

DOCUMENT FOLDER

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

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 :  
 Application of Trans-Allegheny :  
 Interstate Line Company (TrAILCo) : Docket No.  
 for approval: 1) for a certificate of : A-110172  
 public convenience to offer, render, : A-110172F0002  
 furnish or supply transmission service in : A-110172F0003  
 the Commonwealth of Pennsylvania; : A-110172F0004  
 2) authorization and to locate, : G-00071229  
 construct, operate and maintain certain :  
 high-voltage electric substation :  
 facilities; 3) authority to exercise :  
 power of eminent domain for the :  
 construction and installation of aerial :  
 electric transmission facilities along :  
 the proposed transmission line routes in :  
 Pennsylvania; 4) approval of an exemption :  
 from municipal zoning regulations with :  
 respect to the construction of buildings; :  
 and 5) approval of certain related :  
 affiliated interest agreements. :  
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Further Hearing.

Pages 3580 through 3629 Hearing Room 1602  
 State Office Building  
 Pittsburgh, Pennsylvania

Thursday, April 3, 2008

Met, pursuant to adjournment, at 10:03 a.m.

BEFORE:

MICHAEL A. NEMEC, Administrative Law Judge  
 MARK A. HOYER, Administrative Law Judge

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

BN-7790

## APPEARANCES:

DIANNE E. DUSMAN, Esquire  
Fifth Floor, Forum Place  
555 Walnut Street  
Harrisburg, Pennsylvania 17101-1923  
(For Office of Consumer Advocate)

ROBERT V. ECKENROD, Esquire  
P. O. Box 3265  
Harrisburg, Pennsylvania 17105  
(For Office of Trial Staff)

W. EDWIN OGDEN, Esquire  
ALAN MICHAEL SELTZER, Esquire  
Ryan Russell Ogden & Seltzer  
1150 Berkshire Boulevard, Suite 210  
Wyomissing, Pennsylvania 19610  
(For TrAILCo)

GERALD R. DEEVER, Esquire  
JEFFREY TROUT, Esquire  
RANDALL PALMER, Esquire  
Allegheny Energy  
800 Cabin Hill Drive  
Greensburg, Pennsylvania 15601  
(For TrAILCo)

WILLARD R. BURNS, Esquire  
Pepper Hamilton LLP  
500 Grant Street, 50th Floor  
Pittsburgh, Pennsylvania 15219  
(For Energy Conservation Council of Pennsylvania)

**Commonwealth Reporting Company, Inc.**

700 Lisburn Road  
Camp Hill, Pennsylvania 17011

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WITNESS INDEX

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Mark A. Mader By Ms. Dusman	3604	--	--	--

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FORM 2

EXHIBIT INDEX

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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ECC Cross-Examination Exhibit

34 (previously marked)	--	3589
71 (response, OCA-I-17)	3590	3590
72 (House Resolution No. 297)	3597	--
73 (Resolutions adopted at the 2007 CCAP conference)	3597	--

TrAILCo Statement

7 (Bodenschatz - Direct, with Exhibits JRB-1 through JRB-4)	3600	3602
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TrAILCo Rebuttal Statement

7-R (Bodenschatz - Rebuttal)	3600	3602
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TrAILCo Rejoinder Statement

20-RJ (Allen - Rejoinder)	3602	3603
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TrAILCO Redirect Exhibit

2 through 4 (previously marked)	--	3585
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MAM Supplemental Exhibit

1 (TrAIL line plant depreciation schedule)	3604	3625
2 (Allocation of revenue requirements for TrAIL and Dominion Virginia Power facilities)	3615	3625
3 (TrAIL impact on West Penn Power residential customers)	3619	3625
4 (Allocation of TrAIL revenue requirement to Allegheny Power)	3623	3625

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P R O C E E D I N G S

1  
2 ADMINISTRATIVE LAW JUDGE MICHAEL A. NEMEC: This  
3 morning we have a further hearing in the multiple  
4 application case filed by Trans-Allegheny Line Company. The  
5 lead docket is A-110172.

6 Do counsel have any preliminary matters?

7 MR. OGDEN: Yes, Your Honor. Mr. Seltzer and I have  
8 just a couple. I will start.

9 Since Mr. Hozempa is not going to be subject to  
10 further cross-examination, I would move into evidence at  
11 this time documents which were identified as TrAILCo  
12 Redirect Exhibit Nos. 2, 3 and 4.

13 JUDGE NEMEC: Objections?

14 MS. DUSMAN: Your Honor, we don't have any objection  
15 to those exhibits being moved in. However, I would direct  
16 Your Honors' attention to Redirect Exam No. 4 which is a  
17 proprietary exhibit consisting of an e-mail and then a  
18 document entitled, Prexy Area Transmission Capacity Study,  
19 2005, Confidential." It's the position of the OCA that the  
20 matters set forth in this study really should be a matter of  
21 public record.

22 We have approached the company about making this  
23 document public instead of proprietary. They are going to  
24 take the matter under advisement. If we can arrive at a  
25 stipulation on the scope of what matters herein should be

1 made a part of the public record, we will so advise.

2 If we can't reach a stipulation, we will file a  
3 formal motion on this document as well as possibly some of  
4 the other documents that have been moved in that have been  
5 labeled proprietary.

6 We'd like time to reflect on the series of documents  
7 that have been offered in evidence that have been labeled  
8 proprietary to determine whether we believe they should  
9 remain so or should be reclassified to be available to the  
10 public.

11 MR. OGDEN: Your Honor, just as a matter of  
12 clarification, when we talk about a document being  
13 proprietary in this context, the company's concerns have to  
14 do with critical electrical infrastructure information and  
15 it's that concern which has led to this designation.

16 JUDGE NEMEC: All right. Thank goodness we have time  
17 to deal with this in the proper manner. In the meantime,  
18 TrAILCo Rebuttal Exhibits 2, 3 and 4 are admitted.

19 MS. DUSMAN: Your Honor, I believe you meant Redirect  
20 Exhibits.

21 JUDGE NEMEC: I'm sorry. TrAILCo Redirect Exhibits  
22 2, 3 and 4 are admitted.

23 (Whereupon, the documents marked as  
24 TrAILCo Redirect Exhibits Nos. 2,  
25 3 and 4 were received in evidence.)

1 JUDGE NEMEC: Any other preliminary matters?

2 MS. DUSMAN: We do have another matter that we were  
3 able to arrive at a stipulation on, Your Honor.

4 JUDGE NEMEC: All right.

5 MS. DUSMAN: And as to TrAILCo Redirect Exhibit No.  
6 1, which consists of a segment of a reply brief and a  
7 segment of a transcript from the joint application  
8 proceeding in the Commonwealth of Virginia, we asked for  
9 complete copies of those documents. We did receive them.  
10 We have had a chance to review them. We have received other  
11 information concerning the status of the brief in West  
12 Virginia.

13 We've, I believe, arrived at a stipulation that  
14 rather than clutter the record with things from other  
15 proceedings which consist of briefs which really aren't  
16 evidence at all and other transcripts, we can stipulate that  
17 the source of Mr. Gass' information concerning the  
18 postponement of the in-service date of the CPV Warren plant  
19 was sworn testimony of Mr. Martin, who is the -- I can give  
20 you the exact name -- James K. Martin, who is the senior  
21 vice president of business development and generation  
22 construction at Dominion Virginia Power.

