

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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 :
Pennsylvania Power & Light Company. :
 Application for approval of a : Docket No.
 Restructuring Plan. : R-00973954
 :
 Public Input Hearing. :
 :
 ----- X

Pages 2179 through 2243 Town Hall Council Chambers
 10 East Church Street
 Bethlehem, Pennsylvania

Wednesday, September 3, 1997

Met, pursuant to adjournment, at 7:00 p.m.

BEFORE:

GEORGE M. KASHI, Administrative Law Judge

APPEARANCES:

KENNETH L. MICKENS, Esquire
 P. O. Box 3265
 Harrisburg, Pennsylvania 17105
 (For Office of Trial Staff)

PAUL E. RUSSELL, Esquire
 Two North Ninth Street
 Allentown, Pennsylvania 18101
 (For Pennsylvania Power & Light Company)

JAMES A. MULLINS, Esquire
 1425 Strawberry Square
 Harrisburg, Pennsylvania 17120
 (For Office of Consumer Advocate)

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Commonwealth Reporting Company, Inc.
 700 Lisburn Road
 Camp Hill, Pennsylvania 17011

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APPEARANCES (Continued):

BERNARD A. RYAN, Esquire
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101
(For Office of Small Business Advocate)

-0-

Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

(717) 761-7150

1-800-334-1063

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C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Thomas Lloyd	2187	--	--	--
Kurt Zwikl	2192	--	--	--
Joris Rosse	2195	--	--	--
Albert Wurth	2210	--	--	--
Victor Madeson	2230	--	--	--
Alan Streater	2232	--	--	--
Barbara Benson	2238	--	--	--
Victor Madeson	2241	--	--	--

E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
(None.)		

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FORM 2

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE GEORGE M. KASHI: Good
3 evening, ladies and gentlemen. I am Judge Kashi. I am the
4 Administrative Law Judge who has been assigned to hear this
5 case, marshal the evidence and make an initial decision to
6 the Commission.

7 We have been here before. Some of you may remember.
8 And what has happened is, at that time I was somewhat
9 concerned that the public may not have had as much
10 information as they could have had.

11 And so we waited until all the testimony was filed,
12 and for the past two weeks we have been having evidentiary
13 hearings on all the technical matters that are involved in
14 the case. There were 57 witnesses who testified in
15 Harrisburg over the past two weeks.

16 It was my genuine hope that the trial would have been
17 covered by the media and that in that way the public would
18 have gotten more information than they presently have.

19 I was disappointed because the media did not attend
20 any of the hearings over the two week period. And we
21 thought that, that information having been made public, that
22 this round of public input hearings we would have a more
23 informed ratepayer so that you could tell us then what you
24 thought about the issues.

25 Well, we're still here to hear what you thought about

1 the issues or what you think about the issues as you
2 currently understand them as far as PP&L's restructuring
3 application that has been filed before the Public Utility
4 Commission.

5 There are a number of people here with me this
6 evening and we're not going to take up your time, because I
7 have already done that by getting lost.

8 But I would like to introduce them to you and have
9 them explain a little bit about what it is that they do and
10 what their role in this proceeding is.

11 At the current time, the record is going to close on
12 the 9th of September, and briefs by all parties -- at the
13 present time, I believe there are 35 parties in the case,
14 and these range from single individuals to PPLICA, who
15 represents a large number of large industrials, along with
16 all the environmental groups, AARP and so on and so on.

17 The people here with me tonight are statutory
18 participants in the process. Right next to me is Mr. Bernie
19 Ryan, and Mr. Ryan is the Small Business Advocate of
20 Pennsylvania. He has a specific statutory duty.

21 Next to him is Mr. Mullins, and Mr. Mullins is with
22 the Office of Consumer Advocate. Next to Mr. Mullins is Mr.
23 Mickens, who is with the Office of Trial Staff. To my left
24 is Mr. Paul Russell, who is counsel for PP&L.

25 Why don't we start with you, Mr. Mickens?

1 MR. MICKENS: Thank you, Your Honor.

2 Good evening. My name is Ken Mickens. I'm a Senior
3 Prosecutor with the Office of Trial Staff. My office is in
4 Harrisburg.

5 We are charged with prosecuting the public interest,
6 primarily involving rate proceedings before the Commission.
7 As the Judge indicated, we have been participating in the
8 evidentiary hearings that have been held previously over the
9 previous two weeks.

10 We had three witnesses that testified in that
11 proceeding in an attempt to make sure that the public
12 interest is protected, in determining the appropriate
13 recovery if any for PP&L in their electric restructuring
14 application.

15 I would be happy to talk with anyone during the break
16 or at the conclusion of the hearings this evening with
17 regard to any specific concerns that they have with regard
18 to this proceeding.

19 But primarily we're here to hear from you, to let us
20 know what your particular concerns are with regard to PP&L's
21 restructuring proceeding, and that's what we're here for.

22 I urge all of you to testify under oath this evening,
23 because that will allow the Administrative Law Judge and the
24 Commission to consider your testimony in the Judge's
25 recommended decision and the Commission's final decision in

1 this case. Thank you very much.

2 JUDGE KASHI: Thank you, Mr. Mickens.

3 Mr. Mullins?

4 MR. MULLINS: Thank you, Your Honor.

5 Good evening. My name is James A. Mullins and I
6 represent the Pennsylvania Office of Consumer Advocate. The
7 Office of Consumer Advocate was created by statute to
8 represent the interests of the residential customers within
9 the Commonwealth. The current Consumer Advocate is Irwin A.
10 Popowsky, and he has served in that capacity since 1990.

11 As you all are aware, this is an extremely important
12 case in that it will dictate how you receive your future
13 electric service from and what you ultimately pay for that
14 service.

15 As Mr. Mickens indicated, this is a public input
16 hearing, so we are here to hear from you. We invite you to
17 take the stand and testify under oath. That way, your
18 testimony becomes an official part of the record in these
19 proceedings and the parties, the Judge and the Commission
20 can consider those statements as they arrive at their final
21 determinations.

22 Once again, thank you for coming out and I look
23 forward to hearing from you.

24 JUDGE KASHI: Thank you, Mr. Mullins.

25 Mr. Ryan, sir?

1 MR. RYAN: I'm Bernard Ryan, the Small Business
2 Advocate. I've already told you my spiel before we got
3 started in the off the record discussion, so I won't repeat
4 that except to say that my office, representing the small
5 business customers of PP&L, has been an active participant
6 in this case and will continue to be so.

7 If any of you are here on behalf of small business
8 customers of PP&L, I hope you will state that when you give
9 your testimony today. Thank you.

10 JUDGE KASHI: Thank you, Mr. Ryan.

11 Mr. Russell?

12 MR. RUSSELL: Thank you, Your Honor.

13 My name is Paul Russell. I'm a lawyer in the PP&L
14 Legal Department and I'm one of the lawyers representing the
15 company in this case.

16 PP&L was an early advocate of retail competition. We
17 supported passage of the Customer Choice Act which the
18 Governor signed late last year.

19 One aspect of that Act requires each electric utility
20 to file a restructuring plan with the Commission, and in
21 that restructuring plan the utility explains how it intends
22 to move into a competitive generation marketplace.

23 PP&L asked the PUC to allow us to file our plan
24 early. That request was granted, and we filed on April 1st.
25 The plan is the subject of tonight's public input hearing.

1 PP&L strongly supports the public input hearing
2 process. We think it is an essential part of the Commission
3 decision-making process because it provides an opportunity
4 for customers to provide input to the Judge and to the
5 Commissioners.

6 I want to join the other parties in thanking you for
7 attending tonight, and encourage you to testify. We're
8 interested in hearing what you have to say on these issues.

9 In closing, I'd like to introduce one other person
10 from PP&L. Dawn Bernhardt is off to my right. Dawn and I
11 will be available throughout the evening and after the
12 hearing is concluded to answer any questions you might have
13 about your rates or your particular service. Again, thank
14 you.

15 JUDGE KASHI: Thank you, Mr. Russell.

16 One point that I haven't made yet is that in
17 testifying or speaking tonight, you can do it in one of two
18 ways. You can give sworn testimony which becomes part of
19 the record, which I, the parties and the Commission can
20 consider when it comes to making a decision.

21 Or, if for some reason you choose not to give a sworn
22 statement, you can just get it off your chest, so to speak,
23 and we'll listen to that, other than the fact that it does
24 not become part of the record, it's not something that the
25 Commission in fact nor I nor the other parties can use and

1 cite in their briefs and me in my decision because it's not
2 part of the record. I encourage everybody to have their
3 testimony sworn to.

4 Mr. Thomas Lloyd. Sir, do you wish your testimony to
5 be sworn or unsworn?

6 MR. LLOYD: Yes, indeed.

7 JUDGE KASHI: Would you raise your right hand and be
8 sworn, sir? Do you swear or affirm that the testimony you
9 are about to give in this proceeding is the truth, the whole
10 truth and nothing but the truth, so help you God?

