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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC :
UTILITY COMMISSION :
v : Docket #: R-00061296
PHILADELPHIA GAS WORKS :
Initial Pre-Hearing Conference
Pages 1 through 36

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Wednesday, March 15, 2006
Commencing at 10:00 a.m.

BEFORE:
MARLANE R. CHESTNUT, Administrative Law Judge

APPEARANCES: (Live.)

GREGORY J. STUNDER, ESQUIRE
800 West Montgomery Avenue
Philadelphia, Pennsylvania 19122
-- Philadelphia Gas Works

PHILIP BERTOCCI, ESQUIRE
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, Pennsylvania 19102
-- Action Alliance of Senior Citizens
Union Representative Network

PRECISION REPORTING, INC.
230 South Broad Street - 11th Floor
Philadelphia, PA 19102
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

MAR 15 2006

RECEIVED

1 APPEARANCES: (Via telephone.)

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15 Gas Users Group

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THE COURT: Mr. Kanaskie, do you want to tell me who's with you?

MR. KANASKIE: Yes, your Honor.

With the Office of Consumer Advocate, Aron Beatty is here.

MR. BEATTY: Good morning, your Honor.

THE COURT: Good morning.

MR. KANASKIE: Representing PICGUG is Charis Mincavage.

MS. MINCAVAGE: Good morning, your Honor.

THE COURT: Good morning.

MR. KANASKIE: And with the Office of Small Business Advocate is Steve Gray.

THE COURT: Thank you.

MR. GRAY: Good morning.

THE COURT: And with me here in Philadelphia are Mr. Stunder, representing PGW; and Mr. Bertocci, representing Action Alliance, et al.

We'll get actually started, then. This is the pre-hearing conference scheduled -- can you hear me okay?

1 MR. KANASKIE: Yes, your Honor. I
2 can.

3 THE COURT: Okay. Because there's
4 some kind of echoing effect.

5 At Docket R-00061296, Pennsylvania
6 Public Utility Conference (sic) versus
7 Philadelphia Gas Works.

8 For the record, I would like the
9 parties, counsel present, to state their
10 name and on whose behalf they are
11 appearing. And we'll start with Mr.
12 Stunder.

13 MR. STUNDER: Gregory Stunder for
14 Philadelphia Gas Works.

15 THE COURT: Thank you. Mr. Bertocci.

16 MR. BERTOCCI: Philip Bertocci for
17 Action Alliance of Senior Citizens and
18 Tenant Union Representative Network.

19 THE COURT: Thank you. Mr. Kanaskie.

20 MR. KANASKIE: Richard Kanaskie with
21 the Office of Trial Staff.

22 THE COURT: Thank you. Mr. Beatty.

23 MR. BEATTY: Aron Beatty with the
24 Office of Consumer Advocate.

25 THE COURT: Thank you. Mr. Gray.

1 MR. GRAY: Steve Gray for the Office
2 of Small Business Advocate.

3 THE COURT: Thank you. Ms.
4 Mincavage.

5 MS. MINCAVAGE: Charis Mincavage on
6 Behalf of the Philadelphia Industrial and
7 Commercial Gas Users Group.

8 THE COURT: Thank you. I will have
9 your information filled in on the OALJ
10 Hearing Report. Okay. So if any of you
11 has different contact information,
12 different address or phone number, please
13 let me know.

14 All right. We'll get started, then.
15 I have received pre-hearing memoranda from
16 PICGUG, OSBA, OCA, OTS, PGW, and Action
17 Alliance, et al.

18 Hold on a second, this is like -- off
19 the record.

20

- - -

21 (Whereupon, a discussion was held off
22 the record.)

23

- - -

24 THE COURT: Let's continue where we
25 were. I had just noted the pre-hearing

1 memoranda I had received from the various
2 parties.

