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C O N T E N T S

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2 WITNESS

DIRECT CROSS REDIRECT RECROSS

3 (None.)
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E X H I B I T S

12 NUMBER

FOR IDENTIFICATION IN EVIDENCE

13 (None.)
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P R O C E E D I N G S

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2 ADMINISTRATIVE LAW JUDGE MICHAEL C. SCHNIERLE: Let's
3 go on the record.

4 This is the time and place set for the prehearing
5 conference in the matter of Pennsylvania Public Utility
6 Commission, and others, versus Pennsylvania Power & Light
7 Company, Docket No. R-00943271 and many associated
8 complaints. My name is Michael Schnierle. I'm the
9 Administrative Law Judge assigned to this case.

10 I'm going to go through the list of appearances.
11 Quite frankly, I don't know all of you, so as I call out
12 your name, if you would raise your hand or something so I
13 can figure out who is who, it would be appreciated.

14 Alan J. Barak, representing the Mid Atlantic Energy
15 Project, and appearing for the Sierra Club.

16 MR. BARAK: Good morning, Your Honor.

17 JUDGE SCHNIERLE: Good morning.

18 James Melia for the University/College Coalition.

19 MR. MELIA: Good morning, Your Honor.

20 JUDGE SCHNIERLE: Good morning.

21 Mary Kenney and --

22 MS. KENNEY: Gicine Brignola.

23 JUDGE SCHNIERLE: -- Gicine Brignola for the Office
24 of Consumer Advocate.

25 MS. BRIGNOLA: Good morning, Your Honor.

1 JUDGE SCHNIERLE: Good morning.

2 Johnnie Simms, Kenneth L. Mickens and Stephen Gorka
3 for the Office of Trial Staff. Good morning.

4 MR. SIMMS: Good morning, Your Honor.

5 MR. MICKENS: Good morning.

6 MR. GORKA: Good morning.

7 JUDGE SCHNIERLE: Derrick Williamson and David
8 Kleppinger for the PP&L Industrial Customer Alliance.

9 MR. KLEPPINGER: Good morning, Your Honor.

10 JUDGE SCHNIERLE: Good morning.

11 Karen Oill Moury for the Office of Small Business
12 Advocate.

13 MS. MOURY: Good morning, Your Honor.

14 JUDGE SCHNIERLE: Good morning.

15 David A. McCormick for the U.S. Department of
16 Defense.

17 MR. McCORMICK: Good morning, Your Honor.

18 JUDGE SCHNIERLE: Good morning.

19 Robert P. Haynes for the Central Eastern Pennsylvania
20 Fuel Oil Dealers.

21 MR. HAYNES: Good morning.

22 JUDGE SCHNIERLE: And Wayne M. Thomas for the Central
23 Eastern Pennsylvania Fuel Oil Dealers.

24 MR. THOMAS: Good morning, Your Honor.

25 JUDGE SCHNIERLE: Good morning.

1 Joan Brandeis for Bethlehem Steel.

2 MS. BRANDEIS: Good morning, Your Honor.

3 JUDGE SCHNIERLE: Good morning.

4 Stephen J. Selden for Bethlehem Steel.

5 MR. SELDEN: Good morning, Your Honor.

6 JUDGE SCHNIERLE: Good morning.

7 David B. MacGregor and Thomas P. Gadsden for PP&L.

8 Good morning.

9 MR. MacGREGOR: Good morning, Your Honor.

10 JUDGE SCHNIERLE: Paul Russell for PP&L. Good
11 morning.

12 And Craig Kuennen for the Commission on Economic
13 Opportunity.

14 I think that covers the universe here.

15 All right. I suppose the first thing that we should
16 discuss is the -- oh, before we discuss anything, a couple
17 of comments. Since several of you don't know me and others
18 may not have had a rate case with me for some time, there is
19 one major item I would like to bring to everybody's
20 attention.

21 We'll have a lot of expert witnesses testifying
22 during this case, of course. It is my experience that
23 sometimes the witnesses tend to evade questions, tend to try
24 to simply repeat their direct testimony rather than respond
25 to questions on cross-examination in a direct fashion. I

1 don't like things that waste time. Those things waste time.
2 I would appreciate it if you would explain to your expert
3 witnesses, and all your witnesses, that when they respond to
4 a question on cross-examination they should attempt to
5 answer the question directly and to the best of their
6 ability. If it's an answer that is less than helpful to
7 their position, they should acknowledge that, because if
8 they don't I'm going to realize it anyway. If they are
9 asked a yes or no question and they want to give an
10 explanation, if they say yes or no and follow it with a
11 brief explanation that's to the point, I won't sustain
12 objections to that. However, that is not a license for them
13 to repeat their direct testimony or go off on a tangent.

14 My reason for setting forth these rules is I don't
15 like to get into a battle where a cross-examiner asks a yes
16 or no question and then the witness refuses to respond in a
17 direct fashion, and we get a lot of back and forth argument
18 over that fact, and then we wind up with answers spread all
19 over the record; it just makes it more difficult for you to
20 brief the case and it makes it more difficult for me to
21 decide the case. So I would appreciate it if, when we get
22 to that point, the expert witnesses understand what the
23 ground rules are and behave accordingly. That's the major
24 thing.

