

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

**ORIGINAL**

----- x  
: Pennsylvania Public Utility Commission :  
: v. Philadelphia Gas Works :  
: Docket No. :  
: Filing of purchased gas costs pursuant :  
: to 1307(f). : R 00016378

**DOCUMENT  
FOLDER**

Initial Hearing

Pages 44 through 58

PUC Law Library  
State Office Building  
Broad and Spring Garden Streets  
Philadelphia, Pennsylvania

**DOCKETED**

AUG 14 2001

Wednesday, August 8, 2001

Met, pursuant to notice, at 1:00 p.m.

BEFORE:

MARLANE R. CHESTNUT, Administrative Law Judge

APPEARANCES:

WALTER W. COHEN, Esquire  
Obermayer Rebmann Maxwell & Hippel LLP  
204 State Street  
Harrisburg, Pennsylvania 17101  
(For Philadelphia Gas Works)

STEPHEN W. W. CHING, JR., Esquire  
Obermayer Rebmann Maxwell & Hippel LLP  
19th Floor  
1617 JFK Boulevard  
Philadelphia, Pennsylvania 19103  
(For Philadelphia Gas Works)

*Q.W.*  
RECEIVED  
01 AUG 13 PM 1:20  
F.A.P.U.C.  
SECRETARY'S BUREAU

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

76

## APPEARANCES (CONTINUED):

STEPHEN J. KEENE, Esquire  
Fifth Floor  
555 Walnut Street  
Harrisburg, Pennsylvania 17101  
(For the Office of Consumer Advocate)

STEVEN GRAY, Esquire  
1102 Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101  
(For the Office of Small Business Advocate)

CHARIS BURAK, Esquire  
McNees Wallace & Nurick  
100 Pine Street  
Harrisburg, Pennsylvania 17108  
(For the Philadelphia Industrial and  
Commercial Gas Users Group)

PHILIP BERTOCCI, Esquire  
Community Legal Services  
1424 Chestnut Street  
Philadelphia, Pennsylvania 19102  
(For CEPA, TAG, ACORN and  
Action Alliance of Senior Citizens)

WITNESS INDEX

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
----------------	---------------	--------------	-----------------	----------------

(NONE.)

-- 0 --

EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>PGW</u>		
✓ Exhibit No. 1 (Filing Document)	56	56
✓ Statement No. 1.0 (Durkin Direct)	56	56
✓ Statement No. 2.0 (White Supplemental Direct)	56	56
✓ Statement No. 2.1 (White Rebuttal)	56	56
<u>OTS</u>		
✓ Statement No. 1 (Metro Direct)	56	56
✓ Statement No. 1-SR (Metro Surrebuttal)	56	56
<u>OCA</u>		
✓ Statement No. 1 (Lelash Direct)	56	56
✓ Statement No. 1-S (Lelash Surrebuttal)	56	56
<u>OSBA</u>		
✓ Statement No. 1 (Knecht Surrebuttal)	56	56

-- 0 --

## P R O C E E D I N G S

1  
2 ADMINISTRATIVE LAW JUDGE MARLANE R. CHESTNUT: This  
3 is the hearing scheduled at Docket Number R-00016378,  
4 Pennsylvania Public Utility Commission versus the  
5 Philadelphia Gas Works.

6 For the record, let me state that I am  
7 Administrative Law Judge Marlane R. Chestnut.

8 I would like the parties to identify themselves for  
9 the record, stating your name, your address, your  
10 telephone number, your E-mail address, your fax number  
11 and for whom you are appearing.

12 We will start with Mr. Cohen.

13 MR. COHEN: Walter W. Cohen, 204 State Street,  
14 Harrisburg, Pennsylvania 17101. The telephone number is  
15 717-221-7920. The fax number is 717-234-9734. The  
16 E-mail address is walter.cohen@paonline.com. And I am  
17 here representing Philadelphia Gas Works.