11 MR. LLOYD: As well as I can establish that, and I
12 know you can't, either.

13 JUDGE KASHI: Okay.

14 Whereupon,

15 THOMAS LLOYD

16 having been duly sworn, testified as follows:

17 DIRECT TESTIMONY

18 JUDGE KASHI: Could you please state your name and
19 address for the record, sir?

20 THE WITNESS: Yes. My name is Thomas Lloyd. I live
21 at 127 Bridle Path Road in Bethlehem, 18017.

22 JUDGE KASHI: And what do you do, sir?

23 THE WITNESS: I am a research scientist at Lehigh
24 University.

25 JUDGE KASHI: What brings you here tonight, sir?

1 THE WITNESS: My interest in the welfare of the
2 people of this community as well as all the members of our
3 whole society primarily in terms of the environmental impact
4 of what we're doing here.

5 (Pause.)

6 THE WITNESS: Do you want me to go ahead?

7 JUDGE KASHI: Please go ahead, sir.

8 THE WITNESS: I am sort of an unofficial
9 representative of the Union of Concerned Scientists. This
10 group is a very important group in this country in that it
11 brought about an understanding of society for the dangers of
12 nuclear power, but starting out with nuclear warfare, and
13 has been a prime mover in the movement to do away with
14 nuclear warfare which we are slowly, slowly moving toward,
15 but we still have nuclear power.

16 Now, I realize that nuclear power was sold to the, in
17 a sense sold to the power companies as the way to go by
18 people back when we talked about atoms for peace or words to
19 this effect, the use of nuclear power for good purposes
20 instead of just bad.

21 But nuclear power has become an anathema in this
22 country, more so in this country than in the world at large.
23 It would seem to me that in this competition, the people who
24 have nuclear power are seeking a particular advantage which
25 most of us when we invest in companies don't get.

1 We invest and if things don't turn out, we lose. If
2 they turn out real well, we make profits; not so in this
3 case. We've had a monopoly here and as we seek to move away
4 from this monopoly, certain people are seeking an advantage,
5 those particularly who would get rid of their stranded costs
6 by dumping them on other people, that is their debts on
7 other people.

8 But years ago when I was teaching at Muhlenberg
9 College -- that would be in about 1948, '49, in around
10 there; it was a long time ago -- I told my students, "If we
11 burn up all the fossil fuels in this country, in the world,
12 we simply won't be able to live."

13 And that's a fact. That is a fact, still is. At
14 that time, I thought that the amount of oil we had left --
15 that was about 1948 now -- I thought, oh, we have 30 years
16 of oil in the world left. Hey, I was really wrong, but I
17 was not wrong about what's going to happen if we convert
18 more and more fossil fuels into gasses that damage our
19 atmosphere and, as our population zooms upward, our lives.

20 So this fact doesn't seem to have been dealt into the
21 equation. We have to take care of our environment. Now,
22 we're going to be meeting -- that is, "we," the United
23 States and other nations of the world are going to meet in
24 Kyoto, Japan in December.

25 And the President has made certain statements and a

1 lot of people, primarily the fossil fuel advocates, their
2 lobby have tried to obstruct those who would take reasonable
3 precaution against the increase of greenhouse gasses in this
4 atmosphere that we breathe.

5 So therefore, what I'm saying is that it appears that
6 PP&L is a reasonable competitor or they wouldn't be pushing
7 for this sort of a thing, a competitor that is that they are
8 making their power cheaper than say PECO, who has a lot of
9 nukes.

10 And up in New England, where they have a lot of
11 nukes, their power costs are very high. So what are we
12 going to do? We're going to go for the cheapies, the
13 PP&L's, which isn't real cheap, but if you go west of here
14 to the real fossil fuel burners, and they are going to
15 dominate the thing.

16 Now, there's a claim that they are going to build in
17 innovative technologies. What I'm saying here is that this
18 is my opportunity to say that the Union of Concerned
19 Scientists and other people have brought out a paper known
20 as "Energy Innovations" which says that if we go forward at
21 a reasonable rate with reasonable research and improvement
22 in technology, we can reduce the greenhouse gasses and
23 reduce our costs.

24 And I don't hear one word about any of this from PP&L
25 or anybody. Why? I guess that's all I have to say.

1 JUDGE KASHI: Thank you. Professor Lloyd, are you
2 familiar that in this proceeding, there is a large number of
3 environmental groups that are on the record and in fact
4 being represented in this proceeding?

5 THE WITNESS: Not really.

6 JUDGE KASHI: You're not familiar with that?

7 THE WITNESS: I suppose that that -- I'll take your
8 word for it, yes.

9 JUDGE KASHI: Okay. Thank you.

10 THE WITNESS: Yes, I'll take your word.

11 JUDGE KASHI: One second, sir.

12 Are there any questions from counsel?

13 MR. RYAN: No, Your Honor.

14 MR. MICKENS: No questions.

15 MR. MULLINS: No questions.

16 MR. RUSSELL: No questions, Your Honor.

17 JUDGE KASHI: Thank you. You are excused.

18 (Witness excused.)

19 JUDGE KASHI: Kurt Zwickl. Sir, do you wish your
20 testimony to be sworn or unsworn?

21 MR. ZWICKL: Sworn.

22 Whereupon,

23 KURT ZWICKL

24 having been duly sworn, testified as follows:

25

DIRECT TESTIMONY

1
2 JUDGE KASHI: Could you please state your name and
3 address for the record?

4 THE WITNESS: My name is Kurt Zwickl. I am President
5 of the Allentown Economic Development Corporation. I live
6 at 620 North 25th Street in Allentown, Pennsylvania.

7 JUDGE KASHI: And what brings you here tonight, sir?

8 THE WITNESS: I would like to speak to PP&L's
9 involvement in the community, particularly with respect to
10 economic development and the impact they've had on the City
11 of Allentown and on our organization specifically.

12 JUDGE KASHI: All right.

13 THE WITNESS: I think that at the outset, I'd like to
14 say that PP&L has been an economic development partner in
15 several ways, from a human resource standpoint, number one,
16 and also from a dollar standpoint.

17 And let me just speak to a couple of these. There
18 are two particular projects that they have been involved in
19 from the beginning with respect to the Allentown Economic
20 Development Corporation.

21 And one of those was to assist the corporation with
22 the creation of a facility called Bridgeworks Enterprise
23 Center. They provided gap financing to permit us to
24 establish this particular facility which was an old
25 manufacturing facility of the Mack Truck Corporation.

1 And we have converted this facility to provide a roof
2 for four new companies that are now employing over 300
3 people. PP&L stepped forward with approximately \$250,000 of
4 interest-free lending to us to permit us to bring this
5 project on board.

6 Secondly, they have stepped forward in a project that
7 we are currently developing called Portland Place, and this
8 is to be an education job center in downtown Allentown that
9 will house the Lehigh Carbon Community College's Center City
10 site, a work force readiness training center, and will deal
11 with literacy issues as well.

12 They have stepped forward with a large grant to serve
13 as seed money to help us develop this. We have been able to
14 partner those dollars along with other foundation monies to
15 give us seed money to help in the development of this
16 project.

17 Additionally, they have promoted center city and
18 downtown small businesses, and they have stepped forward in
19 many neighborhoods with some home ownership initiatives that
20 they have developed internally at PP&L.

21 They have an internal economic development team that
22 not only works in Allentown but throughout their marketplace
23 to lure other businesses into the Commonwealth.

24 They work with them with respect to their utilities,
25 and this team of community development experts works to

1 bring companies into our area.

2 They also sponsor economic development educational
3 opportunities for economic development professionals both
4 in-house and throughout their particular footprint.

5 Their commitment to downtown Allentown from a people
6 standpoint, they have their corporate headquarters in the
7 city and employ approximately 2,000 people, most of which
8 are in that location.

9 But their employees overall are very visible in the
10 greater Lehigh Valley area and I'm assuming throughout their
11 market area on both boards and commissions and the like,
12 donating service time to help in community endeavors.

13 Most recently, we established a downtown Allentown
14 partnership, and this committee is being chaired by Bill
15 Hecht who is the chairman of Pennsylvania Power & Light.

16 So I guess my message here is that both dollars and
17 volunteer time on behalf of their employees have leveraged
18 other projects in the community, have leveraged other
19 dollars, and they have made a substantial impact on the
20 community itself.

21 With some corporate mergers and downsizing of other
22 corporations in the area, PP&L has been a cornerstone of
23 support for the Allentown community.

24 And what I would like to state specifically is that
25 any new competitive system or any system that comes into

1 place with regard to the electric utility industry should
2 permit this type of activity to continue.

3 I'm not saying that other utilities don't act in a
4 similar manner, but I think that this is important as we go
5 forward, that utilities are permitted to continue to play a
6 constructive role in the community. Thank you very much.