3 The second issue is the petition to
4 intervene filed by PICGUG on March 10th,
5 2006.

6 MR. KANASKIE: Excuse me, your Honor.

7 THE COURT: Yes.

8 MR. KANASKIE: This is Rick Kanaskie.
9 Now for the bad news. We're having trouble
10 hearing you.

11 THE COURT: Oh, okay.

12 MR. KANASKIE: It's breaking up.

13 THE COURT: How's this?

14 MR. KANASKIE: So far so good.

15 THE COURT: Well, I'll try and speak
16 loudly. Maybe you can hear me without the
17 phone.

18 MR. KANASKIE: Okay.

19 THE COURT: Let me know, of course,
20 if you can't hear anything.

21 MR. KANASKIE: Yes, your Honor.

22 THE COURT: Any objections to the
23 petition to intervene that was filed?

24 MR. STUNDER: No.

25 MR. KANASKIE: None from OTS, your

1 Honor.

2 THE COURT: Okay. That petition is
3 granted.

4 And let me state that further
5 petitions to intervene, if not defective on
6 their face, will be -- and not objected to
7 within three days, will be granted. Okay.

8 I'm going to be reading from my
9 standard pre-hearing order. So you are all
10 very familiar with this, I hope.

11 Let's talk about active, inactive
12 service list. Everybody at this point will
13 be considered to be an active party.
14 Anybody who files a petition to intervene
15 in the future will be considered inactive
16 unless granted permission to be active.

17 Let's talk about my e-mail list. I
18 would like you to tell me who would like to
19 be on that.

20 Mr. Stunder, I guess you would for
21 PGW, right?

22 MR. STUNDER: Yes, your Honor.

23 THE COURT: Mr. Bertocci?

24 MR. BERTOCCI: Yes, your Honor.

25 THE COURT: Mr. Kanaskie?

1 MR. KANASKIE: Yes, your Honor.

2 THE COURT: Mr. Beatty?

3 MR. BEATTY: Yes, your Honor.

4 THE COURT: You or --

5 MR. BEATTY: Just me is fine, your
6 Honor.

7 THE COURT: Okay. Mr. Gray?

8 MR. GRAY: Yes, your Honor.

9 THE COURT: Okay. Ms. Mincavage?

10 MS. MINCAVAGE: Yes, your Honor.

11 THE COURT: Does anybody else have
12 anybody they want on my e-mail list?

13 Okay. Please remember to include
14 Kathy Nesperello (ph) on anything that you
15 send to me.

16 Let's talk about discovery. I think
17 everybody's agreed on the standard -- I'm
18 sorry, Mr. Stunder, did you want something?

19 MR. STUNDER: Kathy, is that your
20 administrative assistant?

21 THE COURT: Yeah.

22 MR. STUNDER: And do we already have
23 your -- is her e-mail address in the prior
24 e-mails?

25 THE COURT: Yes.

1 MR. STUNDER: Okay.

2 THE COURT: It'll also be contained
3 in the written pre-hearing order I'll be
4 issuing, but yes.

5 MR. STUNDER: Okay. Okay.

6 THE COURT: These look like the
7 standard discovery modifications. Does
8 anybody have a problem with any of them?

9 The one issue that I will point out
10 is number, I guess, "E", about rulings on
11 motions relating to discovery. I'm not
12 going to include that, because I'm not
13 going to bind myself to a particular
14 schedule. But, of course, you know that I
15 would issue any rulings as quickly as
16 possible.

17 Anybody have any comments on
18 discovery procedures?

19 No? Okay.

20 MR. KANASKIE: No, your Honor.

21 THE COURT: Mr. Stunder, did you want
22 to say something?

23 MR. STUNDER: They'll be the same
24 that were adopted last year, except for the
25 one?

1 THE COURT: Yes.

2 MR. STUNDER: Okay. That's
3 acceptable.

4 THE COURT: Yes. Okay.

5 And do let me stress, you all know
6 this, but I feel like I should mention it,
7 do not serve or file your discovery, don't
8 serve it on me, don't file it with the
9 secretary. If you do your answers, just
10 file a letter, or the cover letter, I
11 should say, without any attachments.

12 Also, I expect you to resolve
13 discovery among yourselves and not to
14 resort to filing motions. You're all
15 experienced, and I expect you all that
16 you'll proceed in good faith.

17 Okay. That takes us to the schedule,
18 which I understand is an open issue. Now,
19 I'm very concerned that we have a
20 compressed sched -- a compressed time
21 period here, and that arrives primarily
22 because of the Commission's public meeting
23 scheduled in August.

24 Mr. Stunder has provided me with the
25 schedule from last year's 1307(f)

1 proceeding, and I'm sure you're all aware
2 it's not consistent with the dates that I
3 provided to you.