25 The other couple items are kind of housekeeping items

1 which I'll repeat in the prehearing order. I would like a
2 copy of everyone's brief on computer disk in some sort of
3 format that I can read with WordPerfect. I don't care if
4 it's WordPerfect for Windows or WordPerfect -- it's got to
5 be readable by WordPerfect 6.0 for Windows, so anything
6 that's WordPerfect for DOS or WordPerfect for ASCII, if I
7 can read it in WordPerfect for Windows, that's sufficient.

8 You don't have to send me the two disks; if you want
9 to save the disk until you file your reply brief and put
10 both briefs on one disk, that's fine.

11 The other thing I'm going to ask everyone to do is on
12 that same disk -- when you file your brief you're required
13 to file a table at the end essentially showing your last
14 adjustments. I would like that Table in Lotus 1-2-3 format.

15 Again, I'll repeat that in the prehearing order so
16 that everybody is clear on it.

17 Does anybody have any questions about those items?

18 (No response.)

19 JUDGE SCHNIERLE: Good. I've been looking at the
20 schedule that has been proposed by PP&L and by the OCA and
21 the similar schedule that has been proposed by OTS.
22 Basically, looking through that, the only date on which I
23 have developed a conflict since I sent out my first
24 prehearing order was March 22. I have another hearing on
25 that date and I expect it to go forward. I would suggest

1 that if you really think we're going to need the 21st
2 through the 23rd and the 27th through the 29th, we might
3 want to move it up or back one way or the other. But the
4 22nd I have a hearing and I expect it is going to go
5 forward.

6 I will say this, I also have one presently scheduled
7 on the 24th, but I also have a request for a continuance of
8 that hearing, which I anticipate will be granted, so if we
9 wanted to do the 21st, 23rd and 24th and skip the 22nd, that
10 would be doable.

11 MR. MacGREGOR: That's fine with us, Your Honor. I
12 think your first prehearing order had indicated you had a
13 conflict on the 20th, so we avoided that date. I don't know
14 if that has been resolved since that time or not.

15 JUDGE SCHNIERLE: That has been resolved.

16 MR. MacGREGOR: But 21, 23 and 24 I believe is okay
17 with us as well.

18 JUDGE SCHNIERLE: Anybody else have a problem with
19 that, or would anybody prefer the 20th, 21st and 23rd?

20 MR. MacGREGOR: I would prefer to stay away from the
21 20th, if we can, Your Honor.

22 JUDGE SCHNIERLE: All right. Then the cross-
23 examination will be the 21st, 23rd and 24th.

24 The other thing I noticed in going over these
25 proposals is according to the company and the OCA proposal,

1 they have the direct testimony of other parties being filed
2 on April 12 and 14 -- I'm sorry; the company has it April 7,
3 12 and 14. OTS has it April 18. Is there something we can
4 resolve there?

5 MR. SIMMS: The problem we have, Your Honor, is
6 whether or not the public input sessions, which I think have
7 been recommended to be seven, are going to be held during
8 the first two weeks of April. We didn't want to get into a
9 situation whereby we are traveling throughout the PP&L
10 service territory during that two-week period and have to
11 worry about reviewing and filing direct testimony.

12 MR. MacGREGOR: Your Honor, the reason we have
13 proposed the schedule as we did was to try to take some of
14 the burden off of the other parties and the company in terms
15 of having to file all of their testimony on one date; that's
16 why we split it into three parts. This schedule, if you
17 track it through, is generally set up so the company's
18 rebuttal testimony is due four weeks after receipt of the
19 opposing party testimony. The problem we would have if you
20 move all of the opposing party testimony back to April 18,
21 that would move our rebuttal date to May 16, and I don't
22 really believe that provides sufficient time for surrebuttal
23 with the week of May 22 provided for the hearings and then
24 the closing of the record. That's why we set it up as we
25 did.

1 I appreciate Mr. Simms' concern regarding the public
2 input hearings, and I had hoped that we had taken that into
3 account at least in part by splitting the filing dates into
4 three parts. I know there have been meetings concerning the
5 time and location of the public input hearings. We at this
6 point do not have the dates of the public input hearings and
7 did not have them in hand when we prepared this schedule, so
8 I don't know if there's a serious conflict or not.

9 JUDGE SCHNIERLE: Let's postpone this for a second.
10 My understanding is there's been some discussion of having
11 the public inputs I guess starting around the 29th or 30th
12 of March and running through the first week in April. Is
13 that the case, and has anything further been resolved on
14 that?

15 MR. SIMMS: I know at the initial meetings we had
16 looked at -- well, we only had one meeting -- the last week
17 of March, but as you look at the schedule proposed by the
18 company and OCA, we're going to be in hearings during that
19 same time period, unless you want to have a public input in
20 Harrisburg that evening, which I don't think people really
21 want to have hearings all day long and then go to a public
22 input session.

23 MR. MacGREGOR: Your Honor, I think that may be
24 inevitable in some circumstances if we're going to have as
25 many public input hearings as the Commission seems to want

1 plus have hearings in this case. I don't know how to
2 resolve that.