7 JUDGE KASHI: Thank you very much, sir.

8 Are there any questions for the gentleman?

9 MR. RYAN: No, Your Honor.

10 MR. RUSSELL: No, Your Honor.

11 JUDGE KASHI: Thank you. You are excused, sir.

12 (Witness excused.)

13 JUDGE KASHI: Joris Rosse. Do you wish your
14 testimony to be sworn or unsworn, sir?

15 MR. ROSSE: Yes, I would like it to be sworn.

16 Whereupon,

17 JORIS ROSSE

18 having been duly sworn, testified as follows:

19 DIRECT TESTIMONY

20 JUDGE KASHI: Please state your name and address for
21 the record, sir.

22 THE WITNESS: I am Joris Rosse, J-O-R-I-S, R-O-S-S-E,
23 and I live at 1966 Creek Road in the City of Bethlehem.

24 JUDGE KASHI: What is it you do, sir?

25 THE WITNESS: I am retired. I used to work at Lehigh

1 University as a planner.

2 JUDGE KASHI: And what brings you here tonight, sir?

3 THE WITNESS: I'm desirous of sharing some thoughts
4 and comments, insights perhaps, about the process that PP&L
5 and the other power companies are engaged in.

6 And I am particularly hopeful that whatever process
7 is evolved that guides this deregulation, that it include an
8 opportunity for alternative methods of power generation such
9 as wind power, solar power, possibly hydro on the smaller
10 scale.

11 And so far, what I've heard or read doesn't seem to
12 include a venue for the customer to elect, even if that
13 might cost somewhat more money, to have a choice, a real
14 choice as to whether he or she wants to consume, quote-
15 unquote, "clean power."

16 JUDGE KASHI: There are proposals that would be
17 labeled as green power in some instances.

18 THE WITNESS: Green, yeah. Well, green is good, and
19 I wear a green shirt a lot. But often, that term can get
20 worked. You know how people tend to take on a good concept
21 and then give it that cast and actually sort of make it as a
22 mask for some other things that are going on behind that
23 facade.

24 And so I'm a little leery about those kinds of labels
25 unless they are spelled out. And so I'd like it to be that

1 the customer have a clear choice as to how clean and how
2 green the power really is that the various power companies
3 are merchandising to the public, meaning that just because a
4 power company may have one plant that is excellent in this
5 regard or as excellent as can be made at this time -- let's
6 say they're burning only natural gas which by its nature is
7 half as polluting, let's say, as even the best say coal
8 fired plant, just because half of the Btu's come from
9 hydrogen rather than from burning the carbon.

10 Hydrogen with oxygen makes water, and so that's a
11 much better burning process as far as we're concerned. And
12 I think that's where our energy system has to move, towards
13 burning hydrogen rather than burning coal and other fossil
14 fuels.

15 And it seems like a sidetrack, but I think it's
16 relevant here that in the long-term, that's where the nation
17 and possibly the world needs to go.

18 And there is all the technology already in place to
19 do it, and it would be feasible, but at this very point it
20 would not be competitive penny for penny for the power.

21 And so if the public was given a choice, to say, "I
22 want to burn clean power that doesn't help to destroy the
23 livability of this planet, and I'm willing to pay whatever,"
24 you know, X number of pennies more per kilowatt-hour to do
25 that, I should have that choice.

1 But I want to make sure it isn't just one plant that
2 this company has that is relatively clean and then the
3 company say, "Oh, we've got green power" even though they
4 have dirty coal plants, nuke power plants that aren't being
5 paid off enough or a fund isn't being built up to safely
6 decommission this plant and so on.

7 So I don't know if we can also ask questions here, or
8 is it just, we're giving our opinion, but I'm not familiar
9 with -- or can I ask this question: Is there something
10 afoot that would actually have the power companies label
11 their power accurately, like it could be 5 percent clean,
12 clean and green, 50 percent dirty coal plants, and 40
13 percent terrible nuclear plants? Is that in the works?

14 JUDGE KASHI: I haven't seen that great a detail yet.

15 MR. RYAN: You're not in the advertising business,
16 are you?

17 THE WITNESS: No, I'm not in the advertising
18 business, but I'm into the reality business, you know, the
19 real world.

20 JUDGE KASHI: You say that you're in the reality
21 business. Can you answer a question for me? How many
22 people do you think would pay extra pennies per kilowatt --

23 THE WITNESS: I think it would start out as being a
24 very small percentage, but it might grow.

25 JUDGE KASHI: Do you have any indication, have there

1 been any studies that you've done or seen done or anything
2 that would indicate that in fact people would be interested?

3 THE WITNESS: No. It would be pure speculation on my
4 part. But judging on the intensity that I have sensed on
5 the part of a lot of people about the desirability to move
6 our society towards being sustainable, which at this point
7 we know it is not -- and if you need statistics and
8 information, read World Watch Institute's papers which are
9 read worldwide and have as much credibility as any source of
10 information as I know, certainly way more credibility than
11 the information coming from the power companies.

12 So I'm not surprised that the power companies haven't
13 pushed this idea because they thrive on keeping the public,
14 with the media, in cooperation. That's why your trial in
15 Harrisburg is not getting any publicity.

16 The media thrive on keeping the public entertained,
17 info-tained, if you like, but not informed because they work
18 as a mouthpiece to big business and that's just one of the
19 facts of life, that more and more, our country, our
20 government is run by the corporate interests or the
21 financially well heeled parties.

22 And so the general public comes in last. And that's
23 where I hope the public interest advocates sharpen their
24 pencil and their wits about how to go about -- I don't know,
25 maybe just putting it out there boldly and baldly and

1 saying, "This is the way it is."

2 And please, let's start working, making this plan
3 such that we are starting towards a system that is promoting
4 the sustainability. That means -- that's not a high goal.

5 Sustainability is not a high goal. If you slip from
6 sustainability, what do you have? You have less than
7 sustainability.

8 Actually, our standard should be regeneration so that
9 we are working towards a really wholesome, healthy system
10 that really allows us to rebuild the environment to
11 something more vital and able to take an unexpected hit or
12 two.

13 But the way we're going is, we're in a situation
14 where, bit by bit, we're seeing the species drop. We're
15 seeing the global warming and other climate instability
16 which is a much more meaningful term than global warming.

17 These things are happening to us, and it's running
18 worse, it's getting worse, not better, even though we have
19 the Clean Air Act and so on.

20 That's great, but it's not adequate to the task. And
21 so where we now recognize that corporations have almost
22 unlimited power in our society, we need something, some
23 body, some structure that sort of allows the corporations to
24 sense that the responsibility has fallen on them.

25 And they haven't quite taken the bit in the teeth yet

1 and they haven't started running with that. Now, I'm
2 President of SAVE, which is the Sauken Association for a
3 Viable Environment in the Lehigh Valley.

4 And there's a palpable sense that environmentalists
5 have given up. They just say, "Okay, we're not being heard.
6 The power is in the hands of the corporations, and it's your
7 baby now. We've said it. We're not being listened to.
8 It's on you."

9 And yet, we have little chances here and there to put
10 a few constraints, a few reins on where they're going, and I
11 pray that you people do the best you can.

12 When I first read about this whole idea of
13 deregulating power generation and letting the people choose,
14 I couldn't help but be reminded of what happened to me and
15 to everybody else when the telephone companies were
16 deregulated.

17 What happened? Big business made out like tigers
18 because the long distance rates, which they tend to consume
19 a lot of, went down for them.

20 Lots of specialized organizations were formed that
21 would make it a lot less expensive for big business to
22 transact their business across the world and across the
23 continent.

24 But what happened to the local people? Our rates
25 went up. My telephone bills, all these three different

1 companies that I now pay bills to, are roughly twice of what
2 they used to be before deregulation.

3 And so there were all these wonderful tales of how
4 much benefit there's going to be to the public. Well, maybe
5 to some well-heeled segment of the public, yes.

6 Now, I see maybe this is about to repeat itself.
7 Now, we know that big business will benefit from this
8 because they can negotiate, deal by deal, to get the best
9 possible arrangement for power that they can get.

10 And the bigger they are, the more clout they will
11 have because they'll tell PP&L, "Give me a good deal or I'm
12 going to go somewhere else, or I'll cogen, I'll do my own
13 generation. If you don't behave yourself, I'll generate my
14 own power." And that will be a good clout.

15 And so what can the little customers do? Well, a
16 dozen of us can come and talk to you and hope that justice
17 will prevail.

18 And of course, that takes you to the next step.
19 PP&L, as many of the other companies, I'm sure, are coming
20 with a request for externalizing their costs, stranded, they
21 say, stranded. It means beached. That's stranded, a beach.
22 They want to beach their costs and put it on the public
23 beach for us to take care of for them.

24 We went to great lengths to convince PP&L that
25 building a power plant was bad business. This was 20-some

1 years ago. We marched. We went over to the site. They did
2 it anyway. They wouldn't listen to us. They wouldn't
3 listen to reason. They still haven't found a way to dispose
4 of their waste. It's a totally unsafe thing. It's a
5 terrible thing.