4 Now, unfortunately, Mr. Stunder did
5 not get my scheduling e-mail until, I
6 guess, what, yesterday or --

7 MR. STUNDER: Yesterday afternoon,
8 your Honor.

9 THE COURT: Yeah. So what I'm going
10 to do is I'm going to let you discuss this
11 among yourselves to see what kind of
12 schedule you can come up with consistent
13 with the dates that I gave you.

14 As I indicated, you can have a couple
15 days here and there, but there can't be too
16 much deviation. Okay?

17 Is that okay -- Mr. Kanaskie, okay
18 with you?

19 MR. KANASKIE: Well, yes, your Honor.
20 The concerns, obviously, are going to be
21 the time constraints early and the ability
22 to develop a full and complete record.

23 THE COURT: Yes, but let me point out
24 a couple of things here:

25 First, everybody knew this filing was

1 going to be made on the schedule that it
2 was made. And, in fact, you had the
3 pre-filing February 1st. So you're not
4 starting from March 1st.

5 Second, this looks like a pretty
6 straightforward filing to me. I'm sure
7 you've all been already working on it, so
8 you should be pretty prepared to go on a
9 very short time frame.

10 MR. KANASKIE: Your Honor, if I can
11 just interject. We did not receive E
12 factor information testimony or proposed
13 tariff changes until we received the
14 definitive filing on March 1st.

15 THE COURT: Okay.

16 MR. KANASKIE: The only thing the
17 pre-filing gives us is purchase gas data.
18 So we're looking at the rest of the issues
19 only since March 1st.

20 THE COURT: Right, but the purchase
21 gas data is what's important here and what
22 you're looking at.

23 MR. KANASKIE: Well, as well as E
24 factor.

25 THE COURT: Right. Okay.

1 MR. KANASKIE: And again, it is part
2 of the analysis that OTS traditionally
3 does, which we've had the ability to look
4 at for approximately ten days.

5 THE COURT: Yeah. Okay. Well, I'm
6 just telling you that as far as I'm
7 concerned, you've had this, could be
8 started, and I expect that you'll all deal
9 with this.

10 I have certain dates that were
11 generated by the spreadsheet that we use in
12 these cases, and unfortunately, as I said,
13 it's impacted by the fact there's only one
14 public meeting in August. So we lose time
15 there. I can't -- I don't put in the
16 effective date anymore, which is what we
17 used to do to generate the schedule. As
18 the end date I put in the public meeting
19 date.

20 Now, I'm willing to give up a couple
21 of my days, and I think you can give up
22 some of your days, so that we don't have to
23 close the record, perhaps, on April 14th,
24 but it's got to be pretty close to that.
25 So what I'm going to do is I'm going to let

1 you all talk about it and see what you can
2 come up with. Okay?

3 MR. GRAY: Your Honor, this is Steve
4 Gray from the OSBA, ma'am. May I say
5 something?

6 THE COURT: Not if you're going to
7 repeat what's already been said.

8 MR. GRAY: No, I'm not going to
9 repeat what's already been said, your
10 Honor. What I'm trying to understand is,
11 NFG has a schedule that is basically offset
12 by one month from PGW; and they also, if
13 you'll look at the --

14 THE COURT: Okay. Mr. Gray, Mr.
15 Stunder's already talked to me about this.
16 I don't care about other utilities.

17 MR. GRAY: Your Honor, it doesn't
18 make a lot of sense that in the NFG case we
19 get almost three months of time between the
20 pre-hearing and the hearing; whereas, we
21 get less than one month in your proposed
22 schedule. That doesn't seem to be proper,
23 because PGW is a much more complicated
24 utility than NFG is.

25 THE COURT: It's not a question of

1 proper. It's a question of dates. Okay.

2 MR. GRAY: Well, your Honor, it's the
3 same schedule, they're offset by one month.
4 There's one Commission date in July for the
5 August 1st effective date for NFG, just
6 like there's one date in August for the
7 September 1st date for PGW.

8 THE COURT: When's the date in July?

9 MR. GRAY: Maybe July 17th.

10 THE COURT: Well, I don't know. I'll
11 go back and I'll put the dates in again,
12 but this is what I came up with. All
13 right.