23 So there will be no need to enter those exhibits or  
24 that exhibit, rather, Redirect Exhibit 1, into the record.

25 JUDGE NEMEC: Okay. Thank you.

FORM 2

1 Any other preliminary matters?

2 MR. BURNS: We're fine with that stipulation as well,  
3 Your Honor.

4 There's just a couple of minor ones. One is, in  
5 reviewing the transcripts, I realized that at least the  
6 court reporter hasn't indicated that ECC Cross-Examination  
7 Exhibit 34 was accepted into the record.

8 I haven't had a chance to talk with counsel for  
9 TrAILCo about this. This is the application to the  
10 Department of Energy for early designation of the national  
11 interest electric transmission corridors.

12 Mr. Hozempa was cross-examined about this exhibit  
13 fairly extensively, and I don't know if TrAILCo has an  
14 objection to it being admitted or not. I did not have that  
15 portion of the transcript to see.

16 Do you remember, Mr. Ogden?

17 MR. OGDEN: No. We'll review the transcript and  
18 refresh our memories with respect to this.

19 MR. BURNS: Do you want to see the exhibit that --

20 MR. OGDEN: If we could, please, yes.

21 (Document handed to Mr. Seltzer.)

22 MR. BURNS: Another --

23 JUDGE NEMEC: Hold on one second, please.

24 MR. BURNS: Sure, Your Honor.

25 (Pause.)



1 JUDGE NEMEC: Mr. Burns, what day was 34 identified?  
2 MR. BURNS: It was the fourth day of the hearings, so  
3 I think the 27th, is my guess.  
4 MR. SELTZER: Your Honors, I can pass this around if  
5 you --  
6 JUDGE NEMEC: We don't need to see it. I know what  
7 it is.  
8 MR. SELTZER: Your Honor, if you'd like, we can  
9 respond to this. As I recall, and now looking at the  
10 exhibit, my recollection is refreshed.  
11 The issue with respect to this from our perspective  
12 was its relevance, since this application does not relate to  
13 the current TrAIL project at all but the prior TrAIL  
14 project, so in our mind it really is not relevant and  
15 therefore not necessary for it to be admitted into evidence.  
16 JUDGE NEMEC: Your response?  
17 MR. BURNS: Your Honor, for completeness of the  
18 record, and also attached to that application, I believe, is  
19 their original proposal to PJM for the TrAIL project, and we  
20 believe that you can give whatever weight you see fit to  
21 that, but I think that the original intent of the project in  
22 our mind remains the current intent of the project and, you  
23 know, there was extensive questioning about that document.  
24 I think it's important to have it in the record since  
25 that was their original proposal to PJM and it indicates why

1 they wanted to go forward with the project, which I believe  
2 is still the current reasons.

3 JUDGE NEMEC: Ms. Dusman?

4 MS. DUSMAN: We don't have a position on this  
5 exhibit, Your Honor.

6 JUDGE NEMEC: All right.

7 (Pause.)

8 JUDGE NEMEC: We feel that the exhibit should be in  
9 the record. We believe that Mr. Flitman referred to it at  
10 least inferentially, and if for no other reason, it should  
11 be in for that reason.

12 (Whereupon, the document marked as  
13 ECC Cross-Examination Exhibit No.  
14 34 was received in evidence.)

15 JUDGE NEMEC: Anything further?

16 MR. BURNS: Yes, Your Honor. I have just a couple  
17 more housekeeping items.

18 One is, Larry Hozempa in his redirect referred to a  
19 response to OCA Interrogatory Set I, No. 17 as being  
20 something he relied upon for coming up with his cost  
21 estimate in between his two sessions of testimony, and I  
22 would like to move that in as an exhibit. It's ECC Cross-  
23 Examination Exhibit 71.

24 I don't know if the company has a position on that.

25 MS. DUSMAN: We concur in that motion, Your Honor.

1 MR. OGDEN: We have no objection, Your Honor.  
2 What was the number, Mr. Burns?

3 MR. BURNS: Seventy-one, I believe.

4 JUDGE NEMEC: It will be ECC Cross-Examination  
5 Exhibit 71.

6 (Whereupon, the document was marked  
7 as ECC Cross-Examination Exhibit  
8 No. 71 for identification.)

9 MR. OGDEN: I would note for the record that this  
10 document is a two-page document. The response itself refers  
11 to a number of attachments which are not part of this  
12 exhibit.

13 MR. BURNS: And the responses that are attached to  
14 this, I believe, are confidential. And what I just have  
15 produced here is the non-confidential portions of the  
16 response, but you are correct, Mr. Ogden.

17 The other --

18 JUDGE NEMEC: Hold on.

19 MR. BURNS: I'm sorry.

20 JUDGE NEMEC: ECC Cross-Examination Exhibit No. 71 is  
21 admitted.

22 (Whereupon, the document marked as  
23 ECC Cross-Examination Exhibit No.  
24 71 was received in evidence.)

25 JUDGE NEMEC: Go ahead.

1 MR. BURNS: You will perhaps recall, Your Honor, that  
2 there was a police department report from the Cumberland  
3 Township Police Department that I was using to cross-examine  
4 Mr. Ruberto, and that was offered as ECC Cross-Examination  
5 Exhibit No. 66.

6 I have gotten a copy of the report with a notation  
7 from the police chief as to it being a true and complete  
8 account of the incident as investigated by the Cumberland  
9 Township Police Department.

10 I will distribute this to counsel and then I will see  
11 if they have an objection. I would like to try and move  
12 this into evidence as ECC Cross Exhibit 66.

13 JUDGE NEMEC: Objections to ECC Cross-Examination  
14 Exhibit 66?

15 MR. OGDEN: May we go off the record for one moment,  
16 Your Honor?

17 JUDGE NEMEC: Yes.

18 (Discussion off the record.)

19 JUDGE NEMEC: Back on the record.

20 MR. SELTZER: Thank you, Your Honor.

21 With respect to ECC Cross-Examination Exhibit 66,  
22 aside from the fact that we obviously don't have an original  
23 certification with any sort of seal, putting that aside for  
24 a moment, we still object to this exhibit.

25 As Your Honors will recall, when cross-examined on

1 this, Mr. Ruberto had no knowledge whatsoever with respect  
2 to the underlying facts represented here.

3 Therefore, it is clear that the document itself has  
4 never been authenticated. It's obviously coming in at this  
5 point as proposed for the truth of the matter when in fact  
6 there has been no testimony from anybody competent with  
7 respect to it.

8 Its relevance is of, in our view, completely minimal  
9 value. The circumstances leading to this, any other  
10 countervailing information about what may have transpired,  
11 this is purporting to represent nothing more than a  
12 telephone call, a couple people out there at the location  
13 and those that left.

14 And its probative value, given the circumstances of  
15 it being unable to have been previously authenticated, to  
16 us, is completely weak, and therefore, to admit it for the  
17 truth of the matter under these circumstances, we think, is  
18 inappropriate and would object to its admission.