6 But they went ahead anyway, and as Tom said, they did
7 it because the federal government assured them there was
8 going to be a good place to put their waste, the power would
9 be too cheap to meter. What happened? Our rates doubled.
10 Oh, isn't that interesting.

11 So, I come to this thing with a good deal of
12 skepticism, I guess you can tell. And PP&L comes in asking
13 for the moon, all these stranded costs.

14 And what happens typically when this goes about? The
15 PUC will listen to all their stories about how sad it is
16 that they have all these stranded costs, and they'll say,
17 "Oh, well, we can't give you everything, but we'll give you
18 80 percent of what you asked for and that will show the
19 public that we're really holding in the reins.

20 Guess what? PP&L is going home, laughing all the way
21 to the bank because 80 percent, that's more than they could
22 hope for, right, reasonably?

23 And so here, I'm asking for none of the above. They
24 want the moon. Don't give them a little half of the moon,
25 just don't give it to them. They don't deserve it. They

1 didn't listen to the public and good reason and good
2 testimony. They chose to go their own way, and they should
3 pay the price for that.

4 (Pause.)

5 THE WITNESS: I've said it. Thank you very much.

6 JUDGE KASHI: I just have one comment I'd like to
7 make on the stranded costs issue. Do you, sir, understand
8 that the Act as passed by the Legislature incorporates in it
9 a provision for the recovery of stranded costs and in fact
10 defines what those costs are, that those ideas that you're
11 talking against were already passed by your Legislature and
12 that what has been handed down for the Public Utility
13 Commission to take care of is to make a determination on the
14 methodology and the calculation of those costs that fall
15 within the definitions as defined by the Legislature? I
16 mean, do you have that appreciation?

17 THE WITNESS: Well, I've heard something like that.

18 JUDGE KASHI: It's not a question that the PUC can
19 say to them, "Go away, we don't believe in the philosophy
20 behind stranded costs. The fact that the federal government
21 and the state government forced you into generating such
22 power and had a regulatory contract with you and now have
23 decided to breach that regulatory contract and put you into
24 competition, so therefore you are never going to be able to
25 recover the costs which your investors thought they were

1 going to recover over a 30 year period, that game is all
2 done and over. We're now changing the rules in the middle
3 of the game."

4 And so therefore, your Legislature, our Legislature
5 has said, "Well, gee, I guess that's really not too fair to
6 change the rules in the middle of the game, so we're going
7 to have to do something about it to cover those."

8 I mean, I'm just handing information. I'm not
9 arguing the point, okay. I'm not committing as to which way
10 I go on that question. I'm just saying that when we're
11 talking about stranded costs, it's not something that is as
12 up in the air as you might think it is.

13 THE WITNESS: Right.

14 JUDGE KASHI: Mr. Ryan, you wanted to say something?

15 MR. RYAN: You made a comment, I think it was when
16 you were talking about what happened in the telephone
17 industry --

18 THE WITNESS: Right.

19 MR. RYAN: -- that at least I perceive to be your
20 concern that somehow you were going to end up paying more
21 because of the change to competition because the big
22 consumers are going to negotiate the private contracts or
23 whatever it was that you said.

24 Do you realize that the Act actually caps your rates
25 at the December 31, 1996 level so that if you stay with PP&L

1 -- it does for four and a half years for the transmission
2 and distribution and up to nine years for the generation --
3 so that if you stayed with PP&L and chose not to shop, your
4 rates cannot be higher than they were on December 31, 1996?

5 THE WITNESS: Uh-huh.

6 MR. RYAN: So it's hard for me to see how you can end
7 up paying more in a deregulation situation.

8 THE WITNESS: I realize that.

9 MR. RYAN: Were you aware of that situation?

10 THE WITNESS: I'm aware that there's this promise of
11 no increased costs. But --

12 MR. RYAN: It's more than a promise. It's in the
13 statute.

14 THE WITNESS: Okay. But would the public in general
15 benefit as much as PP&L or the other companies that I was
16 mentioning, the bigger companies who can do their own
17 negotiating?

18 I would guess not. And it just seems reasonable that
19 John Q. Public is not going to be in a position to do that
20 same kind of negotiating, so while it may be true that their
21 costs don't go up, but they were not going to benefit the
22 way business is going to benefit.

23 MR. RYAN: Are your rates for any other service that
24 you can think of frozen for the next nine years, services or
25 goods?

1 (No response.)

2 MR. RYAN: In other words, I think it is of value. I
3 agree with you that if you are buying an awful lot of a
4 service, you're probably going to get it at a cheaper unit
5 price.

6 So yes, there will be bigger savings to the person
7 who buys 10,000 kilowatt-hours compared to the one who buys
8 1,500 or 500.

9 THE WITNESS: Well, there already is a rate structure
10 where, you know, the first so many kilowatt-hours --

11 MR. RYAN: I didn't mean to get into that.

12 THE WITNESS: They got that thing already going for
13 them. But they'll get some more bonuses --

14 MR. RYAN: The statute is what I wanted to be sure
15 you were aware of.

16 THE WITNESS: Right, I aware.

17 MR. RYAN: The statutory cap.

18 THE WITNESS: Right.

19 JUDGE KASHI: Is there anything further you'd like to
20 add, sir?

21 THE WITNESS: Well, it's possible that I think of
22 something else later on, but as of now, that's what I have.

23 JUDGE KASHI: Are there any questions for the
24 gentlemen? Mr. Mickens?

25 MR. MICKENS: Just a brief comment in response to the

1 question from Your Honor earlier about the green option and
2 whether there are any studies or anything to that effect
3 that you are aware of.

4 I am aware of a situation in New Hampshire. New
5 Hampshire is a little further along with regard to electric
6 generation deregulation than Pennsylvania.

7 They have already had pilot programs, for example.
8 And what has occurred there is, they have a green option
9 that in these pilot programs, consumers could decide that
10 they wanted the green option, which was more expensive.

11 And it turns out that I believe 7 to 8 percent of the
12 consumers chose the green option, even though it was more
13 costly than other forms of generation.

14 So that was very surprising. So there is some data
15 out there indicating that there is a percentage of folks
16 who, under any circumstance, would probably choose to pay a
17 little more for green power, whatever way you define that,
18 than they would for typical fossil fuel generation.

19 THE WITNESS: Thank you. That helps to answer your
20 question. I understand some other states have already also,
21 in addition to New Hampshire, have started this process and
22 hopefully we can learn something from what they're doing.

23 So maybe it would seem wise, prudent to me -- I know,
24 again, legislation is forcing your hand -- but it would seem
25 prudent to learn from what's happening in some of these

1 other states rather than all the states barging forward
2 pell-mell and not waiting to learn from those who are going
3 through this learning curve first.

4 It seems like, oh, here's a perfect situation where
5 we could watch and see and do the best possible thing after
6 it's been in place for five years or so.

7 JUDGE KASHI: Thank you, sir -- oh, I'm sorry. Mr.
8 Mullins?

9 MR. MULLINS: Sir, I believe earlier this summer the
10 Commission issued an order regarding generation supplier's
11 fuel mix, and I think it was a final order, and I think it
12 went to the effect that each generation supplier has to
13 provide its fuel mix.

14 And for those suppliers that advertise green power,
15 those suppliers would then have to back up that claim. So I
16 think that may alleviate your concern as to whether or not
17 suppliers --

18 THE WITNESS: That would really help. That would
19 help. Thank you.

20 (Witness excused.)

21 JUDGE KASHI: Mr. Al Wurth. Sir, do you wish your
22 testimony to be sworn or unsworn?

23 MR. WURTH: Sworn.
24
25

1 Whereupon,

2 ALBERT WURTH

3 having been duly sworn, testified as follows:

4 DIRECT TESTIMONY

5 JUDGE KASHI: Could you state your name and address
6 for the record, sir?

7 THE WITNESS: Albert Wurth, and my address is 525
8 Sixth Avenue, Bethlehem, Pennsylvania.

9 JUDGE KASHI: What is it you do, sir?

10 THE WITNESS: I'm a college professor.

11 JUDGE KASHI: What brings you here tonight, sir?

12 THE WITNESS: To testify regarding the rate increase
13 -- I mean the rate restructuring proposed by PP&L as a
14 customer and perhaps as a representative of other customers
15 and as a professor of public policy and analyzing some of
16 the general aspects of the proposal.

17 JUDGE KASHI: What would you like to tell us?

18 THE WITNESS: Well, I have a lot of observations. I
19 am not trying to testify in acute detail to the particulars
20 of the plan because I have not read it in that great a
21 detail, but I have read the general outline of the plan and
22 am very interested in the sort of overall proposal, both
23 restructuring, for stranded costs, for the calculation of
24 the stranded costs and other things.

25 I am also very interested in the role of the Public

1 Utilities Commission in this decision. Obviously, the state
2 Legislature gave you some mandates regarding the ways that
3 you have to treat some of these changes, but you also have a
4 great deal of discretion at the Public Utilities Commission
5 and as in most cases, the devil is in the details.

