attended
15 the meetings. As a result, total time involved and related
16 costs could not be determined. Since the distribution of
17 cost was based entirely on these estimates, it was impossible
18 for us to verify the accuracy of salary costs charged to
19 individual activities.

20 However, it was indicated to us by James LeBlanc,
21 assistant to the comptroller of Central Maine Power Company
22 that a more detailed system of reporting the allocation of
23 time by senior officers was implemented in late 1983 or early
24 1984. This new system provides for a daily recording of work
25 hours applicable to various activities. Salary charges are

1 prorated to the activities based upon the hours worked during
2 the payroll period.

3 The review of the New England Telephone Company
4 centered around their political activities report for the
5 period dated September 1, 1982, through August 31, 1983. Due
6 to the fact that the time and expenses including in this
7 report was made on a retrospective basis, we do not feel that
8 absolute reliance can be based on the accuracy of the report.

9 In fact, the report itself states that estimates
10 were used in instances where precise data was unavailable.
11 The time reflected apparently was the amount of time that the
12 employee supposedly devoted each day to any type of activity
13 which may be construed as political. The time and expense
14 not reflected on the activity reports were not available for
15 research at this time. Thus, a determination could not be
16 made as to the completeness of the amount afforded for
17 political activity.

18 In addition to the aforementioned reviews of
19 Central Maine Power Company and New England Telephone Company,
20 we corresponded with Bangor Hydro-Electric Company and Maine
21 Public Service Company. Each company was asked the same
22 basic questions relating to the source of information used to
23 prepare campaign finance reports and how costs relative to
24 political activities were charged. The replies from these
25 companies were similar in that they both indicated employees

1 were required to report time spent on political activities
2 and that any related costs were charged below the line. Any
3 comments by us would be inappropriate at this time since we
4 have not reviewed either of these company's detail records.

5 Conclusion: We feel that the Joint Select
6 Committee to Investigate Public Utilities should establish a
7 uniform standard reporting system to include a more detailed
8 recording of time and effort for public utility companies and
9 a clearer value of activity reporting.

10 CHAIRMAN BALDACCI: Copies of your statement. Do
11 you have anything else you would like to show the committee?

12 THE WITNESS: Yes. This is the report that New
13 England Telephone sent us. This report explains how they
14 made up their charges for that period of time. As they said,
15 they made it on a retrospective basis. This was for the
16 period September 1, '82, through August 31, 1983. They did
17 it in February -- January or February of 1984.

18 Now, to accumulate the report, they had some of
19 their officials prepare work papers from a calendar, from
20 their daily calendar like this to accumulate the time. But
21 this was a year and a half after the fact which to me would
22 be rather difficult to accumulate time as well as expense and
23 say that you're entirely accurate.

24 I feel that they did a tremendous job in working on
25 it, but I feel that that report -- I can't say how accurate

1 it is. It could be overstated. It could be understated. I
2 couldn't say. It wouldn't be fair to say.

3 As I said, we did not review Maine Public Service
4 or Bangor Hydro detail records. We did review Central Maine
5 Power Company's daily calendars which these are examples. I
6 have two desk drawers full of such material, and you go
7 through it by the day for the three years and try to figure
8 out how much time was spent. It is an impossibility. And
9 they had to report this material after the fact to find out
10 how much time was actually spent.

11 So in that case, I also feel that it is quite
12 possible that they could have overreported. They could have
13 underreported. I don't know.

14 MR. ASCH: Mr. Libby, did you attempt to reconcile
15 the daily calendars with any other material from Central
16 Maine Power Company?

17 THE WITNESS: I tried, but due to the fact that I
18 am not used to Central Maine Power Company's accounting
19 system, it would be an impossible task to go through and look
20 at computer records and say that that is the actual time it
21 was correct. And the company official had to report the time
22 on an estimated basis so that they could break it out that
23 way.

24 MR. ASCH: Did you look at the individual expense
25 records of officers of Central Maine Power Company?

1 THE WITNESS: Did I look at the individual expense
2 records? On one or two of them, yes.

3 MR. ASCH: What was your impression of the material
4 that you reviewed?

5 THE WITNESS: The expense records itself I saw no
6 problem with it. It is the time and effort reporting that I
7 have a problem with. Because if you look at the calendar, it
8 says that they have a meeting, for example, at --

9 EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LIBBY:

10 Q. Could we look at some of that.

11 A. Certainly. I would be glad for someone else to look at
12 them besides me.

13 Q. So these are the calendars that were used as a reference
14 point for putting down time and work effort?

15 A. That's correct.

16 Q. And have you got one in front of you?

17 A. I have one, yes.

18 Q. So if we see a meeting that starts at 9:00 o'clock and
19 it doesn't say anything else after that, then trying to
20 figure out if it is on the monthly or yearly report --

21 A. It would be next to an impossibility because on the
22 monthly report, they might say that on the 9th, they had an
23 hour's meeting. I don't know whether that meeting went for
24 an hour or how long when it says 9:00 o'clock here. I don't
25 know whether it was an hour meeting or how long. This

1 doesn't tell you how long the meeting was.

2 Q. Did you ask them why? Were they able to define it for
3 you better?

4 A. I did not ask them.

5 Q. You didn't ask them why -- how did they come up with the
6 figures they come up?

7 A. It was an estimate as I stated in the very beginning
8 that the officials estimated the time. Senior officers
9 estimated on a percentage basis amount of time applicable for
10 various activities.

11 Q. What did they estimate? How much did they estimate?
12 What percentage did they estimate?

13 A. I don't know what the percentage was because it would
14 change at various times. They would come up with a standard
15 percentage that they would distribute for the month. Then if
16 there was any changes after that period of time, they would
17 change -- they would change it.

18 MR. ASCH: Mr. Libby, is it your impression or do
19 you know whether a similar system was used for reporting time
20 in other areas for the company? I'm basically asking did
21 they estimate all of their time or just estimate the time
22 dealing with political activities?

23 THE WITNESS: I am not certain on that. I can't
24 answer that.

25 MR. SPROUL: Mr. Libby, with your experience as an

1 auditor -- I don't know how often you have gone into
2 companies of this size certainly or even anything the size of
3 the state. What is your personal impression about if they
4 tend to be -- do you believe either New England Telephone or
5 CMP to be more lax than they should be or do you have any
6 type of experience to base that on? Do you feel there was
7 anything unusual in the manner in which they kept their
8 records?

9 THE WITNESS: Well, I don't feel that I really have
10 that much background in that except I do feel that a standard
11 type system that all public utilities could operate by would
12 make it much easier for them to report because I believe that
13 there has been some confusion as to how they should report
14 the time and how they should keep detail records.

15 And I feel the committee -- as I stated, I feel the
16 committee should set certain ground rules for them because in
17 my discussions with different individuals for these companies
18 and having worked in private industry myself, I feel that
19 they are more than willing to do what they are required to do
20 if they have the proper guidelines to go by.

21 MR. SPROUL: With your expertise, are you
22 prepared -- you made a recommendation for the committee to
23 come up with some guidelines. Do I take that to mean that
24 perhaps you have given a little forethought to that, you
25 would be able to help us come up with such recommendation?

1 THE WITNESS: I was told when I was in the service
2 never to volunteer.

3 CHAIRMAN BALDACCI: You mean like form standards
4 and stuff of that nature?

5 MR. SPROUL: Yes. For us.

6 THE WITNESS: If I could.

7 CHAIRMAN BALDACCI: He doesn't want to volunteer
8 any work.

9 THE WITNESS: If I could be of help and my
10 supervisor -- place that I work for said that I could do it,
11 I would be more than willing to help. I am not saying that I
12 would have the answers.

13 Q. Mr. Libby, yesterday we heard from some of the utilities
14 that were telling us they were changing their system of
15 accounting.

16 A. That's correct.

17 Q. Why would they want to do that?

18 A. Because I believe that this is a new area that they have
19 never really been that involved in before. And due to the
20 investigation, they have found that they may be lacking in
21 the keeping of certain detailed records that they find that
22 probably they shouldn't, and I think that they have tried to
23 change to be able to comply with what is being required of
24 them.

25 Q. What are some of the inadequacies as you see? You

1 pointed out something about meetings starting at 9:00 o'clock.
2 And as we look through this stuff, you know, I don't know how
3 anybody could determine how many hours somebody had spent.

4 A. That is the problem I had.

5 Q. How do they justify that, just with the simple estimate
6 and nobody ever questioned them before?

7 A. I feel that is probably correct. They estimated what
8 they spent and to the best of their ability. And -- at that
9 point in time, I don't know how they could do it any other
10 way.

11 Q. So you think some sort of a uniform standard reporting
12 system makes sense?

13 A. Yes.

14 Q. And you think a more detailed recording of time and work
15 effort for the utility company makes more sense. What do
16 they do now? Give me an example of what they do now? You
17 went through the book. But just take one and follow me
18 through it so I can because I'm slow at times grab it.

19 A. Like New England Telephone?

20 Q. Anyone.

21 A. This is kind of rough, but what they had was a calendar,
22 a daily calendar. They went a year and a half later and went
23 back to that daily calendar which I am surprised that they
24 still had on hand by date and were able to say -- all right,
25 they had a meeting, for example, in -- let me find one here

1 where -- here is one for four hours. Where there is a public
2 witness or interface media questions. And they had four
3 hours of their time in Presque Isle, and they had four hours
4 of their time charged to Chapter 83.

5 Now, they had to pick this up from their daily
6 calendar. So in the meantime when they accumulated this,
7 they had to go back and put it on one of these sheets,
8 calculate out the amount of money. Then it had to be
9 summarized, and this is a year and a half later. To me
10 that's almost an impossible situation for a company to do
11 something like that.