19 MR. BURNS: Your Honor, I believe it's admissible as  
20 a public record. As to what weight you give this document,  
21 I would leave that to your discretion.

22 I think it's relevant with respect to Mr. Ruberto's  
23 testimony because he testified about a code of conduct that  
24 went into place, and this police report seems to indicate  
25 that that code of conduct may not have been followed.

1 I realize it is not a central issue to this case, but  
2 I think it is relevant to the testimony that has been  
3 offered and you may give whatever weight you deem  
4 appropriate to that exhibit.

5 MR. SELTZER: Your Honor, if I could just respond, I  
6 would just disagree with the characterization that reading  
7 these words has any implication whatsoever with respect to a  
8 violation of the code of conduct, and that indeed is the  
9 vexatious nature of why this document does not belong in  
10 here, because a fair reading of this cannot necessarily lead  
11 you to any conclusion like that, although Mr. Burns insists  
12 that it is.

13 If it was important enough for him to demonstrate  
14 that this was in fact a code violation, then first-hand  
15 knowledgeable witnesses subject to cross-examination would  
16 have been the appropriate way to show it, not through this  
17 means, obviously which is clearly hearsay and completely  
18 inadmissible in our view.

19 JUDGE NEMEC: The reason you're offering this  
20 document is to basically impeach the testimony of the  
21 witness. Meanwhile, we don't know whether there's a filed  
22 right-of-way regarding this property. We don't know as a  
23 matter of fact whether in fact this person was an employee  
24 or a contractor with Allegheny Power. It's stated in this  
25 report, but does that make it true? No, it doesn't.

1           And furthermore, the officers concluded the matter  
2 appropriately: "The dispute between who actually owns the  
3 property is a civil matter."

4           I just don't see the value. The harm, the potential  
5 harm from this is perhaps even significant, to use this one  
6 incident or one purported incident, at least, to impugn the  
7 testimony that's been presented. It just seems a waste of  
8 time, really. I'm going to sustain the objection.

9           MR. BURNS: Your Honor, I have two other housekeeping  
10 matters. There are two documents I would like to  
11 respectfully request that this honorable Court take judicial  
12 notice of. One is House Resolution No. 297, and the other  
13 are resolutions adopted at the County Commissioners  
14 Association of Pennsylvania in 2007.

15           These are items that are related to testimony that  
16 was given at the public input hearings, and I have copies  
17 here of those documents. These are documents that I would  
18 respectfully request that this Court take judicial notice  
19 of, and I'll pass them out now.

20           (Pause.)

21           JUDGE NEMEC: Mr. Burns, would you point to the  
22 specific resolutions in this multi-page document of  
23 resolutions adopted at the CCAP 2007 annual conference that  
24 you are particularly interested in?

25           MR. BURNS: Yes. There are two. One is Resolution

1 No. 7 and the other is Resolution No. 9. Resolution No. 7  
2 has to do with the County Commissioners of Pennsylvania  
3 supporting the development of alternative energy sources,  
4 etcetera, and more significantly, Resolution No. 9 is an  
5 opposition to the federal laws that would pre-empt state and  
6 local control over land use policies for the siting of  
7 electric transmission lines.

8 I think this is relevant to the testimony that Dave  
9 Koder, who's the president of that group, gave at the public  
10 input hearings and as to answering some of the questions  
11 raised by Wendell Holland about the effect of the  
12 designation of the corridors and the status of legislative  
13 or judicial responses to the designation of the corridors.

14 MR. SELTZER: Your Honor, may we address these at an  
15 appropriate time?

16 JUDGE NEMEC: Sure. You may.

17 MR. SELTZER: Your Honor, we have two documents here.  
18 Looking first with respect to the House Resolution No. 297,  
19 there is nothing on the face of this document that indicates  
20 whether or not this particular resolution was indeed  
21 adopted.

22 Therefore, from our perspective, absent knowing that  
23 critical piece of information, which is not apparent from  
24 the face of the document, we cannot tell whether in fact  
25 this was adopted and passed and therefore we believe that it



1 should not be admitted for that reason, because there is  
2 just no way to know whether this in fact constitutes  
3 official action by the House, and therefore we would object  
4 to it, notwithstanding any claim that it constitutes a  
5 public document because, again, there's no indication that  
6 in fact it was adopted by any particular vote.

7 MR. BURNS: Your Honor, I can provide that  
8 information, and if you'd like me to supplement the record  
9 -- this was passed 188 to 11 by the House sometime in June,  
10 I believe, of last year, this House Resolution 297.

11 JUDGE NEMEC: Well, as I noted earlier, we have time  
12 to do that, so you may supplement the record with that  
13 information.

14 Okay. As to the other one, sir?

15 MR. SELTZER: Yes, Your Honor. With respect to the  
16 other one, this document, which talks about a resolution  
17 adopted by the CCAP, this, Your Honor, is a private  
18 organization. It is not a public agency, department or body  
19 that would come within the context or the ambit of the  
20 Commission's rules at 5.406.

21 Obviously, once again, it is being therefore offered  
22 for the truth of the matter. There's obviously detailed  
23 information and allegations regarding a variety of things.  
24 Mr. Burns pointed out a couple.

25 The company obviously, by virtue of this coming in at

1 this stage, would have had or has had no opportunity  
2 whatsoever to cross-examine anybody with respect to any of  
3 the statements contained herein.

4 This is not a public agency, department or body, and  
5 therefore doesn't fall within any of the requirements or  
6 provisions of 5.406, and therefore we would object to the  
7 admission of this document as well.

8 JUDGE NEMEC: I'm reminded that we should mark these.  
9 We're going to mark House Resolution 297 as ECC Cross-  
10 Examination Exhibit 72.

11 (Whereupon, the document was marked  
12 as ECC Cross-Examination Exhibit  
13 No. 72 for identification.)

14 JUDGE NEMEC: And we'll mark the resolutions adopted  
15 at the CCAP 2007 annual conference as ECC Cross-Examination  
16 Exhibit 73.

17 (Whereupon, the document was marked  
18 as ECC Cross-Examination Exhibit  
19 No. 73 for identification.)

20 JUDGE NEMEC: I believe that the comments or the  
21 resolutions at the CCAP conference were addressed, at least  
22 in terms of substance, by the various county commissioners  
23 who testified at the public input hearings, but I agree with  
24 counsel for the company that there not being a public  
25 document, not being a public or governmental conference --

1 there's no official record of the conference, apparently --  
2 I question whether we should take notice of it.

3 Go ahead, Mr. Burns. You may respond.

4 MR. BURNS: Your Honor, all of the members of that  
5 group are public entities, and I think that it just should  
6 be part of the record. It's something that is relevant to  
7 what was testified to at the public input hearings and as to  
8 the issues that the parties need to address in their briefs,  
9 and so I think it should be part of the record.

10 JUDGE NEMEC: Well, I think it's part of the record  
11 in terms of the testimony already at the public input  
12 hearings, and in that sense it's repetitious and we don't  
13 really need it. So I'm inclined to sustain the objection to  
14 73. Seventy-two, if you can provide us with information, a  
15 record of when it was adopted by the House, fine, we will  
16 take notice of it.