6 So what the stranded costs actually look like might
7 still have a lot of debate concerning how they're calculated
8 and other things.

9 I think it's a really big charge that the PUC has
10 because you're trying to I assume make a happy marriage
11 between what used to be a natural and regulated monopoly and
12 competition, and keep the best aspects of both in this new
13 hybrid system that we'll be having.

14 And of course, whenever you do a hybrid, you want the
15 best of both worlds rather than what I think it was Kennedy
16 said about Washington, with all the charm of a northern city
17 and all the efficiency of a southern one.

18 We don't want the worst of both worlds, and I'm
19 afraid that we could get that rather easily if we're not
20 careful under these circumstances.

21 I have a lot of things I'd like to talk about, and I
22 welcome questions as we go along. And again, I'm speaking
23 on a rather broad based analysis here. I can't give you
24 like rate levels and proposals and which declining block
25 rate would be discussed and so forth.

1 But there are some sort of basic ideas that I do want
2 to raise, and maybe I can even become better informed about
3 some of them myself.

4 I also think that it's very important that what the
5 PUC does has no bias toward any group or institution, that
6 it defends the state and the citizens who give it its
7 authority by its decisions. That is a major responsibility
8 and one we have to take very seriously, obviously.

9 The difference between regulated markets and
10 unregulated markets is that the regulated ones can fairly
11 easily internalize external costs and that unregulated ones
12 have a tendency to go looking for external costs to
13 socialize and use as advantages.

14 So a lot of the criticism of this whole change has
15 been directed at what will happen to the environment, what
16 will happen to efficiency, what will happen to conservation,
17 those kinds of issues which are not necessarily wrapped up
18 in the price of a kilowatt-hour but which certainly would
19 affect what can be done under one regime or one regulatory
20 structure and under one that is less active.

21 That's why very important issues are things like
22 information as was suggested by some of the previous
23 testimony regarding where the power came from, the mix, the
24 level of pollutant from each generator and so forth, and
25 also some of the characteristics of the companies.

1 Certainly the kind of labeling or information that
2 you would have about a particular source of power, about the
3 type and the delivery of the power is absolutely imperative
4 if we're going to allow more choices because it's just a
5 fundamental in economic choice, that if you want to make a
6 choice you have to have adequate information.

7 So the kind of labeling that someone suggested would
8 match the nutrition labeling is certainly one of the key
9 items that we want to talk about.

10 And in the end, I think if we have more smoke and
11 less cost to producers and the same or higher average bills,
12 we've just socialized the costs onto the weak and privatized
13 benefits to the strong and that would be the worst of both
14 worlds I believe we would be having.

15 And instead, it seems possible that we could have
16 more efficiency and lower bills and less smoke and perhaps
17 even higher profits for the utilities if we do this right,
18 so all the choices are right in front of us.

19 I just have a few sort of suggestions about what we
20 might want to do here and a couple of comments in relation
21 to some of the things that were said before.

22 The first one is that all decisions make winners and
23 losers and in this way I want to address stranded costs in
24 particular.

25 The Public Utilities Commission will choose who wins

1 and loses on this. Every dollar that goes into a stranded
2 -- or the TCC or TU -- CTCs --

3 JUDGE KASHI: CTCs.

4 THE WITNESS: -- CTCs -- will be a dollar that
5 doesn't go to consumers and does go in effect to
6 shareholders, and vice versa.

7 What we want to do is maximize the net loss overall
8 to Pennsylvanians I think as being charged by the state. If
9 we don't do that, then we've made a mistake. We've wasted
10 money in effect. We've taken money from one group that
11 could more efficiently invest it than another. That's
12 simply bad economics, not to mention maybe unfair.

13 The division of the stranded costs is a choice then
14 between the shareholders and perhaps the other creditors of
15 the utilities and the consumers.

16 It's both an equity issue and an efficiency issue.
17 It also very strongly will affect the competitiveness of
18 Pennsylvania business and the relative cost of living in
19 Pennsylvania. That's why this is much more important than
20 just who pays and how fair is. This is also about where
21 Pennsylvania, how it looks compared to other states, is it a
22 good place to do business, good place to live, how
23 Pennsylvania businesses will be able to compete.

24 The choice between customers and shareholders is
25 between keeping these dollars in Pennsylvania and the

1 Pennsylvania economy, since PP&L and all your regulated
2 utilities do business in service areas that are entirely
3 within the state as I understand it, at least now, and
4 sending those dollars into the global capital markets,
5 likely into the pockets of multinationals and whoever is
6 going to buy PP&L or whoever they're going to merge with to
7 become a giant holding company within the next few years,
8 probably.

9 So they will either be swallowed or become one
10 themselves. The 4 billion or so real dollars that we're
11 talking about here in stranded costs will either stay in
12 Pennsylvania altogether if they go back to the consumers,
13 the customers, or they will go off into the world capital
14 and energy markets.

15 The people you serve are better represented than in
16 the customers than they are in the shareholders, and I don't
17 think that's deniable.

18 Also, I'd like to talk a little bit about the formula
19 for stranded costs because as I understand it, PP&L simply,
20 as they propose it, wants to take what they paid for their
21 generation facilities and some of their outside user
22 contracts and some other things -- and again, I didn't look
23 at this in great detail -- and figure out what they would
24 have earned on those if the regulated market had not been
25 changed, that is the previous regulatory regime, and what

1 they expect to get from it from some projections that they
2 had some professors do like me, I guess, on what they're
3 likely to earn in the future.

4 And as I understand it also, this is going to be some
5 kind of one-time shot figure. Is that right? They're going
6 to take a net present value and that's going to be frozen
7 and this is not going to fluctuate over time; is that right?

8 JUDGE KASHI: That's the intent.

9 THE WITNESS: Why is that? Is that in the law? Is
10 that in the statute, it has to be finalized?

11 JUDGE KASHI: Well, there's argument as to whether
12 that's the actual intent of the Legislature or not.

13 THE WITNESS: I would think so.

14 JUDGE KASHI: There are those that claim that it has
15 to be done on a moving basis over a number of years rather
16 than being fixed now for the next 20.

17 THE WITNESS: If they couldn't predict electric
18 demand, I don't know how they're going to predict electric
19 price. I would think that it would be almost foolish to
20 have only one method of calculating these costs and to not
21 allow it to move over time, inflexibly.

22 It just seems to me to be beyond any way of doing
23 business except maybe for somebody that wants to sell bonds
24 or something. They would love to know what that number is.

25 JUDGE KASHI: Of the 35-odd parties that have made

1 presentations, I at the present time cannot actually tell
2 you how many have presented different methodologies for
3 calculating costs and have had their various computer runs
4 from this mega-model and that mega-model.

5 THE WITNESS: Right. And again, you'd have to pay me
6 a lot of money to get me to do one of those, and you don't
7 want another one, anyway, but it seems to me quite
8 wrongheaded to have one that is frozen in time from the
9 wisdom of whoever happens to testify at one particular point
10 in time, so we want -- to freeze these kinds of numbers for
11 nine or 15 or whatever it is your period is is I think
12 rather a stretch and asks for a kind of prescience and a
13 kind of knowledge of future markets and stuff that we can't
14 even begin to address, which reminds me.

15 As I heard mister small business advocate -- I
16 thought I had your name written down here, but I --

17 JUDGE KASHI: Ryan.

18 THE WITNESS: Ryan -- Mr. Rosse certainly is happy
19 the rates are frozen, but again, as he mentioned, I think,
20 he doesn't know whether they would have gone lower without
21 regulation -- I mean with the existing regulation than
22 without, too.

23 You might be dubious of that and he might have good
24 reason to be, too. But I guess a lot of the best argument
25 that I've seen in this area has been that wholesale

1 competition captures most of the benefit and distributes it
2 potentially more widely than retail competition ever can and
3 that retail competition may create a quagmire of advertising
4 and information problems and all sorts of things which I can
5 only begin to speculate about but all of which I would see
6 as probably not terribly beneficial on a very average kind
7 of basis to the average electricity user.

8 Certainly the ones that are best equipped to deal
9 with those information problems, the large users and so
10 forth, certainly would benefit.

11 But as I understand it, most of the benefits of
12 competition in electric generation are captured by wholesale
13 competition which would have been happening regardless I
14 think over some period of time in the future whether we had
15 this law or not.

16 I think that might be the reason why the law was
17 passed so hastily, but I don't want to get into political
18 editorializing. I want to get back to the details here.

19 Anyway, I have one suggestion at least regarding the
20 accounting of the stranded costs and that's that what we
21 want to do when we separate the shareholders and the
22 customers is we want to separate the management of the
23 utility from the obligations placed on the utility by the
24 regulator.

25 It seems to me that's the underlying theory here,

1 that is that the state made these utilities do some of this
2 stuff and then some of it they decided on their own.