3 MR. SIMMS: My point being that the only public
4 inputs you can have during the last week of March have to be
5 in Harrisburg. That will have to be the evening session,
6 because I think the original contact with the Commission was
7 that they want an afternoon and evening session for
8 Harrisburg, unless you suspend the hearings at noon.

9 MR. MacGREGOR: It's my understanding that the
10 earliest public input date that was discussed was March 30.
11 That's why I put in 27, 28 and 29 for the three days. I
12 don't think that anyone is talking about having the first
13 input hearing before March 30, but I could be wrong about
14 that.

15 JUDGE SCHNIERLE: Let's continue on this. As far as
16 I'm concerned, we're going to do what we can to get the
17 public inputs set up right now so that when I go back, I can
18 tell them, "Schedule them."

19 As I understand it, what people are seeking at this
20 point is an afternoon and evening in Harrisburg; an
21 afternoon and evening combined in Scranton/Wilkes-Barre, in
22 other words, there would be afternoon one place, evening the
23 other; afternoon and evening combined in
24 Allentown/Bethlehem; afternoon and evening combined in
25 Hazleton and Pottsville; I guess an evening in Williamsport;

1 and an evening in Lancaster.

2 Have I covered it? I think I've covered it.

3 MR. MacGREGOR: That is consistent with what we
4 understand, Your Honor.

5 MR. SIMMS: Did you mention Lebanon?

6 JUDGE SCHNIERLE: No, I didn't.

7 MR. SIMMS: There was some discussion about that. I
8 don't know whether the Commission has decided to forego that
9 or not.

10 MR. MacGREGOR: It was discussed, and I think
11 somebody looked at a map afterwards and discovered that's
12 not in our service territory.

13 JUDGE SCHNIERLE: Well, that's a minor technicality.

14 MS. KENNEY: But Met-Ed did offer to allow you to
15 have a public input in their territory.

16 (Laughter.)

17 JUDGE SCHNIERLE: All right. I'm going to tell you,
18 I thought about this, looked at it, and it seems to me that
19 except for the afternoon and evening in Harrisburg and the
20 one in Lancaster, the rest of these ought to be back-to-
21 back, quite frankly, so we go out once and come back once.
22 I'm thinking have an evening in Williamsport, then follow it
23 up with an afternoon and evening in Scranton/Wilkes-Barre,
24 followed by afternoon and evening in Hazleton/Pottsville,
25 followed by afternoon and evening in Allentown/Bethlehem.

1 We'll be out a while, but when we get done, we're done. I
2 think it will cut down substantially on the amount of travel
3 time. Matter of fact, as I look at it, it appears that,
4 judging by this whole thing, probably the thing to do is do
5 the Harrisburg ones on, say, March 30 and do the Lancaster
6 one on March 31, and then just start down the next week
7 until we get finished.

8 MR. MacGREGOR: Could you say that again, Your Honor?
9 I'm sorry.

10 JUDGE SCHNIERLE: Do the Harrisburg public inputs on
11 March 30, afternoon and evening. Then do the Lancaster
12 public input on March 31 in the evening. Do the
13 Williamsport public input in the evening on April 3. Do
14 the --

15 MS. MULLIGAN: Your Honor, excuse me. For the
16 record, I'm Maureen Mulligan with the Bureau of Public
17 Liaison. We've been involved with setting up -- well, not
18 actually setting up but deciding some of the locations for
19 these hearings. There was a request specifically from one
20 of the Commissioners and my boss that the hearings for
21 Allentown/Bethlehem be on a Thursday night, or Thursday.

22 JUDGE SCHNIERLE: That will work. Yes, that will
23 work fine, because that way we have the Williamsport one on
24 Monday, the 3rd, in the evening, we do Scranton and
25 Wilkes-Barre on Tuesday, the 4th, we would do Hazleton and

1 Pottsville on the 5th, which is a Wednesday, and we wind up
2 in Allentown and Bethlehem on the 6th, which is a Thursday.

3 Quite frankly, if you look at the map, that's really
4 not a bad deal because it's not a long drive from Pottsville
5 to Allentown is what it boils down to. That's a relatively
6 short hop. Then we come back to Harrisburg.

7 I suggest to you that if we do that -- first of all,
8 does anybody have any objection to doing it that way?

9 (No response.)

10 JUDGE SCHNIERLE: All right. Hearing none, we'll
11 schedule it.

12 If we do that, what would be the effect of, say,
13 moving -- what I'm thinking about is instead of doing the
14 7th, 12th and the 14th, because if we're going to be out
15 that whole weeks it's going to be tough for them to get
16 their testimony done on the 7th, maybe push this back to the
17 12th, 14th and 18th for the filing of the testimony, which
18 still gives you the better part of four weeks.

19 MR. MacGREGOR: Well, if you're going to move all
20 their testimony filing dates, we have to move the rebuttal
21 dates, too. One alternative would be, rather than going to
22 three parts, just collapse it into two parts and move the
23 testimony that's due on the 7th, just make it due the 12th,
24 and have it the 12th and 14th, and then combine the May 5
25 and May 9 rebuttal dates on May 9.