18 JUDGE CHESTNUT: Thank you.

19 We will skip Mr. Simms.

20 Mr. Gray.

21 MR. GRAY: Yes, Your Honor. Steven Gray, G-R-A-Y,  
22 for the Office of Small Business Advocate, Suite 1102,  
23 Commerce Building, 300 North Second Street, Harrisburg  
24 17101. The main number is 717-783-2525. The fax number  
25 is 783-2831. And my E-mail is sgray@state.pa.us.

1 JUDGE CHESTNUT: Thank you.

2 Mr. Keene.

3 MR. KEENE: Stephen Keene for the Office of  
4 Consumer Advocate. My address is 555 Walnut Street,  
5 fifth floor, Harrisburg, Pennsylvania 17101. My  
6 telephone number is 783-5048. My fax number is 783-7152.  
7 And my E-mail address is skeene@paoca.org.

8 JUDGE CHESTNUT: Thank you.

9 Ms. Burak.

10 MS. BURAK: Yes, Your Honor. I am Charis,  
11 C-H-A-R-I-S, Burak, B-U-R-A-K, on behalf of the  
12 Philadelphia Industrial and Commercial Gas Users Group.  
13 My address is McNeese Wallace & Nurick, 100 Pine Street,  
14 P.O. Box 1166, Harrisburg 17108. My phone number is  
15 717-23-5437. My fax number is 717-237-5300. And my  
16 E-mail address is cburak@mwn.com.

17 JUDGE CHESTNUT: Thank you.

18 Mr. Bertocci.

19 MR. BERTOCCI: Philip A. Bertocci. I represent  
20 CEPA, TAG, ACORN and Action Alliance. I am with  
21 Community Legal Services, 1424 Chestnut Street,  
22 Philadelphia 19102. My phone number is 215-981-3702. My  
23 fax number is 215-981-0435. My E-mail address is  
24 pbertocci@clsphila.org.

25 JUDGE CHESTNUT: Thank you.

1 MR. COHEN: And also Stephen Ching is here  
2 representing Philadelphia Gas Works.

3 MR. CHING: It is Stephen Ching at the Obermayer  
4 firm in Philadelphia. The address is 1617 John F.  
5 Kennedy Boulevard, 19th floor Philadelphia, Pennsylvania  
6 19103. The phone number is 215-665-3288. The fax number  
7 is 215-665-3165. And my E-mail address is  
8 stephen.ching@obermayer.com.

9 JUDGE CHESTNUT: Thank you. I think that includes  
10 everybody.

11 Then we will get to the substance of this,  
12 Mr. Cohen.

13 MR. COHEN: Yes, Judge Chestnut. We among all of  
14 the parties have met -- well, there were several  
15 different groups meeting at different times, but we met  
16 this morning and have reached an agreement on a  
17 settlement of the case at hand. We do not have it  
18 reduced to writing but we have discussed all of the terms  
19 and also reviewed the language that would go into the  
20 written document.

21 We would expect and hope that we can have a written  
22 document that the parties can all sign off on at the very  
23 beginning of next week. I am aiming for the close of  
24 business Monday, the 13th, but it may take us another day  
25 or part of a day to get all of that done.

1           We have looked at the Commission's schedule and  
2 because the agreement in part includes an updated GCR  
3 factor to be made effective September 1st we would do our  
4 best to get this done as quickly as possible so that it  
5 is conceivable that the Commission meeting on August 30  
6 could be the time that the Commission could consider  
7 this. As I understand it, originally the Commission had  
8 been scheduled to meet on August 23rd but it had been  
9 changed unrelated to this case. But I think that is an  
10 useful result and a good date for us to aim for.

11           JUDGE CHESTNUT: I think that is a good public  
12 meeting to shoot for. Certainly I will do my best in  
13 terms of issuing a decision expeditiously but it might  
14 not be possible to get it on by the 30th. It depends.  
15 Is this a settlement that involves all parties?