12 EXAMINATION-BY ATTY. FLAHERTY OF MR. LIBBY:

13 Q. I take it from what you say that one area of improvement
14 would be contemporaneous allocation of time as distinguished
15 from retrospective?

16 A. Yes.

17 Q. So that the individual performing work of this nature in
18 your view ought to have some system by virtue of which he or
19 she would be required to allocate or to set forth the exact
20 amount of time at the time it was actually being used for
21 these purposes?

22 A. Yes.

23 Q. And that would eliminate the retrospective?

24 A. Right.

25 Q. In your review of New England Telephone, and I guess you

1 said Central Maine?

2 A. Central Maine.

3 Q. Do I understand from your testimony that the effort in
4 these cases was to allocate specific hours albeit
5 retrospectively as distinguished from percentages of the
6 time on a daily or weekly basis?

7 A. Right.

8 Q. They didn't go the percentage route?

9 A. I believe Central Maine went the percentage route.

10 Q. Would you check that for me.

11 A. Central Maine used a percentage route.

12 Q. Okay. So Central Maine was using a percentage
13 allocation. And was that retrospective also?

14 A. To a certain degree, yes. Because it could be a month
15 later or two months later or something like that.

16 Q. Do you have any examples of that kind of allocation with
17 you today? Central Maine Power's method of allocating
18 percentagewise at the time? If you don't, I wish you would
19 explain it a little more to us.

20 Let's take an individual employee based on what you
21 found, and let's assume that employee reported at some point
22 in time spent on political activity. How did that time find
23 itself into a -- find its way into a report?

24 A. Well, I believe I explained that -- didn't I explain
25 that in this?

1 G. Generally, yes.

2 A. Well, for example, we'll say that -- well, Bob Leason
3 was one we went through.

4 G. Let's take that one.

5 A. On the 22 of February, 1982, he discussed some survey --
6 can't read the other word and I didn't write it. But in
7 February of '82, I had to go back to the calendar to find out
8 how much time. I was not able to trace that through to the
9 individual payroll.

10 G. When was that entry made that the time had been spent on
11 some kind of survey?

12 A. It would have been made at the end of February.

13 G. And this would have been several days or something after
14 the actual fact?

15 A. Well, it would have been made when -- yes, after the
16 fact.

17 G. And then it found its way as a percentage of time on
18 that day or percentage of time that week?

19 A. I think it was the percentage of time for the month.

20 G. So this was done afterwards?

21 A. The time was accumulated for the month, and a percentage
22 of his time was accumulated for the month, and a percentage
23 would be taken to be charged to political activity at that
24 time. Now, they have since in late '83 or early '84 --

25 G. That's changed?

1 A. I understand it has been changed, but I have not looked
2 at it.

3 Q. You made reference to a below the line entry?

4 A. Yes.

5 Q. What should we understand by that?

6 A. Below the line is charged to the stockholders.

7 Q. And what is the line we are talking about just for the
8 record?

9 A. That I am not too clear on. There are some things that
10 can be charged to ratepayers. Some things can be charged to
11 when they are asking for rate cases, and sometimes they are
12 not charged to the rate cases.

13 Q. When you are saying it is below the line, it is
14 something that cannot be calculated in your view as a company
15 cost for purposes of determining what the rate of return
16 should be?

17 A. That's correct.

18 Q. And so it bears -- it is excluded so to speak from the
19 complexive factors which the PUC would evaluate in
20 determining whether there should be a rate increase?

21 A. That's what I understand.

22 Q. Did you examine their presentations to the PUC?

23 A. I have not examined those thoroughly, no.

24 Q. If that appeared below the line, what would happen the
25 next year with respect to that item? Would that also be

1 below the line again?

2 A. I would assume that they would put it below the line,
3 yes.

4 Q. Did you have any way from what you observed in your
5 audit of calculating what was the totality of employee time?

6 A. No.

7 Q. Either fixed as a percentage or actual hours in the New
8 England case?

9 A. No.

10 Q. So you couldn't tell that?

11 A. I couldn't tell.

12 Q. You were unable to ascertain or did not ascertain --

13 A. I did not.

14 Q. Whether there would be a surplus of help or anything
15 like that?

16 A. That's correct.

17 Q. Before I forget it, I don't think for the record at the
18 outset you identified yourself.

19 A. I am sorry.

20 Q. You might do that if you would, your name and what you
21 do for a living.

22 A. Thank you. I am Galen Libby, assistant director of the
23 state audit department.

24 MR. FLAHERTY: Thank you.

25 EXAMINATION-BY MR. ASCH OF MR. LIBBY:

1 Q. You are accompanied by?

2 A. Accompanied by Dennis Foster, Legislative Auditor, III,
3 state auditor department. Although --

4 Q. I want to establish something for the record. If I
5 understood you correctly, you were speaking of Central Maine
6 Power having a retrospective time and effort reporting system,
7 is that currently what they are doing?

8 A. Currently I am not certain what they are doing. I had
9 talked with Jim LeBlanc --

10 Q. Jim LeBlanc is?

11 A. Assistant to the comptroller for Central Maine Power.
12 And he informed me that sometime late in 1983, early 1984
13 they have changed their method of accumulating and reporting
14 their time.

15 Q. So the system is not the same system that you analyzed
16 during the period of this committee's inquiry?

17 A. Yes.

18 Q. You referred to New England Telephone's methodology for
19 keeping their time and effort records. Are they still using
20 that same methodology or have they changed?

21 A. I believe that they have also changed. In February of
22 1984, they had asked for this report to be made out on a
23 retrospective basis. And I believe at that time they changed
24 to a more current type of reporting.

25 Q. Have you had an opportunity -- sorry.

1 A. Go ahead.

2 Q. Have you had an opportunity to review either of the new
3 systems that have been put in?

4 A. No.

5 Q. Have you communicated with Maine Public Service
6 corporation about the methods of their record keeping?

7 A. Yes.

8 Q. Could you summarize what you found out for us in that
9 area?

10 A. I did not go to Maine Public Service to talk with them.
11 I sent them a letter with some questions, and these are the
12 answers that they gave. We asked source of total hours
13 reflected on detail of various charge lists corresponding to
14 campaign finance reports. The response. The source of total
15 hours reflected on detail various charges supplement to the
16 campaign finance reports was detailed monthly time reports
17 required by all employees of the company.

18 Question two. Were costs relative to political
19 activities charged above or below the line? If below, what
20 determined how much it was charged to each. If these costs
21 were charged above the line, were subsequent adjustment
22 entries made to transfer the charges to below the line
23 accounts. The response. Costs of these activities were
24 charged below the line.

25 What type of records are now maintained for

1 employee political activities and related expenses? Response.
2 The employees are required to account for their time through
3 use of monthly time reports, and expenses are classified
4 according to activity.

5 Number four. Is there an appropriate below and and
6 above the line distribution of these charges being made each
7 payroll period based on these records. The response, if
8 there are any applicable charges, these expenses are recorded
9 below the line. This was from Mr. LeBlanc, plant comptroller.

10 CHAIRMAN BALDACCI: Maine Public Service Company?

11 THE WITNESS: Yes.

12 G. Did you contact Bangor Hydro-Electric Company?

13 A. Yes, I did. Question one. What type of records are
14 maintained for employee time and charges relative to
15 political activities such as nuclear referendum of 1982.

16 Response. Each company officer is aware of the requirements
17 and charges related to political activities and subject to
18 separate reporting requirements. Accordingly, each officer
19 has been instructed to report the charges related to such
20 activities to Robert S. Briggs, the company vice-president
21 and general counsel. After review, Mr. Briggs transmits the
22 information to the company controller. Based on the
23 information so received, the controller accounts for such
24 charges in the manner prescribed by Chapter 83 of the rules
25 of Maine Public Utilities Commission.

1 Question two. Are those costs charged to above or
2 below the line accounts and if both, what determined how much
3 is charged to each. If charged above the line, were
4 subsequent adjusting entries made to transfer the charges to
5 below the line accounts. Response. Political activities
6 that are defined in Chapter 83 are charged to a below the
7 line account. Account 449. When the information described
8 in item 1 above has not been completed at the time
9 expenditures are recorded, adjusting entries are made to
10 transfer the charges to below the line.

11 Question 3. What type of records are now being
12 maintained for employee political activities and related
13 expenses. The response. The source documents supporting the
14 accounting activities for political activities are the
15 memorandum prepared as indicated in response to question one.
16 A sample of such memoranda is enclosed. I will show you the
17 samples as soon as I finish reading the fourth question.

18 Question 4. Is an appropriate above and below the
19 line distribution of these charges being made each payroll
20 period based on these records? The response. An appropriate
21 above and below the line distribution is not made every
22 payroll period but only when a charge is required to a below
23 the line account.

24 And I have samples of how they accumulate their
25 time from individuals for reporting political activities.

1 And if you will notice when they report the hours, it says
2 approximate hours or approximate time. I can't remember
3 which. I think there is more pages beyond that.

4 CHAIRMAN BALDACCI: Not very detailed?

5 THE WITNESS: I didn't feel that it was.

6 Q. In your discussions with accounting personnel at the
7 companies you dealt with, did they give you any indication or
8 did they -- were they able to refer you to any guidance to
9 them from the Public Utilities Commission for how records
10 should be kept in this area?

11 A. No. I had the feeling that they were trying to
12 establish a basis to work from but didn't have the proper
13 ground rules set down as to what they should accumulate or
14 how they should accumulate the detail records for their time.