1 MS. KENNEY: We have a problem with that. That only
2 leaves us ten days to do our surrebuttal. One of the things
3 that we were really trying to achieve with that week, we
4 feel that looking at this case, that surrebuttal will be a
5 very important part of this proceeding, and in particular on
6 the issues that we had originally scheduled for April 7, May
7 5 and then May 17, we really were looking to get a certain
8 amount of time to get them done. So we're very concerned
9 about flipping those dates.

10 MR. MacGREGOR: Your Honor, I think ten days is
11 really more than adequate for surrebuttal. Normally it's a
12 week at the most in cases I've been involved in.

13 MS. KENNEY: Your Honor, I agree that in a normal
14 case we would normally not be requesting this time; however,
15 on the issues that are contained in this case, it's not a
16 normal case and I'm very concerned about a short turn-around
17 time on rebuttal in this proceeding. I would be willing to
18 split the difference, but I really am concerned about
19 limiting ourselves to ten days. I would prefer, if
20 possible, if we could have the company's rebuttal on the
21 excess capacity issues no later than the 8th of May.

22 MR. MacGREGOR: So far it's been just the Staff that
23 has expressed a concern about the 7th to me. If you'll file
24 your excess capacity testimony on the 7th, we'll be happy to
25 file rebuttal on the 5th as the schedule stands.

1 MS. KENNEY: Okay. We can live with that.

2 JUDGE SCHNIERLE: Let me get this straight. OCA will
3 continue to comply with the schedule of April 7 for rate of
4 return and excess capacity even with this public input
5 schedule?

6 MS. KENNEY: Yes.

7 JUDGE SCHNIERLE: Mr. Simms, what is your pleasure at
8 this point?

9 MR. SIMMS: My pleasure is to file testimony on the
10 14th and 18th.

11 MR. MacGREGOR: Your Honor, the 18th is not going to
12 work out. We won't have any time to do discovery. We're
13 cross-examining the next week.

14 MR. SIMMS: Well, we're going to be out the entire
15 week of April 3 to 6 and come back and have testimony due
16 the next day.

17 MR. MacGREGOR: I understand that, but your witnesses
18 aren't going to be at the hearings and you've got three
19 lawyers on the case, too.

20 MR. SIMMS: Well, you have three lawyers on the case
21 as well.

22 MR. MacGREGOR: I'm not complaining about the
23 schedule.

24 MR. SIMMS: Because you're not going to be at all the
25 public inputs. Our office has to be at all the public

1 inputs. That's the problem. And you probably have 300
2 lawyers in the firm.

3 MR. MacGREGOR: What if you file all of your direct
4 testimony on the 14th?

5 MR. SIMMS: On the 14th?

6 MR. MacGREGOR: Yes.

7 MR. SIMMS: Okay. We can do that.

8 MR. MacGREGOR: Then we'll have until the 12th, if
9 necessary, to file rebuttal to that testimony.

10 MS. KENNEY: That hurts the OCA. That's the problem
11 where -- is that that the OCA and the company will continue
12 with the schedule proposed, except that's for OTS?

13 MR. MacGREGOR: I think that's for OTS only, and
14 everybody else is going to adhere to the schedule that is on
15 this page.

16 JUDGE SCHNIERLE: PP&L will file its rebuttal to OTS
17 on what date?

18 MR. MacGREGOR: May 12. Under number 3 you'll see
19 the receipt of -- I don't know if you're working off mine or
20 the OCA's, Your Honor, but the April 14 date. Then our
21 corresponding rebuttal date is May 12.

22 JUDGE SCHNIERLE: All right. I understand. So what
23 you're saying is for OTS you're going to compress the 5/9
24 and 12 dates to May 12?

25 MR. MacGREGOR: That's right.

1 JUDGE SCHNIERLE: All right. I'm with you.

2 Are there any other scheduling suggestions,
3 recommendations or requests we need to deal with?

4 Mr. Kleppinger.

5 MR. KLEPPINGER: Your Honor, if we're differentiating
6 the OTS testimony, is it only fair then that other parties
7 serve OTS on the 14th?

8 If I serve you with my rate structure testimony on
9 the 12th, theoretically you can incorporate or discuss some
10 of my direct testimony in your direct testimony, or at least
11 you'll have knowledge of my position before I have knowledge
12 of your position.

13 MR. MacGREGOR: Is that really a major problem, Dave?

14 MR. KLEPPINGER: I don't know that, David. In this
15 case it could very well be. I think the solution is that we
16 serve the company with our testimony on the 12th and hold
17 the Staff's copy until the 14th. Then we're exchanging
18 testimony the same day.

19 MR. MacGREGOR: It's up to the Staff.

20 MR. SIMMS: I have no problem with that. If in fact
21 the scenario presents itself that we have a problem with
22 your direct testimony, then we will file surrebuttal to it
23 -- well, you're going to file it with us when, on the 14th
24 of April?

25 MR. KLEPPINGER: Yes. The same day you would be

1 serving us.