16           MR. COHEN: It involves all parties and all parties  
17 have agreed that they would waive any exceptions to a  
18 decision that you would make and everybody of course is  
19 signing on conditioned on the actual terms being the  
20 terms that are approved. I think all of these issues are  
21 addressed with generally, of course, the law and prior  
22 positions of the Commission in mind so that there is  
23 nothing here that would be unusual or create any problem  
24 as we see it. So we would be prepared basically, all the  
25 parties, to be concluding our involvement as of the

1 signing of the joint petition.

2 JUDGE CHESTNUT: Well, I assume you intend on  
3 filing a compliance tariff.

4 MR. COHEN: Well, sure, once we have the approval.

5 JUDGE CHESTNUT: If all parties are agreeable to  
6 the settlement then waiving the exception period is  
7 possible and that obviously increases the chances of it  
8 being on for August 30.

9 Is this a settlement that involves all issues too?

10 MR. COHEN: Yes. All issues and all parties.

11 JUDGE CHESTNUT: All issues and all parties? Then  
12 it should go through pretty expeditiously, I would hope.  
13 Of course, I can't speak for the Commission and I have  
14 nothing to do in terms of when it is scheduled for public  
15 meeting. But I can tell you that I will work on the  
16 decision. If you give me a good petition of settlement  
17 obviously I can do the petition very quickly because I  
18 can just cut and copy. But if you don't and I have to  
19 actually fill stuff in then it is going to take longer.

20 MR. COHEN: Well, I think you had indicated in the  
21 phone conversation among the parties yesterday who were  
22 also in a sense representing all the parties that we  
23 would include in this the reasons for the settlement.

24 JUDGE CHESTNUT: Well, usually parties file  
25 separate statements in support and that is really the

1 best way to do it. If you don't want to do it that  
2 way --

3 MR. COHEN: You would prefer it that way?

4 JUDGE CHESTNUT: Oh, yes. Then you can say the  
5 OCA, for example, thinks it is a good settlement  
6 because...

7 MR. KEENE: Your Honor, we can probably attach  
8 statements in support to the settlement document when it  
9 is filed.

10 JUDGE CHESTNUT: That is usually how it is done.  
11 Appendix A is the company's appendix, B is OTS, Appendix  
12 C is OCA. But if you wanted to really rush this and put  
13 it in the body of the petition that would be okay.

14 MR. COHEN: I'm sorry. I thought you preferred it  
15 that way.

16 JUDGE CHESTNUT: Oh, no. It is really better if  
17 you have it separate. But sometimes in terms of  
18 logistics it is hard to do, to get everybody's statements  
19 together. But I am going to leave that up to you, as  
20 long as it is clear that there are some reasons why  
21 adoption of this is in the public interest. You are all  
22 nodding but I have had settlement petitions that have had  
23 no reasons with them.

24 And the other thing is make sure that the petition  
25 has a good summary of your settlement so I don't have to

1 go through the settlement terms and summarize them  
2 myself. Remember, with the Commission you can't  
3 summarize too much. Well, people are busy and if it is  
4 not contested then obviously it's not going to need a  
5 really extended level of scrutiny by the staff people  
6 although it will be looked at, of course.

7 Does anybody else have anything with respect to the  
8 process involved in the settlement? You will file the  
9 settlement and the petition asking for approval of the  
10 settlement next week. I will quickly write a recommended  
11 decision, I assume, recommending adoption and then it  
12 will be processed by the Secretary's office and put on  
13 the Commission's agenda.

14 Does anybody have any questions about that?  
15 (No audible response.)

16 JUDGE CHESTNUT: The other thing that we have to  
17 address is moving into the record the statements and  
18 exhibits that have been filed. Why don't I go through my  
19 list and make sure that includes everything and then we  
20 can just move it all in.

21 I have -- and you can give this a number because I  
22 left it blank -- a PGW exhibit which is the filing  
23 document, volumes 1 and 2. Do you want to call that 1?

24 MR. COHEN: No. 1 is fine.

25 JUDGE CHESTNUT: Okay. Then I have PGW Statement

1 1.0, which is the direct testimony of Patrick Durkin. I  
2 have PGW Statement 2.0, which the supplemental direct of  
3 Craig White.