3 And what they decided on their own, they decided as
4 managers who were trustees or advocates or agents of the
5 shareholders who own the company and whose money was at
6 least theoretically at risk although there is some doubt
7 about that given a lot of the criticisms of this law and the
8 stranded costs.

9 But regardless, if we want to separate what is a
10 managerial decision from what is a regulatory obligation, we
11 can do that and there is a number to do that.

12 The one I would suggest is what was the best possible
13 practice at the time that the generating costs were incurred
14 and what was the company's decision.

15 The best possible practice would be the one that they
16 would have had to use had they been the best operator in
17 America and that is one that they might or might not have
18 emulated.

19 And the one that they chose is the one that their
20 managers, with their foibles and with their entrusting of
21 agency from the shareholders, did choose.

22 The shareholders took the second half of that risk.
23 The first half of the risk was imposed by the regulatory
24 structure.

25 So it seems to me that -- and I can't give you a

1 number on this one, but I can tell you that there was a best
2 practice at the time that every one of these generation
3 capacity investments was made, and then there was the
4 practice that PP&L made.

5 If they made the best, then their number, \$4 billion,
6 will come out the same under this calculation, but my guess
7 is they didn't, that they want us to cover every decision
8 that they made in which case there was no reason to have the
9 non-regulated -- I mean regulated public utility. We might
10 as well just have had a state owned utility.

11 So the whole purpose of having private regulation,
12 private management, private investment was so that capital
13 markets and other things can drive the decision making and
14 optimize that and so forth.

15 And if we had the worst utility, we don't want to
16 cover all their stranded costs. I have no idea where PP&L
17 fits in this big scheme of things, but -- has this one been
18 proposed, I assume?

19 JUDGE KASHI: Partially, yes.

20 THE WITNESS: Yes. And it seems to me this is the
21 one that really clearly separates the interests of the
22 shareholders from the interests of the customers as
23 represented by the state regulatory agencies, especially
24 since you're suggesting it, or the previous person, that we
25 can't just abandon the stranded costs argument entirely.

1 As a customer, I would just as soon have the
2 shareholders handle all the stranded costs. But it seems to
3 me that I should not be obliged to ratify the management as
4 chosen by the shareholders of PP&L and every decision they
5 made, only the ones that they made that were as good as may
6 have been made by another generator if I had had the choice
7 to choose that generator.

8 Let me see. Information by the generator is
9 essential to prevent the veiling of externalities as we
10 mentioned with some of the earlier one.

11 In-state generation and other characteristics of the
12 generator should be made as available to the consumers as
13 possible.

14 And the simplest and most obvious way I think to
15 determine the stranded costs, if we don't want to try to
16 compare that best practice argument that I suggested before,
17 would be to allow any bidder who would bid a lower price in
18 exchange for the stranded assets to pay that amount to the
19 generator, I mean to the existing utility, and then allow
20 that new owner to then be given the same stranded costs
21 guarantee to cover the lower bid that the state would be --

22 JUDGE KASHI: There's been a lot of testimony on
23 those numbers already.

24 THE WITNESS: Yes. Good. That seems to me to be
25 much closer to a market solution than anything we have in

1 the PP&L proposal which simply says, "Pay us what we spent,"
2 in effect.

3 I also think, whatever would happen here, we would
4 not want to have volume discounts. And I know these already
5 exist under current regulatory structure, but as wholesale
6 competition would recover the -- you know, we don't want
7 more electricity generated. We don't want more energy. We
8 want more services provided. I'm sure you've heard this
9 argument, too.

10 And so to allow volume discounting in this kind of
11 structure and not allow at least brokered markets where
12 energy was placed in and back out and sort of electricity
13 exchanges such that the cheapest sellers -- in other words,
14 not allowing one large volume discounter to usurp all of the
15 cheapest generated price and then allow the rest to be stuck
16 for the smaller consumers.

17 I have no idea what -- I'm sure varieties of remedies
18 have been also suggested in this area, but anything that
19 doesn't do that simply allows potentially again
20 non-Pennsylvanians, out of state companies, out of state
21 sellers, out of state buyers, all the money to leave the
22 state in effect and leaves the hapless Pennsylvania consumer
23 alone dealing with the leftover, high priced electricity
24 that is less available.

25 I think that's pretty close to what I have. I have

1 one more concern which I think the regulatory environment
2 could still address, and I need to make it more specific and
3 explicit.

4 I would like to turn in written testimony if I can
5 that would more carefully lay some of this out. Do I have
6 some time to do that or not?

7 JUDGE KASHI: I'm closing the record on the ninth,
8 and to be able to have you present testimony that could be
9 presented to the other parties to give them an opportunity
10 to rebut that, I quite frankly, sir, don't think I can do
11 it.

12 THE WITNESS: So what happens here?

13 JUDGE KASHI: Well, I'm not quite sure what you had
14 in mind of presenting. All of our expert witnesses have in
15 fact already testified. The case has been going on since
16 the first of April.

17 THE WITNESS: So why are we here?

18 JUDGE KASHI: We're taking your testimony right now.

19 THE WITNESS: Okay. I just thought, you know --

20 JUDGE KASHI: Right here and now, we came to hear it.

21 THE WITNESS: Okey-doke.

22 JUDGE KASHI: I mean, for you to be able to make some
23 kind of expert presentation in the form of some kind of
24 written testimony would necessitate that testimony being at
25 this time distributed to all the other parties to give them

1 an opportunity to be able to rebut it if they chose to.

2 At the current time, I have one date left set for
3 rebuttal and that's the ninth of the month.

4 THE WITNESS: So are you saying no or yes? I just
5 want to make sure I understand.

6 JUDGE KASHI: I'm not quite sure what you're
7 proposing.

8 THE WITNESS: A written version of my remarks here
9 tonight.

10 JUDGE KASHI: We already have it.

11 THE WITNESS: Okay.

12 JUDGE KASHI: I mean, it's part of the record.

13 THE WITNESS: I'm not confident that I can -- you
14 know, that this is as clear in this oral presentation form
15 as it might be on paper.

16 JUDGE KASHI: The presentation that you have made is
17 part of the record which will be considered by myself and by
18 the Commission and the other parties when they address the
19 record and work toward coming out with a decision. It is a
20 written document, sir.

21 THE WITNESS: Right, but I guess I'm worried about my
22 articulation rather than the writing of it, if you know what
23 I mean.

24 JUDGE KASHI: I think you did fine, sir. I think you
25 headed up a number of points that have been brought up

1 already, and I think you brought out a number of points that
2 have not.

3 As far as your concern about the devil being in the
4 details, I understand your concern, but I don't know at this
5 time that we would be able to accommodate that.

6 THE WITNESS: Okay. What is the standard rule? What
7 would I have had to do in order to send something in?

8 JUDGE KASHI: Well, you could have, at any time in
9 the proceeding, intervened in the proceeding.

10 THE WITNESS: Oh, okay. Never mind. I'm just -- I'm
11 a lonesome customer college professor, all right? I'm not a
12 utility company. I'm not an environmental group.

13 JUDGE KASHI: I'm have small, loathsome, as you want
14 to call them -- I'm sure Mr. Epstein would get highly
15 offended if he thought he was being called "loathsome."
16 He's a college professor who heads up the TMI Alert.

17 THE WITNESS: I said "lonesome" and not "loathsome."

18 (Laughter.)

19 MR. RYAN: I wasn't sure what you said.

20 JUDGE KASHI: Anyway, he has done a credible job, in
21 light of high priced counsel from out of state and
22 everything else, presenting his views and appearing at the
23 hearings and presenting his testimony.

24 So the idea of certain people being unable to get
25 into the process is one that I don't accept.

1 THE WITNESS: A couple of other points regarding
2 other people's comments that I just want to respond to,
3 besides arguing with Mr. Ryan.

4 Green funds, green -- I know there are groups lining
5 up to at least experiment with the potential of selling
6 green power.

7 I have done some research in the area of consumerism
8 and so forth. There are stock indexes. Calvert Investment
9 Funds is a well known -- so are the social investing, the
10 anti-nuclear investing, the anti-defense investing, the
11 green environmental investing.

12 You can buy a credit card that will do that now. You
13 can buy -- and I can't give you market shares off the top of
14 my head, but those are real companies.

15 Some of them pay no premiums but simply allow
16 consumers additional choice with comparable rates like in
17 telephone. Others of them actually do pay premiums, and
18 certainly some of them -- they avoid all the money that was
19 made in tobacco until recently and so forth because they
20 didn't do that.

21 So the likelihood that that market is non-existent is
22 very small. I can't tell you that it will be half or three-
23 fourths, but to leave it out is simply economically
24 inefficient if nothing else.

25 And certainly I can't imagine anybody who would tell

1 you that the costs of serving that market would exceed the
2 benefits of offering it, if you know what I mean. It's a
3 simple amount of information provided one time much like
4 nutritional labeling.