2 MR. SIMMS: Okay. Then if we have a problem with
3 your testimony, we'll file rebuttal to it on the 12th of
4 May.

5 MR. KLEPPINGER: Yes. That's the cross rebuttal date
6 for all of us.

7 MR. SIMMS: Right.

8 JUDGE SCHNIERLE: All right. Just so we have this
9 clear, OTS is also going to wait till May 12 to file all its
10 rebuttal?

11 MR. SIMMS: We will file all of our direct testimony
12 April 14. Other parties will also serve theirs on April 14.
13 If in fact we have a disagreement with that testimony -- in
14 fact, it should be not the company but it should be all
15 parties' rebuttal should be filed on May 12.

16 MR. MacGREGOR: You are going to file very limited
17 rebuttal testimony, probably?

18 MR. SIMMS: Probably. I never know, but we will file
19 rebuttal testimony to other parties' testimony on the 12th.

20 JUDGE SCHNIERLE: On the 12th, and everybody will
21 respond to you on the 12th.

22 MR. SIMMS: Yes.

23 MR. MacGREGOR: The only problem with that, Your
24 Honor, is I think the only place this issue is likely to
25 arise is with respect to cost of service, rate structure and

1 rate design.

2 JUDGE SCHNIERLE: That's what I suspect.

3 MR. MacGREGOR: And the rebuttal testimony date on
4 the schedule is May 9, so as the schedule stands now, all
5 the parties' cross rebuttal to each other on rate structure
6 and rate design would be on May 9. I know that takes three
7 days away from the Staff, but it just might work more
8 smoothly if they file their cross rebuttal, at least to the
9 extent it covers rate structure, cost of service and rate
10 design issues, on the 9th. Then that would keep that all
11 coming in at the same time and would reduce the number of
12 pieces of testimony being filed.

13 MR. KLEPPINGER: I agree with that.

14 MR. SIMMS: We're talking about four days. I hate to
15 quibble, but that four days we could definitely use if we
16 are only getting the testimony from the other parties on
17 April 14.

18 MR. MacGREGOR: But we're only talking about rate
19 structure and rate design testimony here, essentially, and
20 that's three-and-a-half weeks for you guys to, really,
21 cross, rebut, all of us, and we're all going to be doing
22 that; we're all going to be looking at that testimony in
23 that time frame.

24 MR. SIMMS: I don't see the problem. Rebuttal
25 testimony is going to be filed on May 12. I'm asking you to

1 give me your rebuttal testimony on the 9th, and you just
2 file your rebuttal to me on the 12th. I don't want to lose
3 those four days regardless of how small the issue might be.

4 MR. MacGREGOR: Why don't you go ahead and serve them
5 with your testimony on the 12th and just get a commitment
6 from them that they won't utilize it in preparing their
7 testimony on the 14th? They can look at it but they just
8 won't respond to it in the testimony they file. I just
9 don't see why that's much of an issue.

10 JUDGE SCHNIERLE: Let's go off the record.

11 (Discussion off the record.)

12 JUDGE SCHNIERLE: Let's go back on the record.

13 At this point the schedule appears to be as shown on
14 the OCA and PP&L proposed schedules with the following
15 exceptions: hearings for cross-examination of company
16 witnesses will be on March 21, 23 and 24. The OTS will file
17 all of its direct testimony on April 14. PP&L will file all
18 of its rebuttal to OTS no later than May 12 but earlier if
19 possible. OTS agrees that it will not use the testimony
20 that it receives from the other parties on April 12
21 pertaining to cost of service, rate structure and rate
22 design in preparing the testimony that it will be filing on
23 April 14.

24 MR. SIMMS: That's correct, Your Honor.

25 JUDGE SCHNIERLE: Everybody's in agreement on that.

1 All right. Is there anything else we have to discuss
2 of a scheduling nature?

3 MR. MacGREGOR: Yes, Your Honor.

4 JUDGE SCHNIERLE: What would that be?

5 MR. MacGREGOR: There is one difference, as I note,
6 between the OCA and PP&L schedule, and that is that we have
7 two additional hearing days at least scheduled on May 2 and
8 3 for cross-examination of opposing party testimony. To the
9 extent that those dates can be reserved, I would like to do
10 that just so I'm not in the position where I have to cross-
11 examine everybody's case on all issues and all witnesses in
12 that prior week and because of some other scheduling
13 constraints I have in other cases.

14 JUDGE SCHNIERLE: Is that a problem?

15 (No response.)

16 JUDGE SCHNIERLE: All right. We will go with that
17 then. We will reserve those dates. That's not a schedule
18 problem to me at all.

19 MR. MacGREGOR: Also, Your Honor, I think it's
20 apparent from the schedule, both in terms of the period of
21 time from when the company receives other party testimony
22 and when it crosses that testimony, and also the period of
23 time from when the other parties receive our rebuttal
24 testimony to the hearings to close the case during the week
25 of May 22 through 26, that there is limited time there; and

1 I guess I do want to state for the record that there is a
2 commitment from the parties that they will cooperate in
3 answering discovery requests and won't rely on the normal
4 15-day time period to respond, which simply wouldn't allow
5 time to permit adequate discovery in advance of cross-
6 examination. The company is certainly willing to commit to
7 that. I just want to make sure the other parties are
8 agreeable to that as well.