17 MR. BURNS: Your Honor, with respect to 73 -- and I  
18 will get you the information on 72 -- with respect to 73, I  
19 don't know if that was -- I don't believe it was attached to  
20 anyone's testimony in the public input hearing and I don't  
21 know if it was explicitly explained at the public input  
22 hearing, so I thought it was important, for a complete  
23 record, to try and make it a part of the record and you can  
24 give it whatever weight you deem appropriate.

25 JUDGE NEMEC: We feel that the information provided

1 by the commissioners themselves at the public input hearing  
2 is much more probative, much more significant than the  
3 general language contained in this material. It's not  
4 necessary, we don't believe, in terms of a full and complete  
5 record.

6           Seventy-two is not admitted. It may be admitted  
7 later once it's properly determined that it was in fact  
8 adopted by the Pennsylvania House of Representatives.

9           Any other preliminary matters?

10          MR. SELTZER: Mr. Burns, are you finished?

11          MR. BURNS: Yeah, I believe I'm finished.

12          MR. SELTZER: Your Honor, on behalf of TrAILCo, we do  
13 have a couple of preliminary matters relating to witnesses  
14 that were previously scheduled for today, and I can do that  
15 at this time.

16           As Your Honors will recall from conversations and e-  
17 mails between and among yourselves and counsel yesterday,  
18 two witnesses that were scheduled to appear today will not  
19 be the subject of appearance or any cross-examination, and I  
20 would like to just officially mark and then move into the  
21 record their testimony at this time.

22           For the company first is John R. Bodenschatz. We'd  
23 ask that his testimony, which has previously been provided  
24 to the court reporter, Your Honors and the parties, be  
25 marked at this time, his direct testimony, TrAILCo Statement

1 No. 7 together with TrAILCo Exhibits JRB-1 through JRB-4  
2 inclusive, together with his rebuttal testimony, which is  
3 TrAILCo Rebuttal Statement No. 7-R. May they be so marked,  
4 Your Honor?

5 JUDGE NEMEC: They may be so identified.

6 (Whereupon, the documents were  
7 marked as TrAILCo Statement No. 7,  
8 with TrAILCo Exhibits JRB-1 through  
9 JRB-4, and TrAILCo Rebuttal  
10 Statement No. 7-R for  
11 identification.)

12 MR. SELTZER: Your Honor, with respect TrAILCo  
13 Statement No. 7, since Mr. Bodenschatz is not present, I  
14 would like to just briefly place of record a couple of  
15 typographical errors that, had he been on the stand, he  
16 would have done and I would like to just refer Your Honors  
17 and the parties to his direct testimony where this occurs.

18 The first is on page one of TrAILCo Statement No. 7.  
19 It's at line seven. Mr. Bodenschatz's title has been  
20 changed. He had previously been senior engineer. He's now  
21 a consulting engineer, so that on page one, line seven, we  
22 would request that the word "senior" be stricken and  
23 replaced with the word "consulting."

24 Secondly, the next two changes are really on page  
25 seven of TrAILCo Statement No. 7. The first is on line

1 eight. It's the second word. After the numeral 1113, the  
2 word "thousand" appears, and that was inadvertently placed  
3 in there. That word "thousand" just needs to come out.

4 Staying on the same page, at line 11, the fourth word  
5 from the left after the word "Finch" is the word  
6 "semiconductor." That should be the word "subconductor"  
7 instead of "semiconductor." This is on line 11 of page  
8 seven.

9 JUDGE NEMEC: I'm sorry, "semiconductor" should be  
10 what?

11 MR. SELTZER: "Subconductor." That term is used  
12 elsewhere on that page. The word "semiconductor" was just  
13 inappropriately placed in there. The proper term is  
14 "subconductor."

15 And the last one, Your Honors, is on page 31 of 40,  
16 TrAILCo Statement No. 7. On line seven, these are various  
17 specifications for Allegheny Power material and services.  
18 The number 2300 appears twice on that line, line seven. The  
19 specification number is actually 2400, so in two places the  
20 number 2300 should be replaced with the number 2400. That  
21 just makes it consistent and correct.

22 Subject to those changes, I would now move into  
23 evidence TrAILCo Statement No. 7, TrAILCo Exhibits JRB-1  
24 through 4 inclusive, and TrAILCo Rebuttal Statement No. 7-R.

25 JUDGE NEMEC: Any objections?

1 MS. DUSMAN: No objection.

2 JUDGE NEMEC: TrAILCo Statements 7 and 7-R along with  
3 Exhibits JRB-1 through 4 are admitted.

4 (Whereupon, the documents marked as  
5 TrAILCo Statement No. 7, with  
6 TrAILCo Exhibits JRB-1 through  
7 JRB-4, and TrAILCo Rebuttal  
8 Statement No. 7-R were received  
9 in evidence.)

10 MR. SELTZER: Your Honor, the next and last one that  
11 I would have in terms of housekeeping relates to the  
12 testimony of Mark S. Allen. I would respectfully request  
13 that we mark his rejoinder testimony as Trailco Rejoinder  
14 Statement No. 20-RJ, copies of which have been previously  
15 provided to the court reporter, Your Honor and the parties.

16 JUDGE NEMEC: It may be so identified.

17 (Whereupon, the document was marked  
18 as TrAILCo Rejoinder Statement No.  
19 20-RJ for identification.)

20 MR. SELTZER: Thank you. And consistent with the  
21 same point that I made with Mr. Bodenschatz, Mr. Allen is  
22 not present today because the parties have indicated  
23 yesterday that they had no cross-examination for him.

24 That being said, we would move into evidence at this  
25 time TrAILCo Rejoinder Statement No. 20-RJ.

FORM 2

1 JUDGE NEMEC: Without objection, TrAILCo Rejoinder  
2 Statement No. 20-RJ is admitted.

3 (Whereupon, the document marked as  
4 TrAILCo Statement No. 20-RJ was  
5 received in evidence.)

6 MR. SELTZER: Your Honor, that takes care of all the  
7 preliminary matters that TrAILCo had.

8 JUDGE NEMEC: Any other preliminary matters?

9 (No response.)

10 JUDGE NEMEC: There being none, my understanding is  
11 that we have some more questions for Mr. Mader.

12 MR. TROUT: Yes, Your Honor. As Your Honor recalls,  
13 when Mr. Mader was testifying last Friday, four requests  
14 were made on the record for the company to provide  
15 additional information to the other parties.

16 We have provided those four additional sets of  
17 information, and it's been indicated to us that the parties  
18 do have questions of Mr. Mader with respect to that data,  
19 and so to accommodate the other parties, we would recall Mr.  
20 Mark Mader at this time.

21 (Pause.)

22 JUDGE NEMEC: Please be seated. Consider yourself  
23 still under oath, sir.

24 Whereupon,

25 MARK A. MADER



1 having previously been duly sworn, testified further as  
2 follows:

3 MS. DUSMAN: Your Honor, preliminarily, as Mr. Trout  
4 said, the company has provided a series of documents, and I  
5 think for simplicity I would ask that they be marked for  
6 identification as MAM Supplemental Exhibit Nos. 1, 2, 3 and  
7 4. Is that acceptable, Your Honor?