14 Let's take a break for a few minutes.
15 I'll go check it again, but I'm pretty sure
16 that's what it's going to come out to.

17 - - -

18 (Brief recess.)

19 - - -

20 THE COURT: I informed the parties
21 that I made a mistake in my calculation of
22 the dates, and I apologize for causing you
23 angst here. But according to the rate case
24 calculator spreadsheet that I just used,
25 the record's got to close on April 24th.

1 Main briefs will be filed May 14th; reply
2 briefs will be filed May 24th; and the
3 recommended decision would be issued June
4 28th.

5 Now, I'm willing to have a little
6 movement there, but it's got to be pretty
7 close to the decision being issued by June
8 28th. Okay. Does that make it a little
9 easier for you here?

10 MR. STUNDER: Your Honor, I -- this
11 is Greg Stunder. I have to --

12 THE COURT: You know, at this point
13 nobody has given me a schedule for this
14 case.

15 MR. KANASKIE: I thought -- your
16 Honor, excuse me, I thought Greg Stunder
17 forwarded you a schedule for the case.

18 THE COURT: He gave me last year's
19 schedule.

20 MR. STUNDER: Which I would like to
21 be adopted as this year's schedule.

22 THE COURT: Oh, just change 2006 from
23 2005?

24 MR. STUNDER: Well, I have the
25 appropriate dates here for discussion

1 today. That's exactly what I would like.
2 I mean, that's what I anticipated.

3 THE COURT: Well, why don't you
4 discuss it and come up with something, and
5 then I -- you can tell me.

6 MR. STUNDER: I know, because I've
7 been on the phone with the parties
8 yesterday, yesterday afternoon.

9 THE COURT: Okay.

10 MR. STUNDER: When I received your
11 e-mail. And, I mean, we have talked
12 through the issues. And in light of NFG
13 and TW Philips, and the fact that our GCR
14 has a lot more issues than TW Philips and
15 NFG --

16 THE COURT: Then extend the effective
17 date.

18 MR. STUNDER: What would that entail?

19 THE COURT: Settle the case. Okay.
20 I'm not here to tell you how to do your
21 case. I'm sorry.

22 MR. STUNDER: No, no, no, your Honor.

23 THE COURT: I'm here telling you what
24 the parameters are for the schedule that we
25 need to follow in this case.

1 MR. STUNDER: When you say "extend
2 the effective date," what do you mean by
3 that?

4 THE COURT: I'm not going to tell you
5 -- give you legal advice. Okay. But I'm
6 not sure if you can or not, if you can just
7 extend it for a month. I don't know if you
8 can, given the statutory parameters of this
9 kind of filing.

10 But I know that in -- for example,
11 when rate cases are filed and mediation is
12 being pursued, the utility is required to
13 extend the effective date to accom -- you
14 know, to accommodate that.

15 Now, I don't want to put people in a
16 bad position here. I think I've tried to
17 be as accommodating as possible. I was a
18 litigator myself for many years. I know
19 what it's like. But I'm telling you, these
20 dates have to be taken into consideration.
21 I'm not saying the record's got to close on
22 April 24th, but it's sure not going to stay
23 open till May 13th unless you take it off
24 your briefing time. I'm willing to give up
25 some of my days for my decision writing.

1 I don't know. But I think this is
2 something you need to talk about
3 yourselves, because I've already expressed
4 my position.

5 MR. GRAY: Your Honor, what about
6 hearings on May 4th and 5th?

7 COURT REPORTER: I'm sorry. Who was
8 that?

9 THE COURT: Who was that who just
10 spoke? I'm sorry.

11 MR. GRAY: Steve Gray with the OSBA,
12 your Honor.

13 THE COURT: Okay. 4th and 5th.
14 Okay. And then when would the briefs be
15 filed?

16 MR. GRAY: Main brief the 15th, reply
17 brief the 22nd.

18 THE COURT: That works for me.

19 MR. GRAY: Greg, what do you think?

20 MR. STUNDER: Steve, could you --
21 main briefs, what was the date?

22 THE COURT: 15th.

23 MR. GRAY: The 15th, Monday.

24 THE COURT: I would make that the
25 16th to make it easier for yourselves,

1 since you're out of town.