9 JUDGE SCHNIERLE: Is there a problem there?

10 (No response.)

11 JUDGE SCHNIERLE: All right.

12 MR. MacGREGOR: Finally, Your Honor, on any filing
13 date of testimony by the other parties that is other than a
14 Friday, I am happy to accept service at my Harrisburg office
15 as service on the company. Where the date is a Friday, I
16 really have to have some form of service in hand at the
17 company in Allentown and to my offices in Philadelphia;
18 otherwise, I lose three days over the whole weekend.

19 JUDGE SCHNIERLE: Do we have any --

20 MR. MacGREGOR: I believe the 14th is a Friday, and
21 the 7th is a Friday.

22 JUDGE SCHNIERLE: April 7, yes.

23 MR. MacGREGOR: The 12th is not.

24 JUDGE SCHNIERLE: So if it's on Friday, you want it
25 in Philadelphia and Allentown.

1 MR. MacGREGOR: We have computer facilities to accept
2 it by modem, and I am amenable to fax or whatever version or
3 method people can get it into my hands.

4 JUDGE SCHNIERLE: Do I need to put that in the
5 prehearing order or can everybody work that out amongst
6 themselves?

7 MS. KENNEY: Yes.

8 JUDGE SCHNIERLE: All right.

9 MR. BARAK: Your Honor?

10 JUDGE SCHNIERLE: Yes.

11 MR. BARAK: I'm Alan Barak. Could I ask you this?

12 JUDGE SCHNIERLE: Yes.

13 MR. BARAK: Is service by modem, if we connect it by
14 voice and it's clear that the other party can receive it
15 that day, does that meet the requirement to get something to
16 someone that day?

17 MR. MacGREGOR: It does in my view. At least in
18 terms of the company, I can accept modem service at my
19 office in Philadelphia. I like hard copy later on because
20 it doesn't always come out quite the same, so I need service
21 by mail as well ultimately, but it can be by first class.

22 MS. KENNEY: The only problem, the OCA will be
23 switching computer systems during the months of April and
24 May, so that we cannot commit -- we will be working with
25 everyone to try and do that, but we may have problems. We

1 foresee that there may be some difficulties while we're
2 going through the change that may make modeming very
3 difficult for us.

4 JUDGE SCHNIERLE: Let me put it this way, I always
5 put a line in my second prehearing order that says the due
6 dates for testimony and briefs and so forth are in hand
7 dates. That means that you've got to have it in the other
8 party's hands on that date. I don't particularly care how
9 you get it there, if you want to get it to them by modem on
10 that date, if you want to get it to them by Federal Express
11 on that date, but it's got to be in their hands on the due
12 date. As long as the other party doesn't complain about
13 your violating that rule, it's not going to bother me.

14 MR. MacGREGOR: My only point, Your Honor, which was
15 overly complicated, is that to the extent that the date of
16 receipt is other than a Friday, I know that some of the
17 parties who are here in Harrisburg have liked in the past to
18 serve it on our Harrisburg office, and that is satisfactory
19 to me. Just for the parties' information.

20 JUDGE SCHNIERLE: I'm not going to put anything in
21 the prehearing order about dealing with the discovery
22 situation. I think everybody understands that we're under
23 tight time constraints and it's kind of a do onto others
24 situation; if you short them, they may short you. That's
25 the kind of thing that I think we ought to be able to deal

1 with without a lot of formalities.

2 Anything else, Mr. MacGregor?

3 MR. MacGREGOR: Not as to the schedule, Your Honor.

4 JUDGE SCHNIERLE: Any other scheduling matters?

5 MR. HAYNES: One thing I would like to raise, Your
6 Honor, is scheduling the company's cost of service, rate
7 structure and rate design witness for a date certain at this
8 point so we can plan for our witness to be available.

9 JUDGE SCHNIERLE: Yes, Mr. MacGregor?

10 MR. MacGREGOR: We might be able to do this off the
11 record, Your Honor. Since the hearings are coming up fairly
12 shortly for the cross-examination of the company's
13 witnesses, I have a first cut, at least, of how we would
14 like to present those witnesses, at least as divided between
15 the two weeks, which I can provide to the parties and then
16 they can get back to me if they have any problems. Or if
17 you want to crystalize that today, we can do that.

18 MR. HAYNES: That would be fine.

19 JUDGE SCHNIERLE: I don't think we need to deal with
20 that to that detail in the prehearing order.

21 Speaking of parties, we have a number of
22 interventions that so far nobody has objected to, and if
23 nobody does object to I will grant in the prehearing order:
24 the Sierra Club, M&M Mars, Incorporated, Bethlehem Steel,
25 and the University/College Coalition. Is there any

1 objection to their participation?