15 CHAIRMAN BALDACCI: Mr. Linnell.

16 EXAMINATION-BY ATTY. LINNELL OF MR. LIBBY:

17 Q. Mr. Libby, taking as a given, I would say from what you
18 told us that the method of accounting that CMP and NET did in
19 the periods that you looked at, 1980 to '83 for CMP and '82
20 to '83 for NET, that method of accounting is for you not to
21 be satisfactory able to verify the claims that we make.

22 Have you had an opportunity to review a document
23 that was given to us yesterday by Mr. Jalkut of New England
24 Telephone Company which shows their current accounting
25 practices and the way in which they do it?

1 A. I don't believe I have.

2 Q. Okay. I think it is being handed to you right now.

3 Q. Have you had a chance to at least leaf through it?

4 A. I have leafed through it.

5 Q. That would appear from the document itself it was issued
6 April 11, 1984, from the first page, modifying the former
7 guidelines for tracking and reporting activities and expenses
8 under Chapter 83, correct?

9 A. That's correct.

10 Q. And I will ask you to turn to the unnumbered page also
11 dated April 11, 1984, which begins to external affairs
12 personnel, Maine. Do you have that page?

13 A. Yes.

14 Q. Have you had a chance to review that page? If not, we
15 can take a brief moment to do that.

16 A. No, I hadn't. I had glanced at it. That's all.

17 Q. That page gives an example of how in this instance Mr.
18 Jalkut would account for his time should he have gone to
19 Portland to give a public talk, correct?

20 A. Uh-huh.

21 Q. It explains how it is done?

22 A. That's right.

23 Q. Do you find that to be a substantial improvement over
24 what you saw in reviewing their records from '82 to '83?

25 A. I feel it is a definite improvement.

1 Q. And I appreciate you haven't had a long opportunity to
2 reflect. Anything would be an improvement, right?

3 A. That is exactly the way I feel about it, yes.

4 CHAIRMAN BALDACCI: Anything would be an
5 improvement?

6 THE WITNESS: That's right.

7 Q. I guess I started to say you haven't had a long time to
8 reflect on this, but have you noted any deficiencies in this
9 much improved form or curfew as you look at it?

10 A. I can't say whether there is any deficiencies or not at
11 this time. I haven't had a chance to really study it.

12 Q. I appreciate that.

13 A. I would rather not --

14 Q. Being a careful person, you would rather not say
15 something until you feel more sure of it?

16 A. That's correct.

17 Q. Looking at the activity report itself on the next page,
18 the form that is used, that is I take it -- strike that.

19 Should I take it that no such form appeared in your
20 investigation of New England Telephone records for the '82,
21 '83 period?

22 A. For New England Telephone?

23 Q. Yes, sir.

24 A. A similar form?

25 Q. A similar form.

1 A. A similar form be it this one has been revised which --

2 Q. Can you identify the types of improvements that this new
3 form has made for the benefit of the record?

4 A. Well, for example, where it says estimated time, under
5 the new form, they have it broken into three columns. One is
6 for the time for the event, travel and then the total.

7 Q. And that was not done --

8 A. That was not done on the prior form.

9 Q. Was it just a lump sum time?

10 A. That's correct.

11 Q. I haven't seen the records.

12 A. Travel, meals, lodging, expenses also has a total column.
13 And it has percent applied in Chapter 83 dollars. This also
14 is a breakdown from what they had before. They did not have
15 the three columns.

16 Q. All right. They had broken that down further also?

17 A. They have broken that down further, although they did
18 attempt in their review in some instances to put down a
19 percentage times the total equals the total -- total amount
20 equals the percentage that should be applied.

21 Q. All right. And in Mr. Jalkut's guidelines to the
22 employees who would be utilizing this, he indicates that they
23 should be keeping these records updated monthly. Is that a
24 substantial improvement over the time period these records
25 were being maintained in the past to your knowledge?

1 A. Well, yes. Because they didn't do this report here
2 until --

3 Q. You asked for it?

4 A. I didn't ask for it. The committee asked for it. They
5 had to go back to the record. Now they are keeping -- I
6 believe they are keeping their records on a daily basis in
7 most cases that they have these sheets to report by and write
8 them down daily which I would assume at the end of the month
9 they would be turned in the payroll for the proper
10 distribution.

11 Q. Do you find that method of accounting to be not only an
12 improvement but an acceptable method for your purposes of
13 reviewing their reporting system of what they report?

14 A. I would like to study that one a little more, too.

15 Q. Bearing in mind the New England Telephone Company has
16 other things to do than just sit down and keep records of
17 what it has been doing all day, they have phones to fix and
18 wires to string, there has to be I would assume or would you
19 agree with me some balancing as to how much detail has to go
20 into reports?

21 A. I agree there has to be a balance. There is no question
22 about that because things have to be reasonable.

23 Q. Would you be willing to take the time that you would
24 like to do to take this report that has been given you and
25 review it and if you have any comments that you would like to

1 make as to how you think it should be improved or any
2 deficiencies you note in it, would you be willing to submit
3 that to us in writing or take the opportunity to come back
4 and talk to us again?

5 A. I would like to look it over a little further, and then
6 I would be willing to make any comments required.

7 Q. I would be interested in your answers if you would be
8 willing to do that. Is this the first time you have had an
9 opportunity to review this type of record from these
10 utilities?

11 A. Yes.

12 Q. And that is because it is the first time you have been
13 asked to do it?

14 A. That's correct.

15 MR. ASCH: Could you -- would it be satisfactory to
16 the chair if the results of that review was directed to the
17 staff, and the staff can disseminate it to the members or is
18 it your wish they appear at a subsequent hearing?

19 CHAIRMAN BALDACCI: It is my feeling, and only my
20 feeling not do anything at this time and just digest it all
21 and be able to better think. We are talking about three or
22 four different companies. As I understand it, Mr. Libby,
23 they operate each differently in the way they now report?

24 THE WITNESS: That's the way it appears to me.

25 CHAIRMAN BALDACCI: So we now have one company as

1 making a recommendation as what it is going to be doing for
2 implementation of a procedure that you say is much better and
3 I think --

4 THE WITNESS: Much better than what they had.

5 CHAIRMAN BALDACCI: I think we ought to take into
6 account we have more than different types.

7 MR. LINNELL: This is the only one we have, and I
8 would be perfectly happy to have him give the reactions in
9 written form to the staff. We get provided with them and
10 after reviewing what he says if we have some questions.

11 CHAIRMAN BALDACCI: We will have an opportunity to
12 have Mr. LeBlanc who you have been dealing with at CMP?

13 THE WITNESS: Yes.

14 CHAIRMAN BALDACCI: And I think we have others
15 whatever they are doing. I am sure as you pointed out '83, '84
16 was during a period in which there was a spotlight in the
17 political activities so caused some changes so maybe the
18 others have changes that they are making.

19 THE WITNESS: They have.

20 CHAIRMAN BALDACCI: Mr. Asch.

21 EXAMINATION-BY MR. ASCH OF MR. LIBBY:

22 Q. One concern in the questions of Mr. Flaherty and Mr.
23 Linnell's questions, particularly on Mr. Linnell's on New
24 England Telephone. Do I understand they -- as I read the
25 document it seems to be on page 5, they are requiring a

1 contemporaneous recording of political activity? I wasn't
2 sure whether that --

3 A. This is what I understand.

4 CHAIRMAN BALDACCI: Mr. Flaherty asked that
5 question whether it was favorable versus retrospective.

6 Q. How long ago did you start looking at the time and
7 effort reports of the various utility companies?

8 A. Several months I know that. I believe in the actual
9 time and effort report was sometime in July that we started
10 looking at the actual calendars and so forth to try to
11 determine -- prior to that we had been looking at other
12 information that they had provided us on some of the surveys
13 that have been made.

14 Q. What led you to look at time and effort reports?

15 A. To find out how they accumulated their time. If we
16 could determine how they were allocating their time to
17 political activities to be able to accurately report -- make
18 their political reports, Chapter B3 reports that they were
19 required to. How they accumulated their time and so forth.

20 Q. Thank you very much.

21 CHAIRMAN BALDACCI: Are there any questions for Mr.
22 Libby or Mr. Foster at this time? I remind you that if --
23 you are going to still be able to be here today? Do we have
24 another witness? You will be here for a moment?

25 THE WITNESS: I can stay for awhile, yes.

1 CHAIRMAN BALDACCI: Maybe we need to ask you more.
2 Questions later on.

3 HUGH LARKIN, JR., having been duly sworn by the Chairman
4 was examined and testified as follows:

5 EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LARKIN:

6 Q. What is your name and occupation?

7 A. My name is Hugh Larkin, Junior. And my business address
8 is 32290 Five Mile Road, Livonia, Michigan. I am a certified
9 public accountant and a senior partner in the accounting firm
10 of Larkin and Associates. We specialize in utility
11 regulation.

12 Q. Have you prepared an exhibit describing your
13 qualifications and experience?

14 A. I don't know if -- it is a standard preparation that we
15 file with testimony, we file before public service
16 commissions. I think it is a little old but it is the basic
17 data. There may be some cases in there that we have
18 testified in that don't appear on that list, but it is a
19 fairly good background of what we do -- what I do.

20 Q. What have you been asked to do for this committee?

21 A. Well, basically I was asked to come and tell the
22 committee what happened in Michigan regarding a ballot
23 proposal and the activities of utilities in relationship to
24 that ballot proposal. I guess maybe what I should start out
25 with is just give you a little bit of my background and then

1 get into why there is a problem there and what I perceive the
2 problem to be and to give to the commission my idea of -- the
3 committee my idea of why you should be interested in it.