2 MR. STUNDER: Yeah, Mondays are
3 always bad.

4 THE COURT: And that takes the reply
5 brief to the 23rd. What is that? Which is
6 a Friday.

7 That's okay with me. Mr. Stunder,
8 how about you?

9 MR. STUNDER: I just want to get my
10 bearings for one moment, your Honor.

11 THE COURT: Sure.

12 MR. GRAY: Your Honor, the 23rd's a
13 Tuesday.

14 THE COURT: Oh, I'm sorry. You know,
15 I'm looking at June. Right, 23rd is a
16 Tuesday. You're right. And the 16th is a
17 Tuesday, and the 4th and 5th are Thursday
18 and Friday.

19 MR. GRAY: Right.

20 THE COURT: Yeah. If it helps you at
21 all, I've already asked for the transcript
22 to be provided on a one-day basis.

23 MR. GRAY: Okay. So if you'll take
24 that, Greg, what are you thinking about for
25 our direct testimony? Our direct by the

1 14th, rebuttal on the 28th?

2 MR. STUNDER: Well, it seems like
3 we're all on a comparative to last year's
4 schedule as far as hearing dates go. We're
5 one week ahead of time, if you will. So if
6 you want to look at the dates as being one
7 week ahead of time, then it would have
8 direct testimony by April 7th.

9 THE COURT: Well, according to this,
10 though, you could comply with -- if you do
11 it on the -- if you split the difference
12 there. Right?

13 MR. GRAY: We don't have any -- your
14 Honor, we were talking. We don't even have
15 any Interrogatory responses in hand yet.
16 We're just getting our Interrogatories out.
17 And so April 14th is a month from now.

18 I'm just thinking about your response
19 time, Greg, and then us processing it and
20 getting something written.

21 Greg, how does that sound, April 14th
22 for our direct, 28th for all parties'
23 rebuttal, and then surrebuttal is oral at
24 the hearings?

25 THE COURT: A written outline

1 provided, if possible, prior to the
2 hearing.

3 MR. GRAY: Okay.

4 MR. STUNDER: All right. I mean, we
5 can split the difference between 4/7 and
6 4/14 and make it the 12th for direct
7 testimony. 4/12, which is a Wednesday.

8 MR. GRAY: But it binds me up. I'm
9 going to have every witness I have involved
10 in a hearing that whole week.

11 Are you saying you need more than two
12 weeks for rebuttal? Is that what you're
13 saying?

14 MR. STUNDER: So the -- I mean, if
15 they're in hearings, the 14th is going to
16 be better than the 12th?

17 MR. GRAY: They're in hearings the
18 7th, 10th, 11th, and 12th.

19 MR. STUNDER: Okay. So we'll do --
20 were you saying rebuttal and surrebuttal?

21 MR. GRAY: 14th would be direct, 28th
22 would be rebuttal, all parties' rebuttal,
23 and then surrebuttal would be oral at the
24 hearings with an outline ahead of time, or
25 written, if you have time for it.

1 MR. STUNDER: Okay.

2 THE COURT: Well...

3 MR. STUNDER: I mean, I'm
4 uncomfortable with it, but I -- you know, I
5 don't...

6 THE COURT: Look, I'm willing to push
7 the briefing schedule back by a day or two,
8 which would move the hearings up a day or
9 two. Does that make it easier?

10 MR. GRAY: Unfortunately, doesn't
11 make it -- I'm not sure I'll be able to
12 attend, your Honor. I'm in court the next
13 week.

14 THE COURT: Okay.

15 MR. STUNDER: So you're saying
16 rebuttal 4/18, surrebuttal at hearings.

17 MR. GRAY: Oral surrebuttal, yeah,
18 with a written outline ahead of time, and
19 then oral rejoinder.

20 MR. STUNDER: So oral surrebuttal at
21 hearings, but written outline by when?

22 MR. GRAY: I go -- I guess the 3rd.
23 Yeah, because if we get the testimony on a
24 Friday, Monday, Tuesday to draft it, the
25 3rd to get it to you if the hearings are --

1 I would have to say the 3rd by noon.

2 MR. STUNDER: Hold on a second.

3 Rebuttal 4/28. Oral surrebuttal --

4 MR. GRAY: Hey, Greg?

5 MR. STUNDER: Yeah.

6 MR. BEATTY: Greg, how much time does
7 the company need for its main briefs?

8 Would -- OCA would be willing to go
9 to one week, and that might be able to push
10 everything back a little bit.

11 MR. KANASKIE: Though, I think we're
12 going to have a problem with Steve in terms
13 of hearings the next week. That was the
14 problem.