2 MR. MacGREGOR: Your Honor, the company has no
3 objection to their participation. We believe they
4 undoubtedly have standing at least based upon the
5 allocations made in their petition. We do not necessarily
6 agree at this time that all of the issues which they have
7 listed in their petitions or complaints are necessarily
8 issues which we believe are relevant in the context of a
9 rate case. I simply want to reserve the right to object
10 later if issues are raised which I believe are beyond the
11 proper scope of this proceeding, but we have no objection to
12 their participation in a general way.

13 JUDGE SCHNIERLE: All right. Those interventions
14 will be granted in the prehearing order then.

15 Anything else we need to discuss? Because I've got a
16 couple more things that I want to talk about.

17 Ms. Kenney?

18 MS. KENNEY: Active party list, Your Honor. I note
19 that there have been 103 complaints filed in this
20 proceeding. I'm concerned that we've been serving -- we
21 have not had to serve discovery responses on all of them but
22 we have been sending out materials to all people on the
23 service list, and we were wondering if an active party
24 versus an inactive party list will be established?

25 JUDGE SCHNIERLE: If it hasn't been it will be. I'm

1 going to say this. I don't know if anybody here has any --
2 I don't know who does this. It's beyond me why we urge
3 people to file those formal complaints in these things,
4 absolutely beyond me. There's 102 or 103 of them now.
5 Outside of the people in the room here, it doesn't appear
6 that any of them intend to appear and prosecute their cases,
7 so it's a waste of paper. I don't know who does that or who
8 urges consumers to file those formal complaints in these
9 rate cases, but it is one of the most monumental wastes of
10 time and paper I've seen since I've been here. If they want
11 to register disagreement with the rate case they ought to
12 send a letter in instead of clogging up the docketing system
13 and everything else with formal complaints that they have no
14 intention or even capability of prosecuting. So if anybody
15 is out there and says, "Gee, maybe I should file a formal
16 complaint against the rate increase," try to dissuade them.

17 I will try to establish a list of those that are
18 actually participating and those that are just filing for
19 the sake of registering their opposition to the rate
20 increase.

21 Yes?

22 MS. KENNEY: Your Honor, we do believe that there are
23 a few, at least several of those formal complainants, who
24 would like to take a more active role in this proceeding.
25 We have been contacted by a number that are very interested.

1 JUDGE SCHNIERLE: If they want to testify at the
2 public input hearing or something like that, that's all well
3 and good, but realistically, unless you intend to be at the
4 hearing and cross-examine witnesses and present testimony,
5 which most of them don't, there's just no point to that,
6 absolutely none.

7 Ms. Moury, you were going to say something?

8 MS. MOURY: Your Honor, yes, on the subject of formal
9 complaints, our office did receive a call yesterday from
10 Crown American Corporation, who indicated that they are
11 filing a complaint today with the Commission. They just
12 wanted that to be passed along to Your Honor.

13 JUDGE SCHNIERLE: Is anybody here representing Crown
14 American?

15 (No response.)

16 JUDGE SCHNIERLE: Okay.

17 MS. MOURY: They didn't expect to have an attorney
18 here today.

19 JUDGE SCHNIERLE: All right. Anything further along
20 those lines?

21 (No response.)

22 JUDGE SCHNIERLE: I've got a couple of things I want
23 to bring up just to make sure we're clear on some things. I
24 take it the one is probably unnecessary but I'll mention it
25 anyway. The Commission ruled in Pennsylvania Power & Light

1 Company versus Lehigh Valley Power Committee that certain
2 issues were to be addressed in this proceeding regarding
3 interruptible rates for industrial customers. I think that
4 PP&L is aware of that and Mr. Kleppinger is aware of that,
5 so I expect that that will be dealt with in accordance with
6 the Commission's order.

7 MR. MacGREGOR: Yes, Your Honor. We have addressed
8 the issue in some detail in our initial filing, and I'm sure
9 Mr. Kleppinger and others may have a response.

10 JUDGE SCHNIERLE: The other item, this is kind of an
11 open item as far as the Commission goes. On November 24,
12 1993, I issued an initial decision in a case called James
13 Geesey versus Pennsylvania Power & Light Company, Docket No.
14 Z-208628. The decision for various reasons wasn't issued
15 until September 8, 1994. I directed the thing be served on
16 the Office of Trial Staff because there were some issues
17 that became apparent regarding PP&L's handling of certain
18 non-paying customers. So far the Commission has not ruled
19 on that decision, but I will simply remind the Trial Staff
20 that it's out there and anybody else that wants to have a
21 look at it in the interest of pursuing issues regarding
22 uncollectibles.

23 MS. KENNEY: Your Honor, could you spell that last
24 name?

25 JUDGE SCHNIERLE: G-e-e-s-e-y. At the time I had

1 issued it, I had envisioned that the Trial Staff might want
2 to pursue some of the issues in any forthcoming PP&L rate
3 case. At the time I issued it I didn't know there would be
4 one forthcoming so soon, nor did I know that I would be
5 sitting on it. But nevertheless, it's there and at this
6 point the Commission hasn't ruled on it, so I suppose it's
7 an open issue.

8 Mr. MacGregor, anything further?

9 MR. MacGREGOR: Two small items, Your Honor. First,
10 just for the record, we have this morning provided to the
11 court reporter two copies of the company's testimony and
12 exhibits in accordance with the prehearing notice.