4 The proposal or the ballot proposal in Michigan was
5 called Proposal D, and the effect of that proposal would have
6 been -- it was put on the ballot by a group called Michigan
7 Citizens Lobby. It would have eliminated automatic
8 adjustment clause. There would have been no automatic fuel
9 clause. There would have been no automatic concentive clause
10 related to plant availability. There would have been no
11 automatic clause related to plant maintenance. It was a --
12 it would have been a drastic change in regulation in Michigan.

13 It was perceived by the utilities probably
14 correctly that they should take some action. In my opinion
15 the action that they took was not open and above board. They
16 spent some \$8 million in influencing the outcome of that
17 election. Some 1.7 million of it came from their own
18 personnel and overhead. Some six million was spent by them
19 under the term what we call below the line contributions, and
20 they collected about 1.7 million from suppliers.

21 The thing that seemed unfair about it is that the
22 advertising and the mailings that were received, and there
23 were many of them, were not done in the name of the utilities.
24 The utilities organized committees, and I will give you some
25 of the names of the committees that gave you the impression

1 that there was an underlying, grass roots movement to defeat
2 this proposal. I am not sure that I was in favor of it, but
3 I didn't think that when the funds were spent by groups that
4 were called Labor for Michigan Jobs and Energy, Citizens for
5 Jobs and Energy, Grand Rapids Area Citizens for Jobs and
6 Energy, Capital Area for Jobs and Energy, Metro Detroit
7 Citizens for Jobs and Energy. Those weren't all of them.
8 But I think the public perceived that there was something
9 fundamentally wrong with this proposed change in regulation.
10 And there were citizens groups throughout the state that
11 didn't want it to pass.

12 But when you got below that level and you saw what
13 funding was and you saw where the money came from, it was
14 strictly utility related. I am not saying that they
15 shouldn't be involved. I think they should have. I think
16 the level and the fact that they did not disclose to the
17 public that they were the actual individuals opposing the
18 legislation may not have been fair. All right. Now, we have
19 dealt with that point.

20 The second point is who paid for it. There has
21 been some discussion about above and below the line. That is
22 kind of a -- you term it as a term of art, but it is also a
23 term that is used to describe a group of accounts. And what
24 it is is just a segregation of costs that this group of costs
25 which we say is above the line is going to be included in

1 rates. And this group of costs which we say is below the
2 line, you can't get in rates. So it is obvious that the
3 ratepayer is not paying for those. But when you get to
4 employees, people that normally work in the utility function,
5 whose costs are normally charged as we would term above the
6 line, those funds initially come from the ratepayers.

7 Now, in the state like Maine where they use
8 historical test year, there is a possibility that in the
9 future those costs would not be borne by the ratepayer. For
10 instance, if you had a political activity and the record
11 keeping were proper and the costs were accumulated and they
12 were charged below the line, and that particular year, say it
13 is 1984, became the test year or the model for which the
14 public service companies used to establish rates in the
15 future, then the ratepayer would not pay those costs. But if
16 1984 was skipped, was not a test year and you went to '85 and
17 you did not have that charge below the line, those costs
18 would then revert back up and be borne by the ratepayers.

19 Generally, there is no source of income that a
20 utility has -- I am speaking in general terms other than the
21 ratepayer. So every dollar that flows in is a ratepayer
22 dollar. Now, they're not color coded. Somebody doesn't say
23 that this one is a stockholder dollar. And this one is a
24 ratepayer dollar. It is a decision that regulators make and
25 people like you make when they determine the legislation as

1 to how those dollars are going to be treated.

2 And the reason you ought to be interested is is not
3 because the money is so great. \$8 million in the State of
4 Michigan if you took it out of all the rates, it wouldn't
5 affect somebody's utility bill by pennies if it even effected
6 it by that. But it is the outcome of what that influence of
7 the legislation might eventually do to regulation, to the
8 path that a utility is taking, and that is why you ought to
9 be interested.

10 As far as time accounting is concerned, utilities
11 don't account for time. Utility managers don't account for
12 time. And the reason they don't is because there is no
13 reason to. They ought to do it because it is a good
14 management tool because when you start to accumulate your
15 time and see where you are spending it, what you spend your
16 time on, you have a tendency to become more efficient.

17 From that standpoint, it might be a good idea for
18 all utility managers to start keeping time like attorneys do,
19 CPAs do because we want to know who we can send our bill to.
20 The utilities know that there is only one guy that you are
21 going to send the bill to so -- it is the ratepayers so there
22 is really no incentive, no competitive incentive to be more
23 efficient to record your time.

24 At least they ought to be required when they get
25 outside a utility function like a political activity is to

1 keep good detailed records. I mean records that say I
2 started this day and I did this and I quit at that time, and
3 keep track of all related costs. If they took an automobile
4 somewhere, that ought to be charged, too, and the overheads
5 related to payroll and to vehicle usages also ought to be
6 charged below the line.

7 I heard the state auditor describe the information
8 that they found. What the accounting was. It would be
9 almost a carbon copy of what we looked at when we got into
10 looking at this type of thing. I would recommend that the
11 committee require some kind of time accounting, and that
12 those employees be charged or that company time be charged on
13 a regular basis below the line.

14 Then there is a related cost. The \$8 million that
15 was spent in the Michigan legislative proposal, a source of
16 1.7 million of that were contributions from non-Michigan
17 either utilities or companies that supply services to
18 Michigan utilities. A study done by the Michigan Public
19 Service Commission staff on those contributions indicated
20 that they found 85 percent of the contributors on the vendor
21 files of one of the four utilities. There seemed to be or in
22 my mind would be an element of either vested interest or
23 coercion that somebody would make a contribution like that.

24 For instance, these are the 10 highest contributors.
25 Panhandle Eastern Pipeline. Panhandle is a gas supplier. It

1 provided gas supplies to both consumer power who spearheaded
2 this ballot opposition and Michigan Consolidated. American
3 Natural Gas which was a parent or a part of a subsidiary
4 organization in the same organization that owned Michigan
5 Consolidated Gas. Witter Coal Sales. Obviously your coal
6 company is selling coal to a utility. Peabody Coal Company.
7 Consolidated Coal Company. Diamond Shamrock, General
8 Electric, AMACO products, Middlestates Coal Company, Stone &
9 Webster. Stone & Webster is a consulting operation that does
10 engineering work for utilities. They accounted for the great
11 majority of these contributions.

12 It seems to me that if somebody is willing to
13 contribute up to \$300,000 for this, they either have a vested
14 interest or they have a way of recouping those costs. I
15 would look at those types of contributions with a jaundice
16 eye, and I would require that they be taken out of rates.
17 That somewhere along the line these companies intend to
18 recover those costs back.

19 Q. Could you explain -- give me an example of that?

20 A. Well, gas companies have pipeline gas companies have
21 automatic adjustment clauses also. Administrative costs
22 which this could be considered are considered in those costs
23 which are escalated and passed onto the distribution utility.
24 Stone & Webster can recover their costs through higher
25 overhead rates which they charge utilities for doing

1 engineering work. AMACO products sells oil to utilities that
2 have electric oil generators. They can recover those costs
3 through the same mechanism.

4 So unless you are going to audit every supplier
5 right on back to insure they never recover those costs, there
6 is at least an incentive to try to recover them at some
7 future point from the ratepayer.

8 I had some specific examples of time reporting, but
9 I think that would be redundant. The staff auditors have
10 given you examples of what records were kept by Maine
11 utilities, and I think that those are pretty much standard in
12 the industry. That there isn't anything really detailed,
13 really which would convince you that I started out with a
14 reasonable attempt to account for the costs.

15 Q. What would you recommend as far as the payroll and
16 overhead recorded as below the line?

17 A. As far as keeping time records?

18 Q. Yes, below the line.

19 A. I made several recommendations to the Michigan Public
20 Service Commission. And those recommendations were as
21 follows: That daily logs be maintained by individuals
22 documenting in detail specific jobs or activities performed
23 including the time of day the job was performed, the total
24 hours worked on the political issue each day. These logs
25 should include travel time. You have to do it on a daily

1 basis because there is nobody that I know of that can go back
2 at the end of the month and really recollect what they did
3 the first day of the month. I don't keep time records that
4 way. I know that even if I wait until the end of the week, I
5 can't remember what I did on the first day if it is more than
6 one activity.

7 Q. What do you think about utilities that report a year and
8 a half later or a month later? You are an accountant and you
9 should --

10 A. I don't think they could come up with an accurate -- it
11 is an estimate. It is not an accurate account. Even if they
12 tended to be ultraconservative and charge more time. I don't
13 think anybody wants them to undercover their cost. The
14 public wants in general a fair understanding of what went on
15 and what the utilities are involved with.

16 The second recommendation was that they keep
17 monthly subsidiary records which summarize each employee's
18 time on the ballot proposals each month and the wage
19 allocation for each employee related to political activities.

20 The third was monthly summaries for all employees
21 expenses allocated below the line for each individual. These
22 summaries should be broken down into separate sundry accounts
23 such as mileage, food, lodging, phone and miscellaneous. A
24 summary of all meetings held each month. The detail of this
25 summary should include the date and time each meeting was

1 held and sign-in sheets which include the signature of each
2 person in attendance, the time each person arrived in, and
3 the party or company he or she represented.

4 The reason we made that recommendation they had
5 some logs of meetings, and we found individuals' names on the
6 meeting log that they didn't report the time on the time
7 sheet. So it was obvious that there was no accurate
8 accounting of time. And this really just provides a cross
9 check between two diamonds.