15 MR. STUNDER: Can we do main briefs
16 on the 19th and then reply briefs on the
17 26th?

18 MR. GRAY: It's okay with me.

19 MR. KANASKIE: Yeah, works for me.
20 Aron?

21 MR. BEATTY: Yeah, that might help
22 move everything back a little bit, ease up
23 out direct date to the 14th.

24 MR. STUNDER: Could somebody -- with
25 this new scheme, could somebody go down the

1 list for us just so we're all on the same
2 page?

3 MR. GRAY: Okay.

4 MR. STUNDER: From the very
5 beginning, direct testimony on down.

6 MR. KANASKIE: All right. This is
7 Rick Kanaskie. This is my best
8 recollection here. April 14th for direct,
9 rebuttal 5/4. Hearings -- hearing --

10 THE COURT: Wait, wait. When was the
11 rebuttal filed by?

12 MR. KANASKIE: Thursday, May 4th.

13 THE COURT: Okay.

14 MR. KANASKIE: Surrebuttal outline
15 Thursday the 11th; hearing date Friday, the
16 12th; main brief the 19th; reply brief the
17 26th.

18 THE COURT: What were the hearing
19 dates? You have 11th and 12th?

20 MR. GRAY: Just the 12th.

21 MR. KANASKIE: The 12th.

22 THE COURT: Just the 12th?

23 MR. KANASKIE: Yeah.

24 THE COURT: I don't like that.

25 MR. STUNDER: You know, Judge, since

1 we've worked together so long, we all know
2 that what will happen if we do go to
3 hearing is that there are will only be one
4 or two issues that, if need be, will be
5 litigated. It's not going to be a
6 litigation of every 1307(f). I mean, if
7 that would -- makes you more comfortable
8 with one hearing date. I -- it's --

9 THE COURT: Okay.

10 MR. STUNDER: We won't do that. We
11 won't have like a -- it won't be all or
12 nothing. It'll be here's one or two
13 issues. That's it.

14 THE COURT: Okay. Then I'll just --
15 yeah, just uncomfortable with one day, but
16 if you feel that we can accomplish that, I
17 can live with that. I don't stay late
18 here. I mean, you have to understand that.

19 MR. STUNDER: Okay. I --

20 THE COURT: Maybe we could start at
21 9:00.

22 MR. STUNDER: I mean, do the parties
23 agree with me that if anything is litigated
24 that we're going to carve out one or two
25 issues, and that's it?

1 MR. GRAY: We're all in agreement
2 here with you, Greg.

3 MR. STUNDER: I mean, you know, you
4 guys know as well as I do how this thing
5 goes, and I don't --

6 THE COURT: Well, let me interject
7 something here, which is, obviously, it's
8 important that we have to establish a
9 schedule today, but I really would hope
10 that you would seek to settle this case.

11 MR. STUNDER: Right. We all hope
12 that.

13 THE COURT: And I hope that that's,
14 you know, something that you can
15 accomplish, given the time constraints
16 here.

17 But, frankly, I don't think I've ever
18 had a litigated 1307(f) case.

19 MR. STUNDER: Right. I mean, that's
20 why we're sighing so much and wringing our
21 hands over the schedule. It's because we
22 want that, too. We want enough time to
23 accomplish that.

24 THE COURT: Well, I don't want you to
25 lose focus here. Obviously, you need to

1 prepare as if there would be a hearing; but
2 on the other hand, I do want you to focus
3 on settling. And if I can accomplish that
4 in any way, you know, I'll be glad to do
5 that.

6 But if you feel that this is a
7 schedule that we can live with right now,
8 then I think we should go with it.

9 MR. BEATTY: Your Honor, this is Aron
10 with the OCA. With regard to the outline
11 on the 11th --

12 THE COURT: Yes.

13 MR. BEATTY: -- would it be okay to
14 get that by noon or somewhat early in the
15 afternoon?

16 MR. STUNDER: Well, why don't we do
17 -- why don't we do -- because we'll still
18 have oral rejoinder, we would need it by
19 noon on 5/11.