8 JUDGE NEMEC: That's fine with me.

9 MS. DUSMAN: With that, Your Honor, I will  
10 circulate --

11 MR. TROUT: Do you want to indicate which ones are  
12 which?

13 MS. DUSMAN: I'll do them in order.

14 The first one, Your Honor, that I ask be marked as  
15 MAM Supplemental Exhibit No. 1, is entitled, "TrAIL Line  
16 Plant Depreciation Schedule."

17 JUDGE NEMEC: It may be so identified.

18 (Whereupon, the document was marked  
19 as MAM Supplemental Exhibit No. 1  
20 for identification.)

21 **CROSS-EXAMINATION**

22 BY MS. DUSMAN:

23 Q. Mr. Mader, I guess I'll just summarize that we  
24 had a, maybe I could characterize it as a little off-the-  
25 record dust-up about exactly what was requested and what was

1 provided and whether it was what was expected, and just to  
2 summarize, the OCA believed we would be getting an  
3 amortization schedule. You have provided what's entitled a  
4 depreciation schedule, so I'd just like to make sure that I  
5 understand what this means in the context of our question  
6 and I guess I would say the accounting or economics of this  
7 case.

8 A. Okay.

9 Q. Now, first, the column to the left has a series  
10 of numbers, and I would guess that those are account  
11 numbers, right?

12 A. Those are FERC account numbers, yes.

13 Q. They're FERC account numbers, okay. So each of  
14 those FERC account numbers would, I believe, also be  
15 reflected in the attachments to the FERC filing made as a  
16 result of the settlement of the rate case; is that right?

17 (No response.)

18 Q. Do you remember, the other day, we went through  
19 all the FERC steps, what's been going on at FERC, and I  
20 believe the most recent thing was a filing that you referred  
21 to as 205 filing which contained formula rates and there  
22 were a series of attachments which incorporated FERC  
23 accounts and the number of dollars that have been recorded  
24 to each of those accounts; is that an accurate summary?

25 MR. TROUT: Do you want to show him the document?

1 MS. DUSMAN: I'm sorry?

2 MR. TROUT: Do you want to show him the document?

3 MS. DUSMAN: He has -- well, he has this document.

4 MR. TROUT: But you're asking him whether these same  
5 numbers are in another document, and maybe you want to show  
6 him that document.

7 MS. DUSMAN: That's correct. That was the one that  
8 we asked that notice be taken of. I'm just asking for his  
9 knowledge, and if he doesn't know, that's fine.

10 BY MS. DUSMAN:

11 Q. Do you know whether each of these FERC account  
12 numbers would also be reflective of amounts contained in the  
13 FERC filing for rates for the TrAIL project?

14 A. My understanding of the settlement is that the  
15 two items that were addressed were the construct of the  
16 formula rate as well as the ROE. Whether or not these  
17 specific account dollar amounts were updated, I don't  
18 recall.

19 Q. Fair enough. But we would find something in  
20 that document that showed a listing of accounts and dollar  
21 amounts associated with each of them?

22 A. Yes, I believe so.

23 Q. Okay. And then the next column shows the  
24 various categories we have, which are the names that are  
25 associated with those particular FERC account numbers,

1 right?

2 A. That's correct.

3 Q. And then the next column, the third column  
4 shows, it's entitled, "Life," and it contains numbers that  
5 range from, it looks like, 50 to 70. And would those  
6 numbers indicate the expected number of years that the  
7 particular category of plant would be in service?

8 A. The median, the average, the average.

9 Q. The average, right.

10 A. Yes.

11 Q. And these are based on statistical -- and the  
12 next one is survivor curves, which I am not going to ask you  
13 about, because I frankly don't quite understand survivor  
14 curves, but the final column is labeled accrual rate, and do  
15 you want to just explain what those percentages mean under  
16 the column, annual accrual rate?

17 A. First of all, how we arrive at the annual  
18 accrual rate is understanding, over the life of a piece of a  
19 piece of equipment, you wish to depreciate it 100 percent  
20 plus accumulate its net salvage value, which is its salvage  
21 value and its cost of removal, so that while that was in  
22 service, the folks that had the benefit of that are also  
23 paying for its removal.

24 Q. Understood.

25 A. So to arrive at that accrual rate, we take 100

1 percent and we subtract the net salvage value. I'll move to  
2 row two just for my example.

3 Q. Okay.

4 A. Understanding a life of 50 years, you would  
5 expect 100 divided by 50 to be 2 percent per year  
6 depreciation associated with that piece of equipment, and  
7 then subtracting the net salvage value, you would have 110  
8 divided by 50 which arrives at that rate of 2.2 percent per  
9 year that we have in the column to the right.

10 What you would expect then is equally, over the life  
11 of this piece of equipment, that it would depreciate at a  
12 rate or we would accrue for depreciation at 2.2 percent per  
13 year or that number divided by 12 per month.

14 Q. I understand. Let's go to the first line which  
15 shows zero net salvage percent.

16 A. Yes.

17 Q. And that kind of makes sense, I think, because  
18 land is not subject to removal in any way so there wouldn't  
19 be a net salvage percent for land; is that right?

20 A. That's correct.

21 Q. Just to simplify a little bit to illustrate what  
22 this means, let's say the land and land rights have a life,  
23 as you said, median life of 100 years. Would that final  
24 column show a percentage of 1 percent?

25 A. Yes, it would.

1 Q. Okay. And then say to do, concomitantly, the  
2 second line, if the life is 50 years and there's no net  
3 salvage percent, then that accrual rate would be 2 percent,  
4 wouldn't it?

5 A. Yes, it would.

6 Q. So to get a rough approximation of what the  
7 overall cost in depreciation to customers would be, we could  
8 take the amount of dollars booked to Account 350.2, for  
9 example, and we could multiply that by 1 percent, in my  
10 example, to see the number of depreciation dollars that  
11 customers had to bear in a year for that particular account?

12 A. Yes. One clarification. That would be the  
13 gross plant value.

14 Q. The gross plant value?

15 A. Yes.

16 Q. I understand. So to spin that out a little bit,  
17 we could also, for example, create, I believe, by taking,  
18 say, the amount of -- and let's forget net salvage for the  
19 moment, in my simple example.

20 We could take the number of dollars booked to each of  
21 those accounts and we could create a weighted average of the  
22 dollars in each of those accounts, could we not?

23 A. You could create a weighted average of the  
24 accounts, but I was confused by your question saying within  
25 each account.

1 Q. Just booked into each account, is what I meant.

2 A. Yes.

3 Q. I wasn't trying to be cryptic.

4 A. To be clear, if you take each of these accounts,  
5 their accrual rates and their gross plant values, you could  
6 arrive at a weighted accrual rate.

7 Q. Right. That's exactly where I was going.

8 A. Yes. Thank you.

9 Q. You knew exactly what I meant. We would have a  
10 sort of composite accrual rate?

11 A. Yes, that's correct.

12 Q. When applied to a total plant, it would show the  
13 number of dollars the customers have to bear each year for  
14 the next 70 years, when I would be 124 years old; is that  
15 right?