10 The fifth recommendation was periodic time reports
11 for each individual which corresponded to each company's pay
12 period. These reports should separate time between normal
13 job functions and political functions.

14 Documentation which detail -- this is the sixth
15 recommendation. Documentation which details the need for
16 additional personnel required to replace those assigned to
17 political activities. We couldn't conclude that when these
18 individuals were not in their offices performing the
19 functions that they were paid for that somehow they got the
20 work done, that there had to be one of two things happening.
21 Either they paid somebody overtime to do it, brought in
22 another employee to do it or that a person had redundant time
23 to start out with. It wasn't sufficient so he had the spare
24 time to get involved in this.

25 So we felt that it would be proper to have the

1 utilities account for how they could spare individuals from
2 their own -- and I am not talking about the lobbyists or the
3 individual who his sole function is to get involved in the
4 legislative process. I am talking about the comptroller. I
5 am talking about the president of the company. I am talking
6 about the manager, the construction manager. These people
7 were on the telephone talking to people about making
8 contributions, about proposals.

9 And the seventh and last recommendation was that
10 there should be some documentation which details any overtime
11 hours, premium hours worked by non-exempt employees because
12 of their activities or other involvement in political
13 activities. A non-exempt employee would be an employee who
14 was paid for his overtime. The exempt employees are
15 management employees and generally are expected to work
16 overtime without compensation. So that would give you kind
17 of a total accounting of your time so that the proper charges
18 could be made below the line.

19 Q. Mr. Larkin, can I give you an example, then you tell me
20 what happens to it, okay? Say that a group of employees at
21 one of our utilities decides to work for a particular
22 election cause, and they do that to the other company as an
23 in-kind contribution. All right. And they value that
24 contribution of work that they did for that effort at say
25 \$10,230. They value their employees working for a cause at

1 that figure for that cause. Now, if I understand you
2 correctly, what you are saying to me is that that cause ought
3 not to be there in the first place if they can afford to do
4 it, is that right?

5 A. I think you could take that position. I think that it
6 would be in my mind appropriate to charge that amount of
7 payroll below the line every year, whether they were involved
8 in the political activity or not because if an employee is
9 working and he is fully actively employed for his eight-hour
10 period of time, he should not have any spare time to get
11 involved with political activities. If he does, number one,
12 somebody else has to do his work. Or, number two, he had
13 enough time to perform that function, political function and
14 do his own job. If the latter is the case, then he is not
15 productive. He is redundant to a certain extent, and the
16 ratepayer ought not to pay for that redundancy.

17 Q. So if that has been the reported, say that it was done
18 in one year, 1982, and it wasn't reported until 1984?

19 A. If it was done in '82, they would have charged it below
20 the line in '82.

21 Q. But if it wasn't discovered or found out about until '84,
22 then that means that for 1984 that it would have been
23 reported, and it would have been attributed to below the line?

24 A. It would have went back to its normal function, its
25 normal accounting function above the line. And if rates were

1 set or there was no change in rates, they would recover those
2 costs in rates assuming everything else equal.

3 EXAMINATION-BY MR. SPROUL OF MR. LIBBY:

4 Q. In summary, Mr. Larkin, it seems to me what you are
5 saying and correct me if I am wrong, I am just trying to
6 picture it here of what you are saying, you believe the benchmark
7 year should always be the highest year as far as the below
8 the line expenses go? That should be the benchmark?

9 A. I think you could always make an argument that -- I
10 don't think -- I think you would have to look at it if you
11 were going to say. I wouldn't say always take the highest
12 year. There might be some reason why there might have been
13 more activity or more people available for that activity that
14 would not be available. I think that is a function the
15 Public Service Commission could determine what amount should
16 you charge below the line. I don't think that you should try
17 and legislate that because there are mitigating circumstances
18 that could happen in any particular case.

19 Q. Your previous statement about redundancy or somebody
20 else picking up the slack, you are just saying that should be
21 taken into account each year as in our case public utilities
22 commission?

23 A. Yes.

24 Q. Looks at the rate case?

25 A. That's right. As they look at the rates.

EXAMINATION-BY CHAIRMAN BALDACCI OF MR. LARKIN:

Q. So to summarize what you are saying, I guess, for the committee among other things would be that we should probably be asking our Public Utilities Commission the extent of vendor contributions to an affiliated effort say like if one -- say Committee to Save Maine Yankee effort was to keep a Maine power plant open, we should find out about the vendor contributions? We had testimony in front of this committee that we had a lot of outside vendor contributions and inner state distributions into that particular effort.

A. I think you would want to know what the amounts were and where they came from.

Q. And the investment bank contributions?

A. I don't know if investment bankers would generally get involved in that kind of thing. They are usually suppliers. People that are performing construction services or sell products to the utility.

Q. And whether there is any way to track the method by which suppliers might recapture their contribution?

A. That is a very difficult thing to do. We know that a gas pipeline has an automatic adjustment clause just like you have automatic adjustment clauses here in Maine that allow a utility to pass on increase fuel costs to customers. A gas pipeline has that same mechanism to pass it onto distribution utilities.

1 In coal contracts, there are normally escalation
2 clauses that allow the coal company to escalate the price of
3 coal and each contract varies. Some have escalators that are
4 tied to inflation. Some have escalators that are tied to
5 actual audit costs. The only people that audit the coal
6 companies are the auditors from the utility so I would be
7 hard pressed to say to a coal company, I am going to throw
8 out this 40,000 you gave to consumers to fight the automatic
9 clause that would allow us to recover the cost that you pass
10 onto us. I don't think consumer's auditors would do that.
11 It is debatable, but I don't think they would. So there are --
12 those are direct mechanisms.

13 There are certain suppliers that have direct input
14 where they can get that money back directly. There are
15 others like contractors that might have to negotiate future
16 work that might include that kind of information. But to
17 just give you an idea of the type of people that were making
18 these phone solicitations. It is actually attached to the
19 Charlie Jalkut's testimony.

20 When they were attempting to see who had done the
21 solicitation of contributions, the job title of this
22 individual was supervisor contracting. And on 12/6/82 the
23 description of activity fund raising. 12/7/82, fund raising.
24 He is the individual, the supervisor's contractor that is
25 dealing every day with the contractor. He is the one that

1 has the authority to approve extra costs overruns. That type
2 of thing.

3 Here is another time report that is the director of
4 project materials. This is the guy that is doing the
5 purchasing within -- this company is Detroit Edison. On
6 10/15/82, his time report says solicitation of funds from
7 contractors. Now, why would he be the individual? Why
8 wouldn't you get a secretary to call? Because he can get the
9 money out of that contractor.

10 There is another one. Assistant vice-president and
11 manager fuel supply. This is the coal supply guy. He is on
12 the telephone discussing difference between proposals with
13 various suppliers. Director, operations division fuel
14 supplier. Phone solicitation of major suppliers. Phone
15 solicitation major suppliers. He did that on 10/4 and 10/5.

16 They didn't have the peons talk to these people.
17 They had people that could put pressure and influence their
18 contributions talk to these people. I would not have
19 somebody who made 60, 80, \$100,000 get on the phone and make
20 a solicitation of a contribution from a supplier if I thought
21 a secretary could do it. But the reason in my mind, in my
22 opinion this was done is these people have some leverage on
23 these particular companies to get the results.

24 CHAIRMAN BALDACCI: Any members of the committee
25 have any questions at this time for Mr. Larkin?

1 MR. SOULE: Not at this time.

2 EXAMINATION-BY ATTY. LINNELL OF MR. LARKIN:

3 Q. You just said you would not have people who have clout
4 for these particular suppliers make these calls? You would
5 not do that if you were in the position you were president of
6 the company?

7 A. If I thought all it took was a phone call. If all I
8 wanted to say is we are making -- we are asking for
9 contributions for the committee to oppose Proposal D, if
10 that's the only message I wanted to get across, I would have
11 my secretary.

12 Q. If you are trying to raise \$5 you would have your
13 secretary call. If you are trying to raise \$1.7 million, you
14 might have somebody call who is able to get a contribution,
15 correct?

16 A. Sure. The reason they are able to get a larger
17 contribution is because they are in a position to bring
18 influence to bear.

19 Q. I understand. Of course. You do that in United Fund,
20 hospital fund raising, if you want to get a big contribution
21 out of somebody, you find the best friend or somebody who has
22 some influence on them and ask them to distribute, right?

23 A. Right.

24 Q. Okay. I get the feeling, and maybe I don't spend much
25 time in the utility law that we are mixing up election laws

1 and public utility, accounting and fundamental fairness, and
2 I want to see if I can sort it out for my own benefit.

3 A. That's true. I am not attempting to say that what I am
4 suggesting complies with any election laws or constitutional
5 rights.

6 Q. Well, those are important.

7 A. Yes, I think that's the job of the committee lawyers to
8 say what the committee can --

9 Q. That's why I am asking these questions. And just so
10 that I can understand the thrust of your -- you gave us this
11 scenario on this proposition of Michigan. What was that --
12 what was the question they were voting on?

13 A. It was Proposal D. And the proposal set that positive
14 vote for the proposal would eliminate fuel adjustment clauses,
15 automatic adjustment clauses related to maintenance and
16 automatic adjustment clauses related to availability
17 incentive program.

18 Q. If it passed, the utilities would have to come in and go
19 through a rate hearing to get adjustments rather than have it
20 happen automatic?