5 And if that information is not provided -- even if
6 it's a two or three percent market, you're not talking about
7 that kind of cost on a regular basis.

8 So that seems to me to be fairly obviously necessary.
9 I also want to suggest that the Utilities Commission does
10 have a chance to impose all sorts of costs on dirty power if
11 they so chose.

12 It isn't simply an information question. We can't
13 leave it to the heroes and the noble of the world to decide
14 whether they want to pollute the environment. We can add
15 that cost on.

16 And as long as it doesn't violate interstate commerce
17 laws, my guess is it would be legal under the current
18 regulatory structure, that is coal generated electricity
19 could be taxed, could be surcharged at a certain amount of
20 SO₂ released and other kinds of things. Nuclear could be
21 taxed at a decommissioning price.

22 And types of energy could easily be distinguished
23 with surcharges based on the amount of external costs that
24 they would generate compared to some of the cleaner
25 alternatives.

1 Again, conservation and efficiency, I'm sure you've
2 heard about this from a lot of the environmental groups, but
3 unless there are subsidies or directions that incorporate
4 that sort of external benefit, if you don't want to count
5 the others as costs, then the benefits of not having smoke
6 with your electricity or not having nuclear waste with your
7 electricity, those things are lost if we don't keep them in
8 the regulatory side where they can be recovered.

9 So I don't think we're simply talking about
10 information here. I'd be surprised if the PUC has the will
11 to do this, but I would be happily surprised if the
12 different types of power were distinguished on the basis of
13 some of those most obvious and measurable external costs
14 including contribution to global warming, to acid rain, to
15 nuclear waste disposal and so forth.

16 Those all could be easily be put in and would much
17 more level the playing field for conservation and
18 efficiency. The average cost obviously would level the
19 playing field for conservation and efficiency more, also.

20 There was testimony to PP&L's contribution to
21 economic development. I would just, without in any way
22 criticizing PP&L, say if you want to understand the real
23 value of that, you need to compare them not to what a local
24 guy who was really happy with what they've done locally,
25 which is a good thing, but to what other utilities do

1 elsewhere, and whether they are an exemplary citizen, an
2 average utility citizen or a below average utility citizen.

3 And \$250,000 or something into an economic
4 development fund doesn't sound like a whole lot when you've
5 got \$4 billion guaranteed for the customers. I'm sure the
6 customers would rather have the money back than have the
7 \$250,000.

8 I think that's about it that I have. It seems like
9 I'm forgetting one, but I can't find it at the moment.

10 Thank you.

11 JUDGE KASHI: One second.

12 Are there any questions for the professor?

13 (No response.)

14 JUDGE KASHI: Thank you very much. We're very
15 appreciative.

16 That concludes the people who have signed up on the
17 list. I would at this time ask, is there anyone in the
18 hearing room who has not signed up, who has not yet been
19 heard, who would yet like to be heard? And if so, could I
20 ask you to come forward and please sign the sheet.

21 We're going to take a ten minute recess at this
22 particular point.

23 (Recess.)

24 JUDGE KASHI: I am calling this proceeding back to
25 order.

1 Victor Madeson. Sir, do you wish your testimony to
2 be sworn or unsworn?

3 THE WITNESS: It's not necessary to swear it in.

4 JUDGE KASHI: Were you here when I explained what the
5 difference is?

6 (No response.)

7 JUDGE KASHI: If it's unsworn, it doesn't become part
8 of the record. I can't use it in my --

9 THE WITNESS: I'll swear to it.

10 Whereupon,

11 VICTOR MADESON

12 having been duly sworn, testified as follows:

13 DIRECT TESTIMONY

14 JUDGE KASHI: Could you please state your name and
15 address for the record, sir?

16 THE WITNESS: Victor Madeson, M-A-D-E-S-O-N.

17 Address, 4676 Broadway, Allentown, PA, 18104.

18 JUDGE KASHI: And what is it you do, sir?

19 THE WITNESS: I'm a writer.

20 JUDGE KASHI: What brings you?

21 THE WITNESS: I have some concerns about the
22 legitimacy of the PUC and the rate structure of PP&L.

23 JUDGE KASHI: All right.

24 THE WITNESS: A former citizen and public official of
25 the state of Pennsylvania said the following: "There's no

1 article in the Constitution of this state nor any of the
2 states that invests the government in whole or in part with
3 the power of granting charters or monopolies of any kind.
4 The spirit of the times was then against all such
5 speculation, and therefore the assuming to grant them is
6 unconstitutional and, when obtained by bribery and
7 corruption, is criminal."

8 This was said by Thomas Paine in 1805 and encompassed
9 to a letter to the citizens of Pennsylvania. The concern I
10 have is about the legality of PP&L to begin with.

11 It appears to be nothing more than a scheme to tax
12 the people of Pennsylvania without representation. I refer
13 specifically to the three rate structures in effect: the
14 commercial rate, the industrial rate and the public rate.

15 In this state, for some reason, the industrial rate
16 was lower than the public rate, so in effect you had the
17 widows of Allentown and Bethlehem and Lehigh Valley
18 subsidizing the fat cats at Bethlehem Steel and other major
19 corporations. Monopoly fraud, racketeering, criminal
20 conspiracy.

21 What I want to know is how we're going to revoke the
22 charter of this fly-by-night PP&L Corporation, and not talk
23 about how we're going to pay it back for its crime.

24 That's all I have.

25 JUDGE KASHI: Thank you very much, sir.

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(Witness excused.)

JUDGE KASHI: Mr. Alan Streater. Mr. Streater, do you wish your testimony to be sworn or unsworn, sir?

THE WITNESS: Yes, I do, sworn, please.

Whereupon,

ALAN STREATER

having been duly sworn, testified as follows:

DIRECT TESTIMONY

JUDGE KASHI: Could you please state your name and address for the record?

THE WITNESS: Alan Streater, 515 Main Street, No. 3, Bethlehem, Pennsylvania.

JUDGE KASHI: What is it you do, sir?

THE WITNESS: I guess what I would like to say, I tried to submit written testimony for this process three times already. I guess I can't submit them again tonight.

The PUC can hardly change very much now -- as I understand it, they've already given the \$1.1 billion to PETCO (phonetic). Is that true, or is that still under consideration? That calculation is still --

JUDGE KASHI: That's not true, sir. There was an order --

THE WITNESS: Okay, thank you for straightening that out.

JUDGE KASHI: There was an appeal of that order,

1 there is a settlement that is presently being proposed on
2 that, so I'm not quite sure where you're coming from --

3 THE WITNESS: I certainly --

4 JUDGE KASHI: First, before you start, when did you
5 attempt to submit testimony in this case?

6 THE WITNESS: The first time, I wrote a letter in
7 response to a newspaper ad that appeared, and it said, it
8 was asking if there was any objections to not having a
9 hearing, and it was Docket A-110010. And that didn't get
10 into the record anywhere.

11 The second time, I came on May 9th. There was a
12 hearing here.

13 JUDGE KASHI: Right. I recall you --

14 THE WITNESS: And I was not permitted testimony
15 because I was too late.

16 JUDGE KASHI: No. You showed up after the hearing,
17 sir.

18 THE WITNESS: And I could not submit written
19 testimony. You told me that I could submit testimony by
20 traveling to Scranton.

21 JUDGE KASHI: The next day.

22 THE WITNESS: The next day.

23 JUDGE KASHI: Right.

24 THE WITNESS: And that other than that, there was no
25 way to submit testimony. I'm glad to see that that wasn't

1 true, that there is a public hearing now, and I was actually
2 glad --

3 JUDGE KASHI: Well, I'm glad to see that you showed
4 up on time to take advantage of this opportunity.

5 THE WITNESS: I was intending to submit written
6 testimony and I brought written testimony again tonight
7 which I couldn't submit, so I guess --

8 JUDGE KASHI: You can submit written testimony. What
9 are you talking about, written testimony? You don't want to
10 tell us --

11 THE WITNESS: I can't submit something written into
12 the record.

13 JUDGE KASHI: What do you have to submit, sir?

14 THE WITNESS: A letter of things to say.

15 JUDGE KASHI: You can very well submit a letter into
16 this, if that's what you want. We can have it marked, we
17 can have it identified, we can have it put into this record
18 tonight, if that's what will make you happy, sir.

19 THE WITNESS: Why couldn't Al Wurth do that? You
20 said Al Wurth couldn't do that.

21 JUDGE KASHI: No, that's not what Al Wurth was
22 talking about.

23 THE WITNESS: Submitting written testimony.

24 JUDGE KASHI: Right. You're talking about putting in
25 a letter. He's talking about putting in expert testimony.

1 THE WITNESS: So my testimony isn't as good? Is that
2 the implication?

3 JUDGE KASHI: Mr. Streater, would you like to testify
4 tonight?

5 THE WITNESS: I would very much like to.

6 JUDGE KASHI: Let's hear what you have to say, sir.

7 THE WITNESS: Well, I guess I have to admit I don't
8 have a whole lot of faith anymore in the public process part
9 of this proceeding.