16 A. No, it's not. We would need to know the  
17 weighted average life --

18 Q. I'm sorry, yes --

19 A. -- to apply that to.

20 Q. We would need to know what the declining balance  
21 is for each account each year?

22 A. Well, no. What I meant was, if we calculate --  
23 if these were all the same life, you would be exactly right.  
24 But what's going to happen is that because they range from  
25 50 to 70 -- and I'll make my example very easy and say,

1 let's say that we have one account with 70, one account with  
2 60 and they have the same dollar amount in it.

3 Q. Okay.

4 A. The weighted life is going to be 60 years that  
5 we apply that weighted accrual rate to. Do you follow me?

6 A. I think so.

7 Q. Okay. After thinking through what this chart  
8 means, I really thought that probably, to make the point  
9 that we really want to make, we really don't have to look at  
10 things with this degree of granularity because the bottom  
11 line is, whatever number of dollars TrAILCo spends on this  
12 entire project -- all in, everything that's recordable in a  
13 FERC account, administrative and legal, construction,  
14 everything -- every dollar of what they spend, whether it's  
15 \$1 billion, \$2 billion or \$3 billion, will come back to them  
16 from the ratepayers in PJM through some means in some  
17 proportion; isn't that what depreciation really is?

18 A. For capital costs.

19 Q. For capital costs.

20 A. Yes. The depreciation is recovery of your  
21 capital -- allows for the recovery of capital investment.

22 Q. Okay. Sometimes in ratemaking, we talk about  
23 the return of and the return on the capital investment.

24 A. Yes.

25 Q. Depreciation is the return of the capital



1 dollars invested, isn't it?

2 A. That is correct.

3 Q. Okay. And the company is entitled to that and  
4 they will collect it as long as it takes to get all those  
5 dollars back?

6 A. Right, per FERC rules, per these accounts, yes.

7 Q. Per FERC rules, and we went over them in detail  
8 the other day, so I understand that principle.

9 Now, the return of dollars, explain to me each year  
10 how the return of dollars will be collected.

11 A. Collected?

12 Q. How they will be -- okay, let me back up a  
13 second. The return dollars, there is a specific FERC  
14 account that is associated with those dollars as well,  
15 right?

16 A. Yes.

17 Q. Okay. And so for each annual filing, the  
18 company will apply the 12.7 percent cost of equity we talked  
19 about the other day to the totality of the accounts that,  
20 summed up, reflect the depreciated original cost of the  
21 plant?

22 A. Let me correct a couple things.

23 Q. Okay. Go ahead, please.

24 A. Since the capital structure of TrAILCo is 50  
25 percent equity, 50 percent debt --

1 Q. Yes.

2 A. -- the return on equity only applies to half of  
3 the net plant balance. So what we do when we calculate the  
4 return -- and unlike depreciation each year, the return will  
5 decline each year over time as the net plant balance  
6 declines.

7 You pointed out well that depreciation is the  
8 recovery of capital. As that capital is recovered, the  
9 company no longer earns on it, so we have to subtract the  
10 depreciation from the prior year's plant balance.

11 Let me say it another way. You subtract the  
12 accumulated depreciation, accumulated meaning that it's  
13 additive each year, from the gross plant balance we talked  
14 about and arrive at a net plant balance, to which 50 percent  
15 of that is applied the 12.7 rate of return.

16 Q. Thank you very much for that explanation. That  
17 was excellent.

18 A. Thanks.

19 Q. So when we get to the point where all of the  
20 items of plant in these accounts have reached the end of  
21 their useful life, at that point TrAILCo will no longer  
22 collect a return on them? If the plant is totally  
23 depreciated, then there will be no more return dollars  
24 collected through the FERC formula rates, right?

25 A. That's correct.

1 Q. I have that right? And so, according to your  
2 chart, there will be some return dollars collected, probably  
3 upwards of 70 years or thereabouts?

4 A. The only thing I'll add, and you're going to  
5 stretch me a little bit on this one, is there are some  
6 accounting rules that allow for life extensions near the end  
7 of life.

8 So you would take whatever balance was left, if you,  
9 say, extended the life of a line ten more years, and what  
10 you would have collected over the last ten years, if you  
11 make that decision ten years before the end of life, then  
12 you would depreciate over 20, but it would be 1/20th, not  
13 1/10th over that period.

14 So I just wanted to point out, I'm not familiar with  
15 that area, but there are accounting rules that allow you to  
16 extend the life of facilities as long as they're useful.

17 Q. I understand. Yes, I have encountered that and  
18 I appreciate that clarification very much.

19 I guess that the only thing I want to add, to be  
20 really clear in this explanation of what this schedule  
21 means, is that when we talk about booking dollars to  
22 particular FERC accounts associated with plant, the life  
23 that you show in your Column 3 does not necessarily match --  
24 and I think your prior answer underscored this -- that 70  
25 years of your column labeled "Life" doesn't necessarily mean

1 that that plant will be in service for 70 years. That's, as  
2 you pointed out earlier, an average service life, right?

3 A. And again, to talk about the survivor curve for  
4 just a minute, there are a series of curves referred to as  
5 Iowa curves that have the -- you arrive at the average life  
6 of a piece of equipment, but we all know that the reason  
7 it's the average is that some fail prior to the reaching the  
8 average and some last much longer.

9 These curves are associated with the types of  
10 equipment that are specified in each of these FERC accounts,  
11 and thus that's how we arrive at life for depreciation  
12 purposes.

13 So I wanted to point out to you that when we talk  
14 about this as an average life, and my example about why you  
15 may extend the life beyond the 70 years would be that not  
16 all of these facilities will fail or will be in service for  
17 the period of time specified.

18 Q. I have some further questions on the second  
19 document which is entitled, "Allocation of Revenue  
20 Requirements for TrAILCo and Dominion Virginia Power  
21 Facilities."

22 MS. DUSMAN: And Your Honor, I'd ask that this be  
23 marked for identification as MAM Supplemental Exhibit No. 2.

24 JUDGE NEMEC: It may be so identified.

25 (Whereupon, the document was marked

1 as MAM Supplemental Exhibit No. 2  
2 for identification.)

3 BY MS. DUSMAN:

4 Q. I want to ask you questions on this because we  
5 did have a rather lengthy discussion among the lawyers the  
6 other day on what was feasible, what was not feasible  
7 concerning the estimates of the annual revenue requirements  
8 to various Pennsylvania utilities.

9 And I think it would be accurate to say that this  
10 exhibit that we have marked for identification MAM  
11 Supplemental Exhibit No. 2 is comparable to what was with  
12 your original -- I'm sorry, not your original testimony but  
13 your supplemental testimony, MAM-5, which shows the  
14 estimated annual revenue requirement billed to the Allegheny  
15 Power zone for the various categories.

16 A. Yes, we put it in a comparable format, yes.

17 Q. Right. Now, can you just clear up for me that  
18 when you have something labeled, let's go to the sixth  
19 column over -- and that's labeled, percent of estimated  
20 annual revenue requirement billed to Metropolitan Edison  
21 zone?