21 A. Right.

22 Q. Obviously the utility didn't want that to happen?

23 A. That's correct.

24 Q. Were you involved in that particular referendum?

25 A. No.

- 1 Q. You were an observer?
- 2 A. What do you mean, involved? I voted.
- 3 Q. All right.
- 4 A. That's all I did.
- 5 Q. Was there any investigation in Michigan by a committee
6 such as this or by the attorney general or anybody else about
7 what went on in that campaign?
- 8 A. What happened was the group that got the proposal on the
9 ballot which was called Michigan Citizens Lobby requested a
10 hearing before the Michigan Public Service Commission. And I
11 testified after reviewing that documentation on behalf of the
12 attorney general. Not the Michigan Citizens Lobby. The
13 attorney general was a party to that case.
- 14 Q. He had the consumer side of things?
- 15 A. Yes, he would have represented --
- 16 Q. You were testifying in favor of the proposal?
- 17 A. No.
- 18 Q. Eliminating --
- 19 A. The proposal was gone. It was not an issue at all. The
20 cost and how -- what happened to the cost and what should
21 happen to those costs after that.
- 22 Q. And your position on behalf of the attorney general was
23 that those costs should be borne by the stockholders?
- 24 A. Yes.
- 25 Q. Okay. Is that generally the position? I mean is that

1 the side you usually end up on in these 50, 60, 70 odd
2 hearings that you listed as being involved in?

3 A. I have testified in over 100. But we either normally
4 testified for attorney general's commission staffs,
5 industrial intervenors. I am trying to think --

6 Q. Have you -- while you are thinking, let me ask you
7 another. Have you testified on behalf of any regulated
8 utility?

9 A. Regulated utilities usually use their own staffs.

10 Q. Known to higher people, outside people?

11 A. They are not accountants. They are normally -- well, I
12 will take that back. They are normally cost of capital
13 people or rate design people or accountants in some instances
14 on specific tax stations.

15 Q. For whatever reason, you have not appeared on behalf of
16 any regulated utility in any of this?

17 A. That's correct.

18 Q. Now, you do not -- you are not saying, I don't think,
19 that the creation of these various committees for these
20 attractive names in Michigan was illegal? I assume they
21 would set up under whatever the election laws were?

22 A. Illegal.

23 Q. They were violations of the campaigning laws of the
24 State of Michigan?

25 A. I don't know. They paid a fine to the secretary of

1 state.

2 Q. Of what?

3 A. They said it was not an admission of guilt but it was
4 like a settlement.

5 Q. Do you recall the nature of it, filing a late report?

6 A. I think I mentioned it in my testimony in that case.
7 Let me see if I can find it. I will read you what I wrote.
8 But the secretary of state has the responsibility for
9 enforcing the election laws.

10 Q. I don't mean to bog down the hearing and rehash the
11 whole issue of Michigan. Let's use the situation you have
12 described. As I understand the election laws of the State of
13 Maine, you can set up the committee such as that, you can
14 name the treasurer, and you report what you receive and you
15 do it on time. If you don't, you get fined. You as I
16 understand it were complaining to some extent about the way
17 these committees were named. You thought it was misleading?

18 A. Yes, I did.

19 Q. It wasn't illegal, it was just clever, wasn't it?

20 A. Yes.

21 Q. On their part?

22 A. Yes, I think so.

23 Q. Okay. The contributions that the committee received,
24 these committees received I am not -- it is not clear to me.
25 Was that the \$1.7 million?

1 A. Contributions from?

2 Q. From the utility.

3 A. There were two amounts they received they put in
4 themselves of their own time and effort. The utilities put
5 in about \$1.8 million. They received from others about the
6 same amount so maybe that is what is confusing.

7 Q. Well, the money --

8 A. The contributions from vendors was one 1.7?

9 A. 1.185.

10 Q. 1.1.

11 A. 1.1 million. The time and effort spent by the utilities
12 themselves, their own direct payroll and overheads was
13 \$1,748,925.30. Employee expenses was \$23,102.88. They
14 contributed directly to the committees that set up \$4,266,557.

15 Q. Whatever was contributed to the committees, you know
16 that because it was reported, correct?

17 A. I am not sure -- well, part of it was -- it was
18 reported -- part was reported, I believe, to the secretary of
19 state, and some of it may have been a result of the efforts
20 of the Michigan Public Service Commission staff. But I will
21 agree with you it could have all been reported.

22 Q. That should have been all reported I would assume under
23 the law of the State of Michigan, shouldn't it?

24 A. I am not an expert in the utility or the political
25 reporting laws so.

1 Q. Another complaint which I think you registered about
2 this whole scenario was that they -- these committees did not
3 disclose to the public who their real sponsor was?

4 A. Yes.

5 Q. All right. That never came up during the course of the
6 referendum campaign?

7 A. No.

8 Q. People on the side, they were completely fooled by all
9 of that?

10 A. I guess so. I think I was fooled because it just didn't
11 dawn on me or I didn't think about it at the time. Maybe
12 that is because we weren't really thinking about it and maybe
13 we were stupid. But it didn't dawn on me at the time. I
14 expected it would have amounted to something, but it was such
15 a big campaign. There was ads almost every hour on the TV
16 set. Three or four days before the election, you got at
17 least three pieces of literature in the mail every day.

18 Q. And I think you have indicated that you thought at least
19 subjectively the level of funding wasn't fair vis-a-vie I
20 assume what the other side had spent?

21 A. Well, yes, I don't think I said that. But I think I
22 tend to agree with that. I have no objections, and I think
23 the utilities belong in political activities where they have
24 an interest. That they really belong to this issue. There
25 is no doubt in my mind. The amount of money that they spent

1 I think should have been controlled. They should have
2 accounted for --

3 Q. Do you think it was out of proportion to the problems
4 that passage of the referendum presented them with?

5 A. Well, actually no. Passage of the legislation would
6 have been -- may have been --

7 Q. Didn't pass it?

8 A. Well, it did and it didn't.

9 Q. I don't know how that happens but.

10 A. The way it happens is that they had the legislature
11 place on the ballot another proposal which they said as being
12 the same thing. What they had was a majority vote for both
13 proposals which the state Supreme Court, and at the same time
14 the legislature passed another act which was called Public
15 Act 304 which in theory did the same thing. So what we ended
16 up with was both proposals were ignored and operating under
17 Public Act 304.

18 Q. Okay. But I guess you indicated that at least in your
19 judgment with what they had at risk if that proposal passed
20 what they spent on it isn't out of proportion?

21 A. It wasn't out of proportion. It is a small amount of
22 money given the size of those utilities and given the size of
23 the campaign and the confusion that it caused and the fact
24 that the voting public did not have a good perception of what
25 the real issues were. And that may be because they don't

1 understand regulation, but --

2 Q. Well --

3 A. They did not have a good perception of what was involved.

4 Q. How does this committee deal with the kind of problem
5 that you have described which as I understand is basically
6 that the public didn't understand the political shenanigans
7 of those who were opposed to the referendum?

8 A. I think they deal with it by, number one, getting some
9 kind of continuous upfront reporting to the Public Service
10 Commission of the activities that the utility wants to get
11 involved in. But we want to be involved in the Maine Yankee
12 proposal. We have budgeted and intend to spend X dollars.

13 Q. I don't want to interrupt you, but I am going to. Are
14 you familiar with our election laws in this state?

15 A. No. I don't intend what I am recommending to comply
16 with.

17 Q. We have various reporting deadlines of contributions as
18 we near an election. Do you have anything similar to that in
19 Michigan? In other words, if these committees exist in this
20 state as I understand our election laws, there would have
21 been probably at least two documents filed by each committee
22 showing what they have received in contributions, who they
23 had received them from and how much they had received. And
24 our newspapers often have a lot of fun with that information.
25 Does the same situation happen in Michigan?

1 A. I imagine that the reporting is similar, but I didn't
2 see anything like that, and I don't know whether that is a
3 requirement.

4 Q. That sort of thing, would that sound to you like there
5 is some sort of reasonable safeguarding at least if the
6 public is told, they may not hear it, you can't make them
7 understand it, you can't make them get interested in it? If
8 they are told, it is up to them, isn't it, to be educated?

9 A. I am not so sure that that is the right vehicle. I
10 think that Public Service Commission understands the issues
11 better and might be more tuned to what the public ought to
12 know or ought to be subject to.

13 Q. I don't want to overstate what I hear you saying. But
14 are you, in essence, saying that during the course -- let's
15 say we were having another assault on Maine Yankee to close
16 it down, and we had a big referendum thing going on the
17 Public Utilities Commission should be having some sort of
18 ongoing review during the entire election?

19 A. No, they should have some initial input, I think, to at
20 least have the knowledge beforehand that the utility is going
21 to get involved, and they are going to spend this much money.

22 Q. You mean they should limit how much money they can spend?

23 A. I am not sure whether that would be legal or not. It
24 seems to me if you are getting into a situation where money
25 is going to have a big influence on results, it might skew it

1 one way or another, then you might consider that. I don't
2 really know.

3 Q. I am talking about spending stockholders' money, not
4 spending ratepayers' money. You are suggesting there might
5 be a way to do that?

6 A. As long as the people know it is stockholders' money,
7 you could spend whatever he wants.

8 Q. That is for the PUC to establish their accounting
9 practices, right?

10 A. Right.

11 Q. What you are coming back to on types of accounting that
12 you get into.

13 CHAIRMAN BALDACCI: Mr. Linnell, it is my
14 understanding of the way Mr. -- and I am not tending to speak
15 for him but to clear the air here is that they should come
16 out front and give a figure as to how much they plan to spend,
17 not necessarily that they will be limited. They can always
18 go back and say they have to increase that or decrease that.
19 I think the point that he was making is just come up front
20 with it rather than after the fact. That has already
21 occurred.