13 Lastly, as reflected on page 3 of our prehearing
14 memorandum, we do propose one change in witnesses. PP&L
15 Statement No. 11, as filed, was sponsored by Mr. Bujnowski.
16 That statement dealt with PP&L's Customer and Community
17 Needs Programs. As set forth in our prehearing memorandum,
18 Mr. Bujnowski has been transferred to a different position
19 and that position is now filled by a Mr. Thomas C. Stathos.
20 I have brought with me today and will provide to Your Honor,
21 the court reporter and the parties copies of PP&L Statement
22 11-S, which is essentially a statement of the educational
23 background, employment experience and responsibilities of
24 Mr. Stathos. At the end of that three-page testimony he
25 simply adopts Mr. Bujnowski's testimony as his own in this

1 proceeding, and we would propose to present him as the
2 witness on those issues.

3 JUDGE SCHNIERLE: Anything else we need to discuss?
4 Mr. Simms?

5 MR. SIMMS: Nothing, Your Honor.

6 JUDGE SCHNIERLE: Ms. Kenney?

7 MS. KENNEY: Nothing, Your Honor. Thank you.

8 MS. BRANDEIS: No, Your Honor.

9 MR. MELIA: No, Your Honor.

10 JUDGE SCHNIERLE: All right. In that case --

11 MR. HAYNES: Your Honor?

12 JUDGE SCHNIERLE: Yes.

13 MR. HAYNES: In terms of the active service list, is
14 that going to be designated at this prehearing conference?

15 JUDGE SCHNIERLE: I imagine it will consist of
16 basically the people at the prehearing conference and anyone
17 else who shows more than a cursory interest in the
18 proceeding.

19 MR. HAYNES: I notice on some of the parties' service
20 lists they had witnesses designated as part of the service.
21 We have added a witness in our prehearing memo. I would
22 like to have that witness designated, not for everything but
23 just the things that will be served -- the testimony,
24 particularly, on the witness directly.

25 Is there any problem with that?

1 MR. MacGREGOR: Why don't you talk to me about
2 exactly what it is you want? If we can avoid having to send
3 you all of the discovery on many issues you may not be
4 interested in --

5 MR. HAYNES: No, we don't want that.

6 MR. MacGREGOR: If you can designate what you want,
7 we'll be happy to do that.

8 MR. HAYNES: Your Honor, I'm happy with the company's
9 representation.

10 JUDGE SCHNIERLE: Let me put it this way. The active
11 service list is the parties that the Commission is going to
12 serve. If you want them to serve testimony directly on your
13 witness or something like that, as far as I'm concerned you
14 ought to make that arrangement with the other party. I'm
15 not going to serve everything I serve on the witnesses,
16 obviously.

17 MS. KENNEY: Your Honor, the OCA would ask that when
18 it comes to serving testimony, we would like to have certain
19 witnesses served, so if you can contact us, we will work
20 that out, and we will, of course, extend that same courtesy
21 to the other parties' witnesses.

22 JUDGE SCHNIERLE: There is one other thing I thought
23 about, Mr. Haynes, since you spoke up just now. I read your
24 prehearing memorandum and I read the complaint. I'm kind of
25 wondering about -- it looks to me like this is a rerun of a

1 situation that was tried I'm going to say ten or 15 years
2 ago in a case called Pennsylvania Petroleum Association
3 versus PP&L. And if you'd like, I'll give you the -- it's
4 32 Pennsylvania Commonwealth Court 19, 377 A.2d 1270,
5 affirmed by 48 Pennsylvania 308, 412 A.2d 522. Unless I'm
6 mistaken, the Supreme Court said that the competitive
7 position of fuel oil dealers is not an issue in an electric
8 company rate case.

9 I understand that that complaint was just filed. I
10 don't know if PP&L intends to pursue -- whether they intend
11 to file an answer or anything else, but I'm kind of curious.

12 MR. THOMAS: I think they were denied standing in
13 that case because they only alleged that they were
14 competitors. In this case they've all alleged that they are
15 ratepayers and they can proceed qua ratepayers to raise the
16 issues such as the improper allocation and also the issue as
17 to whether or not the rate is being set at a competitively
18 low price.

19 MR. HAYNES: As the prehearing memo indicates, we'll
20 be raising traditional cost of service and rate structure
21 issues in that regard, so they are rate case issues.

22 MR. MacGREGOR: Your Honor, that's why I reserved my
23 rights previously regarding issues they may raise. They are
24 customers, so I think it would be difficult to dismiss them
25 from the case, but there is an issue as to the scope of

1 issues that are appropriate, and we reserve our right to
2 raise that, if necessary, later on.

3 JUDGE SCHNIERLE: I think you'd better be prepared to
4 deal with that, both sides, in specific detail if it comes
5 up.

6 Is there anything further we need to discuss this
7 morning?

8 (No response.)

9 JUDGE SCHNIERLE: In that case, this prehearing is
10 adjourned. Thank you very much.

11 (Whereupon, at 11:01 a.m. the prehearing conference
12 was adjourned.)

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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.

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