20 MR. BEATTY: Okay.

21 MR. STUNDER: We would still have to
22 prepare our -- that afternoon for what we
23 would provide the next day as oral
24 rejoinder and bring an outline for you to
25 the hearings.

1 MR. BEATTY: Okay. That's fair.

2 MR. STUNDER: I mean, we'd only have,
3 you know, half a day, so...

4 MR. BERTOCCHI: We're talking about
5 hearings on the 11th or on the 12th?

6 MR. STUNDER: 12th.

7 THE COURT: 12th.

8 MR. STUNDER: One day of hearings.

9 THE COURT: Let me make sure I have
10 these dates correct, then:

11 That would be, other parties' direct
12 would be served on April 14th, because, of
13 course, it's not filed.

14 All party rebuttal would be served
15 May 4th.

16 Surrebuttal outline by noon on May
17 11th.

18 Hearings, which include oral
19 rejoinder, would be May 12th.

20 The main brief would be served and
21 filed May 19th.

22 The reply brief would be due and
23 filed on May 26th.

24 Is that consistent with everybody's
25 understanding and agreement? Mr. Bertocchi?

1 MR. BERTOCCI: Yes.

2 MR. GRAY: Your Honor, with one
3 addition.

4 THE COURT: Yes.

5 MR. GRAY: And maybe oral surrebuttal
6 would be on -- at the hearing, also.

7 THE COURT: I thought I said that.

8 MR. GRAY: You may have, your Honor.
9 I apologize.

10 THE COURT: I didn't call it
11 surrebuttal, but yes.

12 MR. STUNDER: Oral rejoinder.

13 THE COURT: I said oral rejoinder.
14 But that, yeah, includes surrebuttal.

15 MR. GRAY: Okay. Thank you, your
16 Honor.

17 THE COURT: Okay. Then that'll be
18 the schedule. Obviously, these are dates
19 of receipt, except for your reply brief,
20 which, as long as I get it on the 26th, I
21 don't think the parties really care if they
22 get it then or if it's served then. But
23 that's something you can work out amongst
24 yourselves.

25 I'm not going to go through all the

1 usual directives concerning the filing of
2 testimony, because you all know it and it
3 will be contained in my pre-hearing order.

4 Obviously, the hearing will be in
5 Philadelphia, and we'll start at 9 o'clock.

6 MR. KANASKIE: 9 o'clock?

7 THE COURT: Yeah, unless you feel we
8 don't need to start at 9:00. Then we can
9 start at 10:00. But I'd like to at least
10 plug in a little extra time there.

11 Briefs, the standard formatting.

12 I'm sorry, did somebody want to say
13 something?

14 MR. KANASKIE: Well, nothing on what
15 you're saying so far, except the fact
16 you're breaking up a little bit, coming in
17 and out, here in Harrisburg.

18 THE COURT: I'm sorry. Maybe if it's
19 a little closer here to the mic.

20 You know all the briefing
21 requirements. I won't go through all them,
22 although I'll contain it in my pre-hearing
23 order. And that's all I have.

24 Mr. Stunder, is there anything
25 further from you, then?

1 MR. STUNDER: No, your Honor.

2 THE COURT: Mr. Bertocci?

3 MR. BERTOCCI: No, your Honor.

4 THE COURT: Mr. Gray?

5 MR. GRAY: Nothing, your Honor.

6 Thank you.

7 THE COURT: Mr. Kanaskie?

8 MR. KANASKIE: Nothing, your Honor.

9 Thank you.

10 THE COURT: Mr. Beatty?

11 MR. BEATTY: Nothing, your Honor.

12 THE COURT: Ms. Mincavage?

13 MS. MINCAVAGE: No, your Honor.

14 THE COURT: Thank you.

15 I do want to apologize for giving you
16 the wrong dates for the close of the record
17 and the briefing. I know that caused you a
18 lot of anxiety, and I'm very sorry for
19 that. And I know this isn't an easy
20 schedule, but I really trust in your
21 professionalism.

22 Thank you very much. Then this
23 pre-hearing is adjourned.

24 - - -

25 (Whereupon, the pre-hearing

1 conference was adjourned at approximately
2 10:44 a.m.)

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INDEX TO EXHIBITS

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For Complainant:

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