22 Q. Is that your position?

23 A. I think that would be.

24 Q. Is that Central Maine Power Company once the thing gets
25 started should make a general announcement that we plan to

1 spend X million dollars to oppose the proposal because --

2 A. We don't think it is fair.

3 Q. -- it will close us down or we will be out of business
4 or whatever?

5 A. Sure.

6 CHAIRMAN BALDACCI: Mr. Flaherty, would you like --

7 MR. LINNELL: Let me finish, Mr. Chairman.

8 CHAIRMAN BALDACCI: I am sorry.

9 Q. How about the other side of things? Those who are
10 opposing the chair. Would they be required to state in
11 advance how much money they are going to spend on it?

12 A. I think if the source of the funds flows through a
13 mechanism that is an automatic collector like utility rates
14 are, they probably should. But if they are going door to
15 door collecting nickels and dimes, first of all, I don't
16 think they are going to amount much of the campaign.
17 Generally those kinds of groups don't have a lot of funds.
18 They really don't have a big impact unless by some work of
19 faith get something like Proposal D on the ballot or the
20 referendum.

21 Q. Usually that might be so. When you draw a law, you
22 shouldn't go basically on what usually happens, you should
23 establish, for instance, they might find an angle, maybe
24 Getty becomes an active cause is willing to give it a million
25 dollars?



1 A. That wouldn't be a bad idea. It wouldn't be unfair to
2 make them disclose up front what they had planned.

3 Q. This is really election law talk rather than utility
4 regulation type of law?

5 A. The other side of it is. But the utility regulation
6 side of it is not election law because the Public Service
7 Commission has to deal with those kinds of costs. It has to
8 know what they are and where they are.

9 Q. Okay. Well, I don't want to beat that horse to death.
10 I have one other area I would like to cover with you to make
11 sure I understand your position. Back to these suppliers.
12 And you are able to identify from documents that were filed
13 that certain suppliers, particularly utility contributed
14 money to oppose payment.

15 Let's say the referendum was to prohibit the pipeline
16 from being run across the State of Michigan, okay. Pipeline
17 supplier A contributes \$300,000 to the Michigan Gas Company
18 to help them defeat that proposal. Are you saying that
19 somehow that contribution should be tracked and somehow you
20 are suppose to dig out how that eventually gets into charges
21 to the ratepayer?

22 A. No, I wouldn't attempt to track whether it came from a
23 supplier who would recoup those costs, I would charge it
24 right back to them.

25 Q. That is -- how do you find out if they can recoup the

1 costs?

2 A. I think that you would know that up front. I think you
3 know that the reason they're contributing is because they
4 have a vested interest. That they have the ability to recoup
5 all their costs through rates that they charge for natural
6 gas or through the price of coal.

7 Q. I am going to apologize in advance if I appear dense on
8 that. Let's use that hypothetical. Let's say the referendum
9 is for \$300,000, and they eventually sell \$10 million worth
10 of pipe to the utility. How do you go through and unravel
11 whether or not the \$300,000 is included in the 10 million?

12 A. I don't think -- I think you could for some coal
13 companies if you ask them. I don't think you could for the
14 others. I think you have to assume they did that for that
15 particular reason.

16 Q. We have to draft a law or construct an accounting
17 principle that takes that into account?

18 A. I think I would.

19 Q. That would be your recommendation?

20 A. Yes.

21 MR. LINNELL: Thanks. Now, I am through, Mr.
22 Chairman.

23 EXAMINATION-BY ATTY. FLAHERTY OF MR. LARKIN:

24 Q. A few questions, Mr. Larkin. Do I understand you to be
25 suggesting with respect to the suppliers that if it be the

1 fact that you are a supplier of this regulated utility, then
2 some legislation should be in place which would restrict or
3 even prohibit contributions by that supplier to this utility
4 sponsored activity, political activity?

5 A. I never thought of it from that standpoint but that may
6 be better.

7 Q. Much along the lines of a cap of \$1,000 on Mr. Flaherty
8 in contributing to your campaign?

9 A. That might be even a better mechanism.

10 Q. We all live with that state of affairs right now. I
11 can't give you more than \$1,000 even if I wanted to, right?
12 So given the relationship of the utility, regulated utility
13 and supplier, the supplier is prohibited from doing it, is
14 that right?

15 A. That might not be a bad idea.

16 Q. I am trying to figure out what you are getting at. How
17 it would be practically enforceable?

18 A. I was thinking more of them collecting it and Public
19 Service Commission charging it back to the company.

20 Q. Why go through that exercise?

21 A. I never thought of it the way you are suggesting. If it
22 is such a fertile field for deception, fraud, kickback,
23 recapture, isn't it worthy of more solemn treatment?

24 A. I think you are probably right.

25 Q. Okay. So rather than start chasing shadows and deciding

1 whether it was \$300,000 or 200,000?

2 A. Or whether they got it back or didn't get it back, to
3 limit it right from the beginning.

4 Q. If you're a supplier and this is a regulated utility,
5 then you don't do those things, right?

6 A. Yes.

7 Q. The other thing I would like to ask you because I can
8 never get this straight yet. How do the monies which at
9 least argue in the case you have described which were
10 utilized for the establishment of these receptive types
11 citizens committees become stockholders' money?

12 A. Well, it is through the mechanism of in theory charging
13 it below the line, and then establishing the rates that
14 exclude those lines.

15 Q. We know it is not stockholders' money in the form of
16 initial or continual capital contribution by the stockholders,
17 don't we?

18 A. No.

19 Q. We know the monies initially come through the ratepayer
20 door?

21 A. That's correct.

22 Q. And is it fair to say, and I am really groping here for
23 an enlightenment, that somehow, some of that ratepayer's
24 money through the framework of profit becomes transformed
25 into monies owned by the stockholder as entitlement monies?

1 A. Yes.

2 Q. And but for the fact that they are being used to
3 underwrite the costs of these sham committees in your example,
4 they would, in fact, have taken the form of a dividend
5 payable to the stockholder?

6 A. Dividend payable or they would be retained earnings
7 within the company itself.

8 Q. But in that fashion, is it fair to say that they would
9 have been exposed to the light of day as to whether they were
10 indeed excessive dividends such that they would bear on the
11 mentality of the Public Service Commission in determining
12 whether the rate of return is greater than it should be?

13 A. I don't think that would --

14 Q. It wouldn't?

15 A. The Public Service Commission would know enough how to
16 calculate the return on equity to include those kinds of
17 things.

18 Q. But the money comes in the ratepayer door, and it goes
19 out in this fashion ostensibly at the command of the
20 stockholders depriving themselves of some dividend monies
21 which would otherwise be theirs?

22 A. Yes.

23 Q. Is that a fair explanation of the trail?

24 A. Yes. They have made a -- management for the
25 stockholders have made a conscientious decision to take so

1 many dollars and invest it in this campaign --

2 Q. Would you require --

3 A. -- vis-a-vie leaving it for investment in physical asset
4 or giving it to the stockholder.

5 Q. Since it is of a level which is clearly of stockholder
6 interest, would it be appropriate in your view or have you
7 ever seen a situation which that kind of commitment would
8 require a vote at least on the level of the board of
9 directors?

10 A. No.

11 Q. You have never seen it?

12 A. No, I have never seen it.

13 Q. Wouldn't you think it should since it is directly
14 involved in depriving the stockholder either willingly by
15 consensus or by just lack of information of sums of money
16 which that stockholder might otherwise be entitled to?

17 A. I think you could make an argument for doing that based
18 on keeping the stockholder well informed. But from the
19 standpoint of the dollars involved, they don't get involved
20 in these day-to-day decisions about how much this secretary
21 should make.

22 Q. I guess what I am asking you in light of what you have
23 been saying, isn't it a somewhat miffical concept that this
24 is a stockholder investment?

25 A. Or it is a concept that exists in the minds of

1 accountants.

2 Q. I am trying to get your view.

3 A. Well, my view is that it is legitimate because I am an
4 accountant, but I can see how somebody else --

5 Q. Somebody else might feel it isn't?

6 A. They figure, listen, I paid that dollar in my rates. I
7 don't care if 14 cents of that dollar belongs to the stockholders
8 and then it comes in the door. I think the whole damn thing
9 belongs to me. But from the standpoint that people that are
10 involved in regulation, in our minds we have little
11 compartments and we put these dollars. And we say okay, that
12 is okay. If you want to take the money and do that with it,
13 that's okay.

14 Q. Are there limitations percentagewise or otherwise
15 factored into this in terms of percentages of revenues that
16 might be utilized for these purposes?

17 A. No. Because \$9 million in the State of Michigan or \$8
18 million in the State of Michigan in relationship to the
19 revenues of those four utilities would be .0000001 because
20 their revenues are all over billions of dollars or all over a
21 billion dollars. So in terms of a percentage of \$9 million
22 is not anything or a million dollars within this state
23 compared to the revenues of the utilities here would not be a
24 big percentage. But a million dollars can do an awful lot in
25 a campaign.

1 G. We have heard that before here the other day from the
2 chairman of the PUC of the State of Maine. He made pretty
3 much the same point you are now making.

4 I am concerned about these citizens groups that you
5 have talked about and your statement that they're unfair.
6 Mr. Linnell talked with you about that a bit. I don't know
7 where you go with that one from the standpoint -- I know we
8 are given -- as a given, we have a regulated utility which is
9 entitled to take monies from the ratepayers against their
10 will if you will and not bargain with them for prices and not
11 compete in the field with any other utilities, that makes
12 them what they are. And so they have a guaranteed flow of
13 monies, and they're permitted to go out and work indirectly
14 to accomplish results, and you call them automatic collectors
15 which I think is a good description.