22 A. Yes.

23 Q. Now, my recollection is that your testimony or  
24 your lawyer's statement, rather, was that some of the zones  
25 in PJM overlap state lines.

1 A. Yes, some. I would have -- yes.

2 Q. Do you recall that?

3 A. Yes, I do.

4 Q. Okay. Now, are the amounts indicated here in a  
5 zone that overlaps state lines?

6 A. As I'm aware in looking at each of these  
7 utilities, we did not find one that overlapped state line.  
8 I think the issue was whether or not PSE -- or, I'm sorry,  
9 Jersey Central, which was part of FirstEnergy, was actually  
10 part of the FirstEnergy zone.

11 And I think what we found was, Met-Ed and Penelec,  
12 the former GPU companies that are now part of FirstEnergy,  
13 had their own identified zones.

14 Q. Oh, okay. That clears that up then, doesn't it?

15 A. Yes, it does.

16 Q. So --

17 A. If I could just add one more thing?

18 Q. Sure.

19 A. Just to point the footnote out at the bottom.

20 Q. Yes.

21 A. In talking about the totality of Pennsylvania,  
22 the other thing that I learned through this exercise was  
23 that Penn Power is actually -- which was part of Ohio  
24 Edison, part of I believe also part of FirstEnergy now -- is  
25 part of the Midwest ISO. So that is the one void in

1 Pennsylvania relative to allocation of these costs which are  
2 PJM costs.

3 Q. Okay. And so then, you really didn't have to go  
4 through a series of calculations to determine the amounts of  
5 estimated annual revenue requirement billed to the various  
6 utilities because they exist within their own zone and none  
7 of these overlap the Pennsylvania line?

8 A. That's correct.

9 Q. Very good. Thank you. Now, just one additional  
10 question. Your fifth column shows that the percentage of  
11 estimated annual revenue requirement billed to Duquesne  
12 Light Company is 2.1 percent for all categories except the  
13 138 kV system in Pennsylvania, right?

14 A. Yes. The 138 is allocated 100 percent to the  
15 Allegheny zone.

16 Q. Correct. And are you aware that Duquesne Light  
17 Company has petitioned to withdraw from the PJM system?

18 A. I am.

19 Q. So do we know what would happen with the dollars  
20 now allocated to Duquesne Light Company if they were  
21 permitted to withdraw from PJM?

22 A. The 2.1 percent that you indicate would be  
23 allocated to the other 97.9 percent of PJM, the other zones,  
24 so what was planned to be collected from Duquesne would be  
25 collected from others in PJM.

1 Q. Not just from the other Pennsylvania companies?  
2 A. That's correct.  
3 Q. Okay. So bottom line is, you have estimated the  
4 annual billing to all of Pennsylvania at \$52 million and  
5 change, right?  
6 A. That's correct.  
7 Q. Thank you for that.  
8 MS. DUSMAN: Next, Your Honor, I would like to ask  
9 that a document with the title, "TrAIL Impact on West Penn  
10 Power Residential Customers" be marked as MAM Supplemental  
11 3.  
12 JUDGE NEMEC: It may be so identified.  
13 (Whereupon, the document was marked  
14 as MAM Supplemental Exhibit No. 3  
15 for identification.)  
16 MR. TROUT: I'm sorry, which one was three? I missed  
17 that.  
18 MS. DUSMAN: TrAIL Impact on West Penn Power  
19 Residential Customers.  
20 MR. TROUT: Got it. Thank you.  
21 BY MS. DUSMAN:  
22 Q. Do you have that in front of you, Mr. Mader?  
23 A. I do.  
24 Q. Okay. Now, can you explain, first of all, what  
25 WPP Residential Schedule 10 is?



1           A.    That's the West Penn Power Company's residential  
2 rate schedule.

3           Q.    Okay.  And does that apply to 100 percent of  
4 residential customers?

5           A.    I believe so, yes.

6           Q.    Okay.  So do you want to explain what you mean  
7 by, "based on 2006 single coincident peaks?"

8           A.    Sure.  Once we get, as we talked about how PJM  
9 allocates to the zone and then to each load serving entity  
10 based on what's called its network service peak load, the  
11 coincident peak that we're talking about here is, once we've  
12 arrived at the Allegheny Power zone, we then need to divide  
13 or allocate the costs among each of the operating companies  
14 of Allegheny.  We know that that's 43 percent for West Penn.  
15 Then we have to do a similar exercise to allocate that to  
16 rate schedule.

17           What we've done here is, at the time that West Penn  
18 sets its network service peak load, when it has its annual  
19 peak, what are the contributory peaks of the customers on  
20 each of their rate schedules coincident with that.

21           So what we've done is, for the residential schedule,  
22 determine that 1,619 megawatts was the peak of that rate  
23 schedule at the time West Penn Power set its 3,790 megawatt  
24 peak.

25           Therefore, the allocation factor of the TrAIL revenue

1 requirement of \$11 million allocable to that residential  
2 rate schedule is on the basis of that residential rate  
3 schedule's contribution to the network service peak load.

4 Q. Okay. I understand. And then when you say  
5 total West Penn Power in your final column, that is really  
6 not a total company number; that's the total for the  
7 residential class?

8 A. No, no. That's the total for all West Penn  
9 customers. If you're looking at say, for example, the  
10 \$11 million number, we had spoken in my supplemental  
11 testimony of that number being \$14.4 million.

12 What this reflects is two things. One, the revenue  
13 requirement for the TrAIL line that the \$14.4 million  
14 allocation to West Penn was based on was \$233 million, just  
15 as we had shown in the last exhibit we had covered. This is  
16 based on a revenue requirement of \$154 million.

17 Two things. One, it does not include the Dominion  
18 Virginia Power segment, that \$11 million; and secondly would  
19 be that we had made some adjustments to certain of the costs  
20 in the revenue requirement as we had better information.

21 Q. Okay. Thank you for correcting me on that. So  
22 total West Penn Power is total West Penn Power, and the  
23 second to last column simply shows the residential part of  
24 that total?

25 A. Yes, it does. That's right.

1 Q. And the little schedule in the box simply shows  
2 that the residential have a slightly higher percentage than  
3 do the other, commercial, industrial and other --

4 A. Slightly higher than average, yes. And I'd just  
5 like to point out, the I guess .68 mills that we're looking  
6 at per kilowatt-hour, we typically refer to the residential  
7 customers as -- or measure them, compare them at a usage of  
8 1,000 kilowatt-hours per month. So I'd like to point out  
9 that this is 68 cents per month for each residential  
10 customer, is the impact of these TrAIL charges.

11 Q. Okay. And again, just to clarify, this is for  
12 the period July 1, 2007 to June 30, 2012?

13 A. As the title indicates, yes.

14 Q. And I believe you testified previously that the  
15 numbers that are contained for this period would be, I think  
16 you used the phrase, the high water mark or the, if present  
17 projections to prove accurate and present estimates prove to  
18 be accurate, this would be the high amount of revenue  
19 requirement?

20 A. Yes.

21 MS. DUSMAN: I think that's all I have on that one.

22 And then finally, Your Honor, I'd ask be marked for  
23 identification MAM Supplemental Exhibit 4. May it be so  
24 marked?