4 The next thing I have is OTS Statement 1, the  
5 direct testimony of Paul Metro.

6 Then I have OCA Statement 1, which is the direct  
7 testimony of Richard Lelash.

8 Then I have PGW Statement 2.1, which is the  
9 rebuttal testimony of Craig White.

10 I have OTS Statement 1-SR, the surrebuttal  
11 testimony of Paul Metro.

12 And I have OCA Statement 1-S, the surrebuttal  
13 testimony of Richard Lelash.

14 Is there anything that I have missed?

15 MR. GRAY: Your Honor, I didn't hear you say the  
16 OSBA Statement No. 1, the surrebuttal testimony of Robert  
17 Knecht.

18 JUDGE CHESTNUT: You know, I didn't get that. I  
19 didn't get anything from OSBA.

20 MR. GRAY: I sent you to you by E-mail.

21 JUDGE CHESTNUT: I don't accept E-mail testimony.  
22 I told you that at the prehearing conference.

23 MR. GRAY: Well, I know we sent a hard copy. I  
24 will have to check to see what is going on there.

25 JUDGE CHESTNUT: Yes. I never received it from

1 you. I'm not disputing you filed it, but --

2 MR. KEENE: Your Honor, there is an extra copy  
3 here.

4 JUDGE CHESTNUT: Okay. Thank you, Mr. Keene.

5 Let me add that to the list, then. So that would  
6 be OSBA Statement No. 1, the surrebuttal testimony of  
7 Robert Knecht.

8 MR. GRAY: That's correct.

9 JUDGE CHESTNUT: And you filed that 8/3.

10 MR. GRAY: That's correct.

11 JUDGE CHESTNUT: You might want to check that  
12 because, like I said, we didn't receive it. I did see  
13 your E-mail about it but I deleted that immediately.

14 MR. GRAY: I will certainly check on that.

15 JUDGE CHESTNUT: Is there any objection to moving  
16 these documents into the record?

17 (No audible response.)

18 JUDGE CHESTNUT: They are admitted into the record,  
19 then.

20 (Whereupon, the documents were marked as PGW  
21 Exhibit No. 1 and Statements Nos. 1.0, 2.0 and  
22 2.1; OTS Statements Nos. 1 and 1-SR; OCA  
23 Statements Nos. 1 and 1-S; and OSBA Statement  
24 No. 1 for identification, and were  
25 received in evidence.)

1 JUDGE CHESTNUT: Does anybody have anything in  
2 connection with the record, then, relating to this case?

3 (No audible response.)

4 JUDGE CHESTNUT: And is there anything else to  
5 address?

6 MR. COHEN: Nothing else, Your Honor, from the  
7 company's standpoint.

8 MR. KEENE: Nothing else, Your Honor.

9 JUDGE CHESTNUT: Anything from you telephonic  
10 people?

11 MR. GRAY: Nothing, Your Honor.

12 JUDGE CHESTNUT: Thank you very much, then. This  
13 hearing is adjourned.

14 (Whereupon, at 1:11 p.m., the hearing was  
15 concluded.)

16

17

18

19

20

21

22

23

24

25

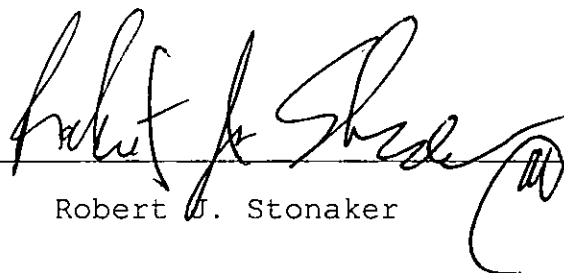
C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

COMMONWEALTH REPORTING COMPANY, INC.

By:



Robert J. Stonaker

RECEIVED  
01 AUG 13 PM 1:20  
I.A.C.  
SECRETARY'S BUREAU