10 I guess I'm sure that most of the public input that
11 is not connected to the PP&L business interests are speaking
12 out against the \$4.5 billion giveaway that they're
13 proposing.

14 And this apparently is a \$135 billion scandal
15 nationwide, when you add it all up happening in other
16 places.

17 But despite what must be almost universal public
18 outrage, I guess I would bet on PP&L coming out on the good
19 end of this process at this point. I just haven't seen much
20 interest in public involvement.

21 I would be very much pleased if you would show me
22 otherwise, and I would in the end feel that the public
23 process was dealt with in an honest fashion and that I could
24 believe in the fairness and integrity of the American
25 process. Right now, I'm a little bit discouraged.

1 I guess I would like to say also that what's at heart
2 of the issue is that PP&L's projected rates and revenues and
3 how they're trying to justify how much stranded costs they
4 have and all this kind of stuff, they want to low-ball these
5 plans or these projections in order to argue for a larger
6 bail-out of the stranded costs.

7 And I guess you probably have some freedom to affect
8 this final number in the "devil is in the details" kind of
9 idea. And as you do your calculations and as you accept
10 calculations of others, please keep in mind that they're
11 trying to low-ball it, they're trying to get as much as they
12 can out of it. That's their process. That's what they want
13 to do.

14 The stranded costs bail-out, every dollar of it
15 represents a subsidy for the costs of producing power in
16 PP&L's environmentally harmful ways. And I hope you work
17 hard to separate it out as carefully as you can.

18 As far as the green options and the green costs, I
19 don't think that many people would pay much more for green
20 power, unfortunately. I'm not as optimistic as some of the
21 8 percent numbers I've heard.

22 And I think it's unfair to ask people to be so noble
23 that they'll be paying some large amount more to have green
24 power, because after all they are trying to benefit others
25 in society.

1 And the green option should be cheaper if you include
2 the true cost to society. So I don't think you can count on
3 the green option being that much of an incentive to the
4 market.

5 So when PP&L wants to have a large stranded costs so
6 that the smaller companies with the green option won't be
7 able to compete so they'll have to charge more money, I
8 don't think that that can be a viable way of getting us out
9 of our unsustainable problems that we're facing.

10 So you have to consider human nature. You have to
11 consider that people are going to say, "Well, why should I
12 pay more money for greener power when everybody around me is
13 polluting like mad and getting out with cheaper rates?"

14 And you have to put that into the system rather than
15 hope for noble and moral behavior on the part of all of the
16 citizens. It's very hard to do that and make those
17 sacrifices when you know that the rest of the people don't
18 have to.

19 So it's important to try to equalize the costs of
20 green power and include the costs of polluting onto the
21 customers in other ways for the benefit of society.

22 I guess I'll stop there, and I wish I could have done
23 better. Thank you.

24 JUDGE KASHI: Do you have anything further that you
25 would like to add to your testimony tonight, sir?

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THE WITNESS: No.

JUDGE KASHI: All right.

Are there any questions for the gentlemen? Mr. Mickens?

MR. MICKENS: No, Your Honor.

JUDGE KASHI: Mr. Mullins?

MR. MULLINS: No, Your Honor.

JUDGE KASHI: Mr. Ryan?

MR. RYAN: No questions.

MR. RUSSELL: No questions, Your Honor.

JUDGE KASHI: Thank you very much, Mr. Streater. You are excused, sir. Thank you for coming.

(Witness excused.)

JUDGE KASHI: Barbara Benson. Do you wish your testimony to be sworn or unsworn?

MS. BENSON: Yes.

Whereupon,

BARBARA BENSON

having been duly sworn, testified as follows:

DIRECT TESTIMONY

JUDGE KASHI: Could you please state your name and address for the record?

THE WITNESS: Barbara Benson, 6558 Blue Church Road South, Coopersburg, Pennsylvania.

JUDGE KASHI: What is it you do, ma'am?

FORM 2

1 THE WITNESS: I'm a citizen, college professor and a
2 member of the Sierra Club.

3 JUDGE KASHI: And what brings you here tonight?

4 THE WITNESS: I would like to have a voice in the
5 proceedings.

6 JUDGE KASHI: Let's hear it.

7 THE WITNESS: I realize that the deregulation bill is
8 in place and I realize also hopefully that perhaps the
9 legislation could possibly in the future, there could be
10 other legislation, and also, that the PUC could possibly
11 have a very important role in capping the amount of the
12 stranded costs recovered.

13 And so it's within this broad perspective that I make
14 a series of comments, many of which have already been made
15 but I would like to make them again.

16 The legislation has wiped out the idea of demand side
17 management, that is the move to make the customers need less
18 energy or to promote the idea that less energy use is
19 better. That's not going to happen with the current
20 legislation.

21 Retail competition won't stimulate funding for
22 renewable energy research, and renewable is green in many
23 cases. The renewable types of energy production are greener
24 types of energy production.

25 As I understand it, the competitive market, without

1 incentives, won't promote energy efficiency. There's just
2 no incentive for promoting efficiency. There's incentive to
3 make the costs of the energy production cheaper so that
4 customers will buy it.

5 And there's every possibility that Pennsylvania
6 customers will buy the cheap and dirty power and not the
7 clean and green, although a few of us, I myself would
8 certainly pay more for my electricity if I knew that I was
9 contributing to a more sustainable environment. And we need
10 to realize that sustainability is absolutely essential for
11 long-term survival on the earth.

12 So, stranded cost recovery is bad because it's
13 really, unless it's controlled at least, a huge subsidy to
14 the utilities for past uneconomic assets.

15 It's a barrier to the entrance of smaller, clean
16 generators who are more likely to develop the renewable
17 energy sources, and it discourages the small energy
18 producers who might produce energy on site because I
19 understand there will be fees that all producers will have
20 to pay, and smaller producers would be less able to bear the
21 same percentage of fee that the larger producers would bear.

22 So that's basically what I would like to say. I
23 think in the long run, we need to move towards
24 sustainability, and the current move to deregulate seems a
25 real backwards step.

1 JUDGE KASHI: Thank you, ma'am.

2 Are there any questions of the witness?

3 MR. MICKENS: No questions.

4 MR. MULLINS: No questions.

5 JUDGE KASHI: Thank you. You are excused. Thank you
6 for coming.

7 (Witness excused.)

8 JUDGE KASHI: Once again, that concludes those folks
9 who have signed and wish to be heard. I would at this time,
10 one last time, ask is there anybody in the hearing room who
11 has not yet been heard, who has not signed up, who wishes to
12 at this time yet be heard?

13 (No response.)

14 JUDGE KASHI: Let the record show that there is no
15 response. Sir?

16 MR. MADESON: May I add one point, please?

17 JUDGE KASHI: Surely. This is Mr. Madeson.

18 Whereupon,

19 VICTOR MADESON

20 having previously been duly sworn, testified further as
21 follows:

22 DIRECT TESTIMONY

23 THE WITNESS: Under Article VI of the U.S.
24 Constitution, anything contrary to the Constitution is
25 against the law and judges have to obey what's in the

1 Constitution.

2 Under the Ninth Amendment and Tenth Amendment, under
3 the Ninth Amendment, anything not specified in the
4 Constitution is reserved to the people. In the Tenth
5 Amendment, anything not specified in the Constitution is
6 reserved to the states or to the people. And the Fourteenth
7 Amendment applies the Constitution and the Bill of Rights to
8 all the states.

9 So when you start messing around with changing local
10 law to suit the whims of the politicians in Harrisburg, I
11 would urge you to think twice about sedition. Thank you.

12 JUDGE KASHI: Thank you, Mr. Madeson.

13 (Witness excused.)

14 JUDGE KASHI: I want to thank you all on behalf of
15 the Commission and on behalf of myself for presenting such a
16 varied and articulate summation of some of the issues that
17 we have heard and some of those issues that we have not yet
18 heard presented by the public.

19 I assure you that what you have said will in fact be
20 considered by the parties, by myself and by the Commission
21 when it comes time for the ultimate decision to come down
22 sometime in January. My decision comes out November 13th.

23 If there is nothing further, we will adjourn for the
24 evening. Anybody who wishes to come to Scranton tomorrow
25 yet with some further thoughts is more than welcome. We

1 start at 7:00 there tomorrow evening.

2 Thank you very much.

3 (Whereupon, at 8:55 p.m., the hearing was adjourned,
4 to be reconvened at 7:00 p.m., Thursday, September 4, 1997,
5 in Scranton, Pennsylvania.)

6 C E R T I F I C A T E

7 I hereby certify, as the stenographic reporter, that
8 the foregoing proceedings were taken stenographically by me
9 and thereafter reduced to typewriting by me or under my
10 direction, and that this transcript is a true and accurate
11 record to the best of my ability.

12
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15 John A. Kelly,
16 Certified Verbatim Reporter

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FORM 2