25 JUDGE NEMEC: It may be so identified.

1 (Whereupon, the document was marked  
2 as MAM Supplemental Exhibit No. 4  
3 for identification.)

4 BY MS. DUSMAN:

5 Q. Do you have that before you?

6 A. Yes, I do.

7 Q. Just so we're clear, you did answer previously  
8 an on-the-record data request with a document marked,  
9 allocation of TrAIL revenue requirement to West Penn Power  
10 only. That was among the first set of documents you  
11 provided to us, and I believe that box is completely  
12 reproduced on this schedule; is that right?

13 A. Yes, it is. That's correct.

14 MS. DUSMAN: If anybody is wondering, that's why I'm  
15 not using the very first one that was offered, because it's  
16 simply redundant.

17 BY MS. DUSMAN:

18 Q. So this now shows, within the Allegheny Power  
19 zone, to what extent each of the subsidiaries within the  
20 Allegheny Power zone will bear the costs of the TrAIL  
21 project, correct?

22 A. That's correct.

23 Q. And I think your counsel and I noted earlier off  
24 the record that allocation of cost to WP, meaning West Penn,  
25 MP, meaning Mon Power, PE, meaning Potomac Edison, while

1 it's reflected as a cost, that would be revenues obtained  
2 from them, from our perspective?

3 A. Let me clarify. These would be the estimates of  
4 the annual PJM billings to these load serving entities for  
5 their portion of the TrAIL.

6 Q. Correct. And as you previously testified, it  
7 would be up to the load serving entities, which are the  
8 utilities, to seek a method by which to procure those  
9 dollars from their end user customers?

10 A. That's correct.

11 Q. And for West Penn, again, we have about \$46.4  
12 million; for Mon Power, we have \$23.6 million; and for  
13 Potomac Edison, we have \$27.7 million and change in each  
14 case.

15 A. That's correct.

16 Q. Is that right?

17 A. Yes.

18 Q. And once again, this is for a projected period  
19 of 2007 through 2013?

20 A. It is.

21 Q. Based on current estimates?

22 A. Yes.

23 Q. And current projected in-service date?

24 A. Yes.

25 MS. DUSMAN: Your Honor, I'd like to move in MAM

1 Supplemental Exhibits 1 through 4, and that concludes my  
2 cross-examination for Mr. Mader today.

3 MR. TROUT: No objection.

4 JUDGE NEMEC: MAM Supplemental Exhibits 1, 2, 3 and 4  
5 are admitted.

6 (Whereupon, the documents marked as  
7 MAM Supplemental Exhibits Nos. 1  
8 through 4 were received in  
9 evidence.)

10 JUDGE NEMEC: Mr. Burns, any questions?

11 MR. BURNS: No. I have no cross.

12 MR. ECKENROD: No cross, Your Honor.

13 JUDGE NEMEC: Okay.

14 MR. TROUT: I have no redirect, Your Honor.

15 JUDGE NEMEC: We have I guess no further witnesses or  
16 examination?

17 (No response.)

18 JUDGE NEMEC: Mr. Mader, you are excused. Thank you  
19 very much for your good work.

20 (Witness excused.)

21 JUDGE NEMEC: Let's take a five minute break and then  
22 we'll come back and try to wrap this up in terms of what  
23 we're going to do next.

24 (Recess.)

25 JUDGE HOYER: We're back on the record.

1 We're going to discuss some final matters before we  
2 adjourn. We gathered together yesterday and discussed this.

3 The first topic that I'm going to address is briefs,  
4 and I know that we've gotten proposed briefing outlines from  
5 the parties in advance of these hearings.

6 What we thought would be best is if the parties  
7 revisited those outlines now that we have a full and  
8 complete record and discuss that again and get back to us  
9 by, let's say, Wednesday of next week. One thing that will  
10 need to be included as an appendix would be addressing  
11 Chairman Holland's questions.

12 And then once we get either an agreement or some new  
13 proposals, we intend by the end of next week to let the  
14 parties know exactly what the form of that outline will be.

15 I e-mailed everyone regarding findings of fact, and  
16 given the record here and that we are going to have a lot of  
17 findings of fact, I think it's best to break those findings  
18 of fact down by subject matter.

19 And if the parties could discuss that, I don't know  
20 if you've had any discussions yet on that, but hopefully you  
21 could include that with the brief outlines by Wednesday.

22 Anything from the parties regarding briefs at this  
23 time?

24 (No response.)

25 JUDGE HOYER: We're going to follow the schedule that

1 was set out in the last order. It was the fourth  
2 pre-hearing order. That litigation schedule still stands.

3 Have the parties spoken about transcript corrections  
4 and reached any agreement on that?

5 MR. SELTZER: We did, Your Honor, earlier, and the  
6 suggestion that we were going to propose, if that would be  
7 workable, is to run transcript corrections for all witnesses  
8 from the close of the hearing today. I think under the  
9 rules, in theory, it could be staggered for each of the  
10 witnesses based upon when the transcript was actually filed  
11 with the Commission for each of their respective pieces of  
12 testimony, which creates a bit of a staggered approach.

13 If we were to agree, subject to Your Honors'  
14 approval, to have transcript corrections due, say, within  
15 ten days of today for all witnesses, and then file that with  
16 all the other parties and then have the normal response  
17 time, then we would basically be on a similar time frame and  
18 we could accumulate all corrections from all witnesses in  
19 the same document, not have to stagger them and make  
20 multiple findings.

21 JUDGE HOYER: Well, we don't have today's transcript  
22 yet, so perhaps Monday?

23 MR. SELTZER: Monday, yes, that would be totally  
24 acceptable to the company if we started on Monday, and ten  
25 days from Monday, we would all have transcript corrections



1 that we would serve on each other and Your Honors.

2 MS. DUSMAN: That works for OCA, Your Honor.

3 MR. BURNS: I can live with that, Your Honor. That  
4 would be fine.

5 JUDGE HOYER: Okay. Well, then, that will be the  
6 agreement, ten days, the first day being Monday, for  
7 corrections to the transcript and then ten days following  
8 that for objections. We'll just follow the regulation. The  
9 regulation is 52 PA Code 5.253.

10 Okay, that covers briefs and the transcripts.  
11 Anything else from the parties before we adjourn?

12 MR. BURNS: I would just like to add that, consistent  
13 with discussions we had earlier, we're going to be talking  
14 to the company about whether certain documents and portions  
15 of the testimony will need to remain confidential or  
16 proprietary and whether we can remove some of the  
17 restrictions for some or all of the testimony and the  
18 documents, And if we're not able to work it out informally,  
19 which I think would make the briefing easier for Your Honors  
20 and for everyone involved, then we'll just file motions, but  
21 I just wanted to say that we're going to try and work that  
22 out informally if we can with the company.

23 JUDGE HOYER: Okay. Then we are adjourned.

24 (Whereupon, at 11:25 a.m., the proceedings were  
25 concluded.)

C E R T I F I C A T E

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: John A. Kelly (CP)  
John A. Kelly,  
Certified Verbatim Reporter

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