16 A. That is not my term. We all agree those are automatic
17 adjustment costs.

18 G. Right. But they're able to go out and use these
19 deceptive means to get at a political issue, and you felt
20 that was unfair. You don't see any way out of that, do you?

21 A. I thought the way out of it was the upfront telling the
22 public service of Michigan, we are going to be involved in
23 this campaign, and we are going to spend X dollars. At that
24 point they might identify we are going to spend X dollars
25 through these committees. And then the public has --

1 newspapers do their job and the people that are involved on
2 the other side of the coin are really interested, they can
3 get that information out. As long as it is there for someone
4 to find or perhaps maybe if they said Metro Area Citizens For
5 Jobs and Energy sponsored by consumer power, that would have
6 been enough, to put a label on it so we knew what was going
7 on, but I initially relate to --

8 Q. I know you are an accountant. But you have come here,
9 and I am inquiring as to whether you think there ought to be
10 legislation not in the utility ratemaking field but otherwise
11 requiring that regulated utilities state up front the amount
12 of money they expect to expend on a given political campaign
13 and for whom or for what?

14 A. I was thinking more --

15 Q. That was an awful simplistic approach to it, maybe too
16 much so.

17 A. I was thinking more in terms of regulation. Maybe the
18 vehicle is the state election laws and not regulation at all.

19 Q. But as you have intimated, the general public doesn't
20 know what is going on within the rooms of a Public Utilities
21 Commission when it is sitting there taking very, very
22 sophisticated complicated testimony from people like yourself?

23 A. They absolutely do not know.

24 Q. They get bored to death, don't they?

25 A. They do not know how rates are set. They do not know

1 who sets them in most instances.

2 Q. They do not know what part in the ratemaking process
3 political contributions is assigned, right?

4 A. Yes.

5 Q. So why not enact a law that says if you're a regulated
6 utility, you will report or file with the secretary of state
7 a statement X number of days in advance if you intend to
8 contribute and the amount and to whom and to what?

9 A. That's one more hand on the problem.

10 Q. Does that take care of your fairness problem?

11 A. I think so.

12 Q. If they want to set up a series of these little enclaves
13 called Citizens Jones' and Citizens Smith's groups, they will
14 have to report that?

15 A. Yes.

16 MR. FLAHERTY: Thank you.

17 EXAMINATION-BY ATTY. ASCH OF MR. LARKIN:

18 Q. Pursuing our education, yesterday a comment was made by
19 Mr. Rowe relating to changes in his accounting practice, the
20 accounting practices of his company to review of their
21 revenues. He made the comment that recognizing the previous
22 inadequacy of the accounting system, and with the new
23 improved accounting system and being able to account for
24 every dollar, it still didn't matter because they weren't
25 reaching their rate?

1 A. Authorized rate of return.

2 Q. Rate of return. If that statement is accurate, is that
3 statement accurate?

4 A. Well, I don't think there is really any incentive for
5 any utility to ever reach their authorized rate of return
6 because the system we have set up for regulation is a
7 cost-plus mentality. We are -- as long as the utility spends
8 it, in general, public service commissions will let them
9 recoup it.

10 And so the incentive is not you get more money if
11 you reach the rate of return. We give a pile of dollars
12 which have been divided up into categories, the labor and the
13 fuel and return. And there is really no competitive stick or
14 donkeying cart kind of thing to make the utility reach out to
15 grab that rate of return, to make them do things that will
16 cut their costs because it is much easier, much easier to get
17 in the car, to drive up to Augusta and file a rate case. It
18 is such an easy mechanism rather than to look at internally
19 and say, we can do without Joe Blow. We can computerize this
20 function and eliminate two employees here. We can operate
21 this machine more efficiently. It is just much easier to go
22 the other way. So I don't think that the saying, well, we
23 never reached our rate of return, therefore, don't worry
24 about all these costs is really a valid explanation.

25 Q. How do you worry about the costs?

1 A. I think what we have to do is the Public Service
2 Commission has to look at individual cost components going
3 into the utility rates and set what they think to be a fair
4 and reasonable level of rates. And it is the responsibility
5 of the utility to make the system work or make it work within
6 that system. And if the Public Service Commission has been
7 fair, they ought to have a reasonable chance to get to that
8 level.

9 EXAMINATION-BY ATTY. FLAHERTY OF MR. LARKIN:

10 Q. Do you think that is realistic, Mr. Larkin?

11 A. They will do that or can be --

12 Q. That companies will be brought to heel if you will or
13 however you wish to put it in the competitive sphere by
14 imposing those kinds of restraints on them?

15 A. Depends on how the public --

16 Q. You go from one extreme on the spectrum to the other.
17 You go to deregulation of the trucking industry, deregulation
18 of the airline industry and some of the philosophy basically
19 you discussed here, not necessarily espouse, produce those
20 kinds of deregulation spheres, right? But you are a long way
21 in an industry as vital as electric power, aren't you?

22 A. Yes.

23 Q. -- from deregulation?

24 A. You couldn't do that. You couldn't let them go
25 because -- and set their own rates because on an airline, I

1 can choose not to go by plane.

2 Q. You're saying in this instance given what we must deal
3 with, one should exert every effort to fine tune the cost
4 analysis approach to bring it as close to a competitive
5 atmosphere albeit internally as can be?

6 A. Yes, to look at each individual cost and compare that
7 cost and say on a competitive environment would I be able to
8 recover this. And I always use the Edsel example. Ford
9 Motor Company developed the Edsel, and it fell on its face.
10 Ford Motor couldn't go to the Lincoln buyer and say I am
11 going to raise the cost of this Lincoln because I have to
12 recover the cost of the Edsel. He had to eat that. Of
13 course, the other set of the coin is that if the Edsel had
14 been a great success, they wouldn't decrease the cost of the
15 Lincoln either.

16 But we have to attempt in my mind to regulate on a
17 competitive atmosphere to revise methods where we can become
18 more efficient to require the utilities to become more
19 efficient, and we do that by being better educated ourselves
20 in requiring them to comply with what we know can be done.

21 EXAMINATION-BY MR. ASCH OF MR. LARKIN:

22 Q. Mr. Libby and Mr. Foster made their presentation. They
23 indicated they were unable to verify or to confirm the
24 payroll and the overhead charges relating to the political
25 activities for our utilities. In your experience, is this

1 common among other utilities?

2 A. I think it touches on that that the only issue that this
3 has come up with before is in Michigan, and I think they
4 stated that generally the utility management personnel
5 executives do not keep detailed reports so they would not
6 know. In fact, the ballot proposal in Michigan they designed
7 specific forms in order to keep track of time.

8 Q. Is that possible that more time might have been spent on
9 the referendum effort or less?

10 A. Well, I don't think you could tell. We found instances
11 where there were meetings that an individual's name appeared at
12 that meeting, but the time did not appear on his time reports.
13 In that instance, it looked like it was an underreport of
14 time. We found another instance where an individual was
15 estimating his activities at the end of the month. The
16 question was asked how did you -- maybe it would be better if
17 I just read it directly. The question was can you tell us
18 how you calculated what appears to be a division of your time
19 of 40 percent to a function number 1387 and 60 percent to the
20 function 1780. 1780 was the ballot proposal.

21 I calculated that by sitting down at the end of the
22 month, reviewing my activities during the course of the month,
23 reviewing my calendar which is at times accurate and at times
24 not accurate and reviewing my activities, making a separation
25 on allocation that you see there with the exception that when

1 I went through this process. I always weighted the time
2 allocated to the campaign by an additional 10 percent just to
3 be certain that the time used on the campaign was entirely
4 accounted for. Then there are some other questions.

5 Q. Do you feel it would be appropriate for the Public
6 Utilities Commission to set forth a standardized record
7 keeping system and reporting policies in the area of
8 political activity so that each company would have the same --
9 would be maintaining the same set of records to keep track of
10 this time?

11 A. Yes.

12 Q. Can that be done without standardizing reporting in
13 other areas?

14 A. It can be, sure.

15 MR. ASCH: Thank you very much.

16 CHAIRMAN BALDACCI: Any other questions? Thank you
17 very much, Mr. Larkin. Do you have anything else to add?

18 MR. LARKIN: I just want to say it was a pleasure
19 being asked to come and testify and if I can provide anymore
20 information, I would be glad to.

21 CHAIRMAN BALDACCI: Copies of your recommendations
22 for legislation were to the Public Utilities Commission would
23 be made available to the committee, is that correct?

24 MR. LARKIN: Yes. I think they have a copy already.

25 CHAIRMAN BALDACCI: Thank you very much. You have

1 been very helpful. I would like to take a one-minute recess
2 so I can confer with staff.

3 (A break was taken.)

4 CHAIRMAN BALDACCI: This meeting is recessed until
5 2:00 o'clock tomorrow. If there are any changes, people will
6 be notified. 2:00 o'clock tomorrow.

7 (TIME: 4:50 P.M.)

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11 CERTIFICATE

12 I, Erin M. Durkin, hereby certify that the
13 foregoing is a correct transcript of my stenographic notes of
14 the testimony taken before the Legislative Committee in the
15 Matter of Special Legislative Committee to Investigate Public
16 Utilities on the 11th day of October, 1984, at the State
17 House, Augusta, Maine.

18 Dated: 23rd day of October, 1984.

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Official Reporter
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